

UNITED STATES ATTORNEYS' **BULLETIN**

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INTERVIEW WITH RICHARD W. ROBERTS CHIEF, CRIMINAL SECTION, CIVIL RIGHTS DIVISION

Richard ["Ricky"] W. Roberts was recently appointed Chief of the Criminal Section in the Civil Rights Division. He previously served as Principal Assistant United States Attorney for the District of Columbia, having joined that office in December 1988. Before working in the U.S. Attorney's office in Washington, Mr. Roberts served as an Assistant United States Attorney in the Southern District of New York, as an associate with the Washington law firm of Covington and Burling, and as a trial attorney in the Section which he now heads. Assistant United States Attorney Dixie Morrow [referred to as DM], Assistant Director of Criminal Programs in EOUSA's Office of Legal Education, spoke with Mr. Roberts [referred to as RR] on July 13, 1995.

DM: Since assuming this position in June, what do you perceive as your primary function as Chief of the Criminal Section?

RR: Our section enforces Federal criminal civil rights statutes. We have a responsibility for prosecuting a range of cases including those involving excessive use of force by



*Ricky Roberts
Chief
Criminal Section,
Civil Rights
Division*

An update from Deputy Attorney General Jamie Gorelick on proposed changes to Rule 16 was Emailed to United States Attorneys, First Assistant United States Attorneys, and Professional Responsibility Officers during the week of July 24. If you would like a copy, please contact these individuals in your district or call the *United States Attorneys' Bulletin* staff, (202)514-3572.

officials, involuntary servitude, and religious desecration. In addition, we have to prosecute hate crimes — racially motivated violence cases. We've recently gotten jurisdiction to prosecute criminal FACE violations — Freedom of Access to Clinic Entrances — where there is violence associated with customers' or patients' access to the use of reproductive health clinic services.

Among those cases that we bring, we want to sharpen our focus on hate crimes. We're trying to see if we can gather more information about whether or not there exist organized efforts, in cities, regions, or nationwide, to perpetrate acts of violence on the basis of race. This enforce-

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FROM THE EDITOR-IN-CHIEF

In this issue of the Bulletin the second of our interviews features Ricky Roberts, the new Chief of the Criminal Section of the Civil Rights Division. The new Civil Rights Bluesheet, which affects all criminal civil rights cases, is discussed at length by Mr. Roberts with AUSA Dixie Morrow. We have added a historical article about the development of the AGAC and the prominent role they played in selecting Watergate Special Prosecutor Leon Jaworski. The last page of this issue is a short reader's survey form. Please take a few moments to complete it, fold it, and put it in the mail. The other side is marked with the EOUSA address where the survey should be sent. As part of our continuing effort to provide useful information to United States Attorneys and Assistant United States Attorneys, we are soliciting your comments and suggestions.



David Marshall Nissman

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*Carol DiBattiste, Director
United States Attorneys' Bulletin Staff, (202)514-3572
David Marshall Nissman, Editor-in-Chief
Ed Hagen, Editor*

Wanda J. Morat, Editor

Susan M. Dye, Graphic Designer

Barbara J. Jackson, Editor

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ment effort really has been heightened, unfortunately, by the tragedy in Oklahoma, and attention has been paid recently to activities that may involve so-called "militia groups." Part of that effort has involved working with the Task Force on Domestic Terrorism that the Assistant Attorney General for the Criminal Division has recently put together at the Attorney General's request. That task force, headed by Jim Reynolds, Chief of the Terrorism and Violent Crimes Section of the Criminal Division, has formed a working group of representatives of the Civil Rights Division and other Divisions, to focus on gathering information from the field.

We also have a need to try to increase educational outreach efforts. I heard someone once say that you really need to use this office as something of a "bully pulpit" — to get out there and let people know what protections there may be, what enforcement efforts the Government is involved in, and what statutes can protect people's rights, because we try to vindicate those rights. We also need to communicate with a number of organizations and groups who might be "natural feeders" of information to us, to let them know we are here, what we are doing, and how we can help, as well as what our limitations are. Certainly, we need to let them know that this arm of Government is dedicated to protecting people's rights.

DM: Every prosecutor is shaped by the cases that he or she tries. Looking back on your career as a civil rights prosecutor, is there any one case that stands out in your mind as leaving a special impression on how you intend to conduct business in this job?

RR: Yes. It was probably the most significant case that I have handled. It involves a former Klansman from Alabama who engaged in a spree of robbing banks to support himself, while driving across the country shooting at and killing black people. This happened in 1979-1980. He left in his trail, as best we can determine, at least thirteen shooting incidents, many of which resulted in death. He was prosecuted for having shot, among those victims, Vernon

Jordan, who, at that time, was the head of the National Urban League, and was attending a board meeting in Indiana. Jordan was giving another board member, who happened to have been a white female, a ride back to the hotel. I didn't try that case. That is just background on this defendant, Joseph Paul Franklin.

Some months after that, Franklin was driving around a city park in Salt Lake City, when he saw two young black men jogging with two young white females. He was enraged by that. He drove his car out of the park, parked in a field with some bushes that provided cover for him, and pulled out a high-powered rifle with a scope on it. He lay in wait until they started to jog out of the park into an intersection beside the field. At a distance of about 150 feet, Franklin opened fire on the African-American male joggers and, in seven shots, felled and killed them. The female joggers were not shot. Then he put his rifle in the trunk of the car, got in, and drove down the street laughing. We finally caught him on the day of the Carter-Reagan Debates in October 1980, and he was indicted under Section 245 on two counts of interfering with federally protected activities with death resulting. The FBI was vigorous in pursuing our leads and getting enough evidence to present to the jury and convict him.

A number of things stuck with me about the case. It was a tremendous tragedy for the families of those victims. These were two young men

— sixteen years old, seventeen years old. They were contributing members of their community. The father of one of them was a minister in a local church. The other one was gainfully employed. They had siblings who depended upon them for guidance, for role modeling, for all kinds of other things. It helped me to understand how it is extremely important not only to go after the wrongdoer, but to invest the victims' families in the process of achieving justice. That experience was extremely important for me. I decided that I had to spend as much time as I could working with the victims' families to let them know that this Government, to which they pay taxes, was responsive to their desire and need to have justice pursued in their behalf.

DM: The new Civil Rights Bluesheet issued on May 10 is described by Attorney General Reno as a "positive step

"Some of our best experiences in this Section have been team trials between AUSAs and trial lawyers from this section. We hope to get the message out that this really works."

Ricky Roberts
Chief, Criminal Section
Civil Rights Division

forward in civil rights law enforcement" and something that "furthers the partnership between the United States Attorneys and the Civil Rights Division." How do you think that it does this?

RR: Well, first of all, look at how the Bluesheet came about. It came about when the Chair of the Civil Rights Subcommittee of the Attorney General's Advisory Committee and the Assistant Attorney General of the Civil Rights Division sat down at the table and said, "Let's make sure we can improve upon and build this partnership that the Division has with the U.S. Attorneys' offices." I don't know if I can call that unprecedented, but it was certainly an encouraging step. Sometimes there tend to be divisions — and I think that they are artificial, frankly — between headquarters and field United States Attorneys' offices. My view, having worked on both sides of the street, has been that we are all on the same team, enforcing the same statutes. So when you see the headquarters and field offices forge efforts to improve our relationships, to build our partnership — that's a great step. It builds upon the notion of teamwork. The Bluesheet language itself suggests that the optimum circumstance in many criminal civil rights prosecutions involves teamwork between Civil Rights Division lawyers who can bring a great degree of expertise to a case, and the United States Attorneys' offices and Assistants who may be assigned to the case, who invariably bring a great deal of litigation experience, as well as a good feel for how cases are going to play in their jurisdictions. Some of our best experiences in this Section have been team trials between AUSAs and trial lawyers from this section. We hope to get the message out that this really does work. The fact that the Bluesheet recognizes that these pairings tend to produce excellent results is encouraging.

DM: In the past, one of the complaints that U.S. Attorneys' offices sometimes had in dealing with the Criminal Section of the Civil Rights Division was that it took too long to review cases and to make recommendations about how investigations should proceed or a case should be handled. Do you believe that the system under the Bluesheet will remedy that problem?

RR: I think that there are a number of things that will help to remedy the problem. I'm not going to promise that the problem will go away tomorrow, or that the problem is

totally solved. Under Interim Chief Al Moskowitz's and former Chief Linda Davis' leadership, a number of changes were instituted that I think will be very helpful in speeding up the process. One of them involves trying to be creative in getting the lawyers here out into the field more quickly. The amount of paperwork and bureaucracy has been pared down. It used to be that fairly substantial and detailed prosecutive recommendation memos had to be prepared and approved up the line before a lawyer from this Section could go out and put people before the grand jury. We have streamlined it. Now, these long, detailed prosecutive recommendations come at the end of the process, not the beginning. I think that is one change that my predecessors instituted that can be very helpful in addressing this issue.

The other thing that we are really trying to be serious about is the idea that we are public servants. We are trying to pay attention to servicing our citizens and clients, so that whenever we can, we focus on ways to reduce the bureaucratic burden on trial lawyers and increase the speed with which they can do their jobs and make judgments.

The Bluesheet builds in a requirement that we make some assessment within a three-day period, for example, about the United States Attorney's staffing recommendation. That is a helpful thing.

DM: You mentioned that the Bluesheet now suggests that this Section give deference to staffing decisions by the U.S. Attorneys' offices, and that you review those recommendations within three days. What happens if you decide that the staffing recommendation is not acceptable?

RR: We are going to keep an open line of communication with the U.S. Attorneys' offices. I'm not looking at these decisions from the point of view of turf. One benefit of having worked both sides of the street a couple of times is that I see the futility in trying to pose issues as "turf battles." I prefer to look at what makes the most sense to achieve the best result in a particular case. If it makes more sense for us to keep out of it, fine; we'll just give you whatever help you need. If it makes more sense because of the expertise that we've gathered in a particular case for us to be involved, then let's sit down and talk about why that's the case. What happens if we have a different view? We would sit down quickly and get on the phone or meet personally with the U.S. Attorney or point of contact in the U.S. Attorney's office and share whatever our thinking might be. If we have different thoughts, they're not

motivated — and won't be motivated for as long as I'm here — by reasons of our wanting to "cherry pick" cases. That's a perception that we had in both of the U.S. Attorneys' offices I was in about how Main Justice works. "Oh, they just want to elbow in on the big cases." The process in this Section is going to be what makes the most sense and achieves the best results in a given prosecution. If, after using that standard, we determine that that's something we should discuss with the U.S. Attorney's office or U.S. Attorney, we are going to sit down and talk about it. We may end up being turned around on it. It may be that what makes most sense is exactly what the U.S. Attorney thought.

DM: Do you think that there will be substantial differences in how civil rights cases will be presented to Federal grand juries and tried in district court because of the new Bluesheet?

RR: I'm not sure that we are going to see substantial changes in the particular way the cases are presented. I hope that what we see is an increase in some of the team presentations, and an increased understanding on both sides of the divide that working together does produce some of the best results in Federal criminal civil rights enforcement. I also hope in smaller districts where resources may not be available to fully investigate and prosecute some of these Federal criminal civil rights cases, this Section is viewed as a place where a U.S. Attorney's office can turn and get a warm reception.

DM: For field prosecutors in U.S. Attorneys' offices who may be confronted with their first criminal civil rights case, what is the most effective way for them to get the ball rolling? Should they pick up the phone and call the duty attorney in the Criminal Section of the Civil Rights Division?

RR: The short answer is yes. That is why we have set up a duty attorney system. We're hoping that word will get out so that people will know that there is a way that they can get answers to questions that they may never have had to confront before. We are ready, willing, and able — and that's our job. We can be very helpful, and it only takes a phone call.

The Deputies are also valuable resources. Their duties in this section are divided by regions. Al Moskowitz has the First, Second, and Third Circuits in the northeast, as well as the Ninth and Tenth Circuits on the west coast. Tom Perez has the Fourth, Sixth, Seventh, and Eighth Circuits. Karla Dobinski has the Fifth and Eleventh Circuits. I think this is helpful in that it helps the Deputies to focus on the law in their circuits, so they can provide particularized assistance to the AUSAs who have questions in the field.

DM: Mr. Roberts, you have a unique opportunity to reach colleagues throughout the Department of Justice who read the *U.S. Attorneys' Bulletin*. Is there anything you would like to communicate to them about yourself as the new Chief of the Criminal Section in the Civil Rights Division?

RR: I suppose the messages would be that I have an open door and an open phone line, and my philosophy is that we are all on the same team. I worked with that philosophy toward other agencies when I was an Assistant U.S. Attorney, and that is my philosophy as Chief of this Section. The main thing for us to do is to figure out what makes most sense and how best to achieve justice. It shouldn't involve questions of turf. It involves questions of how best we can achieve the mission that we are all sworn to fulfill. So, let's work as a team. I hope to reach out and try to meet and greet as many of our team members in the districts as I can. ❖

We Need Your Help!

Please take the time to fill out our questionnaire on the *USAB* that is attached to the back of this *Bulletin*. We want the *Bulletin* to be useful and to cover issues you feel are pertinent. We need your feedback and suggestions.

