
Title 8
Civil Rights
Division

U.S. ATTORNEYS MANUAL 1988

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8-1.000 GENERAL

The Assistant Attorney General in charge of the Civil Rights Division, subject to the general supervision of the Attorney General and under the direction of the Deputy Attorney General, is responsible for conducting, handling, or supervising civil rights matters, as more particularly described in 28 C.F.R. § 0.50.

The Civil Rights Division was created in December 1957 pursuant to the provisions of the Civil Rights Act of 1957. The Division is headed by an Assistant Attorney General, and now consists of the following Sections: Administrative Management Section, Appellate Section, Coordination and Review Section, Criminal Section, Educational Opportunities Section, Employment Litigation Section, Housing and Civil Enforcement Section, Special Litigation Section, and Voting Section.

The Civil Rights Division, under the direction of the Assistant Attorney General in charge of the Division, supervises the enforcement of those federal statutes which secure and protect the civil rights of persons within the jurisdiction of the United States. Among such statutes are those relating to voting discrimination, equal access to public accommodations and public facilities, desegregation of public education, equal employment opportunity, equal credit opportunity, and fair housing.

Because of the sensitive nature of the constitutional and statutory issues involved and the desirability of uniform application of federal law in this field, close consultation between U.S. Attorneys and the Division on civil rights matters is of prime importance. Attorneys from the Division may conduct litigation in conjunction with the U.S. Attorney. Such attorneys will maintain close liaison and consult with the U.S. Attorney on a continuing basis.

Any statements issued to the press in connection with the *institution* of judicial proceedings in civil rights cases should be coordinated through the Department's Office of Public Affairs and the Assistant Attorney General, Civil Rights Division.

8-1.100 STATUTES AND EXECUTIVE ORDERS ADMINISTERED BY THE CIVIL RIGHTS DIVISION

The following is a list of federal statutes and executive orders administered by the Civil Rights Division.

A. CIVIL STATUTES: 15 U.S.C. §§ 1691e(h), 3151(c); 20 U.S.C. §§ 1681(a), 1706, 1709; 28 U.S.C. § 1862; 29 U.S.C. §§ 794, 1577(c); 31 U.S.C. §§ 6720, 6721(d); 42 U.S.C. §§ 300w-7(c), 300x-7(c), 300y-9(c), 708(c), 1971, 1973 to 1973ff-4, 1997a(a), 1997c(a)(1), 2000a-3(a), 2000a-5(a), 2000b(a), 2000c-6(a), 2000d, 2000e-5(f), 2000e-6(a), 2000h-2,

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3613, 3789d(c)(3), 3789d(c)(4)(C), 5309(c), 8625(c), 9906(c); 49 U.S.C. §§ 306(e), 1615(a)(4).

B. CRIMINAL STATUTES: 18 U.S.C. §§ 241 to 246, 594, 841 to 848, 875, 876, 1001, 1503, 1504, 1508 to 1513, 1581 to 1588, 1621 to 1623, 2191 to 2196; 42 U.S.C. §§ 300a-8, 1973i(a)-(e), 1973j(a)-(c), 1973aa-3, 1973bb(b), 1973dd-3(b), (c), 1974, 1974a, 2000e-8, 2000e-10, 3631; 46 U.S.C. §§ 658, 701.

The Civil Rights Division shares enforcement responsibility under some of these statutes with the Criminal Division, generally depending upon whether the matter involves discrimination or intimidation on account of race, or, in the case of those statutes dealing with obstruction of justice, relates to civil rights litigation. See 28 C.F.R. §§ 0.50 and 0.55 for a full explanation of this division of responsibility. The Civil Rights Division has responsibility under 18 U.S.C. § 1001 with respect to false official statements made in connection with alleged violations of federal civil rights statutes.

C. EXECUTIVE ORDERS: 11246, 12250.

8-1.200 PRIOR APPROVALS

PRIOR APPROVAL REQUIREMENTS

USAM SECTION	TYPE & SCOPE OF APPROVAL	WHO MUST APPROVE	COMMENTS
8-2.120	Institution of judicial proceedings in civil rights cases.	Assistant Attorney General, Civil Rights Division	Written approval required. Some Civil Rights statutes require that the complaint be signed by the Attorney General.
8-2.180; .214	Once the U.S. Attorney determines litigation is warranted to civilly enforce the following civil rights statutes.	Assistant Attorney General, Civil Rights Division	Once USA determines litigation is warranted, justification and proposed pleadings are required. The Assistant Attorney General, Civil Rights Division shall retain final authority to determine what cases shall be filed, compromised, or settled.

(1) Section 203 of the Voting Rights Act.

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USAM SECTION	TYPE & SCOPE OF APPROVAL	WHO MUST APPROVE	COMMENTS
	(2) Title II of the Civil Rights Act of 1964 (Public Accommodations).		
	(3) Title III of the Civil Rights Act of 1964 (Public Facilities).		
	(4) Section 706 of Title VII of the Civil Rights Act of 1964 (Equal Employment Opportunities).		
	(5) Title VIII of the Civil Rights Act of 1968 (Fair Housing Act).		
8-2.261	Investigation of complaints of widespread deprivation in conditions of confinement.	Assistant Attorney General, Civil Rights Division	
8-2.278	Use of official observers at elections.	Assistant Attorney General, Civil Rights Division	
8-2.282	Before filing Section 203 suits (minority language), a memorandum justifying suit and a copy of proposed complaint is required.	Assistant Attorney General, Civil Rights Division	
8-3.110	Discontinuance of an investigation of a criminal civil rights violation, in the absence of state or local prosecution.	Criminal Section, Civil Rights Division	
8-3.130	Institution of felony prosecutions under 18 U.S.C. § 242, all prosecutions under 18 U.S.C. §§ 241 and 245, and prosecutions under 18 U.S.C. § 1001 in which the alleged false official statement relates to a civil rights matter.	Assistant Attorney General, Civil Rights Division	Except 18 U.S.C. § 245, which requires written certification by the Attorney General or Deputy Attorney General that the prosecution is in the public interest and is necessary to secure substantial justice.
8-3.195	Disclosure of information pertaining to investigations supervised or reviewed by the Civil Rights Division.	Assistant Attorney General, Civil Rights Division or Deputy Assistant Attorney General, Civil Rights Division	28 C.F.R. § 16.26

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8-2.000 ENFORCEMENT OF CIVIL RIGHTS CIVIL STATUTES

Federal law protects against discrimination in voting, public accommodations and facilities, public schools, employment, housing, credit, and in all programs and activities receiving federal financial assistance. In all of these areas the Attorney General is authorized under specific conditions to institute civil actions for appropriate relief.

This chapter will deal first in USAM 8-2.100, *infra*, with the procedures for investigation and trial which are generally applicable to civil statutes administered by the Civil Rights Division. The functions of Sections with enforcement activities under these statutes will be separately treated in USAM 8-2.200, *infra*. In addition to the general procedures, many civil rights statutes have special procedures which must be followed. These special procedures are indicated in the paragraphs devoted to the Section which is responsible for enforcing the statute.

8-2.100 GENERAL PROCEDURES FOR CIVIL INVESTIGATION AND TRIALS

Except for any particular civil case or category of civil case (see USAM 8-2.180, *infra*) that may be assigned by the Assistant Attorney General of the Civil Rights Division to the U.S. Attorney for trial, the Civil Rights Division has the responsibility for the handling of all civil matters and cases, including all correspondence, motions, responses, briefs and arguments. For administrative and informational purposes, the Division will keep the U.S. Attorney advised of the progress of such matters by forwarding to him/her copies of correspondence and pleadings served on opposing counsel and/or filed with the trial court. The Division should confer with the U.S. Attorney with respect to the position to be taken in civil cases, and utilize such assistance as may be mutually agreeable between the Division and the U.S. Attorney. Notwithstanding the foregoing case responsibilities, the Division and the U.S. Attorney should cooperate in assisting each other by taking complementary steps to protect fully the interests of the United States and to assure the successful prosecution of the litigation.

The following procedures are generally applicable to investigations and trials in civil matters in which the Civil Rights Division has responsibility.

8-2.110 Investigations

With certain exceptions noted below, the Federal Bureau of Investigation is generally authorized to conduct preliminary investigations into civil rights complaints without prior authorization from the Assistant Attorney General, Civil Rights Division, or from the U.S. Attorney. (Instructions for standard preliminary investigations have been devised and furnished to the Federal Bureau of Investigation for many of the civil

statutes administered by the Division. Copies of such investigations may be obtained from the appropriate Section in the Division.) The U.S. Attorney will be notified when any investigation is commenced in his/her district, and when the size, extent, or scope of any investigation, absent an emergency, is other than routine, the Assistant Attorney General, Civil Rights Division, or his/her authorized Section Chief shall advise and consult with the U.S. Attorney prior to the instigation of such investigation.

Complaints received by the U.S. Attorney should be referred to the FBI, and the Civil Rights Division should be advised.

When the Division requests the FBI to conduct an investigation, a copy of the request will be forwarded to the U.S. Attorney for the District.

During or upon completion of the preliminary investigation, the U.S. Attorney should forward his/her views to the Assistant Attorney General, Civil Rights Division, to the attention of the Chief of the Section which has enforcement responsibility for the matter being investigated.

8-2.120 Institution of Civil Proceedings: Authorization

The institution of judicial proceedings in civil rights cases must be authorized by the Assistant Attorney General of the Civil Rights Division. In all civil actions, the complaint must be signed by the Assistant Attorney General. Some civil rights statutes also require the complaint to be signed by the Attorney General.

8-2.130 Trials

The Civil Rights Division will supervise, support and coordinate, as appropriate, the preparation of pleadings and other legal documents in connection with the trial and preparation of civil cases under the civil rights statutes. It will ordinarily provide personnel to conduct or to assist at the trial of such cases, after consultation with the U.S. Attorney.

8-2.140 Interventions

Title IX of the Civil Rights Act of 1964 (42 U.S.C. § 2000h-2) authorizes the Attorney General to intervene in cases of general public importance involving alleged denials of equal protection of the laws on account of race, color, religion, sex or national origin. In light of the statutory requirement of certification by the Attorney General, any request for intervention from a private litigant received by the U.S. Attorney should be forwarded to the Department with a recommendation. This authority to intervene has been used most frequently in cases involving discrimination in schools and prisons, and in the selection of jurors.

The U.S. Attorney should notify the Assistant Attorney General, Civil Rights Division, upon learning of a case in his/her District in which intervention by the United States under 42 U.S.C. § 2000h-2 might be appropriate.

8-2.150 Appeals

Appeals in civil rights cases are supervised by the Appellate Section of the Civil Rights Division. For U.S. Attorneys' appellate responsibilities, see USAM 2-3.210, *supra*.

8-2.160 Cooperation with Private Litigants

It is the long-standing policy of the Department to avoid providing legal advice or providing information developed through our investigations to private litigants. It is appropriate, however, to advise private citizens who are not litigants of their rights under the federal laws which we are authorized to enforce, including their right to be represented by private attorneys.

8-2.170 Standards for Amicus Participation

The Civil Rights Division's standards concerning *amicus* participation are as follows:

A. Guidelines

While guidelines cannot cover all possible cases, *amicus* participation by the Civil Rights Division should generally be limited to the following types of cases:

1. Cases in which a court requests our participation;
2. Cases in which the constitutionality of a federal civil rights statute is challenged (*cf.* 28 U.S.C. § 2403(a));
3. Cases which involve the interpretation of a statutory provision which the Department of Justice (or another federal agency) is empowered to enforce;¹
4. Cases which raise issues the resolution of which will likely affect the scope of our enforcement jurisdiction (*e.g.*, cases involving the concept of state action under the Fourteenth Amendment);
5. Cases which raise issues which could affect in a major way private enforcement of the statutes we enforce; and

¹This includes Executive Orders, regulations and other provisions of law, as well as statutes.

6. Cases where a special federal interest is clear and is not likely to be well served by the private litigants.

There will, of course, be instances not fitting the above criteria where *amicus* participation should nevertheless be considered.

B. Other Guidelines

In addition to these necessarily general standards, there are other factors which should be considered in determining whether to make a recommendation for *amicus* participation. These include:

1. The importance of the issue to be addressed, in terms of the novelty of the question presented, the level of the court in which it is posed, and the probable impact of its resolution;
2. The probability of our being able to contribute substantially to the resolution of the case (e.g., competence of private counsel, state of the record, timeliness);
3. The wisdom of *amicus* participation as distinguished from intervention; and
4. The availability of our resources.

Finally, the leadership of the Division will consider at least semi-annually, at section chief meetings, what issues should be given priority in deciding on *amicus* participation. The Chief of the Appellate Section has primary responsibility for placing this item on the agenda, although other members of the leadership may also do so if they deem it appropriate.

C. Amicus participation in district courts

Section Chiefs or Special Litigation Counsel who wish to recommend *amicus* participation in a district court should send their proposal to the appropriate Deputy Assistant Attorney General. They will be notified if the filing of an *amicus* brief has been generally approved. Thereafter, they will coordinate the filing of the brief and any other papers through the appropriate Deputy.

D. Amicus participation in the courts of appeals and the Supreme Court

The Appellate Section has primary responsibility for our *amicus* participation in appellate courts, subject to the general supervision of the Assistant Attorney General and to authorization by the Solicitor General. The procedures to be followed are:

1. Identification of possible amicus cases.

The Appellate Section reviews Law Week, F.Supps. and F.2d's, and other legal publications to learn of appropriate cases. It should also maintain contact with General Counsel offices of other federal agen-

cies, such as the EEOC, Department of Labor, Department of Education, etc., and with private civil rights organizations, and should encourage suggestions from such agencies and groups.

The trial Sections and Special Litigation Counsel will often learn of possible *amicus* cases in the appellate courts in the ordinary course of carrying out their responsibilities. They should be alert for such cases and should provide the Appellate Section prompt notice of the existence of such cases.

U.S. Attorneys are also encouraged to notify the Appellate Section of possible *amicus* cases.

2. Selection of amicus cases.

Each Section should make an *amicus* recommendation to the Appellate Section when it thinks the Appellate Section should consider a case for *amicus* participation.²

3. The memorandum shall state:

- a. The date of entry of judgment
- b. The appellate schedule insofar as it has been established;
- c. The reasons for *amicus* participation; and
- d. The attorney(s) in the Section, if any, most familiar with the case.

The Appellate Section is to review each possible *amicus* case and make a determination whether to seek Solicitor General authorization to participate. The Appellate Section shall consult with the appropriate trial Section or Office and with affected federal agencies in the course of making this determination. The Chief of the Appellate Section should consult with the Assistant Attorney General on all cases where there is a substantial disagreement among Sections or when it appears that the case otherwise merits the Assistant Attorney General's personal attention.³ In cases raising fundamental issues the resolution of which may affect large segments of our responsibilities, broader interchanges of ideas should precede the final decision. If another federal agency has recommended *amicus* participation and the Division disagrees, the Division will make a negative recommendation to the Solicitor General.

In all circumstances, the Department files should reflect the reasons for any decision as to *amicus* participation; also, the Division should

²The Section should send a copy to the appropriate Deputy Assistant Attorney General(s). The same procedures apply to recommendations from Special Litigation Counsel.

³The Chief of the Appellate Section should send the appropriate Deputy Assistant Attorney General(s) a copy of each memorandum assigning a potential *amicus* case to an attorney.

convey any decision on *amicus* participation to all those outside the Department who have suggested or otherwise commented on such participation. A copy of each document reflecting the Division's disposition or recommendation should be sent to the Assistant Attorney General⁴ and to the appropriate Section or Sections in the Division.

8-2.180 Concurrent Enforcement Authority

With respect to civil litigation, U.S. Attorneys presently have concurrent authority with the Civil Rights Division to enforce the following federal civil rights statutes:

A. Section 203 of the Voting Rights Act, 42 U.S.C. § 1973aa-1a (see USAM 8-2.281, *infra*);

B. Title II of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000a *et seq.* (see USAM 8-2.233, *infra*);

C. Title III of the Civil Rights Act of 1964, 42 U.S.C. § 2000b *et seq.* (see USAM 8-2.262, *infra*);

D. Section 706 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5, (see USAM 8-2.211 8-2.216, *infra*); and

E. Title VIII of the Civil Rights Act of 1968, 42 U.S.C. §§ 3601 *et seq.* (The Fair Housing Act), for cases involving "blockbusting," racial steering, and discrimination in the rental or sale of houses, apartments, and mobile homes (see USAM 8-2.231, *infra*).

