

U.S. Department of Justice  
Attorney General



# The Annual Report of the Attorney General of the United States 1977

586193



586193

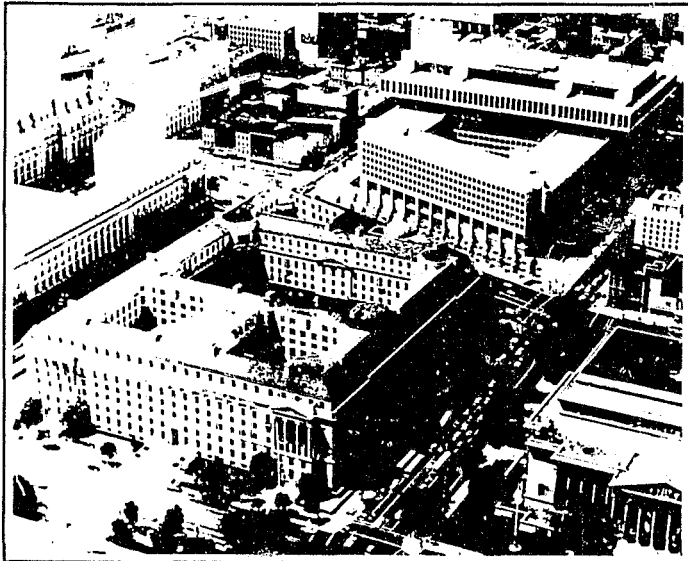
NCJRS

JUN 27 1979

# The Annual Report of the Attorney General of the United States 1977

---

ACQUISITIONS



---

For sale by the Superintendent of Documents, U.S. Government Printing Office  
Washington, D.C. 20402

Stock No. 027-000-00628-1



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

To the Senate and House of Representatives of the  
United States of America in Congress assembled:

I herewith report on the business of the Department  
of Justice for Fiscal Year 1977.

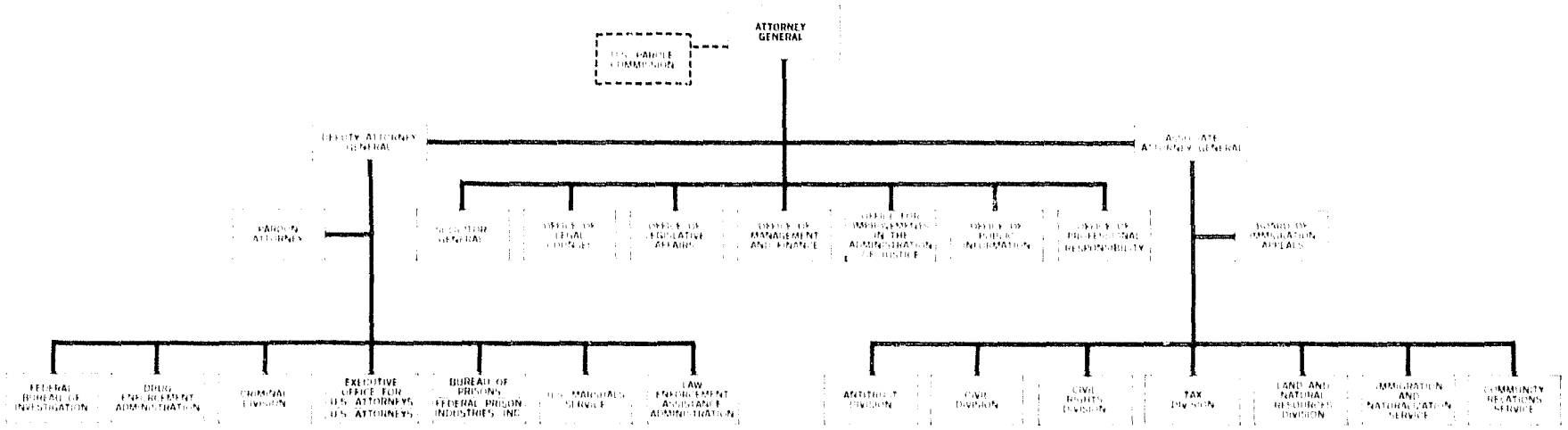
The report includes a brief summary of the  
highlights and major accomplishments of the Department,  
followed by detailed accounts of the activities of the  
various divisions, bureaus and offices of the Department.  
The report was prepared in accord with the requirements of  
P.L. 90-620.

I hope the report provides additional insight into  
the activities of the Department of Justice and will help  
Members of Congress assess the Department's performance in  
executing the laws.

Respectfully submitted,

Griffin B. Bell

# U.S. DEPARTMENT OF JUSTICE



# Summary of Activities and Accomplishments Fiscal Year 1977

Establishment of four primary priorities by the Department of Justice in its effort to combat crime, creation of a new office to help improve both criminal and civil justice, and several reorganization moves were among the Department's accomplishments in Fiscal 1977.

The Department in Fiscal 1977 concentrated resources in the areas of white-collar crime, organized crime, public corruption, and drug trafficking.

Using a task force approach, all appropriate Federal agencies and departments were enlisted in a comprehensive national attack on fraud in government programs.

Quick and successful prosecutions resulted.

Fraud often involves the corruption of public officials, and there were significant and successful corruption prosecutions on the federal, state, and local level.

Greater emphasis was given to prosecution of narcotics conspiracies that involved big-volume dealers and organized crime. The number of special narcotics prosecution units was increased from 19 to 22, with new units being established in Baltimore, Philadelphia, and San Juan, Puerto Rico. In addition, three specially trained teams of agents from the Federal Bureau of Investigation and the Drug Enforcement Administration were set up in New York, Chicago, and Los Angeles to investigate drug trafficking by organized crime.

As part of the priority given to combatting organized crime the Department opened branch offices of Organized Crime Strike forces in Las Vegas, Phoenix and Honolulu. The Las Vegas and Phoenix offices are under the direction of the Los Angeles Strike Force and Honolulu under San Francisco.

In February 1977, the Office for Improvements in the Administration of Justice, headed by an Assistant Attorney General, was established to pursue a wide range of projects that concern both civil and criminal justice. The office has developed and submitted to Congress legislation to expand the jurisdiction of U.S. mag-

istrates, to limit the exercise of diversity jurisdiction, and to induce the use of arbitration as a dispute-resolution program. The office's prime goal is to assure access to effective justice for all citizens.

In an important reorganization move, the Office of Associate Attorney General was established by law. The Associate Attorney General, who is appointed by the President with the advice and consent of the Senate, is the third-ranking official in the Department. Creation of the office responds to a long-standing need to devise a more realistic scope of activities for the top management of the Department. Formerly, all units of the Department reported through the Deputy Attorney General. Now, civil justice activities are principally under the direction of the Associate Attorney General, and criminal justice matters are principally vested with the Deputy Attorney General.

Another substantial reorganization effort involving the Law Enforcement Assistance Administration (LEAA) began in April 1977, with appointment of a study group to review LEAA programs and recommend measures to improve effectiveness and responsiveness. The group's report was released on June 30, at which time Attorney General Griffin B. Bell said he would recommend legislative changes only after thorough and detailed consultation with Congress. The Attorney General directed LEAA to close its 10 regional offices by September 30, 1977, to make services to the states more direct and less costly.

## Other Highlights of Fiscal Year 1977

—U. S. Attorneys. The 94 U. S. Attorneys are the chief law enforcement representatives of the Attorney General in their judicial districts. In keeping with the priorities set by the Department, the U. S. Attorneys achieved significant prosecutions in the areas of public corruption,

organized crime and fraud against the public and the government. A major goal of the U. S. Attorneys was to increase the representation of women and minorities on their professional staffs. During the year, some 25 percent of the new assistants hired were women and 20 percent were minorities.

--Federal Bureau of Investigation (FBI). Federal prosecutions of organized crime cases investigated by the FBI resulted in convictions of some 1,000 crime figures. Prosecutions were under way against another 1,000. Recoveries and confiscations totaled more than \$26,000,000.

---Antitrust Division. Heavy emphasis was placed on criminal proceedings directed at major cases, particularly price-fixing and bid-rigging. Grand juries returned indictments charging nationwide conspiracies to fix prices in the anthracite coal and paper bag industries, and a regional conspiracy to eliminate discounts in the sale of industrial cane sugar. The Division initiated criminal price-fixing actions in several com-

modity markets and began to use criminal proceedings to restrain price-fixing in service industries.

-Civil Rights Division. A Task Force on Sex Discrimination was set up with the goal of eliminating sexually discriminatory provisions from all laws, regulations, programs and policies of the Federal Government. Early in the year, the Attorney General set forth a new policy on dual prosecutions in civil rights cases involving law enforcement officers. Under the policy, civil rights statutes are to be enforced in their own right, regardless of whatever related enforcement action had been taken by the states.

-Immigration and Naturalization Service (INS). In Fiscal 1977, some 460,000 immigrants were admitted to the United States, a 15 percent increase over 1976. The increase was due largely to granting of permanent resident status to Cuban refugees. INS officers located 1,042,215 deportable aliens, a 19 percent increase over 1976.

# Contents

	<i>Page</i>
Summary of Activities and Accomplishments.....	v
Office of the Deputy Attorney General.....	1
Office of the Associate Attorney General.....	3
Office of the Solicitor General.....	4
Office of Legal Counsel.....	10
Office of Legislative Affairs.....	12
Office for Improvements in the Administration of Justice....	13
Office of Professional Responsibility.....	16
Office of Management and Finance.....	17
United States Parole Commission.....	29
Office of the Pardon Attorney.....	32
Federal Bureau of Investigation.....	33
Drug Enforcement Administration.....	46
Criminal Division.....	59
Executive Office for United States Attorneys.....	85
Bureau of Prisons-Federal Prison Industries Inc.....	101
United States Marshals Service.....	105
Law Enforcement Assistance Administration.....	109
Board of Immigration Appeals.....	132
Antitrust Division.....	137
Civil Division.....	144
Civil Rights Division.....	152
Tax Division.....	166
Land and Natural Resources Division.....	177
Immigration and Naturalization Service.....	191
Community Relations Service.....	197

# Office of the Deputy Attorney General

**Peter F. Flaherty**  
Deputy Attorney General

The Deputy Attorney General, whose primary task is to assure the fair and professional administration of criminal justice, assists the Attorney General in directing the day-to-day activities of all criminal justice units of the Department. These units are: the Federal Bureau of Investigation, Drug Enforcement Administration, Criminal Division, Executive Office for U.S. Attorneys, Bureau of Prisons, U.S. Marshals Service, Law Enforcement Assistance Administration, Interpol, Office of Freedom of Information and Privacy Appeals and Pardon Attorney. In addition, the Deputy Attorney General implements the policies of the Attorney General and acts as the Attorney in his absence.

In exercising his responsibilities, the Deputy Attorney General supervises the criminal justice components, including investigation, prosecution, incarceration and rehabilitation at the Federal level and assistance to state and local criminal justice systems. With respect to the latter component, a Task Force on the Reorganization of the Law Enforcement Assistance Administration was formed in 1977 to make recommendations for the most effective ways in which the Federal Government may deliver assistance to the State and local entities. It was the recommendation of the Task Force that LEAA be reorganized to insure more effective and efficient administration of assistance. Further initiatives are being undertaken in the Office of the Deputy Attorney General.

At the direction of the President and the Attorney General, the Deputy Attorney General is coordinating Government-wide efforts to detect and prosecute white collar criminals. This has involved the formation of a Task Force to review Department efforts and make recommendations for a broad scale attack on white collar crime to an Interagency group headed by the Deputy Attorney General.

Another on-going project under the direction of the Deputy Attorney General is the formulation of methods for alleviating the increasing problem of

crowding in Federal prisons and the establishment of acceptable minimum standards for the Federal prison system which may serve as a model for states and local communities.

In conjunction with a total review of the criminal justice delivery system, the Deputy Attorney General has instituted a complete analysis of the administration of the Witness Protection Program. The results of this analysis will determine in what ways the program can be more effectively controlled and implemented.

One of the most important administrative tasks of the Deputy Attorney General is to review the budget submissions of the units under this jurisdiction and to assist in making final budget recommendations to the Attorney General. In accordance with the mandate of the President and the Attorney General, careful scrutiny was given each budget request, and an effort was made to eliminate unnecessary spending while supporting strong and efficient activity in the criminal justice areas.

The Deputy Attorney General has other duties in addition to the general supervisory ones. He serves on the Under Secretaries Group of the Council for Urban Affairs and the Interagency Council for Minority Business Enterprise and is responsible for coordinating and controlling the Department's reaction to civil disturbances.

Responsibility for supervision of Privacy Act and Freedom of Information Act operations rests with the Deputy Attorney General. He acts on appeals under these statutes and is assisted by the Office of Privacy and Information Appeals in carrying out his responsibilities. The Attorney General has ordered that under the direction of the Deputy Attorney General each Department will commit extra effort and staff to eliminate the backlog of cases pending in the Department, and to date tremendous progress has been made.

In addition each unit has handled an increasing number of cases and is making every effort to assure



compliance with the Attorney General's wishes.

The Deputy Attorney General also plays a major role in presenting to the Congress the criminal justice

concerns of the Department. He also processes many requests from Congress and the public for information about Department decisions and activities.

# Office of the Associate Attorney General

Michael J. Egan,  
Associate Attorney General

The Associate Attorney General assists the Attorney General in the overall supervision and direction of the Department's policies and programs. As the third-ranking official in the Department, the Associate Attorney General acts as Attorney General in the absence of the Attorney General and the Deputy Attorney General.

The Office of the Associate Attorney General was established in its present form and status by Public Law 95-139, which was signed by President Carter on October 19, 1977.\* The Associate Attorney General is appointed by the President with the advice and consent of the Senate.

The creation of the Office responds to a long-standing need to devise a more realistic scope of activities for the top management of the Department. While all units of the Department formerly reported through the Deputy Attorney General, now all civil justice activities of the Department are under the direction of the Associate Attorney General, and all criminal justice matters are vested with the Deputy Attorney General.

The civil justice responsibilities of the Associate Attorney General include supervision of the following: the Antitrust, Civil, Land and Natural Resources, Civil Rights, and Tax Divisions; the Immigration and Naturalization Service; and the Community Relations Service. In addition, the Office is responsible for coordinating all reorganization activities, internal administration of the Department, and executive and professional personnel selection.

\*The position had been created in 1973 by Presidential directive, but had been used for only two brief periods since that time. In these instances the position served as that of a senior policy advisor. Through legislative action, it has become that of a major policy official.

With regard to personnel selection, the Associate Attorney General prepares recommendations for Presidential appointments to the Federal judiciary and the positions of United States Attorney and Marshal. These nominees are subject to Senate confirmation. During Fiscal 1977, 24 individuals were nominated to the Federal bench. In addition, 41 United States Attorneys and 36 United States Marshals were appointed during this time.

The Office also handles all hiring of Department attorneys and related actions that affect them. A highly qualified legal staff is the basis for the success of many of the Department's programs. The Attorney General's Honor Law Graduate Program, administered by the Office, recruits outstanding third-year law students for employment in the Department upon graduation. Applications from third-year law students totaled 2,201 under the 1977 Attorney General's Honor Program. This year, 92 attorneys were selected from 62 different law schools. Of the 92 attorneys, 9 (9.8 percent) are minority and 35 (35.8 percent) are women. Under the judicial law clerk phase of the Honor Program, 237 applications were received. Forty-six offers were accepted, 19 by women. There is also a formal hiring program for law students who have completed their second year of legal studies and desire to clerk for the Department during the summer before their final year of law school.

A major policy commitment of the President is Government reorganization. All reorganization projects affecting the Department of Justice are monitored by this Office. Studies examining the Government's handling of litigation authority, Federal law enforcement programs, U.S. border reorganization, and Federal-local funding for justice problems and research are among those in various stages of development.

# Office of the Solicitor General

Wade H. McCree, Jr.  
Solicitor General

The Solicitor General, with the assistance of a small staff of attorneys, is responsible for conducting and supervising all aspects of Government litigation in the Supreme Court of the United States. In addition, the Solicitor General reviews every case handled by the Department of Justice that a lower court has decided against the United States, to determine whether to appeal. He also decides whether the United States should file a brief as *amicus curiae* (friend of the court) in any appellate court.

A significant part of the work of the Office involves Government agencies that have handled lower court litigation themselves such as the National Labor Relations Board and the Securities and Exchange Commission. In addition many cases arise from activities of other executive departments of the Government.

During the past term of the Supreme Court (July 6, 1976, to June 29, 1977), the Office handled 2,444 cases, about 51 percent of the 4,829 cases on the Court's docket, an increase of 92 percent during the past 10 terms and an increase of 10 percent over the past term [Table I]. Of the cases acted on during the Term, there were 1,880 in which the Government appeared as the respondent, 107 petitions for writs of certiorari filed or supported by the Government and 21 cases in which it appeared as *amicus curiae* for the respondent [Table II-A]. During the same period the Court acted upon 14 appeals filed or supported by the Government and 26 cases where the Office either represented the appellee or appeared as *amicus curiae* supporting the appellee [Table II-B]. In addition, the Office participated in three cases on the Court's original docket [Table II-D].

Of the 3,720 petitions for writs of certiorari docketed and acted upon, 6 percent were granted during the Term. Of those filed or supported by the United States, 76 percent were granted. This reflects the careful screening of the Government cases by the Solicitor General and his staff before the decision is made to file

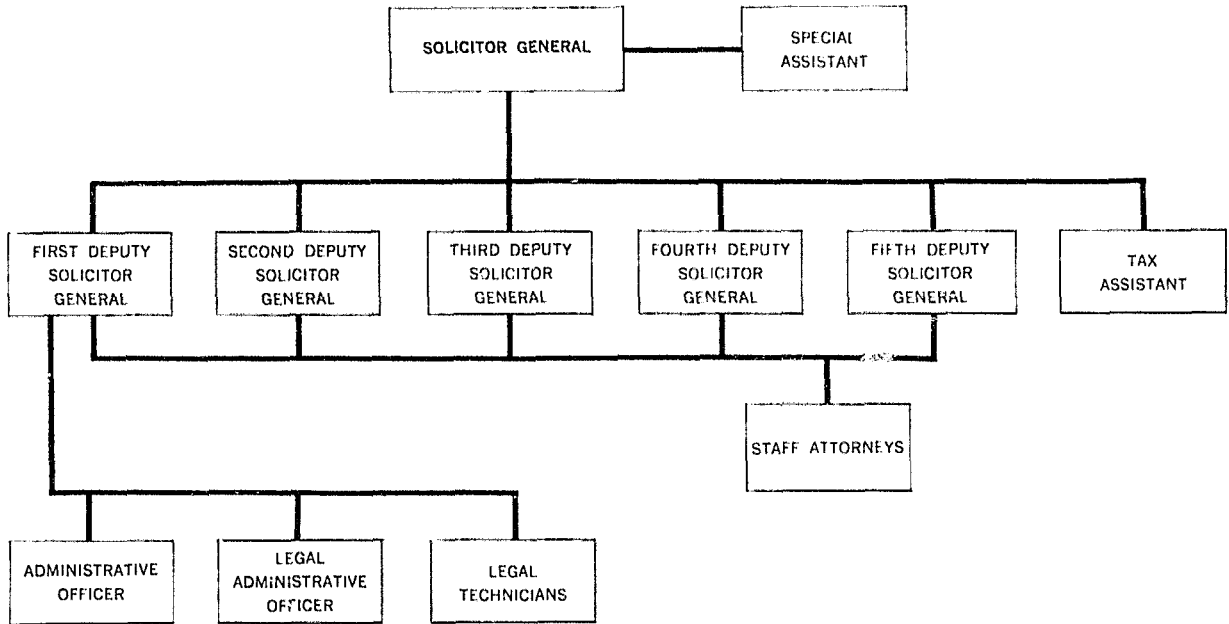
a petition. Of the 23 appeals filed or supported by the Government, probable jurisdiction was noted by the Court in 14 [Tables II-A and B].

The Government participated in argument or filed briefs as *amicus curiae* in 99 (56 percent) of the 176 cases argued on the merits before the Supreme Court. Of the cases decided on the merits, with or without argument, the Government participated in 186 of 372 cases, 60 percent of which were decided in favor of the Government's position and 6 percent of which were decided partially in favor of the Government's position.

During the same period, there were 572 cases in which the Solicitor General decided not to petition for certiorari, one case in which he decided not to take a direct appeal and 1,453 cases in which the Solicitor General was called upon to decide whether to authorize taking a case to one of the courts of appeals, plus 294 miscellaneous matters. This made a total of 4,764 substantive matters the Office handled during the year.

Important cases the Court decided in which the Government was a party or a participant included *Nixon v. General Services Administration*, No. 75-1605, which upheld the constitutionality of the Presidential Recordings and Materials Preservation Act, which vests custody of the presidential materials of former President Nixon in the General Services Administration and provides for future public access to those materials; *Bates and O'Steen v. State Bar of Arizona*, No. 76-316, in which the Court held that a state's prohibition of all advertising by lawyers violated the First Amendment because it was too broad; *Atlas Roofing Co. v. Occupational Safety and Health Review Commission*, 430 U.S. 442, holding that the provision in the Occupational Safety and Health Act of 1970 authorizing the Commission to impose civil penalties for violation of the Act does not violate the Seventh Amendment right to jury trial; *Illinois Brick Co. v. Illinois*, No. 76-404, holding that indirect pur-

## OFFICE OF THE SOLICITOR GENERAL



chasers cannot maintain a private antitrust damage action based upon price fixing by the suppliers of the firms from which they purchased and which firms passed on to them the higher prices those firms had paid as a result of the price fixing; *E. I. du Pont de Nemours v. Train*, 430 U.S. 112, which upheld the authority of the Environmental Protection Agency to issue industry-wide regulations limiting the discharge of water pollutants by individual plants; *International Brotherhood of Teamsters v. United States*, 431 U.S. 324, holding that in appropriate circumstances non-applicants for certain jobs who were deterred by the employer's discriminatory policy are entitled to relief for employment discrimination under Title VII of the Civil Rights Act of 1964 but that Title VII preserves rights under a bona fide seniority system even if the

effects of pre-Title VII discrimination are thereby perpetuated; *United Jewish Organization v. Carey*, 430 U.S. 144, holding that racial awareness in legislative reapportionment can properly play a role in assuring compliance with the Voting Rights Act of 1965; *Dayton Board of Education v. Brinkman*, No. 76-539, holding that school desegregation remedies should be tailored to the scope of the violation so as to eliminate only the increment in racial separation caused by official racial discrimination affecting the operation of the schools; and *Milliken v. Bradley*, No. 76-447, holding that in appropriate circumstances federal courts in school desegregation cases may order compensatory or remedial educational programs to remedy the effects of past discriminatory practices.

TABLE 1—OFFICE OF THE SOLICITOR GENERAL—SUPREME COURT LITIGATION

October Term, 1976

(July 6, 1976–June 29, 1977)

## TOTAL CASES

	1967		1968		1969		1970		1971		1972		1973		1974		1975		1976	
	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent
1. Total number of cases on dockets	3,586	100	3,918	100	4,202	100	4,213	100	4,535	100	4,639	100	5,079	100	4,620	100	4,760	100	4,829	100
a. Brought over from preceding term	453	13	613	16	767	18	793	19	892	20	891	19	891	18	1,203	26	821	17	955	20
b. Docketed during the term	3,133	87	3,305	84	3,435	82	3,420	81	3,643	80	3,748	81	4,188	82	3,417	74	3,939	83	3,874	80
2. Disposition of cases on dockets at the term: Total	3,586	100	3,918	100	4,202	100	4,213	100	4,535	100	4,639	100	5,079	100	4,620	100	4,760	100	4,829	100
a. Cases acted upon and closed	2,973	83	3,151	80	3,409	81	3,321	79	3,644	81	3,748	81	3,876	76	3,799	82	3,804	80	4,017	83
b. Cases acted upon but not closed	68	2	79	2	101	3	115	3	110	2	84	2	95	2	105	2	101	2	92	2
c. Cases docketed but not acted upon	545	15	688	18	692	16	777	18	781	17	807	17	1,108	22	716	16	855	18	720	15
3. Cases carried over to next term	613		767		793		892		891		891		1,203		821		956		812	
4. Classification of cases acted upon at the term: Total	3,041	100	3,230	100	3,510	100	3,436	100	3,754	100	3,832	100	3,971	100	3,901	100	3,905	100	4,109	100
a. Certioraris	2,704	89	2,880	89	3,165	90	3,067	89	3,405	91	3,361	88	3,578	90	3,525	90	3,586	92	3,790	92
b. Appeals	173	6	187	6	214	6	263	8	233	6	354	9	277	7	261	7	224	6	260	7
c. Miscellaneous docket, original writs	158	5	158	5	119	4	91	3	100	3	103	3	105	3	106	3	84	2	53	1
d. Original docket	6		5		12		15		16		14		10		9		10		6	
e. Certifications	0		0		0		0		0		0		1		0		1		0	
5. Cases participated in by the Government	1,274	36	1,325	34	1,500	36	1,620	38	1,839	41	2,133	46	2,428	48	2,199	48	2,219	47	2,444	51
6. Cases not participated in by the Government	2,312	64	2,593	66	2,702	64	2,593	62	2,696	59	2,506	54	2,651	52	2,421	52	2,541	53	2,385	49

TABLE II-A—OFFICE OF THE SOLICITOR GENERAL—CLASSIFICATION OF CASES UPON WHICH THE SUPREME COURT HAS ACTED

This does not include cases in which the Court has merely acted on applications for stays, extensions of time, or similar matters, or denied petitions for rehearing

	1967		1968		1969		1970		1971		1972		1973		1974		1975		1976		
	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent	
A. Petitions for Writs of Certiorari																					
1. Total number docketed and acted upon	2,645	100	2,843	100	3,125	100	3,011	100	3,339	100	3,295	100	3,521	100	3,470	100	3,506	100	3,720	100	
a. Petitions filed or supported by Government	55	2	35	1	49	2	58	2	50	2	58	2	76	2	76	2	69	2	59	2	
(1) Government as petitioner	38	1	27	1	37	2	45	2	39	2	52	2	61	2	66	2	50	2	48	2	
(2) Government as amicus, supporting petitioner	17	1	8		12		13		11		6		15		10		19		11		
b. Petitions not filed or supported by Government	2,590	98	2,808	99	3,076	98	2,953	98	3,289	98	3,237	98	3,445	98	3,394	98	3,437	98	3,661	98	
(1) Government as respondent	887	34	950	33	1,076	34	1,194	40	1,339	40	1,470	45	1,595	45	1,615	47	1,506	43	1,880	51	
(2) Government as amicus, supporting respondent	12		8		9		2		3		17		5		13		30		21		
(3) No participation by Government	1,691	64	1,850	65	1,991	64	1,757	58	1,947	58	1,750	53	1,845	53	1,766	51	1,901	54	1,760	47	
2. Total number of petitions granted	271	10	192	7	169	5	196	6	217	9	207	6	218	6	185	5	236	7	233	6	
a. Petitions filed or supported by Government	36	65	28	80	29	59	44	76	36	72	41	71	53	70	55	72	55	80	45	76	
(1) Government as petitioner	24	63	22	81	19	51	31	69	27	70	36	69	39	64	47	71	38	76	37	77	
(2) Government as amicus, supporting petitioner	12	71	6	75	10	83	13	100	9	82	5	83	14	93	8	80	17	90	8	73	
(3) No participation by Government	93	0	164	6	140	5	152	5	281	9	166	5	165	5	130	4	181	5	188	5	
b. Petitions not filed or supported by Government	235	10	66	7	61	6	53	4	52	4	51	4	69	4	46	3	42	3	77	4	
(1) Government as respondent	5	42	2	25	4	44	0	1	33	10	59	2	40	11	85	24	80	8	38	4	
(2) Government as amicus, supporting respondent	5	8	96	5	75	4	99	6	228	12	105	6	94	5	73	4	115	6	103	6	
(3) No participation by Government	137	89	2,632	92	2,923	94	2,793	93	2,997	90	3,056	93	3,268	93	3,266	94	3,252	92	3,465	93	
3. Total number of petitions denied or dismissed	17	31	6	17	20	41	13	22	14	28	16	28	23	30	21	28	14	20	14	24	
a. Petitions filed or supported by Government	12	32	5	19	18	49	13	29	12	30	15	29	22	36	19	29	12	24	11	23	
(1) Government as petitioner	5	29	1	13	2	17	0	2	18	1	17	1	7	2	20	2	10	3	27		
(2) Government as amicus, supporting petitioner	7	26	4	15	18	49	13	29	12	30	15	29	22	36	19	29	12	24	11	23	
(3) No participation by Government	12	32	5	19	18	49	13	29	12	30	15	29	22	36	19	29	12	24	11	23	
b. Petitions not filed or supported by Government	5	29	1	13	2	17	0	2	18	1	17	1	7	2	20	2	10	3	27		
(1) Government as respondent	5	29	1	13	2	17	0	2	18	1	17	1	7	2	20	2	10	3	27		
(2) Government as amicus, supporting respondent	7	26	4	15	18	49	13	29	12	30	15	29	22	36	19	29	12	24	11	23	
(3) No participation by Government	7	26	4	15	18	49	13	29	12	30	15	29	22	36	19	29	12	24	11	23	
4. Total number of petitions mooted or dismissed	18	1	10	1	33	1	22	1	25	1	22	1	35	1	19	1	18	1	22	1	

1 Includes protective and cross-petitions denied upon government recommendation after disposition of related cases.

2 See note 1 in text above.

Note.—Percentages based on participation.

TABLE II-B—OFFICE OF THE SOLICITOR GENERAL—CLASSIFICATION OF CASES UPON WHICH THE SUPREME COURT HAS ACTED

	1967		1968		1969		1970		1971		1972		1973		1974		1975		1976	
	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent
<b>B. Appeals</b>																				
1. Total number docketed and acted upon.....	161	100	165	100	193	100	227	100	199	100	322	100	257	100	230	100	205	100	232	100
a. Appeals filed or supported by Government.....	15	9	8	5	24	12	23	10	17	9	29	9	18	7	16	7	13	6	23	10
(1) Government as appellant.....	11	7	5	3	20	10	20	9	14	7	21	7	14	5	14	6	11	5	17	7
(2) Government as amicus, supporting appellant.....	4	2	3	2	4	2	3	1	3	2	8	2	4	2	2	1	2	1	6	3
b. Appeals not filed or supported by Government.....	146	91	157	95	169	88	204	90	182	91	293	91	239	93	214	93	192	94	209	90
(1) Government as appellee.....	49	30	39	23	36	19	27	12	20	10	43	13	37	15	51	22	26	13	26	11
(2) Government as amicus, supporting appellee.....	1	1	3	2	5	2	12	5	7	3	5	2	1	3	1	5	2	6	3	3
(3) No participation by Government.....	96	60	115	70	128	67	165	73	155	78	245	76	201	78	160	70	161	79	177	76
2. Total number dismissed, affirmed or reversed without argument.....	106	66	112	68	130	67	168	74	159	80	270	84	204	79	187	81	163	80	188	81
a. Appeals filed or supported by Government.....	3	20	2	25	8	33	10	43	4	24	14	48	3	17	5	31	5	39	14	61
(1) Government as appellant.....	3	27	2	40	8	40	9	45	4	29	12	57	3	21	4	29	3	27	12	71
(2) Government as amicus, supporting appellant.....	0	0	0	0	0	0	1	33	0	0	2	25	0	1	50	2	100	2	33	83
b. Appeals not filed or supported by Government.....	103	71	110	70	122	72	158	77	155	85	256	87	201	84	182	85	158	82	174	85
(1) Government as appellee.....	33	67	30	77	27	75	25	93	18	90	37	86	28	76	40	76	20	77	22	85
(2) Government as amicus, supporting appellee.....	0	0	2	67	1	20	3	25	5	71	4	80	1	100	1	33	4	80	4	67
(3) No participation by Government.....	70	73	78	68	94	73	130	79	132	85	215	88	172	86	141	88	134	83	148	84
3. Total number Jurisdiction Noted or set for argument.....	55	34	53	32	63	33	59	26	40	20	52	16	53	21	43	19	42	20	44	19
a. Appeals filed or supported by Government.....	12	80	6	75	16	67	13	57	13	76	15	52	15	83	11	69	8	61	9	39
(1) Government as appellant.....	8	73	3	60	12	60	11	55	10	71	9	43	11	79	10	71	8	73	5	29
(2) Government as amicus, supporting appellant.....	4	100	3	100	4	100	2	67	3	100	6	75	4	100	1	50	0	4	67	17
b. Appeals not filed or supported by Government.....	43	29	47	30	47	28	46	23	27	15	37	13	38	16	32	15	34	18	35	17
(1) Government as appellee.....	16	33	9	23	9	25	2	7	2	10	6	14	9	24	11	22	6	23	4	15
(2) Government as amicus, supporting appellee.....	1	100	1	33	4	80	9	75	2	29	1	20	0	2	67	1	20	2	33	
(3) No participation by Government.....	26	27	37	32	34	27	35	21	23	15	30	12	29	14	19	12	27	17	29	16

Note.—Percentages based on participation.

TABLE III.—OFFICE OF THE SOLICITOR GENERAL—CLASSIFICATION OF SUPREME COURT CASES ARGUED OR DECIDED ON MERITS

	1967		1968		1969		1970		1971		1972		1973		1974		1975		1976	
	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent
<b>A. Argued</b>																				
1. All cases argued.....	179	100	139	100	144	100	151	100	173	100	177	100	170	100	173	100	179	100	176	100
2. Government participating.....	115	64	68	49	73	51	89	59	78	45	103	58	93	55	111	64	121	68	99	56
a. Government as petitioner or appellant <sup>1</sup> .....	33	29	25	37	26	35	33	37	37	47	40	39	37	40	50	45	44	36	29	29
b. Government as respondent or appellee <sup>2</sup> .....	63	55	29	43	37	51	30	34	25	32	35	34	30	32	39	35	32	27	36	36
c. Government as amicus <sup>3</sup> .....	19	16	14	20	10	14	26	29	16	21	28	27	26	28	22	20	45	37	34	35
3. Government not participating.....	64	36	71	51	71	49	62	41	75	55	74	42	77	45	62	36	58	32	77	44
<b>B. Decided on Merits With or Without Argument</b>																				
1. All cases decided on merits <sup>1</sup> .....	369	100	258	100	239	100	329	100	447	100	437	100	349	100	308	100	351	100	372	100
2. Government participating.....	200	54	130	50	133	56	150	46	125	28	180	41	160	46	162	53	175	50	186	50
a. Decided in favor of Government's position <sup>2</sup> .....	126	63	83	64	77	58	100	67	88	70	128	71	120	75	114	70	134	77	111	60
b. Decided against Government's position <sup>2</sup> .....	72	36	47	36	52	39	47	31	37	30	48	27	34	21	42	26	33	19	64	34
c. Not classifiable as for or against <sup>3</sup> .....	2	1	0	0	4	3	3	2	0	0	4	2	6	4	6	4	8	4	11	6
3. No participation by Government.....	169	46	128	50	106	44	179	54	322	72	257	59	189	54	146	47	176	50	186	50

<sup>1</sup> Includes cases summarily affirmed, reversed or vacated on the In For na Pauperis Docket.

<sup>2</sup> Percentage is based on the total cases in which the Government participated.

<sup>3</sup> Includes 16 consolidated cases which constitute four groups of cases arising from lower court decisions on which the Government was a party, and one case dismissed on jurisdictional grounds after argument.

<sup>4</sup> Includes cases in which the Government filed briefs as amicus curiae but did not participate in the argument.

TABLE II-C, D, E—OFFICE OF THE SOLICITOR GENERAL—CLASSIFICATION OF CASES UPON WHICH THE SUPREME COURT HAS ACTED

	1967		1968		1969		1970		1971		1972		1973		1974		1975		1976	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
<b>C. Miscellaneous Docket - Original Writs</b>																				
1. Total number of applications for original writs docketed and acted upon	158	100	158	100	119	100	90	100	100	100	103	100	105	100	106	100	84	100	53	100
a. Filed or supported by Government	0		0		0		0		0		0		0		0		0		0	
(1) Government as petitioner	0		0		0		0		0		0		0		0		0		0	
(2) Government as amicus, supporting petitioner	0		0		0		0		0		0		0		0		0		0	
b. Not filed or supported by Government	158	100	158	100	119	100	90	100	100	100	103	100	105	100	106	100	84	100	53	100
(1) Government as respondent	26	16	40	25	36	30	22	24	35	35	39	38	47	45	35	33	29	34	18	34
(2) Government as amicus, supporting respondent	0		0		0		0		0		0		1	1	0		0		0	
(3) No participation by Government	132	84	118	75	83	70	68	76	65	65	64	62	57	54	71	67	55	66	35	66
2. Total number decided without argument	158	100	157	99	118	99	90	100	100	100	103	100	105	100	106	100	84	100	53	100
a. Filed or supported by Government	0		0		0		0		0		0		0		0		0		0	
(1) Government as petitioner	0		0		0		0		0		0		0		0		0		0	
(2) Government as amicus, supporting petitioner	0		0		0		0		0		0		0		0		0		0	
b. Not filed or supported by Government	158	100	157	99	118	99	90	100	100	100	103	100	105	100	106	100	84	100	53	100
(1) Government as respondent	26	16	39	24	35	29	22	24	35	35	39	38	47	45	35	33	29	34	18	34
(2) Government as amicus, supporting respondent	0		0		0		0		0		0		1	1	0		0		0	
(3) No participation by Government	132	84	118	75	83	70	68	76	65	65	64	62	57	54	71	67	55	66	35	66
3. Total argued or set for argument	0		1		1		0		0		0		0		0		0		0	
a. Filed or supported by Government	0		0		0		0		0		0		0		0		0		0	
(1) Government as petitioner	0		0		0		0		0		0		0		0		0		0	
(2) Government as amicus, supporting petitioner	0		0		0		0		0		0		0		0		0		0	
b. Not filed or supported by Government	0		1		1		0		0		0		0		0		0		0	
(1) Government as respondent	0		0		0		0		0		0		0		0		0		0	
(2) Government as amicus, supporting respondent	0		0		0		0		0		0		0		0		0		0	
(3) No participation by Government	0		0		0		0		0		0		0		0		0		0	
<b>D. Original Docket</b>																				
1. Total number acted upon	6	100	5	100	12	100	15	100	16	100	14	100	10	100	9	100	10	100	6	100
a. Government participating	3	50	3	60	6	50	10	67	8	50	5	35	5	50	8	89	6	60	3	50
b. Government not participating	3	50	2	40	6	50	5	33	8	50	9	64	5	50	1	11	4	40	3	50
<b>E. Certificates</b>																				
1. Total number of certificates docketed and acted upon	0		0		0		0		0		0		1	100	0		1	100	0	
a. Government participating	0		0		0		0		0		0		0		0		1	100	0	
b. Government not participating	0		0		0		0		0		0		1	100	0		0		0	



# Office of Legal Counsel

**John W. Harmon**  
**Assistant Attorney General**

The principal function of the Office of Legal Counsel is to assist the Attorney General in his role as legal adviser to the President and agencies in the executive branch. The office is headed by an Assistant Attorney General who has 3 deputies (1 of whom is a re-employed annuitant) and, at the present time, a legal staff of 16 attorneys. The office drafts the Attorney General's formal opinions and renders its own formal and informal opinions on a variety of legal questions involving the operations of the executive branch.

Formal Attorney General opinions are relatively few in number, and ordinarily involve issues of major significance. Legal advice provided directly by the Office of Legal Counsel itself is much more frequent. During the past fiscal year, over 380 formal OLC opinions, an increase of over 45 percent from the previous fiscal year, were issued to various agencies of the Government, concerning the scope of, and limitations upon, executive powers, and concerning the interpretation of many Federal statutes, including the conflict of interest laws, the Privacy Act, and the Federal Advisory Committee Act. In addition, the office issued 695 informal opinions to other executive agencies as well as other components of the Department of Justice.

All proposed executive orders and Presidential proclamations are reviewed by the office as to form and legality before issuance. During the past year the office passed on more than 125 of these, many calling for careful analysis of Presidential authority.

The office provided assistance to the President's Personal Representative for Micronesian Status Negotiations in connection with the arrangement of a new status for the Trust Territory of the Pacific Islands. The Office also gave advice to the Guam Constitutional Convention in connection with the drafting of the Guam Constitution under Public Law 94-584, and was substantially involved in the process of extending a large portion of the Constitution and the laws of the United States to the Northern Mariana Islands.

The office chairs an intradepartmental committee to draft guidelines for the Federal Bureau of Investigation. Guidelines in force to date include those dealing with domestic security, civil disorders, and counter-intelligence.

The office heads the Department of Justice Freedom of Information Committee (consisting of lawyers from the office and the Department's Civil Division) which provides pre-litigation advice to other agencies on questions under the Freedom of Information Act, particularly when the denial of an information request is contemplated. The office also participates in the Interagency Classification Review Committee and the Departmental Review Committee, which supervise the declassification of documents involving the national security. During the past year, several interdepartmental studies were undertaken by the Administration on topics ranging from the reorganization of the intelligence community to the development of a telecommunications protection policy; the office regularly furnished the Department's representative on these projects.

Although the office conducts no litigation, it is occasionally consulted by other divisions of the Department in the preparation of briefs relating to constitutional or statutory issues within its areas of expertise. It also assists the Attorney General, the Deputy Attorney General, the Associate Attorney General and the Office of Legislative Affairs in preparing legislation desired by the Department; during the past fiscal year, for example, the office had primary responsibility within the Department and among the various agencies of the intelligence community for preparing the Administration's proposal for establishing a warrant procedure applicable to electronic surveillance conducted for foreign intelligence purposes. The office frequently provides formal legal evaluations of proposed or recently enacted legislation for the benefit of other Fed-

eral agencies and the responsible congressional committees.

During the year the office prepared and delivered congressional testimony on a number of legislative matters, including the Panama Canal Treaty, the Foreign Intelligence Surveillance Act, Exemption One of the Freedom of Information Act, the proposal to extend the time for ratification of the Equal Rights Amendment and legislation providing for the disapproval by concurrent or one-house resolutions of rules or regulations issued by the executive branch. The office also routinely assists committees of the Senate in providing its views as to the existence of any conflict of interest under Federal law with respect to Presidential nominees for appointive positions.

In addition to assisting the Attorney General in his capacity as legal adviser to the executive branch, the office serves as his General Counsel with respect to Departmental activities. In that capacity, it reviews all orders and regulations submitted for the Attorney General's issuance, and provides advice with respect to his formal review of certain decisions of the Board of Immigration Appeals of the Department. Written opinions to other components of the Department numbered over 690 during the year.

The final area, already touched on in the preceding discussion, that has occupied the office during the past year and will continue to be of major importance in the year to come is the regulation of the United States foreign intelligence activities, particularly within the United States. The office played a major role in the drafting of the new executive order, promulgated on January 24, 1978, that will govern United States Intelligence activities until the Congress completes the process of adopting statutory charters for the intelli-

gence agencies. Under that Order the Attorney General has important oversight and regulatory functions, including the development of procedures that, along with the order, will be the "law" under which most intelligence activities are conducted; the office has primary responsibility for coordinating the drafting of the procedures as well as for their effective implementation. As in other areas, the office serves as the Attorney General's principal legal adviser with respect to his role in the foreign intelligence field. The office will also be the Department's representative in the statutory charters development process.

In addition to each of the substantive responsibilities outlined above, the Office of Legal Counsel has taken on— at the direction of the Attorney General—the responsibility for publishing its legal opinions so that others in the executive branch and in the public at-large can have the benefit of our analysis. Historically only the formal Attorney General opinions have been published but in recent years there have been few such opinions while the numbers of important legal opinions issued by this Office has continued to increase. The task of reviewing our opinions and preparing them for publication has proved a significant additional burden both in terms of allocation of lawyer and staff time and in terms of financial resource commitment.

#### OFFICE OF LEGAL COUNSEL—WORKLOAD DATA

Item	Actual			Estimated	
	1975	1976	1977	1978	1979
Executive orders and proclamations.....	116	94	128	150	150
Opinions.....	240	254	381	410	440
Intradepartmental opinions.....	516	528	695	750	810
Special assignments.....	2,351	2,446	2,546	2,650	2,700

# Office of Legislative Affairs

Patricia M. Wald  
Assistant Attorney General

The Office of Legislative Affairs, under the direction of the Assistant Attorney General for Legislative Affairs, is responsible for the promotion of constructive relations between Congress and the Department and the furthering of the legislative goals of the Department and the Administration.

To this end, the Office suggests and coordinates the development of the Department's legislative proposals and its positions on legislation originating in Congress or referred for comment by the Office of Management and Budget. The Office attempts to monitor the activities of various congressional committees for matters of interest to the Department, and provides assistance to the President's staff in formulating the Administration's proposed bills and seeking their approval by Congress. In addition, the Office often advises the President, the Attorney General, and other Justice Department officials on the legal sufficiency of legislation. It also provides or arranges for testimony by Department witnesses at congressional hearings and handles requests for information relating to congressional investigations or constituent inquiries.

The volume of legislative business during the first session of the 95th Congress was heavy. The Office handled approximately 1,600 requests for reports to Congress and the Office of Management and Budget on legislative proposals. Department witnesses testified at 174 hearings. Responses were also prepared to about 8,000 letter inquiries from Congress, and about 4,000 letter inquiries from other agencies or the public. About 10,000 telephone inquiries were received from Congress and other sources.

Major initiatives to which the Office has devoted substantial resources this session and which have already been passed by Congress include:

- Amendments to the Juvenile Justice and Delinquency Prevention Act.
- An extension of the statute of limitations on Indian claims.

- The establishment of the Associate Attorney General's position as a Presidential appointment.
- Legislation facilitating the transfer of American prisoners in Mexican jails to U.S. custody.

Other proposals to which the Office has given significant time and effort include bills to provide for the appointment of a Special Prosecutor in certain cases of alleged wrongdoing by high executive branch officials; a comprehensive revision of the Federal criminal code; proposed laws to require court orders for electronic surveillance instituted for foreign intelligence purposes; bills to empower the Attorney General to bring suits vindicating the constitutional rights of institutionalized persons; bills to make state and local governments amenable to suit under the Civil Rights Act of 1871; and proposals to strengthen registration and reporting requirements for lobbyists (including their activities directed at influencing the position of the executive branch on legislation). Other equally important measures include legislation dealing with the problem of undocumented aliens; bills to improve access to justice by expanding the civil and criminal jurisdiction of United States magistrates; to modify the diversity of citizenship jurisdiction of federal courts; and to provide for the pre-trial arbitration of certain commercial disputes. All of these pending bills remain very much alive and seem destined for favorable action in the next session of Congress.

A trend in Congress toward a substantial increase in the number of investigatory or oversight hearings has not abated. In recent months the Office, at the request of the Attorney General, has attempted to establish a set of guidelines for handling congressional requests for disclosures of information that could be sensitive from the standpoint of national security or law enforcement. These guidelines should be ready for the Attorney General's review well before the end of the 1977 calendar year.

# Office for Improvements in the Administration of Justice

Daniel J. Meador  
Assistant Attorney General

The Office for Improvements in the Administration of Justice (OIAJ) was established as a part of the Office of the Attorney General in February 1977 (28 CFR § 0.6). It incorporates the former Office of Policy and Planning, which was primarily concerned with criminal justice matters. OIAJ has a much broader mandate to pursue a wide range of programs and projects concerning both civil and criminal justice.

The Office, headed by an Assistant Attorney General, is responsible for developing ways to improve the entire justice system, with special emphasis on the Federal judiciary and its processes. The creation of the Office has a special significance: for the first time there is a determination within the executive branch to devote Department of Justice resources to the continuous, systematic support of the courts and the justice system. The Office's professional staff is composed of 15 attorneys and 5 research scientists.

OIAJ works with other parts of the Federal Government and with private organizations in formulating and reviewing justice-related legislation and in implementing improvement programs.

The Office is responsible for initiating and promoting cooperation among Federal, state, and local agencies and nongovernmental organizations, groups, and individuals concerned with the administration of justice. The objective is to ensure that their concerns and efforts may be fully coordinated in actions to improve civil and criminal justice.

OIAJ administers the \$2 million Federal Justice Research Program. This effort is carried out primarily on a contract basis and relates to civil and criminal justice in the Federal system.

The Office has an overall two-year agenda, built around four major goals. The agenda is flexible and may be revised from time to time. Projects undertaken by the Office focus on the implementation of these major goals:

- *To assure access to effective justice for all citizens* through more efficient and effective courts; through improved procedures in civil litigation and through the development of non-judicial mechanisms for the settlement of many types of disputes.
- *To reduce the impact of crime on citizens and the courts* through substantive reforms in Federal law and procedural reforms in criminal cases.
- *To reduce impediments to justice unnecessarily resulting from separation of powers and federalism* by coordination of the three branches of the Federal Government to plan for and improve the Federal judicial system; by exploring means of coordinating Federal, state, and local efforts to improve the delivery of justice; and by reallocation of Federal and state authority.
- *To increase and improve research in the administration of justice* through the Federal Justice Research Program; through a central, effective statistical agency for criminal and civil justice; and through the development of proposals for new means of organizing and funding national justice research.

During its first months, the Office developed and submitted to Congress the following legislation:

- *The Magistrates Act of 1977*: To expand the civil and criminal jurisdiction of U.S. magistrates in order to increase access to the courts and reduce congestion.
- *Diversity Jurisdiction*: To limit the exercise of diversity jurisdiction by preventing a citizen of a state from bringing a suit originally in a Federal court in his home state; this measure would shift to the state courts approximately one-half

of the diversity cases currently filed in the Federal district courts.

- *Witness Fees*: To revise fees, travel, and subsistence allowances for witnesses before the Federal courts in order to bring compensation in line with actual costs.
- *Arbitration*: To introduce the use of arbitration as a dispute-settling mechanism in the Federal courts to achieve prompt, informal, and inexpensive resolution in certain types of cases.
- *Standing*: Cooperated with other offices in the Department in drafting legislation to clarify litigants' standing to sue in cases against the U.S. Government.
- *Federal Tort Claims Act Amendments*: Coordinated Departmental drafting of the amendments that, among other things, would substitute the United States as defendant in suits brought for injuries resulting from common law or Constitutional torts committed by agents of the Government acting within the scope of their employment or under color of their office.
- *Dispute Resolution Act*: To establish within the Department a dispute resolution program consisting of a national minor dispute resolution resource center and a seed money grant program to the states to improve minor dispute resolution mechanisms.

Legislation also was prepared to repeal all statutorily mandated civil case priorities except for habeas corpus and civil contempt.

In addition, the Office is coordinating the efforts of the Department and working with committees of the Congress toward enactment of a comprehensive reform and recodification of the Federal criminal law. The Office prepared extensive, in-depth cost analyses in support of legislation to provide compensation to victims of crime. It drafted legislation to curb crime by creating a screening mechanism to prevent the sale of handguns to convicted felons. That legislation would also ban the manufacture, assembly, sale, or transfer of "Saturday Night Specials" and revise the laws relating to commercial firearms licenses and sanctions for offenses involving handguns.

The Office has prepared and submitted to the Attorney General a proposal to establish a Federal Justice Council. It would include representatives from the three branches of Government to coordinate the judicial system and plan improvements.

Funds for the Federal Justice Research Program

became available on October 1, 1977. The program's general areas and some initial projects have been identified. One of the first contracts will develop data from which alternative types of sentencing guideline proposals can be drafted. Those alternatives will be available to the sentencing commission proposed by the new Federal crime code.

The Attorney General has approved and the Office has circulated a draft plan for the establishment of a central statistical bureau for the Department. The bureau will provide for the collection and analysis of civil and criminal justice data. OIAJ is responsible for organizing and establishing the bureau, which was expected to begin operation early in 1978.

The Office has surveyed the Federal districts to determine what efforts have been used to increase access to the court, especially in civil cases. The study showed that alternative mechanisms had a positive impact on caseloads. Judges were found to be generally receptive to new approaches including increased use of U.S. magistrates and implementation of arbitration procedures.

The Office helped design procedures for the operation of the newly-created United States Circuit Judge Nominating Commission. A survey later was conducted of the nominating panels that had submitted names to the President. The survey was designed to solicit information on the nominating process, including the criteria used, and to gather opinions and recommendations for refining and improving overall nominating procedures.

A member of the Office staff served on the Attorney General's committee that continued to develop investigative guidelines and a statutory charter for the Federal Bureau of Investigation. OIAJ also housed the Investigative Review Unit, which was established to monitor compliance of the Department's investigative agencies with guidelines promulgated by the Attorney General.

A number of other projects and programs in the final stages of development were expected to be ready for submission or implementation early in 1978. They included:

- Legislation to revise and improve class action procedures.
- Legislation concerning the awarding of attorneys fees in cases in which the U.S. Government is a party.
- A program to establish experimental neighborhood justice centers in three cities to facilitate and encourage the settlement of minor disputes.

The Office was also assisting three Federal districts in setting up by local rule experimental arbitration procedures, based on the legislative proposal submitted to Congress. The experimental programs will be evaluated in cooperation with the Federal Judicial Center.

Other projects were underway that will provide a major focus of the Office's efforts during 1978. Those areas include:

- The revision of discovery and other pretrial procedures in civil cases.
- The revision of appellate procedures and structures in the Federal courts.
- The costs of civil litigation, including attorneys fees.

- Formulation of guidelines for prosecutorial discretion.
- The development of methods for projecting potential impact on the courts of new legislation.

As part of the Justice System Improvement Study of the President's Reorganization Project, the Office has primary responsibility for studying procedures for justice policy and planning, and justice statistics and information systems. OIAJ staff members are also participating in reorganization studies on Federal justice research, state, and local justice financial assistance, and Federal law enforcement.

# Office of Professional Responsibility

Michael E. Shaheen  
Counsel

The Office of Professional Responsibility (OPR) oversees investigations of allegations of misconduct by Departmental employees. The head of this Office is the Counsel on Professional Responsibility. He serves as a special reviewing officer and advisor to the Attorney General.

The Counsel and his staff receive and review information or allegations concerning conduct by a Justice Department employee that may violate the law, Department orders or regulations, or applicable standards of conduct.

The Counsel is authorized to make a preliminary inquiry into such allegations. Those cases in which there appears to be a violation of the law are referred to the agency that has jurisdiction to investigate such violations. Other matters are referred to the head of the agency to which the employee is assigned or to the agency's internal inspection unit.

The Counsel on Professional Responsibility recommends to the Attorney General what further action should be undertaken on any matter involving a violation of law, regulation, order, or standard. Such action may include direct supervision of an investigation when the Attorney General considers it appropriate.

The heads of the Department offices, boards, divisions, and bureaus make periodic reports to the Counsel on administrative matters in which their employees have been accused of misconduct. The Counsel

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

## COINTELPRO Notification Program

On April 1, 1976, the Attorney General announced that OPR would notify individuals affected by the Federal Bureau of Investigation's domestic Counterintelligence Program (COINTELPRO), carried out from 1956 to 1971. The program consisted of disrupting and harassing certain individuals and organizations. A panel of attorneys reviewed FBI files to determine which individuals were COINTELPRO targets. The Attorney General developed guidelines to help the panel decide which individuals to notify.

After determining which individuals appeared to have been harmed by COINTELPRO, the OPR panel, with the help of the United States Marshals Service, sought to notify more than 414 individuals that they had been COINTELPRO targets. These individuals were told that additional information about COINTELPRO action taken against them was available on request.

# Office of Management and Finance

Kevin D. Rooney  
Assistant Attorney General for Administration

The Office of Management and Finance (OMF) serves as the management arm of the Department by developing and directing policy for budget and financial management, auditing, personnel management and training, equal employment opportunity, automatic data processing and telecommunications, and security. It also supplies direct administrative support services to the offices, boards, and divisions.

OMF is responsible for the development and direction of Department-wide financial management programs and for the formulation and execution of the Department's budget; conducting management studies and surveys; and making recommendations to the Associate and the Deputy Attorney General to improve Department programs and to reduce costs. OMF also reviews, analyzes, and coordinates the Department's programs and activities in accord with the policies, plans, and priorities of the Attorney General. In addition, OMF provides direct services in the areas of information processing, procurement, communications, space management, internal audit, library support, printing, personnel administration, training, and security.

Significant progress was made during Fiscal 1977 in the development of an automated Financial Management Information System for the Department which will support the budget process from formulation through execution. The first phase of the system was implemented as an on-line system for the formulation of the Department's Zero Base Budget for Fiscal 1979. Continued progress in the provision of computer assisted legal research via the Justice Retrieval and Information System (JURIS), was evidenced by the installation of an additional 55 terminals located in the various U.S. Attorneys' offices, legal divisions, and bureaus.

During Fiscal 1977, the Office of Management and Finance was reorganized to eliminate the previous practice of a separate staff to provide services to the

offices, boards, and divisions. A new staff, the Financial Management Staff, was created to improve Departmental control over fiscal matters. Also, the Equal Employment Opportunity Group, which had been reporting to the Director, Personnel and Training Staff, was relocated to report directly to the Assistant Attorney General for Administration.

## Management Programs and Budget Staff

The Management Programs and Budget Staff (MPBS) develops, directs, and executes Department-wide management policies, programs and systems. These responsibilities include program evaluation; program analysis and program execution; and budget formulation and preparation. The Staff has responsibility for the final formulation and presentation of the Department's budget estimates to the Office of Management and Budget (OMB) and the Congress.

MPBS is responsible for a wide-range of functions which include the analysis of major policy and program issues; the evaluation of Department organization structures, programs, resource utilization, and management control systems; the monitoring and evaluation of the Department's advisory committees; and the systematic review of pending items of legislation to assess their resource impact on the Department.

During Fiscal 1977, MPBS continued to refine the Department's program and budget formulation system, and, at the direction of the President, the Department also initiated a large scale effort to introduce zero base budgeting (ZBB). A computer program was designed and used to monitor and manipulate decisions on program resource levels and their respective priority rankings—by organization and by appropriation. A consolidated Department-wide ZBB ranking of program decision levels was presented to the President and OMB in support of the Department's Fiscal 1979



STATEMENT OF COSTS IN JUDICIAL DISTRICTS FOR FISCAL YEAR 1977 AS OF SEPTEMBER 30, 1977

Judicial districts	Total	Fees and expenses of witnesses	Salaries and expenses U.S. attorneys and marshals	Support of U.S. prisoners
Alabama:				
Northern.....	\$1,664,931.95	\$146,924.22	\$1,273,731.71	\$244,276.02
Middle.....	930,444.17	80,383.94	795,740.21	54,320.02
Southern.....	692,470.28	66,802.77	562,773.70	62,893.81
Alaska.....	1,232,606.26	46,868.07	893,013.84	292,724.35
Arizona.....	5,352,663.62	606,037.18	2,674,269.20	2,072,357.24
Arkansas:				
Eastern.....	1,320,179.61	236,581.70	983,483.73	100,114.18
Western.....	1,607,272.35	26,936.16	1,568,122.30	12,213.89
California:				
Northern.....	4,725,209.90	522,149.74	3,308,132.82	894,927.34
Eastern.....	3,016,957.19	276,642.49	1,656,585.09	1,083,729.61
Central.....	11,056,641.41	857,375.58	6,840,903.45	3,358,362.38
Southern.....	5,146,723.42	672,836.53	3,204,760.79	1,269,126.10
Canal Zone.....	221,111.63	358.77	220,752.86	
Colorado.....	2,943,069.71	234,432.42	1,588,918.82	1,119,718.47
Connecticut.....	1,907,500.21	112,561.38	1,143,421.31	651,517.52
Delaware.....	505,059.13	12,162.02	468,385.51	24,511.60
District of Columbia.....	16,907,567.48	451,796.40	13,862,248.29	2,593,522.79
Florida:				
Northern.....	879,002.07	80,896.14	686,856.43	111,249.50
Middle.....	3,682,500.69	523,756.88	2,472,981.51	685,762.30
Southern.....	3,836,963.63	691,322.65	2,919,442.30	226,198.68
Georgia:				
Northern.....	2,960,769.67	321,342.83	1,909,392.28	730,034.56
Middle.....	1,684,304.72	129,521.00	1,493,147.78	61,635.94
Southern.....	924,802.50	46,823.70	830,420.88	47,557.92
Guam.....	298,921.07	3,896.19	251,692.52	43,332.36
Hawaii.....	980,707.55	56,128.35	687,455.24	237,123.96
Idaho.....	749,246.86	124,069.38	549,983.40	75,194.08
Illinois:				
Northern.....	5,648,552.11	434,240.53	5,108,176.83	106,134.75
Eastern.....	1,202,885.47	49,126.08	832,500.30	321,259.09
Southern.....	606,300.51	30,664.68	502,106.55	73,529.28
Indiana:				
Northern.....	1,000,835.18	123,041.64	760,922.72	116,870.82
Southern.....	1,642,042.98	174,136.16	1,063,272.94	404,633.88
Iowa:				
Northern.....	672,120.85	75,438.49	537,394.69	59,287.67
Southern.....	859,848.79	86,114.66	708,635.14	65,098.99
Kansas.....	1,709,844.47	104,351.03	1,326,765.16	278,728.28
Kentucky:				
Eastern.....	2,005,488.10	206,932.61	1,097,517.27	701,038.22
Western.....	1,457,088.24	188,217.95	984,226.55	284,643.74
Louisiana:				
Eastern.....	2,781,646.94	254,034.76	2,141,849.08	385,763.10
Middle.....	492,033.00	11,433.18	360,360.47	120,239.35
Western.....	1,353,198.50	82,776.66	1,143,249.17	127,172.67
Maine.....	608,756.72	21,969.63	421,655.50	165,131.59
Maryland.....	3,891,664.25	361,200.88	2,627,687.41	903,375.96
Massachusetts.....	3,416,324.54	205,026.12	2,303,576.70	907,721.72
Michigan:				
Eastern.....	3,136,556.96	367,776.67	2,392,932.19	375,848.10
Western.....	2,450,623.17	106,856.93	2,189,034.52	154,731.72
Minnesota.....	2,114,887.05	266,334.59	1,258,352.44	590,200.02
Mississippi:				
Northern.....	785,334.89	79,418.37	681,374.40	24,542.12
Southern.....	999,030.72	43,006.61	767,328.08	188,696.03
Missouri:				
Eastern.....	2,092,435.96	221,656.53	1,472,839.30	397,940.13
Western.....	2,142,131.38	204,968.97	1,673,654.27	263,508.14
Montana.....	886,273.67	69,850.14	656,440.94	159,982.59
Nebraska.....	921,556.05	94,549.31	734,514.88	92,491.86
Nevada.....	1,291,708.57	193,016.30	879,218.09	219,474.18
New Hampshire.....	432,855.13	61,451.49	355,316.37	16,087.27
New Jersey.....	7,026,717.05	260,142.17	6,162,852.61	603,722.27
New Mexico.....	1,413,648.79	210,755.99	1,074,478.84	128,413.96
New York:				
Northern.....	\$1,122,050.15	\$113,783.16	\$892,974.73	\$115,292.26
Eastern.....	5,056,472.04	397,197.86	4,555,313.70	103,960.48
Southern.....	10,417,594.07	1,128,167.71	8,939,519.26	349,907.10
Western.....	1,493,948.20	99,608.84	1,110,138.34	284,201.02
North Carolina:				
Eastern.....	1,213,443.70	88,395.72	813,363.09	311,684.89
Middle.....	837,661.22	30,138.87	575,774.85	231,747.50
Western.....	744,643.38	48,402.82	584,487.77	111,752.79
North Dakota.....	1,161,824.80	78,470.91	574,716.08	508,837.81
Ohio:				
Northern.....	2,780,987.30	160,848.61	2,097,191.43	522,947.26
Southern.....	2,156,300.85	142,576.71	1,346,532.77	667,191.37
Oklahoma:				
Northern.....	716,653.55	97,268.38	595,257.47	24,127.70
Eastern.....	447,229.80	40,920.38	392,852.43	13,456.99
Western.....	1,407,724.07	76,291.99	982,349.64	349,082.44
Oregon.....	2,285,647.60	215,953.62	1,473,109.08	596,584.90
Pennsylvania:				
Eastern.....	3,958,483.14	279,103.65	2,961,887.90	717,491.59
Middle.....	1,450,508.67	106,724.56	1,017,887.53	325,896.58
Western.....	2,256,058.24	247,447.49	1,598,062.98	410,547.77
Puerto Rico.....	1,215,419.48	64,988.69	940,436.08	209,994.71
Rhode Island.....	720,191.29	157,354.87	545,778.28	17,058.14
South Carolina.....	2,159,903.66	137,591.72	1,705,206.50	317,105.44
South Dakota.....	1,439,940.43	124,269.96	840,604.40	475,066.07

STATEMENT OF COSTS IN JUDICIAL DISTRICTS FOR FISCAL YEAR 1977 AS OF SEPTEMBER 30, 1977—Continued

Judicial districts	Total	Fees and expenses of witnesses	Salaries and expenses U.S. attorneys and marshals	Support of U.S. prisoners
Tennessee:				
Eastern.....	869,427.54	82,366.45	689,782.13	97,278.96
Middle.....	1,138,459.88	118,862.45	793,632.87	225,964.56
Western.....	1,163,004.72	95,048.72	930,052.85	137,903.15
Texas:				
Northern.....	3,473,481.65	356,597.96	2,477,178.51	639,705.18
Eastern.....	976,049.14	59,662.03	835,454.20	80,932.91
Southern.....	4,443,880.79	362,948.10	2,877,834.46	1,203,098.23
Western.....	5,673,003.65	325,338.62	2,570,458.97	2,777,206.06
Utah.....	884,502.78	100,113.07	648,173.87	136,215.84
Vermont.....	541,010.11	35,737.80	456,522.59	48,749.72
Virginia:				
Eastern.....	3,704,948.90	513,396.05	2,458,683.71	742,869.14
Western.....	677,836.35	61,866.02	529,041.47	80,928.86
Virgin Islands.....	705,330.53	42,265.90	582,950.26	80,114.37
Washington:				
Eastern.....	966,870.60	45,021.39	649,941.40	271,907.81
Western.....	3,499,515.14	178,944.31	1,757,846.46	1,562,724.37
West Virginia:				
Northern.....	493,611.83	54,882.35	382,674.52	56,054.96
Southern.....	1,331,718.20	116,633.61	840,977.15	374,107.44
Wisconsin:				
Eastern.....	1,288,947.13	141,133.83	989,883.96	157,929.34
Western.....	531,315.20	36,627.15	462,285.19	32,402.86
Wyoming.....	485,755.25	52,669.99	409,514.29	23,570.97
Subtotal.....	208,161,372.15	17,528,717.94	150,950,582.55	39,682,071.66
Department Total.....	16,450,626.45		16,450,626.45	
Grand Total.....	224,611,998.60	17,528,717.94	167,401,209.00	39,682,071.66

budget estimates. The development of an automated financial management system was also continued; this system has been designed to support program and budget formulation and was used during the 1977 preparation of the Fiscal 1979 budget.

During Fiscal 1978, the Management Programs and Budget Staff plans to implement procedures to integrate congressional reauthorization requirements with its program and control system process in accordance with Public Law 94-503, Section 204.

### Financial Management Staff

The Financial Management Staff (FMS), formulates and establishes Department-wide financial management policies and systems requirements to support planning, programming, budgeting, accounting and other financial management activities. FMS is responsible for the functional requirements, design, development, maintenance and operation of the Departmental Financial Management Information System (FMIS) being implemented to monitor planned and actual program performance and resource utilization. The staff establishes the accounting principles and standards of the Department, approves the financial management systems of the Department and coordinates reviews of operations based upon the principles and standards. FMS develops, maintains, directs and/or operates the accounting systems for the offices, boards, and divisions and the United States Marshals

Service. FMS establishes and conducts the budget execution process for the Department.

During Fiscal 1977, FMS approved the Federal Bureau of Investigation's administrative accounting system and obtain the approval of the U.S. General Accounting Office.

The Departmental FMIS is being developed to support the budget process from formulation through execution. The first phase of this system has been implemented. It is an on-line system for the formulation of the Department's Zero Base Budget for Fiscal 1979.

Changes were made in the accounting system for the offices, boards, and divisions to improve user service and fiscal controls. The improvements related to the automated collection and processing of data, particularly as it relates to travel funds. Monthly Summary of Traveler Account Statements are now prepared for the funds control officers and quarterly statements are prepared for individual travelers.

### Internal Audit Staff

The Internal Audit Staff (IAS) is responsible for performing internal audits and reviews of all organizations, programs, and functions within the Department of Justice. In addition, it evaluates the efficiency, accuracy, and effectiveness of automated data processing systems; reviews and monitors the development and implementation of financial management information systems; conducts investigations of equal employment

opportunity complaints; and provides liaison between the General Accounting Office (GAO) and all organizations of the Department regarding GAO matters.

The policy of the Department of Justice is to maintain an effective internal audit capability to provide assistance to the Attorney General and other officials in effectively managing the Department's programs and functions. To accomplish this objective IAS reviews operations, makes critical evaluations, reports conditions where improvements can be made, and recommends changes or corrective actions covering all organizations, programs, and functions of the Department. Audits vary in scope from those limited to a review of the reliability of financial statements to those evaluating the efficiency and economy of the management of programs or functions.

A total of 49 internal audit reports were issued during the year. The more significant reports covered the following areas:

- *Immigration and Naturalization Service*: Review of the controls over the transportation of illegal aliens to Mexico; controls over delays in the departure of detained illegal aliens; verification of the Imprest Fund in the San Francisco District office; and review of the controls and procedures used in developing, executing, and monitoring negotiated contracts.
- *Drug Enforcement Administration*: Effectiveness of Diversion Investigation Units in minimizing the diversion of licit drugs into illicit channels.
- *Bureau of Prisons and Federal Prison Industries*: Management controls exercised by the central headquarters offices over institution commissary activities; controls and procedures used in the negotiation and monitoring of contracts; administrative activities at 14 field locations; and financial activities at 9 field locations.
- *Offices, Boards and Legal Divisions*: Effectiveness of practices and procedures for allocating recurring obligations; review of travel practices; and controls over claims for overtime worked.
- *United States Marshals Service*: A consolidated report on controls over seized and evidentiary property in several U.S. Marshals district offices.
- *Law Enforcement Assistance Administration*: Management controls over the Treatment Alternative to Street Crime Program,

and evaluation of the administrative accounting system, including efficiency of system resources and utilization of financial reports.

The Internal Audit Staff issued 11 reports on equal employment opportunity complaint investigations in the Departmental headquarters offices, boards, legal divisions, U.S. Attorneys' Offices, Law Enforcement Assistance Administration, and Bureau of Prisons.

Assistance was provided to Departmental organizations in identifying corrective actions and developing comments in response to recommendations contained in 39 GAO audit reports. Additionally, the staff maintained a follow-up system for evaluating corrective actions taken by management on findings and recommendations contained in internal audit and GAO reports.

Special assignments undertaken during the year at the request of management officials resulted in the issuance of reports relating to (1) utilization of and projected requirements for the New York Detention Facility (INS); (2) review of Philadelphia Task Force grant records (DEA); (3) expenditures of a confidential nature made by the Immigration and Naturalization Service and the Drug Enforcement Administration; (4) the computation of monetary damages arising as the result of a court decision in an administratively uncontrollable overtime suit against the U.S. Marshals Service; (5) an overview of the internal investigation practices of six Departmental organizations; (6) the propriety of expenses claimed by attendees at two U.S. Marshals conferences; (7) investigation of alleged violations of medical expenditure guidelines and use of divergent fees at the Seagoville and Fort Worth prison facilities; and (8) investigation of an inmate industrial safety complaint, Allenwood prison facility.

Several significant actions were taken during the year to enhance audit capability and improve audit effectiveness. These actions included:

1. Establishment of a Western Field Office based in Burlingame, California. This office lends support to the headquarters office in the preparation of Department-wide audits and conducts comprehensive audits of Departmental units in the western part of the United States.

2. Establishment of an Automated Systems Review Group responsible for conducting independent and objective evaluations of ADP systems supporting the programs and attendant administrative functions of the Department.

3. Issuance of a new Internal Audit Manual which establishes general standards and prescribes basic audit policies and procedures to be observed in performing various phases of audit work.

As a result of the actions taken above to improve audit effectiveness, the Internal Audit Staff will increase the number of audits and reviews started and completed in Departmental organizations during Fiscal 1978. Included in the audit plans are previously unaudited areas such as: reviews of Bureau of Prisons and U.S. Parole Commission regional offices; reviews of Departmental ADP systems; and audits of several Federal Bureau of Investigation programs.

The thrust of internal audit activities will be re-directed to give greater emphasis to program reviews. The staff's professional role will be enhanced to include analytical capacity in program operations, intelligence activities, and statistical evaluation.

## **Personnel and Training Staff**

The Personnel and Training Staff plans, directs and coordinates the Department-wide personnel management and training program; develops and implements personnel policies and programs which support the missions of the Department and ensure a productive and effective workforce; and provides operating personnel and training support to the offices, boards, and divisions of the Department.

### **Executive Personnel:**

The U.S. Civil Service Commission, which previously approved qualifications for noncareer supergrades, has given the Attorney General wide latitude for approval of qualifications of individuals selected for noncareer executive assignments. Responsibility for final preparation of supergrade cases emanating from the offices, boards, and divisions was transferred from the operating personnel components of the Personnel and Training Staff to the Executive Personnel Unit. Uniform guidance has been issued to the bureaus for the preparation and submission of supergrade cases.

### **Labor Management Relations:**

Department of Justice Orders to implement the new mandatory retirement system for law enforcement officers and to provide policy guidance on the reemployment of annuitants were issued. A review of all law enforcement positions to determine their cov-

erage under the Law Enforcement Retirement System was also completed.

In the area of Labor Relations, 17 of 19 negotiability appeals to the Federal Labor Relations Council were resolved favorably as were 3 appeals of arbitrator decisions and 3 appeals from decisions of the Assistant Secretary of Labor for Labor-Management Relations. Contract negotiations were conducted in all bureaus except the Federal Bureau of Investigation. Recognition was granted to the American Federation of Government Employees as the representative of employees of the Drug Enforcement Administration's South Central Laboratory and a petition to merge the Drug Enforcement Administration's Baltimore and Philadelphia regions union recognition was pending at the end of the period.

### **Program Evaluation:**

Increasing personnel management effectiveness, economy of operations and compliance with legal and regulatory requirements were major goals of reviews conducted in three bureau field activities and headquarters during the fiscal year. In response to the President's objectives for strengthening position management and classification systems, special review emphasis was placed on these systems. Completed evaluation reports were sent to the Civil Service Commission for incorporation in a report to the President on the status of position management and classification Government-wide.

Emphasis was also placed on developing and refining bureau evaluation systems. Based on the prototype installation level evaluation system installed in the Northern Region of the Immigration and Naturalization Service, other bureau field activities now have the capability for systematically reviewing their personnel management programs. In addition to keeping local managers informed, this local review capability facilitates the identification of bureau-wide or Department-wide issues and permits coordination and participation between the bureaus, the Department and the Civil Service Commission in scheduling review activity which will afford the greatest impact in terms of identifying and resolving significant personnel management issues or concerns.

### **Career Management:**

During Fiscal 1977, the Career Management Group assumed responsibility for operational training for the offices, boards and divisions and commenced of-

fering a variety of in-house training programs at no cost to the organizations. These courses covered a wide range of clerical, administrative, technical, and supervisory training activities.

A variety of management developmental opportunities was sponsored by the Department. Fourteen management training seminars were offered in two series of programs: the Attorney General's Senior Executive Seminars and the Mid-Level Management Seminars. A total of 327 mid-level managers and senior executives attended these seminar programs.

The Department's Executive Development Training Program was expanded to include a series of four seminars on selected policy issues in public law and the administration of justice. Entitled the Deputy Attorney General's Public Policy Seminars, this program provided an opportunity for Department executives to meet with prestigious leaders in academia and Government to discuss and exchange views on public policy issues impacting on the Department of Justice.

Both the United States Marshals Service and the Immigration and Naturalization Service are taking maximum advantage of the continually improving training facilities and programs at the Federal Law Enforcement Training Center (FLETC) at Glynco, Georgia. During Fiscal 1977, the Immigration and Naturalization Service completed basic training for 97 Border Patrol Agents and 201 Immigration Officers. Advanced training for Immigration and Naturalization Service journeymen and supervisors was provided 564 students. The United States Marshals Service trained 187 Deputy U.S. Marshals at FLETC in Fiscal 1977.

### **Position and Pay Management:**

Activities in this area again were highlighted by emphasis on position management. The bureaus carried out and reported to the Personnel and Training Staff on reviews of organizational elements and positions required as part of the Fiscal 1977 position management action plan. The Personnel and Training Staff continued to monitor the program to reduce the average grade in the Drug Enforcement Administration.

In addition to continuing projects begun in Fiscal 1976, several new projects were undertaken. One involved the training of administrative support personnel in principles, practices and techniques of position management. Another involved the preparation and publication of two pamphlets designed to heighten man-

agers' awareness of position management and provide guidance in the management of positions and the organization of work to achieve greater effectiveness and economy of operations. A directive, promulgated on May 19, 1977, will require, beginning in Fiscal 1978, that each bureau site audit at least 5 percent of the non-supervisory positions in the top 2 grades of at least one significant occupation. The results of these audits will be reported to the Personnel and Training Staff as part of the annual Whitten Amendment report. In mid-1977, as part of a Government-wide program to control average grade and salary costs, 11 major Department of Justice occupations were identified and tentative Fiscal 1980 goals set for each.

### **Staffing:**

A new Schedule A appointing authority was obtained for the U.S. Marshals Service, thereby resolving a long-standing problem in the employment of extra guards and matrons to meet temporary exigencies. The Department's agreement with the Civil Service Commission covering experts and consultants was amended to provide for their employment without compensation and for the required certification to be made by the heads of offices, boards, and divisions rather than by the Assistant Attorney General for Administration. Action was also taken to meet the President's concern regarding the use of experts and consultants. As a result of an intensive review, the total number of experts and consultants was reduced from 33 to 14.

Substantial time was also devoted to the various problems involved in the phase-out of the 10 Regional Offices of the Law Enforcement Assistance Administration. Of some 330 employees affected, over 76 percent were either retained in other positions or placed in other agencies. Only 24 were actually involuntarily separated, others having resigned or retired.

The question of new employee selection guidelines received considerable attention as new drafts were reviewed, the impact of the first set of adopted guidelines was studied, and comments were prepared. Problems which surfaced in connection with the Immigration and Naturalization Service's negotiated merit promotion plan were finally submitted to the Executive Director of the Civil Service Commission after informal negotiations with the Commission had failed. Assistance was also provided to the FBI in their attempt to develop an alternative employee performance rating plan as bureaus began to implement the Department's new order on employee performance appraisal systems.

## Equal Employment Opportunity

The Equal Employment Opportunity (EEO) program was strengthened as a result of reorganization efforts during Fiscal 1977. The Department's EEO Office was relocated from the Personnel and Training Staff and placed under the direct supervision of the Assistant Attorney General for Administration.

Employment data as of September 30, 1977, shows an increase in the total number of minorities and women over the September 30, 1976, data. As of September 30, 1977, the Department employed 11,016 or (20.4 percent) minorities and 18,416 or (34.1 percent) women out of a total workforce of 54,059 employees. This was an increase from the 19.1 percent minority and 33.9 percent female employees in 1976.

The Department continued to focus on the recruitment of women and minorities in the six key occupations; e.g., attorneys, criminal investigators, correctional officers, deputy marshals, border patrol agents, and immigration inspectors. There are 24,126 persons employed in these positions or 44.6 percent of the Department's total workforce. The percentage of women in these occupations increased from 1,100 or 4.5 percent in September 1976 to 1,349 or 5.6 percent at the end of September 1977. During the same period, minority employment increased from 2,630 or 10.8 percent to 2,923 or 12.1 percent.

The Selective Placement Program was added as a component of the EEO Office. A Departmental Coordinator and bureau coordinators have been designated. A Committee on the Selective Placement Program for Handicapped Persons and Disabled Veterans has been formed. The Committee is chaired by a high level administrator and has as its members coordinators and handicapped persons with needed skills as ad hoc members.

The Associate Attorney General established an Employment Review Committee, which has responsibility for: (a) reviewing the files of all women and minority attorneys, GS-13 and above, in the offices, boards, and divisions, including the Office of the U.S. Attorneys, who have been in grade more than two years and (b) monitoring the promotions of attorneys at the GS-13 level and above and the hiring of attorneys outside the Honor Graduate Program.

The Department began its participation in the "Stay-in-School Program," which requires a collaborative effort between professionals from the offices, boards, divisions and bureaus with officials and students of the District of Columbia School System. The primary objective is to encourage marginal students

or potential dropouts to stay in school.

During Fiscal 1977 a total of 150 individual complaints of discrimination and 3 class action complaints were filed. For the first time in 7 years, the number of formal discrimination complaints decreased and a total of 250 persons received counseling during the same period.

## Library

More than 200,000 volumes on law and related subjects in the Main Library, division libraries and smaller office collections are maintained to serve the employees of the Department of Justice in the preparation of legal briefs and memoranda, in the preparation of supporting economic and social findings necessary in litigation, as well as for general reference use.

The Main Library is the principal repository of reference and research materials, containing approximately 143,000 volumes. The division libraries, and other smaller collections, maintain basic working collections of Federal reports and statutes, and other widely used reference materials, and reference materials having particular application to the work of these specialized units.

Library resources are supplemented by participation with all other Government libraries in the inter-library loan program. During the fiscal year, 1,350 volumes were borrowed from other libraries, primarily the Library of Congress, and 1,425 volumes were loaned to other libraries.

Attorneys for other Government agencies and departments are permitted to use the Main Library for official purposes. During the year, 423 attorneys, representing almost every agency and department, signed the visitors register.

Use of library facilities and services continued at a very high level with the return to the main building of various components of the Department. Furthermore, the facilities and services are fully supporting the FBI with its greatly increased workload requiring legal research. More than 129,000 books and periodicals were circulated and more than 272,000 were used in the library facilities.

Cataloging, classification and binding were maintained on a current basis with 1,296 volumes being bound and 2,119 cards being added to the Main and division catalogs.

The staff continued to emphasize and improve, where possible, services to users of the libraries. The

Library Director and the Assistant Library Director taught courses in legal research for Department attorneys and law clerks throughout the fiscal year. The Assistant Library Director continued to include case notes on the Federal Rules of Evidence in the monthly *Library Bulletin*. All division librarians compiled legislative histories of laws of interest to their divisions, together with a variety of useful indexes and reports. Reference services over the past year were provided with increasing frequency to division field offices and United States Attorneys. For example, Civil Division library provided congressional documents on the Excise Tax to the New York Customs Section; prepared a legislative history index to the Civil Rights Act for the United States Attorney's office in Washington, D.C., and provided case research and memoranda for the Admiralty Office in San Francisco.

All requests for new materials were processed and improvements in physical facilities were also made.

At the request of the White House, a survey was made of the library of the Counsel to the President. The Counsel's staff was assisted by a Library staff member on several occasions. At the request of one executive branch Department made to the Assistant Attorney General for Administration, the Assistant Librarian made a study of that Department's law library and made appropriate recommendations.

The library of the Watergate Special Prosecutor's Office was closed down; these books will be incorporated into an expanded Civil Division Library.

## **Information and Communications Systems Staff**

The Information and Communications Systems Staff (ICSS) is responsible for a broad range of systems administration, systems applications and systems operations functions.

Within the scope of its systems administration responsibilities, the ICSS analyzes, coordinates, and formulates Department-wide policies and objectives relative to information and communications systems and provides analytical staff support to Departmental management on information and communications issues which have Department-wide or national significance. ICSS coordinates the identification and validation of Department-wide information and communications requirements, develops and maintains annual and long-range plans for information and communications systems, reviews and analyzes Departmental expenditure forecasts for information and

communications activities, reviews and approves all planned acquisitions of information and communications systems equipment and services, and provides assistance to Department organizations in acquiring such information and communications systems capabilities as may be required to accomplish essential managerial or operational tasks. Further, ICSS conducts ongoing research into the availability and applicability of evolving technologies to Departmental information and communications requirements, and coordinates, formulates, and maintains Departmental standards and procedures governing the design, development and operation of information and communications systems. ICSS serves as the Department's liaison to the Office of Management and Budget, the General Services Administration, the General Accounting Office, and other Federal, state, and local agencies on matters related to systems administration.

With regard to systems applications, ICSS designs, develops, implements, and maintains information and communications systems which are Department-wide in scope (e.g., automated legal research systems, litigation support systems, employment data systems and other administrative systems) and provides selective systems management and user assistance services in support of legal information, litigation support, and employment information requirements. Additionally, ICSS provides centralized payroll accounting services to all Departmental organizations except the Federal Bureau of Investigation.

Within the area of systems operations, ICSS manages a large scale information processing facility which provides a broad range of modern processing services to Departmental elements and selected outside organizations on a resource-sharing basis, and manages the Justice Telecommunications System (JUST), a message-switching computer facility which provides the Department with domestic and world-wide communications capabilities. ICSS manages the Justice Publications Service which provides printing, duplicating and distribution services required by Departmental organizations, manages a Departmental briefing facility offering visual and audio-visual communications capabilities, administers the Department Working Capital Fund, and manages a centralized Departmental telephone services system.

### **Systems Administration:**

During Fiscal 1977, ICSS prepared staff analyses on a variety of information and communications systems issues impacting the systems operations of each

major bureau of the Department, the U.S. Marshals Service and the Antitrust Division; responded to external requests for Departmental comments on proposed policies and rulemaking of the General Services Administration, the Office of Telecommunications Policy, and the National Bureau of Standards; and prepared a briefing for interested members of Congress on the status of information and communications systems activities within the Department of Justice. This staff also coordinated preparation of the Departmental report to the General Accounting Office on information sources and systems, prepared and published the Fiscal 1977 edition of the Department of Justice Information Systems Catalog, and coordinated the OMF response to a document discovery action filed in connection with the *United States v. AT&T* antitrust suit.

Since May 1977, ICSS has evaluated and reviewed 30 to 40 approval requests a month. Consultant services were provided to the various offices, boards, divisions and bureaus of the Department of Justice in the areas of Federal regulations, technical approaches, and interpretations of Federal policies in order to increase the probability of project success. During Fiscal 1977, liaison was established between ICSS and all of the offices, boards, divisions, and bureaus of the Department.

### **Systems Applications:**

The Department extended modern legal research services to more than 100 terminal locations nationwide. The Justice Retrieval and Information System (JURIS) provides access, through specially designed computer terminals, to a vast body of federal and state caselaw, Federal statutory and regulatory law, and attorney work products. In addition, pilot operation of the Automated Caseload and Collections System (ACCSYS) was extended to four United States Attorneys' offices. This system provides case management information, caseload statistics, and collection accounting data for the Executive Office for United States Attorneys. ICSS also provided extensive litigation support services to United States Attorneys and the Legal Divisions in the development, conversion, operation and maintenance of legal data bases for specific evidentiary case files. The staff supported over 15 major cases or investigations requiring access to over 600 million characters of specialized data at any one time.

ICSS also manages the Department's automated employment information system. This system provides a broad range of payroll accounting and payment com-

putation services to 34,000 Department employees located at duty points all over the world. The system produces 296 automated reports on a recurring basis in support of the Department's personnel administration, payroll accounting, security classification, employee training, and equal employment opportunity programs. In Fiscal 1977, 273 additional management information reports were produced in response to special needs within these programs, implemented a modification to the time and attendance reporting procedure which permitted the payment of entitlement under the Fair Labor Standards Act, and instituted system improvements which advanced the Departmental payday from Thursday to Wednesday.

During Fiscal 1977, ICSS trained 519 attorneys (U.S. Attorneys and Assistant Attorneys), representing 37 of the 94 U.S. Attorneys' offices, in the use of the Department's legal information retrieval system (JURIS). An additional 1,517 attorneys from the legal divisions and other U.S. Government agencies were instructed in the use of the system at the Department's central training facility in Washington, D.C. Fifty-five customized legal information retrieval terminals were installed and tested nationwide and connected via telecommunications circuits to the Department's central computer facility.

### **Systems Operations:**

The availability of processing capability to customers increased through implementation of procedures for the detection, tracking, and resolution of equipment and media failures. Facilities were developed which improved the degree of load leveling which could be achieved on the multi-computer configuration.

During Fiscal 1977, the Justice Telecommunications System (JUST) transmitted an average of 140,000 messages a month over a network of 355 terminals servicing 380 offices. NCIC queries routed through the JUST message-switching computer increased from 4,800 to 5,757 monthly. JCS received approval from OMB and GSA to contract with the local telephone company for installation of Centralized Telephone Exchange II (CENTREX II). This system will consolidate all telephone services of the Department's elements, except the FBI, within the Washington, D.C., area under a centralized switchboard.

ICSS also plans and administers Departmental policies on printing, composition, design, graphics, copying, duplicating, and distribution and provides di-



rect and procured service in all areas, except design and graphics, to all elements of the Department. Printing services have been expanded by establishment of a fifth satellite duplicating station to service units within the Main Justice complex. In compliance with the requirements of the Federal Printing Program, ICSS has shown less than a 1 percent increase in in-house production (54.2 million to 54.5 million). Through direct management and control of over 1,100 copier duplicators, the staff has optimized machine usage and reduced operational costs. During 1977 many changes were implemented in the Department's copying configuration at an annual savings of \$548,555.80. At the same time, production increased from 206,158,176 items in Fiscal 1976 to 215,424,205 items in Fiscal 1977. As part of the Federal Design Improvement Program, ICSS has completed design concepts for a U.S. Department of Justice Design Communications System and Design Standards Manual for implementation in Fiscal 1978.

### **New Major Initiatives:**

During Fiscal 1977, ICSS embarked upon four major initiatives designed to improve the quality of information and communications systems operations within the Department of Justice. These initiatives include:

- a program to review the Department's long-range automated information processing support requirements and to replace the existing computer systems operated by the Justice Data Management Service (JDMS). Current plans project replacement of the existing processing equipment and the introduction of new systems support configurations by the end of Fiscal 1980. These support configurations will be designed to address progressively complex automated information processing requirements through Fiscal 1988. In support of the Project 80 effort, several major Department-wide studies were initiated. These studies will provide detailed data on organizational information requirements and current and projected systems workload requirements, and will develop the detailed profiles of all existing applications systems needed to support systems conversion and redesign analyses.
- the requisite actions to upgrade the Justice Telecommunication System (JUST) through the acquisition of modern replacement computers for the existing JUST message-switch-

ing computer. The replacement system will be procured as a result of a solicitation released to industry during the last quarter of Fiscal 1977. The new system, scheduled for installation in Fiscal 1978, will provide 24-hour message service to users and will accommodate terminals of varying characteristics, speeds, and protocols. Inherent in these computers is the capability to communicate with other systems (e.g., U.S. Customs Service Treasury Enforcement Communications System).

- a detailed survey of existing Departmental communications networks and associated data communications equipment. The survey will address all proposed network changes through Fiscal 1988. The intent of this project is to determine the feasibility of utilizing a common Departmental data communications network to serve the needs of the various offices, boards, divisions, and bureaus. Creation of simulation models is proposed for Fiscal 1978. The models will allow the Department to examine the common network approach and identify potential benefits such as operational economy, system reliability, and flexibility in integration of existing data communications systems requirements.
- an appropriation was authorized by Public Law 94-26 dated May 4, 1977, and approval was granted by the Office of Management and Budget to expand the Department of Justice Working Capital Fund (WCF). The WCF method of financing will provide an improved method for allocating the costs of services to the organizations directly benefited, will realize operational economies by performing functions on a consolidated basis, will remove distortions in annual appropriations caused by the periodic need to replace equipment items, and will permit leveling of distortions in cost reimbursements caused by fluctuations in workload.

### **Administrative Programs Staff**

The Administrative Programs Staff (APS) has the responsibility for providing overall direction and coordination in the formulation and development of policies, procedures and standards for the Department in

the functional areas of procurement; EEO contract compliance; supply management; warehousing; real and personal property management; energy; environmental pollution; relocation assistance; historical preservation; motor vehicles; space; correspondence; directives; files; forms; mail management; creation, utilization, and disposal of records; and occupational safety and health. In addition, the Staff provides certain direct administrative support services to the offices, boards, and divisions of the Department, the USMS, except where specific independent administrative authority has been delegated.

### **Administrative Programs:**

The Administrative Programs Staff develops, issues, monitors, and evaluates Department-wide policy, procedures, and standards and is responsible for Department-wide programs for procurement; EEO contract compliance; supply management; warehousing; real and personal property management; energy; environmental pollution; relocation assistance; historical preservation; motor vehicles; and space management.

During 1977 this Staff supported the Department's continuing program to encourage contracting with the socially and economically disadvantaged. Procurement from small businesses increased 18 percent over the past year and procurement from minority businesses certified by the Small Business Administration increased 16 percent over the previous year.

A directive implementing OMB Circular A-76 was issued and resulted in an inventory of commercial or industrial activities in the Department composed of 11 major categories. These activities, which are staffed with approximately 2,250 personnel, have a total operating budget exceeding \$63 million per year. A review of these activities will be scheduled over a three-year period and those "in-house" activities which cannot be justified under the revised OMB guidelines will be contracted out to private industry.

During the past year, the Staff arranged for the disposal of approximately 215 acres of land, located in Brooksville, Fla., and Camp Elliott, Calif., which was not required by the Department. Also arranged was the transfer of custody and accountability from the General Services Administration (GSA) to the Immigration and Naturalization Service of seven border station properties in Antelope Wells, N. Mex.; Pinecreek, Minn.; Morgan, Wild Horse, Willow Creek, Turner, and Del Bonita, Mont., and assisted BOP in acquiring .62 acre of land at Foley Square, New York, N.Y.

### **Support Services:**

Under the Department's personal property utilization and disposal program, excess personal property valued at \$225,321 was transferred to other Federal agencies during 1977. Surplus property valued at \$85,362 was donated to educational and health institutions and through the Department's material rehabilitation program, furniture that had a replacement value of approximately \$18,486 was returned to service at a cost of \$5,180.

As part of the Department's forms management program, 50 forms utilized by Department of Justice components were eliminated.

The texts of the Bicentennial Lecture Series, sponsored by the Department of Justice were published in a bound volume entitled *Equal Justice Under Law*, which is now available through the Superintendent of Documents, U.S. Government Printing Office.

### **Security Programs Staff**

The Security Programs Staff develops, issues, and monitors Department-wide policy, procedures and standards in the functional areas of personnel and special security, document security, ADP and Telecommunications security, and physical security.

