



# United States Attorneys' Bulletin



EXECUTIVE  
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STATES  
ATTORNEYS

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William P. Tyson, Director

Editor-in-Chief: Susan A. Nellor      FTS 633-4024  
Editor: Judith C. Campbell      FTS 673-6348

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COMMENDATIONS

Assistant United States Attorney DONALD D. DANIELS, Western District of Michigan, was commended by Mr. Charles R. Johnson, Land Acquisition Officer, Indiana Dunes Land Resources Office, National Park Service, Department of the Interior, for his excellent rapport and cooperation in the processing of condemnation cases for Sleeping Bear Dunes National Lakeshore.

Assistant United States Attorney WENDY S. GOGGIN, Middle District of Tennessee, was commended by Mr. William J. Beavers, Special Agent-in-Charge, Federal Bureau of Investigation, for her presentation and prosecution of the Gary Lee Delaney case.

Assistant United States Attorney DERRY HARPER, Middle District of Tennessee, was commended by Mr. J. C. Kean, Regional Inspector General for Investigations, Department of Labor, for his splendid work in assisting with Tennessee Valley Authority Unemployment Insurance fraud cases.

United States Attorney ELSIE L. MUNSELL and Assistant United States Attorney CLARENCE H. ALBRIGHT, JR., Eastern District of Virginia, were commended by Attorney General Edwin Meese III, for their exemplary prosecution of Foreign Service Officer Walter Costello. Mr. Meese's letter is appended to this Bulletin.

Assistant United States Attorney SUSAN M. NOVOTNY, Northern District of Florida, was commended by Mr. Edward D. Conroy, Special Agent-in-Charge, Bureau of Alcohol, Tobacco and Firearms, for her pre-trial guidance and assistance and her presentation of the government's case in the Pensacola Abortion Clinic Bombings case.

Assistant United States Attorneys EILEEN M. O'CONNOR and MICHAEL P. SULLIVAN, Southern District of Florida, were commended by Mr. Robert R. Dempsey, Commissioner, Florida Department of Law Enforcement, for their successful prosecution of a major Key West public corruption case.

CLEARINGHOUSE

Narcotic and Dangerous Drug Section Monograph, Investigation and Prosecution of Illegal Money Laundering, A Guide to the Bank Secrecy Act

Copies of the October 1983 monograph entitled, "Investigation and Prosecution of Illegal Money Laundering," published by the Narcotic and Dangerous Drug Section of the Criminal Division, are available upon request to the Office of Legal Services, Executive Office for United States Attorneys at FTS 633-4024. Please

request item number CH-17. It should be noted that the monograph replaces in its entirety the 1980 monograph by the Section entitled "Narcotics Prosecutions and the Bank Secrecy Act."

### RICO Materials

The Organized Crime and Racketeering Section has recently compiled the following documents which may be useful as research tools in connection with matters involving the RICO Statute, 18 U.S.C. §§1961-1968.

1. A comprehensive list of all published opinions concerning criminal and civil RICO matters since passage of the statute in 1970.
2. A list of recent (January 1984 to present) criminal RICO opinions with brief summaries and holdings.
3. A similar list of recent civil appellate RICO cases.
4. Four memoranda reporting the results of weekly searches for RICO cases prepared by the Section law clerk.

Copies of the above-mentioned documents may be obtained by contacting Ms. Susan A. Nellor, Director, Office of Legal Services, at FTS 633-4024. Please ask for item number CH-18.

### POINTS TO REMEMBER

#### Armed Forces Litigation Contact Points.

The Office of Judge Advocate General of the United States Air Force has expressed concern that United States Attorneys' offices may be unaware of the appropriate litigating office to contact on matters involving branches of the military. Provided below are the correct addresses and telephone numbers of the litigating offices of the armed forces. United States Attorneys' offices should use the appropriate address and/or telephone number when submitting copies of pleadings or correspondence or making inquiries regarding a military litigation matter. The use of the addresses and telephone numbers listed below will avoid unnecessary delays in a response being made by the appropriate litigating office.

Department of the Army

Corps of Engineers  
(Civil Works):

U.S. Army Corps of Engineers  
Office of the Chief Counsel  
20 Massachusetts Ave., N.W.  
Washington, D.C. 20314-1000  
(202) 272-0018

Everything else:

HQDA (DAJA-LT)  
Chief, Litigation Division  
Pentagon, Room 2D444  
Washington, D.C. 20310-2210  
(202) 695-1721/1722  
FTS 695-1721/1722

Department of the Navy

Civilian Personnel Law,  
Injunctive Actions,  
Contracts:

Department of the Navy  
Associate General Counsel (Litigation)  
Office of the General Counsel  
Washington, D.C. 20360-5110  
(202) 746-1000

(West Coast)  
Associate Chief Trial Attorney  
Building 107, 2nd Floor  
900 Commodore Drive (Box 727)  
San Bruno, CA 94066-0720  
(415) 877-7109/7110  
FTS 448-7109/7110

## Divisions:

Admiralty:	(202) 325-9744 or FTS 325-9744
Claims [e.g., FTCA]:	(202) 325-9880 or FTS 325-9880
Litigation:	(202) 325-9870 or FTS 325-9870

Address: Office of The Judge Advocate General  
Attn: Deputy Assistant Judge Advocate General [insert  
appropriate division--Admiralty, Claims, or Litigation]  
Department of the Navy  
Alexandria, VA 22332-2400

Department of the Air Force

Claims [e.g., FTCA]:

HQ USAF/JACC  
Building 5683, Bolling AFB  
Washington, D.C. 20332-6128  
(202) 767-1571

Patents:

HQ USAF/JACP  
1900 Half Street, S.W.  
Washington, D.C. 20324-1000  
(202) 475-1386

Everything else:

HQ USAF/JACL  
Pentagon, Room 5E425  
Washington, D.C. 20330-5120  
(202) 697-0605  
FTS 697-0605

(Department of the Air Force)

### Assistant United States Attorneys' Skills Bank

The Assistant United States Attorneys' Skills Bank has been available on JURIS since March 5, 1984. The Skills Bank contains data on Assistant United States Attorneys, relating to their areas of education, experience and expertise in litigation, and is available only to personnel of the United States Attorneys' offices and the Executive Office. It can be accessed only through use of a password, which can be obtained from the JURIS representative in your office.

The Executive Office is now in the process of updating the information contained in the Skills Bank, which should be completed within the next month. All personnel of the United States Attorneys' offices are encouraged to make use of this valuable resource tool for locating attorneys with experience and/or expertise for help in litigation areas an Assistant may not have encountered before. For information on accessing the Skills Bank, you should contact the JURIS representative in your office.

(Executive Office)

### Bluesheets and Transmittals, United States Attorneys' Manual

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

(Executive Office)

### Employment Opportunities.

The Asset Forfeiture Office of the Criminal Division is seeking attorneys for two positions--litigation trial counsel and legal counsel for civil and criminal asset forfeiture cases and related matters at the GS-12 and GS-13 levels. Applicants with two or three years of criminal and civil litigation experience, prior experience in a United States Attorney's office or a state or local District Attorney's office, or background in commercial, estate or business matters should submit a current SF-171 to Mr. Brad Cates, United States Department of Justice, Asset Forfeiture Office, Criminal Division, 10th & Pennsylvania Avenue, N.W., Washington, D. C. 20530.

