



UNITED STATES ATTORNEYS' **BULLETIN**

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Forty-Third Year

December 1995

Interview with the Honorable Mary Jo White United States Attorney for the Southern District of New York

Mary Jo White has been serving as the United States Attorney for the Southern District of New York since June 1, 1993. Prior to that time, she was the interim United States Attorney and Chief Assistant United States Attorney for the Eastern District of New York. Ms. White was Chairperson of the Attorney General's Advisory Committee from August 1993 through August 1994.

Ms. White graduated from Columbia Law School in 1974. She earned a Masters degree in psychology from the New School for Social Research in 1971, and a B.A. degree from the College of William and Mary in 1970.

Ms. White was an AUSA in the Southern District of New York from 1978 to 1981 where she was a prosecutor in the office's Criminal Division and later Chief of Appeals. From 1981 through March 1990, she was a partner in the Manhattan law firm of Debevoise & Plimpton where she specialized in white collar defense work, SEC enforcement matters, and civil litigation. She is a Fellow in the American College of Trial Lawyers, and has been an Instructor of Professional Responsibility and Ethics at Columbia Law School.

She was Vice-Chairman of ABA's Administrative Law Section's Committee on Discretionary Justice, and served on other New York City Bar committees.

Assistant United States Attorney Mary Jude Darrow (referred to as MJD), Assistant Director of Criminal Programs in EOUSA's Office of Legal Education, spoke with Ms. White.

MJD: First of all, I would like to talk to you about the World Trade Center case. How many defendants have been indicted in this case?



*Mary Jo White
United States Attorney
Southern District of New York*

MJW: There are actually two cases. There's the initial World Trade Center case and the case we refer to as the Bombing II case. The initial case was tried with four

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From the Editor-in-Chief

Season's greetings from the *Bulletin* staff. This month's edition features an interview with United States Attorney Mary Jo White (SDNY) that focuses on the World Trade Center bombing cases. The January 1996 issue will be dedicated to publishing commendations of Assistant United States Attorneys for their significant accomplishments. It will mark the first issue in which case summaries will not appear; however, please continue to send us your most significant cases so we can consider them for feature stories in the future. In March we will publish an immigration issue, the first of our "theme" issues. Those of you who would like to share your expertise with your colleagues or propose ideas for future editions are invited to contribute articles or ideas. You are encouraged to call me in Washington at (202)616-5210 or Email me at AEX02(DNISSMAN) or in my district at AVISC01(DNISSMAN).

David Marshall Nissman

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defendants but we will be going to trial again early next year on two additional defendants. At the time of the original indictment, there were six indicted defendants, four of whom stood trial and two of whom were fugitives. We've since recaptured Ramzi Yousef. He's one of the major players and will be tried on the Trade Center bombing and other terrorism charges for activities he engaged in after he left New York the day of the bombing. That trial will probably occur in March or April of 1996. In addition to that, we've just completed what we refer to as the Bombing II case in our office. This case involved Sheik Omar-Rahman and nine other defendants who were convicted of, among other terrorist acts, plotting to blow up the Holland and Lincoln Tunnels that connect New York and New Jersey, the FBI building, and the UN. Sheik Rahman was also convicted of conspiracy to murder President Murbarak of Egypt, and another of the defendants, El Sayyid Nosair was convicted of the November 1990 murder of Rabbi Meir Kahane. Together, these cases involved a total of twenty-two defendants, of which fourteen were convicted at trial, four pled guilty, and four are still facing charges.

MJD: Where was Ramzi Yousef captured?

MJW: He was captured in Pakistan.

MJD: And he was extradited?

MJW: Yes. He was turned over to us by the Pakistani authorities.

MJD: Did extraditing him involve a great deal of effort on the part of your office?

MJW: In a short period of time there was a great deal of effort to effect his extradition and return to the United States. The Pakistani authorities were very cooperative. The FBI, our office, the State Department, and lawyers from the Office of International Affairs and the Terrorism Section of the Criminal Division were involved. Essentially, Yousef was recaptured based on the tip of an informant and then, in terms of turnover, things proceeded pretty quickly.

MJD: Obviously you worked with the Pakistani government but, in the course of preparing either of these cases

for trial, either the initial case or what you refer to as the Bombing II case, did you end up working with foreign governments to obtain evidence or obtain witnesses or such?

MJW: The answer to that is absolutely yes. Indeed, the upcoming trial involving Ramzi Yousef which, in addition to the Trade Center bombing, involves a bombing conspiracy that he allegedly hatched abroad, involves very close cooperation with the governments of Japan, Pakistan, and the Philippines.

MJD: Does that case relate to a plot to bomb the Pope's plane?

MJW: I think you are thinking of some of the reports in the media. But what Yousef and co-defendant, Hakim Murad, are charged with in this case is a conspiracy to bomb U.S. airliners in the Far East that was carried out in

large part from the Philippines. The reason the Japanese government is involved is because it was a Japanese citizen who was killed by a test bomb allegedly placed by Yousef under a seat on a flight which arrived in the Philippines and was destined for Japan.

MJD: And that will be included in the evidence offered at trial?

MJW: That's right.

MJD: With the size of these two cases, I am sure you had a lot of inter-agency cooperation. What were some of the agencies involved in the investigation and trial preparation of that case?

MJW: The primary agency or group of agencies was the Joint Terrorist Task Force in New York City and that's primarily comprised of the FBI and the New York City Police Department. There was also participation by, and extensive assistance from, the ATF, the Secret Service, the State Department, the Port Authority Police in New York City, and various other agencies. It was a total team effort with a large number of agencies involved. But the primary agency on the case was the FBI.

MJD: I believe some new technology was used in identifying the defendants and in proving the case. Am I correct?

"... the key to any case—whatever size, whatever complexity—is the people who try the case and investigate it, whether they be from your own office or from the investigating agencies."

Mary Jo White

MJW: To some extent that's correct. Obviously, very sophisticated forensic lab work was involved. The FBI lab did a tremendous job on that. A lot of the evidence was obtained by superb, excellent investigative work with some fairly traditional techniques and methods. One of the big breaks in the case was retrieving the VIN number on the van that was used to carry the explosives into the Trade Center, tracing that van to where it was rented, and then identifying one of the defendants which led to several of the other defendants. Fingerprints played a major role in this case. And so, to a large extent, it was very sophisticated expert technology, but not so new.

MJD: I understand that some DNA analysis was used as well.

MJW: DNA was used and, in particular, a very powerful piece of evidence was a DNA match which established that one of the defendants had actually licked the envelope on the letter that claimed credit for the bombing.

MJD: When the bombing occurred at the World Trade Center, there were many victims. How were they incorporated into the case?

MJW: Tragically, six people were killed in the bombing. Hundreds were injured. And then a large additional number were obviously victimized by simply being present and having to evacuate. We stayed in very close contact with the families of the victims and we had a number of people who were present at the bombing testify at the trial.

MJD: What type of support system was there for assisting the victims and their families through the process of the trial?

MJW: We, together with the New York City Police Department and our Victim/Witness Coordinator, provided a variety of financial, emotional, and psychological assistance as needed.

MJD: Was that support provided solely to those individuals who were going to testify for us or were we able to provide even more assistance?

MJW: No, it was broader than that. For example, the families of the victims who were killed were among those to whom we provided various support, and they were not witnesses in the trial.

MJD: Did the Victim/Witness program provide assistance to the hundreds of people that were injured?

MJW: Yes, to many.

MJD: Was that primarily financial assistance?

MJW: No. This was done through various city support systems too. Some of the financial aid actually came from various city programs. There was also a lot of hand holding, referrals to the right kind of counselling, it really ran the gamut.

MJD: In managing a case as large as this one, I'm sure you had to work quite a bit with the press. Did you ever have situations where the press served as sources of information in the investigation?

MJW: The answer to that is no, not in this instance. We certainly had the usual difficulties of the press obviously trying to find out as much as they possibly could before it came out at trial. There were some erroneous reports that came out in the media, some of which we were obligated to correct. Our policy is a pretty strict one. We announce the major cases when they're indicted and we will talk about them when they're over, but we rarely talk about them in between. So, we were fielding a lot of press inquiries, occasionally correcting erroneous information that was unfair to various people, but our general policy was to decline politely to comment on the cases until they were over.

MJD: Would you have any advice to your colleagues about lessons learned from managing cases such as these, where there are so many victims and a hefty number of defendants as well?

MJW: Well, I think the key to any case—whatever size, whatever complexity—is the people who try the case and investigate it, whether they be from your own office or from the investigating agencies. Those people should be selected very carefully, both in terms of their skill, as well as their ability to get along with one another, and they need to be able to respond efficiently and effectively to a very quickly changing situation. There's nothing very interesting or novel about this advice, but what's crucial is who your team is, and that they get along with each other and know how to complement each other.

MJD: What is the status of the Bombing II case?

MJW: That's finished, actually. The one that is to start in March or April is the trial involving Ramzi Yousef and two co-defendants which charges the Trade Center bombing and the foreign bombing conspiracy—the airline conspira-

cy. The Bombing II case, a conspiracy to carry out a war of urban terrorism in New York which included a bombing conspiracy, as I mentioned, involving the UN, the FBI building, the Holland and Lincoln tunnels, was completed in September. The verdict came in on October 1st and all of the defendants were convicted, including Sheik Omar Rahman.

MJD: When are they scheduled to be sentenced?

MJW: They're scheduled to be sentenced in January.

MJD: Are you requesting any special enhancements in preparing for their sentencing or are they already built into the Sentencing Guidelines?

MJW: Some enhancements are included as specific offense characteristics within the applicable guidelines. There are others, such as those applicable for disruption of governmental functions, danger to public welfare and terrorism, that we may seek. Even without these additional enhancements, however, all of the defendants face life

imprisonment under the guidelines. Thus, their actual sentences will be capped by the maximum authorized by statute. In the case of Sheik Omar Abdel Rahman and El Sayyid Nosair, the statutes provide for life imprisonment, and for the others the statutory maximums range from 35 to approximately 60 years.

MJD: Obviously, after the verdict was announced in this case the FAA clamped down on airports throughout the country, enhancing the security measures. What types of security measures were taken during the trial to protect the courtroom, witnesses, and such?

MJW: We've followed the practice of not commenting on security measures of any kind. I will say that through the FBI, the U.S. Marshals Service, and the New York City Police Department, there was heightened security for the courthouse and all the attendant people and premises involved in the cases, but we really don't talk about what was provided, needed, and so forth.

MJD: Did coordinating that require a great deal of effort?

MJW: Definitely. Although again, this is something for which our office is not the one that carried the laboring oar

for the enormous effort. The Marshals Service is the primary agency that provided security, and they did an extraordinary job—just a tremendous dedication of resources and a tremendous coordination effort. They were just terrific.

MJD: [Daiwa Bank: The Daiwa Bank is one of the major banks in the world. Daiwa is Japanese owned and operated. In September 1995, Federal authorities learned that a Daiwa employee had fraudulently traded approximately \$1.1 billion of customer securities.] Did your office have any inkling, prior to the Federal Reserve learning of the matter, that the Daiwa Bank was having various problems?

MJW: All I can really say is what is on the public record and the answer to that is no. We've stated publicly that the Federal authorities—the FBI and our office—were first made aware of any problems on September 18th of this year when it was reported to us by the Federal Reserve authorities who had learned of it just a couple of days before.

MJD: In that case, what agencies are you working with?

MJW: Primarily the FBI, once again, as in the World Trade Center cases—obviously different squads of the FBI—but also the Federal Reserve and the New York State banking authorities are lending assistance.

MJD: How many defendants are named in that indictment?