The Department's concern for the protection and privacy of DOJ records and data in ADP/Telecommunications systems pursuant to the Privacy Act of 1974 was reflected in the issuance of two Departmental computer security orders in 1977. All Department ADP facilities are now required to appoint a qualified ADP Facility Security Officer with designated security responsibilities over all systems and operations. Of particular interest to Departmental and other Government ADP users is the Guide for Conducting a Risk Analysis of an ADP Facility, a detailed risk analysis publication. It is now a requirement that risk analysis be conducted of all Department ADP facilities in an effort to identify and correct safeguarding weaknesses.

A stringent program was established within the Department and its various bureaus during the year to ensure the timely processing of full-field background investigations pursuant to E.O.'s 19540 and 10550. In 1977, 1,469 personnel security clearances were granted along with 273 reinvestigations to up-date clearances.

Security of Department physical facilities was improved in 1977 through a two stage security improvement program. One phase included physical security surveys to identify and correct weaknesses in the physi-

cal layout of offices and buildings. The second phase involved the staffing and implementation of a Security Assistance and Training Program whereby security specialists conducted assistance visits to Departmental units in order to evaluate present document, personnel, and physical security procedures and to recommend improvements.

Under a new Executive Protection Program, interim procedures for the protection of the Attorney General in conjunction with the FBI were adopted in 1977 and this program has recently been extended to all Department of Justice executives.

A Facility Self-Protection Plan was developed for the Main Justice Building and coordinated with the Federal Protective Service (FPS) to significantly improve protection procedures. The Security Programs Group made available during 1977 women's security films and distributed several thousand pamphlets containing information on professionally accepted crime prevention techniques.

The Staff also coordinated the DAG's Interagency Study Group on Judicial System Security during 1977 and was charged with developing an improved overall management and financial plan to provide adequate

cost-effective judicial security. The first phase of the work has been completed by the interagency approval of a "Memorandum of Agreement-Court Security" that clearly defines current responsibilities and commits resources during any transition period brought about by the adoption and implementation of the Staff's final recommendations.

### **Contingency Planning:**

In 1977 the Department of Justice was the first Federal agency to participate in a full scale exercise involving the emergency plan for dispersal of Presidential successors.

During 1977, the Department's several dozen "essential uninterruptible functions" were evaluated and reduced to three:

- Presidential Legal Support
- Presidential and DoJ Succession
- Execution of Certain Emergency Plans

In direct support of the Office of the Deputy Attorney General in 1977, the members of this Staff monitored 14 specific events and provided crisis management support for 13 events.

# United States Parole Commission

**Curtis Crawford**  
Acting Chairman

The United States Parole Commission was established in May 1970, by the *Parole Commission and Reorganization Act*. Prior to that time the agency was known as the United States Board of Parole, which was created by Congress in 1930. The Commission is an independent agency in the Department of Justice. Its primary function is to make policy and administer a parole system for federal prisoners wherever confined.

## Authority and Responsibility

The Commission is authorized to:

1. Grant or deny parole to any eligible federal prisoner,
2. Impose reasonable conditions on the release from custody of any prisoner on parole or mandatory release by operation of "good-time" laws,
3. Revoke parole or mandatory release,
4. Discharge from supervision and terminate the sentence prior to the expiration of the supervision period.

In addition to the above parole authority, the Commission is also authorized, under the *Labor-Management Reporting and Disclosure Act* and the *Employees Retirement Income Security Act of 1974*, to determine if certain prohibitions relative to holding office in a labor union or an employer group shall be exempted for applicants who apply and seek a hearing for that purpose.

## Organization

The Commission consists of nine Commissioners appointed by the President with the advice and consent of the Senate. They serve 6-year terms and may be reappointed one time. The Commissioners are a policy making body and meet at least quarterly for such purpose. The Chairman and three Commissioners are stationed at Washington, D.C. The remaining Com-

missioners act as Regional Commissioners for each of the five Regional Offices, located at Philadelphia, Pa.; Atlanta, Ga.; Kansas City, Mo.; Dallas, Tex.; and Burlingame, Calif. The three Commissioners in Washington, D.C., comprise a National Appeals Board.

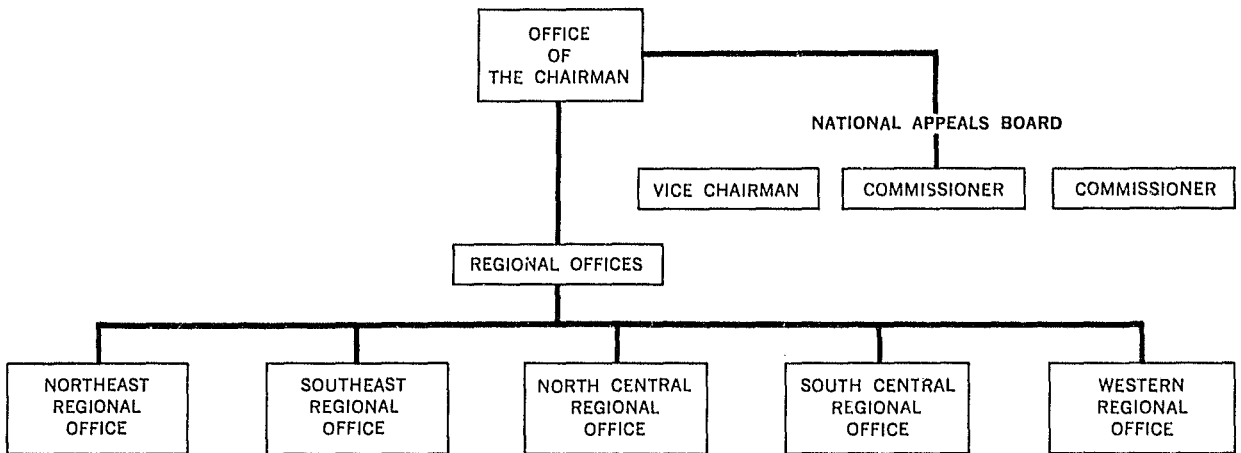
Among the staff of the Commission is a corps of Hearing Examiners stationed in the Regional Offices and at Headquarters who conduct parole hearings with eligible prisoners. They travel to each institution on a bi-monthly schedule. The Examiners function as two-person panels to conduct hearings and make recommendations to the Regional Commissioner relative to parole or parole revocation.

A two-stage appeal system is available to the prisoner. He may first appeal to the Regional Commissioner and then if necessary to the National Appeals Board. As a result of an appeal the decision may be affirmed, modified, reversed, or a new hearing ordered.

In certain cases the Commissioners, after a hearing by an Examiner panel, take "original jurisdiction" and make the parole decision by concurrence of a majority of a quorum of five, without the preliminary recommendation of the Examiners. Appeals of these types of actions may be made to the full Board.

Assisting the Commission are officials and staff of the Federal Bureau of Prisons and United States Probation Officers attached to each Federal District Court. The Bureau of Prisons staffs prepare institutional reports for the Commission, make the arrangements for hearings and carry out the release procedures to implement an order to parole. Probation Officers act, according to statute, as parole officers for the Commission. In such capacity they make pre-parole investigations and reports and provide community supervision over prisoners released to the jurisdiction of the Commission. They report any violation of the conditions of release, and in such cases the Commission may then issue a warrant for retaking of an alleged parole violator. They also may recommend to the Commission relative to early termination of the supervision period in deserving cases.

## U.S. PAROLE COMMISSION



Inmates are informed at the close of their hearing what the recommendation of the hearing panel is. After supervisory review and a final decision at the Regional Office, should the decision be to deny parole or to continue for further review, the inmate is informed of the final decision in writing and the reasons therefor.

Examiners also conduct hearings to determine whether allegations of misconduct justify revocation of parole or mandatory release. Such hearings are frequently conducted at local sites in the interest of justice to the accused parolee. The local site provides more ready accessibility for witnesses and attorneys. The United States Marshals execute the Commission's warrants and provide apprehension and custodial services as required.

A new feature created by the *Parole Commission and Reorganization Act of 1976* is a requirement to formally review cases of paroled prisoners to determine the appropriateness of terminating the sentence earlier than the maximum term imposed by the court. Two years after a parolee's release on parole, and at least annually thereafter, the Commission must review the status of the parolee and determine the need for continued supervision. If continuation on parole beyond five years is contemplated a hearing must be conducted at that time and annually thereafter if requested by the parolee.

### Presumptive Parole

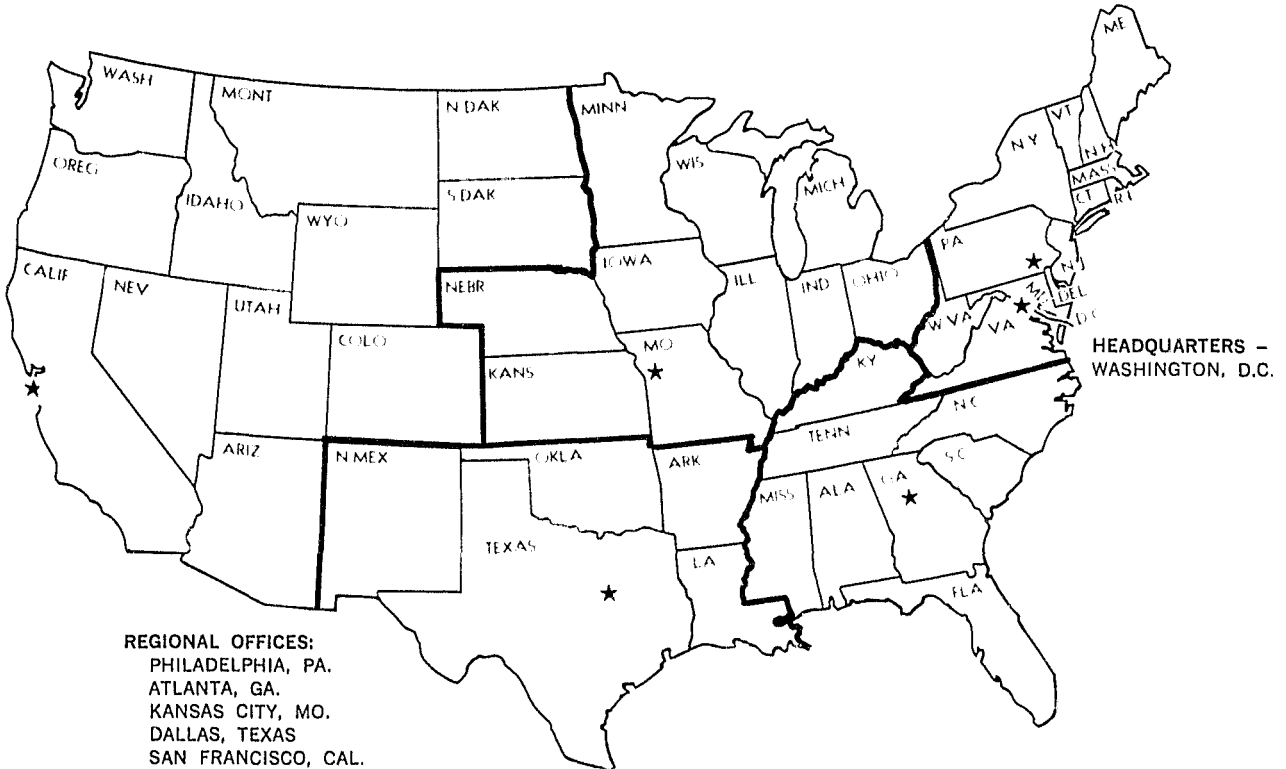
Some have charged that uncertainty about release dates is dysfunctional in a correctional effort. Ending

uncertainty attributed to the time of parole has been a major objective in the revision of a handful of state correctional systems so as to eliminate parole from such systems. To meet this concern the Parole Commission developed a concept for "presumptive parole" dates which are announced to inmates early in the period of incarceration. Effective September 6, 1977, all new commitments with maximum sentences of less than seven years may receive an initial parole hearing shortly after commitment. Prisoners with maximum sentences of seven years or more will continue to be heard when first eligible. The inmate is told the approximate date on which he can expect parole so long as he has an adequate release plan at that time. Parole dates are not projected further ahead than 4 years, but such long continuances are thoroughly reviewed at each 18-month interval. This mechanism should end uncertainty while retaining discretion to deny parole for those who misbehave or to shorten the period of incarceration by parole when extraordinary circumstances make such action appropriate.

### Major Legal Issues

A major innovation in the work of the Commission occurred with implementation of the provisions of the Government in the "Sunshine Act." As the sole unit of the Department of Justice covered by this legislation, the Commission published regulations providing for opening its meetings to the public wherever possible in accordance with the statute and the Commission's operational needs, and has successfully completed its first year under the Act.

## UNITED STATES PAROLE COMMISSION REGIONS



In its second year under the *Parole Commission and Reorganization Act* the Commission's procedures under its substantive regulations have been challenged in numerous lawsuits. A significant issue involved the claimed right to prompt revocation hearings for parolees convicted of new crimes and sentenced to terms of imprisonment. After litigation in 10 of the 11 circuits, the Supreme Court in *Moody v. Daggett*, 429 U.S. 78 (1976), vindicated the Commission's position that a hearing could be deferred until after the parolee has served an intervening sentence.

The Commission participated with the Department in drafting of legislation which would permit American nationals imprisoned in foreign countries for violating foreign criminal law to be returned to the United States to serve their sentence and to be considered for release on parole. Foreign nationals imprisoned in the United States would also be permitted to transfer under this proposal. Treaties with Canada

and Mexico have been approved, although legislation implementing these treaties had not yet been passed by the Congress at the close of the fiscal year.

### Parole Decisions

In 1975, the Commission made 26,038 decisions relative to parole and 4,812 appellate decisions. The figures for 1976 were 24,726 and 6,164 respectively. The estimated figures for 1977 (based on the first 6 months of the year) are 22,384 parole decisions and 4,876 decisions on appeals.

In 1975, the Commission granted 8,886 paroles and issued 2,647 violator warrants as compared to 6,404 paroles and 3,005 violator warrants in 1976. The estimated figures for 1977 (again based on the first 6 months of the year) are 5,828 paroles and 2,898 violator warrants.

# Office of the Pardon Attorney

John R. Stanish  
Pardon Attorney

The Office of the Pardon Attorney, in consultation with the Deputy Attorney General, assists the President in the exercise of executive clemency as authorized under Article II, section 2 of the Constitution.

Generally, all requests for executive clemency are directed to the Pardon Attorney for investigation and review. Executive clemency may take several forms including pardon, commutation (reduction of sentence), remission of fine, and reprieve.

## TYPES OF EXECUTIVE CLEMENCY

A pardon is granted after completion of sentence. Although it does not expunge the record of the conviction, it serves as a symbol of forgiveness by the chief executive.

A pardon restores basic civil rights and may aid in the reinstatement of professional or trade licenses which may have been lost as a result of the conviction. Often a pardon is sought to remove the stigma attaching to a conviction.

A pardon is usually granted only after a thorough investigation wherein it is demonstrated that the applicant has been completely rehabilitated and has proven good citizenship in his post-conviction life.

A commutation is a reduction in the term of a prison sentence. Usually, such a reduction is made to time already served, but occasionally a sentence is reduced to parole eligibility. Commutations are rarely granted since the granting of early release in most cases is more appropriately the function of the Parole Commission.

Remission of fine is granted when an undue financial hardship would result to a petitioner. Here also excellent post-conviction conduct is required.

A reprieve temporarily suspends the effect of a

sentence. Traditionally, reprieves have been used to delay the execution of a death sentence.

In Fiscal 1977, there were 722 new requests for executive clemency. Ten petitions previously closed were reactivated. The President granted 129 pardons and commuted the sentences of 8 persons. There were 300 clemency petitions denied.

The Pardon Attorney received 8,932 pieces of correspondence, mailed out 10,175 items and answered 647 Congressional inquiries.

In a recent study of all 195 persons who received pardons in Fiscal 1965 it was found that only 3 percent had been convicted of subsequent crimes. An early study of all 149 persons who received a pardon in Fiscal 1960 showed that only 4 percent were subsequently convicted—and only of misdemeanors.

The accompanying table represents statistics for Fiscal 1953 through 1977.

### EXECUTIVE CLEMENCY STATISTICS

Fiscal year	Received	Granted		Denied	Pending
		Pardons	Commu- tations		
1953	599	97	8	356	681
1954	461	55	7	348	732
1955	662	59	4	684	647
1956	585	192	9	568	463
1957	585	232	4	443	369
1958	406	98	6	302	369
1959	434	117	2	286	398
1960	437	149	5	244	437
1961	481	226	18	266	408
1962	595	166	16	315	506
1963	592	133	45	233	687
1964	921	314	74	437	783
1965	1,008	195	80	569	947
1966	865	364	81	726	641
1967	863	222	23	520	739
1968	749	13	3	415	1,057
1969	724	0	0	505	1,276
1970	459	82	14	698	941
1971	454	157	16	648	574
1972	514	235	20	410	425
1973	485	202	5	341	362
1974	426	187	8	337	256
1975	613	147	9	328	385
1976	604	78	11	244	658
1977	722	129	8	300	863

# Federal Bureau of Investigation

Clarence M. Kelley  
Director

The Federal Bureau of Investigation (FBI) investigates violations of certain Federal statutes, collects evidence in cases in which the United States is or may be an interested party, and performs other duties imposed by law or Presidential directive.

If a possible violation of Federal law under its jurisdiction occurs, the FBI will investigate and present the facts of the case to the appropriate United States Attorney or Department of Justice official who will determine whether prosecution or further action is warranted. The FBI does not give an opinion or decide whether an individual will be prosecuted.

## Organized Crime:

Organized crime was a target of priority investigative attention throughout the fiscal year. The FBI's primary efforts were directed at locating evidence and witnesses for use in court against top echelon hoodlums and racketeers.

It has been said that organized crime has three goals: exploitation, corruption, and destruction. What it cannot directly exploit, it seeks to corrupt; and what it cannot corrupt, it seeks to destroy. In pursuit of these goals, organized crime drains billions of tax-free dollars from our Nation's economy. Bankrolls built on the proceeds of illicit gambling, vice, fraud, and loansharking operations are used to infiltrate legitimate businesses, to corrupt public officeholders, and for other specious purposes.

During the fiscal year, Federal prosecutions of organized crime cases investigated by the FBI resulted in convictions of approximately 1,000 hoodlum, gambling, and vice figures, including top Syndicate functionaries from around the country. Several other ranking Syndicate officials were among the more than 1,000 organized crime subjects against whom prosecutive action was underway. Recoveries and confiscations totaled more than \$26 million.

The following examples show the effects of the FBI's push against organized criminal activities in the United States:

A four-year investigation by the FBI's New York Office closed down one of the country's largest policy operations. James Vincent Napoli, Sr., a reputed high-level Syndicate associate who was convicted of heading this \$100-million-a-year gambling enterprise, was sentenced to five years in prison and a \$20,000 fine. Eight of Napoli's cohorts, including his son, James, Jr., also drew fines and jail sentences.

On November 12, 1976, Frank Diecidue and six other Tampa, Florida, Syndicate functionaries were convicted on Federal racketeering charges arising from the gangland-style slaying of a former Tampa policeman who had been working with law enforcement authorities to stamp out criminal activities in the narcotics, loansharking, gambling, and counterfeiting field. Prison terms imposed on Diecidue and his confederates totaled 260 years.

A former New Jersey police official pleaded guilty to Federal perjury charges in January 1977. The charge arose from an investigation that indicated the official had accepted a \$3,000 payment to permit gambling activity unimpeded by local police authorities.

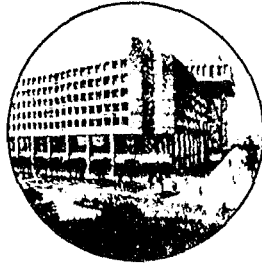
Federal Grand Jury indictments were returned on January 27, 1977, charging 13 Texas men with violations of Federal gambling statutes. Investigation revealed that during the 1975-1976 football season, these individuals engaged in a bookmaking operation that handled more than \$1,300,000 in wagers during a single 10-day period.

On February 15, 1977, a Federal Grand Jury in Los Angeles handed down indictments against five individuals involved in an illegal gambling enterprise that was grossing some \$25 million in wagering action a year.

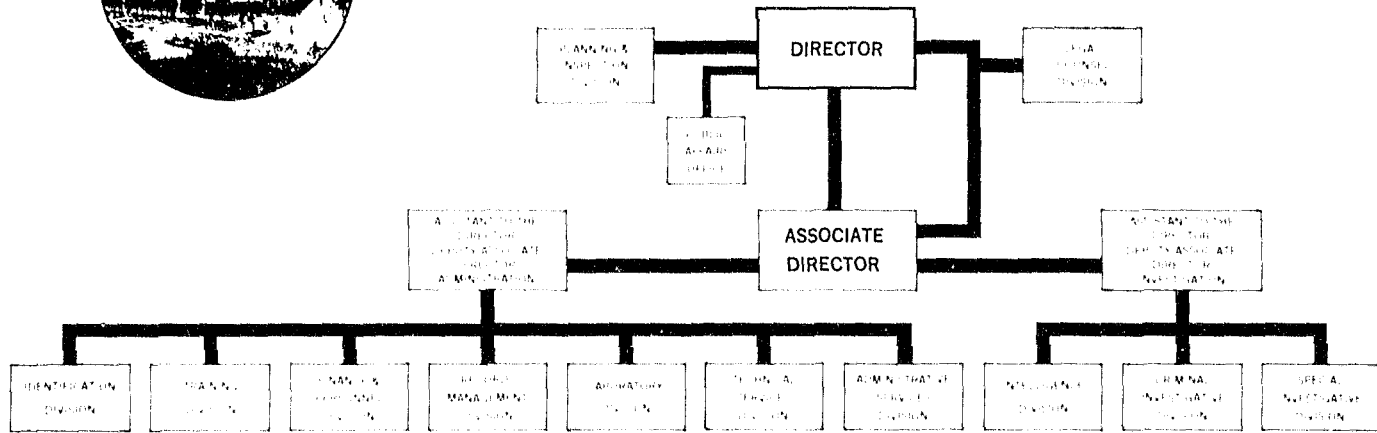
Four persons with ties to organized crime were indicted by a Federal Grand Jury last March 16 on charges stemming from the arson of a large Buffalo, New York, furniture store. Fraudulent insurance claims involved in this case totaled approximately \$900,000.

A Chicago, Illinois, bookmaker and three Chicago police officers who were employed as "muscle" for the bookmaker were arrested on March 25, 1977, and

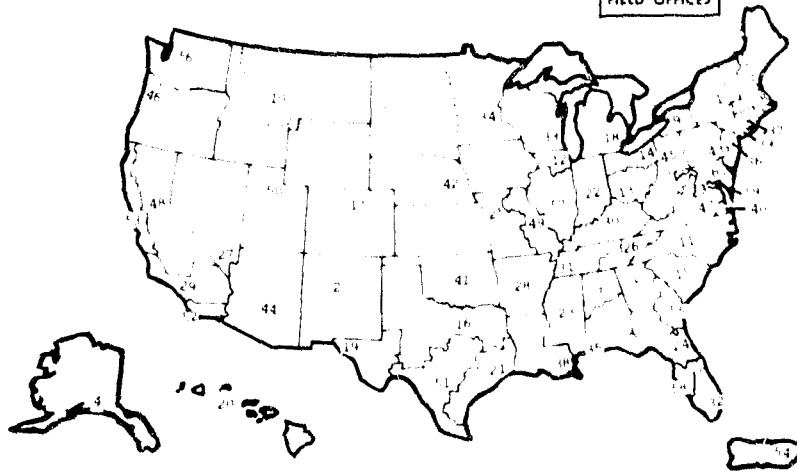




# ORGANIZATION OF THE FBI



FIELD OFFICES



1 ALBANY	21 HOUSTON	41 OKLAHOMA CITY
2 ALBUQUERQUE	22 INDIANAPOLIS	42 OMAHA
3 ALEXANDRIA	23 JACKSON	43 PHILADELPHIA
4 ANCHORAGE	24 JACKSONVILLE	44 PHOENIX
5 ATLANTA	25 KANSAS CITY	45 PITTSBURGH
6 BALTIMORE	26 KNOXVILLE	46 PORTLAND
7 BIRMINGHAM	27 LAS VEGAS	47 RICHMOND
8 BOSTON	28 LITTLE ROCK	48 SACRAMENTO
9 BUFFALO	29 LOS ANGELES	49 ST. LOUIS
10 BUTTE	30 LOUISVILLE	50 SALT LAKE CITY
11 CHARLOTTE	31 MEMPHIS	51 SAN ANTONIO
12 CHICAGO	32 MIAMI	52 SAN DIEGO
13 CINCINNATI	33 MILWAUKEE	53 SAN FRANCISCO
14 CLEVELAND	34 MINNEAPOLIS	54 SAN JUAN
15 COLUMBIA	35 MOBILE	55 SAVANNAH
16 DALLAS	36 NEWARK	56 SEATTLE
17 DENVER	37 NEW HAVEN	57 SPRINGFIELD
18 DETROIT	38 NEW ORLEANS	58 TAMPA
19 EL PASO	39 NEW YORK	59 WASHINGTON, D.C.
20 HONOLULU	40 NORFOLK	

charged with violations of Federal loansharking statutes.

Agents of the Chicago Office executed search warrants last April 22 at three off-track betting parlors. They seized gambling records and more than \$100,000 in cash.

Russell Bufalino, a prominent organized crime figure in Pennsylvania, was convicted on August 10, 1977, along with two associates, of loansharking violations arising from their attempt to extort \$25,000 under threat of force and violence.

Stolen securities valued in excess of \$23 million were seized when six mob-connected individuals were arrested in Pittsburgh, Pennsylvania, on September 8, 1977. The arrests capped a joint three-city investigation in New York, Miami, and Pittsburgh.

### **Dissemination of Criminal Intelligence Data:**

The FBI regularly provides criminal intelligence data to appropriate local, state, or other Federal law enforcement agencies, particularly those concerned with the enforcement of gambling and narcotics laws. During Fiscal 1977, information originally developed by the FBI and disseminated to other agencies contributed to more than 1,000 arrests on gambling and narcotics charges; confiscation of narcotics valued at almost \$157 million; and the seizure of \$1,496,000 worth of cash, property, weapons, and gambling paraphernalia.

### **Fugitive Matters:**

An important FBI effort is the pursuit and apprehension of persons sought by authorities after being charged with criminal violations. In Fiscal 1977, there were 21,869 FBI fugitives whose whereabouts were developed. Of that number, 3,068 were sought at the specific request of state and local authorities for fleeing across state lines in violation of the Fugitive Felon Act.

One extensive fugitive investigation involving unlawful flight across a state line was successfully concluded in July 1977, with the apprehension of an individual sought in the gangland slaying of an underworld figure in New York almost five years before.

The FBI's "Ten Most Wanted Fugitives" program was initiated more than 27 years ago as a means to publicize widely the identities of dangerous criminals being sought by the FBI. Since its inauguration, more than 300 of these "Most Wanted" fugitives have been located, including 12 during Fiscal 1977

### **Bank Robberies, Burglaries, and Larcenies:**

Violations of the Federal Bank Robbery and Incidental Crimes Statute--robberies, burglaries, and larcenies committed against Federally insured financial institutions--continued to receive priority investigative attention. Viewed as equally important are hostage-taking incidents, threats, and extortion demands made against officers and employees of banking-type institutions in violation of the Hobbs Act.

Fiscal 1977 saw violations of the Federal Bank Robbery and Incidental Crimes Statute rise to 4,776 from 4,511. In addition, 200 Hobbs Act violations involving banks were reported.

Federal convictions for bank robberies and related offenses number 2,203. These resulted in actual, suspended, and probationary sentences totaling 23,341 years. Additionally, fines totaling \$100,600 were imposed, and recoveries of loot exceeded \$5,028,621.

### **Kidnaping:**

The FBI's priorities in kidnaping investigations never vary. First priority is safe return of the victim. Second is identification and apprehension of the persons responsible.

One of the most bizarre kidnapings of recent years occurred on July 15, 1976, when 26 children and their school bus driver were abducted in California. The victims were loaded into other vehicles and transported some 100 miles to a site where they were held captive in a buried moving van. Their whereabouts remained unknown until they succeeded in escaping their underground prison on the night of July 16-17.

An extensive investigation had been launched when the victims did not arrive home as expected, and the school bus was located abandoned in a dry riverbed. The joint efforts of local law enforcement authorities and the FBI identified the kidnapers as three young men from the San Francisco Bay area. Following their arrests, the 3 pleaded guilty to 27 counts of kidnaping.

During the 12 months ending September 30, 1977, 86 convictions were recorded for violations of the Federal Kidnaping Statute. These resulted in 20 sentences of life imprisonment and in other sentences totaling more than 1,358 years.

### **Extortion:**

Among victims targeted by extortionists during Fiscal 1977 were wealthy and prominent figures in entertainment, sports, business, and governmental

circles. The desire for quick financial gain often provokes an extortionist to demand a payoff from an individual or organization in response to a threat of property damage or bodily harm. In such instances, the FBI deploys its resources to identify the perpetrator and prevent the carrying out of the threat.

For the 12 months ending September 30, 1977, there were 53 convictions under the Federal Extortion Statute.

### **Assaulting or Killing Federal Officers or Other Government Officials:**

In Fiscal 1977 there were 845 Federal officers—including 129 Special Agents of the FBI assaulted in performance of their duties. Last year's total was 1,058.

Two Federal officers—one with the Bureau of Indian Affairs of the Department of the Interior and the other an agent of the Drug Enforcement Administration—were fatally shot during Fiscal 1977.

The FBI is empowered by statute with investigating assaults committed on certain Federal officers. Ninety-four convictions were obtained for such offenses in Fiscal 1977.

### **Police Killings:**

The physical risk of being a police officer is high. Yearly, it is the sad duty of far too many police officers to attend the funeral of a fallen comrade.

During the 12 months ended September 30, 1977, there were 98 municipal, county, state, Federal, Commonwealth of Puerto Rico, and Virgin Islands law enforcement personnel feloniously killed while performing their duties. This figure does not include those who met accidental deaths.

Under a 1971 Presidential Directive, the FBI is authorized to participate in the investigation into the slaying of a local officer when the Bureau's help is requested in writing from an official of the local department. All possible assistance—including the services of the FBI Laboratory, the Identification Division, the National Crime Information Center, and the coverage of out-of-state leads—is rendered in these cases.

### **Civil Rights Violations:**

The FBI has certain investigative responsibilities when the constitutional and statutory rights of U.S. citizens are unlawfully abridged. Violations of civil rights and related Federal statutes are both criminal and civil, and they are investigated in close coordination with the Civil Rights Division and the Criminal

Division of the U.S. Department of Justice.

One such investigation, centered on the Island of Guam, arose from allegations that prisoners in the island's territorial penitentiary had been physically abused by personnel of the institution. An FBI inquiry resulted in the conviction of nine persons in Federal court on charges stemming from mistreatment of prisoners.

### **Interstate Crimes:**

A number of Federal laws within the FBI's jurisdiction are directed at criminal activities that transcend state boundaries. One such statute prohibits the interstate transportation of stolen property valued at \$5,000 or more.

These cases frequently involve multimillion dollar criminal operations. One such investigation during the fiscal year resulted in the FBI's recovery of \$7,860,000 worth of negotiable U.S. Treasury notes that had been stolen while in transit from Washington, D.C., to a bank on the East Coast.

In Fiscal 1977, 1,307 persons were convicted of violations of the Interstate Transportation of Stolen Property Statute.

The theft of goods from a shipment moving in interstate or foreign commerce constitutes another category of crime within the FBI's jurisdiction. In this area, 823 convictions were recorded in Fiscal 1977 for cargo hijackings and other violations of the Theft from Interstate Shipment Statute.

Under the Interstate Transportation of Stolen Motor Vehicle Statute, the FBI continued to concentrate on criminal combines specializing in thefts of automobiles and heavy equipment for resale purposes. At the conclusion of Fiscal 1977, some 343 such ring cases were receiving investigative attention; and from October 1, 1976, through September 30, 1977, a total of 1,341 persons had been convicted of interstate vehicle theft violations.

### **General Crimes Relating to the Federal Government:**

Some 1,353 individuals were convicted of crimes committed on Government and Indian reservations during Fiscal 1977.

When property belonging to the U.S. Government is stolen, the FBI has jurisdiction to investigate under the provisions of the Theft of Government Property Statutes. Some 669 persons were convicted of stealing, embezzling, or illegally possessing property of the Government during Fiscal 1977. FBI investigations

in the fiscal year contributed to the recovery of nearly \$4,225,000 worth of such property.

### **Skyjackings and Related Crimes:**

On December 21, 1976, a lone gunman entered the San Francisco International Airport, proceeded to the maintenance area of an airline company, and—forcing two hostages at gunpoint to accompany him—boarded an unoccupied aircraft. The gunman then demanded another plane, with a flight crew and maps and charts for the East Coast. All-night negotiations carried out by the FBI and local law enforcement authorities ultimately persuaded the gunman to release his hostages and surrender.

This man was one of seven persons who hijacked or attempted to hijack aircraft in the United States between October 1976 and September 1977. All of these hijackers have been identified. One has been sentenced for his actions; three await Federal court action; and three others were handled by local or state judicial systems.

### **White-Collar Crime:**

White-collar crime consists of nonphysical illegal acts that utilize concealment and deceit to obtain money, property, business or personal advantage, or to avoid payment or loss of money or assets. White-collar criminals frequently occupy positions of responsibility and trust in Government, business, industry, and the professions. They bring about losses of billions of dollars annually to the Nation's economy. Yet white-collar crime exacts an even greater toll—the erosion of public confidence in institutions and persons from whom a meticulous regard for the law is expected.

The FBI's jurisdiction in white-collar crime encompasses such offenses as bribery, conflict of interest, and perjury, as well as various types of fraud, including fraudulent practices in Federal housing funds, veterans benefits, and health, education, and welfare programs.

Because of the highly sophisticated and complex nature of the schemes employed, white-collar crimes are one of the most difficult challenges facing law enforcement today. This category of crime has been targeted by the FBI and the Department of Justice to receive preferred attention. Indicative of its high priority is the fact that in Fiscal 1977, the FBI devoted approximately 15 percent of its manpower to white-collar crime investigations. Federal prosecutions arising from these investigations resulted in 4,439 convictions.

During the fiscal year, the FBI has expanded its efforts to help train persons in methods of detecting and circumventing various schemes that have been developed and used by white-collar criminals.

### **Bank Fraud and Embezzlement:**

Cases handled by the FBI in this category ranged from small thefts of cash by tellers to highly sophisticated embezzlement schemes, often involving complex computer manipulations by bank officers or customers.

Nearly 1,700 Federal convictions were recorded for bank fraud and embezzlement violations during the 12 months ending September 30, 1977. Funds recovered totaled almost \$29 million.

At fiscal year end, 76 cases in which losses exceeded \$1 million were under investigation—as were 285 other investigations that involved losses ranging between \$100,000 and \$1 million.

### **Fraud Against the Government; Bribery:**

During the fiscal year, 742 persons were convicted of fraud against the Government, bribery, and related Federal violations within the FBI's jurisdiction, a marked increase over the 668 convictions recorded in the preceding fiscal year.

These violations often involve complex fraudulent schemes to obtain Government funds earmarked for various programs, such as those undertaken by the Veterans Administration (VA) and the Department of Housing and Urban Development (HUD). Frequently, they include actual or attempted bribery of officials responsible for administering various areas of these programs.

Among the major cases investigated were two that involved fraudulent payments of Government funds totaling millions of dollars. The FBI's investigations in these cases helped to pinpoint weaknesses in accounting procedures as contributing to the success of the schemes—thereby enabling the Government offices involved to strengthen protective controls.

Some 241 individuals were convicted of HUD and VA law violations.

### **Bankruptcy:**

Under the National Bankruptcy Act, the FBI investigates concealments of assets, false claims, bribery, and embezzlement by company officials in anticipation of bankruptcy—practices designed to circumvent the

law and bring about heavy economic losses to creditors and consumers.

During Fiscal 1977, 16 persons were convicted of Federal bankruptcy violations; and funds and assets totaling over \$500,000 were recovered.

### **Antitrust:**

Restraint of trade in interstate commerce or monopolistic business practices are prohibited by anti-trust laws; and either criminal or civil charges may be brought against violators. The FBI investigates such matters when requested to do so by the Department of Justice.

In antitrust cases investigated by the FBI, there were 143 convictions in Fiscal 1977.

### **Copyright Matters:**

Significant monetary losses are suffered each year by the legitimate recording and motion picture industries through the actions of those who ignore copyright protections. The illegal duplication and sale of copyrighted film and sound recordings by so-called "film and tape pirates" is the target of intensive FBI investigation under Federal copyright laws.

Such investigations contributed to the conviction of 112 persons in Federal courts during Fiscal 1977. In addition, many thousands of copies of illegal tapes and motion picture films were confiscated.

### **Obstruction of Justice:**

Statutes prohibiting the obstruction of justice, perjury, and contempt of court were enacted by Congress to insure the proper administration of justice and to guarantee that the Federal judiciary system is accorded the dignity and sanctity it deserves. Violations of these statutes, which are investigated by the FBI, resulted in 215 convictions during Fiscal 1977. More than \$200,000 in fines were imposed.

### **Foreign Counterintelligence:**

A series of espionage cases investigated by the FBI during the fiscal year highlights the critical need for continued vigilance against foreign intelligence activities in the United States. Early in 1977, for example, a former Russian merchant seaman was arrested by FBI Agents in New Jersey in possession of classified material pertaining to a sensitive project of the Department of Defense. Within two weeks of his arrest, a Federal Grand Jury returned indictments charging this man

with espionage and with "obtaining national defense information for transmittal to the Soviet Union." As the fiscal year ended, he was undergoing psychiatric evaluation at a Federal medical center, pursuant to an order by a Federal judge. An official of the Soviet Mission to the United Nations, who was named as an unindicted co-conspirator, departed the United States for the Soviet Union with his family in February 1977.

Also arrested in January 1977, were two young men who had been providing sensitive national defense information to Soviet representatives --for which they had been paid approximately \$70,000. They were tried and convicted at separate trials in California in the spring of 1977. One received a life sentence and the other was sentenced to 40 years' imprisonment.

Another American arrested and convicted on espionage-related charges during the fiscal year was a former employee of a U.S. intelligence agency who tossed a package over the fence of a Soviet residence in Washington, D.C., offering to sell classified information. Arrested the next day as he attempted to retrieve a package at a "drop" site in Maryland, this man was found to have possession of a number of classified documents. A Federal jury found him guilty of attempting to deliver information affecting national security to the Soviet Union, and he was sentenced to life imprisonment.

Adding to the FBI's counterintelligence responsibilities has been the growing influx of communist-bloc officials into this country in recent years. Between October 1972 and October 1977, the presence here of Soviet officials alone increased from 901 to 1,159. Past experience has conclusively shown the Soviets' propensity to intermingle diplomatic and intelligence assignments. In addition, the large numbers of tourists, students, commercial or cultural delegates, and others from communist-bloc countries entering the United States each year provide a potentially valuable manpower pool for intelligence-gathering operations.

### **Domestic Security Guidelines:**

The Attorney General's guidelines for domestic security investigations became effective on April 5, 1976. These guidelines basically set forth that domestic security investigations are conducted to determine if the activities of individuals or groups involve or will involve the use of force or violence, or involve or will involve the violation of Federal law for the purpose of: (1) overthrowing Federal or state government; (2) substantially interfering in this country with the activi-

ties of a foreign government; (3) impairing the functioning of the Federal Government or a state government, or of interstate commerce for the purpose of influencing government policies or decisions; or (4) depriving persons of their civil rights.

Since these investigations are tied as closely as possible to criminal offenses, responsibility for supervision of domestic security cases was removed from the FBI's Intelligence Division during Fiscal 1977 and assigned to the Criminal Investigative Division.

### **Terrorism:**

Terrorism, both domestic and foreign, continues to be a serious and unpredictable threat to the peace of our society. Acts of terrorism are a primary weapon of exile and revolutionary groups that seek on the one hand to create fear and to intimidate and on the other to gain publicity and support for the causes they represent.

Prominent among groups identified with acts of terrorism in the United States in 1976-77 were:

- The Armed Forces of Puerto Rican National Liberation (FALN), one of whose bomb factories was uncovered in Chicago, Illinois, in November 1976.
- The New World Liberation Front, which has claimed responsibility for a series of violent acts in Western states.
- The Coordination of United Revolutionary Organizations, a Cuban exile group formed in 1976 that has claimed participation in bombings of airline offices and other facilities in San Juan, Puerto Rico; Fort Lauderdale, Florida; Washington, D.C., and other locations abroad.

In addition, an armed takeover of three buildings in Washington, D.C., was staged by 12 members of the Hanafi Muslim Sect in March 1977. These terrorists took some 140 persons captive. Four of their hostages were wounded, one fatally. Following their negotiated surrender to local authorities, the 12 men were tried, convicted, and sentenced to long prison terms.

### **Bombings:**

Some 1,570 bombing incidents were reported to the FBI during the 1976 calendar year. These bombings wrought 50 deaths, physical injury to 212, and more than \$11 million in property damage.

Dependent upon the circumstances involved, jurisdiction to investigate bombing incidents rests with

the FBI, the Bureau of Alcohol, Tobacco and Firearms of the Treasury Department, or local law enforcement authorities.

### **Applicant and Employee Investigations:**

Certain applicant and employee-type investigations are conducted by the FBI in accordance with arrangements made with the White House, other Government agencies, and some congressional committees, and pursuant to certain laws. The facts gathered in these inquiries are furnished to the initiating agency or office without comment or recommendation as to the suitability of the applicant or employee in question. The employing agency or office makes all evaluations and decisions as to action.

Immediately following the November 1976 national election, the FBI prepared for an influx of requests for background investigations related to the incoming Administration. Prior to Inauguration Day, some 224 investigative requests were received from the Presidential Transition Group. An additional 712 investigations had been instituted through September 30, 1977, for Presidential appointee or White House staff member posts.

The FBI also handles background investigations involving positions within the Department of Justice, as well as candidates for United States Attorney and United States Marshal posts, and appointees to the Federal judiciary. Departmental-related investigations initiated during Fiscal 1977 totaled 1,198.

Other applicant-type investigations within the FBI's field of responsibility include those involving candidates for sensitive positions with the Department of Energy and the Nuclear Regulatory Commission, as well as applicants for executive clemency or pardon after completion of sentence, and non-FBI personnel having access to FBI space and facilities. Investigations in these categories numbered 2,310 in Fiscal 1977.

In line with the FBI's responsibility to coordinate and disseminate information pertaining to the internal security of the United States, there was a total of 1,774,642 name checks handled during Fiscal 1977.

### **Cooperative Services**

#### **Laboratory Division:**

The FBI maintains the largest crime laboratory in the United States. Its examiners give technical and scientific assistance to all FBI operations and conduct

examinations and provide expert testimony in criminal matters investigated by the FBI, as well as by state, local and other Federal law enforcement agencies.

Forensic laboratory services rendered by four sections—Document, Scientific Analysis, Special Projects, and Engineering. Over 440,000 examinations were conducted in Fiscal 1977, some 33 percent of which were for agencies other than the FBI. Examiners also provided expert testimony in 1,160 criminal cases throughout the country.

To help enhance the forensic science capabilities of other law enforcement agencies, the FBI Laboratory furnishes scientific training and related assistance to personnel of state and local crime laboratories. In Fiscal 1977, training in specialized laboratory topics was provided to more than 600 technicians of other law enforcement agencies. In addition the FBI Laboratory also contributed to the cohesiveness and capabilities of the forensic science community in the United States through:

- Publication of technical papers and manuals.
- Sponsorship of the Fourth Annual National Symposium on Crime Laboratory Development, which was attended by 172 directors of crime laboratories in the United States, Puerto Rico, Canada, and U.S. Military facilities in Japan and Germany.
- Publication of the "Crime Laboratory Digest," a newsletter which highlights current developments in the field of forensic science.

An active program of research in the biological, chemical and physical sciences—directed at the development of new methods and techniques for examination of evidentiary material—was also pursued. Results of such research are shared with forensic scientists in other law enforcement agencies.

The Laboratory often is called upon by other Federal agencies to perform examinations of a civil, rather than a criminal, nature. Frequently these requests involve interesting artifacts. For example, the Department of Interior submitted a diary believed to have been written by actor-assassin John Wilkes Booth. The diary had not been authenticated; and many thought that if it was Booth's diary, it might contain secret writings.

In the Document Section of the FBI Laboratory, the diary was subjected to all possible nondestructive tests; and no indication of secret writing was found. A comparison was also made of the writing in the

diary with known writing samples of Booth that were furnished by the National Archives. Laboratory experts found that the diary was written by Booth.

### Identification Division:

The FBI's Identification Division houses the largest known collection of fingerprints in the world. It had 167,700,416 fingerprint cards at the end of Fiscal 1977. The number of cards received during the fiscal year surpassed the 6 million mark, with receipts averaging more than 24,000 a workday.

Approximately 50 percent of all fingerprint cards received pertained to arrests and related forms of action. Nearly two-thirds of these were identified as bearing the fingerprints of persons with previous Identification Division records.

Fingerprints also are submitted to the FBI in connection with a number of noncriminal matters. For example, pursuant to Federal laws and some state jurisdictions, the Identification Division checks the fingerprints of persons being considered for specified positions—such as employment in federally insured banks or in brokerage houses—against its files. In addition, fingerprints of members of the Armed Forces, as well as those of applicants and employees of Federal agencies, are submitted to the Identification Division. Each year, many hundreds of persons voluntarily send their fingerprints to the FBI for personal identification purposes.

A total of 32,958 requests for latent fingerprint examinations was received by the Identification Division. These examinations resulted in 5,544 identifications being made. FBI latent fingerprint experts also were called on to testify on 685 occasions in local, state, and Federal courts; and 171 defendants in these cases entered guilty pleas immediately after the fingerprint examiner's arrival in the courtroom.

Other special services rendered by the Identification Division include:

- Posting Wanted Notices against the fingerprint records of fugitives at the request of law enforcement agencies. New fingerprint cards containing information regarding the possible whereabouts of 22,215 such fugitives were received, and the interested authorities were immediately notified.
- Identification of disaster victims. The FBI Disaster Squad, composed of fingerprint experts specially trained in the handling of identification problems attendant to catastrophes, was

dispatched to the scenes of two airplane crashes and a nightclub fire. Fifty-three of the 427 victims examined were identified by fingerprints.

- Posting Missing Persons Notices at the request of close relatives, as well as members of Congress and public agencies acting on behalf of the family.
- Compliance with requests from law enforcement and judicial authorities for the expungement of arrest records from Identification Division files—as well as compliance with requests made by individuals, pursuant to a 1973 order of the Attorney General of the United States, for access to their fingerprint record.

Additional progress was made in the implementation of a computerized fingerprint identification system. By the end of the fiscal year, 2.7 million sets of fingerprints had been programmed into the data bank, and about 3,000 new records were being added each workday.

### **National Crime Information Center:**

The National Crime Information Center (NCIC) is a nationwide computer-telecommunications system through which millions of records pertaining to stolen property, fugitives from justice and missing persons are instantaneously available to local, state, and Federal authorities across the United States. It links over 6,000 criminal justice agencies in the 50 states, Puerto Rico, and the District of Columbia. Also among its participants are the Royal Canadian Mounted Police.

Although NCIC is managed by the FBI, an NCIC Advisory Policy Board composed of 26 top-level criminal justice administrators makes recommendations regarding policies, operations, and procedures. Its members help assure that NCIC's stringent record validation and quality control procedures are complied with by all contributors to the system.

As the fiscal year ended, NCIC was handling more than a quarter-million transactions each day that included many positive responses, or "hits," resulting in the recovery of stolen property, the apprehension of wanted felons and the location of missing persons.

### **Uniform Crime Reporting Program:**

The Uniform Crime Reporting (UCR) program was conceived and implemented by the International Association of Chiefs of Police more than 45 years ago because of two basic needs: first, the need of the American people to understand the extent and nature

of criminal activity and, second, the need of law enforcement leaders for an administrative tool to manage their departments better.

On a monthly basis, statistical data concerning the incidence of specific crimes are furnished to the FBI by more than 13,000 individual law enforcement agencies. Data in these reports, compiled and published on a quarterly basis, serve as a statistical indicator of local, regional, and national trends in crime.

The FBI helps states develop their own statewide crime reporting programs compatible with the national program. During Fiscal 1977, six states implemented such programs, bringing the total number of states having a mandatory reporting program to 42.

The UCR program supplies the information required by criminal justice administrators and legislators to develop policies and legislation that will have maximum effect on crime. The UCR program also helps those officials, as well as scholars and the general public, to gain insight into the crime problem and its effect on our society.

### **Training:**

Hub of the FBI's training activities is the FBI Academy at Quantico, Virginia. Its classroom, library, dormitory, and related facilities can accommodate 700 resident students at a time. They are in maximum use all seasons of the year as the site of specially designed courses and seminars for state and local law enforcement officers, as well as for FBI personnel.

The staff of the Academy also coordinates all other FBI training operations, including: (1) the instruction given Bureau employees in Field Offices across the United States and (2) the assistance the FBI renders, upon request, in conducting local and regional police schools.

Most comprehensive of the courses at the FBI Academy is the 15-week session for newly appointed Special Agents. During the 1977 fiscal year, 222 men and women completed this course and qualified for assignment to the Bureau's field investigative force.

Other programs for FBI personnel held at the Academy included 106 in-service sessions featuring advanced courses for experienced employees. These were attended by 4,729 Agent and support personnel. Emphasis was given to subject matters related to the Bureau's investigative priorities—White Collar Crime, Computer Crime and Organized Crime. In furtherance of the Bureau's Career Development Program, special management-aptitude and management-development courses were scheduled.





*Special Agent Trainees Practice Disarming Techniques at FBI Academy, Quantico, Virginia*

Among the programs offered to state and local police and members of other criminal justice agencies at the FBI Academy are:

- The FBI National Academy, which provides 11 weeks of advanced instruction to career members of the law enforcement profession. Four sessions of the National Academy, attended by 995 officers, were held.
- Specialized Schools dealing with a broad range of police-related topics, such as Crisis Intervention, Coping with Police Stress, and Forensic Science. The FBI Academy was the site of more than 175 of these Specialized Schools. They were attended by more than 3,400 officers.
- Conferences and seminars—such as the National Executive Institute, a program specially designed for executives of metropolitan police departments. Three sessions of the National Executive Institute were held—all being scheduled for weekends so that police chiefs in attendance would not be away from their communities for any sustained period of time.

Agents specially trained as police instructors are assigned to each of the FBI's 59 field offices. During the 1977 fiscal year, these Agent-instructors provided 102,772 hours of instruction in 9,593 training sessions, attended by nearly 280,000 criminal justice personnel.

## **Administrative and Support Services**

### **Organization of the FBI:**

Operations of the FBI are managed at the Bureau's Washington, D.C., Headquarters. There are 12 Headquarters Divisions, including the Training Division at the FBI Academy at Quantico, Virginia. During Fiscal 1977, significant organizational changes were implemented at FBI Headquarters to enhance the efficiency, economy, and effectiveness of the Bureau's operations.

The FBI has field offices in 59 cities in the United States and in Puerto Rico. In addition, it maintains approximately 500 resident agencies, or sub-offices, in other areas.

The FBI also has liaison offices in 13 foreign cities covering some 84 countries.

### **Personnel:**

FBI employees at the end of Fiscal 1977, numbered 19,200, including 8,139 agent and 11,061 non-agent personnel. More than 33 percent of FBI employees have served 10 years or more.

During the fiscal year, more than 1,600 incentive awards and quality salary increases were given to employees who attained exceptional achievements or sustained above average performance.

### **Office of Equal Employment Opportunity:**

The FBI continues to follow its established Equal Employment Opportunity (EEO) policy of actively recruiting minorities and women in an effort to make its ranks more representative of the American people. Significant gains have been made in this area over the years and substantial improvement is expected to continue. At the close of Fiscal 1977, approximately 15.6 percent of the total work force were members of minority groups as compared with 14.4 percent at the end of Fiscal 1976. This increase was achieved despite an overall reduction in the FBI's employee rolls and cutbacks in the hiring of new personnel.

## **Budget:**

FBI accountants completed a major three-year project to design a fully automated centralized accounting system for the Bureau. The new system, which has been reviewed and approved by the General Accounting Office, provides all levels of Bureau management with accurate, up-to-date information regarding the amount and cost of manpower being applied to any of the FBI's investigative or support programs. The new budget system went into effect on October 1, 1977.

## **Records Management:**

The nerve center of the FBI records system is the General Index which, at the close of Fiscal 1977, contained more than 60 million cards. The Index is the key to the Bureau's ability to locate and retrieve information contained in its 6 million files.

More than 2.3 million name searches were conducted manually through the General Index. In addition, nearly 5 million items of incoming and outgoing mail were processed at FBI Headquarters.

The Records Management Division continued to implement the Automated Records Management System (ARMS) that eventually will incorporate the computerization of the main functions of the Records Branch:

- Searching the General Index.
- Processing the incoming and outgoing mail.
- Serializing the files.

When fully operational, ARMS will increase efficiency and significantly reduce the cost of records management.

## **Freedom of Information and Privacy Acts:**

Under the Freedom of Information and Privacy Acts (FOIPA), the FBI received more than 17,000 requests to make available information contained in its files. FOIPA requests are processed in a special branch of the Records Management Division by personnel trained not only to comply fully with the disclosure provisions of these Acts, but to recognize as well information that is specifically exempted from disclosure—such as sensitive national security data; information regarding the identities of sources; and material that would invade the privacy of third parties or jeopardize current investigations or law enforcement techniques.

Because of the high degree of public interest in the

FOIPA program, a large backlog of requests was on hand at the beginning of Fiscal 1977. To reduce that backlog and to keep pace with additional inquiries, the permanent FOIPA staff at FBI Headquarters was increased by 87.5 percent. Additionally, a special program, involving the temporary assignment of Special Agents from various field offices to the FOIPA Branch, was implemented in two phases from May through September 1977. In the first phase, 198 Special Agents were assigned to this special program; and 84 assisted the FOIPA Branch in the second phase. As a result of these measures, it was possible to process more than 20,000 FOIPA requests and to also reduce the delay in processing those requests from 14 months to 2 months. Expenditures totaling more than \$8 million were encountered by the FBI in the handling of FOIPA matters during the year.

## **Technical Services:**

The primary role of the Technical Services Division is to insure that each FBI Field Office and Headquarters Division has available the communications equipment and computer capabilities necessary to deal effectively with the modern criminal. The Division also provides vital investigative support in a wide variety of cases, especially white-collar crime. In Fiscal 1977, the Data Processing Section was involved in 57 computer-related investigative operations. Division personnel also helped prepare and execute search warrants involving computer records and computer centers. Technicians of the Engineering Section examined evidence and provided expert testimony in matters involving electrical equipment, including the enhancement and authentication of recording tapes.

## **Planning and Inspection:**

Each FBI Field Office, Headquarters Division, and Foreign Liaison post undergoes an internal inspection at least once every two years. Inspection teams that include specially trained accountants conduct exacting inquiries into every phase of FBI activities. In Fiscal 1977, the Office of Inspections conducted 62 inspections and audits of Field Offices and Headquarters Divisions.

Through detailed surveys, studies, and program audits, the Office of Planning and Evaluation determines whether existing policies, procedures, and operations meet requirements of the FBI, whether they comply with required standards and are efficient, effective and economical. In Fiscal 1977, this office initiated 26 studies or evaluations.

The Office of Professional Responsibility supervises and investigates all allegations of serious misconduct on the part of FBI employees. The FBI works closely with the Office of Professional Responsibility in the Department of Justice in carrying out these functions.

### **Legal Counsel:**

Legal matters affecting FBI operations and programs are the province of the Legal Counsel, who, along with his staff, furnishes legal advice to the Director and other Bureau officials, researches legal questions concerning law enforcement matters, and supervises civil litigation involving the FBI and its personnel. Additionally, the Legal Counsel staff administers a comprehensive legal training program for Bureau personnel and other law enforcement officers. It also maintains liaison on Capitol Hill concerning legislative and oversight matters pertaining to the FBI and closely analyzes proposed or enacted legislation affecting FBI operations.

### **Public Affairs Office:**

The Public Affairs Office, which was created in April 1977 as a successor to the former External Affairs Division, serves as an adjunct of the Director's Office in handling news media requests and related matters of a public information nature. It is this Office's responsibility to provide the American people with a factual accounting of FBI programs, operations and services on a continuing and timely basis.

### **Tours:**

Tours of FBI Headquarters continue to be in high demand among visitors to the Nation's Capital. During Fiscal 1977, more than one-half million persons toured the J. Edgar Hoover FBI Building where they were shown exhibits concerning the Bureau's investigative jurisdiction, service functions, and history. Tours are offered daily between 9 a.m. and 4 p.m., except weekends and holidays.

### **Crime Resistance:**

The FBI continued to promote both the concept and the techniques of crime resistance as a means of reducing crime. Using the practical experience gained from its criminal investigations, the Bureau developed and improved methods designed to prevent the occurrence of Federal crimes. In addition, guidance and assistance, directed toward reducing their vulnerability to crime, were provided to potential victims. A reduction in the number of crimes was realized in a variety of targeted areas.

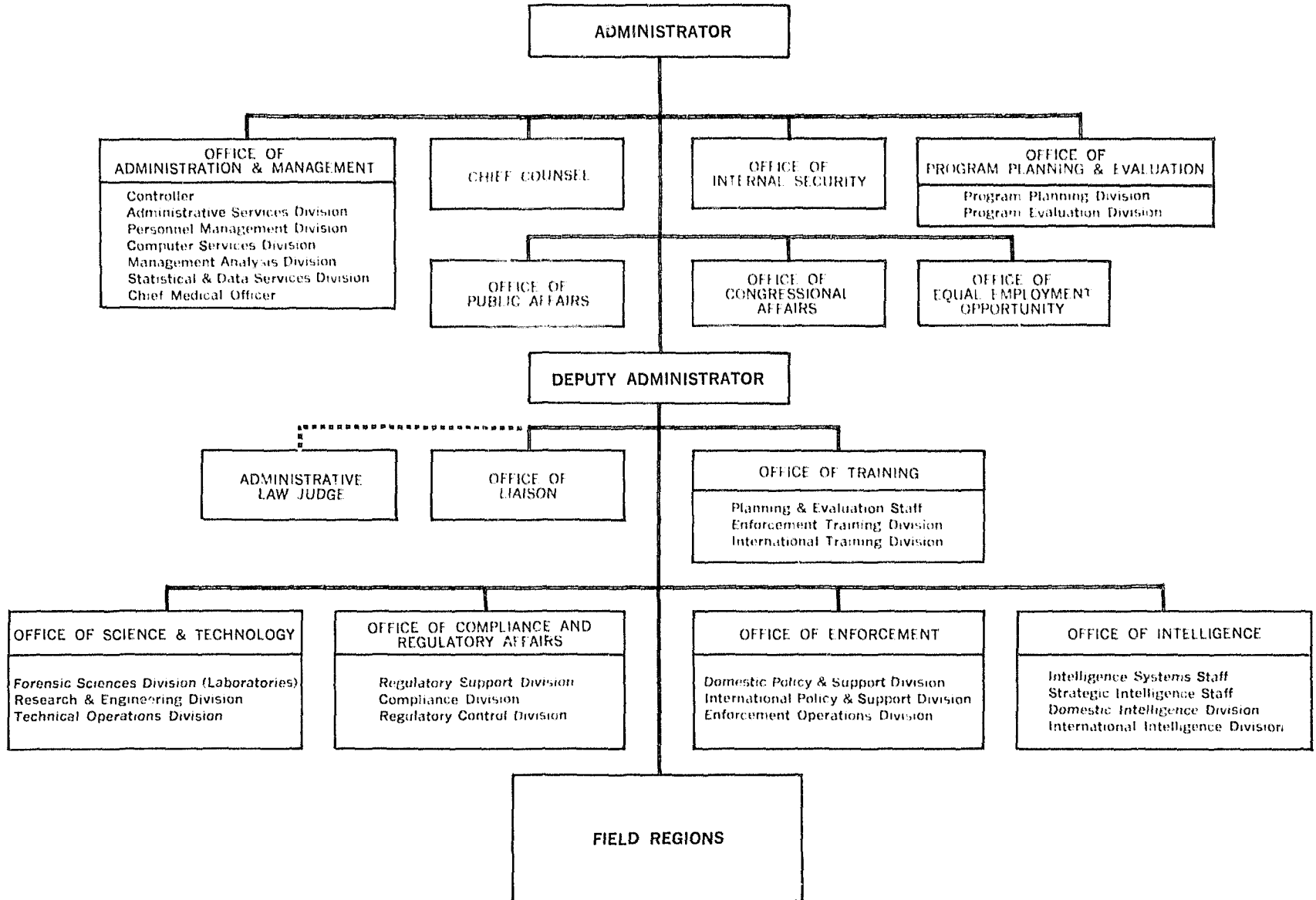
To provide a catalyst for the development of crime resistance programs by local law enforcement agencies, specially trained Agents from each of the 59 Field Offices conducted more than 200 courses in crime resistance that were attended by more than 6,000 law enforcement personnel. Additionally, an elective course in crime resistance was developed and is offered at the FBI National Academy.



*An Exhibit of the Gangster Era Which Appears on the Tour Route, FBI Headquarters, Washington, D.C.*

# DRUG ENFORCEMENT ADMINISTRATION

## HEADQUARTERS ORGANIZATION CHART



# Drug Enforcement Administration

**Peter B. Bensinger**  
Administrator

The mission of the Drug Enforcement Administration (DEA) is to enforce the controlled substances laws and regulations of the United States and to bring to the appropriate criminal and civil justice system those organizations and their members involved in the growing, manufacture, or distribution of controlled substances destined for illicit traffic in the United States. DEA also recommends and supports nonenforcement programs aimed at reducing the availability of illicit controlled substances on the domestic and international market.

In carrying out its mission, DEA is the lead agency responsible for developing overall Federal drug enforcement strategy, programs, planning and evaluation. DEA's primary responsibilities include:

- Investigating and preparing for prosecution, major violators of controlled substances laws who operate at interstate and international levels, in keeping with established drug priority goals.

- Regulation and enforcement of compliance with the laws governing the legal manufacture and distribution of controlled substances.

- Management of a national narcotic intelligence system in cooperation with Federal, state, local and foreign officials to collect, analyze and disseminate data as appropriate.

- Coordination and cooperation with state and local law enforcement officials on mutual drug enforcement efforts and enhancement of such efforts by exploiting potential interstate and international investigations beyond local jurisdictions and resources.

- Operation of all programs associated with drug law enforcement officials of foreign countries.

- Provision of training and research, scientific and technical and other support services that enhance DEA's overall mission.

- Liaison with the United Nations, Interpol and other organizations on matters relating to international narcotic control programs.

- Coordination and cooperation with other Federal, state, and local agencies, and foreign governments in programs designed to reduce the illicit availability of abuse-type drugs on the United States market through nonenforcement methods such as crop eradication, crop substitution, training of foreign officials, and the encouragement of knowledge and commitment against drug abuse.

DEA operates under the general supervision and control of the Deputy Attorney General, whose authority covers all law enforcement elements of the Department.

Throughout Fiscal 1977, DEA management worked closely with the Deputy Attorney General to assess the effectiveness and efficiency of DEA's organizational structure. This report will detail some of the management decisions made to consolidate and streamline certain of the agency's operations.

## Geographic Drug Enforcement Program (G-DEP)

This program is designed to move against the higher level of traffickers. The violator is identified by geographical area of operation, the type of drug involved, and the level of his trafficking involvement, i.e., Class I, II, III, or IV. Classes I and II represent the most important violators in the drug traffic, while the Class III and IV violators are at the lower level.

Predetermined criteria, both qualitative and quantitative, are used to establish the level of the violator and set priority action. The type of criminal activity determines the qualitative factor, e.g., a laboratory operator, the head of a criminal organization, or a financier. The quantitative factors are specified in terms of amount and type of drug. There are separate criteria for establishing the level of violator in the foreign and domestic Geographical Drug Enforcement Program.

Effective October 1, 1976, significantly more rigorous criteria were established for designation of Class I, II and III violators.

## Drug Arrests

The combined effects of DEA's concentration of enforcement efforts on higher level substantive and conspiracy cases and the implementation of the more rigorous violator classification standards has led to a predictable drop in domestic arrests in DEA-initiated cases and DEA-guided State and Local Task Force cases.

During the second half of Calendar Year 1976 when a majority of arrests and cases were reviewed employing the Fiscal 1976 criteria, 64 percent of all DEA domestic arrests in DEA-initiated cases were made in Class I and Class II investigations. The more rigorous standards were fully implemented by the first half of Calendar Year 1977 and during this time 58.5 percent of all DEA domestic arrests in DEA-initiated cases were made in Class I and II investigations. Thus, the focus of investigations and the domestic arrest trends discussed here appear consistent with DEA Domestic Operations Guidelines established by the Attorney General.

Under the revised classifications the minimum quantitative criteria for Class I heroin violators was increased by 100 percent and cocaine by 300 percent. Similar increases were imposed for other drugs. Changes to Class I and II qualitative criteria further strengthened classification standards. Class III quantitative standards for heroin and cocaine were increased more than 100 percent and purity standards not previously imposed were established. To illustrate the effect of the revision, all Class II cocaine violators under Fiscal 1976 criteria, for example, would be Class III's under the current criteria, and a significant number of the former Class III's would be Class IV. The net effect is that Fiscal 1977 arrests represent immobilization of more serious violators.

Reflective of DEA enforcement priorities from July 1, 1976, to June 30, 1977, overall DEA domestic heroin arrests declined from Fiscal 1976 by only 8.1 percent, while the decrease in dangerous drugs was 21.3 percent.

During the first half of Calendar Year 1977 there was a slight increase in state and local cooperative arrest that raised the approximate rate of arrests back to the Fiscal 1976 level. The decrease in arrests emanating from referrals from other Federal agencies is

reflective primarily of fewer cases being accepted by DEA for federal prosecution.

The marked decreases in foreign cooperative arrests appears to have leveled; the decrease is attributable primarily to the impact of the Mansfield Amendment, which restricted the range of Special Agent enforcement activities in foreign regions to intelligence and support roles.

## Drug Arrests

Source	1st half fiscal year 1976	2d half fiscal year 1976	Transition quarter and 1st quarter fiscal year 1977	2d and 3d quarter fiscal year 1977 <sup>1</sup>
DEA domestic.....	3,737	3,436	2,707	2,816
DEA task force.....	1,647	1,618	1,305	1,234
Other Federal.....	1,323	1,428	1,226	1,145
State and local cooperation.....	795	726	532	790
Foreign cooperation.....	645	849	504	520

<sup>1</sup> For comparison to prior year, 2½-year periods are reflected; the transition quarter plus the 1st quarter of fiscal year 1977 and the 2d quarter and the 3d quarter of fiscal year 1977. Data for the 4th quarter fiscal year 1977 are not yet available.

Source: Performance Measurement System (Statistics Compiled through June 1977).

### DEA DOMESTIC ARRESTS BY G-DEP CLASSIFICATION Transition Quarter and First Quarter Fiscal Year 1977<sup>1</sup> (July-December 1976)

Violator class:	Class of case				Total
	I	II	III	IV	
I.....	424				424 (15.7)
II.....	116	199			315 (11.6)
III.....	522	283	693		1,498 (55.3)
IV.....	94	68	140	168	470 (17.4)
Total arrests by case level.....	1,156 (42.7)	550 (20.3)	833 (30.8)	168 (6.2)	2,707

<sup>1</sup> Although effective October 1, 1976, more rigorous criteria was established for designating the Class of violators all Transition Quarter and a majority of First Quarter fiscal year 1977 arrests were reviewed using the fiscal year 1976 criteria.

Note.—Numbers in parentheses represents percent.

### Second Quarter Fiscal Year 1977 and Third Quarter Fiscal Year 1977<sup>1</sup> (January-June 1977)

Violator class:	Class of Case				Total
	I	II	III	IV	
I.....	284				284 (10.2)
II.....	98	140			238 (8.6)
III.....	503	223	618		1,344 (48.3)
IV.....	219	160	210	327	916 (32.9)
Total arrests by case level.....	1,104 (39.7)	523 (18.8)	828 (29.8)	327 (11.7)	2,782 <sup>2</sup>

<sup>1</sup> All arrests reviewed using fiscal year 1977 criteria.

<sup>2</sup> Arrests are 34 short of PMS figure for corresponding time period due to change over to computerized computation.

Note.—Numbers in parentheses represents percent.

## **Major Computerized Systems**

### **Controlled Substances Act (CSA):**

The CSA system is maintained to fulfill the registration requirements of the Comprehensive Drug Abuse Prevention and Control Act of 1970 without extensive manual processing. The system provides for the initial registration of persons who handle, dispense, or prescribe controlled substances and for the annual renewal of more than 530,000 such registrations. More than 2 million records are used by the system to verify the registration status of physicians, hospitals, pharmacies, manufacturers, and distributors and to generate approximately 10,000 computer printed U.S. Official Order Forms weekly.

### **Automated Report & Consummated Order System (ARCOS):**

ARCOS is a computerized system designed to collect and compile drug distribution data required to produce estimates of drug requirements for the United Nations under United States treaty obligations of the 1961 Single Convention on Narcotic Drug and Psychotropic Convention.

The ARCOS data bank also provides information to measure the extent to which legitimately manufactured controlled substances are maintained in legitimate channels. ARCOS provides geographical identification of areas where diversion is occurring.

### **System To Retrieve Information from Drug Evidence (STRIDE):**

STRIDE is a series of computer systems designed primarily to support DEA's enforcement and intelligence efforts through the processing of information generated in the eight DEA laboratories. The primary subsystem of STRIDE, the Laboratory Analysis Program, provides DEA with chemical and physical descriptions of all exhibits submitted to the laboratory system. This information is used as an investigative tool in the field, and it provides a data base that can be used to analyze both strategic and tactical intelligence, and establish drug trafficking patterns.

Another subsystem of STRIDE, the Ballistic Program, is used mainly to help determine common sources of manufactured drugs. This program is of utmost importance in the development of conspiracy cases.

A third subsystem of STRIDE, the Laboratory Manpower Expenditure Program, provides information on work tasks performed by the Forensic Chemists such as time spent on drug analyses, in court, and instructing methods. This subsystem provides the primary information necessary for planning evaluation and management of laboratories.

### **Statistical Systems:**

The Drug Abusers Reporting System, Defendants Statistical System, DEA Task Force Reporting System, Drug Label and FBI Statistics System are used to collect, compile, and summarize statistical information for the reporting of drug abusers and to direct trends and patterns in the abuser population. The data bases for these five systems are composed of more than 400,000 records.

### **DEA Accounting Systems (DEAAS):**

DEAAS provides the administrative appropriation accounting for DEA. The system is designed in accordance with the requirements of the Department's Uniform Principles and Standards and was approved by the Comptroller General of the United States in May of 1975.

### **Narcotics and Dangerous Drugs Information System (NADDIS):**

NADDIS provides for enforcement purposes a central automated index to selected individuals in DEA investigation files. The record on a subject contains identifying data, references to specific files in which the subject is reported and limited file information. NADDIS contains records on nearly 718,000 subjects. It is accessible on-line on a seven-day 24-hour basis through the DEA Automated Teleprocessing System. NADDIS serves DEA Headquarters, 132 DEA Field Offices, and the U.S. Custom Service Headquarters.

### **DEA Communications:**

DEA has a secure teletypewriter network and a nonsecure facsimile system. These serve all Regional Offices, most District Offices, and other field activities. The teletypewriter system is linked to the State and Defense Department overseas networks for record communications with DEA overseas offices.



## **DEA Domestic Operations Guidelines:**

On December 28, 1976, the Attorney General approved and transmitted to DEA Domestic Operations Guidelines. The guidelines were implemented in January 1977. The major provisions establish requirements and controls in the areas of (1) initiation, conduct and supervisory review of investigations, (2) coordination with United States Attorneys, (3) utilization of informants, (4) undercover operations by DEA agents and informants and (5) electronic surveillance and related techniques.

## **DEA Foreign Guidelines:**

On June 30, 1976, Public Law 94-329 was enacted. The International Security Assistance and Arms Export Act of 1976 provides in section 504 as follows: (c) (1) Notwithstanding any other provision of law, no officer or employee of the United States may engage or participate in any direct police arrest action in any foreign country with respect to narcotics control efforts.

On July 30, 1976, DEA issued Foreign Guidelines. In late 1976, a comprehensive review of the impact of those guidelines on our foreign operations was conducted. As a result of that review, revised guidelines were distributed on August 4, 1977, to all DEA offices foreign and domestic. The revised guidelines clarify certain issues in the Act, establish policy in areas that were not previously addressed, and address appropriate DEA operations in foreign countries, under Public Law 94-329 (referred to as the Mansfield Amendment).

## **Significant Organizational Changes**

During Fiscal 1977 there were four significant organizational changes within DEA.

Mergers of the Philadelphia and Baltimore Regions, the Paris and Ankara Regions, and the Bangkok and Manila Regions were accomplished to coordinate better enforcement activities in these areas. These mergers also helped reduce operating costs.

The Caracas Regional Office was abolished. All offices in South America now report directly to DEA Headquarters in Washington, D.C. This action was taken to improve our effectiveness in South America and reduce operating costs.

## **Interagency Coordination and Cooperation**

To carry its lead agency role, DEA needs a central drug policy and an oversight group at the Presidential level. In March 1977, the Office of Drug Abuse Policy (ODAP) was created in the Executive Office of the President. In President Carter's address to the Congress on August 2, 1977, he announced that a Cabinet-level revitalized Strategy Council would be formed. ODAP and the Strategy Council will coordinate execution of drug control policies, resolve policy problems, and evaluate the effectiveness of the strategies.

Interagency cooperation is essential to achieving success in drug law enforcement. Memoranda of Understanding or other agreements have been signed between DEA and Customs and the Internal Revenue Service. In June 1976, DEA and Customs formed the Interagency Drug Intelligence Group to monitor the movement of Mexican heroin.

DEA and Customs have taken steps to improve coordination between their agencies. Two Customs officers have been assigned to the El Paso Intelligence Center (EPIC). In eight of DEA's domestic regional offices and one district office Customs has stationed personnel to review operational intelligence reports. Customs also is represented on the Regional Airport Investigation Team in Detroit, Michigan, and at DEA's Headquarters Office of Intelligence.

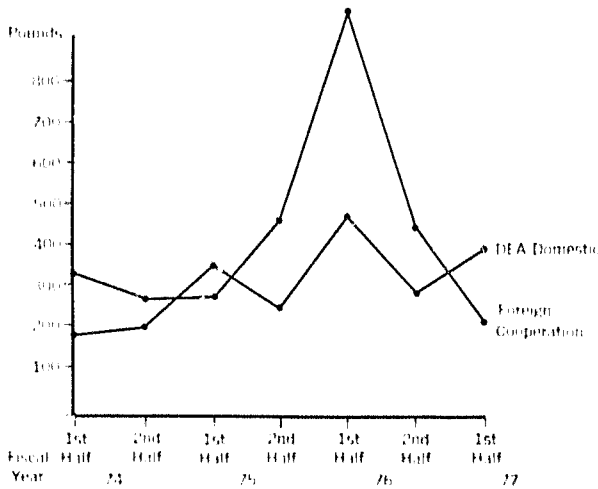
In October, the Attorney General issued an order instituting the Major Drug Traffickers Prosecution Program. The program is designed to prosecute effectively major drug traffickers. An important feature of the program will bring DEA senior agents in closer working relationship with Assistant U.S. Attorneys.

In September 1977, DEA and the Federal Bureau of Investigation formed joint investigative teams in three major United States cities. The combining of these two agencies' expertise will enhance the Government's efforts to apprehend major organized crime targets associated with illegal drug trafficking. Activities previously coordinated with the FBI include fugitive apprehension and Organized Crime Strike Forces.

DEA and the Internal Revenue Service (IRS) are also working closely on a financial intelligence program. In addition to active cooperation in the field, one IRS employee works at DEA Headquarters to gather intelligence about suspected tax law violators.

To develop quotas for the manufacture of amphetamines, barbiturates, and other controlled substances and to assign controlled substances to control

### HEROIN\* REMOVED FROM THE ILLICIT MARKET

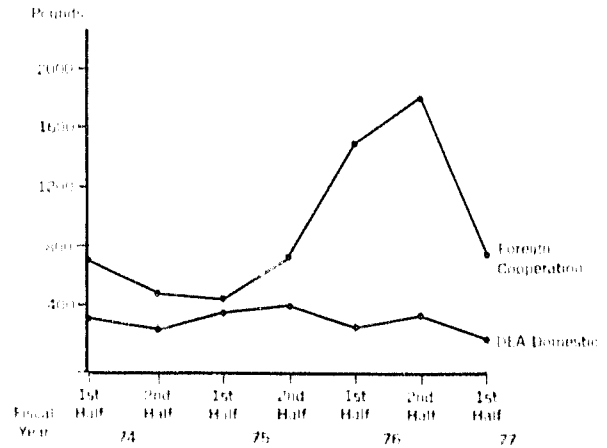


\*Does not include operations in Puerto Rico.

\*1st Half FY 77 figures include weighted average of Transition Quarter Statistics.

Source: Drug Enforcement Administration Reports.

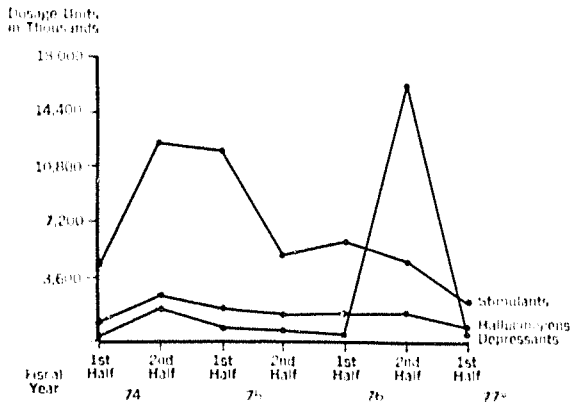
### COCAINE REMOVED FROM THE ILLICIT MARKET



\*1st Half FY 77 figures include weighted average of Transition Quarter Statistics.

Source: Drug Enforcement Administration Reports.

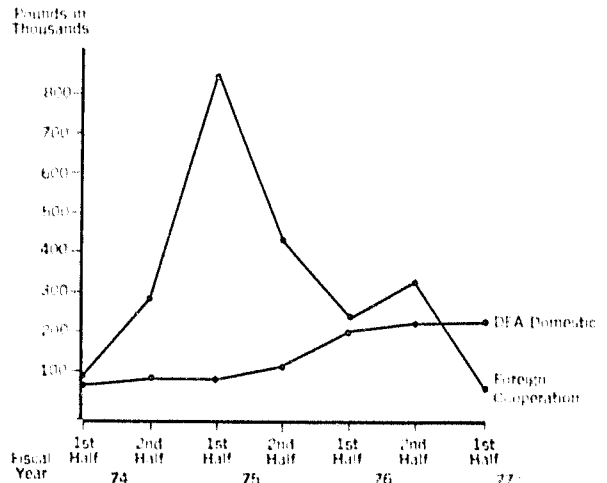
### DANGEROUS DRUGS REMOVED FROM THE ILLICIT MARKET (Domestic & Foreign)



\*1st Half FY 77 figures include weighted average of Transition Quarter Statistics.

Source: Drug Enforcement Administration Reports.

### MARIHUANA REMOVED FROM THE ILLICIT MARKET



\*1st Half FY 77 figures include weighted average of Transition Quarter Statistics.

Source: Drug Enforcement Administration Reports.

schedules, DEA works closely with the National Institute for Drug Abuse (NIDA) and the Food and Drug Administration (FDA).

This brief survey of the agencies with which DEA coordinates many of its activities is by no means exhaustive. It does, however, represent the variety of circumstances in which a drug law enforcement mission requires interagency assistance and cooperation.

### El Paso Intelligence Center (EPIC)

The El Paso Intelligence Center in El Paso, Texas, was established in August 1974. It has developed into a coordinated intelligence joint operations system supported by personnel, hard-copy reporting, and automated data bases of participating agen-

cies. Under DEA management, six Federal agencies operate as a team to provide intelligence services to law enforcement agencies nationwide. These participating agencies are: DEA, Immigration and Naturalization Service, U.S. Coast Guard, U.S. Customs Service, Bureau of Alcohol, Tobacco and Firearms, and the Federal Aviation Administration.

EPIC assembles and shares timely and accurate intelligence on illicit trafficking and smuggling throughout the world, with a focus on trafficking affecting the United States. EPIC personnel accomplish this by accumulating raw intelligence, analyzing it, and sharing tactical and strategic products with agencies having direct or related drug law enforcement responsibilities. EPIC's primary service is to operational elements.

To deliver this service, EPIC's watch and communication sections operate on a 24-hour, 7-day-a-week basis, responding to intelligence queries from DEA Field Offices and other participating agencies on air, maritime, and surface narcotics trafficking.

## **Office of Compliance & Regulatory Affairs**

In October 1976, the Office of Compliance and Regulatory Affairs was created. This office brings together registration, regulatory control, and investigative activities formerly the responsibility of the Office of Enforcement and the drug scheduling and drug information activities formerly the responsibility of the Office of Science and Technology. The forming of this office will raise the level of importance of compliance and regulatory affairs within DEA and improve its effectiveness with other agencies and the pharmaceutical industry.

## **Significant Highlights**

There were several significant compliance accomplishments in Fiscal 1977:

### **Phenmetrazine Survey:**

From January through April 1977, a full field survey of abuse of Phenmetrazine for Calendar Year 1976 was conducted. This survey revealed large scale diversion and abuse of Phenmetrazine throughout the United States. As a result, the quotas for producers of the substance were reduced. Currently, hearings before the Administrative Law Judge are being held to

determine the adequacy of this action. The survey results have been given to the Food and Drug Administration (FDA) for its hearings on the removal of the obesity indications for amphetamines.

### **Methamphetamine Survey:**

During January and February 1977, DEA Field Offices performed an in-depth study of abuse of Methamphetamine. This survey revealed that this abuse had decreased from previous surveys. The period covered included Calendar Year 1976. Diversion of the substance was found primarily to be in the form of over-prescribing by physicians, forged prescriptions, and drug store thefts. This information was referred to FDA for use in conjunction with its amphetamine hearings.

### **Anorectic Survey:**

During January and February 1977, DEA Field Offices conducted a survey of anorectic drugs. Preliminary analyses reveal low scale diversion with no major trafficking patterns.

### **Control of Darvon:**

On February 11, 1977, the Administrator of DEA published the Federal Register Final Notice placing Dextropropoxyphen in Schedule IV. Various effective dates were established for registration, security, and records to give registrants enough time to install the controls necessary for handling of the newly controlled substance. In all other respects, this order became effective on March 14, 1977.

### **Fast-Acting Barbiturates:**

In support of the Office of Drug Abuse Policy, the Office of Compliance initiated a full field survey on current abuse trends of the fast-acting barbiturates. The results indicated that most documented diversion was the result of pharmacy thefts, forged prescriptions and medicine cabinet thefts.

Additionally, as a result of President Carter's concern over the abuse of barbiturates, the compliance program will complete regulatory investigations on the 120 manufacturers of fast-acting barbiturates by July 1, 1978. Targeted investigations of several hundred retail handlers of barbiturates will begin in Fiscal 1978.

### **Pharmacy Theft Prevention Program (PTP):**

In response to the nationwide rise in pharmacy thefts, DEA conducted two major studies. As a result,

DEA devised the PTP Program. The essence of this program is that DEA will seek to mobilize pharmacists, local police departments, area governments and media in a joint community action approach towards suppressing pharmacy thefts. Based on the success of a St. Louis pilot project, the Administrator mandated that each Domestic Region implement a PTP Program in one metropolitan area within its jurisdiction.

## Registration Section

Sections 302 and 303 of the Controlled Substances Act provide for the annual registration of all legitimate handlers of controlled substances and set forth the requirements for registration. The processing of all new and renewal applications for registration and the issuance of order form books are the primary functions of the Registration Section. At the end of Fiscal 1977, there were more than 560,000 firms and individuals registered with DEA.

A summary of registration activity for Fiscal 1977 is shown below:

New applications processed.....	60,304
Renewal applications processed.....	505,823
Registration certificates issued.....	575,513
Order form books issued.....	374,270
Registration fees deposited.....	\$2,778,645

### Total CSA Registrants, As of September 23, 1977, By Business Activity

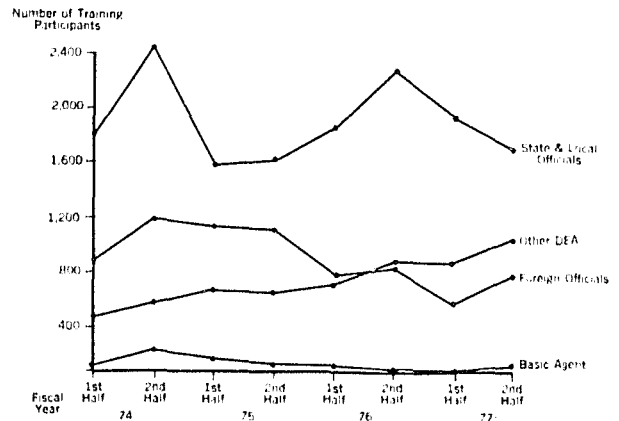
Retail pharmacy.....	34,548
Hospital/clinics .....	12,118
Practitioner .....	484,867
Teaching Institution.....	686
Manufacturer .....	486
Distributor .....	1,618
Researcher .....	3,784
Analytical laboratory.....	1,586
Importer .....	73
Exporter .....	153
Narcotic treatment program.....	925
<b>Total .....</b>	<b>560,844</b>

## DEA Training

DEA's National Training Institute provides basic and advanced training in drug law enforcement skills to DEA and other Federal, state, local, and foreign officials.

Programs for DEA employees are: basic agent school; compliance investigator school; intelligence

## DEA TRAINING



\*1st Half, FY-77 figures include weighted average of Transition Quarter statistics.  
Source: NTI Annual Training Report FY-77

analyst school; intelligence collection school; chemist school; supervisory, mid-level management and executive training programs; foreign language; advanced investigative skills training in conspiracy, firearms, electronics, emergency medical, security, etc.; equal employment opportunity, upward mobility, labor relations, and technical and clerical training.

Other Federal, state, and local officers are trained in 2-week law enforcement training schools in Washington, D.C., and other locations in the United States; 10-week drug enforcement officers academies in Washington, D.C., and 1-week chemist schools. In addition, Federal, state, and local officers attend conspiracy, intelligence analysis, and other DEA employee programs.

Foreign officials are trained in multilingual 6-week advanced international schools for enforcement and 6-week advanced schools for drug enforcement instructors in Washington, D.C., 2 to 3 weeks overseas enforcement training schools around the world, 2 to 3 weeks chemist schools in the United States, and executive observation programs in this country.

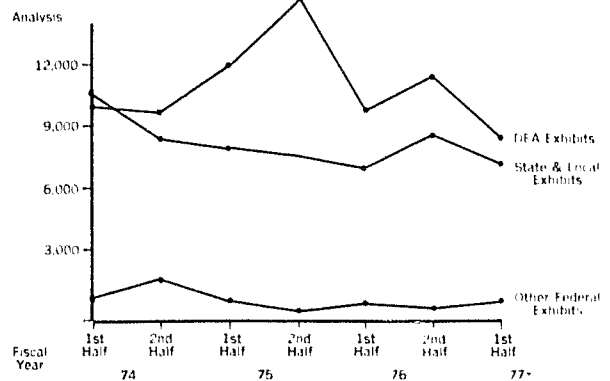
## DEA Laboratory Analysis

DEA laboratories perform qualitative and quantitative analyses on purchased and seized drug evidence, provide expert scientific testimony for prosecutive purposes, participate in clandestine laboratory seizures and vacuum sweeps for traces of drugs, and provide other technical assistance, such as forensic photographic capabilities and examinations for latent fingerprints. The seven regional laboratories analyze

drug evidence and provide expert testimony for other Federal, state, and local law enforcement agencies, thereby assuring that cases are not dismissed for lack of laboratory support.

The special testing and research laboratory provides evidence analysis and scientific support to foreign DEA regions and other forensic laboratories. It also performs ballistics examinations of tablets and capsules to help identify manufacturing sources of drugs, assists international organizations, foreign governments, and other Federal and state agencies with scientific and technical support, and conducts forensic research and development activities for enforcement and intelligence purposes.

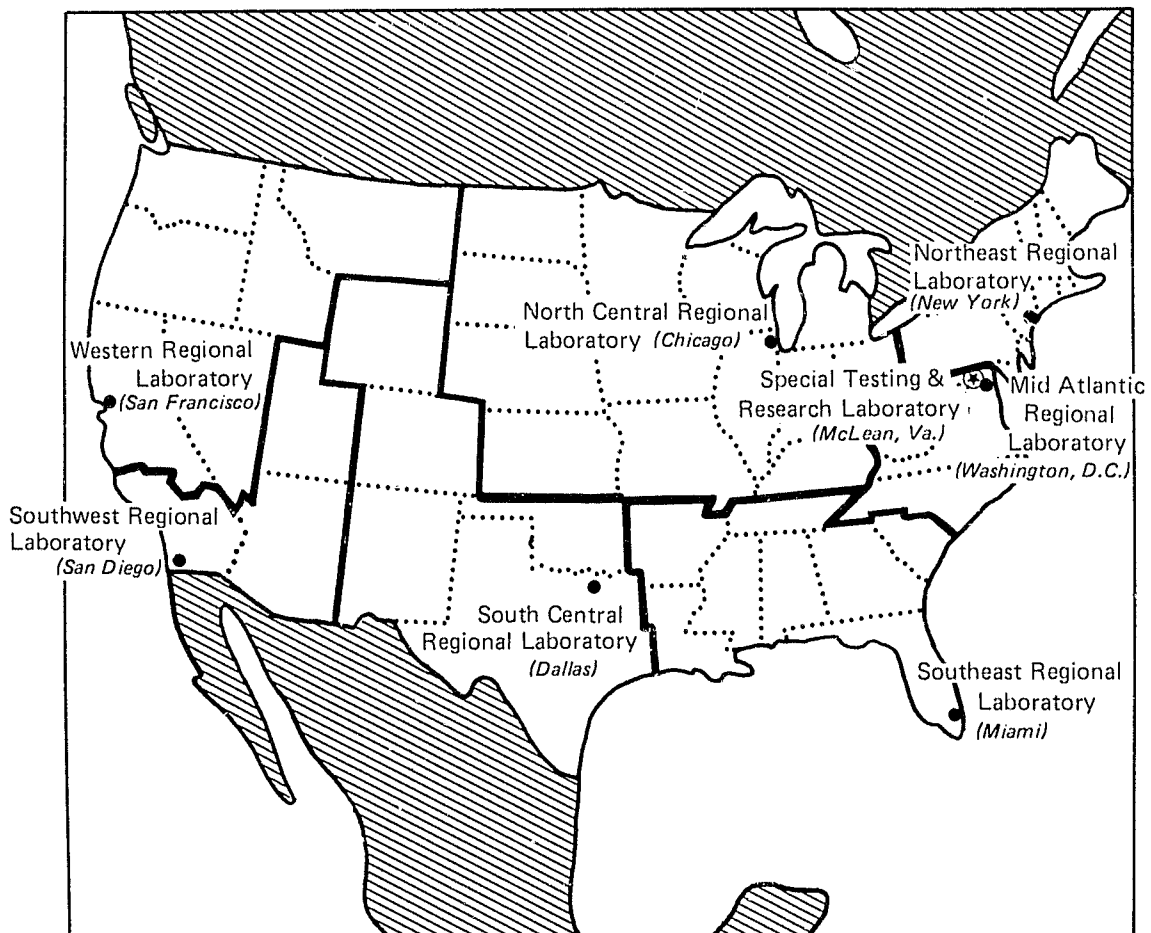
### DEA LABORATORY ANALYSIS



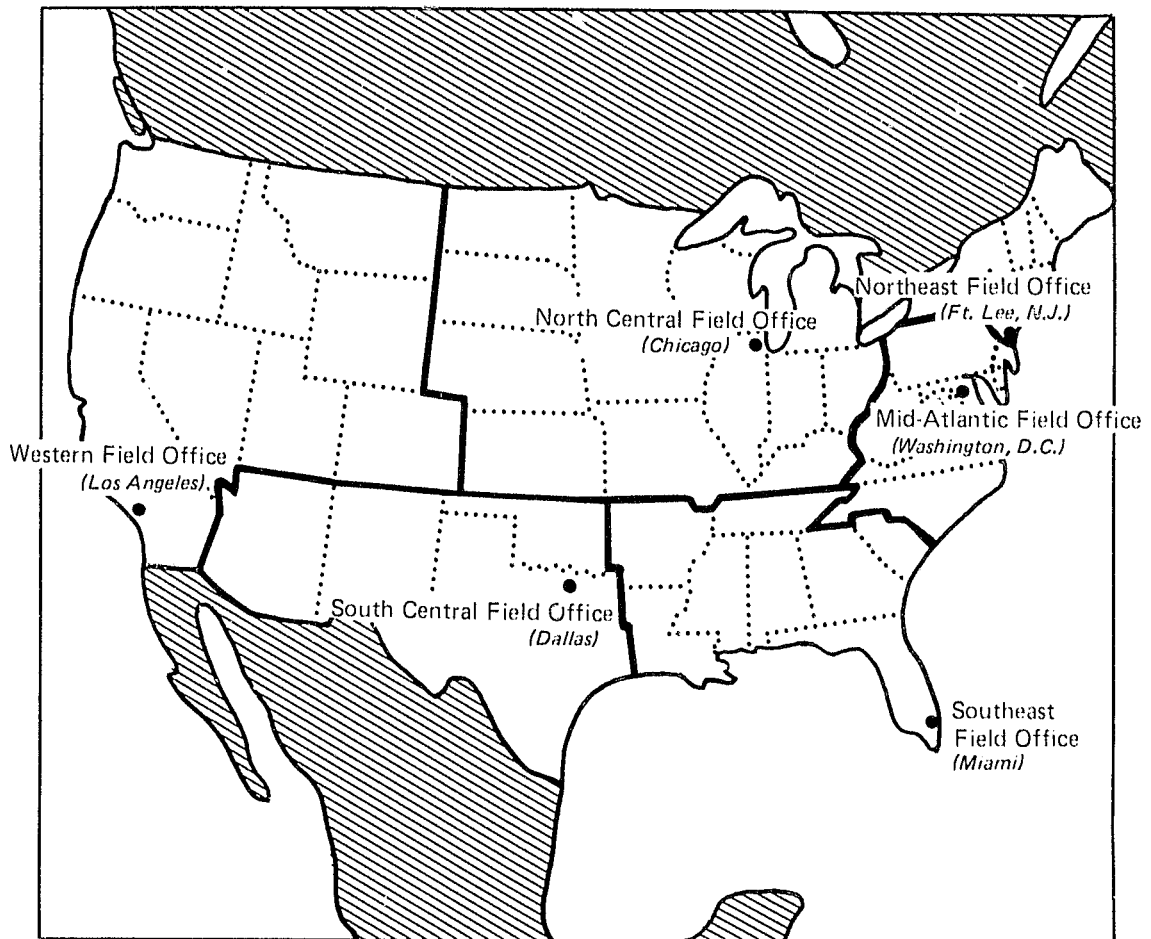
\*1st Half FY-77 figures include weighted average of Transition Quarter statistics.

