



U.S. Department of Justice

Executive Office for United States Attorneys

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# United States Attorneys' Bulletin

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*Published by:*

*Executive Office for United States Attorneys, Washington, D.C.  
For the use of all U.S. Department of Justice Attorneys*

TABLE OF CONTENTS

	<u>Page</u>
COMMENDATIONS.....	441
POINTS TO REMEMBER	
Addendum To Possible Appeals To The Court Of Appeals For The Federal Circuit.....	443
Bluesheets and Transmittals, <u>United States Attorneys'</u> <u>Manual</u> .....	443
District Court Recommends Amending Rule 4.....	443
Errata - Department Of Justice Policy With Regard To Open Judicial Proceedings (32 USAB No. 13, at 364).....	444
Legislative Histories On Public Laws That Affect The Criminal Division.....	445
Personnel.....	451
Posting Of Bond Pending Appeal.....	452
Teletypes To All United States Attorneys.....	452
CASENOTES	
OFFICE OF THE SOLICITOR GENERAL	
Cases Recently Filed In The Supreme Court By The Solicitor General.....	453
CIVIL DIVISION	
Supreme Court Upholds Statutes Making The Reproduction Of Federal Currency And Obligations Illegal. <u>Regan v. Time, Inc.</u> .....	455
Supreme Court Upholds Park Service's Prohibition Against Camping In National Parks Of Washington, D.C., When Applied To Demonstrators Who Seek To Communicate Their Message By The Act Of Sleep. <u>William P. Clark v. Community for Creative Non-Violence...</u>	456
Supreme Court Unanimously Holds That The United States Is Not Liable To A Federal Employee For Honoring An Alimony And Support Garnishment Order Which is "Regular On Its Face," Regardless Of Whether The Underlying Divorce Judgment Was Issued By A Court Having Personal Jurisdic- tion Over The Employee. <u>United States v. Morton</u> .....	457
Supreme Court Holds That Statute Prohibiting Editorial- izing By Federally-Subsidized Public Radio And Tele- vision Stations Violates First Amendment. <u>FCC v. League Of Women Voters</u> .....	459
Supreme Court Rules That The Fourth Amendment's Exclu- sionary Rule Is Not Applicable In Civil Deportation Proceedings. <u>INS v. Adan Lopez-Mendoza and Elias Sandoval-Sanchez</u> .....	460

TABLE OF CONTENTS

	<u>Page</u>
D.C. Circuit Upholds "Good Cause" Exception To The APA To Dispense With Notice And Comment In Order To Comply With Time Constraints Imposed By The Omnibus Budget Reconciliation Act.	
<u>Petry v. Block</u> .....	461
D.C. Circuit Reverses District Court Order Requiring Disclosure Of Names Of FBI Agents Censured After Investigation Of Possible Cover-Up Of COINTELPRO Activities But Allows Disclosure Of Supervisor's Name.	
<u>Stern v. FBI</u> .....	462
Third Circuit Holds That State Must Transport Prisoner-Witness To Federal Court For Trial Of Federal Civil Rights Action.	
<u>Garland v. Sullivan</u> .....	463
Fifth Circuit Affirms Award Of Attorneys' Fees Against Government Under Section 2412(b) Of Equal Access To Justice Act Based On Finding Of Violation Of 42 U.S.C. §1983 But Reverses Award Of Interest On Fee Award.	
<u>Knights of the Klu Klux Klan v. East Baton Rouge Parish School Board</u> .....	464
Seventh Circuit Upholds Constitutionality Of Postal Service Regulation Prohibiting Solicitation Of Contributions And Sales Of Literature On Postal Service Property.	
<u>National Anti-Drug Coalition v. Bolger</u> .....	465
Eighth Circuit Holds In Abeyance The Validity Of A Certification Order, Issued By National Mediation Board While Two Of The Three Board Member Positions Were Vacant, Until The Board Rules On The Validity Of A Second Election Held After The Vacant Board Member Positions Were Filled.	
<u>Scheduled Skyways v. National Mediation Board</u> .....	466
LAND AND NATURAL RESOURCES DIVISION	
Taking; Manufacturer Of Pesticide Has Property Right In Health And Safety Data Submitted To EPA In Support Of Registration Application.	
<u>Ruckelshaus v. Monsanto Co.</u> .....	468

TABLE OF CONTENTS

	<u>Page</u>
Constitutional Law; No Violation Of Separation Of Power Occurs When Members Of Executive Branch Informally Consult With Members Of Congress During Executive's Decision-Making Process.	
<u>City of Alexandria v. United States</u> .....	469
 APPENDIX	
FEDERAL RULES OF CRIMINAL PROCEDURE, <u>Rule 6(d) Rule 54(c)</u> .	470
FEDERAL RULES OF CRIMINAL PROCEDURE, <u>Rule 54(c) Rule 6(d)</u> .	471
FEDERAL RULES OF CRIMINAL PROCEDURE, <u>Rule 42 (a)(b)</u> .....	472
FEDERAL RULES OF CRIMINAL PROCEDURE, <u>Rule 42 (b)(a)</u> (The above pages should be placed on permanent file, by Rule, in each United States Attorney's library.).....	474
Legislative Histories on Public Laws That Affect The Criminal Division (Child Protection Act of 1984, Pub. L. No. 98-292; Controlled Substance Registrant Protection Act of 1984, Pub. L. No. 98-305).....	475
<u>United States Attorneys' Manual</u> - Bluesheets.....	481
<u>United States Attorneys' Manual</u> - Transmittals.....	484
List of Teletypes to All United States Attorneys.....	493
List of United States Attorneys.....	494

COMMENDATIONS

Assistant United States Attorney BRUCE F. BLACK, District of Colorado, was commended by Mr. Gary R. Spratling, Acting Chief, Antitrust Division, Department of Justice, San Francisco, California, for his part in the joint effort that resulted in the Sherman Act conviction in United States v. Cowan Concrete Products. The case involved a ten-year price fixing and bid rigging conspiracy in the supply of ready-mix concrete.

Assistant United States Attorney THOMAS W. DAWSON, Northern District of Mississippi, was commended by Mr. Weldon L. Kennedy, Special Agent in Charge, Federal Bureau of Investigation, for his continuous support, interest in, and preparation of the United States' case against Dr. Joseph Villard and others. The case involved the misappropriation of 20 million dollars and resulted in the conviction of the three defendants.

Assistant United States Attorney JOE MICHAEL FITZHUGH, Western District of Arkansas, was commended by United States Attorney W. Asa Hutchinson, for his outstanding performance in securing an exceptionally favorable commission award in a major condemnation case, United States v. 230 Acres in Marion County, Arkansas. In the post-trial proceedings Assistant United States Attorney FITZHUGH succeeded in preserving the hard won victory.

Assistant United States Attorney LORRAINE I. GALLINGER, District of Montana, was commended by United States District Judge Russell E. Smith, District of Montana, for her thorough preparation and cross-examinations in United States v. Lane and Paulsen. This case involved conspiracy to defraud the United States by the abuse of Title XX and 4-A grants. Judge Smith stated that he had tried criminal cases in many jurisdictions, but had never seen a complicated case as well-prosecuted as this one.

Assistant United States Attorney RUSSELL HAYMAN, Central District of California, was commended by Mr. William B. Gibson, Acting Chief Patrol Agent, Immigration and Naturalization Service, Yuma, Arizona, for the successful prosecution of Ramon Valtierra-Bucio, an alien smuggling ring based in San Luis, Sonora, Mexico, and Los Angeles. The defendants were convicted of conspiracy and transporting and harboring illegal aliens.

Special Assistant United States Attorney MICHAEL K. SUAREZ, Southern District of Texas, was commended by Mr. Alan C. Nelson, Commissioner, Immigration and Naturalization Service, for his outstanding efforts in obtaining convictions in the case of United States v. Merkt.

Assistant United States Attorney DAVID W. WIECHERT, Central District of California, was commended by Mr. Gerald D. Gaines, Postal Inspector, Fraud Team Leader, Burbank, California, for his thorough preparation of United States v. Anthony King Edwards. The successful prosecution of seven defendants resulted in all defendants entering guilty pleas. Victims of the scheme were promised fabulous prizes for ordering an advertised speciality item and received, after purchasing COD or by credit card, an empty, box containing neither the prize nor the item ordered.

EXECUTIVE OFFICE FOR UNITED STATES ATTORNEYS  
William P. Tyson, Director

POINTS TO REMEMBER

Addendum to Possible Appeals to the Court of Appeals for the Federal Circuit

As we explained in our earlier memo (See, 32 USAB No. 11), appeals from district court decisions awarding money judgments of less than \$10,000 against the government under the Tucker Act, 28 U.S.C. §1346(a)(2), are now taken to the Court of Appeals for the Federal Circuit under the Federal Courts Improvement Act of 1982. In cases where it is unclear which court has appellate jurisdiction, appeals should be filed protectively in both the regional court of appeals and the Federal Circuit.

When, however, an appeal has been mistakenly filed in a regional circuit, a motion to transfer the appeal to the Federal Circuit pursuant to 28 U.S.C. §1631 should be filed. The Tenth Circuit recently granted such a motion in Sanford & Adams v. Caspar Weinberger, Nos. 84-1212, 84-1213. Sample motions can be obtained from Deborah R. Kant of the Appellate Staff, Civil Division, FTS 633-3424.

(Civil Division)

Bluesheets and Transmittals, United States Attorneys Manual

Updated Lists of United States Attorneys' Manual Bluesheets and Transmittals are appended to this Bulletin.

(Executive Office)

District Court Recommends Amending Rule 4

The United States District Court for the Western District of Pennsylvania held that a plaintiff who chooses to serve process on a defendant by first-class mail under Rule 4(c)(2)(C)(ii) of the Federal Rules of Civil Procedure must, if the defendant fails to acknowledge service, proceed by personal service the second time. The plaintiff may not serve the defendant by registered mail under state law as authorized by Rule 4(c)(2)(C)(i). Billy v. Ashland Oil, Inc., No. 84-30 (W.D. Pa. June 13, 1984).

In Billy v. Ashland Oil, Inc., the plaintiff served the defendant by first-class mail under Rule 4(c)(2)(C)(ii). The defendant received the summons and complaint, but did not acknowledge service. Then, the plaintiff tried to serve the defendant by certified mail under Rule 4(c)(2)(C)(i).

Rule 4(c)(2)(C)(ii) authorizes service of process by first class mail. It also states, "[i]f no acknowledgement of service is received by the sender within 20 days after the date of mailing, service of such summons and complaint shall be made under subparagraphs (A) or (B) of this paragraph . . . ." These subparagraphs describe personal service of process. Rule 4(c)(2)(C)(i) authorizes service on non-resident defendants "pursuant to the law of the state in which the district court is held."

The district court interpreted Rule 4(c)(2)(C)(ii) to require personal service when the defendant fails to acknowledge service by first-class mail. When a plaintiff elects to proceed under Rule 4(c)(2)(C)(ii), (s)he must serve the defendant personally on the second try. The court reasoned that personal service is required when Rule 4(c)(2)(D) is read together with Rule 4(c)(2)(C)(ii). Rule 4(c)(2)(D) permits a court to assess a defendant with the costs of personal service when a defendant, without good cause, fails to acknowledge service by first-class mail under Rule 4(c)(2)(C)(ii).

