

CHAPTER I

ORGANIZATION OF THE DEPARTMENT OF JUSTICE AND THE ANTITRUST DIVISION

A. Organization and Functions of the Department of Justice

1. Creation

The post of Attorney General of the United States was created by the Judiciary Act of September 24, 1789, but was created as only an office, not as a full department. The Attorney General was a member of the President's Cabinet and the President's chief legal advisor. By 1870, the work of the Attorney General had expanded to such an extent that the office had become, in effect, an executive department of the government. In recognition of this fact, the Congress, on June 22, 1870, enacted a law (today codified at 28 U.S.C. §§ 501, 503) establishing the Department of Justice with the Attorney General as its head.

2. Business

The Department of Justice is responsible for enforcing a wide range of federal laws in the public interest. Through its lawyers, investigators, agents, and other personnel, the Department plays a key role in ensuring healthy business competition in the free enterprise system, in safeguarding the consumer, and in enforcing tax, civil rights, environmental, and immigration and naturalization laws. The Department also plays a significant role in protecting citizens through work in law enforcement, crime prevention, crime detection, and prosecution and rehabilitation of offenders.

The Department represents the federal government in legal matters generally, and appears in all suits before the Supreme Court in which the United States is a party.

3. Organization

The Attorney General, as head of the Department of Justice and chief law enforcement officer of the federal government, supervises and directs the activities of the Department, including the activities of the United States Attorneys and the United States Marshals in the various judicial districts around the country. The Attorney General gives legal advice and opinions to the President and to the heads of the executive departments and independent agencies when so requested. The Attorney General can also appear in person to represent the United States before the Supreme Court.

The Deputy Attorney General advises and assists the Attorney General in formulating and implementing Departmental policies and programs and in providing overall supervision and direction to all organizational units of the Department. The Deputy Attorney General is authorized to exercise all the power and authority of the Attorney General, except where such

power or authority is prohibited by law from delegation or has been delegated to another official. In the absence of the Attorney General, the Deputy Attorney General acts as the Attorney General.

The Associate Attorney General advises and assists the Attorney General and the Deputy Attorney General in formulating and implementing Departmental policies and programs pertaining to a broad range of civil justice matters. The Associate's Office is the focal point for the direction and coordination of the Department's civil and immigration functions, and the Associate Attorney General supervises most Departmental components with civil law enforcement responsibilities, including the Antitrust Division.

The principal offices, divisions, bureaus, boards and commissions of the Department are described below. The organizational structure of the Department is shown in the chart on page I-3. More detailed information on the Department's organization may be found in the Attorney General's Annual Report.

4. Offices

a. Office of the Solicitor General

The major function of this office is to supervise the handling of government litigation in the Supreme Court. The Solicitor General determines the cases for which Supreme Court review will be sought by the government, and the positions the government will take in those cases. The staff reviews and revises the petitions, briefs and memoranda filed by the government in its Supreme Court litigation. The Solicitor General assigns the oral argument of all government cases either to himself or herself, to a member of the Solicitor's staff, or to another government attorney.

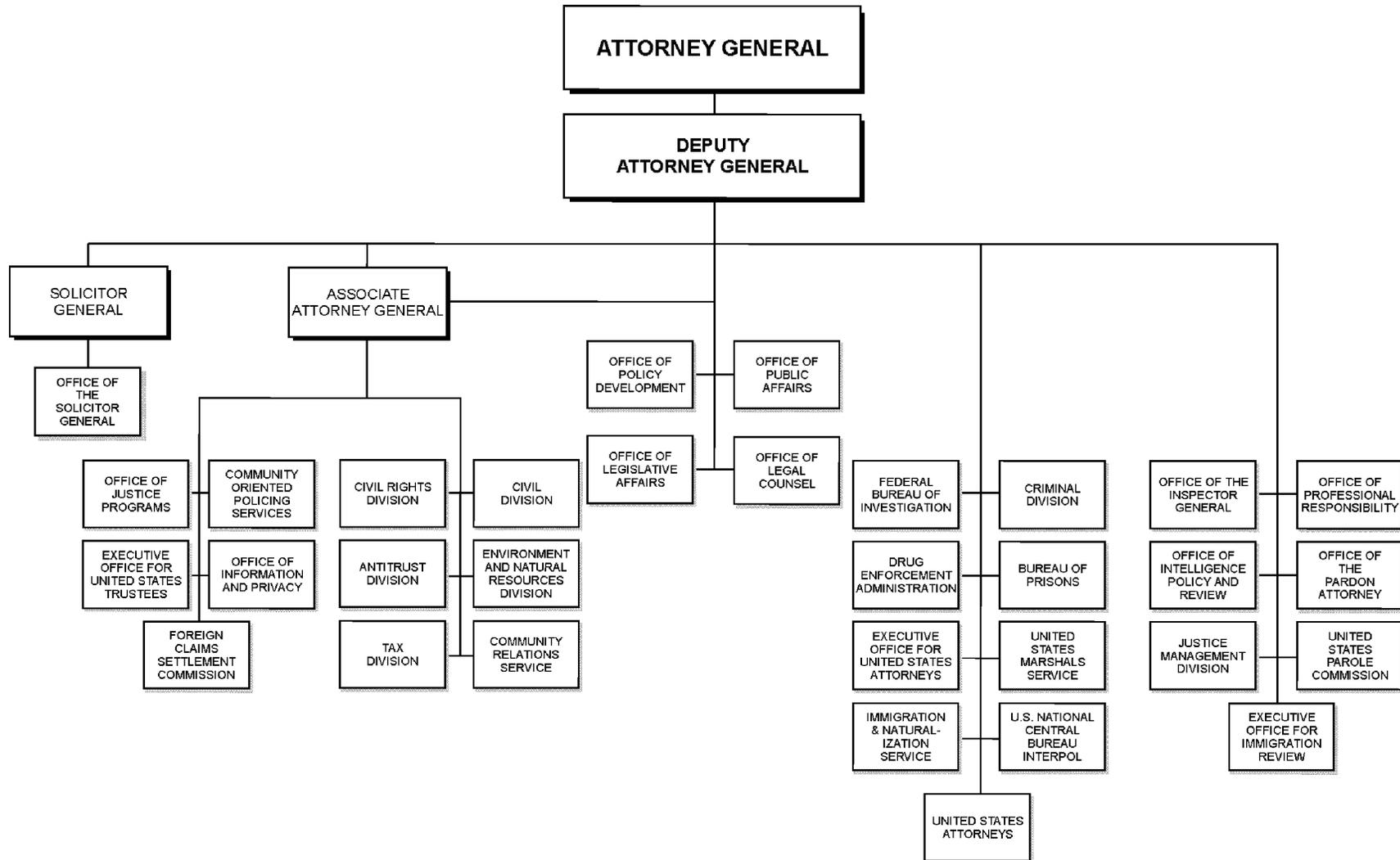
The Office also reviews all cases where the Department of Justice did not prevail in the lower courts to determine whether they should be appealed to the next higher tribunal. The Solicitor General decides whether or not review should be sought. The Solicitor General must also approve any Department of Justice amicus filing in a court of appeals or the Supreme Court. Except in cases involving especially significant policy issues, the Office ordinarily does not participate directly in the preparation of the briefs or arguments in any court other than the Supreme Court.