ATTORNEY GENERAL HIGHLIGHTS

AG Announces Violence Against Women Advisory Council Members

On July 13, 1995, prior to a meeting of the Council members of a newly established Advisory Council on Violence Against Women (VAW) at the White House Conference Center, Attorney General Janet Reno and Health and Human Services (HHS) Secretary Donna E. Shalala welcomed 41 national leaders to the Council, established to provide the AG and Shalala with practical and general policy advice on implementing the 1994 VAW Act. If you would like a copy of the list of members of the Advisory Council on VAW, please contact the *United States Attorneys' Bulletin* staff, (202)514-3572. ❖

Introduction of New Computer Crime Legislation

The Attorney General announced on June 29, 1995, that the Clinton Administration has introduced legislation to dramatically increase Federal protection of data confidentiality. A recent Carnegie Mellon University study has reported a dramatic increase in the number of reported intrusions on the Internet. The new act would protect Government, financial institutions, and other computers used in interstate or foreign commerce or communications. ❖

AG Questions Congressional Attempts to Prevent DOJ from Fighting Housing Discrimination

On June 15, 1995, Attorney General Janet Reno made a statement concerning the House of Representatives' Subcommittee on Financial Institutions and Consumer Credit's adoption of an amendment to eliminate

critical elements of the landmark Fair Housing Act of 1968, saying that this action would "cripple our nation's efforts to fight discrimination in the sale, rental, and financing of housing," and that "it is unthinkable that the Justice Department would no longer be able to challenge patterns of discrimination." If you would like a copy of the press release, please contact the *United States Attorneys' Bulletin* staff, (202)514-3572. ❖

DAG Delegates Authority for Final Determinations in Uncontested Equitable Sharing Requests

On June 5, 1995, Deputy Attorney General Jamie Gorelick issued a memorandum amending parts V.D.3 and 4 of the Attorney General's Guidelines on Seized and Forfeited Property (1990). She delegated the authority for making final determinations in uncontested equitable sharing cases (1) involving property valued at \$1 million or more, (2) in multi-district cases, or (3) involving the transfer of real property, to the Assistant Attorney General of the Criminal Division (or the AAG's designee), provided that the Asset Forfeiture Office (AFO) of the Criminal Division, the United States Attorney, and the Federal seizing agency agree on the allocation of judicially forfeited property or that the AFO and the Federal seizing agency agree on the allocation of administratively forfeited property. Where there is not complete agreement, the Deputy Attorney General will continue to make final equitable sharing determinations. ❖

UNITED STATES ATTORNEYS' OFFICES

Tips to Prosecutors after Eleventh Circuit Affirms Convictions of South Florida Outlaws' Members

On June 27, 1995, the Eleventh Circuit affirmed the convictions of six members of the South Florida Outlaws, a violent motorcycle gang, on RICO substantive and conspiracy charges and narcotics charges. *United States v. Starrett*, ___ F.3d ___ [1995 WL 350812 (11th Cir.) (S.D.Fla.)]. The case is noteworthy because the Eleventh Circuit applied the operation or management test set forth by the Supreme Court in *Reves v. Ernst & Young*, ___ U.S. ___, 113 S.Ct. 1163, 122 L.Ed.2d 525 (1993) to criminal substantive RICO cases. The case sets forth the standard for criminal liability of a lower level participant who acts under the direction of upper management of the enterprise.

The case was tried by Southern District of Florida Assistant United States Attorneys Theresa Van Vliet (now Chief of Narcotics and Dangerous Drugs with the Department of Justice in Washington) and Gregory Kehoe (now a prosecutor with the Bosnian War Crimes Tribunal in The Hague), who were assisted by Robert Lipman (now a Trial Attorney with the Narcotics and Dangerous Drugs Section in Washington). Assistant United States Attorney Kathleen Salyer wrote the appellate brief and argued the appeal before the Eleventh Circuit.

The trial took place over a 14-month period with trial sessions conducted four days a week, and short breaks for major holidays. The trial transcript consisted of more than 200 volumes. Because of the lengthy trial and since the appellate attorney did not try the case, a nine-month extension of time was sought for the filing of the Government's appellate brief; a 21-day extension was granted.

The trial and appellate attorneys involved in this case offer fellow prosecutors the following practice tips:

- Avoid charging a case which will result in a "megatrial" unless absolutely necessary. In *Starrett*, a lengthy trial was inevitable because of the need to prove the pattern of racketeering activity.
- If a conscious effort is made to simplify the case, a jury can follow voluminous evidence offered in a year-plus

trial. In this case, the prosecutors organized the evidence to correspond with the two major objectives of the Outlaws. Exhibits were lettered using the initials of the victim to which the evidence related. This served to focus the jury's attention on the victims of each predicate act.

- A daily copy of the transcript is helpful for closing argument, preparation of the Government's version of the offense for the presentence investigation report, and appeal purposes, to highlight pertinent portions of the transcript during the course of the trial.
- List each witness who testifies and the date of testimony for the use of the appellate attorney. This is especially helpful in a lengthy trial to avoid searching numerous volumes of transcript for the appropriate witness.
- A thorough, detailed, and well organized statement of facts with accompanying citations keyed to specific portions of the record is crucial to a successful appeal.
- Dedicated investigative agents are essential to a successful prosecution. The trial team praised Special Agent Robert Brown of the Federal Bureau of Investigation for his encyclopedic knowledge of the South Florida Outlaws organization. ❖

AGAC: Beyond the Massacre

by David W. Downs
Deputy Director, Office of Legal Education
Executive Office for United States Attorneys

"Watergate produced many bizarre events, but the Saturday Night Massacre was doubtless the most bizarre." Though most of the facts of Watergate have long since been made public, Richard Kleindienst's assessment still speaks for most Americans. What exactly happened that weekend in October 1973 that earned it a moniker reminiscent of a gangland shootout? Those few days marked the turning point for the nation and for a small, newly orga-

nized group of United States Attorneys called the Attorney General's Advisory Committee.

Several thousand miles away in New Mexico, United States Attorney Victor Ortega was having dinner in a local restaurant before leaving the next day for Washington to attend the regularly scheduled meeting of the AGAC. Some acquaintances came up to his table and asked if he had heard his boss just resigned. That was the first he heard about Attorney General Elliott Richardson's resignation, who had recently created the AGAC, but Ortega and his colleagues were soon swept up in the Saturday Night Massacre and became a part of that now famous chapter in American political history.

Members of that first AGAC arrived in Washington as scheduled on the Monday morning after the resignations of Attorney General Elliott Richardson and Deputy Attorney General William Ruckelshaus, who had resigned rather than fire Special Watergate Prosecutor Archibald Cox as requested by President Nixon. They assembled Monday morning, October 22, 1973, in the Civil Division conference room then on the first floor next to Constitution Avenue. The 16 members convened and began an hour-long informal discussion about this latest episode in the Watergate affair, and its implications for their work. At that point, then Solicitor General Bork entered the room with Criminal Chief Henry Peterson. Former United States Attorney Bert Hurn remembers feeling the tension heighten when the Acting Attorney General began his comments with the "formal and never used term, 'Gentlemen.'" He gave the U.S. Attorneys a first-hand account of what had happened, keeping his comments and instructions short. He emphasized that the most important thing at that point was to restore stability within the Department of Justice by appointing a replacement for the position of Special Prosecutor. Bork then asked the AGAC for their help, made it clear he wanted their recommendation within a few hours, and left. One United States Attorney commented later that he had never seen a man so scared or worried. Bork revealed some of his concerns in a 1990 interview, saying, "I told Richardson and Ruckelshaus that I was going to fire Cox and then resign, but they persuaded me that the Department needed continuity." Everyone was worried about the resignations. Former United States Attorney Lincoln Almond said that people in the field and in Washington worried that the massacre would trigger mass resignations and jeopardize the Department. Another member stated it more bluntly, "We worried that the whole Department was about to go to hell."

Some members of the committee initially doubted that their charter empowered them to provide such a nomination to Bork, but a discussion of candidates' names soon began. The situation so unnerved the United States Attorneys that many still disagree as to what occurred next. Some say they divided the country into regions corresponding to Federal judicial circuits from which they named one prospective nominee per circuit. Others said there was no time for that. Most members of the Advisory Committee denied that the discussions contained a political tint, but at least one United States Attorney remembered differently. "There was some discussion," Charles Anderson recalled, "that the new special prosecutor needed to be a Truman Democrat and not someone from the Kennedy clan." "The committee did this," Anderson stated ironically, "in order to avoid the appearance of politicizing the issue."

By noon, a representative of the committee carried an envelope containing three names to Bork's office, including a state attorney general from the Midwest and two others: Thomas Murphy, who was former Police Commissioner of New York City and the prosecutor in the Alger Hiss trial, and Leon Jaworski. Bork stated that Jaworski's name might have originated with the AGAC, but he also remembered Jaworski's name having surfaced in other circles. Bork himself studied a list of past presidents of the American Bar Association, discounting one name or another because the person was too old or lacked prominence. "I realized," Bork stated, "that it had to be a recognized name."

Whether or not the committee first suggested Jaworski's name, Bork's solicitation of advice from the fledgling Advisory Committee about such an important national matter confirmed its leadership role. The Attorney General who had been so instrumental in the committee's inception had just resigned, and no one knew if the experiment would continue. But the performance of the United States Attorneys under difficult circumstances increased the AGAC's credibility throughout the Department and ensured its survival. While the Saturday Night Massacre proved difficult for the nation, it enabled the AGAC to assume a larger role in Department affairs. "People at the top in the Department were desperately looking for guidance and leadership," one U.S. Attorney stated, "and they turned in part to the Attorney General's Advisory Committee."

Perhaps the confusion of that week in October will remain as much a part of history as the events themselves. Even those at the heart of the crisis continue to disagree on what happened. Reflecting on the events, former Attorney

General Elliott Richardson stated, "Bork believed the President had the right to fire Cox." When asked if that contrasted with his view, he replied, "Well, I thought the President had the power." ❖

The Victim/Witness Efforts – After the Oklahoma City Bombing

Since April 19, 1995, there has been a shared concern about what is being done to help the victims of the Oklahoma bombing. Victim/Witness (V/W) assistance for the thousands of people affected by the Oklahoma devastation is under the leadership of Victim-Witness Coordinator Dahlia Lehman of the Western District of Oklahoma's Murrah Bombing V/W Assistance Effort. Ms. Lehman has been the V/W Coordinator in the District for more than three years. Others involved with this effort are Assistant United States Attorney Lynn Anderson (Western District of Oklahoma); Victim-Witness Coordinators Joan Gay (District of Kansas), Gayla Stewart (Northern District of Oklahoma), and Lisa Dominguez (Northern District of Texas); and Legal Secretaries Sue Racine (Western District of Oklahoma), Cheryl Swallows (Eastern District of Tennessee), and Terri Leaver (District of South Carolina). Oklahoma bombing V/W priorities have focused on facilitating assistance for victims and families so that they have access to medical, financial, and counseling needs from various agencies, and educating them about their rights as victims. These efforts have been consistent with the statutory provisions of the V/W Protection Act and the Attorney General Guidelines for Victim and Witness Assistance.

Several resources have been established and references published to assist them in dealing with this tragedy, including:

- A Hotline staffed by V/W personnel who answer an 800 number and direct questions to the appropriate parties.
- A Resource Booklet that has been sent to survivors of the tragedy. It lists such things as child care; transportation; and financial assistance for health care, burial, and educational expenses for those people who worked at the Murrah building and are currently unemployed as a result of the bombing.
- Bi-weekly reports written by an AUSA that provide survivors with current and accurate information concerning case events.
- A network of people who stay in touch with critically injured victims and others, including witnesses, as they recover. More than 800 calls have been made to individuals involved in the bombing to refer them to the support organizations in an effort to assure that critical needs are met. Additionally, 36 meetings have been held between V/W personnel and injured victims, family members of persons killed in the bombing, and business victims. Personal meetings were held with six groups, including surviving employees of Federal offices located in the Murrah Building and the surrounding buildings; surviving employees of the Water Resources Board; tenants of Regency Tower, including injured victims and victims' families; and other employees of State agencies who worked in the Journal Record Building and survived the bombing.

Examples of the assistance that has been provided to the victims and coordinated through the V/W staff of the Western District of Oklahoma include:

- The mother of a deceased HUD employee received assistance from the Red Cross for part of her daughter's funeral expenses.
- Two sisters who were severely injured and lost their mother and two children received assistance from a service agency for six months' rent; received a new van donated by several service agencies; and the Salvation Army paid for tags, tax, and title for the van.
- A mother who lost her daughter received assistance from a service agency that assisted in paying her daughter's funeral costs.
- Coordinating with insurance companies to waive deductibles.
- Getting children into camp so that the surviving parent can recover and return to work.
- Getting people to physical therapy who cannot transport themselves.