Despite its holding, the court stated that the defendant's actions must be criticized even though the Rule does not explicitly require that parties served actually return the notice and acknowledgement. The clear intent of the Rule is that the party served should return the notice and acknowledgement. A party may not simply ignore pleadings. The defendant breached an ethical and professional duty by failing to respond. The district court and the Debt Collection Section recommend amending Rule 4 to prevent parties from avoiding service.

(Executive Office)

Errata - Department of Justice Policy with Regard to Open Judicial Proceedings (32 USAB No. 13, at 364)

The first sentence of this item is corrected here to read ". . . which require government attorneys to secure approval by either the Deputy Attorney General for civil matters or the Associate Attorney General for criminal matters, prior to the attorneys moving for or agreeing to closure."

(Executive Office)



Legislative Histories on Public Laws That Affect The Criminal Division

As a regular service, the Criminal Division provides information and prepares Legislative Histories on Public Laws that affect the Division. Two recent Acts are outlined in some detail and the statutory changes or additions set forth in full. Other Acts from the 98th Congress are noted and the citation given. A legislative history has been compiled for each Public Law mentioned.

The two important pieces of criminal justice legislation enacted by the 98th Congress are:

Public Law 98-292 Child Protection Act of 1984

A summary and copy of the Public Law follow

Public Law 98-305 Controlled Substance Registrant Protection Act of 1984

A summary and copy of the Public Law follow

Public Law 98-292 CHILD PROTECTION ACT OF 1984

On May 21, 1984, President Reagan gave his approval to Public Law 98-292, which amends 18 U.S.C. §§2251-2253 and other statutes. The law strengthens the present statutes against child pornography by eliminating the burden of proving that child pornography is obscene under the complex Supreme Court test; by deleting the requirement of a commercial transaction; by adding civil and criminal forfeiture provisions; and by providing authorization for interception of wire or oral communications.

Since there are major language changes in 18 U.S.C. §§2251 and 2252, we are printing those sections in their entirety as they will now appear. Section 2253, "Definitions for chapter," has been redesignated as Section 2255. It is also reprinted here for your convenience. New Sections 2253 and 2254 are printed in their entirety in the public law which is appended to this Bulletin.

The law also requires that beginning 180 days after enactment the Attorney General report annually to the Congress on prosecutions, convictions, and forfeitures under these statutes. It is imperative that United States Attorneys maintain close

contact with the General Litigation and Legal Advice Section in connection with all child pornography cases so that this reporting obligation can be complied with accurately.

18 U.S.C. §2516, authorization for interception of wire or oral communications, is also amended to include 18 U.S.C. §§2251 and 2252 as Title III predicate offenses. Questions concerning this amendment should be directed to the Office of Enforcement Operations, 633-3684.

#### CHAPTER 110--SEXUAL EXPLOITATION OF CHILDREN

##### Section

- 2251 Sexual exploitation of children
- 2252 Certain activities relating to material involving the sexual exploitation of minors
- 2253 Criminal forfeiture
- 2254 Civil forfeiture
- 2255 Definitions for chapter

##### §2251 Sexual exploitation of children

(a) Any person who employs, uses, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist any other person to engage in, any sexually explicit conduct for the purpose of producing any visual depiction of such conduct, shall be punished as provided under subsection (c), if such person knows or has reason to know that such visual depiction will be transported in interstate or foreign commerce or mailed, or if such visual depiction has actually been transported in interstate or foreign commerce or mailed.

(b) Any parent, legal guardian, or person having custody or control of a minor who knowingly permits such minor to engage in, or to assist any other person to engage in, sexually explicit conduct for the purpose of producing any visual depiction of such conduct shall be punished as provided under subsection (c) of this section, if such parent, legal guardian, or person knows or has reason to know that such visual depiction will be transported in interstate or foreign commerce or mailed or if such visual depiction has actually been transported in interstate or foreign commerce or mailed.

(c) Any individual who violates this section shall be fined not more than \$100,000, or imprisoned not more than 10 years, or both, but, if such individual has a prior conviction under this section, such individual shall be fined not more than \$200,000, or

imprisoned not less than two years nor more than 15 years, or both. Any organization which violates this section shall be fined not more than \$250,000.

§2252 Certain activities related to material involving the sexual exploitation of minors

(a) Any person who--

(1) knowingly transports or ships in interstate or foreign commerce or mails, any visual depiction, if--

(A) the producing of such visual depiction involves the use of a minor engaged in sexually explicit conduct; and

(B) such visual depiction is of such conduct; or

(2) knowingly receives or distributes any visual depiction that has been transported or shipped in interstate or foreign commerce or mailed, or knowingly reproduces any visual depiction for distribution in interstate or foreign commerce or through the mails if--

(A) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and

(B) such visual depiction is of such conduct;

shall be punished as provided in subsection (b) of this section.

(b) Any individual who violates this section shall be fined not more than \$100,000, or imprisoned not more than 10 years, or both, but, if such individual has a prior conviction under this section, such individual shall be fined not more than \$200,000, or imprisoned not less than two years nor more than 15 years, or both. Any organization which violates this section shall be fined not more than \$250,000.

§2253 See Public Law

§2254 See Public Law

§2255 Definitions for chapter

For the purpose of this chapter, the term--

(1) "minor" means any person under the age of eighteen years;

(2) "sexually explicit conduct" means actual or simulated--

- (A) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;
  - (B) bestiality;
  - (C) masturbation;
  - (D) sadistic or masochistic abuse; or
  - (E) lascivious exhibition of the genitals or pubic areas of any person;
- (3) "producing" means producing, directing, manufacturing, issuing, publishing, or advertising, and
- (4) "organization" means a person other than an individual.

Public Law 98-305 CONTROLLED SUBSTANCE REGISTRANT PROTECTION ACT OF 1984

On May 31, 1984, President Reagan gave his approval to Public Law 98-305, which adds a new section to Title 18 as 18 U.S.C. §2118. This law provides a criminal penalty for robbery or burglary of a controlled substance.

Subsection (a) prohibits the taking or attempting to take from the person or presence of another by force or violence or by intimidation any material or compound containing any quantity of a controlled substance belonging to or in the care, custody, control, or possession of a person registered with the DEA under 21 U.S.C. §822. The penalty is a fine of not more than \$25,000 and/or imprisonment for not more than 20 years.

Subsection (b) prohibits the entering or attempting to enter or the remaining in, a business premises or property of a person registered with the DEA under 21 U.S.C. §822 with intent to steal any material or compound containing any quantity of controlled substances. The penalty is a fine of not more than \$25,000 and/or imprisonment for not more than twenty years.

Subsections (a) and (b) limit federal prosecution to cases 1) when the replacement cost of drugs taken exceeds \$500; 2) when the criminal engaged in such taking or entry or attempt travels in interstate or foreign commerce or uses any facility of commerce to facilitate the attempted entry or taking; or 3) when a person other than the criminal is killed or suffers significant bodily injury as a result of such taking, entry, or attempt.

Subsection (c)(1) enhances the penalties of Subsections (a) or (b) to 25 years and \$35,000 in the case of assaults or where life is put in jeopardy by the use of dangerous weapons or devices.

Subsection (c)(2) enhances the penalties under Subsections (a) or (b) to life imprisonment and/or \$50,000 when any person is killed.

Subsection (d) provides penalties of 10 years and/or \$25,000 for conspiracy to violate the provisions of Subsections (a) or (b).

Subsection (e) defines the terms "controlled substances," "business premises or property," and "significant bodily injury."

Section 4 requires the Attorney General to submit to Congress an annual report for each of the first three years after the date of enactment detailing the activities of the Department relating to the offenses established by this legislation.

Until formal guidelines are published in the United States Attorneys' Manual, the Narcotic and Dangerous Drug Section (724-7052) should be contacted with any questions regarding this Act.

#### Other Acts

There have been other Public Laws enacted by the 98th Congress which affect the Criminal Division. They are identified, their citations noted, and a brief description given. The text of the changes can be obtained if needed from the Office of Enforcement Operations, FTS 724-6657.

#### Public Law 98-38      SECURITIES EXCHANGE ACT OF 1934, AMENDMENT

An Act to amend certain amendments to sections of the Securities Exchange Act of 1934. The Act provides reimbursement regulations and filing fees and makes it unlawful for any broker or dealer required to register to effect any transaction in, or induce or attempt to induce the purchase or sale of, any security, unless such broker or dealer is a registered member of the securities association. 15 U.S.C. §§78d, 78m, 78n, 78o note.

#### Public Law 98-89

An Act to revise, consolidate, and enact certain laws related to vessels and seamen as Subtitle 11 of Title 46, United States Code, "Shipping." Provides criminal penalties for the operation

of a vessel in a negligent manner; the manufacturing and selling of defective equipment or vessels; the altering of inspection certificates; the tampering with or altering of the documented numbers of a vessel; violating the Carriage of Liquid Bulk Dangerous Cargoes chapter; coercing a witness's testimony in connection with a marine casualty; and the inappropriate conduct of a seaman. 46 U.S.C. §§2302, 3318, 3713, 3718, 4307, 4311, 6306, 11501, 11504, 12309.

Public Law 98-127 FEDERAL ANTI-TAMPERING ACT

An Act to amend Title 18 of the United States Code to prohibit tampering with consumer products. In the case of an attempt to injure an individual, a fine of \$25,000 and/or imprisonment of not more than ten years. If a death of an individual results, a fine of not more than \$100,000 and/or imprisonment for any term of years or for life. If serious bodily injury to any individual results, a fine of not more than \$100,000 and/or imprisonment of not more than twenty years. In any other case a fine of not more than \$50,000 and/or imprisonment of not more than ten years. Whoever tampers with a product to cause serious injury to the business of any person shall be fined not more than \$10,000 and/or imprisoned for not more than three years. Whoever communicates false information that a consumer product has been tainted shall be fined not more than \$25,000 and/or imprisoned for not more than five years. Whoever threatens to tamper with a product shall be fined not more than \$25,000 and/or imprisoned not more than five years. Whoever is a conspirator shall be fined \$25,000 and/or imprisoned for not more than ten years. Defines consumer product; labeling; serious bodily injury; and bodily injury. 18 U.S.C. §§1365, 1365 note.

Public Law 98-150 ETHICS IN GOVERNMENT ACT OF 1978, AMENDMENT

An Act to amend the Ethics in Government Act of 1978 to make certain changes in the authority of the Office of Government Ethics, and for other purposes. Specifically includes a five year term of service for the Director of the Office of Government Ethics. It redefines the authority of the Director and requires the submission of a budget to Congress. It authorizes the Director to request assistance from the inspector general of an agency for investigations. It authorizes the review of financial disclosure reports of high level White House aides, limits the outside earned income for the same aides. It requires the filing of an updated financial disclosure report for a Presidential nominee. Requires notice of actions taken to comply with ethics agreement and defines and amends a financial disclosure report for

qualified blind trust. It also requires a financial disclosure report for the staff of the Federal Advisory Committees. 2 U.S.C. §702; 5 U.S.C. App. §§201, 203, 210, 211, 212; 5 U.S.C. App. §§401, 402, 402 note, 404, 405, 407; and 28 U.S.C. App. §302.

