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U.S. Department of Justice  
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# Annual Report of The Attorney General of The United States

# 1983

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# 1983

**Annual Report  
of the  
Attorney General  
of the  
United States**

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

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

I am pleased to report on the business of the Department of Justice for Fiscal Year 1983.

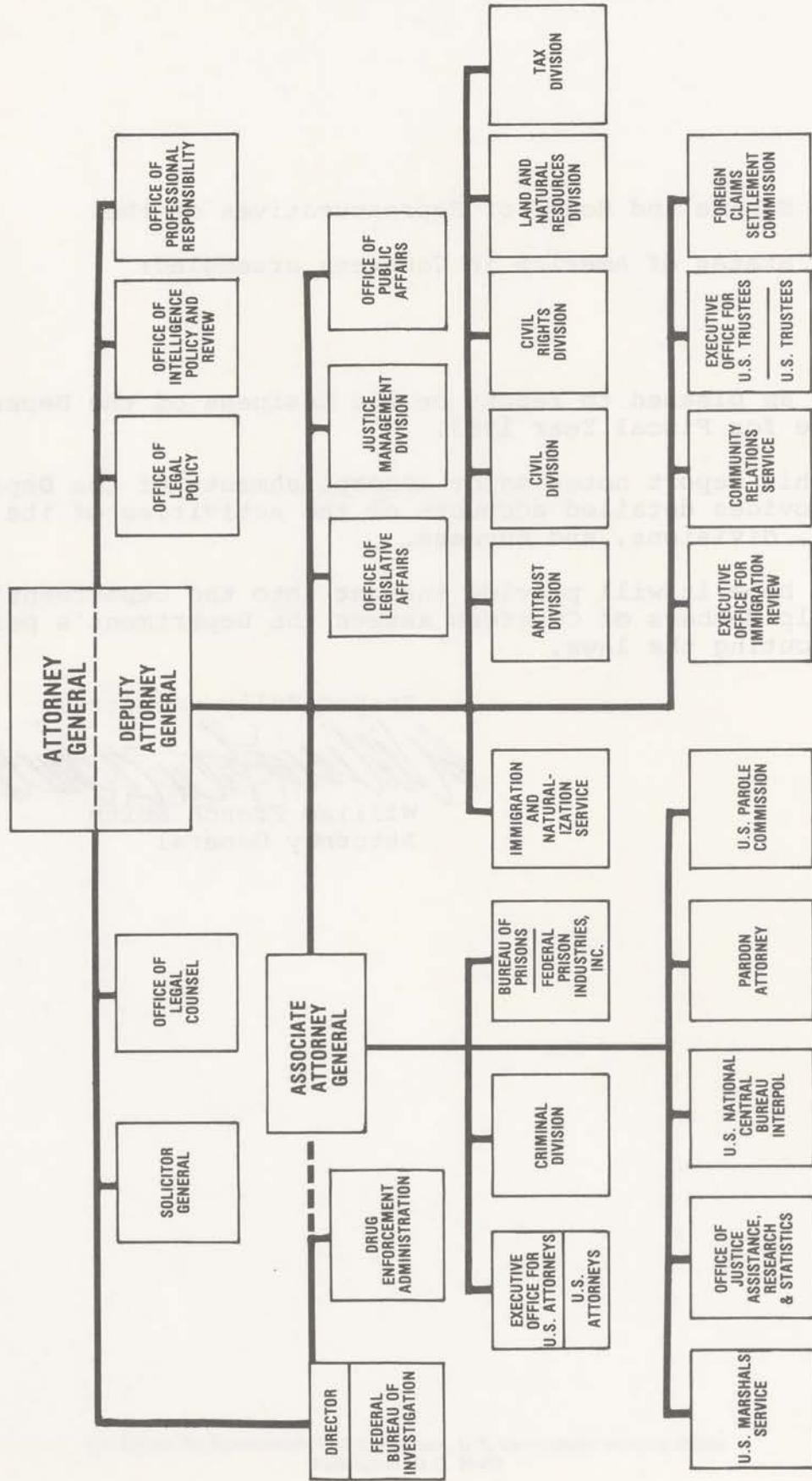
This report notes major accomplishments of the Department and provides detailed accounts of the activities of its offices, boards, divisions, and bureaus.

I hope it will provide insight into the Department's activities and help Members of Congress assess the Department's performance in executing the laws.

Respectfully submitted,

William French Smith  
Attorney General

DEPARTMENT OF JUSTICE



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## **Offices of the Attorney General, Deputy Attorney General and Associate Attorney General**

**William French Smith**  
**Attorney General**

**Edward C. Schmults**  
**Deputy Attorney General**

**D. Lowell Jensen**  
**Associate Attorney General**

Executive direction and control over the activities of the Department of Justice emanate from three principal offices in the Department: the Offices of the Attorney General, the Deputy Attorney General, and the Associate Attorney General.

### **Office of the Attorney General**

The position of Attorney General was created by the Judiciary Act of 1789. In June 1870, Congress enacted a law entitled "An Act to Establish the Department of Justice." This Act established the Attorney General as head of the Department of Justice and gave the Attorney General direction and control of U.S. Attorneys and all other counsel employed on behalf of the United States. The Act also vested in the Attorney General supervisory power over the accounts of U.S. Attorneys, U.S. Marshals, clerks, and other officers of the federal courts. A series of legislative enactments since 1870 have resulted in the Department of Justice and the Office of the Attorney General as they exist today.

The Attorney General is responsible for supervising and directing the administration and operation of the offices, boards, divisions, and bureaus which comprise the Department. He also furnishes advice on legal matters to the President, the Cabinet, and the heads of the executive departments and agencies of the government. In addition, the Attorney General represents the United States in legal matters generally, and makes recommendations to the President concerning appointments to federal judicial positions and to positions within the Department, including U.S. Attorneys and U.S. Marshals.

### **Office of the Deputy Attorney General**

The Deputy Attorney General advises and assists the Attorney General in formulating and implementing Department policies and programs, and in providing overall supervision and direction to all Department organizations. Subject to the general supervision of the Attorney General, the Deputy Attorney General directs the activities of the Associate Attorney General and the following organizational units: Office of Legislative Affairs, Justice Management Division, Office of Public Affairs, Immigration and Naturalization Service, Antitrust Division, Civil Division, Civil Rights Division, Land and Natural Resources Division, Tax Division, Executive Office for Immigration Review, Community Relations Service, Executive Office for U.S. Trustees, and U.S. Trustees. The Foreign Claims Settlement Commission is under the supervision of the Deputy Attorney General for administrative purposes.

In addition, the Deputy Attorney General coordinates departmental liaison with White House staff and the Executive Office of the President, coordinates and controls the Department's reaction to civil disturbances and terrorism, and exercises the power and authority vested in the Attorney General to take final action in matters pertaining to the employment, separation, and general administration of attorneys and law students. He also exercises the power and authority vested in the Attorney General to take final action in matters pertaining to the employment, separation, and general administration of personnel in the Senior Executive Service and in General Schedule grades GS-16 through GS-18, or the equivalent.

## Office of the Associate Attorney General

The Associate Attorney General advises and assists the Attorney General and the Deputy Attorney General in formulating and implementing departmental policies and programs pertaining to criminal matters. He also provides overall supervision and direction for the following organizational units: Criminal Division, Drug Enforcement Administration, Executive Office for U.S. Attorneys, the office of each U.S. Attorney, Bureau of Prisons, Federal Prison Industries, Inc., Office of the Pardon Attorney, Office of Justice Assistance, Research, and Statistics, U.S. Marshals Service, and the U.S. National Central Bureau, International Criminal Police Organization (INTERPOL). The U.S. Parole Commission is under the supervision of the Associate Attorney General for administrative purposes.

### Priorities and Achievements

The Department, under its present leadership, has developed a broad range of major initiatives in response to the issues that face it. These were discussed, in some detail, in "New Directions, 1981-1983," a biennial report of the Attorney General to Department employees which has been submitted to Congress. Several of the most important of these initiatives are described briefly below.

- *Organized Crime and Drug Enforcement Task Forces.* The Attorney General decided that a thorough reevaluation of the drug enforcement program of the Department was long overdue. Drug trafficking was assuming epidemic proportions. The success of the South Florida Task Force gave momentum to the concept of a nationwide network of task forces to combat drugs and organized crime. Under the leadership of the Attorney General, 12 new regional task forces (in addition to the one in South Florida) were created, composed of investigators, prosecutors, and other specialists. Although the Department will continue to spearhead the program, the combined resources of the federal government, including the Coast Guard and the armed services, are for the first time being brought into the field on a national basis.
- *Fraud, Waste, and Abuse.* The Administration's determination to reduce fraud, waste, and abuse in the conduct of government programs has been mirrored in this Department's enforcement efforts. As a result of information uncovered during investigations conducted in a wide variety of federal programs—food stamps, health care, veterans' benefits, social security benefits, student loans, multifamily dwelling construction, small business loans, defense and civilian procurement, and special feeding programs, to name but

a few—the Department has brought hundreds of civil and criminal cases that have resulted in millions of dollars recovered in fines and penalties. The Department also has suggested major changes in several programs to preclude future problems, and expects to maintain a strong emphasis in this area. An important element of this program has been substantial improvement in the Department's debt collection program.

- *Law Enforcement Coordinating Committees.* The vast majority of law enforcement activity occurs at the state and local levels. In that light, it has been foolish to attempt to direct federal law enforcement efforts without regard to the priorities, activities, and resources of state and local officials. Maximum utilization of law enforcement resources requires such coordination. The Department has, therefore, established Law Enforcement Coordinating Committees in every judicial district in the United States to bring together officials at every level to ensure that the workload is properly divided and priorities properly established.
- *Creation of a Closer Working Relationship Between the FBI and DEA in Drug Enforcement.* In order to ensure that all available resources are brought to bear against illicit drug dealers in this country, the Attorney General has granted the Federal Bureau of Investigation concurrent jurisdiction with the Drug Enforcement Administration in the area of drug enforcement, and has brought the two agencies closer together by causing the Administrator of the Drug Enforcement Administration to report to the Attorney General through the Director of the Federal Bureau of Investigation. In addition, the Drug Enforcement Administration's field structure has been modified to mirror that of the Bureau. As a result of these changes, the two agencies are now working in concert and sharing resources, expertise, and technical services in their investigations. This can only serve to increase the Department's success in this critical area of law enforcement.
- *Civil Rights.* The Department agrees wholeheartedly with the framers of the Civil Rights Act of 1964 that civil rights are personal rights—the right of the individual to be treated as an individual and not as a member of a group. In education, for instance, the Department's emphasis has been on better education for every child; in the employment discrimination area, it has been on seeking full relief for individuals who have been the victims of discrimination.
- *Immigration.* The Department has participated unstintingly in a constructive dialogue with Congress aimed at producing a package of legislative reforms in

the immigration area to deal rationally and humanely with the entire gamut of immigration issues, problems largely ignored for decades.

- **Antitrust.** The Department has succeeded in introducing systematic, sound economic theory and analysis in its enforcement of the nation's antitrust laws. This will ensure that economic efficiency is not penalized, and that the aim of the antitrust laws—protection of consumers—is achieved.
- **Judicial Restraint.** The Department's current leadership has determined that one of its major responsibilities is to encourage federal courts to exercise self-restraint in their decisions. This self-restraint is essential if the political branches of government are to play

their legitimate policymaking roles, and if the independence of the courts is to be protected and strengthened. Accordingly, the Department has argued for judicial restraint in litigation, and has supported the appointment of federal judges who understand the need for judicial restraint.

- **Court Security.** In recent years, the federal courts and judges of this country have been increasingly subject to threats. The Attorney General has committed this Department to ensuring the security of federal court proceedings. In response to that commitment, the Department has developed a model plan for the provision of such security in coordination with the judiciary.

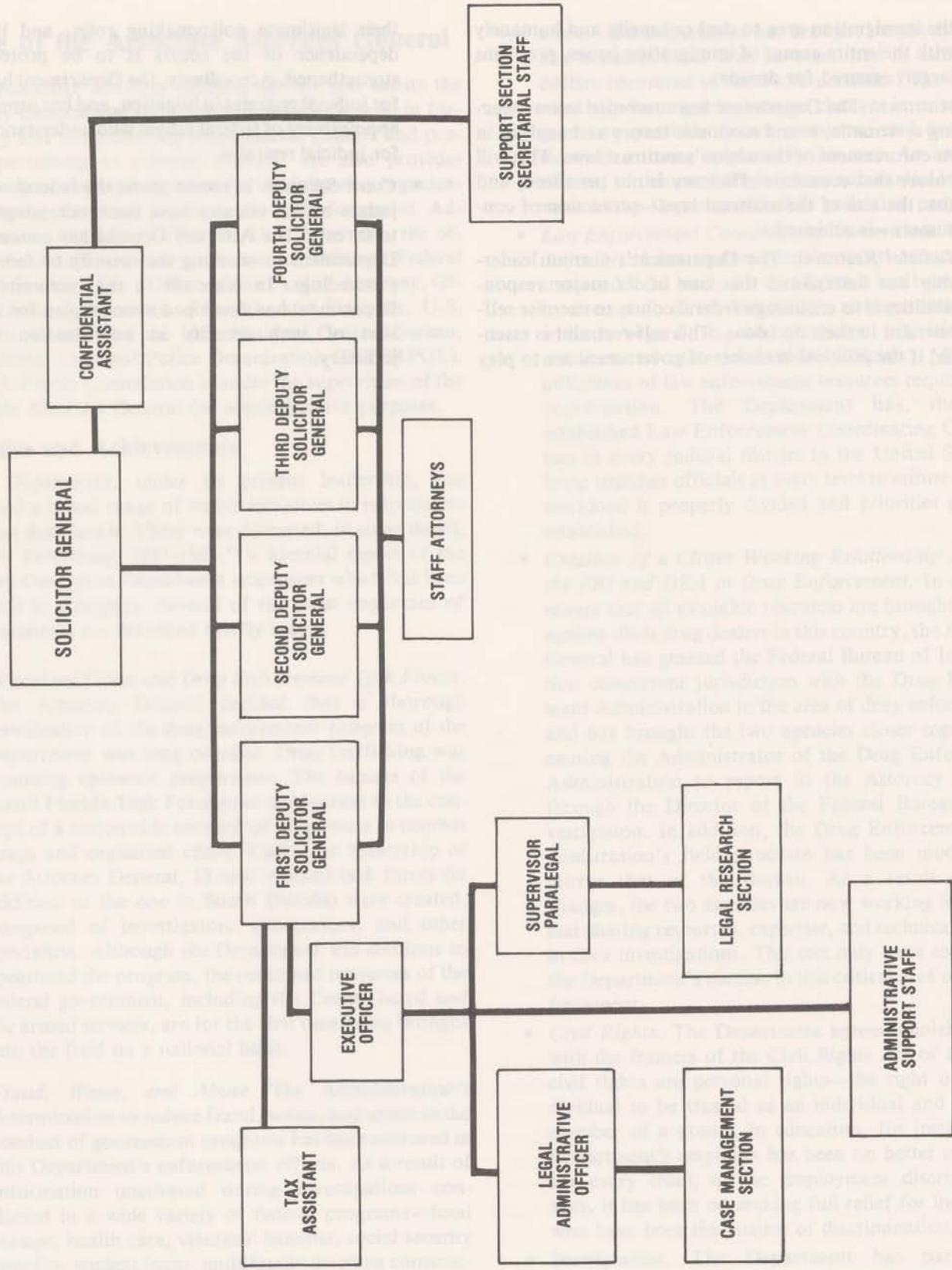
A description follows of the work of the Office of the General Counsel and how it is a true example of the Department's commitment to the business of law. The Office of the General Counsel is the Department's principal legal advisor. It advises the Secretary and Deputy Secretary, as well as many other Departmental officials, on legal matters of the government.

During the past term of the Supreme Court (July 2, 1982 to July 6, 1983), the Office handled 2,777 cases, 44 percent of the 5,979 cases on the Court's docket (Table 1). Of the 2,685 cases heard by the Supreme Court, 306 were with 1,446 in which the government appeared as the respondent, 399 petitions for writs of certiorari filed or supported by the government and 16 cases in which it appeared as an amicus curiae supporting the respondent (Table 10-A). During the same term, the Court issued 1,077 opinions filed or supported by the government and 177 others where the government represented the appellee or respondent in antecedent cases before the Supreme Court. In addition, the Office participated in 2,700 other federal appellate cases, 1,030 of which were filed or supported by the government.

Of the 4,000 petitions for writs of certiorari filed during the term, 36 were presented to the United States. Of these, 26 were accepted, 10 were denied, and 1 was withdrawn. The term began with 10 cases in which the government was the respondent. By the 1982 Term, the Court had accepted 17 cases in which the government was the respondent. The government's record in the Supreme Court was 1,446 cases filed or supported by the government, 399 petitions for writs of certiorari filed or supported by the government, 16 cases in which the government was an amicus curiae, and 177 cases in which the government was the respondent.

The government participated in 2,700 other federal appellate cases, 1,030 of which were filed or supported by the government. The government participated in 172 of 216 cases in which the government succeeded in favor of the government's position and those per-

## OFFICE OF THE SOLICITOR GENERAL



# Office of the Solicitor General

## Rex E. Lee 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 litigated by the federal government that a lower court has decided against the United States, to determine whether to appeal, and also decides whether the United States should file a brief as *amicus curiae* in any appellate court.

A significant part of the work of the Office involves government agencies that have conducted 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 executive departments of the government.

During the past term of the Supreme Court (July 2, 1982 to July 6, 1983), the Office handled 2,152 cases, 42 percent of the 5,079 cases on the Court's docket [Table I]. Of the 4,005 cases acted on during the term, there were 1,486 in which the government appeared as the respondent, 93 petitions for writs of *certiorari* filed or supported by the government and 18 cases in which it appeared as *amicus curiae* supporting the respondent [Table II-A]. During the same period, the Court acted upon 10 appeals filed or supported by the government and 17 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 6 cases on the Court's original docket [Table II-D].

Of the 4,005 petitions for writs of *certiorari* docketed and acted upon, only four percent were granted during the term. Of those filed or supported by the United States 64 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 or to support a petition. Of the 10 appeals filed or supported by the government, probable jurisdiction was noted by the Court in eight [Tables II-A and B].

The government participated in argument or filed briefs as *amicus curiae* in 131 (72 percent) of 183 cases argued on the merits before the Supreme Court. Of the cases decided on the merits, with or without argument, the government participated in 172 of 283 cases, 67 percent of which were decided in favor of the government's position and three per-

cent of which were decided partially in favor of the government's position.

During the same period, there were 584 cases in which the Solicitor General decided not to petition for *certiorari*, two cases in which he decided not to take a direct appeal and 1,155 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 332 miscellaneous matters. This made a total of 4,225 substantive matters the Office handled during the year.

Government cases handled by the Office of the Solicitor General resulted in the following decisions by the Supreme Court during the 1982 Term, among more than 70 others: 1) the legislative veto provision of the Immigration and Nationality Act is unconstitutional (*INS v. Chadha*); 2) the Crude Oil Windfall Profit Tax Act of 1980 does not violate the Uniformity Clause of the Constitution (*United States v. Ptasynski*); 3) the extension of the Age Discrimination in Employment Act to cover state and local governments is a valid exercise of Congress' powers under the Commerce Clause and is not precluded by the Tenth Amendment (*EEOC v. Wyoming*); 4) the Pregnancy Discrimination Act's amendments to Title VII of the Civil Rights Act of 1964 prohibit discrimination in health plan coverage for the pregnancy of employees' spouses (*Newport News Shipbuilding & Dry Dock Co. v. EEOC*); 5) the Nuclear Regulatory Commission, in deciding whether to authorize the operation of a nuclear power plant, need not consider psychological stress to persons living in the vicinity (*NRC v. People Against Nuclear Energy*); 6) the medical-vocational guidelines promulgated by the Secretary of Health and Human Services for evaluating disability claims properly implement the Social Security Act (*Heckler v. Campbell*); 7) servicemen may not sue their superior officers for damages for alleged violations of their constitutional rights incident to their military service (*Chappell v. Wallace*); 8) attorney's fees may not be awarded under the Clean Air Act to a party who does not prevail on any aspect of his challenge to EPA regulations (*Ruckelshaus v. Sierra Club*); 9) the Fourth Amendment permits Customs officials, acting pursuant to congressional authority, to board a vessel located on waters providing ready access to the high seas (*United States v. Villamonte-Marquez*); 10) the use of a hidden radio beeper to trace the movement of goods to a particular location is

not a "search" or "seizure" within the meaning of the Fourth Amendment (*United States v. Knotts*); 11) the Federal Communications Commission is not required in broadcast licensing proceedings to attempt an independent assessment of a television station's compliance with the Rehabilitation Act (*Community Television of Southern California v. Gottfried*).

The Office of the Solicitor General filed briefs as a friend of the Court in many other cases, including cases in which the Court held that: 1) the Foreign Sovereign Immunities Act's authorization for foreign plaintiffs to sue foreign defendants in federal court does not violate Article III of the Constitution (*Verlinden B.V. v. Central Bank of Nigeria*); 2) whether an informant's tip established probable cause for issuance of a search warrant is to be determined by the totality of circumstances instead of under the rigid test previously followed by the Supreme Court (*Illinois v. Gates*); 3) a state legislature's practice of beginning each session with a prayer by a chaplain selected by the legislature

and paid by the state does not violate the Establishment Clause of the First Amendment (*Marsh v. Chambers*); 4) a state tax deduction for tuition, textbook and transportation expenses for children attending parochial schools does not violate the Establishment Clause of the First Amendment (*Mueller v. Allen*); 5) a U.S. bank sued by the Cuban foreign trade bank is entitled to a setoff in the amount of the U.S. bank's assets expropriated by the Cuban Government (*First National City Bank v. Banco Para El Commercio Exterior de Cuba*); 6) the recipient of nonpublic information concerning ongoing criminal conduct within a corporation may lawfully communicate that information to others who use it in making investment decisions if he has no fiduciary relationship to shareholders and there was no misappropriation (*Dirks v. SEC*); 7) the Fourth Amendment permits a police officer to conduct a protective search of the passenger compartment of an automobile if the officer has a reasonable belief that the suspect is dangerous and may gain immediate access to weapons (*Michigan v. Long*).

**TABLE I**  
**Office of the Solicitor General—Supreme Court Litigation**  
**October Term, 1982**  
**(July 2, 1982—July 6, 1983)**  
**Total Cases**

	1978		1979		1980		1981		1982	
	No.	%								
1. Total number of cases on dockets.....	4734	100	4781	100	5144	100	5311	100	5079	100
a. Brought over from preceding Term.....	837	18	795	17	970	19	889	17	878	17
b. Docketed during the Term.....	3897	82	3986	83	4174	81	4422	83	4201	83
2. Disposition of cases on dockets at the Term:										
Total.....	4734	100	4781	100	5144	100	5311	100	5079	100
a. Cases acted upon and closed.....	3939	83	3811	78	4255	83	4433	83	4215	83
b. Cases acted upon but not closed.....	93	2	91	2	105	2	132	2	109	2
c. Cases docketed but not acted upon.....	702	15	879	18	784	15	746	14	755	15
3. Cases carried over to next Term.....	795	—	970	—	889	—	878	—	864	—
4. Classification of cases acted upon at the Term:										
Total.....	4030	100	3902	100	4360	100	4565	100	4306	100
a. Certiorari.....	3763	93	3648	93	4097	94	4267	93	3904	91
b. Appeals.....	187	5	170	4	178	4	213	5	264	6
c. Miscellaneous docket, original writs.....	64	2	71	2	71	2	74	2	128	3
d. Original Docket.....	16	—	13	—	12	—	11	—	10	—
e. Certifications.....	0	—	0	—	2	—	0	—	0	—
5. Cases participated in by the Government:.....	2211	47	2023	42	1999	39	2052	39	2152	42
6. Cases not participated in by the Government:.....	2523	53	2758	58	3145	61	3259	61	2927	58

**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 application for stays, extensions of time, or similar matters, or denied petition for rehearing

A. PETITIONS FOR WRITS OF CERTIORARI	1978		1979		1980		1981		1982	
	No.	%								
1. Total number docketed and acted upon.....	3715	100	3590	100	4038	100	4172	100	4005	100
a. Petitions filed or supported by Govt:	68	2	67	2	69	2	81	2	80	2
(1) Government as petitioner.....	52	2	55	2	50	2	57	1	66	2
(2) Government as <i>amicus</i> , supporting petitioner.....	16	—	12	—	19	—	24	1	14	—
b. Petitions not filed or supported by Government.....	3647	98	3523	98	3969	98	4092	98	3919	95
(1) Government as respondent.....	1723	46	1498	42	1525	38	1570	38	1486	40
(2) Government as <i>amicus</i> , supporting respondent.....	20	1	24	1	19	—	22	—	18	—
(3) No participation by Govt.....	1904	51	2001	56	2425	60	2500	60	2415	59
2. Total number of petitions granted.....	212	6	222	6	243	6	195	5	142	4
a. Petitions filed or supported by Govt:	49	72	53	79	42	61	68	86	51	64
(1) Government as petitioner.....	37	71	43	78	31	62	45	79	39	59
(2) Government as <i>amicus</i> , supporting petitioner.....	12	75	10	84	11	58	23	96	12	86
b. Petitions not filed or supported by Govt:	163	4	169	5	201	5	127	3	91	2
(1) Government as respondent.....	51	3	51	3	48	3	18	1	28	1
(2) Government as <i>amicus</i> , supporting respondent.....	14	70	11	46	2	11	22	100	4	22
(3) No participation by Government.....	98	5	107	5	151	6	87	3	59	3
3. Total number of petitions denied or dismissed.....	3473	93	3354	94	3773	93	3949	95	3838	98
a. Petitions filed or supported by Govt:	16	24	12	18	24	35	10	2	10	2
(1) Government as petitioner.....	12	23	11	20	18	36	9	16	9	15
(2) Government as <i>amicus</i> , supporting petitioner.....	4	25	1	8	6	32	1	4	1	4
b. Petitions not filed or supported by Govt:	3457	95	3342	95	3749	94	3939	96	3829	98
(1) Government as respondent.....	1664	97	1445	97	1468	96	1546	99	1459	98
(2) Government as <i>amicus</i> , supporting respondent.....	6	30	13	54	17	89	—	—	14	78
(3) No participation by Government.....	1787	94	1884	94	2264	93	2393	96	2356	98
4. Total number of petitions mooted or dismissed.....	30	1	14	—	22	1	28	—	24	—

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

NOTE: Percentages based on participation.

**TABLE II-B,C**  
**Office of the Solicitor General**  
**(Cont'd)—Classification of Cases Upon Which the Supreme Court has Acted**

B. APPEALS	1978		1979		1980		1981		1982	
	No.	%								
1. Total number docketed and acted upon .	162	100	153	100	165	100	190	100	154	100
a. Appeals filed or supported by Govt:	9	6	12	8	14	8	22	12	10	6
(1) Government as appellant.....	8	5	10	7	10	6	17	10	8	5
(2) Government as <i>amicus</i> , supporting appellant.....	1	1	2	1	4	2	5	3	2	1
b. Appeals not filed or supported by Govt:	153	94	141	92	151	92	168	88	144	94
(1) Government as appellee .....	12	7	15	10	18	11	12	6	12	8
(2) Government as <i>amicus</i> , supporting appellee .....	6	4	5	3	2	1	2	1	5	3
(3) No participation by Government .....	135	83	121	79	131	80	154	81	127	82
2. Total number dismissed, affirmed or reversed without argument .....	131	81	124	81	124	75	141	74	130	84
a. Appeals filed or supported by Govt: .....	3	33	3	25	2	14	6	27	2	20
(1) Government as appellant.....	3	37	3	30	2	20	5	29	2	25
(2) Government as <i>amicus</i> , supporting appellant.....	0	—	0	—	0	—	1	20	0	0
b. Appeals not filed or supported by Govt:	128	84	121	86	122	81	135	80	128	89
(1) Government as appellee .....	9	75	13	87	10	56	4	100	12	100
(2) Government as <i>amicus</i> , supporting appellee .....	3	50	2	40	—	—	2	100	3	60
(3) No participation by Government .....	116	86	106	88	112	85	129	84	113	89
3. Total number Jurisdiction Noted or set for argument .....	31	19	29	19	41	25	49	26	24	16
a. Appeals filed or supported by Govt: .....	6	67	9	75	12	86	16	73	8	80
(1) Government as appellant.....	5	63	7	70	8	80	12	71	6	75
(2) Government as <i>amicus</i> , supporting appellant.....	1	100	2	100	4	100	4	80	2	100
b. Appeals not filed or supported by Govt:	25	16	20	14	29	19	33	20	16	11
(1) Government as appellee .....	3	25	2	13	8	44	8	67	0	0
(2) Government as <i>amicus</i> , supporting appellee .....	3	50	3	60	2	100	0	—	2	40
(3) No participation by Government .....	19	14	15	12	19	15	25	10	14	11

**C. MISCELLANEOUS DOCKET—ORIGINAL WRITS**

1. Total number of applications for original writs docketed and acted upon .....	64	100	71	100	71	100	74	100	76	100
a. Filed or supported by Government .....	0	—	0	—	0	—	0	—	0	—
(1) Government as petitioner .....	0	—	0	—	0	—	0	—	0	—
(2) Government as <i>amicus</i> , supporting petitioner .....	0	—	0	—	0	—	0	—	0	—
b. Not filed or supported by Government .....	64	100	71	100	71	100	74	100	76	100
(1) Government as respondent .....	20	31	25	35	13	18	14	19	13	17
(2) Government as <i>amicus</i> , supporting respondent .....	0	—	0	—	0	—	0	—	0	—
(3) No participation by Government .....	44	69	46	65	58	82	60	81	63	83
2. Total number decided without argument .....	64	100	71	100	71	100	74	100	76	100
a. Filed or supported by Government .....	0	—	0	—	0	—	—	—	0	—
(1) Government as petitioner .....	0	—	0	—	0	—	—	—	0	—
(2) Government as <i>amicus</i> , supporting petitioner .....	0	—	0	—	0	—	—	—	0	—
b. Not filed or supported by Government .....	64	100	71	100	71	100	74	100	76	100
(1) Government as respondent .....	20	31	25	35	13	18	14	19	13	17
(2) Government as <i>amicus</i> , supporting respondent .....	0	—	0	—	0	—	0	—	0	—
(3) No participation by Government .....	44	69	46	65	58	82	60	81	63	83
3. Total argued or set for argument .....	0	—	0	—	0	—	0	—	0	—
a. Filed or supported by Government .....	0	—	0	—	0	—	0	—	0	—
(1) Government as petitioner .....	0	—	0	—	0	—	0	—	0	—
(2) Government as <i>amicus</i> , supporting petitioner .....	0	—	0	—	0	—	0	—	0	—
b. Not filed or supported by Government .....	0	—	0	—	0	—	0	—	0	—
(1) Government as respondent .....	0	—	0	—	0	—	0	—	0	—
(2) Government as <i>amicus</i> , supporting respondent .....	0	—	0	—	0	—	0	—	0	—
(3) No participation by Government .....	0	—	0	—	0	—	0	—	0	—

**TABLE II-D, E**  
**Office of the Solicitor General**  
**(Cont'd)—Classification of Cases Upon Which the Supreme Court has Acted**

	1978		1979		1980		1981		1982	
	No.	%								
<b>D. ORIGINAL DOCKET</b>										
1. Total number acted upon.....	16	100	13	100	12	100	11	100	10	100
a. Government participating.....	10	63	9	69	10	83	4	36	6	60
b. Government not participating.....	6	37	4	31	2	17	7	64	4	40
<b>E. CERTIFICATES</b>										
1. Total number of certificates docketed and acted upon.....	0	—	0	—	2	100	0	—	0	—
a. Government participating.....	0	—	0	—	2	100	0	—	0	—
b. Government not participating.....	0	—	0	—	0	—	0	—	0	—

NOTE: Percentages based on participation

**TABLE III**  
**Office of the Solicitor General**  
**Classification of Supreme Court Cases Argued or Decided on Merits**

	1978		1979		1980		1981		1982	
	No.	%	No.	%	No.	%	No.	%	No.	%
<b>A. ARGUED</b>										
1. All cases argued .....	168 <sup>4</sup>	100	156 <sup>4</sup>	100	154 <sup>4</sup>	100	184 <sup>4</sup>	100	183	100
2. Government participating .....	99	59	108	69	101	66	104 <sup>4</sup>	57	131	72
a. Government as petitioner or appellant <sup>2</sup> .....	29	29	43	40	31	31	30	29	44	34
b. Government as respondent or appellee <sup>2</sup> .....	34	34	35	32	37	36	27	26	44	34
c. Government as <i>amicus</i> <sup>2</sup> .....	36 <sup>3</sup>	37	30 <sup>3</sup>	28	33 <sup>3</sup>	33	47 <sup>3</sup>	45	43	33
3. Government not participating .....	69	41	48	31	53	34	80	43	52	28
<b>B. DECIDED ON MERITS WITH OR WITHOUT ARGUMENT</b>										
1. All cases decided on merits <sup>1</sup> .....	267	100	281	100	277	100	315	100	283	100
2. Government participating .....	122	46	158	56	128	46	136	43	172	61
a. Decided in favor of Govt's position <sup>2</sup> .....	82	67	104	66	92	72	111	82	115	67
b. Decided against Govt's position <sup>2</sup> .....	32	26	51	32	32	25	20	15	50	29
c. Not classifiable as for or against <sup>2</sup> .....	8	7	3	2	4	3	5	3	7	4
3. No participation by Government .....	145	54	123	44	149	54	179	57	111	39

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

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

<sup>3</sup>Includes cases in which the Government filed briefs as *amicus curiae* but did not participate in the argument.

<sup>4</sup>Includes cases set for reargument in succeeding terms.

# Office of Legal Counsel

## Theodore B. Olson Assistant Attorney General

The principal function of the Office of Legal Counsel (OLC) is to assist the Attorney General in his role as legal adviser to the President and executive branch agencies. The Office, which is headed by an Assistant Attorney General, also assists the Attorney General in connection with the activities of the Department itself.

As part of these functions, OLC drafts the formal opinions of the Attorney General. These are relatively few in number and ordinarily involve issues of major significance. Much more frequently, OLC directly provides legal advice in response to requests from officials of the executive branch, typically involving legal issues of particular complexity and importance, and often about which two or more agencies are in disagreement. During Fiscal Year 1983, hundreds of written OLC opinions were issued and frequent informal oral advice was provided to various officials within the Executive Office of the President, federal departments and agencies, and components within this Department, covering a wide range of legal questions, including both matters of constitutional interpretation and statutory construction.

In addition, all proposed executive orders and certain Presidential proclamations are reviewed by the Office as to form and legality before issuance. During the past year, the Office approved nearly 100 of these. An example of this function was the President's executive order creating the Organized Crime Commission. The Office was involved not only in the final approval of the order, but also in the early stages of its drafting. OLC continues to assist the Attorney General, as well as the Commission itself, in implementing that executive order.

The Assistant Attorney General, his deputies, and members of the staff served on a number of formally constituted interdepartmental and intradepartmental committees during the year. These included the Administrative Committee of the Federal Register, the Secretary of State's Advisory Committee on Private International Law, and the Department of Justice Review Committee (Chairman), as well as numerous ad hoc working groups. The Office continued to provide 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 Assistant Attorney General also served as a liaison to the National Conference

of Commissioners on Uniform State Laws and to the Council of State Governments.

Although the Office does not conduct litigation as one of its regular functions, it is frequently called upon to advise and assist other divisions of the Department in making litigation strategy judgments and in the preparation of briefs and memoranda relating to constitutional or statutory issues within the Office's areas of expertise; occasionally, staff attorneys have also briefed and presented oral arguments in appellate matters. During Fiscal Year 1983 the Office participated extensively in cases involving, for example, legislative vetoes, challenges to Presidential appointment and removal of executive branch officials, and various First Amendment issues.

In the legislative area, the Office assisted other Department components in preparing legislation desired by the Department. In addition, OLC provided legal analysis of legislation proposed by Congress and other executive branch agencies. The Office also prepared and delivered testimony before committees of Congress on a number of matters, including legislative inquiries as to the President's powers to respond to international energy emergencies, as to reform of territorial courts, as to the legal rights of citizens of the Northern Mariana Islands, and as to the Federal Bureau of Investigation's National Crime Information Center. Similarly, the Office assisted in the preparation of testimony for various officials of this and other departments, most notably with regard to the response of the executive branch to the Supreme Court's invalidation of legislative veto devices in *Immigration and Naturalization Service v. Chadha*.

In assisting the Attorney General with respect to Department activities, the Office reviews all orders and regulations submitted for the Attorney General's signature, and provides advice with respect to his formal review of certain decisions of the Board of Immigration Appeals. OLC also provides substantial advice concerning the ethical responsibilities of Department attorneys and other employees, and fulfills the Attorney General's responsibilities under the Ethics in Government Act of 1978 to approve blind trusts and to work with the Director of the Office of Government Ethics to develop rules, regulations, procedures, and forms relating to ethics and conflicts of interest. Furthermore,

OLC performed, pursuant to specific delegations, a number of responsibilities imposed upon the Attorney General by such specific statutory provisions in other areas of the law as well.

The Office's designated functions also include advising with respect to the legal aspects of treaties and other international agreements. The Office dealt with a number of such matters during Fiscal Year 1983, rendering advice to the Attorney General and working with the Departments of State, Defense, the Treasury, Transportation and other executive departments as necessary to prepare coordinated advice to the President. For example, OLC rendered advice on

the War Powers Resolution with respect to Lebanon and Grenada, provided advice concerning international legal issues arising from the Soviet downing of Korean Airlines Flight 007, and assisted with legal issues arising out of potential asylum claims by the son of a Soviet diplomat.

In addition, OLC has undertaken, at the direction of the Attorney General, responsibility for publishing its legal opinions to provide greater public and agency access to them. Three volumes of selected OLC opinions have been issued, covering the period 1977-79, and preparations for publication of additional volumes covering subsequent years are under way.

# Office of Legislative Affairs

## Robert A. McConnell Assistant Attorney General

The Office of Legislative Affairs (OLA) serves two primary functions. First, the Office helps to formulate legislative policy and to coordinate the development of legislative policy by the Department's offices, boards, divisions, and bureaus. Second, the Office serves as the Department's liaison with Congress and other government departments and agencies.

OLA recommends and coordinates 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. It monitors congressional committees for matters of interest to the Department, and provides assistance to the President's staff in formulating the Administration's bills and in seeking their approval by Congress. OLA 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 Fiscal Year 1983 was substantial. OLA handled 1,394 requests for reports to Congress and the Office of Management and Budget on legislative proposals. Department witnesses testified at 179 congressional hearings. Responses were prepared to more than 4,500 letter inquiries from Congress, other agencies, or the public. Approximately 8,000 telephone inquiries were received from Congress and other sources.

Major legislative matters to which the Office devoted substantial resources during the session include:

- Comprehensive legislation to curb illegal immigration and to legalize the status of millions of illegal aliens in the United States.
- The "Comprehensive Crime Control Act of 1983," a 42-point anti-crime package submitted to the Congress by Presidential message of March 16, 1983.
- "Federal Tort Claims Act Amendments" to 1) make the government the exclusive defendant for actions taken by federal employees in the scope of their employment, and 2) waive sovereign immunity for constitutional torts. This provision was included in the Comprehensive Crime Control Act as Title XIII, when the measure was forwarded to the Congress.
- Major revisions of the Freedom of Information Act in

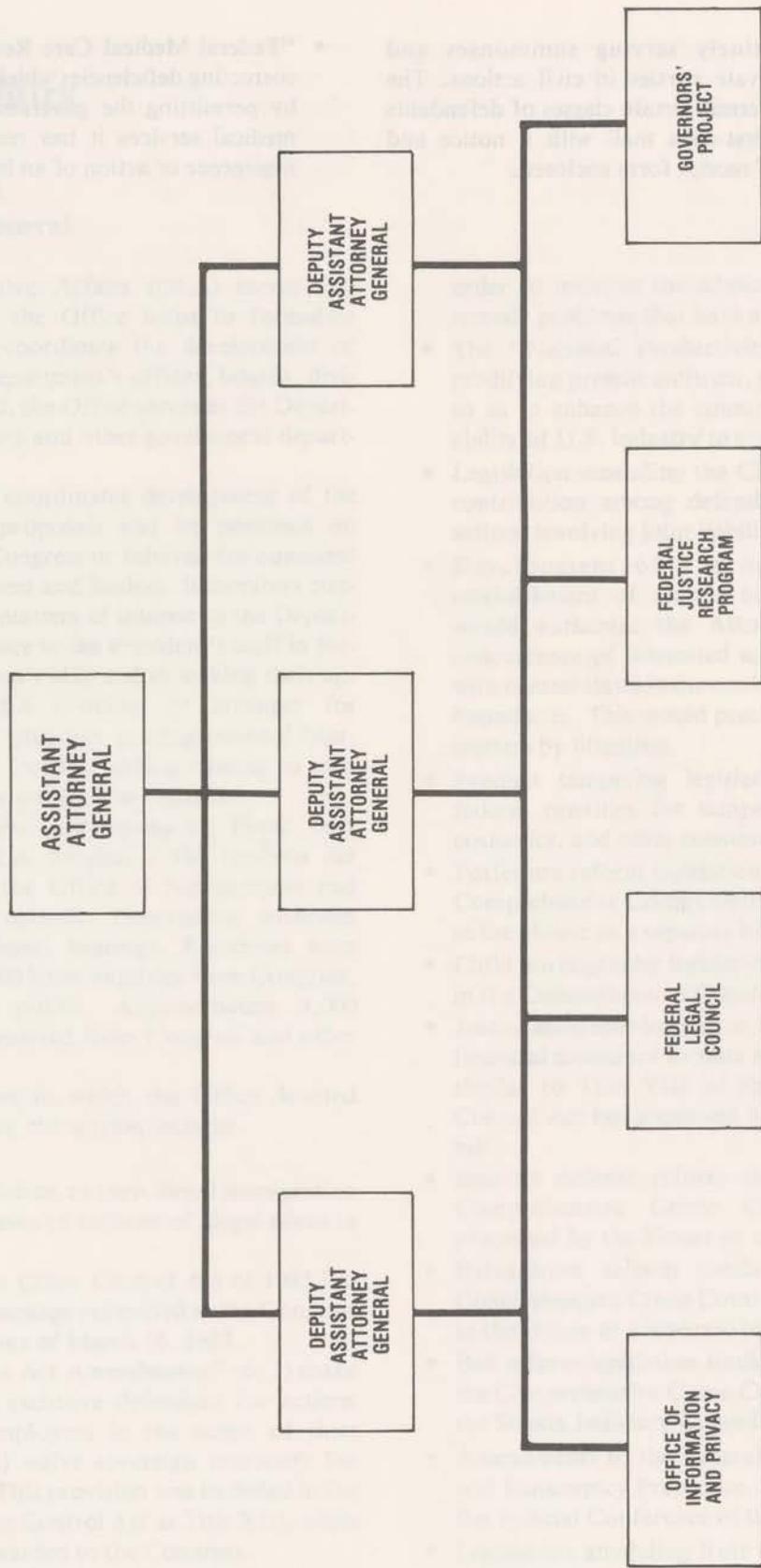
order to improve the administration of the Act and remedy problems that have arisen under the Act.

- The "National Productivity and Innovation Act" modifying present antitrust, patent and copyright laws so as to enhance the country's productivity and the ability of U.S. industry to compete in world markets.
- Legislation amending the Clayton Act to provide for contribution among defendants in certain antitrust actions involving joint liability.
- Development of a proposal concerning the establishment of seabed boundaries. The proposal would authorize the Attorney General, with the concurrence of interested agency heads, to negotiate with coastal states in the establishment of their offshore boundaries. This would preclude the resolving of such matters by litigation.
- Product tampering legislation to provide tougher federal penalties for tampering with foods, drugs, cosmetics, and other consumer products.
- Forfeiture reform legislation similar to Title IV of the Comprehensive Crime Control Act but being processed in the House as a separate bill.
- Child pornography legislation similar to the provision in the Comprehensive Crime Control Act.
- Justice assistance legislation to create a new program of financial assistance to state and local law enforcement similar to Title VIII of the Comprehensive Crime Control Act but approved by the House as a separate bill.
- Insanity defense reform similar to Title V of the Comprehensive Crime Control Act but being processed by the House as a separate bill.
- Extradition reform similar to provisions of the Comprehensive Crime Control Act but being processed in the House as a separate bill.
- Bail reform legislation similar to the bail provision of the Comprehensive Crime Control Act but reported by the Senate Judiciary Committee as a separate bill.
- Amendments to the Federal Rules of Civil, Criminal and Bankruptcy Procedure, as ultimately proposed by the Judicial Conference of the United States.
- Legislation amending Rule 4 of the Federal Rules of Civil Procedure to relieve the U.S. Marshals Service of

the duty of routinely serving summonses and complaints for private parties in civil actions. The amendments also permit certain classes of defendants to be served by first-class mail with a notice and acknowledgment of receipt form enclosed.

- "Federal Medical Care Recovery Act Amendments" correcting deficiencies which have arisen in present law by permitting the government to be reimbursed for medical services it has rendered as a result of the negligence or action of an individual.

OFFICE OF LEGAL POLICY



# Office of Legal Policy

## Jonathan C. Rose Assistant Attorney General

The Office of Legal Policy (OLP), which was established in early 1981, serves as the principal policy staff reporting to the Attorney General and Deputy Attorney General. Under the direction of an Assistant Attorney General, OLP plans, develops, and coordinates the implementation of policy initiatives on issues that are of special concern to the Attorney General and the Administration. OLP is the principal office assisting the Attorney General in his role as chairman of the Cabinet Council on Legal Policy. OLP also coordinates the policies of the Department with respect to other Cabinet Councils, and represents the Department on numerous interdepartmental committees and working groups.

In addition, OLP serves as the lead Department component on several legislative initiatives and is responsible for the staff work involved in the selection of candidates for the federal judiciary. It administers the Governors Project on Organized Crime and Narcotics Trafficking, and the Federal Justice Research Program, which supports empirical and analytic research on civil and criminal justice. It does the staff work for the Federal Legal Council, which promotes coordination and communication among federal government general counsels. Also, OLP represents the Department on the Administrative Conference of the United States, which considers improvements in the administrative process.

Finally, the Office of Information and Privacy, a separate office reporting to OLP, manages departmental responsibilities related to the Freedom of Information Act and the Privacy Act. These responsibilities include coordinating and implementing policy development and compliance governmentwide for the Freedom of Information Act, and Departmentwide for the Privacy Act, and aiding the Assistant Attorney General in deciding all appeals from denial by any departmental unit of access to information under those Acts.

## Fiscal Year 1983 Accomplishments

- OLP developed and presented to Congress the Administration's position on restructuring the bankruptcy courts after the Supreme Court's decision in *Northern Pipeline Construction Co. v. Marathon Pipe Line Co.*, which held unconstitutional the bankruptcy courts' jurisdiction.
- OLP has worked to ensure that the President's judicial

nominees share his views on judicial restraint and law enforcement issues. OLP has also emphasized the identification and recruitment of qualified women and minorities; due in large part to these efforts, 10.4 percent of the candidates selected for the judiciary are women and 7.4 percent are minorities.

- OLP helped coordinate the international legal policies of the Department and participated in interagency groups developing Administration policy with respect to such issues as export controls, unitary taxation, trade law revision, improving the international competitiveness of American products, international investment policy, and the economic distress of Southwest border communities.
- OLP played an active role in the Administration's federalism and deregulation initiatives. For example, OLP represented the Department on an interagency task force that developed regulations (issued by 23 agencies) implementing Executive Order 12372, which expanded the consultation rights of state and local governments with respect to federal grant and direct development programs.
- OLP represented the Department at staff level meetings of the Vice President's Task Group on Financial Services Regulation, which examined regulatory reforms and possible legislative proposals relating to bank deregulation.
- As part of its responsibility to coordinate Department regulatory reform policy, OLP chaired an intradepartmental working group that established a clearinghouse for litigation involving Executive Order 12291 (Office of Management and Budget rulemaking oversight authority).
- OLP chaired an intradepartmental working group that analyzed two recent Supreme Court decisions (*United States v. Sells Engineering* and *United States v. Baggot*) which severely limited the ability of federal prosecutors to share grand jury materials with civil attorneys within the Department and with attorneys in other government agencies. OLP began preparation of a guide for government attorneys on the disclosure and use of grand jury materials.

- OLP worked with the White House and other Department components in developing the Administration's response to the problem of pornography. OLP drafted a memorandum that the Attorney General sent to all U.S. Attorneys, encouraging them to prosecute pornography if it is a problem in their communities, or if child pornography, organized crime, or nationwide distributors are involved.
- OLP participated in the development of Administration positions on the use of sex-based distinctions in pensions and insurance; OLP represented the Department on an interagency working group and prepared briefing papers for the Attorney General and the Cabinet Council on Legal Policy.
- OLP managed the Department's effort to revise and update its regulations implementing the Freedom of Information Act and Privacy Act. Proposed new regulations were published in the Federal Register in August 1983.
- OLP drafted testimony and provided other assistance in support of legislation to reform the Freedom of Information Act. This legislation was unanimously reported by the Senate Judiciary Committee in September 1983.
- OLP rescinded the Department's previous governmentwide guidelines on the granting of fee waivers

under the Freedom of Information Act, and issued new guidelines that more effectively emphasize the criteria developed by many courts, as well as the responsible preservation of federal funds.

- OLP drafted the Department's comments on the Kutak Commission's Proposed Model Rules of Professional Conduct and prepared briefing materials for Department representatives attending American Bar Association meetings on the proposed rules.
- OLP administered the Governors Project, which supports the President's initiative to combat organized crime and narcotics trafficking by facilitating state and federal cooperation and criminal justice reform. The Governors Project was unanimously endorsed by the nation's governors at the March 1983 National Governors' Association meeting in Washington.
- Other activities this fiscal year included leading the Department's advocacy of court reform legislation; preparing legislation on attorneys' fees; starting a review of the Department's Indian responsibilities; and developing positions on antitrust policy, federal court rules reform, criminal law reform, civil rights, telecommunications, the Omnibus Judges Bill, litigating authority, product liability legislation, intelligence and national security, and technology transfer.

# Office of Professional Responsibility

Michael E. Shaheen, Jr.  
Counsel

The Office of Professional Responsibility (OPR) oversees investigations of alleged misconduct by Department employees. The head of this Office is the Counsel on Professional Responsibility, who serves as a special reviewing officer and advisor to the Attorney General, the Deputy Attorney General, and the Associate Attorney General.

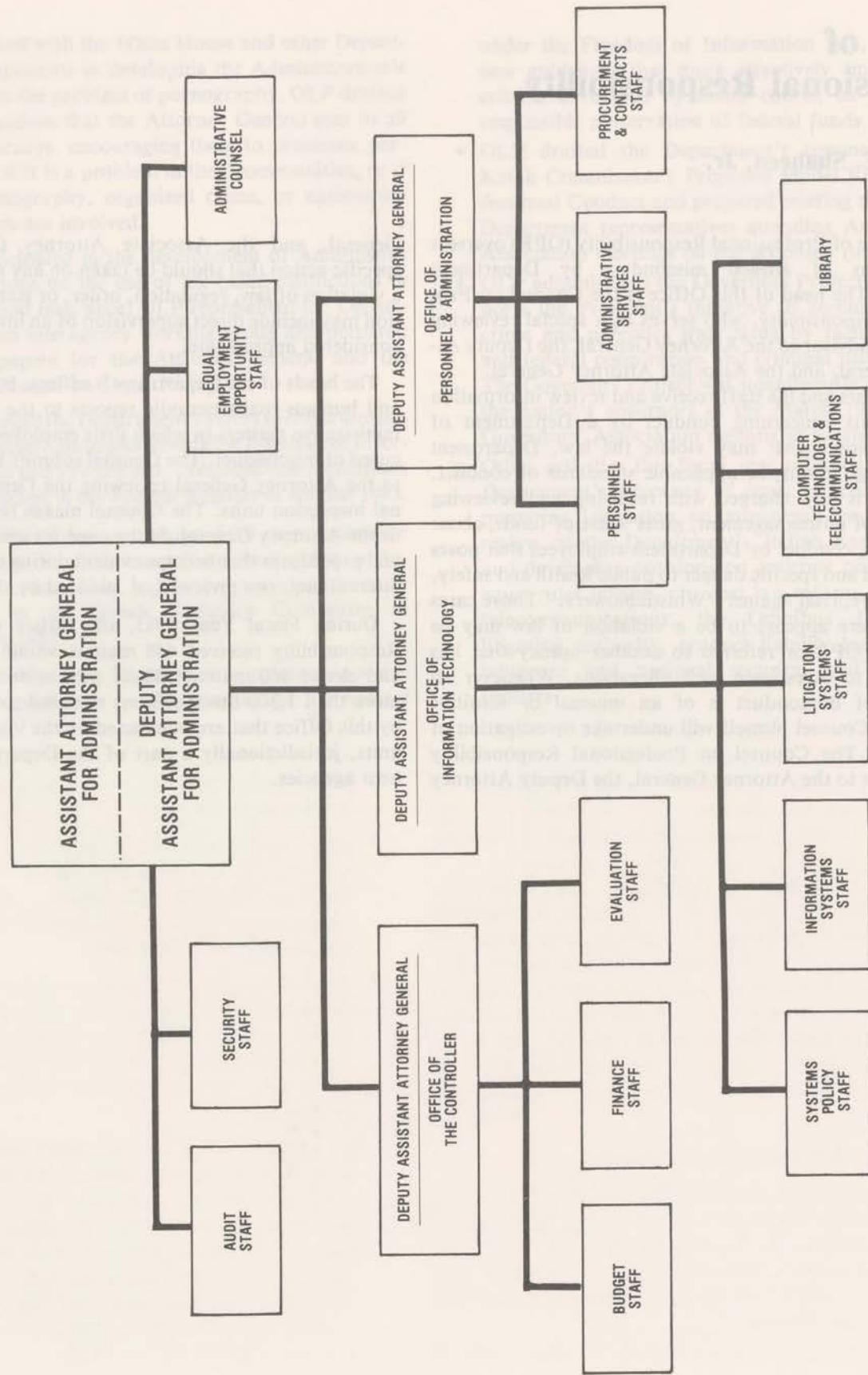
The Counsel and his staff receive and review information or allegations concerning conduct by a Department of Justice employee that may violate the law, Department orders or regulations, or applicable standards of conduct. The Office is also charged with receiving and reviewing allegations of mismanagement, gross waste of funds, abuse of authority, conduct by Department employees that poses a substantial and specific danger to public health and safety, and acts of reprisal against "Whistleblowers." Those cases in which there appears to be a violation of law may be handled by OPR or referred to another agency that has jurisdiction to investigate such allegations. Whenever an allegation of misconduct is of an unusual or sensitive nature, the Counsel himself will undertake investigation of the matter. The Counsel on Professional Responsibility recommends to the Attorney General, the Deputy Attorney

General, and the Associate Attorney General further specific action that should be taken on any matter involving a violation of law, regulation, order, or standards. Such action may include direct supervision of an investigation when considered appropriate.

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

During Fiscal Year 1983, the Office of Professional Responsibility received 448 matters within its jurisdiction and closed 460 matters. These figures do not include the more than 1,300 investigations reported to and monitored by this Office that are conducted by the internal inspection units, jurisdictionally a part of the Department's component agencies.

## JUSTICE MANAGEMENT DIVISION



# Justice Management Division

**Kevin D. Rooney**

**Assistant Attorney General for Administration**

The Justice Management Division (JMD) was established during the early part of Fiscal Year 1980 in concert with the Attorney General's efforts to improve the administration and management of the Department of Justice. Under the direction of the Assistant Attorney General for Administration, JMD performs two primary functions: it oversees selected management operations; and it provides direct administrative services to the offices, boards, and divisions and, to a limited extent, the bureaus of the Department.

JMD serves as the Department's principal liaison with other federal management agencies, including the Office of Management and Budget, the Office of Personnel Management, the General Services Administration, and the General Accounting Office. The Division is also the Department's principal liaison on budgetary matters with the Appropriations Committees of the Congress and their subcommittees.

Within the Division, staffs are grouped into three offices, each directed by a Deputy Assistant Attorney General. The Budget, Finance, and Evaluation Staffs constitute the Office of the Controller; the Personnel, Administrative Services, and Procurement and Contracts Staffs constitute the Office of Personnel and Administration; and the Computer Technology and Telecommunications, Information Systems, Library, Litigation Systems, and Systems Policy Staffs constitute the Office of Information Technology.

Four staffs with sensitive areas of responsibility report directly to the Assistant Attorney General or to his principal Deputy. These include the Office of Administrative Counsel, the Security Staff, the Audit Staff, and the Equal Employment Opportunity Staff.

## Office of Administrative Counsel

The primary mission of the Office of Administrative Counsel (OAC) is to furnish legal advice to JMD staffs on administrative law in such areas as budget, appropriations, procurement, and personnel. OAC also reviews regulations prepared in JMD for legal sufficiency and advises JMD officials (and occasionally other Department officials) on the implementation of the Freedom of Information Act, the Privacy Act, the Ethics in Government Act, and other statutes. OAC also assists the litigating divisions in preparing cases involving actions taken by JMD. In addition, OAC reviews all legal process served by mail naming certain Department officials as defendants.

OAC serves as the liaison with the Office of Management and Budget in implementing Executive Order 12291, "Federal Regulation." This requires OAC to coordinate the production of the semiannual regulatory agendas. Specifically, OAC edits all entries submitted by components for form, content and legal sufficiency prior to departmental approval. OAC also develops and publishes a plan, as required by the Regulatory Flexibility Act (5 U.S.C. 610 (a)), covering the periodic review of rules issued by the Department which have a significant economic impact on a substantial number of small businesses, local governments, and other small entities. Finally, OAC coordinates all Ethics in Government Act compliance endeavors; provides legal advice regarding administrative questions to other departmental components, as requested; and coordinates the Attorney General's responsibilities under the Newspaper Preservation Act.

Among the Office's accomplishments in Fiscal Year 1983 were the following:

- Provided legal advice to JMD staffs and other Department of Justice components on a variety of administrative law matters.
- Reviewed 190 actions for the Procurement and Contracts Staff.
- Reviewed Department orders and comments on pending legislation.
- Served as liaison with the Department's litigating divisions in cases in which JMD was an interested party.

## Security Staff

The Security Staff formulates and monitors Departmentwide policies and procedures for personnel and document security, automated data processing (ADP) and telecommunications security, physical security, Sensitive Compartmented Information security, occupational safety and health, wartime civil emergency preparedness and domestic emergency planning.

The Security Staff performs its various functions under the authority of Executive orders, Office of Management and Budget circulars, Attorney General orders, National Security Council intelligence directives, Director of Central Intelligence directives, and Department of Justice orders promulgated by the Security Staff. It conducts personnel

security investigations and clearances and maintains personnel security files and records; provides guidance on the proper care, custody, and control of National Security Information and Sensitive Compartmented Information; and safeguards ADP/telecommunications resources from accidental or intentional misuse.

The Security Staff also establishes and monitors physical security standards for the Department's offices and buildings; provides a safe working environment for Department employees; develops wartime emergency plans and procedures; and establishes plans and procedures for responding to resource emergencies, domestic disaster emergencies, internal security emergencies and peacetime nuclear emergencies.