MJW: Well, we actually have several different charging instruments and it's an ongoing investigation. But, at the moment, there is an information that charges Mr. Iguchi, the former officer and trader for Daiwa, with the \$1.1 billion dollar fraud that you've referred to. A separate indictment charges the Daiwa bank itself—not only with the crimes involving Mr. Iguchi but also separate crimes involving the alleged coverup of the losses and filing of false statements with Federal agencies, deceiving the Federal Reserve in conducting bank examinations. Then there is an outstanding complaint against the former general manager of the Daiwa branch in New York and, as I said, the investigation is continuing but we have three defendants to date. Mr. Iguchi has pled guilty and is facing up to 90 years in jail.

"One of the big breaks in the case was retrieving the VIN number on the van that was used to carry the explosives into the Trade Center, tracing that van to where it was rented, and then identifying one of the defendants which led to several of the other defendants."

Mary Jo White

MJD: Is he still here in the United States?

MJW: He is incarcerated in the United States. In fact he just recently applied for bail and we opposed that and it was denied.

MJD: What did he plead guilty to, specifically?

MJW: He pled guilty to this massive \$1.1 billion dollar fraud which essentially involved covering up trading losses that he incurred by selling off not only the bank's securities but customer securities to cover the losses, falsifying bank records, misleading the Federal authorities, including the Federal Reserve authorities, making various false statements to Federal officials.

MJD: Shortly after the indictment, the Daiwa Bank was asked to leave the United States, to cease trading here. Did your office have anything to do with that order?

MJW: That was an order that was consented to on the same day, as I recall, that the indictment was announced. But that is an administrative proceeding brought by the Federal Reserve and the New York State banking authorities. So, in terms of their order to Daiwa to cease doing business in the United States, as of February 1996, that's an administrative action and not a criminal action.

MJD: And that was also not tied into any civil action by your office?

MJW: That's correct. ❖

Attorney General Highlights

President Signs Legislation that Rejects Sentencing Commission's Proposals to Equalize Penalties for Crack and Powder Cocaine

On October 30, 1995, President Clinton signed legislation to reject the Sentencing Commission's proposals that would equalize penalties for crack and powder cocaine distribution and lower the guideline penalties for many money laundering offenses. A statement issued when he signed the legislation is attached as **Appendix A**. ❖

DOJ Efforts to Reduce Gun Violence

In a November 13, 1995, memorandum to United States Attorneys, Attorney General Janet Reno announced the establishment of a DOJ Gun Policy Working Group chaired

by the Criminal Division and staffed by representatives from many components of the Department. The group has identified programs, including law enforcement strategies, prevention, and education, that appear to be the most effective against gun violence. They are summarized in an attachment to the memorandum. Some of these programs appeared in the preliminary report on reducing youth gun violence distributed last April by the Office of Juvenile Justice and Delinquency Prevention. In her memorandum, the Attorney General asked that United States Attorneys use these program summaries to determine if any of them are useful when developing improved initiatives for the Districts. Also included as an Appendix to the Attachment is a summary of the relevant research and evaluation efforts being funded by DOJ. For further information, please contact Deputy Assistant Attorney General Robert S. Litt, (202)514-2636 or fax (202)514-6034. ❖

United States Attorneys' Offices

Honors and Awards

Correction:

The *United States Attorneys' Bulletin* staff apologizes for the error in the November 1995 issue concerning United States Attorney John Raley, Jr. Mr. Raley was recently inducted into the American College of Trial Lawyers on September 23, 1995.

Awards for Prosecution of Safe Street Drug and Violent Crime Task Force Cases Southern District of Illinois

On October 5, 1995, at a dinner hosted by Mayor James Wilson of Cairo, Illinois, United States Attorney W. Charles Grace, Criminal Chief Michael Carr, and Assistant United States Attorney Robert T. Coleman received plaques for their commitment and dedication in the prosecution of cases made by members of the Safe Street Drug and Violent Crime Task Force. Others receiving plaques for their work with and commitment to the Task Force were FBI Special Agent Robert Dueker, FBI Agent Brenn Tallent, Police Chief Bobby Simmons, Police Commissioner Bob Whitaker, and Alexander County State's Attorney Jeff Farris. Since its inception in 1992, the Safe Street Drug and Violent Crime Task Force has been responsible for initiating charges against 121 defendants in Federal court and 68 defendants in state court. In the Federal cases, 74 defendants were convicted, 44 are awaiting trial, one is a fugitive, one was acquitted, and one case was dismissed. ❖

AUSA David Candler Nutter Receives 1995 Younger Federal Lawyers Award

On September 15, 1995, at a Federal Bar Association Annual Convention luncheon in his honor in Washington, D.C., AUSA David Candler Nutter, Northern District of Georgia, was presented with the 1995 Younger Federal Lawyers Award for a sustained superior contribution and professional achievement in the practice of law. ❖

Significant Issues/Events

Attorney General's Advisory Committee Update

The Attorney General's Advisory Committee meeting was held in Washington, D.C., on November 7 through 9, 1995. The next meeting is scheduled for December 13 and 14, 1995. ❖

\$119 Million Collected in FY 1995 Southern District of New York

The Southern District of New York collected \$119 million from payments on defaulted loans, asset distributions from bankruptcy cases, criminal fines, and the proceeds of property seized in criminal prosecutions. In addition, civil debts were collected for the Department of Labor, Department of Education, Department of Housing and Urban Development, IRS, SBA, GSA, and the U.S. Army. ❖

Financial Litigation Unit Record Collection in FY 1995 Northern District of Alabama

The Northern District of Alabama's Financial Litigation Unit collected \$17.4 million in civil and criminal debts owed to the Government in FY 1995. The single largest collection for the year came from a \$4 million criminal fine paid by USX Corporation, the result of a 1990 conviction for mail fraud, ERISA, and Taft-Hartley Act violations. ♦

Special Deputations—An Update

On October 16, 1995, in an update to her July 27, 1995, memorandum concerning Special Deputations (see *USAB*, Vol. 43, No. 9 of Sep 1, 1995), EOUSA Director Carol DiBattiste announced that as of October 5, 1995, the Social Security Administration also entered into an MOU with the Department. If you have questions, please contact Frederick Hess, Director, Office of Enforcement Operations, Criminal Division, (202)514-3684. ♦

Decision Memo Regarding Cost of Testing for Sexually Transmitted Diseases

On November 9, 1995, EOUSA Director Carol DiBattiste forwarded a memorandum from Director Bonnie Campbell, Violence Against Women Office, to United States Attorneys, outlining DOJ's official interpretation of Section 40503 of the 1994 Crime Control Law, which requires payment for Federal victim testing for sexually transmitted diseases but does not obligate the Department to pay for HIV testing for State or Federal defendants. Ms. Campbell's memo states that related policy considerations, including the payment issue for other categories of individuals, will continue to be addressed by DOJ's working group. Guidelines regarding the payment procedures for testing will be forthcoming. For additional information, please contact Bernie Delia, EOUSA Special Assistant to the Director, (202)514-8500, or Email AEX03(BDELIA). ♦

Initiatives to Stop Violence at San Diego Border

On October 27, 1995, in a coordinated law enforcement effort, Federal, state, and local law enforcement agencies, in conjunction with Mexican law enforcement authorities, jointly announced their increased presence along the border in the East County area of San Diego and in Tecate, Mexico. United States Attorney Alan Bersin, also the Attorney General's Special Representative for Southwest Border Issues, with San Diego County Sheriff Bill Kolender, Consul General of Mexico in San Diego Luis Herrera-Lasso, and others, outlined the details of the increased coordinated law enforcement presence. New actions being undertaken include adding or reassigning officers to patrol the area; creating a U.S. law enforcement liaison working group to facilitate contact among the agencies and serve as a liaison to residents; prosecuting persons who commit crimes or take the law into their own hands; and establishing a team of 15 Federal, state, and Mexican law enforcement officials that will protect migrants against acts of violence on the Mexican side of the border. For further information, please contact Ana Cobian or Debra Ensley, (619)557-6293. ♦

New Deadly Force Policy

In an October 23, 1995, memorandum from EOUSA Director Carol DiBattiste, a copy of Resolution 14 of the Office of Investigative Agency Policy was forwarded to United States Attorneys, First Assistant United States Attorneys, Criminal Chiefs, and Civil Chiefs. Resolution 14, signed by Attorney General Janet Reno on October 1, 1995, establishes a uniform deadly force policy for DOJ. United States Attorneys are encouraged to make the resolution available to state and local law enforcement agencies, if appropriate. For further information, please contact Charysse L. Alexander, EOUSA Special Assistant to the Director, (202)514-1023, or Email AEX03(CALEXAND). ♦

Change in Bank Fraud Referral Reporting Procedures

On November 13, 1995, in a memorandum to United States Attorneys, EOUSA Director Carol DiBattiste announced the development of a new suspicious activity reporting system for financial institutions designed to speed referrals of possible criminal activity; to make criminal referral forms available electronically so that paper copies will no longer be sent from the financial institutions; and to allow offices to have access to all the Suspicious Activity Reports (SARs) filed around the country, which will enhance Federal investigative and enforcement efforts in fraud matters. The Attorney General's Advisory Committee approved the conversion from paper to electronic forms in July 1994, and the projected start-up for the system is this month. The new system will require banks to transmit a SAR to Treasury's Financial Crimes Enforcement Center (FinCEN). The IRS processing center in Detroit, contracted by the FinCEN, will receive and enter SARs into a database. It is anticipated that larger banks will eventually transmit the referrals via on-line computers, and smaller banks will mail the referrals to the Center. Once entered into the database, all referrals will be accessible on-line to the USAOs, FBI, Secret Service, Customs, IRS, and the bank regulatory agencies. If you have questions, please contact AUSA Mary Jude Darrow, Assistant Director, EOUSA's Office of Legal Education, (202)616-6700 or Email AEX02(MDARROW), or Tracey Carey, Attorney Advisor, Priority Programs Staff, EOUSA, (202)616-6780 or Email AEX02(TCAREY). ❖

Payment for Bar Association Activities of AUSAs

On September 26, 1995, EOUSA Director Carol DiBattiste sent a memo to United States Attorneys and First Assistant United States Attorneys outlining the bar association activities that may be paid for from each district's budget. For more information, or if you would like a copy of the memorandum, please contact AUSA Sandra S. Bower, EOUSA Legal Counsel's Office, (202)514-4024. ❖

Evidence Presentation System Adopted by the Court

In late September 1994, systems managers from the Middle District of Louisiana and the Western District of Wisconsin worked together to design an evidence presentation system for use in court. Over the next several months, the system was refined and used successfully to present evidence in trials in both districts. As a result of a trial in Wisconsin, United States Attorney Peg Lautenschlager and the Chief Judge have been engaged over the past few months in a cooperative effort to permanently install the equipment in the Madison courtroom. The system being installed in Madison consists of seven computer monitors for the jury, and one monitor each for the judge, witness, defense, and prosecution. The system has a single control point which can be moved almost anywhere in the courtroom. It will accept inputs from defense, prosecution, court reporter, VCR, laser disk player, and visual presenter. It will be equally easy and cost effective to present evidence in small cases with only one or two exhibits as for large, evidence-intensive cases. Since state and local law enforcement uses the same courtroom, they will benefit from this system as well. The effort represents an outstanding example of cooperation among the law enforcement organizations to develop technology that will benefit everyone. ❖

Significant Cases

Sentence for Civil Rights Violations Northern District of Alabama

Following her guilty plea to civil rights violations in September, on November 2, 1995, Doris Ann Jones was sentenced to 71 months in prison and to pay \$7,000 in restitution for arranging the torching of a trailer home to attempt to prevent Mexican migrant workers from occupying it. In July 1994, Jones agreed to pay a co-defendant in the case to throw a jar of flammable liquid and a burning rag through the window of a trailer that was to be occupied by a family of Hispanic farm workers the next day. ❖

*AUSA Harwell Davis
Debra A. Carr, Civil Rights Division,
(202)514-5130*

**Nine-Year Fugitive Sentenced to Life in Prison for Drugs
Northern District of Alabama**

On November 2, 1995, Ray Mack "Teeny Man," a drug kingpin who sold drugs from North Carolina to New Mexico between 1986 and this year, and who was arrested in February 1995, was sentenced to life in prison for conspiracy to distribute marijuana, cocaine, and methamphetamine. ❖