Public Law 98-151 FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1984

This Joint Resolution makes further continuing appropriations for fiscal year 1984. It amends Title 18, United States Code, Section 510, to include forging of any endorsements or signature on Treasury checks, bonds or securities of the United States.

Public Law 98-186 MAIL ORDER CONSUMER PROTECTION AMENDMENTS OF 1983

An Act to amend Title 39, United States Code, to strengthen the investigatory and enforcement powers of the Postal Service by authorizing certain inspection authority and by providing for civil penalties for violations of orders under Section 3005. It also amends 39 U.S.C. §3005(a) by requiring a person or his/her representative to cease and desist from engaging in any such scheme, device, lottery, or gift enterprise. 39 U.S.C. §§3001 note, prec. §§3001, 3005, 3005 note, 3012, 3012 note, 3013.

Public Law 98-214 FEDERAL COMMUNICATIONS COMMISSION AUTHORIZATION ACT OF 1983

An Act to authorize appropriations for the Federal Communications Commission for fiscal years 1984 and 1985, and for other purposes. The criminal penalty concerns using telephones for obscene or indecent communications. 47 U.S.C. §§223, 223 note.

(Criminal Division)

Personnel

On July 23, 1984, Roger B. Clegg was appointed Associate Deputy Attorney General in the Office of the Deputy Attorney General. Mr. Clegg was formerly Acting Assistant Attorney General for the Office of Legal Policy.

On July 25, 1984, Caridad Matthews was appointed Associate Deputy Attorney General in the Office of the Deputy Attorney General. Ms. Matthews was formerly an Assistant United States Attorney in the Southern District of Florida.

On August 2, 1984, Anthony C. Liotta was sworn in as Assistant Attorney General for Administration, Justice Management Division. Mr. Liotta was formerly a Deputy Assistant Attorney General in the Land and Natural Resources Division and served as an Associate Deputy Attorney General in the Office of the Deputy Attorney General.

#### Posting of Bond Pending Appeal

When a defendant appeals a sentence imposing a criminal fine, the United States Attorney should take immediate steps to ensure collection of the fine. The government should file a motion with the court to require the defendant to deposit funds or post bond with the court. Rule 38(a)(3) of the Federal Rules of Criminal Procedure authorizes the court to order the defendant:

[T]o deposit the whole or any part of the fine and costs in the registry of the district court or to give bond for payment thereof, or to submit to an examination of assets, and it may make any appropriate order to restrain the defendant from dissipating his assets.

This motion is especially important if the defendant currently has funds to pay the fine. The court should not be rendered powerless to enforce its judgment if the defendant becomes insolvent and the judgment appealed from is affirmed.

When moving the court to order the defendant to post bond, the United States Attorney should emphasize factors considered by the court: the age of the defendant, the length of the prison sentence, the age which the defendant may be when released from prison, and the defendant's unknown liabilities. A copy of a sample motion and order can be obtained from the Debt Collection Section, Executive Office for United States Attorneys, at FTS 756-6287.

(Executive Office)

#### Teletypes To All United States Attorneys

A listing of the teletypes sent by the Executive Office during the period from July 27, 1984, through August 10, 1984, is attached as an appendix to this issue of the Bulletin. If a United States Attorney's office has not received one or more of these teletypes, copies may be obtained by contacting Ms. Theresa Bertucci, Chief of the Communications Center, Executive Office for United States Attorneys, at FTS 633-1020.

(Executive Office)



OFFICE OF THE SOLICITOR GENERAL  
Solicitor General Rex E. Lee

The Solicitor General has authorized the filing of:

A brief as amicus curiae in Brandon v. Holt, No. 83-1622. The question presented is whether an action for damages against a public officer in his/her official capacity may be treated as if it were brought against the officer in his/her individual capacity. The court of appeals held that an action brought against a Memphis police officer in his official capacity was in reality an action against the officer in his personal capacity. The United States takes the position that the Supreme Court should maintain clear distinctions between official-capacity and individual-capacity lawsuits and that plaintiffs should be required to state with specificity in their complaints the basis on which the named defendants should be held liable and the form of the relief the plaintiffs seek.

A petition for a writ of certiorari in Michigan Academy of Family Physicans v. Blue Cross and Blue Shield of Michigan, No. 81-1202 (6th Cir. Feb 23, 1984). The question presented is whether the district court had jurisdiction under 28 U.S.C. §1331 to entertain respondents' challenge to a regulation pertaining to the amount of benefits payable for medical services under Part B of the Medicare Program, notwithstanding the jurisdictional bar in 42 U.S.C. §§405(h) and 1395ff. The government will seek a remand for reconsideration in light of Heckler v. Ringer, No. 82-1772 (May 14, 1984), in which the Supreme Court held that individual Medicare claimants could not invoke jurisdiction under Section 1331 to challenge the Secretary's denial of reimbursement for a particular medical procedure.

A brief as amicus curiae supporting reversal in State of New Jersey v. T.L.O., A Juvenile, No. 83-712 (S. Ct.). The questions presented are the level of suspicion required for a public school teacher or administrator to conduct a search of a secondary school student's effects for evidence of violation of a school disciplinary rule and whether the search of a student's purse in this case complied with the Fourth Amendment.

A petition for a writ of certiorari in Southern Oregon Citizens Against Toxic Sprays (SOCATS) v. Clark, Nos. 83-3562 and 83-3655 (9th Cir.). The question presented is whether the Bureau of Land Management's environmental assessment of the health risks of using

certain herbicides on specific federal lands, which relied, in part, on the scientific examination of the health effects of the herbicides conducted by the EPA in registering the herbicides pursuant to the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. §136 et seq., satisfied the requirements of the National Environmental Policy Act, 42 U.S.C. §4321 et seq., and its implementing regulations, 40 C.F.R. Pt. 1500.

An appeal in Betty-Louise Felton v. Secretary of Education, No. 83-6359 (2d Cir.). The question presented is whether a New York City program, funded pursuant to Title I of the Elementary and Secondary Education Act of 1965, 20 U.S.C. §2701 et seq., as amended, violates the Establishment Clause by providing remedial education taught by public school teachers on the premises of parochial schools.

A petition for a writ of certiorari in Shearer v. United States, 723 F.2d 1102 (3d Cir. 1983). The questions presented are (1) whether the survivor of a member of the armed services who was murdered by another member of the armed services, while both were off duty and off base, may sue the government under the Federal Tort Claims Act even though the Act bars "[a]ny claim arising out of assault [or] battery"; and (2) whether such a suit, alleging that the negligence of the members of the armed services superior officers was responsible for the murder, is barred by the doctrine of Feres v. United States, 340 U.S. 135 (1950), which bars suits by members of the armed services for alleged torts incident to military service.

CIVIL DIVISION  
Acting Assistant Attorney General Richard K. Willard

Regan v. Time, Inc., \_\_\_ U.S. \_\_\_, No. 82-729 (July 3, 1984). D.J.  
# 145-3-2366.

SUPREME COURT UPHOLDS STATUTES MAKING THE  
REPRODUCTION OF FEDERAL CURRENCY AND OBLI-  
GATIONS ILLEGAL.

Faced with a great increase in counterfeiting, the Civil War Congress enacted 18 U.S.C. §474, which made it a crime to print, photograph, or in any other manner make an impression or likeness of federal securities and obligations. In 1958, at the prompting of the Treasury Department, legislation was enacted that codified Treasury's practice of granting exemptions from the statute's broad ban. Thus, Section 474 was amended to permit the printing of federal currency so long as it was for philatelic, numismatic, educational, historical or newsworthy purposes; the reproduction appeared in articles, books, journals, newspapers or albums; the pictures were in black and white; and the pictures were undersized or oversized. The new statute, 18 U.S.C. §504, was designed to allow some printing of federal currency, but to avoid creating conditions that would facilitate counterfeiting.

For years Time, Inc. and its family of magazines chafed under the restrictions of these statutes. Although never prosecuted, Time regularly violated the law by publishing likenesses of currency, or portions of currency, without regard to the size or color of the reproductions. Time ultimately sued to have both statutes declared unconstitutional, and the district court thereafter held that §474 was overbroad and that §504 was unconstitutionally vague and not sustainable as a valid time, place and manner regulation.

On all important points, the Supreme Court reversed. It held that neither §474 or §504 is unconstitutional on its face or as applied to Time, and that only the purpose requirement of §504--requiring that the Treasury Department distinguish among educational, historical, newsworthy, philatelic, numismatic and other purposes--violated the First Amendment. As to the color and size requirements, the key issue in this case because Time concedely was a publication serving newsworthy purposes, the Court

CIVIL DIVISION  
Acting Assistant Attorney General Richard K. Willard

found the limitations to constitute a valid time, place and manner restriction, not significantly different from the decibel level restrictions upheld in Kovacs v. Cooper, 336 U.S. 77 (1949), or the size and height limitations upheld by other courts.

Attorneys: Leonard Schaitman  
FTS 633-3441

Richard A. Olderman  
FTS 633-4052

William P. Clark v. Community for Creative Non-Violence, \_\_\_ U.S. \_\_\_,  
No. 82-1998 (June 29, 1984). D.J. # 145-7-778.

SUPREME COURT UPHOLDS PARK SERVICE'S PROHIBITION AGAINST CAMPING IN NATIONAL PARKS OF WASHINGTON, D.C., WHEN APPLIED TO DEMONSTRATORS WHO SEEK TO COMMUNICATE THEIR MESSAGE BY THE ACT OF SLEEP.

By regulation, the Interior Department prohibits camping in those national parks which are not specially designated for that purpose. Among the parks in which camping is prohibited are Lafayette Park, the Mall, and the Memorial-core area parks. Community for Creative Non-Violence (CCNV), a group that seeks to communicate the plight of the "homeless," obtained a permit to conduct a demonstration in Lafayette Park and on the Mall during the winter months. The permit expressly noted the camping prohibition. In a novel First Amendment challenge to this ban, the CCNV filed this action, contending that demonstration participants planned to sleep as part of their demonstration, that such sleep would constitute "speech" protected by the First Amendment, and that their speech interest outweighed any of the government's interests in restricting camping activities. The district court dismissed the action, but a divided en banc court of appeals reversed, enjoining enforcement of the camping ban with respect to the plaintiffs. We successfully sought a stay pending certiorari from the Supreme Court.

CIVIL DIVISION  
Acting Assistant Attorney General Richard K. Willard

In a 7-2 decision, the Supreme Court has now upheld Interior's camping restriction as applied to the CCNV and its planned demonstration. The majority held that even assuming arguendo that, in the context of CCNV's demonstration, sleep would be expressive conduct protected by the First Amendment, the camping regulation is valid. In the majority opinion (White, J.), the Court found that the regulation passes constitutional muster either as a time, place, or manner restriction or as a regulation of symbolic conduct. In a concurring opinion, Chief Justice Burger stated that the proposed "sleep" did not constitute protected "speech" within the meaning of the First Amendment. Justice Marshall, joined by Justice Brennan, wrote a dissenting opinion in which he stated that a balancing test should be applied to the competing interests in this context, and that, under such a test, the demonstrators' speech interest in camping outweighs the government's interest in banning it in these parks.