The Victim/Witness efforts are vital to the successful recovery from this senseless tragedy. Aggressive prosecution, combined with an intense level of compassion and

resourcefulness, are key elements in restoring justice and peace to those affected by the bombing, and a positive feeling to the American people. ❖

Appointments

Western District of Oklahoma

On June 26, 1995, Patrick Ryan took the Oath of Office as United States Attorney for the Western District of Oklahoma. ❖

Relocation of U.S. Attorney's Branch Office

Northern District of Illinois

The new address is:
308 West State Street
Room 300
Rockford, Illinois 61101
Telephone: (815)987-4444

United States Attorneys' Orientation Manual

During the week of July 11, a copy of the *United States Attorneys' Orientation Manual* dated June 1995 was mailed to United States Attorneys, United States Attorneys' Branch offices, United States Attorneys' secretaries, and Administrative Officers in the United States Attorneys' offices. Please call Barbara Jackson, Executive Office for United States Attorneys, Publications and Correspondence Unit, (202)616-8407, if you have not received your copy. ❖

Significant Issues/Events

Phase II of Operation Green Ice Completed Southern District of California

The Southern District of California recently concluded Phase II of Operation Green Ice, an international investigation into the money laundering activities of Colombian drug cartels. In this phase, approximately seven

tons of cocaine, 16 pounds of heroin, and \$15.6 million in cash were seized. The investigation had three components: (1) targeting the illegal use of money exchange check cashing institutions to launder drugs proceeds, (2) creating a variety of business entities which the traffickers believed were "front" businesses designed for the laundering of drug proceeds and, (3) using other "front" businesses to identify drug proceeds laundered for large Colombian drug cartels. Approximately 80 people have been indicted in San Diego as part of Phase II. During the first phase, more than 400 people were charged worldwide. ❖

Forfeited Assets Shared with Representative of the State of Israel District of Massachusetts

In June 1995, for the first time ever, U.S. authorities shared forfeited assets of drug traffickers with a representative of the State of Israel, based on assistance provided by the Israel National Police (INP). The assets were seized from the Shmuel David Organization, which was responsible for the distribution of cocaine from 1985 to 1988. The INP assisted in the electronic surveillance of David and his coconspirators, and translated intercepted Hebrew conversations. ❖

*AUSA Stephen P. Heymann
AUSA Jonathan Chiel*

HUD takes over Chicago Housing Authority Northern District of Illinois

On May 30, 1995, the U.S. Department of Housing and Urban Development took control of the beleaguered Chicago Housing Authority (CHA), an agency responsible for 40,000 public housing units at 17 major complexes with more than 100,000 authorized and unauthorized tenants, and a \$183 million operating budget. The United States Attorney's office is currently prosecuting a case involving mismanagement of the CHA pension fund. HUD is investigating allegations of a conflict of interest involving former CHA Chairman Vince Lane's relationship with a security company linked to the Nation of Islam, and other irregularities in public housing security contracts held by companies affiliated with the Nation. ❖

Significant Cases

Former Nurse Sentenced for Tampering with Consumer Products Central District of California

On June 15, 1995, former registered nurse Lissette Nukida, who pled guilty in November 1994 to two counts of tampering with consumer products resulting in serious bodily injury, and four counts of tampering with consumer products, was sentenced to 18 years and 4 months in prison for injecting insulin into the intravenous material that was being given to two patients at a rehabilitation center in Los Angeles. ❖

AUSA David R. Fields

Judge Rejects Claims of Bias Central District of California

On June 26, 1995, in a victory for Federal authorities, District Judge Consuelo B. Marshall rejected claims of racial discrimination in a pending crack cocaine case, ruling that the United States Attorney's office does not have to open its files to defense lawyers who were trying to determine if minorities are selectively prosecuted for crack offenses. The judge concluded that there was not enough evidence of racial discrimination to justify the lawyers' request. ❖

AUSA Richard E. Drooyan

AUSA Miriam Krinsky

AUSA Daniel Collins

AUSA George Cardona

AUSA Marcellus McRae

AUSA Stephen Mansfield

Guilty Plea for Public Corruption Eastern District of California

On June 29, 1995, political consultant Jeffrey T. Roberts pled guilty to subscribing to a false tax return in 1992 and to aiding and abetting city counsel member Leif C. Sorensen in extorting \$10,000 from a real estate developer. Roberts took steps to cover up the illegal activity when he became concerned that the developer was going to expose the crime. ❖

AUSA Jeffrey Roberts

AUSA John K. Vincent

AUSA Jonathan B. Conklin

Ophthalmologist Convicted and Sentenced for Fraud and Money Laundering Southern District of California

On March 17, 1995, Jeffrey Rutgard, a prominent local ophthalmologist, was convicted of 132 counts of fraud and money laundering. Between 1988 and 1992 he received approximately \$16 million from Medicare and CHAMPUS for performing cataract and eyelid surgeries that were not medically warranted. The money laundering conviction was based on the fact that one week after Federal agents executed search warrants on his home and offices, he wired \$7.5 million from his family trust to an offshore bank account. The jury forfeited the entire amount to the Government. He was sentenced to 11 years and 3 months in custody, fined \$150,000, and ordered to pay \$15.9 million in restitution, and the costs of his imprisonment. ❖

AUSA Stephen P. Clark

AUSA Carol C. Lam

AUSA George D. Hardy

Importation of Six Tons of Cocaine Southern District of California

On February 9, 1995, six individuals, including an INS Inspector and a Customs Inspector, were indicted for their role in the importation and distribution of more than six tons of cocaine from Mexico into the U.S. through the Calexico, California, Port of Entry. ❖

AUSA Cynthia L. Millsaps

Clean Air Act Indictment District of Colorado

On June 15, 1995, Louisiana Pacific and two former employees were charged variously in a 56-count indictment. The alleged violations took place at the corporation's Montrose mill between 1989 and 1994, and include making false statements about emissions and production levels, and false representations regarding quality control assurance testing. ❖

AUSA Brenda Taylor

AUSA John Haried

ECS Attorney Peter Murtha

First Prosecution for Illegal Importation of Hazardous Substances Under CAA Southern District of Florida

On May 9, 1995, Adi Dara Dubash pled guilty to a four-count indictment charging conspiracy; violations of the CAA for importation of CFC-12, importation of CFC-12 outside of EPA consumption allowances, and diverting CFC-12 into domestic commerce. This case resulted in the largest seizure of illegally imported ozone depleting chemicals (126 tons) in the history of the CAA. Codefendant Homi N. Patel pled guilty to the same indictment. ❖

AUSA Tom Watts-Fitzgerald

Criminal Defense Attorneys Indicted for Alleged Drug Conspiracy Southern District of Florida

On June 5, 1995, six defense attorneys, including the former Chief of DOJ's Office of International Affairs, two former Assistant United States Attorneys, and 56 other individuals were indicted by a Miami grand jury on drug conspiracy charges. Three attorneys previously entered guilty pleas to money laundering and obstruction of justice charges in connection with this case, which authorities say constitutes the major component of the Columbian Cali Cartel, responsible for up to 80 percent of the cocaine imported into the United States. ❖

***AUSA William Pearson
AUSA Edward Ryan***

Doctor Indicted for Illegal Drug Distribution Northern District of Georgia

Dr. Richard Dicter was indicted on June 27, 1995, on 231 counts of unlawfully distributing the controlled substances Percodan, Percocet, Vicodin ES, Fiorinal, and Darvocet. The indictment seeks the forfeiture of Dicter's license in the State of Georgia. ❖

AUSA Sandra Strippoli

Conviction for Kidnapping Central District of Illinois

On June 6, 1995, Larry D. Hall was convicted for the kidnapping of 15-year-old Jessica Roach from a rural road near Georgetown, Illinois, on September 20, 1993. Ms. Roach's body was discovered in a cornfield in Perrysville,

Indiana, on November 8, 1993. This multi-state, multi-jurisdictional case was featured on "America's Most Wanted." Hall is being investigated by the FBI in connection with the abductions and murders of several other women. ❖

AUSA Lawrence S. Beaumont

Sentence for Investment Fraud Scheme Central District of Illinois

Gregory D. Wilson of Springfield was sentenced to 51 months imprisonment and ordered to pay full restitution, \$3.1 million, to victims of his investment fraud scheme. Wilson had pleaded guilty to mail fraud and money laundering in connection with his operation of Pace Financial Planning Services, and his scheme to defraud approximately 50 investors who thought they were purchasing various money market funds, mutual funds, and annuity contracts. ❖

FAUSA Rick Cox

Gangster Disciples Charged in 17-Count Indictment Northern District of Illinois

On May 19, 1995, several reputed members of the Gangster Disciples were charged in a 17-count indictment with conspiring to possess and deliver heroin. Three defendants were also charged with conspiring to defraud the IRS and FBI by concealing proceeds of a heroin trafficking operation centered in Chicago's south side. The operation is alleged to have made nearly \$9 million from selling diluted heroin. ❖

AUSA Mark Flessner

Mob Boss and Underlings Pled Guilty to Racketeering Northern District of Illinois

Marco D'Amico, the head of a ring of nine defendants, pled guilty on May 1, 1995, to racketeering, gambling, extortion, and robbery. Also pleading guilty in the case were bookmaker Anthony Dote and former Chicago police officer Roland Borelli. ❖

AUSA John Burley

Ghost Payrollers Plead Guilty Northern District of Illinois

On May 18, 1995, Christine Boyar, stepdaughter of former Chicago Alderman Anthony Laurino, became the fourth member of the politically powerful family to plead

guilty to being a ghost payroller. On May 24, Rhona Reagen, daughter of a former high-ranking suburban Republican official, pled guilty to being a ghost-payroller in the Cook County Sheriff's Department in 1989 and 1990. On May 25, Jerry Starkman, a suburban ticket broker, pled guilty to a ghost-payrolling charge, admitting that he bartered tickets to concerts, plays, and sports events in exchange for a no-work job that paid him \$54,000 in the county sheriff's department. ❖ **AUSA Kaarina Salovaara**
AUSA Scott Levine

Defense Contract Fraud Northern District of Illinois

On May 19, 1995, former Government account manager of Freeway Ford Truck Sales, Inc., Craig Misicka, pled guilty to mail fraud, admitting that he submitted 10 fraudulent claims on a Government contract, requesting reimbursement of \$16,650,238. ❖ **AUSA William Shaver**

Gang Members Convicted in Narcotics Conspiracy Northern District of Illinois

On May 23, 1995, Eddie Richardson and Carmen Tate of the Undertaker Vice Lords street gang were among eight leaders and members found guilty of heroin and cocaine trafficking between 1984 and 1991 in Chicago. ❖
AUSA Zalduaynaka Scott
AUSA Jerome Krulewicz

Disbarred Lawyer Sentenced in Investment Fraud Northern District of Illinois

On June 7, 1995, Saul Foos, a disbarred lawyer and former radio talent agent, was sentenced to 66 months in prison and \$500,000 restitution for defrauding more than 100 investors out of \$7.2 million in a Ponzi scheme. ❖
AUSA Jay Tharp

Swindler Sentenced to 30 Years in 1977 Murder Mystery Northern District of Illinois

On June 15, 1995, Richard Bailey, who swindled dozens of wealthy women in fraudulent horse sales, was

sentenced to 30 years in prison for conspiring in, soliciting, and causing the murder of candy fortune heiress Helen Brach. ❖
AUSA Steven Miller
AUSA Ronald Safer

Colombian Sentenced in Air Smuggling Conspiracy Northern District of Illinois

On June 16, 1995, Luis Carlos Herrera-Lizcano, who operated a fleet of cargo aircraft that functioned as the "air wing" of the Colombian cartels and were used to smuggle at least 20 tons of cocaine into the United States, Canada, and Central America since 1982, was sentenced to eight years in prison for narcotics importation conspiracy. ❖
AUSA Sean Martin

Former Union Lawyer Convicted of Racketeering Northern District of Illinois

On June 22, 1995, Paul L. Glover, former vice president and general counsel of the independent Chicago Truck Drivers Union, was found guilty of 18 offenses, including racketeering, money-laundering, and tax charges. He split more than \$600,000 in kickbacks with the union's former president while supervising union investments between 1987 and 1992. ❖
AUSA Stephen Anderson
AUSA David Buvinger

Sentence for Conspiracy, Drugs, and Money Laundering Southern District of Illinois

On July 13, 1995, Darryl A. Womack was sentenced to 360 months imprisonment and his brother Edward L. Womack was sentenced to 264 months imprisonment for their roles in a five-person crack cocaine distribution and money laundering conspiracy. Real and personal property was also forfeited, and two of the forfeited residences will be given to the City of Alton and designated as part of the Habitat for Humanity project, an organization that rehabilitates homes for economically disadvantaged people who agree to contribute their labor to the project. One co-defendant was sentenced to 188 months imprisonment and two others await sentencing. ❖
AUSA Randy G. Massey

*Enhanced Sentence
for Armed Career Criminal
Southern District of Illinois*

On June 23, 1995, Cleveland McDade of Carbondale was sentenced to 420 months imprisonment for his role in a crack cocaine distribution conspiracy. He received an enhanced sentence as an Armed Career Criminal and a Career Offender. ❖ **AUSA Ranley R. Killian**

*Police Officers Plead Guilty to Extortion
Northern District of Indiana*

On June 15, 1995, former Chicago police officers Lloyd Roe and Tyrone Stevenson pled guilty to crossing state lines from Illinois to Indiana to extort \$150,000 from an Indiana drug dealer. ❖ **AUSA Michael A. Thill**

*Sentencing For Civil Rights Violations
District of Maine*

On July 10, 1995, Tad Page and Allen Adams were sentenced to 70 and 88 months, respectively, for interfering with the civil rights of four Hispanic men who were using a gas station and convenience store. Page and Adams pursued the victims by car, and Page fired his gun several times and wounded one of the victims. ❖ **AUSA John S. Gleason III**

*PEPCO Pays Civil Penalty of \$975,000
District of Maryland*

On July 3, 1995, a Complaint and Consent Decree was filed resolving violations of the Clean Water Act (CWA) by Potomac Electric Power Company (PEPCO) at their Faulkner fly ash storage facility. Because PEPCO took steps to notify and cooperate with the Government concerning the CWA violations, criminal charges were not filed. PEPCO agreed to pay a civil penalty of \$975,000.00. In 1994, Jack Croteau, PEPCO's Faulkner site supervisor, pled guilty to one count of mail fraud and one count of violating the CWA and was sentenced to 30 months imprisonment. The investigation also led to the convictions of two subcontractors involved in the scheme. ❖ **AUSA Jane F. Barrett**

*Baltimore Man Charged Under the
"Three Strikes and You're Out" Provision
District of Maryland*

On June 26, 1995, Craig B. Boone was the first charged in the District of Maryland under the "Three Strikes and You're Out" provision of the 1994 Crime Bill which, if convicted, could subject him to mandatory life imprisonment. Boone was charged in one indictment with six alleged bank robberies between January and March 1995, and in another indictment, with the alleged March 1995 robbery with a handgun of a beauty supply shop and with being a felon in possession of a firearm. Boone was also convicted in 1974 for robbery; in 1975 for breaking and entering and larceny; and in 1978 for robbery with a deadly weapon. ❖