Matters involving the Antitrust Division are coordinated with the Solicitor General's Office by the Appellate Section.

b. Office of Legal Counsel

The Assistant Attorney General in charge of the Office of Legal Counsel assists the Attorney General in functioning as legal advisor to the President and all the Executive Branch departments and agencies. The Office drafts legal opinions of the Attorney General in response

U.S. DEPARTMENT OF JUSTICE



Approved: *[Signature]* Date: 10-09-94
 JAMES BEING Attorney General

to requests from the President and heads of the executive departments and agencies. It provides its own written opinions and informal advice in response to requests from the various agencies of the government and from presidential staff and advisors. Such requests typically deal with legal issues of particular complexity and importance about which two or more agencies are in disagreement. The Office also is responsible for providing legal advice to the Executive Branch on all constitutional questions.

All Executive Orders and certain proclamations proposed to be issued by the President are reviewed by the Office of Legal Counsel for form and legality, as are various other matters that require the President's formal approval and decisions relating to the use of executive privilege.

The Office also functions as general counsel for the Department itself. It reviews all proposed orders of the Attorney General and all regulations requiring Attorney General approval, advises the Attorney General in connection with review of decisions of the Department's Board of Immigration Appeals, provides advice and assistance in preparing legislation desired by the Department, and serves as in-house counsel to the other component parts of the Department of Justice.

Finally, the Office coordinates the work of the Department with respect to treaties, executive agreements and international organizations. It performs a variety of special assignments referred to it by the Attorney General or the Deputy Attorney General.

The Office of Legal Counsel is not authorized to give legal advice to private persons.

c. Office of Policy Development

The Assistant Attorney General in charge of the Office of Policy Development assists the Attorney General and the Deputy Attorney General in the formulation and implementation of the major policy initiatives of the Department and the Administration. The Office reviews and develops legislation and other policy proposals of major concern to the Department in both civil and criminal law areas. The Office of Policy Development coordinates, generally, Department of Justice participation in Cabinet councils and interagency matters. The Office also assists the Attorney General in resolving any differences between the divisions and components, for example by presenting a full range of policy options to the Attorney General.

d. Office of Legislative Affairs

The Assistant Attorney General in charge of the Office of Legislative Affairs is assigned responsibility for conducting or coordinating the Department's contacts with Congress, and with other government departments and agencies on legislative issues. The Office exercises general supervision over the Department's legislative program and responds to the numerous requests and inquiries from congressional committees, individual members and their staffs.

The functions of the Office include maintaining liaison between the Department and the Congress, reviewing and submitting Department legislative reports, coordinating the preparation of proposed Department legislation, responding to requests from congressional committees and the Office of Management and Budget for reports on bills and proposed legislation, and providing or arranging for testimony by Department witnesses at congressional hearings. The Office also assists departmental and judicial nominees in the confirmation process.

e. Office of Professional Responsibility

The Office of Professional Responsibility, which reports directly to the Attorney General, is responsible for investigating allegations of criminal or ethical misconduct by Justice Department attorneys and criminal investigators. The Counsel on Professional Responsibility heads the Office, the role of which is to ensure that departmental employees continue to perform their duties in accordance with the high professional standards expected of the Nation's principal law enforcement agency.

Allegations against Department of Justice attorneys, including U.S. Attorneys and Assistant U.S. Attorneys, and criminal investigators involving violations of law, Departmental regulations, or Departmental standards of conduct are reported to the Office of Professional Responsibility. In the Counsel's discretion, the Office frequently conducts its own investigations into those allegations. The Office also may participate in or direct an investigation conducted by another component of the Department, or may simply monitor an investigation by an appropriate agency having jurisdiction over the matter. Allegations of misconduct against other types of employees are handled by the Office of the Inspector General. In addition, the Office oversees the Federal Bureau of Investigation's and Drug Enforcement Administration's efforts in this area.

The Counsel submits an annual report to the Attorney General that reviews and evaluates the Department's internal inspection units. The Counsel makes recommendations to the Attorney General on the need for changes in policies or procedures that become evident during the course of internal inquiries reviewed or initiated by the Office.

f. Office of the Inspector General

The Office of the Inspector General conducts investigations of employee misconduct and performs audits and inspections of Department programs and operations. The Office investigates allegations of misconduct involving all Department employees except those of the Federal Bureau of Investigation or the Drug Enforcement Administration, and attorneys where the allegation involves the exercise of authority to investigate, litigate or provide legal advice, and any law enforcement participants in such cases. The Office also investigates all allegations of fraud by contractors, grantees, and recipients of Department benefits, and third parties improperly seeking to influence the Department or its employees.

The Office conducts audits and inspections of Department programs, operations, contracts and grants to detect and prevent fraud, waste and abuse; and recommends, where

appropriate, changes in policies or procedures to improve efficiency. The Inspector General reports directly to the Attorney General, has access to all Department records and documents, may subpoena records from outside sources, and administers oaths and takes affidavits as necessary.

g. Executive Office of United States Attorneys
and Offices of United States Attorneys

The Executive Office for United States Attorneys provides general executive assistance and supervision of the U.S. Attorney Offices and coordinates and directs the relationship of other organizational units of the Department with these offices.

There are U.S. Attorneys for each of the 94 federal judicial districts located throughout the United States, Puerto Rico, the Virgin Islands, Guam and the Northern Marianas. (There are 93 U.S. Attorneys for these 94 districts; a single U.S. Attorney is responsible for both Guam and the Northern Marianas.) Within each district, the U.S. Attorney is the chief law enforcement representative of the Attorney General.

The U.S. Attorneys enforce federal criminal law and handle much of the civil litigation in which the United States is involved. A full description of the working relationships between the U.S. Attorney Offices and the Antitrust Division is found in Chapter VII.