*AUSA Joyce Vance
AUSA Robert McGregor*

**Racing Promoter Guilty of Conspiracy and False Statements
Central District of California**

On October 25, 1995, former millionaire racing promoter Michael F. Goodwin and his ex-wife, Diane Seidel Goodwin, were found guilty of 13 counts of conspiracy and making false statements to three financial institutions by not disclosing a \$500,000 debt when applying for loans. ❖

AUSA Elana Shavit Artson

**Guilty Verdict for Conspiring to Purchase Stolen Intel Computer Chips
Northern District of California**

On October 4, 1995, Joe Choe was convicted for conspiring to purchase 6,000 stolen Intel computer chips. He claimed to be an economic advisor to the Philadelphia Federal Reserve Board and the Reagan White House, and was carrying approximately \$350,000 in cash to purchase the stolen computer chips when he was arrested. ❖

*AUSA Geoffrey Anderson
AUSA Steve Gruel*

**Guilty Plea for Defrauding Insurance Companies
Northern District of California**

On October 27, 1995 Ronald C. Marquardt, owner and operator of a health consulting business, pled guilty to defrauding insurance companies of approximately \$500,000. Marquardt claimed to perform "fitness evaluations" on "patients." Marquardt obtained payment from insurance companies by making a variety of misrepresenta-

tions on the bills including forging the signatures of licensed physicians on the claim form. ❖

AUSA George D. Hardy

**Sentence for Witness Tampering
Northern District of Florida**

On October 25, 1995, multi-convicted felon Arthur Burns was sentenced to 36 months in prison for tampering with a Federal witness after he made death threats against a witness in his brother's Federal trial. His brother, a violent convicted felon, was found guilty of firearms charges. ❖

AUSA William Wagner

**Guilty Plea for Carjacker
Northern District of Georgia**

On October 19, 1995, Jason Berry pled guilty to a series of violent carjackings that resulted in one death and investigations in both Georgia and South Carolina. Using stolen firearms, Berry and a co-conspirator carjacked three different victims. ❖

*AUSA Candiss Howard,
Northern District of Georgia
AUSA Sean Kittrell,
District of South Carolina*

**Life Sentence for Drug Leader
Northern District of Georgia**

On November 2, 1995, Erick Bozeman of Los Angeles, California, was sentenced to life in prison for conspiracy to distribute cocaine and money laundering for organizing and leading a cocaine ring of 20 others who imported hundreds of kilos of cocaine packed in computer processing units from Colombia, South America, to Atlanta; New York; Chicago; Detroit; Washington, D.C.; and other U.S. cities from January 1992 to July 1994. Eight other members were convicted of cocaine distribution and money laundering charges in the Southern District of New York, and three co-conspirators were convicted in Los Angeles on money laundering. ❖ *AUSA Janis Gordon*

**Sentences for Health Care Fraud
Southern District of Georgia**

Jeanette G. Garrison, founder, CEO, and major stockholder of Healthmaster, Inc., was sentenced to 33 months incarceration, a fine of \$2,500,000, and restitution of

\$11,500,000; Dennis J. Kelly, former Vice-President and CFO of Healthmaster, was sentenced to 151 months incarceration, a fine of \$75,000, restitution of \$710,118, forfeiture of \$934,856, and a special assessment of \$5,750; David W. Suba, former President of Managed Risk Services and the insurance risk manager of Healthmaster, was sentenced to 97 months incarceration, restitution of \$710,118, and forfeiture of \$390,000. (See *USAB*, Vol. 43, No. 9, Sep 1995, p. 303.) ❖
AUSA Richard Goolsby
AUSA Fred Kramer
Special AUSA Harrison Kohler

Sentence for Transportation of a Minor for Prostitution District of Hawaii

On November 6, 1995, Lamar Baker was sentenced to 13 years imprisonment on charges relating to his transportation of a Canadian minor to Hawaii for prostitution and for his illegal possession of ammunition as a convicted felon. Baker confessed that he had the minor work as a prostitute and give her earnings to him. ❖

AUSA Edward H. Kubo, Jr.
Daniel C. Stark, Criminal Division,
(202)514-4043

Sentence for Possession of Firearms and Drugs in Operation Triggerlock Effort District of Hawaii

On October 31, 1995, armed career criminal Wade Timothy Rodrigues, with a prior criminal record of 53 arrests between 1978 and 1994, was sentenced to 334 months in prison without parole for being a felon in possession of two firearms, attempting to sell crystal methamphetamine to a 16-year old, carrying a firearm in relation to his drug trade, and possession of cocaine. The case was part of "Operation Triggerlock," a continuing law enforcement cooperative effort to pursue the illegal possession and use of firearms. ❖

AUSA Michael Seabright

Granting of Summary Judgment in Favor of the U.S. Affirmed Northern District of Indiana

On November 1, 1995, the Seventh Circuit Court of Appeals affirmed the granting of a summary judgment in

favor of the U.S. The plaintiffs, whose herd of cattle had to be destroyed because of disease, sought recovery from the U.S., alleging that a veterinarian employed by the U.S. negligently failed to quarantine the cattle. The Seventh Circuit Court of Appeals held that the veterinarian owed no private duty to the plaintiffs. This significant decision clearly defines the difference between a public and private duty. ❖

AUSA Tina Nommay
AUSA Deborah Leonard
Jennifer Zacks, Civil Division,
(202)514-1265

Settlement Agreement of \$6 Million for Environmental Violations Western District of Kentucky

On October 12, 1995, after seven years of litigation against 65 parties, an agreement was reached for them to pay in excess of \$6 million in past cleanup costs, plus an amount expected to be at least that much in future cleanup costs. Violators included generators, haulers, and disposers of hazardous wastes (paint solvents) at two Superfund sites that contained over 3,000 badly deteriorated drums that leaked into a major tributary of the Ohio River. ❖

AUSA Richard A. Dennis
Jon Mueller, Environment and Natural Resources Division, (202)616-0056

Armed Career Criminal Sentenced to Life Middle District of Louisiana

On October 18, 1995, Clarence Robinson, an exconvict in possession of a firearm, was sentenced as an armed career criminal to life imprisonment. The Court departed upward three levels from the applicable guideline range because the defendant's criminal history category did not adequately reflect the seriousness of the past criminal conduct or his propensity to commit future crimes. He had been convicted 14 times, with 11 charges involving the use of a firearm. ❖

AUSA Rene Salomon
AUSA Ian F. Hipwell

**Medical Supplier to Pay U.S. \$1.5 Million
for False Claims
District of Maryland**

National Medical Systems, a medical equipment supplier, will pay the U.S. \$1.5 million in a settlement reached on October 2, 1995, for allegedly having submitted false claims to Medicare for the sale of lymphedema pumps to Medicare beneficiaries, and providing Medicare beneficiaries with simple pumps that qualified for the lowest reimbursement rate of \$700 while representing to Medicare that they provided pumps worth reimbursement of \$4500. ❖

*AUSA Kathleen McDermott
Sally Strauss, Civil Division,
(202)616-1437*

**Two Indicted for Espionage
District of Massachusetts**

On October 18, 1995, Subrahmanyam M. Kota and Aluru J. Prasad, a citizen and resident of India, were charged with conspiring and attempting to obtain classified national defense information for sale to the former U.S.S.R. from 1985 until 1990. The new espionage charges were added to existing charges against Kota and Vermuri Bhaskar Reddy, for conspiring to transport a stolen biotechnology product in foreign commerce. The superseding indictment charges that Kota operated a network of sub-sources whom he asked to assist him in obtaining classified national defense information for sale, and that he conspired to obtain and sell such defense information to Prasad, whom he also knew to be working for the U.S.S.R. ❖

*AUSA Despena F. Billings
AUSA Alexandra Leake*

**Settlement Reached in Violation of
Procurement Integrity Act
District of Massachusetts**

On October 3, 1995, Management Sciences for Health (MSH) and former Government employee Dr. Edgar Necochea paid \$400,000 to settle the Government's claims that they violated a Federal law aimed at enforcing ethical conduct in the Government contracting process. The Government contended that while Necochea was employed by the U.S. Agency for International Development (AID), MSH violated the law by negotiating with and offering employment to Necochea, who was in charge of a

multi-million dollar AID health care project for which MSH would later bid. Necochea violated the law too, by negotiating for employment with MSH while he was a Government procurement official involved in a procurement for which MSH was competing. ❖

AUSA John A. Capin

**Merrill Lynch and Lazard Freres to Pay
Over \$24 Million in Civil Complaints
District of Massachusetts**

On October 26, 1995, Merrill Lynch and Lazard Freres were charged in civil complaints arising out of a relationship between Mark S. Ferber, a former Lazard Freres partner, and Merrill Lynch. In settlement agreements, the firms agreed to pay \$12 million each and to effect significant changes in certain practices and procedures in the municipal securities industry. Ferber was also indicted on Federal fraud and corruption charges. Complaints against the firms arose primarily out of a relationship from 1989 to 1993 between Lazard Freres, acting through Ferber, and Merrill Lynch in the municipal securities industry, during which Ferber, acting on behalf of Lazard Freres, was the financial advisor and a fiduciary to various public entities that paid millions of dollars to receive independent and unbiased advice from Ferber and Lazard Freres, and paid for the right to know when Ferber and Lazard Freres had actual or potential conflicts of interest that could affect their ability to give such advice. ❖

*AUSA Brien T. O'Connor
AUSA David J. Apfel
Special AUSA David J. Burns
AUSA Patrick M. Hamilton
AUSA Suzanne Durrell*

**Child Support Sentencing
District of Massachusetts**

On November 1, 1995, Michigan doctor Frank P. Bongiorno was sentenced in Massachusetts to spend 12 hours of each day for a year in the custody of the Bureau of Prisons and to pay restitution in the amount of \$220,000 for his failure to pay child support for his 11-year old child who resides in Massachusetts. The case was the first of its kind brought in Massachusetts under a recent Federal law enacted to reach non-custodial parents who do not live in the same state as their minor children, and who either owe child support in large amounts, or who do not pay

their support obligation for more than one year despite having the ability to do so. Bongiorno was convicted in May of willful failure to pay child support, and as of November 1, he owed \$223,547.54, without interest. Even after the Court's guilty verdict, Bongiorno failed to pay outstanding child support from available funds. ❖

AUSA Jeanne M. Kempthorne

Sentence for Child Sexual Abuse Against Native American Minors Western District of Michigan

On October 17, 1995, Ross Doherty was sentenced to 293 months incarceration on two counts of child sexual abuse against two minor victims, members of a Native American community. The sentence was enhanced under the Sentencing Guidelines for the defendant's use of violence and threats against the children. ❖

AUSA Judd Spray

Doctor Guilty of Violation of Medicaid Anti-Kickback Statute District of Minnesota

On October 19, 1995, pediatric endocrinologist Dr. David R. Brown was found guilty of two counts of receiving kickbacks in return for prescribing a human growth hormone to children in violation of the Medicaid Anti-Kickback statute. He received \$100,000 and \$15,000 kickbacks from Caremark, Inc., in part to induce him to prescribe the synthetic human growth hormone Protropin to his juvenile patients. Brown was one of the nation's largest prescribers of Protropin and, during that time, Caremark was the sole home health care distributor of the drug. Caremark pled guilty in June to mail fraud in connection with its involvement in the payment of illegal kickbacks to Dr. Brown and other doctors. ❖

*AUSA Janet A. Newberg
David B. Orbuch, Minnesota
Attorney General's Office*

Defendant's "Excessive Fines" Claim Rejected Western District of Missouri

Two defendants were sentenced to 51 and 57 months in prison and forfeiture of their farm, for various drug

trafficking offenses committed on the farm. The defendants appealed. On October 13, 1995, the Eighth Circuit Court of Appeals rejected the defendant's "Excessive Fines" claim and remanded with direction that the District Court order forfeiture of the entire farm. The court noted that the marijuana distributed had a value of \$233,750, which was comparable to the assessed value of the farm. ❖