Source: Drug Enforcement Statistical Reports

### DEA FORENSIC SCIENCE LABORATORIES



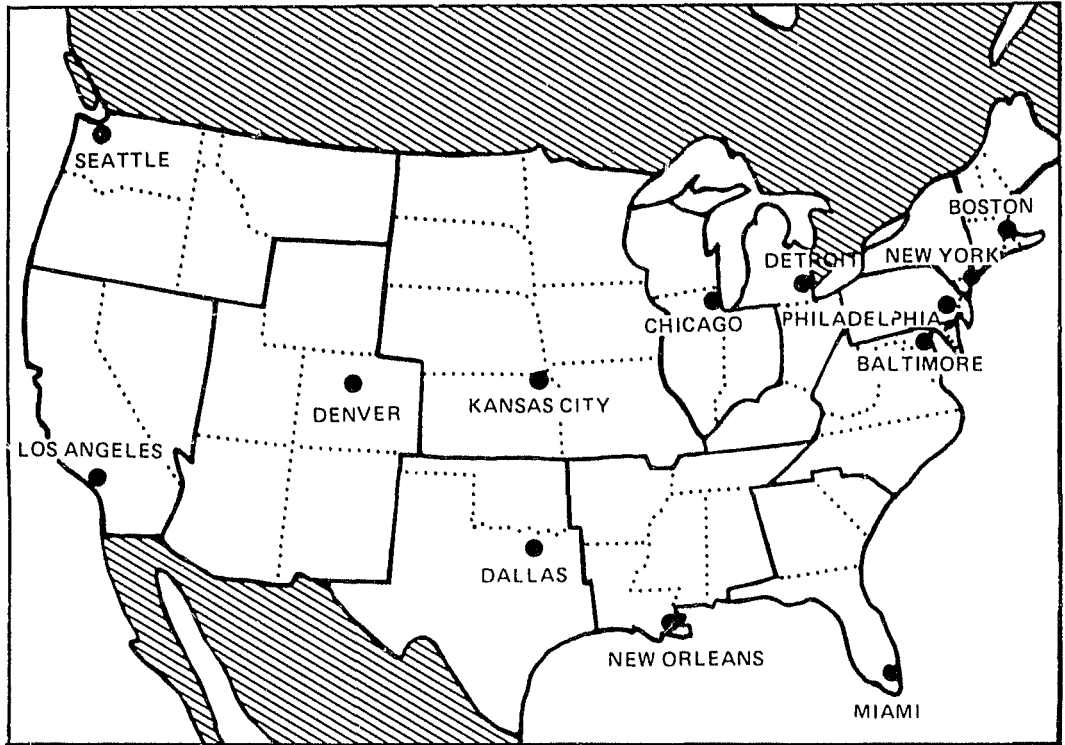
## DEA INTERNAL SECURITY FIELD OFFICES



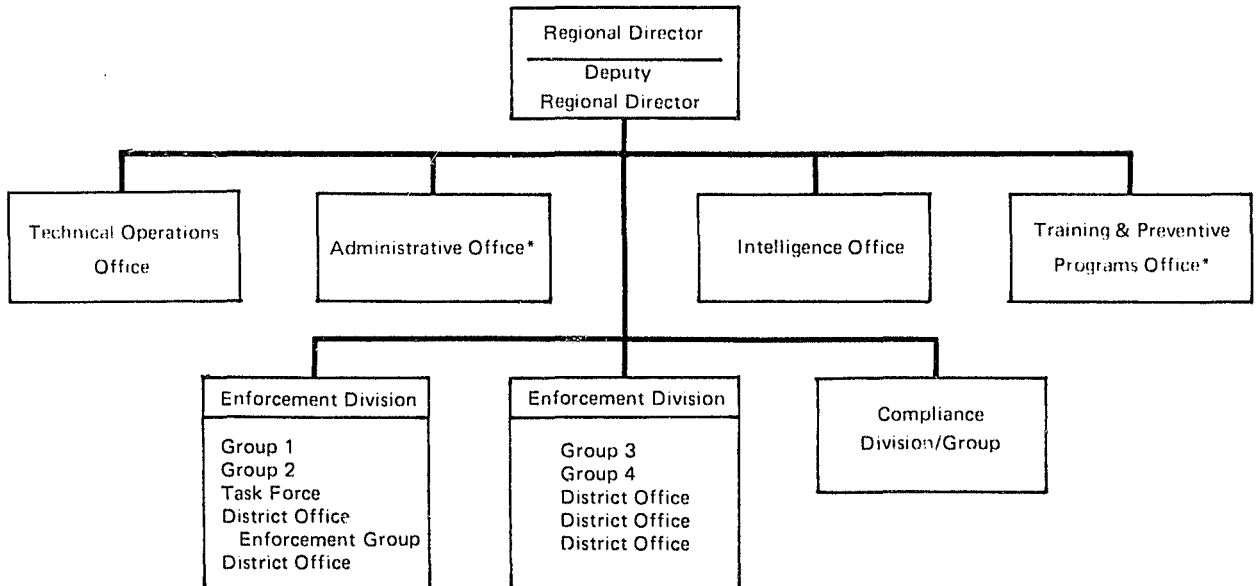
The DEA Internal Security Field Offices are independent of the Regional Field Offices and report to the Chief Inspector at Headquarters. The Inspectors, all of whom are at the supervisory agent level, conduct field investigations in matters concerning operational security and employee conduct and integrity.

The DEA Laboratory System provides forensic sciences support to DEA enforcement activities and intelligence programs and supplemental support of other Federal, State, and local law enforcement agencies. Laboratory programs include the analysis of evidence, court testimony, assistance to agents (clandestine laboratory operations), fingerprint and photographic capabilities, research and development of new analytical methodology, and specialized training. Additionally, in-depth and specialized forensic analyses and ballistics examinations are performed on selected evidence to provide strategic, tactical, and operational intelligence.

DEA DOMESTIC REGIONS & REGIONAL OFFICES



TYPICAL DEA DOMESTIC REGION ORGANIZATION STRUCTURE

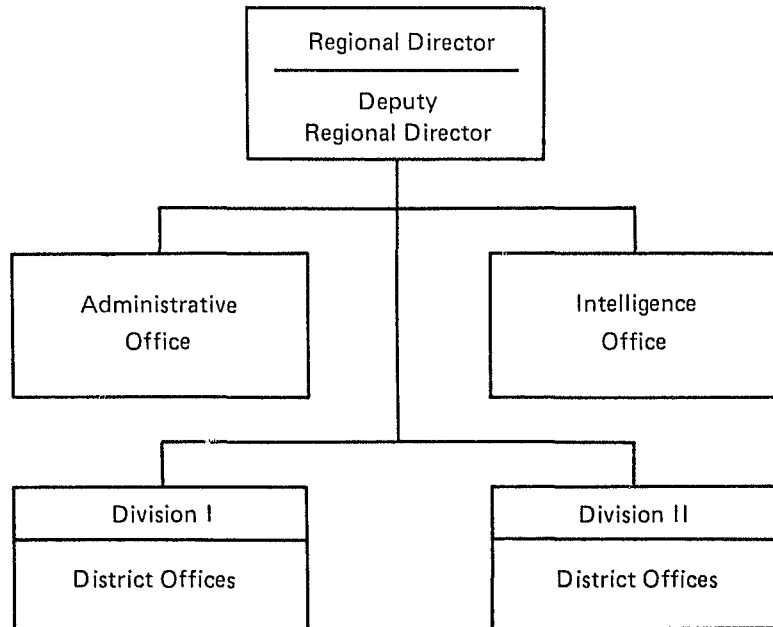


\*Reports directly to Regional Director

# DEA FOREIGN REGIONAL OFFICES

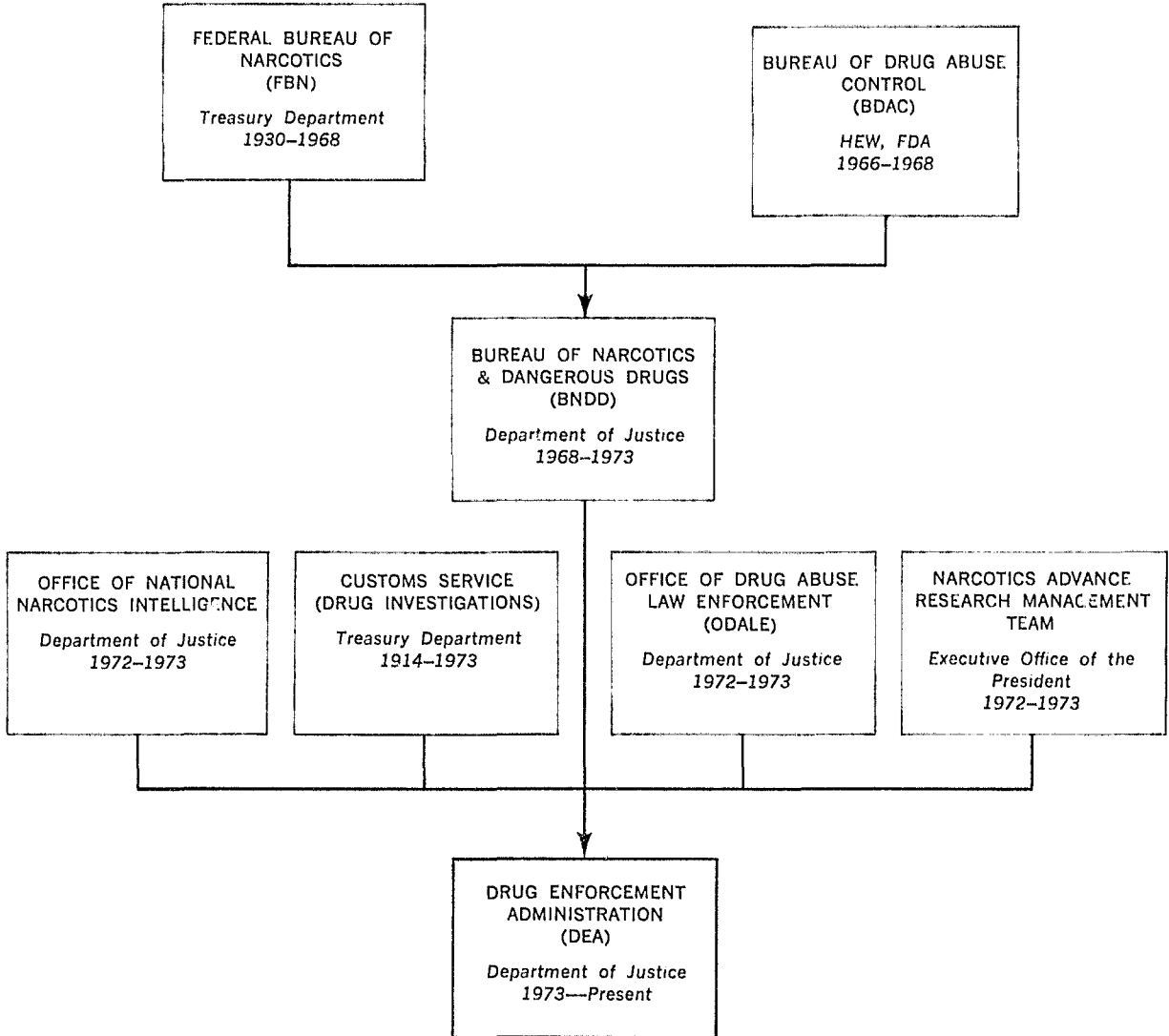


## TYPICAL DEA FOREIGN REGION ORGANIZATION STRUCTURE





# DEA ORGANIZATIONAL HISTORY



The Attorney General was given overall Federal drug law enforcement responsibility under Reorganization Plan No. 2 on July 1, 1973, at which time the Drug Enforcement Administration was formed to serve as the lead agency for suppression of domestic and foreign illicit drug trafficking.

# Criminal Division

**Benjamin R. Civiletti**  
Assistant Attorney General

Except for a small number of statutes assigned to other divisions of the Department of Justice, the Criminal Division coordinates the enforcement of Federal criminal statutes.

Special attention was given to white collar crime and public corruption cases.

Given the major responsibility for the investigation of reports of illegal overseas payments by American corporations, the Fraud Section created a specialized task force to review some 400 disclosures to the Securities and Exchange Commission of such possible offenses.

Utilizing the task force approach used so successfully in HUD/FHA program frauds, and "abuse profiles" which have been productive in Medicare/Medicaid program frauds, all concerned Federal agencies and departments were enlisted in a comprehensive national attack on program frauds. The multi-district and trans-national aspects of extensive fraud schemes, such as offshore operations and precious metal and land fraud plots, make necessary central coordination of such investigation.

A major accomplishment was the conclusion within six months of the discovery of a \$27,000,000 Ponzi-type scheme in which more than 1,000 Europeans were victimized on fraudulent sales of American oil and gas interests. The quick resolution of the case, in which seven persons pleaded guilty, is all the more remarkable since it involved close cooperation with authorities of two other nations.

Fraud often involves the corruption of public officials. Prosecutions of this nature included cases involving bribes taken by a HUD area director in Louisiana, a Government employee who aided a \$5 million fraud in student aid funds in Puerto Rico, and Federal meat inspectors who passed on substituted or inferior meats to military installations. Other major cases included that of a former Cincinnati city councilman and state legislator who was convicted of

Medicaid fraud in the operation of seven nursing homes.

Other investment fraud cases included conviction of four defendants in Pittsburgh of \$1.7 million of worthless securities; a Florida scheme to sell phony industrial bonds that cost victims, including seven POW's returning from Vietnam, \$2 million; and a nationwide fraudulent precious metal scheme.

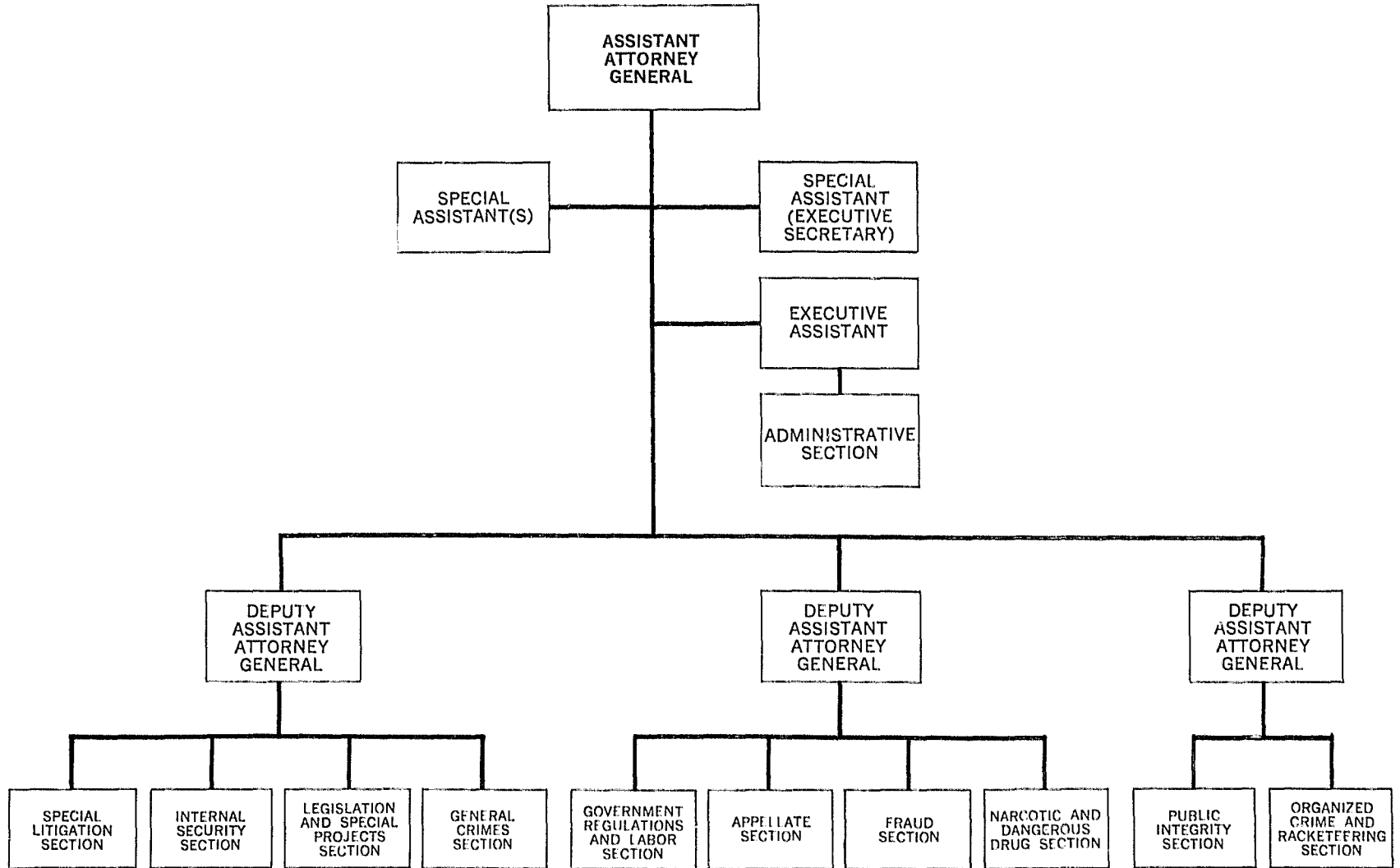
One of the most important functions of the Division is the responsibility of assuring the integrity of the Federal Government. This function has been carried out by the Public Integrity Section directly or in conjunction with other Federal units and the United States Attorneys. The Section supervised the probe into alleged Korean influence buying resulting in two indictments in the fiscal year.

Significant public corruption cases also included the conviction of 11 members of various school boards in the Middle District of Pennsylvania for kickbacks, the indictment of parish officials in Louisiana for receiving \$400,000 in kickbacks, the conviction of former Congressman Richard A. Tonry for promising Federal benefits in return for political contributions, a Tennessee county commission chairman for extorting money to approve a landfill site, and a former chairman of the Iowa Liquor Commission for extorting payments from a wine supplier.

Greater emphasis is being given to prosecution of narcotics conspiracies masterminded by major dealers. Special major narcotics prosecution units were increased from 19 to 22 with new units being established during the year in Baltimore, Philadelphia, and San Juan, Puerto Rico. Inmates serving prison time for narcotics convictions represent 26.5 percent of the prison population, up from 25.8 percent a year ago.

A record \$5,000,000 cash bond was ordered by the Ninth Circuit Court of Appeals in the case of Jose Valenzuela, a Mexican national, whose family members have a history of fleeing to Mexico after posting high bond. Other major narcotics cases included the

# CRIMINAL DIVISION



sentencing to 20 years and \$20,000 fine of Antonio Flores, a principal in the "French Connection" case. Two other international dealers, sought since 1967, Francois Chiappe and Miguel Russo, were convicted in December 1976.

Prison terms of 30 years were given to William Lee Brown in Detroit; Matthew Madonna in New York, who was also fined \$50,000 in a case involving 12 pounds of Thailand heroin; and James E. Daniels, Tidewater, Virginia, heroin ringleader. Richard Phillips, head of a nationwide drug ring, was sentenced to 22 years in Baltimore.

The Federal Inter-Agency Committee on Auto Theft Prevention, on which the Criminal Division has played a major role, has made continued progress toward its goal to reduce auto thefts 50 percent by 1980. New Federal regulations have been issued which require better locking devices to deter amateur thefts, provide stiffer requirements for processing salvaged vehicles to discourage fencing, and generally result in the increased detection of stolen vehicles moving in foreign commerce. An insurance industry pilot project in Massachusetts reduced auto thefts by 40 percent in some cities.

To reduce the growing number of bank robberies, five regulatory agencies were requested by the General Crimes Section to provide stiffer security regulations under the Bank Protection Act of 1968. The Federal Advisory Committee on False Identification submitted an 800-page report with more than 100 recommendations.

Actions against organized crime were carried out during the year by strike forces in 13 cities with field offices in eight additional cities. Activities are coordinated with other Federal agencies through the National Organized Crime Planning Council made up of representatives of a dozen agencies and the International Association of Chiefs of Police.

In a significant cooperative effort with state and local enforcement officials, a former Cleveland municipal judge and two accomplices were indicted for the murder of the judge's first wife.

The first Strike Force emergency use of a court-authorized intercept of communications led to a murder conviction by a Licking County, Ohio, jury for a kidnap-extortion slaying of a Detroit banker.

Three syndicate bosses were sentenced during the year as a result of Strike Force actions. In addition, high echelon syndicate convictions included a 40-year term for the Tampa underboss for racketeering activities. In Detroit, a leading syndicate member was convicted of hiding a loaded gun in a secret, electronically-

activated compartment in his automobile. The maker of special assassination kits was sentenced in Miami to 50 years.

Increasing use has been made of racketeering statutes against a gambling and debt collection enterprise in Hartford, Connecticut; a check cashing enterprise in Philadelphia; the operation of a Miami union through a pattern of racketeering activity, and the staging of a robbery of an auto dealership that provided autos to favored crime figures in Philadelphia.

Four espionage cases during the year resulted in convictions of four defendants, two of whom were given life sentences.

Added responsibility was given in the enactment of the Fishery Conservation and Management Act of 1976, which became effective March 1, 1977, expanding to 200 miles exclusive United States control over fishing in the zone.

A new area of responsibility for inmate litigation was created during the year in the treaties of exchange of prisoners with Mexico and Canada. Further workload increases in inmate litigation resulted from the prison population growing at a 12-percent rate and overburdening existing facilities.

A heavy blow at crime results in the enforcement of forfeiture of property statutes relating particularly to tools used in unlawful activities, e.g., vehicles, vessels and aircraft. When illegal behavior becomes unprofitable, it becomes unattractive. Petitions for remission of seized vehicles alone last year involved property of exceptionally high value. Such cases are often handled directly by Special Litigation Section attorneys who participated in five such cases last year dealing with property valued at \$2,660,000.

After long years of work in developing a new Federal Criminal Code, the legislation was nearing final action by the Senate Judiciary Committee as the fiscal year ended. The refined proposal in S.1437, which was the result of literally hundreds of modifications, has received widespread support.

Joint Justice and Labor Department investigation of Teamsters Central States, Southeast and Southwest Areas Pension Fund led to restructuring of the fund's control and management. Another significant action in overseeing the criminal laws to insure the integrity of labor pension and welfare plans was the indictment in New Orleans of 51 persons charged with embezzlement and 149 for embezzlement, record keeping violations and related offenses.

Actions were initiated against six alleged Nazi war criminals to revoke their naturalization.

During the year, 37 fugitives were extradited or

returned from foreign havens.

Nine letters rogatory were processed to invoke the judicial power of other countries for assistance in United States criminal prosecutions, and nine requests were made to Switzerland under a judicial assistance treaty for compulsory process to obtain needed evidence, primarily records of Swiss bank accounts.

There were 35 convictions for obscenity violations during Fiscal 1977.

Convictions last year of violations of copyrighted recordings and motion pictures matched the all time high of the previous year. One case in the Philadelphia area involved the seizure of \$10 million of pirated records and tapes in the largest such operation uncovered to date.

Details of these and other activities of each of the 10 sections of the Division follow.

## Internal Security Section

This section handles matters relating to our Nation's internal security and prosecutes cases involving treason, espionage, sedition, sabotage, and violations of the Neutrality Act, and the Trading With the Enemy Act. It also administers the Foreign Agents Registration Act of 1938, as amended. The principal work of the section is carried out by two units.

### Statutory Unit:

The following are among the more significant cases and matters handled by the Statutory Unit during the past fiscal year:

On December 21, 1976, the Federal Bureau of Investigation was informed that an unknown person had thrown a portion of a classified Central Intelligence Agency (CIA) Headquarters telephone directory into the yard of a residence occupied by employees of the Soviet Embassy, together with a note offering to supply additional classified information for the sum of \$200,000. An investigation led to the arrest of Edwin G. Moore II, a former CIA employee, at his home in Bethesda, Maryland. Moore was indicted for violations of 18 U.S.C. § 793(e); 794(e); and 641. After a four-week trial in Baltimore, he was convicted on all counts and was sentenced to a term of life imprisonment.

On January 6, 1977, Andrew Daulton Lee was arrested by Mexican authorities and found to be in possession of information classified by the United States. On January 16, Christopher John Boyce, who

held a Top Secret clearance as an employee of a defense contractor at Redondo Beach, California, was arrested by the FBI.

On January 26, a grand jury in Los Angeles returned an indictment charging both men with conspiracy to transmit and transmitting national defense information to agents of the Soviet Union; disclosure of classified information; acting as agents of a foreign government; and theft of Government property.

After separate trials, both men were convicted on all counts of the indictment. Lee was sentenced to a term of life imprisonment, and Boyce was sentenced to serve a term of 40 years.

On October 22, 1976, Sahag K. Dedeyan was sentenced to three years pursuant to his conviction for violation of the Espionage Act for failing to report in 1973 the illegal photographing of a national defense document entrusted to him. Earlier, Sarkis Paskalian, who pleaded guilty to conspiracy to communicate national defense information to aid a foreign government (U.S.S.R.), and who testified as a Government witness in the Dedeyan trial, was sentenced to 22 years.

On January 7, the FBI arrested Ivan N. Rogalsky, who, at the time of his arrest, was in possession of a classified document from the RCA Research Center in New Jersey. On January 19, he was indicted on charges of conspiracy to transmit and transmitting national defense information to agents of the Soviet Union, and the disclosure of classified information. A Second Secretary of the Soviet Mission to the United Nations was named as an unindicted co-conspirator. Rogalsky is currently undergoing a period of observation following which the Court will determine his mental competency to stand trial.

On March 1, 1977, the Bartlett Act was supplanted by the Fishery Conservation and Management Act of 1976 (16 U.S.C. § 1801, *et seq.*) under which the United States exercises exclusive fishery management authority over all fish within the fishery conservation zone which extends 200 miles from the coastline, and over Continental Shelf Fishery Resources outside that zone. The new Act provides that foreign vessels engaged in the taking of such fish, or conducting fishing support activities within the zone, must be sponsored by a country which has entered into a Governing International Fishery Agreement with the United States, and have a permit issued by the United States.

From the beginning of the fiscal year through February 1977, four foreign vessels were seized for violation of the Bartlett Act and \$1,335,000 in fines and civil penalties were recovered. Since the new Act became effective on March 1, three foreign vessels have

been seized and \$589,400 in fines and civil penalties recovered. This corresponds to a record total of \$6.6 million in fines and civil penalties collected in the preceding fiscal year.

Among its other responsibilities, the unit received and reviewed more than 5,400 messages from the U.S. Coast Guard involving the entry into United States ports of vessels from Communist countries. This represented an increase of more than 200 messages over the preceding fiscal year.

On October 18, 1976, Edler Industries, Inc., a California aerospace firm, and its owner, Vernon Edler, were sentenced for Munitions Control law violations in exporting technical missile knowledge to French firms without a license from the U.S. Government. The firm was fined \$25,000 and Edler was sentenced to 2 years with 20 days to be served, followed by 5 years probation.

On September 6, Customs agents arrested Pius Han and Deok Kim at the Honolulu International Airport as they were boarding a plane bound for South Korea in an attempt to export unclassified technical data relating to the fabrication and assembly of the Nike missile. These arrests culminated a lengthy investigation which began when Pius Han, the owner of Columbia Industries Co. in California, approached two engineers employed by the McDonnell-Douglas Corporation in Long Beach, California. These employees reported the approach to the U.S. Customs Service which introduced an undercover agent into the operation. Subsequently, the two were indicted and pleaded guilty to the 22 U.S.C. § 2778 violation. Han, a South Korean national, was sentenced to a term of probation and fined. The Court postponed sentencing Kim, a U.S. citizen, pending the completion of a pre-sentence report.

### **Registration Unit:**

This unit administers and enforces three registration statutes designed to protect the national defense, internal security, and foreign relations of the United States. They require public disclosure by persons who, on behalf of foreign interests, engage in propaganda and other activities seeking to influence public opinion or official action.

During Fiscal 1977, registration under the Foreign Agents Registration Act increased by 112, bringing the total to 2,815, of which 631 are active. Short-form registrations increased by 449, bringing the total to 12,454, of which 5,362 were active.

Reviews were made of over 16,000 separate pieces

of propaganda and 1,066 reports were made on the dissemination of the propaganda filed by registrants. The unit also prepared a 348-page "Annual Report of the Attorney General to the Congress of the United States on the Administration of the Foreign Agents Registration Act."

Assignment of additional personnel to the unit has permitted the staff to continue the program of inspections and field conferences that is designed to insure maximum disclosure through the monitoring of registrants' activities for or on behalf of their foreign principals and to assist registrants in improving their responses to the disclosure requirements of the Act. A total of 48 inspections pursuant to 22 U.S.C. 615 was conducted by the unit staff. In addition, numerous field conferences were conducted.

During Fiscal 1977, one new registration statement was filed pursuant to Public Law 893 (50 U.S.C. Section 851) by an individual who had received assignment and training in the espionage service of a foreign country. The total of such registrations under Public Law 893 is now 116.

Among the more significant cases handled by the unit during the past fiscal year was a civil action filed against Casey, Lane and Mittendorf, John R. Mahoney, South Africa Foundation, John Chettle and Philip McKnight alleging the defendants had filed false and misleading supplemental statements concerning their activities; and a civil action filed in the Southern District of New York against the Irish Northern Aid Committee, seeking a permanent injunction prohibiting the defendant from violating the Foreign Agents Registration Act in certain respects.

### **Additional Responsibilities:**

Personnel of the Internal Security Section also represent the Department on four of the five subordinate groups of the Interdepartmental Committee on Internal Security (ICIS). ICIS is directed by its charter to effect the coordination of all phases of the internal security field, except those specifically assigned to the Interdepartmental Intelligence Conference.

ICIS is composed of representatives of the Departments of Justice, State, Defense, and Treasury. The Justice Department representative also serves as the Committee's chairman and is appointed to that position by the President.

ICIS has established under it a standing committee which is composed of alternates to the main committee, and four subcommittees, each of which is responsible for a particular area of internal security.

Such groups are composed of representatives from approximately 20 other departments and agencies concerned with internal security matters. The section also provides the Executive Secretary of the ICIS.

## Fraud Section

The Fraud Section directs on a national level and coordinates with the United States Attorneys the Federal law enforcement effort aimed at a variety of white-collar crimes and offenses. Included among the crimes and offenses within the ambit of this section are violations of the mail and wire fraud statutes; the Securities Acts; numerous false statement and false claim statutes; the conspiracy to defraud the Government statute; statutes designed to protect financial institutions from fraud and misapplication; the criminal aspects of the National Bankruptcy Act; a wide variety of Government benefit program criminal statutes; and a host of other anti-fraud statutes.

The Fraud Section has been given major responsibility for the investigation and supervision of all cases involving possible illegal overseas payments made by American corporations. The Securities and Exchange Commission received disclosures of such payments from 400 companies. To effectively review these cases, a task force was established in the Fraud Section that includes attorneys detailed from other parts of the Criminal Division and the Securities and Exchange Commission.

In mounting a comprehensive national attack on Federal Government benefit program frauds, the section has involved key departments and agencies to develop enforcement strategies for preventing, detecting, and prosecuting fraud. Engaged in this effort are the Department of Health, Education, and Welfare; Housing and Urban Development; Agriculture; Labor; Defense; Transportation; Veterans Administration; General Services Administration; Small Business Administration; Agency for International Development; Federal Aviation Administration; Environmental Protection Agency; Federal Bureau of Investigation; United States Postal Service; Comptroller of the Currency, and, to a limited extent, the Internal Revenue Service.

The method used in the "case approach," developed by the Criminal Division and Housing and Urban Development in 1974 for HUD/FHA fraud investigations, and utilizing special task forces in selected cities. These task forces are comprised of program integrity specialists, auditors, and investigators who work with FBI agents, Postal Service Inspectors, and Assistant

United States Attorneys to develop cases. The effectiveness of this approach is evident in the growing number of criminal prosecutions of HUD/FHA cases in 30 target cities since 1974—from a negligible amount to the return of 793 indictments against 1,085 defendants with 810 convictions obtained as of September 30, 1977. During the same period, in the remaining 64 judicial Districts there have been 178 indictments against 227 defendants with 145 convictions obtained.

Another feature of the section is the utilization of abuse profiles. New programs started this year include a Medicaid abuse profile of physicians and pharmacists; a computer generated cross-match of certain categories of unemployment insurance recipients with the Department of Labor. Other new programs include the coordination by the section in the Summer Feeding Program and Hay Transportation Assistance Program with the Department of Agriculture; and white-collar crime training programs with several other departments and agencies.

The section's function is particularly vital in the area of multi-district and trans-national offenses. No single United States Attorney's office, regardless of the size and experience of the staff has the overall capability of providing the necessary coordination and litigative support for such cases. The section has emphasized the prosecution of professional or major white-collar offenders over the past several years, with significant cases being initiated and successfully concluded against operators of fraudulent off-shore banks, mutual fund schemes, and phony insurance companies. Actions this year include the completion of multi-district fraud cases involving precious metals, land schemes, and the sale of unwholesome meat to the Department of Defense.

Another significant aspect of the Fraud Section is the Securities Unit which develops criminal cases from referrals by the Securities and Exchange Commission and others. A considerable body of litigating experience has been developed within the section to assist United States Attorneys in handling all stages of litigation in traditionally difficult prosecutions that are rising in number and degree of complexity.

One of the more remarkable achievements in fraud prosecutions during the year was in Dallas, Texas, where in slightly more than six months after the discovery of the fraud, the last of seven persons pleaded guilty in a \$27,000,000 Ponzi-type scheme. More than 1,000 Europeans were victimized by the defendants led by a German citizen and involving the sale in Europe of American oil and gas interests through false representations. The fast prosecution of

this case is all the more remarkable inasmuch as it required the close cooperation of several Government agencies and West German and Swiss authorities.

Land and mortgage frauds are examples of the multi-district and complex cases in which the Fraud Section is called on for assistance. Two arose in Arizona: New Life Trust, which involved a \$6 million loss to investors around the country and yielded sentences ranging up to 15 years for the principals, and Cochise College Park, where the scheme was the sale of \$21 million in fraudulent mortgages to investors nationwide and resulted in sentences up to 10 years for 6 principals.

Five such cases arose in Florida. In one case, the board chairman was sentenced to eight years for his involvement in a \$4.5 million loss, mainly to elderly investors through the sale of promissory notes secured by phony first mortgages on properties alleged to be under development. Three were condominium frauds, one involving the use of straw purchasers to defraud Federal saving and loan institutions of \$2 million, the second using the same scheme with a \$1.3 million loss, and the third charged two attorneys with using the same scheme with seven lenders losing approximately \$6 million. The fifth Florida land or mortgage fraud was a \$6.2 million alleged mortgage scheme.

Fraud against the Government takes many forms. Often, a major loss to a Government benefit program is accompanied by bribery of a Government official. In Louisiana, several developers were convicted on a 36-count indictment of conspiracy to defraud the Government and submitting false statements to HUD. The case led to a subsequent indictment and conviction of a HUD/FHA Area Director for perjury before a grand jury.

In Puerto Rico, the owners and operators of a barber and beauty school were convicted of defrauding the Veterans Administration of vocational school tuition payments in excess of \$5 million. Also convicted was a Government official who accepted \$200 per month plus \$50 per application for concealing the fraudulent nature of the student benefit applications.

A third series of cases involving the integrity of those charged with the responsibility of monitoring federal programs was the meat substitution cases that resulted from a nationwide joint investigation by the Departments of Defense and Justice. The principals of several large meat suppliers substituted unwholesome substandard meat to be delivered to many military installations. Gratuities and bribes of both Army and Department of Agriculture meat inspectors allowed the multi-million dollar scheme to flourish.

New prosecutive inroads have been made in certain areas in the health care delivery system subsidized by the Federal Government through Medicaid and Medicare. A guilty plea was taken in Louisiana from the director of a nursing home under Part A of the Medicare program dealing with cost submissions, marking only the second prosecution since the inception of the Part A program in 1972. Another new area involves kickback schemes between physicians and laboratories. Doctors and laboratory owners in several parts of the country have been convicted of conspiracy to defraud the Government, mail fraud, and kickbacks for schemes in which salaries, rents, and cash payments were accepted by the doctors in exchange for sending Medicare patients' blood samples to particular laboratories for processing.

The more traditional work of the Fraud Section, securities and investment frauds, continued unabated. In one case, four businessmen were convicted of a \$1.7 million worthless securities scheme in which many elderly victims were defrauded in an effort by the principals to obtain funds to start a multi-family housing project. Four- and six-year sentences were imposed. In Florida, three men were convicted of forming an investment house to sell phony industrial development bonds. Seven of their 100 victims in the \$2 million scheme were returning Vietnam POW's. Lengthy jail terms resulted. In several jurisdictions across the country pleas of guilty were taken in a multi-million dollar fraud involving a phony precious metal scheme. Ten- to 50-year sentences resulted. In Florida, the vice-president of a national auto leasing concern and a local sales manager were convicted of a five-year \$100,000 skimming operation in which they failed to fully account to customers for sales of previously leased vehicles. In the Eastern District of Pennsylvania, a number of officials in Delaware County were convicted of extortion, perjury, and income tax violations in a political corruption probe carried on by the Fraud Section after the United States Attorney rescued his office from the lengthy investigation.

## **Narcotic and Dangerous Drug Section**

The primary Federal laws supervised by this section are the Controlled Substances Act, the Controlled Substances Import and Export Act, and the Narcotic Addict Rehabilitation Act. The section works closely with the Drug Enforcement Administration, the United States Customs Service, and United States Attorneys throughout the country.



During Fiscal 1977, a total of 10,722 individuals were convicted of narcotic offenses—2,137 involved marihuana, 1,011 other drug violations, and 7,574 major narcotic offenses. The number of drug offenders presently detained in Federal institutions represents 26.5 percent of the total prison population compared to 25.8 percent a year ago. The number of drug seizures for the past fiscal year illustrates the continuing seriousness of the drug problem. During Fiscal 1977, the United States Customs Service alone seized 263 pounds of heroin, 20 pounds of opium, 736 pounds of cocaine, 1,189,325 pounds of marihuana, and 12,977 pounds of hashish. The large quantities of narcotics and other dangerous drugs seized within the United States during the past several years by the Drug Enforcement Administration are reflected in the following table:

#### DEA DOMESTIC DRUG SEIZURES

	Fiscal year			
	1974	1975	1976	1977
Opium (lbs.)	1	8	21	72
Heroin (lbs.)	266	490	693	448
Cocaine (lbs.)	413	507	430	314
Marihuana (lbs.)	107,321	123,060	325,848	339,337
Hashish (lbs.)	517	1,292	7,674	5,464
Hashish Oil (gts.)		5	1	0
Hallucinogens (d.u.)	2,859,563	1,834,891	1,940,811	3,058,417
Depressants (d.u.)	595,890	682,538	817,068	322,652
Stimulants (d.u.)	8,986,222	13,359,061	5,739,955	4,661,016
Methadone (d.u.)	5,020	904	1,079	2,048

<sup>1</sup> Note—Fiscal year 77 figures are for only 9 months.

During Fiscal 1977, the number of drug prosecutions declined slightly resulting from a change in the type of cases being prosecuted. Primary attention now is being given to the development of conspiracy cases against major drug traffickers. Formerly enforcement efforts were directed toward a wide variety of drug activities. The following figures reflect the volume of case filings and terminations for the last five years:

Fiscal year	Filed		Terminated	
	Cases	Defendants	Cases	Defendants
1973	9,225	14,714	8,880	12,697
1974	8,141	12,363	8,950	12,662
1975	8,494	13,189	9,870	13,022
1976	7,242	12,149	8,918	12,284
1977	5,638	9,601	7,673	10,722

As a result of the large number of conspiracy and other complex drug prosecutions in Fiscal 1977, the section frequently was called upon to furnish assistance to United States Attorneys in pretrial, trial, and post-trial proceedings.

The special prosecutive teams known as Controlled Substance Units were increased to 22 with the

addition during the year of units in Baltimore, Philadelphia, and San Juan. The 22 units operating in the Nation's major cities are staffed by experienced prosecutors and are supervised on a daily basis by the United States Attorney. Overall supervision is furnished by the Narcotic and Dangerous Drug Section. The section also provides support and litigation assistance where necessary. Primary mission of the units is to undertake the investigation and prosecution of major international and interstate narcotic conspiracies. Representative of some of these activities during Fiscal 1977 are the following:

On May 16, 1977, George Parr, a major methamphetamine manufacturer and dealer, was sentenced in Newark, New Jersey, to 15 years in prison following conviction of conspiracy and unlawful manufacture and distribution of methamphetamine. Parr formerly headed an East Coast motorcycle gang.

The following cases represent examples of prosecutive action throughout the country in Fiscal 1977:

A New York bank was fined \$225,000 for failure to report cash laundering for drug dealers.

In November 1976, Prasarn Bhongsupatana, a 42 year old Bangkok businessman, was convicted in Brooklyn of smuggling about 14 pounds of heroin from Thailand. The heroin was concealed in a religious object which was transported to the United States from Hong Kong in a freighter.

On November 19, 1976, a jury in San Juan, Puerto Rico, found former baseball slugger Orlando Cepeda guilty of smuggling 170 pounds of marihuana into Puerto Rico from Colombia. He was sentenced to five years in prison, fined \$5,000, and given a three-year special parole term.

In March 1977, Richard J. Phillips and 20 other individuals were indicted in Baltimore, Maryland, for conspiracy and for unlawfully distributing large amounts of heroin imported from Tijuana, Mexico. Phillips was also charged with having unlawfully engaged in a continuing criminal enterprise. Phillips' organization, based in California, distributed over \$500,000 worth of heroin during a 1½-year period in Ohio, Michigan, Pennsylvania, Maryland, Washington, D.C., and Virginia. Phillips and his group were subsequently convicted; Phillips received a prison sentence of 22 years.

On March 9, 1977, Codell Griffin, a major Harlem drug dealer, was sentenced to 15 years in prison for unlawfully selling large amounts of narcotics. Griffin's organization of couriers and street dealers reportedly sold \$50,000 worth of heroin a week in Har-

lem. Griffin invested a large percentage of his illegal profits in legitimate businesses.

In May 1977, Frank Santos, Alberto Cruz and two other defendants were convicted in San Juan, Puerto Rico, of conspiring to distribute about 60 pounds of heroin. Cruz was also convicted of distributing about 14 ounces of heroin. Santos and his fellow defendants were members of a major heroin ring operating in Puerto Rico, New York, Chicago, and Hammond, Indiana. Santos was sentenced to 15 years in prison, fined \$25,000 and given a 6-year special parole term. Cruz was sentenced to 15 years in prison and given a 3-year special parole term.

In May 1977, a Customs dog trained in drug detection reacted to certain bales of cloth shipped to Los Angeles from India. Customs inspectors found 1,400 pounds of hashish (wholesale value: \$1.4 million) concealed in the bales. The bales were consigned to a Los Angeles clothing store. The shipment was allowed to pass and enforcement officers placed it under surveillance. The bales ultimately arrived at a store in Minneapolis, Minnesota, where several persons were arrested including Ashak Solomon, a national of India, who was discovered to be an illegal alien.

## General Crimes Section

The criminal statutes assigned to the General Crimes Section for supervision cover violations which approximate one-half the Federal criminal caseload. In subject matter, they deal with crimes against Government operations (attacks on the President, members of Congress, certain other Federal or foreign officials; theft of Government property; counterfeiting, and postal depredations); interstate commerce operations (aircraft hijacking, cargo theft, and transportation of stolen property and spurious securities); the public (kidnaping, extortion, bank robbery, riot, explosive and weapons control offenses, illegal electronic surveillance, fugitive felons, and crimes on Federal and Indian reservations and the high seas); and Federal proceedings (perjury, obstruction of justice, harboring, escape and other prison offenses).

Within these subject areas, the section's primary functions are to provide case coordination and legal and policy support and guidance to the United States Attorneys, other elements of the Department, and Federal agencies; to prosecute selected major cases; to recommend responses by the Solicitor General to adverse decisions; to prepare or comment on legislative proposals; to promote, with cooperation of the public

sector, programs to secure cost-effective crime resistance measures and allocation of enforcement resources to dual jurisdiction crimes; and to respond to inquiries from Congress and the public. Activities of the FBI, Secret Service, Bureau of Alcohol, Tobacco and Firearms, and Postal Inspection Service, in conjunction with the United States Attorneys, generate the bulk of the section's workload.

Section accomplishments in regard to crimes against Government operations lay mainly in the sensitive field of protection of foreign officials. Of greatest significance was enactment of legislation to implement the United Nations Convention for the Protection of Internationally Protected Persons. Section attorneys had in the main drafted this legislation.

Two successful prosecutions had a direct bearing on United States-Soviet relations. Russel Kelner, the reputed leader of the Jewish Defense League (JDL) operations in New York City, pled guilty to illegal transportation of a firearm in interstate commerce involving a pattern of violent acts designed to harass and intimidate Soviet and Arab foreign officials in New York City. Four co-defendants pleaded guilty to related charges. Kelner was sentenced to three years imprisonment. In the District of Maryland, Dr. William R. Perl, a JDL leader, was convicted, following a jury trial, of conspiracy, attempt to injure property occupied by foreign officials, and illegal transportation of a firearm in interstate commerce. These charges emanated from his having procured someone to fire shots into the residences of two Soviet diplomats. Dr. Perl was sentenced to two years confinement and fined \$12,000; execution of the sentence was suspended and three years probation was imposed.

In October 1976, Bennett Masel was found guilty and sentenced to 15 days imprisonment for assaulting Senator Henry Jackson by spitting in his face while Jackson was campaigning in Madison, Wisconsin. On appeal, briefed and argued by a section attorney, the conviction was upheld.

Also in November 1976, two 16 year olds pled guilty in Superior Court for the District of Columbia to charges stemming from the shooting death of Russian Embassy employee Sergey V. Stepanov during an attempted robbery. Each defendant was sentenced to a term of imprisonment under the Federal Youth Corrections Act.

In June 1977, a Federal grand jury in the Southern District of New York indicted Marijan Bucorjic, Jose Brekalo and Vladimir Dizdar for assault with a deadly weapon and conspiracy to kidnap a foreign

official for their violent entry of the Yugoslav Mission to the United Nations and wounding of a Mission employee.

Air piracy poses a dire threat to interstate commerce. Five hijacking incidents occurred in Fiscal 1977 involving four American air carriers and one general aviation flight. None of the hijackings was successful. In contrast, there were 24 hijackings this year involving foreign aircraft. In at least seven instances, airport security measures within the United States prevented persons from committing hijackings or related crimes involving American air carriers.

With respect to American aircraft hijacking incidents, two of five Croatian sympathizers responsible for the highly publicized hijacking of a TWA flight to France on September 10, 1976, received life sentences. The other 3 defendants were sentenced to 30 years imprisonment. Another successful prosecution was that of Allan C. Sheffield, who was returned to the United States under Swedish police escort in October 1976, to face charges stemming from a 1969 hijacking incident. Sheffield pleaded guilty in San Francisco to a charge of interference with a member of a flight crew and received a sentence of 15 years imprisonment. Another hijacker, Richard F. Dixon, who was apprehended in 1976 in connection with a 1971 hijacking of an Eastern Airlines plane to Cuba, was sentenced this year to 40 years for air piracy and kidnaping.

The Federal Interagency Committee on auto theft prevention, co-chaired by the Department of Justice and the Department of Transportation and including representatives from the Departments of Commerce, State and Treasury, continued efforts towards achieving its objective of a 50 percent reduction in such thefts by 1980. The Committee was instrumental in the development of improved Federal regulations which, when finalized, will (1) deter amateur thefts by equipping autos with improved locking devices; (2) discourage the fencing of stolen autos by encouraging stricter laws for the salvaging and processing of salvage vehicles; and (3) increase detection and recovery of stolen autos destined for export in foreign commerce.

Diplomatic efforts continued with the Republic of Mexico to speed up the return of stolen vehicles taken into Mexico to American owners. As an offshoot of the semi-annual Border Crime Conferences in 1977, involving Federal, state and local officials of both Mexico and the United States, the groundwork was laid for development of procedures and methods to detect and recover stolen property being smuggled across the border into Mexico.

While the Department's restrictive prosecution

policy has substantially reduced the number of individual auto theft cases prosecuted by United States Attorneys, the emphasis this policy places on large-scale ring operations has significantly increased the number of such cases under investigation or prosecution by the Department from approximately 125 cases in 1971 to 342 cases at the present time.

In response to the urging of the Interagency Committee, the insurance industry instituted local anti-auto theft campaigns in Massachusetts and in the cities of New York, Newark, Miami, Houston, Detroit and Los Angeles. In Massachusetts, the campaign resulted in a 10 percent reduction in auto theft in Boston during 1976 and reductions as high as 40 percent in certain other cities in that state.

In the area of cargo thefts, section attorneys contributed substantially to the National Cargo Security Program, which has produced encouraging results. The Secretary of Transportation's 1977 Annual Report to the President stressed the stabilization of theft-related losses in the motor carrier industry and a decrease in air carriers' theft-related losses.

With section guidance, United States Attorneys in several major cities have assumed a key role in cargo security working groups. Composed of representatives of industry and labor, Federal, state and local officials, these city groups constitute a coordinated effort to deal with the problems of prevention, investigation, and prosecution of cargo theft offenses. Further, the investigation and prosecution of fences have been evidenced by the highly successful "storefront" undercover fencing operations conducted jointly by the FBI and state and local officials and supported by LEAA funding. In December 1976, in the Northern District of Indiana, an eight-month undercover "storefront" operation resulted in charges against 133 defendants and the recovery of stolen property valued at approximately \$956,000. Thus far, 94 defendants have been convicted or entered pleas of guilty. In the Eastern District of Virginia, in January 1977, 76 persons were charged in connection with stolen property recovered in a "storefront" operation. This stolen property had an approximate value of \$16 million. To date, of the 76 defendants charged, pleas or convictions have been obtained against 52 individuals. In June 1977, in the Western District of New York, a 12-month joint Federal-state undercover fencing operation ended in Buffalo, New York, with the coordinated arrests of some 25 subjects and the recovery of \$500,000 in stolen property, including a Rembrandt painting.

The section supported legislation and assisted the SEC in the drafting of regulations, issued in August

1977, which will provide a system to require the financial community to validate certain security transactions against a data bank on missing, stolen and counterfeit securities.

Establishment of Federal-State Law Enforcement Committees throughout the country within the next year is a major goal of the Criminal Division. Currently, 23 Federal-State Law Enforcement Committees are functioning. These Committees, made up of the principal Federal and state law enforcement officers in each district, provide a coordinated approach to effective enforcement for dual jurisdiction crimes including auto and cargo theft, weapons and explosives offenses and narcotics offenses.

Effective gun control is of vital concern in reducing the threat of crimes against the public. During Fiscal 1977, there were 3,108 arrests, 3,629 indictments and 2,777 convictions for Federal firearms violations. The section supported the Treasury Department's Bureau of Alcohol, Tobacco and Firearms (ATF) Concentrated Urban Enforcement Program, a program to reduce the criminal misuse of firearms and explosives by increased concentration of personnel and other investigative resources in the metropolitan areas of Boston, Chicago and Washington, D.C. The program has resulted in a 21 percent decrease in violent crimes committed with firearms in the three cities. In part, the program, which involves the more stringent audits of firearm and explosive dealers by ATF agents, resulted in 569 dealers voluntarily going out of business and the total number of firearms licensees in the three cities dropping from 4,059 to 2,877.

A former Chief of Staff of El Salvador's Army and six other defendants were convicted in the Southern District of New York of conspiracy and imprisoned for planning and attempting to sell 10,000 submachine guns. The defendant was to receive \$75,000 for furnishing a false certificate designed to show the weapons were for use by the El Salvador armed forces.

Six persons were convicted for receiving, possessing and transferring 146 machine guns which had been stolen at gun point from a Marine Armory in Knoxville, Tennessee, in April 1976. Four of the defendants received 20-year sentences.

Although attempted and actual bombing incidents declined 24 percent from 2,074 reported in calendar year 1975 to the 1,570 reported in calendar year 1976, available data indicates that the number of arrests for violations of the Federal explosives law in Fiscal 1977 increased slightly to 215. On April 28, Verne Allen Lyon was sentenced to 15 years following his conviction for a bombing 10 years earlier at St. Louis Municipi-

pal Airport. Lyon fled to Cuba when on bond but in February 1977 he was returned from Peru by U.S. Marshals. In February 1977, Hubert Patrick Irwin was sentenced to 20 years and his half brother, Ernest Arthur Skidmore, to 2½ years concerning the placing of explosive devices on an Allegheny Airline plane on which Irwin had been listed as boarding but on which he was not a passenger. Skidmore was named beneficiary on a \$100,000 insurance policy purchased by Irwin the day preceding the flight.

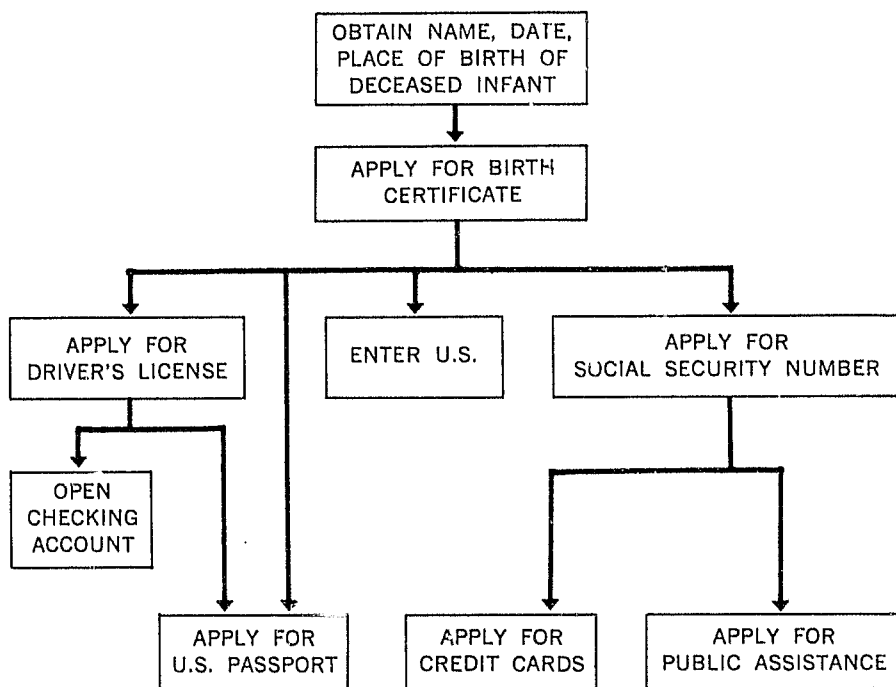
The number of bank robberies, burglaries and larcenies which occurred during each of fiscal years 1975 and 1976 were approximately double the number which occurred per fiscal year during the period from 1966-70. The section prepared and filed petitions, pursuant to the Administrative Procedure Act, before five Federal regulatory agencies on December 21, 1976, seeking stiffer regulations under the Bank Protection Act of 1968, which governs the efforts at self-protection which federally insured financial institutions must make. These petitions are still under active consideration by the various bank regulatory agencies.

In December 1976, the report of the Federal Advisory Committee on False Identification (FACFI) was presented to the Attorney General. The Committee consisted of some 75 volunteers representing 50 Federal, state and local agencies, the commercial sector and the public. Its 800-page report contained over 100 recommendations including new Federal and state legislation, for an overhaul in the way in which certified copies of birth certificates and driver's licenses are issued to prevent false applications for these documents; the matching of birth and death certificates to prevent criminals from assuming the name of deceased infants; uniform identification standards for welfare applicants; verification of a suspect's identity before he is released on bond; and the increased use of electronic funds transfer systems to prevent forgery and counterfeiting.

Leonard Peltier was tried and convicted on two counts of first degree murder for the killing of two FBI agents on the Pine Ridge Reservation in June 1975. On June 1, 1977, he was sentenced to two consecutive terms of life imprisonment.

Four prosecutions for illegal electronic surveillance involved law enforcement agents, including a former Chief of Detectives for the Bristol Township Police Department, Bristol Township, Pennsylvania, who was sentenced to three years probation, and the Chief of Security for Weber State College in Utah, who pleaded guilty to endeavoring to intercept oral communica-

## OBTAINING AND MISUSING FALSE IDENTIFICATION



tions occurring in a men's dormitory on campus and was placed on two years probation and ordered to pay a \$4,000 fine.

Three illegal wiretap cases involved commercial concerns. In December 1976, Betty Frankenthal, an officer of Packerland Packing Company, Green Bay, Wisconsin, and Jerome Leonard, a private detective, were indicted for illegal electronic surveillance directed against employees of Packerland and executives of competing packing companies. Leonard pleaded guilty to one count of conspiracy and was sentenced to imprisonment for one year and one day. Ms. Frankenthal was convicted, following a jury trial, and was sentenced to two years probation and fined \$15,000. In August 1977, Clifford Perry, Security Director of Farm Stores, Inc., was indicted for interception of communications and conspiracy. Two private investigators allegedly responsible for carrying out that surveillance pleaded no contest to one count of endeavoring to intercept communications. Also in August 1977, two former officials and one former employee of the Northwestern Bank, North Wilkesboro, North Carolina, were indicted for interception of communications and conspiracy. The interceptions were directed at IRS agents and FBI agents who were present within the bank. In addition, three private investigators were convicted

of using illegal electronic surveillance in their investigations of domestic relations matters.

The section's Prosecution Unit has the function of providing a pool of experienced litigating attorneys. On 15 occasions during the past fiscal year attorneys from the unit assumed prime responsibility for the prosecution or investigation of major cases ranging from murder to bombings.

During the past fiscal year, attorneys from the section assumed the sole responsibility for prosecutions which resulted in the conviction of three men for first degree murder, two for second degree murder and one for assault with the intent to commit murder. These cases arose from murders which occurred at the Federal penitentiary in Lewisburg, Pennsylvania.

Prosecutorial assistance was also provided by the section in connection with the trial of a state judge in Jacksonville, Florida, who was convicted of conspiracy and the possession and intended distribution of a large amount of marijuana which had been seized from defendants. In a companion case, a former Florida County Commissioner was convicted of perjury based on his false testimony before a Federal grand jury.

A section attorney has assisted the United States Attorney in Miami, Florida, in a grand jury investigation into the illegal activities of the Frente de Li-

beracion Nacional Cubano (FLNC), a Miami based anti-Castro organization. These activities include the maiming of a Miami radio station news director and the bombing of his automobile, the attempted assassination of the Cuban Counsel in Merida, Mexico, the murder of his bodyguard and passport fraud. The FLNC has claimed credit for some 40 worldwide terrorist attacks including the bombing of a commercial airliner which caused 80 deaths.

## **Organized Crime and Racketeering Section**

This section supervises activity against organized criminal elements. It oversees enforcement and administration of the Federal criminal statutes relating to gambling, extortion, alcoholic beverages, infiltration of legitimate business by organized criminal elements and similar laws.

Most of the section's personnel are assigned to Strike Forces operating in Boston, Brooklyn, Buffalo, Chicago, Cleveland, Detroit, Kansas City, Los Angeles, Miami, Newark, Philadelphia, San Francisco and Washington, D.C. The Washington Strike Force has the special mission of countering attempts of racket elements to infiltrate legitimate business. In addition, field offices are located in Atlanta, Hartford, Honolulu, Las Vegas, Phoenix, Providence, Rochester and Tampa.

## **Relationship With Other Government Agencies**

The activities of those offices are planned and supervised by the National Organized Crime Planning Council, made up of senior personnel of the section and the Federal Bureau of Investigation, the Drug Enforcement Administration, the Immigration and Naturalization Service, the Law Enforcement Assistance Administration, the Internal Revenue Service, the Secret Service, the Bureau of Alcohol, Tobacco, and Firearms, the United States Customs Service, the United States Postal Service, the Department of Labor, the Securities and Exchange Commission and the International Association of Chiefs of Police.

The Strike Forces are generally composed of attorneys and an intelligence analyst from the section and representatives of each of the Federal agencies. The group plans, conducts and coordinates investigations of organized criminal activity and seeks to develop evidence for prosecution. While each agency retains control over its own personnel, cooperative effort is achieved.

## **Cooperation With Local Authorities**

In addition to including the International Association of Chiefs of Police in the planning phase of Strike Force operations, instructors and training materials were furnished to that body and the National Association of Attorneys General.

Cooperation with local and state law enforcement forces was especially productive in Fiscal 1977. In a joint operation, aggravated murder indictments were returned in Cuyohoga County (Cleveland), Ohio, against a former Municipal Judge and two accomplices after a contract killer, hired by the defendants to murder the judge's first wife, agreed to testify when the contract killer's family was relocated by the Department of Justice.

The New York City Police Department arrested Hector Garcia on homicide charges stemming from labor violence. A Police Department spokesman credited a Brooklyn Strike Force investigation into the labor aspects of the case with keeping the "pot boiling," thus enabling his department to unearth leads to Garcia's whereabouts.

An Essex County, New Jersey, jury convicted Frank "The Bear" Basto, Gerald Sperduto, Nicholas Stefanelli and Donald Serito of conspiracy and robbery of \$171,000 in gold and silver from a Railway Express Agency truck. The principal witness had been developed by the Newark Strike Force and admitted to the Witness Protection Program.

Recovery of \$678,622 in stolen securities by the Federal Bureau of Investigation, acting under a warrant obtained by the Buffalo Strike Force, led to a three-year sentence of James F. Coffey in a Broome County, New York, Court.

Antonio P. and Antonio J. Rugirello were arrested in Wayne County (Detroit), Michigan, and charged with conspiracy to commit murder. The case was based upon their purchase of a dummy dynamite bomb sold to the pair by undercover Bureau of Alcohol, Tobacco and Firearms agents.

An investigation by the Bureau of Customs, conducted in conjunction with the San Francisco Strike Force, led to the conviction of Vincent DiGirolamo, alias Jimmy Styles, in Santa Clara County, California, Court for receipt of stolen property.

In October 1976, a Buffalo syndicate "hit man" was convicted with the help of two federally protected witnesses. The hit man was convicted of murdering a witness to an earlier killing during a barroom brawl. One of the two federally protected witnesses, himself serving time for murder, provided information lead-

ing to state murder charges against a syndicate associate who killed an 81-year old woman in a house burglary.

In December 1976, John Scott Garside was convicted of aggravated murder by a Licking County, Ohio, jury in the kidnap-extortion murder of a Detroit banker. The case involved the first emergency Title III authorization by a Strike Force which led to the apprehension of Garside and his co-defendants.

## Impact on Criminal Organizations

The year saw several organized crime kingpins convicted of various offenses. Clarence (Chauncey) Smaldone, Denver syndicate boss, was sentenced to three years for gambling operations, to run concurrently with a prior four-year term for gambling. Russell Bufalino, syndicate boss in northeastern Pennsylvania, was convicted in New York of extortion of a jeweler. Bufalino was identified as an attendee of the 1957 Appalachian, New York, crime organization conference. For years he has been under an order of deportation to Italy which has not agreed to his return. In July 1977, Nicholas Civella, Kansas City leader, was given a reduced term of three years on a 1975 gambling conviction resulting from a 1970 gambling case. In February 1977, the underboss of the Boston syndicate was one of 15 persons indicted for illegal gambling operations as a result of an LEAA funded Federal-State investigation.

Joseph Napolitano, a major dealer in counterfeit in New England, was convicted of that offense, as was Cleveland crime figure, Mario Guerieri. Detroit's Isaac Grantz, one of three remaining members of the old Purple Gang, was convicted in a heroin case. His drug record extends back to 1932.

Vito (Billy Jack) Giacalone, a Detroit crime leader, was convicted of possession of a loaded pistol hidden in a secret electronically-activated compartment in his automobile. Kansas City gambling leader Frank Anthony Tousa was convicted of that offense. In Hartford, Connecticut, Michael O'Brien and Anthony Volpe were convicted of operating an illegal gambling debt collection enterprise and sentenced to 10 years and fined \$20,000 each. Also in Hartford, Girolomo Santuccio, alias Bobby Doyle, identified by Joseph Valachi in congressional hearings as a member of organized crime, was convicted of perjury, his first conviction which grew out of the O'Brien-Volpe investigation.

Underboss Frank Diecidue of the Tampa, Florida, organized crime syndicate was convicted of various

racketeering activities growing out of the investigation into the gangland murder of a Tampa detective. Diecidue was sentenced to 40 years. New York's Paul T. "Little Paul" Castellano was convicted of running a loanshark enterprise. Anthony Palimeri, alias Tony Grande, was convicted of shaking down one of the Nation's largest home builders in order to insure "labor peace."

Detroit's Peter Licavoli was convicted at his place of "retirement" in Phoenix, Arizona, after attempting to sell a valuable stolen 16th century painting, "Lucretia" by Domenico Puligo, to an undercover Federal Bureau of Investigation agent. The stolen painting had previously been transported interstate into Arizona.

*Counterfeiting:* Strike Force investigations conducted by the Secret Service put a stop to dealings of more than \$31,000,000 in phony Federal Obligations during the year.

*Drug trafficking:* During the year Strike Forces dealt with drug operations which were responsible for dealing in almost 600 pounds of heroin. By far the most extensive venture prosecuted, involving airport security personnel, was a conspiracy to import Asian heroin through Los Angeles International Airport. Six persons were convicted in the case.

*Extortion:* Shakedown cases during the year ranged from several thousand dollars in shotgun damage done to a Chicago retail store upon failure to pay \$5,000, to the shakedown in Cleveland of a Texas construction firm building a microwave relay tower for the Norfolk and Western Railroad; business agent Richard Callahan of Ironworkers Local 7 was convicted.

*Firearms:* A Strike Force prosecution, resulting from an undercover Alcohol, Tobacco and Firearms investigation put an end to the manufacture of assassination kits which were being sold by George N. Garrett in Miami. The kits consisted of spring-loaded firearms hidden in briefcases which could be triggered by a mechanism in the handle. Garrett also manufactured silencers and sawed-off shotguns; he was sentenced to 50 years.

*Fraud:* In one case which led to reorganization of the Northern Ohio Bank, rackets figure Dominick E. Bartone was convicted of fraud in obtaining a \$249,000 loan from that institution. In another case involving the second largest bank in Ohio, Joseph Marzocco was convicted of fraud in using HUD Insurance Title One Home Improvement Loans.

*Gambling:* Gambling rings tracked by Strike Force operations were found to gross almost \$6,000,000 a week. The largest uncovered during the year was that

of Richard Esposito and Louis Maggio in New York City, which was taking in between \$200,000 and \$1,000,000 each week. In New York, James V. (Jimmy Nap) Napoli, who headed a policy gambling operation grossing an estimated \$50,000,000 yearly, was sentenced to five years and fined \$20,000. Convictions also included Carmel C. Padilla, boss of Chicago's biggest bolita operation. Louis A. (Rip) Koury, a leader of the Detroit syndicate numbers business, was sentenced to 18 months and fined \$10,000 for making a false statement under oath. Samuel Elbare, a leading Syracuse, New York, bookmaker, was convicted and received his first jail time—one year and one day.

**Labor Racketeering:** A series of investigations into port practices on the Atlantic and Gulf Coasts led to indictments returned from Boston, Massachusetts, to Mobile, Alabama. One labor official convicted of taking payoffs during the year was Detroit's Charles L. "Chuckie" O'Brien, foster son of the late James R. Hoffa.

**Theft:** Theft prosecutions in which Strike Forces became involved concerned goods valued at almost \$20,000,000, including two rare paintings—one of them a Rembrandt. The most imaginative and potentially costly scheme involved the fraudulent validation and sale to the public of burgled airline tickets. Before conviction of the Los Angeles ring, \$250,000 worth of such tickets were in circulation.

**Use of New Statutes:** Increasing use of the Racketeer Influenced and Corrupt Organization Statute (RICO) was made during this year. Such prosecutions now constitute up to 10 percent of the cases indicted by each of the Strike Forces. The "enterprises" embraced by the schemes of racketeers were many and varied including a gambling and debt collection enterprise in Hartford, Connecticut; a loan-sharking enterprise in Boston; a scheme to corrupt and defraud the Richmond, Virginia, Office of the Small Business Administration; a check cashing enterprise in Philadelphia to collect proceeds of gambling debts and corporate theft; and the operation in Miami by Richard Nell of running a labor union through a pattern of racketeering activity.

Perhaps the most conventional enterprise embraced by the RICO statute during the year was Chestnut Hill Lincoln-Mercury, Inc., in Philadelphia. Harry Brown and Marvin Greenblat were convicted of giving away cars to rackets figures, claiming to have been paid in cash, then staging a "robbery" of the non-existent cash so as to support a fraudulent insurance claim.

The year also saw the forfeiture of "Sylvester's"

bar in Washington, D.C., following conviction of the owners for cocaine sales.

On September 22, 1977, the Fifth Circuit Court of Appeals affirmed the 1975 conviction of Bernard Rubin, a Miami, Florida, leader in the Laborer's union. Rubin had been convicted on 103 counts of embezzlement from both unions and union trust funds failing to maintain, concealing and withholding labor union records; operation of unions by means of a pattern of racketeering activity; and filing false income tax returns.

The decision recognized for the first time the ability of the Courts to order forfeiture under Title IX of the Organized Crime Control Act of 1970 of a union official's position with unions and union trust funds employing him. Pursuant to that ruling the Court set an immediate evidentiary hearing which revealed that Rubin had misappropriated over \$2,000,000 after his conviction and received kickbacks from various organized crime sources.

The Circuit Court, through Honorable Peter T. Fay sitting by special designation, forthwith entered an order divesting Rubin of all union authority and requiring that he return all union trust assets. The International Laborers Union of North America subsequently placed all unions controlled by Rubin into trusteeship.

## Cooperation with Other Divisions of the Department

Tax evasion and false tax return cases prosecuted with the help and supervision of the Tax Division of the Department accounted for significant activity during the year. Convictions included that of Lewis Cordi in Auburn, New York, for evasion of income on \$50,000 derived from a complex scheme of inter-company loans; Salvatore Basso, Anthony Zizima and Francis "Fat Franny" Curcio in Hartford, Connecticut; and Binghamton, New York, resident Frank Cannone. Cannone's was, perhaps, the most unusual case in that the Government did not prove any specific amount of income earned, only that Cannone was a bookmaker who had large amounts of income and expenses from that source which did not appear on his return.

## Special Operations Unit

The Special Operations Unit provides legal and administrative support for the Strike Forces. It reviews and prepares for the approval of the Attorney



General or of a specially designated Assistant Attorney General of requests to apply for court orders authorizing the electronic interception of wire or oral communications under Title III of the Organized Crime Control and Safe Streets Act of 1968.

The unit also formulates and coordinates policies regarding electronic surveillance for approval of the Assistant Attorney General, Criminal Division; requests to apply for witness immunity; requests for certification for deposition purposes; and prepares comments regarding proposed and existing legislation. It handles trial court actions in assigned criminal and civil proceedings, prepares memoranda concerning the desirability of appeal of cases and develops guidelines and drafts memoranda establishing general policy.

It oversees annual registration pursuant to the Gambling Devices Act of 1962 and maintains liaison with congressional staffs, Federal and local agencies, and the public at large on organized crime matters. A total of 124 court-authorized electronic surveillances were authorized in Fiscal 1977. The categories of offenses in which the orders had been executed are:

Offense	Through fiscal year 1976	Fiscal year 1977
Gambling.....	929	48
Narcotics.....	242	26
Loansharking.....	75	6
Counterfeiting.....	14	2
Kidnaping.....	2	1
Obstruction of justice.....	10	1
Bribery.....	5	
Theft.....	5	1
Business infiltration.....	42	28
Stolen property.....	39	8
D.C. Code.....	29	1
Explosives.....	7	
Extortion.....	4	
Other.....		2
<b>Total.....</b>	<b>1,403</b>	<b>124</b>

## Intelligence and Special Services Unit

The Intelligence and Special Services Unit gathers, stores and retrieves information and provides intelligence and intelligence studies to the Strike Forces and the National Organized Crime Planning Council. This includes checking all requests for immunity to avoid inadvertent or uninformed immunity grants to racket personalities and maintaining an update on all imprisoned racketeers to insure that due consideration is given a prisoner's involvement in organized crime before parole is granted.

The unit also acts as a clearinghouse for requests for witness protection from Strike Forces, United States Attorneys or the Congress.

## Special Litigation Section

The Special Litigation Section supervises and conducts civil litigation arising from the operation of the prison system, the procedures of the Bureau of Prisons and the activities of the United States Parole Commission; defends and initiates civil litigation in the areas of national security and criminal justice; supervises civil forfeitures under the Controlled Substances Import and Export Act, the Contraband Transportation Act, the Customs laws, the Trading With the Enemy Act, and the neutrality statutes; and rules on petitions for remission of forfeiture in the latter area.

In performing these functions the section has jurisdiction over all prisoner-generated litigation attacking Bureau of Prisons and Parole Commission rules, policies, administrative decisions or conditions of confinement or parole; defends civil actions, handles discovery requests, presents claims of privilege and furnishes advice in connection with criminal law enforcement and investigative activities and national security programs and practices; supervises all civil forfeiture litigation arising nationwide from violation of narcotics, firearms, customs and counterfeiting laws, coordinating the forfeiture enforcement activities of the DEA, FBI, AT&F, Customs Service and Secret Service; and acts upon hundreds of petitions for remission of forfeiture submitted to the Attorney General each year.

During the past 12 months the section participated in over 900 cases arising from civil and habeas corpus actions filed by inmates at Federal institutions against the Bureau of Prisons, United States Parole Commission and employees of both agencies. All had to be defended by the Government.

The Parole Commission and Reorganization Act, which took effect May 14, 1976, has given rise to several new issues for litigation by parolees and prisoners. Among them are the questions whether prisoners receive retroactive credit for time on parole prior to parole revocation, 18 U.S.C. § 4210; whether the re-statement of parole criteria in 18 U.S.C. § 4206 and the revision of parole eligibility provision in 18 U.S.C. § 4205, are *ex post facto* laws as applied to prisoners whose crimes were committed prior to the Act; and whether the failure to comply with the time limits for parole revocation hearings, 18 U.S.C. § 4214, entitles a prisoner to release from custody. We can expect that the Act will continue for several years to inspire new issues to test the legality of confinement, especially since the Act contains expanded provisions for the appointment of counsel in the parole revocation process.

Other cases related to such issues as access to the courts and counsel, sentence computation, regulation of mail, visitation rights, freedom of religion, access to media, transfers, medical treatment, overcrowding, punitive isolation, search and seizure, inmate safety (assaults), food service, rights of pre-trial detainees, consequences of the Interstate Agreement on Detainers in cases whereby state prisoners are obtained for Federal prosecution by writs of habeas corpus ad prosequendum, confinement of youths at adult prisons, discretion of the Parole Commission, due process at parole hearings, and review of parole decisions by sentencing court. These cases, involving significant issues of constitutional and administrative law, have a broad impact on the prison and parole area and comprise a substantial portion of the section's workload.

In defending these actions, section attorneys directly handled 250 trial and appellate cases and provided support and consultative assistance to U.S. Attorneys in over 650 additional suits.

The section has worked closely with its client agencies in the development of new regulations and policies, including a Bureau of Prisons regulation prohibiting the wearing of beards by inmates and a Parole Commission regulation which provides for the setting of presumptive release dates for most prisoners within the first four months of confinement.

A totally new area of responsibility for inmate litigation has been created by the passage of legislation to implement the treaties for exchange of prisoners with Mexico and Canada. The legislation makes the Department responsible for all conditions of confinement litigation brought by prisoners transferred to this country, regardless of whether those prisoners are housed in state or federal prisons. The section has also been given primary responsibility for establishing the procedures for the transfer proceedings relating to Americans in Mexican and Canadian jails who are expected to be transferred to this country to serve their sentences.

The section supervises the application of the Juvenile Justice and Delinquency Prevention Act. This very important responsibility entails both advising U.S. Attorneys of the procedures to be followed by the prosecutor when a juvenile is before a Federal court, and processing requests made by U.S. Attorneys to prosecute a juvenile as an adult.

Petitions for writs of habeas corpus brought by members of the armed forces (non-Selective Service matters) and petitions brought by inmates committed for mental examination and treatment under 18 U.S.C. § 4241, *et seq.*, are also handled by the section.

The section also provides advisory assistance by keeping United States Attorneys aware of significant national developments in prison and parole law and by sending staff attorneys from time to time to various facilities and Districts to meet with local officials, prison personnel, and concerned groups to discuss matters of current and particular interest to them as they relate to prison inmates and parolees. In addition, the section prepares interpretative analyses and guidelines concerning recent statutes and decisions. Finally, on the basis of its expertise, the section attempts to define future trends and potential problem areas and to suggest specific corrective action in advance of litigation wherever possible.

We anticipate that the workload of the section will continue to increase in a direct relationship with the increasing Federal prison population. The prison population, increasing at a rate of 12 percent, is now in excess of 30,000 in facilities having a design capacity of approximately 22,500. Overcrowding is a major problem for prison administrators and for the criminal justice system since one of the results of overcrowding is the increase in litigation alleging assaults and unconstitutional conditions of confinement.

In the second area of the section's responsibility, which primarily involves the defense of civil litigation in the areas of national security and criminal justice, the section, during the past 12 months, participated in over 120 cases. At the end of the first quarter, more than 60 of these cases, primarily damage actions against former Government officials for electronic surveillance activity, were transferred to the Civil Division along with 9 of the section's attorneys. The section, however, retained jurisdiction over all damage actions arising out of the foreign intelligence national security wiretaps authorized by the White House. In addition to these national security cases, one of which has been dismissed, the section also participated in security cases arising out of: activity by the Secret Service to ensure the physical safety of the President; the administration of the Defense Department's Industrial Security Program; the Civil Service Commission's administration of the International Organizations Employees Loyalty Program and the Federal Loyalty and Security Program; the Treasury Department's enforcement of the Foreign Assets Control and Cuban Assets Control Programs; and the State Department's enforcement of its Munitions Control Program.

In the area of criminal justice, the section participated in the defense of actions seeking to close down Lorton Reformatory; to overturn the Presidential par-

don of Vietnam draft evaders; to require that notice be given upon issuance of subpoenas for telephone toll records; to compel the expunction of arrest records; to block grand jury subpoenas for bank records; to overturn "gag orders" issued by courts to prevent undue publicity in pending criminal cases; to enjoin prosecutorial discretion; to determine sovereignty for prosecutorial purposes over Indian lands; and to prohibit regulating the introduction of neo-Nazi and homosexual literature into prisons.

In connection with this second area of the section's activities, the section also prepared in six criminal cases the Government's response to defense motions under 18 U.S.C. § 3504 for discovery of national security electronic surveillance information; participated in several actions seeking the return of property under Rule 41(e), Federal Rules of Criminal Procedure; handled several *Coram Nobis* actions seeking the return of fines paid as the result of a wagering tax subsequently held to be unconstitutional; acted as Government counsel in numerous cases where parties in private litigation sought records from the Government, primarily the FBI, under the procedures of 28 Code of Federal Regulations § 16.21; and took all necessary action to effectuate the Department's witness protection plan in circumstances where the true identity of individuals under protection would otherwise be publicly revealed in private litigation.

The third area of the section's work involves the responsibility for the supervision of statutes dealing with forfeiture of property which has been used in the commission of certain offenses related to contraband. Congress itself has said that, "enforcement officers of the Government have found that one of the best ways to strike at commercialized crime is through the pocket-books of the criminals who engage in it." Vessels, vehicles, and aircraft may be termed the operating tools of dope peddlers, and often represent major capital investments to criminals whose liquid assets, if any, are frequently not accessible to the Government. Seizure and forfeiture of these means of transportation provide an effective brake on the traffic in narcotic drugs and benefits the Treasury of the United States at the same time. In the past year, 725 petitions for remission and petitions for reconsideration were handled.

As an example of the financial impact of the forfeitures handled by the section, during the past year the section handled petitions for remission of vehicles alone of an estimated value in excess of \$1.5 million, in addition to aircraft, vessels, and firearms of substantial value. This represents the value over and above recognized liens and represents a benefit to the Govern-

ment and a detriment to the narcotics peddler, etc., to this extent.

Although the actual litigation of cases involving seizures and forfeitures is usually done by the appropriate U.S. Attorney, Special Litigation Section attorneys on occasion handled individual cases directly. This is particularly true where a seizure involves property valued at an exceptionally high amount, where unusual or complicated facts or circumstances are presented, or where the United States is being sued in connection with a seizure for forfeiture. During the past year, the section participated in five such cases involving property value at \$2,660,000.

The vehicles, aircraft, vessels and firearms which are subject to forfeiture are seized principally by the Drug Enforcement Administration, U.S. Customs Service, Bureau of Alcohol, Tobacco & Firearms and FBI. The section, in effect, acts as a clearinghouse of information and coordinates activity in the area of civil forfeitures which are assigned to the section. The section has daily contact with these various agencies and bureaus on questions relating to specific cases as well as on departmental policy.

## Legislation and Special Projects Section

This section develops the Criminal Division's legislative program and provides wide-ranging support services, principally in the nature of legal research and advice, to other sections of the Criminal Division, to U.S. Attorneys' offices, and to Federal investigative agencies. A primary concern of the section is the drafting of the Department's legislative program on crime, the evaluation of other pending legislative proposals dealing with crime, and the development of practical legal and constitutional analyses in support of important legislation.

Much of the section's work in Fiscal 1977 was related to assisting the Congress in the development of a new Federal Criminal Code. On May 2, 1977, S. 1437 and H.R. 6869 were introduced in the Congress with widespread support including that of Attorney General Bell. S. 1437 was a much improved bill over earlier versions of a new Code which had been introduced in both the 93d and 94th Congresses and which had received considerable criticism. Section attorneys were intimately involved in the negotiations with congressional staff resulting in literally hundreds of modifications which made possible the widespread support S. 1437 has received to date. This effort culminated in

**CONTINUED**

**1 OF 3**

the favorable report of S. 1437 as amended by the Subcommittee on Criminal Laws and Procedures of the Senate Judiciary Committee on August 5, 1977. As the fiscal year ended, the bill was scheduled for final action by the full Senate Judiciary Committee. Section staff also assisted the Senate staff extensively in the preparation of written reports and analyses of the provisions of S. 1437. In addition, assistance was provided in preparation of testimony on the Code by the Attorney General before the Judiciary Committees of both Houses of Congress.

Other major legislative endeavors performed by the section included the drafting of the following: treaties with Mexico and Canada and the legislation necessary to implement such treaties concerning the transfer of convicted offenders to and from the United States for the execution of their sentences; a bill to amend 28 USC 515(a) to provide that Department of Justice attorneys have the authority to conduct grand jury and other legal proceedings to the same extent that United States Attorneys are authorized to conduct such proceedings; a bill to prohibit the trafficking in lost, stolen, forged, counterfeit and fraudulent corporate securities; a bill to amend Rule 410 of the Federal Rules of Evidence and Rule 11(e)(6) of the Federal Rules of Criminal Procedure which relate to admissibility of plea bargain admissions; and a bill to amend the Federal Tort Claims Act to provide an exclusive remedy against the United States for damages arising out of unlawful searches or seizures by Federal law enforcement officers.

Comments, testimony, and correspondence were prepared by section personnel on numerous legislative proposals affecting the criminal justice system in such diverse areas as grand jury reform, gambling, bank records confidentiality, expanding jurisdiction of Federal magistrates, the issue of legalization of marijuana, the creation of an Office of Government Crimes within the Department of Justice in the context of Special Prosecutor legislation, pretrial detention of certain dangerous persons, and the unauthorized disclosure of a return material.

The section's major task of coordinating the new version of the Criminal Division's portion of the "United States Attorneys' Manual," which commenced in Fiscal 1975, was completed and copies of the completed manual were distributed to the United States Attorneys. The section was responsible for preparing and keeping up to date numerous sections within the manual including the sections on grand juries, indictments, speedy trial, bail, and search and seizure. In addition, the section was responsible for preparing and

issuing the guidelines to implement the "Tax Disclosure Act of 1976."

Section attorneys engaged in extensive research projects requested by Division attorneys and various U.S. Attorneys' offices on a wide range of topics involving Federal criminal law and policy. Memoranda were written on topics such as transfers under Rule 20 of the Federal Rules of Criminal Procedure for violations of the District of Columbia Code, the investigative use of beeper devices within the Federal system, whether joinder of multiple petty offenses in an information would entitle the defendant to a jury trial, the authority of Federal magistrates to sentence youth offenders, the use of the Dangerous Special Offender Statute within the Federal system and the prerequisites for use in a nontax criminal case of tax material.

The section was also active in carrying out Criminal Division responsibilities in the areas of freedom of information and privacy. During Fiscal 1977, the Freedom of Information/Privacy Act Unit processed 432 FOIA requests and 785 Privacy Act requests.

In addition, the section operates a Witness Records Unit which coordinates and monitors the use of the immunity provisions of Title II of the Organized Crime Control Act of 1970. During Fiscal 1977, the Unit processed 1,799 requests for authority to seek immunity for 4,413 witnesses.

Supervision of the Speedy Trial Act and the Pre-trial Diversion Program are also vested in the section. During the fiscal year, the section was involved in the drafting of guidelines for U.S. Attorneys concerning the Pre-Trial Diversion Program. The section also drafted several amendments to the Speedy Trial Act for submission to the Congress, one of which would clarify the time that can be excluded from the provisions of the Act applicable to incarcerated defendants and high risk defendants during the current interim period.

A Legislative History Unit is maintained by the section. It compiles histories of significant legislative matters and provides ready access to all background materials connected with legislative proposals. During Fiscal 1977, the Unit assisted in researching 385 issues at the request of U.S. Attorneys, Division and Department attorneys.

A Research Unit, located in the section, digests, analyzes, indexes, and files recent court decisions and legal memoranda, and assists Government attorneys in their research of legal and policy issues. The Unit also prepares summaries of the important recent decisions involving the Federal Rules of Criminal Procedure and the Federal Rules of Evidence which

are published biweekly in the "U.S. Attorneys' Bulletin."

The section also maintains a Correspondence Unit to process letters from the public sent to the Department, referred from the Chief Executive, or the Congress. During the fiscal year, the unit received and processed some 6,230 letters, over double the number received in the previous fiscal year. Of these 6,230 letters, 1,706 were referrals from the White House and 1,257 were from the Congress.

## Government Regulations and Labor Section

The Government Regulations and Labor Section supervises litigation which enforces criminal and civil sanctions in a wide variety of statutes providing for the regulation of private activity by Federal departments and agencies. These include statutes for protection of consumers; protection of public health; conservation of birds, fish, and mammals, including endangered species; protection of miners, longshoremen, atomic energy industry employees, and other workers; regulation of agriculture and meat, poultry, and egg production; regulation of all modes of transportation; and regulation of communications. The section also supervises international extradition and judicial assistance matters; legal matters arising under the immigration, citizenship, and naturalization laws; criminal and civil litigation under the obscenity laws; criminal and civil sanctions of the customs laws; and the enforcement of a variety of other criminal statutes, such as the White Slave Traffic Act, the copyright laws, the Jenkins Tobacco Tax Act, the Export Control Act, the Gold Labeling Act, and criminal sanctions under the Soldiers' and Sailors' Civil Relief Act.

This section has supervisory authority over the enforcement of Federal criminal statutes in the areas of labor-management relations, internal operations of labor unions, and integrity in the operations and investments of employee benefit plans. Statutes enforced include those prohibiting the embezzlement of the assets of a labor union or an employee benefit plan, improper payments by employers to union officials, payment of kickbacks to influence the acts and decisions of trustees, agents or employees of employee benefit plans and interference with commerce by extortion.

The section also has supervisory authority over enforcement of Federal criminal explosive laws when explosives are used in the course of a labor dispute, the reporting and recordkeeping requirements of the Labor-Management Reporting and Disclosure Act

(LMRDA) and the Employee Retirement Income Security Act of 1974 (ERISA) and the provisions of these two Acts which prohibit persons from holding office or employment in a labor union or benefit plan for five years after conviction for certain crimes. In an effort to obtain voluntary compliance with these statutes the section notified, by certified mail, 47 convicted individuals, their local and international unions and, where appropriate, their employee benefit plans of the fact that these individuals were barred from holding office in or being employed by a union or benefit plan. Substantial compliance with the law was accomplished through this notification procedure.

Attorneys from the section devoted a substantial amount of time to the joint Justice Department/Labor Department investigation of the Teamsters Central States, Southeast and Southwest Areas Pension Fund. Partly as a result of these efforts and partly because of a concurrent Internal Revenue Service investigation into the Fund's tax exempt status, the entire Boards of Trustees of the Pension and Health and Welfare Funds were restructured. In addition, the new Board of Trustees agreed to place management of the Fund's assets in the hands of professional investment counselors. Subsequent to the Pension Fund's agreement to accept professional money managers, the two departments announced commencement of a joint investigation into the Health and Welfare Fund while continuing their investigation into Pension Fund transactions which occurred prior to appointment of the professional asset management.

During the year several individual loan transactions were split away from the joint investigation to be pursued solely by the Criminal Division. Also, one indictment was returned charging a former asset manager of the Fund with mail and wire fraud and income tax violations in connection with his having received kickbacks to influence the Fund to make a loan.

One major case involving embezzlement of the assets of an employee benefit fund involved the convictions of 17 trustees of the Laborers' Local 89 Pension Trust on multiple counts of embezzlement from the Fund and one count of engaging in a pattern of racketeering in their systematic depletion of the Fund's assets. These charges arose out of a scheme whereby the trustees had granted themselves pension credits and actual pensions from the Fund even though no contributions had been made to the Fund on their behalf and they were not entitled to any benefits from the Fund.

In December and January, 48 indictments were returned in New Orleans charging 51 individuals with

embezzling the assets of an International Longshoreman's Association Health and Welfare Plan. These individuals, ranging from medical doctors providing services to the plan to union officials and ordinary union members were charged with submitting false medical bills to the plan and converting the plan's payments to their own use. Including this matter, section attorneys supervised investigations that led to 134 indictments of 149 individuals for embezzlement of union or benefit plan assets, 10 indictments of 11 individuals for recordkeeping violations and 8 indictments of union officials for receipt of improper payments from employers.

Section attorneys actively participated in grand jury investigations and subsequent trials. In July, our attorneys participated in the trial and conviction of Frederick J. Otterbein, a Charleston, South Carolina, waterfront businessman, for embezzling \$32,000 of his employees' pension fund. In all, section attorneys spent 240 days in the field devoted to grand jury investigations or trial participation in labor related matters.

The bulk of the section's work under the immigration and nationality laws was civil litigation, consisting of representing the Government in petitions for review of deportation orders in courts of appeals; habeas corpus, declaratory judgment, injunction, and other actions in the district courts; and appeals from district court decisions. There continued to be a substantial volume of cases challenging the actions of the Secretary of Labor under the labor certification program, the purpose of which is to protect the American labor market from the harmful impact of an influx of nonessential foreign workers. In Fiscal 1977, 366 petitions for review of deportation orders and 20 appeals from district court actions were filed in the courts of appeals, and 324 actions were filed in the district courts. Section attorneys handling immigration and nationality cases prepared and filed 101 briefs and 143 motions, including motions to dismiss and for summary affirmance, in the courts of appeals. They also presented oral arguments in 40 cases in the courts of appeals, appeared in 13 district court proceedings, and filed 21 district court pleadings. The Immigration and Naturalization Service referred directly to United States Attorneys potential criminal cases involving 29,053 violations, resulting in the prosecution of 17,350 violations. Included were cases of illegal entry and alien smuggling, document fraud, false representation as to United States citizenship, and reentry without permission after deportation.

The section initiated actions seeking to revoke the naturalization of six persons alleged to have committed

war crimes during World War II. These actions are currently pending in Cleveland, Miami, Philadelphia, Los Angeles, and Chicago.

In Fiscal 1977, lawsuits against the Government which arose from the Vietnamese Orphans Airlift of April 1975 resulted in two reported district court decisions in favor of the Government. One of the two cases is on appeal and the only other related action remaining is the plaintiffs' appeal from the district court's denial of their class action motion in the original "Babylift" suit in San Francisco.

This section plays a vital role in all extradition matters. It acts as liaison between the investigative agencies, the United States Attorneys, Foreign Embassies, and the Department of State; reviews and aids in the preparation of documents seeking extradition of fugitives to the United States to insure that they are sufficient and meet treaty requirements; and reviews all documents submitted pursuant to extradition requests from foreign countries and assists United States Attorneys in obtaining court orders of extraditability for foreign fugitives. The section also participates with the State Department in a continuing program to expand and modernize extradition treaties. In Fiscal 1977, this section participated in negotiations with the governments of Japan and the Federal Republic of Germany. Treaties with Canada, Australia, and the United Kingdom entered into force; treaties with Finland and Norway await Senate approval; and a draft treaty was forwarded to the government of Mexico. During the fiscal year, 19 fugitives were extradited to the United States; the return of 18 other fugitives was accomplished by deportation or voluntary return; 5 extradition requests were denied by foreign governments; and more than 75 requests for the return of fugitives were pending in foreign courts at year's end. In addition, approximately 80 requests by foreign governments have been handled, resulting in 50 extradition orders with remaining cases still pending. Two fugitives from United States justice were prosecuted by their home governments.

In representation of the Department, this section participated in the negotiations for the treaties on the transfer of penal sanctions with the governments of Mexico and Canada. Both treaties received Senate ratification. In Fiscal 1978, new treaties on extradition and transfer of penal sanctions will be negotiated. As treaties on extradition enter into force, the return of our fugitives and the surrender of foreign fugitives will continue to increase.