In addition to its traditional support and supervisory functions, the Executive Office carries out an extensive training program, primarily through the Office of Legal Education. The OLE's training programs are designed to sharpen trial advocacy skills and to provide continuing legal education for U.S. Attorneys and their assistants and for attorneys of the Department's legal divisions, including the Antitrust Division.

h. Office of the Pardon Attorney

The Office of the Pardon Attorney assists the President in the exercise of Executive clemency as authorized under Article II, section 2 of the Constitution. Generally, all requests for Executive clemency are directed to the Pardon Attorney for investigation and review. Executive clemency may take several forms, including pardon, commutation (reduction of sentence), remission of fine and reprieve.

i. Office of Public Affairs

The Office of Public Affairs is responsible for the dissemination of information about the activities of the Department of Justice to the general public. This information is transmitted to the public through the news media and by responses to public inquiries. The Office serves as a focal point for the distribution of information relating to the work and activities of all components of the Department and as coordinator of departmental publications.

A Public Affairs Specialist is assigned to handle Antitrust Division matters. The PAS generally coordinates requests for information through the Deputy Assistant Attorneys General and the Directors of Enforcement.

j. Community Relations Service

The Community Relations Services ("CRS") was established by the Civil Rights Act of 1964 to provide assistance to communities in resolving disputes, disagreements, and difficulties relating to discrimination based on race, color or national origin. The Service performs its role by employing conciliation and mediation techniques to settle differences through mutual understanding and voluntary action, rather than through coercion or court litigation. CRS offers its assistance either through its own initiative or upon request of a federal district court, appropriate state or local officials, or other interested persons.

k. Office of Intelligence Policy and Review

The Office of Intelligence Policy and Review, under the direction of the Counsel for Intelligence Policy, is responsible for advising the Attorney General on all matters relating to the intelligence activities of the United States. The Office prepares and files all applications for surveillance under the Foreign Intelligence Surveillance Act of 1978. It assists intelligence agencies in developing regulatory and legislative proposals, providing legal advice to government agencies on intelligence law and policy, and represents the Department of Justice on interagency intelligence committees such as the National Foreign Intelligence Board.

The Office provides advice to the Attorney General and various client agencies, including the CIA, FBI, Defense and State Departments, concerning the legality of proposed or existing statutes, regulations and guidelines as well as intelligence operations.

l. Executive Office for United States Trustees

The United States Trustees are responsible for overseeing the administration of cases filed under the United States Bankruptcy Code, leaving traditional judicial functions as the sole concern of bankruptcy judges. Their offices play an important role in maintaining the integrity of the bankruptcy system and facilitating its operation. U.S. Trustees may raise and be heard on any issue in any bankruptcy case.

Specific responsibilities of the U.S. Trustees include appointing and supervising the performance of private trustees in individual cases, appointing and convening creditors' committees in Chapter 11 corporate reorganization cases, recommending court approval of trustees or examiners in such cases as needed, ensuring that the assets involved in bankruptcy cases are protected during the administration of cases and serving as trustee in cases where private trustees are unwilling to serve.

m. Office of Justice Programs

The Office of Justice Programs ("OJP"), headed by an Assistant Attorney General, oversees and coordinates the activities of five program offices primarily directed toward the goal of improving the law enforcement, criminal and juvenile justice systems at the state and local level: the Bureau of Justice Assistance, the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, and the Office for Victims of Crime. In addition, OJP has created several offices to implement grant programs provided by Congress, including the Executive Office of Weed and Seed, the Violence Against Women Office, the Corrections Office, and the Drug Court Office.

The Bureau of Justice Assistance administers block and discretionary grant programs to assist state and local criminal justice agencies. The Bureau of Justice Statistics is the premier criminal justice statistics agency in the world, providing the nation with statistical information, statistical analyses, and new and empirically-based ideas. The National Institute of Justice is the principal federal agency for research on criminal justice issues, testing of new law enforcement and criminal justice programs, and publication of reports for federal, state and local justice agencies. The Office of Juvenile Justice and Delinquency Prevention administers a state formula grant program for state and local governments designed to assist states in removing juveniles from adult jails, removing status offenders from institutions, separating adults from juveniles in correctional facilities, and addressing the over-representation of minority youth in secure facilities. The Office for Victims of Crime ("OVC") provides leadership to states and localities through the award of grants and contracts designed ultimately to balance the system of justice by supporting programs to compensate and assist victims. OVC also supports efforts to ensure that crime victims are an integral part of the federal criminal justice process and are afforded the fairness, respect, and courtesy which they deserve.

n. Executive Office for Immigration Review

The Attorney General is charged with the administration and enforcement of the Immigration and Nationality Act of 1952 and all other laws relating to the immigration and naturalization of aliens. The Attorney General has delegated certain aspects of this authority to administer and interpret the immigration laws to the Executive Office for Immigration Review ("EOIR"). The Executive Office is completely independent of the Immigration and Naturalization Service, the body charged with the enforcement of the immigration laws. EOIR consists of: the Office of the Director, the Board of Immigration Appeals, the Office of the Chief Immigration Judge and the Office of the Chief Administrative Hearing Officer.

The Board of Immigration Appeals' primary mission is to ensure that immigration laws receive uniform application throughout the United States. The Chief Immigration Judge supervises the immigration judges in the performance of their duties under the Immigration and Nationality Act. The Office of the Chief Administrative Hearing Officer provides overall program direction for the Administrative Law Judges that adjudicate cases arising under Sections

274A, 274B, and 274C of the Immigration and Nationality Act. The Chief Administrative Hearing Officer conducts administrative review and takes the final agency action with respect to cases decided by ALJs under Sections 274A and 274C, and certifies that ALJs have received the requisite training in employment discrimination matters to hear Section 274B cases.

5. Other Divisions

The Department of Justice has six legal divisions -- Antitrust, Civil, Civil Rights, Criminal, Environment and Natural Resources, and Tax -- and an administrative division, the Justice Management Division, each of which is headed by an Assistant Attorney General.

a. Civil Division

The Civil Division is responsible for representing the United States in all types of civil proceedings except those in specialized fields that are assigned to the other divisions of the Department. The Division is responsible for suits and claims on behalf of the government, suits filed against the government, and actions for injunctive relief and judicial review brought against Cabinet members, the heads of federal agencies and other government officials. These cases comprise the general civil litigation which arises out of the commercial and governmental activities of every federal department and agency, including tort litigation based on individual activities of civilian and military personnel in the course of their government service and civil actions to enforce various federal statutes. The Division also enforces federal consumer protection statutes through civil and criminal litigation.