The Narcotics and Dangerous Drug Section of the Criminal Division is seeking a senior litigation counsel at the GS-13 through GS-15 levels to handle complex narcotics and narcotics-related cases. Applicants with five years of federal criminal experience, preferably in the narcotics field, prior experience in a United States Attorney's office or Federal Public Defenders' office should submit a current SF-171 to Mr. Charles Saphos, United States Department of Justice, Narcotics and Dangerous Drug Section, Criminal Division, 10th & Pennsylvania Avenue, N.W., Washington, D. C. 20530.

(Criminal Division)

Establishment of Brief Bank For "Hot" Criminal Issues of National Scope.

The Office of Management Information Systems and Support, Executive Office for United States Attorneys, and the Justice Management Division have agreed to establish and maintain an appellate brief bank for "hot" criminal issues of national scope, on the JURIS System. This effort will begin with briefs which contain issues arising from the Comprehensive Crime Control Act, the Criminal Fine Enforcement Act, electronic surveillance, and narcotics and RICO prosecutions.

The briefs bank will be known as "AUSA Briefs" and will be a part of the Briefs Bank file group now on the JURIS System. The "AUSA Briefs" will follow the same format now used on JURIS for appellate briefs. The Briefs Bank file group now contains selected appellate briefs filed by the Office of the Solicitor General, Civil Division, Civil Rights Division, Land and Natural Resources Division, and selected trial briefs filed by the Civil Division.

United States Attorneys' offices are urged to submit their appellate briefs which involve the above issues to the attention of Ms. Kate Conaboy, Attorney Advisor, Office of Management Information Systems and Support, Executive Office for United States Attorneys, Room 1035, Universal Building North, 1875 Connecticut Avenue, N.W., Washington, D.C. 20009.

(Executive Office)

Personnel.

Effective June 14, 1985, James A. Rolfe resigned as the United States Attorney for the Northern District of Texas.

Effective June 17, 1985, Marvin Collins was court appointed as the United States Attorney for the Northern District of Texas.

Effective June 17, 1985, Richard V. Wiebusch was sworn in as the Presidentially-appointed United States Attorney for the District of New Hampshire.

Effective June 21, 1985, Ronald E. Meredith resigned as the United States Attorney for the Western District of Kentucky.

Effective June 21, 1985, Alexander T. Taft, Jr., was court appointed as the United States Attorney for the Northern District of Texas.

Effective June 30, 1985, Henry Dargan McMaster resigned as the United States Attorney for the District of South Carolina.

Effective July 1, 1985, Cameron B. Littlejohn, Jr., was court appointed as the United States Attorney for the District of South Carolina.

(Executive Office)

#### Teletypes to All United States Attorneys

A listing of recent teletypes sent by the Executive Office is appended to this 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)

#### CASENOTES

##### OFFICE OF THE SOLICITOR GENERAL

The Solicitor General has authorized the filing of:

A brief amicus curiae in support of petitioner in Witters v. State of Washington Commission for the Blind, S.Ct. No. 84-1070. The issue is whether it is permissible under the Establishment Clause for a government-financed vocational rehabilitation program to provide support to a blind student who is studying for the ministry.

## CIVIL DIVISION

SUPREME COURT HOLDS THAT STATE ORDINANCES GOVERNING  
COMMERCIAL DONATIONS OF BLOOD PLASMA ARE NOT PRE-EMPTED  
BY FDA REGULATIONS COVERING SAME SUBJECT MATTER.

Pursuant to Section 351 of the Public Health Service Act, the Food and Drug Administration (FDA) has promulgated federal regulations establishing minimum standards for the collection of blood plasma. In this suit, the operator of a blood plasma center located in Hillsborough County, Florida, challenged the constitutionality of county ordinances which impose on commercial blood plasma donation centers additional requirements not contained in the federal regulations. The district court upheld the ordinances and their implementing regulations, except for the requirement that blood donors undergo a breath-analysis test before donating, which it concluded imposed an undue burden on interstate commerce. The Eleventh Circuit held all of the ordinances invalid, finding that the comprehensive nature of the FDA's regulatory scheme and the "dominant federal interest" in insuring an adequate supply of blood plasma in interstate commerce compelled the conclusion that the state regulations were pre-empted by the federal scheme.

At the Supreme Court's request, we filed a brief on behalf of the United States in connection with the county's appeal, stating that the federal regulations were not intended to pre-empt state laws or ordinances which, like the county's, merely supplemented federal requirements without frustrating federal policy. On June 3, 1985, the Supreme Court reversed the court of appeals' ruling in a 9-0 decision. The Court first noted that the FDA had expressly disavowed any intent to pre-empt state and local regulation of blood plasma donation when the FDA first adopted its regulations, and the fact that the federal regulations were detailed in nature did not justify pre-emption in light of the complicated nature of the subject-matter area and the natural tendency of agencies to regulate in a comprehensive manner. The Court also noted that the FDA retained the power to pre-empt state and local regulation of the area if doing so became necessary to insure an adequate supply of plasma for public health and safety. Accordingly, it reversed and remanded the case to the court of appeals for further proceedings on the plasma center's remaining Commerce Clause claims.

Hillsborough County v. Automated Medical Laboratories, Inc.,  
U.S. \_\_\_\_\_, No. 83-1295 (June 3, 1985). D. J. #  
145-16-2665.

Attorneys: John Cordes (Civil Division) FTS 633-3380;  
Melissa Clark (Civil Division) FTS 633-5431.



SUPREME COURT RULES THAT NOTICES OF STATUTORY CHANGE IN  
FOOD STAMP BENEFITS COMPLIED WITH FOOD STAMP ACT AND DUE  
PROCESS.

In the Omnibus Budget Reconciliation Act of 1981, Congress reduced from 20% to 18% the amount of earned income which would be disregarded in computing Food Stamp eligibility. Plaintiffs, a class of 16,000 food stamp recipients in Massachusetts, sued to challenge the notice advising them of the statutory change, claiming it was too complex and lacked sufficient detail to advise them whether their new benefit levels were properly calculated. The district court held that the notices deprived plaintiffs of their right to procedural due process and ordered their benefit reductions restored. The court of appeals affirmed the finding that the notices were defective, but limited the remedy to a renewed notice. Plaintiffs petitioned for certiorari and Massachusetts cross-petitioned. The Department of Agriculture supported Massachusetts' position. The Supreme Court granted both petitions, and has now entirely reversed the district court's decision, holding that the notices satisfied the Food Stamp Act, the Department of Agriculture's regulation, and due process. The Court stressed the minimal nature of a notice requirement for a general change in law, as opposed to individual eligibility determinations.

Atkins v. Parker, \_\_\_ U.S. \_\_\_, No. 83-1660 (June 4, 1985).  
D. J. # 145-8-1704.

Attorneys: Leonard Schaitman (Civil Division) FTS 633-3441;  
Bruce Forrest (Formerly of the Civil Division).