Upon initiation of an investigation, the U.S. Attorney shall notify the Civil Rights Division of the nature and scope of the investigation. Once the U.S. Attorney determines that litigation is warranted, the U.S. Attorney shall provide the Assistant Attorney General for Civil Rights with a copy of a litigation justification memorandum and proposed pleadings.

The U.S. Attorney shall also consult with the Assistant Attorney General for Civil Rights as to the merits of the litigation prior to filing. The Assistant Attorney General for Civil Rights shall retain final authority to determine what cases ought to be filed, compromised, or settled regardless of the judicial districts in which they arise.

In areas where the U.S. Attorneys have concurrent authority with the Civil Rights Division, the U.S. Attorney shall report on a quarterly basis (*i.e.*, January 1, April 1, July 1, and October 1 of each year), the name, nature, and status of all civil rights complaints received. The report should identify each matter closed during the quarter and state briefly why it was closed.

⁴The Assistant Attorney General need not receive copies in instances where the Appellate Section decides, after an initial examination of the case, that it is of such marginal importance to our enforcement program that further consideration of *amicus* participation is unwarranted.

8-2.190 Production or Disclosure in Federal and State Proceedings of Material or Information Contained in Civil Rights Division Files

Procedures governing production or disclosure in federal and state proceedings of material or information contained in Civil Rights Division files are set out at USAM 8-3.195. (Demands in judicial proceedings for the production or disclosure of information in Civil Rights Division files most often relate to criminal matters. For this reason the procedures to be followed are set out in the chapter pertaining to the Criminal Section of the Division.)

8-2.200 SECTIONS AND OFFICES RESPONSIBLE FOR SUPERVISING THE ENFORCEMENT OF CIVIL STATUTES

The functions of those Sections of the Division administering civil statutes are described below. Special procedures applicable to each Section are also noted. Cases involving the rights of American Indians, formerly handled by the Office of Indian Rights, are now assigned to the Section responsible for enforcing the particular statute involved.

8-2.210 Employment Litigation Section

The Employment Litigation Section is responsible for the enforcement of Title VII of the Civil Rights Act of 1964, as amended, with respect to the statute's prohibition of employment discrimination by state and local government bodies; and Executive Orders 11246 and 11375, which prohibit employment discrimination by contractors and subcontractors working on federally-assisted construction contracts. Both offensive and defensive cases involving employment and coverage of these laws are the responsibility of the Employment Litigation Section.

8-2.211 Equal Employment Opportunity Laws

Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000e *et seq.*), as amended, forbids employment practices that discriminate on the basis of race, color, religion, sex or national origin by employers, labor organizations, employment agencies, state and local governments, governmental agencies, political subdivisions and the federal government. In addition to discriminatory terminations and refusals to hire, the Act forbids all other discriminatory practices with respect to terms or conditions of employment. Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, as amended, and other provisions of law prohibit recipients of federal funds from engaging in employment practices that discriminate on grounds of race, religion, sex, national origin or handicap.

The Department of Justice shares enforcement authority under Title VII with the Equal Employment Opportunity Commission (EEOC). The Department

has authority to seek to enjoin employment discrimination by state and local governments, and their agencies and political subdivisions. Enforcement authority as to private employers belongs to the EEOC. The EEOC also has primary enforcement responsibility with respect to the federal government. (Note: The Civil Division generally defends federal agencies in employment discrimination suits against the government; and the U.S. Attorney should notify the Civil Division whenever an employment discrimination suit against the federal government is filed in his or her district).

Generally, the Employment Litigation Section has primary responsibility for initiating and handling pattern or practice suits against state or local governments under Title VII or other provisions of law. Responsibility for suits under Section 706 of Title VII is vested concurrently in the Employment Litigation Section and the U.S. Attorneys. See USAM 8-2.180, *supra*.

Persons who complain to the U.S. Attorney of employment discrimination by employers and other organizations covered by the Act, other than the federal government, should be advised immediately to file their complaint with the EEOC. Those who complain of discrimination by an agency of the federal government should be advised to bring their complaint to the attention of the personnel officer of the agency involved and the EEOC.

In the case of a state or local government, or governmental agency, if the EEOC has been unable to secure an acceptable conciliation agreement, it will refer the case to this Department, which may file a civil action under Section 706 of Title VII. In addition, this Department may, without prior referral, initiate a pattern or practice suit against state or local government employers. U.S. Attorneys should notify this Division of any complaints coming to their attention which may be of a systemic, "pattern or practice" nature.

8-2.212 Discrimination by Contractors and Subcontractors with the Federal Government and by Contractors or Subcontractors on Federally Assisted Construction Contracts (Executive Orders 11246 and 11375).

The Attorney General may also, in certain circumstances, bring actions against contractors or subcontractors with the federal government or contractors or subcontractors on federally-assisted construction contracts to enforce the requirements of Executive Order 11246, as amended by Executive Order 11375. Executive Order 11246 forbids discrimination based on race, color, religion, sex or national origin by such contractors or subcontractors generally when the amount of the contract exceeds \$10,000. Primary enforcement responsibility is vested in the Department of Labor, which may, if unable to obtain compliance, refer the case to the Department of Justice for appropriate legal proceedings. The text of Executive Order 11246, as amended by Executive Order 11375, is set forth immediately

following Section 2000e of Title 42 of the United States Code. Since allegations of violations of Executive Order 11246 may present unfamiliar questions, consultation with the Civil Rights Division is appropriate from the outset.

8-2.213 Defensive Suits

The responsibility of the Employment Litigation Section extends to suits in which a federal contractor, subcontractor or grantee sues to enjoin the actual or threatened termination or suspension of federal contracts or funds under Executive Order 11246, Title VI (42 U.S.C. §§ 2000d-2000d-6), or a revenue sharing statute or seeks to prevent implementation of a disadvantaged business enterprise plan. In such cases, the defense of the agency's action is the responsibility of the Employment Litigation Section.

8-2.214 U.S. Attorney Responsibilities

Each U.S. Attorney has concurrent authority with the Employment Litigation Section with respect to individual cases of discriminatory employment practices by state and local governments under Section 706 of Title VII, 42 U.S.C. § 2000e-5. See USAM 8-2.180, *supra*. Each U.S. Attorney's Office is encouraged to work out appropriate procedures with the Employment Litigation Section, in conjunction with the local office(s) of the Equal Employment Opportunity Commission, for the handling of suits under Section 706. Authority for the initiation and compromise of such suits remains with the Assistant Attorney General.

Any U.S. Attorney who learns or has reason to believe that a state, county, or other recipient of federal financial assistance is engaging in discrimination should advise the Assistant Attorney General, Civil Rights Division. Similarly, any complaints of discrimination by recipients of federal funds should be forwarded to the Assistant Attorney General, Civil Rights Division.

8-2.220 Educational Opportunities Section

The Educational Opportunities Section is responsible for administering the enforcement of federal statutes regarding school desegregation. The primary statutes with which this Section is concerned are Title IV of the Civil Rights Act of 1964 (42 U.S.C. § 2000c) and the Equal Educational Opportunities Act of 1974 (20 U.S.C. § 1701 *et seq.*). In addition, Title IX of the Civil Rights Act of 1964 (42 U.S.C. § 2000h-2) authorizes the Attorney General to intervene in cases alleging discrimination in public schools. The Department of Education may refer cases to the Attorney General pursuant to Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d) requesting that suit filed to enforce recipients' assurances of nondiscrimination in federally funded educational programs and Title IX of

the 1972 Education Amendments (20 U.S.C. § 1681 *et seq.*) authorizes the Attorney General to file suits upon referrals from federal agencies alleging sex discrimination in federally assisted educational programs. The Section is also responsible for enforcing the rights of noninstitutionalized handicapped persons in education matters arising under Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), and the Education for All Handicapped Children Act of 1975 (20 U.S.C. § 1401 *et seq.*). In addition, cases involving discrimination in the provision of education by revenue sharing fund recipients are generally administered by the Educational Opportunities Section. See USAM 8-2.214, *supra*.

8-2.221 Title IV of the Civil Rights Act of 1964

Under Title IV of the Civil Rights Act of 1964 (42 U.S.C. § 2000c), the Attorney General is authorized, when certain statutory conditions are met, to institute public school desegregation suits against school officials and others who may be necessary to the granting of appropriate relief.

Under the terms of Title IV, complaints of discrimination or segregation in public schools and colleges must be in writing and signed by a parent or group of parents or, in the case of colleges, by the person aggrieved. The complaint should contain a statement to the effect that the children involved are being deprived by a school board of the equal protection of the laws, or, if it is a college-level complaint, to the effect that the complainant has been denied admission to or not permitted to continue in attendance of a public college by reason of race, color, religion, or national origin. Complainant should be advised of these requirements. No particular form of complaint is required; it need not be under oath. When a signed complaint is submitted to the U.S. Attorney, he/she should contact the FBI and request that the complainant be interviewed for details, including his/her financial status, *i.e.*, household income, property, and obligations. (42 U.S.C. § 2000e-6 authorizes the Attorney General to institute a civil action only where the signers of the complaint, in his/her judgment, are unable to initiate and maintain appropriate legal proceedings.) The Bureau, after interviewing the complainant, will furnish a copy of its report to the U.S. Attorney and to the Department. The U.S. Attorney should review the report and submit his/her recommendations to the Assistant Attorney General, Civil Rights Division, bearing in mind the criteria established by the statute for the Attorney General in determining whether he/she may proceed.

8-2.222 The Equal Educational Opportunities Act of 1974

The Equal Educational Opportunities Act of 1974 (20 U.S.C. § 1701 *et seq.*) also authorizes the Attorney General to institute public school desegregation suits against school officials and others. The segregative acts of school officials which deny equal educational opportunity are

specifically described (20 U.S.C. § 1703(a) to (e)). In addition, such a suit may be filed when public school officials fail to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional program (20 U.S.C. § 1703(f)). Unlike Title IV (see USAM 8-2.221, *supra*) jurisdiction under this Act does not require a written complaint from parents, and the Attorney General may institute a civil action on behalf of any individual denied equal educational opportunity. The U.S. Attorney should review any information indicating a violation of this Act, and submit his/her recommendation concerning further action to the Assistant Attorney General, Civil Rights Division.

8-2.223 Defensive Litigation

The defense of the Department of Education's determination to terminate federal funds to an educational institution under Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d) and other federal statutes is administered by the Educational Opportunities Section.

8-2.230 Housing and Civil Enforcement Section

The Housing and Civil Enforcement Section is responsible for administering the enforcement of federal statutes regarding equal housing opportunity, equal credit opportunity, discrimination in places of public accommodation, and discrimination in the provision of municipal services. The primary statutes with which this Section is concerned are the Fair Housing Act, Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, (42 U.S.C. §§ 3601 to 3619); the Equal Credit Opportunity Act (15 U.S.C. §§ 1691 to 1691f); and Title II of the 1964 Civil Rights Act (42 U.S.C. § 2000a). Discrimination in the provision of municipal services and housing by community development block grant recipients is prohibited by 42 U.S.C. § 5309. The Housing and Civil Enforcement Section is also responsible for enforcing the rights of handicapped persons in housing matters arising under Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794).

8-2.231 Title VIII of the Civil Rights Act of 1968

Subject to certain specified limitations, Title VIII, as amended by the Fair Housing Amendments Act of 1988, forbids discrimination based on race, color, religion, sex, familial status (families with children under age 18), national origin, or handicap in the sale, rental, advertising, or financing of housing. Practices forbidden by the law include not only the direct refusal to sell, rent, or finance but also more sophisticated forms of discrimination such as the providing of false information about housing availability, blockbusting, racial steering, and redlining and discrimination by the use of zoning or other land use power. In addition, with

respect to handicapped individuals, discrimination includes the refusal to permit the reasonable modification of existing premises and the refusal to make reasonable accommodations in rules, policies, practices, or services. Finally, the statute requires that most multifamily dwellings constructed for initial occupancy after March 1991 be handicapped-accessible.

The Fair Housing Amendments Act created a new remedial structure to enforce the rights granted by the Fair Housing Act, significantly strengthening the federal role in the enforcement process. The Department of Housing and Urban Development (HUD) continues to be authorized to receive and investigate complaints, to notify state and local fair housing agencies of any complaints filed, and to negotiate to attempt to obtain voluntary compliance with the Act. However, in the event that the conciliation process fails to achieve voluntary compliance, HUD is authorized, through its Office of General Counsel, to issue a determination of reasonable cause to believe that the Act has been violated (also called a charge). After a charge is issued, the matter can proceed along one of two routes. HUD may bring the case on behalf of the individual victim before an administrative law judge, who is authorized to award equitable relief and actual damages and to assess a civil penalty. However, if any party to the complaint so elects, the case will be heard in federal court; in that event, the Attorney General, acting through the Civil Rights Division, is required by the statute to initiate and maintain a lawsuit on behalf of the individual victim. In such a case, the court is authorized to award equitable relief and both actual and punitive damages. In addition, if HUD believes prompt judicial action is necessary to preserve the availability of housing which is the subject of a complaint filed with that agency, it may request the Attorney General to seek a temporary restraining order from a federal court pending completion of the administrative process.

The Attorney General retains the independent authority to initiate litigation under the Act where there exists a pattern or practice of unlawful discrimination. However, the 1988 amendments expanded the relief authorized in such suits to include actual and punitive damages for victims and a civil penalty in addition to the equitable relief previously authorized. Individual victims of discrimination retain the right to initiate their own litigation under the Act, and the cap on punitive damage awards in such cases has been removed.

The United States Attorneys have primary responsibility for enforcing administrative subpoenas issued by the Department of Housing and Urban Development under Section 811 of the Fair Housing Act (42 U.S.C. § 3611). HUD will keep the Civil Rights Division apprised of these matters by notifying the Housing and Civil Enforcement Section when a subpoena is referred to a United States Attorney for enforcement. Also, in some instances where requests for information under Section 811 involve unusual

circumstances, the General Counsel's Office at HUD will consult with the Civil Rights Division before a subpoena or demand for information is issued. The United States Attorneys have been delegated concurrent authority in Fair Housing Act matters. Pursuant to this delegation, when information about housing discrimination involving blockbusting, racial steering, or discrimination in the rental or sale of houses, apartments, or mobile homes is brought to the attention of the United States Attorney, he/she should initiate an investigation and notify the Assistant Attorney General, Civil Rights Division, of the nature and scope of the inquiry. The notice should be directed to the attention of the Chief of the Housing and Civil Enforcement Section. In the event that the United States Attorney determines that litigation is warranted, he/she shall provide the memorandum and proposed pleadings. The Assistant Attorney General for Civil Rights has the final authority to determine what cases are to be filed, compromised, or settled. This decision will be made after consultation with the United States Attorney concerning the merits of the proposed litigation. See USAM 8-2.180, *supra*.

When the United States Attorney learns of other types of discrimination in housing he/she should notify the Assistant Attorney General, Civil Rights Division, attention: Chief of the Housing and Civil Enforcement Section, who will then communicate with complainants by a form letter which advises them of their private rights and of the Attorney General's responsibilities under the Act. The Chief of the Housing and Civil Enforcement Section will also determine, in cooperation with the United States Attorney, whether investigative or litigative action is appropriate.

The use of force or threats of force to interfere with fair housing rights may violate the criminal provisions of Title IX of the 1968 Civil Rights Act (42 U.S.C. § 3631) as well as Title VIII of the Act. The determination of whether or not to proceed civilly will be made by the Assistant Attorney General, Civil Rights Division, in consultation with the United States Attorney. Criminal prosecutions under 42 U.S.C. § 3631 are supervised, supported and coordinated as appropriate by the Criminal Section of this Division. See USAM 8-3.000.

The Division has devised standard preliminary investigations for violations of Title VIII, which are available from the Housing and Civil Enforcement Section upon request.

8-2.232 The Equal Credit Opportunity Act

The Equal Credit Opportunity Act forbids discrimination in the extension of credit based on race, color, religion, sex, marital status, national origin, age, because a credit applicant receives public assistance, or because a credit applicant has exercised rights under the Consumer Credit Protection Act. The coverage of the law became effective in stages and its final form became effective on March 23, 1977.

Certain administrative enforcement responsibilities are given by the statute to twelve federal agencies, with the Federal Trade Commission having the broadest responsibility. Private suits are also provided for. The Attorney General is authorized to sue for injunctive relief in the federal courts when a case is referred from one of the twelve federal agencies or when he/she finds a pattern or practice of credit discrimination. The Attorney General may sue for "such relief as may be appropriate, including injunctive relief."

When information about discrimination in credit is brought to the attention of the U.S. Attorney, he/she should notify the Assistant Attorney General, Civil Rights Division, attention: Chief of the Housing and Civil Enforcement Section, who will then communicate with complainants by a form letter which advises them of their private rights and of the Attorney General's responsibilities under the Act. The Chief of the Housing and Civil Enforcement Section will also determine, in cooperation with the U.S. Attorney, whether investigative or litigative action is appropriate.