The Civil Division represents the United States in cases brought in all federal district courts, the U.S. Courts of Appeals, U.S. Court of Federal Claims, and other federal courts, state courts and the courts of foreign nations. Litigation is conducted by Division attorneys, U.S. Attorneys or by foreign counsel acting under the general supervision of the Division.

b. Civil Rights Division

This Division, created by the passage of the Civil Rights Act of 1957, is responsible for enforcing federal civil rights laws and executive orders which prohibit discrimination on the basis of race, sex, age, disability, religion or national origin in the areas of voting, education, employment, credit and housing; in the use of public facilities and public accommodations; and in the administration of certain federally assisted programs.

The primary work of the Division is civil litigation seeking injunctions, damages and penalties in federal courts. Specialized units investigate and prosecute civil rights crimes, including the willful deprivation of constitutional rights by agencies or officials acting under color of state or federal law or through conspiracy and violent interference with federally protected activities, administrative review of state laws affecting voting, and coordination of antidiscrimination efforts by federal agencies.

c. Criminal Division

The Criminal Division coordinates the enforcement of all federal criminal statutes except a small number of specialized statutes assigned to other divisions. The Division's responsibility extends to overseeing criminal matters under more than 900 statutes handled in the field by the United States Attorney Offices. The Division also exercises supervision over international extradition proceedings; the enforcement of statutes through which federal departments and agencies regulate private activity, such as those involving customs and postal violations, conservation of wildlife, and safety of workers; civil and criminal litigation arising under the immigration and nationality laws; civil penalty and forfeiture actions; offers in compromise in pending criminal cases under the federal internal revenue laws in matters relating to liquor and narcotics; various types of civil litigation under the Controlled Substances Act; and appeals from rulings of the Administrator of the Drug Enforcement Administration.

The Division has special responsibility for coordinating federal, state and local law enforcement activities against organized crime, from the initial direction of an investigation by one or more investigative agencies through the handling of prosecution and appeal. For this purpose the Division maintains a number of Organized Crime Drug Enforcement Task Forces in metropolitan areas where the influence of organized crime is greatest.

Finally, the Division is responsible for processing requests for immunity clearance for witnesses in all criminal investigations. The Division is also informed of all investigations and prosecutions by other divisions of criminal violations not specifically assigned to that division, such as perjury, obstruction of justice and prosecutions under the RICO Act, 18 U.S.C. § 1961. (See Chapter III for the procedures followed by the Antitrust Division in notifying the Criminal Division of such matters.)

d. Environment and Natural Resources Division

The Environment and Natural Resources Division supervises all suits in the federal district courts, in the state courts, and in the Court of Federal Claims relating to public lands, natural resources, Indian lands and native claims, wildlife and fishery resources, and environmental quality.

The Division defends officers of the United States, handles injunction and mandamus proceedings and litigation arising from contracts whenever those matters affect the rights of the United States in the use or title of its real property, as well as suits challenging the government's administration of federal environmental laws.

The Division is responsible for criminal prosecutions for air, water and noise pollution, as well as criminal actions to protect the navigable waters and adjacent wetlands.

The Division is also charged with representing the interests of the United States in all

civil litigation (except civil rights cases) pertaining to Indians and Indian affairs, including the defense of Indian claims against the United States.

Except as delegated to the other departments and agencies, the Division passes upon the title to all real property and interests in real property acquired by the United States by direct purchase.

e. Tax Division

The Tax Division represents the United States in civil and criminal litigation arising under the Internal Revenue laws, other than proceedings in the United States Tax Court. While the Division's primary client is the Internal Revenue Service, it also represents such agencies as the Department of Defense and the Department of Energy in dealings with state and local tax authorities.

In criminal offenses under the internal revenue laws, the Division's responsibilities include the control and supervision of criminal proceedings and collaboration with United States Attorneys in the conduct of such proceedings in trial and appellate courts.

The Division aids the Internal Revenue Service in collecting the federal revenue, deters willful deception through prosecution of criminal offenders, and establishes legal principles which will serve as nationwide guidelines to taxpayers as well as to the Internal Revenue Service.

f. Justice Management Division

Under the direction of the Assistant Attorney General for Administration, the Justice Management Division provides assistance to senior management officials relating to basic Department policy for auditing, evaluation, budget and financial management, personnel management and training, equal opportunity programs, automatic data processing and telecommunications, security, records management, procurement, real property and material management, and for all other matters pertaining to organization, management and administration. The Division supplies automated litigation support as required to the Department of Justice and to other federal agencies involved in litigation. It also oversees and coordinates the implementation of a Department of Justice case management system. The Departmental Ethics Office is established within the Justice Management Division. In addition, the Division provides direct administrative support services to the Offices, Boards, and Divisions of the Department, certain services to the U.S. Marshals Service, and several department-wide central services.

6. Bureaus

a. Federal Bureau of Investigation

The Federal Bureau of Investigation ("FBI") is the principal investigative arm of the Department of Justice. It is charged with gathering and reporting facts, locating witnesses and compiling evidence in matters in which the federal government is, or may be, a party in interest. The FBI is charged with investigating all violations of federal laws with the exception of those which have been assigned by legislative enactment or otherwise to some other federal agency. The FBI's jurisdiction includes a wide range of responsibilities in the criminal, civil and security fields. Cooperative services provided by the FBI for other duly authorized law enforcement agencies include fingerprint identification, laboratory services, police training, and the National Crime Information Center.

The Antitrust Division uses the FBI to assist in investigations and in special projects. The procedures employed in requesting FBI assistance are explained in Chapter III, Section C.2. The requests are handled through the Deputy Assistant Attorney General for criminal enforcement.

b. Immigration and Naturalization Service

The Immigration and Naturalization Service ("INS") is responsible for administering and enforcing the immigration, naturalization, refugee and asylum laws relating to the admission, exclusion, deportation and naturalization of aliens. Specifically, the INS investigates aliens to determine their admissibility into the United States; adjudicates requests of aliens for benefits under the law; guards against illegal entry into the United States; investigates, apprehends and removes aliens who are in this country in violation of the law; and examines applications of aliens wishing to become citizens.

The Antitrust Division, through the Foreign Commerce Section, has used the INS to establish border watches when the Division is attempting to find witnesses or defendants who are physically outside the territorial United States. Procedures for requesting INS assistance are outlined in Chapter VII, Section D.3.