FAUSA Gary P. Jordon

*Man Sentenced for 20 years of Smuggling
Marijuana from Thailand
District of Massachusetts*

On June 27, 1995, a California man, Ciro Wayne Mancuso, Jr., was sentenced to nine years for CCE and five years for felony tax evasion for smuggling approximately 66,000 kilograms of marijuana into the United States from Thailand over a period of 20 years. He also forfeited more than \$6,300,000.00 in assets to the United States. In 1990 he pled guilty and, pursuant to conditions of his plea agreement, cooperated fully, testified for the Government, and worked in an undercover capacity. As a result, approximately 28 co-conspirators in the District of Nevada have pled or are about to plead guilty, and numerous other defendants have pled guilty in at least five other Districts. ❖

AUSA L. Anthony White
AUSA William M. Welch II

*U.S. Files Discrimination Suit Against Boston
Housing Authority
District of Massachusetts*

On June 5, 1995, the Government filed a consent judgment against the Boston Housing Authority (BHA) for a violation of the Fair Housing Act, for discriminating against Octavio and Debra Rodriguez by not providing them with a safe housing environment because of their race and origin,

and by not responding to notification of harassment and hostility suffered by the family. BHA has agreed to \$125,000 in damages and injunctive relief. ❖

AUSA Lori J. Holik

Stiff Sentences for Murder-for-Hire/Narcotics District of Minnesota

On June 13, 1995, Jermain Saunders, Dennell Malone, and Calvin "Monster" Delpit, received sentences of life plus 10 years, life plus 5 years, and 19 years, respectively, for their involvement in a cocaine conspiracy and murder-for-hire scheme. The murder was carried out on behalf of the Shotgun Crips against the Vice Lords gang. ❖

AUSA Jeffrey S. Paulsen

Toxic Substances Control Act Indictment Eastern District of Missouri

The United States Attorney's office in St. Louis has shut down American Environmental Training Institute (AETI). An undercover operation initiated by the FBI in 1993 amassed evidence that AETI, its principals, employees, and several asbestos abatement contractors and their employees were involved in widespread conspiracy, mail fraud, wire fraud, and violations of the Toxic Substances Control Act (TSCA). AETI issued false training certificates for asbestos abatement and removal without ever teaching the courses. Donald Handy, president and owner of AETI, was sentenced to two year's probation and a \$5,000 fine; Greg Handy, to two years probation; and John Handy, to eight months in prison and a \$6,000 fine. A number of AETI employees and asbestos workers and supervisors in St. Louis have also pled guilty to acquiring fraudulent certificates. ❖

*AUSA David Rosen
AUSA Pat Flachs*

Sentence for Telemarketing Fraud District of Nevada

On July 6, 1995, Jonathon Schermerhorn was sentenced to 46 months and ordered to pay restitution of over \$73,000 for racketeering conspiracy, money laundering, and witness tampering out of a "rip and tear" telemarketing scheme which operated out of Las Vegas, Nevada, and Knoxville, Tennessee. ❖

*AUSA Howard Zlotnick
AUSA Colette Rausch*

Sentence for Immigration Fraud District of Nevada

Diana Hernandez and "Cookie" Marquez were sentenced to 40 months and 33 months, respectively, for their roles in running an office that assisted illegal aliens in filing false amnesty applications, grossing over one million dollars in the scheme from 1989 through 1991. ❖

AUSA Michael E. Barr

Discrimination Settlement Signed District of Nevada

On July 12, 1995, a Settlement Order that resolves a lawsuit brought by the United States against Flamingo Ridge Homeowners Association and the complex's former manager, Bonnie Roehrborn, was signed. The Homeowners' Association and Roehrborn were alleged to have discriminated against a mixed race married couple who owned a condominium in the complex by enforcing the rules and regulations more vigorously against the couple than against white homeowners, and subjecting the couple to racial slurs. The Consent Order requires that they shall not discriminate, and that they pay the couple \$70,000. ❖

AUSA James S. Savett

Man Guilty of Polluting Federal Land District of New Mexico

On June 15, 1995, Ronnie D. Mitchell was convicted of misusing and contaminating public land by ordering employees of American Metals to burn the insulation off of 20 tons of wire and cable at two sites outside of Carlsbad, New Mexico. ❖

*AUSA Mary L. Higgins
DOJ Environmental Crime Section
Attorney Jeremy Korzenik, (202)272-5798*

Leader of the North Costal Cartel Sentenced to Life Eastern District of New York

On June 7, 1995, Franklin Campos, a well-connected and politically influential drug trafficker from Santa Marta, Colombia, was sentenced to life in prison. He was arrested in August 1993, after arranging with an undercover DEA agent and an informant posing as a drug smuggler, for the shipment of 9,000 kilograms of cocaine and 9,000 kilograms of marijuana. DEA agents sent an unmarked jet to a

clandestine airstrip in Colombia as directed by Campos, where it was loaded with the first shipment—marijuana worth over \$20,000,000. The Government proved that Campos operated as a high-volume exporter of cocaine for the Cali and Medellin Cartels, including Pablo Escobar, since at least 1986. ❖

AUSA Cheryl L. Pollak
AUSA Mark W. Lerner

*Colombian Crime Figures Indicted on
Narcotics and Money Laundering
Eastern District of New York*

On June 7, 1995, Jose Santacruz-Londono, head of the Cali Cartel, and two associates, Edgar Alberto Garcia-Montilla and Jose Franklin Jurado-Rodriguez, were indicted for narcotics and money laundering conspiracies dating from 1987 to 1990. Santacruz-Londono is charged with having imported and distributed multi-ton quantities of cocaine in the Eastern District of New York and with laundering the proceeds through scores of bank accounts in the U.S. and Europe. Jurado-Rodriguez and Garcia-Montilla, successfully extradited to the U.S. from Luxembourg in 1994, are charged with managing the laundering of those proceeds on behalf of Santacruz-Londono, who remains a fugitive. ❖

AUSA Mark W. Lerner
AUSA Arthur Hui

*California Man Indicted for
Mail Fraud/False Claims Scheme
Southern District of New York*

On May 31, 1995, Mal Yerasi was indicted on 11 counts of mail fraud for scheming to fraudulently obtain nearly \$5,000,000 from approximately 48 disbursement and distribution funds set up in connection with Federal civil lawsuits to reimburse investors harmed by alleged securities frauds. ❖

AUSA Bruce G. Ohr

*Man Pleads Guilty of Conspiracy
to Kidnap Women from Thailand
Southern District of New York*

On June 8, 1995, former New York City Correction Officer Joseph Morales pled guilty of participating in a conspiracy to kidnap women from Thailand. They were held in a Chinatown brothel until they had sex with between

400 and 500 men to repay their debt to smugglers who transported them into the United States. ❖

AUSA Tai H. Park
AUSA Sharon L. McCarthy

*Large New York City Hotel
Forfeited to the Government
Southern District of New York*

On June 12, 1995, a 22-story, 621-room hotel was ordered to be forfeited because it was used for drug trafficking. There have been more than 100 drug-related arrests at the building and 70 convictions since January 1991. The owner, Jude Hotel Corporation (Jude), hired security guards that participated in the narcotics trade and did nothing to prevent the narcotics trafficking problem. ❖

AUSA Ellen Silverman Zimiles
AUSA Kenneth M. Karas

*Superseding Indictments Announced
Against Yousef and Murad
Southern District of New York*

On June 14, 1995, Ramzi Yousef and Hakim Murad were charged in a superseding indictment with using an explosive device in conspiracies to destroy aircraft and to kill nationals abroad. (See *United States Attorneys' Bulletin*, Vol. 43, No. 6, dated June 1, 1995, page 206.) ❖

AUSA J. Gilmore Childers
AUSA Michael J. Garcia
AUSA Lev L. Dassin

*Brothers Get Stiff Sentences
for Cocaine Trafficking
Eastern District of North Carolina*

On June 20, 1995, brothers Norman Harrington Wilson and William David Wilson were sentenced to stiff prison terms for drug trafficking. Norman, leader of the Grove View Terrace Court Boys cocaine trafficking organization responsible for distributing more than 100 kilograms of crack, was sentenced to life in prison plus five years. William was sentenced to 30 years for his role in the cocaine conspiracy and for firearms violations. Other members of the organization have cooperated with the Government and received sentences from 7 to 13½ years. ❖

AUSA John H. Bennett

***Food Stamp Trafficking Conviction
Northern District of Ohio***

On June 14, 1995, Mohammad Hmeidani, Ronald Bennett, and Max Food, Inc., were convicted of conspiracy to traffick \$2.5 million in food stamps. The conspirators were buying large amounts of food stamps for discounted sums of cash and, to avoid disclosing this to the Department of Agriculture, transported most of them to Cleveland and sold them to other trafficking stores for redemption. This is the first case in which food stamp trafficking has been used as a predicate for a money laundering charge. ❖

AUSA Gregory C. Sasse

***Sentencing in Caremark Criminal Cases
Southern District of Ohio
District of Minnesota***

On June 20, 1995, the district courts in Minnesota and the Southern District of Ohio accepted plea agreements by Caremark, Inc., an Illinois-based health care corporation, in which Caremark agreed to pay criminal fines totaling \$29 million. Caremark had been charged with taking kickbacks and committing fraud. The pleas were part of a series of criminal and civil settlements in which Caremark agreed to pay a total of \$161 million in criminal fines, civil restitution, and damages. ❖

*AUSA David Bosley, Southern District of Ohio
AUSA Janet Newberg, District of Minnesota*

***Government Moves to Forfeit \$9 Million
Seized from Former Mexican
Deputy Attorney General
Southern District of Texas***

The Government filed suit on June 15, 1995, for forfeiture of \$9,041,598 seized by U.S. Customs Service agents from a bank account in Houston in the name of former Deputy Attorney General of Mexico Mario Ruiz Massieu. ❖

AUSA Sue Kempner

***Houston Businesswoman Sentenced for Fraud
Southern District of Texas***

On June 16, 1995, Theresa Rodriguez was sentenced to 262 months in Federal prison for her conviction of cheating

more than 300 investors out of about \$67 million in a Ponzi scheme. (See *United States Attorneys' Bulletin*, Vol. 43, No. 5, dated May 1, 1995, page 167.) ❖ *AUSA Larry Eastepp
AUSA Quincy Ollison
AUSA Bill Yahner*

***Guilty Pleas for Telemarketing Fraud
Eastern District of Virginia***

On June 27 and July 3, 1995, Bryan Lanier and Richard Norton, two of four defendants indicted for helping to run a massive, multi-state telemarketing fraud scheme, pled guilty to conspiracy. The scheme involves the sale of pizza vending machines through Entertainment Enterprises, and alleges that 200 victims were defrauded of over \$3 million. The other defendants—Bonnie R. Wolf and Christopher Howard—are scheduled to begin trial on September 11 on charges of conspiracy, mail fraud, wire fraud, money laundering, and using a fictitious title in connection with the scheme. ❖

*AUSA Daniel L. Bell
AUSA Kathleen M. Kahoe
AUSA Marie A. O'Rourke*

***Health Care Fraud Indictment
Eastern District of Virginia***

On June 21, 1995, Thomas A. Wilkinson III and Edward M. Conk, the president and executive vice president, respectively, of Medical Payment Services, Inc., of Virginia (MedPay) were charged in a 24-count indictment with conspiracy, wire fraud, and money laundering. Conk was also charged with bank fraud and perjury. Now defunct MedPay allegedly financed the accounts receivable of health care providers in Virginia and North Carolina. The indictment charges that the defendants misappropriated at least \$3 million from the credit line by secretly diverting the money to themselves and their controlled entities in the form of unauthorized and unsecured loans, multiple high salaries, and consulting fees. ❖

*AUSA David T. Maguire
William L. Finch, Criminal Division,
Fraud Section, (202)514-0819*

EXECUTIVE OFFICE FOR UNITED STATES ATTORNEYS

EOUSA Staff Update

Director Carol DiBattiste has announced the following staff changes in the Executive Office for United States Attorneys:

Tom Barnes has recently joined the Security Programs Staff as the Supervisory Security Specialist responsible for managing the physical and communications security programs. Tom has an extensive security background which began with various security assignments during active and reserve duty in the U.S. Air Force.

Janet Craig, an Assistant United States Attorney and Deputy Civil Chief on detail from the Southern District of Texas, will serve as the Acting Assistant Director for the Equal Employment Opportunity Staff, effective July 24, 1995, until the permanent position of Assistant Director is filled. Janet recently joined the staff of the Office of Legal Education as an Assistant Director of the Legal Education Institute (LEI) Programs.

Jimmie Lynn Ramsaur, an Assistant United States Attorney from the Middle District of Tennessee, has joined the Evaluation and Review Staff on a one-year detail. She has been an AUSA since September 1987.

Christine Sciarrino, an Assistant United States Attorney on detail from the District of Connecticut, has joined the Legal Programs/Financial Litigation Staff. Christine clerked for a Federal judge in the District of Connecticut from 1989 to 1990. She joined the Financial Litigation Unit in June 1990 and was named AUSA in charge of that Unit in 1992.