The Division has devised a standard preliminary investigation for violations of the Equal Credit Opportunity Act, which is available from the Housing and Civil Enforcement Section upon request.

8-2.233 Title II of the Civil Rights Act of 1964

Title II of the Civil Rights Act of 1964 (42 U.S.C. § 2000a) prohibits discrimination on account of race, color, religion, or national origin in places of public accommodation, such as hotels, restaurants, and theaters. Under the Act, the Attorney General is authorized to bring a civil action whenever there is reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights secured by Title II, and that the pattern or practice is of such a nature and is intended to deny the full exercise of the rights secured by that Title.

The Statute expressly requires the complaint in such a suit to be signed by the Attorney General. The Attorney General is authorized to request that the case be heard by a three-judge court, upon certification that the case is of general public importance. The Act requires the trial court to expedite the case.

Private individuals are authorized to institute civil actions for preventive relief. The Attorney General may intervene in such suits in the discretion of the court upon certification that the case is of general importance.

Court decisions have held that bars, skating rinks, bowling alleys, swimming pools, recreational associations, and other establishments open to the public providing sources of entertainment which move in commerce are covered under Title II. In instances where such establishments hold them-

selves out as private clubs, investigation should nevertheless be requested since many such establishments are not private within the meaning of the Act but are, in fact, open to the general public.

The U.S. Attorneys' concurrent enforcement responsibilities under Title II are discussed in USAM 8-2.180. To assist U.S. Attorneys in carrying out their responsibilities under Title II, the Civil Rights Division has devised and distributed to U.S. Attorneys' offices a handbook for the investigation and trial of Title II cases. Additional copies of this handbook are available from the Housing and Civil Enforcement Section upon request.

8-2.234 Unlawful Interference With the Use of Public Accommodations

The use of force or threats of force to injure, intimidate or interfere with a person because of race, color, or national origin and because of use of a public accommodation constitutes a violation of 18 U.S.C. § 245(b)(2)(F), as well as Title II of the 1964 Act. The determination whether to proceed civilly or criminally will be made by the Assistant Attorney General, Civil Rights Division, or his/her designee, in consultation with the U.S. Attorney.

8-2.240 Coordination and Review Section

The Coordination and Review Section has staff responsibility for implementing the Attorney General's authority under Executive Order 12250, 3 C.F.R. 298 (1981), reprinted in 42 U.S.C. § 2000d-1 note, at 23 (1982), to coordinate the enforcement by all Executive agencies of laws prohibiting discrimination on the basis of race, color, religion, sex, national origin or handicap in programs and activities that receive Federal financial assistance. These laws include Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d to 2000d-4, which prohibits discrimination on the basis of race, color, or national origin; Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681-1683, 1685, 1686, which prohibits discrimination on the basis of sex in education programs and activities; and section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicap, and which also applies to programs and activities conducted by Federal Executive agencies, including this Department. The nondiscrimination sections of other Federal statutes covered by Executive Order 12250 include among others:

1. Food Stamp Act of 1964, 7 U.S.C. § 2020;
2. Youth Conservation Corps Act of 1970, 16 U.S.C. § 1704;
3. Higher Education Act of 1965, 20 U.S.C. §§ 1087-2(e), 1142;
4. Federal-Aid Highway Act of 1963, 23 U.S.C. § 140;

5. Federal-Aid Highway Act of 1958, 23 U.S.C. § 324;
6. Job Training Partnership Act of 1982, 29 U.S.C. § 1577;
7. Amateur Sports Act of 1978, 36 U.S.C. § 391(b);
8. Federal Property and Administrative Services Act of 1946, 40 U.S.C. § 476;
9. Public Health Service Act of 1944, 42 U.S.C. §§ 290dd-2, 290ee-2, 292d, 298b-2, 300a-7(a) to 7(d);
10. Preventive Health and Health Services Block Grant, 42 U.S.C. § 300w-7;
11. Alcohol and Drug Abuse and Mental Health Services Block Grant, 42 U.S.C. § 300x-7;
12. Maternal and Child Health Services Block Grant Act of 1981, 42 U.S.C. § 708;
13. Public Works and Economic Development Act of 1965, 42 U.S.C. § 3123;
14. Domestic Volunteer Services Act of 1973, 42 U.S.C. § 5057;
15. Disaster Relief Act of 1974, 42 U.S.C. § 5151;
16. Housing and Community Development Act of 1974, 42 U.S.C. § 5309;
17. Nonnuclear Energy Research and Development Act of 1974, 42 U.S.C. § 5919(v);
18. Energy Conservation and Production Act of 1976, 42 U.S.C. § 6870;
19. Home Energy Assistance Act of 1980, 42 U.S.C. § 8625;
20. Community Economic Development Act of 1981, 42 U.S.C. § 9821;
21. Head Start Act of 1981, 42 U.S.C. § 9849;
22. Community Services Block Grant Act of 1981, 42 U.S.C. § 9906;
23. Public Broadcasting Financing Act of 1962, 47 U.S.C. § 398(b);
24. Urban Mass Transportation Act of 1964, 49 U.S.C. § 1615; and
25. Airport and Airway Improvement Act of 1982, 49 U.S.C. § 2219.

In order to ensure that positions taken in litigation under the statutes covered by Executive Order 12250 are consistent with Government-wide interpretations of these statutes, the U.S. Attorney should, upon receipt of a complaint alleging a violation of any of the statutes listed above, or of any other statute prohibiting discrimination on the basis of race, color, national origin, handicap, religion, or sex in programs or activities

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receiving Federal financial assistance, forward a copy of the complaint to the Coordination and Review Section. Also, in order to facilitate enforcement by Executive agencies of these statutes, any U.S. Attorney who receives a complaint or otherwise has reason to believe that a recipient of Federal financial assistance is discriminating in violation of a covered statute should notify the Coordination and Review Section.

8-2.250 Special Litigation Counsel

In addition to the sections described in this chapter, the Civil Rights Division has several Special Litigation Counsel. These are senior litigators who are assigned some of the Division's more complex enforcement problems.

8-2.260 Special Litigation Section

The Special Litigation Section has the responsibility to investigate, initiate, and prosecute cases involving deprivation of federal statutory and constitutional rights of institutionalized persons, pursuant to the Civil Rights of Institutionalized Persons Act (42 U.S.C. § 1997). The jurisdiction of the Section also extends to institutionalized handicapped persons falling within the coverage of § 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), and the Education for All Handicapped Children Act (20 U.S.C. § 1401 et seq.). The Section also has concurrent authority with U.S. Attorneys for enforcing Title III of the Civil Rights Act of 1964 (42 U.S.C. § 2000b).

8-2.261 Civil Rights of Institutionalized Persons

The Civil Rights of Institutionalized Persons Act (42 U.S.C. § 1997) gives the Attorney General authority to sue to vindicate constitutional and federal statutory rights of persons residing in local and state operated institutions. These persons include mentally and physically handicapped persons of all ages, the elderly, juveniles, and prison and jail inmates. The types of institutions covered are state and local governmentally operated or supported mental hospitals, mental retardation facilities, juvenile reformatories or training schools, pre-trial detention facilities, prisons, homes for the aged or chronically ill, and institutions for physically handicapped persons.

To initiate suit under the Act, the Attorney General must have reasonable cause to believe that the deprivation of rights is part of a pattern or practice of denial rather than an isolated or accidental incident. At the time of commencing the civil action, the Attorney General must personally certify to the court (a) that he/she has previously notified, in writing, the appropriate state officials of the (1) alleged deprivation, (2) supporting facts, and (3) possible remedy; (b) that he/she has notified, in writing, the appropriate state official of his/her intent to conduct an

investigation of the state institution and that the Attorney General has (1) made a good faith effort to consult with the appropriate state officials to advise them of federal assistance that may be available, (2) encouraged the appropriate state official to correct the alleged conditions and pattern or practice, and (3) that the appropriate officials have had reasonable time to take appropriate corrective actions; and (c) that this action is of general public importance.

This statute also authorizes the Attorney General to intervene in any action commenced in any court of the United States, when the Attorney has reason to believe that such deprivation is pursuant to a pattern or practice or resistance to the full enjoyment of such rights, privileges, or immunities. A motion to intervene shall not be filed before 90 days after the commencement of the action. In the motion to intervene the Attorney General must certify to the court that the appropriate state officials have been notified of (a) the alleged conditions and pattern or practice; (b) the supporting facts giving rise to the alleged conditions and (c) the minimum measures that may remedy the alleged conditions and pattern or practice. Motions to intervene and certifications must be signed by the Attorney General personally.

When complaints of widespread deprivation in conditions of confinement are received by a U.S. Attorney, they should be forwarded to the Assistant Attorney General, Civil Rights Division, for evaluation and review prior to any request for investigation.

8-2.262 Title III of the Civil Rights Act of 1964

Title III of the Civil Rights Act of 1964 (42 U.S.C. § 2000b) prohibits discrimination on account of race, color, religion, or national origin in public facilities, such as parks, libraries, auditoriums, and prisons. The Special Litigation Section supervises the enforcement of Title III.

Under Title III, the Attorney General is authorized to institute a civil suit upon receipt of a written, signed complaint if it is believed that the complaint is meritorious, and upon certification that the complainants are unable to initiate and maintain appropriate legal proceedings for relief and that the institution of the action will materially further the orderly progress of desegregation in public facilities. The statute expressly requires the complaint in such a suit to be signed by the Attorney General.

The U.S. Attorneys' concurrent enforcement responsibilities under Title III are discussed in USAM 8-2.180.

8-2.263 Unlawful Interference With the Use of Public Facilities

The use of force or threats of force to injure, intimidate or interfere with a person because of his/her race, color, or national origin and

because of his/her use of a public facility constitutes a violation of 18 U.S.C. § 245(b)(2)(B), as well as Title III of the 1964 Act. The determination whether to proceed civilly or criminally will be made by the Assistant Attorney General, Civil Rights Division, or his/her designee, in consultation with the U.S. Attorney.

8-2.270 Voting Section

The Voting Section has been assigned primary responsibility for the civil enforcement of the Voting Rights Act of 1965, as amended in 1970, 1975, and 1982 (42 U.S.C. § 1973 to § 1973bb-1), other statutory provisions designed to prevent racial discrimination in the electoral process, and other statutory provisions relating to the free exercise of the franchise.

8-2.271 U.S. Attorney Responsibilities

The U.S. Attorney should promptly bring to the attention of the Chief of the Voting Section any complaints that he/she receives of racial discrimination in voting or of infringements of the right to vote under the federal laws protecting elderly or handicapped voters, under laws protecting overseas or military voters, or under other statutory provisions enforced by the Voting Section. The U.S. Attorney should likewise bring to the attention of the Chief of the Voting Section any other information that he/she receives indicating the possibility of such violations. (Complaints of vote fraud or of vote-buying in situations in which the voting rights of minorities are not infringed should continue to be brought to the attention of the Election Crimes Branch of the Criminal Division's Public Integrity Section.) The U.S. Attorney should consult with the Chief of the Voting Section prior to requesting any investigation into possible voting rights violations. Telephonic authorization to initiate an investigation may be obtained in cases where prompt action is necessary. The U.S. Attorneys' concurrent enforcement responsibilities with respect to Section 203 of the Voting Rights Act (42 U.S.C. § 1973aa-1a) are discussed in USAM 8-2.180, *supra*, and 8-2.282, *infra*.

8-2.272 Racial Discrimination in Voting, in General, 42 U.S.C. §§ 1971(a)(1), 1971(b), 1973, 1973i(a) & (b)

Racial discrimination in voting, in whatever form, at whatever stage of the electoral process, and whether or not federal elections are involved, is prohibited.

The Attorney General is authorized to seek relief to enforce this prohibition by 42 U.S.C. § 1971(c) and § 1973j(d). Criminal enforcement is authorized by 42 U.S.C. § 1973j(a) and (c) and 18 U.S.C. §§ 241, 242, 245(b)(1)(A) and 594. See USAM 8-2.289 (Criminal Sanctions). A private right of action is also available.

8-2.273 Literacy Tests, 42 U.S.C. § 1973aa

State and local jurisdictions are not permitted to require voters to be able to read and write. The test ban applies to voting in federal, state, and local elections and to voting in primaries as well as in general or special elections. Banned are not only literacy tests but also understanding tests, educational achievement requirements, moral character requirements, and requirements that registrants prove their qualifications by having other persons vouch for them.

Persons authorized to register and vote despite illiteracy must be provided or permitted to receive assistance in marking their ballots. See also USAM 8-2.274 (Voting Assistance).

The Attorney General is authorized to seek civil relief to enforce this provision by 42 U.S.C. § 1973aa-2 (a three-judge court is required, with direct appeal to the Supreme Court). Criminal enforcement is authorized by 42 U.S.C. § 1973aa-3. A private right of action is also available.

The use of literacy tests and other tests and devices was banned in most of the south and in certain other areas by the Voting Rights Act of 1965. The ban was extended to the entire nation for a five-year trial period by the Voting Rights Act Amendments of 1970 and was made permanent by the Voting Rights Act Amendments of 1975.

8-2.274 Voter Assistance, 42 U.S.C. § 1973aa-6

Effective January 1, 1984, a voter who needs assistance in voting because of illiteracy, blindness, or disability may be given assistance from the person of his or her choice (other than the voter's employer or agent of that employer or officer or agent of the voter's union).

Although Congress did not explicitly authorize the Attorney General to enforce the voter assistance provision, violations of it will usually constitute violations of other provisions of federal law that the Attorney General is authorized to enforce. See USAM 8-2.273 (Literacy Tests), and USAM 8-2.272 (Racial Discrimination in Voting, in General). A private right of action is available.

This provision was added to the Voting Rights Act of 1965 by the Voting Rights Act Amendments of 1982.

8-2.275 Dilution of Minority Voting Strength, 42 U.S.C. § 1973

Methods of election and redistricting of election districts that result in the dilution of minority voting strength are in violation of Section 2 of the Voting Rights Act of 1965, as amended by the Voting Rights Act Amendments of 1982, 42 U.S.C. § 1973.

The use of at-large elections by a city, county, or school district may unlawfully dilute the voting rights of blacks or other minorities in comparison to the results under a fairly-drawn, single-member district plan. A redistricting plan may similarly discriminate against blacks (or other minorities) by unduly overpopulating a majority black district, by dividing concentrations of blacks to prevent the formation of effective black majority districts, or by creating districts that have unnecessarily high black percentages and thus that minimize the number of districts with viable black majorities. A violation of minority voting rights is established by showing, based on the totality of the circumstances, that the political processes leading to nomination or election are not equally open to participation by minorities. However, nothing in this section establishes a right to have members of a protected class or minority elected in numbers equal to their proportion in the population. See 42 U.S.C. § 1973(b).

The potential for minority vote dilution in violation of Section 2 is greater where blacks (or other minorities) are residentially segregated, where blacks have been denied access to the political process, where "slating" groups fail to include blacks as members of slates, where white voters generally fail to vote for black candidates or candidates supported by blacks, and where the government is not responsive to the needs of blacks.

A U.S. Attorney who believes that minority vote dilution in violation of Section 2 exists in a jurisdiction within his/her district should bring the facts on which this belief is based to the attention of the Chief of the Voting Section and discuss with the Chief of the Voting Section possible litigation to remedy the violation.

The Attorney General is authorized to seek civil relief to enforce Section 2 by 42 U.S.C. § 1973j(d). A private right of action is also available.

8-2.276 Preclearance of Voting Changes (Section 5), 42 U.S.C. § 1973c

Certain jurisdictions (primarily but not exclusively in the south, see USAM 8-2.280 (Specially Covered Jurisdictions)), must receive federal "preclearance" under Section 5 of the Voting Rights Act before instituting any change that affects voting. This preclearance can either be obtained from the United States District Court for the District of Columbia in a declaratory judgment action (a three-judge court is required, with direct appeal to the Supreme Court) or from the Attorney General upon administrative review.

Section 5 of the Voting Rights Act and the Attorney General's procedures for its administration are explained in detail in 28 C.F.R. Part 51, Procedures for the Administration of Section 5 of the Voting Rights Act of

1965, reprints of which are available from the Voting Section. Extensive requirements have been imposed by the courts in applying this provision.

A voting change enacted after the applicable specified date is legally unenforceable if it has not been submitted for preclearance or if a request for preclearance has been denied.