Attorneys: Leonard Schaitman  
FTS 633-3441

Katherine S. Gruenheck  
FTS 633-4825

United States v. Morton, \_\_\_ U.S. \_\_\_, No. 83-916 (June 19, 1984).  
D.J. # 154-290-77.

SUPREME COURT UNANIMOUSLY HOLDS THAT THE UNITED STATES IS NOT LIABLE TO A FEDERAL EMPLOYEE FOR HONORING AN ALIMONY AND SUPPORT GARNISHMENT ORDER WHICH IS "REGULAR ON ITS FACE," REGARDLESS OF WHETHER THE UNDERLYING DIVORCE JUDGMENT WAS ISSUED BY A COURT HAVING PERSONAL JURISDICTION OVER THE EMPLOYEE.

A military officer brought this suit seeking reimbursement of funds garnished from his salary pursuant to 42 U.S.C. §659, which permits the garnishment of federal salaries to satisfy alimony and

CIVIL DIVISION  
Acting Assistant Attorney General Richard K. Willard

child support orders. Section 659 also provides, however, that the United States, its agencies and officers shall not be liable when they honor a garnishment "pursuant to legal process regular on its face," defined in 42 U.S.C. §662(e) as an order "issued by a court of competent jurisdiction." The officer contended that because the facially valid garnishment order in issue here rested on a divorce judgment entered by a state court that did not have personal jurisdiction over him, the garnishment did not satisfy the statutory requirements and was improperly paid. A divided panel of the Federal Circuit affirmed the judgment in favor of the officer, holding that where, as here, the agency has been notified by the employee of a flaw in the underlying judgment, the government cannot rely on the presumptive validity of the garnishment order but must verify that it rests on a valid judgment.

In a unanimous opinion, the Supreme Court has reversed. The Court agreed with our arguments that by the plain terms of the statute, Congress limited its waiver of sovereign immunity by undertaking to pay a garnishment order "regular on its face," and that this limitation, as well as the statutory purpose of facilitating the payment of alimony and child support obligations of federal employees, would be defeated by an interpretation requiring the agency to look behind a facially valid writ and make an independent determination of the jurisdiction of the court which entered the underlying judgment. This decision will greatly clarify the obligations of federal agencies in honoring alimony and support garnishments, and will facilitate their prompt payment in accordance with Congress's intent.

Attorneys: Leonard Schaitman  
FTS 633-3441

Wendy Keats  
FTS 633-3355

CIVIL DIVISION  
Acting Assistant Attorney General Richard K. Willard

FCC v. League of Women Voters, \_\_\_ U.S. \_\_\_, No. 82-912 (July 2, 1984). D.J. # 82-12c-69.

SUPREME COURT HOLDS THAT STATUTE PROHIBITING  
EDITORIALIZING BY FEDERALLY-SUBSIDIZED PUBLIC  
RADIO AND TELEVISION STATIONS VIOLATES FIRST  
AMENDMENT.

On August 6, 1982, the district court declared unconstitutional and enjoined enforcement of 47 U.S.C. §399 insofar as it prohibits editorializing by public television and radio stations that receive grants from the Corporation for Public Broadcasting. This case is well known, particularly because the Justice Department had initially declined to defend the statute at issue but altered its course under the present Administration. Since the early decision not to defend, however, the statute has been amended in an important respect, and plaintiffs accordingly narrowed their challenge.

On December 1, 1982, we filed a jurisdictional statement with the Supreme Court, seeking a direct appeal under 28 U.S.C. §1252. Plaintiffs opposed and, among other things, contested the Court's jurisdiction to entertain the appeal. On February 28, 1983, the Court postponed further consideration of the jurisdictional question until the case was heard on the merits.

On July 2, 1984, the Supreme Court affirmed the district court in a 5-4 decision. The Court first held that it did have jurisdiction over the appeal under 28 U.S.C. §1252. It then held that the total ban on editorializing was not justified by the interest in precluding political interference with the content of the editorials.

Attorneys: Anthony J. Steinmeyer  
FTS 633-3388

Michael J. Singer  
FTS 633-4815

CIVIL DIVISION  
Acting Assistant Attorney General Richard K. Willard

INS v. Adan Lopez-Mendoza and Elias Sandoval-Sanchez, \_\_\_ U.S. \_\_\_,  
No. 83-491 (July 5, 1984). D.J. # 39-11-1366.

SUPREME COURT RULES THAT THE FOURTH AMEND-  
MENT'S EXCLUSIONARY RULE IS NOT APPLICABLE IN  
CIVIL DEPORTATION PROCEEDINGS.

In a 5-4 decision, the Supreme Court has reversed an en banc decision of the Ninth Circuit and has held that the Fourth Amendment's exclusionary rule is not applicable in civil deportation proceedings. Recognizing that deportation proceedings are not intended to punish past conduct, but only to determine an alien's right to remain in this country, the Court weighed the deterrence of future unlawful conduct to be expected from application of the exclusionary rule and concluded that application in deportation proceedings, which are purely civil in nature, was not warranted. In its balancing, the Court expressly reiterated the rule recognized in United States ex rel. Bilokumsky v. Tod, 263 U.S. 149 (1923), that an adverse inference may be drawn from an alien's silence at a deportation proceeding.

Attorneys: Barbara L. Herwig  
FTS 633-5425

Howard S. Scher  
FTS 633-4820



CIVIL DIVISION  
Acting Assistant Attorney General Richard K. Willard

Petry v. Block, No. 83-1612 (June 29, 1984). D.J. # 145-8-1519.

D.C. CIRCUIT UPHOLDS "GOOD CAUSE" EXCEPTION  
TO THE APA TO DISPENSE WITH NOTICE AND COMMENT  
IN ORDER TO COMPLY WITH TIME CONSTRAINTS  
IMPOSED BY THE OMNIBUS BUDGET RECONCILIATION  
ACT.

Pursuant to the Omnibus Budget Reconciliation Act (OBRA) of 1981, Congress ordered the Department of Agriculture's Child Care Food Program to reduce by 10% the reimbursement to sponsoring agencies. OBRA was enacted into law on August 13, 1981. Congress ordered implementing regulations to be effective by January 1, 1982. It soon became apparent that a permanent regulation could not be completed in sufficient time to allow publication as a proposed rule with a 60-day notice and comment period, as well as a period to digest comments, before the statutory effective date of January 1, 1982. Accordingly, on the basis that it had "good cause," the agency promulgated an interim regulation without notice and comment. The interim rule was subsequently replaced by a permanent rule, promulgated after notice and comment rule-making, which nonetheless did not differ from the interim rule.

The D.C. Circuit has upheld the interim and permanent rules. The court held that it was reasonable for the agency to conclude that insufficient time remained for a reasonable notice and comment period, and that the agency's invocation of the good cause exception was completely justified. Finally, the court observed that even if it were to hold that the good cause exception had not been properly invoked, it could nevertheless affirm the rule on the ground that a court exercising equitable powers in reviewing

CIVIL DIVISION  
Acting Assistant Attorney General Richard K. Willard

agency action "must act within the bounds of the statute and without intruding upon the administrative province, [and] may adjust its relief to the exigencies of the case." Here, the interim rule had been superseded by the permanent rule, and there was no viable challenge to the permanent rule.

Attorneys: Robert E. Kopp  
FTS 633-3311

Freddie Lipstein  
FTS 633-4825

Stern v. FBI, No. 83-1861 (June 15, 1984). D.J. # 145-12-4999.

D.C. CIRCUIT REVERSES DISTRICT COURT ORDER  
REQUIRING DISCLOSURE OF NAMES OF FBI AGENTS  
CENSURED AFTER INVESTIGATION OF POSSIBLE  
COVER-UP OF COINTELPRO ACTIVITIES BUT ALLOWS  
DISCLOSURE OF SUPERVISOR'S NAME.

Carl Stern, a NBC news reporter, made a Freedom of Information Act (FOIA) request for the names of three FBI agents who were investigated in connection with the FBI's failure to make full and timely disclosure of its COINTELPRO activities in response to congressional inquiries and to discovery in a suit against federal officials filed by the Socialist Workers Party. No criminal charges were brought against the agents but they were censured for negligent job performance. The district court held that no FOIA exemptions applied and ordered the names disclosed.

On appeal, the D.C. Circuit reversed, holding that disclosure of the names of two of the agents would constitute an "unwarranted invasion of privacy" under Exemption 7(C). The court affirmed the decision to disclose the name of the third agent, however, since he was a "high-level employee who was found to have participated deliberately and knowingly in the withholding of damaging information in an important inquiry." The opinion should help in protecting the privacy rights of government employees since, in contrast to earlier D.C. Circuit opinions, it explicitly recognizes a privacy interest that "arises in part from the

CIVIL DIVISION  
Acting Assistant Attorney General Richard K. Willard

presumed embarrassment or stigma wrought by negative disclosures" and also more generally in "nondisclosure of diverse bits and pieces of information, both positive and negative, that the government, acting as an employer, has obtained and kept in the employee's personnel file." In addition, the disclosure of the third agent's name was narrowly based on his high-level and knowing participation in deception.

Attorneys: Leonard Schaitman  
FTS 633-3441

Christine Whittaker  
FTS 633-4096

Garland v. Sullivan, No. 83-1283 (June 27, 1984). D.J. # 145-13-893.

THIRD CIRCUIT HOLDS THAT STATE MUST TRANSPORT  
PRISONER-WITNESS TO FEDERAL COURT FOR TRIAL OF  
FEDERAL CIVIL RIGHTS ACTION.

The United States Marshals Service, an intervenor in this case, appealed from a magistrate's order in a pending civil rights action directing the United States Marshal to transport a state prisoner-witness from the nearest county jail to the federal courthouse and to maintain custody of that prisoner while he was in the courthouse. The state Bureau of Corrections, the county sheriff and the city also intervened to defend the order.

The Third Circuit accepted our arguments that the magistrate lacked statutory authority to shift the burden of expense of complying with the writ from the state, which was custodian of the prisoner, to the federal treasury and, accordingly, reversed the district court order. The court held, however, that concern for courthouse security authorized federal trial courts to direct the Marshal to take custody of state prisoner-witnesses whenever they are in a federal courthouse for the purposes of testimony and not only when a special security risk was involved. Although the Third Circuit did not relieve the Marshal of courthouse custody, the Marshals Service views the decision as a significant victory,

CIVIL DIVISION  
Acting Assistant Attorney General Richard K. Willard

because it will save considerable transportation and related custody expenses. The decision is also helpful because other circuits considering this issue have generally upheld cost-splitting arrangements.

Attorneys: Barbara L. Herwig  
FTS 633-3441

Christine Whittaker  
FTS 633-4096

Knights of the Ku Klux Klan v. East Baton Rouge Parish School Board, No. 83-3292 (July 9, 1984). D.J. # 145-16-882.