*AUSA Richard Monroe
AUSA Cynthia Hyde*

Woman Pleads Guilty to FACE Violation District of Montana

Amy Cheryl Blackburn pled guilty on October 26, 1995, to charges of making threats to bomb a Montana reproductive services facility by making threatening phone calls and intentionally intimidating a doctor at the facility. ❖

*AUSA Jim Seykora
Barry Kowalski, Civil Rights Division,
(202)514-4067*

Fines in Fraudulent Insurance Scheme District of Montana

On October 27, 1995, Hurt Construction of Montana and Midwest Lodging, Inc., of South Dakota were sentenced on mail fraud, wire fraud, and conspiracy charges arising out of their scheme to defraud Travelers Insurance Company in connection with rebuilding the Billings Super 8 Motel, which was damaged in an explosion in April 1989. Hurt Construction was ordered to pay a \$500,000 fine and Midwest Lodging paid full restitution of \$528,880, both to go to DOJ's Crime Victims' Fund. ❖

AUSA Robert J. Brooks

Guilty Pleas for Failure to Service Aircraft Emergency Equipment Eastern District of New York

On October 12, 1995, Tec-Air Services, Inc., and its two vice presidents pled guilty to five felony counts of a superseding indictment charging them with conspiracy, mail fraud, and making false statements to the Federal Government. Between 1990 and 1994, the FAA licensed aircraft repair station not only failed to properly test, overhaul, and repair aircraft emergency equipment provided to it for servicing—potentially jeopardizing the lives and

safety of countless passengers—but falsely billed customers for these services. The trial of the remaining defendant named in the superseding indictment, who was Tec-Air's production coordinator, is scheduled to begin this month. ❖

AUSA Sean F. O'Shea
AUSA Ronald G. White
Former AUSA Mark S. Cohen

Sentence for Falsely Billing \$1.6 Million to Medicare Eastern District of New York

On October 31, 1995, brothers Carey and Rodney Jackson were sentenced to 33 months imprisonment for conspiring to defraud the Medicare system after they billed Medicare approximately \$1.6 million for durable medical equipment that was not properly authorized, not medically necessary, and not provided to beneficiaries. Medicare numbers against which the medical equipment was billed were secured after they conducted health fairs at senior citizen residences where the attendees registered with their Medicare numbers. ❖

AUSA Ilene Jaroslaw

Guilty Plea for Conspiracy in Connection with Execution-Style Murders Eastern District of New York

On October 30, 1995, former member of the Asian-American Affairs Advisory Commission of the NY State Governor's office, Lai Kwok Fu, pled guilty to conspiracy in connection with the 1987 execution-style murders of two members of the Hong Kong-based Sun Yee On triad. Lai admitted that he and fellow tong boss Wong Chi Fai, agreed to the murder plot in order to drive the triad members from a lucrative gambling den that was under the control of Lai and his tong, the Tsung Tsin Association. The murders were carried out by members of the Tung On Gang. Following the murders, Lai hid one killer in his motel. ❖

AUSA Leslie Caldwell
AUSA Melissa Murphy

First Case Nationwide Under the International Parental Kidnapping Statute Eastern District of New York

On October 19, 1995, Ahmed Amer, a dual citizen of America and Egypt, was convicted of international parental kidnapping in the first case nationwide to go to trial under

the Federal International Parental Kidnapping Statute, which prohibits taking a child from the U.S. with the intent to obstruct another person's parental rights. Mr. Amer lived apart from his wife of 14 years when he abducted their three children, ages 10, 5, and 3, from his wife's home in Queens and took them to Egypt. ❖

AUSA Timothy Macht
AUSA Tanya Hill

Daiwa Bank Limited Indicted on 24 Counts for Alleged Conspiracy and Other Charges Southern District of New York

On November 2, 1995, a 24-count indictment was filed against the Daiwa Bank Limited, charging it with conspiracy, mail and wire fraud, obstructing an examination of a financial institution, falsification of bank records, and misprison of felonies by failing to disclose Federal crimes. The charges arise out of the alleged unauthorized sale of securities from Daiwa's custody account, including the sale of more than \$375 million in customer securities, by Toshihide Iguchi, a former Executive Vice President at the New York Branch, which were used to cover trading losses incurred by Iguchi; Iguchi's attempts to cover-up those losses and unauthorized sales, which by 1995 had grown to more than \$1.1 billion; Daiwa's attempts to continue the cover-up after learning of Iguchi's illegal conduct; and Daiwa's alleged repeated attempts to obstruct the Board of Governors of the Federal Reserve System and the NY State Banking Department. On October 19, 1995, Iguchi pled guilty to conspiring with Daiwa's senior management to conceal from Federal regulators a \$1.1 billion loss resulting from his unauthorized trading in Government securities, and to misapplying over \$1.1 billion in bank funds including embezzling more than \$500,000 from Daiwa for his personal use, laundering the money he stole, and scheming with other Daiwa traders to engage in unauthorized trading and concealing the losses. ❖

AUSA Reid M. Figel
AUSA Andrea Likwornik
AUSA Michael Simons

World Trade Center Bombers Convicted Southern District of New York

On October 1, 1995, Omar Abdel Rahman and nine co-defendants were convicted of conspiring to wage a war of urban terrorism against the U.S., which included plans to bomb the United Nations, the NY FBI building, the Lincoln and Holland tunnels and other NY landmarks, and

the 1993 terrorist bombing of the World Trade Center. The defendants were found guilty of a total of 25 counts and, in addition to the seditious conspiracy charge, Rahman was found guilty of plotting to murder Egyptian President Hosni Mubarak, and defendant El Sayyid Nosair was convicted for the 1990 murder in aid of racketeering of Rabbi Meir Kahane. ❖

*AUSA Andrew C. McCarthy
AUSA Patrick J. Fitzgerald
AUSA Robert S. Khuzami*

Gang Members Indicted for Drugs and Murder Southern District of New York

On November 8, 1995, eight members of a Bronx gang, the Trigger Finger Posse, were indicted on racketeering for drug trafficking and seven murders. The indictment alleges that the gang controlled a crack distribution operation in the Bronx, New York. Four of the seven murders are alleged to have been carried out by the gang to expand its drug business, and the other three are charged to have been contract hits carried out by members of the Trigger Finger Posse for other drug trafficking organizations. Of the defendants, four have been arrested, one is being sought, and the other three are in custody. ❖

*AUSA Hector Gonzalez
Special AUSA Thomas Kapp*

Sentence for "Bully's Boys" Violent Drug Ring Eastern District of North Carolina

On October 3, 1995, Johnny Kinlaw Locklear, Jr., leader of a violent drug ring, "Bully's Boys," that used juveniles to distribute crack cocaine and supplied guns for the juveniles to protect the drug business, was sentenced to 50 years imprisonment on drug conspiracy and 60 months on using firearms in connection with drug trafficking. The gang was involved in multiple drive-by shootings in North Carolina. Locklear's mother, Maudella Jones Locklear, was sentenced to 210 months imprisonment for maintaining residences for her sons and others to distribute drugs, and for keeping money for her son and delivering drugs to him. Wilbert Junior Locklear was sentenced to 97 months imprisonment for supplying powder cocaine to members of the group and others. The three defendants also forfeited property to the Government. Five other members of the

group were sentenced in September 1995, and the remaining defendant in the case is a fugitive. ❖

AUSA Christine W. Dean

Sentence for Major Cocaine and Marijuana Operation Eastern District of North Carolina

On October 31, 1995, Martin Junior Locklear and his wife, Patricia Williams Locklear, were sentenced to a 360-month prison term on charges of conspiracy to distribute cocaine and marijuana. The Locklear's were also ordered to forfeit \$6,000,000 in currency and 15 tracts of real property. Sixteen defendants have been apprehended and convicted as part of "Operation East Sweep" for their role in distributing cocaine and marijuana. ❖

AUSA Eric Evenson

Man Sentenced for Impersonating an FBI Agent Middle District of North Carolina

Bobby Douglas Alston was sentenced to two years in prison for impersonating an FBI agent by confronting people and threatening to shoot or lock them up. He was paid to track down fugitives as a runner for a bail bondsman and told the judge that impersonating an FBI agent was a tool of the trade that he used to get people's attention. ❖

Special AUSA Arnold Husser

Conviction on Firearms and Drugs Southern District of Ohio

On November 8, 1995, the final seven defendants of the 46 Short North Posse gang members that were indicted, were convicted on conspiracy, firearms, and drug trafficking charges. Thirty-six members previously pled guilty; two remain at large; and one, charged with conspiracy, was acquitted. ❖

*AUSA Salvador A. Dominguez
Special AUSA Daniel Sanders*

Three Strikes Life Sentence for Drug Trafficker Southern District of Ohio

On October 6, 1995, Almos L. Starks, a convicted cocaine trafficker, was sentenced to life imprisonment for his third narcotics conviction. In addition to seizing

cocaine and weapons, \$191,000 was seized and forfeited to the Government. ❖
AUSA William E. Hunt

Carjacking Murder Brings Guilty Verdict District of Puerto Rico

On October 31, 1995, David Garcia Beltran, Miguel Collazo Diaz, and Jose M. Rodriguez-Rodriguez were found guilty of the carjacking murder of Abner Polanco-Alicea and the use of a firearm in relation to the carjacking. The defendants abducted the victim, took him to a secluded area, robbed and shot him, and left him on the side of the road where he later died. ❖
*AUSA Mark A. Irish
AUSA W. Stephen Muldrow*

Brothers Get 40 Months for Racial Harassment and Cross Burnings District of Rhode Island

On October 3, 1995, brothers Albert M. and Joseph Davis were sentenced to 40 months in prison for conspiring to deprive the civil rights of an African-American neighbor. The brothers pled guilty last June to a charge that they conspired in a year-long campaign of racial harassment directed against Lateef Saibu, who lived next door to them. The conspiracy culminated in 1993 when they burned two crosses in front of Mr. Saibu's house. Two other men have pled guilty to violating Saibu's civil rights, including another Davis brother who was sentenced to two years probation after pleading guilty to a misdemeanor. The other man admitted he took part in one of the cross burnings and is awaiting sentencing. ❖
*AUSA Edwin J. Gale
Steven M. Dettelbach, Civil Rights Division,
(202)514-5463*

First Three-Strikes Double Conviction District of Rhode Island

On October 26, 1995, Robert DeLuca, Sr., a capo in the New England LCN family, and Gerard Ouimette, an associate and enforcer with a long and dangerous criminal history, were convicted of conspiracy and extortion in the shakedown attempts of two businessmen. Another defendant in the case, James Gellerman, pled guilty to conspiracy and extortion. ❖
*AUSA James H. Leavey
AUSA Kenneth Madden*

Sentence for Child Pornography District of South Carolina

On October 25, 1995, Marc J. Hanna was sentenced for receiving pornographic pictures of children by computer. He was an active member of a computer bulletin board system which electronically imported pictures of minors engaged in explicit sexual activity into the U.S. through a modem equipped computer which he then downloaded to his computer. ❖
AUSA David C. Stephens

Sentence for Car Bombing Southern District of Texas

On October 23, 1995, Tam Duy Nguyen was sentenced to 64 years imprisonment for conspiring to manufacture a destructive device; maliciously damaging a vehicle used in interstate commerce by explosives which resulted in a death; and using a destructive device during a crime of violence. A second defendant, Sieu Linh Do, was sentenced to 24 months imprisonment. Nguyen instructed Do to construct a car bomb which was later placed on the starter of a van owned by Lam Huu Diep, who was killed. ❖
AUSA Richard Harris