D.C. CIRCUIT EXEMPTS COUNCIL OF ECONOMIC ADVISERS FROM  
GOVERNMENT DISCLOSURE LAWS.

The District of Columbia Circuit has unanimously affirmed the district court's ruling that the Council of Economic Advisers is not an "agency" subject to the Freedom of Information and Government in the Sunshine Acts. The court held that, notwithstanding references to the Council as a covered "agency" in the legislative history of the FOIA definition, the controlling test for coverage of an Executive Office unit is that set forth in the Conference Report, that is, whether the unit's "sole function is to advise and assist the President." Soucie v. David, 448 F.2d 1067, 1075 (D.C. Cir. 1971). Unless an Executive Office unit has some "independent authority or power," such as funding projects or issuing regulations, it will not be deemed a FOIA "agency." The court further held that, notwithstanding the "agency" status of other Executive Office units, the Council of Economic Advisers is not an "agency" because it has no function beyond advising and assisting the President.

With respect to the Sunshine Act, the court held that since there is no legal requirement that the Council operate collegially, the unrebutted declaration of former Council Chairman Martin Feldstein that the Council does not operate collegially is dispositive. Thus, the Council is not an "agency" subject to either the FOIA or the Sunshine Act.

Rushforth v. Council of Economic Advisers, F.2d, No. 84-5428 (D.C. Cir. May 24, 1985). D. J. # 145-0-1308.

Attorneys: Leonard Schaitman (Civil Division) FTS 633-3441;  
Andrea Newmark (Civil Division) FTS 633-3374.

D.C. CIRCUIT UPHOLDS A LABOR DEPARTMENT GRANT ALLOCATION  
FORMULA AND RELATED STATISTICAL DATA BASE.

Plaintiffs are grantees of migrant farmworker training funds under the Job Training Partnership Act in several states whose grant funds were reduced under a modified allocation formula issued by the Department of Labor. Plaintiffs claimed that the population-based formula violated the Department's regulations, or was arbitrary or capricious, because, among other things, it rested on a statistical data base that included ineligible farmers, thus improperly favoring farm states over states like California and Florida which have a relatively larger number of eligible migrant and seasonal farmworkers. The district court rejected this and other challenges to the formula, holding that the Labor Department's selection of Census occupational data on the farmworker population was reasonably related to locating the beneficiary population. The court of appeals (in an opinion by Judge Bazelon, joined by Judge Mikva) has affirmed. The majority concluded that the Department's choices in developing the new allocation data base, "while not elegant, were not improper." In a concurring opinion Judge Scalia expressed the view that the Department's adoption of a grant allocation formula in this case was committed to agency discretion by law, and should thus be unreviewable.

California Human Devl. Corp. v. Brock, Secretary of Labor, F.2d, No. 84-5321 (D.C. Cir. May 28, 1985). D. J. # 145-10-2335.

Attorney: Michael Kimmel (Civil Division) FTS 633-5714.

D.C. CIRCUIT FINDS PUBLISHER'S CHALLENGE TO INITIAL  
LIMITATIONS ON PRESS ACCESS TO GRENADA MOOT.

In this case publisher Larry Flynt challenged the government's decision to prohibit press coverage of the initial stages of the United States' military action in Grenada. Plaintiff's complaint sought declaratory and injunctive relief and not money damages. The district court on June 21, 1984, dismissed the case as moot. In a per curiam opinion, the D.C. Circuit has agreed that the case is moot, and that the case does not fall within the exception for controversies "capable of repetition, yet evading review." The court of appeals, however, vacated the opinion of the district court, noting that the district court had dismissed "with prejudice, thus precluding appellants from amending their complaint to avoid a dismissal for mootness." The court of appeals remanded the case with instructions to dismiss the complaint as moot, "but without prejudice or any opinion on the merits of the underlying claim."

Flynt v. Weinberger, \_\_\_\_\_ F.2d \_\_\_\_\_, No. 84-5558 (D.C. Cir. May 31, 1985). D. J. # 145-15-1496.

Attorneys: John Cordes (Civil Division) FTS 633-3380; John M. Rogers (Civil Division) FTS 633-1673.

D.C. CIRCUIT HOLDS THAT IT HAD JURISDICTION TO DECIDE  
FOIA CASE WITH SUBSIDIARY TUCKER ACT CLAIM, UNDER THE  
TRANSITION PROVISION OF THE FEDERAL COURTS IMPROVEMENT  
ACT.

Four months after deciding all of the issues in this lengthy and complicated FOIA litigation in the government's favor (745 F. 2d 1476), the court of appeals sua sponte requested the parties to address the issue of whether the court had jurisdiction over any aspect of this case, in light of the provision of the 1982 Federal Courts Improvement Act conferring exclusive jurisdiction on the Federal Circuit over appeals in which the district court's jurisdiction rested "in whole or in part" on the Tucker Act, 28 U.S.C. §1346(a). Plaintiff had purported to raise a Tucker Act claim, which the court had rejected on the merits in its decision.

We argued that the D.C. Circuit had jurisdiction under the transition provision of the Federal Courts Improvement Act, under which the local courts of appeals retained jurisdiction over "[a]ny case where a notice of appeal had been filed" prior to October 1, 1982, the effective date of the Improvement Act. (Two notices of appeal had been filed in the instant case prior to October 1, 1982, but both were filed during the pendency of a

valid Rule 59(e) [Federal Rules of Civil Procedure] motion for reconsideration.) In the alternative, we contended that plaintiff's purported Tucker Act claim was so defective as not to furnish a basis for Tucker Act jurisdiction.

The D.C. Circuit has now completely accepted our transition provision argument, over Judge Bork's dissent. Although Judge Bork dissented with respect to the court's transition provision holding, he "agree[d] with DOJ that a substantial issue exists as to whether Weisberg's contract claim was so deficient on its face that the district court lacked subject matter jurisdiction over that claim under the Tucker Act." He would have ordered further briefing on this "complex issue."

Weisberg v. Department of Justice, \_\_\_ F.2d \_\_\_, No. 82-1229 (D.C. Cir. June 4, 1985). D. J. # 145-12-2590.

Attorneys: Leonard Schaitman (Civil Division) FTS 633-3441;  
John S. Koppel (Civil Division) FTS 633-5459.

NINTH CIRCUIT AFFIRMS DISMISSAL OF ACTION BROUGHT TO  
CHALLENGE FEDERAL RAILROAD ADMINISTRATION'S ENFORCEMENT  
OF RAILROAD SAFETY STATUTES.

A railroad labor organization and an individual employee brought this action seeking declaratory and injunctive relief which would, in effect, require the Federal Railroad Administration (FRA) to assess a fine for every violation of railroad safety legislation committed by railroads and discovered by FRA inspection. The district court dismissed the action on the ground that plaintiffs lacked standing. The Ninth Circuit, by a split panel, affirmed dismissal on the standing ground and also on the independent ground that an action brought to review an agency decision regarding enforcement of statutory and regulatory duties, essentially a decision not to prosecute, fails to state a claim under Federal Rules of Civil Procedure 12(b)(6).