To receive preclearance, the jurisdiction seeking to implement a voting change must demonstrate that the change does not have the purpose and will not have the effect of discriminating on the basis of race or minority languages. The preclearance requirement can apply to all kinds of changes, from the relocation of polling places to legislative redistrictings. Not only states and counties but also cities, school districts, other special districts, and (in some circumstances) political parties are subject to the preclearance requirement.

Under Section 5, the Attorney General has 60 days in which to make a decision with respect to submitted voting changes. One extension only, or an additional 60 days from the date of receipt of additional information, is permitted the Attorney General upon his/her request for more information.

Jurisdictions seeking to implement voting changes must submit the changes directly to: Chief, Voting Section, Civil Rights Division, Department of Justice, Washington, D.C. 20530. Voting changes should not be submitted for review to the U.S. Attorney. If any voting change is received by a U.S. Attorney it should be immediately forwarded to the Voting Section, and it is imperative that the Chief of the Voting Section be notified by telephone.

Each week the Voting Section distributes to interested persons (including all U.S. Attorneys whose districts include jurisdictions subject to the preclearance requirement) a list of voting changes that have recently been submitted for review. U.S. Attorneys are invited and requested to share with the Voting Section their views with respect to any submitted changes concerning which they have special interest or information. U.S. Attorneys are also encouraged to apprise local officials of the submission requirement and of the consequences of failure to meet the submission requirement.

The Attorney General is authorized to seek civil relief to enforce the preclearance requirement by 42 U.S.C. § 1973j(d) (a three-judge court is required, with direct appeal to the Supreme Court). Criminal enforcement is authorized by 42 U.S.C. § 1973j(a) and (c). A private right of action to enforce the preclearance requirement is also available.

The preclearance provision was enacted as Section 5 of the Voting Rights Act of 1965.

Jurisdictions not subject to the preclearance requirement can become subject to it through litigation. See USAM 8-2.281 (Application of Preclearance, Examiner, and Observer Provisions to Other Jurisdictions).

8-2.277 Registration for Voting—Federal Examiners, 42 U.S.C. §§ 1973d, 1973e, 1973g and 1973k

In certain jurisdictions (primarily but not exclusively in the south, see USAM 8-2.280 (Specially Covered Jurisdictions)), if a discriminatory registration system prevents minorities from registering to vote, the Attorney General is authorized (1) to sign a certification that federal examiners are necessary to enforce the guarantees of the Fourteenth or Fifteenth Amendment, and then (2) to request the Office of Personnel Management to appoint federal examiners who will "list" (register) eligible voters. Federally listed voters must be permitted to vote in all elections—federal, state, and local; primary, general, and special. Approval from the Office of Personnel Management must be obtained by a jurisdiction before a federally registered voter can be purged from the local voter lists.

Examiners may be contacted on election day to take complaints of discrimination against federally listed voters.

The Attorney General is authorized to seek civil relief to enforce the examiner provisions by 42 U.S.C. § 1973j(d) and (e). Criminal enforcement is authorized by 42 U.S.C. § 1973j(a) and (c). Federally listed voters who are denied the right to vote have a private right of action.

The examiner provisions were enacted as part of the Voting Rights Act of 1965.

Jurisdictions not subject to the examiner provisions can have examiners appointed through litigation. See USAM 8-2.281 (Application of Preclearance, Examiner, and Observer Provisions to Other Jurisdictions).

8-2.278 Observers at Elections, 42 U.S.C. § 1973f

In certain jurisdictions (primarily but not exclusively in the south, see USAM 8-2.280 (Specially Covered Jurisdictions)), the Attorney General is authorized to request the Office of Personnel Management to appoint federal observers to monitor polling place activities. Observers can only be sent to counties certified by the Attorney General for the appointment of federal examiners. See USAM 8-2.277 (Registration for Voting—Federal Examiners). Observers are used when it appears likely that minority voters will be denied the right to vote, denied needed voter assistance, or otherwise discriminated against in polling place activities. Observers are authorized to watch all polling place activities, including assistance to voters and the counting of ballots, and the information they obtain can only be given to Department attorneys. Observers are not allowed to give

advice or direction to anyone, including poll officials, poll watchers and voters, nor do observers intervene or participate in the conduct of elections in any manner. When observers are present in a county to monitor an election, one or more Department of Justice attorneys (usually from the Voting Section) are also present to act as liaison with local officials and minority leaders and to take corrective action based on the information provided by the observers.

The decision to send federal observers to a county for a particular election is made by the Assistant Attorney General, Civil Rights Division, on the basis of pre-election surveys conducted by Voting Section attorneys and after consultation by the Voting Section with U.S. Attorneys. U.S. Attorneys are encouraged to contact the Chief of the Voting Section to discuss the possible need for or the use of the observers.

The Attorney General is authorized by 42 U.S.C. §§ 1973i(b) and 1973j(d) to seek civil relief to enjoin interference with the assignment of observers.

The observer provision was enacted as part of the Voting Rights Act of 1965.

Jurisdictions not subject to the observer provision can have observers appointed through litigation. See USAM 8-2.281 (Application of Preclearance, Examiner, and Observer Provisions to Other Jurisdictions).

8-2.279 Minority Languages in the Electoral Process, 42 U.S.C. §§ 1973b(f)(4), 1973aa-1a(c)

Certain jurisdictions (see USAM 8-2.280 (Specially Covered Jurisdictions)), are required to use the languages of members of specified language minority groups in the electoral process. These groups are: American Indians, Asian Americans, Alaskan natives, and persons of Spanish heritage. The minority language requirements apply to all phases of the electoral process, from voter registration to assistance at the polls; to federal, state, and local elections, and to primary, general, and special elections. The basic requirement is that affected jurisdictions take whatever steps are necessary to enable minority language citizens to participate effectively in the electoral process.

Jurisdictions other than ones that are specially covered may in some circumstances also be required to use minority languages in their electoral process under 42 U.S.C. §§ 1973b(f)(2) and 1973(a).

For further information with respect to the application of the minority language requirements and the Attorney General's interpretation of the duty imposed by these requirements, see 28 C.F.R. Part 55, Implementation of the Provisions of the Voting Rights Act Regarding Language Minority Groups, reprints of which are available from the Voting Section.

The Attorney General is authorized to seek civil relief to enforce the minority language provisions by 42 U.S.C. §§ 1973j(d) and 1973aa-2 (a three-judge court, with direct appeal to the Supreme Court, is required under 42 U.S.C. § 1973aa-2 but not under § 1973j(d)). Criminal enforcement is authorized by 42 U.S.C. § 1973j(a) and (c) and § 1973aa-3. A private right of action is also available.

U.S. Attorneys should note that in many jurisdictions the U.S. Attorney is responsible for enforcement of the minority language requirements. See USAM 8-2.281 (U.S. Attorney Enforcement of Minority Language Provisions).

The minority language provisions were added to the Voting Rights Act of 1965 by the Voting Rights Act Amendments of 1975.

8-2.280 Specialty Covered Jurisdictions, 42 U.S.C. §§ 1973b and 1973aa-1a(b)

The special provisions of the Voting Rights Act—preclearance (see USAM 8-2.276), examiner (see USAM 8-2.277), observer (see USAM 8-2.278), and minority language (see USAM 8-2.279)—do not apply to the entire United States but only in jurisdictions that have been determined to satisfy criteria set forth in the Act. (But see USAM 8-2.281 (Application of Preclearance, Examiner, and Observer Provisions to Other Jurisdictions).)

A. Section 4 Requirements for States that Used Literacy Tests

States (or individual political subdivisions of states) that employed a literacy test in 1964 or 1968 and in which less than half the voting age population voted in the presidential election of 1964 or 1968 are subject to the preclearance, examiner, and observer provisions. (These criteria are set forth in the first two sentences of Section 4(b) of the Act, 42 U.S.C. § 1973(b).)

B. Section 4 Minority Language Coverage Formula

States (or individual political subdivisions of states) in which over five percent of the citizen voting age population were members of a single language minority group (American Indians, Asian Americans, Alaskan natives, or persons of Spanish heritage), that did not use the language of that group in the 1972 presidential election, and in which less than half the citizen voting age population voted in that election are subject to the preclearance, examiner, observer, and minority language provisions. (These criteria are set forth in the third sentence of Section 4(b) of the Act, 42 U.S.C. § 1973(b).)

C. Section 203 Coverage Formula

Political subdivisions in which over five percent of the citizen voting age population are members of a single language minority group and do not speak or understand English adequately enough to participate in elections

conducted in English are subject to the minority language provisions. For the purpose of Section 203 coverage, persons will only be considered members of a single language minority group if they share a common linguistic background. The coverage criteria are set forth in Section 203(b) of the Voting Rights Act and in Section 4 of the Voting Rights Act Amendments of 1982, 42 U.S.C. § 1973aa-1a(b).

D. Termination of Coverage and Bailout

Section 4 coverage and Section 4 minority language coverage expire on August 5, 2007. Covered jurisdictions can bail out prior to that time by obtaining the kind of declaratory judgment that is described in Section 4(a) of the Act, 42 U.S.C. § 1973(a). The statute is quite specific in describing the facts which must be proven to obtain the declaratory judgment. Bail-out actions must be brought in the United States District Court for the District of Columbia, and a three-judge court is required, with direct appeal to the Supreme Court. Effective August 5, 1984, individual political subdivisions in states subject to statewide coverage are eligible to bring bail-out actions.

Section 203 coverage expires on August 6, 1992. Covered jurisdictions can bail out prior to that time by obtaining the declaratory judgment described in Section 203(d) of the Act, 42 U.S.C. § 1973aa-1a(d); the statute is quite specific in describing the facts which must be proven to obtain the declaratory judgment. Bail-out actions may be brought in the district court for the district in which the jurisdiction is located. A three-judge court is not authorized.

U.S. Attorneys should immediately telephone the Chief of the Voting Section if a bail-out action is filed, to notify the Voting Section of the action and to discuss the defense of the action.

E. Coverage

Political subdivisions subject to the preclearance, examiner, and observer provisions, but not the minority language provisions are located in the following 19 districts:

Alabama (all districts)	Mississippi (all districts)
California (N.D.)	New Hampshire
Georgia (all districts)	North Carolina (all districts)
Louisiana (all districts)	South Carolina
	Virginia (all districts)

(The affected jurisdictions are listed in 28 C.F.R. Part 51, Appendix.)

Political subdivisions subject to the preclearance, examiner, observer, and minority language provisions are located in the following 15 districts:

Alaska	Florida (M.D., S.D.)	North Carolina (W.D.)
Arizona	Michigan (all districts)	South Dakota
California (E.D.)	New York (E.D., S.D.)	Texas (all districts)

October 1, 1990

(The affected jurisdictions are listed in 28 C.F.R. Part 55, Appendix.)

The 18 districts in which are located political subdivisions subject to the minority language provisions but not to the preclearance, examiner, and observer provisions are listed under USAM 8-2.281 (U.S. Attorney Enforcement of Minority Language Provisions).

F. History

The Voting Rights Act of 1965 brought certain jurisdictions under the coverage of the preclearance, examiner, and observer provisions. The Voting Rights Act Amendments of 1970 brought additional jurisdictions under the coverage of these provisions. The Voting Rights Act Amendments of 1975 brought additional jurisdictions under the coverage of these provisions, as well as the minority language provisions, and brought other jurisdictions under the coverage of the minority language provisions alone. The Voting Rights Act Amendments of 1982 made certain adjustments in the coverage and bailout criteria and set final coverage termination dates.

8-2.281 Application of Preclearance, Examiner, and Observer Provisions to Other Jurisdictions, 42 U.S.C. 1973a

In voting rights litigation (both Departmental and private), the courts are authorized, under appropriate circumstances, to impose the preclearance and federal examiner provisions on jurisdictions not otherwise subject to them, and if a court has ordered the federal examiner remedy for a jurisdiction, the Attorney General is authorized to request the use of federal observers in that jurisdiction. See USAM 8-2.276 (Preclearance of Voting Changes); USAM 8-2.277 (Registration for Voting—Federal Examiners); USAM 9-2.278 (Observers at Elections); USAM 8-2.280 (Specially Covered Jurisdictions).

8-2.282 U.S. Attorney Enforcement of Minority Language Provisions

As explained in the section regarding specially covered jurisdictions (see USAM 8-2.280), some political subdivisions subject to the minority language requirements are also covered by the preclearance, examiner, and observer provisions of the Voting Rights Act, while others are not. Within the Department of Justice, U.S. Attorneys have the primary enforcement responsibility for the minority language requirements in the latter jurisdictions (those covered by Section 203 only), while the Civil Rights Division has enforcement responsibility for those jurisdictions subject not only to the minority language requirements but also to the preclearance, examiner, and observer provisions (jurisdictions covered by Section 4).

Political subdivisions subject to Section 203 only are located in the following 18 districts:

California (E.D., N.D., S.D.)	Idaho	North Dakota
Colorado	Massachusetts	Oklahoma (E.D.)
Connecticut	Michigan (W.D.)	South Dakota
Florida (S.D.)	Montana	Utah
Hawaii	New Jersey	Wisconsin (W.D.)
	New Mexico	

(The affected jurisdictions are listed in 28 C.F.R. Part 55, Appendix.)

U.S. Attorneys for the districts in which are located political subdivisions covered under Section 203 have received memoranda dated May 15 and 17, 1978, from the Acting Deputy Attorney General and the Chief of the Voting Section (Civil Rights Division), respectively, setting out the Department policy for enforcing Section 203. (Earlier, the U.S. Attorneys received from the Acting Assistant Attorney General, Civil Rights Division, a letter dated October 22, 1976, and an accompanying memorandum in this regard.)

U.S. Attorneys with primary minority language enforcement responsibility will assign to one person the principal responsibility for Section 203 enforcement activities. The Voting Section of the Civil Rights Division should be apprised by U.S. Attorneys on a regular basis of the Section 203 compliance program activities they are pursuing and evaluative determinations made with respect to compliance by each covered political subdivision in their districts. Before any Section 203 suit is filed, a memorandum justifying the suit and a copy of the proposed complaint will be forwarded to the Assistant Attorney General, Civil Rights Division, for approval. In those instances where the need for prompt litigation may not permit the mailing of such documents, approval should be obtained telephonically. All such complaints should be filed over the name of the Assistant Attorney General, Civil Rights Division. See also USAM 8-2.180.

8-2.283 Poll Tax, 42 U.S.C. § 1973h

Under the 24th Amendment (1964) and *Harper v. Virginia Board of Elections*, 383 U.S. 663 (1966), the payment of a poll tax cannot be required as a prerequisite to voter registration or voting. The Attorney General is authorized to seek civil relief against the imposition of a poll tax by 42 U.S.C. § 1973h and § 1973j(d). Criminal enforcement is authorized by 42 U.S.C. § 1973j(1) and (c). A private right of action is available under the 24th Amendment and 42 U.S.C. § 1983.

8-2.284 Eighteen-Year-Old Voters, 42 U.S.C. § 1973bb

Under the 26th Amendment (1971) denial of the right to vote of anyone over the age of eighteen, on account of age, is prohibited. The Attorney General is authorized to seek civil relief to enforce the 26th Amendment by

42 U.S.C. § 1973bb(a)(1). (A three-judge court is required, with direct appeal to the Supreme Court.) Criminal enforcement is authorized by 42 U.S.C. § 1973bb(b). A private right of action is available under the 26th Amendment and 42 U.S.C. § 1983.

8-2.285 Absentee Voting—for President, 42 U.S.C. § 1973aa-1

Any person, otherwise eligible, must be permitted to register to vote for President if he or she applies at least 30 days before the election, and must be permitted to vote for President by absentee ballot if he or she applies at least 7 days before the election and returns the ballot by the close of the polls on election day. Any person who moves to a new jurisdiction within 30 days of a presidential election must be allowed to vote for President by absentee ballot in his or her old jurisdiction.

The Attorney General is authorized to seek civil relief to enforce this provision by 42 U.S.C. § 1973aa-2. (A three-judge court is required, with direct appeal to the Supreme Court.) Criminal enforcement is authorized by 42 U.S.C. § 1973aa-3. A private right of action is also available.

This provision was enacted as part of the Voting Rights Act Amendments of 1970.

8-2.286 Absentee Voting—by Overseas and Military Voters, 42 U.S.C. § 1973ff-1

American citizens who are abroad must be permitted to register for and vote in federal elections of the state in which they were last domiciled, even if they would not now satisfy the residency requirements of that state for voting purposes.

Members of the Armed Forces (and spouses and dependents) and members of the merchant marine (and spouses and dependents), whether stationed in the United States or abroad, must be permitted to register absentee for and vote by absentee ballot in federal elections.

These requirements apply to voting for federal offices only and apply in primary, general, and special elections.