Convicted Felon in Possession of Firearms Sentenced Southern District of Texas

On October 30, 1995, Lawrence L. McMillian was sentenced to 20 years imprisonment without parole for being a convicted felon in possession of firearms. Because of McMillian's 14 felony criminal convictions in Texas and Florida, and numerous felony and misdemeanor arrests and juvenile convictions, the court enhanced his sentence to the 20-year level, over twice the sentence he would have otherwise received. ❖
AUSA Mike Schultz

Conviction for Illegal Sale of Equipment to Libya Southern District of Texas

On November 9, 1995, Larry R. Duncan was convicted of conspiracy to violate and violating a Presidential order prohibiting the sale of oil field equipment to Libya after he, Terry Kirk, Ian Beckford, and D&G Oilfield Services Co.

conspired to export a portable refining system and other field equipment to England and Italy for shipment to Libya. Kirk and Beckford are fugitives. ❖ *AUSA Bud Paulissen*
AUSA Richard Berry

Sentence for CWA Violations Western District of Texas

On September 14, 1995, William Greuling, Jr., president of El Paso Plating, was sentenced to 24 months in prison and one year of supervised release, and fined \$5,000 for discharging electroplating wastes into a local sewer. He is on release pending appeal. Company vice president, Ray Molina, was sentenced to three years of probation with the condition that he serve four months of community confinement. El Paso Plating was fined \$30,000 and ordered to turn over its books so the Government can determine if it has any assets. ❖

AUSA Donna Miller
AUSA Carlos Hermocillo
Farleigh Earhart, Environment and Natural
Resources Division, (202)272-6993

Conviction for Scheme to Defraud Medicare Western District of Texas

On November 7, 1995, Joe T. Boyd and Wallace B. Brucker were convicted of conspiring to commit mail fraud and multiple counts of mail fraud relating to a scheme to defraud patients, Medicare, and private insurance companies through the operation of a health clinic and diagnostic center from October 1989 through July 1990. ❖

First AUSA John Murphy
AUSA Debra Kanoff
AUSA Mark Roomberg

Sentence for Armed Robbery Under the Three Strikes Law District of Utah

On October 12, 1995, Clyde Maestas was sentenced to life in prison for armed bank robbery under the Three Strikes Law. He was also convicted of being a felon in possession of a firearm. He had prior convictions for rape, voluntary manslaughter, and armed bank robbery. ❖

AUSA Gregory C. Diamond

Armed Carjackings Bring Stiff Sentence Eastern District of Virginia

On October 6, 1995, Frederick Keith Singleton was sentenced to 83 years imprisonment for a series of armed carjackings and armored car robberies between May 1994 and January 1995. He escaped from custody twice, the second escape and apprehension occurring just prior to his sentencing. ❖

AUSA Robert C. Chesnut

Guilty Plea for Money Laundering Eastern District of Virginia

On November 2, 1995, Ronald Aaron Arif pled guilty to money laundering as a result of a scheme to defraud the Medicaid program of over \$435,000. The plea agreement requires Arif to pay restitution to the Virginia Medicaid program, in part through the sale of his luxury townhome in which he invested \$178,000 in profits from his scheme. From September 1993 through October 1995, he claimed to provide wheelchair-bound Medicaid patients with van transportation services that were billed to the Department of Medical Assistance Services but over 90 percent of the billed trips never occurred. ❖

AUSA Kathleen M. Kahoe

Obstruction/Perjury Enhancement for Drug Sentence Western District of Virginia

On October 6, 1995, father and son, Claude and Daniel Guay, were sentenced to 296 months and 240 months, respectively, for driving and occupying a truck containing 180 kilograms of cocaine smuggled inside a load of watermelons which overturned on the highway. The defendants testified that they thought they were receiving untaxed cigarettes at the Mexican border for transport to an unknown individual in Toronto, Ontario, and they were given an obstruction/perjury enhancement for the story. ❖

AUSA Joseph W. H. Mott

Jury Convicts Company and Owner for False Statements and CWA Violations Western District of Virginia

On September 8, 1995, three defendants were found guilty of Clean Water Act violations, and Linden Beverage was found guilty on seven counts of falsifying documents

to the State Department of Environmental Quality, pertaining to the monthly testing of waste water discharged into a tributary of the Shenandoah River. Linden owner, Benjamin Lacy, was found guilty on seven counts of falsifying documents and one count of discharging pollutants in excess of permitted levels in violation of the company's NPDES permit. Freezeland Orchard (owned and operated by Linden Beverage) was found guilty on one count of falsifying documents and one count of excessive discharge. Plant manager Jeffrey Allen Morris testified for the prosecution and received an 18-month pretrial diversion. ❖

*AUSA Nancy Spodick
James Miskiewicz, Environment and Natural
Resources Division, (202)272-8496*

Alleged Bank Fraud Results in Losses Totalling Over \$41 Million Eastern District of Wisconsin

On October 17, 1995, Minnesota cattle broker John D. Morken and three of his employees were charged with alleged bank fraud and related charges stemming from a massive check kiting scheme used to finance their cattle businesses. The indictment alleges that over a period of 11 months, \$2.8 billion in worthless checks were passed between Minnesota and Wisconsin financial institutions which ultimately sustained losses totalling over \$41 million. ❖

AUSA Daniel T. Flaherty

Executive Office for United States Attorneys

EOUSA Staff Update

Attorney Kevin Keefe joined EOUSA's Legal Counsel's Office to assist with ethics matters, recusals, and personnel actions. ❖

Case Management Update

On November 20, 1995, EOUSA Deputy Director Donna Bucella forwarded to United States Attorneys and AUSAs, EOUSA's Case Management Fiscal Year 1995 Work Week Report. If you have questions, please contact Eileen Menton, Case Management Staff, EOUSA, (202)616-6919. ❖

Office of Legal Education

OLE Publication Corner

November was a busy month for the Publications Unit. The Fifth Volume of the OLE Litigation Series, *Ethics*

and *Professional Responsibility*, was published, and will soon be shipped out to the Districts. The USABook computer version is already available and can be downloaded by your Systems Manager from the EOUSA Bulletin Board. *Ethics* is a massive 1,269 page undertaking, and represents the most complete source of information on Federal professional responsibility issues available anywhere. Also available in USABook format: a collection of the full text of regulations on ethics for Government employees from the Code of Federal Regulations.

Last Summer we published a USABook version of the April 1995 edition of *Guideline Sentencing*, a comprehensive treatise on the Federal sentencing guidelines compiled by the Federal Judicial Center. As part of our commitment to keep our publications up to date, we have replaced that publication with the new September 1995 volume, and it is currently available on the EOUSA Bulletin Board.

The OLE Litigation Series books are published in conjunction with selected OLE course offerings. In addition to the conference attendees, each office receives one copy of each book. Although it is prohibitively expensive to publish enough copies to give to each AUSA nationwide, every AUSA can have all of our books on their desktops in USABook computer format. Many System Managers have worked out procedures for regularly "synching down" the

latest copies of all of the USABook publications to their users. In addition to the USABook program, we also post WordPerfect versions of our books on the Bulletin Board so you have the option of printing as many hard copies as you need. ❖

OLE Projected Courses

Tom Majors, Director, OLE, is pleased to announce projected course offerings for the months of December 1995 through April 1996 for the Attorney General's Advocacy Institute (AGAI) and the Legal Education Institute (LEI). Lists of these courses appear 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. The courses listed 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 *). OLE funds all costs for paralegals and support staff personnel from USAOs who attend LEI courses. 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.

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 B**. 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

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Deputy Director	David W. Downs
Assistant Director (AGAI-Criminal)	Dixie Morrow, AUSA, MDGA
Assistant Director (AGAI-Criminal)	Mary Jude Darrow, AUSA, EDLA
Assistant Director (AGAI-Civil and Appellate)	Eileen Gleason, AUSA, EDLA
Assistant Director (AGAI-Asset Forfeiture and Financial Litigation)	Kathy Stark, AUSA, SDFL
Assistant Director (LEI)	Donna Preston
Assistant Director (LEI)	Eileen Gleason, AUSA, EDLA
Assistant Director (LEI-Paralegal and Support)	Donna Kennedy

AGAI Courses

Date	Course	Participants
DECEMBER 1995		
4-13	Criminal Trial Advocacy	AUSAs, DOJ Attorneys
5-7	Basic Affirmative Civil Enforcement	AUSAs, DOJ Attorneys
11-14	Basic Asset Forfeiture	AUSAs, DOJ Attorneys
JANUARY 1996		
8-12	Criminal Federal Practice	AUSAs, DOJ Attorneys
9-11	Appellate Chiefs	USAO Appellate Chiefs
9-12	Asset Forfeiture for Criminal Prosecutors	AUSAs, DOJ Attorneys
22-2/2	Civil Trial Advocacy	AUSAs, DOJ Attorneys
23-25	Financial Litigation Investigation and Enforcement	AUSAs, Paralegals
23-25	Violent Crime and Juvenile Offenders	AUSAs, DOJ Attorneys
23-26	Attorney Supervisors	AUSAs
30-2/2	Evidence for Experienced Litigators	AUSAs, DOJ Attorneys
FEBRUARY		
5-14	Criminal Trial Advocacy	AUSAs, DOJ Attorneys
13-15	Federal Tort Claims Act	AUSAs, DOJ Attorneys
12-15	Use of Computers in Litigation	AUSAs, DOJ Attorneys
21-23	Asset Forfeiture for Criminal Prosecutors	AUSAs, DOJ Attorneys
26-3/1	Appellate Advocacy	AUSAs, DOJ Attorneys
MARCH		
4-7	Civil Federal Practice	AUSAs, DOJ Attorneys
4-7	Evidence for Experienced Litigators	AUSAs, DOJ Attorneys
4-8	Advanced Criminal Trial	AUSAs, DOJ Attorneys
5-7	Selected Topics in Bankruptcy	AUSAs, DOJ Attorneys
18-29	Civil Trial Advocacy	AUSAs, DOJ Attorneys
18-22	Criminal Federal Practice	AUSAs, DOJ Attorneys
19-21	Advanced Money Laundering	AUSAs, DOJ Attorneys
APRIL		
9-12	Advanced Civil Evidence	AUSAs, DOJ Attorneys
9-12	Health Care Fraud	AUSAs, DOJ Attorneys
15-24	Criminal Trial Advocacy	AUSAs, DOJ Attorneys
6-19	Advanced Medical Malpractice	AUSAs, DOJ Attorneys
29-5/10	Civil Trial Advocacy	AUSAs, DOJ Attorneys