As to standing, the court found that plaintiffs encountered difficulty with all three of the standing requirements: distinct and palpable injury; a fairly traceable causal connection between injury and defendant's conduct; and, redressability. The court held, however, that "plaintiffs . . . completely fail[ed] to satisfy the element of redressability." The court reasoned that it would be "virtually impossible for a district court to write the qualitative standards for, and supervise the enforcement efforts of, the agency charged with safety responsibility." Accordingly, it would be mere speculation to conclude that the injury claimed by plaintiffs, increased numbers of injuries to workmen, could be redressed by maintenance of the action. In the alternative, the court relied on the recent Supreme Court decision

in Heckler v. Chaney to hold that plaintiffs failed to state a claim because Congress did not evidence any intent to subject FRA's prosecutorial discretion to judicial review.

Railway Labor Executives Association v. Dole, \_\_\_ F.2d \_\_\_, No. 83-4306 (9th Cir. 1985). D. J. # 145-18-1155.

Attorneys: Robert S. Greenspan (Civil Division) FTS 633-5428; Edward R. Cohen (Civil Division) FTS 633-4331.

EN BANC TENTH CIRCUIT HOLDS GOVERNMENT DID NOT COMMIT FRAUD ON COURT.

Following one of the open-air atomic weapons tests conducted in Nevada during the 1950s, several thousand sheep mysteriously died. Their owners filed suit under the Federal Tort Claims Act (FTCA), alleging that radiation released by the test had killed the sheep. That claim was defeated because overwhelming expert evidence was presented at trial to the effect that the deaths of the sheep could not be attributed to exposure to radiation.

On the instant case the plaintiffs sought to set aside the now thirty-year-old FTCA judgment on the ground that it was procured by fraud on the court. The fraud claim was tried before the same district court judge who had tried the FTCA claim, and he concluded that the government had concealed and distorted evidence. We appealed his order setting aside the FTCA judgment, primarily on the ground that the finding that the government had committed fraud was clearly erroneous. After a unanimous panel decision reversing the order that set aside the FTCA judgment, the Tenth Circuit accepted plaintiffs' petition for rehearing en banc.

By a five-to-two vote, the en banc court has agreed that the finding of fraud was clearly erroneous. Characterizing the allegations that plaintiffs make as "extravagant," the majority opinion holds that "there was no evidence whatever of fraud." "[T]he most significant aspect of the record[]," explained the majority, "is that all the information, data and witnesses were available to plaintiffs [who] chose to use some of the data and not other parts." Thus, plaintiffs "tried the [FTCA] case the way they wanted" and now simply want "another chance." The dissent, believing that the evidence regarding whether the government had intentionally tried to mislead the plaintiffs was "contradictory," would have deferred to the district court's finding of fraud.

Bulloch v. United States, \_\_\_ F.2d \_\_\_, Nos. 82-2245, 82-2352 (10th Cir. May 22, 1985). D. J. # 157-77-394.

Attorneys: Robert S. Greenspan (Civil Division) FTS 633-5428; Marc Johnston (Civil Division) FTS 633-3305.

ELEVENTH CIRCUIT HOLDS THAT DISTRICT COURT LACKS JURISDICTION TO REVIEW ARMY SECRETARY'S DISAPPROVAL OF INJURED MOTORIST'S CLAIM UNDER THE NATIONAL GUARD CLAIMS ACT.

Plaintiffs were injured in a 1973 car accident with a vehicle driven by an officer in the Georgia National Guard. Because guardsmen were not federal employees at that time, plaintiffs could not recover under the FTCA. Instead, they filed an administrative claim under the National Guard Claims Act, which authorizes the Army to settle claims up to \$25,000 for injuries inflicted by Guard members while engaged in training or duty and acting within the scope of their employment. The Army initially rejected the claim based on its finding that the officer was not acting within the scope of his employment when the accident occurred. Despite the Act's language making the Army's determinations of such claims final and conclusive, plaintiffs brought an action in district court for a declaratory judgment that the officer had been acting within the scope of his employment, and the district court so held. In a prior appeal, the Fifth Circuit reversed and remanded on the ground that plaintiffs had failed to exhaust their administrative remedies by appealing administratively the Army's initial disposition of their claim. After the Army upheld its denial of the claim on administrative appeal, the district court held that it possessed jurisdiction. It affirmed its prior holding on the scope of employment issue, set aside the Army's decision to disallow the claim, and remanded the matter for reconsideration by the Army.

In a unanimous opinion, the Eleventh Circuit has reversed the district court and held that the finality language of the National Guard Claims Act precludes judicial review of the disposition of claims by the armed services. Citing Block v. Community Nutrition Institute, the court held that the legislative history of the statute demonstrated that Congress intended to preclude judicial review of the Army's determination of claims against members of the National Guard. Furthermore, the court stated that the Scroggins formula, which allows judicial intervention despite preclusive statutory language in instances involving substantial departures from important procedural rights, misconstruction of governing legislation, or like error going to the heart of an administrative determination, does not warrant judicial intervention "where legislative history support does not exist" or where the claim at issue "is allowed not as an entitlement, but as a gratuity." This decision should prove helpful in a variety of cases in which litigants try to circumvent statutory language intended to preclude judicial review.

Rhodes v. United States, \_\_\_ F.2d \_\_\_, No. 84-8123 (11th Cir. May 20, 1985). D. J. # 157-20-318.

Attorneys: William Kanter (Civil Division) FTS 633-1597;  
Peter Maier (Civil Division) FTS 633-4052.

LAND AND NATURAL RESOURCES DIVISION

A STATE MAY NOT TAX INDIAN ROYALTY INTERESTS FROM OIL  
AND GAS LEASE ISSUED UNDER THE INDIAN MINERAL LEASING  
ACT OF 1938.

The question in this case is whether the State of Montana may tax the Blackfeet Tribe's royalty interests under oil and gas leases issued to non-Indian lessees pursuant to the Indian Mineral Leasing Act of 1938, ch. 198, 52 Stat. 347, 25 U.S.C. §396a et seq. (1938 Act).

The Tribe filed this case in the district court challenging the application of several Montana taxes to their royalty interests in oil and gas produced under leases issued by them. The leases involved unallotted lands on their reservation and were granted to non-Indian lessees in accordance with the 1938 Act. The Tribe argued that the 1938 Act did not authorize the state to tax tribal royalty interests and that the taxes were unlawful. The district court rejected this claim, holding that the state taxes were authorized by a 1924 statute, and on appeal, the Ninth Circuit affirmed the district court's decision. On rehearing en banc, the Ninth Circuit reversed in part and remanded the case for further proceedings. The Ninth Circuit held that the tax authorization in the 1924 Act was not repealed by the 1938 Act and thus remained in effect for leases executed pursuant to the 1924 Act. The court also held, however, that leases granted under the 1938 Act did not incorporate the tax provision of the 1924 Act.

The Supreme Court affirmed. The Court found (1) that nothing in the legislative history of the 1938 Act suggests that Congress intended to permit states to tax tribal royalty income; (2) the statute contains no explicit consent to state taxation; and (3) there was no indication that the taxing authority of the 1924 Act was intended to be incorporated in the 1938 Act. The Court then held that in the absence of clear congressional consent, a state may not tax Indian royalty income from leases issued pursuant to the 1938 Act.