The Division has also entered into a Memorandum of Understanding ("MOU") with INS which establishes a protocol whereby the Division may petition the INS to preadjudicate the immigration status of a cooperating alien before the alien enters into a plea agreement with the Division or pleads to a crime. Division attorneys who wish to consider whether the MOU might be applicable in their matters should consult with the Director of Criminal Enforcement or the Deputy Assistant Attorney General for criminal enforcement before entering into discussions with counsel. See Chapter VII, Section D.3 (discussing the MOU).

c. Drug Enforcement Administration

The Drug Enforcement Administration ("DEA") is the primary narcotics enforcement

agency for the United States, as well as one of the largest regulatory bodies in the federal government, regulating controlled substances. In discharging its responsibilities, the DEA works to reduce supplies of domestic and imported illicit drugs and to reduce the diversion of legally produced controlled substances to the illicit market.

d. Federal Bureau of Prisons

The Federal Bureau of Prisons is responsible for the care and custody of those persons convicted of federal crimes and sentenced by the courts to incarceration in a federal penal institution. The Bureau oversees the operation of the federal prison system, consisting of correctional institutions and community treatment centers, as well as Federal Prison Industries (Unicor), a self-sustaining government corporation that provides work experience and industrial learning opportunities for inmates.

The National Institute of Corrections, which is authorized to carry out a program of technical assistance and training for state and local correctional personnel and others who work with offenders, also operates under the auspices of the Bureau of Prisons.

e. INTERPOL -- U.S. National Central Bureau

The United States National Central Bureau of the International Criminal Police Organization (INTERPOL) is responsible for facilitating international law enforcement cooperation on behalf of the Attorney General, pursuant to 22 U.S.C. § 263a.

f. United States Marshals Service

The U.S. Marshals Service has offices in each federal judicial district. The U.S. Marshals and their deputies serve both as officers of the federal courts and law enforcement agents of the Attorney General. The Marshals execute civil and criminal process issued by the federal courts, disperse funds and collect fees, maintain custody and control of evidence seized pursuant to federal statutes, maintain custody of federal prisoners from the time of their arrest to their commitment or release, and transport federal prisoners pursuant to lawful writs and direction from the Bureau of Prisons. The Marshals Service also protects witnesses whose lives and those of their families are jeopardized by their testimony; provides physical security for U.S. courtrooms and personal protection for federal judges, juries and attorneys; and provides law enforcement and security assistance to other federal agencies as required by the Attorney General.

7. Commissions

a. United States Parole Commission

The Commission is an independent agency in the Department of Justice created to carry out federal parole policy. It is authorized to grant or deny an application or recommendation to

parole any eligible prisoner, impose reasonable conditions on an order granting parole, modify or revoke an order paroling any eligible prisoner, and discharge from supervision and terminate the sentence prior to the expiration of this supervision. In addition, under the Landrum-Griffin Labor Act and the Employees Retirement Income Security Act of 1974, the Commission is responsible for special hearings and decisions about employment restrictions applicable to individual ex-offenders. The Commission is currently scheduled to be phased out on November 1, 2002.

b. Foreign Claims Settlement Commission

Pursuant to programs which may be authorized under its organic legislation, the Foreign Claims Settlement Commission has jurisdiction to determine claims for losses and injuries by United States nationals against foreign governments. Funds to satisfy these claims are obtained through international settlements or liquidation of foreign assets in this country by the Departments of Justice or Treasury.

B. Organization and Functions of the Antitrust Division

1. Creation

The Division's organizational roots can be traced to the creation of an Assistant to the Attorney General in March 1903, to take charge of all lawsuits filed under the antitrust and interstate commerce laws, and to assist the Attorney General and the Solicitor General in the conduct of the general executive work of the Department. The post was created under President Theodore Roosevelt and Attorney General Philander Knox.

With the growth of the economy and corporate enterprise during the early part of the 20th century, it became evident that the Department of Justice must have its own corps of specialists in antitrust law to cope with the increasing complexities of antitrust enforcement. Consequently, in 1933, under the administration of President Franklin D. Roosevelt and Attorney General Homer S. Cummings, the Antitrust Division was established. At that time, the Division employed 16 lawyers and had a budget of \$142,000.

Harold M. Stephens was appointed the first Assistant Attorney General in charge of the Antitrust Division. Among the individuals who held that position early in the Division's existence were John Lord O'Brian, William Donovan, Robert H. Jackson, Thurmond Arnold and Tom Clark.

2. Purpose

The mission of the Antitrust Division is the promotion and maintenance of competition in the American economy. Private anticompetitive conduct is subject to criminal and civil actions under the Sherman and Clayton Acts, statutes that prohibit conspiracies in restraint of trade, monopolization and anticompetitive mergers. Through participation in Executive Branch

activities and in regulatory and legislative processes, the Division seeks to ensure that government action is procompetitive or not unnecessarily anticompetitive. Through its own litigation, through amicus filings, and in a variety of other public forums, the Division also seeks to guide the advancement of antitrust jurisprudence.

The primary functions and goals of the Division include:

1. General criminal and civil enforcement of the federal antitrust laws and other laws relating to the protection of competition and the prohibition of restraints of trade and monopolization, including investigation of possible violations of antitrust laws, conduct of grand jury proceedings, issuance and enforcement of civil investigative demands, and prosecution of all litigation that arises out of such civil and criminal investigations.
2. Intervention or participation before administrative agencies functioning wholly, or partly, under the regulatory statutes in proceedings requiring consideration of the antitrust laws or competitive policies, including such agencies as the Commodities Futures Trading Commission, Federal Communications Commission, Federal Energy Regulatory Commission, Federal Maritime Commission, Federal Reserve Board, Nuclear Regulatory Commission, Securities and Exchange Commission, and Surface Transportation Board except proceedings referred to any agency by a federal court as incident to litigation being conducted under the supervision of another division within the Department.
3. Advocacy of procompetitive policies before other branches of government, including (a) developing and presenting legislative proposals of the Department relating to the antitrust laws and competition generally, and responding to requests for advice and comments on such matters from Congress and other agencies; (b) advising the President, the departments and other agencies of the Executive Branch on the competitive implications of governmental action; and (c) assembling information and preparing reports required or requested by the Congress or the Attorney General as to the effect of various federal laws or programs upon the maintenance and preservation of competition under the free enterprise system.

In addition to these primary functions, additional functions of the Antitrust Division are codified at 28 C.F.R. §§ 0.40, 0.41.