This section assists United States Attorneys in criminal matters requiring contacts in foreign coun-

tries, most often to enlist the aid of the executive authorities of those countries. The section handles approximately 10 such matters per week. Frequently it is necessary to invoke the judicial power of other countries through the use of requests for judicial assistance, sometimes called letters rogatory. In Fiscal 1977, nine such requests were made, two each to Switzerland, Mexico, and the British West Indies and one each to Belgium, Canada, and Mexico. Under the judicial assistance treaty with Switzerland, which became effective in January 1977, nine requests were sent for compulsory process to obtain needed evidence, usually records of Swiss bank accounts, and three treaty requests were executed for the Swiss Government. The section has also been involved in the drafting of proposed judicial assistance treaties with the Bahamas and Mexico.

As in prior years, the emphasis of the section's obscenity program has been on major commercial distributors. During the fiscal year, 34 convictions were secured under the obscenity statutes, including the conviction in August 1977, of Milton Luros, one of the largest mail-order distributors of obscene material in the United States.

On September 30, 1977, there were 48 cases pending in the Federal courts in either pretrial, trial, or appellate status involving 109 defendants. Particular emphasis had been placed on the prosecution of distributors of obscene material exploiting young children. In September 1977, the first conviction under this intensified program was obtained in San Francisco, and the defendant was sentenced to three years imprisonment. Three other indictments of distributors of obscene material depicting children are pending, and the Postal Service and the Federal Bureau of Investigation are currently pursuing approximately 60 investigations of distributors of such material.

The section supervises criminal and civil actions to enforce regulatory statutes administered by the Department of Agriculture, including the Agriculture Marketing Agreement Act, the Animal Quarantine and Laboratory Animal Welfare Acts, the Federal Seed Act, the Grain Standards Act, the Federal Meat Inspection Act, the Poultry Products Inspection Act, the Twenty-Eight Hour Law, and the Warehouse Act. During Fiscal 1977, the Department of Agriculture referred 493 criminal and 182 civil cases to the Justice Department; 368 criminal and 182 civil cases were terminated; and a total of \$888,440 in fines and penalties were imposed.

Litigation for enforcement of various transportation statutes is also supervised by the section. During

the past fiscal year, 184 civil penalty cases were terminated under the aircraft safety provisions of the Federal Aviation Act and a total of \$71,524.56 in penalties was collected; 18 cases under the railroad safety laws were concluded in favor of the Government with fines and penalties totaling \$55,000; 100 convictions were obtained under the motor carrier safety laws with fines of \$189,625; and 31 convictions were secured under the Interstate Commerce Act (including the supplementary Elkins Act) with fines of \$245,350.

Among other highlights were the following:

- Convictions of unauthorized duplicators and distributors of copyrighted sound recordings and motion pictures in Fiscal 1977 matched the all time high of 115 recorded in the prior fiscal year. Included in the convictions obtained was a major manufacturer of pirate 8-track tapes who, in a separate case, was charged with failing to report to the Internal Revenue Service more than \$2 million in taxable income derived from his tape pirating operation. Also, a nationwide investigation by the FBI culminated in the seizure in the Philadelphia area of over \$10 million worth of counterfeit records and tapes from the largest counterfeiting operation yet discovered in the United States, and the return of a 125-count indictment on October 7, 1977. Among significant developments in the area of pirated copyrighted motion pictures was the affirmance by the Ninth Circuit Court of the first major conviction of illegal duplicators and distributors of copyrighted motion pictures and the seizure by FBI agents in Houston of over 400 illegal videotape copies of motion pictures, including such titles as "Star Wars," "Rocky," "Network," and "Jaws."
- On April 21, 1977, Darrell Hazelwood, a former employee of Consolidation Coal Co., and James Kull, a present employee of that firm, were convicted in the United States District Court for the Southern District of Ohio of conspiracy to defraud the United States and a conspiracy to violate the Federal Coal Mine Health and Safety Act in connection with a scheme in which false respirable dust samples were submitted to the Mining Enforcement and Safety Administration. Each defendant was charged with having conspired with six others to misrepresent the amount of respirable coal dust in the mine atmosphere at five underground coal mines of Consolidation Coal Co. Among the overt acts charged as part of the conspiracy



were weighing samples and discarding those exceeding permissible limits, taking samples in areas away from the miners' environment and tampering with samples to minimize the amount of respirable dust collected. Five other individuals and the corporation are charged in the indictment and are awaiting trial pending a resolution of the Supreme Court of a successful Government appeal from an order of the district court suppressing certain evidence. This is the first conviction as a result of trial rather than guilty plea under the Act.

- On May 12, 1977, in the District of Nevada, Nuclear Engineering Company, a firm licensed to dispose of nuclear waste, pled no contest to a criminal information charging two counts of disposing of waste material in a manner contrary to the regulations of the Nuclear Regulatory Commission and was fined the maximum of \$5,000 on each count.
- In May 1977, Santini Brothers Moving & Storage Co. was fined \$39,000 by the United States District Court for the Eastern District of New York for having improperly packed hazardous materials which were transported on and caused the crash of a Pan American World Airways jet freighter in Boston on November 23, 1973, killing all crew members. A supervisory employee of Santini was fined \$750 and given a suspended sentence. This sentencing terminated all criminal proceedings arising from the crash, with Pan American, National Semi Conductor Co., Lyons Moving and Storage Co., and Burlington Northern Air Freight having been fined in April and May 1976 following pleas to charges arising from this case. A total of more than \$170,000 in fines was imposed.
- On August 4, 1977, the grand jury sitting in Philadelphia, Pennsylvania, returned six indictments in a major wildlife case charging 11 persons involved in a reptile exchange with violations of wildlife laws and customs laws and conspiracies to violate those laws by smuggling into the United States and selling large numbers of reptiles from various countries around the world.

## Appellate Section

During Fiscal 1977, the Appellate Section with an average of 33 attorneys prepared 14 briefs on the

merits, 2 amicus briefs and 14 Government petitions for certiorari in Supreme Court cases. Additionally, the section prepared 800 responses to petitions for certiorari filed in the Supreme Court and, at the request of the Supreme Court Justices, prepared 12 responses to applications for bail or stays of mandate. The section also reviewed and evaluated an additional 462 petitions for certiorari to which it decided no response was necessary. This consumes very valuable attorney time as the process requires the expertise of the most experienced reviewers in the section; however, this innovation was necessary to handle the large volume of cases. The section submitted 882 memoranda to the Solicitor General recommending for or against further review of adverse court decisions in Criminal Division cases.

In the courts of appeals, the section briefed and argued 104 cases. The vast majority of these cases were investigated and tried by the organized crime strike forces.

The Court of Appeals Review Unit catalogued 922 opinions in the Fifth and Sixth Circuits, indexing the issues resolved. It monitored 750 criminal appellate brief prepared by United States Attorneys' Offices and 637 briefs prepared by defendants in those circuits and lent immediate aid to United States Attorneys in the preparation of their appellate briefs.

During the October term 1976, the Supreme Court decided 22 criminal cases in which the Government participated as a party or as an amicus.

The Court decided six cases which dealt with the right to appeal or the Double Jeopardy Clause. In *United States v. Sanford*, the Court held that under certain circumstances the Government could appeal the pretrial dismissal of an indictment following a mistrial. In *United States v. Dieter*, the Court held that a timely motion for reconsideration of a district court order dismissing an indictment renders that order non-final for purposes of appeal for as long as the motion is pending. In *Abney v. United States*, the Court held that a defendant may immediately appeal a pretrial order denying a motion to dismiss the indictment on double jeopardy grounds. In *Jeffers v. United States*, a plurality of the Court decided that an exception to the double jeopardy prohibition arose when a defendant was "solely responsible for the successive prosecutions" by "expressly ask[ing] for separate trials on the greater and lesser [included] offenses" or by "fail[ing] to raise the issue that one offense might be a lesser included offense of the other." In *Lee v. United States*, the Court held that the granting of a pretrial motion to dismiss after jeopardy had attached was meant to have the effect of a mistrial, thereby permitting re-

trial, since the dismissal was not considered to be a termination of the case against petitioner in his favor. In *Finch v. United States*, the Court relied on *Lee, supra*, and reversed because the dismissal there was granted prior to any declaration of guilt or innocence on the ground, correct or not, that the defendant simply cannot be convicted of the offense charged.

Two obscenity cases were decided. In *Marks, et al. v. United States*, the Court held that the Due Process Clause of the Fifth Amendment precludes retroactive application to petitioners of the standards of *Miller v. California*, to the extent that those standards may impose criminal liability for conduct not punishable under the standards previously announced in *Memoirs v. Massachusetts*. In *Smith v. United States*, the Court held that an Iowa obscenity statute cannot bar a federal obscenity prosecution or conclusively define the contemporary community standards applicable under *Miller v. California*.

Two cases involving prisoners rights were also decided. In *Moody v. Daggett*, the Court held that a Federal parolee who is imprisoned for Federal crimes committed while on parole and clearly constituting parole violations is not constitutionally entitled to an immediate parole revocation hearing, where a parole violator warrant was issued and lodged with the institution of his confinement as a "detainer" but was not executed. In *Jones v. North Carolina Prisoners' Union*, the Court held that prisoners have only limited First Amendment associational rights in view of the "peculiar and restrictive circumstances of penal confinement" and, therefore, sustained regulations promulgated by the North Carolina Department of Corrections prohibiting inmate-to-inmate solicitation on behalf of the union, union meetings on prison property, and bulk mailings of the union newsletter into the prison system.

There were two cases decided involving the rights of grand jury witnesses. In *United States v. Washington*, the Court held that testimony given by a putative defendant called before the grand jury, who had been warned of his Fifth Amendment privilege but not of his target status, could be used against him in later prosecution for a substantive criminal offense. In *United States v. Wong*, the Court held that the failure effectively to warn a "putative defendant" grand jury witness of her Fifth Amendment privilege prior to testifying did not provide grounds for suppressing her false testimony resulting in a subsequent perjury prosecution.

There were also a variety of other decisions. In *United States v. Donovan*, the Court held that al-

though the Government had violated two provisions of the wiretap statute, suppression of the wiretap evidence was not required. In *Weatherford v. Bursey*, in which the United States had participated as amicus curiae, the Court refused to adopt a per se rule that an undercover agent's presence at meetings between a criminal defendant and his attorney automatically violates the defendant's right to counsel. In *Swain v. Pressley*, the Court held that 23 D.C. Code Ann. 110 (g) should be given its plain meaning, i.e., to restrict jurisdiction entertaining collateral review of convictions of the Superior Court for the District of Columbia to the local District of Columbia Court System.

In *United States v. Antelope*, the Court held that equal protection is not violated by the Federal prosecution of an Indian for the murder of a non-Indian on the reservation upon a theory of felony-murder, when a non-Indian who committed the same act would have been tried in state court under state law (in this case, Idaho's) which does not recognize felony-murder. In *Fiallo v. Bell*, the Court upheld the constitutionality of Section 101(b)(1)(D) and 101(b)(2) of the Immigration and Nationality Act of 1952 as amended, which exclude the relationship between an illegitimate child and its natural father from the preferential immigration status accorded to a "child" or "parent" of a United States citizen or a legal permanent resident alien.

In *United States v. Ramsey*, the Court held that 19 U.S.C. 482 which authorizes customs officials to "search any trunk or envelope" in which they may have a "reasonable cause to suspect" there is merchandise which was imported contrary to law, authorizes the opening of international letter class mail. In another case involving Government searches, *United States v. Chadwick*, the Court held that Federal narcotics agents violated the Fourth Amendments in searching, without a warrant, a locked footlocker which they had seized from its owners in public upon probable cause to believe that it contained marihuana.

In *Scarborough v. United States*, the Court held that 18 U.S.C. App. 1202(a), which makes it unlawful for convicted felons, among others, to receive, possess or transport a firearm "in commerce or affecting commerce," bars the possession by convicted felons of any firearm which has, at any time in the past, been shipped or transported in interstate commerce.

Finally, in *United States v. Lovasco*, the Court held that the question whether the Constitution requires that an indictment be dismissed because of delay between the commission of an offense and the initiation of prosecution depends on whether the delay war-

rants reversal—even though caused by the Government—and violates the “community’s sense of fair play and decency.”

## Public Integrity Section

The Public Integrity Section has responsibility for the supervision of enforcement of criminal statutes involving the abuse of office or other illegal acts by public officials in their official capacity. These statutes include bribery, extortion, conflict of interest, election violations and other crimes which can be committed by Federal, state and local officials through misuse of their office. This section represents a new and vital focus by the Department of Justice and the Criminal Division upon official corruption.

The section participates to a substantial degree in the investigation and prosecution of numerous cases on a national level, either solely or in conjunction with United States Attorneys’ offices and Organized Crime and Racketeering Strike Forces.

Two units have been formed within the section, one to handle election matters and the other to deal with enforcement and prevention of crimes within the various Federal agencies. Each of these units has undertaken to open and expand lines of communication with other Federal agencies. The agency unit has conducted frequent meetings and communications with the appropriate branches of most Federal agencies with a view toward expediting their criminal referral process, rendering to them prompt and accurate advice and developing a uniform prosecutorial policy for all agencies. This activity is aimed at performing a most important function of the Federal Government, insuring its own integrity. An example of this type of activity is the section’s assumption of the role as national coordinator of a series of grain inspection fraud cases being conducted in conjunction with various U.S. Attorneys’ offices, the Federal Bureau of Investigation and the Department of Agriculture.

The Elections Unit has expended considerable effort in liaison with the newly constituted Federal Elections Commission. Thirty-one matters were considered inappropriate for criminal prosecution by this section and were thereafter referred to the Federal Elections Commission for appropriate administrative action. Additionally, three matters have been referred to this section by the Federal Elections Commission, one of which has resulted in an indictment. In addition, the unit prepared and updated an extensive manual relat-

ing to the enforcement of Federal election laws which was distributed to all United States Attorneys.

The section participated in a large scale investigation into allegations of corruption in the Northern District of Indiana in conjunction with the United States Attorney’s office for that District as well as the Chicago Strike Force of the Organized Crime and Racketeering Section, resulting in the conviction of three high ranking public officials. Convicted were Joseph Rakowski, Superintendent of the Sanitary District of East Chicago; James Potesta, Building Inspector of East Chicago; and Nathaniel Coleman, Director of the Gary General Services Administration.

Section attorneys have been directly responsible for two indictments during 1977 as a result of the Department’s probe of Korean influence buying, being coordinated by the section with the assistance of attorneys in the Tax Division. The indictment of Tong Sun Park charges that he participated in an agreement with Korean officials that he would be designated as the preferred agent for rice sales to Korea by the United States in return for his promise to use part of his rice commissions to pay U.S. Congressmen to influence their actions on behalf of Korea. Park is also charged in the indictment with paying bribes to a former Congressman. Hancho C. Kim was also indicted as a result on charges of conspiracy to defraud the United States, false declarations before the Grand Jury, and income tax evasion.

A continuing investigation into allegations of political corruption is being conducted in the Middle District of Pennsylvania, and has resulted in the convictions of 11 members of various school boards for kickbacks on purchases of goods and services. One local government official pleaded guilty to charges of receiving kickbacks in disaster relief contracts and two other local officials have been indicted.

Officials of the Department of Drainage and Sewerage for the Parish of Jefferson, Louisiana, were indicted for receiving kickbacks of over \$400,000 on the purchase of drainage equipment.

Former Congressman Richard A. Tonry was convicted of charges that he promised Federal benefits in return for political contributions and conspired to receive contributions in excess of the limitations imposed by the Federal Election Campaign Act. Tonry was sentenced to one year imprisonment and a \$10,000 fine.

John M. Beeler, Chairman of the Board of Commissioners, Knox County, Tennessee, was convicted of 35 counts of violation of the Hobbs Act on charges of extorting \$87,500 for the approval of a landfill site.

A wide-ranging investigation of the Army-Air Force Exchange Service (AAFES) has resulted in convictions of five officials and contractors in connection with a bid rigging scheme aimed at obtaining large construction contracts with AAFES.

A former U.S. Attorney in Louisiana, Douglas M. Gonzales, was convicted of a Privacy Act violation, the first such conviction under that Act.

In South Carolina, a former State Department Consular Officer was convicted for selling visas and of receiving bribes in connection with the granting of visas for entry into the United States.

In Des Moines, Iowa, the former Chairman of the Board of the Iowa Liquor Commission, Homer Adcock, was convicted by a jury of extorting payments from a representative of the California Winery Association and income tax evasion. He was sentenced to three years and fined \$20,000.

A former United States District Court Clerk for the Southern District of Mississippi, Robert Carl Thomas, pleaded guilty to obstructing justice in the selection of jurors in a firearms case involving a Jackson businessman. The plan was disclosed when the defendant's attorney refused to become a part of it.

# Executive Office for United States Attorneys

William P. Tyson  
Acting Director

Under the supervision of the Deputy Attorney General, the Executive Office for United States Attorneys provides general executive assistance and supervision to the offices of the 94 U.S. Attorneys and coordinates and directs the relationship of other organizational units of the Department with such offices. The Executive Office supports and assists the Attorney General's Advisory Committee of U.S. Attorneys.

## The Attorney General's Advocacy Institute

In addition to its traditional support and supervisory functions, the Executive Office carries out an extensive training program, primarily through the Attorney General's Advocacy Institute. The Institute's training programs are designed to sharpen advocacy skills and to provide continuing legal education for U.S. Attorneys and their assistants and attorneys of the Department of Justice legal divisions.

During the first three years of its existence, the Institute trained some 730 Assistant U.S. Attorneys and legal division attorneys in criminal and civil trial advocacy. The trial advocacy sessions consist of lectures and mock trial workshops, with experienced prosecutors drawn from U.S. Attorneys' offices acting as instructors. Federal District Judges preside over the mock trials. In December 1976, the Institute conducted its first appellate advocacy course.

An Institute Curriculum Committee, consisting of two attorneys from each legal division, assists the Institute Administrator in the selection of faculty, the production of written materials, and the development of lectures, workshops, and demonstrations. This committee also serves to monitor overall training requirements on a continuing basis, informing Department attorneys of courses offered by private organizations which are not currently sponsored by the Institute.

The Institute also conducts numerous continuing

education seminars on topics pertinent to the work of Department of Justice attorneys. These cover such subjects as white-collar crime, narcotics conspiracy, collections, environmental litigation, Indian matters, HUD FHA Programs, and office management. The Institute has been recognized as an accredited continuing education establishment by the State Bars in Minnesota, Wisconsin, and Iowa, and accreditation is pending in Washington.

The Institute, through its Cassette Lending Library, makes available to all U.S. Attorneys' offices and Departmental attorneys taped lectures on subjects related to trial advocacy.

## The Attorney General's Advisory Committee of U.S. Attorneys

The Advisory Committee, established in 1973 and formalized in 1976 by order of the Attorney General, makes recommendations with respect to establishing and modifying policies and procedures of the Department; improving management, particularly with respect to the relationships between the Department and the U.S. Attorneys; cooperating with state Attorneys General and other state and local officials for the purpose of improving the quality of justice in the United States; promoting greater consistency in the application of legal standards throughout the Nation and at the various levels of government; and aiding the Attorney General, the Deputy Attorney General and the Associate Attorney General in formulating new programs, for improvement of legislation and court rules. The Committee is made up of 15 representative U.S. Attorneys who serve at the pleasure of the Attorney General. The Committee has standing committees on allocation of resources and case responsibility, Department of Justice field offices, investigative agencies, legislation and court rules, professional proficiency and communications, and Indian affairs.

One of its most significant accomplishments was to oversee a complete and significant revision of the United States Attorneys' Manual at the request of the Deputy Attorney General, in order to improve management and to modify policies and procedures of the Department of Justice. This task was completed during Fiscal 1977. The Committee continues to monitor changes made in the Manual and to give its advice on proposed changes.

The Committee has continued to monitor the experience of Attorneys under the Speedy Trial Act and has made suggestions to the Judicial Conference of the United States concerning possible amendments based upon responses to a survey conducted by the Committee. The Committee has continued to provide advice to the Federal Judicial Center, the Administrative Office of U.S. Courts, and the Judicial Conference of the United States in regard to problems encountered under the Speedy Trial Act. The Committee also advises the Speedy Trial Unit within the Executive Office for United States Attorneys on Speedy Trial matters from the standpoint of field experience.

The Committee continued its informal liaison with the Advisory Committee on Criminal Rules to the Standing Committee on Rules of Practice and Procedure of the Judicial Conference of the United States. It continued to offer suggestions concerning important legislation and court rules, particularly in regard to the functioning of the grand jury. Previously established informal liaison with the Criminal Justice Section of the American Bar Association was continued, and informal liaison was established with the National District Attorneys' Association. The Advisory Committee participated in the work of Departmental committees and task forces such as the White Collar Crime Committee; the Litigation Management Study, Phase II; and the Litigation Management Task Force, concerned with developing a case-weighting system. The Committee also established liaison with the President's Reorganization Project in regard to law enforcement functions and Government litigation, and will be providing its views on matters of concern to the Project as it progresses. The Committee was also invited to participate regularly in the meetings of the Federal Advisory Corrections Council.

The Committee was active in Department budget presentations and in proposals and conferences involving the overall improvement of fiscal and litigative management of the Department. Its advice and evaluations were given on a continuing basis in matters involving the conduct of the Attorney General's Advocacy Institute and the development of automated and

manual caseload management and legal information systems.

## The U.S. Attorneys

Within each of the 94 Federal Judicial Districts in the 50 states, Guam, Puerto Rico, the Virgin Islands, and the Canal Zone, the U.S. Attorney is the chief law enforcement representative of the Attorney General. He enforces Federal criminal law and handles most of the civil litigation in which the United States is involved.

U.S. Attorneys are appointed by the President, with the advice and consent of the Senate, for four-year terms, subject to the pleasure of the President. Assistant U.S. Attorneys are recommended by the U.S. Attorney and appointed by the Attorney General.

U.S. Attorneys carry out their responsibilities with the support of 1,621 Assistant U.S. Attorneys and 1,839 non-attorney personnel. Their offices range in strength from one Assistant U.S. Attorney (Guam) to 159 Assistants (District of Columbia), with over half having fewer than 10 Assistants. The total authorized staffing level of 3,468 represented a 6 percent increase over Fiscal 1976. The budget for U.S. Attorneys' Offices for the year totalled more than \$104 million.

A major goal of U.S. Attorneys during the year was to increase the representation of women and minorities on their professional staffs. While female Assistant U.S. Attorneys made up only 9 percent of the total employed at the end of Fiscal 1977, over 25 percent of new Assistants hired during the year were women. Similarly, "minority" Assistants made up only 3.8 percent of the total at the end of Fiscal 1977 but made up over 20 percent of new Assistants hired during the year. The overall percentages of these groups are expected to continue to rise as the number of female and minority law graduates increases, and as U.S. Attorneys continue to broaden their recruitment efforts.

### Official Corruption:

A growing area in criminal prosecutions is official corruption. U.S. Attorneys have become more aggressive in their search for crime among public officials. Governor Marvin Mandel of Maryland and 5 co-defendants were convicted on 17 counts of mail fraud and one or more counts of racketeering activity resulting in hundreds of thousands of dollars in financial benefits to Marvin Mandel since 1969 while Mandel favored the co-defendants' business interests in Maryland. A former New York Congressman was sentenced to serve a term of 20 months to 5 years for conviction

involving Congressional payroll kickback schemes in which fictitious or non-working employees were placed on the payroll. Former Louisiana Congressman Richard Tonry was sentenced to serve a term of one year imprisonment and to pay a \$10,000 fine, after pleading guilty to Federal charges that he promised Federal benefits in return for political contribution and that he conspired with several campaign workers and contributors in excess of the limitations imposed by the Federal Election Campaign Act.

A sitting district judge in Alaska was convicted of supplying firearms to a convicted felon; a county judge and his son in Eastern Arkansas were convicted of fraud against the Government in the misuse of Comprehensive Employment and Training Act funds as well as Department of Transportation funds, with both receiving prison terms and substantial fines; a state district attorney in Middle Tennessee pleaded guilty to making false statements after omitting the listing of \$300,000 of debts on a loan application, receiving a two year prison sentence and resigning his position. Numerous other city and county officials were also convicted of crimes involving payoff and kickback schemes in connection with their official duties.

#### **Organized Crime:**

U.S. Attorneys, at times in conjunction with Criminal Division Organized Crime Strike Forces, prosecuted a number of Organized Crime figures. In New Jersey, 34 defendants out of 59 individuals indicted were convicted on various charges resulting from granting substantial loans by bank officials in return for kickbacks; those convicted included three bank presidents, a labor union official, and a number of bank officers. After a joint investigation by the FBI, DEA and the D.C. Metropolitan Police Department, 18 individuals out of approximately 25 defendants who were arrested, have thus far either pleaded guilty to or have been found guilty of felony charges of conspiracy to violate the narcotic laws, narcotics distribution, use of the telephone, interstate transportation in aid of racketeering, and racketeering influence in corrupt organizations.

In Maryland, one individual pled guilty and another individual was found guilty of conspiracy to deal in approximately \$650,000 worth of counterfeit U.S. Treasury notes and stolen corporate securities valued at approximately \$20,000; both are known to have connections with Organized Crime. A business associate of the New Orleans Organized Crime boss was convicted in Arizona of charges stemming from submitting false information on financial statements in

an attempt to obtain loans. A major organized crime figure and five of his confederates were convicted in Middle Georgia on charges including murder, arson, thefts from interstate shipment, large-scale auto theft, counterfeiting certificates of title, corruptly influencing witnesses, and "fixing" a federal petit jury; one defendant was sentenced to 80 years and another, his brother, to 50 years. Members of the large-scale numbers and betting ring, along with a police chief, a magistrate, a constable, and a mayor were sentenced to prison in Western Pennsylvania.

#### **Fraud:**

Prosecution of perpetrators of various schemes to defraud the public and the Government continued to make up a substantial part of U.S. Attorney's workloads across the country. The schemes include violations in connection with the Medicaid program, government contracts, use of labor union funds, VA educational benefits, the food stamp program, and land sales.

There were several land fraud cases in Arizona this past year involving losses from \$6.5 million to \$40 million; the number of victims ranged from 1,500 to approximately 10,000 throughout the United States.

There were two substantial Medicaid fraud cases in Northern Illinois. One involved seven nursing home owners and four pharmacists, who were convicted of paying or receiving kickbacks in connection with providing pharmaceutical goods and services to Medicaid patients in nursing homes. The nursing home owners, who were charged with receiving a total of \$50,000 in kickbacks, were fined a total of \$1 million. Another case involved nine nursing home owners, five nursing homes, and two pharmacists, all convicted on similar charges. Maximum fines were imposed on all of the nursing homes and nursing home owners, totalling \$400,000.

After a 5-week trial in the Middle District of Florida, top officials of several land development companies were convicted on 29 counts of mail fraud and conspiracy; the companies had defrauded public investors of over \$1 billion.

Four defendants were convicted in Southern California after a three-month trial, for their roles in a conspiracy to smuggle and distribute the illegal substance laetrile, an alleged "cancer cure." One defendant, a physician, accumulated \$2.8 million in a two and one-half year period from his illegal activities. Another defendant made \$750,000 in profits during a similar period. These defendants are the leading promoters in the laetrile controversy.

## Other Significant Criminal Litigation:

In the District of Columbia, several undercover investigations were conducted to recover stolen property and guns and to attempt to terminate the fencing of these items. The first investigation for this past fiscal year was Sting II or GYA—"Got Ya Again"—which recovered 4,200 items of property including business machines, securities/currency, stereo equipment, photograph equipment, motor vehicles, and the like with an estimated retail value of \$1.2 million. The conviction rate among the nearly 100 individuals indicted and brought to court thus far is well over 95 percent. Another undercover fencing operation was designated as "Operation Highroller" because of the nature of the investigation. Operating out of an expensive luxury hotel suite, the purpose for this investigation was to seek out high quality items from a significantly higher level individual than in previous investigations. There have already been a number of convictions and guilty pleas resulting from the indictments with an estimated \$1.8 million recovered in stolen property.

Yet another undercover operation in the District of Columbia, Sting III, resulted in 140 arrest warrants being issued. The focus was on fences and drug dealers with about \$1 million worth of stolen property and contraband being recovered.

This past year 12 members of a Hanafi Muslim sect initiated a reign of terror in the District of Columbia, possibly in retaliation for the savage execution several years ago of several members, including several infants, by members of another Muslim sect. Three buildings were seized and over 130 people were held hostage for 3 days resulting in 1 murder, 1 person paralyzed for life, 1 person dying of a heart attack, several persons stabbed, and a city councilman shot. The seize was brought to an end following direct negotiations between the Hanafi leader and the Ambassadors from Pakistan, Egypt, and Iran. All 12 defendants were convicted of various charges, receiving sentences ranging from 24 years to life.

In Southern Mississippi, the U.S. Attorney successfully prosecuted an individual charged with the transportation and sale of \$825,000 worth of counterfeit New York municipal bonds and Texas county bonds. In Middle Georgia, a joint investigation by the Secret Service and postal authorities uncovered a stolen Treasury check ring which may have stolen as many as 500 checks; 9 persons were convicted on charges ranging from conspiracy to forgery and possession of stolen mail, and sentences ranged up to 10 years imprisonment.

In Western Missouri, a military policeman was convicted of the murder, rape, assault, and kidnaping of four teenagers. After murdering the two boys and sexually abusing the two girls, he shot the two girls and left them all buried in snow drifts. One of the girls survived to testify against the defendant. His plea of insanity was rejected; he was sentenced to 3 consecutive life terms plus a consecutive term of 20 years, the maximum sentences permitted by law for the offenses of which he was convicted.

A defendant in Central California escaped from a state prison, stole a truck, and later abducted a woman and infant son at gunpoint. He was arrested after traveling through three western states and subjecting the victim to numerous physical and sexual assaults. Convicted of kidnaping, firearm and other charges, he was sentenced to life imprisonment.

A Middle Tennessee family was convicted in Nashville for violations of the White Slave Traffic Act involving forced prostitution by young girls. The sons in the family would marry 12- and 13-year-old girls and then force them into prostitution at rest areas on the interstate throughout the Southeast and Midwest. The living conditions were deplorable with very young children being reared in prostitution and deprivation.

Two defendants, one an employee of a computer firm holding a top secret clearance, in Central California were convicted of transmitting national defense information to agents of the U.S.S.R., disclosure of classified information, acting as agents of a foreign government, and theft of government property. One defendant was sentenced to life imprisonment and the other to 40 years.

An Indian in Southern Mississippi received a life sentence for the murder of an Indian Police Officer with the Bureau of Indian Affairs. After a joint prosecutive effort from five districts, a conviction was returned on a defendant, extradicted from Canada, for the first degree murder of two FBI special agents on an Indian reservation in South Dakota.

The longest sentence ever handed down in Eastern Illinois was given to each of 3 defendants involved in a bank robbery and double murder case; each defendant received consecutive sentences totalling 230 years. Another bank robbery in Eastern Illinois involved numerous armed robberies. The leader is a militant and escaped murderer on the most-wanted list. Five defendants were convicted and sentenced to a total of 62 years. Two are fugitives living in Africa.

There were two separate cases, one in Northern Illinois and the other in Eastern New York, involving the manufacturing and distribution of counterfeit \$20



bills. In both situations, there were losses amounting to \$1 million.

### Civil Litigation:

Suits filed under the Federal Tort Claims Act constituted a large part of the litigation in which U.S. Attorneys defended agencies and employees of the Federal Government. These included claims for injury or death occurring on Federal property or involving Government activities. In the Middle District of Georgia, the Court granted the Government's motion for summary judgment in a \$100,000 medical malpractice case in which two Army surgeons were accused of malpractice, after the plaintiff's own expert witness stated that the surgeons acted within acceptable standards of medical practice. In Eastern Washington, a similar case in which damages of over \$600,000 were requested was dismissed in favor of the Government. In a precedent-setting case in Middle Florida, a couple and their severely disabled infant son filed a "wrongful life" medical malpractice suit, alleging that an Army doctor failed to diagnose German Measles during the mother's early pregnancy; the suit was dismissed, with the court ruling that the care of the doctor met the reasonable standard of care. The court found that the doctor did not cause the problem and that, even if the doctor had diagnosed German Measles, the child would have been born with the severe disabilities because there is no cure for the disease and the couple would not have sought an abortion.

In Central California, wrongful death actions claiming damages of over \$3,000,000 were filed under the FTCA after the crash of an Air Force plane between Pago Pago and Hawaii. The Court ruled that the event, which occurred on the high seas while the plane was engaged in trans-oceanic transportation, met the test for alleging a maritime tort, that a suit in admiralty is the exclusive remedy against the Government in all cases where a remedy is available under that Act, and that the actions were barred by the two-year statute of limitations of the Admiralty Act.

U.S. Attorneys represented Federal agencies in a wide range of citizen-agency conflicts. In Western Missouri and Western Arkansas, U.S. Attorneys represented the Department of Housing and Urban Development in civil suits involving HUD regulations concerning relocation of individuals displaced by development grants. In a Southern Iowa Freedom of Information Act suit to compel disclosure of a document in the possession of the Central Intelligence Agency, the court sustained the Government's motion

for summary judgment, relying on the expertise of the CIA in determining the validity of the document's classification which prevented its disclosure.

The Eastern Washington U.S. Attorney's Office obtained injunctive relief and a condemnation decree in behalf of the Food and Drug Administration, in connection with the manufacture and distribution of laetrile and amygdalin. After a week of testimony by many medical experts on the issue of whether laetrile is recognized as a safe effective treatment for cancer, the court concluded that the production, distribution, and promotion of the two drugs as cancer cures constituted a "fraud on the consuming public."

In Alaska, civil suits were filed after the Coast Guard seized foreign vessels engaged in unlawful fishing in a conservation zone. Fines of \$250,000 and \$335,000 were paid for the return of two such ships of Japanese and Taiwanese registry.

Litigation involving Indian fishing and water rights continued to make up a significant part of the caseload in a number of western U.S. Attorney Offices. In Eastern Washington, 5,000 claims were involved in a suit concerning use of the waters of the Yakima River.

In Central California, a successful suit in behalf of the Colorado River Indian tribes resulted in a judgment returning 1900 acres, valued at \$6 million, to the Colorado River reservation. Through the use of 189 exhibits, including 1930 aerial photographs, and many expert witnesses, the Government was able to show that the course of the Colorado River was artificially changed in 1920, severing the valuable land from the main body of the reservation.

During a recent West Point cheating scandal, a series of actions were brought in Southern New York challenging the constitutionality of the Academy's Honor Code and the authority of the Secretary of the Army to re-admit cadets who voluntarily resigned from the Academy as a result of the scandal. There was a question as to whether the Honor Code infringed upon the congressionally enacted Uniform Code of Military Justice and deprived the cadets of constitutional due process. The readmission program was challenged on the basis that the right of admission to West Point is governed by statute. These actions resulted in decisions upholding the constitutionality of the Honor Code.

### Environmental Litigation:

In Central California, the Kaiser Steel Corporation failed to comply with a consent decree enforcing the air pollution emission regulations of the Clean Air Act. After an EPA inspection which showed numerous

violations of the consent decree, an amended decree provided for a \$1,000,000 payment to the U.S., as well as a commitment by Kaiser to spend an additional \$5,000,000 to establish greater control of its coke ovens and an additional \$10,000,000 for emission control equipment.

The first enforcement action was taken against a real estate developer for filling some of the last remaining unspoiled wetlands along the New Jersey coast. After a temporary restraining order halted the filling activity, a consent judgment was entered which required the defendants to remove the fill and restore the damaged wetlands to their original condition. The successful outcome of this case sets the pattern for control of other real estate development operations along the New Jersey coast.

Another case in New Jersey marked one of the first prosecutions in the nation of an automobile dealer for tampering with automobile emission control services. The dealer was enjoined from further violations and fined \$2,500.

A pipeline transporting liquid chemical fertilizer throughout Eastern Illinois experienced leaks causing the fertilizer to seep into ponds, lakes, and rivers, killing the fish. Settlement was reached, with the pipeline agreeing to \$50,000 in damages and responsibility for any additional spill that occurs.

The U.S. Attorney in Eastern Arkansas successfully prosecuted the plant superintendent of the Little Rock Sewer Treatment Plant for submitting false statements to EPA on monthly discharge reports. According to EPA, this is a case of first impression.

### U.S. ATTORNEYS FINANCIAL SUMMARY—FISCAL YEAR ENDED SEPT. 30, 1977—PART 1—IMPOSED

Judicial district	Fines	Forfeitures	Penalties	Foreclosures	Other civil judgments	Bonds forfeited	Total	Prejudgment civil claims
<b>Alabama:</b>								
Northern.....	226,024.00	0	0	0	406,689.44	0	632,713.44	1,364,430.59
Middle.....	22,322.00	0	0	0	55,762.00	200.00	78,284.00	309.00
Southern.....	23,861.00	31,250.00	17,000.00	0	27,885.00	210,000.00	309,996.00	14,576.00
Alaska.....	51,596.00	0	0	0	34,965.00	0	86,561.00	991,547.00
Arizona.....	542,197.00	5,207.00	8,400.00	9,316,776.00	173,354.00	437,681.00	10,483,615.00	1,205,578.00
<b>Arkansas:</b>								
Eastern.....	282,420.00	16,839.08	163.58	911,998.37	677,433.77	0	1,888,854.80	345,020.46
Western.....	47,355.00	0	865.00	922,347.68	523,592.07	0	1,494,159.75	144,043.82
<b>California:</b>								
Northern.....	251,682.39	370,887.41	57,293.40	352,209.39	1,232,858.88	26,600.00	2,291,531.47	1,338,631.73
Central.....	1,190,851.88	96,000.00	78,413.72	0	20,789,750.50	268,900.00	22,423,916.10	59,934,805.89
Eastern.....	46,150.00	0	0	0	50,610.86	0	96,760.86	800,892.45
Southern.....	457,616.00	260,205.46	7,680.00	0	478,997.83	412,500.00	1,617,000.31	142,918.54
Colorado.....	98,335.00	173.00	5,500.00	0	778,509.00	0	882,517.00	1,956,435.00
Connecticut.....	188,416.00	3,063.00	1,900.00	3,068,962.34	120,818.62	10,035.00	3,393,194.96	2,215,132.96
Delaware.....	76,066.20	1,700.38	1,000.00	342,869.61	117,630.09	0	539,266.28	1,950.00
District of Columbia.....	64,727.00	0	600.00	0	379,262.82	0	444,589.82	625,462.34
<b>Florida:</b>								
Northern.....	28,643.00	0	500.00	637,952.75	27,385.95	0	694,481.70	25,724.82
Middle.....	262,090.00	103.00	25,883.00	8,678,792.00	572,337.00	90,000.00	9,629,205.00	1,677,104.00
Southern.....	659,380.00	5,119.00	52,472.00	4,323,197.00	1,263,389.00	476,250.00	6,779,807.00	985,750.00
<b>Georgia:</b>								
Northern.....	347,051.00	43,831.50	213,428.27	936,837.31	585,360.07	179,731.00	2,306,239.15	566,534.46
Middle.....	65,029.00	0	0	0	97,597.85	0	160,626.85	198,132.43
Southern.....	250,985.39	10,674.33	0	0	208,676.48	1,500.00	471,836.20	1,655,237.91
Hawaii.....	47,085.00	0	0	0	78,022.00	0	125,107.00	21,496.00
Idaho.....	82,985.00	450.31	9,784.60	650,411.11	32,574.30	20,000.00	796,205.32	2,309,784.94
<b>Illinois:</b>								
Northern.....	1,604,000.00	273,243.60	133,895.00	24,941,624.22	670,225.75	218,107.92	27,841,096.49	72,660,277.67
Eastern.....	34,835.00	0	0	383,173.77	28,594.00	0	446,602.77	0
Southern.....	54,690.00	0	0	32,368.00	279,222.00	5,000.00	371,280.00	534,538.00
<b>Indiana:</b>								
Northern.....	3,154,890.00	0	250,796.26	6,048,388.99	191,247.33	0	9,645,322.58	6,166,006.24
Southern.....	115,669.00	12,872.00	2,645.00	9,806,297.00	2,032,777.00	5,000.00	11,975,260.00	3,972,038.00
<b>Iowa:</b>								
Northern.....	198,890.00	0	5,500.00	117,921.00	87,039.00	0	409,350.00	1,214,104.00
Southern.....	51,522.36	7,288.76	50,791.90	180,202.73	229,015.12	0	518,820.87	2,961,113.68
Kansas.....	37,917.00	24,000.00	64,526.61	1,251,616.83	1,013,710.57	0	2,391,762.01	1,707,779.06
Kentucky.....	1,270,246.00	0	196,253.00	26,670.00	401,958.59	16,500.00	1,911,627.59	307,329.00
Western.....	595,982.50	5,570.40	110,329.24	349,853.20	68,158.41	22,000.00	1,151,893.75	1,924,998.76
<b>Louisiana:</b>								
Eastern.....	253,205.00	0	108,516.00	764,487.00	4,099,721.00	0	5,225,929.00	4,576,986.00
Middle.....	39,030.00	1,325.00	0	746,723.62	1,952.20	17,500.00	806,530.82	634,057.81
Western.....	157,170.00	0	125,800.00	2,123,193.00	1,664,798.00	2,500.00	5,073,461.00	6,269,516.00
Maine.....	118,880.00	0	45,300.00	0	20,171,203.68	1,000.00	20,336,383.68	1,624,715.95
Maryland.....	272,232.07	0	9,959.48	2,878,296.16	890,955.04	63,500.00	4,114,942.75	820,272.49

**U.S. ATTORNEYS FINANCIAL SUMMARY—FISCAL YEAR ENDED SEPT. 30, 1977—PART 1—IMPOSED—Continued**

Judicial district	Fines	Forfeitures	Penalties	Foreclosures	Other civil judgments	Bonds forfeited	Total	Prejudgment civil claims
Massachusetts.....	727,475.00	59,955.00	36,200.00	3,136,683.00	1,194,335.00	12,500.00	5,167,148.00	3,392,819.00
Michigan:								
Eastern.....	418,620.00	2,086.96	10,242.80	39,848.24	1,655,116.91	183,100.00	2,309,014.91	368,840.44
Western.....	64,950.00	0	5,979.70	29,578.71	116,587.93	0	217,096.34	952,842.81
Minnesota.....	176,105.00	5,500.00	0	0	1,938,078.49	0	2,119,683.49	0
Mississippi:								
Northern.....	42,106.30	0	2,488.90	774.36	342,135.14	0	387,504.70	395,400.99
Southern.....	58,950.00	10,789.25	0	0	539,811.24	0	609,550.49	0
Missouri:								
Eastern.....	127,609.50	6,071.83	341,338.48	0	615,288.67	5,000.00	1,095,308.48	1,123,757.09
Western.....	62,271.00	1,963.58	13,694.56	0	700,905.20	11,800.00	790,634.34	2,256,362.43
Montana.....	20,160.00	0	14,124.34	180,098.93	47,833.17	150.00	262,366.44	684,414.60
Nebraska.....	49,331.50	0	578.44	280,546.37	683,369.00	0	1,013,825.31	0
Nevada.....	62,305.00	75,000.00	0	0	4,160.97	50,000.00	191,465.97	4,369.07
New Hampshire.....	20,000.00	0	0	0	0	0	20,000.00	0
New Jersey.....	1,164,610.00	499.24	536,750.00	6,830,740.94	1,386,106.83	0	9,918,707.01	1,169,238.83
New Mexico.....	153,950.00	42,000.00	0	102,204.00	85,653.00	20,025.00	403,832.00	211,325.00
New York:								
Northern.....	52,000.00	136.97	39,305.44	161,172.33	285,326.17	0	537,940.91	417,775.77
Eastern.....	1,186,037.75	0	0	12,608,867.00	489,922.21	0	14,284,826.96	1,118,524.00
Southern.....	1,431,650.00	0	0	0	588,620.69	5,500.00	2,025,770.69	3,693,189.01
Western.....	203,635.00	47,800.00	35,086.00	2,355,333.00	442,301.00	12,500.00	3,086,655.00	2,685,781.00
North Carolina:								
Eastern.....	328,606.03	75,010.50	6,924.99	0	189,956.83	0	600,498.35	119,927.59
Middle.....	300,107.00	0	0	0	3,472.00	0	303,579.00	293,165.00
Western.....	228,095.00	0	8,591.00	0	40,212.57	1,000.00	277,898.57	65,903.98
North Dakota.....	19,215.00	500.00	4,186.29	272,507.35	180,410.03	200.00	477,018.67	961,063.46
Ohio:								
Northern.....	230,510.00	0	750.00	3,200,716.85	1,405,464.30	0	4,837,441.15	6,997,380.75
Southern.....	33,050.00	0	2,824.00	11,306,232.47	360,614.38	0	11,702,720.85	695,358.60
Oklahoma:								
Northern.....	66,750.00	0	750.00	809,049.71	0	0	876,549.71	27,705.82
Eastern.....	30,654.34	7,584.00	8,182.00	480,576.35	220,723.86	0	747,720.55	27,101.39
Western.....	100,650.00	0	16,809.00	1,294,311.00	17,161.00	0	1,428,931.00	1,556.00
Oregon.....	379,245.00	19,347.50	485,172.06	949,076.44	744,465.49	500.00	13,577,806.49	1,603,957.52
Pennsylvania:								
Eastern.....	583,822.55	0	0	5,010,533.94	2,873,299.86	0	8,467,656.35	1,850,174.37
Middle.....	190,596.00	0	0	7,500.00	2,645,649.00	0	2,843,745.00	0
Western.....	530,256.98	0	0	8,144,548.96	743,359.02	16,700.00	9,434,864.96	71,892.90
Puerto Rico.....	0	0	0	0	0	0	0	0
Rhode Island.....	61,520.00	0	61,560.00	0	233,036.00	20,000.00	376,116.00	974,254.00
South Carolina.....	351,986.07	0	22,186.03	6,273,492.57	430,574.32	5,000.00	7,083,238.99	5,384,379.36
South Dakota.....	23,124.00	0	0	0	8,113.00	0	31,237.00	5,789.00
Tennessee:								
Eastern.....	74,027.00	0	105,143.00	357,681.00	410,671.94	0	947,522.94	2,376,933.12
Middle.....	129,070.00	0	0	0	52,711.30	300.00	182,081.30	129,781.49
Western.....	201,310.50	30.00	1,478.02	0	311,468.90	10,000.00	524,287.42	176,431.37
Texas:								
Northern.....	293,770.00	56,024.00	112,572.00	34,404.00	1,149,094.00	16,500.00	1,662,364.00	10,204,040.00
Eastern.....	87,825.00	0	0	0	17,763.00	0	105,588.00	74,337.96
Southern.....	1,148,672.00	12,604.77	0	0	12,081.29	0	1,173,358.06	785,204.87
Western.....	384,748.90	0	3,374.00	0	117,825.74	82,750.00	588,698.64	0
Utah.....	83,080.00	0	92,015.00	323,752.71	574,736.31	10,000.00	1,083,584.02	828,743.09
Vermont.....	33,607.00	0	0	139,372.00	0	0	172,979.00	69,405.00
Virginia:								
Eastern.....	17,276,010.00	2,500.00	11,519.00	0	584,448.00	20,000.00	17,894,477.00	1,960,415.00
Western.....	51,250.26	0	23,177.76	0	110,342.39	0	184,770.41	15,656.00
Washington:								
Eastern.....	63,911.00	0	0	336,011.00	92,077.00	0	491,999.00	779,848.00
Western.....	118,663.00	30,159.00	51,584.00	1,604,905.00	233,481.00	32,500.00	2,071,292.00	2,882,652.00
West Virginia:								
Northern.....	25,850.00	0	79,788.00	0	14,669.00	0	120,307.00	106,231.72
Southern.....	94,000.00	0	229,759.00	0	520,559.78	0	844,318.78	507,956.21
Wisconsin:								
Eastern.....	146,810.00	0	2,000.00	120,940.00	20,738.33	2,000.00	292,488.33	3,143,812.16
Western.....	14,220.00	0	0	977,255.27	63,717.24	0	1,055,192.51	46,112.22
Wyoming.....	9,950.00	10,000.00	0	7,562.00	18,576.00	14,508.00	60,596.00	1,175,727.44
Canal Zone.....	3,546.00	0	0	0	0	1,564.00	5,110.00	0
Guam.....	0	0	0	0	0	0	0	0
Virgin Islands.....	1,000.00	0	0	0	0	0	1,000.00	0
<b>Total.....</b>	<b>42,991,301.47</b>	<b>1,635,366.85</b>	<b>3,951,329.87</b>	<b>147,169,444.58</b>	<b>86,061,055.72</b>	<b>3,018,601.92</b>	<b>296,827,100.41</b>	<b>246,733,108.43</b>

**U.S. ATTORNEYS FINANCIAL SUMMARY—FISCAL YEAR ENDED SEPT. 30, 1977—PART 2—COLLECTED**

Judicial district	Fines	Forfeitures	Penalties	Foreclosures	Other civil judgments	Bonds forfeited	Total	Prejudgment civil claims
<b>Alabama:</b>								
Northern.....	221,473.67	0	0	0	651,901.47	0	873,375.14	376,069.96
Middle.....	33,493.00	0	0	0	32,680.00	540.00	66,713.00	19,635.00
Southern.....	38,581.00	29,750.00	14,500.00	0	70,738.00	10,000.00	163,569.00	13,080.00
<b>Alaska:</b>								
.....	42,999.00	0	0	0	34,965.00	1,000.00	78,964.00	991,333.00
<b>Arizona:</b>								
.....	178,236.00	5,207.00	1,500.00	8,475,816.00	27,545.00	325,116.00	9,013,420.00	585,562.00
<b>Arkansas:</b>								
Eastern.....	57,593.00	5,633.08	5,985.73	595,270.13	84,075.05	0	748,556.99	422,483.63
Western.....	27,380.00	0	1,086.00	665,054.68	2,200.85	0	695,721.53	99,756.89
<b>California:</b>								
Northern.....	305,679.14	147,015.47	4,273.68	34,469.51	567,246.09	43,700.00	1,102,383.89	420,568.21
Central.....	494,963.64	93,015.71	130,697.23	135,135.73	18,166,486.71	119,512.48	19,129,811.50	1,419,025.77
Eastern.....	66,188.63	0	0	0	56,081.28	0	122,269.91	82,060.67
Southern.....	285,018.12	260,206.48	15,646.32	0	36,305.06	287,287.72	884,463.70	269,985.39
<b>Colorado:</b>								
.....	91,142.00	4,297.00	19,916.00	0	243,112.00	0	358,467.00	872,231.00
<b>Connecticut:</b>								
.....	95,380.00	3,063.00	1,239.50	699,985.98	35,467.88	2,000.00	837,136.36	697,154.83
<b>Delaware:</b>								
.....	30,548.46	0	5,900.00	252,065.99	41,988.74	0	330,503.19	15,283.04
<b>District of Columbia:</b>								
.....	37,119.33	0	0	0	55,257.89	0	92,377.22	23,923.13
<b>Florida:</b>								
Northern.....	29,643.00	0	325.00	637,951.76	31,000.95	0	698,920.71	45,046.68
Middle.....	213,965.00	852.00	34,494.00	11,470,825.00	105,621.00	30,600.00	11,856,357.00	410,316.00
Southern.....	198,399.00	5,483.00	17,800.00	5,159,738.00	194,028.00	155,750.00	5,731,198.00	965,015.00
<b>Georgia:</b>								
Northern.....	195,814.59	25,323.14	45,080.28	662,993.31	207,741.27	77,950.39	1,214,902.98	320,252.65
Middle.....	30,346.00	0	0	0	51,503.75	0	81,849.75	230,140.00
Southern.....	189,609.37	2,430.23	0	0	122,165.38	0	314,204.98	468,091.60
<b>Hawaii:</b>								
.....	40,242.00	0	0	0	49,142.00	0	89,384.00	6,123.00
<b>Idaho:</b>								
.....	79,032.72	4,460.31	9,882.50	1,414,369.52	31,177.95	10,500.00	1,549,423.00	698,910.51
<b>Illinois:</b>								
Northern.....	844,663.71	48,731.34	23,160.00	439,862.78	232,989.21	22,775.00	1,612,182.04	516,727.77
Eastern.....	23,931.30	0	0	204,457.02	58,997.40	0	287,385.72	107,907.05
Southern.....	54,850.00	0	1,000.00	57,020.00	1,040,984.00	0	1,153,854.00	64,534.00
<b>Indiana:</b>								
Northern.....	128,756.74	0	6,609.00	4,775,260.55	49,289.14	0	4,959,915.43	545,820.97
Southern.....	77,891.00	27,551.00	8,720.00	14,688,911.00	254,857.00	2,500.00	15,060,430.00	555,395.00
<b>Iowa:</b>								
Northern.....	104,121.00	0	5,075.00	62,456.00	19,327.00	0	190,979.00	211,582.00
Southern.....	45,266.17	5,175.76	4,812.60	140,524.85	18,915.90	160.00	214,855.28	1,503,187.20
<b>Kansas:</b>								
.....	103,985.06	4,000.10	20,578.72	695,499.53	210,556.28	0	1,034,619.69	1,082,938.16
<b>Kentucky:</b>								
Eastern.....	292,286.00	0	3,591.00	10,523.00	509,221.80	0	815,621.80	249,685.97
Western.....	478,933.50	5,570.40	97,581.32	261,249.09	15,249.41	1,500.00	860,083.72	583,464.45
<b>Louisiana:</b>								
Eastern.....	192,278.00	0	107,120.00	6,874,607.00	93,493.00	0	7,267,498.00	379,608.00
Middle.....	49,023.95	1,325.00	3,000.00	402,764.88	136,331.17	250.00	592,695.00	26,924.25
Western.....	136,407.00	0	90,096.00	1,881,700.00	77,388.00	2,500.00	2,188,091.00	602,619.00
<b>Maine:</b>								
.....	98,850.00	0	45,300.00	0	11,622.75	10.00	155,782.75	692,361.98
<b>Maryland:</b>								
.....	91,792.38	1,080.00	8,554.27	981,389.79	258,769.62	20,000.00	1,361,586.06	92,914.24
<b>Massachusetts:</b>								
.....	635,143.00	59,955.00	20,948.00	3,681,877.00	451,158.00	2,500.00	4,851,581.00	2,460,491.00
<b>Michigan:</b>								
Eastern.....	386,590.51	2,286.96	10,000.00	14,265.68	87,866.97	2,642.28	503,652.40	984,068.98
Western.....	38,065.02	0	8,755.50	0	81,491.53	0	128,312.05	244,448.34
<b>Minnesota:</b>								
.....	113,047.22	5,000.00	0	0	107,738.57	0	225,75.79	775,754.14
<b>Mississippi:</b>								
Northern.....	34,048.67	0	422.00	5,403.26	205,647.23	0	246,521.16	199,553.03
Southern.....	53,802.10	10,789.25	0	0	186,703.72	0	251,295.07	381,347.36
<b>Missouri:</b>								
Eastern.....	65,112.48	6,071.83	336,860.10	0	274,884.17	6,350.00	689,278.58	227,752.08
Western.....	62,943.80	1,963.58	14,946.91	0	85,734.90	3,112.00	163,701.19	582,641.35
<b>Montana:</b>								
.....	22,768.32	0	2,367.54	116,861.91	73,580.97	150.00	215,728.74	492,092.18
<b>Nebraska:</b>								
.....	97,531.71	10.00	937.20	189,832.62	361,937.88	280.00	650,529.41	786,758.86
<b>Nevada:</b>								
.....	143,152.00	25,000.00	0	0	5,075.59	50,150.00	223,377.59	3,255.00
<b>New Hampshire:</b>								
.....	48,117.00	0	0	290.14	1,178.69	0	49,585.83	1,486.31
<b>New Jersey:</b>								
.....	544,571.45	125.96	11,680.00	5,402,414.45	279,609.64	0	6,238,401.50	1,169,688.72
<b>New Mexico:</b>								
.....	41,170.00	2,500.00	0	174,632.00	205,726.00	2,025.00	426,053.00	219,877.00
<b>New York:</b>								
Northern.....	42,810.00	136.97	38,405.44	70,379.39	207,934.10	0	359,665.90	147,188.34
Eastern.....	685,228.27	62,500.00	6,810.58	321,155.77	663,833.39	0	1,739,528.01	1,501,050.71
Southern.....	1,093,502.15	0	0	0	527,059.92	113,930.00	1,734,492.07	8,340,955.28
Western.....	111,259.00	14,226.00	2,648.00	2,637,354.00	92,339.00	1,000.00	2,858,826.00	745,255.00

U.S. ATTORNEYS FINANCIAL SUMMARY—FISCAL YEAR ENDED SEPT. 30, 1977—PART 2—COLLECTED—Continued

Judicial district	Fines	Forfeitures	Penalties	Foreclosures	Other civil judgments	Bonds forfeited	Total	Prejudgment civil claims
North Carolina:								
Eastern.....	142,951.37	107,010.50	1,906.11	0	101,792.13	0	353,660.11	9,313.04
Middle.....	65,426.00	0	0	0	255,126.00	0	320,552.00	26,796.00
Western.....	176,296.30	0	8,932.43	0	57,473.82	1,000.00	243,702.55	53,046.83
North Dakota.....	26,821.50	0	3,000.00	281,906.54	108,520.58	200.00	420,448.62	367,698.10
Ohio:								
Northern.....	202,151.67	0	250.00	2,112,189.56	344,938.79	0	2,659,530.02	307,142.63
Southern.....	56,075.00	0	3,589.50	7,755,579.29	138,923.76	0	7,954,167.55	518,297.24
Oklahoma:								
Northern.....	25,461.00	0	2,868.45	875,724.02	37,911.97	0	941,965.44	11,154.08
Eastern.....	34,969.70	125.00	6,482.00	1,069,986.24	16,379.59	0	1,127,942.53	2,486.67
Western.....	40,245.00	0	10,399.00	11,065,859.00	179,682.00	3,000.00	11,299,185.00	498,557.60
Oregon.....	149,448.45	10,920.92	75,933.06	1,143,866.39	773,845.68	30.00	2,154,044.50	1,306,958.94
Pennsylvania:								
Eastern.....	257,468.13	0	0	1,822,656.84	242,910.47	0	2,323,035.44	90,983.06
Middle.....	218,400.00	0	0	104,550.00	49,267.00	0	372,217.00	17,170.00
Western.....	191,894.53	0	25,613.01	258,113.79	225,880.01	0	701,501.34	179,302.58
Puerto Rico.....	26,102.00	10,500.00	107,300.00	145,850.61	219,520.32	0	509,272.93	639,411.45
Rhode Island.....	58,163.00	0	63,401.80	0	39,671.42	25.00	161,261.22	229,796.88
South Carolina.....	198,135.21	0	25,791.58	4,703,253.42	45,719.66	5,350.00	4,978,249.87	2,641,303.63
South Dakota.....	25,909.00	0	0	3,800.00	56,378.75	0	126,087.75	864,788.00
Tennessee:								
Eastern.....	56,018.00	0	37,504.75	0	421,477.71	0	515,000.46	374,305.58
Middle.....	48,903.17	0	0	0	118,492.80	1,340.00	168,735.97	50,666.47
Western.....	110,181.48	0	2,893.00	0	96,763.74	15,015.00	224,853.22	31,038.38
Texas:								
Northern.....	203,489.00	42,716.00	20,442.00	0	423,410.00	7,680.00	697,737.00	2,046,181.00
Eastern.....	64,565.09	0	2,500.00	50,780.10	117,598.10	0	235,443.29	222,376.16
Southern.....	580,563.33	17,679.77	0	0	1,198,550.82	112,416.08	1,909,210.00	782,204.87
Western.....	172,614.70	25.00	5,378.20	0	124,597.26	34,039.10	336,654.26	189,740.73
Utah.....	7,338.91	666.80	89,760.00	129,864.96	331,264.77	10,000.00	568,895.44	215,079.50
Vermont.....	41,181.00	1,167.00	0	263,472.00	0	0	305,820.00	241,519.09
Virginia:								
Eastern.....	5,098,184.00	0	3,626.00	0	271,858.00	15,000.00	5,388,668.00	550,126.00
Western.....	36,493.00	0	15,727.47	0	7,676.93	100.00	59,997.40	189,311.49
Washington:								
Eastern.....	58,911.00	0	0	410,357.00	47,245.00	0	516,513.00	437,280.60
Western.....	95,789.00	32,766.00	50,203.00	977,402.00	125,742.00	5,000.00	1,286,902.00	404,490.00
West Virginia:								
Northern.....	18,530.00	0	20,640.00	0	66,715.21	0	105,885.21	14,025.64
Southern.....	114,274.46	0	224,769.09	0	25,125.84	25.00	364,194.39	291,794.71
Wisconsin:								
Eastern.....	113,688.50	0	3,838.69	194,282.17	176,889.66	0	488,699.02	428,618.03
Western.....	14,300.00	0	0	850,252.99	70,467.97	0	935,020.96	43,470.99
Wyoming.....	6,681.00	75.00	5,406.00	35,033.00	127,906.00	300.00	175,401.00	238,652.00
Canal Zone.....	3,546.00	0	0	0	0	1,564.00	5,110.00	0
Guam.....	0	0	0	0	0	0	0	0
Virgin Islands.....	0	0	0	0	0	0	0	0
<b>Total.....</b>	<b>18,665,914.68</b>	<b>1,084,387.56</b>	<b>2,006,460.56</b>	<b>108,549,147.24</b>	<b>34,472,647.03</b>	<b>1,507,875.05</b>	<b>166,286,432.11</b>	<b>50,446,467.6</b>

**CRIMINAL CASES AND DEFENDANTS IN U.S. DISTRICT COURT BY OFFENSE—FISCAL YEAR 1977**

Offense	Filed <sup>1</sup>	Terminated <sup>2</sup>	Defendants		Dispositions of defendants in terminated cases				
			Filed <sup>1</sup>	Terminated <sup>2</sup>	Guilty	Not guilty <sup>3</sup>	Dis-missed <sup>4</sup>	Rule 20	Other <sup>5</sup>
Accessory after the fact.....	36	34	50	46	32	1	10	2	1
Alders and abettors.....	158	161	354	422	280	21	91	12	18
Animal health:									
Quarantine.....	22	23	42	39	28	2	9	0	0
Transportation of research animals.....	1	0	1	0	0	0	0	0	0
Antigambling.....	126	158	405	577	286	29	161	1	100
Antiracketeering.....	208	222	411	482	184	26	136	13	123
Antiriot laws.....	5	7	6	8	3	0	2	1	2
Antitrust.....	26	26	137	129	81	1	28	0	8
Bail.....	424	453	431	460	240	1	160	36	23
Bank robbery.....	1,833	2,086	2,407	2,796	1,836	65	398	116	381
Bankruptcy.....	26	27	35	31	16	2	9	1	3
Banks and banking.....	1,298	1,339	1,468	1,485	1,159	31	197	56	42
Betrayal of office.....	48	43	54	48	20	3	22	3	0
Bribery.....	219	258	257	329	209	32	72	-2	14
Carriers and transportation:									
Air carriers and aviation.....	43	59	50	64	30	1	15	7	11
Motor commercial vehicles.....	106	128	110	137	113	2	17	5	0
Navigation and navigable waters.....	10	8	14	9	4	1	4	0	0
Railroads and pipeline carriers.....	11	10	18	18	15	1	0	1	1
Shipping (including crimes on/over the high seas).....	2,253	2,339	2,538	2,721	2,110	113	379	31	88
Transportation of specific items:									
Explosives.....	33	36	41	43	37	1	2	1	2
Prison made goods.....	0	1	0	1	1	0	0	0	0
Citizenship and nationality.....	148	153	154	164	140	1	18	2	3
Civil rights.....	60	49	126	112	64	13	22	0	13
Communications.....	68	70	75	76	64	3	5	2	2
Conflict of interest.....	3	2	3	2	2	0	0	0	0
Conservation and control of Federal lands and resources.....	158	135	223	168	85	11	61	1	10
Conservation of natural resources:									
Birds.....	522	609	669	767	657	33	70	2	5
Endangered species.....	8	7	9	10	5	0	5	0	0
Fishing violations.....	45	37	50	40	37	0	3	0	0
Game.....	5	7	6	9	5	1	3	0	0
Pollution.....	22	25	35	33	25	1	6	0	1
Conspiracy.....	839	816	1,996	2,051	1,236	80	453	67	215
Consumer protection:									
Agriculture:									
Agricultural Adjustment Act.....	0	1	0	2	0	0	1	1	0
Federal Insecticide, etc. Act.....	1	1	1	1	0	1	0	0	0
Packers and Stockyards Act.....	0	2	0	2	1	0	1	0	0
Seed Act.....	3	4	3	4	3	0	1	0	0
Federal Trade Commission, and commercial regulations: Federal hazardous labeling.....	1	1	2	2	2	0	0	0	0
Miscellaneous food:									
Meat Inspection Act.....	26	16	46	32	22	0	10	0	0
Poultry inspection.....	1	0	3	1	1	0	0	0	0
Other protection:									
Consumer Credit Protection Act.....	64	70	79	83	57	1	12	10	3
Mail and wire fraud.....	30	35	39	59	43	1	9	2	4
Securities frauds:									
Investment Advisers Act of 1940.....	4	2	6	2	2	0	0	0	0
Securities Exchange Act of 1934.....	44	29	76	40	29	1	6	2	2
Securities frauds.....	31	35	87	68	32	3	17	1	15
Contempt.....	74	73	94	106	54	10	24	0	18
Controlled substances.....	5,076	5,691	9,489	10,414	6,205	290	2,540	261	1,118
Copyright.....	93	80	128	108	84	4	18	1	1
Counterfeiting-misuse of money stamps.....	844	875	1,166	1,166	833	22	170	63	78
Crimes affecting the mails.....	3,119	3,275	3,548	3,723	3,076	38	438	96	75
Crimes affecting the military/merchant marine.....	3	4	3	4	4	0	0	0	0
Crimes by and against Indians.....	12	24	14	27	17	1	8	0	1
Customs: Customs laws.....	232	219	320	309	209	11	68	15	6
Elections and political activities.....	29	32	36	38	21	3	10	3	1
Embezzlement.....	143	143	162	163	139	3	14	3	4
Escape.....	748	745	816	816	644	12	82	49	29
Espionage and censorship.....	3	1	4	1	1	0	0	0	0
Extortion.....	128	130	158	157	79	13	29	8	28
Federal custody.....	89	83	100	103	72	11	8	1	11
Food, Drug, and Cosmetic Act.....	23	21	62	47	38	0	7	1	1
Foreign Agent Registration Act.....	2	0	5	1	1	0	0	0	0
Foreign policy impairment.....	3	3	3	3	1	0	2	0	0
Foreign relations.....	0	1	0	1	1	0	0	0	0

CRIMINAL CASES AND DEFENDANTS IN U.S. DISTRICT COURT BY OFFENSE—FISCAL YEAR 1977—Continued

Offense	Filed <sup>1</sup>	Termi- nated <sup>2</sup>	Defendants		Dispositions of defendants in terminated cases					
			Filed <sup>1</sup>	Termi- nated <sup>2</sup>	GUILTY	Not guilty <sup>3</sup>	Dis- missed <sup>4</sup>	Rule 20	Other <sup>5</sup>	
Forgery and misuse of official insignia and documents.....	17	22	18	24	17	0	5	0	1	
Fraud against the Government.....	2,757	2,687	3,279	3,141	2,402	59	463	145	72	
Injury to or interference with Government property.....	42	46	55	56	36	2	16	1	1	
Immigration.....	1,339	1,273	1,664	1,552	1,240	20	246	13	33	
Impersonation.....	44	48	48	56	34	2	11	5	4	
Income tax.....	1,486	1,616	1,631	1,792	1,387	58,	191	46	110	
Integrity of Federal programs:										
Bankhead-Jones Farm Tenant Act.....	3	1	3	1	0	0	1	0	0	
Commodity Credit Corporation Charter Act.....	3	4	4	4	2	0	0	0	2	
Economic Opportunity Amendments of 1967.....	2	5	2	5	2	1	2	0	0	
Food stamp program.....	101	104	128	130	95	5	27	0	3	
Kickbacks public works employees.....	2	2	2	2	1	0	1	0	0	
Motor vehicle emission standards.....	0	0	0	1	1	0	0	0	0	
Small Business Act.....	8	9	8	10	3	1	6	0	0	
Social Security Act.....	51	55	55	56	36	2	17	1	0	
Interference with Government officers.....	306	279	345	311	169	27	69	6	40	
Interstate land sales.....	2	0	12	0	0	0	0	0	0	
Jurisdictional statutes.....	806	872	831	915	557	40	237	30	51	
Juvenile delinquency.....	116	112	136	144	115	7	20	0	2	
Kidnapping.....	12	6	12	6	4	0	2	0	0	
Labor laws.....	91	93	132	138	92	1	41	0	4	
Liquor statutes:										
Indian liquor laws.....	420	476	559	652	395	24	205	4	24	
Internal Revenue Service liquor violations.....	118	149	148	192	147	6	23	2	14	
Magistrate trials.....	10	11	10	11	8	0	2	0	1	
Misprison of felony.....	77	81	109	111	101	0	9	1	0	
Motor vehicle theft.....	1,026	1,258	1,359	1,545	1,069	32	188	153	103	
Obscene or harassing telephone calls.....	3	3	3	3	0	0	2	0	1	
Obscenity.....	40	51	71	121	57	10	39	4	11	
Obstruction of justice.....	122	132	158	162	106	8	32	3	13	
Occupational tax on gamblers.....	12	20	25	33	22	0	2	1	8	
Other crimes of violence.....	256	271	298	321	186	22	70	3	40	
Other stolen property.....	1,068	1,311	1,465	1,696	1,050	31	302	225	88	
Passports and visas.....	166	143	178	152	107	0	30	10	5	
Perjury.....	161	193	167	205	109	13	45	2	36	
Probation.....	4	13	4	14	8	1	4	1	0	
Prostitution.....	16	23	26	37	17	1	8	0	11	
Protection of working men:										
Employees compensation.....	0	1	0	1	1	0	0	0	0	
Fair Labor Standards Act.....	0	0	0	1	1	0	0	0	0	
Railway Labor Act.....	1	0	4	0	0	0	0	0	0	
Railroad Unemployment Insurance Act.....	5	7	5	7	4	0	3	0	0	
Unemployment compensation Federal employees.....	94	72	99	76	57	1	17	1	0	
Sabotage.....	1	1	1	1	0	0	0	0	1	
Selective Service.....	122	2,289	122	2,290	21	1	2,248	8	12	
Theft of Government property.....	723	731	869	892	629	20	165	36	42	
Veterans claims.....	34	30	35	31	6	0	25	0	0	
Weapons control.....	2,960	2,988	3,409	3,368	2,288	101	617	93	269	
Wrongful acts.....	4	3	4	3	3	0	0	0	0	
All other.....	1,083	907	1,491	1,231	852	61	209	31	78	
Total.....	36,054	40,131	48,666	53,425	34,874	1,513	11,632	1,759	3,647	

See footnotes at end of table.

CRIMINAL CASES AND DEFENDANTS IN U.S. DISTRICT COURT BY OFFENSE—FISCAL YEAR 1977—Continued

Offense	Filed <sup>1</sup>	Termi- nated <sup>2</sup>	Defendants		Dispositions of defendants in terminated cases				
			Filed <sup>1</sup>	Termi- nated <sup>2</sup>	Guilty	Not guilty <sup>3</sup>	Dis- missed <sup>4</sup>	Rule 20	Other <sup>5</sup>
District of Columbia and territorial violations									
Arson.....	8	8	9	8	2	1	0	0	5
Assault.....	125	126	130	130	34	5	16	0	75
Bribery—obstruction of justice.....	10	8	11	9	3	0	4	0	2
Child stealing.....	141	145	164	171	88	2	22	0	59
Children offenses.....	4	3	4	3	1	0	0	0	2
Conspiracy.....	2	2	9	9	9	0	0	0	0
Crimes against public offices, officers.....	7	7	7	7	7	0	0	0	0
Criminal intent for crime offenses.....	8	6	9	6	5	0	1	0	0
Disorderly conduct.....	6	4	6	4	3	0	1	0	0
Embezzlement.....	13	12	15	13	7	0	4	0	2
Exclusion and deportation.....	15	16	15	16	13	0	2	0	1
Escape and rescue.....	18	22	18	23	19	0	3	0	1
False personation/false pretense.....	3	6	3	6	2	0	0	0	4
Forgery.....	22	18	22	18	4	0	3	0	11
Fraud and false statements.....	19	20	22	22	10	0	12	0	0
Gambling.....	1	3	1	3	0	0	0	0	3
Health and safety.....	1	1	1	1	1	0	0	0	0
Homicide.....	111	100	113	100	14	0	0	0	86
Implement of crimes.....	2	6	2	6	0	0	0	0	6
Kidnaping.....	10	9	10	9	1	0	0	0	8
Larceny.....	98	94	111	106	42	3	21	0	40
Libel.....	1	1	1	1	0	0	0	0	1
Miscellaneous.....	15	11	15	11	0	0	0	0	11
Motor vehicle violations.....	14	13	17	17	11	1	3	0	2
Narcotic drugs.....	55	50	67	60	17	2	14	0	27
Obscenity.....	1	3	1	3	0	0	0	0	3
Perjury.....	1	2	1	2	0	0	2	0	0
Prevention of crimes.....	10	10	12	12	9	2	1	0	0
Prison breach.....	1	3	1	3	0	0	0	0	3
Prostitution—pandering.....	6	9	6	9	0	0	0	0	9
Robbery.....	65	80	67	83	20	1	3	0	59
Sex offenses.....	40	37	41	38	8	0	5	0	25
Traffic violations.....	13	18	13	18	16	1	1	0	0
Trespass—injuries to property.....	12	17	13	18	1	0	3	0	14
Vagrancy.....	2	1	2	1	1	0	0	0	0
Weapons control.....	145	177	145	177	4	0	6	0	167
All other.....	62	50	80	67	26	3	17	0	21
Totals.....	1,067	1,098	1,164	1,190	378	21	144	0	647
Grand total.....	37,121	41,229	49,830	54,615	35,252	1,534	11,776	1,759	4,294

<sup>1</sup> Excludes 1,331 cases or 1,423 defendants initiated by transfer under Rule 20.

<sup>2</sup> Includes 1,385 cases or 1,759 defendants terminated by transfer under Rule 20 and 1,552 cases or 2,814 defendants dismissed because of superseding indictments or informations.

<sup>3</sup> Includes 5 verdicts of not guilty by reason of insanity involving 6 defendants.

<sup>4</sup> Includes 374 appellate defendants dismissed in favor of the United States.

<sup>5</sup> Includes defendants involved in appellate decisions and proceedings suspended indefinitely by court.



**CRIMINAL AND CIVIL CASES HANDLED BY U.S. ATTORNEYS IN U.S. DISTRICT AND APPELLATE COURTS AND STATE COURTS. FISCAL YEAR ENDED SEPT. 30, 1977**

Judicial district	Criminal cases in U.S. district and appellate courts				Criminal defendants in U.S. district and appellate courts				Civil cases in U.S. district and appellate courts and state courts			
	Pending Oct. 1, 1976 <sup>1</sup>	Filed <sup>2</sup>	Terminated <sup>3</sup>	Pending Sept. 30, 1977	Pending Oct. 1, 1976 <sup>1</sup>	Filed <sup>2</sup>	Terminated <sup>3</sup>	Pending Sept. 30, 1977	Pending Oct. 1, 1976 <sup>1</sup>	Filed	Terminated	Pending Sept. 30, 1977
Alabama:												
Northern.....	200	559	608	151	231	769	806	194	541	624	593	572
Middle.....	33	209	210	32	39	265	269	35	76	186	137	125
Southern.....	71	157	169	59	88	275	261	102	73	125	71	127
Alaska.....	135	182	193	124	181	223	223	181	209	100	90	219
Arizona.....	1,178	1,269	1,167	1,280	1,532	1,957	1,811	1,678	669	655	593	731
Arkansas:												
Eastern.....	122	291	306	107	138	369	383	124	405	354	278	481
Western.....	23	75	70	28	27	102	93	36	304	211	166	349
California:												
Northern.....	618	351	421	548	943	440	505	878	1,334	945	539	1,740
Central.....	1,736	1,586	1,765	1,557	2,153	1,945	2,174	1,924	1,688	1,876	1,550	2,014
Eastern.....	371	696	696	371	478	868	867	479	757	394	333	818
Southern.....	1,630	1,459	1,487	1,602	2,396	2,194	2,172	2,418	363	436	342	457
Colorado.....	232	468	493	207	279	595	650	224	544	523	458	609
Connecticut.....	263	266	385	144	390	323	493	220	646	756	602	800
Delaware.....	60	119	128	51	63	136	147	52	174	105	105	174
District of Columbia.....	1,193	1,347	1,493	1,047	1,243	1,526	1,645	1,124	1,323	1,055	687	1,691
Florida:												
Northern.....	99	147	167	79	146	226	249	123	210	270	237	243
Middle.....	377	594	579	392	504	898	821	581	885	1,229	928	1,186
Southern.....	791	939	711	1,019	1,197	1,455	1,078	1,574	1,321	1,351	716	1,956
Georgia:												
Northern.....	411	567	683	295	608	778	964	422	917	556	416	1,057
Middle.....	97	893	899	91	131	946	953	124	150	195	159	186
Southern.....	83	1,232	1,233	82	109	1,301	1,299	111	203	186	130	259
Hawaii.....	158	115	133	140	220	144	196	168	300	155	85	370
Idaho.....	69	116	145	40	78	149	179	48	241	202	176	267
Illinois:												
Northern.....	766	791	764	793	1,122	1,123	1,170	1,075	2,631	1,144	1,171	2,604
Eastern.....	111	155	172	94	128	194	210	112	454	383	380	457
Southern.....	112	110	171	51	145	128	210	63	286	194	251	229
Indiana:												
Northern.....	283	266	408	141	356	348	536	168	416	287	296	407
Southern.....	229	181	222	188	273	253	279	247	555	503	483	575
Iowa:												
Northern.....	68	116	127	57	92	178	191	79	117	121	98	140
Southern.....	52	97	120	29	58	109	130	37	155	215	205	165
Kansas.....	179	450	478	151	224	566	600	190	540	619	592	567
Kentucky:												
Eastern.....	180	272	311	141	244	330	401	173	3,041	1,460	866	3,635
Western.....	102	425	416	111	163	598	588	173	784	545	401	928
Louisiana:												
Eastern.....	243	658	694	207	369	863	955	277	559	490	392	657
Middle.....	77	169	188	58	120	205	259	66	176	145	131	190
Western.....	142	383	469	56	153	415	505	63	438	487	492	433
Maine.....	58	90	90	58	65	110	105	70	167	241	116	292
Maryland.....	677	663	659	681	856	860	849	867	910	640	503	1,047
Massachusetts.....	516	490	572	434	701	686	785	602	990	557	365	1,182
Michigan:												
Eastern.....	1,114	1,262	1,576	800	1,584	1,684	1,969	1,299	1,074	1,160	793	1,441
Western.....	180	267	336	111	196	331	394	133	401	334	157	578
Minnesota.....	192	349	414	127	263	480	553	190	576	595	578	593
Mississippi:												
Northern.....	47	103	120	30	63	150	171	42	135	154	103	186
Southern.....	69	187	194	62	106	254	266	94	322	330	284	368
Missouri:												
Eastern.....	167	387	426	128	185	470	512	143	384	405	469	320
Western.....	202	772	807	167	240	836	873	203	834	1,020	839	1,015
Montana.....	87	239	245	81	89	269	269	89	147	141	113	175
Nebraska.....	110	185	233	62	149	252	313	88	258	345	308	295
Nevada.....	138	209	216	131	199	287	306	180	163	122	114	171
New Hampshire.....	29	38	55	12	33	41	61	13	71	98	73	96
New Jersey.....	617	630	684	563	852	913	1,015	750	1,629	1,529	1,325	1,833
New Mexico.....	160	279	307	132	192	381	414	159	325	238	214	349

See footnotes at end of table.

**CRIMINAL AND CIVIL CASES HANDLED BY U.S. ATTORNEYS IN U.S. DISTRICT AND APPELLATE COURTS AND STATE COURTS. FISCAL YEAR ENDED SEPT. 30, 1977—Continued**

Judicial district	Criminal cases in U.S. district and appellate courts				Criminal defendants in U.S. district and appellate courts				Civil cases in U.S. district and appellate courts and state courts			
	Pending Oct. 1, 1976 <sup>1</sup>	Filed <sup>2</sup>	Terminated <sup>3</sup>	Pending Sept. 30, 1977	Pending Oct. 1, 1976 <sup>1</sup>	Filed <sup>2</sup>	Terminated <sup>3</sup>	Pending Sept. 30, 1977	Pending Oct. 1, 1976 <sup>1</sup>	Filed	Terminated	Pending Sept. 30, 1977
<b>New York:</b>												
Northern.....	147	138	153	132	200	198	207	191	621	385	351	655
Eastern.....	1,084	832	1,071	845	1,834	1,211	1,540	1,505	3,295	1,819	1,202	3,912
Southern.....	2,118	989	1,271	1,836	3,368	1,535	2,022	2,881	2,740	1,511	1,213	3,038
Western.....	403	226	446	183	556	318	592	282	559	528	366	721
<b>North Carolina:</b>												
Eastern.....	96	289	257	128	128	382	349	161	266	335	231	370
Middle.....	107	306	333	80	139	371	413	97	224	195	174	245
Western.....	70	222	233	59	94	289	307	76	147	202	152	197
<b>North Dakota.....</b>	<b>71</b>	<b>127</b>	<b>145</b>	<b>53</b>	<b>85</b>	<b>177</b>	<b>196</b>	<b>66</b>	<b>91</b>	<b>117</b>	<b>83</b>	<b>125</b>
<b>Ohio:</b>												
Northern.....	521	598	629	420	619	720	814	525	1,680	1,383	1,126	1,937
Southern.....	144	324	340	128	163	397	413	147	1,393	1,562	1,390	1,565
<b>Oklahoma:</b>												
Northern.....	65	168	168	65	94	239	264	69	334	265	185	414
Eastern.....	25	113	115	23	29	137	132	34	130	204	174	160
Western.....	124	258	264	118	172	392	374	190	613	550	373	790
<b>Oregon.....</b>	<b>192</b>	<b>302</b>	<b>325</b>	<b>169</b>	<b>260</b>	<b>404</b>	<b>421</b>	<b>243</b>	<b>529</b>	<b>419</b>	<b>414</b>	<b>534</b>
<b>Pennsylvania:</b>												
Eastern.....	450	713	740	423	683	1,127	1,203	607	1,147	1,103	967	1,283
Middle.....	120	157	204	73	146	189	233	102	1,124	593	862	855
Western.....	307	359	413	253	525	594	726	393	537	531	468	600
<b>Puerto Rico.....</b>	<b>205</b>	<b>205</b>	<b>207</b>	<b>203</b>	<b>267</b>	<b>274</b>	<b>286</b>	<b>255</b>	<b>962</b>	<b>947</b>	<b>600</b>	<b>1,309</b>
<b>Rhode Island.....</b>	<b>60</b>	<b>113</b>	<b>110</b>	<b>63</b>	<b>73</b>	<b>139</b>	<b>138</b>	<b>74</b>	<b>218</b>	<b>147</b>	<b>96</b>	<b>269</b>
<b>South Carolina.....</b>	<b>229</b>	<b>451</b>	<b>469</b>	<b>211</b>	<b>297</b>	<b>663</b>	<b>655</b>	<b>305</b>	<b>1,071</b>	<b>1,318</b>	<b>1,106</b>	<b>1,283</b>
<b>South Dakota.....</b>	<b>175</b>	<b>244</b>	<b>328</b>	<b>91</b>	<b>257</b>	<b>349</b>	<b>489</b>	<b>117</b>	<b>185</b>	<b>128</b>	<b>141</b>	<b>172</b>
<b>Tennessee:</b>												
Eastern.....	64	212	218	58	84	274	283	75	271	427	395	303
Middle.....	95	288	305	78	164	350	411	103	208	345	231	322
Western.....	164	232	200	196	341	329	346	324	183	271	137	317
<b>Texas:</b>												
Northern.....	222	801	736	287	502	1,049	958	393	810	813	651	972
Eastern.....	44	203	178	69	53	257	212	98	414	257	179	492
Southern.....	796	1,310	1,390	716	1,013	2,056	2,060	1,009	810	649	595	864
Western.....	429	665	614	480	600	962	916	646	488	432	321	599
<b>Utah.....</b>	<b>113</b>	<b>197</b>	<b>145</b>	<b>165</b>	<b>148</b>	<b>270</b>	<b>192</b>	<b>226</b>	<b>248</b>	<b>293</b>	<b>242</b>	<b>299</b>
<b>Vermont.....</b>	<b>103</b>	<b>74</b>	<b>89</b>	<b>88</b>	<b>131</b>	<b>91</b>	<b>120</b>	<b>102</b>	<b>131</b>	<b>141</b>	<b>127</b>	<b>145</b>
<b>Virginia:</b>												
Eastern.....	339	865	928	276	389	1,049	1,109	329	706	863	960	609
Western.....	18	193	189	22	18	202	189	31	1,171	665	869	967
<b>Washington:</b>												
Eastern.....	114	188	211	91	120	207	229	98	212	146	146	212
Western.....	312	662	629	345	421	965	903	483	701	748	585	864
<b>West Virginia:</b>												
Northern.....	54	92	98	48	57	111	110	58	292	148	118	322
Southern.....	127	208	211	124	153	257	265	145	1,882	872	813	1,941
<b>Wisconsin:</b>												
Eastern.....	133	284	275	142	176	356	350	182	657	396	308	745
Western.....	58	99	87	70	62	105	89	78	550	361	324	587
<b>Wyoming.....</b>	<b>35</b>	<b>143</b>	<b>148</b>	<b>30</b>	<b>41</b>	<b>177</b>	<b>175</b>	<b>43</b>	<b>76</b>	<b>93</b>	<b>101</b>	<b>68</b>
<b>Canal Zone.....</b>	<b>5</b>	<b>264</b>	<b>253</b>	<b>16</b>	<b>5</b>	<b>297</b>	<b>286</b>	<b>16</b>	<b>5</b>	<b>22</b>	<b>9</b>	<b>18</b>
<b>Guam.....</b>	<b>3</b>	<b>28</b>	<b>24</b>	<b>7</b>	<b>3</b>	<b>39</b>	<b>35</b>	<b>7</b>	<b>32</b>	<b>8</b>	<b>24</b>	<b>16</b>
<b>Virgin Islands.....</b>	<b>197</b>	<b>450</b>	<b>395</b>	<b>252</b>	<b>220</b>	<b>547</b>	<b>476</b>	<b>291</b>	<b>86</b>	<b>34</b>	<b>11</b>	<b>109</b>
<b>Totals.....</b>	<b>26,995</b>	<b>38,452</b>	<b>41,229</b>	<b>24,218</b>	<b>36,884</b>	<b>51,253</b>	<b>54,615</b>	<b>33,522</b>	<b>59,670</b>	<b>49,217</b>	<b>40,323</b>	<b>68,564</b>

<sup>1</sup> Oct. 1, 1976 pending figures adjusted to reflect corrections reported by U.S. Attorneys offices.

<sup>2</sup> Includes 1,331 cases or 1,423 defendants initiated by transfer under Rule 2.

<sup>3</sup> Includes 1,385 cases or 1,759 defendants terminated by transfer under Rule 20 and 1,552 cases or 2,814 defendants dismissed because of superseding indictment or information.

WORK OF U.S. ATTORNEYS—FISCAL YEAR 1977

Judicial districts	Civil cases terminated		Criminal cases terminated <sup>1</sup>		Civil cases filed	Criminal cases filed <sup>2</sup>	Criminal matters received	Proceedings before grand jury	Civil matters received
	Trials	Other	Trials	Other					
Alabama:									
Northern.....	14	579	32	576	624	559	1,399	489	734
Middle.....	3	134	41	169	186	209	1,232	150	197
Southern.....	5	66	22	147	125	157	422	122	136
Alaska.....	0	90	8	185	100	182	1,106	109	121
Arizona.....	7	586	124	1,043	655	1,269	3,080	883	734
Arkansas:									
Eastern.....	5	273	57	249	354	291	873	195	369
Western.....	5	161	8	62	211	75	436	52	218
California:									
Northern.....	17	522	32	389	945	351	3,055	267	1,137
Central.....	48	1,502	133	1,632	1,876	1,586	5,812	1,015	2,318
Eastern.....	12	321	34	662	394	696	2,029	418	533
Southern.....	42	300	151	1,336	436	1,459	21,480	715	507
Colorado.....	14	444	62	431	523	468	1,829	231	549
Connecticut.....	65	537	26	359	756	266	1,292	148	784
Delaware.....	1	104	13	115	105	119	400	75	121
District of Columbia.....	34	653	100	1,393	1,055	1,347	2,860	531	1,122
Florida:									
Northern.....	1	236	27	140	270	147	979	89	299
Middle.....	10	918	68	511	1,229	594	3,512	393	1,361
Southern.....	26	690	90	621	1,351	939	3,907	655	1,661
Georgia:									
Northern.....	9	407	108	575	556	567	2,191	370	634
Middle.....	3	156	73	826	195	893	1,455	187	238
Southern.....	5	125	88	1,145	186	1,232	1,853	84	228
Hawaii.....	1	84	4	129	155	115	674	75	155
Idaho.....	8	168	19	126	202	116	578	76	233
Illinois:									
Northern.....	9	1,162	598	166	1,144	791	2,536	526	1,530
Eastern.....	13	367	22	150	383	155	988	95	381
Southern.....	7	244	17	154	194	110	671	56	220
Indiana:									
Northern.....	2	294	37	371	287	266	928	166	321
Southern.....	1	482	22	200	503	181	943	154	520
Iowa:									
Northern.....	5	93	12	115	121	116	334	65	161
Southern.....	2	203	17	103	215	97	649	63	234
Kansas.....	5	587	33	445	619	450	1,423	176	641
Kentucky:									
Eastern.....	5	861	57	254	1,460	272	1,045	200	2,208
Western.....	3	398	33	383	545	425	1,640	295	557
Louisiana:									
Eastern.....	12	380	83	611	490	658	1,483	363	660
Middle.....	2	129	18	170	145	169	435	121	164
Western.....	21	471	18	451	487	383	1,365	120	526
Maine.....	1	115	9	81	241	90	735	63	271
Maryland.....	12	491	78	581	640	663	2,242	405	812
Massachusetts.....	6	359	97	475	557	490	2,028	234	617
Michigan:									
Eastern.....	9	784	122	1,454	1,160	1,262	4,025	723	1,206
Western.....	3	154	22	314	334	267	552	114	361
Minnesota.....	8	570	50	364	595	349	1,396	228	651
Mississippi:									
Northern.....	1	102	40	80	154	103	486	75	157
Southern.....	10	274	11	183	330	187	1,024	102	351
Missouri:									
Eastern.....	7	462	58	368	405	787	3,003	254	462
Western.....	1	838	104	703	1,020	772	3,264	193	1,056
Montana.....	13	100	26	219	141	239	744	101	158
Nebraska.....	12	296	17	216	345	185	824	94	393
Nevada.....	6	108	27	189	122	209	902	120	122
New Hampshire.....	1	72	8	47	98	38	197	23	105
New Jersey.....	15	1,310	61	623	1,529	630	4,128	241	2,250
New Mexico.....	4	210	34	273	238	279	1,718	207	328
New York:									
Northern.....	4	347	12	141	385	138	1,144	83	400
Eastern.....	12	1,190	99	972	1,819	832	2,738	345	2,052
Southern.....	51	1,162	116	1,155	1,511	989	2,597	591	1,644
Western.....	1	365	59	387	528	226	1,849	141	654

See footnotes at end of table.

WORK OF U.S. ATTORNEYS—FISCAL YEAR 1977—Continued

Judicial districts	Civil cases terminated		Criminal cases terminated <sup>1</sup>		Civil cases filed	Criminal cases filed <sup>2</sup>	Criminal matters received	Proceedings before grand jury	Civil matters received
	Trials	Other	Trials	Other					
North Carolina:									
Eastern.....	50	181	18	239	335	289	1,111	212	344
Middle.....	1	173	29	304	195	306	946	231	212
Western.....	3	149	31	202	202	222	792	171	231
North Dakota.....	4	79	23	122	117	127	470	89	163
Ohio:									
Northern.....	7	1,119	44	655	1,383	598	2,405	404	1,591
Southern.....	18	1,372	36	304	1,562	324	1,739	166	1,681
Oklahoma:									
Northern.....	5	180	21	147	265	168	453	115	276
Eastern.....	6	168	21	94	204	113	430	77	221
Western.....	9	364	34	230	550	258	1,176	202	636
Oregon.....	66	348	40	285	419	302	1,246	181	505
Pennsylvania:									
Eastern.....	22	945	122	618	1,103	713	3,579	457	1,137
Middle.....	0	862	17	187	593	157	653	109	605
Western.....	2	466	53	360	531	359	1,595	225	582
Puerto Rico.....	18	582	32	175	947	205	691	152	949
Rhode Island.....	5	91	8	102	147	113	490	54	180
South Carolina.....	4	1,102	74	395	1,318	451	1,810	294	1,437
South Dakota.....	2	139	19	309	128	244	1,108	159	135
Tennessee:									
Eastern.....	7	388	43	175	427	212	1,199	148	551
Middle.....	8	223	48	257	345	288	1,091	127	382
Western.....	8	129	42	158	271	232	741	181	318
Texas:									
Northern.....	30	621	65	671	813	801	4,066	541	956
Eastern.....	9	170	15	163	257	203	722	141	318
Southern.....	16	579	122	1,268	649	1,310	3,496	923	856
Western.....	22	299	74	540	432	665	3,125	433	528
Utah.....	7	235	21	124	293	197	673	70	301
Vermont.....	2	125	23	66	141	74	184	37	164
Virginia:									
Eastern.....	57	903	155	773	863	865	2,958	487	952
Western.....	31	838	16	173	665	193	721	124	1,228
Washington:									
Eastern.....	5	141	27	184	146	188	583	127	224
Western.....	4	581	57	572	748	662	1,764	325	902
West Virginia:									
Northern.....	0	118	5	93	148	92	295	63	170
Southern.....	6	807	13	198	872	208	734	143	959
Wisconsin:									
Eastern.....	1	307	33	242	396	284	1,228	170	452
Western.....	0	324	7	80	361	99	416	71	382
Wyoming.....	7	94	10	138	93	143	459	33	102
Canal Zone.....	0	9	61	192	22	264	349	0	22
Guam.....	2	22	1	23	8	28	74	19	8
Virgin Islands.....	1	10	63	332	34	450	439	4	37
Total.....	1,044	39,279	4,860	36,369	49,217	38,452	158,501	21,531	57,259

<sup>1</sup> Includes 1,552 cases terminated by transfer under rule 20 and 2,814 cases dismissed because of superseding indictments or informations.