Montana v. Blackfeet Tribe of Indians, \_\_\_ U.S. \_\_\_, No. 83-2161 (June 3, 1985). D. J. # 90-1-4-2777.

Attorneys: Albert M. Ferlo, Jr. (Land and Natural Resources Division) FTS 633-2767; Martin W. Matzen (Land and Natural Resources Division) FTS 633-4426.

FEDERAL LAW DEFINES SCOPE OF INDIAN JUDICIAL AUTHORITY  
OVER NON-INDIANS

This case raised two questions: (1) whether a federal district court can enjoin a trial court's improper exercise of civil jurisdiction over a non-Indian; and (2) whether the trial court's exercise of jurisdiction was in fact improper. We participated as amicus curiae, arguing that the federal court can enjoin improper exercises of tribal court jurisdiction, but that tribal court jurisdiction was proper in this case.

The case originated as a tort action by an Indian child injured on state-owned school property within the Crow Reservation. The child brought the action in tribal court against the state school district and received a default judgment. The school district then collaterally attacked the tribal court judgment in federal district court, claiming that this tribal court lacked subject-matter jurisdiction. The district court agreed and enjoined execution of the tribal court judgment. However, the Ninth Circuit reversed, concluding that the federal courts have no jurisdiction to enjoin a tribal court's exercise of its civil jurisdiction.

The Supreme Court rejected the Ninth Circuit's analysis. It first noted that federal law defines the scope of Indian judicial authority over non-Indians, suggesting that appropriate limitations would be defined by federal common law. It concluded that, in all events, the question of such limitations presented a federal question under 28 U.S.C. §1331. But the Court also concluded that federal courts should generally withhold determination of challenges to tribal court jurisdiction until the non-Indian exhausted his tribal court remedies. The Court, finding that the exhaustion requirement had not been met in this case, found no reason to reach the question of the tribal court's jurisdiction. The Court left largely undefined the scope of the exhaustion requirement, and we can expect future litigation testing its contours.

National Farmers Union Insurance Cos. v. Crow Tribe, \_\_\_ U.S. \_\_\_, No. 84-320 (June 5, 1985). D. J. # 90-1-4-2804.

Attorneys: Jeffrey P. Minear (Land and Natural Resources Division) FTS 633-1442; Jacques B. Gelin (Land and Natural Resources Division) FTS 633-2762.



CLAIM THAT FEDERAL AGENCY'S FIELD-DATA-GATHERING WAS  
INADEQUATE UNDER SECTION 10(a) OF ENDANGERED SPECIES ACT  
REJECTED.

Affirming a summary judgment in favor of officials of the United States Fish and Wildlife Service (FWS) and municipalities in San Mateo County, California. The municipalities and certain land developers wished to develop a portion of San Bruno Mountain, south of San Francisco which is the habitat of the mission blue butterfly listed as endangered under the Endangered Species Act. FWS, after considering comprehensive studies and issuing a biological opinion which showed that land development as proposed would not jeopardize the continued existence of the butterfly, issued a federal permit authorizing the local municipalities "to incidentally take" mission blue butterflies as part of the land development process. The federal permit is described in Section 10(a) of the Endangered Species Act, as amended in 1981, 16 U.S.C. §1539(a).

The plaintiffs unsuccessfully contended that the field-data-gathering methodology, used as part of a population study of the mission blue butterfly, was flawed and did not support the FWS permit and the FWS findings accompanying it. The court of appeals rejected this contention, holding that plaintiffs had not submitted these supposed data-gathering defects to FWS while the permit was under consideration, and noting that the permit itself is subject to revocation based on future data which "might be revealed from the continuing monitoring" of butterfly activity called for by the permit. Moreover, the mitigation measures required by Section 10(a) of the Act had been met. The court of appeals also held that FWS's environmental assessment and its finding of no significant environmental impact were reasonable, and that, therefore, no environmental impact statement was required by Section 102(2)(C) of the National Environmental Policy Act. Additionally, FWS was not required to undertake a "worst case analysis" as described in regulations of the Council on Environmental Quality (40 C.F.R. §1502.22). The data already gathered was sufficiently informative so as to dispense with a "worst case" analysis, and "the fact that the staged development of the Mountain calls for corresponding staged reconsideration of environmental impacts . . . further supports our conclusion that the [FWS] acted reasonably in determining" no "worst case" analysis was needed. This is the first appellate decision interpreting a Section 10(a) permit since 10(a)'s amendment in 1982.

Friends of Endangered Species, Inc. v. Jantzen, Director of  
the Fish and Wildlife Service, \_\_\_ F.2d \_\_\_, No. 84-1991 (9th  
Cir. May 14, 1985). D. J. # 90-8-6-24.

Attorneys: Dirk D. Snel (Land and Natural Resources  
Division) FTS 633-4400; J. Carol Williams (Land and Natural  
Resources Division) FTS 633-2757.

CORPS' DECISION NOT TO FILE EIS FOR BARGE FLEETING FACILITY NOT ARBITRARY AND CAPRICIOUS.

In a 2 to 1 decision, the Seventh Circuit reversed the district court and held that the Corps' decision not to file an environmental impact statement (EIS) pursuant to the National Environmental Policy Act (NEPA), prior to issuing a permit for a barge fleeting facility on a scenic stretch of the Mississippi River, was not arbitrary and capricious.

The majority opinion (written by Judge Posner) included some original ideas (not argued by the government). Judge Posner suggested that the purpose of an environmental assessment is to determine whether the likelihood of environmental consequences justifies the time and expense of preparing the more elaborate environmental impact statement; Judge Posner also suggested that a higher threshold than applied a decade ago for requiring an EIS should be permitted because environmental assessments are now more thorough. Employing more traditional analysis, the majority opinion indicated that because of their subjective nature, aesthetic values do not lend themselves to the detailed analysis of an EIS and that other environmental impacts were trivial. The Corps complied with the NEPA requirement (42 U.S.C. §102(2)(E)) to study alternatives by relying on the permittee's study of alternative sites. Because plaintiffs did not carry their burden of showing that plausible alternative sites were overlooked by the permittee and because the Corps "is not a business consulting firm," the Corps did not need to conduct further study.

River Road Alliance, Inc. v. Corps of Engineers, \_\_\_ F.2d \_\_\_, Nos. 84-1689, 84-2045 (7th Cir. May 17, 1985). D. J. # 90-1-4-2505.

Attorneys: Ellen J. Durkee (Land and Natural Resources Division) FTS 633-3888; David C. Shilton (Land and Natural Resources Division) FTS 633-5580.

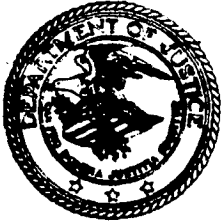
STATE OF WASHINGTON ENTITLED TO FULL 50 PERCENT OF FISH.