LEI COURSES

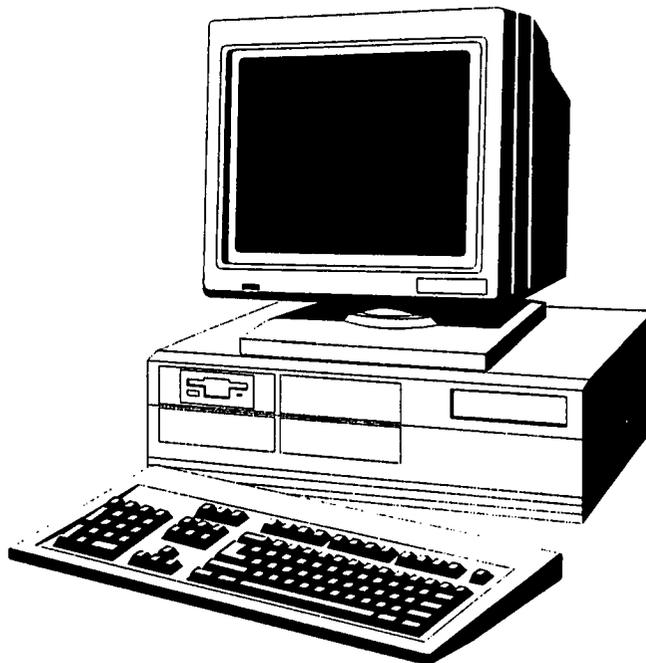
Date	Course	Participants
DECEMBER 1995		
5-7	Affirmative Civil Enforcement for Paralegals*	USAO Paralegals
JANUARY 1996		
8	Ethics for Litigators	Attorneys
8-12	Legal Support Staff*	USAO Paralegals
9-11	Environmental Law	Attorneys
10	Advanced Freedom of Information Act	Attorneys, Paralegals
12	Appellate Skills	Attorneys
17-18	Freedom of Information Act for Attorneys and Access Professionals	Attorneys, Paralegals
18-19	Law of Federal Employment	Attorneys
19	Privacy Act	Attorneys, Paralegals
22-23	Federal Acquisition Regulations	Attorneys
24-25	Federal Administrative Process	Attorneys
26	Legal Writing	Attorneys
30-2/2	Grand Jury Clerks*	USAO Grand Jury Clerks
FEBRUARY		
5-7	Basic Bankruptcy	AUSAs, Attorneys
12-15	Use of Computers in Litigation for Paralegals*	USAO Paralegals
15-16	Legislative Drafting	Attorneys, Paralegals
21	Freedom of Information Act Administrative Forum	Attorneys, Paralegals
22-23	Natural Environmental Protection Act	Attorneys
26-3/1	Civil Paralegal*	USAO Paralegals
MARCH		
11	Introduction to the Freedom of Information Act	Attorneys, Paralegals
11-15	Experienced Legal Secretaries*	USAO Support Staff
12-15	Examination Techniques	Attorneys
19-20	Agency Civil Practice	Attorneys
22	Legal Writing	Attorneys
25	Computer Acquisitions	Attorneys
APRIL		
1-3	Discovery	Attorneys
9	Ethics and Professional Conduct	Attorneys
9-11	Advanced Bankruptcy	Attorneys
10-12	Trial Preparation	Attorneys
15-19	Experienced Paralegal*	Paralegals
23-25	Criminal Collections and Management for Paralegals*	USAO Paralegals

WordPerfect 5.1 Tips

Reducing the Size of the Edit Codes Window

Although WordPerfect for DOS does a good job of making your edit screen look like your printed output, some oddities will show up on the screen from time to time if you use special fonts, tabs, or margins. Often, the only way to square things up is to turn on "reveal codes" by pressing <F11> or <Alt><F3>, and hunt down the embedded printer codes. Many experienced WordPerfect users prefer to edit with reveal codes on at all times.

This would be pretty cumbersome with the default screen settings, which divide the screen in half. Fortunately, it is simple to change your default window size to make the reveal codes portion a more manageable size. Begin by pressing <Shift><F1>, which brings up the "Setup" menu. Then select 2 Display, 6 Edit-Screen Options, and 6 Reveal Codes Window Size. Enter the number of lines for your display codes screen (two or three lines is plenty), and press <Enter> until you get back to the main edit screen. ❖



DOJ Highlights

Honors and Awards

On October 27, 1995, the INS Dallas District Operation Jobs Program was presented the 1995 Innovations in American Government Award for Operation Jobs, an INS Dallas District enforcement initiative that places legal workers in jobs formerly held by illegal aliens. The award, which carries a \$100,000 grant, was given by the Ford Foundation and Harvard University's John F. Kennedy School of Government, and is one of the nation's most prestigious public service prizes that honors exemplary initiatives that provide creative solutions to social and economic problems. Winners were honored by President Clinton at a White House ceremony attended by Vice President Al Gore and Attorney General Janet Reno. The

President said, "Operations Jobs is an innovative effort to return wages to the legal workers and remove the job magnet that draws illegal immigrants to the United States." ❖

Significant Issues/Events

Appointment

Frederick D. Baron Named as Director of Executive Office for National Security

On November 1, 1995, Attorney General Janet Reno named Frederick D. Baron as Director of the Executive Office for National Security, which coordinates

DOJ activities involving international and national security, and foreign intelligence issues, and acts as a forum for developing national security policy. Baron is a partner in the 240-attorney Palo Alto, California, law firm of Cooley, Godward, Castro, Huddleson, and Tatum, which also has offices in San Francisco, San Diego, Denver, and Boulder. His practice with the firm since 1983 has centered on litigation and counseling of high technology companies. In 1992 he served on the Clinton presidential transition team, reviewing national security matters and international programs at DOJ, and from 1980 through 1982 he was an Assistant United States Attorney in the United States Attorney's office in Washington, D.C. Baron succeeds Mark Steinberg, who was named the office's first director on October 3, 1994. ❖

Antitrust Division

Survey of Cost Effectiveness of Clinical Trials Involving Breast Cancer Patients Approved

On November 2, 1995, the Antitrust Division announced that a group of cancer institutes will be allowed to collect data comparing the resource utilization and cost effectiveness of treatments used in a study of breast cancer patients in order to demonstrate the effectiveness of the treatments in comparison to standard care. In its first project, The Southwest Oncology Group and its Clinical Practices Committee will be permitted to collect data from institutions in Washington, Florida, California, Missouri, Kansas, and Michigan, and the results of the study will be shared with other researchers, insurance companies, and physicians through publications, at meetings, and in medical journals, allowing them to judge the cost effectiveness of various treatment regimens. ❖

Merger of Fleet Financial Group and Shawmut National Corporation Approved

On October 31, 1995, the Antitrust Division approved a \$3.7 billion merger involving Fleet Financial Group, based in Providence, Rhode Island, and Shawmut National Corp., based in Hartford, Connecticut, provided that Fleet sells 64

bank branches. This is the second largest divestiture in the history of the banking industry. ❖

Bureau of Justice Statistics

Statistics on Youth Weapon Offenses Released

On November 12, 1995, BJS released statistics from their report, "Weapons Offenses and Offenders," written by Lawrence A. Greenfield and Marianne W. Zawitz, a study on weapons offenses that include illegal possession, use, trafficking, carrying, manufacturing, importing, or exporting of deadly devices such as guns, ammunition, silencers, explosives, and some types of knives. Almost a quarter of those arrested for these offenses were minors, more than 9 out of 10 were males, and more than half were white. The arrest rate for weapons offenses for 18-year olds was three times higher than for males 25 to 29, and five times higher than for males 30 to 34. Although most felony weapons convictions are in state courts (96 percent), between 1980 and 1992, the number of suspects investigated by U.S. Attorneys for weapons violations increased four-fold, and the number prosecuted increased five-fold. From 1985 through 1992, Federal prison admissions for weapons violations grew from 4.9 percent to 10.2 percent of all Federal prison admissions. Average prison sentence lengths for Federal weapons offenders have increased while those for State offenders have decreased. Copies of the report may be obtained by faxing orders to (410)792-4358; by writing the BJS Clearinghouse, Box 179, Annapolis Junction, Maryland 20701-1079; or by calling (800)732-3277. ❖

Civil Division

DOJ Recovers Over \$1 Billion in Qui Tam Awards and Settlements

On October 18, 1995, DOJ announced that it has recovered over \$1 billion in civil fraud cases brought under the whistleblower provisions of the False Claims Act since they were amended in 1986. The statute allows a citizen, known as a "relator," to file suit on behalf of the U.S.

alleging that a person has submitted false or fraudulent claims against the United States. The Government then has a period of time to investigate the allegations and determine whether to take over the suit or allow the citizen to pursue it alone. The citizen may recover from 15 to 25 percent of the settlement or judgment if the Government takes over the case and prosecutes it successfully and the same amount if the whistleblower litigates the case. ❖

DOJ's Financial Institution Fraud Special Report

In November 1995, Gerald Stern, Special Counsel for Financial Institution Fraud, released the *Department of Justice's Financial Institution Fraud Special Report*, an overview of the tremendous success of law enforcement in the pursuit and prosecution of financial institution fraud cases, including chapters on Congressional response to S&L fraud, coordination of law enforcement response, civil litigators' powerful roles in the war against FIF, and case highlights. The report has been distributed to United States Attorneys and Financial Fraud Coordinators. ❖

Criminal Division

International Matters

On September 26, 1995, in a challenge to the freezing of assets in Switzerland, the U.S. District Court for the Central District of California granted summary judgment to Michael Colello on both Fourth and Fifth Amendment grounds. Colello, a U.S. citizen, argued that the freeze of his assets in Switzerland violated his right to be free of unreasonable seizures and that the manner in which the freeze was handled denied him due process. Regarding the Fourth Amendment issue, the court found that the freeze in Switzerland was a seizure, that the constitutional standard of "probable cause" applied, and that the Mutual Legal Assistance Treaty, which requires only that the U.S. have "reasonable suspicion" that an offense has been committed, could not change the constitutional standard. Regarding the Fifth Amendment, the court found that due process normally requires notice, as well as an opportunity to be heard, before a seizure of property. The court further held that notice and an opportunity to be heard were constitutionally required at some point after the seizure of property, which

did not occur in this instance. DOJ is reassessing its policies and practices regarding requests for freezes of assets in foreign jurisdictions. For further information, contact Richard Owens, (202)514-0041. ❖

Check Presented to the Embassy of Switzerland

On October 26, 1995, Asset Forfeiture and Money Laundering Section Chief Gerald E. McDowell and Office of International Affairs Director George W. Proctor presented a check for \$679,595 to representatives of the Embassy of Switzerland. The money represents half of the civilly-forfeited proceeds belonging to Alarcon-Mengual and his girlfriend, Alicia Mercedes Gallo-Donado, a member of the Colombian Zuniga-Caballero drug trafficking organization. Switzerland facilitated the forfeiture by immobilizing the money in a Zurich bank account and allowing its forfeiture as a result of an action brought by the U.S. Attorney's office for the Northern District of Florida. An additional \$135,919 has been approved for the Government of Canada for the assistance provided by the Montreal Urban Police. ❖

ICITAP Receives Approval to Initiate Police Training Program in Rowanda

On October 27, 1995, the International Criminal Investigative Training Assistance Program received approval from the Department of State and the Agency for International Development to initiate a police training program in Rowanda. ❖

Environment and Natural Resources Division

Assistant Attorney General Schiffer Responds to House Superfund Proposal

On October 26, 1995, Assistant Attorney General Lois Schiffer, Environment and Natural Resources Division, criticized provisions of H.R. 2500, the controversial legislation to overhaul Superfund, the national hazardous waste cleanup program. Focusing on sections of the proposed legislation that would change the current liability structure of Superfund, she said that these provisions would threaten

public health, give polluters a financial windfall at taxpayers expense, halt ongoing Superfund cleanups, and hamper the Government's liability to get polluters to clean up sites in the future. ❖

Federal Bureau of Investigation

FBI's Investigation of Whitehurst Complaints

On November 8, 1995, DOJ Inspector General Michael R. Bromwich named a five-member team of internationally renowned scientists to assist the Department's Office of the Inspector General in the investigation of complaints by Dr. Frederic Whitehurst, an employee of the FBI laboratory, about improper handling of tests and reporting of results by the FBI laboratory. The scientists will be working closely with staff investigators and attorneys of the Inspector General's office to provide expertise on questions involving scientific analysis as they arise, and their advice will be incorporated into an Inspector General's report to be made public upon its completion in 1996. ❖

Immigration and Naturalization Service

Criminal Alien Removals

On October 26, 1995, INS announced that it surpassed its FY95 goal of 28,500 criminal alien removals, and renewed its objective to increase the figure substantially in FY96. Preliminary results show removals in September were 2,636, bringing the FY95 total to a record number, 31,244, which is 13.5 percent above the FY94 total. Removals include both deportations and exclusions but do not include voluntary returns. Programs initiated in FY95, including the Enhanced Institutional Hearing Program and the Los Angeles County Jail Project, not only had a significant impact on this year's criminal removals but set the stage for major increases in the next fiscal year, according to INS General Counsel David Martin. ❖

Office of Community Oriented Policing Services

Defense Veterans Join Nation's Police

On September 29, 1995, DOJ's Office of Community Oriented Policing Services (COPS) announced that more than 500 veterans have been hired under the Troops to COPS program, developed by DOJ and DOD to encourage the hiring of recently separated armed forces members as police officers and sheriff's deputies during military downsizing. Two hundred and sixty two policing agencies in 46 states received funds under the program, and of 517 former veterans approved for hire, 169 are already in uniform.