The Attorney General is authorized by 42 U.S.C. § 1973ff-4 to seek civil relief to enforce this provision. A private right of action is also available. Criminal enforcement is authorized by 18 U.S.C. § 608(a). Fraudulent use of the rights established under this provision is a crime under 18 U.S.C. § 608(b). Improper influence over members of the Armed Forces by officers is a crime under 18 U.S.C. § 609.

These requirements are contained in the Uniformed and Overseas Citizens Absentee Voting Act, enacted in 1986, which, effective in 1988, consolidates the provisions of and replaces the Federal Voting Assistance Act of

1955, 42 U.S.C. §§ 1973cc to 1973cc-2b, and the Overseas Citizens Voting Rights Act of 1975, 42 U.S.C. §§ 1973dd to 1973dd-6.

See also USAM 8-2.287 (Special Federal Write-In Ballot).

8-2.287 Special Federal Write-In Ballot, 42 U.S.C. § 1973ff-2

Overseas voters (both civilian and military) in federal general elections whose absentee ballot applications reach appropriate state officials at least 30 days before the date of the election may use an alternative federal write-in absentee ballot if the ballot sent to them by the state does not reach them early enough for them to return it by the state deadline. The states are required to accept these ballots. If the state ballot subsequently reaches the voter, it can still be used, and the election officials should count the state ballot and disregard the federal ballot. The federal write-in ballots will be available at federal military and civilian facilities around the world.

The federal write-in absentee ballot is provided pursuant to the Uniformed and Overseas Citizens Absentee Voting Act. *See* USAM 8-2.286.

8-2.288 Voting Access for the Disabled, 42 U.S.C. §§ 1973ee-1 to 1973ee-3

State and local election officials are required, with certain limitations, to provide registration and voting facilities that are fully accessible to elderly and handicapped persons and to take and to publicize certain other steps to make registration and voting (including absentee voting) for the elderly and handicapped easier. These provisions apply only to federal elections.

These provisions were enacted in 1984 as part of the Voting Accessibility for the Elderly and Handicapped Act.

The Attorney General is authorized by 42 U.S.C. § 1973ee-4 to seek civil relief to enforce these provisions. A private right of action is also available. Prospective plaintiffs must notify the state of its noncompliance at least 45 days before bringing an enforcement action.

8-2.289 Preservation and Production of Voting Records, 42 U.S.C. §§ 1974-1974d

State and local officials are required to retain and preserve all records or papers in their possession in connection with registration or other requisites for voting in any general, special, or primary election for federal office. The record must be preserved for a period of 22 months from the date of the particular election. The duty to preserve devolves upon any other person to whom the records may be delivered.

The person having control, custody, or possession of the records shall, upon a demand in writing by the Attorney General or the Attorney General's representative, make the records available for inspection, reproduction and copying. It should be noted that the records must be made available by anyone having custody, whether it be a state executive official or a judicial or quasi-judicial body.

The Attorney General is authorized to seek civil relief to enforce this provision by 42 U.S.C. § 1974b and § 1974d. Criminal enforcement is authorized by 42 U.S.C. § 1974 and § 1974a.

This provision was enacted as Title III of the Civil Rights Act of 1960.

8-2.290 Criminal Sanctions, 42 U.S.C. § 1973i(a-e) and § 1973j(a-c), 18 U.S.C. § 245(b)(1)(A)

The Voting Rights Act of 1965 provides for criminal penalties for certain acts (see 42 U.S.C. §§ 1973i and j), and the use of force or threats of force to interfere in an election is proscribed by 18 U.S.C. § 245(b)(1)(A). The Civil Rights Division shares enforcement responsibility for these statutes with the Criminal Division, depending upon whether the violation is racially motivated. See 28 C.F.R. §§ 0.50 and 0.55. These criminal statutes are discussed in USA 8-3.230, *infra*.

8-2.300 OFFICE OF REDRESS ADMINISTRATION

Section 105 of the Civil Liberties Act of 1988, 50 U.S.C. 1989b, directs the Attorney General to identify, locate, and authorize a redress payment of \$20,000 to each eligible person of Japanese ancestry who was evacuated, relocated, or interned during World War II as a result of government action, and who was living on August 10, 1988, when President Reagan signed the Act into law. The Attorney General has delegated his responsibilities under Section 105 to the Assistant Attorney General for Civil Rights, who in turn has established the Office of Redress Administration to operate the redress program.

Members of United States Attorneys' Offices having questions about the redress program may telephone the Office at (202) 662-0057. Members of the public may telephone the Office at 1-800-395-4672. The Office's mailing address is P.O. Box 66260, Washington, D.C. 20035-6260.



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

May 10, 1995

MEMORANDUM TO: Holders of the United States Attorneys' Manual
Title 8

FROM: Office of the Attorney General

Janet Reno
Attorney General

SUBJECT: Civil Rights

AFFECTS: USAM 8-3.000 - 8-3.150

PURPOSE: The newly renamed Sections 8-3.000 through 8-3.150, as contained in this bluesheet, replace the previously applicable Sections 8-3.000 through 8-3.150 contained in Title 8 of the United States Attorneys' Manual. Further, this bluesheet supersedes any remaining provisions of Title 8, Chapter 3, of the United States Attorneys' Manual, which are inconsistent with the provisions set forth herein.

8-3.000 ENFORCEMENT OF CIVIL RIGHTS STATUTES

Sections 8-3.000 through 8-3.150, as contained in this text, replace the previously applicable Sections 8-3.000 through 8-3.150 contained in Title 8 of the United States Attorneys' Manual. Further, this text supersedes any remaining provisions of Title 8, Chapter 3, of the United States Attorneys' Manual, which are inconsistent with the provisions set forth herein.

8-3.100 COORDINATION OF ACTIVITIES

The Civil Rights Division and the United States Attorneys' Offices will work as partners to ensure a vigorous national civil rights enforcement program. The purpose of this bluesheet is to provide guidance to United States Attorneys and the Criminal Section of the Civil Rights Division in carrying out their responsibilities in the investigation and prosecution of violations of criminal civil rights statutes in a manner that (1) encourages initiative on the part of individual United States Attorneys and draws upon their litigation expertise and knowledge of the local community; and (2) utilizes the trial expertise and institutional knowledge of the Criminal Section of the Civil Rights Division. Cooperative prosecutions and investigations utilizing attorneys from both the Criminal Section and the United States Attorneys Offices can be particularly successful and can provide valuable benefits in the enforcement of these statutes. When it is appropriate for either the Civil Rights Division or a United States Attorney's Office to act independently on a matter in a particular district, the office initiating the activity should ensure that the other office is advised in advance of the activity. Specifically, prior to initiating any significant activity in a district, the Civil Rights Division shall provide notice to the designated contact attorney for the United States Attorney's Office. Similarly, United States Attorneys' Offices shall advise the Civil Rights Division of matters not already being monitored by the Civil Rights Division which appear to be likely to result in inquiries to the Civil Rights Division.

8-3.110 INITIATION OF FBI INVESTIGATIONS

Absent emergency circumstances, the Civil Rights Division shall fax a copy of any initiating FBI investigative request to the designated point of contact for the United States Attorney in the relevant district simultaneously when the request is forwarded to FBI Headquarters to allow for any input from the United States Attorney's Office before FBI headquarters forwards the request to the field. Similarly, the United States Attorney's office shall either call with the information or fax a copy of any initiating FBI investigative request to the Chief of the Criminal Section of the Civil Rights Division.

8-3.120 STAFFING OF CASES

Subject to the general principles contained herein, either the Civil Rights Division or a United States Attorney's Office may investigate and prosecute on its own any type of criminal civil rights violation.

At the outset of a criminal investigation initiated by a United States Attorney's office (but in no event later than the commencement of the examination of witnesses before a grand jury), the United States Attorney shall advise the Civil Rights Division in writing of the new investigation. The notification should be by letter or electronic mail and contain the following information: (a) identity of the targets of the investigation; (b) the factual allegations to be investigated; (c) the statutes which may have been violated; (d) the United States Attorney's assessment of the significance of the case and whether the case is one of "national interest," as defined below; and (e) the United States Attorney's proposed staffing of the matter (including whether a Civil Rights Division attorney should be assigned to work directly on the matter). The United States Attorney will advise the Division as the case develops of new information relating to the United States Attorney's assessment of the significance of the case and whether it is one of "national interest."

The staffing proposal of the United States Attorney will be given deference by the Civil Rights Division. If the Civil Rights Division does not express disagreement with a staffing proposal by the United States Attorney within three business days, the proposal is deemed acceptable. The Assistant Attorney General for the Civil Rights Division retains the final and on-going authority to determine the staffing of any criminal civil rights matter.

8-3.130 CASES OF NATIONAL INTEREST

A case is of "national interest" if it is a case that presents important public policy considerations; a novel issue of law; a case that because of peculiar facts and circumstances, may set important precedent; a case with simultaneous investigations in multiple districts (unless the United States Attorney's office in each such district and the Civil Rights Division conclude that national interests are not involved); a case with international or foreign policy implications; an urgent or sensitive case; or a case that substantially affects the uniform application of the law. A case involving a violation of the federal criminal civil rights laws resulting in death is presumed to be a case of national interest. In a case of national interest, the Assistant Attorney General, in consultation with the United States Attorney, may require that the United States Attorney's office and the Civil Rights Division participate jointly as co-counsel from the initiation of the investigation through prosecution, taking into consideration all of the circumstances, including the experience of the particular United States Attorney's office and the efficient use of government resources. The Assistant Attorney General for Civil Rights shall have the ultimate authority to determine whether a case is of "national interest", considering all relevant factors and in consultation with the United States Attorney.

8-3.140 ADVANCE NOTICE/PRIOR APPROVALS OF INDICTMENTS

United States Attorneys need not obtain prior authorization by the Civil Rights Division to indict criminal civil rights cases, unless the case has been deemed by the Assistant Attorney General as a case of national interest or unless approval is required by statute. Prior to presenting any civil rights case for indictment, however, the United States Attorney shall provide written notification to the Civil Rights Division of the intention to seek an indictment or to file a felony information. This notification should occur at least 10 business days before the indictment will be presented to the grand jury, except in emergencies when time is of the essence. The notification should be accompanied by a copy of the proposed indictment and any existing prosecutive memorandum. United States Attorneys are encouraged to provide even earlier notice as a general practice in order to take full advantage of the expertise of the Civil Rights Division.

Even in those cases in which the United States Attorney need not obtain prior authorization to indict, if there exists a significant issue affecting the Department's enforcement of federal civil rights laws, then the Assistant Attorney General may exercise the ultimate authority to disapprove the prosecution.

If prior approval to indict a civil rights matter is required because the case has been deemed by the Assistant Attorney General to be a case of national interest or because approval is required by statute, the United States attorney will provide to the Civil Rights Division a copy of the proposed indictment and any prosecutive memorandum at least 10 business days in advance of the time when the indictment will be presented to the grand jury. The Civil Rights Division will communicate its authorization decision within 10 business days of receipt of the proposed indictment, unless certification by ranking Department officials is required by law (Section 245 and 247).

8-3.150 DECLINATIONS

The United States Attorneys may decline cases in their offices by orally advising the FBI, which declination shall then be reflected in the investigative report submitted by the FBI.

In all cases resulting in death, the Civil Rights Division will continue to obtain the concurrence of the United States Attorney before closing any such case.

Ultimate declination authority in any case arising under the federal civil rights laws jurisdiction resides with the Assistant Attorney General for Civil Rights.

UNITED STATES ATTORNEYS' MANUAL

DETAILED
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8-3.000 ENFORCEMENT OF CIVIL RIGHTS CRIMINAL STATUTES

The U.S. Attorney is responsible for the enforcement of criminal civil rights statutes in accordance with the procedures set forth below.

The Criminal Section oversees the enforcement of the criminal civil rights statutes administered by the Civil Rights Division. The principal statutes are 18 U.S.C. § 241 (conspiracy to injure citizens in the exercise of federal rights); 18 U.S.C. § 242 (willful deprivations of federal rights of inhabitants under color of law); 18 U.S.C. § 245 (interference with federally protected activities); 42 U.S.C. § 3631 (interference with fair housing activities); 18 U.S.C. § 1581 (peonage); and 18 U.S.C. § 1584 (involuntary servitude). A complete list of all federal statutes, the enforcement of which is administered by the Criminal Section, is found in USAM 8-1.000.

Criminal matters involving the alleged deprivation of rights of American Indians, formerly handled by the Office of Indian Rights, are now the responsibility of the Criminal Section.

Outlines of the essential elements of the various criminal civil rights statutes are set out in paragraphs 8-3.210 through 8-3.250, *infra*. Model jury instructions maintained by the Criminal Section are available upon request.

Because criminal civil rights cases frequently are controversial and/or sensitive, close consultation between U.S. Attorneys and the Criminal Section of the Division is essential. Close coordination between U.S. Attorneys and the Criminal Section serves the purposes of establishing national enforcement policies and standards, maintaining uniformity in the application of criminal civil rights laws, and providing a national clearinghouse for enforcement information.

8-3.100 GENERAL PROCEDURES

The following procedures are generally applicable to the investigation of complaints and the prosecution and handling of violations of criminal civil rights statutes.

8-3.110 Preliminary Investigations

The FBI has devised standard preliminary investigations for alleged violations of federal criminal civil rights statutes. Relevant to excerpts from the FBI's investigative procedure are set out at USAM 8-3.300, *infra*.

Preliminary investigations of violations of criminal civil rights statutes may be conducted by the FBI on its own initiative. U.S. Attorneys are authorized to request the FBI to institute a preliminary investigation. To ensure timely notification of both individual United States Attorney's

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offices and the Criminal Section of the Civil Rights Division of requests directing the FBI or other investigative agencies to begin investigations of potential criminal civil rights violations, the following procedure is to be followed both by the Criminal Section and by the individual United States Attorney's office concerned. The Criminal Section will FAX to the United States Attorney's office in the district in which the investigation is to take place a copy of its memorandum to the FBI or other investigative agency requesting the initiation of a criminal civil rights investigation on the same date that the investigative request is authorized. Likewise, if a United States Attorney's office requests an investigative agency to commence a criminal civil rights investigation, that office shall FAX to the Criminal Section of the Civil Rights Division (FAX phone no. (202) 514-8336) a copy of its investigative request on the same date on which it is made. The respective offices shall continue to provide each other by mail with copies of requests for supplemental or follow-up investigation.

When the FBI is requested to conduct an investigation by the Civil Rights Division, a copy of the request shall be forwarded to the U.S. Attorney of the District.

In matters involving actual and threatened civil disorders, such as riots, marches, parades, and major confrontations between local law enforcement officers and groups of persons, preliminary investigations may be requested and initiated only by the Attorney General of the United States. When such matters come to the U.S. Attorney's attention, the circumstances should be reported by telephone to the Assistant Attorney General, Civil Rights Division. When FBI investigations are initiated by the Attorney General, copies of such requests will be forwarded to the U.S. Attorney.

Upon receipt of information sufficient to justify initiation of a preliminary investigation, an investigation should be conducted by the FBI regardless of the fact that a local or state investigation of the same incident is also being conducted. If, during the course of the FBI's investigation, state or local criminal charges arising out of the incident are filed against the subject(s), the FBI should be directed to suspend its investigation and the Civil Rights Division should be notified by the FBI of the nature of the criminal charges and the likely timetable for prosecution of such charges. In all other situations, the preliminary investigation should continue to completion. Exceptions to this policy may be necessary on infrequent occasions. Clearance should be obtained from the Criminal Section of the Civil Rights Division on such occasions before discontinuing the investigation in the absence of a local or state prosecution.

8-3.120 Evaluation and Recommendation

Upon completion of the preliminary investigation and receipt of the FBI's reports, the U.S. Attorney will review the reports promptly and

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render a prosecutive opinion to the FBI. Such opinion should be made without awaiting the conclusion of pending local or state investigations or proceedings. The FBI will forward a copy of the opinion to the Civil Rights Division. Likewise, a copy of any prosecutive opinion rendered by the Civil Rights Division will be forwarded by the Division to the U.S. Attorney.

While approval for prosecution may be obtained in many cases without a written submission from the U.S. Attorney (see USAM 8-3.130), in some cases the Civil Rights Division may request a written analysis and recommendation from the U.S. Attorney, particularly where the evidence is unclear or novel issues of law are presented. In such cases, the following format is suggested:

TO: Assistant Attorney General
Civil Rights Division

Date:

FROM: United States Attorney

RE: Prosecutive Summary

Name of Subject:

Name of Victim:

Date of Offense:

Date Matter Received:

Statute of Limitations:

Venue:

Statute(s) Involved:

Summary of Case

One paragraph summarizing the facts and the offense.