This is yet another appeal of the Washington fishing case. The fish in three rivers were in issue. On each river, the fish moved first through tribal fishing grounds and then to the State's sport-fishing area. Although the fish were to be split 50-50, the sport fishing was so inefficient that the fisherpersons would catch less than the State's 50 percent share. The Tribe wanted to take up the slack and catch more than its 50 percent share. Among other things, it was argued that it was necessary for the State and Tribe together to catch the total allocated catch so that research could be done to determine the optimal catch. The court

of appeals understood, and apparently approved of that argument. At the bottom line, however, it determined that 50 percent meant 50 percent, and that the State could use its entire share to enhance its sports fishery, even if many of the fish would not actually be caught.

United States and Quinalt Indian Tribe v. Washington,  
F.2. \_\_\_\_\_, No. 84-3571 (9th Cir. May 28, 1985). D. J. # \_\_\_\_\_  
90-2-0-670.

Attorneys: Ellen J. Durkee (Land and Natural Resources  
Division) FTS 633-3888; David C. Shilton (Land and Natural  
Resources Division) FTS 633-5580.



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

28 May 1985

Honorable Elsie L. Munsell  
United States Attorney  
Eastern District of Virginia  
Alexandria, Virginia 22314

Dear Elsie:

Mr. Herbert L. Beckington, Inspector General for the Agency for International Development, has brought to my attention the exemplary prosecution in the Eastern District of Virginia of Foreign Service Officer Walter Costello, a particularly difficult and important case to which you and members of your staff lent considerable expertise and dedication. Mr. Beckington noted that the Department of Justice was well represented in court by Assistant United States Attorney Clarence Albright. His efforts in prosecuting this case are to be commended. Mr. Albright's work on this case demonstrates his devotion and attention to the duties and responsibilities of his office.

I know the difficulties your office faced during this trial, and I extend a special thanks for a job well done. I wish you and all of your Assistants continued success as you represent the federal government.

Sincerely,

EDWIN MEESE III  
Attorney General

LISTING OF ALL BLUESHEETS IN EFFECT  
JUNE 21, 1985

<u>AFFECTS USAM</u>	<u>TITLE NO.</u>	<u>DATE</u>	<u>SUBJECT</u>
1-11.240*	TITLE 1	7/31/84	Immunity for the Act of Producing Reports
1-11.400*	TITLE 1	6/21/84	Immunity
1-12.020*	TITLE 1	6/29/84	Pre-Trial Diversion Program
1-12.400*	TITLE 1	10/12/84	PTD Agreement
1-12.602	TITLE 1	10/12/84	Letter to Offender--(USA Form 185)
1-12.603	TITLE 1	10/12/84	Agreement--(USA Form 186)
9-2.133*	TITLE 9	4/09/84	Policy Limitations on Institution of Proceedings, Consultation Prior to Institution of Criminal Charges
9-2.142(1) (c)(2)(c)*	TITLE 9	10/26/84	Dual and Successive Federal Prosecution Policy
9-2.144*	TITLE 9	10/26/84	Interstate Agreement on Detainers
9-2.147*	TITLE 9	10/26/84	Extradition and Deportation
9-2.149*	TITLE 9	10/26/84	Revocation and Naturalization
9-2.172	TITLE 9	10/26/84	Appearance Bond Forfeiture Judge
9-2.173	TITLE 9	10/26/84	Arrest of Foreign Nationals
9-4.543*	TITLE 9	8/10/84	Subpoenas to Obtain Records Located in Foreign Countries.
9-7.1000	TITLE 9	5/02/84	Video Surveillance

\* Approved by Advisory Committee, being permanently incorporated.

\*\* In printing.

LISTING OF ALL BLUESHEETS IN EFFECT  
JUNE 21, 1985

<u>AFFECTS USAM</u>	<u>TITLE NO.</u>	<u>DATE</u>	<u>SUBJECT</u>
9-11.220	TITLE 9	3/28/85	Extraterritorial Effect of the All Writs Act, 28 U.S.C. §1651
9-11.220C*	TITLE 9	8/27/84	Obtaining Records to Aid in the Location of Federal Fugitives by Use of All Writs Act
9-11.230*	TITLE 9	4/16/84	Fair Credit Reporting Act and Grand Jury Subpoenas-Discretion of U.S. Attorneys
9-11.250*	TITLE 9	7/9/84	Advice of Rights to Targets and Subjects of Grand Jury Investigations
9-11.270*	TITLE 9	8/10/84	Limitation on Resubpoenaing Contumacious Witness before Successive Grand Juries
9-12.340*	TITLE 9	7/24/84	Forfeiture
9-27.510*	TITLE 9	5/25/84	Opposing Offers to Plead Nolo Contendere
9-38.000*	TITLE 9	4/06/84	Forfeitures
9-42.530*	TITLE 9	10/9/84	Dept. of Defense Memorandum of Understanding
9-46.130; 9-46.140	TITLE 9	5/06/85	Program Fraud and Bribery-Policy Considerations; Criminal Division Contact
9-48.120	TITLE 9	3/07/85	Computer Fraud-Reporting Requirements
9-49.150; 9-49.160	TITLE 9	3/22/85	18 U.S.C. §1029-Reporting Requirements; Fraudulent Use of Credit Cards and Debit Instruments-Prosecutions Under 18 U.S.C. §1029 Statutes in Title 15

LISTING OF ALL BLUESHEETS IN EFFECT  
JUNE 21, 1985

<u>AFFECTS USAM</u>	<u>TITLE NO.</u>	<u>DATE</u>	<u>SUBJECT</u>
9-60.134; 9-60.135*	TITLE 9	12/14/84	Allegations of "Mental Kidnapping" or "Brain-washing" 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))
9-60.243*	TITLE 9	3/30/84	Other Consensual Interceptions
9-60.291*	TITLE 9	3/30/84	Interception of Radio Communications
9-60.291; 9-60.292	TITLE 9	5/06/85	Interception of Radio Communications; Unauthorized Reception of Cable Service
9-60.400*	TITLE 9	12/31/84	Criminal Sanctions Against Illegal Electronic Surveillance - The Foreign Intelligence Surveillance Act (FISA), 50 U.S.C. §1809
9-60.830	TITLE 9	2/20/85	Special Forfeiture of Collateral Profits of Crime ("Son of Sam")
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
9-61.970	TITLE 9	3/22/85	Policy Concerning Prosecution
9-63.132 to* 9-63.133	TITLE 9	5/02/84	Indictment; Death Penalty
9-63.195*	TITLE 9	5/02/84	Protection of Confidentiality of Security Procedures
9-63.251	TITLE 9	2/25/85	Policy Concerning Prosecution - 18 U.S.C. §32(b)