FIFTH CIRCUIT AFFIRMS AWARD OF ATTORNEYS' FEES AGAINST GOVERNMENT UNDER SECTION 2412(b) OF EQUAL ACCESS TO JUSTICE ACT BASED ON FINDING OF VIOLATION OF 42 U.S.C. §1983 BUT REVERSES AWARD OF INTEREST ON FEE AWARD.

In 1975, acting in response to pressure from the Department of Education (formerly HEW), the East Baton Rouge Parish School Board denied the Ku Klux Klan the right to use a school gymnasium after-hours to hold a rally. The Klan sued both the school board and HEW under 42 U.S.C. §§1983 and 1985, and was ultimately granted permanent injunctive relief. When the Klan sought attorneys' fees under 42 U.S.C. §1988, the Fifth Circuit held that the government had not waived its sovereign immunity under §1988, but that the Board was liable for fees under that statute. While the court of appeals' ruling on these points was pending on a petition for certiorari before the Supreme Court, the Equal Access to Justice Act (EAJA) went into effect, and the Supreme Court vacated and remanded the case for reconsideration in light of the EAJA's provisions. On remand, the district court awarded the Klan approximately \$20,000 in fees and directed the government to pay ninety percent of the award and the school board ten percent. The majority of the award represented work done by the Klan's counsel on the §1988 issue.

## CIVIL DIVISION

Acting Assistant Attorney General Richard K. Willard

On appeal, the Fifth Circuit sustained the award under subsection (b) of the EAJA, which makes the government liable for attorneys' fees under statutory exceptions to the American rule prohibiting fee-shifting. Because the court of appeals concluded that the record supported a finding of state action in which the government had played a significant contributing role, it held that the government had violated §1983 and therefore was liable for fees under §1988, pursuant to section 2412(b) of the EAJA, without regard to whether its litigation position had been "substantially justified." It therefore declined to reach the more controversial issue of whether subsection (b) of the EAJA imposes liability on the government for conduct "analogous to" that which would violate §1983.

The court also rejected our argument that the Klan had not "prevailed" on the §1988 issue and therefore was not entitled to fees for work done on that question. Instead, it reasoned that since the EAJA was enacted at a time when the case was still pending, the Klan had prevailed "on the issue of entitlement to attorneys' fees" and should receive fees for work done on that issue, regardless of the "windfall dimension" of such an award. Finally, the court held that the district court had improperly awarded the Klan post-judgment interest on the fee award in view of the fact that no statutory provision, either in the EAJA or elsewhere, expressly provides for such an award.

Attorneys: William Kanter  
FTS 633-1597

Melissa Clerk  
FTS 633-5431

National Anti-Drug Coalition v. Bolger, No. 83-1688 (June 26, 1984). D.J. # 145-5-5522.

SEVENTH CIRCUIT UPHOLDS CONSTITUTIONALITY OF  
POSTAL SERVICE REGULATION PROHIBITING  
SOLICITATION OF CONTRIBUTIONS AND SALES OF  
LITERATURE ON POSTAL SERVICE PROPERTY.

A Postal Service regulation prohibits the solicitation of contributions and the sale of literature on post office property, including post-office interiors and post-office-owned sidewalks used only for entrance to and exit from post offices. Plaintiff challenged this regulation as being violative of its First Amendment and Equal Protection rights.

## CIVIL DIVISION

Acting Assistant Attorney General Richard K. Willard

The Seventh Circuit declined to determine whether post office premises constituted traditional or designated public forums, but assuming that they did, it upheld the regulation as a reasonable, content-neutral "manner" restriction on plaintiffs' rights. The court found the regulation to be narrowly tailored to serve the significant governmental interest of providing postal patrons with prompt, reliable, and efficient service. The court also held that the regulation, which does not prohibit the free distribution of literature, provided more than ample alternatives for the free expression of speech. Judge Wood dissented insofar as the ruling applied to post-office exteriors; he would have remanded for further development of the record.

Attorneys: Anthony J. Steinmeyer  
FTS 633-3388

Marc Richman  
FTS 633-5735

Scheduled Skyways v. National Mediation Board, Nos. 83-1941, 83-2162 (8th Cir. July 6, 1984). D.J. # 145-135-66.

EIGHTH CIRCUIT HOLDS IN ABEYANCE THE VALIDITY OF A CERTIFICATION ORDER, ISSUED BY NATIONAL MEDIATION BOARD WHILE TWO OF THE THREE BOARD MEMBER POSITIONS WERE VACANT, UNTIL THE BOARD RULES ON THE VALIDITY OF A SECOND ELECTION HELD AFTER THE VACANT BOARD MEMBER POSITIONS WERE FILLED.

Following a representational election, the National Mediation Board (NMB) certified the Air Line Pilots Association as bargaining representative for the pilots employed by Scheduled Skyways. At the time of the certification, the membership of the NMB had been reduced from three members to one. In issuing the challenged certification order, the one remaining member acted pursuant to a delegation order issued when the Board still had two members, the statutory quorum for the transaction of the Board's business. The delegation order was issued pursuant to express

CIVIL DIVISION  
Acting Assistant Attorney General Richard K. Willard

statutory authority and authorized the remaining member to exercise all powers of the Board. The employer challenged the authority of the single remaining member to act in the absence of a statutory quorum. The district court upheld the employer's challenge and held that the certification order was invalid. While NMB's appeal was pending, it held a new representational election, but the union lost. The Board has not certified the results of the second election, however, because the union filed objections claiming that the employer had improperly influenced some of the voters. Meanwhile, the Board's appeal to the Eighth Circuit continued.

The Eighth Circuit has now ruled that it will hold the Board's appeal in abeyance until the Board rules on the validity of a second election because, in the court's view, the issue regarding the certification of the first election may be moot in light of the second election. The court stated that it "expect[s] the NMB to issue its ruling no later than 30 days from the filing of this opinion." The court also rejected the union's contention that it was entitled to be recognized as the bargaining representative regardless of the validity of the certification order because a majority of the members had voted in favor of union representation in the first election. The court ruled that under the statute the authority to act on representational disputes was placed on the NMB, not the courts.

We and the NMB are considering what action to take in response to this decision. Prior to the Eighth Circuit's ruling, the D.C. Circuit had upheld the validity of a certification order issued by the single remaining member under the same delegation order at issue in this case. In addition, another case challenging the authority of one member of the NMB to act pursuant to the delegation order is pending in the Ninth Circuit.

Attorneys: Anthony J. Steinmeyer  
FTS 633-3388

John C. Hoyle  
FTS 633-3547

LAND AND NATURAL RESOURCES DIVISION  
Assistant Attorney General F. Henry Habicht, II

Ruckelshaus v. Monsanto Co., \_\_\_ U.S. \_\_\_, No. 83-196 (June 26, 1984). D.J. # 1-656.

TAKING; MANUFACTURER OF PESTICIDE HAS PROPERTY  
RIGHT IN HEALTH AND SAFETY DATA SUBMITTED  
TO EPA IN SUPPORT OF REGISTRATION APPLICATION.

On our appeal, the Supreme Court, through Justice Blackmun, vacated a district court judgment that had enjoined the implementation of key provisions of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). The statute authorizes EPA to disclose health and safety data submitted by companies in support of applications to register pesticides and also permitted EPA, under certain conditions, to rely on that data to grant registrations for the same pesticide to other firms. The court held that Monsanto had a property right protected by the Fifth Amendment's Taking Clause to the extent its interest in the data was protected as a trade secret under state law. The court held, however, that there was no taking of that property right for data submitted after the 1978 amendments to FIFRA or before the 1972 amendments because Monsanto could not have had a reasonable, investment-backed expectation of continued rights of confidentiality and exclusive use. But, because the 1972 amendments promised such rights, there could be a taking whenever EPA disclosed or relied on data submitted after 1972 but before the 1978 amendments. The court further ruled that any taking would be for a public use, and also held that the availability of a Tucker Act remedy for just compensation precluded any injunctive relief. Under the court's interpretation, a data submitter must first exhaust its statutory compensation remedy under the mandatory arbitration scheme and then proceed under the Tucker Act for any shortfall in compensation. Finally, the remaining constitutional challenges to the arbitration and compensation scheme were not ripe for review because Monsanto had not yet participated in an arbitration under the statute. Justice O'Connor dissented in part and would have held that there was a taking as to data submitted before the 1972 amendments.

Attorneys: John A. Bryson  
FTS 633-2740

Anne S. Almy  
FTS 633-4427



LAND AND NATURAL RESOURCES DIVISION  
Assistant Attorney General F. Henry Habicht, II

City of Alexandria v. United States, \_\_\_ F.2d. \_\_\_, No. 84-713 (Fed. Cir. June 21, 1984). D.J. #90-1-23-2550.

CONSTITUTIONAL LAW; NO VIOLATION OF SEPARATION OF POWER OCCURS WHEN MEMBERS OF EXECUTIVE BRANCH INFORMALLY CONSULT WITH MEMBERS OF CONGRESS DURING EXECUTIVE'S DECISION-MAKING PROCESS.

Very favorable decision reversing the Claims Court's summary judgment for the City. This case, which began as a contract dispute between the City and GSA over the sale of surplus federal land, turned into a constitutional oddity when the Claims Court based an implied contract in the City's favor on the existence of a "de facto" legislative veto impermissibly lurking in GSA's practice of engaging in informal consultations with congressional committees concerning the disposal of surplus federal land. In reversing, the Federal Circuit became the first court of appeals to place an outer limit on the Supreme Court's decision in INS v. Chadha, 103 S. Ct. 2764 (1983), holding that no violation of separation of powers occurs when members of the Executive Branch informally consult with, and are influenced by, members of Congress during the Executive's decision-making process.

The City had argued, in the alternative for affirmance on the basis of equitable estoppel. In rejecting the City's arguments, the Federal Circuit became the first court of appeals to elaborate on the Supreme Court's decision this term in Heckler v. Community Health Service of Crawford County, Inc., 52 U.S.L.W. 4621 (May 21, 1984) -- suggesting as a "test" that no estoppel may lie against the United States unless the estopping statements were "in writing and by a speaker at a policymaking level." The Federal Circuit's opinion specifically refused to estop the government when an official's estopping statement would have the effect of nullifying a congressional enactment.

Although the government argued for a reversal or, on the alternative, for a remand for trial, the court ordered a straight reversal.

Attorneys: Donald T. Hornstein  
FTS 633-2813

Dirk D. Snel  
FTS 633-4400

## FEDERAL RULES OF CRIMINAL PROCEDURE

Rule 6(d). The Grand Jury. Who May Be Present.

Rule 54(c). Application and Exception.  
Application of Terms.

Defendants moved for dismissal of the indictment after an attorney for the Securities and Exchange Commission, who was appointed as special assistant pursuant to 28 U.S.C. §543, failed to take the required oath prior to her appearance at the grand jury proceedings. This failure, defendants contend, violated Rule 6(d) as this attorney was not an "attorney for the government" as defined in Rule 54(c). The government asserts that this omission should not be considered a violation, since one of the purposes of Rule 6(d) is to protect the secrecy of grand jury proceedings and her obligation in this regard was acknowledged by the attorney in a letter prior to her appearance.