Marlanne Tomecek, an Assistant United States Attorney on detail from the Southern District of Texas, will be working with the office of Counsel to the Director and the Attorney General's Advisory Committee Subcommittees on Border Law Enforcement, Civil Rights, Environmental Crime and Intelligence, and International Relations, as well as representing EOUSA on the Government Performance and Results Act Working Group for civil litigation. ❖

Alternative Dispute Resolution Encouraged

Pursuant to the Attorney General's order of April 1995, EOUSA, the United States Attorneys' offices, and the new Senior Counsel for Alternative Dispute Resolution (ADR) will develop a policy statement encouraging the use of ADR in appropriate cases; recommending case selection criteria, policies, and procedures for obtaining authorization and funding for the use of formal ADR techniques; and recommending policies and procedures for reporting annual ADR statistics. If you have any questions, please contact Jennie Plante, (202)616-6444. ❖

Access to NCIC/NLETS

NCIC/NLETS is a combination of two computerized database systems that provides investigative information for the law enforcement community. The National Crime Information Center (NCIC) is run by the FBI and is comprised of 14 files of information on many topics including (but not limited to) stolen vehicles, stolen guns, wanted persons, and missing persons. The National Law Enforcement Telecommunications System (NLETS) is a network of state and local law enforcement databases, each maintained by the local law enforcement agency.

In the past, United States Attorneys gained access to these systems through the JUST system by using JUST "walk-up" terminals that were in each office. However, these single terminals cost the United States Attorneys over one million dollars a year and they were not always convenient or available for users. To reduce costs and make the system available to more users, dedicated JUST terminals were disconnected and now authorized users with a valid ID can access NCIC/NLETS through EAGLE. This system was developed by the Immigration and Naturalization Service (INS).

INS maintains strict security of the NCIC/NLETS system, and IDs to access it are authorized only for persons with a "need to know," not for the casual user. They are issued after an employee has been trained, passes a certification test, and a current background investigation has been

verified. Once an ID is issued to a new user, it is valid for 45 days. During that time, if the new user does not access the system by logging on, the ID will become invalid, and the user must reapply for it through INS. However, established users who maintain an ID but don't require access to the system very often, are encouraged to log on at least once every 90 days, or INS will delete the ID and require a justification for reinstatement. INS is reluctant to reinstate IDs that are deleted from the system, so please remember to log on to keep your ID active.

Questions concerning access to NCIC/NLETS should be directed to Mary Kay McGinty of EOUSA's Telecommunications and Technology Development Staff, (202)616-6439. Policy questions should be directed to the JUST staff, (202)514-9251. ❖

Case Management Update – LIONS on the Road

The plan for installation of the new Case Management System, Legal Information Online Network System (LIONS), is to install it in four pilots in the fall. The pilots will run for six months and then a vigorous installation of seven districts each month will begin. Case Management is currently in the process of preparing two packages to help the districts to prepare for LIONS. The first package will contain a detailed description of LIONS and information to help offices decide the most efficient way to use the system to manage their workload, and the second will contain information on how to demonstrate LIONS in your own office. Questions, requests, or general comments are welcome. Please contact Betty Free on AEX02(BFREE), Sharon Hopson on AEX02(SHOPSON), or call them on (202)616-6919. ❖

Attention: Civil Chiefs and Supervisory Civil Assistants – Tracking FOIA Work

It is important for you to report all of your district's litigation efforts to the Case Management Staff of EOUSA. The USA-5 tracks the time attorneys spend litigating Freedom of Information Act and Privacy Act (FOIA/PA) cases, and also the amount of time they spend supporting the Executive Office for United States

Attorneys' FOIA/PA Unit requests. Please assist EOUSA by reporting these important and time-consuming efforts so your district will be credited for this work. If you need further information, please contact Eileen Menton, Assistant Director of Case Management, (202)616-6919, or Brick Brewer, Assistant Director of FOIA/PA Unit, (202)616-6757. ❖

Attention: Attorney Supervisors – Information for the 1995 Annual Report

Data to be included in the 1995 Annual Report must be entered by September 30, 1995. The information should not only be docketed in an accurate and timely manner but also reviewed and verified. The end of the fiscal year is right around the corner, and now is a good time to work with supervisory attorneys, lead legal clerks, or secretaries to evaluate your district's data, and ensure that it is being reported correctly and that your office is receiving the appropriate credit for the work that is being done. If you have questions, please contact Patti Ostrowski (TALON) or Sharon Hopson (PROMIS/USACTS-II), (202)616-6919. ❖

National Performance Review FOIA/PA Laboratory Customer Service

Representatives of DOJ FOIA/PA and technology offices established a team which developed a customer survey for determining those efforts that were performed well in the DOJ FOIA/PA process and those efforts that needed improvement. The team also developed and carried out a survey, and published the results in a formal report. Based on this survey and information shared in the focus groups, the team developed a Customer Standards Brochure, attached as **Appendix A**, and an Agency Implementation Plan. The plan anticipated that the brochure would be widely distributed to customers and employees. Offices are encouraged to reprint or xerox the brochure locally to meet their needs. A Report to Customers has also been prepared. Copies of the brochure, the report, or additional information may be obtained by

Emailing Bonnie L. Gay, Team Leader, Customer Service Team, Attorney-in-Charge, FOIA/PA Unit, EOUSA, at AEX02(BGAY); writing to her at BICN Building, Room 7100, Washington, D.C. 20530; or calling (202)616-6757.



Reminder about Innovative Litigation Support Applications

The staff of the *United States Attorneys' Bulletin* is interested in publishing your innovative litigation support applications. Please call Vic Painter, (202)616-6969, or David Nissman, (202)616-6700, to discuss the possibility of including your computer litigation article in a future issue. In the July 1995 issue, we neglected to mention that EOUSA's Office Automation Staff is working with the Research and Publications Branch of the Office of Legal Education to establish a working group to design a program that both analyzes evidence and helps in courtroom presentations by producing photographs, images, charts, and other graphics. For more information about this exciting project, please contact Carol Sloan, Assistant Director of Office Automation, (202)616-6969, or David Nissman, (202)616-6700. ❖

Office of Legal Education *OLE Publication Corner*

Our second book, *Federal Firearms Offenses*, written by principal authors John F. De Pue and Stanley A. Rothstein of the Terrorism and Violent Crime Section, has been published and can be downloaded from the EOUSA Bulletin Board. The new indictment form book has been converted to the USABook program and can also be accessed from the EOUSA Bulletin Board. Our fall publication schedule includes books on Immigration prosecutions, a handbook on civil and criminal Civil Rights violations, and an Ethics deskbook. We are actively recruiting authors for books on violent crime, evidence, and Federal practice and procedure. Any AUSAs with expertise in these areas interested in writing for publication, please contact David Nissman at (202)616-5210 or Email AEX02(DNISSMAN). ❖

Office of Legal Education Projected Courses

Thomas Majors, Director, OLE, is pleased to announce projected course offerings for the months of August and September 1995 for the **Attorney General's Advocacy Institute (AGAI)** and the **Legal Education Institute (LEI)**. A list of these courses follows.

AGAI

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

LEI

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

Other LEI courses offered for all Executive Branch attorneys (except AUSAs), paralegals, and support personnel are officially announced via mailings to Federal departments, agencies, and USAOs every four months. Nomination forms are available in your Administrative Office or attached as **Appendix B**. They must be received by OLE at least 30 days prior to the commencement of each course. Notice of acceptance or non-selection will be mailed to the address typed in the address box on the nomination form approximately three weeks before the course begins. **Please note that OLE does not fund travel or per diem costs for students attending LEI courses (except for paralegals and support staff from USAOs for courses marked by an *).** ❖

Office of Legal Education Contact Information

Address: Bicentennial Building, Room 7600
600 E Street, N.W.
Washington, D.C. 20530

Telephone: (202) 616-6700
FAX: (202) 616-7487

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

WordPerfect 5.1 Tips

WordPerfect has become a standard tool for Justice Department lawyers. This column is for WordPerfect 5.1 (for DOS) users who have learned just enough of the program to get work done. We will explore features of WordPerfect that may not be obvious and that even casual users can use every day.

Tips of the month:

On-line help

The DOS version of WordPerfect has a very powerful help system that can be called to the screen with a couple of key strokes, without disturbing other work in progress. Just type <F3> and then the first letter of whatever you want to do. This will bring up a list showing the proper key stroke for performing the task. If you want further information on the task, just enter the key stroke at that screen. When you are done reviewing help, press <Enter> or the space bar to return to your document.

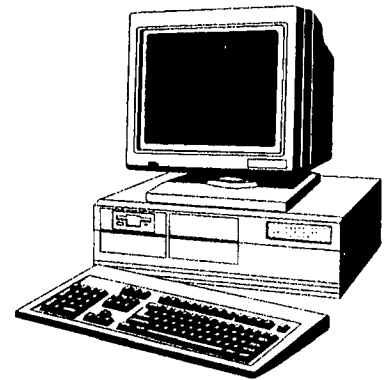
For example, if you want to learn how to search for text, type <F3> and then the letter S. It indicates that the search key is <F2>. If you then press <F2>, a brief explanation describing the various search options appears.

Creating bullets

The bullet symbol (•) is useful for creating lists. To create a bullet, first type the letter V while holding down the <Ctrl> key. Then release the <Ctrl> key and press * twice (either shifted 8, or the * key on the numeric keypad). It is a good idea to follow a bullet with a temporary indent (either <F4> or shifted <F4>) before typing the text.

Creating section symbols

Some Department keyboards have a § key and others don't. If not, try typing the numbers 2 and 1 on your numeric key pad while holding down the <Alt> key, and then release the <Alt> key. **IMPORTANT:** Use the numbers on the key pad on the right side of the keyboard, not the numbers at the top of the keyboard.



Next month . . .

An introduction to simple macros. ❖

AGAI COURSES

<u>Date</u>	<u>Course</u>	<u>Course Participants</u>
August 1995		
1-4	Evidence for Experienced Litigators	AUSAs, DOJ Attorneys
7-15	Criminal Trial Advocacy	AUSAs, DOJ Attorneys
15-17	Alternative Dispute Resolution	AUSAs, DOJ Attorneys
15-17	Third Circuit Asset Forfeiture Component	AUSAs, DOJ Attorneys
21-9/1	Civil Trial Advocacy	AUSAs, DOJ Attorneys
29-31	First Assistant United States Attorneys	USAO First Assistants
September 1995		
6-8	Civil Rights	AUSAs, DOJ Attorneys
7-8	ARPA - Asset Forfeiture	AUSAs, DOJ Attorneys
11-19	Criminal Trial Advocacy	AUSAs, DOJ Attorneys
12-15	Civil Federal Practice	AUSAs, DOJ Attorneys
26-29	Basic Asset Forfeiture	AUSAs, DOJ Attorneys

LEI COURSES

August 1995		
14	Fraud, Debarment and Suspension	Attorneys
17-18	Evidence	Attorneys
21-22	Federal Administrative Process	Attorneys
23	Introduction to Freedom of Information Act	Attorneys, Paralegals
September 1995		
6	Appellate Skills	Attorneys
11	Statutes and Legislative Histories	Attorneys
12-14	Environmental Law	Attorneys
13-15	Attorney Supervisors	Attorneys
12-14	Bankruptcy for Support Staff *	USAO Paralegals
26	Computer Assisted Legal Research	Attorneys, Paralegals
27	Computer Acquisitions	Attorneys, Paralegals
28	Ethics and Professional Conduct	Attorneys
28	Computer Law	Attorneys
29	Legal Writing	Attorneys
18-21	Advanced Evidence (Civil)	AUSAs, DOJ Attorneys

DOJ HIGHLIGHTS

Awards and Honors

John Sherman Award

On June 21, 1995, Harvard Law Professor Phillip E. Areeda received the Department of Justice's John Sherman Award for his dedication to creating a greater understanding of the nation's antitrust laws. The John Sherman Award, named for the author of the Sherman Act of 1890, was created in 1994 and is presented annually by the Department's Antitrust Division to a person who has made substantial contributions to the protection of American consumers and the preservation of economic liberty.

DOJ Recipients of the 1995 Attorney General Awards

On June 22, 1995, at an awards ceremony held in the Andrew W. Mellon Auditorium in Washington, D.C., Attorney General Janet Reno congratulated and presented awards to Department employees for their outstanding and dedicated service. The following are the Department award recipients that were not listed on pages 232 and 233 of the July 1, 1995 issue of the *United States Attorneys' Bulletin*. The prior issue listed Assistant United States Attorney award recipients.