LISTING OF ALL BLUESHEETS IN EFFECT  
JUNE 21, 1985

<u>AFFECTS USAM</u>	<u>TITLE NO.</u>	<u>DATE</u>	<u>SUBJECT</u>
9-63.271*	TITLE 9	2/25/85	Policy Concerning Prosecution - 18 U.S.C. §33
9-63.460 to* 9-63.490	TITLE 9	5/02/84	Obscene or Harassing Telephone Calls - 47 U.S.C §223
9-63.1130*	TITLE 9	2/25/85	Policy Concerning Prosecution - 18 U.S.C. §1365
9-64.212*	TITLE 9	2/20/85	Prosecution Policy Concerning Robbery of Persons Possessing Non-Postal Service Money or Property of the United States
9-65.940	TITLE 9	3/28/85	Policy Concerning Prosecution - 18 U.S.C §115
9-69.342	TITLE 9	2/20/85	Sentencing in Prison Contraband Cases
9-71.400*	TITLE 9	5/24/84	Prosecutive Policy
9-71.400	TITLE 9	4/26/85	Prosecutive Policy
9-75.000*	TITLE 9	12/10/84	Obscenity
9-75.084*	TITLE 9	10/12/84	Comment-Child Pornography Statutes
9-75.621	TITLE 9	10/12/84	Exception-Child Pornography Cases
9-90.330	TITLE 9	5/06/85	Computer Espionage
9-90.600	TITLE 9	5/06/85	Registration



LISTING OF ALL BLUESHEETS IN EFFECT  
JUNE 21, 1985

<u>AFFECTS USAM</u>	<u>TITLE NO.</u>	<u>DATE</u>	<u>SUBJECT</u>
9-103.130; 9-103.140	TITLE 9	3/28/85	Controlled Substances Registrant Protection Act of 1984-Investigative & Prosecutive Guidelines; Criminal Division Approval
9-103.230	TITLE 9	3/28/85	Policy Consideration - Aviation Drug Trafficking Control Act
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
9-133.010*	TITLE 9	2/20/85	Investigative Jurisdiction: 29 U.S.C. §501(c) and 18 U.S.C. §664
9-134.010*	TITLE 9	2/20/85	Investigative Jurisdiction: 18 U.S.C. §1954
9-136.020*	TITLE 9	2/20/85	Investigative Jurisdiction: 18 U.S.C. §1027
9-138.030	TITLE 9	3/28/85	Consultation Prior to Prosecution
9-139.202*	TITLE 9	6/29/84	Supervisory Jurisdiction
9-139.220*	TITLE 9	6/29/84	Alternative Enforcement Measures
10-2.655**	TITLE 10	5/28/85	Quality Step Increases
10-2.800*; 10-9.160	TITLE 10	4/30/84	Notice of Provision for Special Accommodations
10-3.530	TITLE 10	01/07/85	Advances to Non-Department of Justice Employees
10-3.560*	TITLE 10	12/13/84	Relocation

LISTING OF ALL BLUESHEETS IN EFFECT  
JUNE 21, 1985

<u>AFFECTS USAM</u>	<u>TITLE NO.</u>	<u>DATE</u>	<u>SUBJECT</u>
10-4.350*	TITLE 10	7/31/84	Use By United States Attorneys Offices of Forfeited Vehicles and Other Property
10-4.418*	TITLE 10	7/20/84	Maintenance of Attorney-Client Information
10-6.213	TITLE 10	4/13/85	Monthly Reporting for Immediate Declination of Civil Referrals,
10-8.110;111; 10-8.112	TITLE 10	4/13/85	Judgment Policy

## 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

\* 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	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
	A16	8/31/84	3/02/84	Complete revision of Ch. 5
	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

<u>TRANSMITTAL AFFECTING TITLE</u>	<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>Contents</u>
TITLE 3	A3	10/11/83	8/4/83	Complete revision of Title 3-replaces all previous 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
	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

<u>TRANSMITTAL AFFECTING TITLE</u>	<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>CONTENTS</u>
TITLE 4	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)
	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
	A9	12/06/84	11/01/84	Revisions to Chapter 1
	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
	B1*	6/03/85	5/01/85	Revisions to Ch. 1 and Ch. 4

<u>TRANSMITTAL AFFECTING TITLE</u>	<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>CONTENTS</u>
TITLE 6	A2	3/23/84	3/2/84	Complete revision of Title 6-replaces all prior transmittals
	A3	12/19/84	12/14/84	Revision to Chapter 4 and Index
	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	10/16/81	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
	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

<u>TRANSMITTAL AFFECTING TITLE</u>	<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>CONTENTS</u>
TITLE 9	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	2/16/82	Revisions to Ch. 11, Title 9 Index, Index to USAM
	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



<u>TRANSMITTAL AFFECTING TITLE</u>	<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>CONTENTS</u>
TITLE 9	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	2/24/84	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
	A23	8/31/84	2/16/84	Revisions to Ch. 2
	A24	3/23/84	2/28/84	Complete revision of 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
	A29	3/26/84	3/9/84	Complete revision of Ch. 121
	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

<u>TRANSMITTAL AFFECTING TITLE</u>	<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>CONTENTS</u>
TITLE 9	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	3/14/84	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	2/16/84	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
	A54	7/25/84	6/15/84	Complete revision of Ch. 11
	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
	A62	12/31/84	12/28/84	Revisions to Chapter 123
	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
	A66	5/10/84	5/8/84	Complete revision to Ch. 131

<u>TRANSMITTAL AFFECTING TITLE</u>	<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>CONTENTS</u>
TITLE 9	A67	5/11/84	5/09/84	Revisions to Ch. 121, section .600
	A68	5/28/84	5/08/84	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
	A71	5/21/84	5/21/84	Complete revision of Ch. 20
	A72	5/25/84	5/23/84	Complete revision of Ch. 61
	A73	6/18/84	6/6/84	Complete revision of Ch. 17
	A74	6/18/84	6/7/84	Complete revision of Ch. 63
	A75	6/26/84	6/15/84	Complete revision of Ch. 27
	A76	6/26/84	6/15/84	Complete revision of Ch. 71
	A77	7/27/84	7/25/84	Complete revision of Ch. 6
	A78	9/10/84	8/31/84	Complete revision of Ch. 1
	A79	8/02/84	7/31/84	Complete revision of Ch. 18
	A80	8/03/84	8/03/84	Complete revision of Ch. 79
	A81	8/06/84	7/31/84	Revisions to Ch. 7
	A82	8/02/84	7/31/84	Revisions to Ch. 75
	A83	8/02/84	7/31/84	Revisions to Ch. 90

<u>TRANSMITTAL AFFECTING TITLE</u>	<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>CONTENTS</u>
TITLE 9	A84	9/10/84	9/7/84	Complete revision of Ch. 2
	A85	7/25/84	2/17/84	Revisions to Ch. 136
	A86	8/02/84	7/31/84	Revisions to Ch. 60
	A87	11/14/84	11/09/84	Revision to Ch. 42
	A88	8/31/84	8/24/84	Complete revision of Ch. 12
	A89	12/31/84	12/31/84	Complete revision of Ch. 4
	A90	10/10/84	10/01/84	Complete revision of Ch. 73
	A91	12/12/84	11/23/84	Revisions to Ch. 70
	A92	12/14/84	11/09/84	Revisions to Ch. 75
	A93	12/31/84	12/06/84	Revisions to Ch. 7
	A94	12/20/84	12/14/84	Correction to Ch. 27
	AAA9	5/14/84		Form AAA-9
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