The District Court looked to the plain language of 28 U.S.C. §544 which requires that an attorney appointed under 28 U.S.C. §543 take the oath to execute faithfully his duties "before taking office." Having failed to comply with this requirement, this attorney was not an attorney for the government and not entitled to be present during grand jury proceedings. The subsequent taking of the oath did not cure this deficiency. The requirements of Rules 6(d) and 54, together with 28 U.S.C. §544, are clear and unequivocal and the consequences of a violation of these requirements should be equally as clear. Since the only way to determine the existence of misconduct and its effects would require an evidentiary hearing and grand jury matters could be exposed, the court held the only alternative is application of a per se dismissal rule without any further inquiry.

(Indictment dismissed.)

United States v. Joseph V. Pignatiello, 582 F. Supp. 251 (D. Colo. Mar. 28, 1984).

FEDERAL RULES OF CRIMINAL PROCEDURE

Rule 54(c). Application and Exception.  
Application of Terms.

See Rule 6(d), this issue of the Bulletin for  
syllabus.

United States v. Joseph V. Pignatiello, 582 F. Supp.  
251 (D. Colo. Mar. 28, 1984).

## FEDERAL RULES OF CRIMINAL PROCEDURE

Rule 42(a). Criminal Contempt. Summary Disposition.

Rule 42(b). Criminal Contempt. Disposition Upon Notice and Hearing.

During trial of 10 police officers accused of having protected drug dealers, two lawyers were summarily held in criminal contempt for alleged misconduct in cross-examining witnesses. Having been ordered by the court to stop, the lawyers continued to direct questions to witnesses which asked for legal conclusions, falsely implied that having drugs on one's person is a prerequisite to arrest and conviction for a drug offense, and insinuated to the jury the existence of facts not within the witness' knowledge. The lawyers appealed, arguing that only misbehavior in the presence of the court which actually obstructs the administration of justice can be punished as contempt.

The court found that the conduct obstructed the administration of justice and turned to the question of whether summary procedure was proper under Rule 42(a), without notice and a hearing under Rule 42(b). Since the conduct was seen and heard by the judge and was committed in the presence of the court, the conditions of Rule 42(a) were found to have been satisfied. Notice and a hearing under Rule 42(b) were found to be unnecessary for the following reasons: there was a compelling reason for an immediate remedy where continued improper questioning might have led to a mistrial, after more than a month of trial involving 10 defendants; a judge may punish summarily and without notice or hearing contemptuous conduct committed in his presence and observed by him; defendants were on notice that if they persisted in their lines of questioning they would be disobeying the judge's orders since they had been warned and allowed to explain why they thought the questioning was proper. Because of the judge's full and convincing explanation of his actions in the written orders issued shortly after the judgment of contempt and the minimal size of the fines, the court found it inconceivable that a different conclusion would have been reached if additional procedure had been given. However, the court indicated that the better course of action would have been for the court to have

adjourned the trial briefly while he gave the lawyers a chance to explain themselves before he held them in contempt and to comment on the size of the fines before he sentenced them.

(Affirmed.)

United States v. Curtis Lowery, Appeal of: Gerald M. Werksman, United States v. William Guide, Appeal of: Jo-Anne F. Wolfson, \_\_\_ F.2d \_\_\_, Nos. 82-1777 and 82-1860 (7th Cir. Apr. 24, 1984).

## FEDERAL RULES OF CRIMINAL PROCEDURE

Rule 42(b). Criminal Contempt. Disposition Upon  
Notice and Hearing.

See Rule 42(a), this issue of the Bulletin for  
syllabus.

United States v. Curtis Lowery, Appeal of: Gerald M.  
Werksman, United States v. William Guide, Appeal of: Jo-Anne F.  
Wolfson, \_\_\_ F.2d \_\_\_, Nos. 82-1777 and 82-1860 (7th Cir. Apr. 24,  
1984).

PUBLIC LAW 98-292—MAY 21, 1984

**CHILD PROTECTION ACT OF 1984**

98 STAT. 204

PUBLIC LAW 98-292—MAY 21, 1984

Public Law 98-292  
98th Congress

An Act

May 21, 1984  
[H.R. 3635]

To amend chapter 110 (relating to sexual exploitation of children) of title 18 of the United States Code, and for other purposes.

Child Protection  
Act of 1984.  
18 USC 2251  
note.  
18 USC 2251  
note.  
Child  
pornography.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Child Protection Act of 1984".

SEC. 2. The Congress finds that—

- (1) child pornography has developed into a highly organized, multi-million-dollar industry which operates on a nationwide scale;
- (2) thousands of children including large numbers of runaway and homeless youth are exploited in the production and distribution of pornographic materials; and
- (3) the use of children as subjects of pornographic materials is harmful to the physiological, emotional, and mental health of the individual child and to society.

Penalties.

SEC. 3. Section 2251 of title 18 of the United States Code is amended—

- (1) by striking out "visual or print medium" each place it appears and inserting "visual depiction" in lieu thereof;
- (2) by striking out "depicting" each place it appears and inserting "of" in lieu thereof;
- (3) by striking out "person" each place it appears in subsection (c) and inserting "individual" in lieu thereof;
- (4) by striking out "\$10,000" and inserting "\$100,000" in lieu thereof;
- (5) by striking out "\$15,000" and inserting "\$200,000" in lieu thereof; and
- (6) by adding at the end of subsection (c) the following: "Any organization which violates this section shall be fined not more than \$250,000."

Penalties.

SEC. 4. Section 2252 of title 18 of the United States Code is amended—

- (1) by striking out ", for the purpose of sale or distribution for sale";
- (2) by striking out "for the purpose of sale or distribution for sale" the second place it appears;
- (3) by striking out "obscene" each place it appears;
- (4) by striking out "visual or print medium" each place it appears and inserting "visual depiction" in lieu thereof;
- (5) by striking out "depicts" each place it appears and inserting "is of" in lieu thereof;
- (6) by striking out "or knowingly sells or distributes for sale" and inserting in lieu thereof "or distributes";
- (7) by inserting after "mailed" the following: "or knowingly reproduces any visual depiction for distribution in interstate or foreign commerce or through the mails";



## PUBLIC LAW 98-292—MAY 21, 1984

98 STAT. 205

(8) by striking out "person" each place it appears in subsection (b) and inserting "individual" in lieu thereof;

(9) by striking out "\$10,000" and inserting "\$100,000" in lieu thereof;

(10) by striking out "\$15,000" and inserting "\$200,000" in lieu thereof; and

(11) by adding at the end of subsection (b) the following: "Any organization which violates this section shall be fined not more than \$250,000."

Sec. 5. (a) Section 2253 of title 18 of the United States Code is amended—

(1) in paragraph (1), by striking out "sixteen" and inserting "eighteen" in lieu thereof;

(2) by striking out "sado-masochistic" and inserting "sadistic or masochistic" in lieu thereof;

(3) by striking out "(for the purpose of sexual stimulation)"; and

(4) by striking out "lewd" and inserting "lascivious" in lieu thereof;

(5) by striking out ", for pecuniary profit"; and

(6) by amending paragraph (4) to read as follows:

"(4) 'organization' means a person other than an individual."

(b) Section 2253 of title 18 of the United States Code, as amended by subsection (a) is redesignated as section 2255.

Sec. 6. Chapter 110 of title 18 of the United States Code is amended by inserting after section 2252 the following:

**"§ 2253. Criminal forfeiture**

"(a) A person who is convicted of an offense under section 2251 or 2252 of this title shall forfeit to the United States such person's interest in—

"(1) any property constituting or derived from gross profits or other proceeds obtained from such offense; and

"(2) any property used, or intended to be used, to commit such offense.

"(b) In any action under this section, the court may enter such restraining orders or take other appropriate action (including acceptance of performance bonds) in connection with any interest that is subject to forfeiture.

"(c) The court shall order forfeiture of property referred to in subsection (a) if the trier of fact determines, beyond a reasonable doubt, that such property is subject to forfeiture.

"(d)(1) Except as provided in paragraph (3) of this subsection, the customs laws relating to disposition of seized or forfeited property shall apply to property under this section, if such laws are not inconsistent with this section.

"(2) In any disposition of property under this section, a convicted person shall not be permitted to acquire property forfeited by such person.

"(3) The duties of the Secretary of the Treasury with respect to dispositions of property shall be performed under paragraph (1) of this subsection by the Attorney General, unless such duties arise from forfeitures effected under the customs laws.

**"§ 2254. Civil forfeiture**

"(a) The following property shall be subject to forfeiture by the United States:

18 USC 2255.

18 USC 2253.

Property  
forfeiture.  
Ante, p. 204.

18 USC 2254.

Property  
forfeiture.

98 STAT. 206

PUBLIC LAW 98-292—MAY 21, 1984

“(1) Any material or equipment used, or intended for use, in producing, reproducing, transporting, shipping, or receiving any visual depiction in violation of this chapter.

“(2) Any visual depiction produced, transported, shipped, or received in violation of this chapter, or any material containing such depiction.

“(3) Any property constituting or derived from gross profits or other proceeds obtained from a violation of this chapter, except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

Customs law.

“(b) All provisions of the customs law relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under this section, insofar as applicable and not inconsistent with the provisions of this section, except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General, except to the extent that such duties arise from seizures and forfeitures effected by any customs officer.”

SEC. 7. The table of sections at the beginning of chapter 110 of title 18 of the United States Code is amended—

(1) by inserting after the item relating to section 2252 the following new items:

“2253. Criminal forfeiture.

“2254. Civil forfeiture.”;

and

(2) by redesignating the item relating to section 2253 as 2255.

SEC. 8. Section 2516(1)(c) of title 18 of the United States Code is amended by inserting “sections 2251 and 2252 (sexual exploitation of children),” after “section 664 (embezzlement from pension and welfare funds),”.

Law  
enforcement,  
report.  
28 USC 522 note.

18 USC 2251 *et*  
*seq.*

SEC. 9. Beginning one hundred and twenty days after the date of enactment of this Act, and every year thereafter, the Attorney General shall report to the Congress on prosecutions, convictions, and forfeitures under chapter 110 of title 18 of the United States Code.

Approved May 21, 1984.

LEGISLATIVE HISTORY—H.R. 3635 (S. 1469):

HOUSE REPORT No. 98-536 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 129 (1983): Nov. 14, considered and passed House.

Vol. 130 (1984): Mar. 30, considered and passed Senate, amended.

May 8, House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 21 (1984):  
May 21, Presidential statement.

PUBLIC LAW 98-305—MAY 31, 1984

98 STAT. 221

Public Law 98-305  
98th Congress

An Act

To amend title 18 of the United States Code to provide a criminal penalty for robbery of a controlled substance.

May 31, 1984  
[S. 422]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Controlled Substance Registrant Protection Act of 1984".*

Controlled  
Substance  
Registrant  
Protection Act of  
1984.  
18 USC 2118  
note.  
18 USC 2118.