Attorney General's Distinguished Service Award

Robert M. Blitzer
Supervisory Special Agent
Federal Bureau of Investigation

Jean M. Christiansen
Adjudications Officer
Immigration and Naturalization Service

Group Award
Scott S. Dahl, Trial Attorney
Civil Division
Ann Arbor, Senior Litigation Counsel, Fraud Section
Criminal Division

Linda K. Davis
Chief, Criminal Section
Civil Rights Division

Group Award

Thomas J. Eicher, Assistant United States Attorney
Eastern District of Pennsylvania
Jonathan J. Rusch, Senior Litigation Counsel, Fraud
Section
William J. Corcoran, Senior Counsel
Criminal Division
Robert T. Core
Raymond F. Kyle
Charles M. Anderson
Charles W. Stuber, Jr.
Special Agents
Washington Metropolitan Field Office
Federal Bureau of Investigation

Group Award

Steven Gomez, Special Agent, Los Angeles Field Office
Robert Jones, Supervisory Special Agent, Los Angeles
Division, Federal Bureau of Investigation
Jeffrey W. Johnson
Assistant United States Attorney
Central District of California

Group Award

Stacia Hylton, Assistant Chief for Administration
Court Security Division, United States Marshals Service
Donald W. Horton, Chief, Court Security Division
United States Marshals Service
Roger Adams, Attorney Advisor, Criminal Division and
Special Assistant to the Deputy Attorney General
Office of the Deputy Attorney General

John T. Orr
Chief, Atlanta Field Division
Antitrust Division

Group Award

Jerry A. Rinehart
William E. Ledwith
Special Agents
Bogota Colombia Office
Drug Enforcement Administration

Group Award

Antonio J. Ruiz, Supervisory Border Patrol Agent
Brent Johnson, Senior Patrol Agent
Michael D. Flannagan
Daryl Reed
Blanca Sauermann
Robert Taylor
Border Patrol Agents
Imperial Beach Station, San Diego, California
Immigration and Naturalization Service

*Group Award: Core Staff Members
of Police Hiring Task Force*

Julie E. Samuels, Director
Steven G. Shandy, Program Analyst
Philip C. Baridon, Program Management Specialist
Office of Policy and Management Analysis
Criminal Division
Patricia L. Dobbs-Medaris, Chief, Violence Against
Women Branch
Harri J. Kramer, Director, Office of Congressional
Affairs, Office of Justice Programs
Craig D. Uchida, Acting Assistant Director
Grants Administration Division
Community Oriented Policing Services
Grace L. Mastalli, Deputy Assistant Attorney General
Office of Policy Development

Willie J. Scott
Warden, U.S. Penitentiary
Leavenworth, Kansas
Bureau of Prisons

Peter R. Steenland, Jr.
Chief, Appellate Section
Environment and Natural Resources Division

John Wodatch
Chief, Disability Rights Section
Civil Rights Division

*Attorney General's Award for
Excellence in Management*

Kenneth Belodoff
Litigation Support Specialist
Tax Division

Patricia Macherey
Prisoner Medical Service Program Officer
United States Marshals Service

Mary C. Lawton Lifetime Service Award

Leo Cardenas
Director, Rocky Mountain Region
Community Relations Service

Attorney General's Award for Exceptional Heroism

Group Award

John David Kuchta
Martha A. Dixon-Martinez (Posthumous)
Michael John Miller (Posthumous)
Special Agents
Washington Metropolitan Field Office
Federal Bureau of Investigation
Henry Joseph Daly (Posthumous)
Sergeant, Washington Metropolitan Police Department

*Attorney General's Award for Excellence in Law
Enforcement*

Lawrence G. Owens
Special Agent, Philadelphia Field Office
Federal Bureau of Investigation

Barry Tang
Supervisory Special Agent
New York District
Immigration and Naturalization Service

Michael V. Vincent
Special Agent
Office of the Inspector General

*Attorney General's Award for Equal Employment
Opportunity*

Denise Showanes
Support Services Supervisor
Federal Bureau of Investigation

*Attorney General's Award for Excellence in Legal
Support*

Donald Greenstein
Paralegal Specialist
Tax Division

Maxine Schiffman
Legal Assistant
Civil Division

***Attorney General's Award for
Excellence in Administrative Support***

Robert K. Burger
Supervisory Paralegal Specialist
Antitrust Division

Michele G. McMorris
Financial Management Specialist
Justice Management Division

Diane L. Gilbertson
Secretary
Northern District of California
Office of the United States Trustee

***Attorney General's Award for
Meritorious Public Service***

Rev. Robert Vitaglione
Comite Nuestra Senora De Loreto
Nominated by the Executive Office
for Immigration Review

John Marshall Awards

Neil H. Koslowe
Special Litigation Counsel
Federal Programs Branch
Civil Division

Scott C. Charney
Chief, Computer Crime Unit
General Litigation and Legal Advice Section
Criminal Division

Diane Dorfman
Attorney
Civil Rights Division

David I. Pincus
Reviewer, Appellate Section
Tax Division

Group Award

Timothy Dowling, Attorney Advisor
Policy/Legislation/Special Litigation Section
James Brookshire, Deputy Chief
General Litigation Section
Environment and Natural Resources Division

Alan R. McDonald
Supervisory Special Agent
Federal Bureau of Investigation

Col. John Harris
United States Marine Corps
Nominated by the Civil Division



Significant Issues/Events

***Changes in Prior Approval and Consultation
Requirements in Title 9***

On June 19, 1995, Assistant Attorney General Jo Ann Harris, Criminal Division, issued a bluesheet outlining changes to *United States Attorneys' Manual* 9-2.000 et seq. and other sections, following her review of the approval and consultation provisions in Title 9. A copy of the bluesheet is attached as **Appendix C**.

***New Extradition Treaty
Between U.S. and Bolivia***

On June 16, 1995, the United States and Bolivia concluded negotiations on a new extradition treaty, and the final text was endorsed by the countries' heads of delegation. The treaty provides for the mandatory extradition of Bolivian nationals for a number of serious crimes, including drug trafficking and related offenses. The treaty will apply retroactively to offenses committed prior to its effective date, and to pending extradition requests for which a final decision has not been made. The treaty was signed in La Paz on June 24, 1995. For further information, please contact Greg B. Stevens, Criminal Division's Office of International Affairs, (202)514-0009.

Bilateral Asset Sharing Agreement in Force

On June 29, 1995, the State Department accepted the U.S.-Mexico exchange of letters on asset sharing. With the acceptance of these letters, the bilateral asset sharing agreement entered into force as of May 22, 1995. For further information, please contact Mary Troland, Criminal Division's Office of International Affairs, (202)514-0015.

❖

Ninth Circuit Denies Government's Petition in United States v. \$405,089.23

On June 15, 1995, the Ninth Circuit held that the Double Jeopardy Clause bars the civil forfeiture of the proceeds of drug trafficking following the property owner's criminal prosecution on the drug trafficking offenses that produced those proceeds. *United States v. \$405,089.23*, 33 F.3d 1210 (9th Cir. 1994). The Ninth Circuit denied the Government's petition for rehearing on May 30, 1995. United States Attorney Nora M. Manella and the Criminal Division intend to recommend that the Solicitor General seek Supreme Court review of the decision. Every effort will be made to obtain an early decision from the Solicitor General. For additional information, please contact Director Gerald E. McDowell, Criminal Division's Asset Forfeiture Office, (202)514-7023. ❖

Accused Nazi Murderer Expelled from U.S.

On May 9, 1995, the Criminal Division's Office of Special Investigations (OSI) returned Canadian citizen Helmut Oberlander to Canada, where he will face citizenship revocation proceedings. Captured Nazi documents disclose that Oberlander served during World War II in a Special Detachment of Einsatzgruppe D, a mobile killing unit of the Nazi SS that murdered tens of thousands of Jewish and other civilians in southern Ukraine and the Caucasus in the former Soviet Union. Questions can be directed to Director Eli M. Rosenbaum, Office of Special Investigations, (202)616-2492. ❖

Criminal Division Money Laundering Section Updating Contact List

The Money Laundering Section of the Criminal Division is updating their money laundering contact list, and has requested that United States Attorneys' offices Email the names, addresses, telephone and fax numbers of

the Assistant United States Attorneys who are designated contact persons for White Collar and money laundering matters to CRM03(DUNKLIN). Additionally, if those individuals wish to receive money laundering updates on legislation, cases, etc., distributed periodically by the Money Laundering Section, please include the AUSAs' Email addresses. ❖

Office of Justice Programs — Bureau of Justice Statistics

As part of an ongoing effort to share information between United States Attorneys' offices and the Office of Justice Programs (OJP), the following is the third in a series of articles describing OJP and its bureaus. This article focuses on the Bureau of Justice Statistics (BJS) and its director, Dr. Jan Chaiken.

Dr. Chaiken is responsible for administering the Federal Government's principal criminal justice statistics agency. BJS collects and analyzes statistical data on crime, drug use, crime victims, and other criminal justice issues. The Bureau also provides financial and technical support to State statistical agencies and administers special programs to aid State and local governments in improving their criminal justice records and information systems.

BJS provides timely and accurate data about crime and the administration of justice to the President and Congress, numerous Federal, State, and local officials, and the public. It also publishes special reports and bulletins that provide up-to-date statistical information on various aspects of criminal justice, and lengthier volumes that present analyses of specific topics.

BJS produces the National Crime Victimization Survey (NCVS), its largest ongoing statistical series, using interviews from a large sample of U.S. households to measure the rates at which the nation's population is victimized by crimes of violence and theft. NCVS is similar to the FBI's Uniform Crime Reports (UCR), although there are distinct differences between the two. The NCVS includes both crimes reported to the police and those that go unreported, while the UCR are based only on police reports. In addition, the NCVS measures crime from the victims' perspective; the UCR data measures crime from the police perspective.

BJS also supports a statistical component in the National Criminal Justice Reference Service—the Justice

Statistics Clearinghouse—which provides reference services for people requesting information, maintains a mailing list, and distributes BJS publications. The service may be contacted toll-free at 1(800)732-3277.

BJS also administers the Drugs and Crime Clearinghouse which gathers and evaluates existing data on drugs and the justice system; identifies drug enforcement data gaps; operates a clearinghouse/reference center, serving as a single source for drug statistics; and prepares special reports and tabulations of existing drug data. The Drugs and Crime Clearinghouse can be reached at 1(800)666-3332.

In FY 1995, BJS is providing \$88 million in grants for the National Criminal History Improvement Program (NCHIP) to help states speed their connections with the FBI's National Instant Criminal Background Check System and to improve their criminal justice records systems. NCHIP will facilitate administration of the provisions of the National Child Protection Act that relate to background checks for employees who work with children.

In FY 1995, BJS received an appropriation of \$21,379,000 from which 80 percent will be obligated for data collection and statistical activities, 10 percent for support to State statistical programs, and 10 percent for publication and dissemination.

Dr. Jan Chaiken has been the Director of BJS since September 1994. Before joining the Department, he served from 1984 until his appointment to BJS as principal scientist in the law and justice area at ABT Associates Inc. in Cambridge, Massachusetts. Prior to that he was a senior mathematician at the RAND Corporation in Santa Monica, California, for 12 years. Dr. Chaiken has a Ph.D. in mathematics from the Massachusetts Institute of Technology. His career highlights include co-authoring a "blueprint" for the FBI's new incident-based crime reporting system, and designing a microcomputer software package for police patrol car allocation that is used by law enforcement agencies in the United States and abroad. ❖

Significant Cases

Antitrust Division

United States v. Microsoft, __ F.3d __ (D.C. Cir., June 16, 1995)

ANTITRUST, CONSENT DECREE

In July 1994, the Justice Department filed a civil complaint against the Microsoft Corporation alleging anticompetitive practices involving software licensing contracts. The complaint was accompanied by a proposed consent decree that set forth the Department's and Microsoft's settlement of the case. Under Section 16(e) of the Antitrust Procedures and Penalties Act, the district court must determine whether entry of an antitrust consent decree is "in the public interest." The district court judge, on his own, read a book about Microsoft that made allegations of anticompetitive practices by Microsoft that were not addressed in the decree, and he subsequently refused to approve the consent decree. This refusal was reversed by the D.C. Court of Appeals, which ruled that the district court judge should have limited his review to the issues raised in the complaint. So long as the proposed settlement does not make a "mockery of judicial power," judges should not exceed their constitutional roles or seek to assume the role of Attorney General in evaluating the settlement. ❖

Reid Horwitz, (202)307-2142

Scott Sacks, (202)307-6132

John Greaney, (202)307-6200

USA Michael Yamaguchi,

Northern District of California

Fax Paper Importer Charged for International Price Fixing

On May 9, 1995, Elof Hansson Paper & Board Inc., a New York based importer of fax paper produced in Japan, was charged with participating in a price fixing conspiracy that caused a 10 percent increase in the cost of thermal fax paper to U.S. customers. This is the second case in the Department's investigation of international price fixing in the thermal fax paper industry. Similar charges against another company last year resulted in a guilty plea and fines of approximately \$6.5 million. ❖

Lisa Phelan, (202)307-1166

Samuel Mitchell, (202)307-0900

Sheryl Robinson, (202)307-0035

Civil Division

Landmine Manufacturer to Pay U.S. \$12 Million for False Claims

On June 26, 1995, Alliant TechSystems Inc. and its Accudyne operations at Janesville, Wisconsin, agreed to pay the United States \$12 million and forgo multimillion dollar administrative claims to settle a civil suit alleging that Accudyne failed to properly test landmines under a military contract. Alliant purchased Accudyne Corporation in October 1993. ❖ **Patricia Hanower, (202)514-4397**

Rosemary Filou, (202)616-1433

Steve Koh, (202)307-1087

AUSA Mark Cameli, Western District of Wisconsin

Settlement Reached Concerning Allegations Harris had Competitive Edge

On June 21, 1995, Harris Corporation of Melbourne, Florida, released its right to receive \$613,000 due from the Federal Emergency Management Agency (FEMA), and an additional amount that could be as much as \$1 million that would have become due under a FEMA contract. The settlement stemmed from allegations that Harris employees improperly obtained information from a FEMA employee relating to the agency's criteria for evaluating competing bids. ❖

Steve Y. Koh, (202)307-1087

Civil Rights Division

Housing Complex Sued for Discrimination

On April 26, 1995, a suit was filed charging an Indianapolis housing complex with refusing to rent apartments to African Americans and families with children. ❖

Trial Attorney Marta Campos, (202)514-4733

Criminal Division

Financial Institution Fraud Charges

On June 1, 1995, Raymond L. Hixson, L. Wynn Johnson, Robert L. Wood, and David P. Hirschi, former officers of Bonneville Pacific Corporation (BPC), were charged in an indictment with conspiracy; securities, mail, and bank fraud; and tax perjury in connection with an

alleged scheme to defraud BPC investors and divert more than \$5 million of BPC monies to accounts in Switzerland and the Bahamas. ❖

Barbara N. Bandfield, (202)514-7023

Jane S. Weaver, (202)514-0636

Jeffrey A. Breinholt, Tax Division, (202)514-5112

AUSA Stewart C. Walz, District of Utah

AUSA Scott J. Thorley, District of Utah

Man Pleads Guilty to Filing False Tax Return and False Entries in First National Books