Recommendation of U.S. Attorney: (1 line)

Anticipated Defense: (1 line)

Special Fact Problems: (1 line)

Special Legal Problems: (1 line)

Development of Case

1. How we received case.
2. Investigations done by the FBI (how many).
3. Investigations done by the U.S. Attorney.

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Analysis of Evidence

Set out testimonial and physical evidence to be presented. Discuss any special problems of introduction of physical evidence or conflicts of testimony and credibility of the witnesses. Also, state the disposition of any charges against the victim.

Analysis of Probable Defense

Set out the probable line of defense and the major postulated defense must establish.

Legal Principles Involved

Cite cases and discuss precedent pro and con.

Special Problems

Discuss potential legal difficulties and problems relating to jurisdiction, venue and forum.

Recommendation

Nature of prosecution, reason for electing particular statute if choice available (e.g., § 371, instead of § 241).

Draft Indictment or Information

Unless there are unusual circumstances, the written opinion should be submitted to the Civil Rights Division within thirty days of the request from the Civil Rights Division. The Civil Rights Division will respond to the written opinion within fifteen days.

Nothing herein shall diminish the authority of the Assistant Attorney General, Civil Rights Division, to prosecute those matters which the U.S. Attorney elects not to prosecute.

8-3.130 Authorization for Grand Jury Proceedings, Arrests, and Indictments

The enforcement of federal criminal civil rights statutes may require the use of federal grand juries for investigation as well as for indictment. The U.S. Attorney need not obtain the approval of the Civil Rights Division to use a grand jury to *investigate* any alleged criminal civil rights violation. Prior to the grand jury proceeding, however, the U.S. Attorney must inform the Assistant Attorney General, Civil Rights Division, attention: Chief of the Criminal Section, of his/her intention to use a grand jury for *investigative* purposes. Notification may be made by telephone if necessary.

Generally, the U.S. Attorney need not obtain the approval of the Assistant Attorney General to present a civil rights matter to a grand jury for the purpose of obtaining an indictment under any of those criminal statutes

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listed in USAM 8-1.100, *supra*. The only exceptions are cases where death results under 18 U.S.C. § 242, all prosecutions under 18 U.S.C. § 241 and § 245, and prosecutions under 18 U.S.C. § 1001 in which the alleged false official statement relates to a civil rights matter. (Prosecutions under 18 U.S.C. § 245 require prior written certification by the Attorney General or Deputy Attorney General that the prosecution is in the public interest and necessary to secure substantial justice.)

In cases in which authorization is not required, the U.S. Attorney must give the Chief of the Criminal Section advance notice of his/her intention to seek an indictment and must furnish him/her a copy of the indictment when it is returned by the grand jury. The Assistant Attorney General may require the U.S. Attorney to submit additional information (e.g., grand jury transcripts, copy of proposed indictment) necessary to review the case. If the Assistant Attorney General disagrees with the seeking of the indictment, he/she will furnish the U.S. Attorney the reasons for his/her disagreement together with his/her instructions for the disposition of the case. The Assistant Attorney General will use this review procedure judiciously and only in exceptional cases, e.g., those involving important public policy considerations or novel legal issues, or when necessary to ensure uniform application of the law.

No arrest should be made until prosecution is authorized, except where flight, destruction of evidence, or other emergency circumstances are expected and time does not permit prior consultation with the Civil Rights Division.

Nothing herein shall diminish the authority of the Assistant Attorney General, Civil Rights Division, to prosecute or decline to prosecute those cases within the Division's jurisdiction.

8-3.140 Proceeding by Information

In some cases, particularly under 18 U.S.C. § 242, where the violation is a misdemeanor, the U.S. Attorney may proceed by information. This shall be done in accordance with the notice requirements set forth in USAM 8-3.130, *supra*. Generally, proceeding by information should be restricted to those cases where facts are clear, no further information is needed, and there are no substantial issues of credibility of witnesses.

8-3.150 Trials

The U.S. Attorney will be responsible for the trial of many criminal civil rights cases. In such cases, the Civil Rights Division will be available to render substantial assistance in the preparation of indictments, informations, and other legal documents. In addition, attorneys from the Criminal Section will be available to assist in the trial of these cases.

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There are no precise rules for determining whether a criminal civil rights case is to be handled by the U.S. Attorney's Office, by the Criminal Section, or jointly by attorneys from both offices. The decision will be made by the Assistant Attorney General of the Civil Rights Division, in consultation with the U.S. Attorney, on a case-by-case basis. Ordinarily the office that develops the case will try it. Other factors which determine who will try the case are as follows:

1. Whether the case raises issues of first impression on which there is no previous authority;
2. Whether the case raises issues of particular national, or local, importance;
3. Whether other cases involving the same or very similar issues have recently been handled by either the U.S. Attorney or the Division;
4. Whether the case presents relatively simple issues which would make it an ideal teaching vehicle for an inexperienced attorney;
5. Whether the case presents essentially factual questions;
6. Personnel shortages; and
7. Preference, if any, of the U.S. Attorney.

The Assistant Attorney General, or his/her designee, shall notify the U.S. Attorney of the assignment of trial responsibility. Regardless of whether the U.S. Attorney or the Division tries the case, each will take appropriate and complementary steps to fully protect the interest of the United States and to assure the successful prosecution of the case.

8-3.160 Appeals

Appeals in civil rights cases are supervised by the Appellate Section of the Civil Rights Division. For U.S. Attorneys' responsibilities in the handling of criminal appeals, see USAM 2-3.210.

8-3.170 Cooperation in State Prosecutions

Frequently, conduct which deprives persons of federally protected rights in violation of federal law also violates state law. For example, where a local official inflicts summary punishment on a person in connection with an arrest, such conduct might violate 18 U.S.C. § 242 and might also constitute a criminal offense under state law. In such cases, where state and local authorities undertake vigorous prosecution in state courts, it is Department policy to cooperate fully with the local prosecutor.

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Any release of reports of investigation should be in accordance with 28 C.F.R. Part 16 (see USAM 8-3.195, *infra*).

8-3.180 Subpoenas Issued to FBI Agents

Occasionally FBI agents are subpoenaed to appear to testify in local proceedings or even in federal proceedings to which the United States is not a party. Quite often the subpoena is issued on behalf of a state defendant in a criminal case seeking to obtain the results of an FBI investigation into alleged police mistreatment of the defendant. The Department's policy is to resist such subpoena except where the FBI agent can give eyewitness testimony like any other witness. See 28 C.F.R., Part 16, and USAM 8-3.195, *infra*.

8-3.190 Notification to Parties of Disposition of Criminal Civil Rights Matters

The Criminal Section has developed a procedure for the routine notification at the time a file is closed to victims, complainants, subjects and heads of agencies in all investigations of police misconduct. Form letters are sent to the various parties at the time the particular investigative file is closed by the Criminal Section. The automated word processing equipment does not produce copies of these letters; accordingly, U.S. Attorneys receive only the buff colored closing form when a matter is closed. Although copies of each letter are not sent to U.S. Attorneys, all U.S. Attorneys' offices have been sent sample copies of the letter.

Since these notification letters to victims, complainants, subjects, and heads of agencies are sent by the Civil Rights Division at the same time it sends the closing notice to U.S. Attorneys' offices, it is important that U.S. Attorneys advise the Criminal Section as soon as possible of any matters involving police misconduct which they believe may have prosecutive merit. In no event should such notification be delayed more than 30 days after receipt of the final FBI report in the matter. Notice letters will not be sent in any matter in which a U.S. Attorney's Office has expressed an interest in prosecution or further investigation.

8-3.195 Production of Disclosure in Federal and State Proceedings of Material or Information Contained in Civil Rights Division Files

General procedures to be followed by Department of Justice employees in responding to demands for Department information in federal and state proceedings are contained in 28 C.F.R. Part 16 (45 Fed.Reg. 83208, Dec. 18, 1980). Pursuant to the provisions of 28 C.F.R. §§ 16.24(c) and 16.26(d), the Civil Rights Division has established the following procedures to be followed whenever a demand is made in federal or state proceedings for disclosure of any information collected, assembled, or prepared in connec-

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tion with litigation or an investigation supervised and/or reviewed by the Civil Rights Division.

Whenever a demand is made upon an employee or former employee of the Department for the production of material or the disclosure of information pertaining to investigations supervised and/or reviewed by the Civil Rights Division, the employee shall immediately notify the U.S. Attorney from the district from which the demand has been issued. The U.S. Attorney shall immediately contact the Deputy Assistant Attorney General of the Civil Rights Division who shall refer the matter to the appropriate Section Chief for review of the information whose disclosure is sought. If the Section Chief approves a demand for the production of material or disclosure of information he/she shall so notify the U.S. Attorney and such other persons as circumstances may warrant.

If the Section Chief does not authorize the disclosure he/she shall notify the Assistant Attorney General of the Civil Rights Division or a designated Deputy Assistant Attorney General, who may:

A. Authorize personally the demanded testimony or other disclosure of the information if such testimony or other disclosure, in the Assistant or Deputy Assistant Attorney General's judgment, is consistent with the factors specified in 28 C.F.R. § 16.26(a) of this part and none of the factors specified in 28 C.F.R. § 16.26(b) exists with respect to the demanded disclosure; or

B. Authorize negotiations and, if necessary, appropriate motions, to seek to limit the demand to matters, the disclosure of which would not be inconsistent with the considerations specified in 28 C.F.R. § 16.26, and otherwise to take all appropriate steps to limit the scope or obtain the withdrawal of a demand; or

C. If, after all appropriate steps have been taken to limit the scope or obtain the withdrawal of a demand, the Assistant or Deputy Assistant Attorney General does not authorize the demanded testimony or other disclosure, refer the matter for final resolution to the Deputy or Associate Attorney General, as indicated in 28 C.F.R. § 16.25.

8-3.200 CRIMINAL CIVIL RIGHTS STATUTES

8-3.210 18 U.S.C. § 242

A. Elements of the Offense

There are four essential elements that must be proved in order to show a violation of 18 U.S.C. § 242.

1. The person upon whom the alleged acts were committed must have been an inhabitant of a state, district or territory of the United States.

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2. The defendant must have been acting under color of the law, that is, while using or misusing power possessed by reason of the law. [Private citizens jointly engaged with state officials, who are themselves acting under color of law, in prohibited activity, are acting under color of law for purposes of Section 242.]

3. The conduct of the defendant must have deprived the victim of some right secured or protected by the Constitution of the United States. [For example, one of the rights secured and protected by the Constitution of the United States is that no person acting under color of law shall deprive any person of liberty without due process of law. "Liberty" includes the right to be free from unreasonable, unnecessary or unprovoked assaults or abuse by officers acting under color of law.]

4. There must have been an intent on the part of the defendant willfully to subject the victim to the deprivation of the right described above.

[Section 242, provides for an enhanced penalty when death results and when bodily injury results. In such cases, "death resulting" and/or "resulting in bodily injury" must be included in the indictment and in the court's charge as a fact to be found by the jury.]

B. 18 U.S.C. § 242 Authorities

United States v. Price, 383 U.S. 787, 791 (1966).

Williams v. United States, 341 U.S. 97 (1951).

Screws v. United States, 325 U.S. 91 (1945).

United States v. Classic, 313 U.S. 299, 327-29 (1941).

Catlette v. United States, 132 F.2d 902, 905 (4th Cir.1943).

United States v. Stokes, 506 F.2d 771, 774-77 (5th Cir.1975).

United States v. Senak, 477 F.2d 304, 306 (7th Cir.), cert. denied, 414 U.S. 856 (1973).

Otherson v. United States, 637 F.2d 1276 (9th Cir.1980); cert. denied, 454 U.S. 840 (1981).

Miller v. United States, 404 F.2d 611 (5th Cir.1968); cert. denied, 394 U.S. 963 (1969).

United States v. Kerley, 643 F.2d 299, 301-03 (5th Cir.1981).

United States v. Ragsdale, 438 F.2d 23-26 (5th Cir.1971).

The following cases, following *Stokes, supra*, hold that the specific intent to use unreasonable or unnecessary force violates 18 U.S.C. § 242:

United States v. McQueeney, 674 F.2d 109, 113 (1st Cir.1982).

United States v. Dise, 763 F.2d 586, 588-89 (3rd Cir.1985).

United States v. Calhoun, 726 F.2d 162, 163 (4th Cir.1984).

United States v. Harrison, 671 F.2d 1159, 1162 (8th Cir.1982).

United States v. Golden, 671 F.2d 369, 370 (10th Cir.1982).

C. Investigation of 18 U.S.C. § 242 Complaints

Upon receipt of a complaint of a possible violation of 18 U.S.C. § 242, the FBI should conduct preliminary investigation pursuant to the relevant provisions of the FBI Field Manual, which are printed at 8-3.300, *infra*.

Complaints may arise from written communications, from personal interviews or from newspaper articles. Matters involving mass demonstrations, such as riots and parades or major confrontations between local law enforcement officers and groups of persons, require a request for investigation from the Assistant Attorney General, Civil Rights Division. These sensitive situations may initially be monitored prior to conducting a formal preliminary investigation.

Because of the high volume of complaints received from prison inmates, unless instructed to the contrary, the FBI will not conduct on-site investigations of criminal civil rights complaints regarding a state or federal prison inmate unless: (1) the complainant is the victim or someone with firsthand knowledge of the incident; (2) the complainant indicates the kind of injuries sustained and whether or not medical treatment for the injuries was received; and (3) the names of witnesses are provided. This procedure does not apply either to incidents resulting in death or to incidents arising in confinement facilities other than a state or federal prison.

The FBI furnishes the results of its investigation both to the Civil Rights Division and to the U.S. Attorney. Either office may request additional investigation.

8-3.220 18 U.S.C. § 241

Elements of the Offense

1. Two or more persons must conspire.
2. The purpose of their conspiracy must be to injure, oppress, threaten or intimidate one or more persons.
3. One or more of the intended victims must be an inhabitant of any State, Territory or District of the United States.

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4. The conspiracy must be directed at the free exercise or enjoyment by such a United States inhabitant of a right or privilege secured by the Constitution or laws of the United States.

Note that Section 241 does not require proof of an overt act to support a conviction.

[Section 241 provides for an enhanced penalty when death results. In such cases, "death resulting" must be included in the indictment and in the court's charge as a fact to be found by the jury.]

Section 241 proscribes conspiracies in which one or more of the conspirators acts under color of law to interfere with rights secured and protected by the Constitution and laws of the United States (such as the right to be free from unreasonable and unnecessary assaults or abuse by officers acting under color of law). Thus, the rights protected under Section 242 also are protected by Section 241.

In addition, Section 241 prohibits private conspiracies directed against an inhabitant's exercise of federal rights made certain by the Constitution, statutes, or court decisions. Such rights include, but are not limited to, the right to provide information to federal law enforcement authorities, the right to be a federal witness, the right to travel interstate, and the right to vote in federal elections. Section 241 also makes criminal going in disguise with one or more persons on the highway or premises of another with the intent to interfere with the exercise of a protected right.

B. 18 U.S.C. § 241 Authorities

United States v. King, 587 F.2d 209 (5th Cir), cert. denied 440 U.S. 972 (1979). (All rights protected under § 242 are protected under § 241 as well.)

United States v. McKenzie, 768 F.2d 602 (5th Cir.1985). (Law enforcement conspiracy to use excessive force.)

Logan v. United States, 144 U.S. 263 (1892). (Law enforcement failure to keep victim from harm.)

Hayes v. United States, 464 F.2d 1252 (5th Cir.1972). (Interference with right to a desegregated education.)

United States v. Classic, 313 U.S. 299 (1941). (Right to vote.)

United States v. Johnson, 390 U.S. 563 (1968). (Right to use public accommodations.)

United States v. Guest, 383 U.S. 745 (1966). (Right to interstate travel.)

U.S. Attorneys frequently charge private conspiracies to interfere with the right to be a federal witness as a violation of 18 U.S.C. § 241. Relevant cases in this area include:

In re Quarles, 158 U.S. 532 (1895).

Motes v. United States, 178 U.S. 458 (1900).

Foss v. United States, 266 F. 881 (9th Cir.1920).

Hawkins v. United States, 293 F. 586 (5th Cir.1923).

Nicholson v. United States, 79 F.2d 387 (8th Cir.1935).

United States v. Pacelli, 491 F.2d 1108 (2d Cir.), cert. denied, 419 U.S. 826 (1974).

United States v. Guillette, 547 F.2d 743 (2d Cir.1976), cert. denied, 434 U.S. 839 (1977).