<sup>2</sup> Includes 1,331 cases initiated by transfer under rule 20.

# Bureau of Prisons

Norman Carlson  
Director

## Federal Prisons Today

- For the second year in a row, the inmate population of the Federal Bureau of Prisons rose to an all-time high.
- One new institution was opened.
- A new Division, Community Programs and Correctional Standards, was created to address major jail problems throughout the country, to work on incarceration standards for offenders in Federal custody, to improve community-based corrections programs, to carry out research in corrections, and to administer staff training.
- The National Institute of Corrections established its Jail Center in Boulder, Colorado.
- Employment of women and minorities increased.
- Federal Prison Industries expanded, providing more paying jobs for inmates and improved services to other Government agencies.
- The Office of Professional Responsibility was established to maintain high standards of professional conduct.
- A tragic fire at the Federal Correctional Institution at Danbury, Conn., resulted in an improved fire prevention program.

The Bureau of Prisons, as an integral part of the Federal criminal justice system, continued to perform its mission of protecting society by carrying out the judgments of the Federal courts and safeguarding Federal offenders committed to the custody of the Attorney General.

## Overcrowding

The Federal inmate population continued to reach unprecedented levels during 1977. With few exceptions, the Bureau of Prisons' 38 correctional in-

stitutions and 11 Community Treatment Centers (halfway houses) experienced increased population pressures and were filled beyond physical capacities.

The inmate population increased 11 percent, climbing from 27,185 on October 1, 1976, to 30,262 on September 30, 1977. This rise came on top of a 15 percent increase for the previous fiscal year and transitional quarter.

The 27-month increase of 6,500 inmates meant that the inmate population was 33 percent above the physical capacities of the Bureau's institutions.

In an effort to ease the effects of overcrowding, 29 percent of the population was either confined in minimum security facilities or living in more than 430 Federal and non-Federal Community Treatment Centers (halfway houses) throughout the nation.

The Bureau stepped up its use of Community Treatment Centers during 1977, transferring 39 percent of all releasees to these Centers to serve out the last two to three months of their sentences compared to 33 percent in 1976.

For confined offenders, the problem was met through double-bunking and makeshift dormitories.

Compounding the problems of overcrowding is recent action by the Courts, making it clear that present levels of overcrowding will not be tolerated. A Federal District Court in New York during 1977 ordered the Bureau to end double-bunking at the Bureau's New York Metropolitan Correctional Center. By year's end, a dozen state correctional systems were also under court orders to reduce overcrowding.

## New Institutions

The medium security young adult male Federal Correctional Institution at Memphis was the only new facility to open in 1977. Memphis has a physical capacity of 420, which includes a 16-man detention component for U.S. Marshal prisoners.

## Standards for Corrections

One of the primary tasks of the Bureau's new Community Programs and Correctional Standards Division is to examine existing correctional standards and develop official standards for Federal prisons and for contract facilities, including jails and Community Treatment Centers, housing Federal offenders. The standards will cover such subjects as living space, safety and health, security, classification, discipline, programs and administration.

## New Jail Center

The Bureau also helps local jails through the National Institute of Corrections, established as a part of the Juvenile Justice and Delinquency Prevention Act of 1974 and attached to the Bureau of Prisons.

In April 1977, the Institute opened its Jail Center in Boulder, Colorado. The Jail Center trains local and state personnel in jail organization and management, legal and constitutional issues, programs and services, alternatives to incarceration, volunteer programs, use of community resources, jail standards and inspection systems, and intake diagnostic services. The Center expects to train about 800 jail trainers and managers during Fiscal 1978.

## Equal Employment Opportunity

The Bureau continued to make steady progress in expanding job opportunities for minorities and women. The Bureau in 1971 set a goal of 33 percent minorities for all new hires. Its actual performance since that time has been 28.4 percent of new hires. The level of minority employees was 18 percent at the end of Fiscal 1977, compared to 16 percent the previous year and 6 percent in 1970. Minority employees are represented at all levels, including an Assistant Director of the Bureau, three wardens and one detention center administrator.

In 1976 the Bureau abandoned its traditional policy that women could not serve as correctional officers in all-male institutions and set a goal of 10 percent of all correctional officer jobs to be held by women except in the major penitentiaries.

Women correctional officers have since been appointed to all institutions except penitentiaries, and by the end of 1977 more than 8 percent of all correctional officers were women. Additionally, women at year's end

represented 15.8 percent of the Bureau's work force, compared to 14.5 percent a year earlier and 9.8 percent in 1970.

## More Jobs Through Industries

To help offset the problems associated with having large numbers of inmates idle and to channel their energies into constructive work, 11 new Federal Prison Industries operations were established at as many Federal institutions during the year to provide employment opportunities and income for more inmates.

Federal Prison Industries now has 70 industrial operations in 32 institutions and employs an average of 5,900 inmates (compared to 5,500 in 1976). Sales to other Government agencies during the fiscal year amounted to \$86,000,000 (compared to \$78,153,903 for FY 1976); inmate wages were \$6,200,000 (compared to \$5,408,753 in 1976); and payment to other inmates in the form of meritorious service awards amounted to \$2,000,000 (compared to \$1,300,000 in 1976). The Corporation also funded \$4,400,000 for vocational training programs within the Bureau of Prisons.

## Professional Responsibility

The Federal Prison System is a criminal justice agency and is responsible for carrying out in a lawful and humane manner the orders of U.S. Courts to incarcerate individuals convicted of criminal offenses.

In September the Bureau created an Office of Professional Responsibility, which reports to the Director, to help the Bureau maintain the professional standards required of all officers and employees.

## Fire Safety

A fire broke out in a dormitory at the Federal Correctional Institution at Danbury, Connecticut, on July 7, 1977, which resulted in the deaths of five inmates due to smoke inhalation and asphyxiation. Seventy-four other persons were injured, including 68 inmates.

The Board of Inquiry determined that the fire "was humanly initiated, either intentionally or unintentionally."

## Expanding Inmate Rights

As a result of the tragedy, the Bureau began carrying out a wide ranging program of improved fire safety.

The Bureau's Administrative Remedy Procedures give inmates the opportunity to air their complaints to the warden and receive timely written responses. If dissatisfied with the response, the inmate may appeal to the regional office and beyond that to the Bureau's General Counsel in Washington.

These procedures have led to a reduction in the heavy number of law suits being filed by Federal prisoners in Federal courts. The Federal Judicial Conference of the United States took note of this fact in March when it announced that for the last half of calendar 1976 compared to the last half of 1975: "Prisoner petitions were also down as 17 percent fewer Federal prisoner cases were filed and 4 percent fewer state petitions. It appears as though the grievance procedures established by the Bureau of Prisons and the recent approval of the Parole Commission Act (May 4, 1976) are effectively reducing these prisoner cases."

## Training Personnel

Fiscal 1977 was the first full year of operations for the Bureau's third residential Staff Training Center in Denver (the other two are in Atlanta and Dallas). The opening of this Center in August 1976, and continued expansion of other programs means that training opportunities for employees have peaked at about 32,000 hours of training per month. An average of 1,652 men and women participated each month in a variety of in-service and outside training and education programs during the year.

## Community Programs

Only about 30 percent of the 96,000 convicted offenders today who are under some form of Federal supervision are in prison. The remaining 70 percent are in community programs such as probation or parole, or in community-based programs conducted by the Federal Bureau of Prisons.

A fundamental objective of community-based programs in the Bureau is to ease the transition of inmates back into their community. These programs, including halfway houses, furloughs, work and study release, and drug aftercare, were improved and participation generally increased during Fiscal 1977.

BOP operates 11 Community Treatment Centers (halfway houses) around the country. In addition, at the end of the year, the Bureau had contracts with 425 halfway houses operated by state and local or private agencies, compared to 260 at the end of 1976. The centers provide extensive pre-release services for selected offenders during the last two or three months of their sentences, with an average stay of about 70 days. Centers are also used for those offenders serving short sentences, for unsentenced offenders participating in the Pre-Trial Services Program and for others under community supervision who need the help of a center.

Staff give residents assistance in reestablishing community ties, obtaining jobs, furthering their education, and resolving personal problems. Some 7,456 inmates were transferred from Federal institutions to halfway houses during 1977.

## Juveniles

All Federal inmates committed under juvenile statutes were phased out of Federal institutions during the year either by release or by transfer to appropriate state, local, and private juvenile facilities. Placements were made, when possible, in community-based facilities in or near the juvenile's home town, according to the Bureau's long-standing policy and recent statutory requirements. More than 200 juveniles were involved.

## Research

The Bureau's Office of Research has or is conducting a variety of projects to yield useful information about the Bureau's programs and policies.

A recently completed study on the effects of overcrowding in 37 Federal institutions showed that higher inmate population levels are associated with increased misconduct and assaultive behavior. The relationship between violence and overcrowding is strongest in institutions that house young adults and youthful offenders.

A follow-up study of inmates released from prison in 1956 shows a recidivism rate of 34 percent at 2 years, 51 percent at 5 years, and 59 percent at 10 years, with a rise of one-half to one percent yearly up to 18 years.

Research also shows that the Bureau's furlough program has a success rate of 99 percent.

## Decentralization

The administration of the Federal Prison System has been decentralized and is now carried out by six divisions and by five regional offices.

The six divisions, each headed by an Assistant Director, are Correctional Programs, Planning and Development, Medical and Services, Federal Prison Industries, Inc., the National Institute of Corrections, and Community Programs and Correctional Standards.

The five regions are headquartered in Atlanta, Burlingame (near San Francisco), Dallas, Kansas City, and Philadelphia, and each is headed by a Regional Director.

The U.S. Parole Commission has similarly been regionalized and works closely with the Bureau to carry out their joint responsibilities.

## Resources

The Bureau's total budget (including new institution construction costs) for Fiscal 1977 was \$344,098,000 and total employment reached 9,176 on September 30, 1977. This compares with total budget

authority of \$240,373,000 and year-end employment of 8,830 for Fiscal 1976.

Most of the new positions were for activation of new institutions and the expansion of unit management. Rising costs, especially in utilities, and an increased inmate population contributed significantly to the increase.

## Future Plans

Four new Federal Correctional Institutions are under construction. The Bastrop, Texas, facility, which will have one of the largest solar energy systems in the world, will open in 1978, as will one at Talladega, Alabama. The institutions at Otisville, New York, and Lake Placid, New York, are scheduled to open in 1979 and 1980, respectively. The four facilities will accommodate approximately 2,000 inmates.

Currently in the design stage and approved for construction are the Detroit Metropolitan Correctional Center to house pre-trial detainees and a Federal Correctional Institution at Camarillo, California.

New housing units are planned or under construction at Federal Correctional Institutions at La Tuna, Texas, Pleasanton, California, and Miami, Florida.



# United States Marshals Service

William E. Hall  
Director

The Marshals Service, the oldest Federal law enforcement organization, occupies a unique place in the American judicial process. Its 94 Marshals and approximately 1,800 Deputies serve both as officers of the Federal courts and law enforcement agents of the Attorney General. This dual responsibility has resulted in a widely diversified mission:

- Support to the Federal judicial system, consisting of the service of process; execution of warrants; disbursement of funds and collection of fees; custody and control of seized money and property; and the sustention in custody and transport of Federal prisoners.
- Security or security assistance in the areas of Federal property and buildings; and other security missions as required.
- Law enforcement activities at the request of other Federal agencies or as required by the Attorney General.

From the creation of 13 United States Marshal positions by the Judiciary Act of September 18, 1789, the Service has grown to 94 United States Marshals, one for each Federal judicial district, 1,800 Deputies, and approximately 300 administrative personnel.

## General Operations Division

The General Operations Division is responsible for overseeing the service of process, execution of warrants, and the transportation of Federal prisoners before sentencing or to their initial place of confinement.

The expeditious and efficient service of civil and criminal process is a major responsibility of the Marshals Service. The USMS insures that the judicial process proceeds smoothly since the work of court cannot take place without the service of process. In Fiscal 1977, the Service served over 800,000 process (excluding warrants) issued by the Federal courts.

Both the number of outputs and the man-years have remained almost constant over the last three years. However, it is anticipated that both categories will rise due to the effects of the Speedy Trial Act upon the Service.

The fees that U.S. Marshals are required to collect for the service of process are limited by statute from \$2 to \$3. Currently, a very small percentage is served by private process servers because the fees charged are substantially greater than those charged by the United States Marshals Service. A change in legislation is now pending which will increase the fee charged for the service of process in the private sector. Should Congress increase the fees to the point where they would equal the cost of service, it is anticipated that more private process servers will be used. The passage of this legislation would afford the Service more time for enforcement responsibilities.

The execution of warrants is one of the United States Marshals Service's oldest enforcement missions. To accomplish this mission, the USMS must assist in the expeditious and efficient execution of all criminal warrants emanating from the United States Courts. The apprehension of fugitives and timely execution of warrants is essential to the efficient functioning of the Federal judicial and criminal justice systems. Furthermore, it protects society from certain criminal elements.

The USMS has jurisdictional responsibility for this program; however, coordination between this Service, the Administrative Office of the U.S. Courts, the Executive Office for U.S. Attorneys, all Federal law enforcement agencies including those outside the Department of Justice, and state/local law enforcement agencies is important to accomplish this mission.

Since April 1, 1977, the USMS Communications Center has been linked to the National Crime Information Center (NCIC) on a continuous 24-hour basis. The Service currently has 4,000 fugitives on the NCIC computer. USMS participation in the NCIC system

is very helpful to the USMS warrant investigation and fugitive apprehension program.

In Fiscal 1977, the Service averaged 2,238 arrests per month, an increase of 20 percent over 1976.

U.S. Marshals have custody of all unsentenced Federal prisoners from the time of their arrest by a Marshal or their transfer to a Marshal by the courts, until the prisoner is delivered to a penal institution or released by the courts.

Transportation of prisoners to penal institutions for final commitments or for mental evaluations and for prisoners being produced in court from both Federal and state institutions is coordinated by the Prisoner Coordination (PC), Office of the Director, United States Marshals Service.

Prisoner movements are coordinated to insure maximum efficiency from a minimum of resources. Advance itinerary planning and precise coordination are required to achieve maximum security and minimum cost.

This program requires a high degree of cooperation among the courts, the 94 district Marshals and their sub-offices, the Bureau of Prisons, the Secret Service, the U.S. Attorneys, and state and local institutions.

Over 155,000 prisoners were processed and transported by Marshals in Fiscal 1977 utilizing various modes of transportation including charter air trips. Restrictions by FAA for flying prisoners on commercial airlines and the savings of man-hours increase the desirability of an air charter movement system, which is currently at the test and evaluation stage of overall research and development.

## Court Support Division

The Marshals Service has responsibility for providing security for Federal court facilities, protection of U.S. judges, magistrates, attorneys, and other Federal officers.

The Service's continued efforts and priority given to personal and courtroom security have reduced the vulnerability of judges and trial participants to disruptive occurrences, and have helped to alleviate the anxieties experienced by judges and magistrates over their personal safety.

The Marshals Service continued its close cooperation with other Federal and local law enforcement agencies in Fiscal 1977. This spirit of genuine mutual assistance provided timely collection and dissemination of valuable intelligence data concerning threats against the judicial process. It also furnished the lo-



*The Marshals' traditional duties to the courts—providing federal judges, prisoners, and witnesses with personal security and maintaining a physical presence in the courtroom—remained important to the Service during 1977 in the support of the integrity of the Federal Judiciary.*

gistical and investigative support necessary to identify and apprehend perpetrators bent upon disrupting the judicial process.

The Department of Justice established an Inter-agency Study Group on Judicial Systems Security to examine ways to strengthen court security, as a result of a comprehensive GAO report submitted in 1970. This report indicated a growing awareness on the part of Federal judges regarding their security and an increasing dependence on the U.S. Marshals Service and allied agencies for protection and support. It also called for creation of an interagency task force to monitor and codify the program.

The Service, to accomplish its objectives and to provide a high degree of security to the court and trial participants, currently utilizes 33 percent of its personnel in support of this program.

In Fiscal 1977, 691,200 Deputy man-hours were devoted to courtroom security, which encompassed the activities of security in court with prisoners, safeguarding juries and witnesses, and general trial security. Additionally, 56,160 Deputy man-hours were devoted to providing around the clock protection for 26 judges and 3 U.S. Attorneys who were targets of threats at their residences and in court.

In Fiscal 1977, nationally prominent trials required extraordinary security measures. They included the Governor Mandel trial in Baltimore, Maryland, and the Hanafi Muslim Sect trial in the District of Columbia.

## Witness Security Division

The Witness Security Program, administered by this Service, is promulgated on Title V, Public Law

91-452, Title 28, United States Code, Section 524 and Department Order OBD 2110.2. Service responsibilities include the security, protection, and maintenance of sensitive Government witnesses and family members whose lives become endangered through their cooperation with Government prosecutors in efforts to stifle organized crime.

The program was given Division status in May 1977, due to a substantial increase in principle witnesses, plus an inhouse recognition of a need for stringent administrative concepts in providing services to witnesses.

In Fiscal 1977, 469 principal witnesses and their families entered the program, increasing the total number of principal witnesses to 2,278 since the program's inception. Each witness family averages 2.5 persons for a total of more than 5,600 people covered by the pro-

gram. In Fiscal 1977, more than 3,400 people received program services, including 986 principal witnesses. Monies disbursed and/or obligated for the relocation, security, and other services to witnesses, exclusive of Marshals Service cost, amounted to \$5.7 million.

## Special Operations Group

The USMS Special Operations Group provides and maintains a highly trained and mobile civilian force to respond to emergency situations, including civil disturbances, and also provides law enforcement and security assistance to other Federal agencies designated by the Attorney General. All 94 judicial districts are served by Special Operations. Major operations this year were at the Nuclear Power Generating Plant, San



*Marshals and their Deputies annually arrest over 20,000 persons on warrants issued by U.S. Judges and Magistrates. Deputy U.S. Marshals are shown here in the process of searching a female Federal prisoner.*

Onofre, California, and enforcement of the Sockeye Salmon Fishery Act, Puget Sound, Western District of Washington.

## **Personnel Management and Training Division**

In Fiscal 1977, the Service made great progress in recruiting new Deputy U.S. Marshals. Through an aggressive affirmative action program, there were significant achievements in hiring minorities and females while maintaining the exceptionally high standards required of Federal law enforcement officers. In addition, the Service was successful in its attempts to reopen the Deputy U.S. Marshal Examination which had been closed for over three years. As a result of its efforts, the Service was able to hire more than 130 outstanding new Deputy U.S. Marshals during Fiscal 1977.

The Service continued to support its operational and administrative programs with a combination of employee development and training opportunities. With the use of basic, refresher, and specialized training courses, the Service made great strides in preparing each Deputy to effectively and efficiently perform the full variety of law enforcement duties required of the Marshals Service. In addition, the Service reinforced its commitment to professional supervision and management by the implementation of a supervisory intern program and the continuation of the Executive Development Program. Through internal and external sources, the Service provided over 700 instances of training in Fiscal 1977.

## **Administrative Services Division**

In Fiscal 1977, the United States Marshals Service Headquarters established its Communications Center, which provides an around-the-clock communications line to the National Crime Information Center and inquiring law enforcement agencies. During Fiscal 1977, approximately 3,800 Federal arrest warrants were entered by the Communications Center into the National Crime Information Center Wanted Persons Files. During the course of Fiscal 1977, the Communications Center processed activity against more than 1,600 of these warrants, which resulted in clearing the warrants from the Wanted Persons File. Additionally, through an agreement between the Department of State and the United States Marshals Service, the USMS Communications Center, and the Department of State Command Center, are now linked to facilitate USMS execution of State Department Federal arrest warrants for passport fraud and visa malfeasance.

During Fiscal 1977, the Service began development of a prototype radio communications system, which is designed to permit mobile radio communications with state and local law enforcement agencies in the various judicial districts.

This mobile radio communications system will allow the Service to communicate and coordinate with state and local enforcement agencies in the performance of its duties. Full implementation of the USMS' approach to mobile radio communications will begin in Fiscal 1978, based on the successful testing and evaluation of the prototype system.

# Law Enforcement Assistance Administration

James M. H. Gregg  
Acting Administrator

The Law Enforcement Assistance Administration (LEAA) provides Federal financial, technical, and research support for the improvement of state and local criminal justice administration. LEAA operates a grant program to law enforcement, courts, corrections, youth service, and community anticrime agencies. The Agency seeks to stimulate new and better ways to reduce crime, prosecute offenders, help crime victims, and deter juvenile delinquency.

Additions to its basic 1968 legislation have made LEAA responsible for coordinating all Federal juvenile justice and delinquency prevention programs, and administering the public safety officers' death benefits statute.

LEAA provides planning and program operation funds to state and local government. Upon request, it makes available specialized training and technical assistance resources. In addition, it supports research into selected law enforcement and criminal justice problems. These include operational and theoretical issues as well as statistical and systems analysis questions.

LEAA funds are used for grants and loans to persons serving in or planning criminal justice careers and to develop new higher education programs to improve law enforcement, criminal justice, and juvenile delinquency agency administration.

In April 1977, Attorney General Griffin B. Bell created a Department of Justice study group to review the LEAA program and recommend measures to improve effectiveness and responsiveness. On June 30, the Attorney General released the study group's report and invited comments, noting: "I have reviewed the report, but I have come to no conclusions on its recommendations. . . . Only after thorough and detailed consultation with Congress will we recommend legislative changes."

The study group proposed that the Administration restructure the LEAA program to "refocus the national research and development role into a coherent

strategy of basic and applied research and systematic national program development, testing, demonstration, and evaluation." It also suggested that the current legislation be changed to "replace the present block (formula) portion of the program with a simpler program of direct assistance to state and local governments with an innovative feature that would allow state and local governments to use the direct assistance funds as 'matching funds' to buy into the implementation of national program models which would be developed through the refocused national research and development program."

On July 19, the Attorney General directed LEAA to close its 10 regional offices by September 30, 1977, to make LEAA services to the states more direct and to achieve cost savings.

On September 20, LEAA established the Office of Community Anti-Crime Programs to finance and provide technical assistance to community-oriented anti-crime programs. Congress has authorized \$15 million annually for the new program's activities.

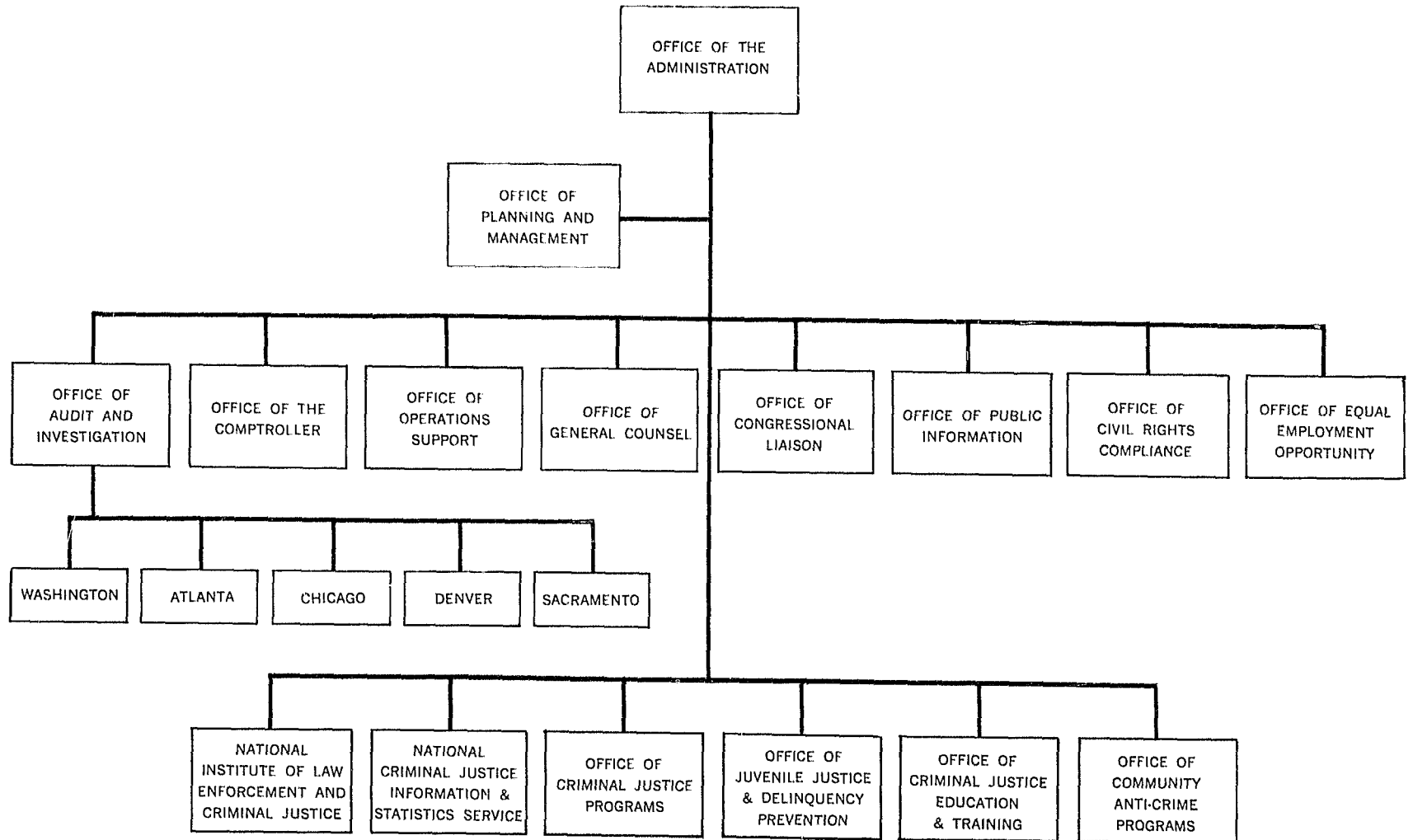
## Budget

LEAA's Fiscal 1977 budget was \$753 million, compared to \$809.6 million for Fiscal 1976 and \$895 million for Fiscal 1975.

The bulk of LEAA funding, \$458 million in Fiscal 1977, is distributed through block grants to the states. The amounts are based on state populations. The money is used as each state deems fit under a comprehensive plan. It finances planning and action programs, with certain amounts set aside specifically for corrections and juvenile justice and delinquency prevention.

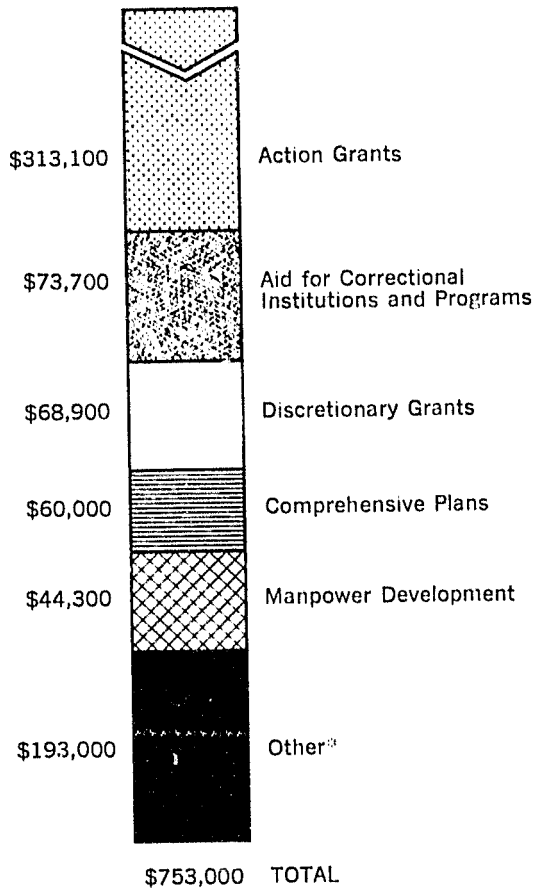
A portion of LEAA's action funds is distributed through discretionary grants that are for programs of national scope and/or involve several states or jurisdictions. About \$92 million of the Fiscal 1977 budget came under discretionary grant funding.

## LAW ENFORCEMENT ASSISTANCE ADMINISTRATION



**SUMMARY DISTRIBUTION OF FUNDS**  
Fiscal Year 1977

(in Thousands)



\*Includes Administration, Technical Assistance, Data Systems and Statistical Assistance, National Institute of Law Enforcement and Criminal Justice, and Juvenile Justice and Delinquency Prevention Programs.

The remainder of the funds support education, training, evaluation, research, and development. About 3 percent of the budget goes for administrative costs.

An important LEAA contribution to the Nation's criminal justice and law enforcement system is the many innovative and experimental criminal justice programs that would not exist were it not for LEAA funding. These programs, once their effectiveness has been proven, are implemented in other areas throughout the Nation. More often than not, when LEAA seed money runs out, state or local funding keeps the programs going. At the same time, other jurisdictions support similar programs with their own funds.

It should be noted that LEAA funding represents less than 5 percent of total annual state and local criminal justice expenditures.

**Office of Regional Operations**

The Office of Regional Operations is composed of LEAA's 10 regional offices, 5 major program divisions, and 2 staff units. It is the largest program office within LEAA and the most frequent contact point with state and local criminal justice agencies.

The Office exercises major authority for the LEAA program through its responsibility to approve, award, monitor, evaluate, and terminate all planning and block action grants as well as a large portion of the agency's discretionary grants and technical assistance activities. The Office's Enforcement, Adjudication, Rehabilitation, Special Programs, and Indian Affairs Di-

**LAW ENFORCEMENT ASSISTANCE ADMINISTRATION**  
**DISTRIBUTION OF PARTS B, C, E AND JJ&DP FORMULA**  
**FUNDS FOR FISCAL YEAR 1977**  
(in thousands of dollars)

State	Part B	Part C	Part E	JJ&DP
Alabama	\$ 1,016	\$ 5,215	\$ 613	\$ 813
Alaska	323	497	58	200
Arizona	713	3,151	371	425
Arkansas	693	3,017	355	432
California	4,724	30,451	3,583	4,373
Colorado	789	3,669	432	510
Connecticut	911	4,501	530	673
Delaware	374	842	99	200
Florida	1,986	11,814	1,390	1,390
Georgia	1,295	7,114	837	1,083
Hawaii	433	1,246	147	200
Idaho	421	1,161	137	200
Illinois	2,641	16,279	1,915	2,501
Indiana	1,389	7,750	912	1,213
Iowa	862	4,167	490	643
Kansas	736	3,305	389	492
Kentucky	969	4,892	576	734
Louisiana	1,056	5,488	646	915
Maine	475	1,530	180	277
Maryland	1,126	5,965	702	910
Massachusetts	1,493	8,459	995	1,236
Michigan	2,204	13,299	1,565	2,142
Minnesota	1,087	5,696	670	910
Mississippi	750	3,405	400	556
Missouri	1,273	6,961	819	1,024
Montana	408	1,075	126	200
Nebraska	580	2,248	264	335
Nevada	373	837	99	200
New Hampshire	423	1,179	139	200
New Jersey	1,819	10,680	1,256	1,571
New Mexico	490	1,632	197	268
New York	4,129	26,404	3,106	3,850
North Carolina	1,402	7,840	922	1,159
North Dakota	386	928	109	200
Ohio	2,553	15,674	1,844	2,463
Oklahoma	824	3,911	460	551
Oregon	733	3,289	387	460
Pennsylvania	2,787	17,272	2,032	2,536
Rhode Island	451	1,368	161	200
South Carolina	845	4,048	476	629
South Dakota	396	993	117	200
Tennessee	1,139	6,052	712	874
Texas	2,825	17,529	2,062	2,635
Utah	503	1,720	202	279
Vermont	350	683	80	200
Virginia	1,302	7,162	843	1,047
Washington	939	5,097	600	764
West Virginia	632	2,602	306	382
Wisconsin	1,228	6,660	784	1,044
Wyoming	328	528	67	200
District of Columbia	404	1,052	174	200
American Samoa	256	41	5	50
Guam	271	146	17	50
Puerto Rico	882	4,305	506	776
Trust Territory	275	173	20	50
Virgin Islands	268	121	14	50
<b>TOTALS</b>	<b>\$60,000</b>	<b>\$313,123</b>	<b>\$36,838</b>	<b>\$47,625</b>

visions provide national level policy guidance for the LEAA discretionary grant programs in these areas.

Planning grants (Part B) funds support the operations of the 56 state-level criminal justice planning agencies and a network of regional and local planning units. Planning grants totalling \$60 million were awarded during Fiscal 1977 to the various states.

Beginning in Fiscal 1978, most of the functions of the 10 newly closed regional offices were performed by the new Office of Criminal Justice Programs in LEAA's Washington, D.C., Headquarters.

Action funds are of two basic types—block and discretionary. Block action grants are made available to states on a population basis. They represent 85 percent of the annual LEAA Part C appropriation and 59 percent of the Part E (corrections) appropriation. State planning agencies submit annual criminal justice plans based on state agency and local priorities. The plans analyze crime and criminal justice problems, set goals, standards and priorities, and establish an annual action program responsive to state and local needs. The plans are approved and block grants are awarded if they meet guideline requirements, reflect a determined effort to improve the quality of criminal justice throughout the state, and are likely to make a significant and effective contribution to the state's efforts to deal with crime. During Fiscal 1977, \$314,554,000 in Part C block grant funds and \$36,694,000 in Part E block grant funds were awarded to support state and local criminal justice programs.

LEAA's discretionary grants are made for the purpose of developing, testing, implementing, and evaluating innovative programs at the state and local levels. The Office awarded \$65,789,000, or 76 percent, of LEAA's total discretionary grant funds awarded during the fiscal year.

Discretionary grants fall into two major categories: (1) those that affect more than one region or have national impact and significance; (2) those that address a national priority but have an immediate impact on only one area or one LEAA regional office.

The Enforcement Division administered programs in the areas of rural law enforcement, organized crime, drug enforcement, and integrated criminal apprehension. Organized crime programs include white collar crime projects, corruption control projects, cargo theft, and anti-fencing projects.

The Adjudication Division administered discretionary grants for court improvement programs and career criminal programs. Court programs are designed to produce fundamental structural or procedural changes in the operation of state court systems.

The objective of the career criminal program is to demonstrate that serious crimes can be reduced through special prosecutorial emphasis on cases involving repeat offenders.

The Rehabilitation Division directed programs in Treatment Alternatives to Street Crime (TASC), community corrections, corrections training, and corrections system management improvement. The TASC programs reduce drug-related crime by providing for community-based drug treatment services for eligible drug abusing criminal offenders. The community corrections program improves and increases the use of community help rather than institutional resources to control selected offenders without endangering citizens. The corrections training program provides demonstration programs in major institutions and jails. The system management improvement program enhances corrections systems through development of research, evaluation, planning, and monitoring capabilities in state adult probation and parole agencies.

The Special Programs Division directed efforts to improve the treatment of victims and witnesses and increase citizen cooperation with the criminal justice system. Work was also done to organize community groups to deal with crime and reduce the vulnerability of the elderly as crime victims.

The Indian Affairs Staff directed Indian program funding through allocations to 85 eligible American Indian tribes. Projects are designed to improve Indian criminal justice programs for police, courts, corrections, and youth, and to assist with crime reduction on reservations.

## Office of Civil Rights Compliance

The Office of Civil Rights Compliance enforces the civil rights responsibilities of the recipients of LEAA financial assistance. It conducts complaint investigations and compliance reviews, and monitors technical assistance contracts.

The Office is also responsible for the review of categorical grant applications in excess of \$500,000 to make sure they contain adequate civil rights components. Thirty of these reviews were performed during Fiscal 1977.

Twelve on-site reviews were conducted in conformance with regulations of the Office of Federal Contract Compliance, Department of Labor, concerning equal employment on federally-funded construction projects.

In addition, 32 construction project reporting requirements were issued during the year.



Technical assistance and training assisted state and local agencies to improve their compliance programs. One grantee is developing new employment selection tests for state and local law enforcement agencies. The Office also continuously monitors the nondiscriminatory validity of all locally developed entrance and promotion examinations.

In Fiscal 1977, LEAA adopted regulations, including timetables, for civil rights complaint investigations and compliance reviews to accelerate the implementation of the nondiscrimination provisions of the Crime Control Act of 1976.

Through the implementation of improved management techniques, the Office closed 481 complaints of discrimination, reducing a large backlog. In addition, 20 state governments were notified of LEAA's intent to terminate program funding if compliance with applicable regulations was not achieved. In all but one instance, compliance was secured without fund termination.

## National Institute of Law Enforcement and Criminal Justice

The National Institute of Law Enforcement and Criminal Justice is LEAA's research and evaluation arm. Its purpose is to encourage research and development to improve and strengthen law enforcement and criminal justice, to disseminate the results of such efforts to state and local governments, and to assist in the development and support of programs for the training of law enforcement and criminal justice personnel.

A decade ago, the available knowledge about crime and criminal justice was scanty and fragmented. Only a handful of scientists were engaged in criminal justice research. Today, that number has grown to include some of the Nation's most prestigious researchers.

Having reached a point where a body of knowledge has been accumulated, last year the Institute developed an agenda of issues to be addressed by research during the next 5 years. To obtain reactions to the priorities from a broad and relevant audience, more than 700 persons were surveyed, including criminal justice planners and practitioners and members of the research community. These responses will be analyzed and the results used to develop a final agenda.

The tentative list of priorities to be the focus of Institute research during the next several years are: (a) the correlates and determinants of criminal behavior; (b) deterrence; (c) community crime prevention; (d) performance standards and measures for

criminal justice; (e) the prosecution of career criminals; (f) the utilization of police resources; (g) the pretrial process; (h) sentencing; (i) offender rehabilitation, and (j) violence and the violent offender.

The research priorities will be published in the Institute Program Plan, a yearly publication disseminated to interested researchers and practitioners.

During the past fiscal year, \$21.7 million was awarded by the Institute through three major offices, i.e., Research Programs, Evaluation, and Technology Transfer.

### Office of Research Programs:

This office translates research priorities into programs by awarding grants and contracts, monitoring their progress to completion, and assessing the research products.

The six general program divisions within the Office of Research Programs and their major accomplishments are as follows:

#### Police Division:

Last year, the Division continued its efforts to augment knowledge in a variety of police science areas, with a particular emphasis on improving patrol—the most costly item in most police department budgets.

One effort completed last year in Wilmington, Delaware, experimented with *split-force patrol*. Sixty percent of the patrol force responded only to calls for service, while the remainder concentrated on directed preventive activities and immediate follow-up investigations.

According to the evaluators, this approach appears to increase productivity, both in response to calls for service and in arrests. The quantity of arrests by the patrol division increased by more than 100 percent without any apparent decline in quality.

Like any new approach, the split-force experiment was not without problems. However, despite some initial resistance by officers, Wilmington has made the split-force standard operating procedure.

The study concluded that the split-force approach is an economical alternative that other cities could adopt, although research will continue to explore variations on the split-force theme. Perhaps most significantly, however, the Wilmington experiment demonstrated that the demand for police services can be managed much more effectively and efficiently. The majority of calls are nonemergencies. Setting priorities for response and candidly telling citizens when police officers will arrive can mean greater economy for police departments while minimizing the possibility of citizen dissatisfaction.

In Kansas City, Missouri, an Institute-sponsored study of *police response time* shows that many citizens fail to report crimes promptly. Consequently, the probability of arrest declines with each minute the citizen delays.

The Kansas City study examined a sample of 949 cases of serious crimes. It analyzed the impact of response time on the outcomes of arrest, witness availability, citizen satisfaction with response time, and injuries to citizens during crimes.

An Institute-supported study conducted by the American Justice Institute is developing a *performance measures system* to enable police administrators and others to evaluate the effectiveness of police operations. Existing program evaluation systems not only fail to measure police program effectiveness, but also can distort police activity.

*Women on police patrol* are a relatively new development. The Vera Institute of Justice last year completed a study of the performance of a sample of 41 female and 41 male officers in 11 New York City police precincts. Male and female officers were matched by length of time on the force, patrol experience, and type of precinct.

The conclusions are fairly consistent with those of previous studies, which found few differences between the sexes in terms of policing styles and the effectiveness of performance. The women's style of patrol was almost indistinguishable from the men's. Their choice of techniques to gain and keep control fell into the same pattern as the men's and they were neither more nor less likely than the men to use force, display a weapon, or to rely on a direct order. Civilians rated the female officers more competent, pleasant, and respectful than their male counterparts. The female officers were, however, slightly less active and more likely to hang back from physically strenuous activity. They were away from patrol on sick leave more frequently, less apt to assert themselves in patrol decision-making, and less often credited with arrests than their male counterparts. Further, they participated in control-seeking behavior less often and were slightly less successful at achieving the immediate objectives of their attempts to gain and keep control of civilians.

The study points out that some of these disparities disappeared when the women were given female patrol partners or assigned to a precinct where supervisors were particularly receptive to their presence.

Another sensitive issue facing police administrators is the problem of *corruption*. An Institute-funded study examined the nature of corruption from admin-

istrative, sociological, and psychological perspectives to develop basic information for more intensive research. The project surveyed current methods of assessing and controlling corruption and their implications for management. The most promising strategies will undergo in-depth examination under a new Institute grant.

Other research findings reported last year had a bearing on certain special problems of police operations. Police *mug files*, for example, may contain hundreds of photos that witnesses or victims must sift through in trying to identify a suspect. This time-consuming task can lead to confusion and fatigue, reducing the likelihood of correct identification.

Therefore, an Institute-funded laboratory experiment designed a computer system capable of quickly and accurately selecting from the mug shot library a small number of photos closely resembling the description of a suspect with information on personal characteristics such as height, weight, age, sex, race, and the type of crime committed by the suspect.

Another experiment investigated the accuracy of the *polygraph*. Based on their tests, the researchers reported that the polygraph can be more than 90 percent accurate in detecting truth or deception in criminal cases. The policy implications are a matter for further consideration. The project recommended that polygraph tests be considered as another form of expert testimony. Other knowledgeable professionals, however, would limit it to an investigative aid.

As part of the Institute's National Evaluation Program, an assessment of the strategies and techniques that could be employed to combat transit crime was made last year. It was learned that substantial increases in patrol generally reduce crime, but the magnitude of the impact often is unclear and effects appear to diminish with time. There is evidence that devices such as closed circuit television, silent alarms, and two-way radios have some deterrent value and bolster police surveillance and apprehension capabilities. On large, multi-jurisdictional systems with serious crime problems, special transit police can provide uninterrupted patrol coverage, whereas a general police force might give lower priority to transit crime. Passengers accurately believe that more crime occurs on rapid rail than on bus systems and that within the rapid rail system more crime occurs at the station than on the trains.

### **Courts Division:**

One of the Institute's primary courts system improvement priorities is providing support to Neighbor-

hood Justice Centers. With some \$600,000 in Institute funds, three cities—Atlanta, Kansas City, Missouri, and Los Angeles—will establish pilot centers. The National Institute also will finance an evaluation of how well they work. The Institute drew upon research into alternatives to conventional adjudication that have operated in other industrialized countries for testing here. Some 20 methods for handling civil and criminal cases were identified and examined in foreign countries. Four will be studied in-depth—community mediation, prosecutorial practices, rentalsman (a mechanism for resolving landlord-tenant disputes), and compulsory mediation.

Model *sentencing guidelines* were successfully implemented on a pilot basis in Denver, Chicago, Newark, and Phoenix. The experience indicated that judges are both interested in the concept and willing to use a model that reflects their jurisdiction's sentencing policy. Although not mandatory, it is anticipated that judges will follow the sentences recommended by the guidelines in 80 to 85 percent of the cases. Philadelphia also has implemented guidelines sentences.

Another Institute research study is exploring, with unprecedented thoroughness, data from the Prosecutors Management Information System (PROMIS) as it operates in the District of Columbia. The computerized system, which can prepare court calendars, issue subpoenas, and warn of possible bail jumpers, is operating in 15 cities and was to be in 6 more by December 1977 with LEAA support. PROMIS provides courts and prosecuting attorneys instant access to arrest and court records that formerly took days to retrieve if they could be retrieved at all.

Last year, the Institute published the first 3 of 17 reports to be produced by the *PROMIS research project*. Some of the findings from the studies, which analyzed approximately 100,000 cases entered into the system since 1971, have been startling: more than 70 percent of all 1974 arrests for serious crimes in the District of Columbia did not result in convictions; more than 25 percent of 1974's felony arrests involved defendants on some form of conditional release—bail, probation, parole—stemming from a previous offense. This was true for almost one-third of the robbery and burglary defendants. During a 5-year period, 7 percent of the defendants accounted for almost one-quarter of all arrests. One-half of the arrests that did result in conviction were made by 15 percent of the city's police force. When tangible evidence was recovered, the number of convictions per 100 arrests rose 60 per-

cent in robberies, 25 percent in other violent crimes, and 36 percent in nonviolent property offenses. In stranger-to-stranger robberies 40 percent of all persons arrested within 30 minutes of the offense were convicted. For suspects apprehended between 30 minutes and 24 hours after the occurrence of the offense the conviction rate dropped to 32 percent. For stranger-to-stranger arrests that followed the commission of a crime by at least 24 hours, the conviction rate was only 23 percent. Less than 1 percent of the arrests were rejected for prosecution due to improper conduct, such as an illegal search or failure to advise a suspect of his or her rights.

A national study developed and tested two model *evaluation designs for public defender offices*. One was a self-evaluation handbook that a public defender could use to pinpoint strengths and weaknesses in client representation and office management. The other was a more detailed evaluation design to be used by an outside evaluation team. The evaluation designs can serve as tools to upgrade the defense function.

Two research projects in Philadelphia demonstrated the advantage of modern technology for criminal justice agencies. The *Closed Circuit TV Case Screening Project* tested the use of a television link between the prosecutor's office and the nine police division headquarters in the city. The system provides early case screening and legal counseling to police officers by prosecutors before the defendant is booked and transported to central police headquarters. The results suggest that the use of technology in early case screening produces cost savings and better manpower utilization in both the district attorney's office and the police detective division. In addition, the system appears to offer significant opportunities for improving successful case prosecution by the district attorney's office. The early elimination of poor cases helps conserve court and prosecution resources.

The *computer-aided transcription* of stenotype notes greatly speeds the production of court proceedings, thereby reducing appellate delay. The National Center for State Courts tested the practicality of this procedure for court reporters in the Philadelphia Courts of Common Pleas. The study found that transcript delay could be reduced by half and that it is competitive economically with traditional transcription methods. The average time of delivery of a transcript was reduced from 37 days to 18. The researchers report that the computer can be programmed to take into account the idiosyncrasies of each reporter's notes, an important factor in ensuring accuracy.

In the initial phase of a study completed last year, researchers called for an end to the secrecy surrounding plea bargaining in the Nation's prosecuting attorneys' offices. The report urged that plea bargaining, long couched in mystery and suspicion, should be removed from behind closed doors and a record kept of all discussions. The report also stressed the urgency of developing specific guidelines to help prosecutors in plea bargaining. Although the report draws no conclusions about eliminating plea bargaining, it said that alternatives to reduce the visible defects of the practice should be considered.

The Courts Division awarded \$2 million to new projects during Fiscal 1977 including:

- A continuation grant for analysis of the data produced during the first phase of the study of viable *alternatives to conventional adjudication* that have operated in other industrialized countries.
- A national *survey of public opinion* to obtain information on what Americans think of and expect from the adjudication system in our society.
- A continuation of analysis of the data generated by PROMIS.
- A continuation of the analysis of *plea bargaining* processes.
- An analysis and evaluation of *state speedy trial provisions*.
- An identification of current prosecutorial decision-making practices and the development of procedures that enhance the uniform processing of cases.

### Corrections Division:

A legal issue with significant ramifications for corrections is fixed sentences. A few states have shifted from indeterminate sentencing to systems of more definite sentences. The first to abandon the indeterminate sentence was Maine. Institute-sponsored researchers are now assessing the impact of Maine's "flat" sentencing approach. These areas include the impact of the state's criminal code revisions on changes in sentencing practices, possible shifts in institutional populations and staffing patterns, resentencing policies and procedures, the use of split sentencing and executive clemency, and the use of restitution and community-based corrections as alternative means of handling criminal offenders in lieu of incarceration.

The Center for Policy Research in New York City is investigating what changes in sentencing and correctional systems would be required if parole were eliminated. The study includes a thorough analysis of the elements of the current parole system, an assessment of the reforms required if parole is to be retained, and a consideration of the changes needed in other parts of the system if parole were eliminated.

In the Crime Control Act of 1976 the Congress directed the Institute to survey existing and future needs in correctional facilities as well as the adequacy of Federal, state, and local programs to meet them. On September 30, 1977, the Institute submitted its report, "*Prison Population and Policy Choices: A Preliminary Report to Congress.*" Among other things, the study found that prison intakes have risen 38.8 percent during the last 6 years. In 1976, however, intake exceeded that of 1975 by only 0.3 percent. If this abatement continues, inmate population will stabilize within the next two or three years, provided time served does not increase. Nationwide, the number of prisoners on June 30, 1977, exceeded rated capacity by approximately 21,000 inmates. Rated capacity will rise from its current level of 262,768 to 319,000 if all currently reported construction, renovation, and acquisition plans are carried out by 1982 and if current rated capacity remains unchanged. This number exceeds the present population by 13 percent.

Population forecasts for 1982 were derived from different projection techniques. Depending on the assumptions one makes about the continuation of present trends in corrections, the projected 1982 prison population ranges from 284,000 to 384,000. Thus, the projected 1982 capacity described above will accommodate either all population growth anticipated for 1982 or only half the increase that can be projected for that time.

A more detailed analysis of the projections that will include data on local detention facilities as well as prisons is being prepared.

A five-volume study of "*Alternatives to Jail*" has found that pretrial alternatives generally cost much less than jail; persons released before trial seem to fare better in court than those who are incarcerated; pretrial release alternatives appear to be as effective as jail in preventing recidivism, and certain of them can reduce the size of criminal justice agency workloads; alternative programs can reduce jail populations and eliminate the need for expansion of new construction; and convicted misdemeanor offenders can be sentenced to a variety of conditional release alternatives with minimal danger to the community.

A survey of prison industries in seven states found short workdays (averaging about 3 hours and 30 minutes), poor wages (typically no more than \$1 a day), work assignments based on the offender's prison record rather than skills or aptitude for a particular job, and no quality control over products.

LEAA awarded funds to three states—Connecticut, Illinois, and Minnesota—to reshape their prison industries to correct the deficiencies the survey uncovered.

An assessment of employment service programs for offenders released from institutions revealed that there is a great variation among programs in the types of employment services offered and the ways these services are delivered. However, little is known about the types of services which seem most effective or about the best method for providing any given service. Many programs have analyzed whether or not clients obtain jobs. Most have reported that the majority of clients are successfully placed.

Available analyses usually indicate that program clients experience lower rates of recidivism than commonly thought. Most studies incorporate limited impact measures, such as placement and rearrest rates, and do not consider such factors as job stability, job quality, or the severity of crimes committed. Few studies compare the outcomes of program clients with those of similar groups of nonclients. Consequently, the extent to which successful client outcomes should be attributed to the programs' intervention or to other causes cannot be determined.

Another study nearing completion attempts to assess the correctional treatment and evaluation literature produced during the last decade. Preliminary findings suggest that recidivism rates for offenders are somewhat less than the high rates (one-half to two-thirds) traditionally alleged.

The Institute also is sponsoring a project to analyze what is known about probation and another to develop a uniform approach for measuring correctional outcomes to evaluate better the efficacy of corrections programs.

## **Community Crime Prevention Division:**

Research has demonstrated the crucial role played by the individual citizen in preventing and controlling crime. An important aspect of this is the relationship

between the physical environment and citizen behavior. This and other concepts are now being demonstrated in a major program of *Crime Prevention Through Environmental Design*. Projects are under way in a school system in Broward County, Florida; residential neighborhoods in Hartford, Connecticut and Minneapolis, Minnesota; and a business district of Portland, Oregon.

A related effort is the recently commissioned *Urban Design Technical Manual*. It will explore the process of planning and designing safe neighborhoods through a systems analysis approach to urban design. It will analyze past models and will present case studies of the Institute-sponsored Hartford Residential Neighborhood Crime Control Study and a crime prevention planning approach used in the Chicago South Loop area.

To help the criminal justice system deal more effectively with rape, the Institute sponsored a major two-year study that included surveys of police and prosecutors. It confirmed a trend toward a more enlightened treatment of rape victims. Many police departments, for example, are assigning female officers to such cases and are providing special training to investigators. Although prosecutors' offices in many large jurisdictions have begun to adopt improved approaches, overall they have been slower than law enforcement agencies to respond to the victims concerns.

The project also examined rape legislative issues and compiled a digest of state rape statutes. A number of convicted rapists were interviewed to collect data that could be useful in preventing the crime. Finally, interviews were conducted with 100 rape victims in Seattle. One conclusion was that victims should be provided with detailed information that tells them in clear language what to expect as their case moves through the criminal justice system and alerts them to the medical, legal, counseling, and other social services available. The project produced an easy-to-use booklet published by the Institute.

Research is currently under way to collect and analyze information on the extent of consumer fraud and the types of businesses and consumers most involved. A general review of the current state of fraud law has been completed. The report includes an analysis of 67 consumer fraud practices that states have targeted for regulation and 33 strategies used to prevent these practices.

Other upcoming studies include an analysis of racketeering (bookmaking, numbers, and loansharking), a study of corporate fraud, research into employee theft, and an examination of the abuse of government benefit programs.

## Advanced Technology Division:

During the year the Advanced Technology Division emphasized the research and development of systems to improve the security of law enforcement personnel and businesses, the testing and improvement of the Nation's crime laboratories, and the development of law enforcement equipment standards.

Among the principal programs completed during the year were:

- A field test of the Institute-developed light-weight body armor in 15 cities. The synthetic cloth protects against bullets fired from most handguns. During the field tests 15 police officers escaped serious injury or death because they were wearing the body armor.
- The Crime Laboratory Proficiency Testing program, which measured the analytical accuracy of evidence analysis nationwide. It identified both strengths and weaknesses in the capabilities of crime laboratories to analyze such typical physical evidence as bloodstains, firearms, drugs, paint, glass, soil, metal, hair, and wood. More than 200 laboratories participated in the tests. The results provide a sound basis for devising programs to improve evidence analysis.
- The continuation of a program of certification for forensic science personnel.
- A test of an Institute-developed technique for detecting gunshot residue on a suspect's hands. The new method, which promises to be of value in connecting suspects with weapons and in distinguishing between homicides and self-inflicted wounds, was used in more than 100 cases to establish validity and applicability.
- A laboratory-controlled test of a cargo security system to prevent truck hijacking. The system will be evaluated in a 400-square-mile area in Los Angeles. A control station operation and 40 trucks will be involved in the test to determine the system's cost effectiveness.
- Further work on new techniques developed through Institute research for analyzing blood and bloodstain evidence. The project is expected to permit scientists to link evidence more accurately to a specific individual. Similar breakthroughs have been made in analyzing hair and semen.

The Advanced Technology Division published 15 standards, guidelines, and special reports evaluating

communications, weapons, security and investigative equipment and systems.

## Special Programs Division:

The Institute's Special Programs Division divided its budget among three research programs:

1. *National Evaluation Program.* This effort assesses the costs, benefits, and limitations of selected criminal justice programs. Each study focuses on a specific topic area of ongoing programs throughout the country, such as halfway houses or crime analysis units.

Seven Phase I studies were completed in Fiscal 1977, bringing the total number of such completed assessments to 24 during the past 2 years.

An evaluation of court information systems found that approximately 30 jurisdictions are operating comprehensive systems that provide not only day-to-day information processing but also data useful for court management.

Other assessments completed during the fiscal year include halfway houses for adult offenders, intensive special probation projects, employment service programs for former offenders, street lighting projects, and security programs for urban mass transit systems.

The study of 155 halfway houses found that halfway houses are as effective in preventing criminal behavior as other forms of community release. At full capacity, halfway houses cost no more, and probably less, than incarceration, although they cost more than parole and outright release. The available capacity of halfway houses is only partially utilized at present, thus driving up actual per diem costs.

A review of 41 street lighting projects indicated that there is no statistically significant evidence that the lighting has an impact on the level of crime, especially if displacement of crime to another location is taken into account. There is a strong indication, however, that increased lighting decreases the fear of crime.

Fiscal 1977 funding included Phase I assessments of police juvenile units and coeducational corrections institutions, Phase II evaluations of Treatment Alternatives to Street Crime (TASC) and pre-trial release programs, and a project to develop a manual for single project evaluation design based upon findings to date.

2. *The Visiting Fellowship Program.* This program supports a community of criminal justice scholars at the National Institute. Fellowship recipients work

on projects of their own design for periods of 3 months to 2 years. The emphasis is on creative, independent research on major issues concerning crime prevention and control and the administration of justice.

Visiting fellowship projects in Fiscal 1977 included a study of international terrorism focusing on terrorist-hostage negotiations, an examination of the private practice of criminal law, the development of sourcebooks in forensic serology, and an analysis of trends of crime and violence in the Nation's public secondary schools from 1950 through 1975.

3. *The Research Agreements Program.* This program was begun late in Fiscal 1975 with four research agreements—habitual criminal offenders, collective responses to crime at the community level, the econometric analysis of crime problems, and white-collar crime.

Information collected about the characteristics of habitual offenders indicates that former prison inmates account for a relatively small proportion of the overall crime rate even though the ones who repeat (25 to 40 percent) commit more frequent and more serious criminal acts than those offenders who have not been to prison. New sentencing policies should deal with those offenders who have been convicted at least once of a serious offense, but never sent to prison.

Within a group of offenders who can be characterized as habitual and dangerous by their prior conviction record at least two different patterns of behavior can be distinguished—the intensive offenders who are most dedicated to crime, commit more frequent offenses, and are more likely to avoid arrest; and the intermittent offenders who commit crimes in a more sporadic and reckless fashion and are much more likely to be arrested. Most offenders attributed their continuation in crime to their own personal choice and not to external factors.

A fifth research agreement was begun during the year with the Vera Institute of Justice to study the relationship between employment status and criminal activity.

## Office of Technology Transfer

The Office of Technology Transfer transmits LEAA research findings to both researchers and practitioners to increase the understanding and use of research results and advanced criminal justice practices. Its 1977 budget was \$6.3 million.

## Model Program Development Division:

One of the Division's most important 1977 priorities was to devise improved mechanisms for resolving citizen disputes—to establish fair, convenient, and economic community alternatives to formal court trials for resolving minor cases. The goals were to reduce delays, costs, and court congestion.

Working with the National Institute's Office of Research Programs, the Model Program Development Division reviewed past research and operating experience in the area and developed a program, *Neighborhood Justice Centers: An Analysis of Potential Models*, which analyzed the advantages and disadvantages of each approach. The division subsequently worked with the Department of Justice to develop a program design appropriate for a national test and evaluation effort. The resulting Neighborhood Justice Center pilot program will be tested during the coming year in Los Angeles, Kansas City, and Atlanta. The Institute will assess and analyze the experience of the three sites to develop a national model.

The Reference and Dissemination Division is publishing and disseminating the original program model to other interested communities. It will also publish and distribute the test experience report and the results of newly initiated Institute research on citizen involvement in dispute resolution and court processing.

In addition to developing program models from research findings and operating experience, the Division identifies the most effective practices and produces handbooks to guide criminal justice officials in using the new techniques. Two of its major efforts are the Exemplary Projects Program and the Prescriptive Packages Program.

**Exemplary Projects:** This program responds to the congressional mandate that the Institute identify and publicize outstanding criminal justice programs. Candidates may come from state, local, or private agencies. LEAA funding is not a prerequisite. To be considered for the exemplary designation, a project must have operated for at least one year, must have demonstrated—through careful evaluation—success in reducing a specific crime or improving a criminal justice operation or service, and must be adaptable to other locations.

All Exemplary Projects are publicized nationally. Brochures and detailed manuals are prepared on each project, covering project planning, operation, budget and staffing. The manuals place special emphasis on evaluation procedures, so communities adopting the

program can gauge their own successes or shortcomings. From more than 430 candidate programs submitted to date, 25 have been designated exemplary.

Five named in 1977 were the Community Crime Prevention Program of Seattle; Project New Pride in Denver; the One Day/One Trial Jury System in Wayne County, Michigan; the Pre-Release/Work Release Center in Montgomery County, Maryland; and the Mental Health/Mental Retardation Emergency Service in Montgomery County, Pennsylvania.

**Monographs:** An outgrowth of the Exemplary Projects Program, this publication series consolidates and analyzes information gleaned from the study of a number of related Exemplary Project candidates, or focuses on one particularly worthwhile program that did not quite meet the stringent exemplary criteria. In 1977, monographs were published on *Courts Planning and Research: The Los Angeles Experience* and *Use of Civilians in Police Work*.

**Prescriptive Packages:** These reports analyze the advantages and disadvantages of various program models, based on available data, research findings, and expert opinion. Twenty-four Prescriptive Packages have been published, and 21 more are in preparation.

During 1977, four related Prescriptive Packages were funded on management (case flow management, records management, personnel management and financial management), two on community corrections (the regionalization and consolidation of correctional programs and community correctional facilities), and manuals on correctional programs for women and the unification of state court systems.

Prescriptive Packages published and distributed during 1977 includes *Para-legals: A Resource for Public Defenders and Correctional Services*, *The Prosecutor's Charging Decision*, *Child Abuse Intervention*, *Routine Police Patrol*, *Specialized Police Patrol*, and *Drug Programs in Correction Institutions*.

### **Training and Testing Division:**

The Division conducts regional training workshops and special national workshops, field tests, new program approaches, and a HOST program of on-site training in exemplary practices.

**Executive Training Program Workshops:** Offer criminal justice decision-makers brief, intensive training in new research-based programs and advanced practices.

The following workshops were conducted during 1977:

**Juror Usage and Management:** Some 450 judges, jury commissioners, and court administrators were

trained in efficient and cost saving juror management techniques developed through Institute-sponsored research.

**Managing Criminal Investigations:** More than 600 police executives were trained in criminal investigation management and resource allocation techniques based on the findings of three Institute studies.

**Prison Grievance Mechanisms:** More than 485 prison administrators and corrections officials studied techniques for resolving grievances in institutions based on an Exemplary Project and a Prescriptive Package.

**Rape and Its Victims:** This workshop trained more than 570 participants who came as community teams to focus on effectively integrating community response to the rape victim.

**Special National Workshops:** Present significant research findings to selected national audiences to stimulate discussions of critical criminal justice issues. During 1977, these included a seminar on the Supreme Court's decision in *Argersinger v. Hamlin* and the problems associated with the delivery of legal counsel to indigent defendants, a seminar to help local elected executives solve criminal justice problems by adopting better approaches identified through research, and a seminar on determinate sentencing and its effect on courts and corrections.

**Field Tests:** Are conducted as part of the Institute's research and development effort and are an important part of the LEAA program development process.

Two field tests continued in 1977, both drawn from a series of Institute-sponsored studies. *Managing Criminal Investigations* is being conducted in 5 locations and *Juror Usage and Management* is being tested in 18 jurisdictions.

**The HOST Program:** Gives local officials interested in establishing a new project the chance to visit and work with agencies using the program. Participants spend up to 2 weeks at the host agency and work with the people who initiated the program. During 1977, 60 criminal justice officials visited an Exemplary Project HOST site.

### **Reference and Dissemination Division:**

This Division publishes and distributes Institute research and evaluation findings, develops special information on Institute programs for researchers and practitioners, operates the LEAA library, and disseminates information to the international criminal justice community through the National Criminal Justice Reference Service.

To improve dissemination, last year the Institute



created a Research Utilization Committee that brings together relevant Institute and LEAA program staff to review research reports and suggest appropriate utilization and dissemination approaches.

The Reference Service is an international clearinghouse for all aspects of criminal justice research and operations. It acquires indexes and abstracts; stores, retrieves, and distributes reports and information; and offers a wide range of free reference and referral services to users. Its 34,000 registered users have access to a data base of more than 28,000 entries.

## Office of Evaluation

The Office of Evaluation's primary functions are to evaluate specific programs and innovations, to develop improved evaluation methodologies, and to assist state agencies in developing their own evaluation capabilities.

During Fiscal 1977, work began on an evaluation of LEAA's standards and goals program. The study in analyzing the experience of the 27 states that have completed the standards and goals process.

A process evaluation of Treatment Alternatives to Street Crime TASC is also being conducted. TASC provides resources to communities for treatment programs for drug-abusing criminal offenders.

In response to a requirement in the 1976 legislation, LEAA funds were provided through an inter-agency agreement with the National Institute of Drug Abuse to support an evaluation of the efficacy of drug treatment programs. The Office also applied funds to LEAA's Office of Criminal Justice Education and Training to begin an evaluative study of the Law Enforcement Education Program as it is operating in participating 2-year colleges. Finally, additional funding expanded the evaluation of LEAA's Career Criminal Program to examine the effects on police and corrections of this prosecutor-oriented program.

Grant solicitations were also developed for evaluations of four other LEAA discretionary programs—Community Anti-Crime, Court Delay, Improved Correctional Field Services, and Neighborhood Justice Centers.

The Office of Evaluation also is responsible for designing and implementing evaluations of test and demonstration programs initiated by the Institute's Office of Technology Transfer. In 1977, this involved the Managing Criminal Investigations program which is testing improved methods of managing and using investigative resources.

Among the methodology studies begun in 1977

was a critical review by a panel of the National Academy of Sciences of the literature on rehabilitation.

Completed projects included a policy study on the effects of reducing penalties for violating state marijuana laws. The study suggests that although substantial dollar savings can be anticipated when penalties are reduced, it is too soon to say with any confidence whether marijuana use has been affected by the passage of the new laws.

Another study examined New York State's early experience in implementing and enforcing its strict new drug abuse laws. The evaluators found that during the first 3 years the objectives were not achieved. For example, heroin use was as widespread in New York City in mid-1976 as in 1973, and the pattern of usage over this period was not appreciably different from the pattern in other major East Coast cities. Similarly, patterns of drug-related crimes showed no significant deterrent effects. Finally, although court case-load backlogs and other effects on the criminal justice system tended to decrease over time, the cost imposed by the laws do not appear to have resulted in commensurate benefits.

## Office of Juvenile Justice and Delinquency Prevention

The Juvenile Justice and Delinquency Prevention Act of 1974 was enacted by Congress to develop an effective program that would coordinate the efforts of Federal, state, and local governments. It created two operating divisions, the Office of Program Operations and the National Institute of Juvenile Justice and Delinquency Prevention.

Two groups were established by the act to help direct Federal juvenile delinquency programs—the Coordinating Council and the National Advisory Committee on Juvenile Justice and Delinquency Prevention. During the past year the Coordinating Council met six times. Early meetings focused on general goals and priorities; later sessions concentrated on policy options and the development of a Federal agenda for research.

The National Advisory Committee met four times during Fiscal 1977.

During the past year the First Comprehensive Plan for Federal Juvenile Delinquency Programs was prepared and submitted to the President and the Congress. It provides policy direction and a description of the preliminary steps that should be taken before large-scale program and fiscal coordination is attempted.

In February 1977, the Second Analysis and Evaluation of Federal Juvenile Delinquency Programs was prepared and submitted to the President and the Congress. It contains a detailed statement of criteria developed for identifying and classifying Federal juvenile delinquency programs.

Specific integrated funding and programmatic approaches were initiated among Federal agencies in selected projects. For example, HUD cooperated with LEAA's diversion program by adding its funding to locales chosen as diversion sites. LEAA transferred money to the Office of Education to initiate programs aimed at school violence.

Grants to public and private nonprofit agencies, organizations, and individuals were made through LEAA's special emphasis program. It awarded 11 grants for 2-year demonstration programs in five states and six counties to deinstitutionalize status offenders—affecting 23,000 juveniles. The program will remove status offenders from jails, detention centers, and correctional institutions by developing emergency shelter facilities, group homes, foster homes, and family counseling services.

A program was developed to divert juveniles through the better coordination of existing youth services and the use of community-based programs. It is for those juveniles who would normally be adjudicated delinquent and who have the greatest risk of further juvenile justice system involvement. Eleven grants for 2-year programs have been awarded.

The Office of Teacher Corps received LEAA funds for 10 demonstration programs in low-income areas to help students plan and implement workable programs to reduce crime and improve the school environment. The Office of Drug Prevention received funds to train 66 teams of 7 persons to reduce and control violence in public schools.

In addition, 10 discretionary grants were awarded to public and private youth agencies to develop and implement model programs to prevent delinquency and improve the juvenile justice system. Examples of these programs included money to Pennsylvania to remove juveniles from Camp Hill, an adult prison facility; support female offender programs in Massachusetts; fund arbitration and mediation programs involving juvenile offenders in the District of Columbia; and support the American Public Welfare Association's efforts to coordinate local youth programs.

A technical assistance program was established to support public and private agencies, institutions, and individuals in the planning, establishing, funding, operating, or evaluation of juvenile delinquency pro-

grams. Assistance was given the Boys' Clubs of America to develop and fund a series of clinics.

## **The National Institute of Juvenile Justice and Delinquency Prevention**

The Institute serves as an information center. It collects, publishes, and disseminates material on various aspects of delinquency through the Assessment Centers Program, consisting of three topical assessment centers and a coordinating center. The three topical centers are delinquent behavior and its prevention, the juvenile justice system (police, courts, and corrections), and alternatives to juvenile justice system processing. The fourth center will also produce an annual volume, *Youth Crime and Delinquency in America*.

### **Research and Evaluation:**

The majority of the Institute's activities in this area are focused on evaluation of special emphasis programs. Evaluations are under way in the deinstitutionalization of status offenders, diversion, prevention through private agencies, and school crime.

A major current project is examining the link between learning disabilities and juvenile delinquency.

### **Standards:**

The Institute has provided staff support for the Advisory Committee on Standards for Juvenile Justice. The Committee developed standards delineating the functions of Federal, state, and local juvenile service systems, and the needed resources, programs, and procedures.

### **Training:**

The Institute's training program provides workshops and seminars to train juvenile court judges and other court personnel. It also provides training in remedial reading methods and techniques for teachers from 40 juvenile institutions whose residents have been identified as having the most severe reading problems of the 148 institutions in this project last year. Training has also been extended to 40 community-based programs working with delinquent youth.

A national training institute for executives is also being developed to train 80 key individuals from the juvenile justice and youth-serving disciplines. Other training activities include a series of regional and local level workshops and seminars.

## National Criminal Justice Information and Statistics Service

The National Criminal Justice Information and Statistics Service develops a coordinated and unified approach to the information and communications needs of criminal justice agencies. Its programs emphasize the timeliness and accuracy of information and the uniformity of statistics needed by the agencies. The information made available is designed to make criminal justice operations, resource allocations, and program planning and evaluation as efficient and effective as possible.

The program consists of three major areas: the Statistics Division, the Systems Development Division, and the Privacy and Security Staff.

### Statistics Division:

The Division is organized into two branches for national efforts to collect, analyze, and disseminate criminal justice statistics, for the support of state efforts to derive statistics from operational information systems, and to analyze and utilize data to improve the administration of justice. Major programs are:

- *The National Crime Victim Survey*. This nationwide report measures criminal victimization and attitudes concerning crime through a representative probability sampling of households and commercial establishments.
- *The National Prisoner Statistics*. This is a series of statistical surveys and censuses in corrections. It provides statistical profiles on the inmates and the institutions to which they are confined. The data includes prisoner population, movement of prisoner trends, methods by which people are released, characteristics of persons admitted and released, characteristics of the correction facility itself, and demographic and socioeconomic characteristics of prisoners.
- *Capital Punishment 1975 and Capital Punishment 1976*. Advance Reports were published during 1977 under this program. These reports contain data by sex, race and offense about persons executed under civil authority as well as those currently under sentence of death.
- *Criminal Justice Expenditure and Employment Data*. National and state-by-state estimates of expenditure and employment are

published for each of the components of the criminal justice system—police, judiciary, prosecution, indigent defense, and corrections. This program collects the expenditure data in accordance with a statutory requirement and is the only national source of such data.

- *Trends in Expenditure and Employment Data for the Criminal Justice Systems*. This is the third in a series presenting detailed multi-year statistics on criminal justice employment and expenditure trends in the United States.
- *National Survey of Court Organization, 1977 Supplement to State Judicial Systems*. This is the second supplement of an original survey made in 1971 by the Bureau of the Census. It is part of LEAA's effort to develop profiles of court systems and their operations, to help judges, court administrators, and their court personnel stay abreast of national developments in court organization. During the year, LEAA awarded a grant to the National Center for State Courts to establish a National Court Statistics Project.
- *Children in Custody*. Advance Report on Juvenile Detention and Correctional Facility Census of 1974. This is the third in a series containing data on population, movement, numbers and types of juveniles, length of stay, personnel, and expenditure collected from approximately 900 public and private facilities.
- *Sourcebook of Criminal Justice Statistics, 1975 and Sourcebook of Criminal Justice Statistics, 1976*. These publications incorporate information from 100 separate criminal justice publications on such data as the nature and distribution of criminal offenses, the characteristics of arrested persons, the court processing of defendants, and a description of correctional system inmates.
- *LEAA Dictionary of Criminal Justice Agencies*. This 10-volume directory lists names and addresses of all criminal justice agencies including police, prosecution, indigent defense, courts, and corrections, by Federal region.

### State Programs Branch:

A major LEAA program is Comprehensive Data Systems. It encourages the states to collect comprehensive criminal justice information for use in planning,

implementing, managing, and evaluating criminal justice programs at the local, state, and national levels. Because the administration of criminal justice is largely a state and local function, much of the data needed for national planning must be developed at those levels. The program provides the means to systematically gather, organize, and analyze this information. There are three system components—the statistical analysis centers, the uniform crime reports, and the offender-based transactions statistics computerized criminal histories. More than 100 grant awards were made to the states for 1 or more of the 3 components during 1977.

Thirty-four states have now begun development of their computerized criminal history systems. Eleven states have their criminal history files in the FBI's National Criminal Information Center. At the end of the fiscal year, 40 states had established criminal justice statistical analysis centers. Forty-two states have been assisted in assuming responsibility for uniform crime reporting.

### **Systems Development Division:**

The Division develops, tests, evaluates, and transfers information and communication systems which hold potential for improving the efficiency and effectiveness of criminal justice operations.

One of the major programs within the Division is the improvement of state and local telecommunications. During the year, the expansion of the National Law Enforcement Telecommunications System was completed. Four years ago, NLETS was a low-speed, party-line system, manually connected with the states it served. The capacity of the system was totally inadequate for the message load being developed by the states. As a consequence, backlogs of several hours were not uncommon. Today, NLETS is an efficient, high-speed data system to which all states except Hawaii have access. Messages to 45 states and several Federal agencies are transmitted on a computer-to-computer basis in less than a second even at peak periods. Four states have access to NLETS via teletype methods.

A major program is now under way to increase the effectiveness of 911 emergency telephone systems through two demonstration projects and to disseminate information on the costs and benefits of these systems to local jurisdictions. These advanced emergency telephone systems are designed to decrease the number of errors in the identification and location of the caller, thereby reducing the response time by the police, ambulance, and fire departments. The 911 emergency telephone system in the quad cities area (South

County, Iowa, and Rock Island, Illinois) is a planning study that will evaluate alternative approaches for providing 911 service to a multi-jurisdictional area that is served by multiple independent telephone common carriers. During the advanced 911 trial in Alameda County, California, an evaluation will be conducted of the cost effectiveness of a service that will offer three advanced features not currently available in any other community: selective routing, automated number identification, and automated location identification.

An evaluation of the 10-print automated fingerprint system in Arizona was completed. The system successfully demonstrated the feasibility of automating the reading, classification, storage, and retrieval of arrest fingerprint images for a medium-size state. The evaluation showed that the use of such automation is faster and more economical than manual and semi-automated procedures in use elsewhere.

A project to expand an automated latent fingerprint system was initiated in New York State. The system takes prints found at the scene of a crime and searches the state files for a match. The significance of this system is the size of the data base which can be used. Most latent fingerprint systems can only utilize a very limited data base. By expanding this system from 11 to 62 counties, the chances of making a match are greatly increased. The third major Division program is the development of state and local information systems. State judicial information systems are under concurrent development in 23 states, and 18 states have begun implementation.

A comprehensive demonstration of automated legal research was sponsored by the Division, which used SEARCH Group, Inc. as the coordinating agency. Thirty terminals were installed for a 6-month period in eight states.

During the year, the U.S. Department of Justice's Criminal Division and the State of Minnesota operated a joint project to develop and test a pilot program to collect and analyze statistics on the disposition of concurrent jurisdiction offenses which had been referred either from Federal to state or state to Federal courts for prosecution. The goal is to provide prosecutors with more meaningful information to use in caseload assignment. Computer programs were developed that will generate compatible statistics on criminal cases that can be prosecuted at either the Federal or state level.

A Crime Analysis Systems Support Project was initiated through a grant to the International Association of Chiefs of Police. It will provide automated

support for improved crime analysis capability in police departments. The project directly supports LEAA's Comprehensive Career Criminal Program.

During the year, the Geographic Base File (computerized maps) was tested in St. Louis and Tucson, and subsequently distributed to approximately 35 law enforcement agencies. On-site technical assistance was provided to 10 agencies receiving the software package and telephone assistance was available to all others. The Division also funded the Interstate Organized Crime Index Project during fiscal 1977 through a grant to the California Department of Justice. The department is the central coordinating agency for more than 200 law enforcement agencies across the country. The project develops and operates an automated index of persons known to be active in organized crime.

The Offender-Based State Corrections Information System is currently operating in 23 states containing more than 64 percent of the Nation's total prison population. It is anticipated that more than 12 new states will join during the next fiscal year.

The Computer Assisted Prisoner Transportation Index Service was initiated during the year. It will determine the feasibility of establishing a central information system to assist county sheriffs to coordinate the transportation of prisoners between states. The service is expected to result in cost reductions of approximately \$2.5 million annually.

A study was conducted on expanding police communications from the sometimes crowded VHF-UHF frequency spectrum to the less crowded 900 MHz frequency spectrum.

A Jail Accounting Microcomputer System, LEAA's first major effort to demonstrate microcomputer technology in an operational setting, was tested in the San Joaquin County Jail in Stockton, California. The system provides the capability for booking prisoners entering the jail and the subsequent logging and retrieving of information concerning their location, status, and characteristics. It also produces operational, management, and statistical reports.

### **Privacy and Security Staff:**

During the year, the Privacy and Security Staff helped states comply with the LEAA privacy and security regulations.

In June 1977, a nationwide Privacy Policy Conference was held to discuss access to criminal records by the news media, private employers, private security

agencies, and other government agencies. Access by criminal justice agencies to other government records was also discussed. In addition, training seminars on the regulations and informal discussion seminars for state officials were held.

## **Office of Criminal Justice Education and Training**

The Office of Criminal Justice Education and Training is responsible for manpower planning and program development. The Program Development Division administers the Law Enforcement Education Program (LEEP), the Educational Development Program, the Graduate Research Fellowship Program, and the Internship Program. These four programs support the improvement of criminal justice and criminology education at more than 1,000 educational institutions. The Planning and Analysis Division develops policy. It also works closely with other offices preparing and delivering technical assistance in manpower development.

The Crime Control Act of 1976 directs LEAA to provide funds to institutions of higher education to develop criminal justice curricula, to support the education and training of criminal justice faculties, and to encourage research into better criminal justice teaching methods. During Fiscal 1977, these funds were concentrated on the improvement of criminal justice educational programs and the educational response to criminal justice manpower needs. The educational minority emphasis program included a grant to the State University of New York at Albany to design a program to increase the availability of minority practitioners in education and research. Positive Futures, Inc., a consortium of nine predominantly black institutions, received a grant to develop baccalaureate-level criminal justice programs at minority colleges and universities. East Central Oklahoma State University received an award to develop a baccalaureate-level career education program in corrections.

An award to American University will result in the collection and analysis of data pertaining to the influence of LEEP on other sources of funding for criminal justice degree programs. Michigan State University received educational development funds to initiate data collection and analysis of current educational needs. The Academy of Criminal Justice Sciences, in conjunction with the American Society of

Criminology, received an award to develop academic standards for criminal justice and criminology educational programs. The Office also is funding a Law Enforcement Education Program assessment of the quality of educational programs at 2-year institutions participating in the LEEP program.

LEEP provides grants to eligible institutions for financial assistance to criminal justice students. During Fiscal 1977, special consideration was given to those institutions whose programs addressed the need for qualified minority personnel in the system.

LEAA's Internship Program provides maximum weekly stipends of \$65 to criminal justice students working for operational agencies during summer recess or while on leave from an academic degree program. During the year, \$341,181 in internship funds to assist approximately 600 students were awarded to 16 colleges and universities.

The Agency's Graduate Research Fellowship Program encourages the development of educators and researchers for the criminal justice system. A maximum fellowship of \$10,000 awarded for a 1-year period and provides funds for support of the fellow and dependents, major project costs, and some university fees. During the year, LEAA especially encouraged proposals that contributed to improved research and evaluation methodologies for innovative criminal justice programs and improvement of criminal justice services or manpower planning and development. Through the competitive Graduate Research Fellowship Program, 31 doctoral candidates at 19 universities received fellowships totaling \$259,073.

In addition to the individual competitive fellowships, graduate research fellowship awards totaling \$63,500 were granted to the University of Maryland (six candidates), Portland State University (six candidates), and Michigan State University (eight candidates).

## **Office of Equal Employment Opportunity**

LEAA's Equal Employment Opportunity Program was established in April 1972 to assure equal employment opportunity for all employees and applicants for employment. The EEO Office is responsible for establishing a continuing affirmative program for equal opportunity in employment and personnel operations without regard to race, color, religion, sex, national origin or, with certain restrictions, age.

## **Major Activities:**

As of September 30, 1977, the EEO Office had accomplished 677 counseling units involving LEAA employees--including 51 in Fiscal 1977. A counseling unit is one employee counseled in any calendar week.

During the past 4 years, the Office has participated in a variety of conferences and seminars. Conducted by the National Urban League, the National Association for the Advancement of Colored People, IMAGE, the League of United Latin American Citizens, FEW, and the National Association of Blacks in Criminal Justice.

The Office analyzes data on LEAA employment of minorities and women on a quarterly basis, including such factors as occupational series, grade level, and length of service.

The EEO Office staff participates in National Conferences of minority groups and women. The meetings have been an excellent source of contact with prospective job candidates.

The percentage of LEAA employees who are members of minority groups has risen from 24.1 percent on December 31, 1975, to 30.5 on March 3, 1977.

## **Office of the Comptroller**

The Office of Comptroller is the principal advisor to the Administrator on the financial management of LEAA. It is responsible for agency policy in financial management, planning and administering the budget, operating an agency-wide accounting and reporting system, supervising contract activity, and formulating procedures for the financial administration of grants. In addition, it provides technical assistance and training to the LEAA program offices, State Planning Agencies, and other grantees in the areas of financial management, grant administration, budgeting, accounting, and contracting. It also monitors the execution by LEAA operating components of financial and grants management regulations and directives. The office maintains an accounting subsystem that controls the processing of approximately 300,000 student notes under the Law Enforcement Education Program.

The Office is responsible for providing data processing support for LEAA in the development of its information systems. These include internal, functionally oriented systems. They also cover national level grant management and criminal justice statistical systems that provide information to the 55 states and terri-

tories, Congress, the Office of Management and Budget, the Government Accounting Office, and LEAA program managers. It has developed the capability to track grants and contracts from initial application through final close-out and has developed an inventory of all LEAA grants, subgrants, contracts and inter-agency agreements. Efforts in this area include:

- A new program descriptor system for use in program planning, budgeting, and project reporting under the Program File (PROFILE) System.
- An expanded analytical capability of the PROFILE system, including project assessments and evaluated material in the PROFILE data base.
- An increased utility of the PROFILE system that gives LEAA users an automated grant data query system.
- An improved Law Enforcement Education Program (LEEP) note processing and program management report system that provides on-line terminal access to the LEEP data base.
- The provision of LEAA program offices with a timesharing capability to be used for storage and use of fund control and grant application data.
- A new mechanism for the control and accountability of LEAA personal property on loan to grantees and contractors.

The Office implemented a number of training programs to increase the capacity of LEAA and grantee personnel to manage grant and contract programs. Efforts included:

- A course to acquaint LEAA personnel with methods and procedures employed in processing and implementing Requests for Contract Action.
- A course to improve the quality of Statements of Work supporting contractual actions.
- A course to alert program office personnel to small business and minority business programs.
- A course to familiarize LEAA and grantee personnel with grant processing procedures.
- A course to acquaint grantee personnel involved in the financial aspects of grant management with basic principles and procedures relating to the Federal requirements of grant administration and financial management.

The Office also administers the Public Safety Officers' Benefits Act, which pays a \$50,000 death benefit

to the eligible survivors of a public safety officer who died as the direct and proximate result of personal injury sustained in the line of duty. During the year, 106 benefits claims were paid.

## Office of Audit and Investigation

The Office of Audit and Investigation is independent of other LEAA offices. It investigates alleged irregularities and conducts special inquiries, which it coordinates with other Federal and state investigative agencies. It also provides training and technical assistance to state and local audit functions. The Office consists of three headquarters divisions and five field offices.

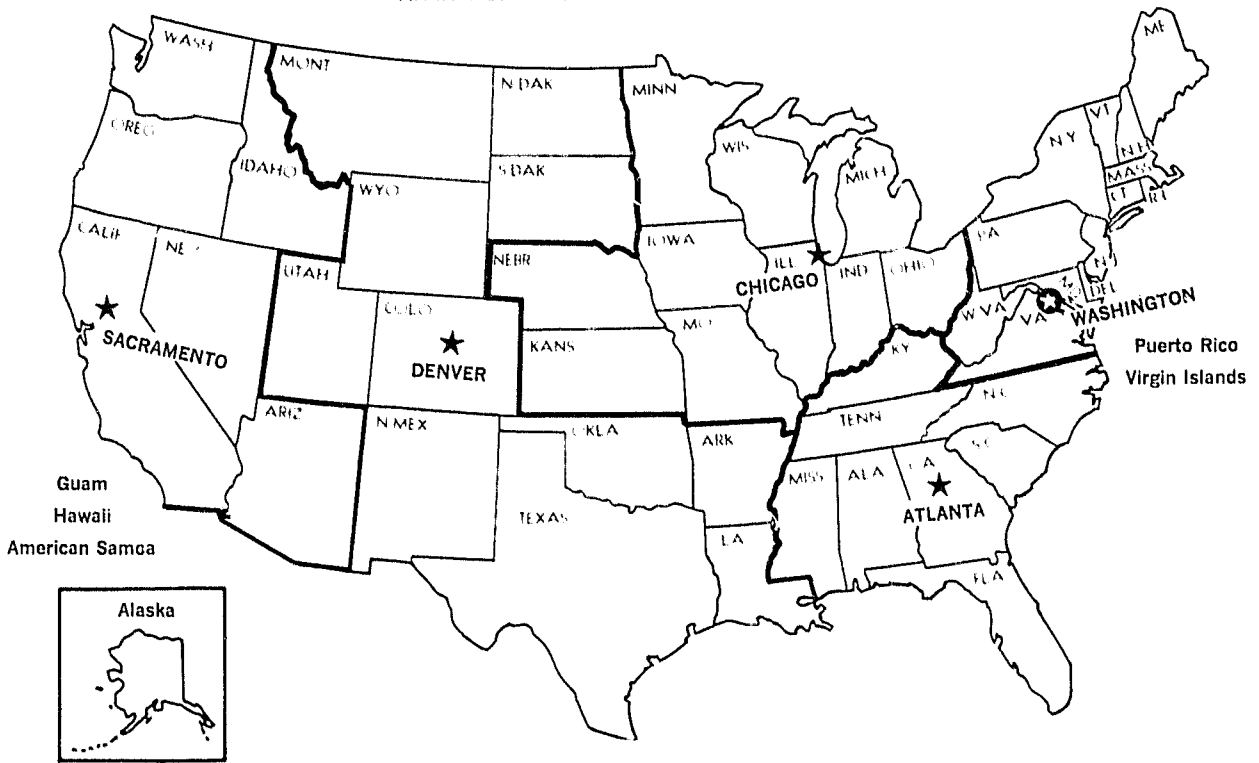
Audit responsibility rests with the Federal agency that has awarded the most funds to a state agency or a non-government body. LEAA has audit responsibility for 56 State Planning Agencies, 20 state agencies, and 40 non-governmental entities—most are nonprofit organizations associated with criminal justice.

During each year since Fiscal 1972, the Office has sponsored a series of two-week and 1-week courses for state and SPA auditors. The basic 2-week course is a prerequisite for attendance at the 1-week advanced course. Classroom instruction has been given to 1,047 individuals. During Fiscal 1977, more than 120 state auditors participated in the training course. In addition, a 3-day session is held annually at the Interagency Auditor Training Center for the heads of the state audit agencies.

In past years, the audit of SPA's was accomplished primarily by OAI audit teams. During Fiscal 1977, most SPA audits were conducted by state auditors. To strengthen state audit capabilities and to assure the effectiveness and completeness of audit coverage, OAI is continuing to provide technical assistance and/or the assignment of one or more OAI auditors to the state audit team. These cooperative programs, in addition to the specialized training, are innovative approaches to assuring effective audit performance responsive to the LEAA requirements. Each state can now more readily assume responsibility for auditing its block grant program and eliminate the need for a large staff of OAI auditors.

During Fiscal 1977 the Office issued 399 audit reports. They covered all aspects of the LEAA program and represented audits performed by LEAA and state auditors. In addition, 133 investigations and special projects were closed during 1977.

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION  
AREA AUDIT PROGRAM REVIEW OFFICES



## Public Information Office

The Public Information Office informs the news media and the general public about LEAA's programs.

As the agency's Freedom of Information Act Office, it is responsible for making all grants and other nonexempt documents available for inspection and reproduction on request. It is the Office's policy to promote liberal access to all applicable records. During the past fiscal year, the Office handled 224 Freedom of Information Act and Privacy Act requests.

The Office publishes the LEAA Newsletter, which is distributed 10 times a year to about 42,000 criminal justice professionals, research institutions, schools, colleges, and universities as well as interested members of the general public. In addition, the Office publishes the LEADER, a newsletter for LEAA employees.

The Office prepares speeches, briefing materials and other policy statements for the LEAA Administrator and is responsible for reviewing the content of all information released to the public.

During the current fiscal year, it greatly expanded the agency's brochure program, which provides basic information in a short, readable form about particular

aspects of general interest. The office began a brochure series for the general public called LEAA AID. Thus far, it has published 20,000 copies in each of the following subjects: "Improving Corrections," "Improving Juvenile Justice," "Curbing Organized Crime," and "Citizens Against Crime."

The office greatly expanded its cooperation with public service organizations and civic groups. For example, it worked throughout the year with Kiwanis International and its regional organizations to support the organization's "Safeguard Against Crime" program. In addition, with the assistance of the Minnesota Crime Watch, the Office developed community anti-crime pamphlets, films, and public service announcements.

## Office of Congressional Liaison

The Office of Congressional Liaison is responsible for promoting effective communications with the Congress and for giving the LEAA Administration general guidance in intergovernmental affairs.



The Office works with members of Congress, committees, and their staffs on legislative matters affecting LEAA and the criminal justice community. The Office also maintains general contact with state and local governments and their representative associations and organizations to increase their understanding of LEAA programs.

Congressional Liaison prepares the LEAA testimony on legislation before Congress affecting criminal justice activities and the agency. It also researches legislative issues and develops comprehensive reports on legislation after consulting with other parts of the Department of Justice.

During Fiscal 1977, the Office reported to the Administration on legislative activity. Each bill was screened for pertinence to LEAA's interests. About 500 bills and resolutions were of particular note, approximately 60 of which could be considered high interest measures. Included in this category were such topics as correctional reform, crime victim compensation, public works legislation, zero-based budgeting, repeat offender prosecution, sentencing guidelines, group life insurance for police, police bill of rights, and other bills that might affect the administrative aspects of the LEAA program.

The most significant development of the fiscal year was the passage by both the House and Senate of the Juvenile Justice Amendments of 1977. The bill extended the program authorized by the Juvenile Justice and Delinquency Prevention Act of 1974 for three years. Highlights of the new legislation include:

- The intent of Congress that the act, as well as other LEAA juvenile programs, be administered through or subject to the policy direction of the Office of Juvenile Justice and Delinquency Prevention, is reemphasized.
- The minimum annual allocation under the formula grant program is raised to \$225,000 for each state and \$56,250 for territories, an increase from \$200,000 and \$50,000 respectively.
- Each participating jurisdiction is given 3 years to assure that juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult, or such nonoffenders as dependent or neglected children, are not placed in juvenile detention or correctional facilities.
- Beginning in Fiscal 1979, the relative percentage of funds under the act which can be used for planning and administration decreases from

15 to 7.5 percent. In addition, fund recipients themselves must contribute as much to planning and administration as it received from the Federal Government. For most other aspects of the program, the Federal share will be 100 percent, rather than the former 90 percent.

- Twenty-five percent of the funds appropriated under the act are reserved for the discretionary use of the Office. At least 30 percent of these funds are to go to private nonprofit organizations. Provision is also made to assure that private organizations can receive funds under the formula grant program.
- The role of the Coordinating Council for Juvenile Justice and Delinquency Prevention is expanded to assure that all Federal programs and practices are administered consistent with the mandates of the act.
- The sum of \$150 million is authorized to be appropriated for Fiscal 1978, \$175 million for Fiscal 1979, and \$200 million for Fiscal 1980.

During the year, the Office of Congressional Liaison drafted testimony and prepared background materials for numerous congressional hearings, including the following:

- The condition of the Nation's correctional institutions.
- Elderly crime victimization.
- The Fiscal 1978 budget request.
- The extension of the Juvenile Justice and Delinquency Prevention Act.
- The Community Anti-Crime Program.
- LEAA-supported drug enforcement and treatment programs.
- The role of the National Institute of Law Enforcement and Criminal Justice.
- Unemployment and crime.

## Office of Planning and Management

During 1977, the Office of Planning and Management developed and implemented the Action Program Development Process. This provides a logical framework for the development of LEAA action programs and will be the primary framework for assuring coordi-

nation between the research and action goals of LEAA. The process delineates seven major steps in the development of LEAA programs: policy planning, problem definition, selection of response strategies, program design, testing, demonstration, and marketing.

During the next year, virtually all LEAA action programs will come under the process. It also will require that the research arm of LEAA direct a specific percentage of its research resources toward program priorities in the agency.