Some of the Security Staff's major accomplishments in Fiscal Year 1983 were:

- In response to a request by the Office of the Associate Attorney General, the Security Staff assisted in establishing security standards for the Organized Crime Drug Enforcement Task Forces. In five months, the Security Staff inspected the Organized Crime Drug Enforcement Task Forces and prepared individual security plans for each. In addition, the Security Staff arranged for the installation of a voice protected telephone (VP-II) in each Organized Crime Drug Enforcement Task Force;
- The Security Staff provided extensive support to federal judges across the United States pursuant to the provisions of the Classified Information Procedures Act by assigning staff Security Specialists as Court Security Officers to litigation involving national security information;
- The Emergency Programs Center, together with the Office of the Associate Attorney General, developed a governmentwide Mass Immigration Emergency Plan to deal with future mass immigration emergencies. The plan involved the coordinated and phased response of nine federal agencies to such emergencies under the Department's leadership; and
- The ADP/Telecommunications Security Group issued revised Department orders establishing policy for the protection of ADP systems and the sensitive/classified information processed by such systems, and for the control and protection of sensitive non-classified "Limited Official Use" information.

Other notable Staff achievements included: extensive safety and health inspections in satellite buildings believed to contain asbestos; establishment of a radio communications command center in the Main Justice Building; development of a Legal Training Program for attorneys involved in national security activities/planning; development

of a training program to ensure the survival of a constitutional form of government in case of attack on or emergency in the United States; development of and entrance into a Memorandum of Understanding between the Department and the Department of Defense, clarifying command and control responsibilities during terrorist situations requiring the use of military force; and the construction of a state-of-the-art, physically, electronically and acoustically secure conference facility.

## Audit Staff

The Audit Staff is responsible for conducting internal audits of Department organizations, programs, and functions, and external audits of expenditures made under Department contracts and grants. It also audits departmental automated data processing systems and financial management information systems; and it performs administrative reviews at the request of the Office of Professional Responsibility. In compliance with Office of Management and Budget circulars, the Audit Staff is also the cognizant audit agency for the federal audit of 41 state and 48 local government agencies, and 250 nongovernmental units. Furthermore, it reviews the audits of contracts and grants performed by the other federal agencies for the Department.

Audit Staff activities assist the Attorney General and other officials in achieving the effective management of departmental resources and operations. For example, the Audit Staff provided reports to the heads of the offices, boards, divisions, and bureaus to help them improve their organizations' internal control systems. The results of another audit will improve the U.S. Marshals Service's management of the Support of U.S. Prisoners Appropriation.

Some other audits include: 1) examining the cash management practices in the Department, 2) reviewing the procurement of automated data processing systems and services, and 3) examining the financial activities at 12 Federal Prison Industries institutions.

In recent years, the Department has placed special emphasis on the detection of fraud, waste, and abuse, especially in the area of recovering and saving government contract and grant funds. During the year, the Audit Staff issued reports on 799 grants and contracts covering \$402,216,690. The Department saved \$1,441,299 on preaward contract audits and recovered or deobligated \$548,651.

In addition to conducting audits, the Staff completed several management projects to comply with Office of Management and Budget circulars. A followup system was revised to ensure prompt resolution and implementation of audit recommendations. A handbook providing Staff

guidance for uniformly carrying out the Department's responsibility for implementing the single audit concept was prepared.

## **Equal Employment Opportunity Staff**

The Equal Employment Opportunity Staff develops and monitors Department policies and programs to ensure equitable employment practices. The Staff provides technical assistance to bureau level equal employment opportunity staffs, departmental employees and officials, and serves as liaison between the Department and the Equal Employment Opportunity Commission, the Office of Personnel Management, the Merit Systems Protection Board and other federal agencies. The Staff employs Special Emphasis Program Managers for the Federal Women's, Hispanic Employment, Black Affairs, and Selective Placement for Handicapped Persons and Disabled Veterans Programs. Other Staff specialists are responsible for affirmative action planning, recruitment and discrimination complaint investigation and processing.

During the past year, the Department's equal employment opportunity efforts focused on the recruitment of qualified candidates for employment, and on improvement in the discrimination complaints process. The Staff has acquired computer equipment that will allow establishment of an automated system of tracking complaints filed within the Department and an automated Talent Bank for referral of qualified women, minority, and handicapped applicants.

The Staff's efforts have helped the Department to achieve a highly pluralistic work force. As of May 28, 1983, minorities comprised 25.7 percent of the Department's total work force, and women 37.9 percent. Handicapped individuals and disabled veterans comprised 2.2 percent—actually, well over 3 percent if law enforcement positions which are not readily susceptible to the placement of handicapped individuals are excluded.

To augment its traditional outreach and recruitment efforts, the Staff participated in several conferences and seminars to establish productive relationships with organizations concerned with our constituent groups. Significantly, the Department, along with the Department of the Treasury, has assumed co-sponsorship of the Interagency Committee on Women in Federal Law Enforcement. The goal of this Committee which has operated under the aegis of the Office of Personnel Management since it was founded in 1977, continues to be the enhancement of hiring, training, and promotional opportunities for women in law enforcement and their equitable treatment. Thirty organizations are represented currently on the Committee.

The Staff continues to seek improvement in processing discrimination complaints. The efforts remain directed

toward the informal and fair resolution of all complaints and the reduction of necessary processing time. During Fiscal Year 1983, 235 formal complaints were filed throughout the Department and 207 cases were closed. A total of 550 complaints were still in process at the end of Fiscal Year 1983.

## **Office of the Controller**

The Office of the Controller is responsible for all budget and financial activities, accounting operations, personnel and payroll accounting information systems, internal control systems, program evaluations, organization analysis, and management assistance studies. The Controller serves as the Department's budget officer, the financial manager of the Working Capital Fund, and the Department's principal contact with congressional Appropriations Committees. In addition, this Office is responsible for supporting the Department's annual congressional funding level authorization and appropriation processes. The Office comprises three staffs: Budget, Finance and Evaluation.

### **Budget Staff**

The Budget Staff is responsible for the Department's budget. The Budget Staff helps develop policy and program guidelines for budget estimates, develops budget instructions and procedures, reviews budget estimates and financial plans, and conducts financial and program analyses to assist top officials in assessing whether they are using the Department's resources effectively and efficiently.

The Budget Staff administers Departmentwide controls on appropriations, reimbursements, outlays, and employment ceilings to make sure the Department complies with limitations imposed by the Office of Management and Budget or Congress. The Staff also conducts financial analyses and reviews of status of funds, and prepares Apportionment and Reapportionment Schedules and other reports on budget execution.

The Office of Legislative Affairs sometimes requests the Budget Staff to help assess the personnel and funding resources required to implement various legislative proposals. The Staff also handles a wide range of Office of Management and Budget and congressional inquiries related to the operation of Department programs. During Fiscal Year 1983, the Budget Staff:

- Coordinated and developed program and budget material in support of the President's and the Attorney General's Organized Crime Drug Enforcement initiative. The Staff was instrumental in communicating essential elements of this new drug enforcement initiative to requisite congressional parties

to gain their acceptance and support for the program. The Budget Staff also coordinated development of regional fact sheets outlining the magnitude of drug problems in each geographical region for use by senior departmental officials in explaining the program in the field.

- Coordinated the transfer of financial responsibility for the Cuban/Haitian Entry Program (CHEP) from the Immigration and Naturalization Service to the Community Relations Service.
- Served as financial advisors to the Project 80 computer acquisition effort. This effort encompassed replacing all of the major computer processing units at the Justice Computer Center. The Budget Staff provided cost-benefit analyses on the various proposals provided by computer equipment vendors. The analysis enabled the Department to select a firm that provided significantly enhanced computer capability at 10 percent less cost than the prior equipment.
- Assisted in the transfer of the building maintenance function from the General Services Administration to the Department.
- Developed a new format for analyses of Department of Justice agencies' annual Spring Program Budget requests to Department policy officials. The new format is more concise and more clearly presents the agencies' requests, Budget Staff recommendations and respective supporting justifications.
- Advised the Department's decisionmakers on the transfer of litigative resources from Washington, D.C., to the U.S. Attorneys' Offices in the field.

## Finance Staff

The Finance Staff directs the Department's day-to-day financial management operations (including the accounting for appropriations and expenditures, voucher examination and audits). It establishes the accounting principles and standards of the Department, and approves the Department's financial management systems. For example, the Finance Staff is responsible for the Department's Financial Management Information System, which provides an on-line financial data base for analyzing key decisions made throughout the budget planning-formulation-execution cycle.

The Finance Staff also develops financial management policies and procedures for the Department concerning financial planning, accounting analysis and reporting. The Finance Staff provides technical leadership and support to new departmental financial accounting and information systems, and develops, maintains, and operates the Accounting System for the offices, boards, and divisions and the U.S. Marshals Service.

The Finance Staff also operates the Central Payroll Accounting System, which handles the payroll for all employees of the Department except those employed by the Federal Bureau of Investigation.

The notable achievements of the Finance Staff during Fiscal Year 1983 include:

- Development of a debt collection action plan for recovery of administrative debts arising within the Department;
- Establishment of a Debt Management Section responsible for the Department's legal process debt accounting, including direct deposit activities, fiscal analyses, and financial reporting;
- Development of a Departmentwide procedure for the disposition of seized cash between the time of seizure and forfeiture;
- Installation and expansion of an IBM 4331 computer to support the Financial Management Information System;
- Review of the design documentation of the Federal Prison Industries Accounting System and the Bureau of Prisons Commissary Fund Accounting System;
- Implementation of an Invoice Management System to monitor invoices from receipt to payment or other action, to ensure compliance with the Prompt Payment Act by determining the optimum payment date for each invoice;
- Development of lockbox procedures which outline the steps to be followed in promptly depositing, processing and transferring funds collected through civil legal process debt collections;
- Development of a cash management action plan to improve cash management practices (e.g., accelerating the processing and deposit of receipts, improving control over disbursements, and eliminating idle cash balances);
- Expansion of the automated capabilities of the Payroll Accounting System to eliminate the need for biweekly manual processing and accounting for collection of federal tax liens, Title XIII Bankruptcy orders, child support, garnishments, debts owed to the government and retired military cost-of-living offset;
- Complete updating of the manual for timekeepers responsible for completing Time and Attendance Reports;
- Promulgation of Departmentwide financial management standards of internal control;
- Participation in an intensive workflow analysis of the accounting functions of the Immigration and Naturalization Service Northeast Regional Office;
- Review of the Financial Management Information

System used by the offices, boards, and divisions, the U.S. Marshals Service and the Bureau of Prisons for usefulness, efficiency, and sufficiency of documentation in compliance with the Paperwork Reduction Act of 1980 (P.L. 96-511);

- Development of the questionnaire for evaluating accounting systems for reporting under the Federal Managers' Financial Integrity Act.

### Evaluation Staff

The Evaluation Staff is responsible for the conduct of three primary activities within JMD. First, at the request of senior Department officials, the Staff formally evaluates programs within the Department. Second, the Staff provides management assistance to the Department's components. Third, the Staff reviews all formal reorganizations within the Department. The Staff is also responsible for overseeing both the Reform '88 and the Internal Control Programs of the Administration.

In Fiscal Year 1983, the Staff:

- Devised a methodology by which the U.S. Marshals Service could evaluate the effectiveness of its Fugitive Warrants Program;
- Developed an organizational strategy for the Immigration and Naturalization Service to use in the implementation of its Anti-Smuggling Program;
- Recommended improvements to the operation and structure of the JMD Finance Staff;
- Assessed the information requirements for management control and program evaluation of the Administration's Organized Crime Drug Enforcement Task Force program;
- Assessed the impact of travel restrictions on the conduct of litigation;
- Examined the utility and cost-effectiveness of the use of paralegals within the legal divisions;
- Developed a methodology for determining the relative effectiveness of two JMD automation pilot projects;
- Reviewed the efficiency and effectiveness of the National Clearinghouse for Criminal Justice Information;
- Processed proposals for the reorganization of several Department organizations;
- Coordinated the consolidation of the Immigration Judge function, formerly with the Immigration and Naturalization Service, with the Board of Immigration Appeals; and
- Assessed videoteleconferencing as a means of communication in the Department of Justice.

Ongoing efforts at the close of Fiscal Year 1983 include preparing a comprehensive inventory of federal law en-

forcement resources for use in assessing federal readiness in a variety of emergency situations; evaluating the effectiveness and future role of the Community Relations Service; determining the feasibility and desirability of implementing privately owned and operated industries in the Federal Prison System; reviewing the role of the Department's Contract Review Committee in the procurement process; analyzing the legal functions and activities of the U.S. Parole Commission; and evaluating the efficiency and cost-effectiveness of the National Prisoner Transportation System.

### Office of Personnel and Administration

The Office of Personnel and Administration (OPA) is responsible for planning administrative management programs within the Department and for developing policies and programs to support the various missions of the Department. OPA serves as liaison to other federal agencies, such as the Office of Personnel Management, the General Services Administration, the General Accounting Office, and the Office of Management and Budget, on matters concerning the interpretation or application of governmentwide policies within the Department. Finally, OPA reviews Department programs for overall effectiveness and for compliance with legal and regulatory requirements.

In March 1983, OPA coordinated a special memorial ceremony with the President to honor 13 federal law enforcement officers killed in the line of duty. The officers were employees of the Federal Bureau of Investigation (four), the Drug Enforcement Administration (one), the U.S. Marshals Service (two), the Bureau of Prisons (two), and the Department of the Treasury (four). In the future, OPA will administer a program to commemorate law enforcement officers from all branches of the federal government who lose their lives in the line of duty. The program will grant specially designed memorial certificates to their families.

OPA consists of three separate staff organizations and four small units attached to the immediate office. The staffs include the Personnel Staff, the Administrative Services Staff, and the Procurement and Contracts Staff.

### Personnel Staff

The Personnel Staff plans and directs personnel management and training programs for the Department, develops personnel policies and programs that support the missions of the Department, and provides operating personnel and training support to the offices, boards, and divisions of the Department.

Some of the Staff's major activities in Fiscal Year 1983 included:

- Revision of the Department's order on merit promotion and staffing policy affecting the competitive service positions throughout the Department;
- Development of a new reference booklet entitled "Placement and Advancement Into Entry-Level Professional Positions" to assist managers and supervisors in placement efforts hampered by the abolishment of the Professional and Administrative Career Examination;
- Development and publication of the Department's first Incentive Awards Planning Guide and Calendar. The brochures are designed to facilitate awards planning by identifying the various awards and honors available to recognize DOJ employees;
- Participation with the Departments of the Treasury, Health and Human Services, the Interior and Transportation in conducting the On-Site Survey Method of Personnel Management Evaluation Training Course;
- A demographic survey of all U.S. Attorney personnel to enable the Executive Office for U.S. Attorneys to establish a network of counselors throughout the country;
- Filing exceptions to 12 adverse arbitration awards; oppositions to union exceptions in seven favorable arbitration cases; appeals of adverse administrative law judge decisions (or replies to union appeals) in six unfair labor practice cases; and briefs or supporting legal memoranda in six other cases. Additionally, the staff filed briefs in and argued two appellate court actions for the Department, Case No. 82-4312 (Immigration and Naturalization Service unfair labor practice) pending in the Fifth Circuit and Case No. 82-3177 (Bureau of Prisons adverse action) pending in the Sixth Circuit. This represents the first time this Staff has been called upon to represent the Department in court, as well as before those agencies which administer the Civil Service Reform Act of 1978;
- Sponsorship of the Executive Development Program consisting of 24 senior executive and management seminars attended by 643 Department employees; and
- Initiation of a new program, the Executive Forum, with a dinner meeting at which the Attorney General addressed 200 Senior Executive Service personnel.

## Administrative Services Staff

The Administrative Services Staff manages the Department's facilities, mail and material.

Among its major activities in Fiscal Year 1983 were:

- Initial reviews of personal property management activities throughout the Department. These studies were designed to identify possible fraud, waste, and

- abuse in the acquisition, use, and disposal of the Department's personal property assets, currently valued at over \$460 million. These reviews (coupled with a joint Department/General Services Administration study regarding motor vehicle management) produced 90 recommendations to improve management techniques, and identified potential savings in excess of \$50 million;
- Extensive rehabilitation of office furniture (in lieu of buying new items), resulting in a savings of over \$260,000;
- Departmentwide efforts to recover silver from photographic processing, resulting in an increase in savings from \$4,000 in Fiscal Year 1979 to \$200,000 in Fiscal Year 1980;
- Development of the Department's Agency Space Plan and Work Space Management Plan, which were submitted to the General Services Administration in accordance with the President's governmentwide space reduction initiative;
- Negotiation of a delegation of authority from the General Services Administration for the maintenance and operation of the Main Justice and J. Edgar Hoover Buildings. During the last five months of Fiscal Year 1983, the Justice Building Services of the Administrative Services Staff has realized a 16 percent reduction in energy savings; identified major building and mechanical system deficiencies and developed proposed methods to correct them; awarded major contracts to commercial contractors for custodial services, food services, trash removal and landscaping; and completed the computer room site preparation work for the Civil Division's law office automation (AMICUS) project.
- Evaluation of mail management and operations in a major U.S. Trustee field office to improve operational efficiency and effectiveness resulting in postage cost avoidance in excess of \$110,000;
- A review of the Immigration and Naturalization Service Fiscal Year 1982 Official Mail Report of Volumes and Reimbursement Amounts. A reporting error was identified which resulted in a significant Fiscal Year 1982 postage cost overpayment to the U.S. Postal Service. Documentation detailing the reporting error was submitted to the U.S. Postal Service, and Immigration and Naturalization Service postage costs were reduced by \$128,000.

## Procurement and Contracts Staff

To fulfill the procurement reform initiatives prescribed by Executive Order 12352, the Attorney General designated a Procurement Executive to oversee the Department's pro-

curement systems. The Procurement Executive has stressed competition as a major goal.

The Procurement Executive also oversees the Procurement and Contracts Staff. The procurement operations and contract administration offices are responsible for awarding and administering contracts with four objectives in mind: 1) high quality performance; 2) reasonable prices; 3) timely support for continuity in departmental programs; and 4) the expeditious start of new contract projects. In Fiscal Year 1983, this Staff awarded more than \$74 million in new contracts, modifications, and small purchases.

The Special Authorizations Unit verifies the availability of funds, secures the proper documentation, and authorizes the use of expert witnesses. Over 4,100 requests for expert witnesses were processed in Fiscal Year 1983.

The Procurement and Contracts Staff completed the following projects in Fiscal Year 1983, which were designed to streamline the procurement process and help ensure that proper procurement actions are taken in support of the Department's needs:

- Consolidation of equipment lease and maintenance renewal requirements on a divisionwide basis, which has reduced the administrative burdens and costs to both the government and the contractors;
- Initiation of an automated bidders list containing the names and addresses of contractors who are primarily small or disadvantaged businesses;
- Delegation of procurement authority of up to \$500 to the Executive Officers of the legal divisions for items that do not require competition; and
- Consultation between the Procurement Executive and bureau procurement managers in an effort to improve communications regarding existing procurement procedures and systems and to improve the procurement system of the entire Department.

## **Office of Information Technology**

The Office of Information Technology administers the Department's information and telecommunications systems policy and programs. It also provides information systems support to components of the Department and it manages the data center. The Office of Information Technology oversees five staffs: the Computer Technology and Telecommunications Staff; the Information Systems Staff; the Library Staff; the Litigation Systems Staff; and the Systems Policy Staff.

### **Computer Technology and Telecommunications Staff**

The Computer Technology and Telecommunications

Staff provides common user ADP and telecommunications facilities and services to support the Department's litigation, law enforcement, custody, immigration, management and administrative efforts. In addition, the Staff establishes policy regarding the use of voice and data telecommunications.

The Staff has three major service groups: the Justice Computer Service, the Justice Telecommunications Service, and the Agency Assistance Service.

In 1983, the Staff acquired four large-scale central processing units for the Department that will have sufficient computing power for the next six years. The Staff will acquire additional immediate access storage to allow rapid implementation of new applications and expansion of existing programs. Finally, the Staff has converted to a new operating system that will provide a significantly enhanced, stable and secure environment.

The Justice Telecommunications System (JUST) was recently upgraded from teletypewriter machines with transmission speeds at 10 characters per second to video display terminals (VDT) operating at 12 times the speed of the old network. The upgrading of JUST will save over \$300,000 per year and significantly enhance user capabilities.

In 1982, a study of the Department's networking services was completed. The purpose of the study was to determine how to take advantage of new technology and consolidation techniques used by private industry and to provide cost-effective, flexible networks. The study defined an optimized network approach that would save the Department approximately \$60 million through Fiscal Year 1992. Since the completion of the study, telecommunications cost trends indicate that the potential savings should be greater. In April 1983, the Deputy Attorney General approved this national data network. Implementation is scheduled to begin in Fiscal Year 1985.

The Justice Telecommunications Service installed a new data communications link between the International Criminal Police Organization (INTERPOL)-United States National Central Bureau in Washington, D.C., and the INTERPOL General Secretariat in France. In addition to the data link, the Justice Telecommunications Service acquired photofacsimile equipment to permit INTERPOL to transmit and receive fingerprint data and photographs over the INTERPOL Photography Network.

The Agency Assistance Service coordinated the transfer of the operation of the Financial Management Information System to the Justice Data Center. This system, maintained by the Finance Staff of JMD, provides important data for budget formulation and obligation control. A cost savings of at least 25 percent to the Financial Management Information System users is projected as a result of this move.

## Information Systems Staff

In conjunction with the Litigation Systems Staff, the Information Systems Staff provides services on a reimbursable basis in support of systems development, office automation activities, publication services, automated legal research, and litigation support activities. In addition, the Information Systems Staff reviews the administration of Departmentwide policies in these program areas.

Within the Information Systems Staff are four functional services. The Data Base Support Service provides a computer-assisted legal research service in support of the JURIS data base and software, as well as development and maintenance of data bases for litigation support. It helps departmental organizations select and acquire data base management systems.

The Data Base Support Service implemented the SHEPARDIZE command in the JURIS system, which provides historical citation material pertaining to prior court cases. With the addition of this legal research capability, JURIS becomes an even more powerful legal research tool.

The Office Automation Service oversees the acquisition and management of reprographics, micrographics devices, word processors, facsimile equipment, computers, visual communications and teleconferencing.

The Publications Service provides printing, duplicating, copying and distribution services. It also manages all contracts between the Department and the Government Printing Office for the procurement of printing and selected services.

The Systems Development Service provides systems analysis, systems design, programming, and implementation services in support of automated information processing systems. The Systems Development Service implemented the Office Automation Project, totally integrating existing technology, such as word processors and facsimile equipment, with a commercial dial-up service for electronic mail and executive calendaring. The Systems Development Service also developed "Guidelines for Acquisition of Personal Computer/Microcomputer" for the Department. A Departmentwide Software Development Program was implemented in which multiple contracts were awarded for life cycle data processing that will provide the capability to respond to the Department of Justice community within stringent time frames. The Systems Development Service also developed the specifications and documents required to convert the existing INTERPOL Case Tracking System to operate in the Justice Computer Center.

## Library Staff

The Library Staff provides reference and research services to the Department. It also provides centralized records management policy, coordination, and oversight, and

specialized research services to blind attorneys in the federal government. The Library Staff also manages the Department's Freedom of Information Act Reading Room.

The Library Services staff operates 13 library facilities. The holdings of these collections are searchable in an on-line data base now being tested for eventual access by library patrons. More effective control of research materials will result from the automated circulation system also in the process of being implemented. Library journal routing and interlibrary loan functions have already been automated. The Tax Division libraries have been consolidated into the library system to complete the transition to centrally managed information services. Significant management accomplishments in the libraries include standardization and documentation of operating procedures and policies, an expanded program of on-line data base briefings, and library map displays.

The Records Management Services staff has completed a number of management reviews of Department components to ensure effective management of official records. This is part of an ongoing program to improve records management and ensure compliance with regulations. A survey of Department field operations is also under way to identify potential management problems and deficiencies.

In addition, a variety of technical issues were addressed: establishment of holding areas for records not yet ready for Federal Records Centers; disposition of certain agency records at these centers; procedures for expunging certain criminal records; and safeguarding attorney-client information.

The Sensory Assistance Center has completed a review of available technology for automated law offices as a part of its ongoing effort to enhance research services to blind attorneys in the federal government.

## Litigation Systems Staff

The Litigation Systems Staff, through its three services, the Legal Research and Training Service (JURIS); the Litigation Assistance Support Service (LASS); and the Legal Information Service (LIS), provides training, research, and user assistance in the operation of the Justice Retrieval and Inquiry System (JURIS). JURIS is a computer-assisted legal research system available to the Department of Justice and to others in the federal legal community. The most important capability of the system is its power and flexibility in retrieving federal case law and statutes, although it has other uses as well. During Fiscal Year 1983, the Litigation Systems Staff trained over 2,000 representatives from the federal legal community on the use of JURIS.

The Litigation Systems Staff also provides computer-assisted litigation support. Although this function is another application of JURIS, it involves several additional

system components, including special files designed for particular litigation with access limited to the trial attorney and/or litigation team. These special files represent data that are specific to the particular investigation/litigation—data that may range from checks, phone bills and prescriptions, for example, to massive numbers of documents and tens of thousands of pages of hearing, trial, or deposition testimony. Data are also acquired in computer-readable format through discovery and subpoenas as part of the legal process. Various contractors are used to capture data in the courtroom via computer-assisted transcription, through the use of optical character recognition (OCR), and by traditional keyboarding methods. During Fiscal Year 1983, the Litigation Systems Staff provided litigation computer-assisted support for several criminal cases, including strike force and drug task force cases, as well as several Department of Justice civil cases.

In addition, the Litigation Systems Staff oversees the Department's case management system. This includes both updating and maintenance.

### **Systems Policy Staff**

The Systems Policy Staff consists of the Information Management Group, the Systems Assessment Group, and the Systems Planning and Review Group. The Staff developed the Department's first formal Automated Information System (AIS) Planning Methodology and participated in the development of the JMD AIS Plan.

In conjunction with the Budget Staff, the Systems Policy Staff reviewed and analyzed all budget submissions regarding information and telecommunications systems as part of the 1985 Spring Planning Call. Based on the knowledge gained from this review, the Staff prepared and presented a Departmental Technology Overview.

The Systems Policy Staff reviewed proposals for contracts and procurements of automated data processing hardware, software, and services for consistency with AIS plans and adherence to departmental policy and federal

regulations. The Staff has also provided management support to several principal organizational units in their implementation of significant projects. For example, the Staff has assisted with the long-range AIS plans of the U.S. Marshals Service, the Drug Enforcement Administration, the Federal Bureau of Investigation, and the Immigration and Naturalization Service. It has also assisted with the U.S. Attorneys' automation project (PROMIS) and the expansion of the Bureau of Prisons system (SENTRY). A significant effort was made in conjunction with the Federal Bureau of Investigation to improve the quality of the Bureau's data services to the criminal justice community using the study findings of the Office of Technology Assessment, the Jet Propulsion Laboratory and the Interstate Identification Index pilot.

The Staff has prepared or coordinated all submissions requested by the Office of Management and Budget to implement the requirements of the Paperwork Reduction Act of 1980, and has conducted AIS assessments of two departmental "information centers" in response to Office of Management and Budget Memorandum 81-14. In addition, the Department has submitted its final report on the information resource management (IRM) project, entitled "National Criminal Justice Data Services." This project was selected for special review by the Office of Management and Budget.

The Staff has worked with the Office of Management and Budget in developing the Federal Information Locator System (FILS). The relevant Department of Justice data base became part of the FILS public use data base in January.

The Staff provided coordination of, and staff support to, the Deputy Attorney General's Task Group on Automated Legal Support Systems. The Staff prepared the final report of that Group.

The Systems Policy Staff established procedures whereby an inventory of ongoing research and development projects will be established and kept current.

# Office of Intelligence Policy and Review

## Mary C. Lawton Counsel for Intelligence Policy

The Attorney General has significant responsibility for ensuring that U.S. foreign intelligence and counterintelligence activities, intended to acquire timely, accurate information necessary to understand and counter the activities and capabilities of foreign powers, organizations, persons, and their agents, including international terrorists, are conducted in a lawful manner. Many of these responsibilities are described in Executive Order 12333, "United States Intelligence Activities," and the Foreign Intelligence Surveillance Act of 1978. The Attorney General's responsibilities include providing guidance to the agencies comprising the U.S. Intelligence Community on questions of law and procedure as well as exercising specific approval authorities conferred by statute and executive order.

The Office of Intelligence Policy and Review (OIPR), under the direction of the Counsel for Intelligence Policy, is the principal source of assistance to the Attorney General in the execution of these responsibilities. This Office also represents the Department and serves as legal counsel to other parts of the government in matters relating to the conduct of U.S. intelligence activities. These functions are carried out in several ways.

OIPR advises the Attorney General and organizational units of the Department, as well as other executive branch agencies, on questions relating to the interpretation and application of statutes, executive orders, regulations, and procedures relating to U.S. intelligence activities. OIPR performs legal research, consults with officials of other agencies and the Department's Office of Legal Counsel where appropriate, and prepares legal memoranda and opinions for the Attorney General, other Department of Justice officials, and other elements of the federal government.

In Fiscal Year 1983, the Office provided legal and policy advice on intelligence-related matters to various officials of the Department of Justice and the executive branch. It represented the Department in testimony before the Senate Select Committee on Intelligence and periodically briefed the staffs of that Committee and the House Permanent Select Committee on Intelligence. OIPR representatives also testified before other committees of the Congress.

OIPR plays a significant role in reviewing and assisting in the promulgation of procedures that govern the conduct of intelligence and counterintelligence activities in the United States and abroad, which require the Attorney General's ap-

roval under Executive Order 12333. These procedures are designed to protect individual rights and privacy while permitting all necessary and lawful foreign intelligence and counterintelligence activities.

OIPR also provides legal advice to the Department and other executive branch agencies concerning Executive Order 12356, which establishes standards for the classification of national security information, and the Information Security Oversight Office directive that implements that order. In addition, the Office is coordinating the development of internal orders implementing these standards for the Department's operations and is represented on the Department Review Committee, which is responsible for monitoring classification decisions in the Department.

The Office also represents the Attorney General and the Department of Justice on the National Foreign Intelligence Council, the Interagency Coordinating Committee for United States-Soviet Affairs, the Director of Central Intelligence Committee on Exchanges, the Technology Transfer Intelligence Committee, the Economic Defense Advisory Committee Working Group II, Interagency Groups concerning Counterintelligence, Countermeasures and Strategic Technology, and various subcommittees and working groups of these and other entities.

OIPR has a substantial role in the development of legislative initiatives concerning U.S. intelligence activities. During Fiscal Year 1983, the Office performed interpretative, coordinating, drafting, and analytical functions for the Administration and the Department concerning various legislative proposals affecting intelligence activities. The Office participated in the development of the Department's proposals for amendments to the Freedom of Information Act and the Department's position concerning revision and reenactment of the Export Administration Act. The Office also provided comments, on an ad hoc basis, on various other bills under consideration in the Congress.

In the area of intelligence operations, the Office's responsibilities involve implementation of the Foreign Intelligence Surveillance Act of 1978 and other guidelines and procedures. Requests of the Federal Bureau of Investigation and other intelligence agencies that the Attorney General authorize the filing of applications to conduct intelligence-related electronic surveillance and other intelligence and counterintelligence activities are reviewed by OIPR at-

torneys. Based on their findings of legal sufficiency and consistency with the Foreign Intelligence Surveillance Act and other applicable directives, applications for electronic surveillance are drafted and recommendations are made to the Attorney General to approve or disapprove these requests. The Attorney General has delegated approval authority for certain types of intelligence activities to OIPR, and in those cases authorizations are made by OIPR.

Applications for electronic surveillance that are authorized by the Attorney General are presented to the U.S. Foreign Intelligence Surveillance Court by OIPR attorneys, who appear as legal counsel for the applicant intelligence agencies. When required, legal memoranda, motions, and other legal papers are also prepared and filed with the court. OIPR has also played an increasing role in the prosecution of cases involving foreign counterintelligence issues. During Fiscal Year 1983, Office attorneys assisted in the litigation of several espionage and international terrorism cases, filing motions and legal memoranda on a variety of issues. The Office has had several significant successes, since every court that has addressed the question has upheld the constitutionality of the Foreign Intelligence Surveillance Act and its application by OIPR.

OIPR also prepares the Attorney General's annual and semiannual reports to the Congress on electronic surveillance conducted under the Foreign Intelligence

Surveillance Act. Supplementary briefings on electronic surveillances and other intelligence activities of interest to the House and Senate Intelligence Committees are also provided as required.

A substantial number of Federal Bureau of Investigation requests to conduct undercover activities in counterintelligence cases and other counterintelligence operational activities are reviewed, and recommendations for Attorney General action regarding these operations are developed by OIPR.

The Office monitors certain intelligence and counterintelligence investigations and other activities by executive branch agencies to ensure conformity with the procedures and guidelines, statutes, and executive orders regulating such activities. During the past year, as part of its oversight functions, OIPR attorneys conducted field evaluations of how the procedures governing electronic surveillance in foreign intelligence and counterintelligence cases were being implemented. These reviews involved trips to field facilities of intelligence agencies, interviews of operational personnel, and review of surveillance logs.

Finally, the Office reviewed a small number of domestic security investigations conducted by the Federal Bureau of Investigation under the requisite standards set forth in the Attorney General's guidelines for these investigations.

in monitoring the various counterintelligence and counterterrorism activities of the executive branch. The Commission's recommendations are submitted to the Attorney General and the Director of Central Intelligence. The Attorney General and the Director of Central Intelligence are responsible for determining if certain procedures and standards are appropriate for all executive branch agencies. The Attorney General and the Director of Central Intelligence are responsible for determining if certain procedures and standards are appropriate for all executive branch agencies.

The Commission consists of seven Commissioners appointed by the President with the advice and consent of the Senate. The Commissioners are appointed on a staggered basis of four quarterly for four-year terms.

Commissioners are the principal congressional liaison to the other executive branch agencies with counterintelligence and counterterrorism responsibilities. The Commissioners function as two-person panels to conduct hearings and make recommendations to the Commission concerning policy and procedure issues.

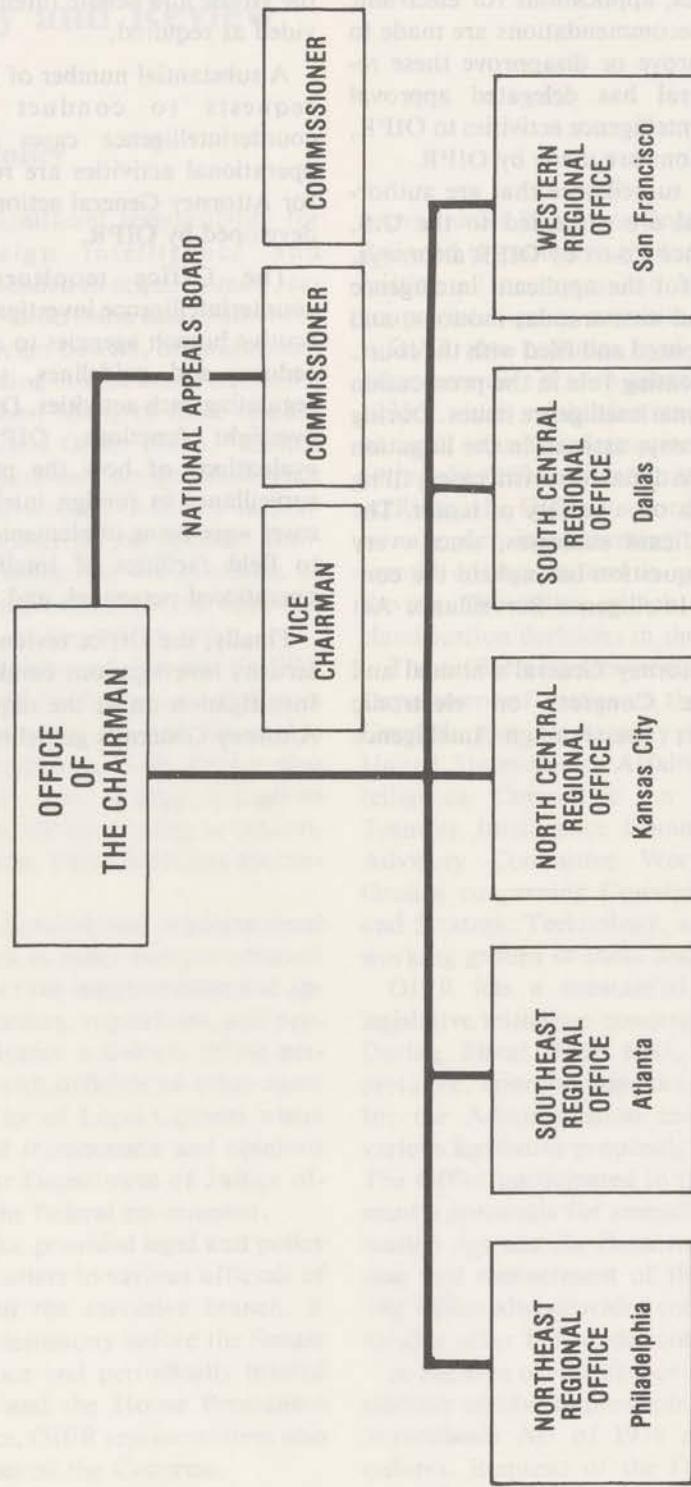
The Commission is assisted by a General Counsel, the Bureau of Prisons, U.S. Marshals, and a number of other federal district courts, and the Federal Bureau of Investigation. The Bureau of Prisons acts as the principal liaison to the Commission, and the service branches and other executive branch agencies are asked to brief the Commission on their respective counterintelligence and counterterrorism activities. The Office of the Director of Central Intelligence, the FBI, and the CIA provide the Commission with the information it needs to make recommendations to the Commission. In this capacity they task, prepare, investigate, and recommend

recommendations to the Attorney General and the Director of Central Intelligence on counterintelligence and counterterrorism investigations and other activities of the executive branch. The recommendations are submitted to the Attorney General and the Director of Central Intelligence. The Attorney General and the Director of Central Intelligence are responsible for determining if certain procedures and standards are appropriate for all executive branch agencies.

During Fiscal Year 1983, the Commission:

- Implemented a new comprehensive security code as part of the policy to provide an overall greater safety and stability in the Commission's deliberation process. This resolution makes clear that violent offenses and large-scale drug trafficking are considered among the most serious offenses, as opposed to minor periods of incarceration.
- Initiated a pilot effort with the Office of Prisons to reduce prison overcrowding by identifying and increasing parole options in addition to the Parole Commission's possible policy under the U.S. Code of Federal Regulations 204. Such options were passed back to the sentencing courts for possible reduction under Title 18, Code of Federal Regulations.
- Provided training and training for Commissioners and staff to assist in facilitating consistent application of Commission policy.
- Expanded implementation of the 1981 Motion and

U.S. PAROLE COMMISSION



# United States Parole Commission

**Benjamin F. Baer**  
Chairman

The United States Parole Commission was established in May 1976 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 administer a parole system for federal prisoners and develop federal parole policy. The federal parole policy is made explicit by the paroling policy guidelines developed by the Parole Commission. These guidelines have been influential in the recent movement to establish systems of explicit decision guidelines for sentencing.

The Commission is authorized to grant or deny parole to any eligible federal prisoner, impose reasonable conditions on the release from custody of any prisoner on discretionary parole or mandatory release by operation of "good-time" laws, revoke parole or mandatory release, and discharge offenders from supervision.

In addition, the Commission is required, under the Labor Management Reporting and Disclosure Act and the Employees Retirement Income Security Act of 1974, to determine if certain prohibitions on holding office in a labor union or an employer group may be withdrawn for offenders who apply for exemption.

The Commission consists of nine Commissioners appointed by the President with the advice and consent of the Senate. The Commissioners are a policymaking body and meet at least quarterly for that purpose.

Hearing examiners in the regional offices and at Headquarters conduct parole hearings with eligible prisoners. They travel to each institution on a bimonthly schedule. The examiners function as two-person panels to conduct hearings and make recommendations to the Commission concerning parole and parole revocation.

The Commission is assisted by officials and staffs of the Bureau of Prisons, U.S. Probation Officers attached to each federal district court, and staff of the U.S. Marshals Service. 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 that capacity they make pre-parole investigations and reports and

provide community supervision over prisoners released to the jurisdiction of the Commission. The U.S. Marshals Service is responsible for executing parole and mandatory release violation warrants and for transporting inmates.

Commission procedures seek to eliminate unnecessary uncertainty for incarcerated offenders regarding the date of their eventual release. By informing prisoners at the outset of confinement of their probable release date, the Commission reduces a source of institutional tension and enables both prisoners and staff to better organize institutional programs and release plans.

Under Commission regulations, all federal prisoners serving a maximum term exceeding one year are afforded parole hearings within 120 days of confinement at a federal institution except for prisoners with a minimum term of parole ineligibility of 10 years or more. These prisoners must serve their minimum term before receiving an initial hearing.

The Chairman and three Commissioners are stationed in Chevy Chase, Maryland. The other five act as Regional Commissioners for the Regional Offices in Philadelphia, Pennsylvania; Atlanta, Georgia; Kansas City, Missouri; Dallas, Texas; and San Francisco, California. The three Commissioners in Chevy Chase, Maryland, make up a National Appeals Board.

During Fiscal Year 1983, the Commission:

- Implemented a more comprehensive severity scale as part of the paroling policy guidelines to provide greater clarity and reliability in the Commission's decisionmaking practices. This revision makes clear that violent offenses and large scale drug trafficking are considered among the most serious offenses, requiring substantial periods of incarceration.
- Initiated a joint effort with the Bureau of Prisons to reduce prison overcrowding by identifying cases with excessive minimum sentences in relation to the Parole Commission's paroling policy guidelines (28 Code of Federal Regulations 2.20). Such cases may be referred back to the sentencing court for possible reduction under 18 U.S. Code 4205(g).
- Provided increased training for Commissioners and staff to assist in maintaining consistent application of Commission policy.
- Expedited implementation of the 1982 Victims and

Witness Protection Act by initiating procedures for including in U.S. Attorney forms notification to victims of prisoners' release dates and affording victims opportunities for input at parole hearings. The Commission also adopted procedures for enhancing the Act's provisions for restitution.

- Conducted 15,500 parole consideration and revocation hearings. This 10.7 percent increase in output over the previous year, required by the increase in

prison population, was accomplished despite a decrease in authorized staffing levels through intensified training and improved case processing techniques.

- Initiated an experimental project to explore the application of telecommunications technology in handling the expanded workload resulting from increased federal prison population.
- Reinforced quality control review procedures.

## Office of the Pardon Attorney

### David C. Stephenson Acting Pardon Attorney

The President exercises the pardon power in Article II, Section 2, Clause 1 of the Constitution based on formal application and the recommendation of the Attorney General, now generally the Associate Attorney General by assignment.

The Pardon Attorney, in consultation with the Associate Attorney General, receives and reviews all petitions for Executive clemency, initiates the necessary investigations and prepares the recommendation of the Associate Attorney General to the President in connection with the consideration of all forms of Executive clemency, including pardon, commutation (reduction) of sentence, remission of fine and reprieve.

Under the rules governing petitions for Executive clemency the granting of a pardon generally is considered only after completion of sentence and a five to seven-year waiting period, depending upon the seriousness of the offense. The ground on which a pardon is usually granted is in large measure the demonstrated good conduct of a petitioner for a significant period of time after conviction and completion of sentence. All relevant factors, including the petitioner's prior and subsequent arrest record and his or her reputation in the community, are carefully reviewed to determine whether the petitioner has become and is likely to continue to be a responsible, productive and law-abiding citizen. In addition to the petitioner's post-conviction conduct, the recentness and seriousness of the offense also are considered.

Although a pardon does not expunge the record of conviction, it serves as a symbol of forgiveness and is useful in removing the stigma incident to conviction, restoring basic civil rights and facilitating restoration of professional and other licenses that may have been lost by reason of the conviction. Unless given for that specific reason, a pardon does not connote innocence.

Commutation or reduction of a prison sentence is a restricted form of pardon. Executive clemency in the form of commutation is rarely granted and the President intervenes to reduce an inmate's sentence to time already served, to a shorter term or simply to accelerate his eligibility for parole consideration, only in the most exceptional circumstances. Appropriate grounds for considering clemency may be disparity of sentence, terminal illness, meritorious service on the part of a petitioner or a combination of fac-

tors presenting an unusual basis for consideration.

Remission of fine and reprieve are less common forms of clemency. A remission of fine may be granted when further collection efforts by the government would impose an undue financial hardship upon a petitioner. When a petitioner seeks remission of fine, his ability to pay and the efforts made in good faith to discharge the obligation are important considerations and the petitioner also must demonstrate satisfactory postconviction conduct. A reprieve temporarily suspends the effect of a sentence. Traditionally, reprieves have been used to delay the execution of a death sentence.

It may be said generally that the President's pardoning authority is absolute and extends to all offenses against the United States, excepting only in impeachment cases. He has no authority to pardon state offenses. The decision to grant or deny a pardon is wholly discretionary with the President. The exercise of the pardoning authority may not be limited by legislative restrictions and is not subject to review by the courts. There is no appeal from a clemency decision.

Although not required to do so, the President has directed the promulgation of certain rules governing the consideration of petitions for Executive clemency. While they are published in 28 Code of Federal Regulations 1.1 *et seq.*, they are regarded as internal advisory guidelines for officials concerned with the consideration of clemency petitions and neither create enforceable rights in clemency applicants nor restrict the President's constitutional pardoning authority.

During the past year, the Attorney General promulgated a completely revised set of rules which were approved by the President on May 5, 1983. This constitutes the first revision of the rules since 1962 and for the first time authorized the Attorney General to delegate his responsibility in clemency matters. More importantly, the minimum eligibility waiting period was lengthened to five years and a seven-year waiting period was established for certain serious offenses. In addition, during the past year the application form and instructions used by potential pardon applicants were completely revised to require considerably more detail. This revision has provided an improved information base upon which to evaluate the merits of individual applications and led to a substantial reduction in the number and scope of costly background investigations which are customarily conducted

by the Federal Bureau of Investigation in pardon cases.

## Executive Clemency Statistics

In Fiscal Year 1983, 298 pardon petitions and 149 commutation petitions were received. The President granted 91 pardons and commuted the sentences of two persons. Of 955 clemency petitions available for consideration during the fiscal year, 306 were denied or administratively closed. During the year the Pardon Attorney received a total of 13,035 pieces of correspondence, reports and memoranda, and mailed out 14,143 items, including responses to 263 congressional inquiries as well as 1,066 White House and special referrals.

The following table represents statistics for Fiscal Years 1979 through 1983.

Fiscal Year	Received	Granted		Denied	Pending
	Pardons	Commutations			
1979	710	143	10	448	617
1980	523	155	11	500	474
1981	548	76	7	260	679
1982	462	83	3	547	508
1983	447	91	2	306	556

# Federal Bureau of Investigation

## William H. Webster Director

On July 26, 1908, the Attorney General directed that Department investigations were to be handled by the newly established Bureau of Investigation, a small organization with limited jurisdiction and comprised of only a few special investigators. Over the next 75 years, the renamed Federal Bureau of Investigation (FBI) evolved into a celebrated criminal justice agency dedicated to effective public service.



In commemoration of the FBI's 75th Anniversary, United States President Ronald Reagan designated July 26, 1983, as FBI Day. With the President are U.S. Attorney General William French Smith (left) and FBI Director William H. Webster.

Today, the FBI investigates violations of over 200 categories of federal law. It conducts all foreign counterintelligence investigations within the United States, collects evidence in cases in which the United States is an interested party, and performs other duties by law or Presidential directive. Information from FBI investigations is presented to the appropriate U.S. Attorney or Department of Justice official who decides whether prosecution or other action should be taken.

During 1983, four areas that seriously threaten America—organized crime, foreign counterintelligence, white-collar crime, and terrorism—continued to be top FBI priorities.

## Investigative Efforts

### Organized Crime

The goal of the Organized Crime Program in 1983 was to identify the scope of organized crime operations, and to penetrate, expose, and ultimately cripple high-level organized crime by targeting investigations for Department of Justice prosecution. The Organized Crime Program priorities are labor racketeering, narcotics, official corruption, illegal infiltration of legitimate business, loansharking, illegal gambling, arson for profit, gangland slayings, and adult and child pornography.

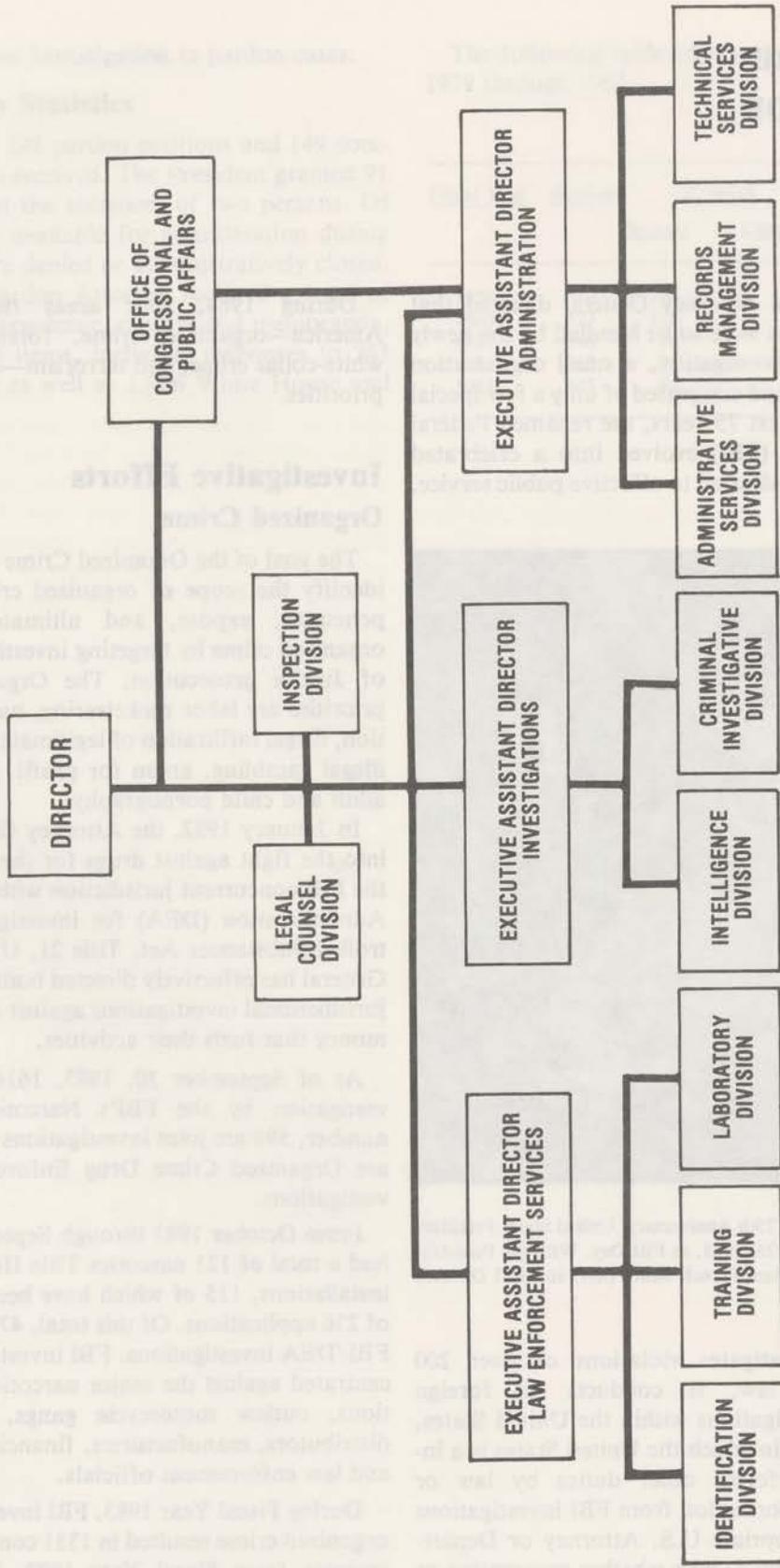
In January 1982, the Attorney General brought the FBI into the fight against drugs for the first time. By granting the FBI concurrent jurisdiction with the Drug Enforcement Administration (DEA) for investigations under the Controlled Substances Act, Title 21, U.S. Code, the Attorney General has effectively directed both agencies against multi-jurisdictional investigations against drug traffickers and the money that fuels their activities.

As of September 30, 1983, 1614 cases were under investigation by the FBI's Narcotics Program. Of that number, 598 are joint investigations with the DEA, and 251 are Organized Crime Drug Enforcement Task Force investigations.

From October 1982 through September 1983 the FBI has had a total of 121 narcotics Title III electronic surveillance installations, 115 of which have been extended, for a total of 236 applications. Of this total, 47 applications were joint FBI/DEA investigations. FBI investigations have been concentrated against the major narcotics-trafficking organizations, outlaw motorcycle gangs, high-level smugglers, distributors, manufacturers, financiers, and corrupt public and law enforcement officials.

During Fiscal Year 1983, FBI investigative efforts against organized crime resulted in 1331 convictions, a considerable increase from Fiscal Year 1982. In addition, organized crime investigations resulted in \$7,187,830 in fines;

## FEDERAL BUREAU OF INVESTIGATION



\$321,058,524 in recoveries, restitutions, and court-ordered forfeitures; and \$22,103,767 in potential economic loss prevented.

Intelligence information on organized crime turned over to state and local law enforcement on a regular basis by the FBI resulted in 261 convictions and \$417,732 in fines.

The following represent accomplishments of particular significance:

On October 5, 1982, based upon his plea agreement to cooperate fully with the government, Willard E. Moran pled guilty to mail fraud, interstate transportation in aid of racketeering (ITAR), Hobbs Act, and Travel Act violations. This plea agreement resulted from the investigation of the gangland slaying of John J. McCullough, a Philadelphia labor leader. Following this plea, Moran testified in Municipal Court, Commonwealth of Pennsylvania, at a preliminary hearing of Al Daidone, an organized crime family associate and union officer.

On November 15, 1982, three New York organized crime family members and three associates were sentenced in the U.S. District Court in the Southern District of New York. Benjamin Ruggiero, an organized crime leader, was sentenced to 15 years; organized crime member Anthony Rabito was sentenced to 13 years; and Nicholas Santora, another organized crime figure, was sentenced to 15 years. Organized crime group associates Vincent Piteo, Vincent Lopez, and Anthony Tomasulo were sentenced to four, six, and five years, respectively. This case centered on a Racketeer Influenced and Corrupt Organizations (RICO) narcotics investigation of the overall criminal activities of this organized crime family in New York, Florida, and Wisconsin. The results are directly attributable to a long-term undercover operation. The undercover agent, Special Agent Joseph Pistone, received an Attorney General's Award for his exceptional efforts.

On November 27, 1982, Robert Jerrigan, Gary Balough, Thomas Sikes, Dennis Kay, John Cason, Scott Bertelsen, John Bertelsen, Joseph W. Campbell, Jr., Marion Van Horn, and Robert Van Horn were convicted on federal narcotics charges. This investigation—a spinoff from the investigation code named BANCOSHARES—involved Bruce Griffin and others who were engaged in one of the largest marijuana smuggling operations in the Southeastern United States.

On December 1, 1982, John A. Cody, president of Local 282, International Brotherhood of Teamsters (IBT), Elmont, New York, was sentenced to five years and fined \$80,000 for violations of RICO, Taft-Hartley, and income tax statutes.

On December 6, 1982, Eugene "Checkers" Smaldone, a Denver organized crime boss; Clarence "Chauncey" Smaldone, an underboss; and Paul Villano, nephew to

Clarence Smaldone and an associate of this organized crime group, were sentenced in U.S. district court to 10 years and a \$20,000 fine each. These sentences were the result of their prior convictions on conspiracy, weapon violations, and Internal Revenue Service charges. These top organized crime figures controlled a major portion of illegal gambling and loansharking throughout much of the Western United States for many years and were involved in extortion, assault, murder, and other violent crimes.

On December 13, 1982, Lonnie Dawson, reputed leader of a nontraditional organized crime group, was sentenced to a total of 134 years and fined \$230,000. William Hoskins, Dawson's second in command, was sentenced to a total of 126½ years and fined \$210,000. Robert Hardwick, a lieutenant, was sentenced to 34 years and fined \$40,000. All three men were convicted on October 29, 1982, of federal narcotics, civil rights and obstruction of justice violations.

On January 25, 1983, Sam Scaffidi, a long-time Cleveland organized crime member, was sentenced to 17 years and a \$30,000 fine. John Halowatuk and Robert Pogan both received 15 years and fines of \$30,000. On November 3, 1982, all three men pled guilty to a four-count indictment on conspiracy, firearms possession, and silencer possession charges.

On February 28, 1983, Barbara Brooks Camp was sentenced to 15 years and a 30-year special parole. George E. Harp, a member of a nontraditional organized crime group, received consecutive sentences of 15 years and four years. Camp and Harp supplied heroin to at least three other nontraditional organized crime groups operating in the Western United States. They were indicted on December 22, 1982, for conspiracy to distribute heroin.

Between February 28, 1983, and March 1, 1983, a total of seven individuals were sentenced in the U.S. District Court in the Eastern District of California for RICO conspiracy violations. One man was sentenced to 15 years and the other six received 15-year suspended sentences and three to five years' probation. These men are members of a prison-spawned gang responsible for many organized crime operations in the Western States. This investigation has resulted in the conviction of 21 criminals.

On March 31, 1983, Roy Lee Williams, the general president, IBT; Joseph Lombardo, a Chicago organized crime figure; Thomas O'Malley, a former trustee, Central States, Southeast, Southwest Areas Pension Fund (CSPF), IBT; and Andrew G. Massa, a former employee and trustee, CSPF, IBT, were sentenced in the investigation code named PENDORF. Williams received 55 years and was fined \$29,000 in addition to court costs. Lombardo received 15 years, five years' probation on each of eight counts, and was fined \$29,000 and court costs. O'Malley was sentenced to 30 months for two counts, five years' consecutive proba-

tion on each of nine counts, and court costs. Massa was sentenced to one year and one day on two counts and five years' consecutive probation on each of nine counts. These men were convicted on December 15, 1982, on all 11 counts of an indictment charging them with conspiracy to bribe a U.S. Senator, interstate travel in furtherance of the bribery, and wire fraud.

On March 31, 1983, twelve people were indicted in an investigation revealing that organized crime families in Tampa, New York, and Chicago were engaged in illegal gambling, bribery, obstruction of law enforcement, distribution of narcotics, and other crimes. Included in the indictments were Santo Trafficante, Jr., a Tampa organized crime boss; Vincent Ciraulo, a New York organized crime figure; and Joseph Donahue, a former captain in the Pasco County, Florida, Sheriff's Office.

On April 1, 1983, Anthony Carrozza was sentenced to five years and Anthony Sarivola to five years, to serve only six months with five years' probation. They were convicted on February 3, 1983, for loansharking. Carrozza is a functionary of one of the New York organized crime families, and Sarivola is an organized crime enforcer.