United States v. Harvey, 526 F.2d 529 (2d Cir.1975); cert. denied, 424 U.S. 956 (1976).

United States v. Thevis, 665 F.2d 616 (5th Cir.), cert. denied, 459 U.S. 825 (1982).

United States v. Smith, 623 F.2d 627 (9th Cir.1980).

United States v. Bufalino, 518 F.Supp. 1190 (S.D.N.Y.1981).

United States v. Walker, 710 F.2d 1062 (5th Cir.1983); cert. denied, 465 U.S. 1005 (1984).

United States v. Kimble, 719 F.2d 1253 (5th Cir.1983); cert. denied, 464 U.S. 1073 (1984).

United States v. Rovetuso, 768 F.2d 809 (7th Cir.1985).

United States v. Whitman, 771 F.2d 1348 (9th Cir.1985).

C. Investigation of 18 U.S.C. § 241 Complaints

The FBI will conduct a preliminary investigation of Section 241 complaints following the general format of investigations of Section 242 allegations. See also the relevant FBI Field Manual guidelines at 8-3.300, *infra*.

8-3.230 18 U.S.C. § 245

The Civil Rights Division shares enforcement responsibility with the Criminal Division for Section 245. The Civil Rights Division generally has responsibility for violations of 18 U.S.C. § 245 that are racially motivated. [See 28 C.F.R. §§ 0.50 and 0.55.]

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A. Elements of the Offense

The elements which must be shown to prove a violation of 18 U.S.C. § 245(b)(2) are:

1. The defendants must have acted with force or the threat of force.
2. The defendant must have injured, intimidated, or interfered with or attempted to injure, intimidate or interfere with the victim.
3. The defendant must have acted because of the victim's race, color, or religion or national origin and because the victim was participating or engaged in a federally protected activity [as enumerated in 18 U.S.C. § 245(b)(2)(A) through (F)].
4. Finally, the defendant must have acted willfully.

Section 245 provides for an enhanced penalty when death or bodily injury results. In such cases, "death resulting" or "bodily injury resulting" must be included in the indictment and in the court's charge as a fact to be found by the jury.

Furthermore, violations of 18 U.S.C. § 245(b)(4) and (5) may occur where intimidation is directed toward those aiding others in the exercise of their protected rights.

Note that action by the subject *under color of law* is not required for a violation of Section 245.

Also note that the statute specifically states that before an indictment under Section 245 can be sought, the written certification of the Attorney General or the Deputy Attorney General must be obtained setting forth that the prosecution is in the public interest and necessary to secure substantial justice. This certification authority cannot be delegated.

Section 245(b)(1)(A) of Title 18 prohibits the use of force or the threat of force to interfere with the election process. In addition, the Voting Rights Act of 1965 contains criminal sanctions for violations of some of its provisions (see 42 U.S.C. § 1973i(a to e) and 1973j(a to c), and the use of force or the threat of force to interfere with elections for federal officials is prohibited by 18 U.S.C. § 594. The Civil Rights Division has enforcement responsibility for these statutes if the violation is racially motivated; otherwise, the Criminal Division exercises such responsibility. See 28 C.F.R. 0.50 and 0.55. The decision whether to proceed with a civil or criminal prosecution in a racially-based voting rights matter will be made by the Assistant Attorney General of the Civil Rights Division, in consultation with the United States Attorney.

B. 18 U.S.C. § 245 Authorities

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United States v. Price, 464 F.2d 1217, 1218 (8th Cir.), *cert. denied*, 409 U.S. 1040 (1972).

United States v. Johns, 615 F.2d 672, 675-76 (5th Cir.1980).

Johnson v. Mississippi, 421 U.S. 213 (1975).

United States v. Bledsoe, 728 F.2d 1094 (8th Cir.), *cert. denied*, 469 U.S. 838 (1984).

United States v. Bronk, 604 F.Supp. 743 (W.D.Wis.1985).

United States v. Ebens, 800 F.2d 1422 (6th Cir.1986).

C. Investigation of 18 U.S.C. § 245 Complaints

Investigation of these complaints is conducted pursuant to the guidelines listed in the FBI's Field Manual, printed at 8-3.200, *infra*.

Though prosecutions under Section 245 may be brought whether or not there are criminal acts of conspiracy, if evidence exists suggesting the possibility of a conspiracy, then the FBI can also be requested to investigate possible violations of 18 U.S.C. § 241 and/or § 371, whichever is appropriate.

8-3.240 42 U.S.C. § 3631

A. Elements of the Offense

In order to prove a violation of the Fair Housing Act, 42 U.S.C. § 3631, the following four elements must be shown:

1. The defendant must have used force or the threat of force.
2. The defendant must have injured, intimidated, or interfered with, or attempted to injure, intimidate or interfere with a person's right as defined in the statute.
3. The defendant must have acted willfully.
4. The defendant must have acted against the victim because of his race, color, religion, sex or national origin and because the victim was engaged in a housing activity specified in 42 U.S.C. § 3631(a) (e.g., occupying, buying, selling, renting property) or the victim was a citizen assisting others in exercising their housing rights on a nondiscriminatory basis.

The elements of a Section 3631 violation are substantially the same as those for a Section 245 violation, with the exception that the rights infringed are housing rights.

[Section 3631 provides for an enhanced penalty when death or bodily injury results. In such cases, 'death resulting' or 'bodily injury resulting' must be included in the indictment and in the court's charge as a fact to be found by the jury.]

The use or threat of force in a housing context which violates Section 3631 may also violate 42 U.S.C. § 3617, which provides for a civil remedy. The Assistant Attorney General of the Civil Rights Division, in consultation with the U.S. Attorney, determines whether to proceed with a civil or criminal action.

B. 42 U.S.C. § 3631 Authorities

United States v. Johns, 615 F.2d 672 (5th Cir.) cert. denied, 449 U.S. 829 (1980).

United States v. Redwine, 715 F.2d 315 (7th Cir.1983).

United States v. Wood, 780 F.2d 955 (11th Cir.1986).

United States v. Griffin, 525 F.2d 710 (1st Cir.1975), cert. denied, 424 U.S. 945 (1976).

United States v. Gilbert, 813 F.2d 1523 (9th Cir.1987).

C. Investigation of 42 U.S.C. § 3631 Complaints

Investigation of these complaints is conducted pursuant to the guidelines listed in the FBI's Field Manual, printed at 8-3.300, *infra*.

8-3.250 18 U.S.C. §§ 1581, 1583, and 1584

These statutes prohibit holding or selling another in involuntary servitude (§ 1584) or peonage (§ 1581), and prohibit kidnapping, carrying away, or inducing someone with the intent that he or she be held in involuntary servitude (§ 1583).

A. Elements of the Offenses

§ 1584—Holding in Involuntary Servitude

The elements of a Section 1584 violation are:

1. A person must be made to work against his will by the defendant.
2. The period of involuntary servitude must be for a "term."
3. The defendant must have caused the involuntary servitude by his acts.
4. The defendant must have intended to cause involuntary service by his acts.

§ 1581—Peonage

The same elements are necessary for a Section 1581 violation as are for a Section 1584 violation with one addition: the service performed must have been for the purpose of working off a real or imagined debt.

§ 1583—Enticement into Slavery

The elements of a Section 1583 violation are:

1A. Kidnapping or carrying away another person.

OR

1B. Enticing, persuading or inducing another person to board a vessel or go to another place.

2. Either 1A or 1B must be done with the intent that the person be held in involuntary servitude.

Note that under § 1583 there is no requirement that the person actually be held in involuntary servitude.

B. 18 U.S.C. §§ 1581, 1583, and 1584 Authorities

United States v. Bibbs, 564 F.2d 1365 (9th Cir.1977), *cert. denied*, 435 U.S. 1007 (1978).

United States v. Booker, 655 F.2d 562 (4th Cir.1981).

United States v. Harris, 701 F.2d 1095 (4th Cir.), *cert. denied*, 463 U.S. 1214 (1983).

United States v. Mussry, 726 F.2d 1448 (9th Cir.), *cert. denied*, 469 U.S. 855 (1984).

United States v. Warren, 772 F.2d 827 (11th Cir.1985).

C. Investigation of 18 U.S.C. §§ 1581, 1582, 1583, and 1584 Complaints

The FBI has jurisdiction to investigate involuntary servitude complaints, and does so pursuant to the relevant provisions of the FBI Field Manual, printed at 8-3.300, *infra*. There are, however, additional considerations that effect the investigation in such cases.

Upon receiving an involuntary servitude complaint the Bureau should interview the victims as soon as possible. In addition, it should attempt to interview the subjects and to photograph any evidence of the conditions the victims were subject to, as well as photographing the victims.

If a victim has recently left an involuntary servitude situation there may be others who are still being held. This may require immediate action and a search warrant. Such individuals should be given the opportunity to

leave with the agents. Evidence may be available for seizure by search warrant, depending on the statement from the escaped victim. This might include guns, clubs, other instruments of coercion, passports which may have been taken from the worker, etc. Photographs should be taken of all areas of work and living and photographs should be taken of any victims still present when the search warrant is executed.

Occasionally the workers will be undocumented aliens. This presents a concern on their part about deportation and a corresponding fear of any United States Government representatives. The INS should be contacted at the first sign of such victims, and arrangements made to insure that the victims can remain in the country for the duration of any proceedings.

Memoranda of Understanding exist between the FBI and the INS, and between the FBI and the Labor Department regarding the handling of involuntary servitude complaints. Under these memoranda the INS and Labor Department will inform the FBI whenever personnel from those agencies encounter facts which suggest involuntary servitude. Similarly, the Bureau is to inform the other agencies if it finds violations of those agencies' statutes.

The Civil Rights Division's Criminal Section has designated an attorney to coordinate involuntary servitude investigations. Questions concerning the involuntary servitude statutes should be directed to the coordinator. He or she may be reached by calling the Criminal Section at FTS 368-3204.

8-3.300 INVESTIGATIVE PROCEDURES

8-3.310 Handling of Civil Rights Complaints—Initiation of Civil Rights Investigations

8-3.311 Initiation of Civil Rights Investigation

The following circumstances represent examples of situations in which a civil rights investigation should be initiated:

A. Upon receipt of a civil rights allegation from a complainant or victim not known to be unreliable.

B. Upon receipt of a written request from the Civil Rights Division (CRD), Department of Justice (DOJ), which is transmitted via FBIHQ. The U.S. Attorney does not have the authority to advise a field office to discontinue investigation specifically requested by the DOJ. Any questions regarding the deletion of any portion of a DOJ request must be promptly resolved with FBIHQ.

C. Upon receipt of a request from a U.S. Attorney. If the field office believes the U.S. Attorney's request is not warranted and cannot resolve this with the U.S. Attorney, promptly advise the Civil Rights Unit (CRU), Criminal Investigative Division (CID), FBIHQ.

D. Upon receipt of specific information appearing in the legitimate news media reporting apparent violation(s) of civil rights statutes.

E. Upon receipt of a civil rights complaint alleging a "Color of Law" violation (Title 18, USC, § 242) from any source not known to be unreliable. The FBI has investigative jurisdiction for any civil rights complaint against any Federal, state, or local law enforcement officials. Upon receipt of a Civil Rights complaint involving allegations against personnel of a Federal law enforcement agency, obtain initial facts of the complaint from complainant, victim or other original source and advise FBIHQ. Conduct no further investigation unless specifically instructed to do so by FBIHQ. The complaint will then be discussed by FBIHQ with the CRD, DOJ, for a determination as to whether the Department will request a criminal civil rights investigation by the FBI or whether the CRD, DOJ, will decline criminal prosecution in favor of an administrative inquiry. Civil Rights allegations against any Federal law enforcement agency official should be promptly brought to the attention of the CRU, FBIHQ. "Color of Law" can also apply to nonlaw enforcement officials who have lawful authority due to their position, such as mayor, councilman, tax collector, proprietor of a nursing home, security guard, etc., and who are likewise bound by laws, statutes, ordinances, regulations or customs. Law enforcement personnel are therefore only a few of the "officials" who act under color of law. "Color of Law" is further defined in Section 44-1.2 of the FBI Field Manual.

F. Upon receipt of a complaint involving civil rights allegations against FBI personnel, the following procedures are to be followed:

1. Advise the CRU, CID, and the Office of Professional Responsibility (OPR), Inspection Division (INSD), by telephone, followed by appropriate communication so that FBIHQ may furnish appropriate guidance. The CRU will coordinate with OPR and other FBIHQ components and advise the SAC concerning the proper handling of the matter;

2. If a civil rights complaint arises during an administrative inquiry, the pertinent administrative inquiry relating only to the civil rights allegation must stop in order to resolve any criminal violations. That portion of the administrative inquiry may not resume until authorized by FBIHQ.

3. OPR, INSD, and CRU, CID, will coordinate the presentation of the facts of the allegations to OPR, DOJ, and the CRD, DOJ, to determine if a criminal investigation is warranted. If no criminal investigation is warranted, the matter will be administratively handled by OPR, INSD. If CRD, DOJ requests a criminal civil rights investigation, the CRU, FBIHQ, will advise the SAC to initiate an investigation which should be reported to FBIHQ pursuant to the existing provisions of this section of the manual unless advised to the contrary by FBIHQ.

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8-3.312 Special Circumstances in Which Investigation May Not Be Required

The following circumstances, not all inclusive, represent examples of situations where investigation should not be initiated:

A. Upon receipt of information involving mass demonstrations, such as riots, marches, parades, student demonstrations, and major confrontations between local law enforcement officers and groups of persons, immediately advise FBIHQ of the details pursuant to instructions set forth in Part 4, Section 157 of this manual entitled "'Civil Unrest.'" Furnish the Civil Rights Unit, FBIHQ with a copy of any "'Civil Unrest'" communications which contain information indicating possible civil rights interest.

B. It is not necessary to initiate a civil rights investigation upon receipt of a letter from a Federal or state prison inmate unless specific criteria are met. Pursuant to an agreement between FBIHQ and DOJ, the following specific criteria have been established and must be met prior to initiation of a civil rights investigation based on an inmate letter alleging brutality:

1. The complainant is the victim or someone with first-hand knowledge of the incident;
2. The complainant indicates the kind of injuries sustained as well as whether the injuries required medical treatment; and
3. Names of witnesses provided.

These criteria do not include death cases and only apply to written complaints from inmates of Federal and state prisons. This policy does not apply to prison inmate letters from lesser facilities (i.e., city or county jails). If all of the above criteria are not satisfied, a letter should be directed to the writer requesting the necessary information. If the writer does not respond or the information furnished still does not meet the criteria, conduct no further investigation. The letter(s) should be indexed and filed in the field office 44-0 file, or a control file.

C. Each field office is also authorized to place letters in an appropriate "'O'" or control file if the writer is obviously mentally deranged and makes no legitimate civil rights complaint, or if the writer makes no specific civil rights complaint. Letters which contain a questionable or borderline civil rights complaint should continue to be resolved by sending a letter to the writer requesting additional specific information. If the information thereafter does not indicate a civil rights violation, there is no need to forward the letter(s) to FBIHQ; however, they must be properly indexed and filed in the field office. Letters which allege a pattern of violations, or which are submitted by a legitimate civil rights organization but do not contain sufficient predicate information, should be referred to FBIHQ.

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8-3.320 Investigative Procedure—44A Matters—Force and or Violence

8-3.321 Initial Investigation

A. Interview the victim(s) and/or complainant(s) for full details of allegation(s). As a part of each interview, secure the identity of [subject(s) and] witness(s) to the incident. Have victim execute a medical release form (FD-465) if injuries sustained were treated by a physician or if victim required hospitalization. Advise victim that information furnished may be used in court of law. See Section 44-10.6(9) of the FBI Field Manual regarding the need for signed statements.

B. Observe, describe, and photograph, in color, any complaint-related injuries visible on body(s) of victim(s) at the time of interview. If victim's wounds are bandaged, determine whether the bandages can be removed so that the victim's wounds can be photographed. If the bandages can safely be removed, photograph the unbandaged wounds. If the bandages cannot be safely removed, photograph the bandaged wounds. Photographs made available from other sources may be used if the authenticity of the photographs can be established and used for court purposes.

C. At the outset of any Civil Rights investigation involving a possible "Color of Law" violation (Title 18, U.S.C., § 242), the responsible head or appropriate official of the agency or institution involved is to be notified of the initiation of the investigation. This includes all local, state and Federal agencies and institutions. *Do not furnish the identity of the complainant to this official or any person outside of the FBI or DOJ.*

D. Obtain copies of all police reports relevant to the incident under investigation with the exception of Internal Affairs reports. Internal Affairs reports are only collected as part of a "Substantial Case" (see Section 8-3.322(D), *infra*) and are not collected as part of the "Initial Investigation." A cover FD-302 should be prepared identifying the source of these records and date obtained. Ensure copies of records are readable. Determine what criminal and judicial action has been taken or is contemplated by authorities against victim(s) and subject(s). Conduct appropriate criminal record checks for each victim and subject. An inquiry with the state computerized law enforcement system is normally sufficient. In death cases, obtain a copy of the report of the autopsy if conducted, or coroner's report. Do not delay completion of investigation awaiting these reports but show in your report what steps have been taken to obtain relevant records.