3. Organization

The organization of the Division is reflected in a formal chart approved by Congress and the Attorney General. Whereas temporary entities such as task forces can be established and reflected in the organizational chart approved by the Attorney General only, permanent changes require congressional approval.

The Division is supervised by an Assistant Attorney General ("AAG"). The AAG is

nominated by the President and confirmed by the Senate. The AAG is assisted by five Deputy Assistant Attorneys General who may be either career or non-career employees; at least one (the Deputy Assistant Attorney General for criminal enforcement) has traditionally been a career employee. Each section, task force, and field office reports to a particular Deputy Assistant Attorney General. The Director of Merger Enforcement, the Director of Criminal Enforcement, and the Director of Civil Non-merger Enforcement have additional supervisory authority for their respective programs and are career employees. The Division further consists currently of fifteen litigating components: eight sections and task forces in Washington and seven field offices in various cities around the country. These fifteen components each typically consist of a staff of attorneys and various support personnel including paralegals and secretaries. Each section, task force, and field office is headed by a Chief and Assistant Chief, and these components carry out the bulk of the Division's investigatory and litigation activities. The Division has several other components that perform specialized roles--including three economic sections, the Appellate Section, the Legal Policy Section, the Foreign Commerce Section, and the Executive Office.

a. Office of the Assistant Attorney General

(i) Assistant Attorney General

The Assistant Attorney General in charge of the Antitrust Division is responsible for leadership and oversight of all of the Division's programs and policies, and is the Division's chief representative. The Assistant Attorney General is assisted by five Deputy Assistant Attorneys General. The specific organizational units under the direction of each Deputy Assistant Attorney General are illustrated on the Division's organizational chart at the end of this Chapter. In addition, the Assistant Attorney General is often assisted by a Chief of Staff, who is responsible for managing the Office of the Assistant Attorney General. The Chief of Staff also advises the Assistant Attorney General on the formulation and implementation of highly sensitive antitrust policy issues of national economic importance, and coordinates that policy with other federal and state governmental agencies. The Assistant Attorney General may be assisted by several Senior or Special Counsel.

(ii) Deputy Assistant Attorneys General

The five Deputy Assistant Attorneys General are of equal rank, and the Assistant Attorney General will designate one of them to exercise the powers of Assistant Attorney General in his or her absence. In some cases, one of the Deputies may be given the title of "Principal Deputy"; the Principal Deputy is, in effect, "first among equals" among the Deputies and will be the one who typically assumes the powers of the Assistant Attorney General in the Assistant Attorney General's absence. If a vacancy occurs in the Assistant Attorney General's position, one of the deputies will be designated to serve as Acting Assistant Attorney General until a new Assistant Attorney General is confirmed.

Each of the five Deputy Assistant Attorneys General has a number of components that report to him or her as indicated on the organizational chart at the end of this Chapter. In some

unusual cases, a matter being handled by a particular component may be overseen by a Deputy other than the one with primary responsibility for that component; this generally happens if the matter falls more within another Deputy's area of expertise or if the Deputy who would otherwise have responsibility is recused. In addition, the responsibilities of the various Deputies vary from time to time depending upon the preferences of the Assistant Attorney General.

Typically, one Deputy has supervisory and management responsibility for the three economic sections--Economic Litigation, Economic Regulatory, and Competition Policy. This Deputy is referred to as the Deputy Assistant Attorney General for economic analysis and is an economist. The Deputy Assistant Attorney General for criminal enforcement has overall supervisory and management responsibility for the Litigation I Section and all of the Division's Field Offices, and is primarily responsible for the Division's criminal enforcement program. This Deputy is typically a career employee. Civil enforcement responsibilities are divided among the remaining three Deputies.

(iii) Directors of Enforcement

There are three Directors of Enforcement--a Director of Merger Enforcement, a Director of Civil Non-merger Enforcement, and a Director of Criminal Enforcement--who are career employees. The Directors of Enforcement have direct supervisory authority over the activities of the various sections, task forces, and field offices; the Directors work closely with the five Deputy Assistant Attorneys General in overseeing Division activities. Each of the three is responsible for matters arising out of the various Division components that fall within his or her particular area of responsibility. There are four Special Assistants to the Directors of Enforcement who generally serve for two years. The four Special Assistants are each assigned several sections and field offices and play a liaison role between those sections and the Directors, in addition to performing other activities, as assigned by the Directors. The senior Special Assistant also serves as the FTC Liaison Officer. Occasionally, additional Special Assistants may be designated to assist one or more of the Directors personally.

b. Office of Operations

The Office of Operations coordinates the administrative policies and procedures affecting the Division's operations and includes four administrative and support units: the Premerger Notification Unit/FTC Liaison Office, the Freedom of Information Act Unit, the Paralegal Unit, and the Training Unit. These units report to the Director of Operations (who also serves as one of the Directors of Enforcement). The functions of the Premerger Notification Unit/FTC Liaison Office are described in Chapter VII, Section A. The FOIA Unit receives, evaluates and processes all Freedom of Information and Privacy Act requests made of the Division. It also assists in the preparation of materials for state attorneys general under Section 4F of the Clayton Act, 15 U.S.C. 15f. See Chapter VII, Section C.3.a (describing 4F procedures). The Antitrust Documents group of the FOIA Unit also maintains and indexes pleadings, business review letters and other frequently used files. See Chapter VI, Section A.3 (describing the FOIA Unit); Chapter VII, Section G (describing FOIA procedures). The Paralegal Unit provides paralegal

support on request to investigations and cases handled in Washington and the field offices. The Training Unit coordinates training opportunities for Division personnel. See Chapter VI, Section A.7 (describing Division training programs).

c. Litigating Sections and Task Forces

Much of the civil investigative activities and litigation of the Division, as well as some criminal enforcement activity, are carried out by the eight Washington, D.C., litigating sections and task forces. A brief description of the activities of each follows.

(i) Computers and Finance Section ("CAF")

CAF is responsible for the enforcement of the antitrust laws and competition policy in the banking, finance, insurance, securities and computer industries, with the exception that bank merger proposals are reviewed by the Litigation II Section, and some computer industry matters are handled by the San Francisco Field Office. C&F participates in proceedings before the Federal Reserve Board, Federal Home Loan Bank Board, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, National Credit Union Administration, Securities and Exchange Commission, and the Commodities Futures Trading Commission.