On April 7, 1983, Angelo A. Lonardo, a Cleveland organized crime underboss; Joseph C. Gallo, an organized crime figure; Kevin J. McTaggart, a Cleveland organized crime family associate and local liaison to the Hell's Angels motorcycle gang; Helmut Graewe, an organized crime associate; and Friedrick Graewe, also an organized crime associate, were sentenced as a result of convictions returned on January 24, 1983. Lonardo was sentenced to life imprisonment and 103 years with these sentences to run concurrently. Gallo was sentenced to life imprisonment and a concurrent 138 years. Kevin McTaggart and Helmut Graewe were each sentenced to life imprisonment and a concurrent 194 years. Friedrick Graewe was sentenced to consecutive sentences of 42 years. These criminals were indicted on July 6, 1981, on charges including continuing criminal enterprise, distribution of narcotics, ITAR, and RICO narcotics, with predicate offenses of four murders, two threats to murder, illegal gambling business, and obstruction of justice.

On April 7, 1983, Robert G. Burroughs, chapter president of the Chicago Outlaw Motorcycle Gang was sentenced to three years. Thomas R. Stimac, chapter vice-president of the gang, was sentenced to 15 years with five years' probation; Martin J. Curran, member, was sentenced to four years for kidnaping, with two additional four-year sentences for conspiracy to kidnap and federal firearms violations. On March 10, 1983, Garry H. Miller and Allen Ray Hattaway, also Outlaw members, were sentenced to 40 years and 30 years, respectively. Both Miller and Hattaway were given four five-year concurrent probationary terms. These sentences resulted from a kidnaping—White Slave

Traffic Act investigation in which a prostitute was brought by the Outlaws from North Carolina to Chicago. The male associate of the prostitute was murdered by the gang in North Carolina.

On April 28, 1983, a federal grand jury in Buffalo, New York, returned a 19-count sealed indictment against seven organized crime family members, two leaders and five functionaries, all officials of Local 210 of the Laborers AFL-CIO. The indictment charges violations of 18 U.S. Code 371 (conspiracy) and 29 U.S. Code 501(c) (embezzlement).

On May 19, 1983, a federal grand jury in Columbia, South Carolina, returned indictments against 50 subjects, charging them with 66 counts of federal conspiracy, income tax, and narcotics violations. These subjects are charged with conspiring to smuggle marijuana, cocaine, and hashish into the United States since 1976.

On May 20, 1983, Ahmad N. Batouli and Iraj Soheil were convicted in Alexandria, Virginia, for heroin distribution. Several weeks earlier, on May 9, 1983, their associate Ashra Folsadat Sateri plead guilty to violating ITAR narcotics laws.

On June 14, 1983, Michael Vodola was sentenced to 30 months' imprisonment and three years' probation. On June 15, 1983, Mario Gigante, a New York organized crime family member and brother of the reputed family underboss, was sentenced to eight years. These sentences resulted from six-count convictions on extortionate credit transaction and conspiracy charges involving a loanshark victim indebted to Gigante and Vodola for \$200,000. The victim appeared as a cooperating witness.

On June 24, 1983, a grand jury in Omaha returned sealed indictments charging 41 individuals with federal narcotics violations. Some of these defendants are close associates of the Nebraska chapter of the Hell's Angels.

On July 1, and June 20, 1983, 13 members of the Florida Outlaws Motorcycle Club were sentenced for convictions on RICO violations. Tony Harrell, regional president of the club, was sentenced to a total of 40 years and the remaining 12 gang members were sentenced to terms ranging from 10 to 35 years. The case began as an ITAR prostitution investigation and led to evidence of narcotics trafficking and other violent crimes.

On July 3, 1983, the following defendants were convicted on various counts of ITAR, interstate transportation of stolen property, and conspiracy violations involving skimming from the Tropicana Casino in Las Vegas: Carl Civella, Kansas City organized crime acting boss; Carl DeLuna, Kansas City organized crime acting underboss; Charles Moretina, Kansas City organized crime group member; Anthony Chiavola, former Chicago policeman and Civella's nephew; and Carl Thomas, former casino manager at the Tropicana and skimming advisor to the Civellas. Prior to trial, Nick Civella, a former boss of Kan-

sas City organized crime, died and three other people entered guilty pleas.

On August 8, 1983, a federal grand jury in West Palm Beach returned a 35-count sealed indictment charging 11 individuals including two New York organized crime members and the Riviera Beach, Florida, Chief of Police—with RICO, RICO conspiracy, ITAR, and extortionate credit transaction.

On August 23, 1983, eight men were arrested and charged with violations of federal narcotics laws and obstruction of justice. The arrests included Angelo Ruggiero, nephew of New York organized crime underboss Aniello Dellacroce; Eugene Gotti, a New York organized crime family member; John Garneglia, a New York organized crime family member and alleged millionaire through illicit narcotics and stolen car dealings; Ed Lino, a major narcotics supplier; and Gerlando Sciascia, a New York organized crime figure and major heroin importer.

On September 19, 1983, a 20-count RICO-murder-illegal gambling business-extortionate credit transaction-obstruction of justice indictment was returned against the top members and associates of the Boston organized crime group. Those indicted included Gennaro J. Angiulo, crime underboss; Donato Angiulo, Llario Zannino, and Samuel Granito, all members of the group; and Nicolo Angiulo, also an organized crime figure.

On September 30, 1983, indictments were returned charging 15 individuals with ITAR hidden interest, skimming, and conspiracy. The indictments included Carl J. Civella, a Kansas City organized crime acting boss; Carl A. DeLuna, a Kansas City organized crime acting underboss; Joseph J. Aiuppa, a Chicago organized crime boss; John P. Cerone, a Chicago organized crime underboss; Joseph Lombardo, a Chicago organized crime figure and street boss of Chicago's Northwest Side; Angelo Lapiettia, a Chicago organized crime figure and boss of Chicago's Southwest Side; and Frank P. Balistrieri, a Milwaukee organized crime boss. These organized crime members are charged with maintaining a hidden interest and skimming monies from the Argent Corporation's two Las Vegas casinos.

## **White-Collar Crime**

White-collar crimes are illegal acts that use deceit and concealment—rather than the application or threat of physical force or violence—to obtain money, property, or service; to avoid the payment or loss of money; or to secure a business or personal advantage. White-collar criminals occupy positions of responsibility and trust in government, industry, the professions, and civic organizations. White-collar crime results in the loss of billions of dollars from our national economy each year.

In July 1981, the FBI established three national priorities for white-collar crime enforcement, incorporating those

established by the Attorney General:

- Fraud against the government involving U.S. government officials or losses exceeding \$25,000; and bribery and other public corruption cases involving federal officials.
- Public corruption matters involving state and local officials.
- Financial crimes.

Fraud against the government concerns allegations of fraud and bribery within the U.S. government. The majority of these investigations involve the 13 departments and 57 agencies of the executive branch which annually disburse billions of dollars. Fraud violations are usually committed by officials responsible for the programs or the purported beneficiaries of the programs.

The primary statutes used in these cases are the fraud statute, 18 U.S. Code 1001 which prohibits the submission of fraudulent statements to the government; and the bribery statute, 18 U.S. Code 201, which prohibits the offering or solicitation of a bribe to influence a federal employee.

Public corruption involves cases in which an elected or appointed federal, state or local official abuses his/her position of trust in violation of federal law.

The primary laws in prosecuting these matters are the bribery statute, 18 U.S. Code 201, the conflict of interest statute, 18 U.S. Code 202, and the Hobbs Act, 18 U.S. Code 1951. The Hobbs Act has been used to prosecute nonfederal public officials at all levels.

Financial crime involves schemes to defraud by manipulation of events, documents, or large sums of money. These schemes include embezzlements, computer fraud, pyramid fraud, land fraud, and stock fraud. Financial crime also includes the investigation of stolen and counterfeit stock and negotiable securities.

The primary laws used in the prosecution of these offenses are the bank fraud and embezzlement statute, 18 U.S. Code 656, 657 and 1014; fraud by wire, 18 U.S. Code 1343; interstate transportation of stolen property, 18 U.S. Code 2314; and bankruptcy fraud, 18 U.S. Code 152 and 153.

The FBI also investigates antitrust matters, labor violations such as of the Employee Retirement Income Security Act, Labor-Management Reporting and Disclosure Act, and federal election law matters.

White-collar crime remains one of the FBI's highest priorities. The number of quality convictions and pretrial diversions increased by 15 percent from 59 percent to 74 percent from Fiscal Year 1981 to third quarter 1983. (Note that third quarter figures for Fiscal Year 1983 are computed on an annualized basis.) The total number of convictions and pretrial diversions increased by 7 percent from Fiscal Year 1981 to Fiscal Year 1982.

## Fraud Against the Government

In December 1982, a five-year investigation of a large Norfolk, Virginia, electrical cable distributor resulted in a 43-count federal grand jury indictment of the corporation and key officers on RICO, mail fraud, conspiracy, obstruction of justice, fraud against the government, and fraud by wire charges. The corporation had annual sales of approximately \$150 million, assets of over \$100 million, and employed 600 people at five locations. The fraudulent schemes had been systematically practiced for at least 10 years and included short shipping and mismarking of electrical cable for construction of hospitals, government facilities, and in one case, the Washington, D.C., Rapid Transit System.

In April 1983, the corporation entered a *nolo contendere* plea to 38 counts of the indictment and pled guilty to a RICO violation. A fine of \$1.5 million was imposed in lieu of forfeiture of all company assets. In addition, a maximum fine of \$61,000 was imposed on the corporation. The president of the firm was sentenced to seven years and a \$6,000 fine.

Another investigation disclosed that Universal Deckings Systems, Inc., a San Diego defense contractor that provided decking and painting services to the U.S. Navy inflated the square footages of the decking and painting work performed and, therefore, the amount of money paid by the government.

The corporation president had amassed substantial personal wealth through the scheme, including a yacht, airplane, Rolls Royce, Mercedes, condominium, 13 racehorses, and \$500,000 in certificates of deposit. On June 27, 1983, he was sentenced to 10 years and a maximum fine of \$110,000. The corporation was given a maximum fine of \$190,000.

With the establishment of the statutory Inspectors General, additional resources have been added to the war against government fraud, waste, and abuse. In order to utilize resources efficiently, the FBI has signed Memorandums of Understanding with the Inspectors General. These agreements clearly define the roles of the FBI and the Inspectors General.

## Public Corruption

The widely reported Oklahoma investigation, code named CORCOM, has resulted in the convictions of 164 people, including many county commissioners, who accepted kickbacks from business persons. Furthermore, the State of Oklahoma reformed the commissioner form of government and centralized its system for the purchase of materials and equipment for Oklahoma counties. The savings accruing to the people of Oklahoma, as a result of this FBI operation, are inestimable.

Examples of other public corruption investigations in 1983 include the bribery of three of the five Hillsborough County, Florida, commissioners for zoning changes. Each was indicted and convicted, and an attorney and a businessman were also convicted. Two of the commissioners were sentenced to eight years; the other is awaiting sentencing.

In September 1983, Evan Callanan, Sr., an 18th District Court Judge in Westland, Michigan, was convicted of RICO and mail fraud charges involving bribes for fixing of cases. Callanan's son, a practicing attorney, was also convicted. Three other persons, including Judge Callanan's court officer, were also found guilty. In October 1983, Judge Callanan was sentenced to 10 years, and his son to eight years. The sentencing judge commented that, "It's a sad day for the judiciary," and quoted U.S. District Judge George Pratt's remark that, "the cynicism and hypocrisy displayed by corrupt officials pretending to serve the public, but in fact furthering their own private gain, probably pose a greater danger to this country than all the drug traffickers combined."

## Financial Crime

An FBI investigation of an alleged "Ponzi" investment scheme in the Salt Lake City area was conducted during 1983. Old investors in the companies were paid exorbitant interest rates with income from new investors. The investigation included a Title III electronic surveillance, search warrants, and informants. This was the first time Title III was used in a case of this type prior to the scheme's collapse. The company computers seized in this case were used to prove the allegations.

Twenty-one subjects were charged in five separate indictments with violations including fraud by wire and mail fraud. Losses by investors are believed to be approximately \$16.6 million.

Following the failures of the Penn Square Bank (PSB) of Oklahoma City and several banks in Tennessee, the FBI undertook two major bank fraud and embezzlement investigations.

PSB, established in 1960, was the fourth largest bank in Oklahoma City and the seventh largest bank in Oklahoma. It had posted assets of \$525 million, 28,000 accounts, and a \$2 billion loan portfolio. On June 30, 1982, rumors of serious financial problems at PSB surfaced and many depositors withdrew their funds. On July 1, 1982, the Comptroller of the Currency declared PSB insolvent, and on July 6, 1982, complete control of PSB was assumed by the Federal Deposit Insurance Corporation.

After the failure of PSB, the FBI received numerous allegations that PSB failed due to the lending irresponsibility of PSB officials. An FBI investigation was initiated on July 9, 1982.

The FBI's Tennessee investigation was initiated on January 21, 1983, based on allegations of irregularities at 26 banks with assets exceeding \$2.75 billion. These allegations concern fraudulent loan practices.

A significant investment fraud scheme, involving more than 5,000 victims who suffered collective losses ranging up to \$200 million, came under investigation in early 1983. This investigation concerned William and James Alderice, doing business as International Gold Bullion Exchange (IGBE). It was initiated by investor complaints regarding precious metals futures contracts in which IGBE failed to make delivery or to provide the optional interest payments offered in lieu of immediate delivery. The firm claimed to have 500 employees and 30 subsidiary corporations. In addition to its main offices in Fort Lauderdale it maintained branch offices in Los Angeles, and Dallas. On April 29, 1983, IGBE entered into Chapter 11 Bankruptcy.

On August 16, 1983, a federal grand jury in Fort Lauderdale, returned indictments charging the Alderice brothers with violations of 18 U.S. Code 1343 (wire fraud), and 18 U.S. Code 371 (conspiracy).

The FBI has established a liaison with the Securities and Exchange Commission and the Commodities Futures Trading Commission to combat fraud by corporate owners and market manipulators. In addition, a computerized index known as the Con Man Index was established to provide information on national and international con men.

During Fiscal Year 1983, the White-Collar Crimes Program obtained 4,451 convictions; \$11,463,726 in fines; and \$345,096,097 in recoveries, restitutions and court ordered forfeitures.

## Foreign Counterintelligence

In 1983, the Foreign Counterintelligence Program continued to fight the threat posed by hostile intelligence services to U.S. national security interests.

The following cases reflect, in part, the FBI's successful efforts in neutralizing this threat:

During the latter part of 1983, the FBI aided the defection of a high ranking Cuban official who has provided significant intelligence information, as well as information that the government of Cuba is involved in narcotics trafficking.

Alexander Mikheyev was expelled from the United States in April 1983, following his contacts on Capitol Hill with a congressional aide. Mikheyev, who was temporarily in the United States representing Moscow's Institute of USA and Canada studies, was attempting to secure a highly classified document.

On April 18, 1983, based on information provided by the FBI, two Cuban officials assigned to the Cuban Mission to the United Nations were expelled from the United States for having engaged in intelligence activities.

On April 2, 1983, the FBI intercepted a meeting between Oleg Konstantinov, Third Secretary at the Soviet Mission to the United Nations in New York, and an American from whom Konstantinov was attempting to obtain sensitive information on U.S. aerospace and weapons technology. This American had operated under control of the FBI for several years. Because he held diplomatic immunity, Konstantinov was not detained. However, he returned to the Soviet Union on April 4.

Again, on August 18, 1983, FBI Special Agents intercepted a meeting between Yuriy P. Leonov, Assistant Air Attaché at the Soviet Military Office in Washington, D.C., and an American from whom Leonov attempted to obtain a classified U.S. document. Leonov received the secret document from the American just prior to the interception. The American had operated under control of the FBI for approximately two years. Although Leonov was not detained because he held diplomatic immunity, the Department of State then declared Leonov *persona non grata*, and he left the United States on August 22, 1983.

The FBI, in September 1983, arrested Penyu Baychev Kostadinov, a Bulgarian intelligence officer, for attempting to buy highly classified U.S. nuclear energy documents from an American public relations representative, who actually had no classified access. After being introduced to the American by a Bulgarian student attending the same New York graduate school, Kostadinov cultivated the American for two years. For more than a year, the American acted as an FBI-controlled double agent, eventually passing classified information provided by the U.S. Department of Energy. Kostadinov, an Assistant Commercial Counselor in the New York Bulgarian Commercial Office, did not have diplomatic immunity. His arrest marked the first Bulgarian espionage arrest in many years.

To support foreign counterintelligence investigations, FBI analytical and research operations worked at full capacity during the past year with an increased emphasis on the quality of the foreign counterintelligence effort.

The FBI continued to enjoy a very close and cohesive working relationship with the intelligence community, and played a significant role in the U.S. counterintelligence effort to limit hostile acquisition of sensitive technology.

## Terrorism

The Terrorism Section of the FBI's Criminal Investigative Division has the dual responsibilities of preventing terrorist acts through intelligence investigations and responding through criminal investigations when terrorist acts are committed.

In 1983, the FBI fulfilled these responsibilities through significant accomplishments in combating major terrorist

groups. Among the most notable of these accomplishments are:

Three members of the Armenian Secret Army for the Liberation of Armenia (ASALA) were arrested for attempting to bomb the Air Canada cargo entry area at Los Angeles International Airport in May 1982. All three were found guilty of illegal possession of an explosive device as well as attempting to bomb a building affecting interstate transportation.

A member of the Provisional Irish Republican Army (PIRA) "M-60" Gang was arrested for visa fraud. Wanted for murder in Ireland where he had been sentenced to life imprisonment, he was subsequently extradited. A shipment of weapons and ammunition was recovered, and four PIRA members were convicted of acquiring and transporting firearms to Ireland. Their sentences range from two to five years.

In July 1983, two Irish National Liberation Army (INLA) members were convicted of attempting to procure automatic weapons for INLA. They were sentenced to terms ranging from 18 months to seven years.

As a result of the arrests and convictions of these members of the PIRA and the INLA, the flow of terrorist weapons from the United States to Ireland was significantly impaired.

Five members of the Justice Commandos of the Armenian Genocide (JCAG) were indicted for the acquisition and construction of a bomb and transporting it on a commercial aircraft. These arrests mark the first time JCAG members have been arrested before the commission of terrorist acts.

The leader of the Conseil National Liberation Haiti (CNLH) was convicted in federal court for violations of the Neutrality Act in attempting to overthrow the government of Haiti.

In a major breakthrough in the investigation of Anti-Castro Cuban terrorism, members of Omega Seven were arrested for possession and transportation of explosives.

The leader of the Fuerzas Armadas de Liberacion Nacional Puertorriquena (Armed Forces for the National Liberation of Puerto Rico) (FALN), William Morales, a fugitive since his escape from a federal prison hospital in New York, was caught by Mexican authorities based on FBI information. Also, four FALN members were arrested by the FBI and charged with seditious conspiracy. Explosives and weapons were recovered during the arrests. The arrest of all four FALN members, as well as the arrest of the leader of the FALN in Mexico, directly resulted from intensive FBI investigation. The arrests of these key FALN members prevented a potential economic loss of \$250,000 and as many as six possible bombing attempts, including one plot to bomb an interparliamentarian meeting at Puebla, Mexico.

An operative of the Palestine Liberation Organization, arrested in September 1982, pled guilty to conspiracy to possess and transport a bomb. He was sentenced to five years with no recommendation for parole.

While conducting an audit on Air Freight International, Inc. (AFI), of Alexandria, Virginia, the FBI uncovered fraud in AFI's handling of U.S. foreign military sales shipments to Egypt. As a result, AFI pled guilty to filing false invoices. In addition, AFI was fined \$10,000, will pay the United States \$924,000 in settlement of all civil claims, and will pay \$76,000 to the Federal Maritime Commission for possible violations of the Shipping Act of 1916.

At the request of the FBI, the Department of State denied visas to two Libyan students, based on their involvement in the Libyan Revolutionary Committee (a pro-Qadhafi organization). They were reporting to the People's Committee for Libyan Students on the activities of anti-Qadhafi Libyan students.

Also, a Libyan Revolutionary Committee member was denied re-admission to the United States by the Department of State based on FBI information.

The Director of the People's Committee for Libyan Students was refused admittance to Canada based on information furnished to the Royal Canadian Mounted Police by the FBI. It was believed his intended purpose in Canada was to assist in organizing or evaluating Libyan students' activities in Canada.

Former Central Intelligence Agency agent, Edwin P. Wilson, was convicted in New York on numerous federal charges for his involvement in supplying military equipment and expertise to the Libyan government. Additionally, he and two others were convicted on charges of smuggling military-type plastic explosives to Libya. Finally, Wilson and his son were indicted on conspiracy, attempted murder, and obstruction of justice charges for their attempt to kill witnesses and federal prosecutors in charge of the investigation.

## Civil Rights Violations

The Civil Rights Program of the FBI investigates the actual or attempted abridgments of rights of the people in America under the Constitution and laws of the United States. Both civil and criminal matters are investigated in close coordination with the Civil Rights Division of the Department of Justice.

During Fiscal Year 1983, a total of 15 misdemeanor convictions and 27 felony convictions were obtained in civil rights cases investigated by the FBI.

Six present or former Ku Klux Klansmen and three American Nazi Party members were indicted by a federal grand jury at Winston-Salem, North Carolina, during April 1983. They were charged with conspiring to use force to interfere with the federally protected rights of the participants

in a November 3, 1979, anti-Klan demonstration in Greensboro, North Carolina, which resulted in the death of five Communist Workers Party demonstrators. Another former Klansman was charged with participating in the conspiracy and has entered a plea of guilty in U.S. district court.

In Alabama, an admitted member of the Ku Klux Klan was arrested by the FBI during June 1983, and charged with killing a black male and hanging his body from a tree in Mobile during March 1981. The Klansman pleaded guilty in U.S. District Court to violating the civil rights of the black male by causing his death. A second Klansman has also been indicted by state authorities for the murder.

During August 1983, four migrant farm worker crew leaders were convicted in U.S. District Court in Tampa, Florida, for making false promises to migrant workers, thereby enticing them to farm labor camps where the workers were held by force in involuntary servitude and slavery.

Three people were indicted June 23, 1983, by a federal grand jury in Tyler, Texas, for conspiracy and transportation of aliens. Two of these were also charged with 11 counts of involuntary servitude and slavery. Trial was scheduled for December 5, 1983.

The former Sheriff of San Jacinto County, Texas, and two former deputies were found guilty on September 14, 1983, of violating the civil rights of prisoners by subjecting them to "water torture" to elicit confessions. On October 3, 1983, the federal grand jury returned indictments charging the same sheriff, his son, a former deputy, and two bail bondsmen with making illegal arrests and taking kickbacks from bail bonds.

In April 1983, a Kansas City, Missouri, man was found guilty of violating the civil rights of a local black jazz musician he killed in a public park and sentenced to life in prison.

## General Property Crimes

Property crime, which continues to account for 90 percent of all reported crimes in the United States, increased 67 percent between the years 1973 and 1982. The Property Crimes Program of the FBI includes investigations of armed robbery, burglary of jewelry, precious metals, artworks, and other valuable property, and thefts of automobiles, trucks, aircraft, and heavy construction equipment by individuals and organized crime groups. These crimes are often violent, and moreover, the proceeds from stolen property are often used to finance large narcotics purchases.

In addition to traditional investigative approaches, use of undercover investigations has proven extremely effective in combating property crime. By having Special Agents pose as thieves and fences, many theft rings have been penetrated. The evidence obtained has resulted in convic-

tions not only of the thieves themselves, but also of the high-level individuals who have previously isolated themselves from prosecution.

Property crime undercover operations have successfully penetrated organized crime automobile theft and "chop shop" operations throughout the country. They have identified those responsible for the theft and exportation of vehicles and heavy equipment to Mexico and South America. Other operations have resulted in the identification and prosecution of two Japanese corporations for the theft of computer technology, and major fences and thieves responsible for residential and commercial burglaries of jewelry, art, and other valuable property. Successful investigations have been directed at groups engaged in cargo thefts of precious metals and other goods shipped interstate. In particular, undercover operations have demonstrated the pernicious impact of organized crime and narcotics traffickers on property crimes and often exposed corrupt law enforcement and public officials.

During Fiscal Year 1983, the General Property Crimes Program resulted in 1,456 convictions, 1,131 arrests, and 232 subjects located. Also in this period, stolen property worth \$126,782,165 was recovered, \$1,018,311 in fines was assessed, and \$149,693,102 in potential economic loss was prevented. The magnitude of property crime is such that during 1983, motor vehicle thefts reported to the FBI's National Crime Information Center averaged more than 79,000 vehicles per month, with a monthly loss value exceeding \$294 million.

## General Government Crimes Program

The objective of the General Government Crimes Program is the identification, investigation, and prosecution of criminals and criminal groups whose activities are directed against property owned by the U.S. government or individuals located on federal property. These crimes involve theft of government weapons, explosives, or high-value property, and acts of violence such as homicide, assault, and robbery occurring on government reservations, in Indian country, and in federal penitentiaries. The latter includes approximately 430 major Department of Defense installations and 185 Indian reservations. During Fiscal Year 1983, 400 complaints and 1,045 informations and indictments were obtained, 1,044 persons were convicted, 601 persons were arrested or located, and recoveries amounted to \$4,442,222.

The nation's Indian reservations are extremely vulnerable to violent crime, as demonstrated by an incident involving a female postal employee delivering mail on the Salt River Reservation in Phoenix, Arizona. Four Indians forced their way into her car, beat her to the floor of the car and then fled. Two days later, the body of the victim, 27 years old and the mother of a five-year old, was discovered in a garbage dump.

An autopsy revealed that she had been stabbed, her throat had been cut, attempts were made to smother her, and she had been beaten. FBI investigation resulted in the arrest of four Indian subjects, two of whom were females.

Crimes on government reservations frequently involve undercover operations. A seven-month long FBI operation at the Department of Defense regional supply depot in Memphis, Tennessee, resulted in the indictment and conviction of 19 government employees for theft of more than \$113,000 in clothing, food and equipment. This operation was initiated after information was received that employees were illegally selling U.S. property to truck drivers servicing the depot. An undercover FBI agent, posing as a truck driver, purchased stolen property on 43 occasions during the investigation.

## Personal Crimes

Among the investigative areas wherein the FBI directly supports the Attorney General's violent crime initiative is the Personal Crimes Program. This program addresses violations of federal law that involve threatened or actual personal injury or loss of life. These crimes—including assaults against and murders of federal law officers and other government officials, extortions, kidnapings, aircraft hijackings, and bank robberies—involve the FBI directly with local law enforcement at the "street" level to reduce violent crime. Personal crimes hit communities and individuals especially hard due to the violence, the high public profile of victims, the substantial monetary and property losses, and the dangerous nature of the criminals involved.

FBI investigations under the Personal Crimes Program in Fiscal Year 1983 yielded 1,402 arrests, 2,285 indictments and informations, and 2,075 convictions. Ninety-seven percent of the program convictions were for felonies. FBI efforts also led to the release or rescue of 58 persons being held hostage or abducted during the commission of Personal Crimes Program offenses.

Nearly \$14.1 million worth of stolen or illegally possessed property was recovered during program investigations. Additionally, \$385,000 in fines were levied for such crimes. FBI investigations also contributed to 520 convictions in local courts for personal crimes.

## Assaulting or Killing Federal Officers or Other Government Officials

Investigative responsibility for assaults against and murders of certain federal law enforcement officers, Members of Congress, executive department heads, the Vice President and the President, among others, is delegated to the FBI. Investigations under these and related statutes resulted in 97 convictions in federal court.

## Extortion

Under the federal extortion laws, the FBI seeks to thwart extortionate attempts through the identification, apprehension, and prosecution of those responsible. There were 88 convictions for violations of the federal extortion statute in Fiscal Year 1983. Extortion against businesses engaged in interstate commerce are investigated under the Hobbs Act. There were 50 convictions for these offenses during the year. Intensive FBI investigation in California and Texas led to the arrests of two persons attempting to extort a major domestic winery in early 1983.

## Kidnaping

The FBI's primary objective in kidnaping is always the safe and speedy release of the victim. After making every effort to ensure this goal, the identification, arrest, and prosecution of the persons responsible are aggressively pursued. Kidnaping investigations often require extensive resources—a need the FBI recognizes and meets. During Fiscal Year 1983, the FBI obtained 70 federal kidnaping convictions. Additionally, FBI investigations aided in 37 convictions in local court on kidnaping related charges.

## Crimes Aboard an Aircraft

The successful resolution of aircraft hijackings—which often involve holding passengers and crew members hostage—requires close coordination and teamwork among the FBI, the Federal Aviation Administration, airport authorities, the airline industry, and local law enforcement. Seventeen attempted or actual aircraft hijackings occurred in Fiscal Year 1983. The FBI also has responsibility for other crimes committed aboard an aircraft, such as furnishing false statements, interfering with flight crew members, carrying weapons aboard, murder, rape, and assault. FBI crime aboard aircraft investigations led to 32 convictions in Fiscal Year 1983.

During one hijacking, two FBI agents confronted a hijacker claiming to have a bomb. After he refused to obey FBI instructions, the hijacker hurled the bomb at the agents. The agents, acting in self-defense and to protect the safety of the passengers aboard the aircraft, shot and killed the subject.

## Bank Robberies and Related Crimes

Federal bank robbery laws cover robberies, burglaries, and larcenies committed against federally insured banks, savings and loan associations, and credit unions. Federal convictions for bank robbery and related crimes totaled 1,707 in Fiscal Year 1983. Another 450 persons were convicted in local court for these crimes as a result of FBI assistance to state and local authorities. Investigations of extortion against financial institutions are conducted under

provisions of the Hobbs Act. There were 29 federal convictions for such kidnaping and extortion offenses during the year.

Among significant accomplishments during 1983 were the arrests of six persons for their roles in the theft of more than \$11 million from a New York City armored car company in December 1982. Included in the money taken were federally insured funds in transit to various financial institutions. Nearly \$1.5 million was recovered.

### **Fugitive Matters**

During Fiscal Year 1983, 1,334 FBI unlawful flight fugitives were arrested or located. FBI efforts are directed toward apprehending individuals wanted for violent crimes such as murder, manslaughter, rape, robbery, or aggravated assault; for crimes resulting in the loss or destruction of property valued in excess of \$25,000; and for crimes involving substantial narcotics trafficking. An integral part of the FBI's efforts to catch wanted persons is the "Ten Most Wanted Fugitives" Program and the Identification Order (I.O.) fugitives. Thirty I.O. fugitives were apprehended during Fiscal Year 1983.

The FBI and the DEA are currently working in various avenues of cooperation in enforcement efforts against major drug offenders and traffickers. The FBI has given significant assistance to the DEA by assuming part of its fugitive workload. Since September 1981, DEA has referred 522 fugitive cases to the FBI of which 242 have been apprehended or located. The subjects of these cases are Class I and Class II violators with outstanding federal warrants.

Since August 1981, the Department of Justice has referred 372 Selective Service Act cases to the FBI for investigation. The subjects of these cases are men suspected of willfully failing to register. Each case is coordinated closely with the local U.S. Attorney's Office. Although the subjects are not fugitives, enforcement is administered within the Fugitive Program.

### **Applicant Investigation for Other Agencies**

Pursuant to various statutes, executive orders, departmental orders and agreements established with the Attorney General's approval, the FBI has continued to conduct personnel background investigations on individuals who will occupy important and sensitive positions in the federal government. Among those served are the White House, the Department of Justice, the Department of Energy, the Office of Personnel Management, the Administrative Office of the U.S. Courts, and certain congressional committees. During Fiscal Year 1983, 3,690 individuals were investigated by the FBI under this program.

## **Cooperative Services Training Division**

To enhance the capabilities of FBI employees and others in law enforcement, a variety of training programs are conducted at the FBI Academy in Quantico, Virginia, and through FBI training programs offered throughout the United States.

Primary emphasis at the Academy in 1983 was in the following four areas:

- New Agents (15-week course) - 547 graduates;
- FBI In-Service (Agent and Support) - 4228 students; 147 classes;
- FBI National Academy (Mid-level and Senior Police Administrators for 11 weeks) - 996 students;
- General Law Enforcement Training (GLET-Criminal Justice Employees)-4243 students, 151 classes.

FBI Headquarters instructors and specially trained agents assigned to the 59 field offices conducted 5,640 schools throughout the United States in which 178,198 law enforcement officials received 67,502 hours of instruction.

The major theme for training sponsored by the FBI was the violent crime issue. Some courses were very specific, such as hostage negotiation, death investigations, terrorism and firearms-related subjects, while other courses related to the overall crime problem. Courses were offered in police personnel administration, management planning, police stress management, and other police-related topics. Fifty police executives from large and medium-sized agencies, as well as 137 senior and mid-level FBI managers, also received training to enable them to perform more efficiently.

In-service programs for FBI employees primarily covered white-collar crime, computer crime, organized crime, foreign counterintelligence, management development, and related topics. Management training was provided for 73 DEA managers in a cooperative effort to share training afforded FBI managers.

Due to increases in the number of new agents in training at the FBI Academy (802 in Fiscal Year 1983, as compared to 350 in Fiscal Year 1982), other training areas were jeopardized. A concerted effort was made to enable training in all areas to continue without diminishing the quality of any programs. Motels were used for overflow students and 15 classes for 637 students were held at the Xerox Training Center in Leesburg, Virginia.

Major developments were made in research conducted by FBI Academy staff. The Behavioral Science Unit continues to be a forerunner in Violent Crime Analysis and refinement of the Criminal Personality Profiling Program, which assists in developing suspects in complex, unsolved violent

crimes by behavioral interpretation of the crime scene. Assistance was rendered in 150 police cases and 36 FBI cases. Research is also being conducted in Serial Murderer Personalities, the Sexual Abuse of Children, and development of a clearinghouse for the 6,300 unsolved homicides recorded annually. Training needs assessments were conducted for the upcoming Olympics, Democratic and Republican conventions, and other special events scheduled within the United States. For the first time, training programs were delivered to mid-management personnel from the Caribbean area, as it was recognized that crimes committed there affect the U.S. mainland. Three sessions for 45 foreign police officers and 15 Puerto Rican and Virgin Island officers were conducted. They were taught basic investigative skills and also how to develop and teach courses themselves. This is an exciting initiative, and with the inclusion of DEA instruction, should assist in narcotics investigations emanating from that area.

## **Laboratory Division**

Serving the law enforcement community for over 50 years, the FBI Laboratory was established on November 24, 1932. It has grown into one of the largest, most comprehensive crime laboratories in the world, and is supplied with state-of-the-art instrumentation and equipment. Since its inception, the Laboratory has been dedicated to the maximum use of physical evidence in support of the nation's criminal justice system.

The FBI Laboratory encompasses many highly specialized disciplines and is divided into three major sections. These are the Document, Scientific Analysis, and Special Projects Sections. These Sections are subdivided into smaller units, which perform a variety of related examinations. This enables each unit to concentrate on a rather narrow area of expertise to ensure that the most comprehensive examinations are performed on the evidence submitted.

The work of the Document Section deals with the examination of physical evidence involving handwriting and handprinting, ink and paper, obliterations and alteration of documents, and evidence involving shoe prints and tire tread. This Section translates and interprets a wide variety of written and spoken foreign language material, examines evidence in gambling cases, conducts cryptanalytic examinations of secret or enciphered communications, and manages the FBI Polygraph Program.

The Scientific Analysis Section handles highly specialized examinations such as chemistry, toxicology, arson, firearms, tool marks, hairs and fibers, blood, metallurgy, mineralogy, number restoration, glass fractures, explosives, paints, plastics, and numerous related matters. The Forensic Science Research and Training Center, located at the FBI Academy, Quantico, Virginia, is included in this Section.

The Special Projects Section provides forensic examination of photographs, as well as unique services and products helpful to both the investigator and prosecutor. The Section is entirely responsible for photographic operations and training as well as all exhibit functions. Onsite support related to both criminal and security investigations includes photographic surveillance, concealments, crime scene surveys, artist conceptions, and fabrication of special investigative devices. Prosecutive assistance, which also could include civil matters, entails preparation of demonstrative evidence such as trial charts and three-dimensional scale models. The Special Projects Section also designs and makes commemorative plaques and medals, environmental graphics, and public displays about the FBI's mission. This Section is also responsible for nearly all photographic processing for the Department of Justice in Washington, D.C., and FBI offices nationwide, as well as all of the FBI Headquarters microfilm processing and most camera assignments.

FBI Laboratory services are available to all federal agencies in civil as well as criminal matters and to all duly-constituted state and local law enforcement agencies in criminal matters. Expert court testimony in support of Laboratory examination is provided, when necessary, free of charge.

During Fiscal Year 1983, the Laboratory Division performed 1,003,601 scientific examinations on more than 170,600 specimens of evidence. Approximately 34 percent of all requests for examinations received were submitted from state, county, and municipal law enforcement agencies. Of the remaining 66 percent, requests from FBI offices accounted for 61 percent and other federal agencies for the remaining 5 percent. Additionally, Laboratory examiners answered 1,088 testimony requests during the year, spending over 2,376 workdays in travel and testimony.

The FBI Laboratory was requested to perform examinations in several cases that achieved national prominence. Among the most noteworthy cases were the bombing of the American Embassy in Beirut, Lebanon, on April 18, 1983; the bombing of the Pan American aircraft in flight from Tokyo to Honolulu; and the investigation of extortion letters following seven deaths in the Chicago area caused by cyanide-laced Tylenol capsules.

A U.S. government agency officially requested the FBI Laboratory to provide technical onsite support for the investigation into the bombing of the American Embassy in Beirut, Lebanon. During the crime scene search at the devastated embassy, tons of debris and rubble were sifted and examined. Over 3,200 pounds of evidence were recovered and transported to the FBI Laboratory for forensic analysis. Significant conclusions were made on the deployment of the bomb, positive identification of the bomb-laden vehicle, time of detonation, damage assess-

ment, and type of explosive utilized. Further, body fragments from victims of the explosion were fingerprinted for identification. FBI Laboratory representatives were also involved with the investigation into the circumstances surrounding this bombing, the most extensive case ever investigated by the Explosives Unit.

On August 11, 1982, a bomb exploded aboard a Pan American aircraft in flight from Tokyo to Honolulu, resulting in one death and several injuries. FBI Laboratory explosives specialists were dispatched to Honolulu to process the damaged aircraft. Subsequently, unexploded bombs were recovered on a Pan American aircraft in Rio de Janeiro, Brazil, and at a hotel in Geneva, Switzerland. These bombs were also examined by FBI personnel. All three devices were compared and found to have the same origin. In the past year, several other bombing incidents in Europe, Australia, and the Middle East have been brought to the attention of the FBI Laboratory Explosives Unit and strongly resemble the Pan American bombing.

The Tylenol case involved an FBI investigation of the Hobbs Act extortion following the seven Chicago-area deaths caused by cyanide-laced Tylenol capsules. Johnson and Johnson, the manufacturer, received a one million dollar extortion letter in connection with the Tylenol murders. President Reagan also received an extortion letter at the White House in connection with these murders. Laboratory examination of the envelope received by Johnson and Johnson identified the postal meter number and led to James William Lewis as a prime suspect. Upon receipt of known handprinting of Lewis, Laboratory examination identified Lewis as the writer of both the Johnson and Johnson and the President Reagan extortion letters, as well as letters to FBI Assistant Director James W. Greenleaf, the U.S. Attorney General's office, the Chicago Tribune, and the Kansas City Star.

The Forensic Science Research and Training Center continues to provide specialized forensic science training to federal, state, and local crime laboratory personnel. A permanent staff of scientists use research projects to advance the forensic sciences in support of law enforcement. The visiting scientist and student intern programs—instigated last fiscal year—were again used as an economical and effective means of conducting research.

The specialized training held at the Forensic Science Research and Training Center includes several courses vital to investigating crimes of violence, such as basic forensic serology, introduction to hairs and fibers, sex determination from dried bloodstains, and laboratory examinations in arson cases. During Fiscal Year 1983, over 1,700 students received training in specialized courses, seminars, and symposia.

Scientific journals and the Crime Laboratory Digest, a publication of the FBI Laboratory directed to the nation's

crime laboratories, make the results of research projects available to all laboratories. The Research Unit is currently pioneering the application of scientific instrumentation in several areas of forensic science. Some of the most promising applications include analysis of explosives, bombing scene residue, and the determination of the sex of an individual from a dried bloodstain.

Related activity included two international symposia held at the Forensic Science Research and Training Center. These symposia concerned problems with sexual assault evidence and explosives detection and analysis. Each symposium was attended by more than 150 representatives from industry, academia, and the law enforcement community. Meetings of the Operations and Research Committee were held in May and in September. Formed to assist the FBI in effective utilization of the Forensic Science Research and Training Center to assure awareness of the needs of the forensic science community, and to assist the FBI in responding to these needs, this committee is made up of representatives from the American Academy of Forensic Sciences, the National Association of Medical Examiners, the University of Virginia, and the FBI.

## Identification Division

On October 1, 1982, the Identification Division restored P.L. 92-544 services—that is, services to banking institutions, and state and local employment and licensing authorities—which had been suspended during Fiscal Year 1982.

In addition to restoring full services, a user-fee-system was implemented in consonance with the Administration policy of having individuals benefiting from government services pay for them. To avoid the burden of handling a large number of individual transactions, centralized submission and billing arrangements were established with 17 states and the District of Columbia. Similar centralized arrangements were made with the American Bankers Association, the stock exchanges, and the Commodity Futures Trading Commission. These channeling agencies now handle about 90 percent of all submissions. During Fiscal Year 1983, 643,582 user-fee fingerprint cards were processed, resulting in cash receipts of \$6,708,620 to pay for the cost of processing. The increased workload generated by the restoration of P.L. 92-544 services did not have an adverse impact on the Division's overall average processing time of about 11 workdays.

During Fiscal Year 1983, implementation of an automated fingerprint searching system was completed. Now over 90 percent of all Identification Division fingerprint searches are processed automatically. Additionally, approximately 70 percent of all the responses sent out of the Division come from the automated system, and 55 percent of all name searches are processed automatically. There are

16 million individuals represented in the automated fingerprint file and 7.4 million individuals represented in the name and arrest data file. A conversion effort was started to automate the name and personal descriptive information for those persons in the automated fingerprint file but not listed in the automated name and arrest data file. To date, 1.5 million records from the manual female name file and 2.5 million records from the manual male name file have been converted. This conversion effort will take about one more year to complete, and will result in increased efficiency and accuracy of name searching operations.

On October 12, 1982, the President signed into law the Missing Children Act. The FBI reacted immediately, implementing new procedures for processing fingerprint cards of missing children and unidentified living and deceased persons. In addition, close to one million blank Personal Identification fingerprint cards have been furnished to police agencies throughout the country for use in volunteer programs to fingerprint children.

Latent fingerprint specialists examined evidence in 18,715 cases, including 533 cases for other federal agencies, and 8,242 for state and local agencies. This resulted in the identification of 3,550 suspects and 80 deceased persons. There were 380 court appearances by these experts, resulting in 3,504 years in prison terms, 38 life terms, and 6 death sentences. Fines totalling \$815,525 were also imposed.

The Identification Division's Disaster Squad assisted in identifying victims of three aircraft disasters. Of the 39 bodies recovered from the disaster scenes, 18 were identified by fingerprints or footprints.

## **Administrative and Support Services** **Administrative Services Division**

### **Organization of the FBI**

Operations of the FBI's 59 field divisions and 13 foreign liaison posts are coordinated and supervised from FBI Headquarters in Washington, D.C.

The 59 FBI field divisions and their 418 ancillary offices (resident agencies) are located throughout the United States and in Puerto Rico and Guam.

The 13 foreign liaison posts make feasible the timely exchange of information. They also provide assistance to foreign law enforcement agencies, particularly with regard to investigations that cross international boundaries. In addition, they serve as an effective adjunct to the FBI in carrying out its domestic investigative responsibilities, especially in the areas of terrorism, organized crime, and fugitive investigations.

### **Personnel**

At the close of Fiscal Year 1983, there were 19,702 persons on the FBI payroll, including 8,340 Special Agents and 11,362 clerical, stenographic, and technical personnel.

On May 1, 1983, the FBI assumed responsibility for the operation, maintenance, and alteration of the J. Edgar Hoover Building. The authority for this transfer of function and resources from the General Services Administration derives from the Delegation of Authority Agreement approved by the Office of Management and Budget on December 2, 1982. Implementation of this function has proceeded smoothly with noticeable improvements.

In an effort to make FBI ranks more representative of the American people, the Office of Equal Employment Opportunity Affairs has an active recruitment program for minorities and women. The FBI established a National Applicant Recruiter in 1983 to devise, direct, and manage the nationwide recruiting program for Special Agents. At the close of Fiscal Year 1983, the FBI had on duty 489 female (including 46 minority) Special Agents and 638 minority male Special Agents. A total of 666 Special Agents were hired during Fiscal Year 1983.

On July 28, 1983, the Attorney General signed an order giving the FBI Director the same authority as the DEA Administrator to administratively forfeit property subject to forfeiture under 21 U.S. Code 881. Thus beginning August 1, 1983, all property seized by the FBI for these purposes has been processed by the FBI, and is no longer referred to DEA for action.

### **Records Management Division**

The basic mission of the Records Management Division is management of the FBI's vast Central Records System, which involves the collection, processing, retention, security, and dissemination of record data in support of the investigative and administrative responsibilities of the FBI.

During Fiscal Year 1983, the Records Management Division undertook a major reorganization designed to increase operational efficiency without any increase in personnel, space, or organizational entities. The creation of a Divisional Word Processing Center has resulted in a more efficient and effective handling of Records Management Division responsibilities. These implementations will substantially facilitate intensive efforts to automate the FBI's Central Records System, a high priority goal.

The FBI continues to receive, process and dispatch a huge volume of correspondence. During Fiscal Year 1983, the Records Management Division routed and dispatched in excess of 5 million pieces of correspondence; processed for retention more than 725,000 records; and opened more than 87,000 new case files in various categories. The current record holdings exceed 6 million files. Additionally,

1,156,634 manual index records were converted to a machine-readable format in furtherance of an automated records system. As a result of Mail Management initiatives, savings of \$260,000 in mailing costs were realized.

The Records Management Division processed approximately 1.8 million name check requests submitted by 80 other federal agencies, congressional committees, local and state agencies within the criminal justice system, and certain foreign police and intelligence agencies.

During the past fiscal year, action was completed on more than 1,690,000 pages of FBI documents concerning classification appeals, affidavits for court litigation, and classification of records requested under the Freedom of Information-Privacy Acts (FOIPA).

The Records Management Division received 10,568 new FOIPA requests and reopened 1,189 FOIPA matters during Fiscal Year 1983, in addition to the 5,304 FOIPA requests that were pending at the close of Fiscal Year 1982. A total of 11,587 requests were completed during the past fiscal period. Approximately 70 percent of all FOIPA requests were made by the general public, with the remainder sent by people in prison, academics, news reporters, and FBI employees. There were 1,035 administrative appeals filed in FOIPA matters with 262 FOIPA lawsuits pending at the end of Fiscal Year 1983.

The Division continues in its efforts to utilize support personnel in lieu of Supervisory Special Agents, thereby reducing the overall management costs and releasing agents to perform other assignments.

### **Technical Services Division**

The Technical Services Division is responsible for the management of the FBI's Automatic Data Processing and Telecommunications Services, the FM Radio Communications System, and the technical equipment necessary to support the FBI's investigative mission.

The Organized Crime Information System was deployed to three additional locations, and five new data base files were developed to support case and program management, undercover operations, and consensual monitoring activities. The case management file supports a significant international, La Cosa Nostra-involved, narcotics investigation. A total of 32 field locations were on line at the end of Fiscal Year 1983 spanning 25 of the FBI's field divisions, or approximately 86 percent of the field agents assigned to organized crime, white-collar crime, and criminal investigations.

The Investigative Support Information System (ISIS) was expanded to three field locations, and 20 new major cases were added to the system. At the end of Fiscal Year 1983, ISIS was handling 48 major cases on-line in 28 field divisions and FBI Headquarters. Field office special automa-

tion support was provided to 36 field locations regarding 147 investigative matters.

The batch version of the Computer-Assisted Analytic Support System was successfully implemented by integrating the three technologies: Network Analysis, Statistics and Graphics. Results to date have been used to support a major international organized crime narcotics investigation involving nine major cases and five field offices. Approximately 30 individuals and organizations were identified as potential subjects warranting investigation. This identification resulted in a savings of approximately \$250,000.

The recent award of a 48 million dollar contract to Burroughs/Systems Development Corporation for approximately 6,000 Tempest terminals and 3,000 printers concluded a two-year intensive research, development, and procurement effort. With this award, the FBI effectively gained Tempest-protected devices for one-third of the commercial costs and completed the standardization of its hardware complement. This hardware standardization will enable the FBI to standardize its software complement as well. This will enable the FBI to achieve its long range goal of developing and distributing integrated information systems for use by the field offices and resident agencies on schedule. Additionally, the FBI will now be able to significantly reduce telecommunication costs by using local terminals to process data prior to transmitting to the regional computer centers.

The Secure Teletype System, which provides improved communications using the Department of State's upgraded network for diplomatic telecommunications, was expanded to Legal Attachés in Rome and Tokyo.

The National Crime Information Center System continued to support approximately 60,000 law enforcement and federal agencies in all 50 states, Canada, Puerto Rico and the Virgin Islands. The National Crime Information Center System was expanded to provide the following capabilities:

- An add-on feature to the Vehicle File so that stolen articles could be interrelated.
- A new U.S. Secret Service Protective File to provide the Secret Service with the capability to identify individuals who may pose a danger to their protectees.
- Modification of the Missing Persons File and implementation of the Unidentified Persons File to comply with the Missing Children's Act.
- Modification of the Computerized Criminal History File to support the Interstate Identification Index, which now has 14 fully participating states.

In Fiscal Year 1983, outmoded field office telephone systems were replaced with state-of-the-art digital switching

equipment in seven field locations. The survey, installation, and maintenance of communications and data processing equipment in the field offices continued.

Construction of the Field Office Information Management System (FOIMS) Northeast Regional Computer Support Center continued. A study of the New York Division's manual indices was conducted to facilitate conversion to fully automated indices searching. Three mainframe computers were acquired to replace the current minicomputers that support all FOIMS applications.

A contract was awarded for the installation of the Headquarters Local Area Network. A detailed analysis of FBI communications requirements was completed and resulted in the selection of IBM's Systems Network Architecture as the basic communications architecture for the FBI.

The FBI developed, procured, deployed, and operated a digital adaptive filter system. It was used in a major terrorist case resulting in the arrest of an internationally known terrorist and four others.

A contract was awarded to install voice privacy radio systems in the New York, Chicago, Washington, Boston, and Miami field offices. The FBI worked with the other government agencies involved in the Organized Crime Drug Enforcement Task Forces in order to establish a means of communicating between these agencies via radio. As a result, portable radios with digital voice privacy were procured for distribution to the various agencies involved in the Organized Crime Drug Enforcement Task Forces.

### **Inspection Division**

The Inspection Division is composed of three offices: the Office of Professional Responsibility, the Office of Inspections, and the Office of Program Evaluations and Audits.

The primary functions of the Office of Professional Responsibility (OPR) are to supervise or investigate all allegations of criminality and serious misconduct on the part of FBI employees, and monitor disciplinary action taken concerning any FBI employee. In addition, OPR maintains close liaison with OPR in the Department of Justice, and coordinates FBI submissions to the Intelligence Oversight Board at the White House. During Fiscal Year 1983, OPR coordinated or investigated 380 separate inquiries on FBI employees.

The Office of Inspections is responsible for conducting in-depth examinations of the FBI's investigative and administrative operations to determine whether: 1) there is compliance with applicable laws, regulations, and policies; 2) resources are managed and used in an effective, efficient, and economical manner; and 3) desired results and objectives are being achieved. These examinations are conducted for all FBI field offices, legal attaches, and Headquarters divisions approximately once every two years. The Office of Inspections provide valuable information for management's

short-range planning and decisionmaking, and serves as a viable administrative tool in evaluating FBI managers. During Fiscal Year 1983, the Office of Inspections conducted a total of 35 inspections resulting in issuance of 1,828 instructions or recommendations of which 1,389 related to effectiveness or efficiency of operations. Further, the Office of Inspections undertook examination of 12 Equal Employment Opportunity complaints and conducted eight administrative inquiries.

The Office of Program Evaluations and Audits is comprised of a Program Evaluations Unit and an Audit Unit. The Program Evaluations Unit conducts periodic evaluations of FBI investigative programs and administrative activities as well as studies and policy analysis. The purpose of these functions is to determine whether existing policies, procedures, and operations meet present and anticipated requirements. In addition, FBI operations are reviewed for economy, efficiency, and effectiveness. During Fiscal Year 1983, two evaluations of FBI programs and nine studies were completed. These evaluations and studies resulted in various recommendations for improving operational and management effectiveness. All FBI major programs are scheduled for evaluation on a five-year cycle.

The Audit Unit is responsible for financial audits of the FBI. In addition, the Audit Unit has responsibility for implementation of Office of Management and Budget Circular A-123 on Internal Control Systems and the Federal Manager's Financial Integrity Act of 1982. The Audit Unit also has responsibility for liaison with the General Accounting Office and other government auditors. During Fiscal Year 1983, the Audit Unit conducted financial and compliance audits at 36 field offices and five audits of FBI Headquarters funds. During Fiscal Year 1983, Payroll and Cash Management Audits were conducted and a Voucher Audit was commenced. Also, audits of seven undercover operations, as required by Congress, were performed. Also during Fiscal Year 1983, the General Accounting Office was assisted in conducting 23 audits of FBI operations, and the Department of Justice, Audit Staff, was assisted in conducting 10 studies of FBI operations.

### **Legal Counsel Division**

The Legal Counsel, along with a staff of Special Agent attorneys, provides legal advice to the Director and other FBI officials, serving as a consultant on sensitive policy and related administrative and investigative issues. In addition to evaluative and analytical services, the Legal Counsel assists in the defense of civil suits and administrative claims filed against named FBI personnel defendants, past and present, as well as the defense of all FBI records at issue in litigation brought about pursuant to the FOIPA. The demands made for civil discovery in litigation are handled by the Civil Discovery Review Units, Legal Counsel Divi-

sion. The Legal Counsel staff also represents the FBI at administrative proceedings before the Merit Systems Protection Board and the Equal Employment Opportunity Commission. The goals of the litigation program are to ensure that the FBI's posture in all litigation is consistent and proper and that the interests of the FBI and its employees are fully represented.

Legal research on a wide variety of issues concerning administrative and sensitive investigative matters is conducted to prevent problems and ensure legality in the conduct of investigative activities, including highly sensitive investigative techniques such as undercover operations. Guidance is also offered to field investigative and supervisory personnel to ensure compliance with the various guidelines issued by the Attorney General.

When, on January 21, 1982, the Attorney General delegated to the FBI concurrent investigative jurisdiction with DEA in the enforcement of the Controlled Substances Act, one part of this responsibility became the seizure and forfeiture of real or personal property used in, or traceable to, a violation of this act.

On August 1, 1983, the FBI commenced handling administrative forfeiture proceedings pursuant to the Act. The Legal Counsel Division has the responsibility to ensure legal sufficiency throughout each step of the forfeiture process. This includes the declaration of forfeiture and ruling on petitions for remission (a return of the property) or mitigation (a money penalty).

A comprehensive legal training program for FBI personnel and others in the criminal justice system is planned, administered, and delivered by Legal Counsel staff attorneys. Comprehensive instruction given in constitutional, criminal, and procedural law conforms to the training mission of the FBI, supports the effectiveness of FBI investigations, and will meet the needs of future investigators in the 1980's. All legal training is under the direction and supervision of the Legal Counsel.

### **Office of Congressional and Public Affairs**

The Office of Congressional and Public Affairs is an adjunct of the Director's Office which coordinates news media requests and related public information matters, and pro-

vides the American people with a factual accounting of FBI programs, operations, and services on a continuing and timely basis.

This Office also maintains liaison with Capitol Hill concerning legislative and oversight matters pertaining to the FBI and analyzes proposed or enacted legislation affecting FBI operations.

### **Uniform Crime Reporting Program**

The Uniform Crime Reporting Program provides periodic assessments of crime in the nation as measured by offenses reported to the law enforcement community. A cooperative effort of over 15,000 state and local law enforcement agencies, the Program collects, processes, and disseminates data concerning crime, arrests, property stolen and recovered, and law enforcement employee counts, as well as other criminal justice information. Such data assist the law enforcement administrator in discharging his public responsibilities effectively. Statistical information on crime published under the program is also widely used by public administrators, legislators, criminal justice researchers and planners, law enforcement officers, and the general public.

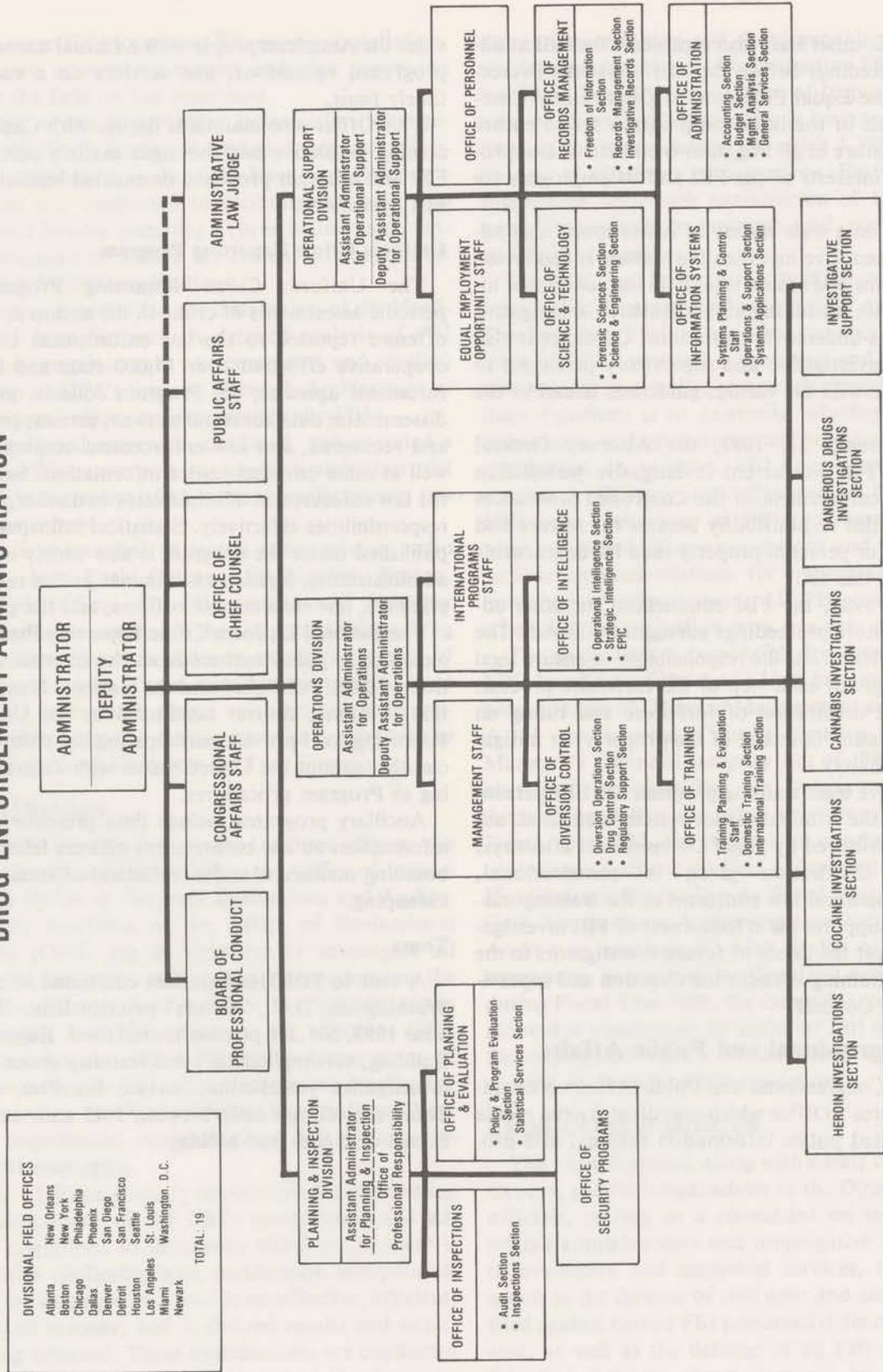
The national Uniform Crime Reporting Program receives guidance in policy matters from the International Association of Chiefs of Police and the National Sheriff's Association. Training courses conducted by the Uniform Crime Reporting staff provide participating law enforcement agencies throughout the United States with assistance in adhering to Program procedures.