Significant Cases

Civil Division

BC/BS Companies Settle Medicare Claims, Pay U.S. \$117 Million

On October 25, 1995, DOJ announced that 67 Blue Cross/Blue Shield (BC/BS) companies across the nation paid the U.S. a total of \$117 million to settle Government claims that Medicare made primary payments for health care services that should have been paid by BC/BS private insurance companies. The companies also agreed to provide information that will allow the Federal Government to identify, before Medicare makes payments, those situations in which the companies are liable for the payments. ❖

Sandra Spooner, (202)514-7194

Jack Kaufman, (202)307-0267

Gee Holm, (202)307-0243

Drug Company to Pay U.S. \$7.5 Million

On October 31, 1995, the Civil Division announced that Modern Wholesale Drug Midwest, Inc., will pay the Government \$7.5 million to settle allegations that it overcharged the Department of Veterans Affairs for generic drugs. Charges brought against the company in 1994 by former employee Eileen Doran alleged that the company,

doing business as Rugby Laboratories, failed to fully inform Government negotiators about its pricing policies. ❖

Patricia Davis, (202)307-0238

Polly Dammann, (202)307-1183

AUSA Linda Wawzenski, Northern District of Illinois

Civil Rights Division

ADA Complaint Results in Sign-Language Interpreter Policy

On November 7, 1995, DOJ reached a settlement with the city of Rochester, New York, to issue a written policy concerning the use of sign language interpreters by its local police department, following a complaint filed by a deaf woman who was unable to tell police about an assault without an interpreter which the police department did not provide. ❖

Joan Magagna, (202)307-3727

Robert J. Mather, (202)307-2236

Texas Bank to Pay \$500,000 for Overcharging Hispanic Borrowers

On October 18, 1995, DOJ reached a settlement with Security State Bank of Pecos, Texas, for engaging in discrimination on the basis of national origin by allegedly charging Hispanic borrowers higher interest rates for consumer loans than equally qualified non-Hispanics. The settlement requires that the bank end its discriminatory practices, pay \$10,000 in civil penalties, create a \$500,000 compensation fund for Hispanics who were charged the higher rates, and set up a bilingual customer assistance program for information on its consumer loans. ❖

Sunny Pietrafesa, (202)616-2217

Five Skinheads Sentenced for Interfering with a Federally Protected Right

On August 6, 1994, Lloyd Tate, who is black, was approached by defendants Jeffrey Colin Van Cleave, Damon Bradley Shogren, James Austin Dunnaway, Jason Kooker, and Matthew David Cannon, five skinheads who began making racial comments while Tate and his wife were in a park in Iowa. Tate was then struck from behind and beaten, resulting in numerous cuts and bruises. Defendants Van Cleave, Shogren, and Dunnaway pled

guilty to violating one count of 18 U.S.C. §245(b)(2)(B) (interference with a federally protected right), and Kooker pled guilty to conspiring to interfere with a federally protected right. On September 12, Cannon was convicted on charges of violating one count of conspiring to interfere with a federally protected right and one count of 18 U.S.C. 245(b)(2)(B), and is scheduled to be sentenced on December 18. On October 30 and 31, 1995, Van Cleave and Shogren were sentenced to 41 months imprisonment, Dunnaway was sentenced to 33 months imprisonment, and Kooker was sentenced to 16 months imprisonment. ❖

Jessica Ginsburg, (202)524-4464

USA Don Nickerson, Southern District of Iowa

Criminal Division

Court Rules that Fifth Amendment Privilege Based on Fear of Foreign Prosecution Must Yield to Government's Legitimate Need

(U.S. v Lileikis, D.Mass., Civil Action 94-11902-RGS, Nov 15, 1995)

In decisions issued on September 15 and November 16, 1995, on the Government's motion to compel Alexander Lileikis, the defendant in a denaturalization action brought by the Office of Special Investigations (OSI), the U.S. District Court in Boston, Massachusetts, ruled that if the Government has a "legitimate need" for the witness's testimony in furthering the United States' interest in enforcing U.S. law, and if the only basis for claiming the Fifth Amendment privilege is fear of prosecution abroad, "then the privilege must yield." The court found that "in seeking to compel the cooperation of the defendant in this civil proceeding, it [the Government] is acting to advance a substantial interest of the United States in the enforcement of its immigration laws" and that "the interest asserted by the Government is compelling, particularly so when the allegations of the Complaint are measured against the duty incumbent upon the eligibility of aliens for American citizenship." The court was mindful of potential circumstances in which a foreign government might threaten a foreign prosecution to impede the execution of U.S. law, citing examples which "might include a renegade state seeking to

protect the bosses of a drug cartel or the leaders of a terrorist organization by threatening the prosecution of lieutenants granted immunity as a means of compelling their testimony." The court concluded that "it would be an unacceptable affront to the sovereignty of the United States if the operation of its laws could be stymied by the desire of a foreign government to prosecute the same witness." ❖

William H. Kenety, (202)616-2534

AUSA David S. Mackey, District of Massachusetts

Guilty Verdict for Wire Fraud and Conspiracy in Northern District of Texas

On October 6, 1995, Richard F. Armstrong, president of Heritage Savings and Loan (Heritage) of Elk City, Oklahoma, and Michael A. Grossman were indicted on 12 counts of wire fraud and conspiracy. Armstrong was found guilty on all 12 counts and Grossman was found not guilty on all counts. Two codefendants, George Schuler, sole shareholder and chairman of Heritage, and loan broker Thomas Glendenning pled guilty prior to trial. Schuler and Armstrong devised a scheme to sell a Heritage-owned real estate development to the Grossmans in order to inflate the financial condition of Heritage through a series of fraudulent loans. Michael Grossman diverted approximately \$1.5 million of the proceeds from the fraudulent loans for his personal use. Glendenning aided in the scheme. ❖

Charles W. Cobb, (202)514-0651

Steve Hinkle, (214)767-1620

Surety Bond Fraud

On October 18, 1995, Glen Roger Thompson, Peter J. Buffo, and Dennis Walsh were indicted on 24 counts in connection with the sale of fraudulent surety bonds to Federal Government contractors. The indictment charges that from 1991 to 1992 the defendants provided more than \$10 million worth of surety bonds to various Federal agencies, using fraudulently obtained assets as collateral. Thompson and Buffo are charged with interstate transportation of stolen property and forged securities, wire fraud, money laundering, making false statements, conspiracy, and forfeiture. Walsh is charged with conspiracy and wire fraud. The defendants allegedly forged deeds and conveyed vacant properties in the Los Angeles area from the true owners to Buffo's company, and then the company

deeded the properties to Thompson, an attorney who allegedly used them as collateral for surety bonds sold to Government contractors. ❖

Joel E. Leising, (202)514-0626

William H. Bowne III, (202)514-0662

Asset Forfeiture and Money Laundering

On October 19, 1995, Michael D. Long, an airplane pilot, broker, and informant with the DEA, was indicted on 32 counts of money laundering, Travel Act violations, structuring currency transactions to evade reporting requirements, and forfeiture. Long allegedly used his business, International Aviation Resources, Inc., and his intermittent status as a confidential informant, as a cover for his illegal activities, which allegedly included flying loads of drug proceeds from Mexico to Colombia and brokering aircraft sales for drug traffickers. Long has reportedly laundered between \$60-70 million of drug proceeds during the last decade. Juan Carlos Gomez, a drug trafficker, also was charged in the indictment. ❖

Stephen May, (202)514-1373

AUSA Reid Pixler, District of Arizona

Environment and Natural Resources Division

Plum Creek to Pay \$106,000 for Clean Air Act Violations

On October 5, 1995, in a consent decree with EPA, Plum Creek Manufacturing agreed to pay \$106,000 for releasing harmful pollutants into the air at its Kalispell plywood plant, resolving claims by the U.S. that emissions of visible air contaminants from Plum Creek's veneer dryers violated the Clean Air Act from September 1989 until April 1992. In 1991, the State brought an enforcement action for Kalispell veneer dryer violations which resulted in a \$7,000 penalty but because of Plum Creek's noncompliance with pollution laws, EPA concluded that the penalty was insufficient and brought its own enforcement action. ❖

Michael Goodstein, (202)514-1111

First AUSA Lorraine D. Gallinger, District of Montana

U.S. Ownership and Management of National Forests Upheld

On October 11, 1995, rejecting a claim of "county supremacy," a Federal judge upheld U.S. ownership and management of national forests and other public lands. In an October 5 decision in *U.S. v Gardner*, U.S. District Judge David W. Hagen ordered ranger Cliff Gardner, a self-styled participant in the "Sagebrush Rebellion," to remove his cattle from Forest Service lands in Elko County, Nevada, within 20 days and to pay \$7,000 for his illegal use of these lands, rejecting claims that Nevada, rather than the U.S., owned the public lands in that state and saying that under "unambiguous Supreme Court precedent, there can be no reasonable doubt that the National Forests . . . are the property of the U.S. and rightfully managed by the Forest Service." ❖

Brian Ferrell, (202)272-4100
AUSA Greg Addington, District of Nevada

Delaware Company Agrees to Record Asbestos Settlement

On October 12, 1995, DOJ announced that Hercules, Inc., will pay a record fine of \$1.2 million to settle allegations that it improperly handled and removed asbestos during the 1992 to 1993 demolition of an office building in

Virginia, by failing to notify EPA prior to demolition, not adequately wetting asbestos during stripping and removal operations, and failing to dispose of asbestos-containing waste in a timely manner. Hercules also agreed to steps to ensure future compliance with asbestos regulations. ❖

Robert H. Miller, (202)514-4797
AUSA John F. Corcoran,
Western District of Virginia

\$3.5 Million Long Island, New York, Superfund Cleanup

On November 2, 1995, in a consent decree, 17 corporations agreed to clean up a Long Island Superfund site and help end a potential threat to seven Nassau County water districts and 129 private drinking wells. The agreement requires Commander Oil Corporation and 16 others to pay for and complete an estimated \$3.5 million cleanup of the Pasley Superfund Site in Hempstead, New York, resolving the Government's claim of liability that the parties shipped hazardous materials, including chemicals and solvents, to be stored at the site. Commander Oil, owner of the site, will perform the cleanup and reimburse the U.S. \$750,000 in past response costs, and the remaining defendants will pay \$1.85 million toward the cleanup. ❖

Susan Akers, (202)514-4831
Caroline Springer, (202)514-3908

Ethics and Professional Responsibility

Ex Parte Communications with the Court

A private attorney alleged that a Federal attorney made an improper *ex parte* communication with the court in a civil case. The inquiry disclosed that the Federal attorney contacted the judge's law clerk for the purpose of determining the status of a government motion and to set up a conference call between the judge, the Federal attorney, and the complainant in the event the motion had not been acted upon by the court. The inquiry further found that the Federal attorney did not speak to the judge

or discuss the substance of the case with the law clerk. OPR concluded that there was no improper conduct on the part of the Federal attorney. ❖

Conflicts of Interest—Interests Adverse to United States

While prosecuting a defendant on criminal charges, a Federal prosecutor retained counsel for the defendant to represent the defendant in an unrelated matter. The prosecutor's supervisor asserted that the prosecutor

represented the United States while operating under a conflict of interest and that the prosecutor compromised a prosecution. The prosecutor was removed from the prosecution of the defendant for whom he retained counsel, and, because of the appearance of impropriety, he was not permitted to prosecute the co-defendants. ❖

Prosecution of Perjured Witness

A district court declared a mistrial in the trial of a defendant on drug charges after a witness allegedly perjured herself. Before seeking to retry the drug defendant, the Government prosecuted the witness for perjury. The witness-defendant was acquitted. The drug defendant then filed a motion to dismiss his indictment on the grounds of prosecutorial misconduct resulting from the Government's indictment of the witness. The court granted the motion, entering an order of dismissal with prejudice. The court concluded that the witness had been intimidated and that the defendant's right to present a material witness had been deliberately undermined. An appellate court affirmed the district court's dismissal of the drug charges.