On June 14, 1995, Frank M. Goldberg, former Chairman of the Board of Directors and the largest shareholder of First National Bank of San Diego, pled guilty to a two-count information charging that he caused false entries to be made in the books and records of First National, and that he subscribed to a false tax return. Goldberg misrepresented the full extent of his business relationship with Gary F. Naiman, former president and majority shareholder of now-defunct Pioneer Mortgage. Goldberg also failed to disclose \$45,000 in payments he received from Naiman, who is currently serving a six-year prison sentence for fraudulent activity surrounding Pioneer's failure. ❖

Patrick Brady, (619)557-6763

AUSA Mitch Dembin, Southern District of California

Massachusetts Bank & Trust Company's Chief Executive Indicted for Conspiracy

On June 20, 1995, Edward S. Buchanan, former owner, president, and chief executive officer of Massachusetts Bank & Trust Company, was indicted on charges of conspiracy, misapplication of bank funds, wire fraud, and money laundering for using bank funds to pay salaries to his daughters and the crew of his luxury yacht; using the funds to invest in the corporation that owned the yacht; and to purchase and maintain expensive automobiles. He also allegedly transferred approximately \$500,000 from the bank to a brokerage account in Florida. ❖

Karen L. Taylor, (202)514-4270

Anita S. Lichtblau, New England Bank Fraud

Task Force, (617)565-8231

Three Pled Guilty to Conspiracy and Bank Fraud

On June 21, 1995, former real estate investors David B. St. Germain and Marc J. Loiselle, and attorney John C. Sandelli, pled guilty to conspiracy and bank fraud. St. Germain and Loiselle also pled guilty to making false statements to a federally insured bank. The defendants obtained nine loans totalling \$5.8 million from Framingham Savings Bank, in Massachusetts, for themselves and buyers of their properties. St. Germain and Loiselle falsely inflated prices and down payments in the loan documents and submitted false tax returns overstating their income to the bank. Sandelli signed and notarized the fraudulent documents presented to the bank. ❖

Kenneth Bresler, (617)565-8231
Anita S. Lichtblau, New England Bank Fraud Task Force, (617)565-8231

Public Corruption in the Department of Justice

On May 26, 1995, Brenda G. Meister, a former Acting Director for the Office for Victims of Crime, Office of Justice Programs (OJP), was sentenced to one year of probation and 100 hours of community service. Meister, a political appointee of the outgoing Bush administration, submitted an employment application to a private organization that had a \$209,677 grant application pending with OJP. Meister took official action to ensure that the grant was approved, and informed the private organization's Vice President of her role in ensuring the grant's approval. ❖

Daniel Butler, (202)514-1426
Gretchen Wolfinger, (202)514-1424

Hartford County Sheriff Convicted of Mail Fraud

On June 16, 1995, former High Sheriff of Hartford County Alfred J. Rioux was convicted of mail fraud and violating the Travel Act. Rioux used his position to threaten to suspend and fire deputy sheriffs who failed to pay dues to the Hartford County Association of Deputy and Special Deputy Sheriffs, to purchase tickets to the association's fundraisers, and to purchase tickets to Rioux's cam-

paign fundraising events. Rioux used these association funds for his personal financial benefit. ❖

Nancy J. Newcomb, (202)514-1458
AUSA Joseph C. Hutchison, District of Connecticut
AUSA Robert M. Appleton, District of Connecticut

Attorney Convicted on 28 Felony Counts

On June 21, 1995, attorney Sanford I. Atkin was convicted on 28 felony counts, stemming from his execution of a "rainmaking" scheme in which he accepted \$550,000 from international pornographer Reuben Sturman on the false representation that he would use the money to bribe the Federal judge presiding over Sturman's criminal tax trial. The jury also returned a separate forfeiture verdict against Atkin in the amount of \$250,000. ❖

Michael A. Attanasio, (202)514-1177
AUSA Craig S. Morford, Northern District of Ohio

Sentence for Conspiracy to Import Narcotics from St. Maarten

On June 15, 1995, Juan F. Laboy-Delgado was sentenced to 211 months of imprisonment on his September 1994 conviction for participation in a conspiracy with two other defendants to import narcotics from St. Maarten to the United States through Puerto Rico. Co-defendant Zebebeo Maysonet-Gonzales pled guilty, cooperated with the Government, and was sentenced to two years in prison. Remaining co-defendant Hector Guzman-Rivera negotiated a plea agreement involving this and another case, and was sentenced to 19 years in prison. ❖

Bruce A. Pagel, (202)514-0917
AUSA Frank Rebollo, District of Puerto Rico

Leader of Cocaine Trafficking Organization Sentenced to 151 Months in Prison

On June 23, 1995, Juan Fernandez, one of the leaders of a large cocaine trafficking organization, was sentenced to 151 months of imprisonment for using his shipping company to transport over 3,000 kilograms of cocaine from Puerto Rico to New Jersey. A co-defendant, Antonio Contreras, who fled during jury deliberations prior to his conviction, remains a fugitive. ❖

Bruce A. Pagel, (202)514-0917
AUSA Frank Rebollo, District of Puerto Rico

Jamaican Citizen Extradited to U.S.

On June 13, 1995, Deputy U.S. Marshals escorted Jamaican citizen Richard "Lockie" Daley to the Eastern District of Pennsylvania, where he is wanted for CCE, racketeering, and drug offenses. Daley is the first fugitive to be extradited from Jamaica to stand trial for racketeering charges. ❖

Jeff McCredie, (202)616-0581
AUSA Thomas Suddath, Eastern District of Pennsylvania

Operation Desert Deception Results in Guilty Plea

Between May 2 and June 8, 1995, Nadeem Hashmi and Shauket Khimani, Pakistani nationals; Alexander Grief, immigration attorney; and Santos Soto, immigration consultant, pled guilty to conspiring to commit amnesty fraud. These cases are the result of "Operation Desert Deception," a series of investigations conducted by INS. Of the 27 defendants indicted under Operation Deception, 3 were convicted at trial, 20 pleaded guilty, 1 pleaded nolo contendere, and 3 remain fugitives. ❖

Richard S. Shine, (202)514-1114
Daniel E. Fromstein, (202)514-1098
AUSA Michael Barr, District of Nevada

Environment and Natural Resources Division

Container Corporation to Pay \$1.2 Million Penalty

The St. Louis-based Container Corporation of America (CCA) will pay a \$1.2 million civil penalty to settle charges that it improperly responded to an EPA information request regarding CCA's involvement with a Superfund site in Troy, Ohio. The agreement resolves charges filed in an October 1993 complaint that CCA told the EPA that its nearby facility would not have sent hazardous substances to the Miami County site. CCA realized its mistake shortly after, but did not inform the EPA for nearly three years. The U.S. argued that CCA violated section 104(e) of the Superfund statute. ❖

Tom Carroll, (202)514-7785
AUSA Greg Lockheed, Southern District of Ohio

Solicitor General

Babbitt v. Sweet Home Chapter of Communities for a Great Oregon, ___ U.S. ___ (June 29, 1995) *ENDANGERED SPECIES ACT, STATUTORY CONSTRUCTION*

The Endangered Species Act (ESA) makes it unlawful to "take" any endangered or threatened species. The Secretary of the Interior promulgated a regulation that defined takings to include "significant habitat modification or degradation where it actually kills or injures wildlife." Small loggers and landowners in the Pacific Northwest brought a declaratory judgment action challenging the validity of the regulation, alleging that the application of the "harm" regulation to the red-cockaded woodpecker, an endangered species, and the northern spotted owl, a threatened species, injured them economically. The Supreme Court upheld the regulation, concluding that the word "harm" encompasses direct as well as indirect injuries. Congress intended to provide comprehensive protection for endangered and threatened species, and thus the Secretary's interpretation of the statute was reasonable and entitled to deference. ❖

Ed Kneedler, (202)514-3261
Beth Brickman, (202)514-3261
Ellen Durkee, Environment and Natural Resources Division, (202)514-4426
Martin Matzen, Environment and Natural Resources Division, (202)514-2753
Jean Williams, Environment and Natural Resources Division, (202)272-9884

Johnson v. Jones

No. 94-455 (June 12, 1995)

[U.S. Supreme Court]

SUMMARY JUDGMENT, INTERLOCUTORY APPEAL, 1983

Houston Jones, a diabetic having an insulin seizure, was arrested on the street by police officers who thought he was drunk. Due to his condition, Jones could not recall the circumstances of the arrest, but he suffered broken ribs. Jones brought suit under 42 U.S.C. § 1983, claiming that the police used excessive force against him. Three of the officers moved for summary judgment, arguing that there was no evidence that they had beaten Jones or participated in his beating. The district court denied the officers'

motion, finding that sufficient circumstantial evidence existed supporting Jones' excessive force theory. The officers immediately appealed, but the appellate court held that it did not have interlocutory appellate jurisdiction. In a unanimous decision written by Justice Breyer, the Supreme Court affirmed. The Court stressed that immediate review of "I didn't do it" defenses would increase trial delay and burden appellate court resources. After weighing those burdens against a public official's right not to stand trial in meritless suits, the Court determined that fact-intensive questions are best left for appeal after final judgment. ❖

Nina Pillard, (202)514-4283

Wilson v. Arkansas

No. 94-5707 (May 22, 1995)

[U.S. Supreme Court]

SEARCH AND SEIZURE, KNOCK AND ANNOUNCE

Arkansas State Police officers investigating a petitioner for drug offenses obtained both a search and an arrest warrant. Upon arriving at the petitioner's home, the officers found the main door open. They opened an unlocked screen door and entered the residence, simultaneously identifying themselves and announcing that they had a warrant. The petitioner contended that the Fourth Amendment required the officers to knock and announce their authority prior to entering the petitioner's home. In a unanimous decision, the Supreme Court held that the common law "knock-and-announce" doctrine should have been considered in assessing the reasonableness of the entry under the Fourth Amendment. The Court cautioned that the announcement requirement may be trumped by countervailing law enforcement interests, such as a threat of physical violence or the destruction of evidence. Accordingly, the petitioner's case was remanded to the Arkansas courts for a determination of reasonableness. ❖

Michael R. Dreeben, (202)514-4285

Adarand Constructors v. Peña

No. 93-1841 (June 12, 1995)

[U.S. Supreme Court]

AFFIRMATIVE ACTION

Federal law requires that certain federal agency contracts provide a small amount of additional compensation for contractors who subcontract with disadvantaged busi-

ness enterprises (DBEs). Adarand Constructors and Gonzales Construction Company bid on a subcontract for a highway construction project funded by the Department of Transportation. Although Adarand submitted the low bid, the contractor awarded the subcontract to Gonzales, a DBE, because the additional payment made Gonzales' bid effectively lower. Adarand sued, claiming a violation of equal protection. The Supreme Court held that all racial classifications—whether imposed by federal, state, or local governments—are subject to strict scrutiny. In doing so, the Court overruled *Metro Broadcasting v. FCC* (1990), which applied intermediate scrutiny to race-conscious affirmative action classifications. The Court did not declare any act or program unconstitutional but remanded to the court of appeals to apply the strict scrutiny standard. The majority, wishing to dispel the notion that strict scrutiny is "strict in theory but fatal in fact," indicated that remedial interests may, in appropriate circumstances, be sufficiently compelling to justify race-based measures. ❖

Drew Days III, (202)514-2201

Missouri v. Jenkins

No. 93-1823 (June 12, 1995)

[U.S. Supreme Court]

SCHOOL DESEGREGATION, CIVIL RIGHTS

In 1977, the Missouri School District (KCMSD) and the State of Missouri were found to have failed to carry out their affirmative duty to eliminate the vestiges of the State's dual school system (pre-1954) within the KCMSD. The district court determined that segregation had caused a reduction in student achievement and ordered a wide range of remedial quality education programs for all KCMSD students. The court also attempted to desegregate the KCMSD; since roughly 70 percent of the school population was black, it ordered the KCMSD to establish magnet schools to attract voluntary non-minority student enrollment from the suburbs. As part of that effort, the State was ordered to pay for an increase in teacher salaries. The Supreme Court held that the district court abused its discretion in ordering the State to fund the salary increase. Since the teacher salary order (and indeed the entire magnet school scheme) had an interdistrict goal—attracting suburban students—the order exceeded the scope of the intradistrict violation found by the district court. While the Supreme Court agreed that a court could order remedial education programs to make up for education deficits

caused by segregation, the Court held that the order in this case was impermissible because it was premised on the goal of reaching national test score norms, rather than remedying the effects of segregation to a practicable extent. ❖ *Paul Bender, (202)514-2206*

City of Edmonds v. Oxford House, Inc.
No. 94-23 (May 15, 1995)
[U.S. Supreme Court]
FAIR HOUSING ACT

The Fair Housing Act (FHA) generally prohibits discrimination in housing against persons with handicaps, but § 3607(b)(1) exempts from the Act's coverage "any reasonable local, State, or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling." Respondent Oxford House opened a group home in a single-family residential zone in the City of Edmonds, Washington, for 10 to 12 adults recovering from alcoholism and drug addiction. The City issued criminal citations to Oxford House, charging violations of the City's single family zoning provisions. The relevant provision defined a "family" as "persons [without regard to number] related by genetics, adoption, or marriage, or a group of five or fewer [unrelated] persons." The Supreme Court held that § 3607(b)(1) exempts from FHA scrutiny total occupancy limits, such as numerical ceilings that serve to prevent overcrowding in living quarters. Family composition definitions or land use rules designed to foster the family character of a neighborhood, however, are not exempt from FHA coverage. The Court found the City's ordinance to be a "classic example" of a family composition rule or land use restriction. Emphasizing that it was deciding only the narrow threshold issue that the City's zoning provision was not a maximum occupancy restriction exempt from the FHA, the Court remanded the case to the lower courts to decide whether the City's actions against Oxford House violated the FHA's provision against discrimination. ❖ *Paul Bender, (202)514-2206*

Kimberlin v. Quinlan
No. 93-2068

Shortly before the 1988 elections, Federal prisoner Brett Kimberlin told a reporter that then-Vice President Quayle had purchased marijuana from him while Quayle was in college. In his lawsuit filed in district court, he

alleges that Michael Quinlan, then-director of the Bureau of Prisons, and other Federal officials placed him in administrative detention and took other retaliatory actions against him in violation of his First Amendment rights.