Ancillary programs include data presentations detailing information on law enforcement officers feloniously killed, bombing matters, assaults on federal officers, and parental kidnaping.

### **Tours**

A visit to FBI Headquarters continued to rank high on Washington, D.C., visitors' priority lists. During Fiscal Year 1983, 504,356 persons toured the J. Edgar Hoover FBI Building, viewing displays and learning about the Bureau's investigative jurisdiction, service function, and history. Tours are offered daily between 8:45 a.m. and 4:15 p.m., except weekends and holidays.

## DRUG ENFORCEMENT ADMINISTRATION



# Drug Enforcement Administration

## Francis M. Mullen, Jr. Administrator

The Drug Enforcement Administration (DEA) enforces the controlled substances laws and regulations of the United States.

DEA's primary responsibilities include:

- Investigation of major drug law violators who operate at interstate and international levels;
- Regulation of laws governing the manufacture, distribution, and dispensing of licit controlled substances;
- Management of a national narcotics intelligence system;
- Coordination with federal, state, and local law enforcement authorities and cooperation with counterpart agencies abroad;
- Training, scientific research, and information exchange in support of drug trafficking prevention and control.

A unified, sustained assault against the nation's illicit drug traffic, resulting from a new alliance among federal, state, and local law enforcement, has been the cornerstone of DEA's efforts in Fiscal Year 1983. Evidence of this renewed commitment is found in the large increase in joint DEA/Federal Bureau of Investigation (FBI) investigations, major interdiction achievements in the Caribbean by the South Florida Task Force, establishment of the National Narcotics Border Interdiction System, a nationwide campaign to eradicate domestic marijuana, and a concerted drive against organized crime as 12 new task forces became operational in key cities across the country.

Tremendous strides have been made in the last 12 months with respect to establishing the most effective role for the FBI in supporting DEA in its drug enforcement mission. At the end of Fiscal Year 1983, there were 598 joint investigations in which the FBI contributed expertise and manpower to financial and organized crime investigations, while DEA supplied the drug investigative know-how. Included in this effort were 17 joint Title III intercepts for which DEA was the primary affiant. As administrators and field agents of both organizations work side-by-side, the results are increasingly more impressive.

## Enforcement Operations (Domestic)

The major objectives of the domestic drug enforcement operations for Fiscal Year 1983 were as follows:

- To maintain continued pressure on heroin trafficking networks, and hold below four percent the average purity of heroin available at the street level;
- To maintain investigative emphasis on dangerous drugs, including emphasis on clandestinely manufactured phencyclidine hydrochloride (PCP), methaqualone, and lysergic acid diethylamide (LSD);
- To increase pressure on the cocaine, marijuana, and counterfeit methaqualone traffic entering the southeastern and south central United States via South America;
- To continue to redesign and improve the Narcotics and Dangerous Drugs Information System;
- To immobilize major traffickers and their organizations by seizing and forfeiting drug-related assets;
- To implement a Caribbean enforcement/intelligence program involving coordinated interdiction, investigation, and eradication initiatives;
- To make increased use of military information and equipment to assist civilian law enforcement activities;
- To encourage eradication of illegal drugs produced in the United States; and
- To improve cooperation and coordination among federal, state, and local law enforcement agencies and the intelligence community.

## Enforcement Operational Methods

Domestic enforcement activities in pursuit of DEA's major objectives and drug priorities are aimed toward the reduction of the illicit availability of narcotics and dangerous drugs in the domestic marketplace, and toward disruption of organized trafficking through the arrest and prosecution of major violators and the removal of their assets.

During Fiscal Year 1983, DEA's increased use of civil forfeiture statutes and "reverse undercover" techniques against major traffickers further enhanced seizures of trafficker assets. DEA also used innovative investigative techniques against marijuana cultivation in California, Oregon,

and Hawaii. In the dangerous drug category, PCP, Schedule II amphetamines, LSD, and counterfeit methaqualone received priority attention.

DEA's investigative activities fall into two major categories based on the source of the investigation: DEA initiated investigations, and cooperative investigations with other law enforcement agencies.

In DEA initiated cases, a variety of investigative techniques—including electronic surveillance and use of informants—are employed in the development of substantive and conspiracy cases. Increasing use is being made of the conspiracy statute and the more sophisticated statutory tools, such as the Continuing Criminal Enterprise provision of the Controlled Substances Act and the Racketeer Influenced and Corrupt Organizations statute. To date, approximately 97 percent of DEA's special agent force has received formal training in conspiracy development techniques.

In selected trafficking situations requiring additional manpower or specialized investigative skills, Special Enforcement Operations, which replaced Mobile Task Forces in Fiscal Year 1983, were established. The structure and objectives of Special Enforcement Operations—which are controlled at Headquarters—vary according to enforcement requirements; the common characteristic is that generally these operations cut across jurisdictional lines and are beyond the resource capabilities of individual field units. Full utilization of conspiracy development techniques aimed at prosecution of violators who direct and control the drug traffic is a hallmark of this program. A controlled expansion of the Special Enforcement Operations program was undertaken in Fiscal Year 1983, during which 67 operations were in active stages of development.

Continuing efforts were focused on the immobilization of domestic clandestine laboratory operations. During Fiscal Year 1983, 187 clandestine laboratories were seized during the conduct of DEA investigations, including 95 methamphetamine and 34 PCP laboratories. An effort complementary to the clandestine laboratory seizures is the precursor control program, supported by increased emphasis in the domestic intelligence and technical equipment programs. The rescheduling of PCP, the scheduling of the amphetamine precursor phenyl-2-propanone (P2P), and the controls placed on piperidine (a PCP precursor) have continued to result in more effective actions against the illicit manufacture of PCP, methamphetamine, and amphetamine.

Increased enforcement efforts were also directed against major traffickers smuggling huge quantities of cocaine, marijuana, and methaqualone entering the Southeastern United States from South America. A comprehensive Caribbean enforcement strategy was integrated into South

American/United States programs in order to increase the impact on this drug traffic.

In March 1982, Vice President Bush announced the formation of the South Florida Task Force to address the severe drug trafficking and related violent crime there. The Task Force consists of personnel from the DEA, U.S. Customs Service, the Bureau of Alcohol, Tobacco and Firearms, the Immigration and Naturalization Service, the Department of Defense, and the U.S. Coast Guard.

DEA and Customs participate in this program under a Florida Joint Task Group. This group conducts both pre- and post-drug smuggling investigations, as well as financial investigations throughout the state of Florida. The following table reports the Florida Joint Task Force Group results from its formation in 1982 through the end of Fiscal Year 1983:

#### FLORIDA JOINT TASK FORCE GROUP RESULTS

I. Arrests	1,677	
II. Drug Seizures	No. of Seizures	Amount Seized
Heroin	2	0.4 kilograms
Cocaine	412	3,555.6 kilograms
Cannabis	606	874,083.6 kilograms
Methaqualone	10	160,470 dosage units
Other Drugs	13	39,092 dosage units
III. Asset Seizures	No. of Seizures	Value
Vehicles	79	\$ 679,825
Vessels	194	17,115,550
Aircraft	27	1,765,500
Currency	143	2,590,964
Bond	1	50,000
Weapons	351	135,566
Other	25	241,935
Total		\$ 22,579,340

The implementation of the Vice President's South Florida Task Force established a coordinated effort among federal government agencies to address the marijuana and cocaine problem in the Caribbean, as it affected Florida and the rest of the United States.

DEA also participated in two other cooperative ventures in support of the effort against marijuana and cocaine traffic from the Caribbean and South America: first, the effort in the Bahamas, Turk/Caicos Islands, and the Antilles called Operation BAT; and second, in the Caribbean and Gulf of Mexico, called Operation Trampa II.

In October 1982, the President announced an eight-point program to combat organized crime and drug trafficking,

including the formation of 12 regional task forces across the country. Recognizing the increased involvement of organized crime in drug trafficking, these Organized Crime Drug Enforcement Task Forces (OCDETF) are targeting and pursuing the highest levels of organized criminal enterprises trafficking in drugs. Their focus is on those who direct, supervise, and finance the illicit drug trade.

These Task Forces are utilizing the resources of DEA, the FBI, the Internal Revenue Service, the Bureau of Alcohol, Tobacco and Firearms, the Immigration and Naturalization Service, the U.S. Marshals Service, the U.S. Customs Service, and the U.S. Coast Guard. In December 1982, the Congress appropriated \$127.5 million for the program for the remainder of Fiscal Year 1983.

By the end of Fiscal Year 1983, 274 DEA agents had actively participated in 266 OCDETF cases. As of September 30, 1983, 519 arrests had been made and approximately \$19.5 million in trafficker assets had been seized in these cases. Over 235 indictments had been returned and 117 individuals convicted in the OCDETF cases in which DEA participated. During Fiscal Year 1983, DEA dedicated almost 265,000 investigative work hours to OCDETF cases.

To complement the OCDETF initiative, the National Narcotics Border Interdiction System, headed by Vice President Bush, was announced in May 1983 to coordinate all federal efforts to stem the flow of narcotics into the United States. DEA has a support role in the National Narcotics Border Interdiction System initiative, as interdiction is primarily the responsibility of other agencies. DEA provides intelligence to National Narcotics Border Interdiction System units to enhance interdiction activity, and also conducts follow-up investigations.

In each of the six National Narcotics Border Interdiction System regional centers (New Orleans, El Paso, Long Beach, Chicago, New York, and Miami) DEA has a senior special agent assigned to the Operations Information Center, and an intelligence analyst assigned to the National Narcotics Border Interdiction System intelligence staff.

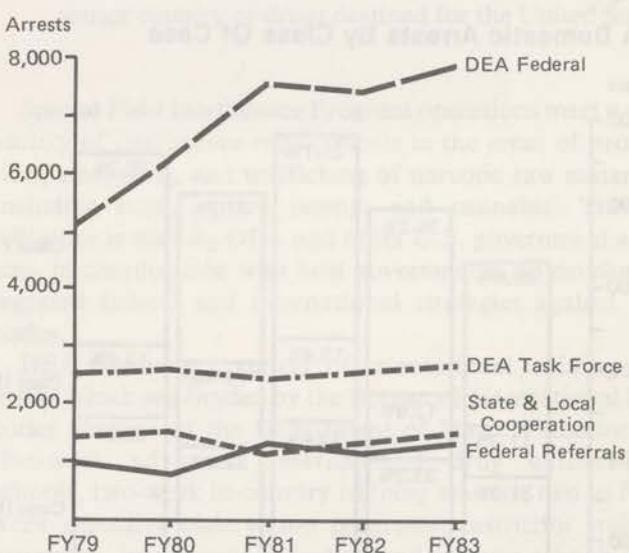
In Fiscal Year 1983, DEA's Domestic Marijuana Eradication/Suppression Program was expanded to include 40 states—15 more states than had participated in the 1982 program. DEA's role in this cooperative venture is to encourage state efforts, and to contribute funding, training, and investigative and aerial support to state and local law enforcement agencies engaged in domestic marijuana eradication and suppression. Last year, DEA provided the states \$1,933,770 to help defray the expenses of their participation in this program.

Preliminary reports for Fiscal Year 1983 indicate that a much higher percentage of the marijuana plants sighted across the country were eradicated than in Fiscal Year 1982. It is projected that close to 4 million plants were destroyed by law enforcement officers. Arrests increased, as did

seizures of greenhouses and other indoor growing operations. Enforcement action has forced growers to cultivate fewer plants and to disperse them over wider areas, thus greatly increasing the growers' logistical and security problems.

The use of paraquat was an important aspect of DEA's Domestic Marijuana Eradication/Suppression Program in Fiscal Year 1983. Paraquat was used to eradicate marijuana in the Chattahoochee National Forest in Georgia and in the Daniel Boone National Forest in Kentucky during August 1983. This action led to court challenges by environmental groups resulting in a judicial decree temporarily restraining DEA from the continued use of paraquat on federal lands until an Environmental Impact Statement could be completed. DEA's aggressive eradication efforts in cooperation with state and local law enforcement agencies will continue.

#### DEA Domestic Arrests



Major violators in the Class I and II category are heads of criminal organizations, laboratory operators, heads of structured illicit drug distribution organizations or major non-drug conspirators. Enforcement efforts are directed primarily toward these violators to achieve greatest impact.

Total DEA domestic arrests increased 25 percent from FY1980 to FY1983, reaching the highest point in five years. There were 7,800 DEA Federal arrests, of which 61 percent were Class I and II cases. Federal referral arrests, primarily from the U.S. Customs Service and the Immigration and Naturalization Service, increased as a result of increased border interdiction efforts.

#### Federal/State and Local Task Forces

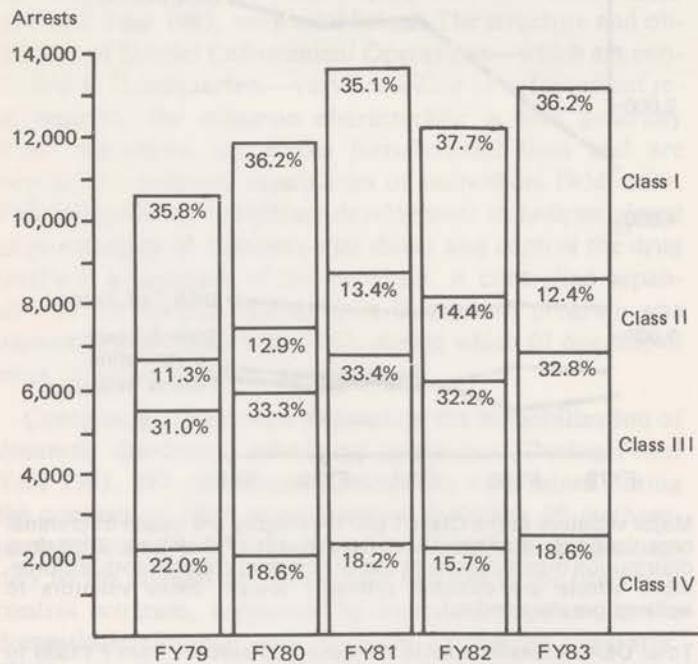
The DEA/State and Local Task Force program increases the effectiveness of state and local drug enforcement activities aimed at the mid-level violator, the link between supplier and consumer, by joining DEA agents and state and local police officers into cohesive drug enforcement units in

many parts of the country. This promotes interjurisdictional cooperation, furthers exchange of intelligence, and mitigates the effects of violent crime.

In 1983, 22 DEA/State and Local Task Forces were operational, in New York; Long Island; Buffalo; Rochester; Newark; Philadelphia; Washington, D.C.; Orlando; Chicago; Minneapolis; Denver; St. Louis; Lubbock; Phoenix; Los Angeles; San Diego; San Jose; Guam; Portland, Oregon; Detroit; and Baltimore.

The overall Task Force conviction rate for 1983 was 98 percent, and the Task Force Program resulted in 2,701 arrests during Fiscal Year 1983. It is significant to note that, while DEA commits fewer than 10 percent of its total investigative work hours to the Task Forces, these resources have consistently achieved over 2,000 arrests per year. Approximately 31 percent of Task Force arrests were in the Class I and II case categories; 63 percent of Task Force investigative work hours were devoted to Class I and II investigations.

#### DEA Domestic Arrests By Class Of Case



G-DEP is an investigative activity classification system utilized by DEA to assure that enforcement efforts are directed toward the highest national drug priorities. Cases are classified by type of drug, the geographic area involved, the source of the case and the level of the violator.

#### Diversion Control

The Office of Diversion Control enforces provisions of the Controlled Substances Act which pertain to the manufacture and distribution of controlled substances for medical and research purposes. The Office is responsible for the detection and prevention of diversion from legitimate

channels. It conducts periodic investigations of drug manufacturers and wholesalers, identifies drug shipments in foreign countries which are destined for illegal smuggling operations, conducts special investigations of targeted registrants who are high-level violators, monitors all imports and exports of controlled substances, annually registers all handlers of controlled substances, establishes manufacturing quotas for all Schedule I and II substances, and conducts preregistration investigations prior to approval of applications.

DEA's special diversion programs operate effectively and have a positive impact on the overall diversion problem. This is especially apparent with regard to methaqualone, a dangerous substance which is one of the most popular drugs of abuse.

The domestic methaqualone diversion situation appears to have been reduced to its lowest level in more than a decade. The import quota for methaqualone has been reduced to just 2,250 kilograms for 1983 and further reductions may be possible. This is a substantial reduction from the 17,468 kilograms quota in 1978.

In a directly related area, the stress clinic phenomenon has been effectively counteracted by a combination of enforcement actions and the reduction in the availability of methaqualone. These "clinics" are storefront operations that act as prescription mills for controlled drugs. Forty stress clinics have been closed in the last two years, and those still in operation are reportedly having difficulty obtaining the large quantities of methaqualone necessary for their operation.

The clearest and most important measure of our successful efforts against methaqualone is the decline in injuries attributable to methaqualone abuse. Methaqualone injury mentions reported to the Drug Abuse Warning Network (DAWN) have declined dramatically since their peak in 1980. By the end of July 1983, methaqualone injuries had declined to approximately the level they were prior to 1978, before the sharp rise in abuse. This trend is expected to continue, which would bring methaqualone injuries to the lowest level since statistics have been collected. DEA will continue current efforts against methaqualone diversion, including close scrutiny of the methaqualone importation quota, the monitoring of international commerce, and the immobilization of violators.

In the summer of 1983, DEA's revised pharmaceutical distribution computer tracking system (ARCOS/DADS) provided the first geographic/target-specific distribution information to the individual states. Although DEA has provided pharmaceutical distribution information to the states for several years, the new system provides computer analyses of doctor and pharmacy purchases of drugs by state and zip code, and directly identifies both apparent significant targets for investigations and questionable

distribution trends. This new system allows the states to better direct their resources toward major violators.

DEA has taken substantial actions against the look-alike drug problem since mid-1981. "Look-alikes" are tablets or capsules containing non-controlled over-the-counter ingredients manufactured to imitate the appearance of controlled substances. Specifically, DEA has drafted a Model Imitation Controlled Substances Act which has been enacted by 43 states, enlisted the support of capsule manufacturers to refuse to sell their products to look-alike manufacturers, and established interagency governmental groups at both policy and working levels to coordinate, support, and enhance each agency's program against look-alikes.

These initiatives have resulted in a sharp decrease in the availability of look-alikes. However, to circumvent these actions, stimulant products not resembling or directly represented as controlled products are being produced and promoted to youthful abusers. During Fiscal Year 1983, DEA, in conjunction with the Department of Justice, drafted federal legislation aimed at eliminating this new "act-alike" problem.

### Foreign Cooperative Investigations

The purpose and principal thrust of the Foreign Cooperative Investigations Program is to motivate and assist foreign countries in the development of drug law enforcement and ancillary programs to reduce the supply of illicit drugs produced and processed abroad for ultimate delivery to the United States. The United States primary strategy is to attack narcotics and dangerous drugs as close to the foreign source as possible, with the aim of disrupting the international flow of drugs.

DEA foreign activities focus on providing expert advice and authorized investigative, intelligence, and training assistance in those foreign areas deemed most critical to the reduction of drugs destined for the United States. A natural extension of these activities is DEA's assistance in implementing substantive intergovernmental enforcement and intelligence exchanges.

The diversion of legitimately produced controlled substances from international commerce has been a significant problem directly affecting the United States. DEA has been instrumental in persuading foreign governments to control the production and distribution of dangerous pharmaceuticals. By the end of Fiscal Year 1983, all known major European source countries, as well as the People's Republic of China, had ceased or reduced methaqualone production, and had placed strict controls on its exportation. During Fiscal Year 1983, DEA had advisers on regulatory matters in Germany and Mexico, and additional advisers are contemplated for the future.

The collection and exchange of criminal drug information between DEA and its foreign counterparts directly support

intelligence efforts, as well as the prosecution of defendants in the United States and in foreign countries. These efforts include:

- Development of sources of information on illicit drug cultivation, production, and transportation activities;
- Undercover penetration of trafficking organizations in support of host country operations;
- Surveillance assistance and development of evidence against major traffickers of drugs destined for the United States;
- Assistance to foreign officers in pursuing investigative leads;
- Coordination of matters regarding extraditions, expulsions, joint prosecutions, and requests for judicial assistance; and
- Laboratory analysis of drug samples collected by foreign law enforcement officers to determine the source country of drugs destined for the United States.

Special Field Intelligence Program operations meet a wide variety of intelligence requirements in the areas of production, smuggling, and trafficking of narcotic raw materials, including coca, opium poppy, and cannabis. This intelligence is used by DEA and other U.S. government agencies, in coordination with host governments, to develop integrated federal and international strategies against narcotics.

DEA conducts a variety of international training programs which are funded by the Bureau of International Narcotics Matters of the Department of State. These include five-week advanced international drug enforcement schools, two-week in-country training schools, two to four-week executive observation programs, instructor training programs, intelligence collection and analysis schools, and three-week forensic chemistry seminars.

Some accomplishments of the Foreign Cooperative Investigations Program in Fiscal Year 1983 were 1,250 cooperative arrests of international drug traffickers, seizure of 5,206 pounds of heroin and 17,188 pounds of cocaine, implementation of 30 Special Field Intelligence Programs, and training of 1,240 foreign government officials in drug enforcement methods.

Specific accomplishments of this expanded cooperative international effort include the following:

#### Mexico and Central America

- Continued and improved cooperation with the Office of the Attorney General of Mexico resulted in the initiation of several new drug-related investigative programs.

- Numerous Special Field Intelligence Programs were initiated in Mexico. These produced significant intelligence data for use by DEA and Mexican authorities.
- Honduras law enforcement officers were provided with extensive training in drug investigative techniques as a result of funding assistance by the U.S. government. The increased training resulted in a significant increase of drug seizures within Honduras. At the request of the government of Honduras, DEA established an office at Tegucigalpa.

#### **Europe, Middle East, and Southeast Asia**

- A request made by the Federal Republic of Germany (West Germany) for increased DEA assistance to confront their Southwest Asian heroin problem has been realized with the assignment of intelligence analyst and special agent personnel to the German Police at Wiesbaden.
- An informal understanding continues with West German Customs to expand assistance and cooperation on drug interdiction and control.
- DEA intelligence probes in West Germany have identified a sizeable number of Turkish traffickers transporting Southwest Asian heroin into Western Europe.
- Tentative working agreements with both Pakistan and Turkey on drug control assistance programs are under development. In Turkey, these agreements will involve the Turkish National Police (TNP) and the militia (Jandarma). In Pakistan, agreements with the Pakistan Narcotics Control Board (PNCB) will provide support in administering the government's ban on all opium production in Pakistan.
- Liaison has been steadily increased with Eastern Bloc countries because of the flow of drugs through those countries.
- The Malaysian government has combined all narcotics police into a central unit and plans to increase significantly the commitment of manpower.
- Seizures of Southeast Asian heroin in the United States have increased steadily from 1981 through September 1983. According to DEA intelligence estimates, 23 kilograms of Southeast Asian heroin were seized in 1981, compared to 52 kilograms in 1982 and 114 kilograms in the first nine months of 1983.

#### **Caribbean**

With its hundreds of islands and numerous small independent and colonial governments, the Caribbean area provides major international narcotics traffickers with protected shipping routes and aircraft and vessel refueling sites.

It also affords drug-money launderers and criminal fugitives with safe havens from which to direct their illicit smuggling activities. Most Caribbean governments have limited logistical and manpower resources—all of which are relatively unsophisticated—as well as scarce financial resources devoted to drug law enforcement. The major cooperative activities of drug enforcement operations in the Caribbean area for Fiscal Year 1983 were as follows:

- DEA's expansion and maintenance of vigorous Special Enforcement Operations in the Caribbean designed to significantly reduce the supply of cocaine, marijuana, and counterfeit methaqualone being shipped through the Caribbean to the United States;
- Increased air intelligence and enforcement operations in conjunction with DEA Air Wing operations; and
- A significant increase in reporting drug traffickers' vessel and aircraft lookouts to the El Paso Intelligence Center (EPIC).

#### **Intelligence**

A major goal of the Administration's drug enforcement strategy is "to bring to bear the full range of federal, state, and local government resources on stopping the drugs and apprehending those responsible for transporting and distributing illicit drugs." At the federal level, eight agencies are actively involved in the drug enforcement effort. There are 17,000 state and local law enforcement agencies with jurisdiction in narcotics matters, as well as numerous counterparts in source and transshipment countries. The effectiveness of cooperative and coordinated efforts by these disparate elements is dependent upon the availability of adequate, timely, and reliable intelligence. Reorganization Plan No. 2 of 1973 assigns primary responsibility for drug intelligence to DEA.

Executive Order 12333, signed by President Reagan on December 4, 1981, increased intelligence collection resources available to the drug reduction effort by authorizing the intelligence community, in accordance with law, to collect, produce, and disseminate intelligence on the foreign aspects of narcotics production and trafficking. DEA has major cooperative programs under way to ensure that the resources available under Executive Order 12333 are fully utilized. In Fiscal Year 1983, DEA established a Special Intelligence Unit to coordinate such information.

To increase the use of available intelligence against drug trafficking, construction began both at DEA Headquarters and at EPIC to upgrade or create the facilities necessary to process and store this sensitive Special Compartmented Intelligence material. The amount of Special Compartmented Intelligence data flowing into DEA increased throughout Fiscal Year 1983, and is expected to continue to do so in Fiscal Year 1984.

In Fiscal Year 1983, the Office of Intelligence performed a wide variety of operational and strategic functions and was recently reorganized into three sections to enhance this capability: Operational Intelligence, with its units aligned on a drug specific basis; Strategic Intelligence, which is organized for geographic coverage and expertise; and a newly established Financial and Special Intelligence Section, which is responsible for the coordination of financial investigations and for the receipt and analysis of intelligence community information pertaining to such investigations.

The Operational Intelligence Section provided increased support to field investigations of major drug trafficking syndicates. This Section also provided support to OCDETF cases and also to the National Narcotics Border Interdiction System throughout Fiscal Year 1983.

The financial and special intelligence operations of the DEA Intelligence Program has played a major role in providing information that directed both enforcement and diplomatic efforts against narcotics related financial assets. One such effort in Fiscal Year 1983, Operation Cash Flow, identified methods and countries involved in the laundering of narcotics dollars. As a result of field enforcement supported by the Intelligence Program, almost \$205 million were seized in Fiscal Year 1983.

The Pathfinder system, designed to file and track intelligence information is another aspect of intelligence support to field operations. Pathfinder terminals and training were provided to most DEA field divisions in Fiscal Year 1983 by the Operational Intelligence Section. A recent improvement developed in 1983 allows larger numbers of telephone call records to be automatically filed through a recording mechanism than can interface with the computer program. This system has saved many work hours that would otherwise have been spent by individual intelligence analysts using manual procedures.

The Operational Intelligence Section also developed information resulting in several successful operations against major drug traffickers through Special Field Intelligence Programs. These programs are designed to close gaps in intelligence gathering that cannot be filled using conventional collection methods. Intelligence developed through Special Field Intelligence Programs assisted both Strategic and Operational Intelligence in gathering timely and accurate information on worldwide production, smuggling, trafficking, and trends, especially in areas of denied access.

Other Special Field Intelligence Programs such as the Domestic Monitor Program, which identifies origin, price, and purity of samples, have provided an early warning of fluctuations in domestic drug availability. For example, during Fiscal Year 1983, a joint DEA/National Institute for Drug Abuse Project was begun, using field investigators to monitor "street level" availability trends for certain dangerous drugs, in addition to marijuana and cocaine. The

goal of this project is to determine both the scope and direction of the retail traffic of these substances, and thus to identify emerging patterns and new drugs of abuse.

Several other key Special Field Intelligence Program projects, planned and initiated in the previous year, were completed in Fiscal Year 1983. Photographic surveys of marijuana cultivation in Central America, combined with diplomatic efforts, led to the successful eradication of an estimated 90 percent of the cannabis crop in the country of Belize.

A Special Field Intelligence Program was also instrumental in the Colombian government's recently imposed controls on importation of the chemical solvent ethyl ether, used in processing coca leaves into cocaine. This action was taken after it was revealed that 98 percent of the solvent imported had no legitimate use in that country.

The Strategic Intelligence Section provided critically needed geographic expertise, assessments, estimates, and warnings on drug availability, production, trafficking, and trends to foreign, federal, state, and local authorities. To provide this information, the Strategic Intelligence Section produced and distributed publications such as the *Monthly Digest of Intelligence* and *Quarterly Intelligence Trends*.

Another publication provided by the Strategic Intelligence Section is the annual *Narcotics Intelligence Estimate* (NIE). This publication is an unclassified national assessment incorporating the best available information on the production and use of illegal drugs. It is the most comprehensive estimate available on the supply of drugs to the illicit U.S. market, as well as on money flows associated with the traffic. Information contained in this report is derived from the 11 member agencies of the National Narcotics Intelligence Consumers Committee.

The National Narcotics Intelligence Consumers Committee, chaired by DEA's Deputy Assistant Administrator for Intelligence, is made up of representatives of DEA, the U.S. Coast Guard, Department of Defense, U.S. Customs Service, FBI, Immigration and Naturalization Service, Internal Revenue Service, National Institute on Drug Abuse, Department of State, Department of the Treasury, and the White House. Representatives of the Central Intelligence Agency and the National Security Agency participate as observers.

In Fiscal Year 1983, an extensive National Narcotics Intelligence Consumers Committee study titled "An Evaluation of the Methodologies for Producing Narcotics Intelligence" was prepared by the Strategic Intelligence Section to document the methods used in producing intelligence estimates concerning the production, consumption, and informal price structure of illegal drugs.

Intelligence units assigned to major field offices continue to play a significant role. Domestically, these personnel pro-

vide support to enforcement operations and also conduct intelligence probes.

The EPIC provides an intelligence clearinghouse for drug enforcement information offering unique and continuous intelligence support to federal, state, and local officials. EPIC is a cooperative effort staffed by personnel from DEA and eight other federal agencies, including the Immigration and Naturalization Service, U.S. Coast Guard, Customs Service, Bureau of Alcohol, Tobacco and Firearms, Federal Aviation Administration, FBI, Marshals Service, and the Internal Revenue Service. In addition, EPIC has a working agreement with 47 states.

The primary responsibilities of EPIC include exchanging time-sensitive information on drug movement and supporting participating agencies against alien and weapons smuggling. In Fiscal Year 1983, EPIC handled 221,790 inquiries and provided intelligence instrumental in seizures totaling over 2,221,112 pounds of marijuana, 4,030 pounds of cocaine, 5,877 grams of heroin, 384,616 dosage units of methaqualone (quaaludes), 125 aircraft, 147 vessels, \$5,747,605 in U.S. currency, and other quantities of assorted drugs. To complement this operational support, EPIC continues to provide an ongoing sophisticated analysis capability, enhanced by the multiagency automated data system designed to monitor the international movement of drugs. In Fiscal Year 1983, the analysis unit at EPIC distributed biweekly reports and numerous special reports to consumers.

## Training

DEA provides entry-level and advanced training for DEA employees and multilevel training in drug enforcement skills to other federal, state, local, and foreign officials.

DEA's internal training is designed to develop and maintain a sophisticated and professional work force which will possess the necessary skills and knowledge to effectively carry out DEA's mission. During 1983, DEA provided specialized and advanced training to employees in such programs as: intelligence collection, intelligence analysis, conspiracy, asset removal, reverse undercover investigations, clandestine laboratories, individualized in-service training and testing, marine law enforcement, specialized diversion investigations, and regional in-service training.

DEA's training programs for state, local, and other federal employees are designed to expand the number of qualified personnel available at all levels of government to engage in the national effort against drug trafficking. In Fiscal Year 1983, DEA provided training in advanced and specialized drug investigations in Glynco, Georgia, and other locations in such programs as: the Drug Enforcement Officers Academy, advanced drug law enforcement schools, supervisory drug enforcement officer schools, forensic chemist seminars, and many specialized seminars.

DEA's training of foreign officials is funded by the Department of State as a component of the international narcotics control effort. DEA international training is designed to increase the effectiveness of foreign drug enforcement personnel, open channels of communication, and enhance cooperation among foreign countries in order to reduce the flow of illicit drugs entering the United States. In Fiscal Year 1983, DEA conducted training programs varying from basic enforcement and intelligence analysis to drug enforcement unit management and training development. International training was conducted in Glynco, Georgia, and throughout the world.

## Legal Functions

The Office of Chief Counsel provides legal assistance to the Administrator in carrying out DEA's regulatory, legal, and administrative responsibilities under the Controlled Substances Act.

In Fiscal Year 1983, attorneys for DEA prepared 80 orders to show cause why action should not be taken by DEA to revoke, deny, or suspend a registration to engage in legitimate controlled substance activities. Forty-three of these matters were docketed with the DEA Administrative Law Judge for hearings, resulting in 15 actual hearings occupying 22 hearing days. Final decisions on these matters are reserved for the Administrator. This represents a doubling of the regulatory matters handled by the Office of Chief Counsel over the past two years.

More than 1,100 hours of classroom legal instruction were provided by DEA attorneys at the various schools conducted by the National Training Institute. These lectures were augmented by more than 500 hours of legal assistance given to the practical exercises conducted by students in these classes. The schools were conducted for DEA special agents, FBI special agents undergoing cross-training in controlled substance investigations, in-service trainees, and schools for state, local and foreign law enforcement officers. This training represents a tripling of the hours of legal instruction conducted by the office over the past two years.

In administrative matters, the attorneys in the Office of Chief Counsel represented the agency in 14 personnel-related proceedings occupying 31 hearing days.

DEA attorneys reviewed more than 2,500 matters—concerning seized vehicles, vessels, aircraft, currency, real estate, and other assets totaling more than \$60 million—for legal sufficiency. Over 800 rulings on petitions for remission or mitigation of forfeiture were made. Attorneys provided extensive training to DEA and FBI personnel and to attorneys from various federal agencies.

In addition to rendering daily legal advice and assistance to the special agents of DEA and federal, state, and local prosecutors, the Office published four legal comments and

one comprehensive magazine article on legal issues relating to the enforcement of the Controlled Substances Act.

Attorneys in the Office are assigned to one of four specialized units: Criminal, Civil, Forfeiture, and Regulatory. This ensures a ready availability of expertise in all areas that affect DEA. They regularly counsel the Administrator and other DEA officials on legal issues including litigation, legislation, enforcement, and policy. When necessary, the Office prepares model legislation for adoption by state and local jurisdictions.

## **Operational Support**

The Operational Support Division consists of six separate organizational elements: the Equal Employment Opportunity Staff, the Office of Personnel, the Office of Administration, the Office of Information Systems, the Office of Records Management, and the Office of Science and Technology. The Assistant Administrator for Operational Support and his Deputy serve as the principal advisers to the Administrator and the Deputy Administrator for overall financial management, personnel management, computer support, scientific and technological support, and general administrative matters.

The Equal Employment Opportunity Staff formulates equal employment opportunity policy and plans of action. This Staff also administers the processing of complaints of discrimination, and provides training and technical guidance in support of a DEA-wide system of complaint counseling. This Staff prepares and evaluates the DEA Affirmative Action Program and shares responsibility with the Personnel Management Section for planning and implementation of the Federal Equal Opportunity Recruitment Program.

The Office of Personnel provides advice, assistance, policy and program development, procedural guidance, and operating support to all DEA components worldwide. It manages and directs a comprehensive personnel management program which includes the function of recruitment and placement, classification and pay, career development, employee/management relations, and health and safety.

The Office of Administration conducts the principal business and administrative functions of DEA by directing the planning, development, evaluation, and management control of DEA's budget, funds, accounting systems, manpower allocations, management analysis, facilities and equipment, procurement, employee health and safety programs, and other support systems.

The Office of Information Systems manages the development of DEA's automated data processing (ADP) master plan to include assessment of ADP resource requirements and evaluation of current, mid-range, and long-range ADP technology. Furthermore, this Office directs all DEA information systems, including automated (ADP), semi-

automated (microfiche), teleprocessing, telecommunications, facsimile, and secure telephone systems. This responsibility includes the design, development, programming, and maintenance of all such systems.

During Fiscal Year 1983, the DEA Consolidated Automated Support Study was completed. This study identified DEA's present and future information needs, and served as the basis for the development of the DEA long-range ADP plan. During this past year, continued expansion of the DEA Automated Teleprocessing System extended this system to 14 offices in foreign countries. Those offices will now have added investigative resources available in the development of investigative leads. Other system improvements included the installation of a DEA terminal at FBI Headquarters to provide full access to DEA's law enforcement systems. In addition, the operational capabilities of the EPIC were expanded by the installation of an associative File Processor System to enhance EPIC's processing capabilities.

The Office of Records Management manages DEA's Freedom of Information Act and Privacy Act Programs, including preparation of litigation documents; operates a library of publications related to legal, scientific, and drug law enforcement programs; maintains a central repository of investigative records; and manages the disposition of records documenting agency decisions. During Fiscal Year 1983, the Office of Records Management reduced DEA's backlog of pending Freedom of Information Act and Privacy Act requests by over 90 percent.

The Office of Science and Technology is responsible for overall engineering, scientific, and forensic science support for DEA. The forensic laboratory system provides technical, forensic, chemical, and other scientific services, including evidence examinations, expert testimony, criminalistics support, and other support to DEA's operations. The laboratory system also analyzes drug evidence and provides field assistance for clandestine laboratory investigations to the FBI. The laboratory system analyzed a total of 33,877 evidence submissions during Fiscal Year 1983.

The Office of Science and Technology also directs operations concerning research to create improved equipment, materials, instrumentation devices, systems, mathematical models, processes, techniques, or procedures that will directly contribute to drug enforcement. Efforts in the past year have included development of covert tracking systems, video surveillance kits, and concealed transmitters for surveillance.

## **Planning and Inspection**

The Planning and Inspection Division serves as the principal adviser to the Administrator and Deputy Administrator on all matters pertaining to policy planning,

evaluation, management performance, security, and integrity matters. The Division participates in all agency strategy and policy formulation activities.

The Planning and Inspection Division consists of four major offices: 1) the Office of Inspections, 2) the Office of Planning and Evaluation, 3) the Office of Professional Responsibility, and 4) the Office of Security Programs.

The Office of Inspections conducts regular and special inspections of DEA Headquarters and field elements to determine their effectiveness, efficiency, economy of operation, and compliance with statutes, regulations, policies, and procedures. It is also responsible for carrying out fiscal audits of all DEA entities having procurement, financial approval, and disbursement responsibilities. In Fiscal Year 1983, this Office conducted inspections of 10 DEA field divisions and four Headquarters elements under a revised inspection process that increases the frequency of inspection, emphasizes management improvements, and ensures rigorous followup of recommendations. Participation in the Inspection Program is an important element in the career development of DEA special agents.

Thirteen field and two Headquarters fiscal audits were undertaken in Fiscal Year 1983, and significant progress was made in meeting the mandates of Office of Management and Budget Circular A-123 and the Federal Manager's Financial Integrity Act. Twenty-four vulnerability assessments were conducted during the period, and five internal reviews were scheduled for units that may have high susceptibility to waste, fraud, and abuse.

The Office of Planning and Evaluation conducts special studies and evaluations of programs that cut across organizational lines, and is responsible for the development of statistical information systems for all of DEA.

The creation of the statistical function within the Office of Planning and Evaluation in Fiscal Year 1983 represents a major management improvement. It combined previously fragmented statistical functions into a single entity to assure uniformity of methods and centralization of all DEA statistical activities. During the period, several statistical systems were moved from outdated ADP equipment to more modern equipment. The Office also instituted new, more efficient quality control procedures, enabling the assembly of more complete and accurate information.

During Fiscal Year 1983, the Office of Planning and Evaluation completed four major program reviews. As a result of recommendations stemming from these reviews, significant program improvements have been undertaken, or are being developed, in the areas of diversion control, seized property management, enforcement management, performance measurement, and the DEA laboratory system. A special study conducted in concert with the FBI resulted in improved security planning and intelligence-sharing capabilities at the EPIC.

The Office was also responsible for the design of DEA's Career Development Program for special agents, for the development of standards for the contracting of technological research for drug law enforcement improvement, and for the development of a physical fitness program for DEA special agents.

As part of its policy coordination function, the Office of Planning and Evaluation prepared congressional testimony and reports to Congress and coordinated matters relating to the 1982 Federal Strategy with the White House Drug Abuse Policy Office.

The Office of Professional Responsibility coordinates the establishment of employee standards of conduct and directs investigations of allegations of misconduct and criminal violations by DEA employees. In addition, this Office reviews disciplinary actions recommended by field officials and directs special project investigations regarding national security, corruption, threats against DEA personnel, and other matters.

The Office of Security Programs is responsible for the formulation of policies and directives that provide a deterrent against and response to security breaches. This includes coordination of personnel security investigations, maintenance of physical security standards, establishment of procedures for classification and storage of national security materials, evaluation of communications and data processing security, and coordination of DEA countermeasure initiatives and emergency preparedness plans.

During Fiscal Year 1983, DEA undertook a vastly accelerated recruitment program for special agent and support personnel. As a result, the Office of Security Programs coordinated more than 700 personnel security investigations, a significant increase over the previous year.

# Criminal Division

## Stephen S. Trott Assistant Attorney General

The mission of the Criminal Division is to establish federal criminal law enforcement policies and help facilitate their implementation. The enforcement and development of all federal criminal laws are under the Criminal Division's general supervision, except for those specially assigned to the Antitrust, Civil Rights, Land and Natural Resources, or Tax Divisions. In addition, the Division supervises certain civil litigation arising under the federal liquor, narcotics, counterfeiting, gambling, firearms, customs, agriculture, and immigration laws. Also, the Division is responsible for civil litigation arising from petitions for writs of *habeas corpus* by members of the Armed Forces, actions brought by or on behalf of federal prisoners, alleged investigative misconduct, and legal actions related to national security issues.

Assisting the Assistant Attorney General are four Deputy Assistant Attorneys General who aid in directing the Division's activities through seven line sections and seven staff offices. These activities include representation of the Department to the Congress on criminal matters, and the drafting of criminal legislation; maintaining liaison with the 94 U.S. Attorneys and the federal investigative agencies; and litigation of organized crime, public corruption, complex fraud and narcotics, and other special kinds of cases. Certain specific types of litigation or investigative activities (e.g., the securing of wiretap orders) are always under the direct supervision of the Criminal Division.

The Assistant Attorney General's personal staff provides departmental leadership to the Executive Working Group for Federal-State-Local Prosecutorial Relations. This body, established in 1980, provides the first formal liaison between the Department, the National District Attorneys Association, and the National Association of Attorneys General for the purpose of improving relations between the federal, state and local prosecutors. In addition, the Division reviews the 94 different federal law enforcement plans prepared by the local law Enforcement Coordinating Committees to identify and implement local criminal justice priorities and to direct federal resources more effectively against specific crime problems experienced in differing localities.

The Assistant Attorney General's staff also supervises the Cuban Review Panel Program, in conjunction with the Civil Division, the Immigration and Naturalization Service, and the Bureau of Prisons. The review program was established after the arrival in 1980 of approximately 125,000 Cuban aliens, including a number of criminals, mental patients,

and others who posed a danger to themselves and society. All but approximately 1,000 have been released. Those still in custody are being held in the Atlanta Penitentiary subject to the review process to determine their releasability and the outcome of current litigation.

The following descriptions outline the functions and Fiscal Year 1983 activities of each section and office of the Division:

## Organized Crime and Racketeering Section

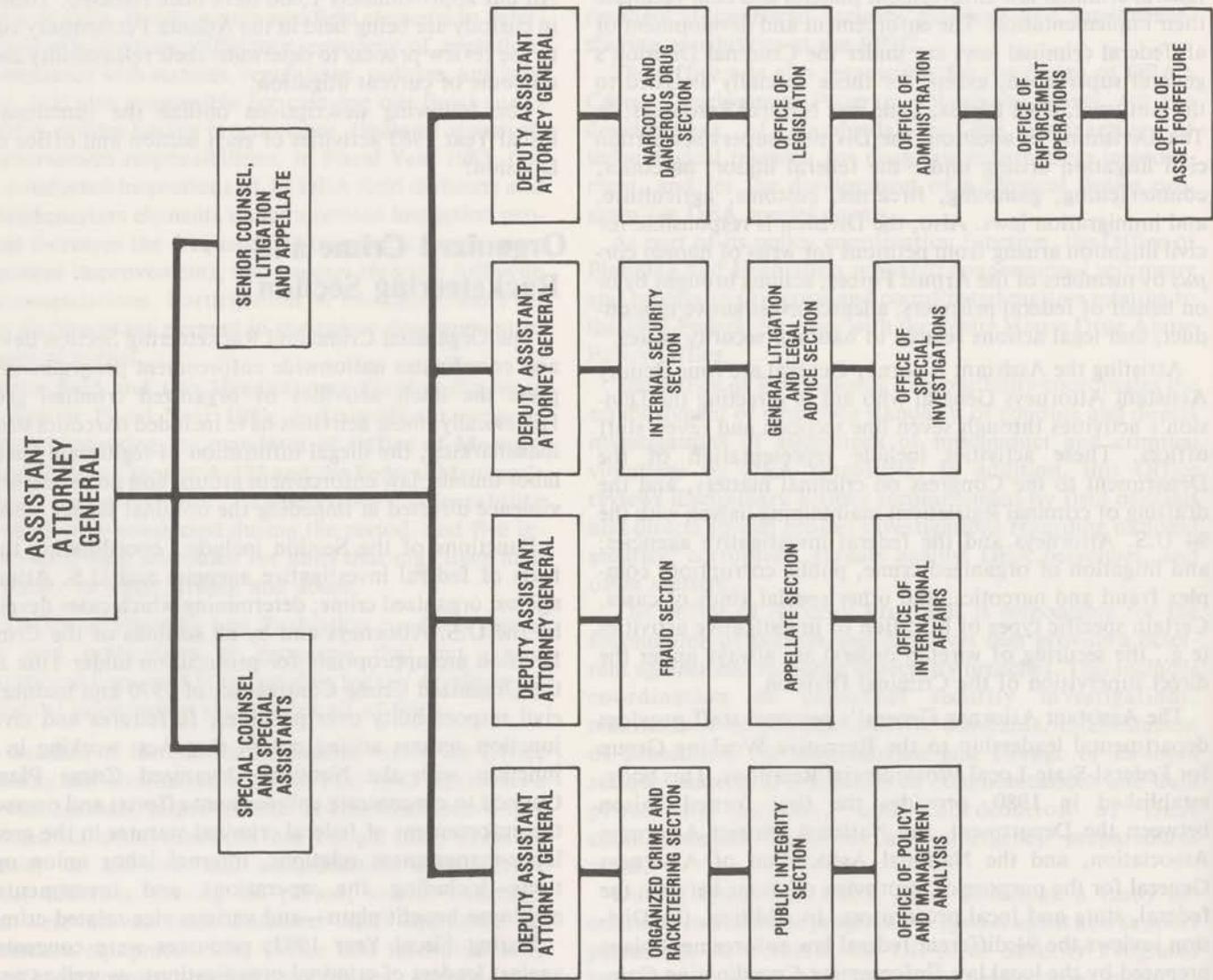
The Organized Crime and Racketeering Section develops and coordinates nationwide enforcement programs to suppress the illicit activities of organized criminal groups. Historically, these activities have included narcotics dealing, loansharking, the illegal infiltration of legitimate business, labor unions, law enforcement groups and government, and violence directed at impeding the criminal justice system.

Functions of the Section include: coordinating the efforts of federal investigative agencies and U.S. Attorneys against organized crime; determining which cases developed by the U.S. Attorneys and by all sections of the Criminal Division are appropriate for prosecution under Title IX of the Organized Crime Control Act of 1970 and maintaining civil responsibility over penalties, forfeitures and civil injunction actions arising out of that Act; working in conjunction with the National Organized Crime Planning Council to concentrate enforcement efforts; and overseeing the enforcement of federal criminal statutes in the areas of labor-management relations, internal labor union operations—including the operations and investments of employee benefit plans—and various vice-related crimes.

During Fiscal Year 1983, resources were concentrated against leaders of criminal organizations, as well as against organized criminal involvement in major narcotics trafficking, labor-management racketeering, infiltration of legitimate business, corruption of public officials, and violence. Special emphasis on drug trafficking was continued during the year. Utilizing the Bank Secrecy Act, Section personnel developed increasingly sophisticated cases involving intricate financial arrangements and documentation.

The continued major prosecutive effort against the leadership of criminal organizations resulted in the indict-

CRIMINAL DIVISION



ment or conviction during the fiscal year of six bosses of criminal syndicates and 40 second-line leaders of whom seven were underbosses.

Most of the attorneys in this Section are assigned to 14 Organized Crime Strike Forces and 11 field offices operating in 25 major cities across the country. The Section's activities based in Washington, D.C., primarily involve liaison with the National Organized Crime Planning Council and formulation and coordination of general policies and litigative support services as required by field operations.

The Section's jurisdiction over matters involving subjects associated with criminal organizations requires that it maintain close liaison with the Federal Bureau of Investigation, Drug Enforcement Administration, Immigration and Naturalization Service, Internal Revenue Service, Bureau of Alcohol, Tobacco, and Firearms, Secret Service, Postal Inspection Service, Customs Service, and the Office of Inspector General of the Department of Labor—plus state and local law enforcement agencies.

Despite an overall decrease in available attorney personnel, resources of the Las Vegas office were doubled and a field office was opened in Ft. Lauderdale, Florida, during the year. Both moves were prompted by an increased level of prosecutions of organized criminal activity in those areas.

## **Narcotic and Dangerous Drug Section**

The primary federal laws supervised by the Narcotic and Dangerous Drug Section are the Controlled Substances Act, the Controlled Substances Import and Export Act, the Narcotic Addict Rehabilitation Act, and the Bank Secrecy Act.

The Section works closely with the Drug Enforcement Administration, the Federal Bureau of Investigation, the Customs Service, the Internal Revenue Service, and the Coast Guard on domestic enforcement of the drug laws, and with the Department of State on the international aspects of drug abuse and control.

The principal function of the Section is to provide litigation assistance and support to the U.S. Attorneys in the area of drug enforcement. In addition, to develop cases against major drug traffickers violating financial statutes of the United States through illicit drug trafficking, the Section maintains field personnel in Miami, Florida; Chicago, Illinois; and San Juan, Puerto Rico. These personnel participate in task force efforts that have collectively been designated Operation Greenback. In the three years since its initiation the operation has resulted in the forfeiture to the government of over \$30 million in illegal assets and the prosecution of more than 150 defendants.

The Section, in conjunction with the Attorney General's Advocacy Institute, conducts training conferences for federal prosecutors and agents on a regular basis to keep them advised of the latest investigative techniques and current case law in the area of drug trafficking. In addition to the training conferences, the Section prepares legal monographs which are distributed to prosecutors and agents in the field. The Section also publishes for agents and prosecutors a monthly *Narcotics Newsletter* that contains the latest information on investigations and prosecutions around the country.

The Section works closely with the Coast Guard in its high seas interdiction programs and provides advice on the legality of boardings and seizures of vessels on the high seas. The Section also maintains liaison with the Civil Aeronautics Board and the Federal Aviation Administration, providing them with advice and assistance with respect to their recent initiatives to improve the interdiction of drug smuggling by air.

In conjunction with the Office of International Affairs, the Section maintains liaison with the Department of State in providing assistance in the preparation of mutual assistance agreements with foreign countries relative to drug enforcement and crop control.

The Section provides advice and assistance to the Attorney General's Drug Task Force Program which is directly supervised by the Associate Attorney General's office. The Drug Task Force Program, implemented in November 1982, is directed at major international and domestic drug organizations. The Section also provides advice and assistance to the White House, Office of Drug Abuse Policy, and to the newly established National Narcotic Border Interdiction System Task Force in matters pertaining to drug abuse and enforcement. In addition, the Section furnishes advice and assistance concerning legislation directed at narcotics offenses.

## **Fraud Section**

The Fraud Section leads, directs, and coordinates the federal effort against white-collar crime through litigation and selection of target areas for allocation of law enforcement resources. Its primary focus has been against fraud involving federal government programs, defense procurement, federal regulated industries, multidistrict and transnational trade, professional con-men, and consumer and institutional victimization.

Fraud Section activities can be divided into four major areas: 1) investigating and prosecuting complex, sensitive, or multidistrict cases involving major white-collar crimes either as developed by the Section or as requested by U.S. Attorneys; 2) providing policy development, coordination,

and training to federal, state, and local investigators and prosecutors; 3) developing and implementing national white-collar crime enforcement policies, and 4) supporting efforts to identify emerging or recurring problems and devising new methods to reduce white-collar crime.

The Fraud Section's major initiative during the year was the establishment of the Economic Crime Council to provide mechanisms to identify nationally significant economic crimes. The Council channels federal law enforcement resources to the following six areas:

- Federal defense and other procurement programs;
- Federal regulated industries such as those dealing with securities, commodities, energy, and banking;
- Federal benefit, contract, grant, and loan programs;
- Career white-collar criminals;
- International white-collar criminality;
- Locally devastating economic crimes.

The Council is chaired by the Associate Attorney General and its members include 21 U.S. Attorneys, the Assistant Attorney General for the Criminal Division, the Assistant Director of the Federal Bureau of Investigation's Criminal Investigative Division, and the Chief of the Criminal Division's Fraud Section who serves as Executive Director. Staff support is provided by the Fraud Section. A smaller Operations Committee, comprised of the chiefs of the economic crime units of 10 U.S. Attorneys' Offices, the Assistant Attorney General for the Criminal Division, and the Chief of the Federal Bureau of Investigation's White-Collar Crime Section, implements the Council's recommendations under the direction of the Associate Attorney General. The Council also has a special role relating to the national and field activities of the Inspectors General to prevent fraud in government programs.

During the year, the Section assisted the Office of Policy and Management Analysis in the design of the Fraud and Corruption Tracking (FACT) System, and will begin managing the system in the new fiscal year. FACT will collect important information on governmental fraud and corruption as reported by statutory Inspectors General to the Department, thus providing a valuable tool for enhancing the government's efforts to combat fraud, waste, abuse, and corruption.

At the start of Fiscal Year 1983 the Attorney General and the Secretary of Defense created a joint investigation and prosecution unit to focus on fraud in defense procurements. This unit, located in Alexandria, Virginia, is composed of prosecutors from the Section and from the Alexandria U.S. Attorney's Office, an attorney from the Civil Division and from the Department of Defense and investigators from the Federal Bureau of Investigation, the Department of Defense

Inspector General's Office, and from the military departments.

A major goal of the unit is to coordinate the more effective use of both criminal and administrative remedies in combating defense procurement fraud. In the short time of its operation more than 30 companies and individuals have been suspended from doing business with the federal government and over \$3 million in fines and restitution have been recovered.

Among the Section's major accomplishments during the fiscal year were defense procurement fraud prosecutions involving the Army commissary system in Germany and inflated claims to the National Aeronautics and Space Administration. Other accomplishments were successful prosecutions involving insider trading in securities, commodities boiler room operations, phony tax shelters, energy fraud involving crude oil certifications, fraudulent sale of oil and gas lottery leases, franchising scams, advance fee schemes, and land frauds. In addition, extensive evidence was gathered in foreign countries involving transnational schemes, money laundering, and the use of offshore banks.

Because quality cases depend upon quality investigations, Fraud Section attorneys also were active in providing training to federal, state, and local investigators and prosecutors. Over 700 federal, state, and local prosecutors and investigators received training on a variety of subjects including investigative techniques and strategies, trial advocacy, and trial preparation.

In support of the Department's role, the Section actively participates in numerous departmental and interagency groups such as the Department's Undercover Review Committee, the Department's Executive Working Group of Federal, State, and Local Prosecutors, the President's Council on Integrity and Efficiency, and various other interagency task forces on government fraud, waste, and abuse.

## Public Integrity Section

The Public Integrity Section is primarily responsible for major federal corruption and misconduct investigations; all Special Prosecutor matters; investigations and prosecutions of federal judges; election and campaign financing crimes; and significant state and local corruption cases. Many of the Section's cases come to it when a U.S. Attorney finds it necessary to recuse himself in a judicial corruption case. The Section also prosecutes selected cases in unusually complex or difficult areas, such as conflicts of interest crimes or cases involving corrupt activity overseas.

In addition to its litigating responsibilities, the Section is available to provide legal and practical advice on issues affecting the prosecution of corruption cases to law enforce-

ment officials at all levels of government. The Section also provides training and legal advice to prosecutors in the field through consultation, publications, speeches, and seminars. Finally, the Section serves as a center for planning, coordination, and implementation of nationwide programs against public corruption.

Referrals from the federal agencies are an important part of the Section's workload. Ever since the Inspectors General were authorized for the various agencies, the Section has worked closely with them, encouraging their investigations, coordinating joint investigations with the Federal Bureau of Investigation and postal inspectors, and attempting to ensure that their cases receive prompt prosecutive attention. The Section also devotes a significant amount of time to training employees of other agencies concerning the statutes involved in corruption cases and the investigative approaches that work best in such cases.

In Fiscal Year 1983, the Section investigated and prosecuted a number of corruption crimes committed overseas. In the past, these cases received little attention because they were plagued by diplomatic complications, extremely expensive travel, uncooperative witnesses, and evidence beyond the reach of legal process. Despite these problems, the Section has actively pursued overseas corruption cases. In one such case in 1983, the Section provided co-counsel in the prosecution of former Central Intelligence Agency agent Edwin Wilson, and the Section is now handling several related prosecutions.

The Section has significant responsibilities with respect to implementation of the Ethics in Government Act. Under that Act, if "specific information" is received by the Department of Justice alleging that certain high government officials have committed a crime, the Attorney General must request that the court appoint an Independent Counsel (commonly referred to as a "Special Prosecutor") within 90 days, unless preliminary investigation conclusively establishes that the matter is so unsubstantiated that it does not warrant further inquiry. If the preliminary investigation disposes of the matter, a report must be prepared and filed with the court.

The Section is responsible for supervising the initial investigation, and preparing a recommendation to the Attorney General as to whether the Act's provisions have been triggered and whether any further investigation is warranted. By centralizing the handling of all Special Prosecutor matters in the Public Integrity Section, the Department of Justice has been able to apply a uniform standard and to develop a consistent procedure, ensuring that these matters are properly handled within the stringent time limits of the Act.

The Section has exclusive jurisdiction over investigations and prosecutions of federal crimes committed by federal judges. Jurisdiction is assigned to the Section in order to

avoid conflicts of interest, or the appearance of such conflicts, that might arise if U.S. Attorneys prosecute judges before whom they appear.