In an effort to reduce redtape and to significantly ease reporting burdens on state and local governments, the Office cut LEAA's Guidelines to State Planning Agencies by 50 percent. The streamlined guidelines implementing the statutory requirements of the recently enacted Crime Control Act of 1976 were issued in January 1977.

The Office established a monitoring policy for grants that includes a new status report form requiring more specific information from grantees.

The Office began conducting "reality monitoring" studies to assess high priority LEAA programs independent of the program office and thus provide an independent assessment to the Administrator of program progress or problems. One major study has been completed and two are presently under way.

The Office and LEAA's Training Division developed an evaluation training course to present to state supervisory board members, managers, staff evaluators, and program monitors through five university-based training centers.

The Office prepared and published in December 1976 LEAA's first *Two-Year Evaluation Plan* covering fiscal years 1977 and 1978. It describes in detail the planned evaluation activities of all LEAA offices. It also published a *Program Results Inventory*, which summarized agency accomplishments during 1975 and 1976.

The Office was responsible for the final publication of all five National Advisory Committee on Criminal Justice Standards and Goals reports.

The data base (PROFILE) for all categorical grants, contracts and interagency agreements awarded during fiscal years 1976 and 1977 was updated.

Consolidated and revised Fiscal 1977 workplans for the agency were prepared.

## Office of General Counsel

The Office of General Counsel's primary mission is to meet legal needs. It provides legal opinions, inter-

pretations, and advice as requested on such LEAA activities as authorization and appropriation legislation, compliance branch policy directives, and the resolution of audit findings. It assists other LEAA offices in promulgating regulations and guidelines implementing certain statutory requirements. It drafts and reviews contractual documents for legal sufficiency and provides advice on legal matters concerning grants and contracts.

The Office provides legal counsel to LEAA's Grants and Contracts Review Board, which requires the legal review of all LEAA grants and contracts prior to award.

The Office is the review body for any contract protest involving LEAA grants and contracts. During the course of the year, more than 10 protests relating to contracts were processed, reviewed, and decided. No LEAA contract decisions have ever been overturned, and the agency is often requested by other agencies to render informal technical assistance in the emerging legal procurement field of contracts under Federal grants.

Major activities during Fiscal 1977 included:

- The Office published a volume of its formal legal opinions covering July 1 to December 31, 1976.
- The Office is responsible for all Freedom of Information Act and Privacy Act reviews. During the year, 115 files were reviewed.
- The Office promulgated three sets of regulations—one implementing the A-95 process, one implementing the civil rights provisions of the Crime Control Act of 1976, and the other implementing the Public Safety Officers' Benefits Act of 1976, for which an appeals procedure was devised.
- Regulations to implement Section 524(a) of the Omnibus Crime Control and Safe Streets Act, as amended, to protect the security and privacy of research and statistical information identifiable to specific persons were finalized and agency-wide training sessions were held.
- In conjunction with LEAA's Office of Regional Operations, the Office published an *Environmental Procedure Handbook* that outlines procedures to be followed by LEAA, grantees, and subgrantees to comply with 11 environmentally-related statutes.
- The Office instituted a procedure for collecting defaulted LEEP notes by recipients who have declared bankruptcy.

- The Office participated in 41 litigation actions, including 9 general court cases, 2 cases involving EEO matters, 18 administrative investigations of appeals of grant denials, 4 compliance agreements, and 8 contract protests.
- It continued monitoring the Model Procurement Code for states and local governments. The development stage was largely completed, and the ABA drafters moved to implement it in at least five states and a number of cities and counties.
- The Office was actively involved in the legislative process leading to the reauthorization of the juvenile justice program. The new law became effective on October 1, 1977.

## Office of Operations Support

The Office of Operations Support plans and directs personnel management, administrative services, the LEAA directives system, records, correspondence, forms, files, audiovisual services, and training. The Office also acts as a liaison organization with other Federal agencies to coordinate programs for the control of international terrorism, airplane hijacking, and narcotics smuggling.

The Personnel Division's responsibilities include providing employee services to all components of LEAA. The Classification Branch implemented the conversion of all position descriptions using the new factor evaluation format in preparation for the Civil Service Commission agency review.

The Training Division is responsible for the training of LEAA employees as well as state, regional, and local planning unit personnel. During the year it developed a training course on program development for office managers and operational personnel. More than 150 persons participated in a series of training and workshop sessions conducted by the Training Division.

The Division established, through competitive selection, five university-based centers that trained more than 1,000 persons during the year.

The Printing and Publications Branch programs were adjusted to meet changing requirements. Five additional reports of the National Advisory Committee on Criminal Justice Standards and Goals were published.

The Graphic Services Branch produced a large volume and variety of charts, graphs, forms, slides, viewgraphs, and other artwork.

The Photography and Exhibits Branch established a 35-mm color slide and photography resource center. Exhibits were built to support the program offices in disseminating information to the criminal justice community and to the general public.

The Television and Motion Picture Branch produced 17 videotape productions to support grantee programs or to provide specific information or training to state and local criminal justice agencies, and 275 copies were made. The Branch also established a computer data base for information on criminal justice films and published the second edition of the "Criminal Justice Audiovisual Directory."

Through the LEAA excess property program, the State of Virginia used 96 mobile homes to house more than 1,000 inmates and thereby relieved overcrowding. The Los Angeles Sheriff's Department realized a direct cost savings of \$624,592 during the year by utilizing items obtained through the program.

The International Affairs Staff coordinated the planning, development, and implementation of LEAA's international programs to combat skyjacking, terrorism, and narcotics smuggling. During the year, \$880,000 in technical assistance funds were allocated for international activities.

Projects included an agreement with the Department of State to develop a model code for extradition of international drug traffickers and terrorists. An agreement was made with the Federal Bureau of Investigation on threat analysis in terrorist and criminal activity.

# Board of Immigration Appeals

David L. Milhollan  
Chairman

The Attorney General is charged by law with the administration and enforcement of all laws relating to the immigration and naturalization of aliens. Certain aspects of his power and authority for the administration of such laws have been delegated to the Board of Immigration Appeals (8 CFR 3.1). The Board is a quasi-judicial body operating under the supervision and control of the Deputy Attorney General. It is independent of the Immigration and Naturalization Service (INS), the agency charged with enforcement of the immigration laws.

The Board is composed of a Chairman and four members. Supporting the Chairman is an Executive Assistant/Chief Attorney Examiner, who has authority to act as an alternate member, and an administrative officer. In Fiscal 1977, the Board was authorized a staff of 16 attorney examiners to assist in the preparation of Board decisions.

As the highest administrative tribunal charged with interpreting and applying the provisions of the immigration laws, the Board's primary missions are to establish guidelines for the exercise of the Attorney General's discretion and to carry out the congressional mandate that immigration laws receive uniform application throughout the United States. The Board accomplishes this in part by analyzing, refining, and clarifying policy and procedure in its decisions and, in part, by reconciling inconsistent orders issued by different district directors or immigration judges.

The Board has jurisdiction to hear appeals from specified decisions of INS in which the Government of the United States, through the Service, is one party and the other party is either an alien, a citizen or a business firm. In accordance with a Department of Justice Order (No. 45-54, April 23, 1954), which has been endorsed by the courts, the Board is called upon to exercise its independent judgment in hearing appeals for the Attorney General.

The variety of cases reaching the Board consist of appeals from decisions rendered by immigration judges and district directors involving formal orders of

deportation, discretionary relief from deportation, exclusion proceedings, claims of persecution, stays of deportation, bond and detention, petitions for preference immigration status for alien relatives of United States citizens and permanent resident aliens, and administrative fines imposed upon carriers because of violation of the immigration law.

The appeals are decided by the Board in written opinions. Unless modified or overruled by the Attorney General, Board decisions are binding on all officers of INS. Decisions relating to final administrative orders of deportation, which constitute the bulk of the Board's caseload, may be reviewed in the United States Courts of Appeals. Other Board decisions may be reviewed in the federal district courts.

The most important of the Board's decisions—those which address issues of first impression or which resolve unsettled areas of law—are published as precedent decisions. These decisions, in addition to being binding on INS, are considered for guidance by the Department of State, the Public Health Service, and the Department of Labor in order to coordinate their operations with those of the Service.

In Fiscal 1977, the Board disposed of 2,527 cases involving 3,380 aliens. Eighty-eight of these cases were designated as precedent decisions for publication. In this period, no decisions of the Board were modified or overruled by the Attorney General.

Aside from its primary responsibilities of interpreting the immigration laws and insuring that they are uniformly applied, the Board is also responsible in large part for reviewing the qualifications and professional conduct of attorneys and representatives who practice before the Service and the Board. In this regard, the Board is responsible for "recognizing" various qualifying nonprofit social agencies, which in turn may seek to have the Board "accredit" their representatives for practice before the Service and the Board. Additionally, the Board, with the approval of the Attorney General, is responsible for suspending or barring from practice before the Service and the Board any

representatives or attorneys if the public interest so requires.

Cases in Fiscal 1977 presented the Board with a variety of legal issues, many of which either raised questions of first impression or provided the opportunity to clarify unsettled areas of law.

The decision involving the largest number of aliens concerned 126 non-Vietnamese persons who had been evacuated from the Republic of Vietnam to United States territory on Guam in 1975. *Matter of O-*,<sup>1</sup> Each of the aliens had been found excludable from the United States in exclusion proceedings brought by INS. However, due to the procedures employed in bringing these aliens to the United States, the broad definition given to "refugees" by Congress, and the fact that the aliens were removed from Vietnam with express consent of the United States Government, the Board concluded that the 126 aliens had in fact been "paroled" into the United States. The exclusion proceedings were, therefore, terminated as the aliens had not been given the required written notice of termination of their parole prior to the institution of the exclusion proceedings.

In *Matter of Cenatic*,<sup>2</sup> the Board considered a second case involving claims of "refugee" status. Thirteen Haitians who sought admission to the United States as refugees were found excludable by the immigration judge. On appeal the Board determined that the aliens had been properly excluded, holding that the District Director had exclusive jurisdiction over

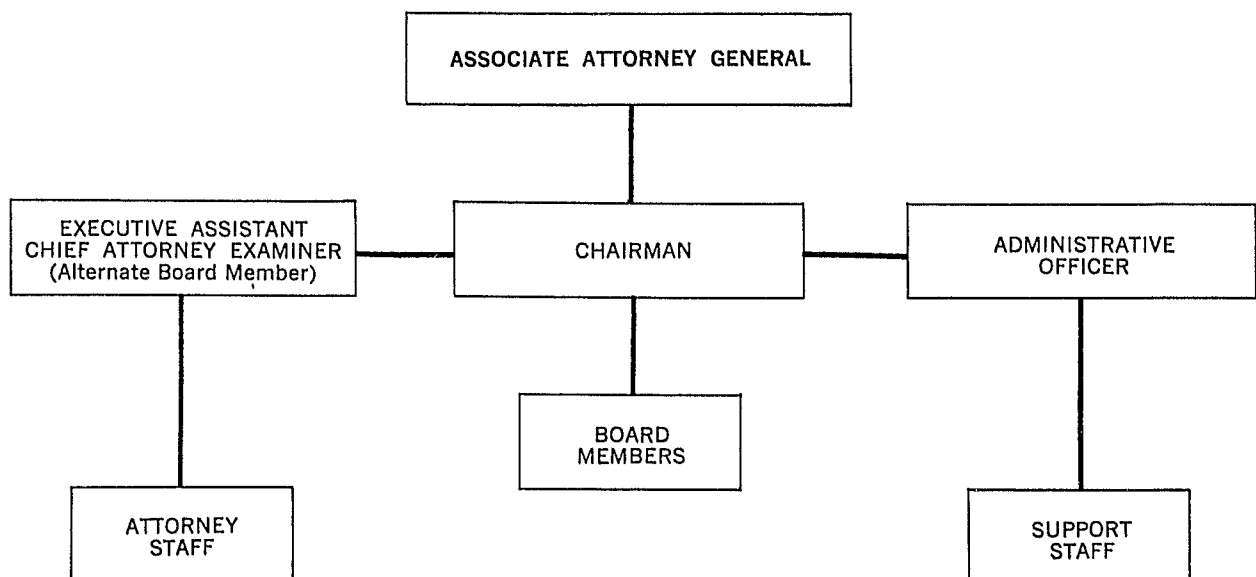
refugee claims for asylum under Articles 1 and 33 of the United Nations Protocol Relating to the Status of Refugees, and that such claims could not be heard in exclusion proceedings. It was reiterated that a section 243(h) persecution claim could not be raised in an exclusion hearing.

A significant number of Board decisions related to the availability of various types of relief from deportation. Several such decisions involved applications by professed "investors" for adjustment of status under section 245 of the Immigration and Nationality Act (the Act). The regulations implementing that section were amended prospectively, effective October 7, 1976, and decisions during the year interpreted both the old and new regulatory requirements.

In *Matter of Khan*,<sup>3</sup> for example, the Board held that an applicant could not establish that he was "actively in the process" of investing funds in the United States, as required by law, by a mere claim that he had a subjective intent to invest funds in this country in the future. In *Matter of Ruangswang*,<sup>4</sup> it was determined under the now superseded regulatory provisions, that an applicant who met both the requirements of a \$10,000 investment and the related experience did not qualify as an investor because her investment did not tend to expand job opportunities in the United States and her primary function was not as a "manager."

In *Matter of Heidari*,<sup>5</sup> a motion to reopen and reconsider, so as to allow a respondent in deportation

## BOARD OF IMMIGRATION APPEALS



proceedings to file for adjustment on the basis of an investor claim was denied when the basis for the motion was evidence relating to a period after the application for investor status had been submitted. It was determined that considering such evidence under the original application and under the superseded regulation (the regulation was superseded following the applicant's initial application) would encourage applicants to prolong their unlawful stay in this country in the hope of eventually establishing eligibility for adjustment of status as investors under the old regulation.

In *Matter of Huang*,<sup>6</sup> the Board held that the denial by the District Director of an application for adjustment of status as an investor and for the issuance of an Order to Show Cause effectively terminated the alien's application for adjustment. Therefore, when the alien reapplied for adjustment at the deportation proceedings, he was required to establish that a visa number was immediately available to him at that time. The fact that a visa number was available at the time of initial application to the District Director was not relevant.

Two other cases involving applications for adjustment of status concerned the need for the alien to obtain a labor certification. In *Matter of Danquah*,<sup>7</sup> it was held that an applicant for adjustment of status, who was no longer employed in the position for which the labor certification was granted, was not eligible for an immigrant visa based upon that certification. An applicant for adjustment of status was equated to an applicant for an immigrant visa made to a consular office abroad, and not to an alien who had been issued a visa based on valid certification, but who found that the job was no longer available when he arrived in the United States.

In *Matter of Fulgencio*,<sup>8</sup> the Board determined that an alien seeking adjustment of status as a nonpreference immigrant would not be excused from the labor certification requirement based on a claim that she would be supported by her husband, who worked and resided in Portugal. The Board was not satisfied that her husband would not join her in this country if she were admitted as a lawful permanent resident, and that she and her husband would not thereafter obtain jobs here. Allowing such "bootstrapping" would permit a situation to occur that could lead to circumvention of the labor certification requirements.

With respect to the privilege of voluntary departure under section 244 of the Act, in *Matter of Chouliaris*<sup>9</sup> the Board modified an earlier decision<sup>10</sup> relating to its authority to vary the period of voluntary

departure ordered by the immigration judge. Under *Chouliaris*, a respondent will no longer automatically receive the same amount of voluntary departure time authorized by the immigration judge. Thereafter, if an immigration judge provides for a voluntary departure period of 30 days or less, the Board will reinstate the original grant. Where a period exceeding 30 days is granted, the respondent will be given 30 days from the date of the Board's decision in which to depart voluntarily. When the original grant has not yet expired and the remaining period exceeds 30 days, the respondent will be permitted to depart voluntarily on or before the date specified by the immigration judge.

A frequent issue with respect to eligibility for discretionary relief concerns that type of conduct which constitutes "adultery" for the purposes of the section 101(f)(2) bar against establishing good moral character. In *Matter of Trujillo*,<sup>11</sup> the Board held that where the respondent's relationship with a married woman commenced only after she had been separated from her husband for 3 years, the respondent had not committed "adultery" under New Jersey law and was not statutorily precluded from establishing good moral character. In reaching this conclusion we found that the extramarital relationship in question had not destroyed a prior viable marriage.

The first published decision concerning the recently enacted Western Hemisphere Bill<sup>12</sup> (effective January 1, 1977) pertained to the eligibility requirements of natives of contiguous countries and adjacent islands for suspension of deportation under section 244 of the Act. In *Matter of Finlayson*,<sup>13</sup> the Board adopted the position of the Service and held that, because Western Hemisphere natives are no longer "special immigrants," natives of contiguous countries and adjacent islands need not show that they are ineligible for "special immigrant" visas prior to being permitted to apply for suspension of deportation. The requirement of this showing has in effect been removed by the new law as such natives are now categorically ineligible for "special immigrant" visas.

Finally, as regards relief from deportation, the Board determined in *Matter of Anwo*<sup>14</sup> that in order to be eligible for relief from deportation under section 212(c) of the Act, a deportable alien must have been a lawful permanent resident for seven consecutive years prior to application for relief. *Lok v. INS*<sup>15</sup> was confined to the Second Circuit. The interpretation in *Lok*, under which an alien can establish that he has been "lawfully domiciled" in the United States even though he has not been in a lawful permanent resident status, would render nugatory section 244(a) of the

Act as that section applies to lawful permanent residents.

The Board has continued to receive a large number of cases concerning aliens and their involvement with unlawful drugs. Several important decisions were made concerning the effect of drug convictions. For example, the Second Circuit's decision in *Lennon v. INS*<sup>16</sup> was held applicable nationwide by the Board in *Matter of Wolf*.<sup>17</sup> Consequently, an alien who has been convicted of a marihuana offense under a foreign law that makes guilty knowledge irrelevant is not subject to exclusion or deportation based on that conviction. But see *Matter of Pritchard*,<sup>18</sup> where *Lennon* was distinguished and an alien found deportable under a British law which was revised to incorporate guilty knowledge as an element of the offense.

Another issue raised by aliens convicted of drug related offenses concerned the effect of subsequent ameliorative measures on deportation. Where a respondent convicted of simple possession of marihuana is sentenced under the Federal Youth Corrections Act,<sup>19</sup> and the conviction is subsequently set aside, the conviction does not render him deportable.<sup>20</sup> Similar treatment was afforded aliens convicted under a Federal "first offender statute."<sup>21</sup> Cases, however, arose concerning the expungement or setting aside of drug convictions by state courts. The Board ruled that such ameliorative measures by state courts would eliminate the conviction as a ground for deportation only if the state statute is a "counterpart" of either of the two aforementioned Federal laws. In *Matter of Varagianis*,<sup>22</sup> a New Hampshire law was not recognized as a "counterpart" of the Federal law because the "expunged" state conviction still stood for various state purposes. See also *Matter of Moeller*.<sup>23</sup>

In *Matter of Werk*,<sup>24</sup> however, a Wisconsin law was determined to be a state equivalent to the Federal "first offender" statute because the conviction set aside was removed as a basis for any disability imposed by state law. That expunged state conviction, therefore, did not supply a basis for deportation.

In *Matter of Velasco*,<sup>25</sup> the Board addressed the issue of whether a Federal conviction for misprision of a felony, to wit, possession of marihuana with intent to distribute, amounted to violation of a law relating to the illicit possession of or traffic in marihuana. If it did, the alien was deportable under section 241(a) (11) of the Act. The Board, however, adopted the view of the Sixth Circuit in *Castaneda de Esper v. INS*<sup>26</sup> and held that misprision of a felony was a criminal offense separate and distinct from the particular

felony concealed (even if that crime related to marihuana). Such a conviction, therefore, did not provide a ground for deportation under section 241(a) (11).

Frequently, the Board addresses procedural issues in published opinions so as to provide guidance for the conduct of deportation and exclusion proceedings. In *Matter of Taerghodsi*,<sup>27</sup> for example, the Board outlined the considerations that should govern the immigration judge's decision whether to consolidate or hear separately the deportation cases of different alien respondents. It was held that the immigration judge had authority to consolidate proceedings of different respondents when the cases involved common issues of law or fact if such consolidation would promote administrative efficiency and would not deprive any respondent of the opportunity to fully and clearly litigate his claims.

Other cases involving procedural questions related to the manner in which bond proceedings must be conducted;<sup>28</sup> the circumstances under which ex parte statements can be admitted as substantive evidence in rescission proceedings;<sup>29</sup> the conditions which must be satisfied before a motion for prehearing discovery will be granted;<sup>30</sup> the care which an immigration judge must exercise in insuring that a respondent's waiver of right to counsel is knowingly, understandingly, and competently made;<sup>31</sup> and the need for copies of all briefs, memoranda, and representations filed in connection with a case to be served on the parties.<sup>32</sup>

A significant number of the appeals the Board hears relate to the denial of visa petitions. Many of these cases necessitate the interpretation of foreign laws. In *Matter of Dabaase*<sup>33</sup> and *Matter of Nwangwu*,<sup>34</sup> for example, the Board had before it issues involving the validity of divorces according to local African tribal customs. In *Matter of Lee*,<sup>35</sup> the Board was faced with the question of the validity of "recognition" as a means of legitimation under Korean law. In that case, the Board receded from prior opinions and found that "recognition" was an effective means of legitimation under Korean law because the rights and duties created by such "recognition" were substantially identical to those rights and duties created by "legitimation" through the subsequent marriage of the parents.

Several visa petition cases raised the question of whether retroactive court decrees would be recognized as such for the purposes of establishing eligibility for visa preferences. Certain children legitimated before they reach 18 years of age can qualify as "immediate relatives" of citizens for visa preference purposes. In

*Matter of Obando*,<sup>36</sup> the Board rejected a petitioner's contention that this requirement was satisfied when the beneficiary was in fact legitimated at age 23, but the decree of a Virgin Islands Municipal Court stated that she should be treated as legitimate "from the time of her birth." The beneficiary was held not to have satisfied the statutory age requirement because the *acts* constituting legitimation occurred after her 18th birthday. See also *Matter of Cortez*.<sup>37</sup>

The Board was also given an opportunity to discuss the scope of section 204(c) of the Act. That section bars approval of a spouse visa petition if the alien has previously been accorded preference status by reason of a "marriage" determined to have been entered into for the purpose of evading the immigration laws. Section 204(c) has been ruled inapplicable to situations where spouse visa petitions were obtained through fraud, but no "marriage" had in fact ever existed.<sup>38</sup> In *Matter of Calilao*,<sup>39</sup> however, it was held that the section 204(c) bar did apply where a prior marriage had been performed, even though that marriage may in fact have been void ab initio.

During Fiscal 1977, the Board also decided the first precedent decision interpreting section 101(a)(15)(L) of the Act, which concerns intra-company transferees. In *Matter of Chartier*,<sup>40</sup> the Board reviewed the intent of Congress in adding section 101(a)(15)(L) to the Act in 1970 and rejected Service contentions that in order to qualify as an intra-company transferee, the employer had to have an affiliate or subsidiary abroad from which the employee was being transferred. This interpretation of section 101(a)(15)(L) was rejected for several reasons, including the fact that the Service itself had consistently interpreted the section generously, so as to facilitate intra-company transfers.

A question involving the expatriation of a United States citizen was presented to the Board in *Matter of Wayne*.<sup>41</sup> In recent years, such issue have arisen only infrequently. The *Wayne* case involved a United States citizen who acquired Canadian citizenship in 1974. He testified he did so only after being advised by a United States Consul General that he could become a citizen of Canada without losing his United States citizenship. The Board held that acquisition of foreign citizenship by swearing an oath of allegiance to the foreign sovereign would result in expatriation under section 349 of the Act, unless evidence established an intent not to thereby relinquish United States citizenship. In *Wayne* such contrary intent was found to have been established by introduction of the correspondence from the Consul General, which implied that the re-

spondent could become a citizen of Canada without being expatriated from this country. As the respondent's letter to the Consul evidenced a desire not to jeopardize his United States citizenship, it was concluded that doubt had been cast on what otherwise might have been regarded as a clear demonstration of voluntary relinquishment of citizenship. The deportation proceedings were, therefore, terminated.

#### CITATIONS

- (1) Interim Decision — (May 12, 1977); Interim Decision — (September 14, 1977).
- (2) Interim Decision 2571 (March 28, 1977).
- (3) Interim Decision 2565 (March 15, 1977).
- (4) Interim Decision 2546 (December 27, 1976).
- (5) Interim Decision — (May 4, 1977).
- (6) Interim Decision — (September 27, 1977).
- (7) Interim Decision — (April 19, 1977).
- (8) Interim Decision — (May 26, 1977).
- (9) Interim Decision 2572 (March 29, 1977).
- (10) *Matter of Villegas Aguirre*, 13 I&N Dec. 139 (BIA 1969).
- (11) Interim Decision — (February 14, 1977).
- (12) Pub. L. 94-571, 90 Stat. 2703, enacted October 20, 1976, and effective January 1, 1977.
- (13) Interim Decision 2569 (March 22, 1977).
- (14) Interim Decision — (August 4, 1977).
- (15) 548 F. 2d 37 (2 Cir. 1977), rehearing denied March 16, 1977.
- (16) 527 F. 2d 187 (2 Cir. 1975).
- (17) Interim Decision 2561 (March 2, 1977).
- (18) Interim Decision — (September 9, 1977).
- (19) 18 U.S.C. § 5005 et seq.
- (20) *Matter of Zingis*, 14 I&N Dec. 621 (BIA 1974).
- (21) 21 U.S.C. 844(b)(1).
- (22) Interim Decision 2537 (October 15, 1976).
- (23) Interim Decision 2543 (December 16, 1976).
- (24) Interim Decision — (May 26, 1977).
- (25) Interim Decision — (July 25, 1977).
- (26) 557 F. 2d 79 (6 Cir. 1977), reversing *Matter of Esper*, (BIA December 22, 1975).
- (27) Interim Decision — (June 28, 1977).
- (28) *Matter of Chirinos*, Interim Decision — (July 14, 1977).
- (29) *Matter of DeVera*, Interim Decision — (June 29, 1977).
- (30) *Matter of Escobar*, Interim Decision 2538 (October 18, 1976).
- (31) *Matter of Gutierrez*, Interim Decision — (May 26, 1977).
- (32) *Matter of Gibson*, Interim Decision 2541 (December 14, 1976).
- (33) Interim Decision 2534 (October 1, 1976).
- (34) Interim Decision 2542 (December 14, 1976).
- (35) Interim Decision — (August 18, 1977).
- (36) Interim Decision — (July 20, 1977).
- (37) Interim Decision — (August 3, 1977).
- (38) *Matter of Concepcion*, Interim Decision 2529 (September 8, 1976).
- (39) Interim Decision 2555 (February 7, 1977).
- (40) Interim Decision — (August 3, 1977).
- (41) Interim Decision — (June 28, 1977).



# Antitrust Division

**John H. Shenefield**  
Assistant Attorney General

The primary mission of the Antitrust Division is the promotion and maintenance of competition in the American economy. Private anticompetitive conduct is subject to criminal and civil action under the Sherman and Clayton Acts, and the Division concentrates its resources on the enforcement of these statutes, which prohibit monopolization, conspiracies in restraint of trade, and anticompetitive mergers.

The Division's court litigation and related investigatory work is conducted by nine sections in Washington, D.C., and eight field offices located throughout the United States. Four of the Washington, D.C., sections, General Litigation, Special Litigation, Trial, and Special Trial, are responsible for antitrust enforcement in specific sectors of the general economy. Other sections have more specialized litigation functions: the Intellectual Property Section seeks to prevent anticompetitive procurement and use of patents, trademarks, copyrights, and other intangible properties; the Judgment Enforcement Section supervises compliance with antitrust consent or judgment decrees obtained by the litigating offices and sections; the Foreign Commerce Section investigates and prosecutes antitrust violations in or affecting U.S. foreign commerce; and the Energy, Transportation, and Special Regulated Industries sections have responsibility for antitrust enforcement in certain industries subject to economic regulation.

The Energy Section (formerly Regulated Industries) was created in Fiscal 1977. It emphasizes the Division's growing responsibilities involving competitive problems in the energy industry, as does the Transportation Section with regard to that highly regulated sector of the economy.

The Division's field offices are responsible for enforcement and antitrust litigation in the regions which they serve. The eight field offices are located in Chicago, Cleveland, New York, Philadelphia, Atlanta, Dallas, Los Angeles, and San Francisco. All antitrust enforcement litigation and investigation by the Washington, D.C., sections and field offices is supervised and directed by the Office of Operations. Novel and

difficult issues of antitrust law and policy often are referred to the Evaluation Section for analysis and comment. That office also provides counsel and legal evaluation regarding legislative proposals, and supports policy activities of the Division management.

The Appellate Section conducts antitrust and some consumer affairs litigation in appellate courts and represents the United States as statutory respondent in appellate proceedings to review certain orders of administrative agencies.

The Economic Policy Office brings economic analysis to bear upon the Division's investigations and undertakes studies to identify situations warranting investigation which may not be revealed by specific complaints.

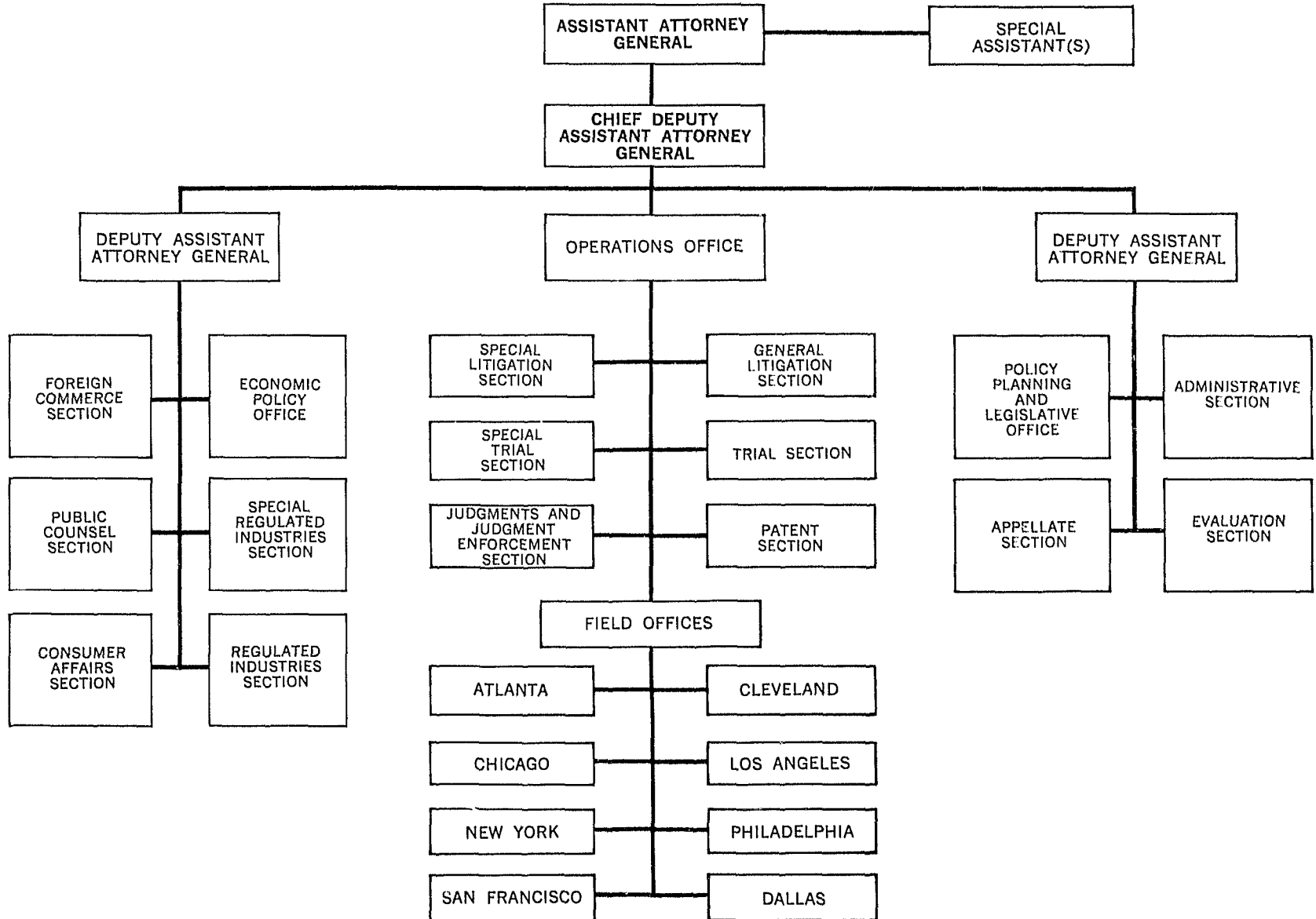
The responsibilities of the Policy Planning Office include preparing legal studies and policy analysis directed at the allocation of scarce enforcement resources and proposing new and modified program initiatives. It also assists in developing legislative positions and prepares data and analysis to support pro-competitive legislation and to oppose legislative proposals to create new antitrust exemptions or competitive restraints.

The Consumer Affairs Section acts as counsel to a number of executive branch agencies, including the Food and Drug Administration and the Consumer Product Safety Commission.

## Price Fixing

During Fiscal 1977, the Division continued to place heavy emphasis upon criminal proceedings directed at price-fixing, bid-rigging and other agreements among competing sellers intended to affect the price of goods or services. Grand juries returned indictments charging nationwide conspiracies to fix prices in the anthracite coal and paper bag industries, and a regional conspiracy to eliminate discounts in the sale of industrial cane sugar in the northeastern United States. The Division initiated criminal price-fixing actions in commodity markets including bakery and

ANTITRUST DIVISION



dairy products, candy, cigarettes, alcoholic beverages, automobiles, dry cleaning fluid, portable toilets, steel reinforcing bars, aluminum roll jacketing, coating resins, and furnace pipe fittings. Several indictments were returned alleging price-fixing or bid-rigging in the construction industry, and in Fiscal 1977 the first felony antitrust convictions were obtained.

The Division has also begun to substantially utilize criminal proceedings to restrain price-fixing in service industries, including in Fiscal 1977 actions charging price-fixing affecting real estate brokerage commissions, tour packages and hotel rooms, and bid-rigging affecting armored car services.

As part of its program aimed at the effects of "shared monopoly," the Division has also attempted to remedy more subtle forms of possible price-fixing, as in a consent decree modification accepted by General Electric and Westinghouse, the only competitors in the United States steam turbine generator market, requiring each company to "blind" itself to details of the other pricing activities.

## Mergers

Section 7 of the Clayton Act forbids corporate mergers and acquisitions which tend to reduce competition or to create a monopoly. This section has been interpreted to place stringent limitations upon acquisitions involving direct competitors which necessarily increase the level of concentration within particular markets.

In Fiscal 1977, the Division initiated, among other cases, a Section 7 suit to challenge a transaction which would enable the Nation's second largest cigar manufacturer and third largest distributor of tobacco products to acquire possible control of the parent company of the Nation's sixth largest cigar manufacturer and largest distributor of tobacco products. The Division also challenged several mergers potentially leading to unlawful concentration in regional markets, including liquor wholesaling, drug retailing, commercial banking, and high priority industrial water service.

## Other Antitrust Actions

The Division filed two civil complaints against automatic clearinghouse associations composed of commercial banks, challenging provisions of the associations' by-laws which preclude thrift institutions such as credit unions, savings and loan associations, mutual savings bank and industrial banks from

becoming members of the associations or gaining access to the associations' "Bottleneck" facilities, thereby restraining the ability of thrift institutions to compete with association members in providing electronic fund transfer services.

A complaint was filed alleging that the nation's leading producer of wheelchairs has violated Section 2 of the Sherman Act by monopolizing the manufacture and sale of wheelchairs in the United States.

The Division also filed a civil suit against the Texas State Board of Public Accountancy challenging the adoption of a rule prohibiting competitive bidding by accountants practicing in Texas. This action by the Division is part of its existing and expanding efforts to challenge restrictive business practices by professions that have long felt themselves to be exempt from the antitrust laws.

## Regulated Industries

During Fiscal 1977, the Antitrust Division continued to devote a major effort to insuring that governmental regulatory bodies exercise their power consistently with sound competitive policy, limiting anticompetitive regulation to the narrowest possible scope consistent with the intended regulatory scheme.

The Division continued to advocate pro-competitive policies before the Federal Communications Commission (FCC), including a successful request that the FCC institute an inquiry into network control of television programming. The Division filed comments with the FCC urging allowance of more new VHF television stations in major markets, and also filed comments dealing with computer-related services offered by communications common carriers.

An appeal on behalf of the United States was filed from an FCC decision opposed by the Division approving a joint venture by IBM, Comsat, and Aetna to construct and operate a domestic satellite communications system. The Division unsuccessfully sought an FCC evidentiary hearing to examine the competitive effects of permitting IBM to participate in a joint venture with Comsat.

In the field of commercial passenger aviation, the Division submitted extensive comments regarding a Civil Aeronautics Board rulemaking proceeding considering a thorough overhaul of its methods used to set fares for domestic flights. The Division responded to a request from the Board for comments on the desirability of airline rate competition by stating its strong support for such a policy, based on both economic theory

and long experience that demonstrate that price competition would maximize consumer benefits of air travel and still allow efficient carriers to earn returns adequate to assure continued healthy industry growth.

The Division participated in a number of proceedings before the Interstate Commerce Commission (ICC) advocating pro-competitive and regulatory reform policies in motor transportation. Principal efforts sought elimination of unnecessary, anticompetitive restraints on entry into the motor carrier business, and promotion of competitive rule-making to replace present price-fixing legally accomplished through motor carrier rate bureaus. The Division asked the ICC to adopt a rule abolishing all "gateway" requirements which force regulated motor carriers to move traffic over circuitous routes that are highly wasteful of fuel. The Division also proposed a rule to require carriers' rate bureaus to give notice and obtain consent before moving to cancel any rates set by independent action of member carriers, and advised the ICC that carriers who seek antitrust immunity for rate bureau agreements should be required to show affirmatively that their agreements serve national transportation policy goals.

The Division continued to urge the ICC to interpret the Railroad Revitalization and Regulatory Reform Act of 1976 to promote Congress' intent to facilitate competition among railroads and between railroads and other modes of transport, such as a request by the Division that the ICC disapprove a number of railroad rate bureau agreements that failed to meet the Act's restrictions on rail collective ratemaking.

During Fiscal 1977, the Antitrust Division filed comments with the Federal Maritime Commission (FMC) opposing proposed shipping conference agreements that would have created a second class conference membership designed to attract Soviet bloc and other nonconference lines into conference membership. After the FMC noted its intention to approve the proposal, the Division filed further comments in response and the FMC withdrew its notice of intent and ordered a full investigation. The conferences subsequently withdrew their applications for approval.

Under the Atomic Energy Act, the Division on behalf of the Attorney General participates in evidentiary hearings convened by the Nuclear Regulatory Commission (NRC) when necessary to resolve antitrust issue raised by licensing applications. Extended trial proceedings were conducted during Fiscal 1977 concerning two such electric utility applications, one involving a group of electric utilities operating in Ohio

and Pennsylvania and the other involving an application by Alabama Power Company. In both cases, the NRC boards found that the applicants had engaged in anticompetitive activities and, therefore, attached conditions to the utilities' licenses to eliminate the antitrust problems.

The Division endorsed a proposed rule of the National Credit Union Administration that would permit Federal credit unions to use a checklike instrument to enable members to withdraw funds from interest-bearing accounts, observing that creation of a new financial product which can compete with checks and negotiable orders of withdrawal should stimulate competition among financial institutions. The Division continued to advise agencies regulating banks and savings and loan associations by filing over 200 statements in Fiscal 1977 evaluating the competitive impact of proposed bank mergers and eight statements involving savings and loan mergers. The Division also forwarded numerous letters and memoranda to the Federal Reserve Board in connection with bank holding company transactions.

## Foreign Commerce

The Division's continuing effort to preserve and foster competition in United States foreign trade has been reflected in both litigation activities and expanded cooperation with foreign antitrust enforcement agencies and international organizations.

In Fiscal 1977, the first criminal antitrust action involving airline price-fixing charged three airlines with conspiring to fix airfares charged to United States servicemen and their families on certain United States-Europe air routes by failing to submit the pertinent fare agreements to the Civil Aeronautics Board for approval under the International Air Transport agreement.

Several significant foreign commerce antitrust cases were terminated by consent decree during Fiscal 1977, including litigation against a major construction company charging a Sherman Act violation arising from dealings in support of the Arab boycott of Israel. The judgment prohibits that firm and its subsidiaries from entering or implementing any such boycott agreement in the United States and prohibits the exclusion of any United States firm from consideration as a supplier based on the Arab boycott.

The Division has become significantly involved in proceedings under the Trade Reform Act of 1974, in which domestic producers seek protection from

foreign import competition. Major products involved include specialty steel, footwear, and color television sets. The Division in these matters seeks to ensure that relief from foreign competition is provided only when the statutory criteria for protection are met and that any proposed relief have minimal negative effects on the consumer or competition.

The Antitrust Division continued to participate in various activities of the Committee of Experts on Restrictive Business Practices of the Organization for Economic Cooperation and Development, including a study of multi-national enterprises and antitrust problems. The Division also participated in an OECD study on trademarks and antitrust in international trade, as well as a new study on the related problems of buying power and price discrimination. At the United Nations Conference on Trade and Development (UNCTAD), the Antitrust Division participated in negotiations towards internationally agreeable principles and rules to eliminate or control restrictive business practices (particularly those adversely affecting developing countries), and supplied an expert for the U.S. delegation writing a world technology transfer code. In addition, the Antitrust Division continued its program of law enforcement cooperation with competition officials of other nations. The Division also regularly assists foreign antitrust officials who travel to this country to study antitrust law and enforcement methods, and participates in exchange programs.

## Consumer Affairs

The Antitrust Division has responsibility for supervising litigation by several Federal agencies under consumer protection statutes such as the Federal Food, Drug and Cosmetic Act, the Hazardous Substances Act, the Federal Trade Commission Act, the Fair Credit Reporting Act, the Consumer Product Safety Act, and the Truth in Lending Act. This responsibility entails advising the agencies, reviewing proposed cases, aiding in the preparation of pleadings, reviewing proposed cases, and in the trial and appeal of these matters in cooperation with U.S. attorneys. The Division supervises civil seizure actions, injunctive suits, and criminal prosecutions recommended by the Food and Drug Administration (FDA) and the Consumer Product Safety Commission (CPSC).

Division attorneys also defend the FDA and the CPSC in litigation challenging these agencies' actions to protect consumers. In Fiscal 1977, the Division de-

fended the CPSC's safety regulations regarding bicycles and fireworks and the FDA's orders banning aerosolized sprays used in cosmetics and requiring labeling of hypoallergenic cosmetics.

The Division's Consumer Affairs Section is responsible for prosecution of civil penalty actions for violations of FTC cease and desist orders issued under the FTC's trade regulation and consumer fraud responsibilities. In Fiscal 1977 two civil penalty cases filed by the Division in prior years were concluded with the imposition by courts of penalties in excess of \$2.4 million.

## Antitrust Immunities

Antitrust Division personnel contributed to the Report of the Task Group on Antitrust Immunities issued during Fiscal 1977. Reports on milk marketing, pricing and marketing of insurance, the ocean shipping industry, and the private express laws were issued in conjunction with that Task Group Report.

The report on milk marketing examined the history and competitive impact of the Federal milk market order program and presented several alternative proposals to reduce resource misallocations resulting from the present program.

The report on the marketing and pricing of insurance concluded that the insurance industry antitrust exemption under the McCarran-Ferguson Act is probably unnecessary. A dual system of regulation was suggested to give insurance companies the option of obtaining a Federal charter that would exempt such companies from state rate regulation.

The regulated ocean shipping industry report examined the history and economic impact of the ocean conference system sanctioned by the Shipping Act of 1916 and concluded that abolition of the conference system would produce desirable economic results. The report discussed the possible impact of repeal of the Shipping Act, and presented alternative proposals for modification of the Act.

The report on private express statutes observed that no independent study has examined the justification for prohibiting effective competition with governmental postal services, noted that competition might improve the performance of the Postal Service, and recommended that a thorough independent study be conducted to appraise the potential impact of repealing laws that insulate many Postal Service activities from private competition.

## Legislative and Interagency Activities

The Assistant Attorney General, or his representative, made 17 appearances before congressional committees on matters relating to antitrust law and policy and answered 241 requests for written comment to Congress on proposed legislation. The Antitrust Division also responded to 690 mail inquiries from Congress and 335 White House referrals.

The Federal Property and Administrative Services Act of 1949 requires that all executive agencies, before disposing of any plant or other property, seek the Attorney General's advice on whether planned disposition will tend to create or maintain a situation inconsistent with the antitrust laws. The Division prepared such advice in 47 instances.

The Division contributes to the Attorney General's review of the activities of the Interstate Oil Compact Commission and the Compact's member states to assure that these activities are consistent with the purposes of the Interstate Oil Compact. Voluntary agreements and programs authorized by the Defense Production Act are also reviewed and the results of these reviews are reported to the Congress and the President.

## Business Reviews

Although the Department is not authorized to give advisory opinions to private parties, in certain circumstances the Division reviews proposed business plans at the request of interested parties and states in a non-binding fashion its probable enforcement intentions. Regulations provide that the requesting party submit to the Division, in writing, a description of the proposed conduct. On the basis of its review, the Division issues a letter to the requesting party that usually states its enforcement intentions. The regulations were re-

vised during Fiscal 1977 to provide that the request and response be announced at the time a business review letter is issued. These business review letters and the supporting information supplied by the requesting party, are also available for public inspection in the Legal Procedure Unit of the Antitrust Division, Room 3307, Department of Justice, 10th Street and Constitution Avenue, Washington, D.C. 20530. Supporting information will be withheld from public inspection only if the requesting party shows good cause for doing so.

The Division issued 32 business review letters in Fiscal 1977. Many of the requests involved proposed stock or asset acquisitions by corporations. The Division also commented on a wide variety of other activities. Proposed conduct that received favorable review included the adoption of a prepaid legal services plan by the New York County Lawyers' Association, the establishment of a peer review committee to mediate fee disputes between chiropractors and third party reimbursement associations, creation of several committees by banks and others to review the denial of residential loan applications by commercial banks, and creation of a committee to review hospital rate increases involving the Wisconsin Department of Health and Social Services, the Wisconsin Hospital Association, and Wisconsin Blue Cross. Agreement among those parties implemented a law enacted by the Wisconsin State Legislature and approved by the United States Department of Health, Education and Welfare.

Objections were expressed by the Division to a proposed joint venture among most of the commercial banks in Nebraska to develop a state-wide electronic funds transfer system. The business review letter stated that the proposed joint venture would retard individual system initiative, and the available evidence with respect to the risks, capital requirements, and economies of scale did not demonstrate that such an all-encompassing joint venture was necessary.

The Division also declined to state its enforcement intentions with respect to several proposals.

COMPARATIVE ANALYSIS OF ANTITRUST CASES FILED BY FISCAL YEARS

	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977
Cases filed:										
Civil	40	39	54	52	72	42	33	37	45	34
Criminal	10	14	5	12	15	20	34	35	20	37
Total	50	53	59	64	87	62	67	72	65	71
Cases filed involving price fixing:										
Civil	9	10	15	14	31	19	10	29	18	19
Criminal	10	13	4	9	14	19	21	29	16	34
Total	19	23	19	23	45	38	31	58	34	53
Merger cases filed of which there were:										
Bank merger cases numbering:	20	26	15	24	19	16	13	3	7	4
Monopolization cases filed:	7	12	5	8	9	3	6	0	1	1
Civil	3	3	11	15	13	5	6	3	5	2
Criminal	4	2	0	2	1	1	3	1	2	1
Total	7	5	11	17	14	6	9	4	7	3
Individuals indicted	48	58	14	34	24	42	84	82	101	88
Antitrust related cases	1	0	1	2	3	0	8	5	17	5

**WORKLOAD STATEMENT—ANTITRUST DIVISION**

Adjusted cases	Fiscal years									
	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977
<b>District courts:</b>										
<b>Civil:</b>										
Pending 1st of year.....		75	83	88	96	124	116	101	114	110
Filed.....	40	39	45	52	72	42	33	37	45	34
Terminated.....	64	31	49	44	44	50	48	24	40	33
Won.....	59	30	43	42	41	44	42	13	31	25
Lost.....	3	1	4	1	1	5	3	9	5	3
Dismissed.....	2	0	2	1	2	1	3	2	4	5
Pending end of year.....	75	83	88	96	124	116	101	114	119	111
<b>Criminal:</b>										
Pending 1st of year.....	26	22	20	14	16	19	18	34	50	30
Filed.....	10	14	5	12	15	20	34	35	20	37
Terminated.....	14	16	11	10	12	21	18	19	25	24
Won.....	13	16	10	9	12	17	15	16	33	16
Lost.....	1	0	0	1	0	3	3	3	2	7
Dismissed.....	0	0	1	0	0	1	0	0	0	1
Pending end of year.....	22	20	14	16	19	18	34	50	35	43
<b>Court of appeals:</b>										
Pending 1st of year.....	1	1	2	4	2	3	1	2	1	4
Filed.....	1	4	3	4	2	1	3	3	10	15
Terminated.....	1	3	1	6	1	3	2	4	3	8
Won.....	1	0	1	3	1	3	1	4	3	5
Lost.....	0	1	0	3	0	0	1	0	0	5
Dismissed.....	0	1	0	0	0	0	0	0	0	2
Pending end of year.....	1	2	4	2	3	1	2	1	8	11
<b>Supreme Court:</b>										
Pending 1st of year.....	4	2	0	1	4	5	1	2	3	0
Filed.....	3	1	2	4	5	1	2	3	0	1
Terminated.....	5	3	1	1	4	5	1	2	3	1
Won.....	4	3	0	1	3	4	0	1	0	0
Lost.....	1	0	0	0	1	1	1	1	3	1
Pending end of year.....	2	0	1	4	5	1	2	3	0	0

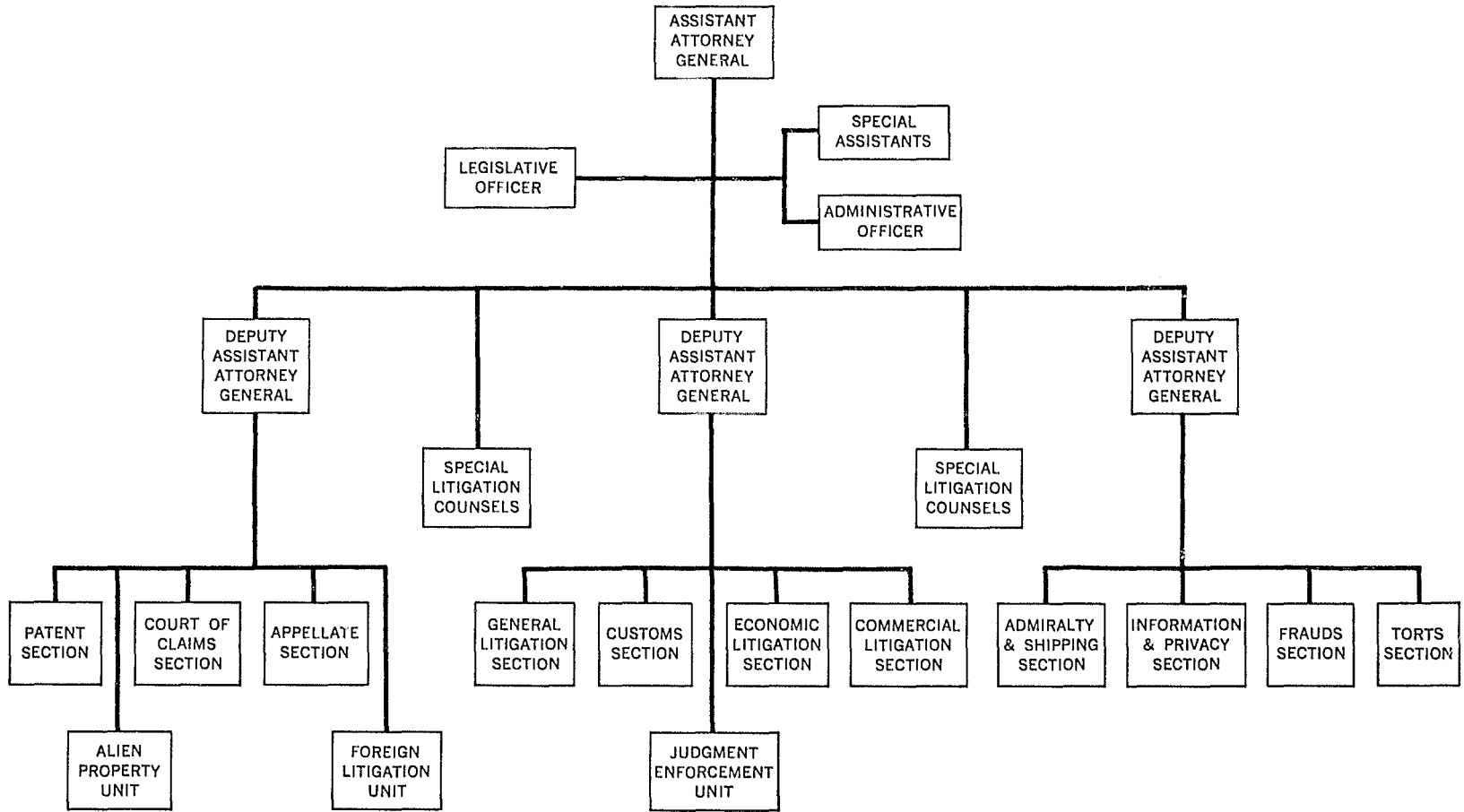
**COMPARATIVE SUMMARY OF WORKLOAD STATISTICS BY FISCAL YEARS—ANTITRUST DIVISION**

	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977
<b>Antitrust cases:</b>										
Filed.....	50	53	59	64	87	62	67	72	65	71
Appealed.....	4	5	5	7	7	2	5	6	10	16
Terminated.....	78	47	60	54	56	71	66	43	175	57
Pending.....	97	103	102	112	143	134	135	164	154	154
<b>Consumer affairs proceedings:</b>										
Pending beginning of year.....					395	726	1,113	1,032	894	831
Instituted.....					856	1,265	690	684	387	776
Terminated.....					525	878	771	822	351	969
Pending end of year.....					726	1,113	1,032	894	930	638
<b>Investigations:</b>										
Pending beginning of year.....	644	692	710	678	758	773	776	715	701	616
Instituted.....	446	555	516	562	437	455	335	385	343	400
Terminated.....	398	537	548	482	422	452	396	399	232	461
Pending end of year.....	692	710	678	758	773	776	715	701	652	555
<b>Administrative law cases:</b>										
Instituted.....	342	195	208	197	211	257	293	385	431	646
Terminated.....	378	201	205	175	185	257	240	283	314	555
Pending.....	184	178	181	203	229	229	282	384	501	627
<b>Miscellaneous proceedings</b>										
	242	371	409	515	508	523	580	779	867	1,429

<sup>1</sup> There were 9 additional cases where a decree was signed by 1 or more but not all defendants. Judgments lodged with court awaiting compliance with Antitrust Procedures and Penalties Act.

<sup>2</sup> Miscellaneous proceedings include surplus property clearance, participation in merger proceedings, reports to defense agencies, reports to NRC on nuclear power plant licensing, FTC litigation, reports to CAB and appearances in other agency, interagency, and intergovernmental proceedings.

### CIVIL DIVISION





# Civil Division

**Barbara A. Babcock**  
Assistant Attorney General

The Civil Division litigates for the United States or members of Congress, Cabinet members and other Federal executives acting in their official capacities. The work of the Division is virtually as broad and varied as the activities of Government. Since the departments and agencies of the Government engage in innumerable commercial ventures similar to those of a modern corporation, such as buying, selling, construction, shipping, production of energy, insurance and banking, the litigation arising from such activities encompasses the complete spectrum of legal problems encountered by private business enterprises. In addition, the Division litigates the highly significant policy issues, often rising to Constitutional dimension, associated with Government. Thus, the Division offers its attorneys the nearest equivalent to the litigation experience available in a large law firm with a general practice.

Because many of the important social, political, and economic issues of the day become the subjects of litigation, the Civil Division spends much time and attention on difficult and novel issues of law. Such cases often arise in the context of attacks upon the constitutionality or statutory validity of actions of various components of the Federal bureaucracy. The benefit to the Government in such cases cannot always be measured in monetary terms, but is nevertheless substantial.

To the extent that money collected or recovered can be a measure of the importance of the Division's work, the following facts are interesting: almost \$12 billion was at issue in the more than 13,000 cases received during Fiscal 1977 and approximately \$61 billion was involved in the 12,000 cases terminated; pending at the close of the fiscal year were over 24,000 cases in a total dollar amount of \$56 billion; the cases terminated during the year resulted in an aggregate award to the Government of \$135 million. This was over three times the total amount awarded to the opponents. Because the Division acted as plaintiff in only about one-third of the cases closed during Fiscal 1977, these awards highlight the favorable results obtained by the Division in representing the Government's interests.

A profile of the 279 attorneys that comprise the Division is just as diverse as the caseload handled by the Division. The "Civil Division attorney" comes from all parts of the United States, with roots that touch at least 33 states. Approximately 50 law schools are represented including most of those ranked among the best. In some cases, the Civil Division attorney is the recipient of several advanced legal degrees or advanced degrees from other disciplines, such as accounting, economics, business, the physical sciences, history, political science, mathematics and linguistics.

The Civil Division attorney entered Government service after an accomplished academic career, ranking in the top of his or her graduating class and well represented on law reviews, moot courts or in other significant activities. Prior to entering on duty the majority of attorneys combined these academic "rites of passage" with outstanding legal experience, forming a cross-section of some of the most prestigious law firms, corporations, legal aid and public interest law organizations, clerkships with both state and Federal courts and affiliation as faculty members with some of the most respected legal education institutions. Despite this accumulation of experience and honors, the average age of the line attorney in the Civil Division is about 31. At this relatively young age, the degree of litigative responsibility delegated to the Civil Division attorney would be difficult to match in any other legal environment. The more seasoned attorneys promoted to roles of supervision and management provide guidance gained through several years of substantive public service.

The Civil Division is truly heterogeneous, composed of men and women, blacks, whites and Hispanics. Recent attorney hires further reflect this pattern as 41 percent of those hired since May 1976 were women and 12 percent were either black or Hispanic.

The Civil Division attorney is assigned to one of 15 sections or units: Admiralty and Shipping, Alien Property, Appellate, Aviation, Commercial Litigation, Court of Claims, Customs, Economic Litigation, For-

eign Litigation, Frauds, General Litigation, Judgment Enforcement, Information and Privacy, Patents, and Torts. All of these components are located in Washington, except the Customs Section, stationed in New York City. In addition to its Washington headquarters the Admiralty and Shipping Section maintains field offices in New York and San Francisco.

The staff of the Civil Division performs four principal functions, which are essentially interdependent: (1) supervision of United States Attorneys and other advisory responsibilities; (2) litigation activity; (3) major or "special" litigation; and (4) special projects.

## Supervision and Advisory Responsibilities

The supervision function is the process of assisting field offices on cases for which they have primary responsibility. "Supervision" includes establishing and enforcing litigation policy, ensuring uniformity in governmental positions and practices, providing expertise on particular problems that arise in litigation, coordinating between agency general counsels' offices and United States Attorneys' offices, and generally providing support and back-up.

The Division performs a number of other advisory functions. For example, the Torts Section assists in the handling of administrative claims filed under the National Swine Flu Immunization Program of 1976 Act. These claims are initially received by the Department of Health, Education, and Welfare and are forwarded to the Civil Division's Tort Section. Section attorneys consider and process each claim and prepare a recommended decision for HEW.

The Appellate Section plays a critical advisory role in matters arising in Civil Division litigation. In particular, the Section analyzes all adverse trial court decisions to determine whether an appeal should be undertaken and submits its recommendation for final approval by the Solicitor General. Many of the appeals that are taken are assigned to the United States Attorneys' offices for handling. Like the trial sections, the Appellate Section is available to provide assistance and expertise to the United States Attorneys.

## Litigation Activity

The Division's litigation activity involves the direct handling of cases by Division attorneys either individually or in small groups of co-counsel. A number of different factors may call for the direct handling of a particular case by the Civil Division, rather than as-

signment to a United States Attorney: the case deserves special emphasis, either because of its significance or a strong need for expertise; the United States Attorney's Office cannot commit necessary resources to the particular litigation; the suit presents special problems of coordination and liaison, which mandate handling from Washington; the litigation is novel, sensitive, controversial or otherwise of peculiar significance to a client, thus requiring close attention at higher levels of the Civil Division; or the case is a particularly good training vehicle.

The Division's litigation activity falls into three broad categories, each encompassing a number of areas of substantive law. The first category involves cases sounding in tort, and includes not only suits under the Federal Tort Claims Act but also suits against individual officers or employees seeking personal money judgments against them, actions in conversion, cargo damage, ship collision and Jones Act suits, workmen's compensation matters, and actions to recover damages for vessel-caused pollution in navigable waters. The Division also prosecutes affirmative tort claims on behalf of the United States, including claims under the Medical Care Recovery Act.

The second category involves litigation of a basically commercial nature: all contract actions, cases arising under grants, subsidies or insurance undertakings by the Government, foreclosures, bankruptcies, renegotiation and patent or copyright infringement suits. Related to these commercial cases are civil fraud, bribery and anti-kickback cases, the collection of civil fines and penalties, and judgment enforcement.

The third category involves litigation challenging the propriety or lawfulness of various governmental programs: all injunction and most mandamus suits, cases charging that statutes or regulations conflict with the Constitution or other laws, proceedings for judicial review of orders of administrative agencies, suits under the Customs laws, military and civilian pay suits, actions to cancel patents for fraud on the Patent Office, cases arising under the Freedom of Information, Privacy, or Sunshine Acts, and suits charging agencies of the United States with discrimination in employment.

Civil Division litigation in all these categories provides the attorney the opportunity to appear and argue in different forums. Much of the Division's trial litigation is handled in the various United States District Courts throughout the country. In addition, Civil Division attorneys regularly appear before the United States Court of Claims and the Customs Court. They also represent the interests of the United States in

state courts—for example, in a number of judgment enforcement actions. The Division's Foreign Litigation Unit handles cases brought by and against the United States in foreign tribunals; during Fiscal 1977 the Unit's staff and foreign counsel worked on 250 cases in 42 foreign countries. Civil Division cases also are presented in some administrative tribunals: for example, the Commercial Litigation Section handles reparation cases before the Interstate Commerce Commission, and Patent Section attorneys appear before the Board of Interferences of the Patent and Trademark Office.

The Division's appellate responsibilities likewise extend to cases in a number of different forums. The Appellate Section directly handles approximately 500 appeals from United States District Courts to the Courts of Appeals—or approximately one-half the yearly caseload in appellate civil litigation. The Section's handling of these appeals includes the preparation of the Government's brief and the presentation of oral argument. In addition, the Appellate Section drafts all documents—including briefs on the merits, petitions for certiorari, and jurisdictional statements—filed in the United States Supreme Court in Civil Division cases. Attorneys in the trial sections and units also handle some appeals, including those to the Court of Customs and Patent Appeals and to the Temporary Emergency Court of Appeals.

Civil Division attorneys sometimes participate in criminal prosecutions as well as in civil litigation. For example, during Fiscal 1977, attorneys in the Economic Litigation Section occasionally encountered criminal violations in the course of FEA enforcement representation.<sup>1</sup> A Civil Division attorney would then be appointed as a special prosecutor to work with the United States Attorney's Office in the trial of the criminal case.

In all of its representation, the Civil Division works closely with a client agency, whose programmatic or other interests are at stake. Agency attorneys play important roles in developing the facts and litigation strategy for the cases. Often, the role of the Civil Division attorney is a delicate and difficult one in counseling the agency in litigation, and in resolving what may be competing interests among different agencies that will be affected by the outcome of the litigation.

A few examples of representative cases handled during Fiscal 1977 reflect the significance and diversity of the Division's caseload.

Illustrative of the Division's commercial-type litigation is a suit concluded during Fiscal 1977, in-

volving an architect-engineer who designed a massive chamber to simulate outer space conditions.<sup>2</sup> The chamber, which was intended for use in the NASA moon-landing program, failed on initial tests, and the Government brought suit. The architect-engineer then brought into the litigation the company that had participated in the design and had done the actual construction of the chamber. Shortly before the scheduled trial, the Government accepted \$1.75 million in settlement of its claims. The settlement of this case for a substantial sum was highly significant given the prior absence of settled legal principles regarding the liability of architect-engineers for their designs.

Also in the commercial category, the Government filed suit to recover more than \$5 million in damages sustained after the caissons supporting the new Federal courthouse and office building in Philadelphia began to sink.<sup>3</sup> Named as defendants were the architect, construction contractor, and testing firm that worked on the buildings.

Several cases decided during Fiscal 1977 involved claims founded on the just compensation clause of the Fifth Amendment. One illustration: Exotic Newcastle disease first appeared in birds in Southern California in the early 1970's. Unchecked, it would have destroyed the poultry and egg industry in the United States. Through a series of measures authorized by Federal statute, all affected poultry in Southern California were destroyed and the farms disinfected. The legislation mandated compensation in such cases based upon fair market value "as determined by the Secretary [of Agriculture]." The plaintiff received compensation under a formula developed by the Department of Agriculture. Plaintiff filed suit alleging that it had not received "fair market value." The Court of Claims rejected plaintiff's position that the Court should itself determine in the first instance what constituted fair market value for the birds in question. Instead, the Court held that the plaintiff could obtain a remand to the Secretary of Agriculture for a new determination of amount only if plaintiff established that the Secretary's original formula was arbitrary, capricious, an abuse of discretion or violative of the statutory standard.<sup>4</sup>

A major housing fraud matter investigated by the Frauds Section was settled without litigation. Involved was a \$670,000 claim against a savings and loan association for fraudulently procuring FHA-insured mortgages. The settlement reached after protracted negotiations resulted in recovery of all the Government's damages.

In the first case to test theories of conflict of in-

terest and constructive trust in the context of actions by a member of Congress, the District Court granted the Government's motion for summary judgment against former Congressman Bertram Podell.<sup>5</sup> The Court accepted the Government's arguments that the United States was entitled to the imposition of a constructive trust upon legal fees that Podell received for representing clients before administrative agencies at the same time that he was a Congressman.

Presently pending in the torts area is a case arising out of the crash of a C5A aircraft departing from Saigon, Vietnam. This flight is popularly known as the "Baby Lift." Another pending aviation case involves the crash of an Eastern Airlines plane near Kennedy Airport in New York, resulting in 110 deaths. The suits, which have been consolidated for discovery purposes, seek to recover in excess of \$50 million. Litigation was concluded in yet another aviation case, growing out of the crash of a Delta Air Lines plane in Boston, in which 89 persons died. Plaintiffs sought more than \$40 million in damages from the Government. After trial, the District Court concluded that the United States could not be held liable for the incident upon which the suits were based.<sup>6</sup> The Court of Appeals for the First Circuit affirmed,<sup>7</sup> the Delta's insurers are seeking review in the Supreme Court.

Challenges to Federal agencies' actions and programs generated a wide range of interesting legal issues during Fiscal 1977. For example, the General Litigation Section successfully defended two actions challenging the negotiation of the Panama Canal Treaty.<sup>8</sup> A number of cases were filed this year challenging the constitutionality of the National Swine Flu Immunization Program of 1976 Act.<sup>9</sup> The Torts Section has litigated and continues to litigate this issue.

During Fiscal 1977, the Customs Section has been required to devote a substantial and increasing portion of its resources to cases, made possible by an amendment to the Tariff Act of 1930 contained in the Trade Act of 1974, which challenge decisions of the Secretary of the Treasury not to impose an additional duty, termed a "countervailing duty," upon imported merchandise alleged to have benefited from a bounty or grant in the country of origin. A lawsuit challenging the Secretary's decision not to impose a countervailing duty upon consumer electronic products imported from Japan is an example of the Section's growing countervailing duty caseload. Like other countervailing duty cases, the defense of this action involved important foreign policy and international trade implications, and therefore required coordination with the Department of Treasury, the Depart-

ment of State, and the Office of the Special Trade Representative. Suit was brought in the Customs Court, which ruled in plaintiff's favor. On the Government's appeal, the decision was reversed.<sup>10</sup> Plaintiff has filed a petition for a writ of certiorari in the Supreme Court.

Litigation has continued over a February 1975 HUD regulation that asserted exclusive control over the level of rents to be charged on federally insured and/or subsidized properties. Courts have uniformly accepted the Government's argument that the regulation was validly promulgated and therefore preempts local ordinances by virtue of the Supremacy Clause.<sup>11</sup> However, a new question has arisen in connection with these regulations: tenants in unsubsidized projects (*i.e.*, only HUD-insured) have complained that the due process clause requires that they be afforded some participation prior to HUD's approval of a rent increase. The question is complicated by the fact that under some local ordinances tenants in subsidized and unsubsidized projects are granted certain procedures prior to the approval of a rent increase, and unsubsidized tenants do lose some protection when HUD preempts the operation of their local ordinances. This occurs because HUD regulations, while providing some participation to subsidized tenants, do not afford any procedures to unsubsidized tenants prior to the agency's approval of a rent increase. The Government has argued that any benefit afforded to tenants by local ordinances has been extinguished because the recognition of that benefit would interfere with the accepted holding that the Federal regulation is preemptive law by virtue of the Supremacy Clause. At the urging of Civil Division lawyers, HUD is in the process of reexamining its present regulation.

In a number of other cases, Civil Division attorneys defending agency actions and programs have played a positive role in shaping agency policies. For example, in two cases pending in the same Court of Appeals, the Government had originally taken the position that a cause of action for sex discrimination under Title VII is not established by a claim that a supervisor has conditioned the employment opportunities of a subordinate on compliance with the supervisor's demand for sexual favors. This litigation position supported a ruling by the Civil Service Commission Board of Appeals and Review that such conduct was not proscribed by Title VII. At the request of attorneys in both the Civil and Civil Rights Divisions, the Civil Service Commission reexamined its ruling in light of the contrary position taken by the EEOC. After reconsidering the question, the Commission con-

cluded that, at least where the supervisor is male and the subordinate is female, such claims of sex harassment state a cause of action under Title VII. Accordingly, the Government abandoned its original litigation position that sexual harassment does not constitute sex discrimination under Title VII.<sup>12</sup>

The Division's representation of the United States in cases involving the propriety of agency actions and programs is not always defensive in nature. For example, during Fiscal 1977 suit was brought by the Government to enjoin a telephone company from complying with a subpoena issued by a Congressional subcommittee, which required production of information relating to intelligence and counterintelligence material.<sup>13</sup> Represented by attorneys in the General Litigation Section, the United States filed suit after the President made a formal claim of privilege, based upon a determination that disclosure of the material would produce an undue risk to national security.

The Information and Privacy Section, which is responsible for the defense of agency decisions denying requests for disclosure of Government documents, saw a marked increase in the number of so-called "reverse" Freedom of Information Act cases during Fiscal 1977. In a "reverse" case, suit is brought—usually by the party who originally submitted the requested information to the Government—to enjoin the agency from honoring a Freedom of Information Act request for the disclosure of that information. The "reverse" FOIA plaintiff argues that the information cannot be disclosed because it is exempt from mandatory disclosure under the Act. Several of these cases have been decided by courts of appeals. The initial appellate decisions severely restricted the agency's ability to make discretionary releases of such exempt materials. However, in an important break with those earlier cases, the Court of Appeals for the Third Circuit, in a case involving employment discrimination information submitted by Government contractors, adopted the Government's position that an agency has the discretion to disclose information submitted by private parties, even though the information might be exempt from mandatory disclosure, if such disclosure would be in the public interest.<sup>14</sup>

During Fiscal 1977, a widely publicized and important case was argued before the Court of Claims, brought by 140 United States court of appeals and district court judges to recover additional compensation allegedly due under the Constitution and a 1967 statute.<sup>15</sup> The plaintiffs sought damages as a result of Congress' failure to increase their salaries to compensate for inflation, charging that the resulting decline

in real value constituted a "diminishment" of their salaries while in office, in violation of Article III, Section 1, of the Constitution. They also challenged a provision of the Federal Salary Act of 1967 authorizing a so-called "one-house veto" of the President's 1974 recommendation for an annual 7.5 percent increase in judges' pay for 1974, 1975, and 1976.

The Court of Claims held that the Constitution left to the "sound discretion of the political branches the adjustment of the judges' salaries as economic and other circumstances \* \* \* required." Despite the Justice Department's concession at oral argument of the unconstitutionality of the 1976 Salary Act's one-house veto provision, the Court accepted the arguments in favor of its constitutionality, presented in briefs filed at the request of the Court by the President of the Senate and the Speaker of the House. The Supreme Court has declined to review the case.

Other important appeals handled by the Civil Division were decided this past year. In a major appellate decision regarding the implementation of the National Highway Traffic and Motor Vehicle Safety Act, the Civil Division obtained a reversal of a district court judgment that required the Government to go to trial to prove whether a defect, which caused sudden and total loss of steering control, related to "motor vehicle safety" as that term is used in the Act. The court of appeals accepted our argument that a defect affecting such a basic function as steering is safety-related as a matter of law, and that therefore the Government should have been granted summary judgment, even absent facts as to the number of accidents caused or the speed at which control was lost.<sup>16</sup>

In another major decision, the Supreme Court, on the Government's appeal, reversed a district court ruling that a former provision of the Social Security Act is unconstitutional. The provision, which was repealed in 1972, allowed a slightly more favorable method of computing old-age retirement benefits for women than for men. The new formula passed by Congress in 1972 equalizes benefits only for men and women retiring in the future. The Supreme Court noted that the repealed provisions constituted an appropriate congressional response to the discrimination women had traditionally suffered in the job market, and its prospective repeal was merely a recognition by Congress that gains by women in the job market made this benign discrimination no longer necessary.<sup>17</sup> HEW estimates that this reversal will save almost \$2 billion per year and will eliminate possible claims for back benefits that could have reached \$4.5 billion.

Another major appellate decision in fiscal year 1977 involved the successful defense of the statute directing the General Services Administration to retain custody of the Presidential materials and recordings of former President Nixon. The Supreme Court accepted the Government's argument that the statute does not violate the separation of powers doctrine, Presidential privilege, Mr. Nixon's right to privacy, the First Amendment, or the Bill of Attainder Clause.<sup>18</sup>

Civil Division attorneys helped bring before the Supreme Court a case now pending, which should resolve the scope of immunity available to protect Federal officials who are sued personally for damages resulting from their official actions. The Court of Appeals for the Second Circuit had held that in order to escape personal liability, the defendants—officials of the Department of Agriculture—had to demonstrate good faith in conducting law enforcement proceedings, and were not entitled to absolute immunity from suit upon showing that the acts complained of constituted discretionary acts within the outer perimeter of their official duties.<sup>19</sup> By contrast, in a similar case handled by the Civil Division, the Court of Appeals for the District of Columbia Circuit ruled that a Federal official sued for damages for libel was entitled to absolute immunity.<sup>20</sup> The question is important to Government officials who may take action affecting thousands of people, and who may, consequently, be personally exposed to lawsuits seeking huge damage awards.

## Major or Special Litigation

Another principal function performed by the Civil Division is the handling of major or "special" litigation. The most important, complex, or time-consuming cases in the Division are managed by special litigation counsel—highly experienced litigators usually at a supergrade level—using line attorneys for support, where needed. The position of special litigation counsel provides an alternative career path to the more experienced attorneys in the Division who choose not to pursue a position of management.

Several pieces of major litigation have arisen in the torts area. For example, a number of suits have been filed arising out of the failure of the Franklin National Bank; these suits are currently pending in the Eastern District of New York.<sup>21</sup> Also handled by special litigation counsel is litigation arising out of in-

dustrial workers' performance of their duties in areas where they were exposed to asbestos poisoning.<sup>22</sup> The claims in the asbestos cases are expected to total well over \$100 million.

In another example of special litigation, the Government brought suit to require a major shipbuilder to continue performance of a contract for the construction of a nuclear-powered guided missile cruiser.<sup>23</sup> The contractor had ceased construction prior to institution of suit, contending that its contract with the Navy was invalid.

## Special Projects

Attorneys from all sections and units in the Division are responsible for a variety of "special projects"—those miscellaneous functions that do not relate directly to some form of litigation. Exemplary of this category is the General Litigation's Representation Committee, which develops and coordinates policies and procedures relating to the representation of Federal employees sued individually. During Fiscal 1977 the Committee contributed to the development of Department of Justice guidelines for providing representation to Federal officials in damage actions arising from conduct undertaken in the course of their employment. These guidelines provide for representation by Department attorneys or, if a conflict of interest is present, by private counsel selected by the defendant and paid by the Government. Civil Division attorneys also helped prepare a policy statement issued by the Attorney General, calling for uniformity in the positions taken by the Government in defending Title VII cases and in prosecuting Title VII cases against private sector and local governmental employers.

Many of the Division's special projects involve drafting or commenting upon proposed legislation. For example, the General Litigation Section assisted in drafting proposed amendments to the Federal Tort Claims Act, now pending before Congress, which would make the United States exclusively liable for constitutional torts committed by its employees. Presently, Government employees ordinarily must bear any monetary judgment against them in these cases. In addition, the Customs Section assisted the Division in preparing draft legislation that would clarify and extend the jurisdiction of the Customs Court. The legislation would also effect certain changes in statutes affecting the Court's composition and powers, which presently appear incompatible with its status as an Article III court.

The Foreign Litigation Unit is assigned responsibility for yet another kind of special project: the receipt, processing, and execution of requests for international judicial assistance transmitted by foreign authorities, under both The Hague Service Convention of 1965 and The Hague Evidence Convention of 1968. The Unit processed approximately 2,000 such requests during Fiscal 1977, and represented the Government's interests in American courts whenever execution of foreign judicial assistance requests resulted in litigation in this country.

## Conclusion

The foregoing has been a general explanation of the work of the Civil Division over the past year. The words "diversity," "variety," and "broad" have recurred because that is the mark of the Division. The work is as diverse, various and broad as the activities of Government. The common thread is the continuous effort to provide high quality legal representation to the client agencies and to the interests of the people of the United States.

## Citations

- (1) *United States v. Eugene Dalton*, Civil Action No. 1706 (10th Cir.).
- (2) *United States v. Bechtel Corp. v. Chicago Bridge & Iron Co.*, Civil Action No. 71-2086 (N.D. Cal.).
- (3) *United States v. McCloskey & Co., Inc., et al.*, Civil Action No. 77-3112 (E.D. Pa.).
- (4) *Julius Goldman's Egg City v. United States*, 556 F.2d (Ct. Cl. 1977).
- (5) *United States v. Bertram Podell*, 436 F. Supp. 1039 (S.D.N.Y. 1977).

- (6) *Delta Air Lines, Inc. v. United States*, 412 F. Supp. 959 (D. Mass. 1976).
- (7) *Delta Air Lines, Inc. v. United States*, 561 F.2d 381 (1st Cir. 1977).
- (8) *Drummond v. Bunker*, 560 F.2d 625 (5th Cir. 1977); *Helms v. Vance*, Civil No. 76-1576 (D.C. Cir.).
- (9) *Sparks v. Wyeth Laboratories, Inc.*, 431 F. Supp. 411 (W.D. Okla. 1977); *Wolfe v. Merrill National Laboratories, Inc.*, 433 F. Supp. 231 (M.D. Tenn. 1977).
- (10) *Zenith Radio Corp v. United States*, 562 F.2d 1209 (C.C.P.A. 1977) petition for cert. filed, 46 U.S.L.W. 3263 (U.S. Oct. 11, 1977) (No. 539).
- (11) *City of Boston v. Hills*, 420 F. Supp. 1291 (D. Mass. 1976); *Lynn Argo v. Hills*, 425 F. Supp. 151 (E.D. N.Y. 1977); *515 Associates, et al. v. City of Newark, et al.*, 424 F. Supp. 984 (D. N.J. 1977); *Barbara Glasco v. Hills*, 412 F. Supp. 615 (D. N.J. 1976) affirmed on other grounds (3rd Cir. No. 76-1991, June 27, 1977).
- (12) *Williams v. Bell*, Civil Action Nos. 76-1833, 76-1994 (D.C. Cir.); *Barnes v. Costle*, 561 F.2d 983 (D.C. Cir. 1977).
- (13) *United States v. American Tel. & Tel. Co.*, 551 F.2d 384 (D.C. Cir. 1976).
- (14) *Chrysler Corp. v. Schlesinger*, Civil Action No. 74-850 (3rd Cir.).
- (15) *Atkins v. United States*, 556 F.2d 1028 (Ct. Cl. 1977).
- (16) *United States v. General Motors Corp.*, 561 F.2d 923 (D.C. Cir. 1977).
- (17) *Califano v. Webster*, 430 U.S. 313, 97 S. Ct. 1192 (1977).
- (18) *Nixon v. Administrator of General Services*, 433 U.S. 425 (1977).
- (19) *Economou v. Butz*, 535 F.2d 688 (2d Cir. 1976).
- (20) *Dellums v. Powell*, 566 F.2d 167 (D.C. Cir. 1977).
- (21) *In Re Franklin Bank*, MDL No. 196.
- (22) *Johns-Manville Corp. v. United States*, Civil Action No. 77-30-N (E.D. Va.).
- (23) *United States v. Newport News Publishing & Dry Dock Co. and Tenneco, Inc.*, Civil Action No. 75-88-NN (E.D. Va.).

# Civil Rights Division

Drew S. Days III  
Assistant Attorney General

The Civil Rights Division was established in 1957 following enactment of the first civil rights statute since Reconstruction. The Division is organized into eight major enforcement sections, two offices and a task force staffed by 171 attorneys and 193 support personnel.

The Division is responsible for the enforcement of the Civil Rights Acts of 1957, 1960, 1964, and 1968, the Voting Rights Act of 1965, as amended in 1970 and 1975, and the Equal Credit Opportunity Act. These laws prohibit various forms of discrimination in education, employment, housing, public accommodations and facilities, voting, and federally funded programs. The Division also prosecutes actions under several criminal statutes that prohibit specified acts of interference with federally protected rights and activities.

Seven of the major sections have jurisdiction over a particular subject area and the related statutes. The eighth handles legislative and appellate matters. In addition, the Office of Special Litigation is responsible for establishing and protecting the constitutional rights of children and mentally and physically handicapped persons of all ages, and the Office of Indian Rights is responsible for protecting the rights of American Indians.

In the last quarter of Fiscal 1977, the Task Force on Sex Discrimination became operational. The Task Force's goal is to eliminate sexually discriminatory provisions from all laws, regulations, guidelines, programs, and policies of the Federal Government.

All Division attorneys are headquartered in Washington, D.C., although many are required to travel a significant portion of each year for trial preparations and court proceedings.

During Fiscal 1977, the Division filed 68 civil suits, brought 27 criminal actions, and participated in 80 other suits.

## Appellate Section

The Appellate Section has responsibility for all Division cases in the courts of appeals and the Supreme Court, for legislative matters, and for in-house legal counsel.

During Fiscal 1977, the Supreme Court decided on the merits 23 cases in which the Division was a party or had participated as *amicus curiae*. In 10 of the cases, the decisions were fully in accord with Division contentions; in 5, partially so. In two cases, decisions were rendered on a procedural ground the Division had not addressed, and in six cases, Division contentions were rejected.

Among the more important decisions were: (1) a decision upholding the authority of a jurisdiction subject to the Voting Rights Act to consider race in apportionment;<sup>1</sup> (2) the conclusion that employers and unions need not make substantial efforts to accommodate the religious observances of employees;<sup>2</sup> and (3) a holding that, if a state has contributed to segregation in a local school district, it can be ordered to support desegregation financially.<sup>3</sup>

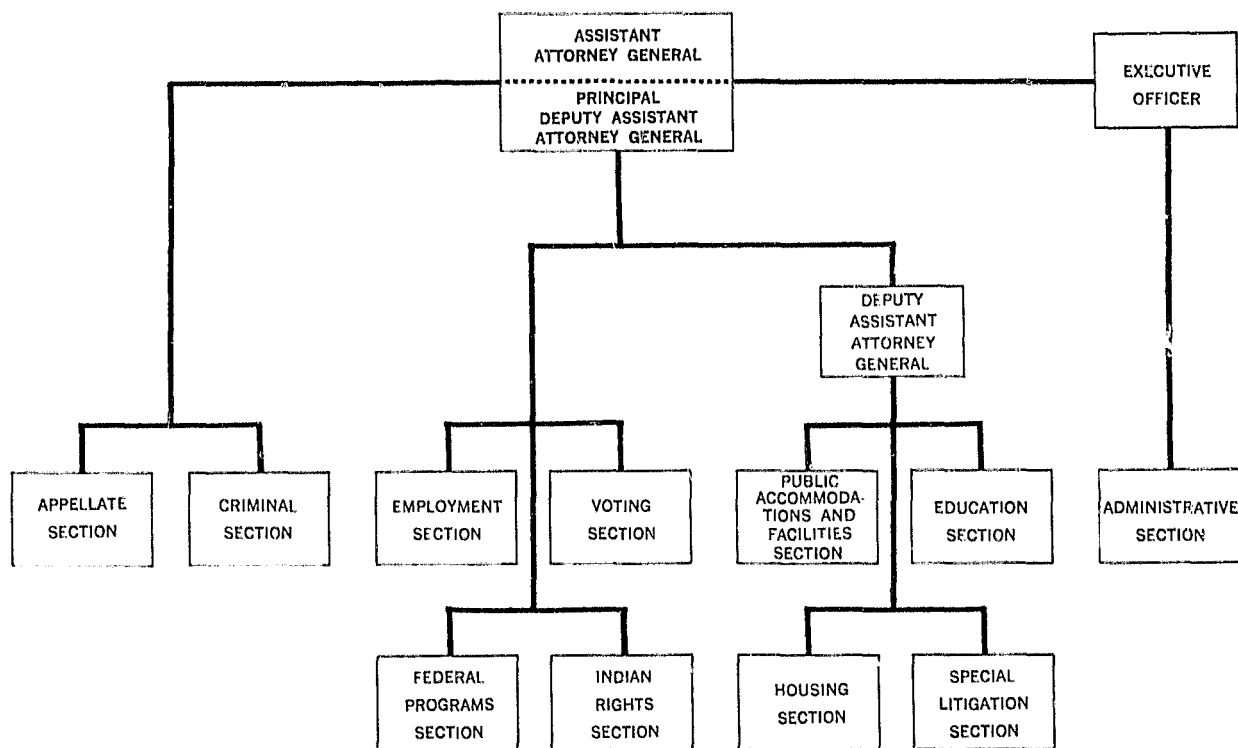
There were 46 decisions rendered by the courts of appeals in Division cases during the fiscal year. Of those cases decided on the merits, over 80 percent were decided in accord with Division contentions.

Among those of import were: (1) a decision holding the primary civil rights criminal statute applicable in Puerto Rico;<sup>4</sup> (2) a pair of decisions concluding that the Executive Order requiring non-discrimination in employment by Government contractors was applicable to utilities with monopoly status;<sup>5</sup> and (3) the affirmance of a comprehensive order designed to correct unconstitutional conditions at Angola, Louisiana's penitentiary.<sup>6</sup>

Most noteworthy among its activities in the legislative field, the Section continued to seek enactment of



## CIVIL RIGHTS DIVISION



a proposal to give the Attorney General authority to file civil suits against state and local institutions that allegedly hold persons involuntarily confined in unconstitutional conditions.

### Criminal Section

The Criminal Section has the responsibility for enforcing a number of criminal statutes designed to preserve personal liberties. Two of these laws, passed during Reconstruction, prohibit persons from acting under color of law or in conspiracy with others to interfere with an individual's federal constitutional rights. Two others prohibit the holding of individuals in peonage or involuntary servitude. The passage of the 1968 Civil Rights Act broadened the Division's enforcement power by making it a Federal offense to use force or threats of force to injure or intimidate any person involved in the exercise of certain federal rights and activities.

In Fiscal 1977, the Section reviewed approximately 12,000 complaints alleging criminal interference with the civil rights of citizens. Nearly 3,200 of these

complaints were investigated by the FBI. The results of 35 investigations were presented to Federal grand juries. Twenty-five indictments were returned and two informations were filed charging a total of 73 defendants. During the same period, 25 cases were tried, resulting in 33 defendants being convicted and 17 acquitted. Four defendants obtained mistrials when the jury could reach no verdict. In addition 12 defendants pled guilty *or nolo contendere* to violations of criminal civil rights statutes.

Investigations into complaints alleging summary punishment by law enforcement officials continued to account for much of the Section's activities. Of the 27 cases filed during the fiscal year, 18 involved possible violations of 18 U.S.C. Section 242 or Section 241. Nineteen of the cases tried involved violations by police or other law enforcement officials.

A significant portion of the Section's time and resources have been spent on investigating possible civil rights violations by the FBI. To date, one indictment has resulted.<sup>7</sup> A Federal grand jury is currently being held in the District of Columbia on this matter.

Significant cases since October 1976, include the conviction of six territorial prison guards and two

supervisory officials on the island of Guam for brutalizing prisoners.<sup>8</sup> That case is believed to be the first of its kind on Guam. A conviction was returned against a Castroville, Texas, town marshal, his wife and sister-in-law for depriving a young Mexican-American of his right to be free from criminal assault.<sup>9</sup> The marshal was convicted of a felony violation of 18 U.S.C. Section 242 because his victim died. His wife and sister-in-law were convicted as accessories because they drove the victim's body 400 miles across the state and buried it.

In enforcing the involuntary servitude and peonage statutes, the Section achieved convictions of four defendants in Florida for violations of 18 U.S.C. Sections 1581 and 1584.<sup>10</sup> Another indictment involving Sections 1581 and 1584 was returned in August in North Carolina.<sup>11</sup> Seven defendants are charged there.

In Mobile, Alabama, the county sheriff and eight of his deputies were charged with conspiracy in violation of 18 U.S.C. Section 241.<sup>12</sup> They were alleged to have ambushed and killed a prisoner whom they knew was going to attempt an escape from the county jail, in order to let that prisoner's death serve as a warning to other potential escapees. The case was dismissed, and an appeal of that dismissal has been taken.

## Education Section

The Education Section is involved in four major areas of civil rights enforcement: (1) school desegregation at the elementary and secondary level; (2) desegregation of higher education; (3) employment discrimination by public schools and colleges; and (4) litigation in support of the educational programs of the Department of Health, Education, and Welfare (HEW).

In the area of student desegregation, the Section enforces existing court-ordered desegregation plans, primarily in southern states, and participates in current litigation in metropolitan areas outside the South. Although most of the school systems formerly segregated by law are now operating under a final desegregation plan, one of the Section's priorities has been to monitor those plans and to resolve transitional problems which have developed. The Section has investigated and litigated such issues as continued operation of racially segregated schools; racial effect of new school construction and school closings; and discriminatory denotions, dismissals and the reassignment of minority teachers. For example, one enforcement proceeding involved the Section's allegation that the reassignment of every principal in a Texas school sys-

tem was done on the basis of race in order to identify each school in the system as intended for students of a particular race.<sup>13</sup> During the year, the Section was in active litigation with 71 southern school districts on enforcement matters.

The Section filed 4 suits and participated in 14 others as *amicus curiae*, intervenor, or defendant.

The Section entered new litigation in several school districts located in non-southern metropolitan areas. It participated as *amicus curiae* in suits involving the Cleveland<sup>14</sup> and Dayton, Ohio,<sup>15</sup> public school systems, alleging that defendants have intentionally maintained racially segregated schools in a substantial portion of each system. The Section also intervened in suits against the St. Louis, Missouri,<sup>16</sup> and Tucson, Arizona,<sup>17</sup> school systems. Each suit alleges that defendants have failed to eradicate the segregated public school system formerly required under state law.

Litigation was also active in ongoing non-southern student desegregation suits. The Indianapolis<sup>18</sup> and Omaha<sup>19</sup> cases were before the courts of appeal after remands from the Supreme Court. A second appeal was pending in the Section's suit against the Ferndale, Michigan,<sup>20</sup> public school system. A desegregation plan (requiring defendants to desegregate a predominantly Hispanic school) developed by *amicus* in the suit against Waterbury, Connecticut<sup>21</sup> was ordered implemented commencing in the September 1977 school year. In the Kansas City, Kansas,<sup>22</sup> case the district court entered an opinion and order granting the United States only part of the relief it sought and an appeal has been taken.

After remand from the Supreme Court, hearings were held in the district court in the Pasadena, California,<sup>23</sup> case on the issue of the defendant school district's remaining duties after several years of operations under a specific court-ordered student assignment plan.

The Section continued its participation as *amicus curiae* in *Brumfield v. Dodd*.<sup>24</sup> Litigation centered on enforcement of a court ruling that state aid may not be given to segregated private schools.

In the area of desegregation of racially separate systems of higher education, litigation continued in Tennessee,<sup>25</sup> Mississippi,<sup>26</sup> and Louisiana.<sup>27</sup> During the year, an order was issued requiring the merger of the Nashville campus of the University of Tennessee and Tennessee State University (the latter was formerly an all black institution and will be the surviving institution after the merger). In Mississippi consent orders affecting 12 junior colleges were under negoti-

ation as the year ended. The section is also in litigation with the trade schools and junior colleges in Alabama.<sup>27</sup>

The sex discrimination suit against the Massachusetts Maritime Academy<sup>29</sup> has been successfully negotiated; defendants agreed to accept women as full-time students beginning in September 1977.

Ongoing litigation concerning racial discrimination in employment included cases against the State of South Carolina<sup>30</sup> (teacher certification standards) and suits against the Hazelwood<sup>31</sup> and Jennings,<sup>32</sup> Missouri, school systems. The latter two are on remand from higher courts and deal with local school districts' responsibilities in recruitment and hiring of minority teachers.