<u>TRANSMITTAL AFFECTING TITLE</u>	<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>CONTENTS</u>
TITLE 10	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
	A13	9/4/84	3/26/84	Complete revision of Ch. 10
	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 Con- tents 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
	A20	8/31/84	5/24/84 & 7/31/84	Revisions to Chapter 2
	A21	6/6/84	5/1/84	Corrected TOC Chapter 4 and pages 23, 24
	A22	7/30/84	7/27/84	Revision to Ch. 2
	A23	8/02/84	7/31/84	Revision to Ch. 2
	A24	11/09/84	10/19/84	Revision to Ch. 2
	A25	11/09/84	10/19/84	Revision to Ch. 2
	A26	11/28/84	11/28/84	Revision to Ch. 2

<u>TRANSMITTAL AFFECTING TITLE</u>	<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>CONTENTS</u>
	A27	12/07/84	11/01/84	Revision to Ch. 2
	AAA10	5/14/84		Form AAA-10
	B1	3/15/85	1/31/85	Revision to Ch. 2
TITLE 1-10	A1	4/25/84	4/20/84	Index to USAM

TELETYPES

- 06-07-85 From William P. Tyson, Director, Executive Office for United States Attorneys, by Susan A. Nellor, Director, Office of Legal Services, re: "Coverage of Employees Under 18 U.S.C. §1114."
- 06-07-85 From C. Madison Brewer, Director, Office of Management Information Systems and Support, Executive Office for United States Attorneys, by Tim Murphy, Assistant Director, Debt Collection Staff, re: "Change in Federal Civil Postjudgment Interest Rate."
- 06-07-85 From C. Madison Brewer, Director, Office of Management Information Systems and Support, Executive Office for United States Attorneys, by Tim Murphy, Assistant Director, Debt Collection Staff, re: "Claims Collection Litigation Report."
- 06-11-85 From William P. Tyson, Director, Executive Office for United States Attorneys, re: "United States Attorneys' Conference, October 20-23, 1985, Washington, D.C."
- 06-11-85 From William P. Tyson, Director, Executive Office for United States Attorneys, by Susan A. Nellor, Director, Office of Legal Services, re: "Victim and Witness Handbook and Preparing To Testify Pamphlet."
- 06-13-85 From C. Madison Brewer, Director, Office of Management Information Systems and Support, Executive Office for United States Attorneys, by Tim Murphy, Assistant Director, Debt Collection Staff, re: "Amendment to Memorandum Which Disseminated Codes and Procedures For Opening, Reporting and Depositing Criminal Fines and Assessments Imposed In District and Magistrate Courts."
- 06-13-85 From C. Madison Brewer, Director, Office of Management Information Systems and Support, Executive Office for United States Attorneys, by Tim Murphy, Assistant Director, Debt Collection Staff, re: "Immediate Declination of DOED Special Project Student Loan Default Cases."
- 06-14-85 From William P. Tyson, Director, Executive Office for United States Attorneys, by Thomas G. Schrup, Acting Director, Office of Legal Education, re: "Obscenity Enforcement Seminar, July 10-12, 1985, Washington, D.C."



- 06-14-85 From Daniel W. Gluck, Personnel Officer, Personnel Staff, Executive Office for United States Attorneys, re: "Status of College Work Study and Volunteer Student Programs."
- 06-14-85 From C. Madison Brewer, Director, Office of Management Information Systems and Support, Executive Office for United States Attorneys, by Tim Murphy, Assistant Director, Debt Collection Staff, re: "Immediate Declination of DOED Special Project Student Loan Default Cases."
- 06-18-85 From William P. Tyson, Director, Executive Office for United States Attorneys, re: "Status of United States Attorneys."

## UNITED STATES ATTORNEYS' LIST

<u>DISTRICT</u>	<u>U.S. ATTORNEY</u>
Alabama, N	Frank W. Donaldson
Alabama, M	John C. Bell
Alabama, S	J. B. Sessions, III
Alaska	Michael R. Spaan
Arizona	Stephen M. McNamee
Arkansas, E	George W. Proctor
Arkansas, W	W. Asa Hutchinson
California, N	Joseph P. Russoniello
California, E	Donald B. Ayer
California, C	Robert C. Bonner
California, S	Peter K. Nunez
Colorado	Robert N. Miller
Connecticut	Alan H. Nevas
Delaware	Joseph J. Farnan, Jr.
District of Columbia	Joseph E. diGenova
Florida, N	W. Thomas Dillard
Florida, M	Robert W. Merkle
Florida, S	Stanley Marcus
Georgia, N	Larry D. Thompson
Georgia, M	Joe D. Whitley
Georgia, S	Hinton R. Pierce
Guam	David T. Wood
Hawaii	Daniel A. Bent
Idaho	William R. Vanhole
Illinois, N	Anton R. Valukus
Illinois, S	Frederick J. Hess
Illinois, C	Gerald D. Fines
Indiana, N	R. Lawrence Steele, Jr.
Indiana, S	John D. Tinder
Iowa, N	Evan L. Hultman
Iowa, S	Richard C. Turner
Kansas	Benjamin L. Burgess, Jr.
Kentucky, E	Louis G. DeFalaise
Kentucky, W	Alexander T. Taft, Jr.
Louisiana, E	John Volz
Louisiana, M	Stanford O. Bardwell, Jr.
Louisiana, W	Joseph S. Cage, Jr.
Maine	Richard S. Cohen
Maryland	J. Frederick Motz
Massachusetts	William F. Weld
Michigan, E	Joel M. Shere
Michigan, W	John A. Smietanka
Minnesota	James M. Rosenbaum
Mississippi, N	Glen H. Davidson
Mississippi, S	George L. Phillips
Missouri, E	Thomas E. Dittmeier
Missouri, W	Robert G. Ulrich

UNITED STATES ATTORNEYS

<u>DISTRICT</u>	<u>U.S. ATTORNEY</u>
Montana	Byron H. Dunbar
Nebraska	Ronald D. Lahners
Nevada	William A. Maddox
New Hampshire	Richard V. Wiebusch
New Jersey	W. Hunt Dumont
New Mexico	William L. Lutz
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New York, S	Rudolph W. Giuliani
New York, E	Raymond J. Dearie
New York, W	Salvatore R. Martoche
North Carolina, E	Samuel T. Currin
North Carolina, M	Kenneth W. McAllister
North Carolina, W	Charles R. Brewer
North Dakota	Rodney S. Webb
Ohio, N	Patrick M. McLaughlin
Ohio, S	Christopher K. Barnes
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Oklahoma, E	Roger Hilfiger
Oklahoma, W	William S. Price
Oregon	Charles H. Turner
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Pennsylvania, M	James J. West
Pennsylvania, W	J. Alan Johnson
Puerto Rico	Daniel F. Lopez-Romo
Rhode Island	Lincoln C. Almond
South Carolina	Cameron B. Littlejohn, Jr.
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Tennessee, M	Joe B. Brown
Tennessee, W	W. Hickman Ewing, Jr.
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Texas, S	Henry K. Oncken
Texas, E	Robert J. Wortham
Texas, W	Helen M. Eversberg
Utah	Brent D. Ward
Vermont	George W. F. Cook
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West Virginia, N	William A. Kolibash
West Virginia, S	David A. Faber
Wisconsin, E	Joseph P. Stadtmueller
Wisconsin, W	John R. Byrnes
Wyoming	Richard A. Stacy
North Mariana Islands	David T. Wood