Cases against federal law enforcement officials also are frequently handled by the Section. In 1983, the Section obtained the conviction of a former Special Assistant U.S. Attorney charged with trying to sell the names of informants to the targets of a drug investigation.

Election fraud continues to be a major priority of the Section, with successful prosecution in 1983 in South Carolina, Georgia, Pennsylvania, and North Carolina. In Georgia, the Section's Election Crimes Branch prosecuted a series of cases in which local school officials were using their office to obtain federal education grants for their own use, and in turn were corrupting the local elections to ensure their continuation in office. In Pennsylvania, a far-ranging probe into vote buying resulted in 27 convictions.

The Election Crimes Branch also provides advice and support to the U.S. Attorneys in the application of election fraud and campaign financing laws to the myriad situations that arise in the course of campaigns and elections. A major role of the Branch has been in providing training for prosecutors and election officials, and publishing a second edition of a comprehensive election crimes manual.

Intensive, long-term projects targeting state and local corruption continued to be a Section priority in 1983. Most of these cases come to the Section by recusal or request for assistance by the U.S. Attorney. The Section has had a field office in Chicago for several years, handling a series of cases involving corruption in state campaign financing. A major investigation into corruption in Kentucky state government resulted in additional indictments in 1983. The Section's new focus on drug-related corruption has resulted in indictments of local law enforcement officials in Mississippi.

## Internal Security Section

The Internal Security Section is responsible for the enforcement of criminal statutes affecting national security and foreign relations. The Section also administers and enforces the Foreign Agents Registration Act of 1938, as amended, and related statutes.

Functions of the Internal Security Section include: supervising the investigation and prosecution of offenses involving espionage, sabotage, and treason, and violations of the Atomic Energy Act, the neutrality statutes, the Trading With the Enemy Act, the Arms Export Control Act, and the Export Administration Act; providing policy guidance, specialized legal support, and litigative support to U.S. Attorneys, intelligence services, and law enforcement agencies involved in national security or foreign relations cases; administering and enforcing the Foreign Agents Registration Act; serving as the

focal point for interagency coordination concerning espionage, neutrality, and arms export control cases; developing and evaluating proposed legislation; and providing personnel, including the Executive Secretary, for the Interdepartmental Committee on Internal Security (ICIS) and personnel on several other interagency committees dealing with such matters as the national and international coordination of enforcement of export control laws.

The Section also represents the Department on four of the five subordinate groups of ICIS. ICIS also includes representatives of the Departments of State, Defense, and the Treasury. Its charter directs it to effect the coordination of all phases of the internal security field—except those specifically assigned to the Interdepartmental Intelligence Conference. It takes action necessary to ensure the highest practicable state of internal security, including planning and preparing for adequate internal security in the event of a war-related emergency.

The following is a summary of the most significant espionage and export control cases handled by the Section during the past year:

- On April 28, 1983, former Defense Intelligence Agency senior analyst Waldo H. Dubberstein was charged with conspiracy to communicate classified information to representatives of Libya. The indictment charged that Dubberstein secretly worked for Edwin P. Wilson, and provided him information and analyses concerning Middle Eastern security affairs, which was extracted from highly classified Defense Intelligence Agency and Central Intelligence Agency documents for passage to Libyan intelligence. Mr. Dubberstein committed suicide on April 29, 1983.
- On September 30, 1983, Penyu B. Kostadinov, an Assistant Commercial Counselor for the Bulgarian Commercial Office, was arrested in New York City, and charged with espionage on behalf of Bulgaria. He is alleged to have received classified documents relating to the national defense from an American citizen who was cooperating with federal agents. He is awaiting trial.
- On November 15, 1982, Roland Magloire, leader of the Conseil National Liberation Haiti, and Raoul Magloire, were sentenced to five and three years' probation respectively, following their guilty pleas to violations of the Neutrality Act stemming from an attempted armed invasion of Haiti.
- On March 9, 1983, Charles Julius McVey, Jr., a California businessman, and two other individuals, Yuri Boyarinov, a Soviet citizen, and Ross Lienhard, a Swiss national, were charged with exporting state-of-the-art computers to Switzerland for diversion to the Soviet Union. McVey is a fugitive.
- On May 16, 1983, Brian Moller-Butcher, an English

citizen not subject to extradition for export offenses, failed to appear in Boston, Massachusetts, for trial on charges that he exported sophisticated computer and electronics equipment to Romania, Bulgaria, and Poland. Although Moller-Butcher remains a fugitive, his codefendants, Paul C. Carlson and C.O. Manufacturing Co., Inc., pled guilty. Carlson was sentenced to pay a fine of \$5,000 and placed on probation for two years; the company was fined \$15,000.

- On August 13, 1983, a jury found Tencom Corp. and its vice-president, Donald Malsom, guilty of 25 export violations relating to the shipment of over \$14 million worth of military aircraft parts to Libya. The defendants transshipped the aircraft parts through West Germany and Italy, where parts were installed on Libyan Air Force planes. Two codefendants are fugitives.
- In Fiscal Year 1983, 19 defendants were convicted for violations of the Arms Export Control Act and the Export Administration Act in eight additional cases. Prison sentences up to seven years and fines up to \$100,000 were imposed in these cases. Indictments were returned in five additional Arms Export Control Act or Export Administration Act cases during Fiscal Year 1983, and those cases are now awaiting trial.
- Registrations during Fiscal Year 1983 under the Foreign Agents Registration Act increased by 111, bringing the total to 3,524 as of September 30, 1983, of which 717 are active. Two complaints for injunctive and declaratory relief were filed during the year, challenging the Department's advice to the New York office of the National Film Board of Canada (NFBC) that it must comply with the disclaimer and dissemination report procedures of the Act in disseminating the NFBC films *Acid From Heaven*, *Acid Rain: Requiem or Recovery* and *If You Love This Planet* as an agent within the United States. A preliminary injunction was entered in one case.

## General Litigation and Legal Advice Section

The General Litigation and Legal Advice Section has broad criminal jurisdiction encompassing approximately 75 percent of all federal criminal statutes. It also has a variety of civil responsibilities. The Section's jurisdiction is divisible into five major areas: 1) Crimes Against Government Operations which include attacks on designated federal officials, including the President, Vice President, Members of Congress, Cabinet officers, Supreme Court Justices and candidates for federal office, foreign officials, and official guests of the United States; violations of the Selective Service Act; counterfeiting; obstruction of justice; perjury;

escape; prison offenses; and customs and immigration violations; 2) Crimes Against The Public which include aircraft and maritime piracy, kidnaping, extortion, bombing, bank robbery, illegal electronic surveillance, copyright infringements, obscenity, false identification crimes, arson, firearms violations, and crimes in the special jurisdiction of the United States; 3) Regulatory Enforcement relating to protection of safety, health, and consumer interests in mining and other occupations, handling of nuclear materials, marketing of agricultural products, and disposition of hazardous and toxic wastes; 4) Special Civil Matters, such as defense of civil actions to obtain information or to interfere with criminal justice and national security operations, and enforcement of forfeitures and civil penalties imposed pursuant to criminal statutes; and, 5) Prison/Parole Matters, such as defense of suits challenging the legality of federal sentences, probation and parole actions, conditions of confinement, prisoner transfers, including those from foreign custody to the United States, and treatment of mentally incompetent prisoners.

The Section serves as an enforcement section in certain areas where special requirements dictate centralization. In these areas, the Section is directly involved in case development and litigation. The Section handles litigation under any of its vast range of statutes when appropriate, due to recusal, lack of resources or need of pertinent expertise.

The combating of terrorism through exhaustive investigation and vigorous prosecution of persons responsible for terrorist acts is a primary enforcement initiative. Central coordination of the prosecutive response to terrorism is essential because of the interdistrict nature of many terrorist acts, the sensitivity of the investigations and problems of statutory applicability.

The Section also is pusuing an initiative related to serious criminal activity in Puerto Rico by organized groups comprised in part of police officers. Available evidence indicates that these groups have engaged in a wide variety of criminal activity including murder-for-hire, kidnaping, armed robbery, extortion, and narcotics trafficking.

Another enforcement initiative, requested by the Commissioner of Customs and the Assistant Secretary for Enforcement of the Department of the Treasury, relates to the development and prosecution of customs violations involving the dumping of foreign-produced goods on the U.S. market.

The Section is responsible for supervising prosecutions for the failure to register with the Selective Service System. It has also assisted the Selective Service in implementing an active enforcement system and has developed a process whereby prosecutive targets are selected, according to random numbers generated by a computer, from a large pool of possible nonregistrants.

The Section has also assumed responsibility for supervision of investigations and prosecutions under the newly enacted false identification statutes and for the new arson statute, as well as the extensive amendments to the obstruction of justice and protection of high government officials statutes.

Examples of the Section's accomplishments in Fiscal Year 1983 include:

- The conviction and 17-year sentence of Edwin Wilson for exportation of 40,000 pounds of explosives to Libya;
- The conviction and six-year sentence of Eugene Tafoya for tax offenses and his extradition to Canada for fire bombing property of a former associate of Edwin Wilson;
- The indictment in Puerto Rico of 23 defendants, including former and current policemen, for conspiracy and theft from interstate shipment;
- The conviction and sentencing of Alejo Maldonado, Ceasar Cabellero Rivera, and David Jose Casanova in Puerto Rico for extortion and conspiracy for a September 1982 kidnaping. Maldonado, a high-ranking police officer, and Cabellero were sentenced to 40 years' imprisonment;
- The conviction of National Can Corporation and Marubeni American Corporation, a subsidiary of Tokyo's Marubeni Corporation, for steel dumping. Marubeni was fined \$100,000 and National Can, \$10,000. The two companies paid a civil penalty of \$2 million.
- The defeat of an action to enjoin a major grand jury investigation, allegedly prejudiced by media coverage of the targets.

## Appellate Section

The Appellate Section assists the Solicitor General in carrying out his function as the government's advocate before the Supreme Court in criminal cases. The Section lawyers write petitions for and briefs in opposition to *certiorari*, briefs on the merits after the granting of *certiorari*, and memoranda in opposition to stay and bail applications. The petitions, briefs, and memoranda written by the Section lawyers for the Supreme Court are reviewed and revised by attorneys in the Office of the Solicitor General before these documents are filed. The Section attorneys also write briefs and rehearing petitions and present oral arguments in the various courts of appeals. Another primary function of the Section is to review decisions adverse to the government in the district courts and the courts of appeals in order to determine whether the decisions merit further review. Here

the Section assists the Solicitor General in carrying out his function of authorizing or declining to authorize appeals, mandamus petitions, rehearing *en banc* petitions, and *certiorari* petitions. Finally, the Section also gives advice on legal problems, including Speedy Trial Act and appellate related questions, to the Assistant Attorney General, to other components in the Department, and to U.S. Attorneys.

During the last term of the Supreme Court, the Section assisted the Solicitor General in writing an *amicus* brief in *Illinois v. Gates*, No. 81-430 (June 8, 1983), where the Court affirmatively abandoned the familiar "two-pronged test" of *Aguilar-Spinelli* and relaxed the standards to be applied by courts in reviewing a magistrate's issuance of a search warrant. Other Supreme Court cases in which the Section was involved included *United States v. Knotts*, No. 81-1802 (March 2, 1983), upholding the use and monitoring of a beeper that had been placed in a drum containing chloroform; *United States v. Villamonte-Marquez*, No. 81-1350 (June 17, 1983), holding that, under the Fourth Amendment, Customs officials, without any suspicion of wrongdoing, may properly board for inspection of documents a sailboat in inland waters that provide ready access to the open sea; and *United States v. Hasting*, No. 81-1463 (May 23, 1983), overruling the reversal by a court of appeals of a conviction on the basis of the court's supervisory power to discipline a prosecutor for improper closing arguments regardless of whether the prosecutor's arguments constituted harmless error.

In the courts of appeals, the favorable decisions decided during the fiscal year in which the Section's attorneys participated included *United States v. Kattan-Kassin*, 696 F.2d 893 (11th Cir.) (the government is not limited to bringing one felony charge under the Bank Secrecy Act for currency transactions occurring within a 12-month period in a money laundering scheme); *United States v. Stearns*, 707 F.2d 391 (9th Cir.) (a felony-murder prosecution with robbery as the predicate felony was not barred on the ground of double jeopardy by a prior conviction for the predicate offense because the facts necessary to sustain the greater charge were not discovered when the lesser charge was brought, despite the exercise of due diligence); *United States v. Wilford*, 710 F.2d 439 (8th Cir.) (a prosecution on both felony charges of violation of Hobbs Act, and misdemeanor charges under Labor Management Relations Act, was not barred by the double jeopardy or due process clauses); and *United States v. Wayte*, 710 F.2d 1385 (prosecution of a defendant was not impermissibly selective when the identities of other violators were not known and the defendant expressed his refusal to register under the Military Selective Service Act).

## Office of International Affairs

The Office of International Affairs supports the Division in the formulation and execution of international criminal justice enforcement policies and procedures.

The functions of the Office include: participating in the negotiation of international agreements and treaties on subjects relating to criminal law enforcement, such as treaties on extradition, mutual assistance in criminal matters, and the transfer of prisoners; representing the Division in executive branch policy planning sessions in the consideration of issues of international criminal justice; implementing, and overseeing the implementation of, extradition, judicial assistance, and prisoner transfer treaties and agreements; processing and litigating, or supervising the litigation of requests for extradition by foreign countries before federal courts; preparing requests for international extradition and obtaining evidence from foreign countries; providing advice to federal and state attorneys on preparing extradition requests and on international foreign practice and procedure; coordinating and reviewing requests to and from foreign countries to obtain evidence in connection with criminal investigations and prosecutions in the United States and foreign countries; drafting legislation on subjects within the Office's areas of responsibility; and developing Division policy on those aspects of federal criminal law enforcement that require extraterritorial involvement.

During Fiscal Year 1983, the Office participated in negotiations on extradition treaties with Belgium, Costa Rica, Thailand, France, Ireland, Italy, Jamaica, and Switzerland and treaties on mutual legal assistance in criminal matters with the Federal Republic of Germany, Italy, Jamaica, and Morocco.

The Office participated in the return to the United States of 48 fugitives, caused the removal of 40 foreign fugitives, made 239 extradition requests on behalf of federal and state prosecutors, and received 99 extradition requests from foreign countries (via the Department of State). The Office directly represented foreign governments in court in 10 extradition proceedings, arranged for the return to their native country of 54 foreign nationals serving sentences in the United States, and the return to this country of 55 U.S. citizens imprisoned in foreign countries. It also processed approximately 350 requests to and from the United States with respect to obtaining evidence for use in U.S. and foreign criminal investigations and prosecutions.

The Office maintains continuing contact with the Department of State and other federal agencies having international functions, and with all of the federal investigative agencies and International Criminal Police Organization (INTERPOL), as well as direct contacts with foreign ministries of justice and foreign affairs, and foreign embassies in Washington, D.C.

## Office of Enforcement Operations

The Office of Enforcement Operations oversees, within the constraints of law and departmental policy, the effective use of the most sophisticated investigative tools at the Department's disposal, including electronic surveillance, hypnosis in the interrogation of witnesses, witness relocation, and the authorizing of witness "immunity." The Office also provides a wide range of litigative assistance and prosecutive support to various components of the Division, the U.S. Attorneys, and other federal prosecutors.

The Office supervises all aspects of the Witness Security Program for the Criminal Division and responds to congressional, White House, press, and public inquiries regarding the Witness Security Program. It processes applications for electronic surveillance under Chapter 119 of Title 18 of the U.S. Code, and it oversees all electronic and consensual monitoring efforts being pursued within the federal justice system. The Office also prepares special analyses and evaluation reports relating to such activities.

The Office also processes all requests for the following: authorizations to seek court orders compelling testimony in federal prosecutions and congressional inquiries ("immunity" orders) (in addition, the Office makes the final recommendations to the Assistant Attorney General on granting or denying such requests); public access to Criminal Division records pursuant to the Freedom of Information Act and the Privacy Act; subpoenas of members of the news media for testimony in criminal proceedings; closures of judicial proceedings; and electronic surveillance checks directed to the several federal investigative agencies in criminal prosecutions pursuant to 18 U.S. Code 3504.

Among its other functions, the Office prepares letters authorizing Division attorneys to conduct and attend grand jury sessions; responds to requests for authorizations of Department personnel to testify at federal, state, and local civil and criminal proceedings; prepares histories of all legislation enacted by the Congress that affects the responsibilities of the Criminal Division; compiles, indexes and maintains a file of all Division legal briefs and memoranda that involve policy matters or extensive legal research; coordinates, with other Division components, the preparation of the Criminal Division's contribution to the *United States Attorneys' Manual*; coordinates the collection of criminal fines and bond forfeiture judgments; processes requests from the U.S. Attorneys for access to information filed with the Secretary of the Treasury under the Currency and Foreign Transactions Reporting Act; and prepares a monthly report of significant criminal cases and matters of the Division components and the U.S. Attorneys, as well as collecting briefing materials and reports of significant criminal matters for the Attorney General.

During Fiscal Year 1983, 294 witnesses and their families entered the Witness Security Program. A total of 378 applications for court approved intercepts of communications were received and processed of which 25 were withdrawn. A total of 14,622 requests were approved for consensual use of electronic devices. The voluntary use of hypnosis to interrogate witnesses was approved in 44 cases. A total of 1,986 requests for authorization to seek orders compelling testimony, involving a total of 4,226 witnesses, were processed, and of these, 1,425 requests involving 2,243 witnesses related to offenses supervised by the Criminal Division; 15,314 pieces of citizen correspondence were processed of which 2,921 were White House referrals and 712 were referrals from congressional sources; 148 requests for Internal Revenue Service taxpayers returns and information were processed; and 78 requests for electronic surveillance checks pursuant to 18 U.S. Code 3504 were handled. In addition, the Office received 696 requests for information under the Privacy Act and 487 requests for Freedom of Information material. The Collection Unit reported the collection of criminal fines and appearance bond forfeitures of \$48 million.

The wide range of responsibilities assigned to the Office entails close liaison with all of the federal investigative agencies, the U.S. Attorneys, the Executive Office for U.S. Attorneys, the Bureau of Prisons and the administrative staffs of the Criminal Division and the Department.

## Office of Legislation

The Office of Legislation contributes to the Department's legislative efforts through the systematic review, analysis, implementation, and evaluation of criminal justice legislation and other congressional actions. Functions of the Office of Legislation include: developing, in cooperation with other federal agencies, legislative proposals, legal memoranda, and statements to be given before Congress by officials of the Department; drafting responses to inquiries from congressional committees and government agencies concerning proposed legislation; preparing legal memoranda relating to the implementation of recently enacted statutes; and requesting substantive opinions and recommendations on legislation from the Division's sections and offices for presentation to the Congress.

In most areas of congressional activity, there are many organizations, both public and private, engaged in assisting the Congress through the drafting and analysis of legislative proposals. The legislative process in the criminal law area, however, is not the beneficiary of such widespread public support. As a result, the Criminal Division has endeavored to devote substantial resources to the development and support of measures to revise and improve the federal criminal justice system.

Principal accomplishments of the Office of Legislation during Fiscal Year 1983 include the drafting of approximately 75 percent of the Administration's omnibus crime bill, the Comprehensive Crime Control Act of 1983, which would provide significant criminal justice reform. This Office prepared the titles to reform current law in the areas of the exclusionary rule, criminal forfeitures, the insanity defense, and capital punishment. The Office also prepared three extensive titles of the bill which contain miscellaneous provisions relating to violent and nonviolent crime and criminal procedure, as well as analyses of many sections of the bill. (Several titles of the original bill have been removed from the Senate version and are the subject of separate legislation.)

In addition, the Office played a significant role in the development of other proposals, now enacted, such as the product tampering legislation and a statute which prohibits the production of false or stolen identification documents and related acts. The Office also took lead responsibility in the preparation of a proposal, which has been enacted, to strengthen the federal child pornography laws in response to a Supreme Court decision, and contributed significantly to legislation currently pending regarding computer and credit card fraud.

Other accomplishments include recommendations on a variety of proposed amendments to the Federal Rules of Criminal Procedure, many of which are embodied in a package of Rules amendments approved by the Judicial Conference; and the development, in conjunction with the Office of International Affairs, of proposed amendments to a complete revision of the extradition laws. The Office also participated in the work of an intradepartmental committee which drafted the Department's guidelines for the treatment of victims of, and witnesses to, crimes.

## **Office of Administration**

The Office of Administration provides a wide range of administrative services to the sections, offices and field operations of the Criminal Division through the following operational units: 1) the Personnel Unit, 2) the Fiscal Unit, 3) the Mail, File and Records Unit, 4) the Procurement, Security, Safety and Space Unit, and 5) the Statistical Unit.

Among the services provided by the Office of Administration are development of policies and plans relative to the administrative management and organization of the Division; preparation of annual and supplemental budget estimates; fiscal management including the planning and control of the funds of the Division; handling of personnel processing functions, including employment actions, check distribution, promotion, training and counseling; collection and dissemination of caseload and workload statistics;

handling of maintenance and procurement requests for workspace, office equipment and services, and repairs and renovations; processing travel vouchers, advances and reimbursements, duty station transfers, parking permits, identification cards, and printing requisitions; protection of classified and sensitive materials and processing personnel security clearance requests; inspection of the Division's workspace to assure compliance with security, safety, and health standards; operation of automated data processing systems; and, other administrative services as may be required, such as personnel performance rating systems, employee exit clearances, and merit pay systems.

The variety of administrative support services provided by the Office of Administration requires close liaison with all of the Division's components, the Justice Management Division, the General Services Administration, and outside contractor personnel associated with the Criminal Division.

## **Office of Policy and Management Analysis**

The Office of Policy and Management Analysis is responsible for analyzing and recommending positions on policy and management issues of concern to top-level decision-makers in the Criminal Division and the Department. The Office's work also includes evaluating and developing improvements in the Criminal Division's management systems; designing and implementing new enforcement programs in conjunction with investigative agencies, U.S. Attorneys, the Criminal Division's litigating sections, and, when appropriate, state and local authorities; advising the Assistant Attorney General on the establishment of priorities and objectives in federal law enforcement; and coordinating policies, programs, and the exchange of information with other public agencies and private institutions in the field of law enforcement.

The Office's professional staff includes analysts with expertise in such areas as public policy, business administration, criminology, economics, organizational behavior, program evaluation, information systems, statistical methods, and operations research.

Examples of projects in which the Office has played a major role over the past year include: a comprehensive review of an Organized Crime Strike Force; the drafting of guidelines for the new Drug Enforcement Task Force Program; design and implementation of a permanent case monitoring system for the Task Forces; a detailed analysis of asset forfeiture problems; a review of Navy claims investigations; and an analysis of issues involving the new Law Enforcement Coordinating Committees.

## Office of Special Investigations

In 1978, Congress enacted P.L. 95-549 which renders deportable any alien in the United States who took part in persecution in collaboration with the Nazi regimes of Europe from 1933 to 1945. The Office of Special Investigations was established in May 1979 and was charged with the sole mission of investigating and prosecuting Nazi war criminals living in the United States. The legal framework within which the Office operates is the Immigration and Nationality Act, which sets forth specific provisions for dealing with persons involved in war crimes.

The Office has a staff of 47 persons including 18 attorneys, six paralegals, seven historians, four investigators, and 12 additional support staff.

Contacts with major organizations of Holocaust survivors on a worldwide basis continued to be expanded and solidified during Fiscal Year 1983, and additional significant archival resources were explored and researched in Europe by the Office's historians. High level talks were held between a representative of the Criminal Division and the Israeli Attorney General regarding the deportation and extradition to Israel of Nazi war criminals residing in the United States. A close daily working relationship continues with the Department of State in connection with the transmission of requests for judicial assistance from U.S. embassies around the world.

During Fiscal Year 1983, six new denaturalization cases were filed, and four such cases went to trial. Three orders revoking citizenship have been issued thus far, and one denaturalization decision in favor of the government has been affirmed by the Seventh Circuit Court of Appeals. Two new deportation cases were filed, and eight such cases went to court. Four orders of deportation have been issued

to date. The first deportation of a Nazi war criminal from the United States took place in April 1983. In addition, the Board of Immigration Appeals reversed an immigration court decision and ordered the respondent deported. This decision was especially significant because it was the first finding of deportability under the Holtzman Amendment.

## Asset Forfeiture Office

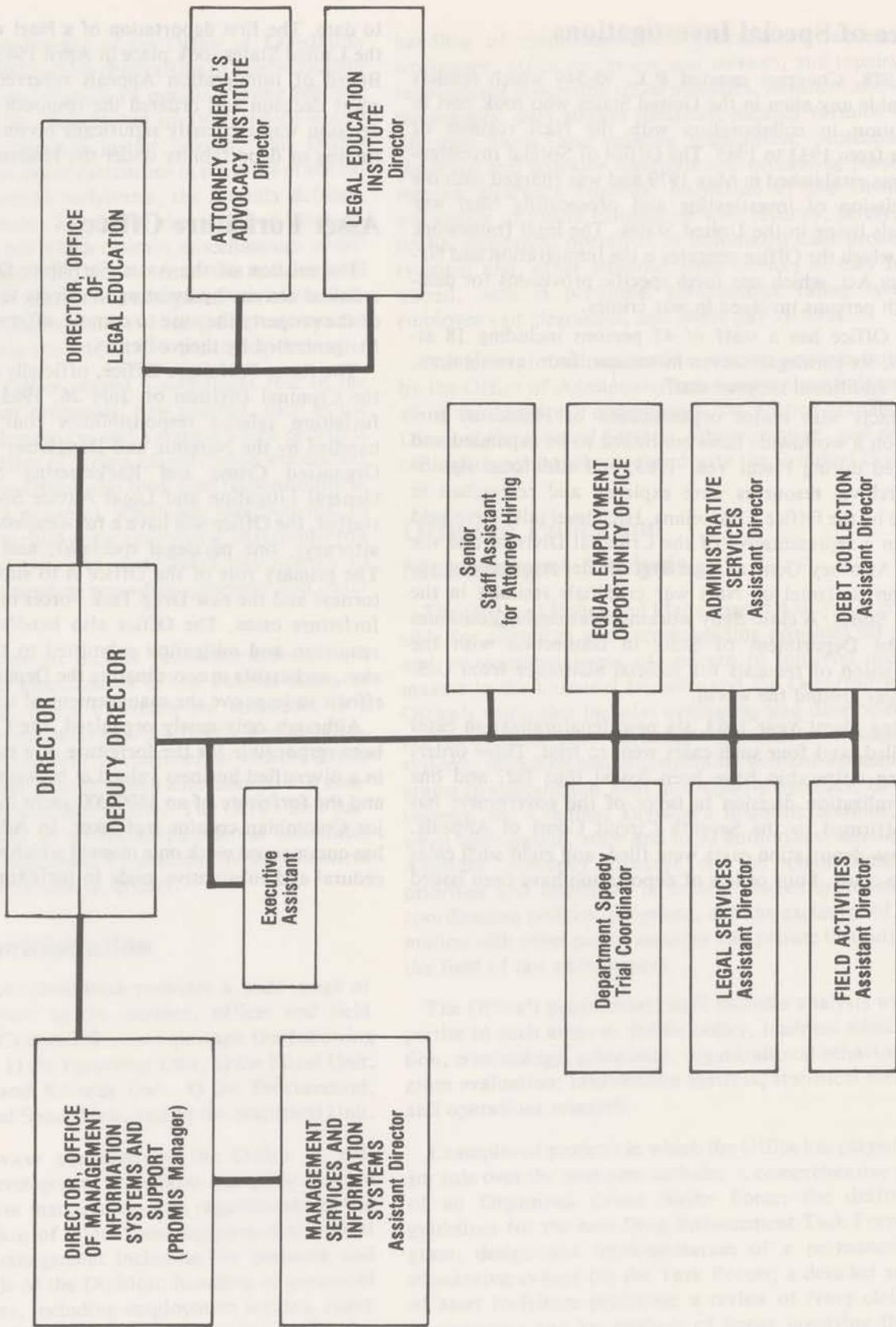
The mission of the Asset Forfeiture Office is to reduce criminal activity by assisting in efforts to deprive criminals of the property they use to commit offenses and of the profits generated by their offenses.

The Asset Forfeiture Office, officially established within the Criminal Division on July 26, 1983, consolidates the forfeiture related responsibilities that were previously handled by the Narcotic and Dangerous Drug Section, the Organized Crime and Racketeering Section, and the General Litigation and Legal Advice Section. When fully staffed, the Office will have a full-time complement of eight attorneys, one paralegal specialist, and three secretaries. The primary role of the Office is to support the U.S. Attorneys and the new Drug Task Forces in civil and criminal forfeiture cases. The Office also handles all petitions for remission and mitigation submitted to the Criminal Division, and assists in coordinating the Department of Justice's efforts to improve the management of seized assets.

Although only newly organized, the Office already has been responsible for the forfeiture of a partnership interest in a diversified business valued at between \$10-\$20 million, and the forfeiture of an \$800,000 yacht in Florida by a major Colombian cocaine trafficker. In addition, the Office has commenced work on a manual which will provide a procedural and substantive guide to forfeiture actions.

## Debt Collection Section

## EXECUTIVE OFFICE FOR UNITED STATES ATTORNEYS



# Executive Office for United States Attorneys

## William P. Tyson Director

Under the supervision of the Associate Attorney General, the Executive Office for U.S. Attorneys provides general executive assistance and supervision to the 94 offices of the U.S. Attorneys and coordinates the relationships of other Department units with these offices.

## Office of Legal Education

The Attorney General's Advocacy Institute and the Legal Education Institute offered 79 courses and seminars to attorneys in the departments and agencies of the executive branch, including the Department of Justice, in Fiscal Year 1983.

### Attorney General's Advocacy Institute

The Attorney General's Advocacy Institute expanded its curriculum to include a number of new subjects as part of its role in furthering Department priorities.

Recognizing the emphasis on drug enforcement, the Attorney General's Advocacy Institute offered two seminars on forfeitures and a special drug enforcement seminar for attorneys assigned to the newly-formed Organized Crime Drug Enforcement Task Forces. Assistance was requested for state prosecutors, and provided by the Institute through two special training sessions for state prosecutor training coordinators. These sessions were so well regarded that, for example, the Missouri attendees then created a scholarship to send at least one state representative to the regular criminal trial advocacy course each year.

Recognizing the increase in cross-designation of state prosecutors, the Attorney General's Advocacy Institute published a special manual to serve as a primer on federal criminal practice and procedure. This manual is now part of the training materials given to all new Assistant U.S. Attorneys.

Responding to the special problems that have resulted from significant changes in bankruptcy law, the Attorney General's Advocacy Institute offered three seminars on bankruptcy practice. These seminars have grown into a series offered nationally both to Department attorneys and to those in other federal agencies. Similarly, in response to changes in immigration law, a special seminar on immigration habeas corpus problems was offered for the first time.

Other new seminar topics included management problems

for supervisory attorneys and advanced level evidence problems for litigators. The latter seminar produced the largest number of nominees ever received for a single subject seminar.

All in all, the Institute offered 21 specialized seminars during 1983, including a renewal of the criminal tax institute seminars, a new series on public corruption, six basic courses in criminal trial advocacy, five basic courses in civil trial advocacy, and four courses in appellate advocacy.

### Legal Education Institute

During Fiscal Year 1983, 3,370 federal attorneys and other legal personnel, representing all executive branch departments and agencies and 52 of the 53 independent government establishments, attended Legal Education Institute seminars at no cost to these agencies. The core curriculum included Advocacy Skills: Direct, Cross and Expert Witness Examination; Defensive Litigation; Freedom of Information Act (FOIA); Law of Federal Employment; Equal Employment Opportunity; Class Actions and Statistics; Contract Disputes; Ethics and Professional Conduct; The Federal Regulatory Process; and four courses in research skills for attorneys and paralegals. In response to expanding federal needs and emerging legal issues, the following courses were added to the Legal Education Institute curriculum during Fiscal Year 1983: Attorney Management; Advocacy Skills; Discovery; Privacy Act; Advanced FOIA; and Litigation Reporting in Claims Collections. This last course was developed in support of the Administration's goal improving collection of debts owed to the United States.

## Debt Collection Section

During 1983, the U.S. Attorneys collected debts owed the federal government representing a 13.2 percent increase over Fiscal Year 1982, and a remarkable 44.3 percent increase over Fiscal Year 1981. Cash collections in 1983 represent an impressive 33 percent increase over Fiscal Year 1982.

The Debt Collection Section provides direction and oversight to U.S. Attorneys in their debt collection efforts. The Section is responsible for establishing and implementing programs to improve the effectiveness of these efforts and resolve existing problems.

For example, during 1983, the Section initiated the Volunteer Peer Evaluator Program, under which federal debt collection personnel conduct onsite reviews of operations in the U.S. Attorneys' offices. Thirty-five such evaluations were conducted this year. The Section also organized the Regional Debt Collection Specialist Program, under which five senior U.S. Attorney debt collection officials provide technical assistance and onsite training to personnel in other offices. In addition, the Section worked with the Justice Management Division to develop a direct deposit (lock box) system to be placed in operation in all U.S. Attorneys' offices.

## Field Activities

The Field Activities Section conducts onsite reviews of the 94 U.S. Attorneys' offices, directed toward improving legal and administrative operations. The program is aimed at assisting U.S. Attorneys and the Executive Office in developing improvements to use in personnel, case management systems, and coordination and evaluation of the Attorney General's priority programs, and to reduce the costs of the operation of the U.S. Attorneys' offices. The Section consists of a small Washington staff supplemented by volunteer services of senior Assistant U.S. Attorneys.

In the audit cycle ending September 30, 1983, 44 U.S. Attorneys' offices had been reviewed. Followup visits to assess improvements or changes were made to four of those offices. Also during the year, the Section began using volunteer senior Administrative Officers to conduct in-depth reviews of the administrative operations in selected U.S. Attorneys' offices. Nine such reviews were conducted by the Section, resulting in two followup visits.

## Legal Services

The Legal Services Section provides legal opinions, interpretations, and advice to U.S. Attorneys on legislation, regulations, and departmental guidelines. It also drafts, reviews, and comments on legislative proposals and regulations, maintains effective liaison in intergovernmental legal affairs, and responds to inquiries from Members of Congress and private citizens about the Executive Office for U.S. Attorneys and the U.S. Attorneys' offices. During the year, activities of this Section included: processing or responding to more than 1,000 FOIA and Privacy Act requests; providing assistance to the Departmental Subcommittee on Asset Forfeiture; publishing the *United States Attorneys' Bulletin* (which has increased in volume and scope to keep pace with administrative and legal changes); coordination of a complete updating of the *United States Attorneys' Manual* (the comprehensive collection of departmental policy guidance); active participation in

administrative and litigative actions involving employee rights, equal employment opportunity, and adverse actions; and assisting the U.S. Attorneys in establishing victim/witness programs.

This Section also administers the appointment by the Director, Office of Attorney Personnel Management, of U.S. Attorneys and Assistant U.S. Attorneys as special state or local prosecutors. Appointments are made pursuant to the Intergovernmental Personnel Act of 1970 and appropriate state and local government codes. There are 45 appointments currently active under this program, representing involvement by 24 different U.S. Attorneys' offices. Under a parallel program, there are currently 126 state and local prosecutors serving as Special Assistant U.S. Attorneys, assisting 46 U.S. Attorneys.

## Office of Management Information Systems and Support

This Office provides the U.S. Attorneys' offices with automated information systems and the services necessary to obtain, maintain, and use such technology. The Office of Management Information Systems and Support (OMISS) also gathers workload information to ensure efficient management and the promotion and implementation of Department objectives.

During the past year, OMISS began implementation of the Prosecutor's Management Information System (PROMIS) in U.S. Attorneys' offices. PROMIS is a case management system which originated in the U.S. Attorney's office for the District of Columbia. It exists in a computer format for large caseloads and in a word processor version for offices with smaller caseloads. By the end of 1983, PROMIS had been implemented in 10 large U.S. Attorneys' offices in a temporary, time-sharing program. Work is under way to implement the system in 10 other large offices. In all 20 offices, the OMISS staff helped to hire systems managers, design computer software, plan construction of computer rooms, and acquire the necessary computer hardware.

In smaller U.S. Attorneys' offices, the OMISS staff assisted in the placement of sophisticated word processing equipment to run that version of PROMIS, as well as to increase overall office efficiency.

In addition, the OMISS staff maintains the Docket and Reporting System on an interim basis to report current workload statistics.

## 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: developing Department policies and procedures; improving management, particularly with respect to the relationships between the Department and the U.S. Attorneys; operating the Law Enforcement Coordinating Committees (LECC); cooperating with state attorneys general and other state and local officials to improve the quality of justice in the United States; promoting greater consistency in the application of legal standards throughout the nation and at various levels of government; and aiding the Attorney General, Deputy Attorney General, and Associate Attorney General in formulating new programs.

The Advisory Committee is made up of 15 representative U.S. Attorneys who serve at the pleasure of the Attorney General. It has standing subcommittees that work to improve Department of Justice action in particular areas. The present standing subcommittees are Tax, Correctional Institutions, Debt Collection, Investigative Agencies, Legislation and Court Rules, and Executive Working Group Representation. Temporary subcommittees are established periodically for limited purposes such as management standards, office manuals, expedition of tax case review, declination guidelines, border problems, and Indian affairs.

The Committee meets bimonthly and is available to the Attorney General, the Deputy Attorney General, the Associate Attorney General, and the Assistant Attorneys General in charge of the various divisions of the Department. Headquarters officials of all investigative agencies, such as the Federal Bureau of Investigation (FBI) and Drug Enforcement Administration (DEA), are also invited periodically to discuss with the Committee areas of mutual concern.

## **Priority Programs: Law Enforcement Coordinating Committees**

One of the recommendations of the August 1981 Report of the Attorney General's Task Force on Violent Crime was the establishment of LECC's in all federal districts. To improve coordination of federal, state, and local law enforcement, these committees have now been established throughout the nation. The LECC's have spawned a wide variety of cooperative law enforcement activities, ranging from bank robbery task forces to cross-designation of prosecutors to sharing law enforcement intelligence. The committees are designed to facilitate assistance from the federal government, and have been received with enthusiasm by state and local law enforcement officials.

Federal enforcement priorities are being developed through District Law Enforcement Plans, an essential part of the overall LECC program. Although priorities will differ from district to district, an important purpose of these plans

is to ensure that federal investigative and prosecutorial field offices are proceeding with the same general priorities within each individual district. The plans generally reflect national law enforcement priorities as established by the Attorney General. They have been developed through consultation between the U.S. Attorneys, the local heads of federal investigative agencies, and the investigative agency headquarters. Through this consultation in the development of the plans, it is expected that all agencies will express a willingness and desire to adhere to them. This should also result in an increase in the effectiveness of federal law enforcement in every district.

As a means of describing important successful efforts to all U.S. Attorneys, the Executive Office began publishing the "LECC Network News." In August 1983, the first issue was sent to all U.S. Attorneys and appropriate Department of Justice officials. In addition to disseminating successful case histories, the publication provides federal prosecutors with background information on these efforts and general discussions on the status of the LECC program. This has ensured that U.S. Attorneys are apprised of their colleague's activities and assisted in efforts to duplicate appropriate projects.

At the start of the LECC program, the Department of Justice promised to make speakers available at LECC meetings. This program, ensuring that specific areas of interest to a particular committee are addressed, has resulted in over 110 LECC appearances by Department officials. The speaker program has been particularly effective in communicating vital areas of concern (such as the President's anti-crime legislation) to departmental officials in the field, and to state and local authorities.

## **The U.S. Attorneys**

Within each of the 94 federal districts in the 50 states, Guam, Northern Mariana Islands, Puerto Rico, and the Virgin Islands, the U.S. Attorney is the chief law enforcement representative of the Attorney General—enforcing federal criminal law and handling most of the civil litigation in which the United States is involved.

U.S. Attorneys are appointed for four-year terms by the President, with the advice and consent of the Senate, and serve at the pleasure of the President. Assistant U.S. Attorneys are recommended by the U.S. Attorneys and appointed by the Attorney General.

During 1983, U.S. Attorneys carried out their responsibilities with the support of 1,997 Assistant U.S. Attorneys and 2,470 non-attorney personnel. Their offices ranged in strength from three Assistant U.S. Attorneys to 177 Assistants, with 31 offices having fewer than 10 Assistants. The annual budget for U.S. Attorneys' offices totaled more

than \$238 million, which includes reimbursable monies for the Organized Crime Drug Enforcement Task Forces.

During the year, approximately 62,091 criminal referrals were opened in U.S. Attorneys' offices; 17,247 grand jury proceedings were conducted; 29,634 criminal cases were filed; and 26,065 criminal cases were terminated. Of the approximately 35,098 defendants whose cases were terminated, 4,637 were dismissed; 23,625 entered guilty pleas; and 6,834 were tried, of which 5,859 were found guilty after trial.

During this same period, approximately 90,619 civil cases were filed; 71,292 civil cases were terminated; and 134,538 civil cases were pending at the end of the year. This pending civil caseload represents a potential liability of over \$12.5 billion against the United States and potential recovery of approximately \$2.1 billion for the government. Over 88 percent of the civil judgments entered in these cases were determined in favor of the United States.

### **Drug Trafficking Prosecutions**

U.S. Attorneys across the country continue their efforts to crack down on the importation and distribution of illicit drugs. Among the specific objectives of the Reagan Administration are: 1) investigating and prosecuting individuals who organize, direct, and finance high-level illegal drug trafficking enterprises, and 2) fostering a spirit of increased cooperation among all levels of federal, state, and local law enforcement. Already these efforts have yielded impressive results around the country.

*South Carolina.* South Carolina's financial unit of the Task Force produced two companion indictments in May charging 41 individuals in two organizations with smuggling over \$700 million worth of marijuana and hashish into the United States between 1974 and 1981. The drugs came from Colombia, Jamaica, and Lebanon. Berry J. Foy and Thomas N. Rhoad III headed one ring; Robert Leslie Riley and Wallace E. Butler, Jr., headed the other, and several other defendants worked in both rings. Both organizations also secreted and laundered drug money through various channels, including the Bahamas, the Cayman Islands, the Channel Islands, and Hong Kong, resulting in tax and currency violations. Over \$6 million worth of assets have been seized, including resort beach property, river lots, a fashionable restaurant, and \$584,000 in cash from an offshore bank. Mr. Riley and Mr. Butler were arrested on a complaint in Australia just prior to indictment, and were being held without bond in Sydney while appealing an extradition order. To date, 34 defendants have been convicted either at trial or by plea, while others are still at large. One defendant pled guilty to a continuing criminal enterprise, the first such plea in South Carolina.

*Maryland.* Two of the largest heroin rings in Baltimore, Maryland—one headed by Maurice "Peanut" King and the

other by Melvin Stanford—were destroyed by federal prosecution during the past year. King and one of his partners, Thomas Ricks, received prison sentences of 50 and 45 years, respectively. Stanford was also convicted and sentenced to 30 years' imprisonment. In all, 22 federal convictions and approximately 25 state convictions were obtained against members of the two organizations. In addition, cash totaling almost \$500,000 and other property valued at approximately \$750,000 were forfeited in these cases. These prosecutions were the fruits of joint federal and state investigations.

*New Jersey.* In the first indictment nationwide to be brought by an Organized Crime Drug Enforcement Task Force, nine individuals were charged with conspiracy to distribute more than 40 tons of marijuana—worth more than \$20 million. The charges grew out of a seizure in New Jersey of eight tons of marijuana which had been shipped from St. Martin in the French West Indies. This was the first of at least three shiploads to be sent through that island to the United States. Each of those indicted held supervisory roles in the operation, in which eight lower and middle level personnel had been tried and convicted during 1982. Eight defendants have now pled guilty, six to conspiracy charges carrying a maximum term of 15 years and two to continuing criminal enterprise charges carrying a maximum term of life. A ninth defendant, a New Jersey attorney, is awaiting trial on obstruction of justice charges.

*Oregon.* On September 29, 1983, a grand jury returned an 11-count indictment involving a conspiracy to import over 50 kilograms of cocaine into Oregon. The year-long investigation involved coordination of court-ordered wire interceptions in Oregon, Washington, and California. The investigation culminated in the arrest of eight defendants, the seizure of over 140 pounds of cocaine valued at \$5 million, and the seizure of cash, jewelry, and other assets valued in excess of \$300,000. The three major defendants are incarcerated awaiting trial. The conspiracy, distribution network, and the seizure were the largest in the history of the State of Oregon.

*Georgia.* On September 9, 1982, 510 pounds of cocaine—valued at \$250 million—were inadvertently air-dropped in the mountains of northern Georgia. The next day, the cocaine was discovered by the Georgia Bureau of Investigation. The Georgia Bureau of Investigation, the DEA, and U.S. Customs Patrol, in cooperation with the U.S. Attorney's office, began a narcotics conspiracy investigation and, through fiber evidence and Federal Aviation Administration radar printouts, the plane utilized for the importation was located. Two hundred and forty exhibits were introduced into evidence during the three-week trial to link circumstantially the seven defendants to the conspiracy. All of the defendants were convicted. Sentences ranged from six to 30 years.

On December 3, 1982, three indictments were returned in the Southern District of Georgia, charging 38 defendants in connection with the seizure of an estimated 45 tons of marijuana from a freighter and a shrimp boat on November 28, 1982. Approximately 30 tons were seized in the British-registered 289-foot freighter, *Lago Izabal*, with the remaining 15 tons taken from a Brunswick, Georgia based shrimp boat seized off the Georgian coast. The freighter was stopped by the Coast Guard after a chase during which several shots were fired to disable the vessel. Seven crewmen were arrested aboard the shrimp boat. The remaining 22 defendants were apprehended on land as members of an unloading group. The seizure was the largest shipment of marijuana taken off the Georgia coast. Thirty-four of the defendants were convicted or pleaded guilty, and the sentences ranged up to 14 years and the fines up to \$125,000.

*North Carolina.* In the Middle District of North Carolina, seven Colombians were indicted for conspiracy to smuggle 649 pounds of cocaine from Colombia into the United States. Two were additionally charged with interstate transportation in aid of racketeering related to the smuggling operation. This investigation was the combined effort of the DEA, the State Bureau of Investigation, and the Colombian National Police Force. A local sheriff posed as being open to bribery and negotiated the safe landing strip and the safe house with the smugglers. Two of the defendants were serving sentences in a federal prison on prior drug convictions during the period charged in the indictment. Four of the defendants were arrested and are being held in Colombia. One defendant pleaded guilty to the conspiracy and two others were found guilty of the conspiracy after a jury trial.

*New York.* After a 5½ month trial, the owners, financiers, and managers of a national system of illegal diet and stress clinics were convicted in the Southern District of New York on racketeering, continuing criminal enterprise, drug, and tax charges. Through their sham medical clinics, the defendants had sold tens of thousands of prescriptions for Quaaludes—a Schedule II controlled substance—under the pretext of treating obesity and stress problems. These clinics had all the trappings of medical practice, including tests, examinations, health questionnaires, doctors, and psychologists. As a result of this landmark prosecution, the clinics, and a New York pharmacy which filled most of the Quaalude prescriptions sold at the clinics, were forfeited to the government. The owners were given prison terms ranging from 10 to 15 years. This case has brought to a virtual halt the illegal diversion of pharmaceutical Quaaludes in New York State.

*Missouri.* Two Springfield, Missouri, area defendants were convicted of conspiracy and distribution of lysergic acid diethylamide (LSD) in the Western District of Missouri. The case was one of a series of undercover "sting" operations conducted over a nine-month period by the DEA, FBI and

Missouri State Highway Patrol. Defendants agreed with an undercover agent and informant to provide large, bimonthly shipments of LSD from California to Springfield. Defendants flew to Kansas City, Missouri, and delivered 265,000 "hits" of LSD for \$42,000. According to the DEA, this is the largest single seizure of LSD in the Midwest.

*Texas and Florida.* William Webster, Delbert Paul Hoskins, Martin Lewis, and John Caperton were sentenced to 60, 30, 27 and 15 years' imprisonment, respectively, following convictions for narcotics offenses arising from Webster's cocaine distribution network in Dallas. This drug ring reaped monthly gross revenues of around \$350,000. The Florida suppliers, Hoskins and Lewis, are known to have supplied comparable quantities to three other cocaine distribution organizations in the United States. Thirty codefendants were also convicted, and approximately \$350,000 in cash and goods were forfeited to the United States. Internal Revenue Service forfeiture proceedings against Webster's real estate are pending. The assistance of local authorities in Dallas and in Gainesville, Florida, were critical to the success of the investigation. The investigation was formally conducted by the U.S. Attorney's Office, FBI and DEA.

*California.* Thirty-three defendants were indicted in the Eastern District of California in connection with a conspiracy embracing 10 laboratories supplying methamphetamine to the Hell's Angels. The 30 defendants who have been located have all been convicted on the indictment or related charges, and have received sentences ranging up to 22 years' imprisonment. The investigation spanned many months, and relied upon the efforts of numerous county sheriffs' offices, local police departments, the DEA and the California Bureau of Narcotics Enforcement.

In the Central District of California, 10 persons were convicted of major narcotics and money laundering violations. During a period of eight months, four middle-aged women led by Barbara Mouzin laundered \$25.8 million in narcotics proceeds through a government "sting" in Los Angeles. The money came from narcotics traffickers in Miami, San Francisco, Denver, Los Angeles and other cities.

The case was called the "Grandma Mafia" by the press because Mouzin and two codefendants were grandmothers with no prior criminal records. The case was jointly investigated by the Internal Revenue Service, Customs Service, and DEA, and included the use of wiretaps and federal undercover agents. More than \$3 million in currency and bank accounts and 120 pounds of cocaine were seized, including 44 pounds of cocaine given on credit to undercover DEA agents by codefendant Alphonso Carvajal. Both Mouzin and Carvajal were convicted of violating the continuing criminal enterprise statute, and each received a 25-year sentence, heavy fines, and lifetime special parole terms.

*Tennessee.* In July 1982, over 1,250 pounds of pure cocaine—with an estimated value of \$400 million—were seized in Cleveland, Tennessee. Five defendants were arrested on charges of conspiracy to distribute cocaine and possession with intent to distribute cocaine. The seizure resulted from a tip which led to 24-hour surveillance by DEA agents from Nashville, Tennessee, and the Tennessee Bureau of Investigation. State agents stationed in eastern Tennessee made the arrests with the assistance of the Tennessee Highway Patrol. The November 1982, trial resulted in the conviction of all five defendants and was the largest seizure ever to go to trial in the United States.

*Michigan.* The prosecution of 38 of the middle and top echelon drug traffickers in the notorious Young Boys, Inc. organization, was one of the most important prosecutions in the Eastern District of Michigan in the last decade. The continuing criminal enterprise and conspiring to distribute heroin and cocaine convictions represented the successful culmination of a federal/state cooperative investigation by the DEA, Internal Revenue Service, Detroit Police Department, and Michigan State Police. Young Boys, Inc. distributed a substantial portion of the heroin in Detroit by using 10-to14-year-old boys as runners and street-pushers. The operation relied on a campaign of murder and terror to maintain its market. In addition to the convictions, five residences have been forfeited and \$1.4 million in cash is in the process of being forfeited.

*Vermont.* A cooperative effort among agents of the DEA, FBI, Royal Canadian Mounted Police, and Vermont State Police resulted in the arrest of nine individuals and seizure of two tons of hashish in Bakersfield, Vermont. The hashish was enroute from Bombay, India to Montreal in the province of Quebec. The Canadian authorities were also able to seize several hundred thousand dollars used in the deal. The principal leader was sentenced to 15 years and a \$50,000 fine, and the Indian importer was sentenced to 12 years' imprisonment.

*Alabama.* On March 15, 1983, a twin engine aircraft containing over 600 pounds of cocaine, valued at approximately \$130 million, was seized at the Dothan-Houston County (Alabama) Airport by the Dothan Police Department and Houston County Sheriff's Office. Local law enforcement authorities subsequently asked the DEA to handle the investigation of the case. In May, the pilot of the aircraft was convicted of possession of cocaine with intent to distribute and was sentenced to 10 years' imprisonment.

*Kentucky.* On March 12, 1982, state and federal authorities in the Western District of Kentucky executed search warrants on the residence and "stash house" of William Ragland. Approximately \$8 million worth of cocaine, \$300,000 in cash, and extensive records of Ragland's drug business were seized. The records depicted a multistate multimillion dollar marijuana and cocaine distribution ring. As a result of the

investigation, 30 persons were indicted including suppliers from Colombia and Florida. Twenty-three of these 30 were tried and convicted or pled guilty, and seven are fugitives.

*Florida.* On November 5, 1982, an eight-count indictment was returned charging 14 defendants—including four high ranking officials in the Cuban government, with narcotics violations. There have been six convictions, two acquittals, and one plea, and six defendants are fugitives. The charges include conspiracy to import in excess of five million methaqualone tablets and marijuana. The indictment alleges that Cuba was used as a loading station and as a source of supplies for ships transporting drugs from Colombia to Florida, and that the supervision and protection of the illegal activities originated in Cuba.

### **White-Collar Crime Prosecutions**

Economic crime continues as a major target of the U.S. Attorneys, and U.S. Attorneys across the country are continuing their efforts to crack down on fraud against the United States and its citizens.

*Massachusetts.* In a major white-collar crime case in the District of Massachusetts, Peter Francis Crosby and two codefendants were convicted of conspiring to acquire control over \$15 million of commercial real estate. According to evidence presented at the trial, Crosby and his associates purchased the Financial Services Bank of St. Vincent, West Indies, a defunct bank previously depleted of assets. Worthless securities, underwritten by the bank, were used to capitalize a series of shell corporations owned by Crosby. These, in turn, were offered as venture partnerships to various real estate syndicates, or to purchasers of marketable property. Crosby was convicted and is serving a four-year sentence.

*New Jersey.* William Nash was charged and successfully prosecuted by the District of New Jersey for having engaged in a multi-million dollar fraudulent scheme involving the sale of vending machines. He swindled over 1,300 individuals out of \$6 million. Nash ran his "business opportunity" fraud over an 18-month period using an elaborate corporate structure, a sales force of over 100 salesmen throughout the country, and a standardized fraudulent sales presentation. He solicited customers by placing false advertisements in newspapers nationwide promising, among other things, "business opportunities" in the vending machine business. In fact, no such opportunities were intended or existed. The total amount lost by the victims makes this the largest business opportunity fraud ever prosecuted by the U.S. Attorney's office for the District of New Jersey. Nash was convicted and sentenced to 10 years' imprisonment.

*Oklahoma.* In the Western District of Oklahoma, Gordon Atwell, the district manager of a major oil company, was convicted of 16 mail fraud counts. He received more than \$350,000 in kickbacks during a year and a half period from oil

and gas drilling and servicing companies. Atwell allowed his company to be charged inflated prices, then received the kickbacks primarily through the servicing companies writing checks to his shell consulting company. Corrupt kickback practices such as these are widespread and are estimated to add 30 percent to 40 percent to the cost of drilling in the State of Oklahoma, thus adding similar amounts to national fuel prices.

*California.* In the Southern District of California, a corporation and its president were convicted of defrauding the Department of Defense in connection with two ship repair contracts with the Navy. William W. Carpenter, Sr., President of Universal Decking Systems, Inc., directed his employees to inflate the quantity of work performed on decking and painting jobs on Navy ships and bill the Department of Defense accordingly. The indictment charged that the defendants submitted 109 claims totaling \$2.8 million, which were inflated by approximately \$1.4 million. In some instances, the measurements were inflated by as much as 800 percent. Carpenter was sentenced to 10 years' imprisonment and a \$110,000 fine, and Universal Decking was sentenced to a \$190,000 fine. A civil suit was filed contemporaneously to recover double damages under the False Claim Act.

*Kentucky.* Edwin Driggers and Marvin Stone were convicted on November 24, 1982, for conspiracy involving the sale of fraudulent coal tax shelters. They were further convicted for mail fraud involving transactions relating to fraudulent coal tax shelters. The conviction marked the first successful prosecution in Kentucky for the sale of fraudulent coal tax shelters through limited partnerships. The write-off by investors in this scheme totaled approximately \$8.8 million. The sales of these securities were made primarily in the Pacific Northwest with a total investment of \$5.5 million. Driggers was sentenced to 20 years and fined \$13,000. Stone was sentenced to three years and fined \$10,000.

*New York.* On September 19, 1983, in the largest tax evasion case ever, a federal grand jury in the Southern District of New York returned a 51-count indictment against Marc Rich, Pincus Green, their associate Clyde Meltzer, and their companies for racketeering, tax fraud, energy fraud, and Trading with the Enemy Act violations. The defendants are charged with \$48 million in tax evasion emanating from Marc Rich's diversion of \$100 million in U.S. taxable income offshore to his Swiss company through a series of sham foreign crude oil transactions. These profits were earned largely in violation of federal energy laws, including illegal sales to Iran during the hostage crisis.

Marc Rich and Pincus Green have renounced their American citizenship and are fugitives. In a decision of far reaching impact the Second Circuit held, prior to the indictment, that it had jurisdiction over Rich's foreign corporation—which has no office in the United

States—through the corporation's wholly-own subsidiary in New York. Therefore, Rich's corporation was held in civil contempt and has been assessed \$50,000 per day in fines for refusing to obey a court order to produce its Swiss records pursuant to a grand jury subpoena. To date, the company has paid in excess of \$5 million in fines and produced over 240,000 Swiss documents, but continues to be in contempt for failure to produce all the records.

Another Southern District of New York case involved the successful prosecution of seven individuals for planning and executing what was perhaps the largest white-collar fraud in the country's history. Other People's Money Leasing Services appeared to be, as profiled in magazines such as *Fortune*, a highly successful company, which leased large multimillion dollar computers to businesses throughout the United States. Contrary to its public image, Other People's Money was, in fact, a business built and maintained for 10 years through pervasive fraud. The fraud included contracts through payment of commercial bribes, loans obtained by pledging bogus "leases" for nonexistent computer equipment, and false financial statements.

By the time the fraud was uncovered, 19 of the country's major financial institutions had been duped into lending Other People's Money over \$190 million. The mastermind of the scheme, Myron Goodman, was sentenced to 12 years' imprisonment and his chief associate, Mordecai Weissman, received a 10-year prison sentence.

*District of Columbia.* In a highly publicized seven-week trial, Mary Treadwell, the former wife of the Mayor of Washington, D.C., was convicted in the District of Columbia of conspiracy and making false statements to the federal government. Treadwell and her codefendants defrauded the Department of Housing and Urban Development, Internal Revenue Service, and tenants of a low income housing project by devising a complex scheme to manipulate hundreds of financial accounts to seven corporate entities, both profit and non-profit. Four other defendants entered guilty pleas to a variety of offenses, including conspiracy, income tax evasion, and false statements.

*North Carolina.* In the Eastern District of North Carolina, 11 manufacturers and distributors of counterfeit video and musical cassette tapes were convicted in the nation's first prosecution under the new Piracy Act and Counterfeit Amendment Act of 1982. Six of the 11 defendants received prison terms, and over \$100,000 in fines were assessed against all of the defendants. The convictions stemmed from "Operation Copycat," an undercover FBI investigation in North Carolina. The economic loss prevented by the seizure of illicit video and audio tapes in "Operation Copycat" is estimated to be around \$20 million for 1982. Under the new law, counterfeiters and bootleggers of video and audio types face a maximum penalty of five years' imprisonment and \$250,000 for each first-time offense.