(ii) Civil Task Force ("CTF")

CTF is responsible for civil non-merger antitrust enforcement in some assigned industries, in intellectual property matters, and in all industries not specifically assigned elsewhere. The work involves the investigation and prosecution of a variety of civil conduct under Sections 1 and 2 of the Sherman Act. CTF also handles merger matters in its assigned industries.

(iii) Health Care Task Force ("HCTF")

HCTF investigates and litigates civil merger and non-merger antitrust law violations involving the health care industry. In addition, HCTF provides legal guidance to the American health care industry through an extensive business review program.

(iv) Litigation I Section ("Lit I")

Lit I is responsible for conducting criminal investigations and litigation, and works in conjunction with its field office counterparts.

(v) Litigation II Section ("Lit II")

Lit II is responsible for the enforcement of the antitrust laws with regard to mergers and acquisitions in unregulated industries. It also handles some civil non-merger work in its assigned industries. Lit II reviews, investigates, and litigates matters in a large variety of industries. The Section is also responsible for the review of bank mergers.

(vi) Merger Task Force ("MTF")

MTF is responsible for the enforcement of the antitrust laws with regard to mergers and acquisitions in its assigned unregulated industries. It also handles some civil non-merger work in those industries. The section reviews, investigates, and litigates matters in a large variety of industries.

(vii) Telecommunications Task Force ("TTF")

TTF is responsible for the enforcement of the antitrust laws and competition advocacy in the communications industry, investigating and litigating violations of antitrust laws within that industry. TTF also participates in proceedings before the Federal Communications Commission.

(viii) Transportation, Energy and Agriculture Section ("TEA")

TEA has responsibility for the enforcement of the antitrust laws and the promotion of competition in transportation, energy, and agricultural commodities, investigating and litigating violations of antitrust laws within those industries. TEA participates in proceedings before such agencies as the Federal Maritime Commission, Federal Energy Regulatory Commission, Environmental Protection Agency, and Department of Agriculture. TEA is active in legislative activities relating to the deregulation of various transportation, energy and agricultural industries, and prepares a variety of reports to Congress and the Executive Branch on policy issues related to those commodities. In addition, the section is responsible for furnishing advice concerning surplus property disposal and the sale or lease of federal lands bearing oil, gas, and coal reserves.

d. Field Offices

The seven field offices of the Antitrust Division are responsible for conducting criminal investigations and litigation. Field offices also handle some civil merger and non-merger matters, depending on resource availability and particular expertise. These offices function in the same fashion as the litigating sections in Washington, and also act as the Division's field liaison with U.S. Attorneys, state attorneys general, and other law enforcement agencies within their areas.

Following are the geographic descriptions of each field office's jurisdiction:

Atlanta:	Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, Puerto Rico, U.S. Virgin Islands.
Chicago:	Colorado, Illinois, Indiana, Iowa, Kansas, West District of Michigan, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin.
Cleveland:	Kentucky, Eastern District of Michigan, Ohio, and West Virginia.

Dallas:	Texas, Oklahoma, Louisiana, New Mexico, and Arkansas.
New York:	Connecticut, Maine, Massachusetts, New Hampshire, Northern New Jersey, New York, Rhode Island, and Vermont.
Philadelphia:	Delaware, Maryland, Southern New Jersey, Pennsylvania, and Virginia.
San Francisco:	Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming.

e. Economic Sections

The Economic Analysis Group ("EAG") is comprised of three sections, the Economic Litigation Section, the Economic Regulatory Section, and the Competition Policy Section. The economic sections do not have investigative responsibilities that correlate directly with those of specific legal sections. Instead, matters are assigned to economist-managers primarily as a result of their industry experience, and those managers draw on EAG staff in any of the sections to undertake the analysis. Thus, it is not unusual for a matter to be under the economic supervision of a manager in one section, but staffed by economists from the other two sections.

(i) Economic Litigation Section ("ELS")

ELS often works in association with the legal staffs of Litigation I, Litigation II, Merger Task Force, Civil Task Force, Appellate Section, and with the attorneys and economists in the Division's field offices. The economic issues most often analyzed include the competitive effect of mergers and acquisitions, cartel behavior, and the competitive effects of various alleged trade restraints. ELS is responsible for the analysis of all economic issues that arise in these matters. Section economists are also available to serve as expert witnesses in court and agency proceedings.

This section also includes the Corporate Finance Unit ("CFU") which provides financial analyses of failing firm defenses, divestitures, and efficiencies defenses; makes recommendations as to fines; and reviews financial issues involved in damage analyses and other issues requiring financial, accounting and corporate analysis. Financial analysts are assigned to a matter as soon as it is apparent that issues requiring their assistance are present. Attorneys should be alert to the possibility that financial issues will arise in an investigation, and whenever that appears likely, they should seek the assistance of a financial analyst at the earliest opportunity. A full description of the activities of the Corporate Finance Unit is contained in Chapter VI.

(ii) Economic Regulatory Section ("ERS")

ERS economists work primarily in association with the legal staffs of the Transportation, Energy and Agriculture Section, Computers and Finance Section, Health Care Task Force, and

Telecommunications Task Force. Economists are assigned to all enforcement matters and participate fully in them from the initial investigative stage through their final resolution. Section economists participate in regulatory, competition advocacy, and legislative matters, where they are responsible for the analysis of the economic issues presented and the soundness of the economic positions advocated. In addition, they are responsible for analyzing the competitive effects of mergers and acquisitions in regulated industries. Section economists are also available to serve as expert witnesses in court and agency proceedings.

(iii) Competition Policy Section ("CPS")

CPS economists work extensively with Foreign Commerce Section attorneys on a variety of matters. Most notable in recent years has been assistance to foreign governments around the world. CPS assists foreign governments in writing antitrust laws, training antitrust officials, and evaluating specific competitive issues. CPS also handles many transportation and energy matters with the Transportation, Energy, and Agriculture Section, an assortment of insurance and computer matters with the Computers and Finance Section, and intellectual property assignments with the Civil Task Force.

f. Specialized Components

(i) Appellate Section

The Appellate Section represents the Division in all appeals to the United States Courts of Appeals and, in conjunction with the Solicitor General's Office, all appeals before the United States Supreme Court. This responsibility includes filing amicus briefs in selected private antitrust cases and in other cases where the Division's competition advocacy is considered appropriate. In addition to antitrust matters, the Section represents the United States as statutory respondent in proceedings to review orders of several federal agencies, such as the Surface Transportation Board and the Federal Communications Commission. Procedures relating to appeals in which the Division is involved, or may have an interest, are described in Chapter IV.G.