After the district court denied a motion for summary judgment, the defendants filed an interlocutory appeal. The court of appeals reversed, holding that the district court erred in allowing a claim based on circumstantial evidence of retaliatory intent. The Supreme Court accepted certiorari, and the United States filed an amicus brief supporting a heightened pleading standard for plaintiffs attempting to overcome a qualified immunity defense, but opposed a requirement that plaintiffs plead and produce direct evidence of unconstitutional intent. Consequently, the defendants retained private counsel.

The Supreme Court vacated and remanded in a unanimous per curiam order for reconsideration in light of *Johnson v. Jones*, which held that certain fact-based qualified immunity appeals are not appealable interlocutorily. The Court did not rule on the issues argued in our amicus submissions. ❖ *Paul Bender, (202)514-2206*

Tax Division

Commissioner v. Erich E. and Helen B. Schleier
115 S.Ct. 2159 (1995)
TAX, DISCRIMINATION

On June 14, 1995, the Supreme Court held that back pay and liquidated damages received under the Age Discrimination in Employment Act are not excludable from gross income. Section 104(a)(2) of the Internal Revenue Code provides for an exclusion from gross income for "any damages received on account of personal injuries or sickness." The Court held that a taxpayer must satisfy two criteria to qualify for the exclusion: (1) the statute must redress tort-type rights; and (2) the damages must be "received on account of personal injuries." Neither back pay nor liquidated damages awarded under the ADEA are "received on account of personal injuries." ❖

Attorneys Ann Durney, (202)514-2830
Edward Perelmuter, (202)514-3769
Kent Jones, Solicitor General's Office, (202)514-3948

Guilty Plea in Fuel Excise Tax Scams
No. 94-047 (W.D. Pa.)

On June 8, 1995, Alex Arodzero pled guilty to a Western District of Pennsylvania indictment charging him with conspiracy to defraud the Internal Revenue Service and mail fraud in connection with a motor fuel excise tax scheme in Pittsburgh. He also pled guilty to a Northern District of Georgia indictment charging him with evading \$1.6 million in motor fuel excise taxes in Atlanta. He and a partner, both of whom have ties to Russian organized crime, created a company called Rolling Rock Petroleum to sell untaxed diesel fuel to Indian-owned truckstops in western Pennsylvania and Ohio. ❖

Attorneys Seth Uram, (202)514-5182
James Wright, (202)514-5185

Five Plead Guilty to
Conspiracy to File False Claims
No. CR-H-95-008 (S.D. Tex.)

On June 14, 1995, Chukwuemeka Agahabalu, Celestine Madunezim, Christopher Muotoh, Felix Ugwu, and Orobosa Uwaifo pled guilty to conspiracy to file false tax returns by electronic transmission. ❖

Floyd Miller, (202)514-2953

ETHICS AND PROFESSIONAL RESPONSIBILITY

Resubmission of
No-Billed Matter to Grand Jury

Defense counsel alleged that a United States Attorney presented a matter to a grand jury without proper authorization after the matter had been no-billed by another grand jury. Counsel also maintained that if the required authorization had been obtained, it had been based on misrepresentations, and was the result of local judges exerting improper influence on the United States Attorney.

OPR's investigation revealed that the United States Attorney had acquired proper authorization from the Department to re-present the matter to a grand jury. OPR also found no evidence of misrepresentation or improper influence exerted on the United States Attorney. Finally, OPR concluded that the United States Attorney had a good faith belief that the prosecution, which resulted in a conviction, had merit. ❖

Evidence Control

A United States Attorney's office reported that a substantial quantity of cocaine had been lost from an evi-

dence room at a courthouse. An investigation revealed that the cocaine had been placed in a box that contained evidence of a drug transaction, including another crumpled box and other apparent garbage. The material had been mistakenly removed from the evidence room and discarded as trash. A trial court and OPR found that the loss of evidence was not the result of bad faith, but that it showed negligence by the prosecutors. ❖

Forfeiture of Proceeds of Real Estate Sale

OPR received allegations that an Assistant United States Attorney improperly sought the forfeiture of the proceeds of a real estate sale from a developer who had improved the property with cash provided by a major drug dealer. The OPR inquiry established that the Assistant reasonably concluded that the developer knew the original purchase of the property by the dealer was suspect, based largely on the fact that the dealer had given the developer large amounts of cash in grocery bags. The developer used the cash to construct a residence on the property. OPR concluded that the Assistant had not committed misconduct. ❖

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

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N O M I N E E	Name	Title
	Office, Agency, or Department	Phone Number

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

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



Office of the Assistant Attorney General

Washington, D.C. 20530

June 19, 1995

TO: Holders of Title 9, United States Attorneys' Manual

FROM: United States Attorneys' Manual Staff
Executive Office for United States Attorneys

Jo Ann Harris
Assistant Attorney General
Criminal Division

SUBJECT: Changes in Prior Approval and Consultation Requirements in Title 9

NOTE: 1. This is issued pursuant to USAM 1-1.550.
2. Distribute to holders of Title 9.
3. Insert in front of affected section.

AFFECTS: USAM 9-2.000 et seq. and other listed sections.

PURPOSE: The Criminal Division has reviewed the approval and consultation provisions in Title 9 and has determined the following changes should be made.

No change is intended as to the substantive policies and guidance set forth in affected sections of Title 9. Additionally, prosecuting attorneys are reminded that Criminal Division attorneys remain available for advice and consultation on all of the following issues or matters.

APPROVALS AND CONSULTATIONS NO LONGER REQUIRED:

1. 9-2.022 Approval for pretrial diversion for offenses listed in 9-22.100.
2. 9-2.111 Approval to decline to prosecute for failure to register with the Selective Service.

In place of approval, notification to the Criminal Division, General Litigation and Legal Advice Section, prior to declination will be required.

Notification is necessitated by the statutory requirement that the Department of Justice "advise the [Congress] in writing the reasons for its failure" to bring such prosecutions. 50 U.S.C. App. § 462(c).

3. 9-2.133 Consultation prior to instituting grand jury proceedings, filing an information or seeking an indictment if the violation to be charged involves:
- ▶ CFTC Act, 7 U.S.C. § 2 et seq.
 - ▶ Counterfeit Substance, 21 U.S.C. § 841(a)(2)
 - ▶ Draft Board Depredations, 50 U.S.C. App. § 462
 - ▶ False statements to federal investigators, 18 U.S.C. § 1001 involving an "exculpatory no"
 - ▶ Hobbs Act cases, 18 U.S.C. § 1951 involving (a) "extortion under color of official right" and (c) robbery if local prosecutor objects to federal prosecution
 - ▶ Imitation of coins, 18 U.S.C. § 489, or obligations or securities of the United States, 18 U.S.C. § 475
 - ▶ Securities Act, Securities Exchange Act, Investment Advisors Act of 1940
 - ▶ Strikebreakers statute, 18 U.S.C. § 1231
 - ▶ Harboring, 18 U.S.C. §§ 1071, 1072, 1381
 - ▶ Trade Secrets Act, 18 U.S.C. § 1905
 - ▶ Structured Financial Transactions, 31 U.S.C. § 5324
 - ▶ Mail Order Drug Paraphernalia Control Act, 21 U.S.C. § 863
 - ▶ Murder for Hire, 18 U.S.C. § 1958, if local prosecutor objects

4. 9-2.134 ▶ Consultation for pre-trial diversion of certain individuals and cases involving certain statutes.
- ▶ Prior approval to file a motion to transfer a juvenile proceeding to an adult prosecution.

In place of approval, notification to the Criminal Division is required prior to filing any motion to transfer.

5. 9-2.141 Consultation if adding counts after guilty plea set aside.

6. 9-2.143 Approval to seek to proceed against juvenile as an adult.

In place of approval, notification to the Criminal Division is required prior to filing any motion to transfer a juvenile to adult proceeding.

7. 9-2.152 Consult with GLLA whenever served with complaint or summons within GLLA's jurisdiction.

8. 9-2.156 Approval for plea bargains or immunity agreements which prejudice civil or tax liability.

In place of approval, United States Attorneys are directed not to make agreements which prejudice civil or tax liability without the express agreement of all affected Divisions and/or agencies.

9. 9-2.157 Approval for FBI investigation of prospective petit jury panels.

10. 9-2.158 Approval for participation of non-Department of Justice attorneys in court proceedings.

11. 9-2.172 Approval to compromise or close appearance bond forfeiture judgments valued over \$100,000.

12. 9-7.302 Written authorization for consensual monitoring of verbal communications in the following two of the "seven sensitive circumstances":

(2) The interception relates to the investigation of any public official and the offense investigated is one involving bribery, conflict of interest, or extortion relating to the performance of his or her official duties;

The authorization requirement remains if the investigation relates to the Governor, Lieutenant Governor or Attorney General of any State or Territory, or a judge or justice of the highest court of any State or Territory.

(3) The interception relates to the investigation of a federal law enforcement official.

The authorization requirement remains for the other "sensitive circumstances" listed at 9-7.302.

13. 9-7.510 Approval to use communications intercepted under Title III in civil litigation.

Note that there are statutory requirements regarding the disclosure and use of the intercepted communications. See 18 U.S.C. §§ 2517, 2518.

14. 9-11.120 Approval before resubmission to grand jury after no bill.

In place of approval by an Assistant Attorney General, the approval of the responsible United States Attorney is required before a matter may be resubmitted to a grand jury after a no bill.

15. 9-11.242 Appoint non-DOJ Attorneys as Special AUSAs.

16. 9-13.620 Approval to use hypnosis on a witness.

17. 9-22.100 Approval for waiver of eligibility criteria for pretrial diversion.

18. 9-42.451 Approval for plea bargains involving HHS programs that include commitment to forego or restrict administrative remedies of HHS.

In place of approval, United States Attorneys are directed not to make agreements which prejudice HHS's pursuit of administrative remedies without the express agreement of HHS.

19. 9-76.110 1) Prior approval if the difference between the total amount of the penalties for violations of the civil penalty provisions of the Federal Aviation Act of 1958 and the amount of a proposed settlement exceeds \$750,000 or 10%, whichever is greater; or, 2) If the USA believes that a compromise settlement should be effectuated in a figure less than is acceptable to the Federal Aviation Administration or the Civil Aeronautics Board.

In place of approval, United States Attorneys are directed to consult with the FAA or Civil Aeronautics Board, as appropriate, regarding settlement proposals. The FAA or Civil Aeronautics Board may seek Criminal Division review if it believes such review would be helpful to the settlement of the case.

20. 9-100.150 Consultation prior to presenting 21 U.S.C § 802(32), § 813 indictment to grand jury; "Controlled Substance Analogue Enforcement Act."
21. 9-100.210 Consultation prior to initiation of prosecution of counterfeit substance.
22. 9-100.280 Consultation prior to charging defendant with continuing criminal enterprise statute's mandatory life sentence provision.
23. 9-100.290 Approval for use of dangerous special drug offender statute, 21 U.S.C. § 849 and to request appellate review of a dangerous special drug offender sentence.
24. 9-103.132 Instituting grand jury proceedings, seeking an indictment, or filing an information for any offense under the Controlled Substance Registrant Protection Act of 1984, if a state or local prosecutor objects to a federal prosecution.
25. 9-103.380 Consultation prior to charging "head shop" violation of Mail Order Drug Paraphernalia Control Act.
26. 9-110.801 Approval to initiate Murder-for-Hire prosecution if local D.A. objects to federal prosecution.
27. 9-131.030 Consultation on cases involving extortion under color of official right or extortion by a public official through misuse of office.
28. 9-131.030 Approval to initiate Hobbs Act robbery prosecution if local D.A. objects to prosecution.

United States Attorneys' Bulletin Survey

- | | Yes | No |
|---|--------------------------|--------------------------|
| 1. Do you read the <i>USAB</i> ? | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Do you think we should trim it down to 20 pages? | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Which of the following features do you want to see included in the <i>USAB</i> ? | <input type="checkbox"/> | <input type="checkbox"/> |

- | | | | |
|--|--------------------------|--------------------------|-------|
| ----- Feature articles such as the Oklahoma Victim-Witness efforts on page 267 in this issue | <input type="checkbox"/> | <input type="checkbox"/> | ----- |
| News from the Department (AG, DAG, and other significant events/issues from top DOJ officials) | <input type="checkbox"/> | <input type="checkbox"/> | |
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| Significant issues and events in the Districts and DOJ Divisions | <input type="checkbox"/> | <input type="checkbox"/> | |
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| WordPerfect tips | <input type="checkbox"/> | <input type="checkbox"/> | |
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| Guideline sentencing updates | <input type="checkbox"/> | <input type="checkbox"/> | |

4. If not covered above, what other information do you want in the *USAB*?

Please complete, fold, and mail this survey. Thank you for your cooperation!

Barbara Jackson
Executive Office for United States Attorneys
United States Department of Justice
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600 E Street, N.W.
Washington, DC 20530