*Iowa.* A Des Moines, Iowa, stockbroker was convicted on all 15 counts in two separate indictments for embezzlement, false statements and mail fraud arising out of his conversion of \$17,705,000 from two Iowa banks. Following a three-day pretrial hearing, the court granted the government's motion to exclude, as irrelevant, evidence of pathological gambling in support of defendant's insanity defense. The defendant was then convicted and sentenced to five to 20 years in prison.

### Organized Crime Prosecutions

Prosecuting organized crime has been a high priority for this Administration, and U.S. Attorneys have played a major role throughout the country.

*California.* In the Eastern District of California, a total of 25 current and former members of the Nuestra Familia prison gang entered guilty pleas to racketeering charges for numerous murders, robberies, and other acts of gang violence. Defendants received sentences ranging from five to 30 years. It is believed that this prosecution played a major role in immobilizing what was once the largest prison gang in California.

*Missouri.* John P. Leisure and others in his organized crime ring in St. Louis have been indicted on racketeering and bombing charges for a series of bombings in a power struggle for control of various labor unions there. It is the most significant organized crime case ever prosecuted in the Eastern District of Missouri, and has led to further investigations which are expected to bear fruit. It has effectively crippled the Leisure organized crime faction. This successful prosecution is due in large part to federal and state cooperation and the efforts of the LECC in the District.

*Oregon.* Stephen Kessler and five others were convicted in the District of Oregon of armed bank robbery, distribution of narcotics, receiving stolen property and conspiracy. Kessler was the head of a major heroin ring in the Northwest known as "The Family." This organization had approximately 90 members, all of whom were parolees or escapees, or their families. Money for the purchase of heroin by "Family" members was obtained through armed bank robberies. Over 50 such robberies were committed in Oregon and Washington between 1980 and 1982. The FBI, DEA, U.S. Marshals Service, Oregon State Police, Multnomah County (Oregon) Police Bureau, and the Gresham (Oregon) Police Department worked together in this highly successful investigation.

*Texas.* On February 4, 1983, the conviction of Samuel A. Cammarata and his subsequent sentence of 45 years and fines of \$50,000 culminated a two-year investigation into the activities of one of south Texas' major criminal organizations. Cammarata and 12 codefendants were charged with a racketeering conspiracy involving six contract murders, marijuana, hashish, cocaine, heroin, and methamphetamine laboratories in Mexico, and trips to

Lebanon involving drug smuggling and plans to assassinate top government officials there. Cooperation between local, state, and federal law enforcement agencies was substantial, and included involvement by the Texas Department of Public Safety, the Austin and Houston Police Departments, the Harris County District Attorney's Office, the FBI, DEA, U.S. Marshals Service, U.S. Bureau of Prisons, Federal and State Parole Commissions, the Organized Crime Strike Force of the Department of Justice, the Central Intelligence Agency, and the Royal Canadian Mounted Police.

*Florida.* On November 2, 1982, a federal grand jury in Jacksonville, Florida, indicted 16 members of the Jacksonville and Tampa chapters of the Outlaws motorcycle gang. The defendants sought to make these chapters the primary source of drugs for resale by other chapters in the nationwide club. They were charged with conspiring to engage in racketeering activities and with murder, extortion, and witness intimidation. In addition, the indictment alleged that the defendants operated interstate prostitution and drug businesses from October 1976 through October 1982, conspired to expand an ongoing prostitution ring, and engaged in illegal distribution of cocaine, Quaaludes, methamphetamines, amphetamines, marijuana, and valium. The defendants were convicted on April 1, 1983, and received sentences ranging from eight to 40 years.

### Official Corruption Prosecutions

Prosecuting corrupt officials remains a primary focus for U.S. Attorneys, since official corruption undermines the law enforcement system itself.

*New York.* U.S. Representative Frederick Richmond was convicted of income tax evasion, possession of marijuana, and making illegal payments to a federal employee. Richmond pleaded guilty to the charges and was sentenced to a prison term of a year and a day and fined \$20,000. As part of the plea agreement, Richmond resigned from the U.S. House of Representatives and agreed not to seek re-election.

*Tennessee.* A Tennessee state senator and two high-ranking executives with Honeywell Information Systems were convicted on mail and wire fraud and conspiracy charges related to a scheme to defraud Honeywell and state and local government entities in Tennessee. The scheme involved obtaining a \$2.4 million state computer contract and a \$1.6 million county computer contract, and the payment by the state senator of approximately \$152,000 in kickbacks. The state senator, who was also convicted on Hobbs Act and tax evasion counts, received a sentence of seven years, while the Honeywell executives received sentences of 3½ years each.

*Massachusetts.* The former Chairman of the Ways and Means Committee of the Massachusetts State Senate was convicted and sentenced to two years in prison for misusing his office by extorting \$34,000 from a Worcester, Massachusetts, architectural firm. The evidence at trial

showed that James A. Kelly, Jr., while the Chairman of the Senate Ways and Means Committee, funneled millions of dollars worth of state design contracts to a now defunct architectural firm in exchange for monthly payments of \$1,000. The payments were disguised as an accounting retainer. The federal investigation and prosecution made extensive use of information and documents gathered by a state commission investigating fraud and corruption in Massachusetts building contracts.

*Alabama.* In November 1982, a special grand jury for the Middle District of Alabama returned indictments against 12 persons in connection with the payment of over \$600,000 in cash kickbacks in the Temporary Housing Program of the 1979 Hurricane Frederic Disaster Relief Effort. Limmie Lee Killough, the former Director of the Temporary Housing Program of the State of Alabama; Joseph Toofie Deep, Jr., the former Deputy Director; and eight contractors were subsequently convicted on charges including conspiracy to defraud the United States and income tax violations. Defendants Killough and Deep defrauded the United States by inflating the prices of bids submitted and contracts awarded for disaster relief mobile home "set ups." This provided for the payment of cash kickbacks varying between \$500 and \$600 per mobile home. False and fraudulent claims were then filed with the State of Alabama against federal funds.

Defendant Killough was sentenced to eight years, defendant Deep was sentenced to five years, and the eight contractors were each sentenced to three years' probation. The investigation was begun by the Montgomery County District Attorney, and subsequently turned over to the U.S. Attorney's office because of the broader criminal jurisdiction available in the federal system. The year and a half long federal investigation utilized the combined resources of the U.S. Attorney's office, the FBI, and the Internal Revenue Service.

*Oklahoma.* After a lengthy investigation by the Postal Inspector into illegal voting practices in the 1982 elections, the United States went to trial on a 20-count indictment against Dan Draper, Jr., Speaker of the Oklahoma House of Representatives and Joe Fitzgibbon, House Majority Leader there. The indictment alleged a scheme to defraud the electorate of Oklahoma District 86 of a true and fair election by the use of fraudulent absentee ballots. Draper was charged with one count of conspiracy and 10 counts of mail fraud; Fitzgibbon with one conspiracy count and nine mail fraud counts. The nine-day trial resulted in a guilty verdict on all counts charged, except one mail fraud count for Fitzgibbon. Both defendants were sentenced October 12, 1983, to a three-year period of imprisonment for each count, with counts to run concurrent to each other.

*District of Columbia.* In the District of Columbia, former FBI Special Agent H. Edward Tickel, Jr., was convicted of interstate transportation of stolen property, false statement,

obstruction of justice, and tax evasion, and sentenced to eight years in prison. Tickel attempted to obstruct a grand jury investigation by concealing his knowledge and participation in a \$250,000 diamond theft. In addition, Tickel pled guilty to stealing FBI radios.

### **Environmental Prosecutions**

*New Hampshire.* A case in the District of New Hampshire involved the prosecution of the A. C. Lawrence Leather Company and five of its corporate officers and employees in the largest environmental criminal case ever brought in the United States. The company, headquartered in Danvers, Massachusetts, was convicted after an eight-week trial on 30 counts including conspiracy, defrauding the United States, mail fraud, submitting false statements to the United States, and violations of the Federal Clean Water Act. From 1977 to 1981, A. C. Lawrence's tannery in Winchester, New Hampshire, regularly bypassed its wastewater treatment plant and discharged raw industrial waste directly into the Ashuelot River. At the same time, the company was receiving approximately \$250,000 from the U.S. Environmental Protection Agency for studying the operation of its wastewater treatment plant for use in setting pollution discharge guidelines for the tanning industry nationwide. In addition, the company entered guilty pleas to charges of illegal storage and disposal of perchloroethylene, a hazardous waste and a suspected carcinogen. The chemical is used as a degreasing solvent at the Winchester tannery. The company also pled guilty to submitting a false report to the Environmental Protection Agency that concealed the fact that the company generated, stored and disposed the perchloroethylene, and to two violations of the federal "Superfund" law for failing to notify the government of its storage and disposal practices. The individuals involved were sentenced to suspended jail sentences, probation, community service and fines of \$38,000. The corporation was sentenced to fines totaling \$150,000 plus restitution of \$238,420.

*South Dakota.* As a result of "Operation Eagle"—an undercover operation investigating the killing of bald and golden eagles and the sale of such birds and other protected bird parts—indictments were returned against 27 individuals in the District of South Dakota. The majority of the eagles killed were taken on or adjacent to the Karl E. Mundt National Wildlife Refuge in South Dakota. Three of the defendants are still at large, and all but three of the remaining have either pled or been found guilty of various violations of the Migratory Bird Treaty Act, the Bald and Golden Eagle Protection Act and the Endangered Species Act.

The investigation took place over a two-year period and the arrests of the persons charged involved a cooperative effort between 80 federal and state conservation officers within the Districts of South Dakota, Florida, California, Missouri, Utah, Oklahoma, Montana, Colorado, and North Dakota.

Large quantities of protected bird parts and finished craft items made from such parts were seized as part of the investigation. The investigation was also aimed at halting the lucrative black market in reproductions of Indian artifacts such as headdresses, rattles, jewelry, lances, hair ties, wing and peyote fans, whistles, and ornaments made from protected bird parts.

### **Violent Crime Prosecutions**

*New York.* During a bungled \$1.6 million heist in Rockland County, New York, a Brinks guard and two police officers were brutally murdered. The U.S. Attorney's office for the Southern District of New York and the FBI developed probable cause for a series of search warrants and court-ordered electronic surveillance. Ultimately, federal arrest warrants were issued for 11 defendants who assisted the four persons caught at the scene of the robbery and who were prosecuted by the state. During the investigation, 13 witnesses refused to comply with court orders to provide evidence to the grand jury. Basing their refusal on what they called a political principle of "non-collaboration," the witnesses were imprisoned for civil contempt.

The indictment of the 11 defendants included not only the Rockland County robbery and murders, but also racketeering charges related to an entire series of robberies and murders, and the sensational prison escape of Black Liberation Army Leader Joanne Chesimard. Four defendants remain fugitives, and one defendant was recently arrested and awaits trial. The other six were tried in a five-month jury trial resulting in the convictions of two defendants for the racketeering charges, two defendants for the crime of accessory after the fact to the Rockland County robbery, and two acquittals.

*Alabama.* On March 21, 1981, the body of Michael Donald, a 19-year old black, was discovered hanging from a tree in Mobile, Alabama. On June 16, 1983, the FBI arrested Henry Francis Hays, an admitted Ku Klux Klan member, and James L. "Tiger" Knowles, Jr., a former Alabama Klan member, in connection with Donald's murder and a cross burning. Both were charged with conspiracy to violate the civil rights of citizens. Hays and Knowles took part in a conspiracy to kidnap, assault, beat, strangle and slit the throat of Donald in an attempt to intimidate jurors in a state court trial of a black man accused of killing a white police officer that had ended with a hung jury. Knowles pled guilty to the federal civil rights charge and is awaiting imposition of sentence. The federal charge against Hays was dismissed so that he could be prosecuted for capital murder by state authorities. Hays could be electrocuted if convicted.

*California.* Five members of the Hell's Angels San Diego chapter, including its president and vice president, entered guilty pleas to a racketeering-murder conspiracy indictment. The charges arose from a war between two rival motorcycle

gangs during 1977. Hostilities culminated in a Hell's Angels ambush of two Mongol motorcycle gang members and their girlfriends while they were traveling on a San Diego highway over a Labor Day weekend. Two were killed and a third was paralyzed by machine gun fire. Local prosecutors developed testimony from two accomplices, now under federal protection, as part of a joint federal and state investigative effort. Utilizing the advantages of federal statutes and procedural rules, the cross-designated district attorneys obtained the first racketeering convictions of motorcycle gangsters in the nation.

*Texas.* In the Western District of Texas, the last in a series of five trials arising from the investigation into the murder of U.S. District Judge John H. Wood, Jr., was concluded. The multiple indictments included charges of conspiracy to murder a federal officer, conspiracy to obstruct justice, perjury, conspiracy to possess in excess of 1,000 pounds of marijuana, possession of cocaine, conspiracy to evade the payment of taxes, and tax evasion. Joseph Chagra, an attorney, pled guilty to conspiring with his brother, Jamiel Alexander "Jimmy" Chagra, to murder Judge Wood. They feared the sentence that the Judge would impose should Jimmy Chagra be convicted of conducting a continuing criminal enterprise. Joseph Chagra testified against the shooter, Charles Harrelson, who was convicted of conspiring to murder Judge Wood and to obstruct justice. Harrelson received two consecutive life sentences and a consecutive five-year sentence, all of which will commence to run after he serves a 40-year state sentence. Jimmy Chagra was convicted of conspiracies involving the obstruction of justice, marijuana and tax evasion, but was acquitted on both the conspiracy to murder and the murder of Judge Wood. Chagra received a net term of 17 years' imprisonment, to be served at the conclusion of the 30-year sentence imposed after his conviction for conducting a continuing criminal enterprise.

Elizabeth Chagra, Jimmy's wife, was convicted of murder, obstruction, and tax conspiracies. She received a 30-year sentence. Joann Harrelson, Charles Harrelson's wife, was convicted of using a false name and address to acquire the firearm believed to have been Judge Wood's murder weapon, of conspiring to obstruct justice, and of five counts of perjury. She received a total of 28 years' imprisonment.

*North Dakota.* Kenneth Muir, U.S. Marshal for the District of North Dakota, and Robert S. Cheshire, a Deputy U.S. Marshal, were killed and three other law enforcement officers were seriously injured when they attempted to serve a probation violation warrant upon Gordon Kahl, a tax protester. The incident resulted in a massive investigation by the FBI and the U.S. Marshals Service to capture and bring to justice those responsible. Six individuals were indicted. Only five, however, were taken into custody. One defendant pled guilty to impeding federal officers prior to trial.

Of the four remaining defendants who stood trial, only Gordon Kahl's wife, who played a relatively minor role in the shooting, was acquitted. Yori Kahl, Gordon Kahl's son, and Scott Faul, a family friend, were convicted of second degree murder, assaulting a federal officer, harboring a fugitive, and conspiracy. David Broer, who took no direct part in the shooting, was convicted of harboring a fugitive and conspiracy. Gordon Kahl himself remained at large until approximately one week after the trial of his codefendants. In attempting to apprehend Gordon Kahl in Arkansas, a local sheriff and Gordon Kahl were killed.

### Other Major Criminal Prosecutions

*Maryland.* An investigation conducted by a food stamp fraud task force—composed of representatives of the Secret Service and the Department of Agriculture—led to the indictment of Maryland State Senator Tommie Broadwater, his daughter Jacquelyn, and three codefendants on food stamp fraud charges. One of the defendants was also charged with the distribution of Demerol. During the course of an undercover investigation, Broadwater received \$70,000 worth of food stamps which he believed to be stolen, redeeming \$45,000 of them through a grocery store that he owned. Mr. Broadwater was sentenced to six months' imprisonment, ordered to make restitution to the Department of Agriculture of \$18,420, fined \$20,000, and required to perform 100 hours of community service. Two of the other defendants received four-year prison terms.

*Virginia and New York.* In December 1977, the Department of Justice referred allegations concerning two former agents of the Central Intelligence Agency to the U.S. Attorney's office in the District of Columbia. The original allegations included violations of the Foreign Agents Registration Act, explosives and explosives conspiracy laws, and Munitions Control and Arms Export Control Acts, and solicitation and conspiracy to murder a Libyan dissident. The investigation of the two former agents, Edwin P. Wilson and Francis E. Terpil, involved dozens of prosecutors and investigators from various federal, state and foreign jurisdictions as well as from the Department's Criminal Division.

Terpil was convicted *in absentia* in New York for conspiracy to ship 10,000 machine guns. Although a fugitive, he remains under indictment in federal court both in New York and Washington. Wilson, after being successfully lured out of Libya, has thus far been convicted in the Eastern District of Virginia for shipping weapons to Libya (one of which was used to kill a Libyan dissident in Germany) and of shipping 40,000 pounds of C-4 plastic explosives to Libya. Most recently, he was convicted in New York of attempting to murder two federal prosecutors from Washington and a variety of witnesses against him. Additionally, a dozen other people have been convicted in various federal jurisdictions

either as codefendants and coconspirators, or on related charges arising out of the investigation. Thus far, over \$4.5 million has been recovered in fines, and over \$25 million in Internal Revenue Service liens are outstanding and in litigation. The various trials have resulted in the most successful prosecution under the recently enacted Classified Information Procedures Act. In addition to the search for the fugitive Terpil, various sensitive investigations remain pending throughout the country.

*Virginia.* Stephen G. Carter, attorney and businessman from Chicago, and Paul Sakwa, former employee of the Central Intelligence Agency, were indicted in the Southern District of Virginia and pled guilty to violations of the Export Administration Act. They had attempted to export a diesel engine assembly line intended for the Kama River Truck Complex in the Soviet Union. Their conviction culminated a five-month undercover investigation by the U.S. Customs Service.

*New Mexico.* Thirty-eight people were indicted in the District of New Mexico in connection with the smuggling of illegal aliens from Juarez, Mexico, to Illinois and other states in the northeast, including New Jersey and New York. A number of individuals still remain fugitives in Mexico. Nineteen people, to date, have been convicted or entered pleas. The jury trial involving five of the principals began in late October 1982 and lasted four weeks, concluding with guilty verdicts on all counts. The convictions are currently on appeal. Salvador Pineda-Vergara, the head of this large smuggling ring, and Carlos Perea each received sentences of 15 years. Baldomero Hernandez received a sentence of 10 years. The Immigration and Naturalization Service estimated that the organization had gross receipts of tens of millions of dollars each year for the smuggling of illegal aliens into the United States.

*Texas.* On October 22, 1982, John M. McBride, Michael A. Worth, Theodore D. McKinney, Jill R. Bird, and Timothy K. Justice were indicted in the Southern District of Texas for conspiring to extort \$15 million from Gulf Oil Corporation. The defendants planted five powerful bombs at a large Gulf refinery near Houston and sent an extortion letter threatening to detonate the devices and demanding \$15 million. On June 13, 1983, McBride and Worth entered guilty pleas to conspiracy and extortion charges. In addition, Worth entered a guilty plea to traveling in interstate commerce to promote an unlawful activity. McBride was sentenced to 40 years in prison and Worth to 30 years. On September 2, 1983, Bird pled guilty to the interstate transportation of an explosive device for the purpose of destroying the Gulf refinery. She was given a suspended sentence of 10 years. Timothy K. Justice entered a plea of guilty and agreed to cooperate with the government. He has not yet been sentenced. The trial of McKinney is currently under way, and McBride and Justice have testified for the government.

## Major Civil Actions

**California.** In a case rising out of a seizure of 17 envelopes of currency, a total sum of \$4,132,796.15 was ordered forfeited to the United States as illegal proceeds of a narcotics transaction. The amount of the original seizure (\$3,185,090) had grown by almost a million dollars as the result of court ordered investment in U.S. Treasury bills, as requested by the U.S. Attorney's office for the Central District of California.

A wrongful death case was successfully defended in the Southern District of California. The plaintiff decedent and his partner were stealing copper cable attached to power poles at an abandoned missile testing site within the confines of Miramar Naval Air Station. Decedent had removed the wire from four poles and was working on the fifth pole. He apparently assumed that since the wires of the first four poles were not energized, the wires on the fifth pole were also de-energized. This assumption proved fatal, and decedent was electrocuted by a 12,000 volt line. Decedent's partner made a rescue attempt, but also received an electric charge which knocked him off the pole and paralyzed him from the waist down.

California law provides that landowners may be liable to trespassers, under certain circumstances, if they are aware of their presence. It was clear that the Navy knew there were trespassers around the area, but it was not clear that the Navy had any notice that people were stealing copper cables. The court rendered judgment in favor of the United States, finding that it was not reasonably foreseeable that persons would trespass on the missile test facility for the purpose of climbing poles to take high voltage copper cable.

**New York.** In a Southern District of New York civil rights case, the government alleged that the owners and operators of hundreds of residences in Westchester County had engaged in a pattern of racial discrimination in the rental of apartments, in violation of the Fair Housing Act of 1968. After extensive discovery and despite a ruling by the court that the government could not seek damages on behalf of identified

victims of past discrimination, the defendants agreed on the eve of trial to enter into a consent judgment which included, *inter alia*, a concession that the government would have established at trial a *prima facie* case of racial discrimination; a provision for the payment of damages to individuals; an injunction against further discriminatory practices; and affirmative injunctive relief ensuring fair housing practices in the future. The consent judgment was entered on March 17, 1983.

**Ohio.** In the Northern District of Ohio a class action suit was brought on behalf of 750 postal employee credit unions to enjoin the payment of \$126 million by the U.S. Postal Service to 298,000 former postal employees. The suit also sought recovery for the consumer debt of those employees to the plaintiffs. The \$126 million was to be paid from the so-called "Donovan-fund," established after four years of litigation between the Department of Labor and the Postal Service arising out of the Postal Service's violations of the Fair Labor Standards Act between 1974 and 1978. In their pleadings, the plaintiffs indicated that up to 30,000 postal employees owing them money may be receiving money from the Donovan Fund. The court's decision agreed with the government's contention that the credit unions had not established a claim under federal law to any monies from this fund. The court consequently dismissed the action for lack of subject matter jurisdiction.

**Pennsylvania.** A class action on behalf of 700 military veterans against Conrail and Penn Central for pension benefits for military service time was brought in the Eastern District of Pennsylvania, and a settlement was obtained for payment in full, plus interest, of back benefits, and with provision for full future benefits. This resulted in a payment of more than \$900,000 to over 50 veterans, and will involve future payments in excess of \$1.5 million to all 700. It is the largest case ever brought under this statute and the first such class action.

# Executive Office for United States Trustees

## Thomas J. Stanton Director and Counsel

The U.S. Trustee pilot program was established in 18 federal judicial districts to supervise the administration of all cases filed pursuant to chapters 7, 11 and 13 of Title I of the Bankruptcy Reform Act of 1978, 11 U.S. Code 101, *et seq.* In creating the U.S. Trustee system, Congress cited the necessity for separating administrative and adjudicative functions in order "to afford bankruptcy litigants the fair and impartial justice to which all other litigants in the federal courts are entitled."

At present the program staff consists of 167 full-time, permanent employees located in the Executive Office in Washington, D.C., and 10 field and six branch offices. Each field office is responsible for daily case administration and is headed by a U.S. Trustee appointed by the Attorney General.

The Executive Office provides policy direction, coordination, counsel and administrative support services to the U.S. Trustee offices. The Legal Services staff of the Executive Office provides support to the U.S. Trustees in the form of legal research, development and coordination of litigation policy, and coordination of legal personnel allocations. The Management and Administrative staffs provide direct support services to the U.S. Trustee offices in the areas of management assistance, budget, automated information systems, and program evaluation; they also coordinate the provision of administrative personnel, space, property and facilities support with the Justice Management Division.

## Monitoring of Fees and Applications for Professionals

The offices aggressively review applications for the retention of professionals to assure the individuals are qualified and that their assistance is necessary. The offices carefully review applications for the payment of professionals' compensation, fees and expenses, and challenge inappropriate requests.

## Criminal Referrals

The U.S. Trustees work closely with law enforcement authorities to eliminate fraud, dishonesty and overreaching in the bankruptcy arena. Effective procedures have been developed for referring cases to prosecutors and for pro-

viding them with the information needed for successful case prosecution.

Some criminal matters are discovered in the careful monitoring by the U.S. Trustees of fees charged in bankruptcy proceedings. In several instances, individuals and companies who were not attorneys have unlawfully charged fees for preparing petitions and schedules for debtors. When discovered by the U.S. Trustee, these individuals have been put out of business and usually are required by the courts to repay all fees collected.

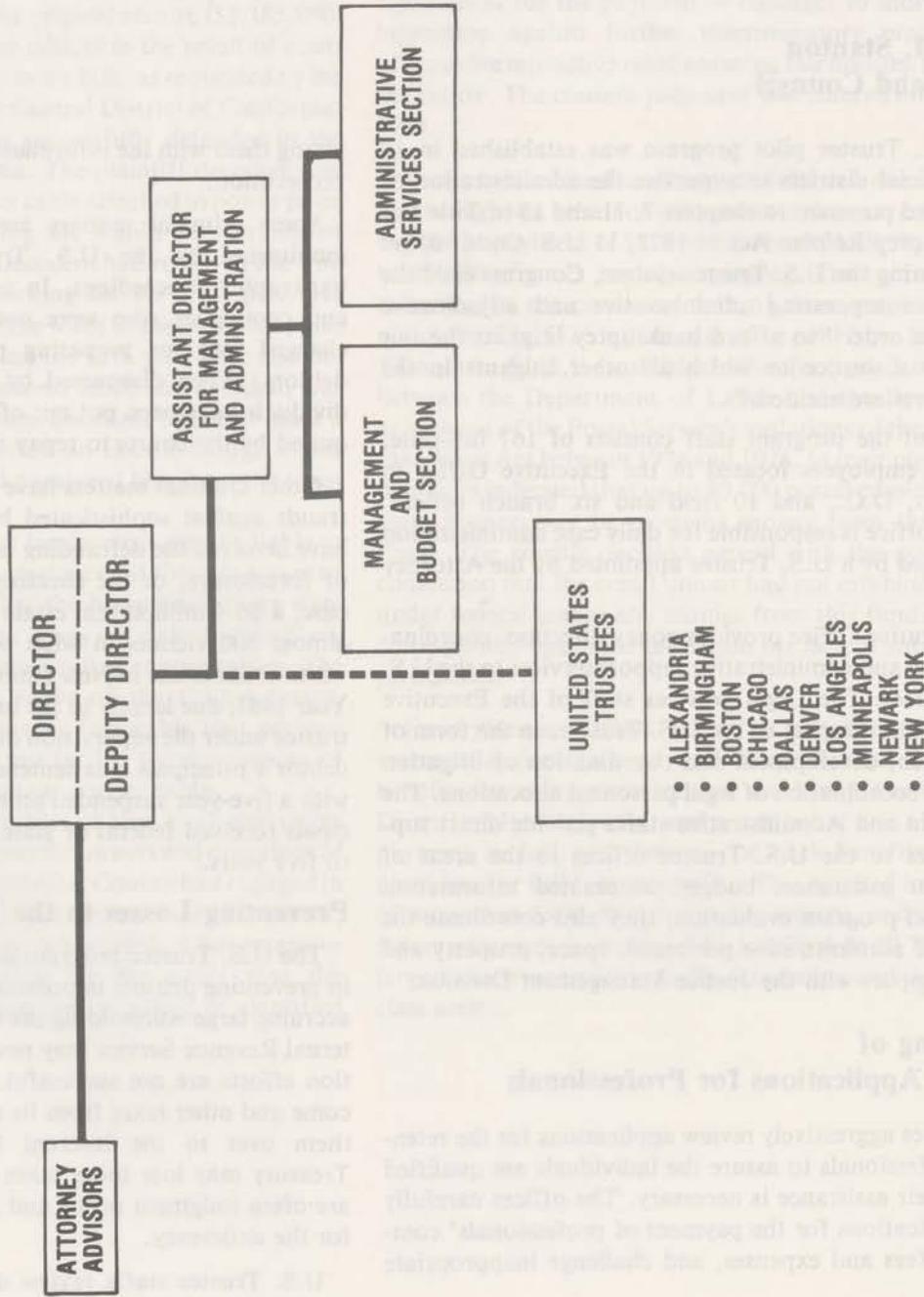
Other criminal matters have involved multimillion dollar frauds against sophisticated business entities. Still others have involved the defrauding of families faced with eviction or foreclosure, or the cheating of small investors. In one case, a \$6.4 million real estate investment scheme involved almost 300 victims in what was described as the largest white-collar crime in New Hampshire history. During Fiscal Year 1983, due largely to the investigative work of a private trustee under the supervision of the U.S. Trustee, one of the debtor's principals was sentenced to a 16-year prison term with a five-year suspended sentence, while seven other principals received federal or state sentences ranging from 2½ to five years.

## Preventing Losses to the Treasury

The U.S. Trustee program has been particularly effective in preventing debtors in possession in chapter 11 cases from accruing large withholding tax liabilities—funds that the Internal Revenue Service may never recover if the reorganization efforts are not successful. If a business withholds income and other taxes from its employees, but does not pay them over to the Internal Revenue Service, then the Treasury may lose those taxes since the company officials are often judgment proof and the employees are not liable for the deficiency.

U.S. Trustee staffs review debtor financial reports and check tax payment receipts to ensure that taxes are being paid to the Internal Revenue Service in a timely manner. Where there are delinquencies, the U.S. Trustees act quickly to remedy the situation. For example, the U.S. Trustee immediately convened a meeting of the principals and worked out a plan for payment in full in one such case involving a \$97,000 delinquency.

## EXECUTIVE OFFICE FOR UNITED STATES TRUSTEES



## **Monitoring Chapter 11 Business Reorganizations**

The offices monitor the financial operations of chapter 11 businesses to prevent dissipation of assets and administrative insolvencies. The U.S. Trustees hold conferences with the debtor in possession soon after the bankruptcy filing to gain information quickly and to advise the debtor of his/her responsibilities. The offices review financial reports and conduct status meetings to check on case progress. The field offices review disclosure statements and submit statements to the court regarding their adequacy, and foster the development of successful reorganization plans where possible.

An independent evaluation performed by Abt Associates Inc., published in 1983, found that differences between pilot and non-pilot districts are particularly pronounced with respect to chapter 11 business cases. The evaluators found that the pilot districts have almost double the percentage of confirmed reorganization plans as the non-pilot districts. This is a measure of how successful the rehabilitation efforts are in ensuring that economically viable business enterprises "get back on their feet." The evaluators also found that the non-pilot districts have about 2½ times the percent of chapter 11 cases where no action was taken, compared with the U.S. Trustee pilot districts. This indicates how closely bankruptcy cases are being monitored.

## **Supervising the Administration of Chapter 7 Cases**

The U.S. Trustees recruit, select, train and maintain panels of qualified individuals to administer liquidation cases. The offices monitor the panel trustees' performance by requiring periodic reports and by carefully reviewing the

final reports of case administration filed by the panel trustees.

## **Supervising the Administration of Chapter 13 Cases**

The U.S. Trustees appoint and supervise standing trustees to administer chapter 13 cases. A nationwide audit instituted to monitor the financial activities of chapter 13 standing trustee operations was improved and expanded in Fiscal Year 1983 to cover management high risk areas of case administration.

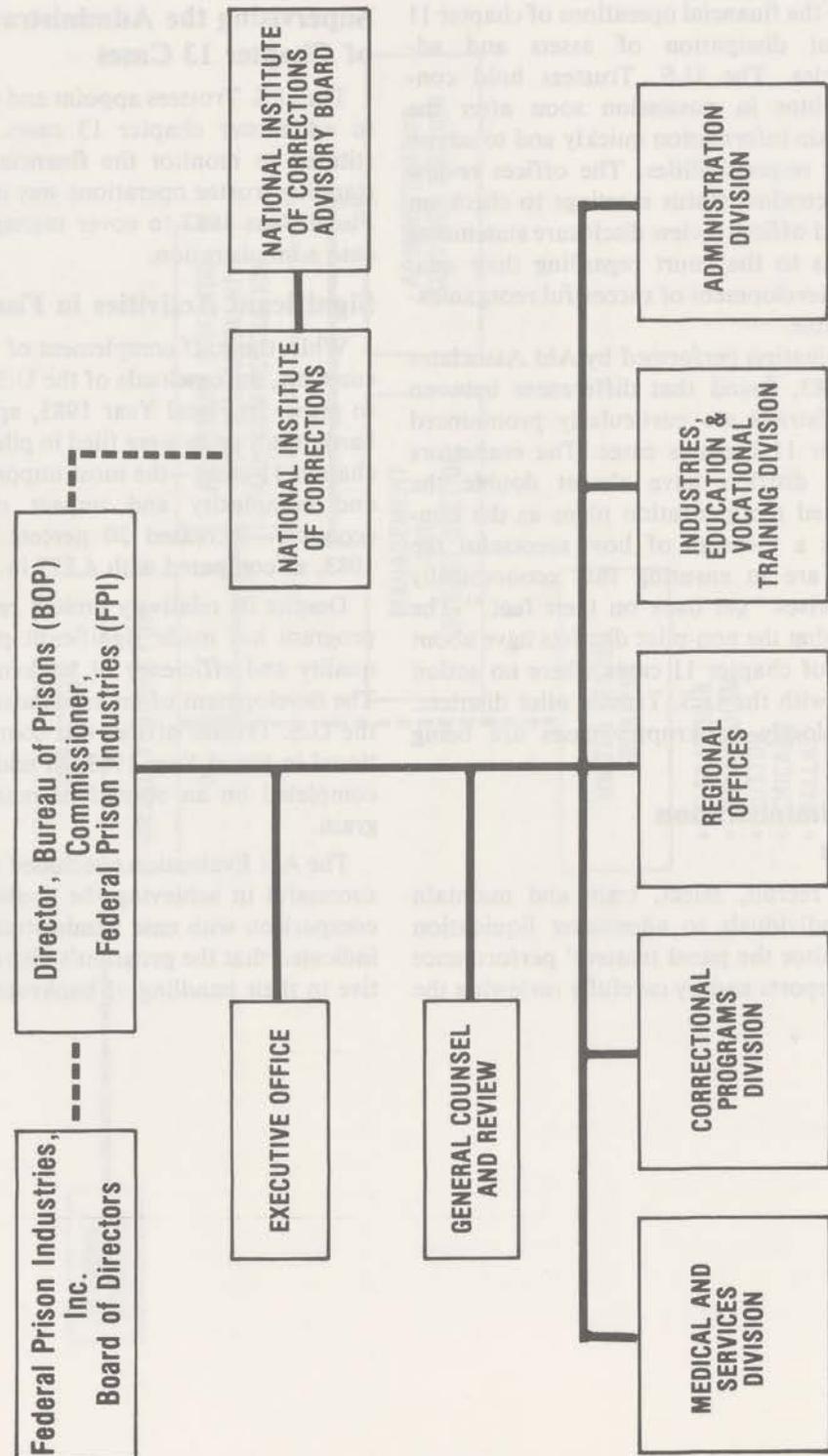
## **Significant Activities in Fiscal Year 1983**

While the staff complement of the program has remained constant, the caseloads of the U.S. Trustee offices continue to grow. In Fiscal Year 1983, approximately 103,000 new bankruptcy cases were filed in pilot districts. The volume of chapter 11 cases—the most important cases in terms of size and complexity and impact on jobs, taxes and the economy—increased 20 percent to 5,866 in Fiscal Year 1983, as compared with 4,877 in Fiscal Year 1982.

Despite its relatively limited resources, the U.S. Trustee program has made significant progress in improving the quality and efficiency of bankruptcy case administration. The development of an automated case tracking system for the U.S. Trustee offices was completed and became operational in Fiscal Year 1983. In addition, extensive work was completed on an operations manual for the Trustee program.

The Abt Evaluation concluded that the program had been successful in achieving the goals set by Congress and, in comparison with case administration in non-pilot districts, indicated that the program's districts are clearly more effective in their handling of bankruptcy cases.

## FEDERAL PRISON SYSTEM



# Bureau of Prisons

## Norman A. Carlson Director

The Bureau of Prisons is responsible for carrying out judgments of the federal courts when a period of confinement is ordered. More than 30,000 individuals are currently in the 43 federal institutions, which have levels of security ranging from minimum to maximum. All sentenced offenders who are medically fit are required to complete regular daily work assignments. In addition, all offenders have opportunities to participate in such self-improvement programs as education, vocational training or counseling. The following are Fiscal Year 1983 highlights:

- Inmate population of the Federal Prison System reached a record high of 30,525 during the year.
- The Administration and Congress adopted new initiatives for combating drug trafficking and organized crime, including an expansion of federal prison bed space to accommodate the newly-sentenced offenders.
- Alternative forms of sentencing such as community service and court-recommended victim restitution are being studied and implemented as a response to prison overcrowding.
- SENTRY, the Bureau's on-line inmate information and management system, was expanded to 40 institutions, with full implementation scheduled in early 1984.
- Two new Federal Prison Camps were opened, one adjacent to the Federal Correctional Institution, Danbury, Connecticut, and the other in Duluth, Minnesota. Additionally, sites were acquired for an institution in Phoenix, Arizona, and a Federal Detention Center in Oakdale, Louisiana.
- Federal Prison Industries, which employed approximately 26 percent of all federal prisoners in Fiscal Year 1983, began an expansion and improvement program to provide work opportunities to the increased inmate population.

### Inmate Population

For the third straight year, the population of the Federal Prison System increased, attaining a record high of 30,525 on June 10, 1983. The number incarcerated at the end of Fiscal Year 1983 was 30,474, 27 percent more than the combined rated capacity of the 43 institutions. A year earlier, the population had been 28,133.

Federal court sentencing of offenders serving longer terms for serious crimes, an increase in the number of im-

migration offenders and the effort to combat organized crime and drug trafficking contributed to the population increase.

Several measures have been taken to alleviate the population pressures, including construction of new institutions, acquisition of surplus facilities and the expansion and improvement of existing facilities.

### Alternatives to Imprisonment

Because of the record high prison population in 1983, consideration has been given to alternatives to incarceration for nonviolent offenders. Prison space is a scarce and costly resource, to be used in situations where the interests of society must be protected. In March of 1983, the Bureau of Prisons established a pilot project, the Community Correctional Center, in Washington, D.C., in which alternatives such as community service work and victim restitution are used when recommended by the U.S. district court. The Center is available to federal courts in the District of Columbia, Maryland, and Virginia for sentenced offenders who are serving sentences of one year or less and who are not a risk to the community. Extensive evaluation of this and other planned centers will be carried out to determine benefits of the program.

### Automated Information Systems

The Bureau of Prisons significantly increased the coverage of its computer-based inmate information and management system during 1983. Information about an institution's population, which staff use in management decisionmaking operations, is available in offices throughout the Bureau. The multiterminal expansion reached 40 institutions and 36 Community Program Manager offices throughout the country. It serves to monitor inmates in the institutions and 2,000 federal prisoners in contract residential facilities. The system also facilitates decisions as to which institution a newly-sentenced offender will go to to serve a term of imprisonment and enables staff to monitor more than 600 inmates serving concurrent terms in state facilities. A sentence computation function was added to facilitate the computation of sentences.

An Electronic Mail System was implemented to provide another communication link within the Bureau and with the U.S. Parole Commission, U.S. Marshals Service, and the Office of Enforcement Operations, which is part of the Criminal Division of the Department of Justice.

## Work and Training

Federal Prison Industries, Inc., with the corporate trade name UNICOR, is a government corporation which sells its products and services to other federal agencies. Its mission is to gainfully employ and train federal inmates in diversified programs in federal institutions.

During the fiscal year, 26 percent of all federal inmates were employed by Federal Prison Industries, Inc. The 75 industrial operations in 38 institutions constructively employed offenders, aiding in preparing them for employment upon release. Employment in UNICOR rose from 6,500 in Fiscal Year 1982 to 7,800 in Fiscal Year 1983.

Gross sales in 1983 were \$160 million. Inmate wages rose to \$12 million from \$10 million. The corporation funded \$5.2 million of Vocational Training Programs, including apprenticeship training and experimental programs. Occupational training, also offered through UNICOR, included on-the-job training, vocational education and apprenticeship programs.

The excess of sales over cost of operations from UNICOR also funded payments to inmates working in institutional maintenance and operations. These payments increased from \$4 million to \$5 million during 1983.

There were 319 training programs in various trades offered in federal institutions at the end of the fiscal year. Apprenticeship programs, registered with the U.S. Department of Labor's Bureau of Apprenticeship and Training, existed in 37 institutions.

An active program to modernize and expand UNICOR operations began in Fiscal Year 1983 and renovation will continue through 1985. The program will include 33 projects at 24 institutions. Federal Prison Industries, Inc., will invest more than \$25 million in this program, which will provide for the employment of additional inmates and will ensure modern production capacity.

## Female Offenders

The Bureau of Prisons continues to focus on improving programs and services for female offenders. The Federal Correctional Institution, Lexington, Kentucky, serves as the medical and psychiatric referral center for women with acute physical or mental problems. The Children's Center and Pregnant Women's Shelter Home program are also available when children are born to incarcerated women at the Federal Correctional Institution, Pleasanton, California. With funding and support from Federal Prison Industries, a pilot program at the Federal Correctional Institution, Alderson, West Virginia, was established to pay women for their participation in apprenticeship training programs at a level equal to what they could earn in a work assignment.

## Medical Care

The Bureau of Prisons provides a range of medical and dental services to meet the needs of a confined population. Maximum use is made of community facilities in order to control the costs of providing medical care, but in many situations care must be provided within a secure prison setting.

The Medical Center for Federal Prisoners, Springfield, Missouri, is the main care facility. At Springfield, general and psychiatric hospitals accredited by the Joint Committee on the Accreditation of Hospitals exist within a secure penal setting. During 1983, a 105-bed chronic and acute care unit opened following renovation, to provide services in the areas of nephrology, diabetes, chronic obstructive pulmonary disease, leukemia, acute blood cancers and cardiac disorders.

An Inter-Agency Agreement was developed with the Veterans Administration to utilize both inpatient and outpatient services at an estimated cost savings of \$250,000.

## Community Programs Branch

During 1983, 7,100 offenders who were eligible for community placement were released through contract Community Treatment Centers. These centers are used for offenders near release as a transition back to the home, job, and community. The time is used to find a job, locate a place to live and reestablish family ties.

## Equal Employment Opportunity

During 1983, over 33 percent of all new Bureau of Prisons employees were from minority groups and a third were women. Minority group employment now stands at 25 percent of all employees, compared to eight percent in Fiscal Year 1971, when the Bureau first implemented a minority recruitment program. Women are making significant inroads in traditionally male-dominated positions; today women comprise 21 percent of the work force, compared to 11 percent in 1971. College and specialty recruitment continue to be the major sources for ensuring representative applicant pools.

## Professional Standards

To assure that correctional programs and operations are carried out in a humane and professional fashion, 14 additional federal institutions were accredited by the Commission on Accreditation for Corrections during 1983. This brings to 29 the total number of federal institutions accredited for three-year terms. Another 10 institutions were expected to be accredited during 1984. In addition, the first reaccreditation in the Federal Prison System took place in 1983. The goal is to have all federal institutions accredited and to maintain their accreditation.

## Organization and Administration

The Federal Prison System is a career service, with the majority of new employees entering on duty as correctional officers. Administration is carried out by the Central Office, located in Washington, and five regional offices. The Central Office is composed of four divisions: Correctional Programs; Administration; Medical and Services; and Industries, Education and Vocational Training. Each division is headed by an Assistant Director.

The five regions are headed by Regional Directors and have headquarters in Atlanta, Georgia; Dallas, Texas; Philadelphia, Pennsylvania; Burlingame, California; and Kansas City, Missouri.

## Future Plans

At year's end, the Bureau had a 500-bed Federal Correctional Institution under construction in Phoenix, Arizona. A 1,000-bed Federal Detention Center was being designed for Oakdale, Louisiana. Searches for locations for additional facilities were under way for an institution in the Northeast and for a Metropolitan Correctional Center in Los Angeles, California.

New inmate housing units were under construction at the Federal Correctional Institutions, Memphis, Tennessee; Sandstone, Minnesota; Seagoville, Texas; Federal Prison Camp, Boron, California; and a new satellite camp at the Federal Correctional Institution, Petersburg, Virginia. Construction in eight additional housing expansion projects was scheduled for 1984.

## National Institute of Corrections

The National Institute of Corrections was established by Congress in 1974 to assist state and local correctional agencies. The Institute is governed by a 16-member Advisory

Board administered by a director who is appointed by the Attorney General.

A total of \$10,896,096 was awarded in 352 grants and contracts to state and local corrections agencies, organizations, and individuals during the fiscal year. The awards were for training, technical assistance projects, research and evaluation, policy and program formulation, and clearinghouse activities.

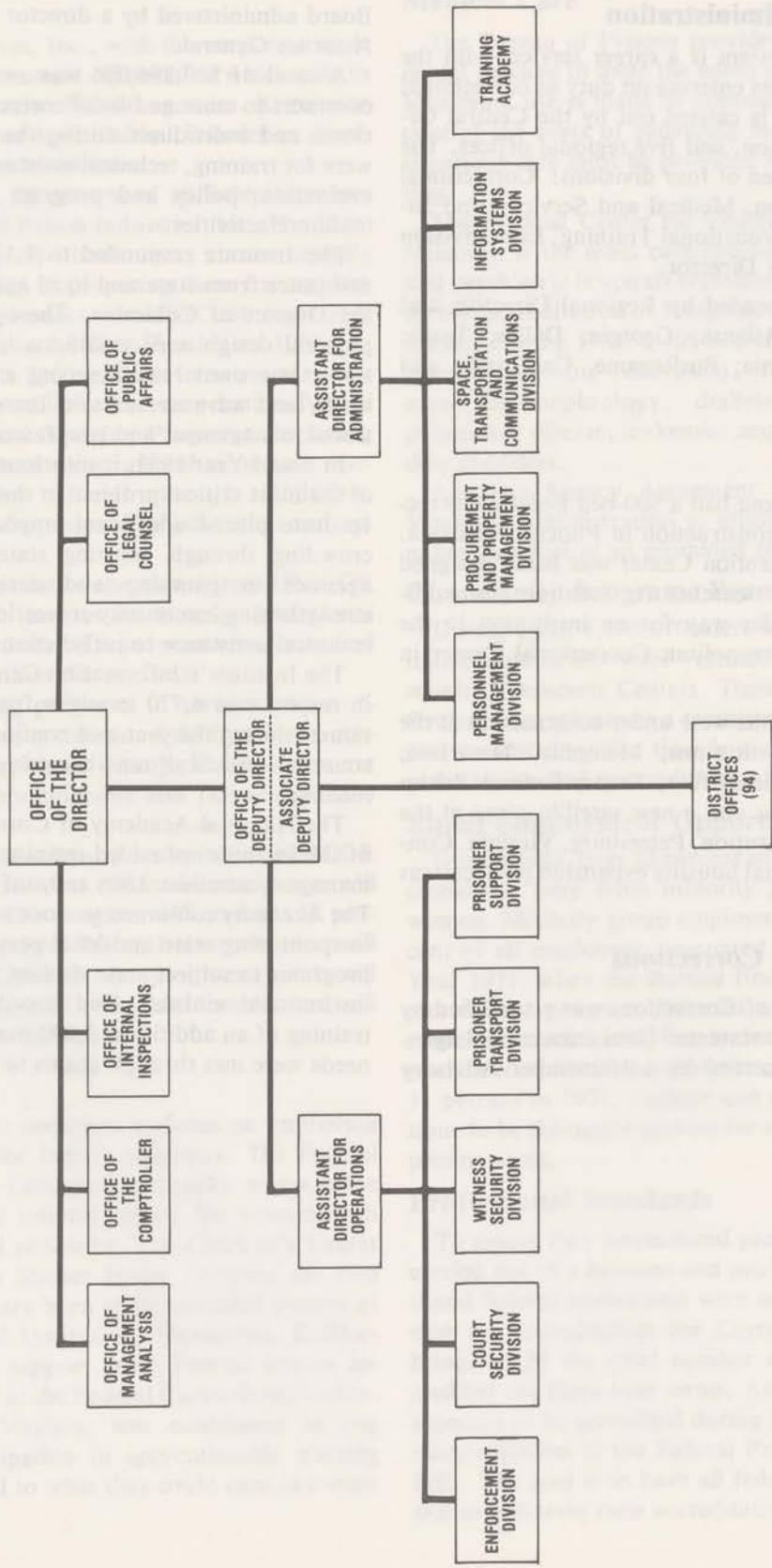
The Institute responded to 1,193 requests for technical assistance from state and local agencies in all 50 states and the District of Columbia. These efforts led to improved physical design and conditions in state and local institutions, improved recordkeeping and information management, and advancements in many other areas of correctional management and programming.

In Fiscal Year 1983, institutional overcrowding prevailed as the most critical problem in the field of corrections. The Institute placed additional emphasis on addressing overcrowding through assisting state and local correctional agencies in planning and designing new institutions, strengthening community corrections efforts, and providing technical assistance to jurisdictions facing severe crowding.

The Institute's Information Center provided information in response to 6,770 inquiries from state and local practitioners during the year and continued to evolve as a central source of practical, readily retrievable information on corrections.

The National Academy of Corrections, the training arm of the Institute, provided training for approximately 2,500 managers, administrators and staff trainers during the year. The Academy continued to work with the Bureau of Prisons in sponsoring state and local personnel at Bureau training programs in subject areas dealing specifically with reducing institutional violence, and coordinated the agency-based training of an additional 4,800 practitioners. Other training needs were met through grants to state and local agencies.

## UNITED STATES MARSHALS SERVICE



# United States Marshals Service

## William E. Hall Director

The U.S. Marshals Service is the nation's senior federal law enforcement agency, created by the First Judiciary Act in 1789. Its Marshals and Deputies serve as both officers of the federal courts and law enforcement agents of the Attorney General. The Service's multifaceted mission includes:

- Security or security assistance in the areas of federal property, buildings and personnel, including federal judges, jurors, other trial participants and court facilities; and other security missions as required.
- Support to the federal judicial system through the execution of court orders and warrants, including those for most federal fugitives; retention in custody and transport of federal prisoners; and custody and control of seized property.
- Law enforcement activities at the request of other federal agencies or as required by the Attorney General.

The Service has grown in size from the 13 original U.S. Marshals to 93, with a supporting staff of approximately 2,000 Deputy U.S. Marshals and administrative personnel throughout the United States and Guam, Puerto Rico, and the Virgin Islands.

## Court Security Division

Ensuring the personal safety of members of the federal judiciary and other trial participants is the primary mission of the Marshals Service. Court Security Field Inspectors provide technical advice and guidance to members of the federal judiciary and U.S. Marshals in all matters of security relating to high-risk trials and threats of bodily harm.

In Fiscal Year 1983, 119 documented death threats were directed at federal judges, magistrates and other judicial officers, a 2.3 percent increase over 1982. Personal protection of judicial officials and their families involved an intensified effort to provide security 24 hours a day, utilizing manpower and sophisticated electronic security systems.

Court Security Inspectors provided personal security for 57 judicial conferences, attended by members of the U.S. Supreme Court, Members of Congress and other dignitaries. Inspectors provided technical assistance to various state and local enforcement agencies in the conduct of major trials, the most notable of which was the Black Liberation Army case involving the Brinks Armored Car robbery and murder of

police officers in Rockland County, New York. They also provided assistance in classroom instruction for state and local law enforcement agencies at the Federal Law Enforcement Training Center, Glynco, Georgia, and at other locations throughout the country.

Court Security Inspectors provided assistance to the Department of State for the protection of foreign dignitaries attending the United Nations General Assembly. At the request of the Department of State, the Division provided technical guidance relating to all aspects of court security to officials of the government of El Salvador in San Salvador.

The Court Security Division also provided assistance in the form of manpower, equipment and technical assistance to U.S. Marshals in support of 34 sequestered juries and 230 sensitive trials.

During March 1982, the Chief Justice and the Attorney General met to discuss their most compelling concerns for the security of the federal judiciary and issued a Joint Statement of cooperative initiative. As a result, the Marshals Service established the Court Security Division's Contract Operations Branch to secure and administer contracts and acquisitions to provide the federal judiciary with enhanced security against potentially life-threatening disruptions of court proceedings.

By the end of Fiscal Year 1983, the Contract Operations Branch had completed 35 procurement actions. Of the 35 actions, 24 were for the full-time services of 144 Court Security Officers in 15 judicial districts. The Marshals Service currently has 12 security service contracts under active administration.

## Enforcement Operations Division

The Marshals Service arrested or located 11,800 fugitive felons in Fiscal Year 1983. The number of cleared felony cases exceeded the number of felony cases received during the year; a considerable reduction in the case backlog has resulted.

Fugitive Investigation Strike Team operations, now successful and established trademarks of the Marshals Service enforcement effort, were conducted in Washington, D.C., and Michigan this past year. In Washington, D.C., working with the Metropolitan Police Department, this operation cleared 755 felony warrants. In Michigan, the Marshals Service, working with the state and various local

police departments, saturated the entire State of Michigan, clearing 1,156 felony warrants. This brings the total number of warrants cleared by five Fugitive Investigative Strike Team operations to 2,584. At the end of Fiscal Year 1983, the average cost per Fugitive Investigative Strike Team arrest was a low \$700.

On June 3, 1983, Gordon Kahl was located in Arkansas by Marshals Service Investigators after an intensive nationwide manhunt. Kahl, Scott Faul and Kahl's son, Yori, all members of a tax protestors group, were responsible for the ambush of federal and local law enforcement officers in North Dakota which resulted in the death of two U.S. Marshals and the serious wounding of several others. During the search for Kahl by a joint task force investigation of the Marshals Service and the Federal Bureau of Investigation, Yori Kahl and Scott Faul were convicted of murder and sentenced. Gordon Kahl was subsequently located and died in a fire fight when an attempt was made to arrest him.

The Marshals Service successfully completed 97 international extraditions in Fiscal Year 1983. The U.S. National Central Bureau of INTERPOL continued to refer important foreign fugitive cases to the Marshals Service for investigation. There was an increase of 18 percent in the foreign fugitive caseload over the preceding year.

## Prisoner Support Division

The Prisoner Support Division is responsible for obtaining detention space for unsentenced federal prisoners at a level of confinement which is consistent with national detention standards through the negotiation and administration of detention contracts with state and local governments. The level of compliance with detention standards and the quality of inmate services provided for in the detention contract are verified by periodic jail inspections by district personnel.

The Division also carries out the Marshals Service's responsibility to contract for jail space to be used jointly with the Bureau of Prisons and the Immigration and Naturalization Service. During Fiscal Year 1983, the Service continued to negotiate special contracts with private organizations, such as the Salvation Army and the Catholic Charities, to provide safe, minimum security detention and adequate child care for illegal alien material witnesses and their dependents.

In the course of the year, the Marshals Service received approximately 84,800 federal prisoners into custody and committed 74,400 individuals for secure detention. Sixty-nine percent of those committed were housed in 700 contract facilities at an annual cost of \$32 million. Due to the continued shortage of contract jail space, 31 percent of the Service's prisoners had to be housed in federal institutions.

Inmate population ceilings and court mandates for

physical plant improvements continued to foster a shortage of nonfederal detention space in 1983, particularly in metropolitan areas. The number of contract jails under court order for substandard conditions continued to increase as did the number of facilities which imposed federal prisoner ceilings or totally excluded federal prisoners.

The Service has developed and implemented the Cooperative Agreement and Federal Excess Property Programs that provide funding, equipment, and supplies to renovate or construct nonfederal detention facilities which will provide housing for federal prisoners. In addition to securing needed detention space, these programs have helped to enhance the federal government's working relationship with state and local governments.

As part of the Administration's Organized Crime Drug Enforcement (OCDE) initiative, the Service expanded its 1983 cooperative agreement program with Jobs Bill and OCDE funding. Since its implementation in late 1982, this program has generated 1,833 guaranteed spaces for federal prisoners in 29 metropolitan cities at a cost of \$29.3 million.

The Federal Excess Property Program has expanded rapidly to 51 judicial districts with allocations of over \$2.3 million worth of excess property to 154 local jails. The Service has also continued to provide limited technical assistance to contract facilities, through its jail inspection activity.

## Prisoner Transportation Division

The Prisoner Transportation Division operates the Service's National Prisoner Transportation System, which was responsible for scheduling and transporting more than 55,000 federal prisoners, including a small number of prisoners required by state and local courts, during Fiscal Year 1983. This represents an increase of 15 percent over the number of prisoners transported in the preceding year.

Commercial air services were procured through the Division's Centralized Ticketing program, utilizing a commercial travel agency sponsored by the General Services Administration. The Centralized Ticketing program, coupled with National Prisoner Transportation System airlifts, has resulted in a 34.6 percent reduction in the use of the commercial flights from Fiscal Year 1982 and significant savings in the cost of those commercial flights which are utilized. Notably, the program costs of the Centralized Ticketing program were met by direct savings realized during the first quarter of Fiscal Year 1983.

The increased demand for air services resulted in 29 percent more prisoners being transported by National Prisoner Transportation System airlifts than in 1982. The frequency of the flights was increased from twice a month to weekly. The average cost of transporting prisoners via the airlift was \$233

compared to \$703 for each prisoner transported by commercial air.

## **Witness Security Division**

The Witness Security Division is responsible for the protection of key federal and state witnesses whose lives have been threatened by virtue of their willingness to cooperate with government agencies against organized criminal enterprises. Physical relocation, change of identity, employment assistance and a variety of services are provided to individuals entering the program to assist them in establishing a self-sufficient and secure life.

In Fiscal Year 1983, the Marshals Service received 333 new witnesses and provided protection and/or funding for 2,245 principal witnesses and their families. Protected witnesses testified in such well-known trials as *U.S. v. Edwin Wilson* (illegal arms shipments to Libya), *U.S. v. Feklou Odinga and Mutula Shakur* (Brink's robbery, Black Liberation Army), *U.S. v. Roy Williams* (Teamsters), *U.S. v. Guy Fisher* (Nicky Barnes drug trafficking organization in New York City), and *U.S. v. Watchmaker* (Outlaw motorcycle gang). In addition, the Witness Security Division was called upon to provide emergency security for John Hinckley (who attempted to assassinate President Ronald Reagan) following his hospitalization due to a suicide attempt at his place of confinement.

Specially trained Witness Security Specialists traveled to El Salvador where they provided instruction to Salvadoran officials regarding sensitive security techniques. Witness Security Inspectors also provided security and escort to Andre V. Berezhruv and his family while en route to Paris following their highly publicized departure from the United States.

The Witness Security Division continued to provide personal protection for high-level domestic and foreign officials. These security assignments included members of the Vice President's South Florida Task Force and National Border Interdiction System, as well as continued support to the Department of State during the United Nations General Assembly.

In March 1983, the Witness Security Division opened its second major safe site in Los Angeles, California. From March through September 1983, this Los Angeles site housed a total of 60 witnesses for such purposes as pretrial and trial conferences and secure meetings with prosecutors from all parts of the United States. A third safe site located in Miami, Florida, is currently under construction with a target date for completion in early 1984.

## **Special Operations Group**

The Marshals Service maintains an elite, paramilitary law enforcement force known as the Special Operations Group, to provide a federal law enforcement response to emergency situations of national significance, and to provide law enforcement assistance to other federal and state agencies designated by the Attorney General.

Special Operations Group members are volunteers who have shown they can meet the Service's rigorous standards of physical and mental ability and strength of character. These full-time Deputy U.S. Marshals are on call 24 hours a day and can be assembled anywhere in the United States—fully equipped and self-supporting—within a matter of hours.