(ii) Foreign Commerce Section

The Foreign Commerce Section assists other sections in matters with international aspects and is primarily responsible, at staff level, for the development of Division policy on international antitrust enforcement and competition issues involving international trade and investment issues. The section handles the Division's relations and cooperation with international organizations and foreign antitrust enforcement agencies, including its compliance with notification and other obligations pursuant to various bilateral and multilateral agreements to which the United States is a party. The Division's activities regarding international organizations and notification procedures are more fully described in Chapter VII. Foreign Commerce also coordinates the Division's duties under the Export Trading Company Act of 1982. See *infra* Chapter III, Section H.3 (describing the Act).

(iii) Legal Policy Section

The Legal Policy Section provides analyses of complex antitrust policy matters for the Division and Department, as well as for submission to Congress. The section also coordinates the Division's legislative program and handles long-range planning projects and programs of special interest to the Assistant Attorney General. Legal Policy is involved in a broad spectrum of activities, including conducting studies and making recommendations relating to Division enforcement policies, reviewing investigations and case recommendations for legal and policy considerations, and developing and researching legislative matters that are of interest to the Division. The section's Legislative Unit is primarily responsible for coordinating the Division's relations with Congress and for responding to congressional requests and inquiries of the Division. Legal Policy is also responsible for all matters involving ethics and professional responsibility, and for other legal issues.

(iv) Executive Office

The Executive Office formulates and administers the Division's budget, manages its reporting and records, handles personnel matters, and provides information systems services for all Division activities.

(v) Information Systems Support Group

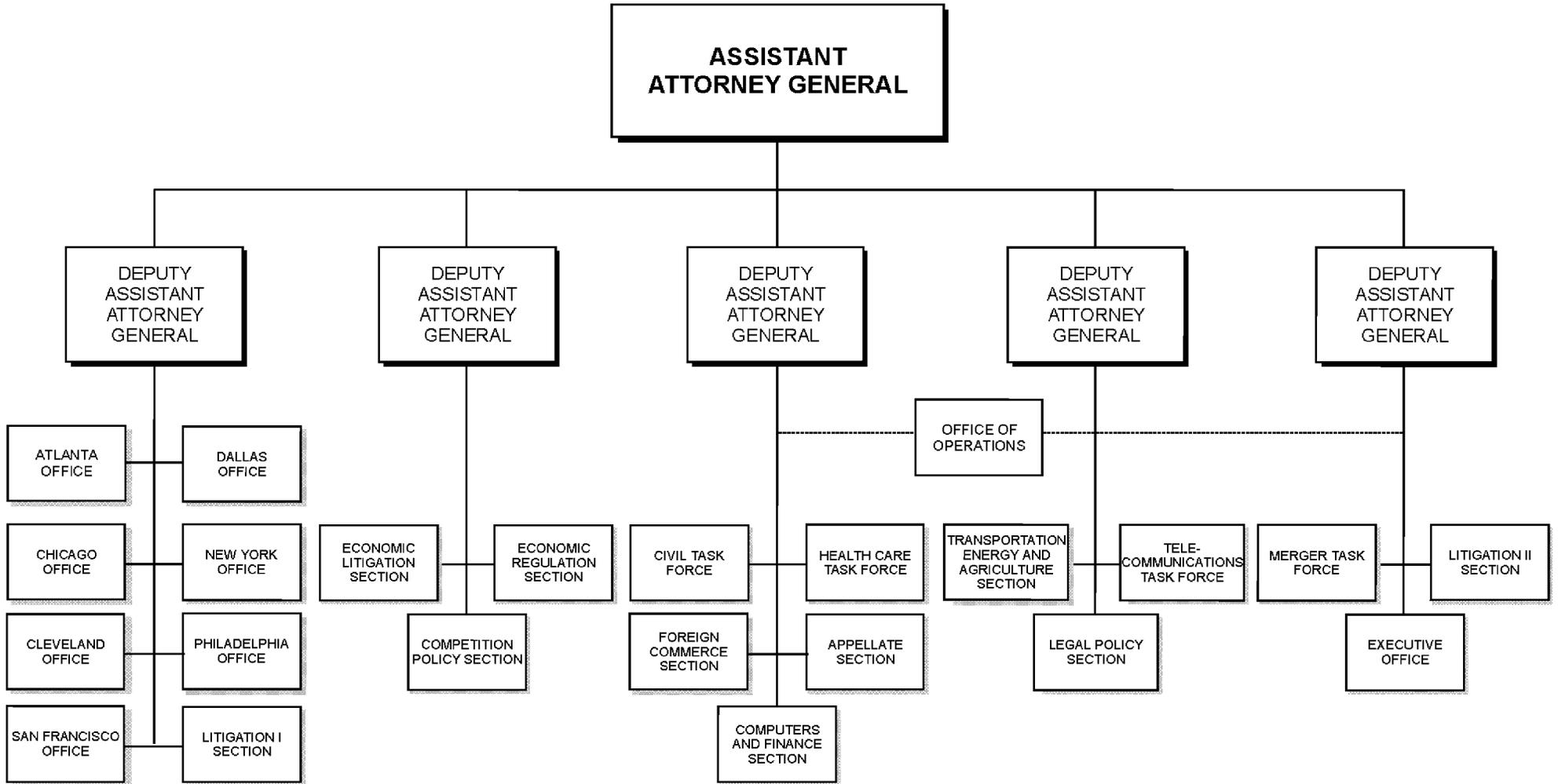
The Information Systems Support Group ("ISSG") is located within the Executive Office and is responsible for providing automated services and resources to handle information in support of the Division's attorneys, economists, and managers. ISSG applies automated data processing techniques in three major areas: automated litigation support and economic analysis, management information systems, and office automation systems. ISSG provides these support services through both government and contract personnel. ISSG makes extensive use of computer and data base management systems. Chapter VI, Section A.6 contains a description of ISSG services.

(vi) Antitrust Division Library System

The Division maintains libraries in Washington and in all seven field offices. Division libraries operate in conjunction with the Department of Justice's Main Library. Requests for information should be made to the Division Librarian, who coordinates access to automated research databases as well as printed materials and arranges interlibrary loans, as appropriate. Chapter VI details the types of information found in the Library.

Other services of the Antitrust Division are described at length in other Chapters of this Manual. Information services and liaison procedures with other agencies and organizations are described in Chapters VI and VII.

ANTITRUST DIVISION



Approved by:  _____ Date: 2/3/97

JANET RENO
Attorney General