After a review of the matter, OPR determined that there was insufficient evidence to conclude that the AUSA engaged in prosecutorial misconduct. The inquiry disclosed that the alleged perjury of the witness put the Government on the horns of a dilemma. If the Government declined to prosecute the witness for perjury, the perjured testimony would have been re-introduced during the retrial. On the other hand, if the Government prosecuted the witness for perjury, it would raise an issue of witness intimidation and risk dismissal of the retrial in the underlying case. The government elected to prosecute the witness on the perjury charge.

The inquiry also disclosed that the decision to pursue the perjury charge was made after thorough consultation with the AUSA's supervisors, including the United States Attorney. In addition, in its opinion, the appellate court acknowledged that there was no guiding precedent on the issue and that the pursuit of a perjury charge in similar circumstances might be appropriate. Based on all the circumstances, it was concluded that there was insufficient evi-

dence to conclude that the AUSA engaged in misconduct, and the matter was closed. ❖

Ethics Training Reminder

All filers of Confidential and Public Financial Disclosure Reports and all Assistant United States Attorneys who complete a conflict of interest certification in lieu of the Confidential Financial Disclosure Report are required by 5 C.F.R. § 2638.704 to receive one hour of ethics training each year. With the end of the year right around the corner, this is a reminder that all training for this year must be completed by December 31, 1995.

The training requirement can be met in a variety of ways. Filers may watch a training video; they may review the Department's Ethics Handbook (October 1994) and the ethics regulations; or they may attend a session of the Jeopardy Ethics game developed by the Department. (Those Districts that have not received a copy of this game should contact Kirby Heller in EOUSA Legal Counsel's Office, (202)514-4024.)

Once training has been completed, districts must send a letter to Legal Counsel's Office certifying that all employees required to receive the annual ethics training in 1995 have done so. The total number of employees who are required to receive training should be provided, and, if the number of those employees actually trained is different, an explanation of the discrepancy (i.e., employees on leave, employees who left the office) should be provided. To facilitate providing this information, a sign-in sheet should be provided at each training session. Copies of the sign-in sheets should be submitted along with the certification letter to Legal Counsel's Office. Certification letters must be received by Legal Counsel's Office no later than January 1, 1996. ❖

Career Opportunities

The U. S. 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 for these positions will be required to pass a urinalysis test to screen for illegal drug use prior to final appointment.

Federal Bureau of Prisons Commercial Law Branch, Lands Section Experienced Attorney, GS-11 to GS-13

This position is open only to current Department of Justice attorneys.

The Office of Attorney Personnel Management, U.S. Department of Justice, is recruiting for one experienced attorney for the Lands Section of the Commercial Law Branch, Federal Bureau of Prisons (BOP). This Section handles a variety of land and environmental related transactions and cases, including acquisitions of property that involve millions of dollars.

Applicants must possess a J.D. degree, be an active member of the bar in good standing (any jurisdiction), and have at least one year of post-J.D. experience. Applicants should have a strong interest in real property and environmental issues, and an exceptional academic background. Litigation or comparable experience, or direct experience in land acquisition, National Environmental Policy Act (NEPA) compliance, or related issues are highly desirable. For information, please contact Ms. Elizabeth A. Nagy, (202)307-1240. Applicants must submit a current OF-612 (Optional Application for Federal Employment) or resume, and writing sample to:

U.S. Department of Justice
Federal Bureau of Prisons
Legal Administrative Officer
320 First Street, NW
Washington, DC 20534

A current SF-171 (Application for Federal Employment) will still be accepted as well. This position is open until filled but no later than January 15, 1996. Current salary and years of experience will determine the appropri-

ate grade and salary levels. The possible range is GS-11 (\$36,174 to \$47,025) to GS-13 (\$51,557 to \$67,021). ❖

Criminal Division Director, OCDETF Experienced Attorney, GS-15

The Office of Attorney Personnel Management is seeking an experienced attorney for the position of Director, Executive Office for the Organized Crime Drug Enforcement Task Force (OCDETF) Program, Criminal Division, Washington, D.C. The incumbent will serve as Director, reporting under the general supervision of the Assistant Attorney General for the Criminal Division and direct supervision of a Deputy Assistant Attorney General. He/she will be responsible for a variety of functions that involve direction and oversight for OCDETF. The OCDETF Program is a nationwide program which combines the resources and techniques of several agencies in concentrated, long-term operations designed to attack and destroy narcotics trafficking organizations. The OCDETF Program's overall goal is to identify, investigate, and prosecute members of high-level drug trafficking enterprises, and to destroy the operations of those organizations.

Applicants must possess a J.D. degree, be an active member of the bar in good standing (any jurisdiction), and have at least four years of post-J.D. experience. Applicants must also have the ability to meet and deal effectively with high-level officials in the Department of Justice and other Federal, State, and local organizations; knowledge of and experience in dealing with sensitive narcotics trafficking issues and activities; the ability to formulate and implement Department policies on all matters pertaining to assigned areas; and the ability to serve as a spokesperson for one's organization.

Applicants may submit a resume, the Optional Application for Federal Employment (OF-612), or the Application for Federal Employment (SF-171), or any other chosen written format, as well as a copy of a supervisory appraisal of performance issued within the past 12 months. Application materials should be sent to:

U.S. Department of Justice, Executive Office
Criminal Division
Main Building, Room 2314
10th Street and Pennsylvania Avenue, N.W.
Washington, DC 20530
Attn: Julia Wellman

No telephone calls, please. This position is open until filled. Current salary and years of experience will determine the appropriate salary level in the GS-15 range (\$71,664 to \$93,166). ❖

Immigration and Naturalization Service Office of Regional Counsel/Vermont Experienced Attorney, GS-11 to GS-14

The Office of Attorney Personnel Management is seeking an experienced attorney to work in the Office of Regional Counsel, Eastern Region of the Immigration and Naturalization Service (INS), located in South Burlington, Vermont. The attorney hired for the position will primarily be responsible for representing the INS before the Merit Systems Protection Board and the Equal Employment Opportunity Commission. **Frequent travel will be required.** The attorney will also provide legal advice to the regional Office of Labor Relations and Office of Equal Employment Opportunity. Excellent oral and written advocacy and legal research skills are required, and prior litigation experience and/or experience in Federal personnel law are highly desirable.

Applicants must possess a J.D. degree, be an active member of the bar in good standing (in any jurisdiction), and have at least two years of post-J.D. experience. Applicants must submit a detailed resume with a legal writing sample to:

Deputy Regional Counsel
Immigration and Naturalization Service
70 Kimball Avenue
South Burlington, VT 05403-6813

No telephone calls please. This position is open until filled, but no later than December 8, 1995. **Relocation expenses are not available.** Current salary and years of legal experience will determine the appropriate grade and salary level. The salary range for the position is from GS-11 (\$35,578 to \$46,249) to GS-14 (\$59,920 to \$77,893). ❖

U.S. Trustee's Office, Los Angeles, California Experienced Attorneys, GS-12 to GS-15

The Office of Attorney Personnel Management, U.S. Department of Justice, is seeking several experienced attorneys for the United States Trustee's Office in Los Angeles, California. Responsibilities include assisting with the administration of cases filed under Chapters 7, 11, 12, or 13 of the Bankruptcy Code; drafting motions, pleadings, and briefs; and litigating cases in the Bankruptcy Court and the U.S. District Court.

Applicants must possess a J.D. degree for at least one year and be an active member of the bar in good standing (any jurisdiction). Outstanding academic credentials are essential and familiarity with bankruptcy law and the principles of accounting is helpful. Applicants must submit a resume and law school transcript to:

U.S. Department of Justice
Office of the U.S. Trustee
221 North Figueroa St., Suite 800
Los Angeles, CA 90012
Attn: Sonny Garcia

No telephone calls please. Current salary and years of experience will determine the appropriate grade and salary levels. The possible range is GS-12 (\$44,392 to \$57,709) to GS-15 (\$73,376 to \$95,392). This position is open until December 15, 1995. ❖

**U.S. Trustees Office
Reno, Nevada
Experienced Attorney**

The Office of Attorney Personnel Management, U.S. Department of Justice, is seeking an experienced senior attorney for the United States Trustee's Office in Reno, Nevada. The individual selected will be responsible for the management of the Reno United States Trustee's Office and the supervision of the administration of bankruptcy cases and trustees in cases filed in the northern division of the United States Bankruptcy Court for the District of Nevada.

Applicants must possess a J.D. degree, be an active member of the bar in good standing (any jurisdiction), and have at least four years of post-J.D. legal experience, including at least two years of bankruptcy or related experience. Outstanding academic credentials are essential and

the candidate must possess significant litigation and management experience. Applicants must submit an OF 612 (Optional Application for Federal Employment) or a resume, and law school transcript to:

U.S. Department of Justice
Office of the U.S. Trustee
250 Montgomery Street
Room 910
San Francisco, California 94104
Attn: Richard Jenkins

current SF 171 (Application for Federal Employment) will still be accepted as well. No telephone calls please. Current salary and years of experience will determine the appropriate salary level. The possible range is \$72,162 to \$93,811 (effective January 1, 1996). Applications must be postmarked by December 29, 1995. ❖

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

October 30, 1995

STATEMENT BY THE PRESIDENT

Today I reject United States Sentencing Commission proposals that would equalize penalties for crack and powder cocaine distribution by dramatically reducing the penalties for crack. The Sentencing Commission would also reduce the penalties for money laundering by combining the guidelines on money laundering with those on transactions in unlawfully acquired property. I am opposed to both of these changes.

Since I took office, my Administration has fought to stop drug abuse and to stamp out the crime and violence that are its constant companions. We are battling drug traffickers at every level of their networks -- from the very top to the very bottom.

The Cali Cartel, which pumped drugs into America with seeming impunity, is now on the run. We have intensified our efforts to work with drug producing countries to stop drugs from coming into the United States and to capture major drug traffickers. We told criminals convicted time and again for serious violent crimes or drug trafficking that from now on, it's three strikes and you're out. And we established the death penalty for drug kingpins, because they should reap what they sow.

We are putting 100,000 police officers on America's streets. We banned assault weapons because America doesn't want drug dealers to be better armed than police officers. We are helping schools to rid themselves of guns, and we are also helping schools to prevent teenage drug use by teaching children about the dangers of drugs and gangs. And we support schools who test student athletes for drugs.

All of this is beginning to work. For the first time in a very long time, crime has decreased around the country. But we cannot stop now. We have to send a constant message to our children that drugs are illegal, drugs are dangerous, drugs may cost you your life -- and the penalties for dealing drugs are severe. I am not going to let anyone who peddles drugs get the idea that the cost of doing business is going down.

Trafficking in crack, and the violence it fosters, has a devastating impact on communities across America, especially inner-city communities. Tough penalties for crack trafficking are required because of the effect on individuals and families, related gang activity, turf battles, and other violence.

Current law does require a substantial disparity between sentences for crack as compared to equal amounts of powder cocaine. Some adjustment is warranted, and the bill I am signing today, S. 1254, directs the Sentencing Commission to undertake additional review of these issues and to report back with new recommendations.

Furthermore, the sentencing structure should reflect the fact that all crack starts as powder. When large-scale cocaine traffickers sell powder with the knowledge that it will be converted into crack, they should be punished as severely as those who distribute the crack itself. I have asked the Attorney General to immediately develop enforcement strategies to bring about this result. As I said before, we are going after drug traffickers at every level of their networks.

THE WHITE HOUSE,
October 30, 1995.

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