During the year, the Section processed almost 400 referrals involving public schools and colleges from the Equal Employment Opportunity Commission (EEOC). That agency is required by statute to make referrals after attempts to resolve employment discrimination complaints against public employers through conciliation have been unsuccessful. Four suits were filed based on these referrals, two against universities: one alleging discrimination on the basis of race and sex with regard to hiring,<sup>33</sup> and the other claiming sex discrimination in the failure of the defendants to promote two female instructors.<sup>34</sup> Suit was filed to enforce provisions of an EEOC conciliation agreement where one arm of a state government agreed to compensate an employee who complained of discrimination and another arm refused to make payment.<sup>35</sup> In addition, a religious discrimination suit was filed against a local school district alleging an unreasonable failure by the defendants to allow the complainant time off for observance of her religion.<sup>36</sup>

In the first decision on the merits of a Federal Government suit charging sex discrimination in public school employment, the district court issued a favorable ruling awarding the complainant back pay and reinstatement.<sup>37</sup> Another suit alleging discrimination on the basis of sex (failure to promote to principal) was settled with the complainant being awarded \$12,000.<sup>38</sup>

During the year, the Section defended HEW in cases in which educational institutions receiving federal funds sought to enjoin HEW from instituting administrative sanctions for failure to comply with civil rights requirements of federal law. In one such suit a university challenged HEW's authority to reach employment discrimination claims under Title IX of the 1972 Education Amendments.<sup>39</sup> In addition, the boards of education in both New York City<sup>40</sup> and Kansas City, Missouri,<sup>41</sup> filed suit to stop HEW from

withholding funds under the Emergency School Aid Act (20 U.S.C. Section 1601, *et seq.*).

In other cases, HEW was sued as co-defendant with recipients of Federal funds after the agency and the recipients had entered into agreements calling for voluntary resolution of alleged violations of the civil rights laws by the recipients. These suits were brought by persons affected by the settlement who sought to enjoin the action called for in the agreement. The Section successfully defended an attempt by Los Angeles teachers to upset an agreement between HEW and the school district which sought to rectify alleged racially discriminatory assignment of teachers in the past.<sup>42</sup> In a similar case several dozen teachers in Chicago filed a lawsuit seeking to enjoin portions of the school district's voluntary teacher reassignment plan. HEW was included as a party defendant by the plaintiffs who sought to halt Federal funding to Chicago schools while the plan was in force.<sup>43</sup> In Des Moines, Iowa, suit was brought by parents seeking an injunction against the school board's implementation of a student assignment plan it had worked out on a voluntary basis with HEW.<sup>44</sup> The injunction was denied by the district court. In addition, an all-male college honor society sought to have a Federal court declare that it had a right to exclude women from membership without pressure from HEW on the university which chartered the honor society to force it to change its policies or jeopardize the university's Federal funding.<sup>45</sup>

## Employment Section

The Employment Section is responsible for enforcing prohibitions against discrimination in employment based on race, color, religion, sex, national origin or handicap.

In Fiscal 1977, the Section filed 10 lawsuits seeking to enforce the provisions of various statutes and Executive Order 11246 prohibiting discriminatory employment practices, and participated in 11 other cases. Four of the cases were resolved by consent decrees during the year, as were six other cases pending at the beginning of the year.

A major result was obtained in *United States v. New Hampshire*,<sup>46</sup> when the Supreme Court denied the State's petition for a writ of certiorari and let stand the decision of the court of appeals requiring state and local governmental units to comply with the reporting requirements of Section 709(c) of Title VII of the Civil Rights Act of 1964, as amended. The reports provide statistics relating to governmental employees ac-

ording to their types of operations, positions and salaries, and are broken down by sex and ethnic group. Subsequently, three local governmental defendants in other states agreed to the entry of consent decrees in similar suits.<sup>47</sup>

The Section defended Federal officials in six suits filed during the year. Significant among these was *Constructors Association of Western Pennsylvania v. Juanita Kreps, et al.*,<sup>48</sup> in which the plaintiff challenged the constitutionality of the Local Public Works Act requiring a 10 percent minority business participation in certain projects. In an opinion issued after the end of the year, the district court held "there is nothing constitutionally impermissible in requiring reasonable percentage minority business enterprise participation."

Some of the consent decrees entered during the year provided for percentage goals for hiring and promotion of victims of discrimination. In addition, substantial back pay awards were agreed to, including \$160,000 to the class and an additional \$25,000 to one individual by the Kansas City (Kansas) Board of Public Utilities,<sup>49</sup> \$60,000 by Cuyahoga County, Ohio,<sup>50</sup> and a maximum of \$500,000 (up to \$2,000 to any one individual) by the city of Miami.<sup>51</sup>

A ruling by the Court during the year (formally entered after the end of the year) in the Section's suit against Lee Way Motor Freight<sup>52</sup> resulted in \$1,818,191.33 back pay as well as other relief for 47 black individuals who had been victims of previous employment discrimination.

A considerable portion of the Section's activity consisted of efforts to secure and monitor compliance with previously entered court orders, and, in some instances, to counter attempts by defendants and other parties to frustrate those orders. Significant efforts were expended with regard to the Section's remedial court orders directed at the employment practices of the Chicago<sup>53</sup> and Philadelphia<sup>54</sup> police departments and its nationwide steel industry consent decrees.<sup>55</sup>

Nonlitigative activities of the Section involved the performance of statutory responsibilities in connection with employment discrimination charges filed with the Equal Employment Opportunity Commission (EEOC). These included the review of over 400 charges referred to the Department upon failure of conciliation and the issuance of over 2,850 right-to-sue letters in response to requests for or on behalf of charging parties, on the basis of EEOC dismissal orders received by the Department, and with respect to charges referred by EEOC deemed inappropriate for litigation by the Attorney General.

## Federal Programs Section

It is the responsibility of the Federal Programs Section to enforce Title VI of the Civil Rights Act of 1964, which prohibits discrimination in programs receiving Federal funds, and to coordinate the implementation of Title VI by the Federal grant agencies under Executive Order 11764. The Section also has responsibility for enforcing the non-discrimination provisions of the State and Local Fiscal Assistance Act of 1972, as amended in 1976; the Crime Control Act of 1973, as amended in 1976; the Comprehensive Employment and Training Act of 1973; the Housing and Community Development Act of 1974; and the Railroad Revitalization and Regulatory Reform Act of 1976.

On December 1, 1976, the Attorney General issued comprehensive regulations that established minimum Title VI standards for Federal agencies. Subsequently, on July 20, 1977, President Carter issued a directive to the various departments and agencies emphasizing effective Title VI enforcement as a priority of this Administration and endorsing the Attorney General's role "to provide central guidance and oversight of Title VI enforcement."

To highlight this commitment, the Federal Programs Section held the first comprehensive Title VI Conference of its kind in 11 years. Representatives of the Federal agencies with Title VI responsibilities, members of the public interest bar, and U.S. Attorneys from throughout the country attended. Keynote speakers included Arthur S. Flemming, the Chairman of the U.S. Commission on Civil Rights; Clarence Mitchell, Jr., Director, Washington office of the NAACP; and Texas Congresswoman Barbara Jordan. Conferees were also provided with the Department's first comprehensive Title VI Compliance Manual in draft for their comments.

The Section's Coordination Unit, established in 1974 to fulfill responsibilities conferred by Executive Order 11764, provides general coordination of civil rights enforcement by the 26 agencies covered by Title VI which together disburse \$70 billion annually in more than 400 federally assisted programs. In Fiscal 1977, the unit published reviews evaluating the Title VI enforcement efforts of the Department of Transportation, the Environmental Protection Agency, the Department of Housing and Urban Development, and the Department of the Interior. In addition, Memoranda of Understanding implementing the results of earlier such reviews were signed with the United States Employment Service of the Department of Labor, the

Food and Nutrition Service of the Department of Agriculture, and the Veterans Administration. The Unit also concentrated on assisting agencies to implement the requirements of the Attorney General's Title VI coordination regulations.

The Section filed one suit in Fiscal 1977, and participated in eight other lawsuits and five cases that involved post-decree enforcement activities. In the first case involving services discrimination brought under Section 122 of the General Revenue Sharing Act, the Section secured the formulation and approval by the Court of a sewer and water service equalization plan remedying past discrimination in Folkston, Georgia.<sup>56</sup> In another action under the General Revenue Sharing statute, the Section negotiated a consent decree with the city of Pompano Beach, Florida,<sup>57</sup> to remedy alleged discrimination in the employment and promotion of minorities and females in the municipal police, fire, recreation, public works and fiscal departments.

The Section initiated a lawsuit under the provisions of the Crime Control Act of 1973, as amended. It seeks relief for alleged employment discrimination against women and minorities by the Virginia State Police.<sup>58</sup> This suit presented one of the first opportunities for the Department's Law Enforcement Assistance Administration to enforce the provisions of the Crime Control Act calling for automatic suspension of funds 45 days after the Attorney General sues a recipient for violating the civil rights provision of that law. The Department's attempt to suspend funds in this suit was enjoined by the trial court and the matter is now on appeal. Another Crime Control Act suit, initiated by the South Carolina Highway Patrol,<sup>59</sup> has resulted in an interim order providing for seven women to be included in the current highway patrol training class. The suit centers upon the Patrol's refusal to employ women as patrol officers.

An agreement was negotiated with the State of New Hampshire to rescind a previous refusal to provide racial and ethnic data to the U.S. Department of Agriculture for the purpose of investigating Title VI compliance in the Food Stamp program. The State had been formally notified of the Attorney General's authorization of a civil action if such an agreement could not be reached. In another action involving the Agriculture Department, the Section handled a suit against the Secretary of Agriculture and local officials alleging discrimination by the Belle Glade, Florida, Housing Authority.<sup>60</sup> A consent decree was obtained requiring the Housing Authority to desegregate its two housing centers and to provide equal services to the two centers. The Agriculture Depart-

ment agreed to take certain measures to assist in securing this desegregation and equalization of services.

Other Section activities included obtaining a consent decree to secure equal employment opportunity for blacks, women and Spanish Americans through affirmative actions in hiring, salary determinations, promotion and assignment of personnel by the Texas agricultural extension service;<sup>61</sup> continuing litigation in a suit alleging discrimination against blacks and Indians in services and employment by the state agricultural extension service in North Carolina;<sup>62</sup> monitoring compliance with decrees obtained in previously settled suits; and negotiating settlements of civil rights violations discovered in compliance reviews or citizen complaint investigations.

In addition, the Section has continued publication of the *Title VI Forum*, a quarterly newsletter imparting and exchanging information and expertise regarding Title VI law and civil rights compliance techniques, in an effort to further the goal of uniform and fair enforcement.

## Housing Section

The Housing Section enforces the 1968 Fair Housing Act, 42 U.S.C. Section 3601 *et seq.* and the Equal Credit Opportunity Act of 1974, 15 U.S.C. Section 1691 *et seq.* In Fiscal 1977, the Section filed 18 suits and 6 other legal actions in 17 states involving a total of 35 defendants.

Seventeen of the cases alleged discriminatory rental practices on the basis of race and sex by the owners and operators of apartments and trailer parks, including one against a large multi-state apartment referral service.<sup>63</sup> Four suits charged violations of the Fair Housing Law in the sale of single family dwellings through "blockbusting" and "steering" practices. The other actions were contempt motions filed in previously pending suits.

Twenty-eight fair housing cases were resolved by consent decree, including an action against a suburban New York community organization whose purpose had been to maintain a white town and to prevent the purchase of homes by black persons.<sup>64</sup> One group of 3 decrees resolved a law suit against 11 real estate companies that were alleged to have engaged in group pattern and practice of blockbusting and steering in one section of Dallas, Texas.<sup>65</sup>

Two suits that were resolved or partially resolved through litigation resulted in noteworthy decisions favorable to the United States. In a Michigan case<sup>66</sup>

the court held that racial steering violated the Fair Housing Act and, more significantly, that racial segregation of real estate office staffs in such a way that black salespersons were assigned to work in offices located in black neighborhoods and white salespersons were assigned to white neighborhood offices was itself a violation of the Fair Housing Act because it had the effect of steering (racially attracting) homeseekers to the various offices on the basis of race. In a case in Illinois,<sup>67</sup> the court, by denying a motion to dismiss the Attorney General's complaint, effectively found that the practice of "redlining" is covered by the Fair Housing Act.

Unfavorable results were obtained on the question of the government's right to secure monetary relief on behalf of victims of housing discrimination. The Supreme Court denied *certiorari* in *United States v. J. C. Long*,<sup>68</sup> a case in which the court of appeals had held that general monetary relief was not awardable in pattern and practice suits brought by the United States. The only district court to decide the question in the last year followed that case as a precedent.<sup>69</sup>

The Attorney General's responsibility under the Equal Credit Opportunity Act (ECOA) became effective March 23, 1976. The Housing Section's responsibility evolved as a result of the experience Section attorneys had gained enforcing the prohibition in the Fair Housing Act against discrimination in housing credit. The Section has established a small task force of four attorneys, which has been analyzing the enforcement experience of the Section and establishing enforcement priorities under the comparatively new statute.

The task force has established liaison with the four lending regulatory agencies of the Government (Office of the Comptroller of the Currency, Federal Reserve Board, Federal Home Loan Bank Board, and Federal Deposit Insurance Corporation). As a special undertaking to acquaint personnel from the Section and from the Comptroller's Office with the investigative techniques and practices of each other, teams comprised of staff from both offices conducted a series of special national bank examinations in Fiscal 1977.

## Public Accommodations and Facilities Section

The Public Accommodations and Facilities Section is responsible for enforcing Federal laws requiring nondiscrimination in places of public accommodations and facilities and for protecting the constitutional

rights of persons confined in state and local prisons and jails.

The continuing objective of the Section in the area of public accommodations is the total eradication of discrimination in all accommodations open to the public.

In Fiscal 1977, the Section's method of achieving this objective included the targeting of dual facilities in ostensibly "desegregated" establishments, the investigation of so-called "private" clubs which attempt to hide behind the exception to the 1964 Civil Rights Act of bona-fide private clubs and litigation against health spas, athletic clubs, and other establishments which are open to the public and operate on a segregated basis. A significant case tried during the year was *U.S. v. City of Portsmouth, et al.*<sup>70</sup> The establishment was a golf course held out to the general public as "private." At trial it was established that white patrons were permitted to play without having membership while black golfers were refused if they were not members. "State action" was established through evidence that showed that the city of Portsmouth (Virginia) owned the land where the club operated and leased it to the club management. The Court has not yet ruled on the case.

Of the 20 cases filed during the year 9 were settled by consent decree in the favor of the United States, 1 went to trial, 3 were defaulted by defendants, and 7 await trial.

In the area of public facilities, the maintenance of segregated facilities in public buildings, other than prisons and jails has all but ceased. The continuing and vital objective remains the elimination of racial, religious and national origin segregation (including housing, job assignments and treatment) of inmates in prisons and jails.

Although racial segregation does continue, the most critical problem in penal institutions involves unconstitutional conditions of confinement. The objective in this area is the elimination of these conditions through litigative action, by intervening in existing cases, by being appointed as *amicus* or by bringing cases under the Attorney General's nonstatutory authority, against state prison jail systems that reflect widespread systematic unconstitutional treatment of inmates. Such issues as First Amendment rights (mail censorship, religious activities), Eighth Amendment rights (severe overcrowding, unsanitary conditions, insufficient nutrition, lack of adequate medical treatment and lack of protection from physical and mental harm), and due process rights (unconstitutional disciplinary and parole proceedings and the rights of per-

sons awaiting trial) are the main violations of unconstitutional conditions addressed by the Section's litigative effort.

The Section's activity in the past year includes litigation involving eight state prison systems. These cases can be very lengthy because the remedies may include substantial changes such as construction of new facilities or recruitment of specialized personnel. One of the cases, against the Mississippi prison system,<sup>71</sup> may finally have reached conclusion after several years of post-trial compliance hearings and appeals.

In the interest of Federal-state relations, the Section, after receiving approval for suit by the Attorney General, engages in a determined attempt to negotiate a settlement with the individual state before filing in federal court. Every effort is made to allow the state to achieve a voluntary compliance with the constitutional provisions of operation of a penal system. During the year, the Section entered into negotiations with several states under this policy.

The Law Enforcement Assistance Administration and the Office of Revenue Sharing, Department of Treasury, both are empowered to withhold allocated Federal funds from penal institutions that are shown to discriminate on the basis of race, color, religion, sex, or national origin. In several cases, through close coordination with these agencies, the Section has been able to use this withholding authority to obtain compliance with constitutional provisions in prison and jail operations.

All litigation against penal institutions (except where discrimination is alleged and the case is filed under Title III or Title IX of the 1964 Civil Rights Act) is filed under the theory that the executive branch of the government has the inherent power, without specific statutory authority, to sue to enjoin state action which results in widespread deprivations of constitutional rights. The standing of the United States to sue in these types of cases has been challenged on appeal.

A major policy directive was adopted in Fiscal 1977 that affects penal cases and those handled by the Office of Special Litigation. In November 1976, the Attorney General's office approved guidelines setting forth the criteria to be met before the United States would file suit under nonstatutory authority. These guidelines require, among other things, that the alleged deprivations be widespread, must affect a significant number of people, and would not appear to be correctable without the presence of the United States. Under these guidelines the Section filed suit against the jail in Cook County, Illinois,<sup>72</sup> and against the

Illinois prison system;<sup>73</sup> the latter suit also alleged Title III violations.

H.R. 2439 and its companion bill S. 1393 have been introduced and the end of Fiscal 1977 saw both bills in committee. These bills, if enacted, would give the Attorney General statutory pattern and practice authority to file suit against state penal systems, jail systems, and other institutions of confinement where it appears that there are widespread constitutional violations against inmates. The authority would greatly increase the number and types of facilities that could be targeted under the Section's enforcement program.

## Voting Section

The Voting Section is responsible for the enforcement of voting laws including 42 U.S.C. Sections 1971 and 1974 and the Voting Rights Act of 1965, as amended in 1970 and 1975. These statutes are designed to ensure that all qualified citizens have the opportunity to register and vote without discrimination on account of race, color, or membership in a language minority group.

Section 5 of the Voting Rights Act requires the covered jurisdictions submit all changes in voting practices or procedures to either the U.S. District Court for the District of Columbia for judicial review or the Attorney General for administrative review. Changes that are not submitted are not legally enforceable. The determination of the Attorney General concerns whether changes have the purpose or effect of discriminating on account of race or language minority group.

Because the 1975 Amendments to the Voting Rights Act added a significant number of new jurisdictions to the Act's Section 5 preclearance requirements, beginning in Fiscal 1976 the volume of submissions increased dramatically over previous levels. The increased volume of submissions continued through Fiscal 1977. In order to strengthen the Section's capability for fulfilling the Attorney General's responsibility to make a reasoned determination of the purpose or effect of each submitted voting change within 60 days, to afford better coordination of the Section 5 review procedures, and to allow Section attorneys to concentrate on and develop litigation, the Section's paralegal staff was increased and the Section was reorganized to assign Section 5 review responsibilities to a special unit staffed by paralegal personnel with attorney supervision.

In Fiscal 1977, 1,817 submissions involving a

total of 3,122 voting-related changes were sent to the Attorney General. Among the submissions were 298 that involved changes to incorporate minority languages into jurisdictions' electoral processes as required by the 1975 Amendments to the Voting Rights Act. Objections were entered to 43 submissions. A majority of the objections were entered to voting changes involving electoral methods such as at-large elections that would be likely to have a dilutive effect on minority voting strength, especially where such factors as racial bloc voting, majority vote requirements, and numbered posts or staggered terms are also present.

Other provisions of the 1965 Act authorize the Attorney General to assign observers to monitor elections to ensure that the right to vote and to have the vote properly counted is not denied during the election process. Under these provisions, 337 observers were assigned to cover 10 elections in 3 states during the year. In addition, three counties in Texas were designated by the Attorney General for Federal examiners so that observers could be sent to cover elections.

The general election of November 2, 1976, was the first nationwide Federal election held since the enactment of the Overseas Citizens Voting Rights Act. Before the election, the Section solicited and evaluated the statutory and administrative provisions of the 50 states, Guam, Puerto Rico, the District of Columbia and the Virgin Islands, for compliance with the Act. One lawsuit was filed before the election against the New York State Board of Elections,<sup>74</sup> which resulted in a court order directing the counting of any special federal ballots postmarked by November 2 and received by November 12, 1976, ballots that would have otherwise been rejected; as many as 7,000 ballots may have been affected by the order in this, the first lawsuit filed under the Act. Following the 1976 general election complaints from overseas voters were investigated and those that appeared actionable under the Act either have been successfully resolved without litigation or are still under consideration.

One of the initial benefits of the reorganization of the Section was to allow attorneys more time to concentrate on litigation aspects of voting rights enforcement. This resulted in the filing of 11 suits during Fiscal 1977 in addition to the continuing litigation obligations relating to cases filed in Fiscal 1976 and the transition quarter.

Noteworthy among these cases were those attacking methods of electing local officials as being dilutive of minorities' voting rights. The use of at-large elections was challenged as being dilutive of Mexican-

Americans' right to elect school board officials in Uvalde County, Texas,<sup>75</sup> and as being dilutive of blacks' voting rights in Texas City, Texas, municipal elections.<sup>76</sup> In a case on remand from the court of appeals involving the at-large election of city officials in Albany, Georgia,<sup>77</sup> the district court, after enjoining the city's regularly scheduled 1977 elections, found the at-large election method dilutive of blacks' voting rights and ordered into effect a plan that requires all city commissioners and the mayor pro tem to be elected from single member districts. Added emphasis was given to this area of law enforcement when late in the year one of the Division's most experienced attorneys was assigned to the Voting Section expressly to concentrate on developing a program for the investigation and litigation of racially dilutive elective methods.

Direct attacks on denials and abridgements of the right to vote were also involved in other significant court actions during the fiscal year. A case, now on appeal, was filed against a Louisiana parish (county) school board<sup>78</sup> to remedy the racially discriminatory effects of an election where blacks' votes were purchased and cast by whites in order to assure the election of a white candidate who had black opposition. A brief as *amicus curiae* was filed in the appeal of a case<sup>79</sup> dismissed by the district court, where Chinese and Spanish Americans claim that San Francisco's voter registration and balloting procedures violate the Voting Rights Act's protections for minority language groups. And a suit was filed under the Voting Rights Act and the Twenty-Sixth Amendment against the Texas Secretary of State and Attorney General, as well as the voter registration official in Waller County, Texas,<sup>80</sup> seeking to require the use of the same standards in registering students at a predominantly black college in Waller County as are used to register college students in all other Texas counties.

Developments in the continuing litigation involving the reapportionment of the Mississippi State House and Senate districts in a case where the Department is plaintiff-intervenor, saw the Supreme Court hold that a three-judge district court's redistricting plan (which the Department and private plaintiffs opposed) failed to meet constitutional equal population standards and remand the case for the drawing of a new plan that satisfies those standards and avoids impermissible dilution of black voting strength;<sup>81</sup> on remand the district court has requested the parties to submit proposed redistricting plans.

Much of the Section's litigation activity in Fiscal 1977 was devoted to enforcing administrative decisions made under Section 5 of the Voting Rights Act, in



one instance intervening in a suit which private plaintiffs could not afford to litigate further,<sup>82</sup> and to preserving the legal integrity of the preclearance provisions against attacks by covered jurisdictions.<sup>83</sup> In addition, during the year the Supreme Court decided that the Attorney General's discretion in certifying jurisdictions for coverage under the Voting Rights Act's special provisions<sup>84</sup> and in determining the racial purpose or effect of voting changes submitted under Section 5<sup>85</sup> are not subject to judicial review; further defined the narrow, unique limits within which three-judge Federal district courts may act in cases brought under Section 5;<sup>86</sup> and affirmed a three-judge district court order confirming the proposition that the Attorney General's certification of a state as being covered by the Act's special provisions effectively includes all of the state's counties under the special provisions' coverage.<sup>87</sup>

## Office of Indian Rights

The Office of Indian Rights is responsible for enforcing the Federal civil rights statutes in matters involving American Indians. In Fiscal 1977, the Office stressed among its priorities the identification and elimination of discrimination in areas of voting, state and local services, and employment. In addition, the Office has concentrated on resolving violations of the statutory rights secured by Title II of the Civil Rights Act of 1968 (the Indian Civil Rights Act), particularly in the area of the right to counsel, equal protection, and jail conditions.

The unique status of many American Indians, is such that Indian Rights cases can involve complex issues of responsibility and authority as between the Federal, state, and tribal governmental units involved. This complexity is illustrated in *White v. Califano*,<sup>88</sup> in which the Office defended the Secretary of HEW against a claim that the State of South Dakota or the Federal Government has an obligation to provide inpatient mental health care to Indians requiring civil commitment. The Office maintained that there is no Federal obligation to provide such care and argued that the equal protection provision of the Fourteenth Amendment requires the State of South Dakota to provide care for committed patients. The district court ruled that the State is jurisdictionally precluded from providing such care to reservation Indians. An appeal is under consideration. Another example of this complexity is *Cheyenne River Sioux Tribe v. Andrus*,<sup>89</sup> in which plaintiffs sued to enjoin an election in which

the Bureau of Indian Affairs had certified voting rights for 18-20 year olds. Plaintiffs contended that the tribal constitution prohibited voting by those less than 21 years of age. The Office took the position that the Twenty-Sixth Amendment requires the Secretary of the Interior to allow 18-20 years olds to vote in certain elections held on Indian reservations. The issue is presently on appeal.

Other actions against tribal governments include signing a consent decree with the San Carlos Apache Tribe<sup>90</sup> in which the Tribal Council agreed to enact revised election ordinances which will provide for nomination by petition, hearings for voters removed from voting lists and improved security measures to safeguard the election process; and reaching an out-of-court settlement with the Confederated Tribes of the Warm Springs Reservation of Oregon in which the Tribe has agreed to amend its rules to allow attorneys to represent certain tribal court defendants charged with violating its criminal code. Both matters involved provisions of the Indian Civil Rights Act.

During the year, the Office filed five suits. In the area of services, the Office filed suit against the City of Oneida, New York,<sup>91</sup> alleging that the city violated the non-discriminatory provisions of the General Revenue Sharing Act in withholding police and fire service from its Indian residents. In a settlement presently pending the approval of the district court, the City has agreed to restore full services to the Indians and to institute certain affirmative action. In another case involving health services, the Office has initiated formal compliance proceedings against the San Juan Hospital<sup>92</sup> in San Juan County, New Mexico, based on recent information that the hospital may not be in full compliance with a consent decree it had signed agreeing to provide emergency room care to Indians on a non-discriminatory basis.

The Office filed its first penal case, alleging that the Jackson County, North Carolina, jail is constitutionally deficient.<sup>93</sup> The jail has a large Indian population; part of the evidence concerns the deaths of three Indians in the jail. Settlement negotiations to improve jail conditions are currently being conducted.

## Office of Special Litigation

The Office of Special Litigation is responsible for representing the United States in cases involving the constitutional and other Federal rights of children and mentally and physically handicapped persons of all ages. During this fiscal year, the Office participated

in 23 cases as plaintiff-intervenor or *amicus curiae*. These cases involved the rights of mentally retarded persons, mentally ill persons, incarcerated juvenile delinquents, dependent and neglected children, and elderly persons confined to nursing homes.

A major result during the year was the entry of a final judgment in *Gary W. and United States v. Stewart*,<sup>94</sup> a case concerning Louisiana's placement of its delinquent, dependent, neglected, mentally retarded and emotionally disturbed children in privately operated child care facilities in Texas. Evidence gathered from 38 facilities showed that many children were receiving grossly substandard care and that some were subjected to abuse. The court held that all Louisiana children must be removed from certain facilities, that all the children must receive individual evaluations and treatment plans, and that the care provided to the children must meet constitutional standards specified by the court.

In an important case in North Carolina, a statute providing for the sterilization of institutionalized mentally retarded persons was held unconstitutional insofar as it required institution superintendents to initiate sterilization proceedings at the request of relatives of the retarded person. In addition, the court construed the statute to require that alternatives less drastic than sterilization be considered and that counsel be provided for the person whose sterilization was sought.<sup>95</sup> The sterilization issue was raised by plaintiff-intervenor United States in an amended complaint last year.

The care and treatment of institutionalized mentally retarded persons was also the subject of a lengthy trial in *Halderman and United States v. Pennhurst*.<sup>96</sup> In that case, expert witnesses testified that residents of a Pennsylvania institution are daily subjected to neglect and harm. The case is under submission. Also, the United States has joined as plaintiff-intervenor in *Santana v. Gimenez*, a newly-filed case alleging unconstitutional conditions of confinement and the failure to provide treatment in the least restrictive setting in two juvenile institutions in Puerto Rico.<sup>97</sup> Discovery is continuing in several other cases concerning the rights of institutionalized persons.

The Office also participated in post-decree monitoring and enforcement in several cases. In New York, a contempt motion involving the Willowbrook Developmental Center was resolved by consent; among the results is a heightened emphasis on community placement of residents capable of receiving care and treatment outside the institution.<sup>98</sup> In Ohio, state officials were held in contempt for their failure to comply with a court order setting standards for the treatment of

patients of Lima State Hospital for the criminally insane.<sup>99</sup> Institutions in Nebraska and Alabama are also the subjects of enforcement proceedings.

The work of the Office in the area of mental retardation was extended, in a California case,<sup>100</sup> to the issue of school placement. That case, which the United States entered as *amicus curiae*, concerns the use of allegedly racially biased tests to place children in classes for the "educable mentally retarded." Working in consultation with the Department of Health, Education, and Welfare, the Office will present several expert witnesses at the trial of this case in the Fall of 1977.

The Office received serious setbacks in two suits involving institutions for mentally retarded persons<sup>101</sup> which were dismissed on the ground that the United States lacks statutory authority to bring such suits as sole plaintiff. The Office argued that the Attorney General has inherent authority to sue to redress widespread and systematic deprivations of civil rights. Both dismissals have been appealed. Meanwhile, legislation to provide the Attorney General statutory authority in such cases is pending in the House and Senate (see discussion in section dealing with Public Accommodations and Facilities).

## Sex Discrimination Task Force

The Task Force on Sex Discrimination, a new unit within the Division, has been operational since July 1977. The goal of the Task Force is to eliminate sexually discriminatory provisions from all laws, regulations, guidelines, programs, and policies of the Federal Government.

On August 26, 1977, Women's Equality Day, the President issued a memorandum directing all Federal agencies to conduct reviews of their programs in order to identify discriminatory provisions, and directed the Attorney General, through the Task Force, to coordinate this review and the formulation of recommendations for the elimination of such discrimination. The President specified that:

In taking this action we intend to retain and possibly expand any existing protections and benefits provided for homemakers and families. We believe that offering opportunity to all should not threaten or diminish the protection provided those performing special functions in our society.

Since the issuance of this directive, the task force has developed guidelines and established contact with over 65 Federal departments and agencies to assist

them in initiating their review procedure. A coordinator has been designated in each agency and contacts, where appropriate, from within all the subunits in their agencies have been established. These individuals have begun to report back on possible discriminatory provisions or policies that they have identified. The Task Force will assist the agencies in preparing legislative, regulatory or administrative procedures to remedy identified discrimination. In addition, the Task Force will review and comment on any discriminatory aspects of proposed legislation.

## Citations

(1) *United Jewish Organizations v. Carey*, 45 U.S.L.W. 4221 (March 1, 1977).

(2) *Trans World Airlines v. Hardison*, 45 U.S.L.W. 4672 (June 16, 1977).

(3) *Milliken v. Bradley*, 45 U.S.L.W. 4873 (June 27, 1977).

(4) *United States v. Villarín Gerena*, No. 76-1468, First Circuit (April 29, 1977).

(5) *United States v. New Orleans Public Service, Inc.*, 553 F. 2d 459 (5th Circuit, 1977) and *United States v. Mississippi Power and Light Company*, 553 F. 2d 480 (5th Circuit 1977).

(6) *Williams and United States v. Edwards*, 547 F. 2d 1206 (5th Circuit 1977).

(7) *U.S. v. Kearney*, Cr. No. 77-245 (S.D. New York, April 7, 1977).

(8) *U.S. v. Santos, et al.*, Cr. No. 76-15 (District of Guam, July 15, 1977).

(9) *U.S. v. Hayes, et al.*, SA 77 Cr. 38 (W.D. Texas, September 29, 1977).

(10) *U.S. v. Wilson, et al.*, 76-103-Cr.-T-H (M.D. Florida, October 4, 1976).

(11) *U.S. v. Smith, et al.*, Cr. No. 77-49 (E.D. North Carolina, August 31, 1977).

(12) *U.S. v. Purvis, et al.*, Cr. No. 77-66 (S.D. Ala.).

(13) *United States v. South Park Independent School District*, C.A. No. 42-245-70 (E.D. Tex., August 8, 1970).

(14) *Reed v. Rhodes*, C.A. No. 73-1300 (N.D. Ohio, March 28, 1977) (*amicus*).

(15) *Brinkman v. Gilligan*, C.A. No. C-3-75-304 (S.D. Ohio, September 26, 1977) (*amicus*).

(16) *Liddell v. Board of Education of City of St. Louis*, C.A. No. 72-G-100-1 (E.D. Mo., April 22, 1977) (*amicus*).

(17) *Mendoza v. Tucson School District #1*, C.A. Nos. CIV-74-90 TUC-WCF and CIV 74-204 TUC-WCF (D. Ariz., December 22, 1976).

(18) *United States v. Board of School Commissioners of Indianapolis*, C.A. No. IP 68-C-225 (S.D. Ind., May 31, 1968).

(19) *United States and Webb v. The School District of Omaha*, C.A. No. 73-0-320 (D. Neb., August 10, 1973).

(20) *United States v. School District of the City of Ferndale*, C.A. No. 75-70958 (E.D. Mich., May 22, 1975).

(21) *United States v. Board of Education of Waterbury Conn.*, C.A. No. 13465 (D. Conn., June 7, 1973).

(22) *United States v. Kansas City Unified School District #500*, C.A. No. KG 3738 (D. Kan., May 18, 1973).

(23) *Spangler, et al. and United States v. Pasadena City Board of Education, et al.*, C.A. No. 68-1438 R (C.D. Calif., August 28, 1968).

(24) *Brumfield and United States v. Dodd*, C.A. No. 71-1316-B (E.D. La., May 17, 1975).

(25) *Geier v. Blanton*, 337 F. Supp. 573 (M.D. Tenn., 1973).

(26) *Ayers and United States v. Finch*, C.A. No. GC 75-9-K (S.D. Miss., March 13, 1975).

(27) *United States v. State of Louisiana*, C.A. No. 74-68 (M.D. La., March 14, 1974).

(28) *Lee, et al. v. Alabama Trade Schools and Junior Colleges*, C.A. Nos. 604-E, 70-251-S, 5945-70-H (M.D. Ala., June 19, 1975).

(29) *United States v. Massachusetts Maritime Academy*, C.A. No. 76-1696-M (D. Mass., April 30, 1976).

(30) *United States v. South Carolina, et al.*, C.A. No. 75-1610 (D. S.C., September 15, 1975).

(31) *United States v. Hazelwood School District*, C.A. No. 73-C-553 (E.D. Mo., August 9, 1973).

(32) *United States v. Jennings School District*, C.A. No. 73-C-259 (E.D. Mo., 1973).

(33) *United States v. Indiana University*, C.A. No. F 76-138 (N.D. Ind., December 20, 1976).

(34) *United States v. Indiana State University*, C.A. No. TH 76-198-C (S.D. Ind., December 14, 1976).

(35) *United States v. New York State Education Department*, C.A. No. 177-0027 (N.D. N.Y., February 9, 1977).

(36) *United States v. Van Buren Public Schools*, C.A. No. 672336 (E.D. Mich., November 8, 1976).

(37) *United States v. Wattsburg Area School District*, C.A. No. 76-101 ERIE (W.D. Pa., July 29, 1976).

(38) *United States v. Sweet Home Central School District*, C.A. No. 75-337 (W.D. N.Y., August 11, 1975).

(39) *Seattle University v. United States Department of Health, Education and Welfare*, C.A. No. C77-631-M (W.D. Wash., September 1, 1977).

(40) *Board of Education of New York City v. HEW*, C.A. No. CN 1928 (E.D. N.Y., September 27, 1977).

(41) *The School District of Kansas City v. United States Department of Health, Education and Welfare*, C.A. No. 77-0238-CV-W-B (W.D. Mo., March 24, 1977) (Amended Complaint filed September 28, 1977).

(42) *Citizens Legal Defense Alliance, et al. v. HEW*, C.A. Nos. 76-1614-WMB and 76-1762 (C.D. Calif., May 19, 1976).

(43) *Kolz, et al. v. Board of Education of the City of Chicago*, C.A. No. 77C-2548 (N.D. Ill., July 15, 1977).

(44) *Williams v. Board of Directors of Des Moines, Iowa*, C.A. No. 77-178-2 (S.D. Iowa, June 20, 1977).

(45) *Iron Arrow Honor Society v. HEW*, C.A. No. 76-1850 (S.D. Fla., October 21, 1976).

(46) *United States v. State of New Hampshire*, (1st Cir., 1976) 53 F.2d 277, Cert. den. 429 U.S. 1023 (1976).

(47) *United States v. Carteret County*, C.A. No. 75-0038-Civ-4 (E.D. N.C., September 8, 1975); *United States v. City of North Olmsted*, Civ. No. C75-795 (N.D. Ohio,

- September 10, 1975); *United States v. City of Everett, C.A. No. C75-3808-T* (D. Mass., September 10, 1975).
- (48) *Constructors Association of Western Pennsylvania v. Juanita Kreps, et al.*, C.A. No. 77-1035 (W.D. Pa., September 9, 1977).
- (49) *United States v. Kansas City Board of Public Utilities, C.A. No. 76-20-C2* (D. Kans., January 29, 1976).
- (50) *United States v. Cuyahoga County, C.A. No. C76-1359* (N.D. Ohio, December 30, 1976).
- (51) *United States v. City of Miami, C.A. No. 75-3096-Civ-JE* (S.D. Fla., March 29, 1977).
- (52) *United States v. Lee Way Motor Freight, C.A. No. 72-445* (W.D. Okla., October 11, 1977).
- (53) *United States v. City of Chicago, Ill.*, C.A. No. 73C-2080 (N.D. Ill., August 14, 1973).
- (54) *United States v. City of Philadelphia, Civ. No. 74-400* (E.D. Pa., February 19, 1974).
- (55) *United States v. Allegheny Ludlum, et al.*, C.A. No. 74-P-339 (N.D. Ala., April 12, 1974).
- (56) *United States v. City of Folkston, Ga.*, C.A. No. CB576-36 (S.D. Ga., February 1977).
- (57) *United States v. City of Pompano Beach, Fla.*, C.A. No. FL 76-6059-CIV-NCR (S.D. Fla., March 25, 1977).
- (58) *United States v. Commonwealth of Virginia, et al.* C.A. No. 76-0623-R (E.D. Va., December 23, 1976).
- (59) *South Carolina, et al. v. United States*, C.A. No. 76-558 (D. S.C., June 15, 1977).
- (60) *Mae Golden Acres Tenants Association, et al. v. Bergland and Belle Glade Housing Authority, C.A. No. 75-1161-Civ-JE* (S.D. Fla., July 19, 1977).
- (61) *Poole v. Williams*, C.A. No. 72-H-150 (S.D. Texas, July 22, 1976).
- (62) *Bazemore v. Friday*, C.A. No. 2879 (E.D. N.C., November 18, 1971).
- (63) *United States v. Rent-a-Home Systems of Illinois, et al.*, C.A. No. 76-0157 (S.D. Ill., December 28, 1976).
- (64) *United States v. R.O.A.R., Citizens of Rosedale, Inc., et al.*, C.A. No. 75C1842 (E.D. N.Y., January 24, 1977).
- (65) *United States v. Mrs. Dean Miles d/b/a Dean Miles Real Estate, et al.*, C.A. 3-7243-E (N.D. Texas, April and May 1977).
- (66) *United States v. Real Estate One, P.H.E.O.H. Rptr. para. 15,195* (E.D. Mich., March 2, 1977).
- (67) *United States v. American Institute of Real Estate Appraisers, et al.*, C.A. No. 76C1448 (N.D. Ill.).
- (68) 537 F. 2d 1151 (4th Cir. 1976), cert. den. 429 U.S. 871 (October 4, 1976).
- (69) *United States v. Chatham City Corporation, C.A. No. 476-183* (S.D. Ga., March 30, 1977).
- (70) Civil Action No. 76-416-N (E.D. Va.).
- (71) *Gates v. Collier*, 349 F. Supp. 881 (N.D. Miss. 1974).
- (72) *United States v. Elrod*, Civil Action No. 76C4768 (N.D. Ill.).
- (73) *United States v. State of Illinois*, Civil Action No. 76-158 (S.D. Ill.).
- (74) *United States v. The New York State Board of Elections, et al.*, C.A. No. 76-CV-440 (N.D. N.Y., Nov. 4, 1976).
- (75) *United States v. Uvalde Consolidated Independent School District, et al.*, C.A. No. DR-77-CA-20 (W.D. Tex., filed Sept. 19, 1977).
- (76) *United States v. City Commission of Texas City, Texas et al.*, C.A. No. G-77-78 (S.D. Tex., filed May 5, 1977).
- (77) *United States v. City of Albany*, sub. nom. *Paige v. Gray*, C.A. Nos. 74-50-ALB, 75-27-ALB (M.D. Ga., Aug. 27, 1977).
- (78) *United States v. St. Landry Parish School Board, et al.*, C.A. No. 76-1062 (W.D. La., April 12, 1977); No. 77-2237 (5th Cir., notice of appeal filed June 10, 1977).
- (79) *Chinese for Affirmative Action, et al. v. Leguennec, et al.*, No. 76-1517 (9th Cir., brief filed July 13, 1977).
- (80) *United States v. State of Texas, et al.*, 430 F. Supp. 920 (S.D. Tex., 1977) (3-judge court), reversed, No. 77-1668 (5th Cir., March 31, 1977).
- (81) *Connor v. Finch*, 45 U.S.L.W. 4528 (May 31, 1977).
- (82) *McCray and United States v. Hucks, et al.*, C.A. No. 76-2476 (D. S.C., complaint in intervention filed July 26, 1977).
- (83) *Hereford Independent School District, Texas, et al. v. Bell*, No. CA-2-77-14 (N.D. Tex., filed Jan. 28, 1977); *City of Rome, Georgia, et al. v. Bell, et al.*, C.A. No. G-76-159-R (N.D. Ga., July 18, 1977).
- (84) *Briscoe v. Bell*, 45 U.S.L.W. 4765 (June 20, 1977).
- (85) *Morris v. Gressette*, 45 U.S.L.W. 4773 (June 20, 1977).
- (86) *United States v. Board of Supervisors of Warren County, Mississippi*, 429 U.S. 642 (1977).
- (87) *United States v. Hale County, Alabama, et al.*, 425 F. Supp. 433 (S.D. Ala., 1976) (3-judge court), sum. aff. 45 U.S.L.W. 3625 (March 22, 1977).
- (88) Civil Action No. 76-5031 (D. S.D., September 12, 1977).
- (89) 424 F. Supp. 448 (D.S.D., 1977).
- (90) Civil Action No. 74-52-TUC (D. Ariz., 1977).
- (91) *United States v. City of Oneida, New York*, Civil Action No. 77-399 (N.D. N.Y., 1977).
- (92) Civil Action No. 74-419, (D. N.M., 1976).
- (93) *United States v. Jackson County, North Carolina*, Civil Action No. 77-140 (W.D. N.C., 1977).
- (94) *Gary W. and United States v. Stewart, et al.*, C.A. 74-2412-C (E.D. La.).
- (95) *North Carolina Association of Retarded Citizens and the United States v. North Carolina*, C.A. 3050 (E.D. N.C.).
- (96) *Halderman and United States v. Pennhurst, C.A. 74-1345* (E.D. Pa.).
- (97) *Santana and United States v. Gimenez, C.A. 75-1187* (D. P.R.).
- (98) *Parisi and New York State Association of Retarded Children v. Carey*, 393 F. Supp. 715 (E.D. N.Y., 1975).
- (99) *Davis v. Baylor, C.A. G-73-205* (N.D. Ohio).
- (100) *Larry P. v. Riles, C.A. C-71-2270 RPF* (N.D. California).
- (101) *United States v. Mattson, C.A. 74-138* (D. Mont.); *United States v. Solomon*, 419 F. Supp. 358 (D. Md., 1976), on appeal No. 76-2184 (4th Cir., Oct. 12, 1977).

**CIVIL RIGHTS DIVISION—SUMMARY OF CASES COMMENCED DURING FISCAL YEAR 1977**

Organization	Plaintiff	Plaintiff- Intervenor	Type of action		Total	Civil	Criminal	Total
			Amicus	Defendant				
Appellate section	1			1	29	29		29
Criminal section	27		27		27		27	27
Education section	4	2	4	8	18	18		18
Employment section	10		1	10	21	21		21
Federal programs section	1			2	3	3		3
Housing section	18		3		21	21		21
Public accommodations and facilities section	18	2	1		21	21		21
Voting section	11	3	5	8	27	27		27
Office of Indian rights	5			1	6	6		6
Office of special litigation		1	1		2	2		2
<b>Total</b>	<b>95</b>	<b>8</b>	<b>42</b>	<b>30</b>	<b>175</b>	<b>148</b>	<b>27</b>	<b>175</b>

<sup>1</sup> Involved 73 defendants.

<sup>2</sup> Includes 1 defendant-intervenor.

<sup>3</sup> Includes 3 cases where appearances were also as amicus.

# Tax Division

**M. Carr Ferguson**  
Assistant Attorney General

The Assistant Attorney General in charge of the Tax Division has responsibility for representing the United States and its officers in civil and criminal litigation arising under the Internal Revenue laws, other than proceedings in the United States Tax Court. While the Division's primary client is the Internal Revenue Service, it also represents such agencies as the Department of Defense and the Energy Research and Development Administration in dealings with state and local tax authorities. In civil tax litigation, the Division's responsibility involves cases in the United States District Courts, the United States Court of Claims, the United States Courts of Appeals, and the United States Supreme Court, including oral arguments on assignment by the Solicitor General, as well as cases in the state courts. In criminal offenses under the internal revenue laws, the Division's responsibilities include the control and supervision of the institution of criminal proceedings and collaboration with United States Attorneys in the conduct of such proceedings in trial and appellate courts.

The Division's primary missions are to aid the Internal Revenue Service in collecting the Federal revenue, to deter willful deception through prosecution of criminal offenders and to establish legal principles which will serve as nationwide guidelines to taxpayers and their representatives as well as to the Internal Revenue Service. Therefore, coordination in developing litigating policies with the Internal Revenue Service's administrative policies and the Treasury Department's tax legislative concerns is an important task of the Division. Every taxpayer with a legal tax problem is entitled to a fair and speedy resolution of the controversy by the judiciary. The Tax Division endeavors to cooperate with private attorneys to expedite the handling of litigation and to do so in accordance with uniform, national policies.

Among the types of litigation in which the Tax Division represents the Federal Government are:

1. Criminal prosecutions involving attempts to evade and defeat taxes, willful failure to file returns

and to pay taxes, filing false returns and other deceptive documents, making false statements to revenue officials, and other miscellaneous offenses involving internal revenue matters;

2. Refund suits brought by taxpayers against the United States to recover taxes alleged to have been erroneously or illegally collected;

3. Suits brought by individuals to foreclose mortgages or to quiet title to property in which the United States is named as a party defendant because of the existence of a Federal tax lien on the property;

4. Suits brought by the United States to collect unpaid assessments, to foreclose Federal tax liens or to determine the priority of such liens, to obtain judgments against delinquent taxpayers, to enforce summonses, and to establish tax claims in bankruptcy, receivership, or probate proceedings;

5. Proceedings involving mandamus, injunctions, and other specific writs arising in connection with internal revenue matters;

6. Suits against Internal Revenue Service employees for damages claimed because of alleged injuries caused in the performance of their official duties;

7. Suits against the Secretary of the Treasury or the Commissioner of Internal Revenue or similar officials to test the validity of regulations or rulings, not in the context of a specific refund action;

8. Proceedings brought against the Tax Division and the Internal Revenue Service for disclosure of information under the Freedom of Information Act and the Privacy Act; and

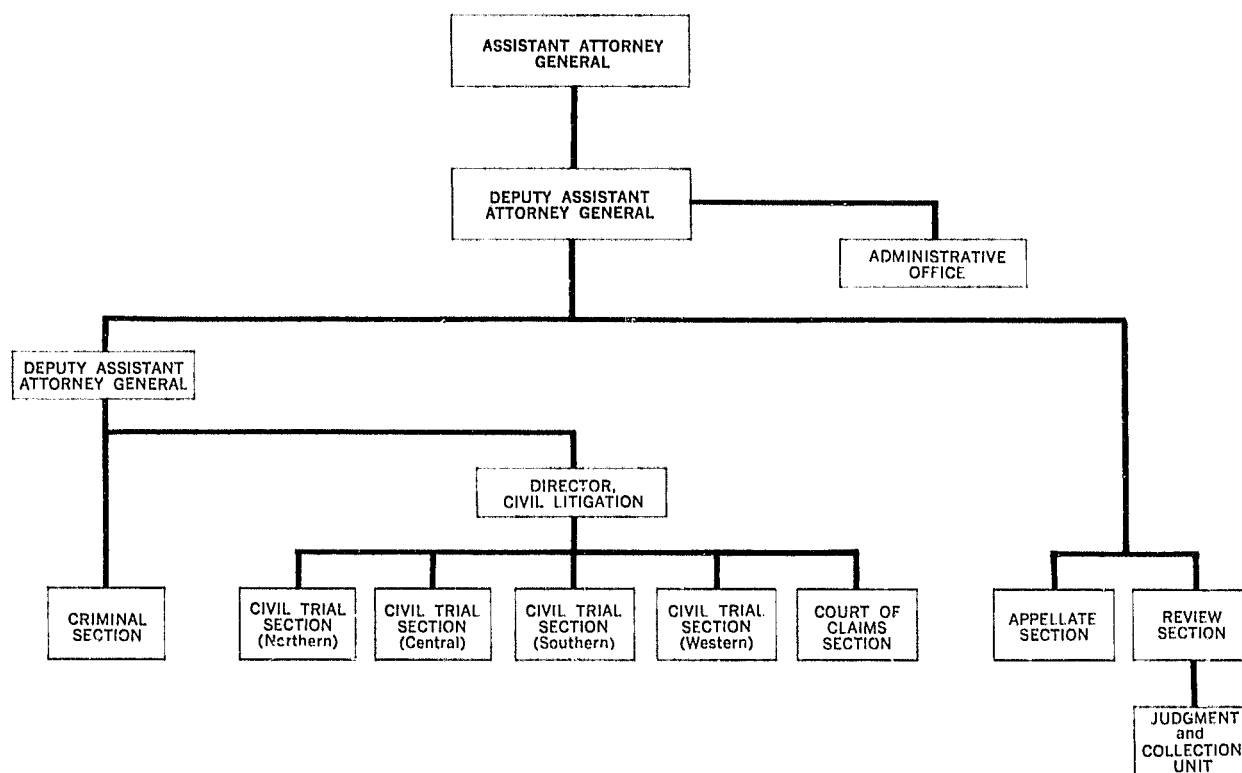
9. Intergovernmental immunity suits in which the United States resists attempts to apply a state or local tax to some activity or property of the United States.

Improving the quality of legal work has always been of major importance to the Division. In accordance with the Attorney General's program to upgrade the litigating skills of department attorneys, the Division regularly conducts a training program for its attorneys. The program includes lectures and workshops devoted to the handling of all phases of crimi-

**CONTINUED**

**2 OF 3**

## TAX DIVISION



nal and civil litigation, with special emphasis on matters unique to tax litigation and the development of advocacy skills.

### Appellate Cases

The Tax Division is responsible for handling virtually all appeals from judgments of the district courts in civil and criminal tax cases and for handling all appeals from decisions of the United States Tax Court. The Division also is responsible for appeals to state appellate courts in cases involving certain defined issues, such as the enforcement of Federal tax liens and the applicability of state or local taxes to the Federal Government or those with whom it deals. The Division, under the supervision of the Solicitor General, also prepares briefs and memoranda in tax cases before the United States Supreme Court.

In Fiscal 1977, the Division processed 355 appeals from Tax Court decisions and 302 appeals from the Federal district courts. The Division handled 44 appeals from state courts and 152 criminal appeals. During Fiscal 1977, 138 petitions for certiorari were pending or received, 131 of which were taxpayer petitions.

The Court acted on 117 of these taxpayer petitions, denying 113. Of the seven Government petitions, the Supreme Court granted four, while the remaining three Government petitions are pending. Thus, the Supreme Court acted on 121 petitions for certiorari in tax cases. Ten cases were decided by the Supreme Court on the merits, four in favor of the Government and six in favor of taxpayers.

The Appellate Section prepared 685 briefs on the merits and presented oral arguments in 369 cases during this year. The Government prevailed in 386, or 83 percent, of the 466 cases decided by the courts of appeals as compared with 75 percent of the 474 cases decided in Fiscal 1976.

### Supreme Court Decisions

During its 1976 Term, the Supreme Court decided 10 cases relating to Federal taxation, covering a broad spectrum of civil and criminal tax litigation. For example, the Court adopted the Government's position that in a prosecution for willfully filing false tax returns, the element of "willfulness" simply connotes a voluntary, intentional violation of a known



legal duty, holding that defendant's motives are irrelevant.<sup>1</sup>

The Court also held in favor of the Government in two cases arising in the context of the proper interpretation of the operating loss carryback rules in situations where the taxpayer was required in the carryback year to use the "alternative tax" applicable to its capital gains, and, in fact, had taxable income in such year. The Court ruled that the loss carryback must be offset by the taxpayer's entire taxable income, including its capital gains, even though, by virtue of its use of the alternative tax, the loss in excess of the taxpayer's ordinary income would produce no further tax benefit.<sup>2</sup> The Government prevailed in another case in which the Court ruled that the taxpayer's delivery of its own promissory demand notes to the trustees of its qualified profit-sharing trust did not qualify for the deduction provided for contributions "paid" to the trust.<sup>3</sup>

The Supreme Court held, in three companion cases, that insurance companies which issued both life and non-life policies, qualified for the preferential tax treatment given life insurance companies under the Internal Revenue Code, despite their failure, as urged by the Government, to meet the requirement that such companies maintain life insurance reserves comprising more than 50 percent of their total reserves, where the delayed remittance of premiums under reinsurance agreements pertaining to the non-life risks had the effect of reducing the necessary non-life reserves below the 50 percent level.<sup>4</sup>

The Government's position was rejected in another life insurance tax case presenting the question of whether, and to what extent, a life insurance company's deferred and uncollected premiums should be taken into account in computing life insurance assets and gross amount of premiums. The Court concluded that the net premiums must be included, not the gross premiums as the Government contended, but it overruled the company's contention that such premiums were not includible at all because not received.<sup>5</sup> The position of the Government was not adopted in an intergovernmental immunity case, where the Court upheld the imposition of county use or property taxes on the value of possessory interests of employees of the United States Forest Service in housing owned by the Forest Service and located in national forests, which housing is provided as part of the employees' compensation.<sup>6</sup> Finally, the Court ruled that the warrantless seizure of a corporation's assets from its private business premises to satisfy tax levies violated the Fourth Amendment's guarantees against unreasonable searches and seizures.<sup>7</sup>

## Court of Appeals Decisions

As in past years, the Tax Division handled a wide range of tax cases at the appellate level, with several notable decisions in the Government's favor. For example, the constitutionality of the "marriage penalty" inherent in the tax rate structure where both spouses are substantial income earners was sustained.<sup>8</sup> The Fifth Circuit, refusing to follow a recent trend of pro-taxpayer decisions, ruled for the Government in a case presenting the question of whether a taxpayer-farmer's year-end payment to a supplier to "purchase" supplies was merely a deposit against future expenses rather than a deductible business expense in the year of payment.<sup>9</sup> In a case which may involve as much as \$85 million in income tax revenue, the Second Circuit sustained the Government's contention that sales made by W. T. Grant under its coupon book plan did not qualify for installment reporting.<sup>10</sup>

In a decision of potentially broad importance in the context of taxpayers who use expensive personal residences for business entertainment, the Ninth Circuit, reversing the Tax Court, held that in order to justify a business expense deduction for such use, the taxpayer must first establish an appropriate spatial and temporal allocation of the residence for business use before even encountering the record-keeping rules of Section 274 of the Code.<sup>11</sup>

In the oft-litigated area of personal damage suits brought against Internal Revenue Service agents, the Tenth Circuit held, on remand from the United States Supreme Court, that revenue officers, who had entered a private office without a court order to levy on the property in the office, were entitled to immunity from liability. Although the Supreme Court had ruled that the entry was violative of the Fourth Amendment, the Court found that the officers were immune inasmuch as they had acted reasonably and in good faith in taking their action.<sup>12</sup>

Further, in a case of potentially broad impact, a suit challenging the Revenue Service's administration of the tax laws with respect to third parties not before the court was dismissed for lack of standing to sue, based on the plaintiff's failure to establish injury in fact or that prospective relief would remove the alleged harm done. The plaintiff had sought to have the court review the grant of tax-exempt status to a charitable organization on the ground that it was also engaged in a business activity which competed with plaintiff.<sup>13</sup>

## Criminal Tax

The Tax Division has the responsibility for the control and supervision of all cases involving criminal violations of the Internal Revenue Code; therefore, it decides whether or not to prosecute a suspected criminal tax violator. This centralized control over criminal tax cases enables the Government to maintain a consistent national policy both as to the types of cases which are prosecuted and the legal positions advanced by the United States.

The supervisory function of the Division begins after an investigation by agents of the Intelligence Division of the Internal Revenue Service of cases involving possible violations of the internal revenue laws. If the Intelligence Division believes that a violation has occurred, an investigative report and exhibit file are prepared and reviewed by the appropriate Regional Counsel of the Service. Those cases which contain evidence to support a criminal prosecution are forwarded to the Tax Division's Criminal Section.

The attorneys of the Criminal Section are specialists in the area of criminal violations of the internal revenue laws, and have extensive litigative and accounting experience which is brought to bear on the numerous issues involved in such cases. The evidence pertaining to each case is analyzed and a detailed written recommendation is made to the Assistant Attorney General as to whether or not prosecution is warranted, and, if so, on what charges. During Fiscal 1977, attorneys from the Criminal Section prepared 1,629 criminal prosecution memoranda, involving 2,534 potential defendants. Of these, 221 recommended that prosecution be declined. By contrast, in 1976, 1,398 prosecution memoranda were prepared, involving 1,851 potential defendants, of which 257 recommended that prosecution be declined.

After the Tax Division has considered a case and determined that prosecution should be authorized, the file containing the prosecution memorandum and the Service's reports and exhibits is transmitted to the appropriate U.S. Attorney with the request that an indictment be obtained or an information filed. Generally, when the case is referred to the U.S. Attorney, the Tax Division sets forth in its letter of transmittal the precise charges which are to be brought and any specific instructions applicable to a particular case. Regular follow-up reporting is required by the Tax Division to keep the Department abreast of the progress of the prosecution through the stages of indictment, plea or trial, and final disposition.

Frequently, the U.S. Attorneys and the various Strike Forces will request the assistance of Tax Division attorneys in grand jury investigations, trial preparation, and in the actual conduct of the trial of criminal tax cases. In addition, the Tax Division will directly handle certain investigations of national importance, and cases developed under the Attorney General's drive on organized crime and racketeering, which generally are of great complexity and have ramifications beyond the borders of a judicial district or state. During Fiscal 1977, the Criminal Section undertook 76 new trial assignments and 52 grand jury investigations, all of which involved the assignment of one or more Criminal Section attorneys either to assist other Government attorneys or to handle the matter entirely. During Fiscal 1977, the Criminal Section expended approximately 50 percent of its available trial attorney manpower on field assignments. This represents a five percent increase over the prior fiscal year.

The Tax Division and the Criminal Division coordinate closely in criminal tax cases arising in the drive against organized crime. Under special procedures, tax fraud cases against racketeers and cases involving income from criminal activities are brought to the attention of the Criminal Division. The Criminal Division, in turn, frequently refers to the Tax Division the tax aspects of matters developed through the Criminal Division's investigations. Further, to implement its cooperation with the Department's anti-rackets drive, the Tax Division has assigned experienced tax prosecutors to maintain liaison with each of the Criminal Division's Strike Forces in the major cities across the country. The Tax Division's supervision of criminal tax matters enables it to apply the same high evidentiary and policy standards to racketeer tax cases as in other cases. During Fiscal 1977, 10 percent of all Criminal Section field time was devoted to the investigation and prosecution of organized crime tax cases. At the same time, the Tax Division's investigation and prosecution efforts against corporate and white-collar tax fraud increased by 17 percent. In the fiscal year, 247 organized crime cases were received, 53 of which were narcotics trafficker cases. Some 202 organized crime convictions were obtained, of which 61 were narcotics traffickers.

During Fiscal 1977, the Division received 2,534 new criminal tax cases. At the close of Fiscal 1977, the total docket of pending criminal tax cases, including those in the hands of the United States Attorney and in the appellate courts, was 3,553. This represents an

increase of 14 percent over the 3,116 cases on hand at the close of 1976. The Tax Division handled 165 criminal tax appeals.

Convictions were obtained in 96.4 percent of all criminal tax cases prosecuted. A total of 1,476 defendants were convicted, which represents an increase of 283 over 1976. Of these, 1,229 defendants were found guilty either on their pleas of guilty or no contest (accepted over the Department's continued objections to no contest pleas). In the 302 cases which went to trial, convictions were achieved in 247, for a trial success rate of 82 percent, an increase of nine percent over the prior year. Trial attorneys from the Tax Division successfully prosecuted 61 taxpayers out of a total of 69 brought to trial. This represents a conviction rate for the Division of 88 percent.

As in the past, criminal tax prosecution in Fiscal 1977 included taxpayers from the full spectrum of occupational activities and social positions. Non-racketeer convictions included doctors, lawyers, accountants, school teachers, municipal officers, farmers, pornography dealers, airline pilots, corporate executives, and numerous so-called "tax protestors."

## Civil Tax

Civil cases account for approximately 83 percent of the volume of tax work of the Division. In Fiscal 1977, 4,304 civil tax suits involving \$407 million in tax liabilities were filed in the trial courts. Taxpayers instituted 3,535 suits involving approximately \$257 million, 665 of which were bankruptcy suits, while the Government filed 752 suits involving approximately \$150 million.

## Trial Court Proceedings

Tax Division attorneys tried 306 civil cases in lower courts in Fiscal 1977. Of that total, 279 were before the Federal district and state courts and 27 before the Court of Claims. The Government's position was upheld in 1,021 of the 1,153 decisions handed down by the trial courts.

During Fiscal 1977, the Division continued its active preparation of cases for trial; its attorneys took part in 2,879 discovery actions and conducted 998 pretrial proceedings.

Civil cases decided at the trial level were con-

cerned with over \$173 million in tax liability and involved a variety of transactions.

## Civil Litigation

During the fiscal year, the civil trial sections continued their efforts to litigate those cases which represented the best opportunities for establishment and clarification of legal tax principles which will serve as guidelines to taxpayers and their representatives, as well as to the Internal Revenue Service. The Division recognizes its duty to treat all taxpayers fairly in cooperating to expedite the litigation process.

## Trial Court Cases

### Refund Suits:

This fiscal year produced a decision which may have a significant impact on a substantial number of tax-exempt organizations. In a refund suit brought by a religious primary and secondary school, the court was confronted with the issue of whether the taxpayer was entitled to immunity from collecting and paying over FICA and FUTA taxes on the wages of its employees on the ground that it was an exempt educational organization under Section 501(c)(3) of the Internal Revenue Code. It was held by the District Court that since the taxpayer had a racially discriminatory admissions and operations policy, it was not an exempt organization within the meaning of the Code and, accordingly, it was ordered to pay the Government taxes in excess of \$160,000.<sup>14</sup>

In another suit dealing with tax-exempt status, the Court decided that a trade association, which in actuality was comprised exclusively of franchised dealers in a specific brand of automobile mufflers, was not a tax-exempt business league. The taxpayer has appealed the case to the Court of Appeals for the Second Circuit.<sup>15</sup>

In a decision of interest in the area of estate taxation, the Court of Claims held in favor of the Government that the corpus of an inter vivos trust was includible in the decedent-settlor's gross estate. The Court based its decision on the ground that the settlor's retention of the right to appoint herself as a trustee in the event of a vacancy, where the two trustees controlled the payments to the beneficiaries, amount to a retention under Section 2036(a) of "the right \* \* \*

designate the persons who shall possess or enjoy the property or the income therefrom.”<sup>16</sup>

### **General Litigation Suits:**

In addition to defending suits brought for the refund of Federal taxes assessed and paid, the Civil Trial Sections, with the exception of the Court of Claims Section, are responsible for supervising and handling, at the trial level, all other civil tax litigation in both the Federal and state courts. Cases involving state and local taxes usually arise in those situations where a state or local government seeks to impose a tax upon the Federal Government, its agencies, instrumentalities, employees, or those with whom it contracts. Some actions involve the protection of non-domiciliary servicemen under the provisions of Section 514 of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C., Appendix, Section 574).

Last year, suits were brought in the United States District Courts for the Northern and Eastern Districts of California challenging various county governments' attempts to tax alleged leasehold interests of servicemen occupying Government-owned military housing.<sup>17</sup> The broad scale attempt by California authorities to tax military personnel's occupancy of Government housing has apparently been generated by a recent Supreme Court holding that state authorities can tax the occupancy by forestry personnel of Government-owned housing maintained by the United States in connection with supervision of various national forests in the State of California.<sup>18</sup> However, these forestry personnel, unlike members of the United States Armed Forces, were not entitled to the protection of the provisions of the Soldiers' and Sailors' Civil Relief Act of 1940.

An important decision in the area of state and local taxation was rendered by a three-judge District Court sitting in Montana. The Court held that a Montana statute imposing a licensing and gross receipts tax upon public contractors was violative of the Supremacy Clause of the Constitution because it discriminated against the United States and private construction firms with whom it contracted. The Court further held that the United States was entitled to an injunction against the various state officials, enjoining their enforcement of the discriminatory statute and ordering them to refund to the United States such taxes as it had collected from the Federal Government contractors. The Government urged, and the Court found, that the statute in question invidiously discriminated

against Federal Government contractors in contrast to contractors employed by the statute government. This suit was brought at the request of the Department of the Army which has extensive installations under construction in the State of Montana with respect to which the Army has heretofore reimbursed contractors for contested tax payments of over \$5,000,000. Not only will this sum be refunded under the Court's decision, but the Government will be relieved of a future tax impact of an equal amount as the construction of the installations in questions progress.<sup>19</sup>

In one of the first interpretations of the dischargeability provision of the Bankruptcy Act as applied to fraudulent tax evasion, the Bankruptcy Court held that the failure of the bankrupt to file federal income tax returns could constitute the basis for a willful attempt to evade taxes so as to preclude his discharge under Section 17(a)(1) of the Bankruptcy Act. The case is presently pending before the District Court on appeal by the bankrupt.<sup>20</sup>

The fiscal year has also produced ever-increasing participation by the Tax Division in the field of freedom of information. This is evidenced by a review of significant actions brought against both the Internal Revenue Service and the Tax Division under the Freedom of Information Act (FOIA). A great many taxpayers have sought to utilize the FOIA as a tool to aid them in their tax disputes with the Internal Revenue Service.

The use of the FOIA by actual or potential defendants in criminal tax cases or investigations has been of particular concern to the Tax Division in the last year and has involved a significant commitment of Tax Division and Internal Revenue Service resources to respond to court-imposed requirements in FOIA lawsuits.<sup>21</sup> An example of a situation where it has been necessary for Government prosecutors and investigatory agents to expend a great deal of time and effort in FOIA documentary evaluation and processing activities has occurred in connection with FOIA suits seeking documents related to criminal tax investigations and cases concerning the widespread use of foreign or offshore trusts by American taxpayers to evade the payment of taxes.<sup>22</sup>

### **Compromise of Civil Tax Cases:**

The Division took final action on 1,027 settlement offers in matters in litigation. The comparable figure for Fiscal 1976 was 1,055. Of the 1,027 offers acted on, 773 (approximately 75 percent) were approved, and 254 (approximately 25 percent) were rejected. Final

actions for Fiscal 1977 were taken as indicated by the following table:

	Approved	Rejected	Total
Deputy Attorney General.....	64	0	64
Assistant Attorney General.....	86	17	103
Chief, Review Section.....	146	39	185
Chiefs of other sections.....	477	198	675

Of the 150 settlements approved under the authority of the Deputy Attorney General and Assistant Attorney General, 42 involved refunds in excess of \$200,000, which were transmitted to the Joint Committee on Internal Revenue Taxation of the Congress.

## Review Section

The Review Section has the responsibility for appraising settlement offers in light of litigation potential and policy considerations. It reviews such offers and advises the Assistant Attorney General or his delegate as to the Section's recommendation with respect to acceptance or rejection. In addition, the Review Section conducts legal research on pending or proposed legislation on which the Division has been asked to comment.

The Division's workload with respect to legislation has sharply increased in the last few years and this pattern continued during Fiscal 1977. The staff of the Review Section is responsible for preparing the continuing flow of reports to the Congress, the Office of Management and Budget, and the Office of Legislative Affairs on pending or proposed legislation, coordinating the Division's legislative efforts with the remaining components of the Division, and monitoring the Congress with respect to matters of interest to the Division. During 1977, substantial efforts have been expended on reviewing bankruptcy reform legislation to revise the bankruptcy laws, along with a companion proposal to revise aspects of the Internal Revenue Code which deal with bankruptcy, insolvency and discharge of indebtedness, privacy legislation, proposals to allow awards of attorneys' fees in tax matters, interpretative problems deriving from the amendment of Section 6103 of the Code by Section 1202 of the Tax Reform Act of 1976—further restricting access to tax returns and return information, and revision of the laws dealing with employee versus independent contractor status. The bankruptcy project was particularly significant, not only because of the importance of the legislation but also because the Division was responsible for formation of a staff task force which includes repre-

sentatives of the Department of the Treasury and the Internal Revenue Service, the function of which was to draft statutory language dealing with all tax aspects of bankruptcy law.

## Statistical Review of 1977

Fiscal 1977 was another successful year for savings and recovery of revenue through the conduct of litigation. A total of over \$73 million in judgments was obtained against delinquent taxpayers. Tax Court deficiencies of over \$5 million were upheld in the courts of appeals. These monetary figures, however, are not a true measure of Division success. Of paramount importance is the contribution of litigation to the development of sound interpretations of the revenue laws and its effect upon the determination of cases at the administrative level.

The tables and charts which follow show the trend in the volume of tax litigation over the past several years. It will be noted that receipts during this fiscal year fluctuated around 15,400 cases, a substantial increase over previous years. What lies ahead will be directly influenced by the recent revision of the tax laws, increased involvement in the Administration's White-Collar Crime Program, a further increase in the Internal Revenue Service's enforcement staff, continued business expansion, and the growing population.

During Fiscal 1977, the Division's staff continued its excellent record in court appearances and the writing of trial and appellate briefs. For the current fiscal year, over 1,200 court appearances were made by Division attorneys and over 2,000 formal briefs were prepared and filed in court.

Supreme Court: The Division won four of 10 cases decided.

Court of Appeals: The Government's position was upheld in 386 of 466 decisions or an 83 percent success rate.

Trial courts: The Government was successful in 1,021 of 1,153 trial court judgments or an 89 percent margin.

Criminal cases: The Division obtained the conviction of 1,476 persons for tax offenses. The number of convictions over the past 10 years is revealed by the following figures:

### CASES RESULTING IN CONVICTIONS

1977.....	1,476	1972.....	835
1976.....	1,193	1971.....	775
1975.....	1,180	1970.....	612
1974.....	1,025	1969.....	673
1973.....	1,094	1968.....	664

Even though the Division undertook to give increased attention to cases of prime importance and difficulty, the number of requests for extensions of time to file responsive pleadings continued at relatively low levels; the time required to process settlement offers and to dispose of criminal cases in the Depart-

ment remained within acceptable limits; the complete time required to dispose of the average tax case continued to be well under two years.

The following charts and graphs depict the work of the Tax Division over the past several years. In general, they show the steady rise in Division activity.

#### COMPARATIVE WORK LOAD SUMMARY

	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977
Pending, beginning of fiscal year.....	6,031	5,827	5,824	6,268	6,220	6,702	7,452	8,050	8,872	9,755
Received.....	9,602	10,127	9,835	10,036	10,528	10,601	10,718	13,067	14,005	15,446
Closed.....	9,806	10,130	9,391	10,084	10,046	9,851	10,120	12,245	13,122	14,486
Pending, close of fiscal year.....	5,827	5,824	6,268	6,220	6,702	7,452	8,050	8,872	9,755	10,705

#### COMPARISON OF WORK RECEIVED AND CLOSED

	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977
Received:										
Civil cases (including appeals).....	2,893	2,731	2,869	2,999	3,349	3,331	3,732	4,115	3,991	4,304
Criminal cases (including appeals).....	852	934	1,077	1,120	1,570	2,009	1,777	1,913	2,182	2,699
Total cases.....	3,745	3,665	3,946	4,119	4,919	5,340	5,509	5,928	6,173	7,003
Liens.....	4,125	3,428	3,528	4,108	4,081	4,050	4,099	5,954	6,342	6,455
Miscellaneous.....	1,732	3,034	2,361	1,809	1,528	1,211	1,110	1,185	1,490	1,988
Total miscellaneous.....	5,857	6,462	5,889	5,917	5,609	5,261	5,209	7,139	7,832	8,443
Total.....	9,602	10,127	9,835	10,036	10,528	10,601	10,718	13,067	14,005	15,446
Closed:										
Civil cases.....	3,178	2,727	2,515	3,054	3,210	3,127	3,378	3,593	3,518	3,830
Criminal cases.....	711	1,024	1,045	1,005	1,207	1,596	1,603	1,589	1,858	2,395
Total cases.....	3,889	3,751	3,561	4,059	4,417	4,723	4,981	5,182	5,376	6,225
Liens.....	4,138	3,423	3,527	4,108	4,081	4,050	4,099	5,937	6,310	6,455
Miscellaneous.....	1,779	2,956	2,303	1,917	1,548	1,078	1,040	1,126	1,436	1,816
Total miscellaneous.....	5,917	6,379	5,530	6,025	5,629	5,128	5,139	7,063	7,746	8,271
Total.....	9,806	10,130	9,391	10,084	10,046	9,851	10,120	12,245	13,122	14,486

#### WORK PRODUCTION

	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977
Pleadings prepared.....	3,152	3,167	2,835	3,356	3,565	3,421	4,005	4,719	5,406	5,647
Discovery action.....	2,435	2,521	2,203	2,214	2,053	2,029	2,527	3,156	2,973	2,879
Pretrials.....	1,007	1,032	852	863	839	788	914	1,278	944	998
Trials.....	1,049	1,126	1,127	1,159	1,165	1,055	1,198	1,209	1,049	904
Appellate arguments.....	297	393	366	373	324	347	361	412	347	394
Briefs prepared.....	1,557	1,630	1,662	1,674	1,882	1,906	2,132	2,316	2,243	2,213
Legal memos.....	3,792	3,840	3,657	3,975	3,836	4,335	4,715	4,972	5,237	5,142

Fiscal 1977 was another successful year in handling tax litigation in the courts. The following tables compare recent results with various periods in the past:

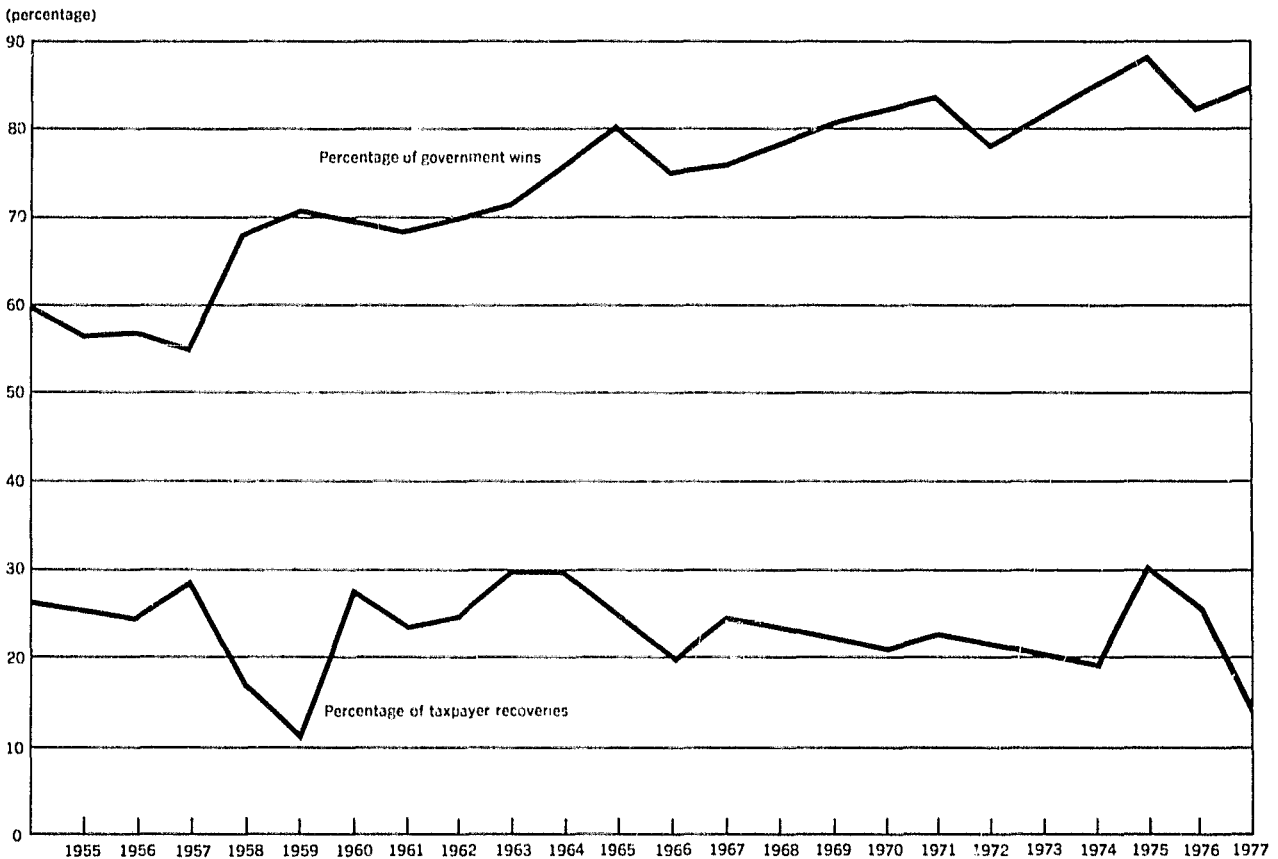
(In percent)

	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977
Government wins.....	75	78	81	79	84	78	85	87	81	86
Criminal convictions.....	95	95	95	95	95	95	94	93	94	96.4

**TAX DIVISION WINS AND LOSSES**

	Won		Lost		Total		Percent of Government wins	
	1976	1977	1976	1977	1976	1977	1976	1977
Supreme Court.....	8	4	5	6	13	10	61	40
Court of Appeals.....	355	386	119	80	474	466	75	83
District Court.....	795	865	158	104	953	969	83	89
Court of Claims.....	41	47	14	15	55	62	75	76
State court.....	167	156	17	28	184	184	91	85
<b>Total.....</b>	<b>1,366</b>	<b>1,458</b>	<b>313</b>	<b>233</b>	<b>1,679</b>	<b>1,691</b>	<b>81</b>	<b>86</b>

## PERCENTAGE OF SUCCESS



### Citations

(1) *United States v. Peter Pomponio, et al.*, 429 U.S. 10 (1976).

(2) *United States v. Foster Lumber Co., Inc.*, 429 U.S. 32 (1976); *United States v. Data Products Corp.*, 429 U.S. 934 (1976).

(3) *Don E. Williams Co. v. Commissioner*, 97 S. Ct. 850 (1977); ——— U.S. ——— (1977).

(4) *United States v. Consumer Life Ins. Co.*, 97 S. Ct. 1440; *United States v. Penn Security Life Ins. Co.*, 97 S. Ct. 1440; *Firt R. R. and Banking Co. of Georgia v. United States*, 97 S. Ct. 1440 (1977); ——— U.S. ——— (1977).

(5) *Commissioner v. Standard Life & Accident Insurance Co.*, 97 S. Ct. 2523 (1977); ——— U.S. ——— (1977).

(6) *United States et al. v. County of Fresno; United States, et al. v. County of Tuolumne*. 97 S. Ct. 683 (1977); ——— U.S. ——— (1977).

(7) *G. M. Leasing Corp. v. United States*, 97 S. Ct. 530 (1977); ——— U.S. ——— (1977).

(8) *Barter v. United States*, 550 F. 2d 1239 (7th Cir. 1977).

(9) *Stice v. United States*, 540 F. 2d 1077 (5th Cir. 1976).

(10) *Rodman, Trustee v. Commissioner* 548 F. 2d 1109 (2d Cir. 1977), *cert. denied*, October 3, 1977.

(11) *Lewis v. Commissioner*, 560 F. 2d 973 (9th Cir. 1977).

(12) *G. M. Leasing Corp. and George I. Norman III v. United States, et al.*, 560 F. 2d 1011 (10th Cir. 1977).

(13) *American Society of Travel Agents, Inc., et al. v. Blumenthal, et al.*, 46 U.S.L.W. 2195, *reh. den.*, Nov. 1, 1977 (D.C. Cir. 1977).

(14) *Goldsboro Christian School v. United States*, Civ. No. 75-0020-8 (E.D. N.C.), Sept. 14, 1977.

(15) *National Muffler Dealers Association, Inc. v. United States*, Civ. No. 75-3228 (S.D. N.Y.), June 6, 1977.

(16) *Estate of Marian B. Farrell v. United States*, 553 F. 2d 637 (Ct. Cl. 1977).

(17) *United States v. Humboldt County, California, et al.* Civ. No. 77-1749 (N.D. Calif.), Aug. 9, 1977; *United States v. Yuba County, California, et al.*, Civ. No. S-77-457 (E.D. Calif.), Sept. 1, 1977.

(18) *United States, et al. v. County of Fresno*, 429 U.S. 452 (1977).

(19) *United States v. State of Montana*, Civ. No. 1989 (D.C. Mont.), Aug. 19, 1977.

(20) *In re Menefree v. United States*, 77-1 U.S.T.C., par. 9413 (E.D. Mo. 1977).

(21) Examples of FOIA suits related to criminal tax investigations or cases include: *Bryant v. Internal Revenue*



*Service*, 76-2 U.S.T.C., par. 9613 (D. Maine); *Kanter v. Internal Revenue Service*, Civil No. 76-C-3384 (N.D. Ill.); *Kanter v. Internal Revenue Service*, Civil No. 76-C-3515 (N.D. Ill.); *Kanter v. Department of Justice, et al.*, Civil No. 76-C-4266 (N.D. Ill.); *Kanter v. Internal Revenue Service*, Civil No. 76-C-4262 (N.D. Ill.); *Kanter v. Department of Justice, et al.*, Civil No. 76-C-4267 (N.D. Ill.); *Baskes v. Department of Justice, et al.*, Civil No. 76-C-4265 (N.D. Ill.); *Hammerman v. Department of Justice, et al.*, Civil No. 76-C-4264 (N.D. Ill.); *Randall Dick v. Internal Revenue Service*, Civil No. 77-0208 (D. D.C.); *Kanter v. Internal Revenue Service*, Civil No. 77-0209 (D. D.C.); *Kanter v.*

*Internal Revenue Service*, Civil No. 77-0270 (D. D.C.); *Hammerman v. Internal Revenue Service*, Civil No. 77-0271 (D. D.C.); *Baskes v. Internal Revenue Service*, Civil No. 77-0272 (D. D.C.); *Randall Dick v. Internal Revenue Service*, Civil No. 77-0492 (D. D.C.); *Kanter v. Internal Revenue Service*, Civil No. 77-2203 Civ SMA (S.D. Fla.); *Steinberg v. Internal Revenue Service*, Civil No. 77-2202 (S.D. Fla.); *Gloria Shannon Cox v. Kurtz*, Civil No. 77-2368 (C.D. Cal.); *Lyle v. Internal Revenue Service*, Civil No. 77-942 (N.D. Ga.).

(22) See *Kanter v. Internal Revenue Service*, 77-2 U.S.T.C. par. 9473 (N.D. Ill.).

# Land and Natural Resources Division

James W. Moorman  
Assistant Attorney General

America as a physical entity, to the extent that the Federal Government has property interests in its land and resources, or has the constitutional power to protect and enhance the quality of its air and water, is the subject matter of the litigation for which this Division is responsible. This responsibility is discharged through seven litigating sections and two supporting units.

## Pollution Control Section

The Pollution Control Section supervises the prosecution and defense of civil and criminal cases involving the abatement of pollution and protection of the environment. A substantial portion of the section's caseload is comprised of litigation in which regulations, permits or other determinations by the Environmental Protection Agency or the U.S. Army Corps of Engineers have been challenged by industry or environmental organizations. The remainder of the caseload includes civil and criminal enforcement actions under the various environmental protection statutes, including primarily the Clean Air Act,<sup>1</sup> the Federal Water Pollution Control Act,<sup>2</sup> the Federal Environmental Pesticide Control Act,<sup>3</sup> the Marine Protection, Research and Sanctuaries Act,<sup>4</sup> and the Safe Drinking Water Act.<sup>5</sup>

In litigation under the Clean Air Act, a criminal fine of \$925,000 was imposed on the Allied Chemical Corporation<sup>6</sup> for emissions from its Ashland, Kentucky, coke plant. The Court initially suspended all but \$125,000 of the fine and placed Allied on probation. Allied subsequently violated the terms of its probation and paid an additional \$100,000.

Also during the year, the Division pursued an active program of civil and criminal prosecution of violators of standards governing new sources of air pollution. Dahlstrom Corporation<sup>7</sup> was fined for

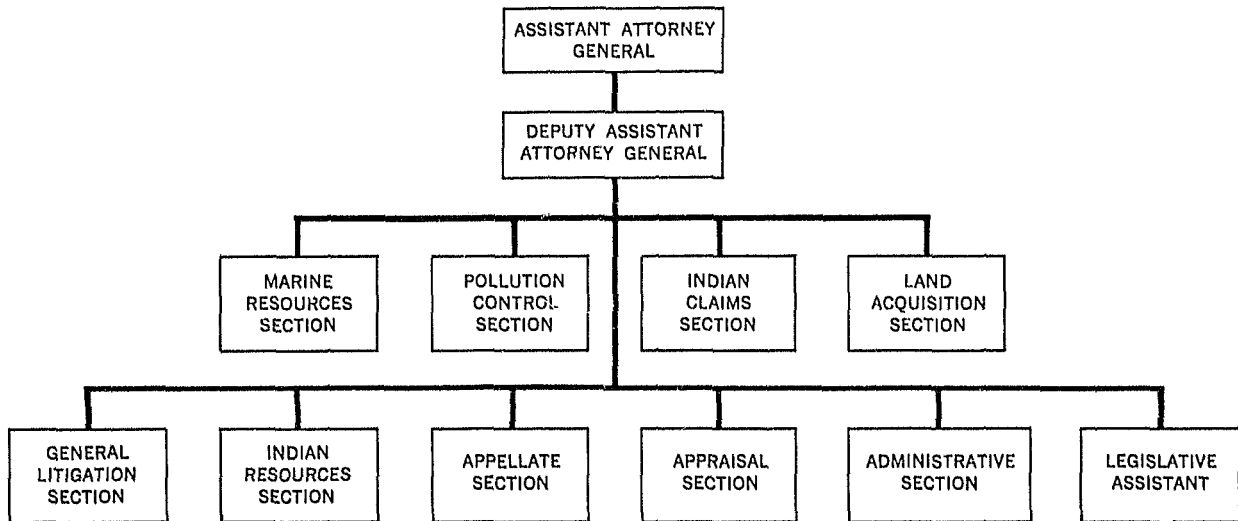
emitting particulates from its new asphalt plant. Summary judgment was entered against the City of Painesville, Ohio, for violation of new source standards applicable to a boiler.<sup>8</sup> On the other hand, the court in *United States v. Public Service Company of Indiana*<sup>9</sup> denied the Government's application for injunctive relief compelling the public utility to install "flue gas desulfurization" equipment on its fossil-fuel generating plant. The court also denied the alternative request for a commitment to purchase low-sulfur fuel.

Enforcement of the mobile source provisions of the Clean Air Act was accelerated. A large number of civil penalty actions were instituted against automobile dealers for tampering with emission control devices. Chrysler Corporation<sup>10</sup> was penalized for building cars with parts not covered by a certificate of conformity. The District Court agreed with our contention that we did not need to prove that the manufacturing error would have caused the vehicle to violate emission standards but simply that there was a deviation from the certificate of conformity which would be expected to have an impact on emissions.

The United States intervened on behalf of the Environmental Protection Agency under the Clean Air Act<sup>11</sup> in six citizens suits against the Tennessee Valley Authority (TVA) for compliance with emission standards from TVA's coal-fired generating plants. Five of these cases, pending in various District Courts in the Sixth Circuit, were consolidated in the District Court in Nashville, Tennessee;<sup>12</sup> the remaining case is before the District Court in Birmingham, Alabama.<sup>13</sup>

Significant decisions were obtained in several cases arising under the Federal Water Pollution Control Act. In the Government's major civil suit against Reserve Mining Company the Eighth Circuit Court of Appeals upheld an order requiring the payment of \$837,500 in fines and penalties by the company.<sup>14</sup> The District Court stayed its prior order requiring termination of

## LAND AND NATURAL RESOURCES DIVISION



Reserve's discharges of tailings into Lake Superior on condition that Reserve immediately commence construction of an on-land disposal system. Federal and state authorities are closely monitoring the progress of construction. A new treatment plant has been completed to filter the Lake Superior water used by the City of Duluth for drinking supply.

The Seventh Circuit Court of Appeals rejected a broad-based challenge by U.S. Steel Corporation<sup>15</sup> to an EPA permit restricting pollutant discharges from the Gary, Indiana, steel works, one of the largest steel producing plants in the world. The Supreme Court upheld EPA's regulatory program whereby uniform national effluent limitations are issued on an industry-wide basis for all major water polluters.<sup>16</sup> The Third Circuit ruled that the July 1, 1977, statutory deadline for installation of "best practicable control technology" is mandatory and may not be extended.<sup>17</sup> However, the Sixth Circuit handed down a contrary ruling<sup>18</sup> which threatens to upset the Administrator's permit program. The Department is now seeking review by the Supreme Court of the latter decision.

The Court of Appeals for the District of Columbia<sup>19</sup> reversed in part a ruling that would have required the Environmental Protection Agency to obligate \$137 million in Federal funds for waste treatment planning despite the fact that the funds were appropriated for fiscal years 1973 and 1974, which had expired before the suit was filed. The Court of Appeals' ruling that the unobligated budget authority lapsed before the suit was filed is an important precedent from a fiscal standpoint.

The Department instituted a record number of suits for civil penalties for violations of the Federal Water Pollution Control Act and permits issued under that Act by the Environmental Protection Agency. Substantial penalties were received from United Steel Corporation, Gary Works (N.D. Ind.) (\$3.25 million); N-L Industries (E.D. Mo.) (\$1.1 million) and Beaunit Corporation (E.D. Tenn.) (\$200,000). Civil suits were also filed against numerous municipalities<sup>20</sup> seeking compliance with waste limitations for sewage treatment plants.

Finally, the Division filed a large number of suits to halt the destruction of valuable wetland areas pursuant to Sections 301 and 404 of the Federal Water Pollution Control Act.<sup>21</sup> In many of these cases, injunctions were obtained halting future dredging or filling activity and requiring restoration of wetland to their prior state.<sup>22</sup> The District Court in Wyoming followed numerous other courts in holding that Federal regulatory jurisdiction was extended under the Federal Water Pollution Control Act Amendments of 1972 to include water bodies which did not meet the traditional test of navigability.<sup>23</sup>

Statistics with respect to the work of this section are set forth in Table I.

### Marine Resources Section

The Marine Resources Section handles litigation involving, for the most part, Federal interests in the mineral and biological resources seaward of state

boundaries. In prior years, a substantial portion of this section's litigation has related to determination of the exact location of the seaward boundaries of the coastal states. However, in the past year, the section has been involved in an increasing number of cases concerning the protection of marine mammals, and the conservation and management of the vast fishery resources located within the newly-created 200-mile wide fishery zone. Also, litigation arising under the Coastal Zone Management Act of 1972 is handled by this section.

Most of this section's litigation continues to take the form of original actions in the Supreme Court. Such actions typically go on for a number of years. However, in 1977 one significant case was concluded, and another is near conclusion.

In May 1977, the Supreme Court entered a final decree<sup>21</sup> adopting the Federal position regarding the location of the lateral boundary between the States of Texas and Louisiana in an area of extensive offshore natural gas fields in the Gulf of Mexico. Because Texas has rights in the seabed up to nine miles offshore while Louisiana's rights extend only three miles, the location of this boundary affects the extent of the rights of the United States in the natural gas fields. The decree enables the Federal Government to begin leasing its interests.

In a case<sup>22</sup> involving the determination of the seaward extent of Louisiana's Submerged Lands Act grant, the parties are now preparing for hearings before the Special Master to resolve outstanding issues which will determine the disposition of approximately \$250 million in royalties being held in escrow. The United States has already obtained approximately \$2 billion from the escrow fund, while Louisiana has collected \$139 million.

In another original action, California and the Federal Government agreed on a number of significant coastline questions incorporated in a second supplemental decree in *United States v. California*, No. 5, Original. However, problems concerning the limits of the Federal reservation at Channel Islands National Monument in the Santa Barbara Channel, where large deposits of oil are known to exist, remain unresolved and the parties are in the process of briefing these issues before the Supreme Court.

Also, supplemental proceedings have begun in *United States v. Maine*, et al., No. 35, Original, to determine the location of the coastlines of both Massachusetts and Rhode Island.

Last year saw a significant increase in litigation challenging Federal programs to conserve, protect, and manage the living resources of the adjacent seas. Per-

haps the cases that attracted the most attention were those involving National Marine Fisheries Service regulations governing the incidental taking of porpoise in the tuna fishery. Porpoise are protected by the Marine Mammal Protection Act, and the Federal Government set a quota on the number that could be taken in the yellowfin tuna fishery. The Federal regulations were attacked by the tuna industry, which found them to be too restrictive, and environmentalists, who believed them to be too lenient. Following complex proceedings in the district and appellate courts both in the District of Columbia<sup>23</sup> and California,<sup>27</sup> Federal permits for taking limited quantities of porpoise were authorized.