SEC. 2. Chapter 103 of title 18, United States Code, is amended by adding at the end the following:

**"§ 2118. Robberies and burglaries involving controlled substances**

"(a) Whoever takes or attempts to take from the person or presence of another by force or violence or by intimidation any material or compound containing any quantity of a controlled substance belonging to or in the care, custody, control, or possession of a person registered with the Drug Enforcement Administration under section 302 of the Controlled Substances Act (21 U.S.C. 822) shall, except as provided in subsection (c), be fined not more than \$25,000 or imprisoned not more than twenty years, or both, if (1) the replacement cost of the material or compound to the registrant was not less than \$500, (2) the person who engaged in such taking or attempted such taking traveled in interstate or foreign commerce or used any facility in interstate or foreign commerce to facilitate such taking or attempt, or (3) another person was killed or suffered significant bodily injury as a result of such taking or attempt.

"(b) Whoever, without authority, enters or attempts to enter, or remains in, the business premises or property of a person registered with the Drug Enforcement Administration under section 302 of the Controlled Substances Act (21 U.S.C. 822) with the intent to steal any material or compound containing any quantity of a controlled substance shall, except as provided in subsection (c), be fined not more than \$25,000 or imprisoned not more than twenty years, or both, if (1) the replacement cost of the controlled substance to the registrant was not less than \$500, (2) the person who engaged in such entry or attempted such entry or who remained in such premises or property traveled in interstate or foreign commerce or used any facility in interstate or foreign commerce to facilitate such entry or attempt or to facilitate remaining in such premises or property, or (3) another person was killed or suffered significant bodily injury as a result of such entry or attempt.

"(c)(1) Whoever in committing any offense under subsection (a) or (b) assaults any person, or puts in jeopardy the life of any person, by the use of a dangerous weapon or device shall be fined not more than \$35,000 and imprisoned for not more than twenty-five years.

"(2) Whoever in committing any offense under subsection (a) or (b) kills any person shall be fined not more than \$50,000 or imprisoned for any term of years or life, or both.

98 STAT. 222

PUBLIC LAW 98-305—MAY 31, 1984

“(d) If two or more persons conspire to violate subsection (a) or (b) of this section and one or more of such persons do any overt act to effect the object of the conspiracy, each shall be fined not more than \$25,000 or imprisoned not more than ten years or both.

“(e) For purposes of this section—

“(1) the term ‘controlled substance’ has the meaning prescribed for that term by section 102 of the Controlled Substances Act;

“(2) the term ‘business premises or property’ includes conveyances and storage facilities; and

“(3) the term ‘significant bodily injury’ means bodily injury which involves a risk of death, significant physical pain, protracted and obvious disfigurement, or a protracted loss or impairment of the function of a bodily member, organ, or mental or sensory faculty.”

SEC. 3. The table of sections for chapter 103 of title 18, United States Code, is amended by adding at the end the following new item:

“2118. Robberies and burglaries involving controlled substances.”

SEC. 4. For each of the first three years after the date of enactment of this Act, the Attorney General of the United States shall submit an annual report to the Congress with respect to the enforcement activities of the Attorney General relating to the offenses created by the amendment made by section 2 of this Act.

Approved May 31, 1984.

21 USC 802.

Law enforcement, report.  
28 USC 522 note.

**LEGISLATIVE HISTORY—S. 422 (H.R. 5222):**

SENATE REPORT No. 98-353 (Comm. on the Judiciary).  
CONGRESSIONAL RECORD, Vol. 130 (1984):

Feb. 23, considered and passed Senate.

May 3, considered and passed House, amended.

May 17, Senate concurred in House amendment.

LISTING OF ALL BLUESHEETS IN EFFECT  
AUGUST 1, 1984

<u>AFFECTS USAM</u>	<u>TITLE NO.</u>	<u>DATE</u>	<u>SUBJECT</u>
1-11.400	TITLE 1	6/21/84	Immunity
1-12.020 **	TITLE 1	6/29/84	Pre-Trial Diversion
1-12.100 **	TITLE 1	4/24/84	Eligibility Criteria
9-2.111 *	TITLE 9	10/19/83	Declination of a Prosecution for National Security Reasons
9-2.132 ***	TITLE 9	3/21/84	Policy Limitations on Institution of Pro- ceedings-Internal Security Matters
9-2.133	TITLE 9	4/09/84	Policy Limitations on Institution of Pro- ceedings, Consultation Prior to Institution of Criminal Charges
9-2.134 9-2.135 *	TITLE 9	4/24/84	Policy Limitations on Institution of Pro- ceedings, Consultation in Other Situations
9-2.169 *	TITLE 9	5/28/82	Testimony of FBI Laboratory Examiners
9-7.013	TITLE 9	4/03/84	Procedures for Lawful, Warrantless Intercep- tions of Verbal Communications
9-7.014 *	TITLE 9	4/03/84	Use of Pen Registers
9-7.1000	TITLE 9	5/22/84	Video Surveillance
9-11.230	TITLE 9	4/16/84	Fair Credit Reporting Act and Grand Jury Subpoenas-Discretion of U.S. Attorneys

\* Approved by Advisory Committee, being permanently incorporated.

\*\* In printing.

\*\*\* Being reprinted due to printing error.

LISTING OF ALL BLUESHEETS IN EFFECT  
AUGUST 1, 1984

<u>AFFECTS USAM</u>	<u>TITLE NO.</u>	<u>DATE</u>	<u>SUBJECT</u>
9-11.250 **	TITLE 9	7/9/84	Advice of Rights to Targets and Subjects of Grand Jury Investigations
9-21.340 to 9-21.350	TITLE 9	3/12/84	Psychological/Vocational Testing; Polygraph Examinations for Prisoner-Witness Candidates
9-27.510	TITLE 9	5/25/84	Opposing Offers to Plead Nolo Contendere
9-38.000	TITLE 9	4/06/84	Forfeitures
9-60.134 to *** 9-60.135	TITLE 9	3/30/84	Allegations of "Mental Kidnapping" or "Brainwashing" by Religious Cults; "Deprogramming" of Religious Sect. Members
9-60.215	TITLE 9	3/30/84	"Electronic, Mechanical or Other Device" (18 U.S.C. §2510(5))
9-60.231 *	TITLE 9	3/30/84	Scope of Prohibitions
9-60.243 ***	TITLE 9	3/30/84	Other Consensual Interceptions
9-60.251 *	TITLE 9	3/30/84	Lesser Offenses
9-60.291 ***	TITLE 9	3/30/84	Interception of Radio Communications
9-61.130 to 9-61.134	TITLE 9	4/30/84	National Motor Vehicle Theft Act-Dyer Act (18 U.S.C. §§2311-2313)
9-61.640 to 9-61.642	TITLE 9	4/30/84	Bank Robbery
9-63.132 to 9-63.133	TITLE 9	5/02/84	Indictment; Death Penalty

LISTING OF ALL BLUESHEETS IN EFFECT  
AUGUST 1, 1984

<u>AFFECTS USAM</u>	<u>TITLE NO.</u>	<u>DATE</u>	<u>SUBJECT</u>
9-63.195	TITLE 9	5/02/84	Protection of Confidentiality of Security Procedures
9-63.460 to 9-63.490	TITLE 9	5/02/84	Obscene or Harassing Telephone Calls - 47 U.S.C. §223
9-71.400	TITLE 9	5/24/84	Prosecutive Policy
9-75.091 *	TITLE 9	3/28/84	47 U.S.C. §223-Comment
9-75.140 *	TITLE 9	3/28/84	Prosecutive Policy
9-90.942 *	TITLE 9	3/21/84	Pre-indictment Use of Classified Information
9-130.300	TITLE 9	4/09/84	Prior Authorization Generally
9-131.030	TITLE 9	4/09/84	Consultation Prior to Prosecution
9-131.110	TITLE 9	4/09/84	Hobbs Act Robbery
9-139.202	TITLE 9	6/29/84	Supervisory Jurisdiction
9-139.220 **	TITLE 9	6/29/84	Alternative Enforcement Measures
10-2.800; 10-9.160	TITLE 10	4/30/84	Notice of Provision for Special Accommodations
10-4.418 **	TITLE 10	7/20/84	Maintenance of Attorney-Client Information

UNITED STATES ATTORNEYS' MANUAL--TRANSMITTALS

The following United States Attorneys' Manual Transmittals have been issued to date in accordance with USAM 1-1.500.

<u>TRANSMITTAL AFFECTING TITLE</u>	<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>CONTENTS</u>
TITLE 1	A2	9/29/80	6/23/80	Ch. 7, Index to Title 1, Revisions to Ch. 2, 5, 8
	A3	9/23/81	8/3/81	Revisions to Ch. 1, 5, 12, Title 1 Index, Index to USAM
	A4	9/25/81	9/7/81	Revisions to Ch. 15, Index to Title 1, Index to USAM
	A5	11/2/81	10/27/81	Revisions to Ch. 5, 7
	A6	3/11/82	12/15/81	Revisions to Ch. 3, 5, 11, Title 1 Index, Index to USAM
	A7	3/12/82	2/9/82	Revisions to Ch. 8, Index to Title 1.
	A8	5/6/82	4/27/82	Revisions to Ch. 2, 8, Title 1 Index, Index to USAM
	A9	3/9/83	8/20/82	Revisions to Ch. 5, 9, 10, 14
	A10	5/20/83	4/26/83	Revisions to Ch. 11
	A11	2/22/84	2/10/84	Complete revision of Ch. 1, 2
	A12	3/19/84	2/17/84	Complete revision of Ch. 4
	A13	3/22/84	3/9/84	Complete revision of Ch. 8
	A14	3/23/84	3/9 & 3/16/84	Complete revision of Ch. 7, 9
	A15	3/26/84	3/16/84	Complete revision of Ch. 10

\* Transmittal is currently being printed.



<u>TRANSMITTAL AFFECTING TITLE</u>	<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>CONTENTS</u>
TITLE 1	A17	3/26/84	3/26/84	Complete revision of Ch. 6
	A18	3/27/84	3/23/84	Complete revision of Ch. 11, 13, 14, 15
	A19	3/29/84	3/23/84	Complete revision of Ch. 12
	A20	3/30/84	3/23/84	Index to Title 1, Table of Contents to Title 1
	A21	4/17/84	3/23/84	Complete revision of Ch. 3
	*A22	5/22/84	5/22/84	Revision of Ch. 1-6.200
	AAA1	5/14/84		Form AAA-1
TITLE 2	A2	9/24/81	9/11/81	Revisions to Ch. 2
	A3	1/20/82	11/10/81	Revisions to Ch. 3
	A4	5/17/83	10/1/82	Revisions to Ch. 2
	A5	2/10/84	1/27/84	Complete revision of Title 2-replaces all previous transmittals
	*A11	3/30/84	1/27/84	Summary Table of Contents to Title 2
	AAA2	5/14/84		Form AAA-2
TITLE 3	A2	7/2/82	5/28/82	Revisions to Ch. 5
	A3	10/11/83	8/4/83	Complete revision of Title 3-replaces all prior transmittals
	AAA3	5/14/84		Form AAA-3
TITLE 4	A2	7/30/81	5/6/81	Revisions to Ch. 2, 3, 4, 9, 11, 12, 15, Index to Title 4 & Index to USAM

(3)