In Fiscal Year 1983, the Special Operations Group was assigned such missions as: executing sensitive court orders; providing tactical training assistance to local, state and other federal law enforcement agencies; updating its training, equipment and operational capabilities with emphasis on riot and civil disorder control, counter-terrorist tactics, hostage situations, confrontation management, and small unit tactics; providing security assistance during sensitive court trials; maintaining continuous liaison with tactical units assigned to other agencies, including classified military units; and conducting Law Enforcement Officer Survival Training for Marshals Service personnel. Additionally, the Special Operations Group secured a permanent operations and training facility at Camp Beauregard, Pineville, Louisiana, where a full-time cadre is stationed.

Since the Posse Comitatus Act limits the use of military forces for the enforcement of local laws, the unique capabilities of this small, elite group provide a reasonable means of handling emergency situations of national interest when adequate resources are not available on the local level.

## **Threat Analysis Group**

Late in Fiscal Year 1983, a Threat Analysis Group was established within the Office of the Assistant Director for Operations to provide information concerning threats to the personal safety of Marshals Service personnel and persons under the protection of the Service. The Group supports operations involving judicial security, high-threat trials, witness security and enforcement operations (especially the execution of warrants involving violence-prone groups). In addition to producing formally requested threat assessments, the Group issues advisories concerning known or potential threats, and responds to informal threat-related inquiries. The Group's activities provide a clearer picture of threat situations so that better tactical and resource management decisions can be made.

## Personnel Management Division

In Fiscal Year 1983, the Personnel Management Division focused on union negotiations and refinement of several major merit promotion, staffing, and training initiatives.

The Division successfully negotiated several sensitive matters with the union including a new *U.S. Marshals Service Manual* (2,160 pages), a secrecy agreement to be signed by all bargaining unit employees engaged directly or indirectly in witness protection matters, and a new written promotion test for Witness Security and Enforcement Specialists. In addition, the Marshals Service made its first key Chief Deputy, Supervisory Deputy, and Headquarters selections under the new Merit Promotion System. The cornerstone of the system is a written promotion examination and innovative automated rating and ranking procedures. The success of the new system is evidenced by the absence of any grievances resulting from the process as compared with numerous complaints under the former procedure.

The Division staffed and processed 7,000 personnel actions during Fiscal Year 1983, an increase of 2,800 actions over the preceding year, without an increase in personnel resources. This is attributable to reallocations of resources within the Division itself, automation of several staffing functions, and better training of Division staff. Further efficiencies are anticipated in the coming year as the result of an extensive workload study of the Division's functions completed in September 1983. The Division recruited 99 new Deputy U.S. Marshals and is gearing up to recruit as many as 150 new Deputies in Fiscal Year 1984.

The Division has also completed an extensive training needs assessment study of three major Marshals Service occupations and is now in the process of developing new management training courses and a management candidate development program for implementation in Fiscal Year 1984.

## Training Academy

The training programs of the Marshals Service are centered in its Training Academy at the Federal Law Enforcement Training Center, Glynco, Georgia. The Academy trained 608 persons during Fiscal Year 1983, realizing a 44 percent growth in training output in comparison with the preceding year's total of 420 students.

The Training Academy provides a diversified curriculum addressing all aspects of the Service's mission. It has placed special emphasis on developing the curriculum to complement new operational programs and responsibilities of the Service. For example, significant resources were devoted to new areas of court security training in Fiscal Year 1983. Fifty-seven state and local law enforcement officers were given instruction in a specially developed course on

judicial protection and court security. In addition, the Academy became responsible for providing orientation classes for contract Court Security Officers, who provide security to courtrooms and federal courthouse environs. Six orientation courses were conducted for 176 Officers. The Academy has scheduled orientation classes for an additional 531 Court Security Officers during Fiscal Year 1984.

The training program includes basic, advanced in-service, and specialized training. The Academy graduated 83 students from an expanded basic Deputy U.S. Marshal course. Twenty-four journeymen Deputies were given advanced training. Major areas of emphasis in this training include contemporary legal issues, state-of-the-art electronic security and surveillance equipment, fugitive investigations, and high risk trials. In support of the dignitary protection mission of the Service, an additional 71 Deputy U.S. Marshals received protective services training. Ninety-one Inspectors drawn from the Enforcement, Witness Security, and Court Security Divisions were given intensive and specialized training in their respective areas.

Experienced field and Headquarters personnel visited the Academy throughout the year to share their expertise and provide ideas for curriculum development. Conversely, members of the Training Staff participated in and observed various operational details such as the Service's Fugitive Investigative Strike Teams and protective service details at the United Nations General Assembly. They also conducted training for state and local and military police agencies throughout the country.

## Space, Transportation, and Communications Division

During Fiscal Year 1983, the Space Management Branch analyzed project proposals, prepared design drawings, and monitored construction programs on 208 projects. Of the 52 major construction projects, 11 were completed. The Branch obligated over \$1.1 million to improve prisoner cell-block facilities, upgrade field office security, and modernize field office electrical systems to accommodate new communications and automatic data processing (ADP) equipment. The Branch continued to develop and improve detention area construction standards.

The Space Management Staff prioritized future field office renovations based on known security deficiencies and available expansion space. At Marshals Service Headquarters, construction was completed and security improvements were made to the ADP area and the Threat Analysis Group area. The Branch coordinated office space acquisition, as well as design and furniture acquisition, for 13 Seized Property and Asset Forfeiture Units.

The Space Management Branch continued to monitor space utilization of 1,228,702 square feet of space nationwide

and made office space payments to GSA totaling \$9,264,744.

Significant improvements in the management of the Service's approximately 1,100 vehicle fleet of sedans, prisoner vans, buses, and four-wheel-drive vehicles were achieved in Fiscal Year 1983. Personnel of the Transportation Management Branch received formal training in the critical evaluation of automobile body repair estimates and plans for adoption of an automated vehicle management information system were developed. The soundness of the decision made in Fiscal Year 1982 to lease sedans with law enforcement equipment packages has been confirmed by a significantly lower rate of repair and downtime, along with greatly increased user satisfaction.

The Marshals Service made further progress in implementing Phase II of the Long Range Radio Communications Plan. Procurement of replacement fixed radio communications equipment and hand-held radios was approximately 32 percent completed at the end of the fiscal year.

Replacement of Models ASR 33/35 teletypewriters by the new RCA-50 Model Visual Display/Printer Terminals was completed this year. Currently, there are 174 Marshals Service terminal users within the Justice Telecommunications System (JUST). Every terminal user now has the capability to access state data banks via the National Law Enforcement Telecommunications System. Other systems that are presently accessible by Marshals Service terminal users include the National Crime Information Center (NCIC) and the Master Index Remote Access System (MIRAC)—Immigration and Naturalization Service System.

Telecommunications Branch messages increased by 382,611 from 1982 figures. For Fiscal Year 1983, the Branch received or transmitted 922,716 messages.

## Information Systems Division

During Fiscal Year 1983, the Division began the development and implementation of a District Automation

Pilot Project. System requirements analyses and system designs were completed, as were hardware analysis and selection, and communications network design. Word processing capability will be implemented in the Pilot districts in October 1983; the District Accounting and Prisoner Population Management Systems should be fully operational in the eight Pilot districts by June 1984.

The Witness Security system was upgraded, resulting in capacity to support twice as many terminal users and store three times the data. In addition, a study was begun on microfilming the Witness Security files and indexing the microfilmed material as part of the automated system.

The Service began the development of a Warrant Information System to track all Marshals Service primary warrants. The first phase of the system should be operational by January 1984.

The Service implemented the Department's Financial Management Information System in the National Prisoner Transportation System office. This will improve the tracking and control of expenses in the prisoner transportation program.

## Office of Management Analysis

In Fiscal Year 1983 the Office of Management Analysis (OMA) had primary responsibility for the development and distribution of a new Marshals Service Policy Manual, which replaces the former Directive System.

OMA is responsible for coordinating the New Marshals' Orientation Programs and the Regional Mini-Conferences. During the year, the last orientation program in a series of six for new Marshals was conducted at the Federal Law Enforcement Training Center in Glynco, Georgia. Five mini-conferences were held in Louisiana, Texas, South Dakota, Tennessee, and Kentucky. OMA also had primary responsibility for coordinating all activities for the 1983 National Conference of U.S. Marshals.

## **Justice System Improvement Act Agencies**

The Justice System Improvement Act (JSIA) was enacted in 1979 to reauthorize and restructure the Department of Justice's program to improve the administration of state and local criminal justice. The Act created the Office of Justice Assistance, Research, and Statistics, the Law Enforcement Assistance Administration (LEAA), the National Institute of Justice, and the Bureau of Justice Statistics. The Juvenile Justice Amendments of 1980 reauthorized the Office of Juvenile Justice and Delinquency Prevention and established it as a separate agency within JSIA. These agencies operate under the general authority of the Attorney General. LEAA was terminated in 1982 as a result of budget actions by the

former administration and the Congress in 1980.

## Budget

The JSIA agencies budget for 1983 was \$125.5 million compared with \$128.6 million for Fiscal Year 1982.

Fiscal Year 1983 funds were allocated as follows:

- \$43,095,000 for Juvenile Justice Formula Grants.
- \$24,505,000 for Juvenile Justice Discretionary Grants.
- \$10,800,000 for Public Safety Officers' Benefits.
- \$17,603,000 for Research Evaluation and Demonstration.
- \$14,568,000 for Justice Statistical Programs.

## **Office of Justice Assistance, Research, and Statistics**

### **Lois H. Herrington Assistant Attorney General**

The Office of Justice Assistance, Research, and Statistics (OJARS) coordinates the activities of and provides staff support to the agencies authorized under the Justice System Improvement Act (JSIA) of 1979. These agencies include the Bureau of Justice Statistics, the National Institute of Justice and the Office of Juvenile Justice and Delinquency Prevention.

During Fiscal Year 1983, the Attorney General designated OJARS as the lead federal agency to implement the 68 recommendations of the President's Task Force on Victims of Crime. As a first step, a working group—the Victims of Crime Program Management Team—was established. The Office is focusing on three areas: the training of criminal justice personnel in victim assistance matters; model legislation for victim assistance; and the establishment of a national resource center for victims.

OJARS also is providing staff support to the Attorney General's Task Force on Family Violence. The Task Force was created by the Attorney General in September 1983 to examine the nature of family and domestic violence, particularly focusing on violence against children, spouse abuse and mistreatment of the elderly; review national, state and local efforts, whether government, public or private, addressing the problem of domestic violence; thoroughly consider the unique needs and problems faced by the victims of domestic violence; and explore all possible roles for the Department of Justice and the federal government in addressing the problem of family violence and in improving the treatment of the victims of family violence. It will hold hearings in several cities and submit its report and recommendations to the Attorney General in 1984.

Under a proposal submitted by the President to Congress in Fiscal Year 1983, OJARS would be replaced by a new agency—the Office of Justice Assistance. The proposed legislation would restructure the current research and statistics activities of the Department of Justice and stress close cooperation among federal, state and local governments. The National Institute of Justice and the Bureau of Justice Statistics would be placed in the Office of Justice Assistance and the Bureau of Justice Programs would be created to provide funds, technical assistance and training to state and local criminal justice organizations. The Office of Justice Assistance would be headed by an Assistant Attorney General, who would coordinate the research, statistics and

financial assistance program. Congress was considering proposed legislation regarding the program at the end of Fiscal Year 1983.

Throughout the year, OJARS continued its cooperation with the Advertising Council and the National Crime Prevention Council on a campaign to help prevent crime in America. Through a coalition of federal and state agencies and national organizations, the campaign emphasizes that crime can be prevented through citizen action. It features a trench-coated dog named McGruff and the motto, "Take a Bite Out of Crime", and has thus far received more than \$150 million in donated public service advertising space and time.

## **Office of Operations Support**

The Office of Operations Support is responsible for directing and coordinating all activities concerning the internal and organizational support of the JSIA agencies.

The Personnel Division provides employee and personnel management services to all components of the agencies. This includes the recruitment, selection and placement of all employees, position classification and employee development and training. It also represents management in labor-management matters. The March 1980 contract between the JSIA agencies, the Office of Juvenile Justice and Delinquency Prevention and Local 2830 of the American Federation of State, County and Municipal Employees, AFL-CIO, is being renegotiated and a new agreement will be completed in 1984. Negotiators for the JSIA agencies include an attorney from the Office of General Counsel who serves as the chief negotiator, a representative from the Personnel Division, and an attorney from the Labor Management Relations Group of the Personnel Staff of the Department's Justice Management Division.

The Administrative Services Division is responsible for the management and provision of security, furnishings, telephone systems, equipment, maintenance, office space, mail services, safety and health programs, records and mail management, graphic support and printing. In addition, the Division assists the agencies' grantees in obtaining excess federal personal property. During Fiscal Year 1983, grantees obtained property originally costing \$171,395.56 at a reduced cost of \$42,856.35, realizing a total savings of \$128,539.21.

## **Office of Planning and Management**

The Office of Planning and Management provides general direction and support for OJARS planning and analysis activities. It facilitates the coordination of these activities with the other JSIA agencies by developing information on policy, management and program topics of mutual interest. In addition, the Office is responsible for planning for proposed new criminal justice assistance activities and managing ongoing priority programs.

During Fiscal Year 1983, the Office was involved in the following significant activities:

- Prepared plans for proposed new criminal justice assistance programs for state and local governments.
- Chaired agencywide committees to develop plans, guidelines and procedures for block and discretionary grant programs.
- Managed the National Citizen's Crime Prevention Campaign.
  - chaired the National Crime Prevention Coalition of more than 90 federal and state organizations.
  - developed new crime prevention materials.
  - helped establish the National Crime Prevention Council.
- Revised OJARS audit resolution policy and procedures and coordinated activities of the OJARS Audit Review Committee.
- Provided liaison for the JSIA agencies with the General Accounting Office.
- Managed a number of ongoing programs, including the Law Enforcement Accreditation program, the Treatment Alternatives to Street Crime program, the Prison Industries Enhancement program, the "Sting" Anti-Fencing program, the Integrated Criminal Apprehension Program, and the Regional Intelligence Sharing Systems.
- Participated in the Interagency Coordinating Council for Juvenile Justice and Delinquency Prevention.
- Participated in and provided support for the Intelligence Systems and Policy Review Board.
- Cooperated with and provided support to the Federal Justice Research Program in the Office of Legal Policy.

## **Office of General Counsel**

The Office of General Counsel provides legal counsel on all JSIA and Juvenile Justice and Delinquency Prevention Act activities, including interpretations of the laws affecting federal grant programs and federal employees. The Office has primary responsibility for drafting legislative proposals and agency regulations. It also actively participates in the

prosecution or defense of any litigation affecting the JSIA agencies and the Office of Juvenile Justice and Delinquency Prevention. The Office provides advice on audit findings, agency contracts, and the operation of JSIA and Juvenile Justice and Delinquency Prevention Act grant programs.

During the year, the Office actively worked on the implementation of guidelines for the proposed Justice Assistance Act of 1983.

## **Office of the Comptroller**

The Office of the Comptroller is the principal advisor to OJARS on resource management, information systems, and internal controls. It also is responsible for planning, developing, and improving financial management programs; for upgrading agency and grantee financial and grants management systems; and for providing policy guidance, control, and support services for the JSIA agencies in accounting, budgeting, grants management, procurement, claims collection and settlement, and internal and external administrative automated data processing. This includes hardware and system development, financial management, budgeting, accounting, management information and other administrative information systems. The Office provides technical assistance and training to the other JSIA offices, to the state and to other grantees in the area of financial management. It also coordinates the JSIA agencies' compliance with the Financial Management Integrity Act and other financial and grants management laws, regulations and policy. The Office has six divisions, the Information Systems Division, the Accounting Division, the Budget Division, the Financial and Grants Management Division, the Contracts Division, and the Program Services Division.

When the Law Enforcement Assistance Administration (LEAA) was terminated the responsibility for closing out the programs was transferred to this Office. Responsibilities have been assigned within the Office to close out grants and reconcile the accounting records (including the letters of credit) for the Criminal Justice Councils and all LEAA grantees. The Office is accomplishing the orderly close-out of the LEAA program while providing uninterrupted support services to the ongoing JSIA components.

## **Office of Equal Employment Opportunity**

The Office of Equal Employment Opportunity evaluates the JSIA agencies' personnel management policies, practices, and programs for their impact on equal employment opportunity and the development and implementation of the agencies' Annual Affirmative Action Plan. It processes

informal and formal equal employment opportunity complaints of discrimination.

## Office of Civil Rights Compliance

The Office of Civil Rights Compliance monitors compliance with the civil rights responsibilities of the recipients of criminal justice system financial assistance under the JSIA and the Juvenile Justice and Delinquency Prevention Act of 1974, as amended. This includes enforcement of Title VI of the Civil Rights Act of 1964; Section 815(c) of the JSIA; Section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975, as amended; and the Department of Justice regulations promulgated for the implementation of these statutes (28 Code of Federal Regulations Part 42).

During Fiscal Year 1983 one notice of noncompliance was issued advising of ineligibility for future funding if compliance was not secured. The terms for compliance were thereafter fully met. Although 112 allegations of civil rights noncompliance were received during the year, only six were docketed for investigation primarily for the reason that there was no funding under the JSIA or the Juvenile Justice and Delinquency Prevention Act to the cited respondents. Numerous pre-award reviews were conducted through desk audits and 11 complaint investigations were concluded.

## Public Safety Officers' Benefits Program

The Public Safety Officers' Benefit Act of 1976 authorizes OJARS to pay a benefit of \$50,000 to the eligible survivors of a state or local public safety officer whose death is the result of personal injury sustained in the line of duty.

A public safety officer is defined as "a person serving a public agency at the state or local level in an official capacity,

with or without compensation, as a law enforcement officer or as a fireman." This includes persons involved in crime and juvenile delinquency control or reduction or enforcement of the criminal laws, including police, corrections, probation, parole, and judicial officers. Paid and volunteer fire fighters also are covered.

The Act applies to deaths resulting from injuries sustained in the line of duty on or after September 29, 1976.

During Fiscal Year 1983, 237 claims were filed under the Act, 214 claims were determined to be eligible and 75 ineligible, resulting in benefits payments of \$10.7 million.

By the end of Fiscal Year 1983, 2,129 claims had been adjudicated under the Act. Line of duty death data from these claims has been stored in an automated data base to assist research into the cause and prevention of line of duty deaths. Data is available to anyone seriously interested in preventing line of duty deaths in law enforcement and the fire service.

## Office of Congressional and Public Affairs

The Office of Congressional and Public Affairs was established July 1, 1983. The new Office consolidated the former Congressional Liaison and Public Information Offices and assumed the additional responsibility for communications with governmental and criminal justice professional organizations at the national and state levels. The Office is responsible for maintaining effective communications with the Congress, developing legislative proposals to implement the Administration's goals, providing general guidance in intergovernmental affairs and keeping the news media and general public informed of JSIA agency activities. As the Freedom of Information and Privacy Acts Office, it responds to all requests under the Freedom of Information and Privacy Acts.

# Bureau of Justice Statistics

## Steven R. Schlesinger Director

The Bureau of Justice Statistics collects, analyzes, publishes, and disseminates statistical information on crime, victims of crime, criminal offenders, and the operations of justice systems at all levels of government. It also provides financial and technical support to state statistical and operating agencies. It develops national information policy on such issues as the privacy, confidentiality, and security of data and the interstate exchange of criminal records.

In the four years since its creation, the Bureau has developed a program that responds to the diverse requirements of the Justice System Improvement Act. The Act addressed more than half a century of recommendations calling for an independent and objective national center to provide basic information on crime to the President, the Congress, the judiciary, state and local governments, the general public, and the media. The Bureau was established to ensure the collection of adequate statistics on crime and the response to crime; to improve the accuracy, completeness and usefulness of these data; and to assist in the development of state and local statistical systems.

### Data Analysis and Dissemination

The Bureau maintains an ongoing internal analytic capability to provide the Administration and the Congress with timely and accurate data regarding problems of crime and the administration of justice in the nation. The Bureau prepared and disseminated 23 reports during the year. The analysis program is conducted primarily by in-house staff, employing the Bureau's on-line computing and graphics capability.

The Bureau also maintains an External Analysis Program, in which researchers analyze data of current topical interest. During the year, nine proposals were funded and an additional 47 were being reviewed for possible funding. Analyses currently under way include those concerning career criminals, *habeas corpus* petitions, repeated victimization, recidivism, the deterrent effect of the criminal justice system, plea bargaining, school crime, outcomes of state parole and incapacitation policies, civil and criminal dockets, and rehabilitation, deterrence, incapacitation, and retribution as possible goals of the correctional system.

*Report to the Nation on Crime and Justice.* The primary focus of the Bureau's analysis program in Fiscal Year 1983 was the preparation of the *Report to the Nation on Crime and Justice*. Designated as a priority program by the Attorney General, this report (published in the fall of 1983) serves as a comprehensive presentation of statistical information on

crime and the administration of justice. The National Report deals with the criminal event, offenders and victims, and the institutional response to crime.

*The Bulletin Series and Special Report Series.* The Bureau's bulletins, begun in 1981, present data generated in the various statistical series. Prepared in a nontechnical format, each contains the most current information on particular aspects of crime or the administration of justice. During Fiscal Year 1983, 12 bulletins were published.

The Special Reports, begun in February 1983, also are written in nontechnical language and are aimed at a broad audience. They are produced periodically, and are devoted to a topic of current public interest and policy debate. During the year, two Special Reports were issued.

*The Technical Report Series and the Sourcebook of Criminal Justice Statistics.* Technical Reports present the findings of the Bureau's data series and technical research and address issues of statistical methodology. Technical Reports are produced as appropriate topics arise. The most recent release, in March 1983, discussed changes in 1980-81 National Crime Survey data based on 1980 census population estimates.

During the year, the Bureau published the tenth edition of the *Sourcebook of Criminal Justice Statistics*. This document presents criminal justice statistical data from more than 100 sources in an easy-to-use single volume.

*The National Criminal Justice Data Archive.* The Bureau sponsors the National Criminal Justice Data Archive at the Inter-University Consortium for Political and Social Research at the University of Michigan. All of the Bureau's data tapes, as well as other high quality data, are stored at the Archive and are disseminated via magnetic tapes compatible with the user's computing facility. In addition, the Archive disseminates microfilmed National Crime Survey data to users who lack access to computing facilities.

### National Crime Survey

The Bureau's most important statistical series is the National Crime Survey, which is the nation's only systematic measurement of crime rates that collects data through national household surveys.

The survey measures the amount of rape, robbery, assault, personal larceny, household burglary and larceny, and motor vehicle theft experienced by a random sample of the U.S. population. It also provides detailed information about the characteristics of victims, victim-offender relationships, and the criminal incident, including the extent of any loss or

injury and whether or not the offense was reported to the police.

In June 1983 the Bureau released, for the third year, the findings of an indicator on the prevalence of crime, developed from the National Crime Survey. This indicator measures the proportion of American households touched by crime, and has revealed that victimization by crime is one of the most common negative life events that a family can suffer.

In September 1983 the Bureau released findings that showed a general downturn in victimization rates that was the most sweeping, single-direction change to have taken place since the program's inception.

### **Adjudication Statistics**

The Adjudication Program is designed to produce national statistics on felony prosecution, public defense, and state court caseloads that can be used to evaluate established methods and to develop new mechanisms for increasing efficiency and fairness in the adjudication process. These statistics also are used for special studies and analyses on topics such as career criminal programs, crime while on bail, comparative systems of indigent defense, and the impact of court structure on case processing.

During Fiscal Year 1983, the Bureau continued collection and publication of data on state court caseload statistics, including a Special Report covering the period between 1978 and 1981.

The Prosecution of Felony Arrests Project collects and analyzes case processing data from PROMIS jurisdictions. During the year, data tapes were collected from 28 jurisdictions and the final draft of a document containing case processing data for the year 1980 was completed. It is scheduled for release in 1984.

### **Correctional Statistics**

This program provides systematic data on correctional populations and agency workloads covering probation, local jails, state and federal prisons, and parole.

The National Probation Reports series develops annual data on the number of persons on probation. Complete national reporting on this population became available for the first time during the past year when *Probation and Parole 1982* was published.

The Uniform Parole Reports program, begun in 1976, provides data on the populations and characteristics of those persons released on parole. The program also reports on the performance of selected parolee groups which are tracked for up to three years while under supervision. Data were published in *Probation and Parole 1982*.

The third major element of the Correctional Statistics Program is the regular reporting of the characteristics of jail inmates and facilities. During Fiscal Year 1983, the National

Jail Census and the Survey of Inmates of Local Jails were conducted. Through the Census, data were obtained about local jail facilities. The Inmate Survey collected data on the characteristics of those incarcerated. Data analysis and report preparation will take place in Fiscal Years 1984 and 1985.

The National Prisoner Statistics Series dates back to 1926. It provides yearend and midyear counts of prisoners in state and federal institutions. Recent emphasis has been on gathering data on the characteristics of those entering and leaving prison including demographic data, sentencing information, and time served. The National Prisoner Statistics Series also reports separately on those state prisoners sentenced to and awaiting execution. Nine statistical reports were produced under this program in Fiscal Year 1983.

### **Federal Statistics**

A major priority during Fiscal Year 1983 was the development of a comprehensive Federal Justice Statistics Data Base tracing individual offenses from investigation through prosecution, adjudication, and correctional processing. As of the end of Fiscal Year 1983, the data base included input from the Federal Bureau of Investigation, the Executive Office for U.S. Attorneys, the Administrative Office of U.S. Courts, and the Bureau of Prisons. This represents the first time that federal justice data have been incorporated in a single data series.

Several publications also have been prepared under the Federal Justice Statistics Data Program. These include a technical report describing data linkage procedures and two analytic reports addressing key issues of federal concern—bank robbery and drug offenses. The first compendium of federal justice statistics also was prepared.

### **Privacy, Confidentiality, and Information Policy**

The Bureau continued activities to ensure the confidentiality of statistical data and the privacy and security of criminal history information. Work was done to explore the information policy implications of current criminal justice strategies, such as violent offender and career criminal programs. Proceedings of a national conference on information policy were prepared, as were documents addressing issues such as the information impact of victim/witness programs.

### **State Statistical and Systems Programs**

Through the Bureau's support, statistical analysis centers for criminal justice data have been established in 45 states, the District of Columbia, and two territories. They provide

statistical information services and policy guidance to the Governors, executive branch agencies, legislators, state and local criminal justice agencies, the judiciary, the press, and the public. In addition these centers provide data for statistical compilations being developed by the Bureau.

During the year, grants were awarded to continue the development of statistical analysis centers in six states where they had been recently established. In addition, the Bureau entered into cooperative agreements with 24 state statistical analysis centers for the performance of specific tasks in accordance with programs developed by the Bureau. These included establishing and maintaining clearinghouses for criminal justice statistical information, study and analysis of specific issues of critical importance to the state, and development of analytic methodology and techniques.

The Bureau also supports the development and operation of state Uniform Crime Reporting systems in more than 40 states to facilitate the submission and improve the validity and reliability of data submitted by local police agencies to the Federal Bureau of Investigation. During the year, awards were made to six states to assist them in continuing the effective operation of systems already in place, but which were in danger of deteriorating or being abandoned because of the lack of adequate state funding. State Uniform Crime Reporting programs are also assisting in the study of the national program.

In recognition of the relationship between statistical reporting and information systems, the Bureau of Justice Statistics has implemented a transferable jail accounting and management system in three counties and, in cooperation with the National Institute of Corrections, delivered a prototype probation information system to one state. These systems are designed to meet the operational needs of correction agencies while also providing maximum support to statistical programs administered by the Bureau of Justice

Statistics. Efforts to increase the quality and quantity of corrections data for national statistical series have continued through provision of direct support to state agencies involved in the collection and submission of such data.

### **Methodological Evaluation**

During the year, the Bureau continued major projects to assess and evaluate the methodology used in the nation's two most important statistical series on crime, the National Crime Survey and the Uniform Crime Reporting program.

The potential modifications to the National Crime Survey that were investigated include incorporating data on crimes that are not presently covered, techniques to improve victims' recall and reporting of incidents, collection of additional information on crime incidents and on the activities and characteristics of crime victims and nonvictims, improvements in sampling efficiency, changes in data collection procedures, changes to enable tracking of the experiences of victims and nonvictims over time, and improved measurement of the consequences of victimization.

During the year, Phase I of the assessment of the Uniform Crime Reporting program commenced. Major activities included visits to seven state Uniform Crime Reporting programs and selected cities to learn about data collection and utilization, meetings with the Federal Bureau of Investigation to gather information about processing and data utilization at the national level, and outlining the goals and objectives of the study for the Sixth National Uniform Crime Reporting Conference.

In 1983, the Bureau began a cooperative agreement with the Committee on Law and Justice Statistics of the American Statistical Association to support methodological reviews of Bureau data series and peer review of Bureau reports. During the year, three methodological reviews and 24 peer reviews were conducted.

# Office of Juvenile Justice and Delinquency Prevention

## Alfred S. Regnery Administrator

The Office of Juvenile Justice and Delinquency Prevention provides assistance to state and local governments to enhance juvenile justice and reduce delinquency and is responsible for coordinating and providing policy direction to all federal juvenile delinquency efforts. The Office's special emphasis prevention and treatment program develops and aids initiatives of critical importance. The National Advisory Committee for Juvenile Justice and Delinquency Prevention reviews federal juvenile justice policies and advises the Administrator. The National Institute for Juvenile Justice and Delinquency Prevention conducts research, evaluates programs, provides specialized training, and disseminates juvenile justice information.

## Concentration of Federal Effort

The interdepartmental Coordinating Council on Juvenile Justice and Delinquency Prevention continued its efforts to coordinate federal programs and activities related to the prevention and treatment of juvenile delinquency. The Council's achievements included the exchange of information about activities, initiation of cooperatively supported programs, and development of plans for future Council activities.

## Formula Grants

During Fiscal Year 1983, 46 states, the District of Columbia, Puerto Rico and five territories (Guam, American Samoa, Trust Territories, the Virgin Islands and Northern Marianas) received formula grant awards totaling \$43,095,000. Allocations were based on population of juveniles, i.e., persons under 18 years of age.

The deinstitutionalization of status offenders and the separation of juveniles from adult offenders in jails and correctional facilities has been a major emphasis of the state programs with a goal of the complete removal of juveniles from adult jails and lockups by December 1985. Participating states and territories also were encouraged to invest up to 30 percent of the formula funds in special efforts to deal with serious, violent juvenile offenders. Fifty-one states and territories have met special requirements of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, by demonstrating substantial or full compliance

with the deinstitutionalization of status offenders; 34 states have complied with the requirements for the separation of adults and juveniles in adult jails and lockups. Most of the remainder are making progress.

## Technical Assistance

More than 250 instances of technical assistance and more than 1,200 person hours were provided to state and local agencies during Fiscal Year 1983, by the Office. Assistance was in a number of areas, but emphasis was upon alternatives to the juvenile justice system, removing juveniles from adult jails, serious and violent juvenile crime, the Foster Grandparent Program, restitution and delinquency prevention.

The Office continued a previous agreement with the Federal Law Enforcement Training Center located in Georgia for seminars addressed to law enforcement administrators on current issues in juvenile justice and on the presentation of modern police management strategies to improve police juvenile services. This fiscal year, 15 seminars were held with approximately 375 law enforcement administrators in attendance.

## Special Emphasis

A number of new programs were initiated by the Special Emphasis Division in Fiscal Year 1983. These included:

- *Suppression of Drug Distribution to Juveniles.* Under this program, five law enforcement agencies will establish a structured law enforcement effort focused on serious crime perpetrated by juvenile drug users, to reduce crime frequency and drug procurement by juveniles and to increase identification, arrest, conviction and incarceration of drug pushers whose clients are primarily juveniles.
- *Habitual Serious Juvenile Offenders.* This is an experimental program to control and provide treatment to that small percentage of offenders who commit a disproportionately large share of juvenile crimes. Up to 13 grants will be made directly to prosecutors who will subgrant a portion of the money to correctional agencies which have jurisdiction over juveniles.

- *Delinquency Prevention and Runaway Children:* Covenant House of New York will provide crisis care services to runaway and homeless youth through an emergency crisis intervention center in Houston.

A number of programs also have been continued in 1983. *Project New Pride* provides comprehensive community-based treatment for serious offenders. It reduces recidivism, increases school and social achievement, and provides employment opportunities. Four projects received a final year of funding, to allow refinement of program models prior to development of a marketing plan. New Pride included 996 participants as of February 1983, who averaged 7.8 prior offenses, 4.6 of them sustained by the time of their admission to the program. Nearly half were school dropouts.

The Pacific Institute for Research and Evaluation, the program evaluators, found that New Pride participants were responsible for 25 percent less crime than a similar group. Over 70 percent now attend school, and unexcused absences were reduced by half.

*The Violent Juvenile Offender Program* is a major research and development effort with two parts: Part I tests a specific intervention approach for the treatment and reintegration of adjudicated violent juvenile offenders. Part II tests the capability of neighborhood organizations to reduce violent and serious juvenile crime. While it is too early to have definitive program results, Part I juveniles have begun to show significant educational achievement and social adjustment compared to their counterparts in the control group. Part II projects are now under way and are gathering data for establishing program priorities and developing crime prevention action plans.

*Restitution by Juvenile Offenders* also will be continued, with training and technical assistance provided to practitioners wishing to establish or improve a restitution program.

One Alternative Education project received funding this year, and in 1983, Special Emphasis Division funds were used to continue the Close-Up project.

## National Institute for Juvenile Justice and Delinquency Prevention

### Specialized Training and Information Dissemination

During Fiscal Year 1983, the Institute supported 23 training projects carried out by specialized public and private organizations and institutions concerned with improving juvenile justice. Approximately 2,500 juvenile court judges

and other court-related management personnel as well as juvenile service professionals, educators, administrators of juvenile correctional institutions and community-based alternative programs, law enforcement personnel, and people associated with employment and family counseling programs participated in the training.

More than \$2 million was awarded to eight information collection/dissemination projects. The National Criminal Justice Reference Service responded to approximately 3,500 written and oral information requests from researchers, judges, legislators, and others involved in the criminal justice field. While the focus is on improving the operations of the juvenile justice system through the provision of training and information dissemination, emphasis also was placed on training and informing juvenile justice professionals in the habitual, serious and violent juvenile offender problem. The wide range of training and information dissemination efforts supported by the Office has become nationally recognized and has had great influence upon the juvenile justice community.

Ten regional seminars held across the country trained approximately 300 correctional administrators, judges, and court personnel in the judicial, legislative, and administrative application of standards. In addition, support was given to develop model policies and procedures for the operation of juvenile detention facilities.

### Research and Program Development

Analysis of the national Uniform Crime Reports and National Crime Survey data show that juvenile involvement in serious crime has stabilized and slightly declined since the mid-1970's. There is some evidence however that it has increased in frequency and seriousness in some urban areas.

Recent research sponsored by the Institute indicates that relatively few juvenile offenders continue criminal behavior as adults. However, research also has confirmed that a small number of these youths do become habitual offenders—career criminals—who are responsible for the majority of serious and violent crimes through late teenage years and early adulthood. This knowledge dictated a policy of focusing a large share of Office and Institute resources on finding effective ways of dealing with this population. New prevention and intervention programs for these youths are being developed and tested. Program evaluations indicate that comprehensive diagnostic assessment, continuous case management, a system of graduated sanctions, from secure custody to intensive supervision in the community, and reintegration, are promising program strategies. Restitution, one type of sanction, appears very promising based on the preliminary results of a national evaluation.

# National Institute of Justice

## James K. Stewart Director

Fiscal Year 1983 marked significant change for the National Institute of Justice, the criminal justice research arm of the Department of Justice. Congress confirmed the Presidential appointment of the Institute's first director under the Justice System Improvement Act of 1979. The Institute established a new direction for research, emphasizing policy-oriented research with practical benefits. Guided by a new advisory board, also appointed by the President, the Institute sought a broader research perspective that addressed the most pressing concerns of the criminal justice practitioner.

Months of hearings by the Institute and its board culminated in a research agenda that included jail and prison population, career criminals, victims and their treatment, neighborhood crime control, management of the criminal justice system, improving the adjudication process, probation and parole, and cooperation among federal, state and local governments in crime control.

The Institute also bolstered efforts to reach a wide audience of policymakers and criminal justice officials through the dissemination of information at new types of conferences, wider publication of Institute research and programs, and more direct involvement with practitioner groups in criminal justice research. Its Visiting Fellowship program was broadened to include the practitioner community, inviting state and local applicants.

While these and other changes were being charted, a variety of studies on crime and its control were completed and others, still in progress, yielded significant findings. Among the highlights of those research efforts:

### Fear of Crime and Neighborhood Crime Control

In 1983, the Institute undertook an experiment to attack crime and the fear it spawns. In Newark and Houston, the Police Foundation began a program to test the premise that a working alliance between police and citizens will improve the residents' sense of security and reduce crime.

In conjunction with police and local officials, citizens and business groups formulated a program to test whether improved conditions in a neighborhood can reduce the residents' fears for their safety. During the experiment, practitioners from other communities will be invited to observe the progress of the research and report on it through conferences and publications. This effort will broaden awareness of community efforts against crime and disorder

and share workable strategies for improved neighborhood control.

### Drugs and Crime

In Fiscal Year 1983, the Institute continued its research inquiry addressing many questions involving drug abuse, including the legal and illegal means by which abusers support their drug habits and factors distinguishing youths who avoid drugs versus those who become involved with drugs at an early age.

Institute research also explored issues involving the pretrial release of addicted defendants. In 1983, the Institute launched a field test in New York City and the District of Columbia to test improved urinalysis techniques and assess the degree of risk posed by drug abusers on pretrial release. The program will compare the effectiveness of surveillance versus treatment policies as deterrents to drug usage and subsequent rearrest.

### School Crime

In response to the Attorney General's Task Force on Violent Crime, the Institute launched a field test on school crime in 1983. The experimental program, sponsored in conjunction with the Office of Juvenile Justice and Delinquency Prevention and the Department of Education, will draw on crime analysis techniques to develop strategies against criminal activity and disciplinary infractions in schools in Jacksonville, Florida; Anaheim, California; and Rockford, Illinois.

### Domestic Violence

A domestic violence experiment in Minneapolis, Minnesota, found that those cases in which police arrested domestic violence offenders resulted in fewer repeat incidents than the traditional procedure of mediation or ordering the offender to leave the home to cool off.

Another study found that nearly one-third of the defendants involved in domestic violence in one jurisdiction were rearrested for other crimes, most of which did not involve the original victim—a finding that contradicted current assumptions.

### Career Criminals: Detection and Incapacitation

A key area of Institute research is the career offender. Institute research has confirmed that a small number of

offenders commit a disproportionately high volume of crime. Other research considered the impact of longer sentences on career offenders to curb or prevent future criminal activity. The study estimated that, in California, selectively incapacitating high-rate robbers for longer terms and shortening sentences for less active robbers could reduce robbery about 15 percent and the prison population by about 8 percent. As a concept, selective incapacitation has significant implications for criminal justice policy, and is a subject for continuing research.

Identification of serious offenders before their criminal activity has peaked is a key part of Institute research on career offenders. Building on previous research, one study will re-examine data on 1,214 inmates and test methods to identify serious offenders strictly from official records. Another study, also launched last year, examines the younger years of offenders for indicators of later criminality. The study will examine a sample of highly delinquent youth, exploring whether patterns of violent offenses vary among subgroups within the sample.

### **Offender Populations and Classification Systems**

Police, prosecutors, judges and correctional officials agree that overcrowding in correctional facilities is one of the most pressing problems confronting the criminal justice system.

Institute research related to corrections examined systems for classifying offenders to permit the assignment of offenders based on their needs and characteristics. Among Fiscal Year 1983 projects in this area is a study to develop and test classification approaches, assessing whether the systems alleviate potentially explosive situations in the prison setting.

Another study will examine the experiences of incarcerated offenders compared to those placed on probation to determine the effectiveness of the sanctioning approaches according to the characteristics of the offenders and their particular crimes.

In a related vein, an Institute field test assessing the effectiveness of a program for supervising defendants accused of serious felonies but on release concluded that with appropriate supervision individuals who otherwise might be held in jail can be released safely, increasing the amount of jail space available for the incarceration of more dangerous felons.

Related research focused on the effectiveness of sanctions other than imprisonment which do not threaten community safety; examined differences among probationers assigned to traditional supervision, limited supervision, and community

service; and evaluated a forced release program to determine if offenders who fared successfully under the program could have been predicted to do so.

### **Research on Critical Issues**

In addition to these efforts and their implications for criminal justice policies, other research during the year focused on issues involving critical problems.

A study of the impact of the exclusionary rule by Institute staff examined California felony cases rejected for prosecution because of search and seizure problems. The effects of the rule were most evident for cases involving drug felonies. The study also found that most of the defendants released because of the rule had criminal records and continued to be involved in crime.

A study of recently-mandated statutes requiring jail confinement for drunk driving found that confinements rose under the statutes, exerting strains on correctional resources. Arrest rates, spurred by police initiatives in response to publicity about the new laws, also rose. The study offered a number of recommendations and one of them, that the defendant pay at least part of the expense of confinement, has been adopted by several jurisdictions.

### **Other Research**

Violent robbery was the subject of a 1983 award and victims and their treatment by the criminal justice system was the focus of several efforts, including a report on victim compensation programs in 37 states, the District of Columbia and the Virgin Islands. The study found that the jurisdictions surveyed had established or were implementing victim compensation programs to alleviate the financial hardships of large numbers of crime victims. However, the study noted that many of the programs faced problems of inadequate funding or an inability to respond to a victim's needs in a timely fashion.

Research continued on the operations and practices of the criminal justice system. In the area of law enforcement, for example, a study found significant improvements in the management of police investigations. Court studies looked at case delay and the impact of mandatory sentencing laws, while another project reported that the early appointment of defense counsel expedited case processing.

A 1983 research initiative on the costs of criminal justice services will develop cost estimates for processing offenders through every stage of the criminal justice system, and should help officials weigh options involved in the delivery of criminal justice services.

# Executive Office for Immigration Review

**David L. Milholland**  
Director

The Attorney General is responsible for the administration and enforcement of the Immigration and Nationality Act of 1952 and all other laws relating to the immigration and naturalization of aliens. The Attorney General has delegated certain aspects of his power and authority for the administration and interpretation of the immigration laws to the Executive Office for Immigration Review. The Executive Office for Immigration Review, which was created by internal Department of Justice reorganization, began operation on January 9, 1983, as part of the Attorney General's ongoing improvement of the immigration adjudication process. The Executive Office is completely independent of the Immigration and Naturalization Service, the body charged with the enforcement of the immigration laws. It includes the Board of Immigration Appeals and the Office of the Chief Immigration Judge and operates under the supervision of the Deputy Attorney General. It is headed by a Director, who is responsible for the immediate supervision of the Board of Immigration Appeals and the Office of the Chief Immigration Judge.

## Board of Immigration Appeals

The Board of Immigration Appeals is the highest administrative tribunal charged with interpreting and applying the provisions of the immigration laws. It is composed of a Chairman and four members. The Board's primary mission is to ensure that immigration laws receive uniform application throughout the United States. The Board accomplishes this goal in part by analyzing and interpreting provisions of law and regulation in its decisions and, in part, by reconciling inconsistent orders issued by immigration judges or officers of the Immigration and Naturalization Service.

The Board has jurisdiction to hear appeals from specified decisions of immigration judges and immigration officers 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. Pursuant to 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 wide variety of cases reaching the Board consists 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 U.S. citizens and permanent resident aliens, and administrative fines imposed upon carriers because of violations of the immigration laws.

Appeals are decided by the Board in written opinions. Unless modified or overruled by the Attorney General, Board decisions are binding on immigration judges and all officers of the Immigration and Naturalization Service. Decisions relating to final administrative orders of deportation, which constitute the majority of the Board's caseload, may be reviewed in the U.S. Courts of Appeals. Other Board decisions may be reviewed in the federal district courts.

The most significant 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 the Immigration and Naturalization Service, are looked to 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.

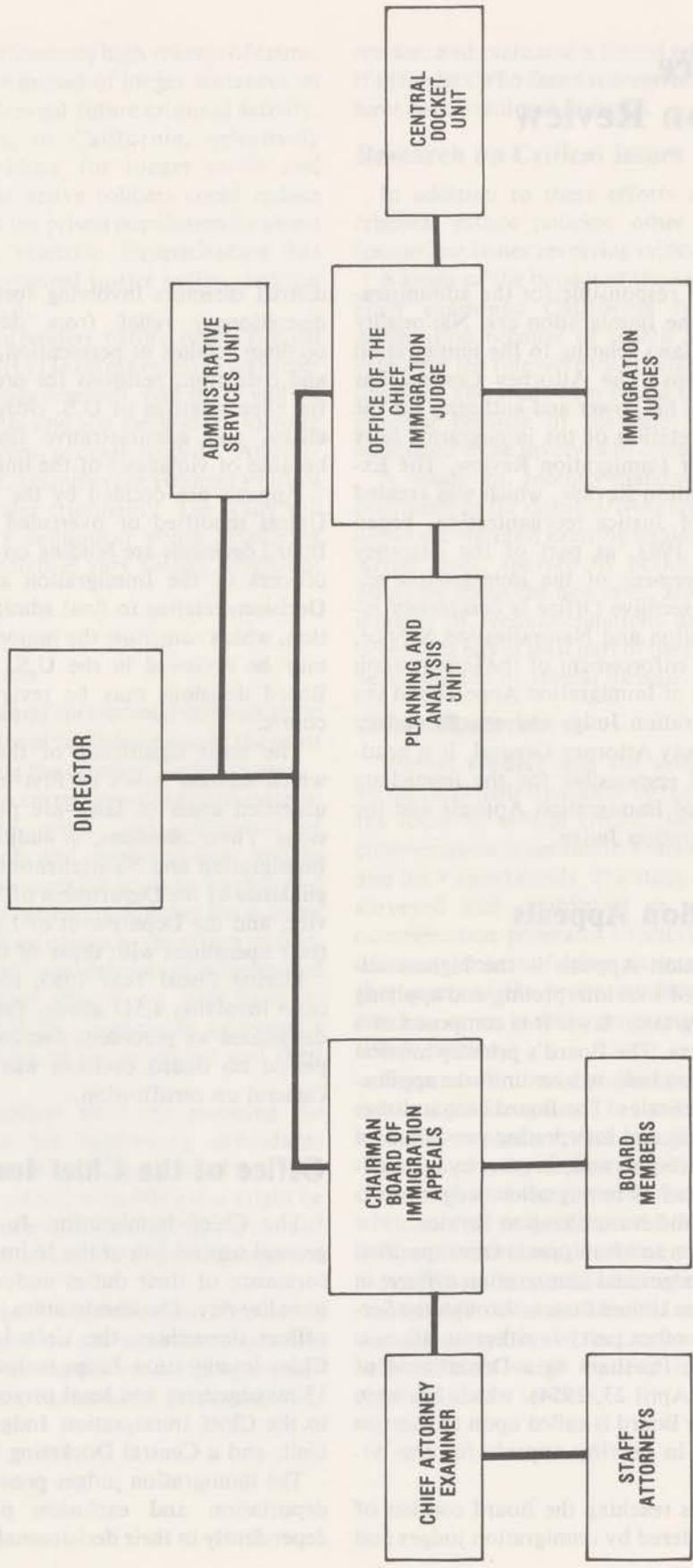
During Fiscal Year 1983, the Board disposed of 4,068 cases involving 4,511 aliens. Twenty-six of these cases were designated as precedent decisions for publication. In this period no Board decision was reviewed by the Attorney General on certification.

## Office of the Chief Immigration Judge

The Chief Immigration Judge is responsible for the general supervision of the 56 immigration judges in the performance of their duties under the Immigration and Nationality Act. The immigration judges are located in 25 field offices throughout the United States. The Office of the Chief Immigration Judge includes a Headquarters staff of 13 management and legal personnel structured as Counsels to the Chief Immigration Judge, a Planning and Analysis Unit, and a Central Docketing Unit.

The immigration judges preside at formal, quasi-judicial deportation and exclusion proceedings. They act independently in their decisionmaking capacity and their deci-

## EXECUTIVE OFFICE FOR IMMIGRATION REVIEW



sions are administratively final unless appealed or certified to the Board of Immigration Appeals. In exclusion proceedings, an immigration judge determines whether an individual arriving from a foreign country should be allowed to enter the United States or should be excluded and deported. In deportation proceedings, the immigration judge determines whether an individual who has already entered the United States is deportable from this country.

Since January 1983, when the Attorney General separated the immigration judge function from the Immigration and Naturalization Service, the Chief Immigration Judge has implemented several management projects which have modified significantly the immigration judge system.

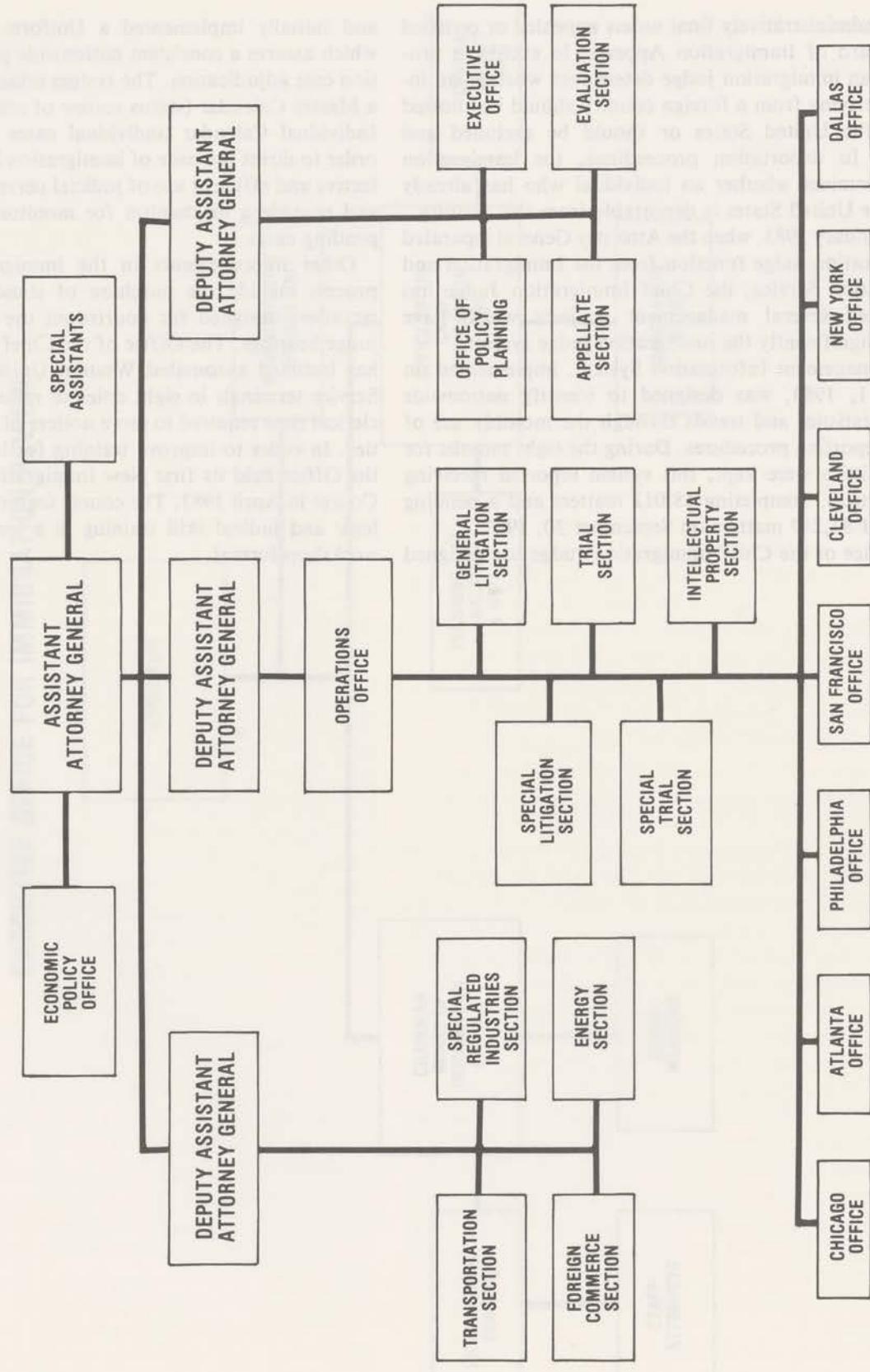
The Management Information System, implemented on February 1, 1983, was designed to identify nationwide caseload statistics and trends through the monthly use of uniform reporting procedures. During the eight months for which statistics were kept, this system reported receiving 77,277 matters, completing 58,012 matters and a pending caseload of 31,217 matters on September 30, 1983.

The Office of the Chief Immigration Judge has designed

and initially implemented a Uniform Docketing System which assures a consistent nationwide process for immigration case adjudication. The system utilizes a combination of a Master Calendar (status review of multiple cases) and an Individual Calendar (individual cases heard in depth) in order to direct the pace of immigration litigation, assure effective and efficient use of judicial personnel and resources, and provide a mechanism for monitoring progress on all pending cases.

Other improvements in the immigration adjudication process include the purchase of standardized four-track recorders designed for courtroom use in all immigration judge hearings. The Office of the Chief Immigration Judge has installed automated Western Union Telegraphic Mail Service terminals in eight cities to reduce substantially the clerical time required to serve notices of hearings on all parties. In order to improve training for immigration judges, the Office held its first New Immigration Judges Training Course in April 1983. The course featured both substantive legal and judicial skill training in a lecture and videotape workshop format.

ANTITRUST DIVISION



## Antitrust Division

### William F. Baxter Assistant Attorney General

Competition is the fundamental economic policy of the United States. Competitive markets serve consumers by fostering innovation and efficient resource allocation, thereby assuring maximum productivity at the lowest possible cost.

The mission of the Antitrust Division is to promote and maintain competition in the American economy, a task which it accomplishes in four basic ways. First, as a law enforcement agency, it brings criminal and civil antitrust cases, primarily under the Sherman and Clayton Acts, to prosecute violations of the law in particular markets. Second, it appears at proceedings of federal (and occasionally state) regulatory agencies where important questions of antitrust law or competition policy are at stake. Third, Division representatives participate in Administration policy groups and testify before congressional committees as advocates of competition-oriented solutions to national problems. Finally, Division personnel speak as proponents of competition before professional associations, business groups, and other organizations.

In Fiscal Year 1983, the Division continued to emphasize investigation, detection, and criminal prosecution of price fixing, focusing particularly on bid rigging in the public highway and airport construction industries. The Division also continued its project to eliminate anticompetitive or unnecessary decrees from past antitrust cases, as well as its program to identify opportunities for Division intervention in private antitrust suits that present important issues of competition policy. Further, the Division continued its efforts to formulate a guide for "vertical" business practices. The guide will articulate the Division's enforcement policies concerning non-price vertical arrangements.

With its 742 full-time employees (down from 829 in Fiscal Year 1982), the Division filed 108 antitrust cases during Fiscal Year 1983, a total second only to the record 112 cases filed the previous year. The Division also initiated 282 formal investigations of possible violations of the antitrust laws and spent more than 3,400 attorney days in court. Through its Appellate Section, the Division filed briefs in the courts of appeal and the Supreme Court in 24 antitrust cases where the Division was a party, and in 23 administrative law cases where the United States or one of its agencies was a party. Moreover, the Division appeared in nearly 70 federal regulatory agency proceedings by filing briefs, participating at hearings, presenting oral arguments, or filing comments.

The Antitrust Division devoted substantial resources to competition advocacy in the legislative area during the year. The Assistant Attorney General, or his representative, made 12 appearances before congressional committees on matters relating to antitrust law and policy. The Division answered 276 requests from the Office of Management and Budget and from Congress for comments on proposed legislation. In addition, the Division continued to provide information on a wide variety of matters to Congress and to the public. It responded to 326 mail inquiries from the legislative branch, 212 inquiries referred to it by the White House, and several thousand inquiries received directly from the public. Four hundred and forty-seven requests filed under the Freedom of Information Act and Privacy Act were also processed.

Competition advocacy by the Division in Fiscal Year 1983 also occurred in a wide variety of other forums. Division personnel participated in 17 interagency and international committees dealing with a wide range of subjects, such as telecommunications, patent policy, transnational enterprises, ocean shipping, and aviation. As required by various statutes, the Division provided advice to other federal agencies on the competitive implications of nearly 900 proposed transactions, including mergers and acquisitions of financial institutions, seabed mining leases, dispositions of surplus government property, and Outer Continental Shelf lease sales. Finally, the Division prepared statutory reports to the President and to Congress on subjects such as the activities of the International Energy Agency and the state of competition in the coal industry.

### Price Fixing and Other Restraints of Trade

The Antitrust Division places special emphasis on criminal enforcement of the Sherman Act as a major deterrent to cartel behavior. Protecting a deregulated and revitalized economy from price fixing and kindred activities is crucial, and criminal prosecution leading to actual incarceration is the single most effective deterrent to concerted anticompetitive conduct. Ninety-eight criminal cases, the largest number filed in any year since passage of the Sherman Act in 1890, were filed during Fiscal Year 1983. The year also saw a continuation of the trend to substantial jail sentences. The 6,543 days of incarceration imposed during the year constitute the second highest total in history. Fines and recoveries totaled more than \$21 million, the second largest amount on record.

The Division's enforcement program against bid rigging in the public highway and airport construction industries continued to generate dramatic results. During the year, the Division initiated 64 criminal prosecutions involving 60 corporations and 48 individuals in connection with conspiracies to rig bids on public highway and airport construction projects in 12 states. To date, 50 of the cases have been resolved in the government's favor. Fines totaling nearly \$11 million have been assessed and substantial jail sentences imposed. The Division's investigation of these industries is continuing, with grand juries under way in 19 states at year's end.

Similar results were achieved against bid rigging in the electrical construction and utility construction industries. During the year, the Division brought 12 criminal cases against 22 corporations and 23 individuals in the electrical construction industry. Nine of those cases have been resolved in the government's favor, and fines totaling \$1.3 million have been imposed. Grand jury investigations continue in five states. Eight criminal prosecutions, involving five corporations and eight individuals, were initiated in the utility construction industry. All were resolved in the government's favor and fines totaling \$405,000 were imposed. Grand jury investigations involving bid rigging in utility construction continue in eight states.

Enforcement actions against horizontal price fixing and other restraints of trade in a wide variety of other product areas were successfully completed. Examples include gasoline, fresh fruits and vegetables, pastries, liquor, and seafood. Cases filed in Fiscal Year 1983 and pending at the close of the year challenged anticompetitive practices affecting the sale of products such as copper tubing and traffic signal equipment.

The Division also continued its scrutiny of anticompetitive conduct in the service industries. It filed cases involving airline and motor freight transportation, architectural engineering and accounting services, and concert promotion. Injunctive decrees were entered in other cases to eliminate anticompetitive constraints on the delivery of repossession, attorney, and literary agent services.

During Fiscal Year 1983, the Division continued its ongoing project to formulate a guide for vertical business practices. That guide, reflecting the conviction that many vertical arrangements generate desirable savings in product or service distribution costs, or otherwise facilitate efficient product promotion, sale, and service, will be designed to set out the Division's enforcement policy in this area and to encourage the courts, the antitrust bar, and the business community to join the Division in rethinking the problem of vertical practices, and in putting the law concerning such arrangements on a sounder footing.