Last year also saw the first implementation of the Fishery Conservation and Management Act of 1976<sup>28</sup> under which the United States will regulate all fishing, by Americans and foreigners, within 200 miles of our coasts. Suits have already been brought both to prevent foreign fishing authorized by the Fisheries Service and to authorize American fishing prohibited by the Service. The challenge to foreign fishing resulted in a far-reaching decision recognizing the authority of the Federal Government to consider foreign affairs consequences affecting the nation and the commercial fishing industry in determining whether to permit foreign fishing.<sup>29</sup> The challenge to the regulation of American fishermen established the authority of the Federal Government to weigh the interests of competing segments of the American fishing industry and allocate fishery resources based upon the best interests of the fishery stocks and the fishing industry as a whole, including the legal interests of certain Indian tribes which fish those stocks.<sup>30</sup>

Also increasing is litigation arising under the Coastal Zone Management Act of 1972.<sup>31</sup> This Act provides incentives for states to promulgate plans to manage their coastal areas. Once a state plan is approved by the Secretary of Commerce under the Act, any applicant for a Federal permit to conduct activities either in the coastal zone, or beyond the zone when those activities will affect the coastal zone, must certify that his actions will be consistent with the state program. In one case,<sup>32</sup> the section successfully contended that Federal laws are not amended by approval of a state plan incorporating a state law that is or may be inconsistent with the Federal law. Another case involves a plan developed by California. Before the plan was approved, the American Petroleum Institute and other representatives of the oil and gas industry filed suit<sup>33</sup> challenging the form which the plan took. Since most of the state plans

which are expected to be submitted for approval in the near future are based upon the form adopted by California, the suit will have a significant impact on the Government's program to implement the Coastal Zone Management Act.

An important function of the section is to represent the Department of Justice on the National Security Council Interagency Law of the Sea Group, established by the President to formulate United States policy with regard to the continuing Third United Nations Law of the Sea Conference, and to coordinate all Federal actions which might relate to that policy.

Statistics relating to the work of this section are set forth in Table II.

## Indian Resources Section

The United States has by law and treaty assumed certain duties with respect to the protection and assertion of the property rights of American Indians; litigation in this sphere is conducted by the Indian Resources Section.

Litigation in 1977 centered upon the Northwest Indian treaty fishing problems and the land claims of Indian Tribes in the eastern United States.

The Northwest Indian treaty fishing problem arises from the difficulty which has been encountered in enforcing the 1974 decision in *United States v. Washington, et al.*<sup>34</sup> This decision held that certain Indians in the Pacific Northwest were by treaty entitled to an opportunity to take up to 50 percent of the fish at their traditional fishing places. Subsequent to the promulgation of this decision, numerous civil actions were filed to impede its implementation. In 1977, in *Puget Sound Gillnetters Association v. Moos*,<sup>35</sup> the Washington State Supreme Court held that the State Director of Fisheries had no authority to allocate fish in the waters of the State of Washington except for conservation purposes. This ruling was interpreted by the state officials as prohibiting the departments of the state from allocating fish so as to give Indians an opportunity to take their adjudicated share. Thus, the United States and the tribes were forced to go back to the Federal District Court and seek the court's assistance in providing them with an opportunity to take their treaty share of fish. On August 10, 1977, Judge Boldt issued an order in *United States v. Washington* divesting the State of Washington of control over the treaty fishery except for conservation purposes. In that order the court allocated the full chinook salmon run in state water and en-

joined the state from issuing proposed regulations which did not provide the Indians with their entitlement. The court also set a date for the hearing on allocation of chum and coho salmon in state waters. On August 24 the Puget Sound Gillnetters Association filed an action against the State of Washington in the Superior Court of Thurston County, Washington, to enjoin, in effect, the state from complying with Judge Boldt's order. The state court granted the injunction.<sup>36</sup> Thereafter, on August 26, the tribes and the United States filed a motion with Judge Boldt to stay the state court order. After the hearing, a restraining order was entered.

At a hearing before Judge Boldt on August 30, the state argued that it could not provide effective enforcement of fishery regulations issued pursuant to orders of the court. Thereafter, the court *sua sponte* took over all responsibility for the allocation of fish between treaty and non-treaty fishermen. A preliminary injunction setting an allocation procedure was issued in late September. The state has appealed from this order.

In the meantime, a joint management plan for regulating the anadromous fishery on the Columbia River was agreed to by all the parties in *United States v. Oregon*<sup>37</sup> and was approved by Judge Belloni. The Columbia River Gillnetters Association, an Oregon corporation, then initiated an action in a court of the State of Washington<sup>73a</sup> challenging the authority of the State of Washington, which is one of the parties to *United States v. Oregon*, to agree to that plan. The state court ruled on August 24, 1977, that the state action was invalid and therefore the settlement was unenforceable. The gillnetters thereupon began fishing in violation of the plan. The State of Oregon and the United States immediately sought and obtained a temporary restraining order prohibiting the association and its members from fishing in violation of the plan approved by the Federal court. The application was granted on August 24. Permanent injunction was entered in September 1977. The matter is being pursued on appeal. In an attempt to arrange a settlement of the many problems presented by the decision in *United States v. Washington*, a task force composed of the Attorney General, the Secretary of the Interior, and the Secretary of Commerce has been established. The Assistant Attorney General for the Land and Natural Resources Division represents the Attorney General on this task force and is participating in its efforts to secure the optimum utilization of the fishery resources consistent with recognized treaty fishing rights.

Simultaneously with the establishment of the task force, efforts were underway to increase the treaty fishermen's share of the sockeye salmon fishery controlled by the International Pacific Salmon Fishery Commission (IPSFC) involving the United States and Canada. In order to increase that share, the United States, through the Department of State, approved the regulations proposed by the IPSFC for non-treaty fishermen only. Treaty fishermen were subject to regulations promulgated by the Department of the Interior. The non-treaty fishermen challenged these procedures in *Purse Seine Vessel Owners Association, et al. v. U.S. Department of State, et al.*, Civil No. 377-471M, an action for injunctive relief. This relief was denied and an appeal of that order is now pending in the Court of Appeals for the Ninth Circuit.

Present litigation relating to the eastern land claims of various Indian tribes stems from the action of the Court of Appeals for the First Circuit in 1975<sup>38</sup> in affirming a decision of the District Court holding that the Trade and Nonintercourse Acts<sup>39</sup> applied to the Passamaquoddy Tribe and established a trust relationship between the United States and the tribe. The District Court had ordered the United States to file actions in the District Court against the State of Maine on behalf of the Passamaquoddy and Penobscot Tribes seeking damages for violation of the Trade and Nonintercourse Act. The District Court judge ordered the two actions filed to avoid the running of the statute of limitations which was scheduled to expire. After the Court of Appeals upheld the District Court, the Interior Department recommended assertions of claims on behalf of the two tribes to 10 million acres of land in northeastern Maine. This Section immediately began an extensive review of the materials supplied by Interior and documents kept in Archives, and consulted ethnohistorians and anthropologists. An extension was sought and granted for time to study Interior's request.

During the spring of 1977, President Carter appointed Judge William Gunter as a special representative to study the tribes' claims and make a proposal to him for a resolution of the problems. On July 15, Judge Gunter recommended that: (1) Congress appropriate for the tribes \$25 million to be administered by the Department of the Interior; (2) the State of Maine convey to the United States as trustee for the tribes 100,000 acres of land; (3) the Secretary of the Interior put forth his best effort to secure long-term options for an additional 100,000 acres of land which will be paid for from tribal funds; and (4) the tribes receive benefits because of their status as Indians from the Bureau of Indian Affairs and from the state. If this

program is accepted by the tribe and the state, the claims of the Passamaquoddy and Penobscot Tribes would be extinguished.

The claims of other tribes, however, remain to be either litigated or settled. During the year the Department of the Interior requested the Justice Department to initiate actions on behalf of the Oneida Nation, the Cayuga Nation, and the St. Regis-Mohawk Tribe of New York, the Catawba Tribe in South Carolina, and the Chitimacha Indian Tribe in Louisiana. In each case, the Interior Department has requested that the United States seek recovery of lands which were conveyed by the tribes to States or individuals in transactions entered into without compliance with the requirements of the Trade and Nonintercourse Acts. These claims involve substantial areas of land and large numbers of people. All of these claims are currently being evaluated and efforts are under way to develop a method for non-judicial settlement of the claims.

In other matters, adverse decisions were received in two significant cases. A suit initiated on behalf of the Arctic Slope Natives against over 100 defendants, seeking damages for trespasses to aboriginally held lands prior to the passage of the Alaska Native Claims Settlement Act,<sup>40</sup> was dismissed on the ground that all such claims on behalf of the Natives had been extinguished by Section 4 of the Act. This matter is now on appeal.

After a month-long trial in a suit seeking a declaration that 3,100 acres of land adjacent to the Missouri River were a part of the Omaha Reservation, the District Court held that the lands were not a part of the reservation, thus rejecting the Government's contention that certain movements of the river had been avulsive and thus did not affect land titles. An appeal has been taken.

Statistics relating to the work of this section are set forth in Table III.

## Land Acquisition Section

The Land Acquisition Section is responsible for initiating and prosecuting condemnation proceedings in the United States District Courts for the acquisition of lands necessary for public use.

Condemnation proceedings are instituted pursuant to the sovereign power of eminent domain, as codified in the General Condemnation Act, 40 U.S.C. § 257, the Declaration of Taking Act, 40 U.S.C. § 258a, and numerous other statutes authorizing the acquisition of land by condemnation.

The ultimate issue for decision in a condemnation case is the amount of compensation to be paid by the United States for the property acquired. Other issues frequently litigated are the authority of the United States to condemn the property and the right to possession.

Condemnation proceedings are initiated by this Section upon application by Federal agencies authorized by law to acquire land for specific purposes. Acquisition by condemnation is a means of last resort, as acquiring agencies are required by law,<sup>41</sup> to the greatest extent practicable, to make every reasonable effort to acquire property for negotiation before requesting condemnation.

Some of the client agencies and projects for which this section acquires land by condemnation are the Corps of Engineers, Department of the Army (military facilities; projects for the improvement and protection of navigable waters; projects for flood control); the National Park Service, Department of the Interior (national parks; preservation of scenic and wild rivers, lakeshores and seashores); the Bureau of Reclamation, Department of the Interior (reclamation and irrigation of arid lands in the western states); the Bureau of Sport Fisheries and Wildlife (wildlife preserves); the Forest Service, Department of Agriculture (national forests); the General Services Administration (buildings, offices and facilities for Federal agencies); the Department of Energy (petroleum storage facilities; nuclear waste storage facilities; energy-related projects); the Washington Metropolitan Area Transit Authority (METRO subway system).

In Fiscal 1977, new condemnation actions were filed to acquire 5,728 tracts of land. Final judgments were obtained concluding the acquisition of 2,472 tracts at a total cost of \$58,684,295.00. At the end of the fiscal year, there were 18,000 tracts in pending condemnation actions. Since there were 14,744 tracts pending on September 30, 1976, the pending tracts have increased by a total of 3,256. The total dollar amount deposited as estimated compensation for all pending declaration of taking tracts is \$248,172,054.00; the total appraised value of all tracts in all pending complaint-only cases is \$82,779,690.00.

The largest land acquisition program currently being handled by this section is the Big Cypress National Preserve, a project of the National Park Service, which encompasses over 570,000 acres of land in southern Florida. It is estimated that between 45,000 and 75,000 individual tracts of land will be acquired, and that approximately 12,000 to 15,000 of these tracts will be acquired by condemnation. Since August 1976, ap-

proximately 4,000 tracts have been referred for condemnation and future referrals will be at the rate of 3,000 to 3,600 tracts per year.

Condemnation proceedings have been instituted to acquire three sites in Texas and Louisiana on behalf of the Federal Energy Administration, now the Department of Energy, for underground storage of crude oil in connection with the Strategic Petroleum Reserve Project.<sup>42</sup> These sites contain geologic formations known as salt domes and were selected because they contain immense cavities created by commercial removal of salt. A total of \$31.4 million was deposited in these cases as estimated compensation. Orders were obtained granting the United States possession and in the summer and early fall of 1977 the filling of two of the storage sites with crude oil began. Additional storage sites will be acquired and it is planned that 250 million barrels will be in storage by the end of 1978 and an additional 250 million barrels by the end of 1980.

Also, a salt dome in New Mexico has been acquired by condemnation in two actions filed on behalf of the Department of Energy, for use in the establishment of a pilot program for the storage of nuclear waste.<sup>43</sup>

To halt the cutting of a large stand of ancient redwood trees, a condemnation action was filed on June 30, 1977, with a deposit of \$1 million, to acquire 36.8 acres of redwood forest for use in connection with the Redwood National Park, California. The Government prevailed against a challenge by the landowner of the Government's right to acquire the property by condemnation and secured an order of immediate possession.<sup>44</sup>

In a series of condemnation cases instituted in the Western District of Wisconsin, the Government acquired a number of islands in Lake Superior for inclusion in the Apostle Islands National Lakeshore. Following trials before a commission, favorable awards were returned as follows: (a) award: \$105,000.00; Government's testimony: \$64,900.00; owner's testimony: \$640,000.00;<sup>45</sup> (b) award: \$120,000.00; Government's testimony: \$108,000.00; owner's testimony: \$450,000.00 and \$469,000.00;<sup>46</sup> (c) award: \$160,000.00; Government's testimony: \$135,000.00; owner's testimony: \$775,000.00;<sup>47</sup> (d) award: \$100,000.00; Government's testimony: \$55,000.00; owner's testimony: \$300,000.00 and \$838,000.00.<sup>48</sup>

Two cases involving property acquired for the Indiana Dunes National Lakeshore were tried in the Northern District of Indiana. In one,<sup>49</sup> the jury returned a verdict of \$220,000.00, where the Govern-

ment's testimony was \$114,000.00 and \$121,000.00 and the owner's testimony was \$1,104,000.00 and \$1,150,000.00. In the second,<sup>50</sup> the court entered an award of \$120,000.00; the Government's testimony was \$112,700.00 and \$120,000.00 and the owner's testimony was \$480,000.00 and \$502,000.00.

Last year's report included discussion of two pending cases of major significance; one, a New Mexico case involving a claim in excess of \$500 million;<sup>51</sup> the other, an Oregon case involving an anticipated claim in excess of \$100 million (the claim is now \$135 million).<sup>52</sup> Both cases are still pending; however, trial settings in Fiscal 1978 are anticipated.

Statistics relating to the work of this section are shown in Table IV.

## Indian Claims Section

This section defends the United States against legal and equitable claims asserted by Indian tribes. Claims that accrued prior to August 13, 1946, are litigated under Section 2 of the Indian Claims Commission Act<sup>53</sup> either before the Indian Claims Commission or the Trial Division of the Court of Claims. The Indian Claims Commission will terminate on September 30, 1978, and all remaining Section 2 cases will be litigated before the Trial Division of the Court of Claims.<sup>54</sup> Decisions of the Indian Claims Commission may be appealed to the Court of Claims. Claims accruing after August 13, 1946, are litigated in the Court of Claims.<sup>55</sup>

In Fiscal 1977 the Indian Claims Commission entered 12 final judgments awarding Indian tribes approximately \$70 million. These final judgments covered tribal claims for approximately 42.5 million acres, as well as awarding approximately \$18.6 million for accounting claims and mismanagement of reservation resources. The total amount claimed in these cases was approximately \$111 million.

In interlocutory decisions rendered during the year, the Commission dismissed the post-1951 accounting claims of the Yankton Sioux Tribe on the ground that the alleged wrongdoing had ceased before 1946 and there could be no "continuing wrong" which arose before and continued after the statutory time bar of August 13, 1946.<sup>56</sup> The Commission refused to dismiss post-1951 accounting claims in two other cases on the Government's motion to dismiss, stating the plaintiffs should have the opportunity to show whether "continuing wrongs" exist.<sup>57</sup> In another case, it was held that disbursements of tribal funds which were accounted for in the Government accounting

reports under the heading "miscellaneous agency expense" constituted a "continuing wrong" occurring before and after the 1946 time bar which required the Government to account for all such expenditures to the present.<sup>58</sup> In another instance, the Government, by the introduction of massive evidence, has defeated a motion for a partial summary judgment of \$278,000 based on the wording used by Government accountants in preparing the accounting report.<sup>59</sup> A motion for summary judgment to hold the United States liable for a Fifth Amendment taking of 17,655 acres due to a surveying error has been denied because of conflicting evidence.<sup>60</sup> The 1832 value of a 5,200,000-acre tract in Alabama was determined to be \$8.4 million.<sup>61</sup> The Commission dismissed a claim by the Navajo that there had been a wrongful commingling of its funds with those of the Hopi and other tribes.<sup>62</sup> It was held that tribal IIM (Individual Indian Money) funds are trust funds for which the Government must account but where such funds were spent with tribal consent the Government would not be held to the same strict standard of accountability as for those funds spent by the Government's unilateral action.<sup>63</sup> The Commission has held that it can consult documents not in evidence to establish "legislative facts," i.e., those which bear on the standard of care which the United States ought to have exercised as a trustee in relation to Indian tribes.<sup>64</sup> After a reversal and remand by the Court of Claims, the Indian Claims Commission has reinstated its prior determination of \$10.8 million in so-called "trespass damages," i.e., damages for removal of minerals prior to extinguishment of aboriginal title.<sup>65</sup> On a new claim, the Makah Tribe was held to be entitled to \$29,734 for breach of an oral promise to provide fishing gear made in negotiating an 1855 treaty.<sup>66</sup> In addition, the Commission granted the Makah an opportunity to prove further damages from loss of profits for breach of the oral promise.<sup>67</sup> The Commission also allowed an amended petition setting forth for the first time certain claims arising from the construction and operation of the Grand Coulee Dam.<sup>68</sup> Over the Department's objections that it is barred by limitations, the Caddo Tribe has been allowed to claim in an accounting case a compensable interest in the Wichita Reservation sold pursuant to an 1891 agreement.<sup>69</sup> The Teton Sioux have been awarded 83 percent and the Yankton Sioux 17 percent of the 60,000,000-acre tract located in the Dakotas, Nebraska, Wyoming, and Montana to which the Indians received recognized title by the 1851 Treaty of Fort Laramie.<sup>70</sup>

Pursuant to the amended Section 23 of the Indian



Claims Commission Act<sup>71</sup> which provides for the eventual transfer of all pre-1946 claims, the Indian Claims Commission has transferred 22 dockets to the Trial Division of the Court of Claims. The Court of Claims also has before it 33 post-1946 claims. There has been a corresponding increase in our work before the Court of Claims, and after September 30, 1978, practically all our cases will be in that Court. The major activity of the Trial Division this year has been several pretrial hearings and orders. The Court of Claims has also ordered supplemental accountings by the Government in two cases.<sup>72</sup>

In the United States District Court for the District of Columbia, where a final award for the Six Nations had been attacked on the ground that it had been improperly brought by unauthorized persons, it was held that the Court could not set aside a final award of the Indian Claims Commission.<sup>73</sup>

During the year, seven new cases have been received by this section. Two were filed in the district courts; one was filed in the Indian Claims Commission by severance; three new petitions were filed before the Court of Claims, and one new docket was created by severance.

Statistics with respect to the work of this section are set forth in Table V.

## General Litigation Section

All Division matters and litigation (other than in Appellate Courts) not specifically assigned to any of the foregoing sections are handled by the General Litigation Section. Litigation involving the interpretation of the National Environmental Policy Act and the Alaska Native Claims Settlement Act, together with a growing body of cases under the Tucker Act charging a taking of property by various governmental actions, accounted for a good portion of this section's caseload.

While many cases arising under the National Environmental Policy Act of 1969<sup>74</sup> (NEPA) involve the application of well-defined rules to individual projects, a significant number of cases filed during the period covered by this report concerned the application of NEPA to broad functions of government agencies or officials. In *NRDC v. Ikle*,<sup>75</sup> failure to comply with NEPA was asserted against the Arms Control and Disarmament Agency in the development of an international convention to prohibit military use of environmental modification techniques such as cloud seeding. In *NRDC v. Export-Import Bank*,<sup>76</sup> it was alleged that the Bank must develop and implement NEPA compliance procedures in connection with providing credit assistance for exports of offshore drilling equip-

ment, power plants and similar material. In *Environmental Action Foundation v. Rumsfeld*,<sup>77</sup> the B-1 bomber program was challenged in part on the ground that the environmental impact statement on the B-1 did not consider the effect on the environment of using the weapon system to transport nuclear bombs in a future war.

Attempts continue to use NEPA as a basis for preventing the transfer or closing of military bases. A typical case<sup>78</sup> involved the transfer, in the interest of economy, of Air Force functions from the Kansas City area to an existing base near St. Louis. It has been fairly well settled<sup>79</sup> that socio-economic consequences of such movements can only be raised where actual environmental damage also results.

Other typical NEPA cases involved a challenge by the State of Missouri to the construction (in Illinois) of an airport to serve St. Louis,<sup>80</sup> a suit to enjoin the replacement of the existing west side highway in New York City,<sup>81</sup> a suit to prevent the limitation of the burro population in the Grand Canyon,<sup>82</sup> a suit to require an environmental impact statement on recommendations to the President by a task force on Water Resource Policy,<sup>83</sup> and an action relating to the use of a small island in Hawaii as a bombing range.<sup>84</sup>

The Alaska Native Claims Settlement Act (ANCSA),<sup>85</sup> a lengthy and complicated piece of legislation, has been the subject of numerous suits, in Alaska and in the District of Columbia, involving its interpretation. In addition to attempting to settle the land claims of the Native Alaskans, the Act provided for the withdrawal of 80 million acres of land for eventual classification as national parks, wildlife refuges, forests and wild and scenic rivers. Congress is now considering legislation to decide which lands should be devoted to these various uses and to what extent. The land areas involved are vast and their values are high. Since the State of Alaska has the right, under its Statehood Act, to select large areas of land, the separate and competing interests of the Native corporations, the State of Alaska, and the public interest in conserving areas as national parks, wildlife refuges and forests have generated much litigation.

In one consolidated suit, *Alaska Public Easement Defense Fund v. Andrus*,<sup>86</sup> the Natives challenge the validity of extensive public easements established by the Secretary of the Interior over Native-selected lands, while some non-Native Alaskans assert that even more easements are required by ANCSA. Because the Natives challenge the validity of easements over the entire marine coastline and along rivers having highly significant recreational use, the decision in this case will

have a particularly significant effect on future land use in Alaska. Other ANCSA cases relate to such questions as whether Natives may change their election to be enrolled in a particular Native corporation,<sup>87</sup> the effect of existing Forest Service timber sales in areas selected by the Native Village or corporations, and conflicts between mineral lease applicants and Native corporations over the validity of Interior's procedures.<sup>88</sup>

The complicated situation existing in the eastern part of the United States with respect to Indian land claims has resulted in a number of eastern Indian tribes bringing suit against various individuals and municipalities seeking to recover compensation for lands allegedly taken from them in violation of the Trade and Nonintercourse Acts<sup>89</sup> (i.e., without congressional approval) in the 1800's or earlier. These cases have been inspired in part by the Passamaquoddy litigation in Maine (see Indian Resources Section). In one such case, *Mashpee Tribe v. Town of Mashpee*,<sup>90</sup> the defendants filed a third-party complaint against the United States. Relief was sought under the Tort Claims Act, the Tucker Act, and the Administrative Procedure Act. The basis of the third-party complaint was the failure of the United States to recognize the Mashpee Tribe and to deal with it in such a way as to protect the titles of the local residents. The court granted our motion to dismiss all three claims for lack of jurisdiction. An attempt to join the United States as a party to a similar case is pending in Connecticut.<sup>91</sup>

Other Indian cases relate to disputes between competing political factions in the tribe where the Secretary of the Interior is named because he has approved some particular tribal actions,<sup>92</sup> and a large number of cases in Alaska where Alaska Natives are seeking allotments under the Indian Allotments Act.<sup>93</sup>

There were two significant decisions in the Court of Claims in the past year extending the Government's potential liability in "taking" or "inverse condemnation" cases. One case is *Tri-State Materials Corp., et al. v. United States*,<sup>94</sup> holding the United States liable for raising the water table by blocking drainage in lands along a navigable stream. Liability appears to extend to all lands lying "beyond the bed" of a navigable river whether or not the ordinary high-water mark elevation may have been exceeded. Another case is *Barnes v. United States*<sup>95</sup> allowing recovery for the first time for a downstream "taking" resulting from the reduction in the carrying capacity of a river caused by siltation due to the elimination of floods by the upstream dams. The result of the holdings is expected to increase the number of claims for "takings" caused by underflowing or a change in the

channel carrying capacity.

Pending in the Court of Claims are "taking" or "inverse condemnation" cases involving a potential liability of about \$500,000,000. Most of these, such as the 17 cases<sup>96</sup> brought by numerous landowners along the Arkansas River or the cases brought by landowners along the Ohio River, are traditional claims alleging a taking by flooding, i.e., an actual physical invasion, and the defense is usually based on some facet of the navigational servitude. Less traditional types of cases, now being filed in increasing numbers, involve acts of government officials, the promulgation of regulations, or even the enactment of statutes, which allegedly make the plaintiffs' land either valueless or unavailable for its highest and best use. For example, in *Benenson v. United States*,<sup>97</sup> it was held that the United States "took" the Willard Hotel in Washington, D.C., by a combination of congressional and executive actions that prevented the owner from remodeling the hotel for its only viable use as an office building. Other cases in this category assert a taking by an Act of Congress limiting the extent of operations on mining claims in Death Valley,<sup>98</sup> by the denial by the Corps of Engineers of a permit to allow the excavation of canals and lakes, etc., in a wetland area,<sup>99</sup> and by the influence allegedly exerted by the Air Force in preventing the rezoning of property.<sup>100</sup>

In other areas, the General Litigation Section received during the year the usual number of cases seeking review of mining claims and oil and gas lease decisions of the Interior Board of Land Appeals, quiet title and boundary dispute actions and damage claims for losses resulting from fires in national forests and on natural resource land.

Cases of importance in this general area include (a) a \$25,000,000 suit in the Court of Claims based on alleged breach of contract relating to operation of Naval Petroleum Reserve No. 1,<sup>101</sup> (b) actions in Kentucky and Alabama challenging the constitutionality of assurances given by state governors to pay the cost of maintaining Corps of Engineers projects, on grounds that the governors were without authority to obligate funds not yet appropriate,<sup>102</sup> (c) suits against the Federal Energy Administration by public utility companies challenging regulations requiring a conversion from the use of oil to coal,<sup>103</sup> (d) cases to recover charges (amounting to about half a million dollars) made by the District of Columbia, for the benefit of the United States, in the closing of alleys in the original Federal city<sup>104</sup> (these cases involve events that occurred during the first administration

of George Washington), and (e) water right adjudications<sup>105</sup> and other water rights litigation relating to the establishment and quantification of Federal reserved rights. In a significant case in this last category, the Supreme Court of New Mexico<sup>106</sup> rejected the Government's claim that the establishment of the Gila National Forest reserved from the Rio Mimbres sufficient water for instream flow maintenance, recreational activity and stock watering, and held that the Government was only entitled to enough water to furnish a continuous supply of timber. The United States, arguing that minimum instream flows, recreation and stock watering are valid purposes of the Gila National Forest, has filed a petition for certiorari.

Statistics relating to the work of the General Litigation Section are set forth in Table VI.

## Appellate Section

The Appellate Section handles appeal on the cases which were tried in Federal district courts. These cases for the most part were initially handled in the lower courts by the General Litigation, Land Acquisition, Indian Resources and Pollution Control Sections. The volume of the litigation handled in those sections is directly reflected in the number of appeals which are handled in this section. There are, however, at least two areas where this section is responsible for cases not previously handled by another section. The two areas are the direct review in the court of appeals of actions taken by various administrative agencies, notably the Interstate Commerce Commission and the Nuclear Regulatory Commission, and those cases where an agency or an appellate court requests the views of the United States in litigation where the Government has not previously participated. Recent cases of this latter type have involved the landing of the Concorde at John F. Kennedy Airport, and the Indian versus the non-Indian fishermen in the northwest.

The National Environmental Policy Act (NEPA) has generated a large volume of litigation. Many of the cases on appeal involve the question of whether an environmental impact statement (EIS) need be prepared, or if so, whether it is adequate. The Eighth Circuit found that an EIS was adequate and timber cutting in the Boundary Waters Canoe Area was not prohibited by the Wilderness Act.<sup>107</sup> The Ninth Circuit concluded, in another case, that since the experimental killing of wolves on federally owned lands would not significantly affect the quality of the human environment, no EIS was required.<sup>108</sup> In an Atlantic

Ocean OCS oil and gas lease sale, the Second Circuit found an EIS adequate in its discussion of alternatives which might be used if a state or local government sought to block the use of pipelines to bring oil and gas ashore.<sup>109</sup> These and other successes in defending impact statements and avoiding injunctions are largely due to the initial careful preparation of the statements by the involved agencies, which have demonstrated in recent years a fuller awareness of the environmental consequences of their proposed actions.

In condemnation cases, the appellate courts continue, when possible, to rely on commissions to decide issues of just compensation, and their review of condemnation awards is limited to a consideration of whether an award was clearly erroneous.<sup>110</sup>

In litigation involving Indians, the Supreme Court held that the fishing rights of tribal members in areas within their reservation were found to be subject to state control in the interest of conservation,<sup>111</sup> and that the passage by Congress of an Act to dispose of surplus lands within an Indian reservation reflected the intent of Congress to disestablish the Indian reservation to the extent of the land disposed of.<sup>112</sup> (This is a departure from earlier decisions which had required an express direction from Congress to disestablish an Indian reservation.)

The Ninth Circuit, in decisions of significance to the work of this Division, held that the United States need not apply to the State Water Resources Control Board for permits to appropriate unappropriated water,<sup>113</sup> and that a stock-raising homestead patent, reserving the mineral interest to the United States, operated so as to reserve to the United States any title to geothermal resources the patented land might contain.<sup>114</sup>

Statistics relating to the section's work are set forth in Table VII.

## Support Units

The Appraisal Section assists personnel in the Division, and throughout the Government, in any matters relating to establishing the fair market value of real property.

Statistics with respect to the activities of this section are set forth in Table VIII.

The Legislative Assistant is responsible for the preparation of the Division's reports on proposed legislation and also for responding to requests under the Freedom of Information and Privacy Acts. In Fiscal 1977, 274 legislative reports were prepared and 159 requests under the Freedom of Information and Privacy Acts were processed.

TABLE I.—POLLUTION CONTROL SECTION STATISTICS—FISCAL YEAR 1977

	Initial pending	New Y to D	Closed Y to D	Final pending
W-1.00, 33 U.S.C. 407; 1 Refuse Act.....	28	2	6	24
W-2.01, 33 U.S.C. 1319(b); Enforcement-injunctions.....	22	27	9	40
W-2.02, 33 U.S.C. 1319(b); Enforcement-Civil penalties.....	105	90	65	130
W-2.11, 33 U.S.C. 1321(e); Imminent threat.....	1			1
W-2.12, 33 U.S.C. 1321(e); Cil-civil penalties.....	56	16	21	51
W-2.20, 33 U.S.C. 1331(f); Clean-up costs.....	22	26	5	43
W-2.30, 33 U.S.C. 1364; Emergency powers.....	0			0
W-2.41, 33 U.S.C. 1365; Citizen suits-permits/enforcement.....	9	4	3	10
W-2.42, 33 U.S.C. 1365; Citizen suits-Federal facilities.....	8		4	4
W-2.43, 33 U.S.C. 1365; Citizen suits-Rules/regulations.....	33	2	11	24
W-2.44, 33 U.S.C. 1365; Citizen suits-Ocean dumping.....	3	1		4
W-2.51, 33 U.S.C. 1369; Petitions to Review-Permits.....	34	34	15	53
W-2.52, 33 U.S.C. 1369; Pet/Review-Guidelines, rule regs.....	182	30	22	190
W-2.53, 33 U.S.C. 1369; Pet/Review-State permit programs.....	6	6	2	10
W-3.01, 33 U.S.C. 403, 1344; Dredge and fill-modify waterway.....	100	55	31	124
W-3.02, 33 U.S.C. 403, 1344; Dredge and fill-wetlands.....	94	23	33	84
W-4.01, 33 U.S.C. 1415(a), (d); Ocean dumping-Civil pen.....	1			1
W-4.02, 33 U.S.C. 1415(d); Ocean dumping-injunction.....	0			0
W-5.00, Common law (Nuisance).....	1			1
W-6.00, Sewage treatment works-grants.....	5	5	1	9
W-7.00, Safe drinking water.....	2			2
W-8.00, 33 U.S.C. 1321; Court of Claims-oil spill clean-up.....	10	6	4	12
W-9.00, Other.....	64	30	32	62
A-1.00, 42 U.S.C. 1857c-8 (§113(b)); Enforcement-implementation plan.....	20	18	5	33
A-1.10, 42 U.S.C. 1857f-6c (§210); Fuels/registration.....	2		1	1
A-1.21, 42 U.S.C. 1857f-3, 4 (§§204, 2C5); Engines-Non-certification.....	4	1		5
A-1.22, 42 U.S.C. 1857f-3, 4; Engines-required reporting.....	0			0
A-1.23, 42 U.S.C. 1857f-3, 4; Engines-tampering.....	7	38	4	41
A-1.30, 42 U.S.C. 1857h-1 (§ 303); Emergency powers.....	0			0
A-1.41, 42 U.S.C. 1857h-2 (§ 304); Citizen suits-Permits/enforcement.....	11		4	7
A-1.42, 42 U.S.C. 1857h-2 (§304); Citizens suits-Federal facilities.....	5	5	3	7
A-1.43, 42 U.S.C. 1857h-2 (§304); Citizen suits-Rules and regulations.....	13		4	9
A-1.51, 42 U.S.C. 1857h-5 (§307); Petition to Revi-w-implementation plan.....	114	22	24	112
A-1.52, 42 U.S.C. 1857h-5 (§307); Petition to Review-Rules and regulations.....	68	9	10	67
A-2.00, Common law.....	0			0
A-9.00, Other.....	19	23	10	32
N-1.00, 42 U.S.C. 4910(c) (§11); Enforcement-injunction.....	0			0
N-1.11, 42 U.S.C. 4911 (§12); Citizen suits-Rules and regulations.....	1	2		3
N-1.12, 42 U.S.C. 4911 (§12); Citizen suits-Violations.....	0			0
N-1.20, 42 U.S.C. 4915 (§16); Pet/Review-Rules, regulation.....	9		2	7
N-9.00, Other.....	4			4
E-1.00, Energy related.....	4		2	2
R-1.50, Pet/Review-Resource conservation & Recovery act.....	0			0
<b>Total civil.....</b>	<b>1,067</b>	<b>475</b>	<b>334</b>	<b>1,208</b>
W-10.00, 33 U.S.C. 407; Refuse Act violations.....	32	6	7	31
W-11.00, 33 U.S.C. 1321(b) (5); Failure to notify.....	10	3	3	10
W-12.00, 43 U.S.C. 1334; Outer continental shelf-regulations.....	0			0
W-13.01, 33 U.S.C. 403, 1344; Dredge/fill-modify waterway.....	48	14	11	51
W-13.02, 33 U.S.C. 403, 1344; Dredge/fill-wetlands.....	25	4	16	13
W-14.00, 33 U.S.C. 1319(c); Water enforcement.....	8	3	1	10
W-15.00, 33 U.S.C. 1415; Ocean dumping.....	0			0
W-19.00, Other.....	0	2		2
A-10.00, 42 1857c-8c; Air enforcement/imp. plans.....	2	3		5
A-13.00, Other.....	2			2
N-10.00, 42 U.S.C. 4910(a) (S11); Noise enforcement.....	0			0
N-19.00, Other.....	4	1	1	4
E-1.00, 7 U.S.C. 136; Pesticide.....	0	8	3	5
<b>Total criminal.....</b>	<b>131</b>	<b>44</b>	<b>42</b>	<b>133</b>
<b>Total.....</b>	<b>1,198</b>	<b>519</b>	<b>376</b>	<b>1,341</b>

TABLE II.—MARINE RESOURCES SECTION STATISTICS—FISCAL YEAR 1977

	District courts	Court of Appeal	Supreme Court	Total
Cases pending, Oct. 1, 1976.....	17	5	12	34
Cases opened.....	12	8	0	20
Cases closed.....	8	0	0	8
Briefs filed.....	13	8	6	27
Trials and arguments.....	6	6	2	14
Cases pending, Oct. 1, 1977.....	21	13	12	46

TABLE III.—INDIAN RESOURCES SECTION STATISTICS—FISCAL YEAR 1977

	Total pending Oct. 1, 1976	Open	Closed	Total pending Sept. 31, 1977
Tribal Claims.....	0	2	0	2
Quiet title.....	40	11	4	47
Leases and rentals.....	8	2	7	3
Damages.....	9	31	3	37
Possession.....	38	2	2	38
Restricted funds.....	0	0	0	0
Expropriation-Condernation.....	17	6	13	10
Taxes.....	8	3	2	9
Conflicts (States and local).....	0	0	0	0
Heirship.....	3	0	3	0
Water rights.....	31	6	0	37
Miscellaneous.....	73	19	15	77
<b>Totals.....</b>	<b>227</b>	<b>82</b>	<b>49</b>	<b>260</b>

**TABLE IV.—LAND ACQUISITION SECTION STATISTICS—  
FISCAL YEAR 1977**

Fiscal year	Condemnation		
	Tracts received	Tracts closed	Tracts pending
1976 (corrected).....	7,030	2,647	14,744
1977.....	5,728	2,472	18,000

**TABLE V.—INDIAN CLAIMS SECTION STATISTICS—  
FISCAL YEAR 1977**

	Fiscal year 1977	1948 through 1976
<b>Final Judgments issued by Indian Claims Commission</b>		
Number 1.....	2 14	3 282
Acres involved.....	42,503,346.15	790,031,085.19
Amount claimed.....	\$111,276,262.12	4 \$1,387,658,389.77
Net final judgments.....	67,604,041.26	630,564,310.61
Cases dismissed.....	0	201
<b>Final Judgments Issued by Court of Claims</b>		
Number.....	0	5 15
Acres involved.....	0	20,192,915.52
Amount claimed.....	0	\$100,838,955.67
Net final judgments.....	0	4 29,121,360.39
Cases dismissed.....	0	15

- 1 By dockets.
- 2 Includes 3 nonland cases.
- 3 Includes 47 nonland cases.
- 4 Includes 44 cases in which amount claimed was not ascertainable.
- 5 Includes 7 nonland cases.
- 6 Includes 4 cases in which amount claimed was not ascertainable.

**Cases 1 pending Sept. 30, 1977**

<b>Court of Claims:</b>	
Fiscal mismanagement.....	19
Resource mismanagement.....	26
Reservation title.....	4
Aboriginal title.....	1
Water rights.....	2
Miscellaneous.....	3
<b>Indian Claims Commission:</b>	
Indian title.....	21
Recognized title.....	50
Reservation title.....	6
Accounting cases.....	15
Miscellaneous.....	14
Final judgments on appeal.....	6
District Court: Miscellaneous.....	2
<b>Total.....</b>	<b>169</b>

1 By dockets.

**TABLE VI.—GENERAL LITIGATION SECTION  
STATISTICS—FISCAL YEAR 1977**

	Initial pending	New	Closed	Final pending
NEPA.....	330	106	132	304
Water resources.....	108	9	13	194
Other.....	1,584	785	1,153	1,216
<b>Total.....</b>	<b>2,022</b>	<b>900</b>	<b>1,298</b>	<b>1,624</b>

**TABLE VII.—APPELLATE SECTION STATISTICS—  
FISCAL YEAR 1977**

	1977	1976 1	1975	1974	1973
Number of new cases.....	293	388	544	812	440
Number of cases closed.....	261	705	458	329	312
Cases pending end of year.....	701	669	986	900	417
Total cases handled.....	962	1,374	1,444	1,229	729
Memoranda for the Solicitor General.....	131	150	145	136	133
Number of briefs filed.....	246	234	271	228	223
Number of oral arguments.....	102	119	129	106	107
Number of cases decided.....	168	177	161	176	151
Number of cases summarily disposed of.....	48	61	34	62	43
Number of substantive motions or responses filed.....	115	103	162	149	124

1 As of June 30, 1976.

**TABLE VIII.—APPRAISAL SECTION STATISTICS—  
FISCAL YEAR 1977**

	Fiscal year 1976	Transition quarter (July 1, 1976–Sept. 30, 1976)	Fiscal year 1977 without Big Cypress	Big Cypress	Fiscal year 1977 total
<b>A. Settlements.....</b>	<b>402</b>	<b>67</b>	<b>275</b>	<b>28</b>	<b>303</b>
Appraisal problems.....	601	214	758	301	1,059
<b>Total actions.....</b>	<b>1,003</b>	<b>281</b>	<b>1,033</b>	<b>329</b>	<b>1,362</b>
<b>Memorandums.....</b>	<b>680</b>	<b>220</b>	<b>782</b>	<b>301</b>	<b>1,083</b>
Short form LN-27.....	323	61	251	28	279
<b>Total.....</b>	<b>1,003</b>	<b>281</b>	<b>1,033</b>	<b>329</b>	<b>1,362</b>
<b>B. Tracts involved.....</b>	<b>2,587</b>	<b>1,037</b>	<b>2,238</b>	<b>4,199</b>	<b>6,437</b>
Appraisals analyzed.....	1,944	900	1,715	4,177	5,892

**Citations**

- (1) 42 U.S.C. 7401 *et seq.* (recodified in 1977; formerly codified at 42 U.S.C. 1857 *et seq.*).
- (2) 33 U.S.C. 1251 *et seq.*
- (3) 7 U.S.C. 136 *et seq.*
- (4) 33 U.S.C. 1401 *et seq.*
- (5) 42 U.S.C. 300f *et seq.*
- (6) *United States v. Allied Chemical Corporation*, Cr. No. 76-14 (E.D. Ky., October 29, 1976).
- (7) *United States v. Dahlstrom Corporation*, Criminal No. S76-38(c) (S.D. Miss. 1976).
- (8) *United States v. City of Painesville*, 431 F. Supp. 496 (N.D. Ohio, 1977).
- (9) No. IP 76657C (S.D. Ind., 1977).
- (10) *United States v. Chrysler Corporation*, Civil No. 76-0031 (D.D.C. September 14, 1977).
- (11) 42 U.S.C. 7604.
- (12) *Tennessee Thoracic Society v. Wagner*, No. C-77-3286-NA-CV (M.D. Tenn.).
- (13) *State of Alabama v. TVA*, No. 77-PO 810 NE (N.D. Ala.).
- (14) *United States and State of Minnesota v. Reserve Mining Co.*, — F.2d — (C.A. 8, 1976).
- (15) *U.S. Steel Corporation v. Train*, 556 F.2d 822 (C.A. 7, 1977).

(16) *Dupont v. Train*, 430 U.S. 112 (1977).  
 (17) *Bethlehem Steel Corporation v. Train*, 544 F.2d 657 (C.A. 3, 1976).  
 (18) *Republic Steel Corporation v. Train*, 557 F.2d 91 (C.A. 6, 1977).  
 (19) *National Association of Legional Councils v. Costle*, --- F.2d --- (1977).  
 (20) E.g., *Cities of New York, Detroit, Camden, Kansas City, Los Angeles, Providence*.  
 (21) 33 U.S.C. 1311 and 1344, respectively.  
 (22) E.g., *United States v. Moretti*, 526 F. 2d 1306 (C.A. 5, 1097), on remand 423 F. Supp. 1197 (S.D. Fla. 1976).  
 (23) *Wyoming v. Hoffman*, No. C76-95K (D. Wyo., Sept. 21, 1977).  
 (24) *Texas v. Louisiana*, --- U.S. ---.  
 (25) *United States v. Louisiana*, S. Ct. No. 9, original.  
 (26) *Committee for Humane Legislation v. Kreps*, Civ. No. 74-1465 (D.D.C.).  
 (27) *Motor Vessel Theresa Ann v. Richardson*, 548 F. 2d 1382 (C.A. 9, 1977); *American Tunaboat Association v. Kreps*, Civil No. 77-0238-E, (S.D. Cal.); transferred to D.D.C. May 10, 1977, dismissed with prejudice June 1977.  
 (28) 16 U.S.C. 1801, *et seq.*  
 (29) *Maine v. Kreps*, --- F. 2d --- (C.A. 1).  
 (30) *Nevaril, et al. v. Kreps*, --- F. Supp. --- (W.D. Wash.).  
 (31) 16 U.S.C. 1451 *et seq.*  
 (32) *ARCO v. Ray*, --- F. Supp. --- (W.D. Wash.).  
 (33) *American Petroleum Institute, et al. v. Knecht, et al.*, Civil No. 77-3375-ALS (C.D. Cal.).  
 (34) 384 F. Supp. 312 (1974); *aff'd.* 520 F. 2d 676 (1975); *cert. den.* 423 U.S. 1080 (1975).  
 (35) No. 44401, Supreme Court, Washington, 1977.  
 (36) 88 Wash. 2d 677; 565 P. 2d 1151 (1977).  
 (37) 529 F. 2d 570 (C.A. 9, 1976).  
 (37a) *Columbia River Fishermen's Protective Union v. Ray*, Civil No. 58054, Superior Court, Thurston County, Washington.  
 (38) *Joint Tribal Council of the Passamaquoddy Tribe, et al. v. Morton, et al.*, 528 F. 2d 370 (1975).  
 (39) 1 Stat. 137; 1 Stat. 324; 1 Stat. 743; 2 Stat. 139; 4 Stat. 725; 25 U.S.C. 177.  
 (40) 43 U.S.C. 1601, *et seq.*  
 (41) Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. § 4601 *et seq.*  
 (42) *United States v. 499.472 Acres of Land, More or Less, Situate in Brazoria County, State of Texas, and Freeport Minerals Company, et al.*, Civil No. G-77-70, Strategic Petroleum Reserves (Bryan Mound Facility) Project (Southern District of Texas); *United States v. 290.30 Acres of Land, More or less, Situate in Cameron Parish, State of Louisiana, and Agnes E. Lower, et al.*, Civil Nos. 77-0405 through 77-0408, Strategic Petroleum Reserves (West Hackberry Facility) Project (Western District of Louisiana); and *United States v. 374.94 Acres of Land, More or Less, Situate in Iberville Parish, State of Louisiana, and Gulf Oil Corporation, et al.*, Civil No. 77-127, Strategic Petroleum Reserves (Choctaw Bayou Facility) Project (M.D. La.).  
 (43) *United States v. 320.00 Acres of Land in Eddy County, New Mexico, Bass Enterprises Production Company,*

*et al.*, Civil No. 77-071-B, Waste Isolation Pilot Plant Project (District of New Mexico) and *United States v. 6,243.9 Acres of Land in Eddy County, New Mexico, Bass Enterprises Production Company, et al.*, Civil Nos. 77-435-P through 77-437-P, Waste Isolation Pilot Plant Project (D.N.M.).  
 (44) *United States v. 36.8 Acres of Land in Humboldt County, California, Arcata Redwood Company, et al.*, Civil No. C-77-1196-GFP, Redwood National Park Project (N.D. Cal.).  
 (45) *United States v. 1,044.67 Acres of Land, More or Less, Situate in Bayfield County, State of Wisconsin, and Budvic Timber, Inc., et al.*, Civil No. 73-C-349, Apostle Islands National Lakeshore Project (W.D. Wisc.).  
 (46) *United States v. 319.04 Acres of Land, More or Less, Situate in Bayfield County, State of Wisconsin, and Alden E. Allen, et al.*, Civil No. 74-C-168, Apostle Islands National Lakeshore Project (W.D. Wash.).  
 (47) *United States v. 10,100.01 Acres of Land, More or Less, Situate in Ashland and Bayfield Counties, State of Wisconsin, and Leif Erickson, et al.*, Civil No. 73-C-285, Apostle Islands National Lakeshore Project (W.D. Wash.).  
 (48) *Ibid.*  
 (49) *United States v. 416.81 Acres of Land, More or Less, Situate in Porter County, State of Indiana, and Most Reverend Andrew J. Grutka, et al.*, Civil No. 7-H-79, Indiana Dunes National Lakeshore Project (N.D. Ind.).  
 (50) *United States v. 88.28 Acres of Land, More or Less, Situate in Porter County, State of Indiana, and Cully Crumpacker, et al.*, Civil No. 70-H-244, Indiana Dunes National Lakeshore Project (N.D. Ind.).  
 (51) *United States v. 10,677.31 Acres of Land in Guadalupe County, New Mexico, and Andrieus A. Jones, et al.*, Civil No. 75-255, Los Esteros Lake Project (D.N.M.).  
 (52) *United States v. 134,960.62 Acres of Land in Klamath County, Oregon, and United States National Bank of Portland (Oregon), Trustee for the Enrolled Members of the Klamath Tribe, et al.*, Civil No. 74-894, Winema National Forest Project (D. Ore.).  
 (53) Act of August 13, 1946, 60 Stat. 1049, 1050, as amended 25 U.S.C. sec. 70a.  
 (54) Act of October 8, 1976, 90 Stat. 1990.  
 (55) 28 U.S.C. sec. 1505.  
 (56) *Yankton Sioux Tribe v. United States*, 39 Ind. Cl. Comm. 149.  
 (57) *Confederated Tribes of the Colville Reservation v. United States*, 39 Ind. Cl. Comm. 122, 39 Ind. Cl. Comm. 487; *Nez Perce Tribe of Idaho v. United States*, 39 Ind. Cl. Comm. 127.  
 (58) *Navajo Tribe v. United States*, 39 Ind. Cl. Comm. 252.  
 (59) *Three Affiliated Tribes of Fort Berthold Reservation v. United States*, 39 Ind. Cl. Comm. 446.  
 (60) *Pueblo of Santo Domingo v. United States*, 39 Ind. Cl. Comm. 241; 40 Ind. Cl. Comm. 101.  
 (61) *Creek Nation v. United States*, 40 Ind. Cl. Comm. 175; 41 Ind. Cl. Comm. 20.  
 (62) *Navajo Tribe v. United States*, 39 Ind. Cl. Comm. 144.  
 (63) *Fort Belknap Indian Community, et al. v. United States*, 39 Ind. Cl. Comm. 108.  
 (64) *Fort Belknap Indian Community, et al. v. United States*, 39 Ind. Cl. Comm. 293.

- (65) *Fort Sill Apache Tribe, et al. v. United States*, 40 Ind.Cl.Comm. 143.
- (66) *Makah Tribe v. United States*, 39 Ind.Cl.Comm. 88.
- (67) *Makah Tribe v. United States*, 40 Ind.Cl.Comm. 131.
- (68) *Confederated Tribes of the Colville Reservation v. United States*, 39 Ind.Cl.Comm. 159.
- (69) *Caddo Tribe v. United States*, 40 Ind.Cl.Comm. 266.
- (70) *Sioux Nation, et al. v. United States*, 40 Ind.Cl. Comm. 454.
- (71) Act of October 8, 1976, 90 Stat. 1990.
- (72) *Navajo Tribe v. United States*, Docket Nos. 69, 299 and 353 (accounting claims); *Fort Peck Indians v. United States*, Docket No. 184.
- (73) *Six Nations Confederacy v. Cecil Andrud, et al.*, Civ. Action No. 77-515.
- (74) 42 U.S.C. 4331 *et seq.*
- (75) No. 76-2158 (D.C.D.C.).
- (76) No. 77-0080 (D.C.D.C.); on appeal No. 77-0212 (C.A.D.C.).
- (77) No. 77-0059 (D.C.D.C.).
- (78) *Jackson County, Missouri v. Jones*, No. 77-0468-CV-W-2; on appeal C.A. 8, No. 77-1739 (D.C. Mo.).
- (79) *Breckinridge v. Rumsfeld*, 537 F.2d 864 (C.A. 6, 1976).
- (80) *State of Missouri v. Coleman*, 427 F. Supp. 1252 (D.C.D.C., 1977).
- (81) *Action for Rational Transit v. West Side Highway Project*, 74 Civ. No. 5572 TPG. (S.D.N.Y.).
- (82) *Humane Society of the United States v. Department of the Interior*, Civ. No. 77-0207 (D.C.D.C.).
- (83) *State of North Dakota v. Carter*, No. A77-1063 (D.C. N.Dak.).
- (84) *Aluli v. Brown*, Civ. No. 76-0380 (D. Hawaii).
- (85) 43 U.S.C. 1601, *et seq.*
- (86) Civ. No. A-75-204 (D.C. Alaska).
- (87) *Seller v. Kleppe*, Civ. No. 76-2323-CFP (N.D. Cal.).
- (88) *Cape Fox Corp. v. United States*, Civ. No. K-76-1 (D. Alaska).
- (89) E.g., *Rowe v. United States*, Civ. No. A-76-280 (D. Alaska); *Rowlett v. United States*, Civ. No. A-76-283 (D. Alaska).
- (90) *Mashpee Tribe v. Town of Mashpee*, Civ. No. 76-3190-S (D. Mass.).
- (91) *Schaghticote Tribe of Indians v. Kent School Corp.*, Civ. No. H-75-125 (D. Conn.).
- (92) E.g., *Pat Stands Over Bull v. Bureau of Indian Affairs*, Civ. No. 77-98-BLG (D. Mont.); *Smith v. Brown*, Civ. No. 77-665-CAM-PGT (D. Ariz.).
- (93) E.g., *Joseph v. United States*, Civ. No. F-76-20 (D. Alaska); *Shields v. United States*, Civ. No. A-77-66 (D. Alaska).
- (94) 550 F. 2d 1 (Ct. Cl., 1977).
- (95) 538 F. 2d 865 (Ct. Cl., 1976).
- (96) E.g., *Hardin v. United States*, Ct. Cl. No. 294 75.
- (97) 548 F. 2d 939 (Ct. Cl., 1977).
- (98) *Feezor, et al., v. United States*, Ct. Cl. No. 488-77.
- (99) *Jentgen v. United States*, Ct. Cl. No. 415-77.
- (100) *De-Tom Enterprises, Inc. v. United States*, 552 F. 2d 337 (Ct. Cl. 1977).
- (101) *Standard Oil of California v. United States*, Ct. Cl. No. 208-77.
- (102) *Kentucky Rivers Coalition v. Commonwealth of Kentucky*, Civ. No. 76-35 (E.D. Ken.); *State of Alabama v. Corps of Engineers*, Civ. No. 75-H-23435 (N.D. Ala.)
- (103) E.g., *Connecticut Light & Power Co. v. FEA*, Civ. No. H-77-200 (U.S.D.C. Conn.).
- (104) *Washington Medical Center, Inc. v. United States*, 545 F. 2d 116 (Ct. Cl., 1976).
- (105) *In the Matter of Application for Water Rights of the United States of America*, Water Divisions 4, 5, and 6, State of Colorado; *Avondate Irrigation District, et al. v. North Idaho Properties, Inc.*; *United States v. Higginson* (Idaho Sup. Ct. No. 12174); *Soderman v. Kackley* (Idaho Sup. Ct. No. 12482).
- (106) *Mimbres Valley Irrigation Co., v. Salopek*, 564 P. 2d 615.
- (107) *Minnesota Public Interest v. Secretary of Agriculture*, — F. 2d — (C.A. 8, 1976, cert. den., — U.S. —, 1977).
- (108) *Defenders of Wildlife, Inc v. Alaska Department of Fish and Game, et al.*, — F. 2d — (C.A. 9, 1977).
- (109) *County of Suffolk, et al. v. Kleppe*, — F. 2d — (1976).
- (110) *United States v. 403.14 Acres in St. Clair County, Mo.*, — F. 2d — (C.A. 8, 1977).
- (111) *Puyallup Tribe, Inc., et al. v. Department of Game of Washington*, — U.S. — (1977).
- (112) *Rosebud Sioux Tribe v. Kneip*, — U.S. — (1977).
- (113) *U.S. v. State of California, State Water Resources Control Board, et al.*, — F. 2d — (C.A. 9, 1977).
- (114) *U.S. v. Union Oil Co.*, — F. 2d — (C.A. 9, 1977).

# Immigration and Naturalization Service

Leonel J. Castillo  
Commissioner

The Immigration and Naturalization Service (INS) enforces and administers the immigration and nationality laws by the admission, exclusion, removal, or naturalization of non-U.S. citizens.

The Service's activities are organized into three areas of operation: examinations, enforcement, and management.

## Examinations

The examinations function covers the inspection of persons arriving at U.S. ports of entry to determine their admissibility, the adjudication of requests for benefits and privileges under the immigration laws, and the examination of applicants for naturalization.

### Inspections:

In Fiscal 1977, 267 million persons were inspected at U.S. ports of entry or preclearance locations in Canada, Bermuda or Nassau, Bahamas. Of these, more than 162.5 million were non-U.S. citizens including 150.5 million border crossers; .9 million resident aliens returning from short trips abroad; 8.1 million nonimmigrant classes of tourists, businessmen, students, foreign government officials, temporary workers; more than 2.6 million crewmen granted shore leave; and approximately 460,000 immigrants admitted for permanent residence.

### Immigrants:

As provided under the 1965 and 1977 amendments to the Immigration and Nationality Act, persons born in any foreign state of the Eastern Hemisphere and

their dependencies are subject to an annual numerical limitation of 170,000, and persons born in the Western Hemisphere or the Canal Zone are limited to 120,000 visa numbers per year with no more than 20,000 numbers allotted to any one country. Immigrant visas issued under these numerical limitations are assigned on the basis of seven preference categories and a non-preference category. Four preferences provide for the reunion of families of U.S. citizens or resident aliens; two for professional, skilled, or unskilled workers whose services are needed in the United State; and one for refugees. The parents, spouses, and children of U.S. citizens are designated as "immediate relatives" and as such are exempt from the numerical limitations of either hemisphere.

In Fiscal 1977, some 460,000 immigrants were admitted to the United States. This 15 percent increase over last year is attributed in most part to Cuban refugee adjustments of status to permanent residence. The Attorney General had determined that these aliens would not be subject to numerical limitations; this decision resulted in Service ability to adjust most of the 65,000 Cuban refugees who had been waiting for visa numbers to be assigned to them.

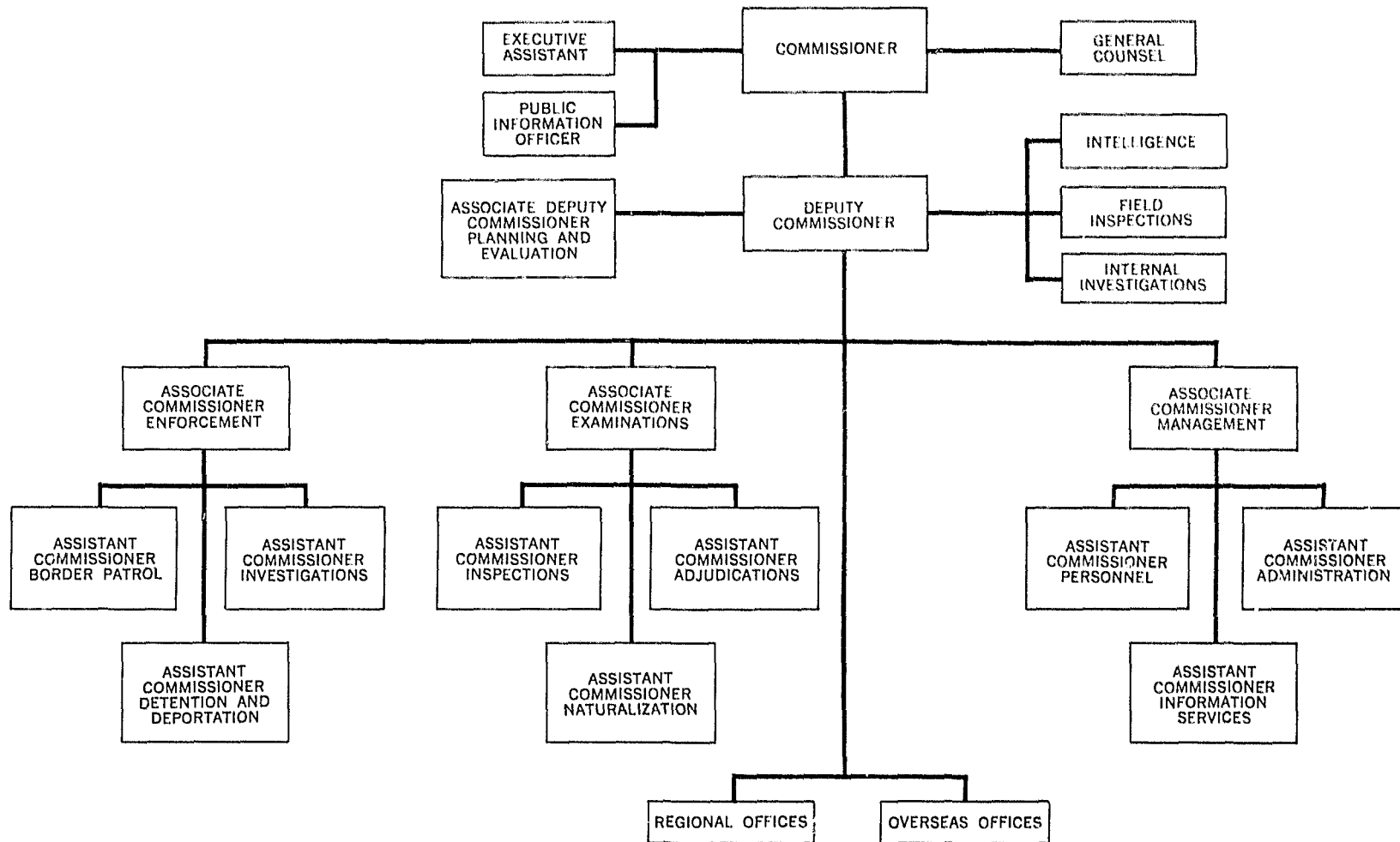
### Adjudications:

In its administration of the immigration laws, INS adjudicates a variety of applications and petitions regarding the rights of aliens to enter, re-enter, or remain in the United States. Included are petitions for preference visas for aliens or for temporary workers, applications for adjustment of status, and the issuance of border crossing cards.

In Fiscal 1977, a total of 1,399,300 applications and petitions were received by the Service.



**U.S. DEPARTMENT OF JUSTICE  
IMMIGRATION AND NATURALIZATION SERVICE  
CENTRAL OFFICE ORGANIZATION**

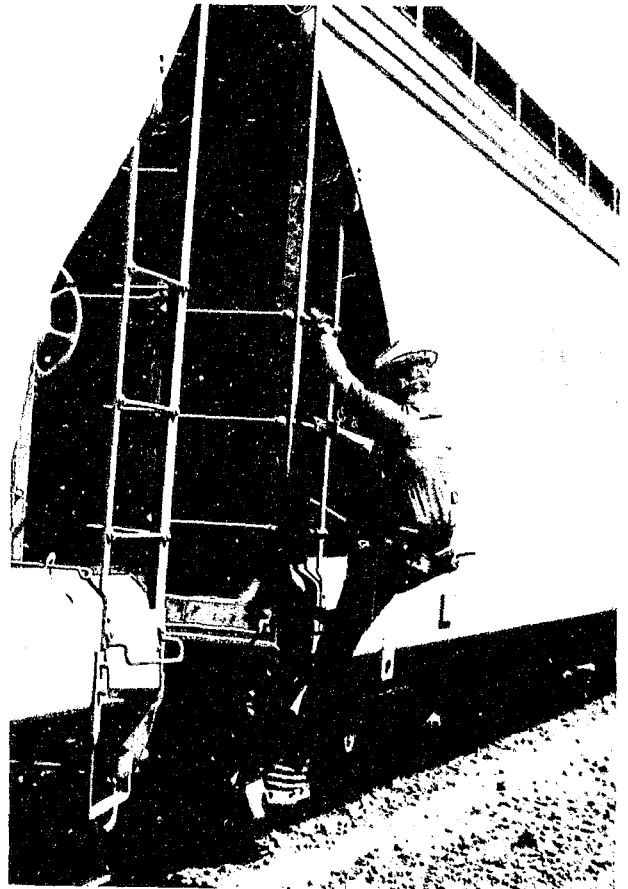


## Naturalization:

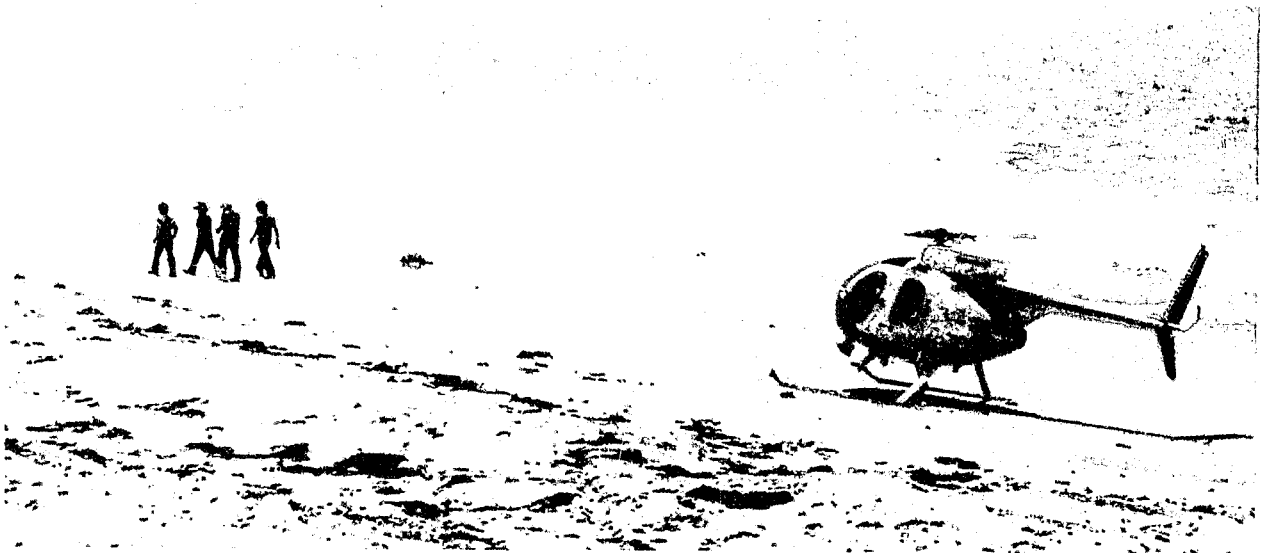
U.S. citizenship through the naturalization process was granted to just over 159,000 persons during 1977 at hearings held in Federal and state courts. At these proceedings, Service officers made recommendations for the granting or denial of citizenship based on a complete examination to determine whether each applicant met the statutory requirements for naturalization. Before citizenship was granted, each alien took an oath of allegiance to the United States, promising to support and defend the Constitution and laws of the United States against all enemies, foreign and domestic.

Applicants for naturalization, with few exceptions, are required by law to have a knowledge of the English language, including the ability to speak, read, and write words in ordinary usage. They must also have an understanding of the history, principles, and form of Government of the United States. The Service is authorized by statute to promote the instruction and training of naturalization applicants to help them meet these educational requirements. This has been done through the help of educational institutions that conduct classes in citizenship.

The Service-published federal textbooks on citizenship were distributed free to applicants who attended public school classes or enrolled in home study courses and to the instructors working with these candidates.



*Freight train check for undocumented aliens in Yuma Railroad yards.*



*U.S. Border Patrol Helicopter on beach patrol, north of U.S. Boundary near San Usidro, California.*

In Fiscal 1977, a total of 19,755 Certificates of Citizenship were issued to persons who derived citizenship through the naturalization of their parents, to women who became citizens through marriage to a citizen, and to persons who acquired citizenship at birth abroad through their citizen parents.

## **Enforcement**

The enforcement arm of the Service is made up of investigators and Border Patrol agents, augmented by the support functions of the Detention and Deportation Division. They enforce the immigration laws by preventing the illegal entry of aliens and by locating and removing those who entered surreptitiously or those who violated the terms of their lawful admission.

### **Deportable Aliens Located:**

During the year, Service officers located 1,042,215 deportable aliens, a 19 percent increase over 1976. Of the total located, 954,778 were Mexican nationals.

Border Patrol agents located 812,541 deportable aliens, while investigators and other Service officers located the remaining 229,674. Of the total located, 90 percent (934,787) entered illegally at other than ports of inspection along the Mexican Border.

Exclusive of 8,788 crewmen who technically violated their terms of admission because their ships were unable to depart the United States within the time specified, 73 percent of the undocumented aliens were located within 30 days after becoming deportable and only 12 percent had been in the country illegally more than one year before location. Deportable aliens who were employed at the time of apprehension numbered 258,587.

### **Smuggling:**

Border Patrol agents apprehended 138,805 aliens who had been induced or assisted to enter illegally or who had been transported unlawfully after entry. Apprehensions of smugglers of aliens and violators of status relating to unlawful transportation of aliens numbered 12,405 during the year.

INS participation in the national drug abuse control effort continued with the seizure of \$22 million worth of illegal drugs during the course of immigration work. The seizures included 90 tons of marijuana valued at \$18 million and 4,087 ounces of "hard" drugs valued at \$4.2 million.

## **Foreign-Born Law Violators:**

Anticrime and racketeering efforts by INS resulted in the completion of 16,383 investigations of aliens suspected of being involved in criminal, immoral, or narcotics activities. Applications for orders to show cause in deportation proceedings were made in 3,917 such cases which resulted in the removal of 663 aliens.

The Service, through its antisubversive programs, continued to emphasize the detection, identification, and investigation of foreign-born persons whose conduct may be prejudicial to the internal security of the United States. The 1,882 investigations of suspected foreign-born subversives carried out in 1977 led to the location of 117 deportable aliens of this class.

Service officers completed 28,342 immigration fraud investigations to expose the continued use of altered, fraudulent, or counterfeit passports, nonimmigrant visas, and immigration documents, and attempts to avoid labor certification requirements.

### **Deportation and Required Departures:**

The number of aliens deported under formal orders of deportation totaled 30,228. Of these, 26,078 had entered without inspection or without proper documentation, 3,150 failed to comply with their non-immigrant status, 663 were deported on criminal, immoral, or narcotics charges, 315 had been previously deported or excluded, and 22 were deported on other charges.

Aliens under docket control that were required to depart without formal orders of deportation numbered 38,473. Those requiring departures under safeguards including crewmen totaled 828,542 and were chiefly Mexican nationals who entered the United States without inspection.

Aliens admitted to Service and non-Service detention facilities in Fiscal 1977 numbered 294,699. They were detained for a total of 3.1 man-days per person.

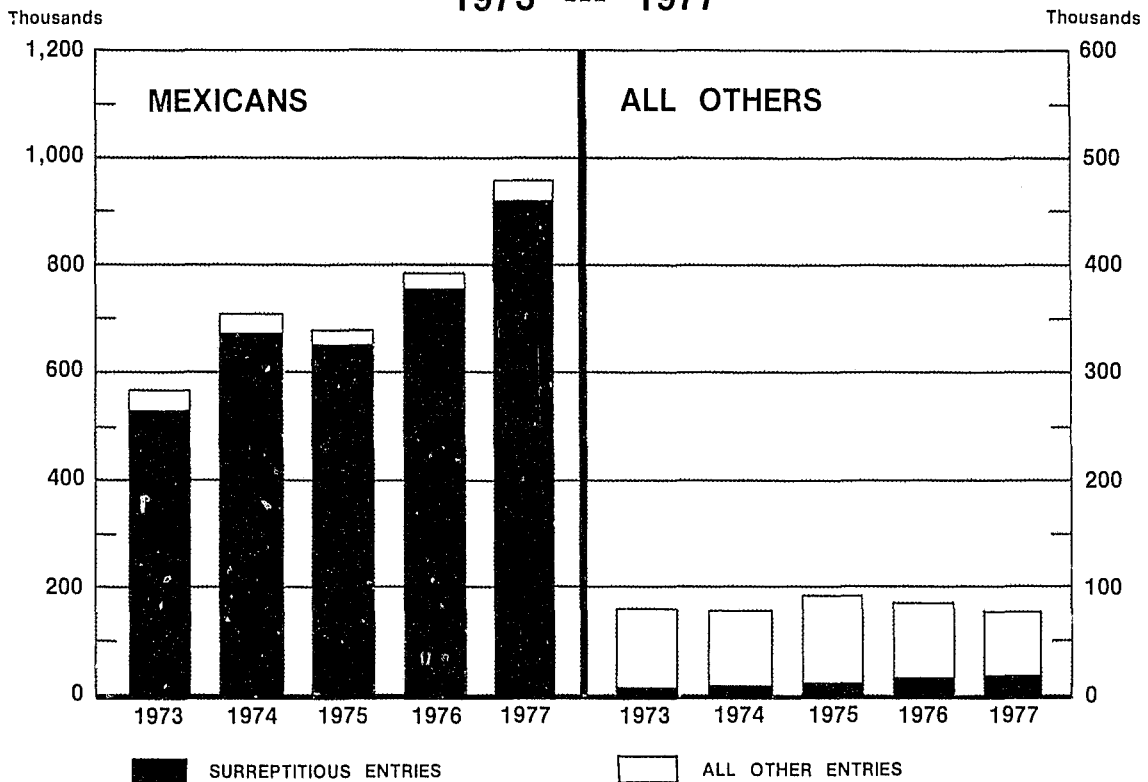
## **Management**

### **Information Services:**

The Information Services Division has the responsibility for maintaining records, performing statistical compilations and analyses, and furnishing automatic data processing system support service to INS operations.

# DEPORTABLE ALIENS FOUND IN THE UNITED STATES

1973 --- 1977



The primary function of the Information Services Division is to furnish information to foreign Embassies, consular representatives and the general public relative to the provisions, regulations and procedures concerning the application of immigration and nationality laws.

## Administration:

The Administration Division provides support for Service programs by furnishing financial management, contractual and procurement services, management analysis, and through the administration of construction, communication and engineering services.

## Personnel:

The Personnel Division supports the Service through the development and execution of various programs generated by the Staffing and EEO, Training and Career Development, Labor-Management Employee Relations and Safety, and Position Management and Personnel Management Evaluation Branches.

## Support Functions

Four units under the Deputy Commissioner carry out key support efforts for achievement of the INS mission.

### The Office of Planning and Evaluation:

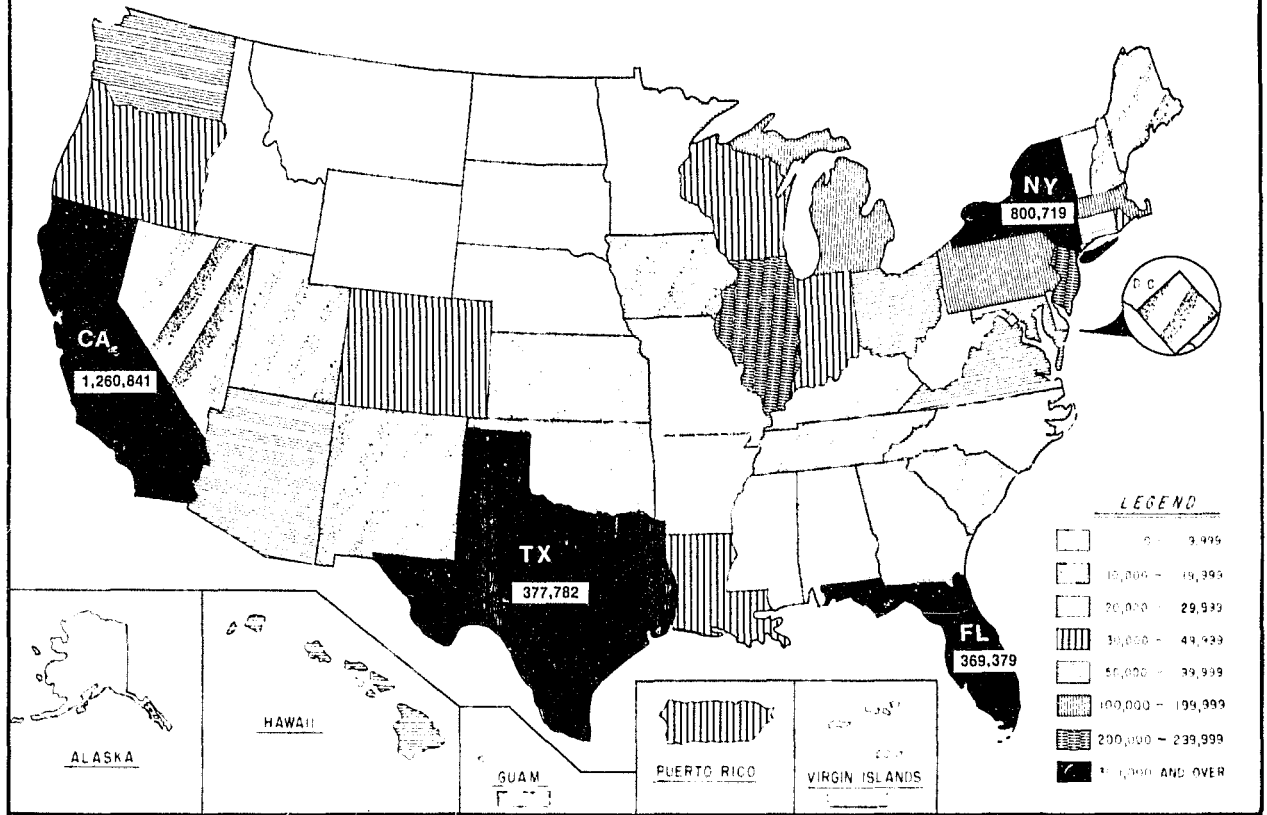
The Office of Planning and Evaluation is responsible for the development, review, and evaluation of policies, programs, structures, missions, objectives, resource utilization, systems, and the review of special management problem areas to insure that the Service's use of resources and estimates of future requirements are consistent with the optimum accomplishment of the Service's mission.

### The Intelligence Unit:

The INS Intelligence Unit is responsible for the formulation of policies and procedures for the collection, production, and utilization of tactical and strategic intelligence to support the various operating and management functions of the Service.

# ALIEN ADDRESS REPORTS --- BY STATES

1977



## Field Inspections and Internal Investigations:

The two other units, Field Inspections and Internal Investigations, continued to monitor the effectiveness and efficiency of operational responsibilities and the conduct of employees throughout the Service.

## Service Relationships With Local Law Enforcement Agencies:

INS continued to receive assistance from other law enforcement agencies at all levels. A total of 74,988 violators of immigration and nationality laws were turned over to the Border Patrol by police, sheriffs, and other agencies. The cases included numerous smug-

glers and smuggled aliens, false claims to U.S. citizenship, many types of fraud cases, and thousands of undocumented aliens found employed in competition with American labor. Border Patrol agents, in turn, encountered and released to other agencies a total of 2,678 persons accused of violating other laws, including four murder suspects and 85 robbery and burglary suspects.

Border Patrol agents have been particularly active in conducting training classes in the Spanish language for police officers. There have been a number of accomplishments by Border Patrol tracking teams in the rescue of lost persons in the deserts and mountainous regions. Exceptional skill in this area has been developed by border patrolmen over the years as a result of the tracking of illegal entrants in border areas.

# Community Relations Service

Gilbert G. Pompa  
Acting Director

The Community Relations Service (CRS) was established by Title X of the 1964 Civil Rights Act "to provide assistance to communities . . . in resolving disputes, disagreements, and difficulties relating to discrimination based on race, color, or national origin. . . ."

CRS carries out this mandate through conciliation, mediation and technical assistance. Essentially, these processes make available methods and alternatives of resolving disputes without long-term and costly litigation or violent and disruptive tactics.

Conciliation is an informal process of calming emotions, channeling tensions productively, and facilitating a settlement between adversary groups. Mediation differs in that it is a structured negotiation process—entered voluntarily—which addresses a series of specific issues underlying community racial-ethnic turmoil. Mediation leads to a written agreement and, therefore, is a more formal settlement of the controversy.

CRS' technical assistance efforts aid state and local government representatives, school and police officials, community leaders, and others by identifying training, resources, and experience models which have proven effective in resolving community problems.

The agency may intervene in a dispute on its own whenever, in its judgment, peaceful relations among the citizens of a community are threatened. However, in the great majority of cases, its services are requested by state and local government officials, prominent community leaders, or other interested persons.

Assistance is also offered to Federal courts, which have referred a number of prison inmate suits for mediation alleging violations of civil rights under 42 U.S.C. 1983. More recently, U.S. district court judges have designated CRS to help communities peacefully implement school desegregation plans.

Since the Service's mandate requires it to respond to any racial and ethnic difficulty, coordination and cooperation with other Federal agencies is essential to

providing an efficient, effective government response. In the past year, CRS has worked to develop closer ties with the Department of Housing and Urban Development, the Offices of Civil Rights and Education in the Department of Health, Education and Welfare (HEW), and the Interior Department's Bureau of Indian Affairs.

During Fiscal 1977, CRS worked on 640 racial and ethnic disputes, disagreements, and difficulties—10 more than in the preceding year. In all, this represents 450 new cases and 180 carried over from fiscal 1976. Another potential 493 cases were closed at either the "alert" or "assessment" stage—steps in the process of determining whether CRS will intercede and how. Of the final 640 cases undertaken for resolution, 366 were completed, leaving the outcome of 289 still to be determined.

As in previous years, problems involving the administration of justice (AOJ) system and the schools comprised the largest areas of CRS activity. Together, they accounted for more than two-thirds of the caseload. Specifically, there were 237 AOJ cases and 188 school cases, compared to 226 and 202, respectively, last year.

Police-community disputes, arising from issues like alleged police brutality, unfair recruitment practices, and unenforceable firearms policies, continued to comprise the majority of the AOJ caseload. Two hundred and fifteen of the 237 AOJ cases recorded involved difficulties between minority groups and the police.

School desegregation cases, too, consumed much of the agency's time and effort, particularly since they require extensive coordination with city and school authorities, diverse community groups, and security personnel. Forty-one cities received varying degrees of desegregation assistance—20 representing new cases, while 21 were carried over from previous years. Moreover, 10 U.S. district judges named CRS in court orders to provide specialized desegregation aid.

The remaining 215 CRS cases fell along a broad

spectrum: allegation that local governments are insensitive to minority problems; confrontations over economic issues; difficulties arising from Indian land claim suits or hunting and fishing controversies; and a variety of other issues.

In addition to this casework activity, CRS continued to share its cumulative experience with people who get involved in dispute resolution at the local level. Typically, this is accomplished through a training medium, varying from workshops lasting a day or longer to brief sessions repeated periodically over several weeks or months.

Overall, approximately 2,500 persons received dispute resolution training from CRS specialists. Among them were 1,500 school administrators and teachers, 520 policemen, 60 local government officials, and 480 school security officers. Sessions ranged from those for court-appointed citizens' monitoring commissions in school desegregation cases to conflict resolution and cultural awareness training for police departments. Conducting this training allows CRS to have a greater impact than it would otherwise have with its limited staff.

The essence of the agency's efforts was casework. The "hands-on" problem-solving helped hundreds of troubled communities avoid potentially worse disturbances—and make marked improvement in race relations in many instances. Representative cases are highlighted in the following sections.

## Cases Involving Police

Acts which minorities perceived as serious miscarriages of justice led to some of the most intense racial controversy of Fiscal 1977. One case involved the fatal shooting of Richard Morales while in the custody of law enforcement officers at Castroville, Texas. The former police chief accused of the killing was convicted only of aggravated assault and the Chicano community turned to the Justice Department, through CRS, for help.

Agency intervention with top Department officials produced a meeting with a group of Hispanic leaders. Ultimately, the Attorney General authorized prosecution of the former police chief under Federal statutes. He was later convicted in U.S. District Court at Waco of violating Morales' civil rights. Because of decisions regarding this case, Federal prosecution is no longer precluded when there have been convictions locally in civil rights cases.

Controversy over a perceived double standard of justice—one for whites and one for minorities—did not always involve fatalities. For example, Salt Lake City saw incidents between the police and both Chicanos and blacks mushroom into major controversies not involving fatalities.

The first incident occurred when police were called to a disturbance at a dance. When the Chicano crowd gathered outside ignored an order to disperse, the police resorted to force, using nightsticks and dogs. In the melee, one person was seriously injured, and several were bitten. Sixteen were arrested.

Chicano leaders were furious at the way the situation was handled, particularly that dogs had been used. They charged that the incident was another in a series which demonstrated police brutality, inadequate training, and lack of respect for Chicanos.

In the second incident, the local NAACP accused police of overreacting to disturbances at the picnic that the Salt Lake County government sponsored for youths in a summer manpower program. It was alleged that the picnic site, a public park popular with blacks, had also been the scene of past police abuses.

Local efforts to resolve these disputes bogged down and CRS was asked to assist. The agency suggested to the police and the aggrieved groups that they meet for in-depth discussions since their differences obviously involved more than the incidents. CRS convened separate negotiations at the participants' request.

The talks resulted in formal agreements on immediate and long-term moves to alleviate friction between police and minority residents. Not surprisingly, some provisions of the agreements were virtually identical.

For example, both pacts provided for establishing a police cadet apprenticeship program, a primary purpose being to bring minority youths into police careers. Both measures also called for reassessing police department testing, recruitment, and selection procedures.

The pact between police and Chicanos also called for a jointly-selected panel of experts to review policy for using police dogs in crowd control. The police department agreed to suspend the practice—except in extraordinary circumstances—pending the panel's report. Another provision was a comprehensive police department training program, featuring coursework in human relations, psychology, sociology, and conflict management.

There were similar controversies with Indians as the complaining party. In response to a request from

the Department's Civil Rights Division (CRD), an assessment was initiated of tension over law enforcement matters between whites and Chippewa Indians of Minnesota's Nett Lake Reservation. The request came after a CRD investigation of the shooting by a white town constable of two Indian brothers, killing one and seriously wounding the other.

The constable was found to have acted in self-defense but the incident increased tensions nonetheless. Indian leaders said it was another of many deaths and beatings mishandled by local authorities. Whites were angry over fires and tavern incidents which they blamed Indians for.

CRS convened a joint gathering of 32 local, county, state, and Indian leaders, reportedly the first such meeting ever held. It produced two major developments.

First, a panel of white and Chippewa leaders was formed to monitor local racial incidents, seek ways to curtail them, and explore joint community activities to promote racial understanding. Secondly, officials representing the county, the reservation, the state, and the U.S. Department of Interior agreed to cross-deputize the reservation's BIA police and sheriff's deputies.

This agreement, in addition to establishing a bridge between the two law enforcement groups, created a greater pool of officers to serve the area. The Indians said it also makes the reservation a more integral part of the county.

A substantial part of CRS' training activity was directed at Indian-law enforcement problems. For example, the agency developed a training package for cadets at the Indian Police Academy in Brigham City, Utah. In another instance, 16 hours of mostly human relations training was given to police officers on the Turtle Mountain Reservation in Belcourt, North Dakota, and to officers in the Minot, North Dakota, police department.

In the related area of corrections, CRS assisted in resolving race-related problems involving prisoners and prison administrators. The U.S. District Court for the western district of Missouri cast the agency in a new role: fact-finder for compliance with a consent judgment. In question was compliance with a 1973 judgment that called for improving living conditions and operating procedures at Kansas City's Jackson County Jail. Legal services attorneys had filed suit under 42 U.S.C. 1983 in behalf of inmates.

There were still questions about compliance with some of the original judgment's provisions. This posed a problem for both the court and the parties, who shared an interest in continuing improvements but

also shared an interest in avoiding additional, time-consuming litigation. So at the parties' request, the court issued an amended consent judgment and named CRS "fact-finder for the parties and the Court with respect to the extent of compliance" with the order.

The assignment requires the agency to make regular written reports until 1979 on matters relating to extent of compliance. After that, the parties can request a new fact-finding team but not before then. Most of Jackson County Jail's 400 inmates are minority group members.

This fact-finding role could have wide applicability in civil rights litigation and significantly reduce administrative burdens on Federal trial judges. However, CRS' role in difficulties at the Nevada State Prison in Carson City is more typical of its corrections involvement. Racial fighting left two blacks dead and other prisoners injured.

CRS intervened with the specific support of the governor as well as the new warden. Prisoners and staff pointed out problems they claimed contributed to racial animosity: alleged favoritism shown to some inmates, not enough jobs to keep inmates busy, and others.

Learning that an existing inmate committee had ceased to function, an agency team began a painstaking process of creating a representative inmate body to meet with the administration. Separate meetings with every ethnic group in the prison population led eventually to election of a multi-ethnic committee to discuss grievances.

Before the first joint meeting, the prison yard, the focal point of tension, became more relaxed. Inter-racial groups talked together and played against each other in sports. Previously, each racial or ethnic group stayed in its own section of the yard, declining to cross onto each other's "turf."

Tension continued to lessen after the warden and the inmate committee began to meet—aided by assurances to prison staff that it would not be negatively affected by the outcome. Changes included the relaxation of rigid rules covering visitors, more expeditious delivery of medical aid, and creation of additional jobs for inmates. It was also decided that no longer would some jobs pay and others not. The inmate committee has become a permanent part of the prison's communications process.

## School Cases

Although school desegregation received generally less publicity than in previous years, the potential for



disruption was significant. The agency divided its time between school districts preparing for desegregation, e.g., Cleveland, Columbus, and New Castle County, Delaware, and districts in their second or later year of implementing a plan.

In all cases the emphasis was on promoting careful, comprehensive community planning to help school districts avoid disruption. This is a more critical concern for districts just starting than those in a later phase. Experience has led CRS to encourage support as broad as possible for community efforts to insure orderly implementation of desegregation.

In the case of New Castle County, the agency solicited the support of the county executive, Wilmington's mayor, and the governor for the community planning effort. Considerable time was spent exploring how these three governmental jurisdictions could help prepare for peacefully implementing the anticipated order. The result was a series of coordinated activities, including development of a countywide information center to keep the public accurately informed.

Actual implementation of desegregation is not expected before the fall of 1978. However, the intergovernmental cooperation—and CRS' assistance—is continuing and will provide a framework for cooperative systematic planning.

Dallas was one of several cities where CRS continued to work on desegregation-related problems after the earlier initiation of the process. One concern was that various mechanisms created to handle complaints were hampering the overall effort because of confusion and duplication. Corrective action was taken following a thorough analysis of the situation by a group set up at CRS' suggestion.

Other tasks in Dallas included helping overhaul a court-appointed citizens advisory group, acting as intermediary when black parents campaigned against alleged inequities at one high school, and bringing together the school superintendent and Federal Regional Council to explore ways to involve Federal employees in supportive programs. Detroit, Boston, Baltimore, Louisville, and Buffalo were also among cities aided with later stages of desegregation.

By far, non-desegregation problems accounted for most of the time spent assisting schools. Minority group students and their parents often accused school officials of subtle, institutionalized—rather than overt—discrimination. Specific issues were too varied for easy cataloging but disputes in Heart Butte, Montana, and Juneau, Alaska, were fairly typical.

Heart Butte Indian parents accused officials of excluding them from the affairs of schools in nearby

Valier, attended by all their children of high school age. Specifically, the parents complained of lack of orientation about school programs, absence of Indian teachers and Indian history courses, and about alleged harassment of Indian students.

HEW's Denver Civil Rights Office referred the dispute to CRS after the parents lodged a complaint there. Valier school authorities disagreed about the magnitude of the problem but accepted a CRS offer to mediate. The result was an 11-point agreement whose provisions included hiring two Indians, the first on the schools' faculty. Among other steps was establishing orientation for all—not just Indian—parents and students, an Indian history course, and an advisory committee of Indian parents and teachers.

Although blacks in Juneau had several grievances, the salient issue was the suspension rate for black students compared to that for whites. Here, too, negotiations set up by CRS resulted in a formal agreement. Just as in Heart Butte, the joint consideration of grievances led to agreement on steps to address the problems and alleviate tension that had built up.

A third example reflects another aspect of CRS aid to schools: training and technical assistance. New England school and police officials asked the agency to help define their differing roles in dealing with school disruption. Since this is a widespread concern, the agency took the opportunity to develop a pamphlet that could be used throughout the country.

In August 1976, CRS and the Law Enforcement Assistance Administration convened a training conference at Framingham, Massachusetts, for police and school officials from 15 New England cities. HEW's National Institute of Education provided financial support.

A pamphlet entitled "School Disruptions: Tips For Educators and Police" was the product of that conference. It spells out steps for police and school officials to prevent problems and tactics for responding when trouble does erupt. The pamphlet has been well-received by school and police professionals and is already in its second printing.

## Other Cases

As already observed, school and police cases accounted for roughly two-thirds of the problems in which CRS intervened during Fiscal 1977. The remaining one-third reflected the breadth of concerns out of which racial-ethnic conflict arises. While fewer in the aggregate, these cases were some of the most

difficult and significant dealt with. Following are brief descriptions of some of them:

In San Jose, California, construction of a downtown Holiday Inn parking garage was halted when excavation turned up Ohlone Indian remains and artifacts. Ohlone descendants and their supporters threatened massive demonstrations and lawsuits if the project was not stopped. CRS eventually worked out an agreement that permitted construction of the garage and preservation of the Ohlone remains and artifacts.

In Lowell, Massachusetts, Spanish-speaking residents accused city officials of unresponsiveness to their concerns, particularly job opportunities and training. CRS brought the two sides together and the result was a job information and referral center, approved by the city council.

In Massachusetts, the agency is working to bring together Wampanoag Indians and whites so that a positive community relations climate can be maintained despite the controversy surrounding the Wampanoags' land claim suit. A considerable multi-racial effort to maintain peace is now underway.

In Washington state, the Department of Fisheries asked CRS for technical assistance in reducing conflict between Indian and white salmon fishermen on Puget Sound. After extensive consultation and study, an agency administration of justice consultant developed guides to aid the Fisheries Department in connection with enforcement responsibilities on the Sound.

In Chester Township, Pennsylvania, black public housing tenants claimed that building new access ramps to the Commodore Barry Bridge, which spans

the Delaware River, would have a devastating effect on their neighborhood. They said the ramps would impede emergency vehicles, interfere with bus service, create hardships on the elderly, and endanger children. They staged a traffic-blocking demonstration which led to temporary closure by state officials, and a counter-demonstration by truckers that caused a traffic jam several miles long. CRS worked out an agreement which calls for building a \$1.7 million vehicle and pedestrian overpass over the ramps.

In Washington, North Carolina, black taxicab operators protested that they were illegally denied an opportunity to compete with white operators for fares at the town's bus station. In the wake of physical confrontations and arrests, CRS mediated an agreement that ensured equal competition.

In New York, black and Spanish-speaking groups protested that minorities had been excluded from planning for hundreds of jobs and concessions at the National Park Service's new \$600 million Gateway National Park. The facility will be built along the city's ocean shoreline. Meetings between the protesters, CRS, and Park Service officials led to a comprehensive affirmative action plan.

COMPARISON OF WORKLOAD DATA 1975, 1976, TQ, AND 1977

Item	Number			
	1975	1976	TQ	1977
Alerts processed .....	1,020	986	230	952
Assessments processed .....	656	604	117	630
Mediation cases .....	37	53	2	44
Conciliation cases .....	512	577	71	609
Cases ending .....	174	220	179	287
Cases closed .....	375	410	114	366

**END**