TRANSMITTAL  
AFFECTING  
TITLE

<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>Contents</u>	
TITLE 4	A3	10/2/81	9/16/81	Revisions to Ch. 1
	A4	3/10/82	8/10/81	Revisions to Ch. 1, 2, 4, 5, 8, 10, 11, 13, Index to Title 4
	A5	10/15/82	5/31/82	Revisions to Ch. 2, 3, 12
	A6	4/27/83	2/1/83	Revisions to Ch. 2, 3, 9, and 12
	A7	4/16/84	3/26/84	Complete revision of Ch. 7, 8, 12
	A8	4/16/84	3/28/84	Complete revision of Ch. 2, 14, 15
	A9	4/23/84	3/28/84	Complete revision of Ch. 3
	A10	4/16/84	3/28/84	Complete revision of Ch. 10
	A11	4/30/84	3/28/84	Complete revision of Ch. 1, 9, Index to Title 4
	A12	4/21/84	3/28/84	Complete revision of Ch. 6
	A13	4/30/84	3/28/84	Complete revision of Ch. 4
	A14	4/10/84	3/28/84	Complete revision of Ch. 13
	A15	3/28/84	3/28/84	Complete revision of Ch. 5
	A16	4/23/84	3/28/84	Complete revision of Ch. 11
	AAA4	5/14/84		Form AAA-4
TITLE 5	A2	4/16/81	4/6/81	Revisions to Ch. 1, 2, 2A, 3, 4, 5, 7, 8, New Ch. 9, 9A, 9B, 9C, & 9D
	A3	3/22/84	3/5/84	Complete revision of Ch. 1, 2, 3(was 2A)
	A4	3/28/84	3/12/84	Complete revision of Ch. 12 (was 9C)

<u>TRANSMITTAL AFFECTING TITLE</u>	<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>CONTENTS</u>
TITLE 5	A4	undated	3/19/84	Complete revision of Ch. 5 (was Ch. 4), 6, 8
	A5	3/28/84	3/20/84	Complete revision of Ch. 9, 11 (was 9B)
	A6	3/28/84	3/22/84	Complete revision of Ch. 7
	A7	3/30/84	3/20/84	Complete revision of Ch. 10 (was 9A)
	A8	4/3/84	3/22 & 3/26/84	Complete revision of Ch. 13, 14, 15, Table of Contents to Title 5
	A11	4/17/84	3/28/84	Complete revision of Ch. 4 (was Ch. 3)
	A12	4/30/84	3/28/84	Index to Title 5
	AAA5	5/14/84		Form AAA-5
TITLE 6	A2	3/23/84	2/8/84	Complete revision of Title 6-replaces all prior transmittals
	AAA6	5/14/84		Form AAA-6
TITLE 7	A2	6/30/81	6/2/81	Revisions to Ch. 5, Index to Title 7, Index to USAM
	A3	12/4/81	11/16/81	Revisions to Ch. 5
	A4	1/6/84	11/22/83	Complete revision to Title 7-replaces all prior transmittals
	*A12	3/3/84	12/22/83	Summary Table of Contents to Title 7
	AAA7	5/14/84		Form AAA-7
TITLE 8	A1	4/2/84	2/15/84	Ch. 1, 2, Index to Title 8

(5)

<u>TRANSMITTAL AFFECTING TITLE</u>	<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>CONTENTS</u>
TITLE 8	A2	6/21/82	4/30/82	Complete revision to Title 8
	A12	3/30/84	2/15/84	Summary Table of Contents to Title 8
	AAA8	5/14/84		Form AAA-8
TITLE 9	A2	11/4/80	10/6/80	New Ch. 27, Revisions to Ch. 1, 2, 4, 7, 17, 34, 47, 69, 120, Index to Title 9, and Index to USAM
	A3	6/30/81	4/16/81	Revisions to Ch. 1, 4, 7, 21, 42, 61, 69, 72, 104, Index to USAM
	A4	6/1/81	5/29/81	Revisions to Ch. 4, 7, 70, 78, 90, 121, New Ch. 123, Index to Title 9, Index to USAM
	A5	11/2/81	6/18/81	Revisions to Ch. 4, 8, 20, 47, 61, 63, 65, 75, 85, 90, 100, 110, 120, Index to Title 9, Index to USAM
	A6	12/11/81	10/8/81	Revisions to Ch. 17, Title 9 Index, Index to USAM
	A7	1/5/82	10/8/81	Revisions to Ch. 2, 7, 37, 60, 90, 139, Title 9 Index, Index to USAM
	A8	1/13/82	11/24/81	Revisions to Ch. 34, Index to Title 9, Index to USAM
	A9	3/12/82	9/8/82	Revisions to Ch. 11, Title 9 Index, Index to USAM

<u>TRANSMITTAL AFFECTING TITLE</u>	<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>CONTENTS</u>
TITLE 9	A10	10/6/82	3/29/82	Revisions to Ch. 1, 11, 16, 69, 79, 120, 121, Entire Title 9 Index, Index to USAM
	A11	3/2/83	9/8/82	Revisions to Ch. 120, 121, 122
	A12	9/19/83	5/12/83	Revisions to Ch. 101
	A13	1/26/84	1/11/84	Complete revision of Ch. 132, 133
	A14	2/10/84	1/27/84	Revisions to Ch. 1
	A15	2/1/84	1/27/84	Complete revision of Ch. 8
	A16	3/23/84	2/8/84	Complete revision of Ch. 135, 136
	A17	2/10/84	2/2/84	Complete revision of Ch. 39
	A18	2/3/84	2/3/84	Complete revision of Ch. 40
	A19	3/26/84	2/7/84	Complete revision of Ch. 21
	A20	3/23/84	2/8/84	Complete revision of Ch. 137, Ch. 138
	A21	3/19/84	2/13/84	Complete revision of Ch. 34
	A22	3/30/84	2/01/84	Complete revision of Ch. 14
	A24	3/23/84	2/28/84	Complete revision of Ch. 65
	A25	3/26/84	3/7/84	Complete revision of Ch. 130
	A26	3/26/84	2/8/84	Complete revision of Ch. 44
	A27	3/26/84	3/9/84	Complete revision of Ch. 90
	A28	3/29/84	3/9/84	Complete revision of Ch. 101

<u>TRANSMITTAL AFFECTING TITLE</u>	<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>CONTENTS</u>
TITLE 9	A29	3/26/84	3/9/84	Complete revision of Ch. 12
	A30	3/26/84	3/19/84	Complete revision of Ch. 9
	A31	3/26/84	3/16/84	Complete revision of Ch. 78
	A32	3/29/84	3/12/84	Complete revision of Ch. 69
	A33	3/29/84	3/9/84	Complete revision of Ch. 102
	A34	3/26/84	3/14/84	Complete revision of Ch. 72
	A35	3/26/84	2/6/84	Complete revision of Ch. 37
	A36	3/26/84	2/6/84	Complete revision of Ch. 41
	A37	4/6/84	2/8/84	Complete revision of Ch. 139
	A38	3/29/84	2/28/84	Complete revision of Ch. 47
	A39	3/30/84	3/16/84	Complete revision of Ch. 104
	A40	4/6/84	3/9/84	Complete revision of Ch. 100
	A41	4/6/84	3/9/84	Complete revision of Ch. 110
	A42	3/29/84	3/09/84	Complete revision of Ch. 64
	A43	4/6/84	3/14/84	Complete revision of Ch. 120
	A44	4/5/84	3/21/84	Complete revision of Ch. 122
	A45	4/6/84	3/23/84	Complete revision of Ch. 16
	A46	2/30/84	1/16/84	Complete revision of Ch. 43
	A47	4/16/84	3/28/84	Revisions to Ch. 7
	A48	4/16/84	3/28/84	Complete revision of Ch. 10

<u>TRANSMITTAL AFFECTING TITLE</u>	<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>CONTENTS</u>
TITLE 9	A49	4/16/84	3/28/84	Revisions to Ch. 63
	A50	4/16/84	3/28/84	Revisions to Ch. 66
	A51	4/6/84	3/28/84	Complete revision of Ch. 76, deletion of Ch. 77
	A52	4/16/84	3/30/84	Complete revision of Ch. 85
	A53	6/6/84	3/28/84	Revisions to Ch. 4
	A55	4/23/84	4/6/84	Complete revision of Ch. 134
	A56	4/30/84	3/28/84	Revisions to Ch. 42
	A57	4/16/84	3/28/84	Complete revision of Ch. 60, 75
	A58	4/23/84	4/19/84	Summary Table of Contents of Title 9
	A59	4/30/84	4/16/84	Entire Index to Title 9
	A60	5/03/84	5/03/84	Complete revision of Chapter 66
	A61	5/03/84	4/30/84	Revisions to Chapter 1, section .103
	A63	5/11/84	5/9/84	Complete revision to Ch. 7
	A64	5/11/84	5/11/84	Revision to Ch. 64, section .400-700
	*A65	5/17/84	5/17/84	Revisions to Ch. 120, sections .210 and .350
	A66	5/10/84	5/8/84	Complete revision to Ch. 131
	A67	5/11/84	5/9/84	Revisions to Ch. 121 section .600
	A68	5/31/84	3/16/84	Revisions to Ch. 104
	A69	5/09/84	5/07/84	Revisions to Ch. 21 section .600
	*A70	5/17/84	5/16/84	Revisions to Ch. 43 section .710
	AAA9	5/14/84		Form AAA-9

<u>TRANSMITTAL AFFECTING TITLE</u>	<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>CONTENTS</u>
TITLE 10	A2	11/2/81	8/21/81	Revisions to Ch. 2, 3, 6, Index to Title 10
	A3	12/1/81	8/21/81	Revisions to Ch. 2
	A4	12/28/81	---	Title Page to Title 10
	A5	3/26/82	1/8/82	Revisions to Ch. 2, 6, Index to Title 10
	A6	6/17/82	1/4/82	Revisions to Ch. 4, Index to Title 10
	A7	3/4/83	5/31/82	Revisions to Ch. 2, 3, 5, 6, and New Ch. 9
	A8	4/5/84	3/24/84	Complete revision of Ch. 1
	A9	4/6/84	3/20/84	Complete revision of Ch. 7
	A10	4/13/84	3/20/84	Complete revision of Ch. 5
	A11	3/29/84	3/24/84	Complete revision of Ch. 6
	A12	4/3/84	3/24/84	Complete revision of Ch. 8
	A14	4/23/84	3/28/84	Complete revision of Ch. 4
	A15	4/17/84	3/28/84	Complete revision of Ch. 3, 9
	A16	5/4/84	3/28/84	Index and Appendix to Title 10
	A17	3/30/84	3/28/84	Summary Table of Contents to Title 10
	A18	5/4/84	4/13/84	Complete revision to Ch. 2
	A19	5/02/84	5/01/84	Revisions to Chapter 4
	A21	6/6/84	5/1/84	Corrected TOC Chapter 4 and pages 23, 24
	AAA10	5/14/84		Form AAA-10
TITLE 1-10	A1	4/25/84	4/20/84	Index to USAM



EXECUTIVE OFFICE FOR UNITED STATES ATTORNEYS  
William P. Tyson, Director

Teletypes To All United States Attorneys

07/27/84--From Roger M. Olsen, Deputy Assistant Attorney General,  
Tax Division, Thru William P. Tyson, Director, Executive  
Office for United States Attorneys, re: "Tax Reform Act  
of 1984."

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