E. Obtain copies of any medical records relating to treatment received by each victim for injuries allegedly sustained at the hands of subject(s). Some hospitals and doctors may require a release (FD-465) signed by victim or a subpoena before making records available. If a subpoena is necessary, obtain the name of the person for whom a subpoena duces tecum should be

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issued. An FD-302 should be prepared identifying the source of these records and date obtained. Ensure copies of these records are readable.

F. Conduct field office indices search and set out information regarding other civil rights allegation(s) made against each subject. Also, conduct an indices search regarding victim(s) and summarize information contained in field office file(s).

At this point, a 44A case may be closed when, in the opinion of the SAC, the investigation establishes that the totality of the circumstances indicates that the case is not of a serious or substantial nature and therefore does not warrant further investigation. Furnish results of investigation to FBIHQ for transmittal to the DOJ. (See Section 44-5 of the FBI Field Manual for reporting guidelines.)

8-3.322 Additional Investigation Required—Substantial Case

If the case is determined to be serious and substantial in nature, conduct the following additional investigation:

A. Interview each subject for full details of the incident. As a part of each interview, secure the identity of witnesses. Obtain a complete physical description and background for each subject during interview or from police records. (See Section 44-10.6(2) of the FBI Field Manual regarding the need for signed statements.)

B. Interview all or a sufficient number of witnesses to fully develop the facts of the case. Identity of witnesses may be obtained from subject(s), victim(s), or police reports. Obtain and document the names and addresses of all witnesses who were not interviewed during the investigation. As a part of the interview with each witness, obtain full name, address, telephone number, employment, race, sex, date of birth and social security number. Advise witnesses that information furnished may be used in a court of law.

C. Identify and interview all physicians and other medical and paramedical personnel who treated each victim for injuries allegedly sustained at the hands of subject(s), including the ambulance attendants who transported victim(s) to the hospital, the hospital admission clerks, orderlies, and the nurses involved in the treatment of victim(s). In the interviews with the doctors and other medical personnel also determine the following information: the severity of victim's injuries, whether victim's injuries could have been caused the way he/she or subject(s) claim, whether victim appeared intoxicated (especially if subject(s) claim the victim was), and whether victim was belligerent and/or unruly (especially if subject(s) claims he/she was). In death cases, interview the pathologist or medical examiner who performed the autopsy.

D. Contact appropriate officials at the subject officer's agency to obtain pertinent records, i.e., Internal Affairs Report, personnel file,

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etc., and any other complaint(s) against subject. It should be noted that the Supreme Court has held that a statement given by a public employee under an express threat of dismissal for failure to answer cannot constitutionally be used against the employee in a subsequent criminal proceeding (*Garrity v. New Jersey*, 385 US 493 (1967)). Furthermore, subsequent case law has held that the fruits of these statements are likewise not admissible. Accordingly, do not review any of these compelled subject statements but instead forward them to FBIHQ in a sealed envelope marked "Potential Garrity statements enclosed." Upon receipt, CRU, FBIHQ will transmit the Garrity material to the DOJ where the report will be reviewed and any compelled subject statements will be removed before the entire investigative report is reviewed by the case Attorney at CRD, DOJ. The cover communication should also note that an Internal Affairs Report is enclosed and it may contain Garrity statements. If the subject officer consents to make such statements available, that fact should be recorded on an FD-302 and it should also be noted in the administrative section of the report.

E. Where there are conflicts as to the facts, attempt to resolve same. For example, if there is a conflict in the sequence of events, inspect and copy records, such as police logs, tape-recorded radio transmissions, or hospital admission records, that would help resolve the conflict.

F. Describe the scene of the incident; where appropriate, supplement description with photographs or a diagram.

G. After completion of the investigation, advise the U.S. Attorney of the results and ask U.S. Attorney if further investigation is warranted. Regardless of the U.S. Attorney's answer, submit report of investigation completed. If U.S. Attorney requests further investigation, conduct whatever investigation U.S. Attorney requests as long as such requests are reasonable and pertinent to the case. If a problem arises with a request of this nature, handle pursuant to instructions set forth in Section 8-3.311(c), *supra*. The results of this investigation should be furnished in an investigative report supplementing the initial report. When the U.S. Attorney states that the investigation is adequate, request the U.S. Attorney to furnish an opinion as to the prosecutive merit of the matter. Do not delay the submission of any report pending a prosecutive opinion by the U.S. Attorney. U.S. Attorney's prosecutive opinion can be furnished in a supplementary report.

8-3.330 Investigative Procedure—44B Matters—Nonbrutality

A. Interview complainant and/or victim(s) if readily available. Secure same information as set forth under 8-3.321(A), *supra* during interview.

B. Where appropriate to round out the investigation, check police records, office indices, court records, institution records and any other records pertinent to the case.

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C. Examples of nonbrutality allegations are as follows:

1. Unlawful arrest or detention
2. Unlawful search or seizure
3. Police harassment or abuse of power
4. Failure of any public official to take official action. This involves cases in which a public official, who is a witness to, or cognizant of, a deprivation of civil rights of an individual, such as an assault upon that individual, fails to take appropriate action to protect that individual's person or rights.
5. Deprivation of civil rights in connection with trial, conviction, or sentence. Includes allegations of improper extradition procedures.
6. Deprivations relating to or growing out of treatment of incarcerated persons or concerning administration of prisons or jails.
7. Alleged unlawful deprivation of property by purported action of any public agency. Involves cases relative to imposition of zoning restrictions on property, exercise of eminent domain without due process of law, and like situations.

8-3.340 Procedures when Local, State, or Federal Agencies Are Investigating Same Incident

From time to time questions have arisen concerning the procedures to be followed by the FBI in conducting investigations of alleged violations of criminal Civil Rights statutes when local or state agencies are simultaneously conducting an investigation of the same incident. Departmental policy in such circumstances is as follows:

A. Upon receipt of information by the FBI sufficient to justify initiation of a Civil Rights investigation, an investigation should be conducted regardless of the fact that a local or state investigation of the same incident is also being conducted. If, during the course of the FBI's investigation, state or local criminal charges arising out of the incident are filed against the subject(s), the FBI's investigation should be suspended and the USA and FBIHQ should be notified of the nature of the criminal charges and the likely timetable for prosecution of such charges. In all other situations, the investigation should continue to completion.

B. Exceptions to this procedure may be necessary on infrequent occasions. Authority should be sought from FBIHQ on such occasions before discontinuing the investigation in the absence of filing of state or local criminal charges against the subject(s).

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UNITED STATES CODE REFERENCES

Title & Section	United States Code	USAM Section	Title & Section	United States Code	USAM Section
7 U.S.C. § 2020		8-2.240	20 U.S.C. § 1703		8-2.222
15 U.S.C. §§ 1691-1691f		8-2.230	20 U.S.C. § 1706		8-1.100
15 U.S.C. § 1691e		8-1.100	20 U.S.C. § 1709		8-1.100
15 U.S.C. § 3151		8-1.100	23 U.S.C. § 140		8-2.240
16 U.S.C. § 1704		8-2.240	23 U.S.C. § 324		8-2.240
18 U.S.C. §§ 241-246		8-1.100	28 U.S.C. § 1862		8-1.100
18 U.S.C. § 241		8-2.272	28 U.S.C. § 2403		8-2.170
18 U.S.C. § 241		8-3.000	29 U.S.C. § 794		8-1.100
18 U.S.C. § 241		8-3.130	29 U.S.C. § 794		8-2.220
18 U.S.C. § 241		8-3.220	29 U.S.C. § 794		8-2.230
18 U.S.C. § 241		8-3.230	29 U.S.C. § 794		8-2.240
18 U.S.C. § 242		8-2.272	29 U.S.C. § 794		8-2.260
18 U.S.C. § 242		8-3.000	29 U.S.C. § 1577		8-1.100
18 U.S.C. § 242		8-3.130	29 U.S.C. § 1577		8-2.240
18 U.S.C. § 242		8-3.140	31 U.S.C. § 6716		8-2.230
18 U.S.C. § 242		8-3.170	31 U.S.C. § 6720		8-1.100
18 U.S.C. § 242		8-3.210	31 U.S.C. § 6721		8-1.100
18 U.S.C. § 242		8-3.220	36 U.S.C. § 391(b)		8-2.240
18 U.S.C. § 242		8-3.311	40 U.S.C. § 476		8-2.240
18 U.S.C. § 242		8-3.321	42 U.S.C. § 290dd-2		8-2.240
18 U.S.C. § 245		8-3.230	42 U.S.C. § 290e-2		8-2.240
18 U.S.C. § 245		8-2.234	42 U.S.C. § 292d		8-2.240
18 U.S.C. § 245		8-2.263	42 U.S.C. § 298b-2		8-2.240
18 U.S.C. § 245		8-2.272	42 U.S.C. § 300a-7		8-2.240
18 U.S.C. § 245		8-2.290	42 U.S.C. § 300a-8		8-1.100
18 U.S.C. § 245		8-3.000	42 U.S.C. § 300w-7		8-1.100
18 U.S.C. § 245		8-3.130	42 U.S.C. § 300w-7		8-2.240
18 U.S.C. § 371		8-3.230	42 U.S.C. § 300x-7		8-1.100
18 U.S.C. § 594		8-1.100	42 U.S.C. § 300x-7		8-2.240
18 U.S.C. § 594		8-2.272	42 U.S.C. § 300y-9		8-1.100
18 U.S.C. § 594		8-3.230	42 U.S.C. § 708		8-1.100
18 U.S.C. § 608		8-2.276	42 U.S.C. § 708		8-2.240
18 U.S.C. § 609		8-2.280	42 U.S.C. § 1509		8-2.230
18 U.S.C. §§ 841-848			42 U.S.C. § 1971		8-1.100
18 U.S.C. § 875		8-1.100	42 U.S.C. § 1971		8-2.272
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18 U.S.C. § 1503		8-1.100	1973ff-4		8-1.100
18 U.S.C. § 1504		8-1.100	42 U.S.C. § 1973		8-2.272
18 U.S.C. §§ 1508-1513		8-1.100	42 U.S.C. § 1973		8-2.275
18 U.S.C. §§ 1581-1588		8-1.100	42 U.S.C. § 1973		8-2.279
18 U.S.C. § 1581		8-3.000	42 U.S.C. § 1973		8-2.280
18 U.S.C. § 1581		8-3.250	42 U.S.C. § 1973a		8-2.281
18 U.S.C. § 1582		8-3.250	42 U.S.C. § 1973aa		8-2.273
18 U.S.C. § 1583		8-3.250	42 U.S.C. § 1973aa-1		8-2.285
18 U.S.C. § 1584		8-3.000	42 U.S.C. § 1973aa-1a		8-2.180
18 U.S.C. § 1584		8-3.250	42 U.S.C. § 1973aa-1a		8-2.271
18 U.S.C. §§ 1621-1623		8-1.100	42 U.S.C. § 1973aa-1a		8-2.279
18 U.S.C. §§ 2101-2196		8-1.100	42 U.S.C. § 1973aa-1a		8-2.280
20 U.S.C. § 1087-2(e)		8-2.240	42 U.S.C. § 1973aa-2		8-2.273
20 U.S.C. § 1142		8-2.240	42 U.S.C. § 1973aa-2		8-2.279
20 U.S.C. § 1401 et seq.		8-2.220	42 U.S.C. § 1973aa-2		8-2.285
20 U.S.C. § 1401 et seq.		8-2.260	42 U.S.C. § 1973aa-3		8-1.100
20 U.S.C. § 1681 et seq.		8-2.220	42 U.S.C. § 1973aa-3		8-2.273
20 U.S.C. §§ 1681-1683		8-2.240	42 U.S.C. § 1973aa-3		8-2.279
20 U.S.C. § 1681		8-1.100	42 U.S.C. § 1973aa-3		8-2.285
20 U.S.C. § 1685		8-2.240	42 U.S.C. § 1973aa-6		8-2.274
20 U.S.C. § 1686		8-2.240	42 U.S.C. § 1973b		8-2.279
20 U.S.C. § 1701 et seq.		8-2.220	42 U.S.C. § 1973bb		8-1.100
20 U.S.C. § 1701 et seq.		8-2.222	42 U.S.C. § 1973bb		8-2.284

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Code of Federal Regulation		Code of Federal Regulation	
Title and Section	USAM Section	Title and Section	USAM Section
3 C.F.R. § 298	8-2.240	28 C.F.R. Part 55,	
28 C.F.R. Part 16	8-3.170	Appendix.....	8-2.282
28 C.F.R. Part 16	8-3.180	28 C.F.R. § 0.50	8-1.000
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28 C.F.R. Part 55,		28 C.F.R. § 0.55	8-3.230
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42 U.S.C. § 1973c	8-2.276	42 U.S.C. § 2000c	8-2.220
42 U.S.C. § 1973cc to 1973cc-2b	8-2.286	42 U.S.C. § 2000c	8-2.221
42 U.S.C. § 1973d	8-2.277	42 U.S.C. § 2000c-6	8-1.100
42 U.S.C. § 1973dd to 1973dd-6	8-2.286	42 U.S.C. §§ 2000d to 2000d-4	8-2.240
42 U.S.C. §§ 1973dd-3	8-1.100	42 U.S.C. §§ 2000d to 2000d-6	8-2.213
42 U.S.C. § 1973e	8-2.277	42 U.S.C. § 2000d	8-1.100
42 U.S.C. §§ 1973ee-1 to 1973ee-3	8-2.288	42 U.S.C. § 2000d	8-2.220
42 U.S.C. § 1973ee-4	8-2.288	42 U.S.C. § 2000d	8-2.221
42 U.S.C. § 1973f	8-2.278	42 U.S.C. § 2000d-1 note	8-2.210
42 U.S.C. § 1973ff-1	8-2.286	42 U.S.C. § 2000e et seq.	8-2.211
42 U.S.C. § 1973ff-2	8-2.287	42 U.S.C. § 2000e-5	8-1.100
42 U.S.C. § 1973ff-4	8-2.286	42 U.S.C. § 2000e-5	8-2.180
42 U.S.C. § 1973g	8-2.277	42 U.S.C. § 2000d-5	8-2.214
42 U.S.C. § 1973h	8-2.283	42 U.S.C. § 2000e-6	8-1.100
42 U.S.C. § 1973i	8-1.100	42 U.S.C. § 2000e-6	8-2.221
42 U.S.C. § 1973i	8-2.272	42 U.S.C. § 2000e-8	8-1.100
42 U.S.C. § 1973i	8-2.278	42 U.S.C. § 2000e-10	8-1.100
42 U.S.C. § 1973i	8-3.230	42 U.S.C. § 2000h-2	8-1.100
42 U.S.C. § 1973i	8-2.290	42 U.S.C. § 2000h-2	8-2.140
42 U.S.C. § 1973j	8-1.100	42 U.S.C. § 2000h-2	8-2.220
42 U.S.C. § 1973j	8-2.272	42 U.S.C. § 2973j	8-2.277
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42 U.S.C. § 1973k	8-2.277	42 U.S.C. § 3631	8-3.000
42 U.S.C. §§ 1974-1974d	8-2.289	42 U.S.C. § 3631	8-3.240
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42 U.S.C. § 1983	8-2.284	42 U.S.C. § 6870	8-2.240
42 U.S.C. § 1997	8-2.261	42 U.S.C. § 8625	8-1.100
42 U.S.C. § 1997a	8-1.100	42 U.S.C. § 8625	8-2.240
42 U.S.C. § 1997c	8-1.100	42 U.S.C. § 9821	8-2.240
42 U.S.C. § 2000a et seq.	8-2.180	42 U.S.C. § 9849	8-2.240
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42 U.S.C. § 2000a-3	8-1.100	46 U.S.C. § 658	8-1.100
42 U.S.C. § 2000a-7	8-1.100	46 U.S.C. § 701	8-1.100
42 U.S.C. § 2000b et seq.	8-2.180	47 U.S.C. § 398	8-2.240
42 U.S.C. § 2000b	8-1.100	49 U.S.C. § 306	8-1.100
42 U.S.C. § 2000b	8-2.260	49 U.S.C. § 1615	8-1.100
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