## **Preservation of Competitive Market Structure**

Another of the Division's major enforcement programs focuses on market structure, and on anticompetitive practices that may lead to or stem from undue concentrations of market power. Under Section 7 of the Clayton Act, the Division challenges mergers that threaten to reduce existing or potential competition. The Division also invokes Section 2 of the Sherman Act to seek injunctive and structural relief from the adverse effects of monopolistic acts or practices.

Effective merger enforcement requires that information about proposed acquisitions be readily available before those acquisitions are consummated (i.e., before the assets of the merging firms have been mingled). Under the premerger notification provisions of the Hart-Scott-Rodino Antitrust Improvements Act, the Antitrust Division (and the Federal Trade Commission) obtain information on all significant mergers. During Fiscal Year 1983, 1,101 premerger notification reports were reviewed, and, after preliminary analysis, 62 expanded investigations conducted. The Division also reviewed over 1,700 other mergers and acquisitions undertaken by banks and other financial institutions.

The Division filed four merger cases in Fiscal Year 1983, all of them alleging the elimination of existing horizontal competition. A consent decree was entered in a case involving the beer industry, and a proposed consent decree is pending in connection with the merger of two telecommunications firms. The remaining two cases, one which challenged a bank merger and the other an acquisition in the corn wet milling industry, remain unresolved.

Four merger cases filed in earlier years, involving such markets as textile rental services, beer, office supplies, and paper, were resolved in the government's favor.

In several other situations, the anticompetitive effects of proposed acquisitions were eliminated by the parties after the Division had indicated that it would challenge the transaction. In one case, two firms involved in the design and licensing of processes used to refine crude oil into gasoline were permitted to merge only after divestiture of certain patents and know-how. In another case, three industrial laundry plants were divested prior to the consummation of an otherwise anticompetitive acquisition. Some anticompetitive transactions (e.g., a joint venture among several motion picture distributors and pay-cable television programmers and an acquisition by a theater chain of several theaters in a metropolitan area) were abandoned in the face of the Division's threatened challenge.

Considerable progress also occurred in the implementation of the court-ordered divestiture of American Telephone and Telegraph Co. (AT&T) scheduled for January 1, 1984. A major issue concerned the division of the territories served by the Bell Companies into geographically-based "exchange

areas," within which the divested Bell Operating Companies would provide service and between which service would be provided on a competitive basis by other carriers, including AT&T. With Division staff participating actively in the continuing proceedings before the district court, the AT&T plan of reorganization was approved by the court on August 5, 1983. At year's end, the Division was reviewing the voluminous contracts that would govern the post-divestiture relationships between AT&T and the Bell Operating Companies.

The Division also filed a civil case against American Airlines and its president charging that an attempt by one of two dominant carriers in an airline service market to control prices through agreement with the other carrier—an effort which the second carrier rejected—was an attempt to monopolize under Section 2 of the Sherman Act. The district court held that such an attempt did not violate the Sherman Act and dismissed the case for failure to state a cause of action. At year's end, the Division was considering an appeal.

### **Other Antitrust Activity**

A major ongoing Division project involves assessing all antitrust decrees obtained by the Division since passage of the Sherman Act in 1890. The principal purpose of the review is to locate, and modify or terminate as appropriate, decrees that may have anticompetitive or other undesirable effects. Six judgments were modified or terminated under this program during Fiscal Year 1983 and at year's end approximately 100 more were under consideration. This effort springs from the Division's belief that deregulation of markets controlled by outdated antitrust decrees is just as urgent as deregulation of industries sheltered by anticompetitive statutory schemes.

Moreover, termination of undesirable decrees will enable the Division to concentrate its resources more effectively upon enforcing those judgments that truly promote competition. A new computerized system for monitoring judgment compliance has been implemented and during Fiscal Year 1983 the Division began the process of systematically identifying procompetitive decrees that require investigatory attention to assure that their terms are being obeyed.

On the legislative front, the Division reviewed existing antitrust and intellectual property law and developed a comprehensive package of reforms that would increase substantially the incentive and ability of American industry to enhance productivity and remain competitive in international markets. This package, entitled the National Productivity and Innovation Act, was developed in coordination with other interested agencies and submitted by the President to Congress on September 12, 1983. The package consists of proposals to: 1) clarify antitrust law and eliminate overly restrictive antitrust principles impacting on joint research and development and the licensing of

intellectual property; 2) bring the patent misuse doctrine into line with contemporary economic thinking; and 3) provide adequate protection to the holders of U.S. process patents. At the close of the year, committees of both the Senate and House of Representatives were actively considering the Administration's proposal.

During Fiscal Year 1983, the Supreme Court decided four cases in which the Division was involved. In the most important of these decisions, the Court affirmed the consent judgment entered in *United States v. American Telephone and Telegraph Co.*, *aff'd sub nom. Maryland v. United States*.<sup>1</sup> As a result of the Court's action, the divestiture provisions of the decree will be implemented as scheduled. In another case, the Court agreed with the Division that a labor union was not a person injured within the meaning of Section 4 of the Clayton Act, and thus could not recover damage where a multi-employer association had allegedly violated the antitrust laws by coercing certain third parties and some of the union's members to do business with nonunion contractors. *Associated General Contractors, Inc. v. California State Council of Carpenters*.<sup>2</sup>

In *State of Illinois v. Abbott & Associates, Inc.*,<sup>3</sup> the Supreme Court rejected the argument made by several states and supported by the Antitrust Division that Section 4F(b) of the Clayton Act authorizes disclosure of grand jury transcripts and exhibits relating to antitrust investigations to state attorneys general on less of a showing than particularized and compelling need. Finally, in *Bankamerica Corp. v. United States*,<sup>4</sup> the Court rejected the Division's argument that Section 8 of the Clayton Act prohibits interlocking directorates between banks and their non-bank competitors such as insurance companies.

The Division also filed seven *amicus* briefs in Supreme Court cases involving important questions of antitrust policy. Five of those filings were at the request of the Court, and in four of those five cases the Court acted in a manner consistent with the Division's views—denying *certiorari* in three instances and granting it in *Copperweld Corp. v. Independence Tube Corp.*<sup>5</sup> The Division subsequently filed a brief on the merits in *Copperweld* arguing that when common ownership and control of two corporations is itself lawful, the mere fact that those corporations coordinate their activities should not subject them to Section 1 liability.

In two other cases, *Monsanto Company v. Spray Rite Service Corp.*,<sup>6</sup> and *Jefferson Parish Hospital District No. 2 v. Edwin G. Hyde*,<sup>7</sup> the Division volunteered *amicus* briefs asking the Court to grant *certiorari* to consider important antitrust policy issues. The *Monsanto* case involved a decision holding that a manufacturer's decision to terminate one of its dealers was the result of concerted action between that manufacturer and other distributors who had complained to the manufacturer about the pricing activities of the subsequently terminated dealer. Among other things,

the Division argued that the Court should grant the petition to determine whether all vertical restrictions on distribution, including resale price maintenance, should be analyzed under the rule of reason and not be condemned as illegal *per se*. In the *Hyde* case, the Division argued that a contract for a single group of anesthesiologists to provide exclusive anesthesia services to a hospital was not *per se* illegal under the Sherman Act as a "tie-in" of surgical and anesthesia services. In both cases the Supreme Court granted *certiorari* and the Division subsequently filed a brief on the merits. Decisions in both cases were pending at the year's end.

In the courts of appeal, several government antitrust cases were decided in the Division's favor during the year. In *United States v. Title Insurance Rating Bureau of Arizona, Inc.*,<sup>8</sup> the court affirmed a judgment against a title insurance rating bureau licensed by the state of Arizona that fixed the prices of escrow services. The court agreed with the Division's contention that neither the McCarran-Ferguson Act nor the state-action doctrine immunized the conduct at issue from the antitrust laws. Similarly, in *United States v. Southern Motor Carriers Rate Conference*,<sup>9</sup> the court agreed with the Division that a rate bureau's agreement on rates for interstate transportation did not fall within the state-action exemption to the federal antitrust laws.

As part of its expanded *amicus* program—intended to promote sound economic analysis in the application of the antitrust laws—the Division also filed eight *amicus* briefs in the courts of appeal during the year. Under this program, the Division appears in selected private suits which present important or intellectually complex issues of competition policy. An example of such a suit is *Bell and Howell: Mamiya Co. v. Masel Supply Co.*<sup>10</sup> in which the Division argued that the owner of a U.S. trademark is not prevented from obtaining relief from trademark infringement solely because the infringing product was manufactured abroad by a foreign company that exercises control over the U.S. trademark owner.

## Regulated Industries

During Fiscal Year 1983, the Antitrust Division pursued competitive goals in regulated industries through both direct antitrust enforcement and advocacy of regulatory reform. The Division urged elimination of unnecessary or counterproductive governmental interference with free market forces and, where legitimate regulatory objectives were at stake, sought adoption of the least anticompetitive means of market intervention.

In the transportation sector, the Division participated in proceedings before the Interstate Commerce Commission and the Civil Aeronautics Board as well as before other federal agencies. At the Interstate Commerce Commission, the Division filed comments concerning motor carrier pricing. In one comment, which provided detailed economic

analysis of motor carrier practices since the advent of the Motor Carrier Act of 1980, the Division advocated further relaxation of rate filing restrictions. Subsequently, the Commission requested comments on reducing the notice requirements for motor carrier rate changes, a position the Division strongly supported.

The Division also recommended that the Commission reevaluate the manner in which railroads handle and price freight car movements, urging elimination of antitrust immunity for current anticompetitive practices and therefore the elimination of the practices themselves. In the bus industry, the Division opposed as too broad the first rate bureau immunity request under the Bus Act of 1982. At the Civil Aeronautics Board, the Division advocated recognition of competition factors in the allocation of takeoff and landing slots at high-density airports.

Comments were filed in 26 proceedings at the Federal Communications Commission on a wide range of matters, including the emergence and role of new telecommunications technologies, the restructuring of the telephone industry following the breakup of AT&T, the scope of ownership activities to be permitted to television networks, and the rules concerning ownership of cable systems by other entities.

The Division also addressed competitive issues at the Securities and Exchange Commission, which conducted a series of inquiries into the scope of competition and entry into the provision of brokerage services. Advocating greater competition, the Division urged the Commission to make permanent the Cincinnati Exchange's National Securities Trading System. Similarly, the Division urged making the shelf registration rule permanent, and filed comments with the Commission's tender offer committee concerning possible changes in regulations governing corporate takeovers and the defenses thereto.

The Division was also active in proceedings before the depository institution regulatory agencies. Continuing its policy of advocating greater participation and competition in the financial services industries, the Division supported a proposal before the Federal Reserve Board to allow bank holding companies to engage in brokerage and securities credit lending. Likewise, the Division supported before the Federal Deposit Insurance Corporation a proposal to permit underwriting by banks of corporate securities. The Division also urged the Federal Home Loan Bank Board to encourage greater competition among depository institutions by removing artificial restrictions on branching.

The controversy surrounding the Postal Service's provision of "electronic mail" services continued, with the Division addressing the concern that, as a rate-regulated monopolist in first-class mail, the Postal Service is in a position to underprice its electronic mail service artificially by subsidizing the service with revenues from its statutory monopoly on first-class mail. Such cross-subsidization would

not only place the Postal Service's electronic mail competitors at an unfair disadvantage, but would also deter entry into the market by private firms and possibly lead to unjustified increases in rates for first-class mail. In spite of a 500 percent increase in its electronic mail costs, the Postal Service had proposed a rate increase of only 20 percent. The Division intervened in the pending rate case before the Postal Rate Commission, arguing that the Postal Service's rate proposal was anticompetitive and in violation of the congressional mandate that the Postal Service cover its costs on each service it offers.

## **Energy Matters**

Division efforts to promote competition in energy markets continued during the fiscal year. The Division vigorously prosecuted charges of price fixing in various wholesale and retail energy markets. It also continued trial preparations in a civil suit alleging that a major investor-owned utility had monopolized wholesale power sales by refusing to grant access to its transmission facilities to a wholesale competitor. The Division also conducted an investigation into another utility's dealings with co-generators and small power producers. As a result, the utility formulated, and was preparing to file with its tariff, equipment performance standards and interconnection requirements for those seeking interconnection with the utility.

The Division also filed briefs before the Supreme Court as a respondent to petitions to review the Nuclear Regulatory Commission's opinion in *Alabama Power Company*.<sup>11</sup> The Commission had accepted the Division's position that granting an unconditional nuclear license to Alabama Power Company would be anticompetitive in light of that firm's monopoly power over energy generation and transmission. The Supreme Court denied review. The Division also continued to render post-licensing antitrust advice to the Commission in connection with applications for permits to operate nuclear power plants.

Under Section 252 of the Energy Policy and Conservation Act, the Division monitored industry participation in International Energy Agency meetings held in the United States and overseas. In Fiscal Year 1983, the Division prepared two reports for the Congress and the President on oil company activities under the International Energy Agency and monitored industry participation in the fourth allocation system test of the International Energy Agency in May and June of 1983. The Division also reviewed antitrust and conflict-of-interest issues related to the Defense Production Act, and participated in interagency discussions to amend provisions of that Act governing the antitrust defense for voluntary joint actions by U.S. companies.

In the area of oil pipeline regulation, the Division filed briefs as statutory respondent in an appeal of the Federal Energy Regulatory Commission's decision in the *Williams*

*Pipeline Co.* case, setting forth how lower-48 interstate oil pipeline rates would be regulated. At year's end, the Division was also participating in the remand proceeding of the Trans Alaskan Pipeline System (Phase I) at the Federal Energy Regulatory Commission.

The Division continued to review the antitrust implications of the Outer Continental Shelf and National Petroleum Reserve—Alaska oil and gas leasing programs administered by the Departments of Energy and the Interior. Pursuant to its statutory duties under the Outer Continental Shelf Lands Act Amendments of 1978, the Division analyzed numerous Outer Continental Shelf lease sales and lease assignments during Fiscal Year 1983. Similarly, under the Naval Petroleum Reserves Production Act of 1976, the Division conducted numerous antitrust reviews concerning the issuance of contracts for the production of petroleum products from the three Naval Petroleum Reserves and leases for the development of the National Petroleum Reserve—Alaska.

The Division prepared the Department's fifth and sixth reports on "Competition in the Coal Industry," submitted to Congress in December 1982 and April 1983. The fifth report redefined geographic markets for coal in the West and analyzed the effects of the Department of the Interior's fair market value and leasing level policies. The sixth report constructed new universes for measuring market shares for prospective federal coal leases.

Evaluation of proposed mergers in the energy field remained an important responsibility of the Division during the year. Acquisitions by vertically integrated petroleum companies in several fossil fuel markets (including oil, gas, and coal) and acquisitions of large natural gas pipelines by transportation companies were reviewed for possible antitrust violations.

## **Foreign Commerce**

During the fiscal year, the Antitrust Division continued to monitor import and export trade for cartels or other restrictive business practices that can have an adverse impact on prices or supplies of important consumer goods. One investigation resulted in a consent decree and divestiture by a company which produces important office supplies. Similar investigations and judgment reviews were initiated or continued during the year.

The Division continued to represent the Attorney General at meetings of the Cabinet Council on Commerce and Trade, as well as the Cabinet-level Trade Policy Committee and its numerous sub-cabinet level subcommittees and task forces. The Cabinet Council on Commerce and Trade is comprised of Cabinet officers particularly concerned with international economic policy. The Trade Policy Committee is an interagency group that develops trade policy and advises the President on the resolution of particular trade cases. Division

representatives also attended meetings of the Committee on Foreign Investment in the United States (chaired by the Department of the Treasury) and the Foreign Government Investment Working Group of the Cabinet Council on Economic Affairs.

The Division participated actively on the Committee of Experts on Restrictive Business Practices of the Organization for Economic Cooperation and Development. That Committee concluded a report on international antitrust investigative methods, began examining the relationship between trade policy and competition policy, and continued work on antitrust and the professions and merger control policies in member countries. In the United Nations Conference on Trade and Development (UNCTAD), the Division continued working to implement a set of voluntary principles and rules for the control of restrictive business practices. The rules, which were adopted unanimously by the United Nations General Assembly in December 1980, provide guidance for U.S. enterprises doing business in developing countries, and create a mandate for continuing the United Nations expert and technical assistance work in the antitrust field. The Antitrust Division heads the U.S. delegation to the Intergovernmental Group on Restrictive Business Practices mandated by the code. The Division also worked in close consultation with the Department of State and the U.S. business community to prepare for the next diplomatic conference at UNCTAD to draft a Code of Conduct on the International Transfer of Technology, which has been under negotiation for some years.

The Division participated in negotiation of the United States-Panama Bilateral Investment Treaty (BIT) which was signed on October 27, 1982. Division staff work continued in preparation for BIT negotiations with several African countries, Costa Rica, and the People's Republic of China. BITs, once ratified by the U.S. Congress, establish, among other things, certain protections for the rights of citizens when they invest in the other country which is party to the treaty. An investment dispute settlement mechanism is also provided for in each BIT.

Delegations of antitrust enforcement officials and individual antitrust specialists from a variety of other countries visited the Division during the year. Division attorneys discussed, formally and informally, with the visitors many aspects of American and foreign antitrust law, enforcement procedures, and policy development.

Fiscal Year 1983 also introduced a new area of activity for the Division when, on October 8, 1982, President Reagan signed into law the Export Trading Company Act of 1982. The Act's purpose is to encourage exporting by U.S. companies that have unrealized export potential. Title III in particular is intended to ensure that perceptions of possible antitrust liability do not deter persons from exporting.

The Export Trading Company Act provides that the Secretary of Commerce, with the concurrence of the Attorney General, may issue "export trade certificates of review" for certain export trade activities conducted by specified persons in accordance with several standards that embody antitrust principles. Certificate holders are granted limited immunity from federal and state antitrust laws as long as they comply with the terms and conditions of the certificate.

The Division worked closely with the Department of Commerce to draft and to issue interim implementing regulations and preliminary guidelines to enable interested exporters to apply for certificates of review. By the end of the fiscal year, approximately 24 applications had been filed at the Department of Commerce, of which 11 had been forwarded to the Division. In reviewing each application the Division must analyze the proposed conduct and markets involved to determine if any injurious impact on the United States is likely to result from the conduct. No certificates had yet been issued by the end of the fiscal year.

### **Business Reviews and Other Advice to the Private Sector**

Although the Department is not authorized to issue advisory opinions to private parties, in certain circumstances the Division analyzes proposed business plans at the written request of interested parties and states its present enforcement intention. Such statements are issued under regulations providing that the request and response will be released at the time a business review letter is announced.

The Division responded to 24 business review requests during Fiscal Year 1983. Among the proposals that received favorable review were a loan counseling program, a joint venture for the manufacture of small diesel engines, a service station dealer purchasing cooperative, a bank teller machine network, a railroad/trucking joint venture, two preferred provider health care organizations, and a prepaid legal services plan. The Division was unable to provide favorable business reviews with respect to certain activities proposed by several associations of shippers, a proposed addition to the ethical code of a consulting engineers council, and a proposed method for developing published price quotations for eggs.

The Division also published a "Digest of Business Reviews 1968-1982." The Digest, which will be updated annually, contains summaries of all (presently more than 300) business review letters issued since 1968 indexed by topic, commodity or service involved, and name of the requesting party.

### **Federal/State Relations**

Under the Criminal Control Act of 1976, Congress appropriated \$4 million in Fiscal Year 1980 for federal grants-in-aid to encourage state antitrust enforcement. Although the Antitrust Division completed awarding grants in Fiscal Year

1980, dispensation of funds continued until December 31, 1982. Since 1977, a total of \$25 million has been awarded under the Act to 45 states, Puerto Rico, and the District of Columbia. Results of the grant program include doubling the volume of state antitrust cases and investigations, and statutory improvements in state antitrust laws.

Although the Antitrust State Grant Program has expired, the Division continues to provide technical and other assistance where appropriate. The Division further assists state antitrust enforcement by making investigative material available to state attorneys general. During Fiscal Year 1983, the Division responded to 22 requests for such material under Section 4F(b) of the Clayton Act.

## Management Initiatives

During Fiscal Year 1983, in furtherance of the Administration's goal of streamlining the federal government and making it function more efficiently, the Division made one major organizational change: it transferred the functions, staff, and associated resources of the consumer protection program to the Civil Division. This program, which had been in the Antitrust Division since the program was created in 1970, differed markedly from the work performed in the remainder of the Antitrust Division. The activities of the program were not specifically related to either antitrust enforcement or the promotion of competitive markets. In addition, it was the only program within the Antitrust Division where client-agency relationships were maintained at the district court level. Because of these characteristics, it was felt this program would fit better into the organization and functions of the Civil Division.

Further streamlining of the Division's activity occurred with President Reagan's issuance of Executive Order No. 12430, which revoked a 1961 order requiring all federal agencies to report identical bids received in federal procurement or property disposal to the Attorney General. The Attorney General was also required to consolidate the resulting reports and publish them periodically. The President revoked the identical bid reporting requirement because of the Division's view that the reporting system had not been effective in exposing bid rigging and that resources

currently devoted to the system could and should be employed more efficiently to detect and deter collusive behavior in federal procurement. Consistent with that goal of more efficient resource deployment, the Division has conducted a program designed to increase awareness of antitrust issues among procurement and investigative personnel at a variety of federal agencies.

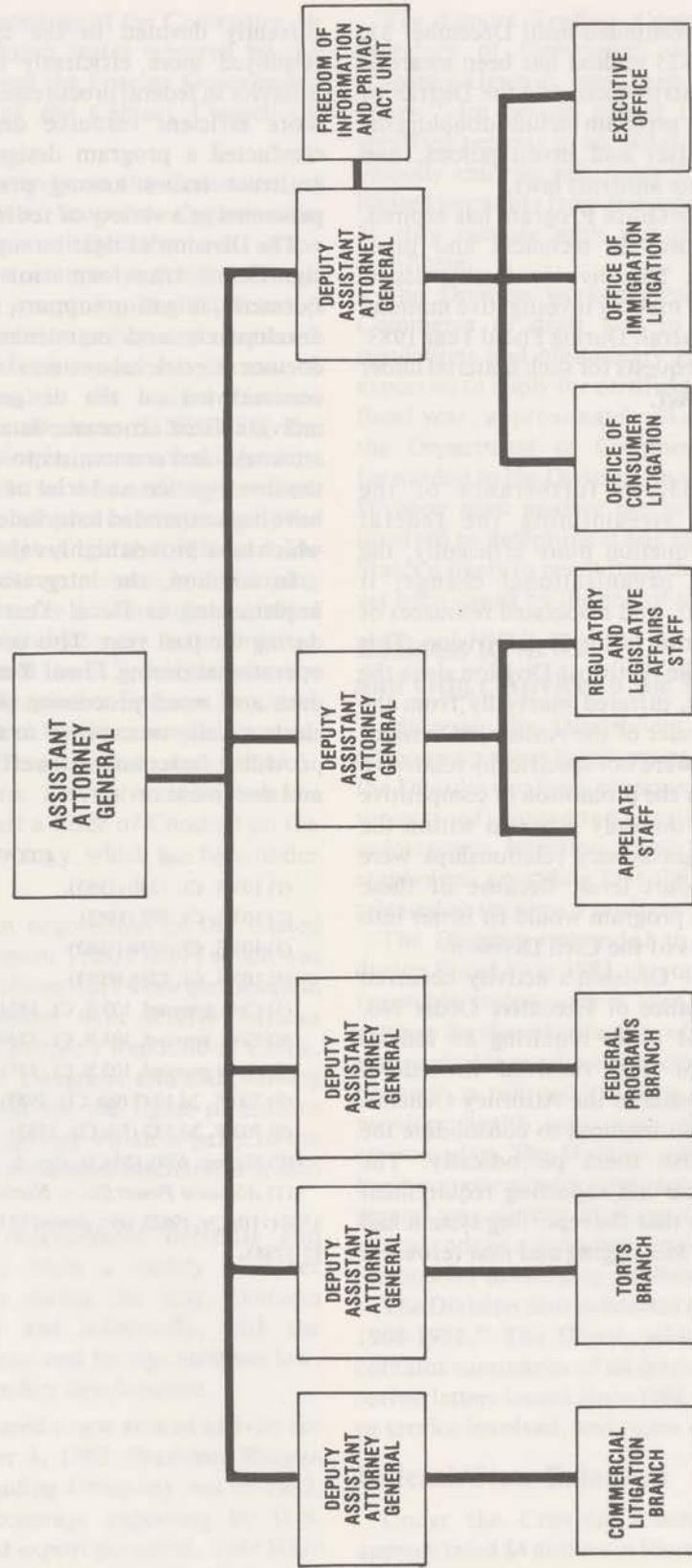
The Division's litigation support services also underwent a significant transformation during Fiscal Year 1983. Formerly, litigation support, for the most part, involved the development and maintenance of large-scale automated document retrieval systems. Currently, these activities are concentrated on the design and development of case-individualized economic data analysis systems which allow attorneys and economists to evaluate such data throughout the investigation and trial of antitrust cases. These systems have been expanded to include computer-generated graphics, which have proven highly valuable in preparing trial exhibits.

In addition, the integrated office information system, implemented in Fiscal Year 1982, was greatly expanded during the past year. This system, which is to become fully operational during Fiscal Year 1984, permits the results of data and word processing performed in one office to be electronically transmitted to any other Division office, thus providing faster and more efficient information distribution and document review.

## CITATIONS

- (1) 103 S. Ct. 1240 (1983).
- (2) 103 S. Ct. 897 (1983).
- (3) 103 S. Ct. 1356 (1983).
- (4) 103 S. Ct. 2266 (1983).
- (5) *Cert. granted*, 103 S. Ct. 1424 (March 21, 1983) (No. 82-1260).
- (6) *Cert. granted*, 103 S. Ct. 1249 (Feb. 28, 1983) (No. 82-914).
- (7) *Cert. granted*, 103 S. Ct. 1271 (March 7, 1983) (No. 82-1031).
- (8) 700 F. 2d 1247 (9th Cir. 1983).
- (9) 702 F. 2d 532 (5th Cir. 1983).
- (10) Slip op. 6791 (2d Cir. Oct. 4, 1983).
- (11) *Alabama Power Co. v. Nuclear Regulatory Commission*, 692 F. 2d 1326 (11th Cir. 1982), *cert. denied* 52 U.S.L.W. 3251 (U.S. Oct. 3, 1983) (No. 82-1788).

## CIVIL DIVISION



# Civil Division

## **J. Paul McGrath** Assistant Attorney General

The Civil Division has four basic functions: it defends the President's policies and programs when they are challenged in court; brings suits to collect money owed to the United States by delinquent debtors and to recover sums lost to the government through waste, fraud, and corruption; defends the government and its officers and employees in lawsuits seeking damages from the U.S. Treasury; and enforces federal consumer protection statutes through civil and criminal litigation.

The Division continues to be tested by the myriad of complex and resource-intensive cases it must defend and institute. Many of its cases have significant domestic and foreign policy implications. Its monetary litigation involves billions of dollars that the Division recovers for the government when successful in its affirmative suits or saves the government when successful in its defensive role. The Division has given increasing attention to working more closely with its client agencies throughout the government in order to meet its challenges and maintain its successful litigation record. In addition, the Division continues to implement the innovative automation procedures and management techniques that have made it possible to handle a diverse and expanding caseload.

## Attorney General's Priorities

- **Concerted emphasis on collection of debts and fines owed the government.**

The Department of Justice performs a dual role in the government's debt collection process. The first is to act as attorney for other agencies whose programs result in debts owed the government. The second is to act as attorney for the government in the collection of civil and criminal debts arising from fines, penalties, judgments and the like, imposed as a result of Department of Justice litigation. Examples of the former are the many delinquent accounts referred to the Department for collection by agencies, such as defaulted student loans from the Department of Education; typical of the latter are the criminal fines and forfeitures and civil judgments imposed by the courts.

The Department has implemented a debt collection plan that addresses means of cutting into the backlog of collection matters, seeks to prevent future delinquencies, and establishes a permanent and effective system for processing and collecting money owed the United States. This plan

originated in Fiscal Year 1982 and established the Department's goals and priorities in the area of debt collection. While direct responsibility for day-to-day debt collection rests with the U.S. Attorneys, the Civil Division has taken the lead in implementing this plan. The first step was the creation of a Debt Collection Team to coordinate and consolidate debt collection activities and resources. This team is chaired by the Assistant Attorney General of the Civil Division. Other team members include the Assistant Attorney General for Administration, the Assistant Attorneys General in charge of the Criminal, Land and Natural Resources, and Tax Divisions; a special assistant to the Attorney General; a member of the Deputy Attorney General's staff; and a representative of the Executive Office for U.S. Attorneys.

By these means, the Department has greatly improved the ability of the government to collect debts. The team, through development of the annual Department of Justice Debt Collection Plan, has instituted internal improvements and established priorities in the debt collection process. Foremost among these improvements has been the automation of debt collection information through the installation of the Prosecutor's Management Information System (PROMIS) in the U.S. Attorneys' Offices. PROMIS is, among other things, an automated system for processing debt collection data that makes the Department better able to account for and collect debts owed the government. On March 1, 1984, the Department will begin to use a direct deposit or lock-box system that will allow for the immediate deposit in the U.S. Treasury of cash collected by all U.S. Attorneys and the litigating divisions. This system will save the government millions of dollars in interest annually.

The activities of the Debt Collection Team extend beyond the Department's organizational boundaries. Both the Assistant Attorney General and Deputy Assistant Attorney General meet personally with representatives of creditor agencies to pursue possible joint collection efforts in targeted areas where available data indicate the maximum dollar return for invested resources. Outstanding student loans from the Department of Education and delinquent Farmers Home Administration debts from the Department of Agriculture are just two examples of governmentwide cooperation in the debt collection process.

Through the efforts of Debt Collection Team the total amount of cash collected by the Department in Fiscal Year 1982 was \$200,132,541. Most impressive was the cost, direct

and indirect, to collect this amount—\$1 for every \$16.28 collected. During Fiscal Year 1983, the Department collected \$477,838,803 in cash, surpassing the 1982 total by \$277,706,262—an increase of 139 percent. With increases in efficiency and automation this trend should continue.

- **Commitment to better control the nation's borders and effect a more uniform nationwide policy of enforcement of Immigration and Naturalization Service (INS) procedures.**

An Office of Immigration Litigation was created within the Civil Division in early 1983. The primary purpose of this Office is to provide centralized and uniform control over INS civil litigation. The Office of Immigration Litigation objectives in handling INS litigation are to:

- conduct promptly and efficiently the relatively large number of litigated immigration matters;
- respond with specialized and experienced immigration litigators to major litigation challenging the President's program to regain control of U.S. borders; and
- create a foundation for response to major new enforcement initiatives in pending legislation that reflect the culmination of a concerted policy effort within the Administration to deal with the immigration crisis.

- **Continued improvement of client agency relations.**

Recognizing the importance of productive working relationships with its many client agencies, the Civil Division continued its effort to initiate and participate in meetings, seminars, discussions and conferences with them. The Division also continued to contribute substantial support to the Attorney General's Advocacy Institute, through provision of panel members, group leaders and lecturers, and through presentation of the Institute's course in civil litigation. Division attorneys provided assistance to Department of Health and Human Services attorneys; instructed at the Energy Litigation Institute; participated in panels on Freedom of Information Act and Privacy Act issues; assisted general counsel to the Inspectors General in drafting guidelines for subpoena issues; and attended a legal conference involving all agencies of the intelligence community. Torts Branch attorneys traveled extensively in support of the Office of Personnel Management's Executive Development Program and gave as many as 40 presentations regarding the personal liability of government executives, an issue of vital concern to agencies and individuals.

## Commercial Litigation

The Commercial Litigation Branch pursues the government's affirmative civil claims arising from official misconduct, fraud, bribery, and breach of contract. The Branch is also responsible for the collection of money judgments and claims arising out of numerous government grant, loan and benefits programs. Commercial Litigation attorneys defend contract actions brought against the government in state courts, federal district courts, and bankruptcy courts as well as in the new U.S. Claims Court.

Branch attorneys assisted in drafting the legislation which resulted in the passage of the Federal Courts Improvement Act of 1982. As a result of the Act, the Court of Claims was abolished and two new courts, the U.S. Claims Court and the Court of Appeals for the Federal Circuit, were created. In essence the new appeals court represents the merger of the Court of Claims and Court of Customs and Patent Appeals, and the new Claims Court is essentially what was the Trial Division of the Court of Claims. Its jurisdiction includes:

- appeals from the Court of International Trade;
- appeals from the Claims Court;
- appeals from certain district court cases involving patent disputes between private parties, and cases against the United States under the Tucker Act;
- direct appeals from decisions of the Merit Systems Protection Board; and
- direct appeals from the various boards of contract appeals.

The jurisdiction of the new U.S. Claims Court includes:

- jurisdiction for the first time to enjoin the government from granting contracts where "disappointed bidders" claim they, rather than the bidder selected by an agency, should have been awarded contracts;
- new trials under the Contract Disputes Act;
- general claims for money against the United States;
- suits for the refund of taxes;
- claims for reimbursement for the government's taking of property; and
- Indian claims.

The new courts are extremely important to the government because of the amount of money at issue in their cases, because of their role in adjudicating vital federal personnel and contracting issues, and because the United States is a party to almost all of the cases in these courts. The Branch personally handles all Civil Division cases in these courts since they are heard exclusively by subject matter rather than by geographic location.

The Branch also handles all litigation in the Court of International Trade. These cases involve the collection of customs duties and the enforcement of international trade policies, including antidumping and countervailing duty actions, which play a role in the nation's overall economic viability.

In the past year, this Branch continued to emphasize the recovery of money lost by the United States as a result of fraud, corruption or other misconduct. Significant accomplishments in fraud cases included the following:

- Recovery of over \$20 million in judgments and settlements during 1983. A large part of this success was the result of closer coordination between the Civil Division and the Offices of Inspector General of other agencies.
- Recoveries of \$2.5 million from military contractors for cost mischarging and \$2 million from Economics Laboratory, Inc. for the submission of defective pricing data in connection with contracts with the General Services Administration.

The Commercial Litigation Branch defended the United States against substantial claims brought in the Claims Court. Branch attorneys successfully defeated a claim by the Shanghai Power Company that the United States had taken the company's property by settling the company's claim against the People's Republic of China for less than the claim's worth. Had the company succeeded in its suit, similar claims would have been filed involving millions of dollars.

Branch attorneys continued to work on intellectual property cases. In a patent infringement suit in which an orthopedic equipment company sought millions of dollars in compensation for the government's use of a nationwide material handling system, the Court of Appeals for the Federal Circuit affirmed the decision of the Claims Court that the plaintiff's patent was invalid and that, accordingly, the government need not pay royalty compensation to the plaintiff.

The Commercial Litigation Branch handled government claims exceeding \$500 million in bankruptcy proceedings and dealt with sensitive issues concerning the extent, if any, to which the provisions of the Bankruptcy Code might be construed to override the government's regulatory and contracting authority. An example of this latter problem was the government's successful defense against a bankruptcy court's attempt to allocate airport landing slots in one bankruptcy proceeding. In addition, Branch attorneys participated heavily in both judicial and legislative consideration of the continuing operation of the bankruptcy courts after the Supreme Court's decision declaring the jurisdictional provisions of the Bankruptcy Code to be unconstitutional.

Branch attorneys continued to defend the government in cases arising out of grant, loan and contract programs. Based on client agency referrals, Branch attorneys also initiated litigation in significant bankruptcy matters, subsidy or insurance undertakings by the government, foreclosures, reparations claims, and veterans' claims. At year's end, the Branch was defending a proposed class action in which the plaintiffs claimed that the armed services wrongfully terminated proficiency pay to which service members were entitled. In this case, damages could run as high as \$700 million.

Commercial Litigation Branch attorneys also supervised and initiated collections of all judgments resulting from litigation Divisionwide. This included collection efforts on over 50,000 Department of Education defaulted student loans referred to the U.S. Attorneys' offices, and over 90,000 Veterans Administration educational benefit claims.

Branch attorneys represented the United States in affirmative and defensive foreign litigation involving significant sums of money. For example, Branch attorneys attached \$2.5 million in Swiss bank accounts and instituted suit in Switzerland asserting claims to these monies on behalf of the United States. Branch attorneys also successfully defended eight suits brought by Italian contractors seeking \$10 million from the United States for contract cost increases resulting from inflation and price escalation.

During the year, Branch attorneys worked on a number of legislative and regulatory proposals of interest to client agencies. Attorneys assisted in the preparation of an administrative penalties draft bill, which would enable agencies to impose direct administrative sanctions for certain frauds, and governmentwide suspension/debarment procedures.

Branch attorneys devoted time to non-case related activities such as the preparation of responses to congressional and public inquiries and Freedom of Information Act and Privacy Act requests. Branch attorneys also organized and served as instructors at four week-long seminars on bankruptcy that were presented to U.S. Attorneys and agency counsel around the country.

## Torts

The Torts Branch defends the United States and its officers and agents against claims for damages arising from alleged negligent or wrongful acts of government employees. The Branch also prosecutes affirmative tort claims on behalf of the government.

In the past year, the Torts Branch handled a wide range of litigation. Its docket now encompasses not only traditional problems in torts law, such as medical malpractice and aircraft accidents, but also novel developments such as

asbestos and other toxic substances litigation, *Bivens* suits, radiation litigation, and regulatory torts. The Branch also maintains an extensive admiralty and maritime practice.

Branch attorneys continued to handle cases arising from the swine flu immunization program. Although a majority of these suits have been resolved, the remainder represent potential awards of millions of dollars. The Branch continues to litigate a large number of medical malpractice suits and has successfully defended the government in a significant number of such cases.

Asbestos litigation is on the brink of becoming the largest single case type in legal history. By the end of Fiscal Year 1983, the Branch was defending over 1,700 cases involving \$7 billion. By 1985, it expects to be defending over 11,000 asbestos cases involving over 90,000 claimants and more than \$42 billion.

Branch attorneys continued to litigate claims against the government for damages arising from exposure to other toxic substances. These claims focus on government regulation of toxic substances, use of government facilities or property in the manufacture or distribution of toxic substances, and government action in the chain of distribution.

An increasing number of government officials, including Cabinet-level officers, are being sued personally. The Branch handles these so-called *Bivens* cases. These cases are inherently sensitive and warrant close review by Department officials. Moreover, the rapidly changing law in this area complicates litigation.

Radiation litigation continues to increase. The Branch actively defended government contractors involved in nuclear activities such as weapons testing. While the details of the Branch's responsibilities are being resolved, it is clear that the Branch will remain actively involved in radiation litigation for many years to come.

There has also been an increase in the number of lawsuits brought against the government arising from the alleged failure of regulatory agencies to perform properly their inspection, examination, and enforcement responsibilities. In recent years, suits have been based on such diverse regulatory functions as mine safety, food and drug laws and consumer protection activities. Branch attorneys have defeated claims for \$40 million in damages for alleged negligence in federal management of a multistate PCB contamination incident.

Torts Branch attorneys have continued to represent the United States in aviation litigation. Of particular importance is the litigation stemming from the crash of an Air Florida Boeing 737 in Washington, D.C., on January 13, 1982, which the Judicial Panel on Multidistrict Litigation consolidated in the U.S. District Court for the District of Columbia. Both direct and third-party actions had been filed against Air Florida, Boeing, American Airlines, the United States and others. In January 1983, after extensive discovery and almost

100 depositions, all actions against the United States were dismissed. This case marked the first time that the government obtained a dismissal of all claims and did not pay any money in an action arising from a major airline disaster.

The Branch also has the responsibility for maritime litigation including the defense of seamen in personal injury suits, the Coast Guard in suits involving aids to navigation, and the Navy and Corps of Engineers. Branch attorneys have been involved in the bankruptcy of Pacific Far East Lines, the largest steamship operator in the country. This has resulted in a settlement of approximately \$39 million for the government.

In 1982 the Torts Branch also filed a number of affirmative suits seeking recovery of millions of dollars for damage to government agency property.

In the area of management, the Branch instituted measures to handle its growing caseload more efficiently. The Branch used moot courts to train its attorneys and to prepare them for specific court appearances. To alleviate the burden of an increasing caseload, some agency attorneys were formally assigned to the Branch or handled torts litigation directly under the supervision of Branch personnel. Finally, the Branch initiated the use of structured settlements in both personal injury and wrongful death claims. The use of reversionary trusts, annuities, and similar devices saved the U.S. Treasury millions of dollars in costs associated with settling major damage claims.

## Federal Programs

The Federal Programs Branch defends the integrity and enforcement of agency programs, policies, initiatives and decisions. In recent years, increasing numbers of vital government programs have been challenged in the courts, and the Branch is looked to by the agencies to defend their decisions and interests. The Federal Programs Branch provides such representation to ensure that the Administration's policies and decisions are not frustrated.

The Branch represents in civil litigation the United States and its nearly 100 departments and agencies, Members of Congress, the federal judiciary, Cabinet members, and other federal executives, officers and employees. Most of the litigation is defensive in nature, such as suits challenging Presidential or agency policies or programs, and/or the constitutionality of statutes. However, the Branch also receives numerous requests from agencies for the initiation of affirmative civil suits. Much of this affirmative litigation involves suits seeking to enforce regulatory programs such as the Department of Transportation's rules on truck sizes and routes and the remedying of automobile safety defects by manufacturers.

Litigation is divided into nine general functional areas:

regulatory enforcement (affirmative suits); government employment (public and regulated private employment practices); freedom of information and privacy; human resources (social security, Medicare/Medicaid, food stamps and health planning); housing and community development; national security and foreign relations; interior, agriculture and energy; interstate and foreign commerce; and independent agencies and government corporations.

In the past year, the Branch handled a variety of litigation of national and international significance. During the summer of 1982, the Branch successfully defended legal challenges to the Department of Commerce orders enforcing the Presidential embargo on U.S. oil and gas goods and technology destined for use on the Soviet Gas Pipeline. By prevailing in these suits, the Branch preserved the legal force of the Administration's foreign policy initiative against the Soviet Union.

Litigation handled by the Branch also directly affects federal entitlements expenditures. Every entitlements program enacted by Congress generates civil litigation. Most of these suits are brought by special interest groups challenging restrictive statutory provisions and regulations promulgated by the agencies administering the various programs. In effect, these plaintiffs seek to enlarge the class of beneficiaries designated by Congress. Agencies estimate that the cost of benefits awarded by courts could run into billion of dollars over the life of the entitlements programs.

Branch attorneys also handled litigation involving reductions in appropriations for the Impact Aid program, which provides federal funds for local school districts that educate federally-connected children. Several school districts attempted to impose tuition for the education of children living on military bases. After additional appropriations and alterations in the allocation formula by Congress, however, some school districts dropped their tuition plan. One case, against Onslow County, North Carolina, remains and is now on appeal. The Branch opposed this tuition plan, arguing that it is preempted by the tax immunity provisions of the Soldiers Civil Relief Act, violates the Supremacy and Equal Protection Clauses by discriminating against members of the armed services, and violates the county's school construction contracts with the United States, in which the county agreed to educate federally-connected children in return for federal construction grants. The Department of Education has estimated that the annual cost of educating federally-connected children throughout the country could be as high as \$500 million.

The Branch also handled a large number of suits brought by plaintiffs seeking disclosure of government documents under the Freedom of Information Act. In one case, a court held that sensitive Department of Justice documents relating to its investigation of possible misconduct by ABSCAM prosecutors were exempt from disclosure under the Act.

The Branch also handled many cases involving health and social programs. For example, the Branch has been defending newly promulgated regulations of the Department of Education that establish student loan program eligibility standards necessary to implement reductions in the program. In a significant Medicaid case, the Branch defeated the State of California's claim that the Department of Health and Human Services was obligated to promulgate a tolerance level for claims processing errors. Had the state prevailed, millions of dollars in increased program expenditures would have resulted throughout the country.

During the past year the Branch represented the Department of Agriculture in nearly a dozen lawsuits challenging the Secretary of Agriculture's imposition of two fifty-cent per hundredweight assessments on dairy producers' commercial sales of milk. The assessments, authorized by the Omnibus Budget Reconciliation Act of 1982, are designed to reduce overproduction (presently in excess of 10 percent of national demand) and excess expenditures of tax money to make required purchases of milk products through the milk price support system (\$2.3 billion last year). In defeating these challenges in several districts, the Branch enabled the Department of Agriculture to collect more than \$3 million each day to offset support purchases.

The Branch also litigated a number of cases involving sensitive foreign relations issues. For example, Branch attorneys defended the government when its military presence in El Salvador was challenged. The court dismissed this suit on the grounds that it presented a non-justiciable political question.

On August 2, 1983, the Branch filed a suit against General Motors Corporation in the U.S. District Court for the District of Columbia seeking the recall of 1.1 million automobiles known as "X-cars" and the imposition of civil penalties amounting to more than \$4 million. This is the first case brought under the National Traffic and Motor Vehicle Safety Act that seeks civil penalties against a manufacturer for providing false information to the National Highway Traffic Safety Administration during the course of a defect investigation.

The Branch has also been drawn into the burgeoning litigation concerning the Washington Public Power Supply System (WPPSS) nuclear power plants. Bonneville Power Administration, a part of the Department of Energy, is involved with financing the construction of three of the five plants. When WPPSS defaulted on the bonds for the other two plants in mid-1983, litigation erupted over the rights and responsibilities of the many participants, contractors, bondholders and others. The Branch has devoted substantial resources to defending the government's interest in this litigation.

Finally, in the area of client relations, the Branch continues to initiate and participate in meetings and conferences with

client agencies and provide counsel in interpreting legislation. Branch personnel have served as panel participants at the Attorney General's Advocacy Institute, on the civil litigation panel at the Joint Justice Intelligence Community Conference, and on information and privacy issues.

## Appellate Staff

The Appellate Staff defends the interest of the United States in litigation in federal and state courts of appeals, and prepares documents for filing by the Solicitor General in the Supreme Court. While many judgments entered at the trial court level are favorable to the government, they are often appealed by the opponents and must be defended on appeal. Similarly, adverse trial court decisions must be analyzed, and appeals filed and prosecuted, if the government's interest is to be fully protected. Several major federal statutes require direct review of administrative decisions at the appeals court level. The litigation handled by the Appellate Staff involves appeals in all areas within the jurisdiction of the Civil Division, and review of administrative decisions at the appeals court level. The clients of the Appellate Staff include all departments and agencies of the U.S. government, Members of Congress, Cabinet members, and other federal executives acting in their official capacities.

During the past year, the Appellate Staff handled a variety of litigation of national significance both in the Supreme Court and various courts of appeals. In a major administrative law case, the Supreme Court vacated a District of Columbia Circuit opinion that had applied an intensified standard of review to the question of whether the Department of Transportation had properly withdrawn the passive restraint standard (airbags or passive belts) for automobiles. While the Court concluded that the Department of Transportation had acted arbitrarily in failing to give consideration to the various options, the Court remanded the case to the agency in order that an adequate justification for the administrative action could be advanced. This decision clarifying the proper scope of review should assist the Administration in defending other deregulation efforts.

In a federal employee case, the Supreme Court accepted the Appellate Staff's argument that a federal employee could not maintain a *Bivens* suit against his supervisor for alleged constitutional violations arising out of a personnel dispute. This decision brought an end to seven years of litigation and will result in the dismissal of numerous pending *Bivens* actions arising out of federal personnel disputes. In a related case, the Supreme Court held that *Bivens* suits could not be brought by servicemen against their commanders.

In a major regulatory decision, the District of Columbia Circuit upheld nearly all of the regulations issued by the Secretary of Labor in 1982 making several significant changes

in Department of Labor policy under the Davis-Bacon Act. By allowing most of these regulations to be implemented, the District of Columbia Circuit decision will likely enable the government to save hundreds of millions of dollars a year in federal construction costs, as previous practices that unduly inflated construction wages are abandoned.

Veterans Administration regulations have for more than 50 years denied routine pregnancy as a "disability" qualifying veterans for no-cost hospital and outpatient care. The district court held that this definition of disability was arbitrary, capricious, and beyond its statutory authority. The Appellate Staff appealed the decision and the District of Columbia Circuit reversed, holding that the regulations were reasonable and constitutional. The Veterans Administration estimates that this victory will save \$13,450,000 in Fiscal Year 1983; \$14 million in 1984; \$15,150,000 in 1985; \$16 million in 1986; and \$16,950,000 in 1987.

The Secretary of Agriculture, in order to reduce serious overproduction of milk, imposed a fee on milk production. Rejecting a challenge by the dairy industry and reversing the district court, the Fourth Circuit upheld the validity of the Secretary's action. The fee upheld by the Appellate Staff has produced revenue in excess of \$250 million.

## Consumer Litigation

The Office of Consumer Litigation was established within the Civil Division by a reorganization in 1983. Prior to this reorganization, the functions of this Office were part of the Antitrust Division. The Office has responsibility for litigation under federal statutes that protect the public health and safety and regulate unfair and deceptive trade practices in interstate commerce. The Office initiates affirmative litigation to: 1) ensure that unsafe and adulterated foods and drugs do not reach the marketplace; 2) protect the integrity of the drug approval process; and 3) enforce federal policies in the regulation of foods. The Office defends challenges to federal policies and initiatives aimed at protecting the public in their purchase of foods, drugs, devices and consumer products. Through the initiation of grand jury and criminal proceedings under the federal statute prohibiting odometer tampering, the Office addresses a pervasive economic fraud estimated to cost the public as much as \$1 billion a year. Affirmative litigation covers such areas as hazardous and unsafe household products; unfair debt collection and consumer credit practices; franchising; door-to-door and mail order sales; enforcement of administrative orders relating to price fixing and divestiture; unfair and deceptive advertising practices; and cigarette and automobile labeling. In addition to litigation at the district court level, the Office handles most consumer litigation at the appellate court level.

In addition to specific casework, the Office provides

counsel to a number of federal agencies such as the Food and Drug Administration, Federal Trade Commission, and the Consumer Product Safety Commission with respect to enforcement matters and proposed consumer protection litigation. The Office also serves as the clearinghouse and resource point within the Department of Justice for consumer-related programs and issues. The Office participates in the federal government's informal consumer groups, and on occasion responds to state government inquiries on consumer-related issues of concern to the federal government.

During the year, the Office reviewed various legislative proposals. In December 1982, it drafted testimony for the Criminal Division and suggested statutory language relating to a bill that would have imposed new criminal sanctions against persons who tamper with foods, drugs and other consumer products. While the bill was passed by Congress, it was vetoed by the President because it was part of a bill which he found objectionable on other grounds. The testimony and statutory language prepared by the Office were incorporated into the Administration's subsequent legislative proposal directed at product tampering, which became law in October 1983.

## Immigration Litigation

The Office of Immigration Litigation was established through a reorganization in early 1983 to protect the interests of the United States in connection with federal civil litigation challenging the government's programs, policies and initiatives under the immigration and naturalization laws. The Office is responsible for handling a wide variety of immigration cases, the most prominent of which include major class actions attempting to halt or otherwise frustrate law enforcement. Current examples of such cases include a challenge to the manner in which the INS adjudicates its administrative cases involving excludable Haitians who may or may not be seeking asylum, a challenge by Salvadorans who claim that the INS coerced them into agreeing to return to El Salvador without being advised of the opportunity to apply for asylum, a challenge to the authority of the United States to protect the public through continued detention of allegedly dangerous Cubans who arrived during the 1980 Cuban flotilla, and cases attacking the manner in which the INS conducts its efforts to locate and apprehend illegal aliens in the United States. Cases such as these could severely hamper the ability of the INS to enforce the laws enacted by Congress and weaken the government's ability to respond to the continuing influx of undocumented aliens attracted to the United States by the job opportunities available here.

Another area of responsibility of the Office of Immigration Litigation is the defense of petitions for review

filed by individual aliens in the courts of appeals to challenge orders of deportation. Representation of the INS in this regard has been consolidated because of the substantive expertise needed to deal effectively with both the sophisticated and the routine attacks on deportation orders. Effective representation in these cases is important to the mission of the INS, since an adverse ruling in one petition for review may result in numerous similar challenges being made by aliens who desire the automatic statutory stay of deportation.

Another area of concern to the INS involves *habeas corpus* actions filed in district courts by aliens to challenge their confinement or their orders of exclusion from the United States. These cases often entail political asylum claims that have been rejected administratively. Successful defense of these actions, which are often filed on the eve of the alien's removal from the United States, is very important to the operation of the INS. A loss in one case could translate into a series of defeats in factually or procedurally similar cases, adversely affecting INS's enforcement activities. Even delays in deportation are partial victories for the aliens and may give other aliens the impression that they too may be able to enjoy the benefits of life in the United States without the need to comply with visa requirements.

There has been an increase in the number of *Bivens* suits against government officials responsible for immigration enforcement. It appears that attorneys representing aliens file these suits to gain leverage against the government in settlement negotiations, offering to release the officials from any personal liability if the government settles the case in their clients' favor. This is a significant area of concern to Office of Immigration Litigation attorneys, who are involved in the defense of such cases either personally or through the process of deciding whether the official should receive representation at government expense. Effective representation is crucial to maintaining the morale of those who are charged with enforcing the law.

## Regulatory and Legislative Affairs Staff

The Division established the Office of Regulatory and Legislative Affairs in February 1983. This Staff serves as the principal advisor to the Assistant Attorney General on regulatory and legislative policy issues. As such, it participates in policy decisions relating to all Civil Division functions, coordinates preparation of responses by the Division to requests for comments on legislation and inquiries for information on Division actions, and coordinates Division communications on regulatory and legislative matters with the Department's Office of Legislative Affairs, the Office of Management and Budget, and the Congress.

Attorneys in the Office work with litigating attorneys to

develop legislative or regulatory proposals that might obviate the need for further litigation. As these proposals are developed, the Staff works to ensure that the proposals are considered by the responsible agency and the Office of Management and Budget and, in the case of legislative proposals, by Congress.

In the past year, the Regulatory and Legislative Affairs Staff has developed regulatory proposals to modify Veterans Administration personnel procedures and Medicare regulations. The Staff has worked on legislative initiatives in the areas of program fraud, debt collection, amendments to the Medical Care Cost Recovery Act, and judicial review of entitlement decisions.

The Staff also monitors legislative proposals in Congress that may affect litigation conducted by the Civil Division. The Staff has prepared testimony and comments on subjects such as amendments to the Federal Tort Claims Act, proposals to indemnify government contractors, and the reauthorization of the Equal Access to Justice Act.

## Management and Administration

The Civil Division is managed by the Assistant Attorney General and five Deputy Assistant Attorneys General as shown on the Division's organization chart.

The Division's management and administrative accomplishments are reflected in the results of the activities of its branches, offices, and staffs. During the year, the Division expanded its major management improvement programs, maintained its remarkable record of litigation successes, and designed new management programs for the future.

In early 1983, the Division was reorganized to provide executive leadership for two new areas of litigation transferred to the Division from other parts of the Department. Added to the existing litigating branches (Commercial Litigation, Federal Programs, Torts, and the Appellate Staff) were the new Office of Immigration and Consumer Litigation and the Office of Regulatory and Legislative Affairs. As a result, the Department can now effectively provide litigation support for the Administration's initiatives to enforce immigration laws and laws affecting the health and safety of American consumers, and provide Divisionwide direction on regulatory and legislative matters.

The Division has expanded its automated information systems to assist its attorneys in the litigation of their rapidly growing and increasingly complex caseloads. The most significant accomplishments were the implementation of AMICUS (Automated Management Information Civil User System) and the expansion of the Division's automated litigation support programs.

Through AMICUS, the Division is bringing to the desk of every Division attorney and support person direct access to the automated information systems. These systems include case management systems housed on the Division's computer, the Department's legal research system (JURIS) and financial management information systems; the legal research data bases of WESTLAW, LEXIS, and NEXIS; and the numerous automated litigation support data bases being established in the Department's computers. AMICUS also includes an integrated word processing system and a telecommunications network that facilitates electronic communication and the transmittal of documents and other information between Division offices located across the country.

The Division has continued its efforts to ensure the integrity of its financial and program management activities. In response to enactment of the Prompt Payment Act, the Division's formal procedures for initiating fund obligations and processing payment invoices were revised, greatly reducing the interest penalties caused by delayed payments. In addition, the Division designed and conducted an assessment of the vulnerability of all Division programs to waste, fraud, abuse, and mismanagement, and established internal controls to minimize potential vulnerability.

The Division has continued to improve its ability to locate and attract highly qualified personnel through such programs as the Department's Honor Graduates Program and the Summer Law Interns Program, in addition to continuing its volunteer service programs for undergraduates and high school students. The Division's continued efforts to improve the quality of its management staff include its innovative Senior Executive Service Lecture Series, its Senior Executive Service Candidate Development Program, and the increased participation of all levels of management personnel in executive and management development programs.

The Division has a Freedom of Information and Privacy Act Unit that reviews and processes all Freedom of Information Act and Privacy Act requests for Civil Division records. This Unit also prepares annual reports and serves as a liaison with other divisions and agencies. Since the time-consuming function of reviewing requested files represents a large portion of the workload, the Unit is supervised by an attorney but staffed primarily by paralegals, who perform these duties in the most cost-effective manner. During the past year this Unit substantially reduced the number of outstanding requests. Intensified efforts to work with Division file room personnel to locate and retrieve relevant case files and increased contact with requestors have decreased the average processing time for all but the most complex requests.

## Civil Rights Division

### Wm. Bradford Reynolds Assistant Attorney General

The Civil Rights Division was established in 1957 following enactment of the first civil rights statute since Reconstruction. The Division is staffed by 170 attorneys and 198 support personnel, who were organized during Fiscal Year 1983 into seven major enforcement sections and one administrative section.

The Division enforces the Civil Rights Acts of 1957, 1960, 1964, and 1968; the Voting Rights Act of 1965, as amended in 1970, 1975, and 1982; the Equal Credit Opportunity Act; and civil rights provisions in numerous other statutes. These laws prohibit discrimination in education, employment, credit, housing, public accommodations and facilities, voting, and certain federally funded and conducted programs. The Division also enforces the Civil Rights of Institutionalized Persons Act of 1980 (CRIPA), which authorizes the Attorney General, after exhausting all settlement prospects, to sue to redress systematic deprivations of constitutional and federal statutory rights of persons confined in state and locally operated institutions.

In addition, the Division prosecutes actions under several criminal civil rights statutes; coordinates the civil rights enforcement efforts of federal agencies whose programs are covered by Title VI of the 1964 Act, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, as amended, and various program-specific civil rights statutes; and assists federal agencies in identifying and eliminating sexually discriminatory provisions in their policies and programs.

Five of the enforcement sections used in Fiscal Year 1983 had jurisdiction over particular subject areas (i.e., education and housing, employment, voting, institutionalized persons and criminal matters); a sixth was largely responsible for regulatory matters; and the seventh handled legal counseling and appellate matters. Special Counsel for Litigation handled complex, massive, or sensitive cases which could not be undertaken by the sections.

During the fiscal year, the Division initiated or participated in 61 civil suits, brought 54 criminal actions against 85 defendants, and reviewed over 3,000 submissions under Section 5 of the Voting Rights Act (more than in any previous year of the Act's existence). At the end of the year, the Division had approximately 2,647 cases and matters under its supervision.

In accordance with the Attorney General's emphasis on combating violent crime, the Criminal Section of the Division placed a greater emphasis on the prosecution of matters

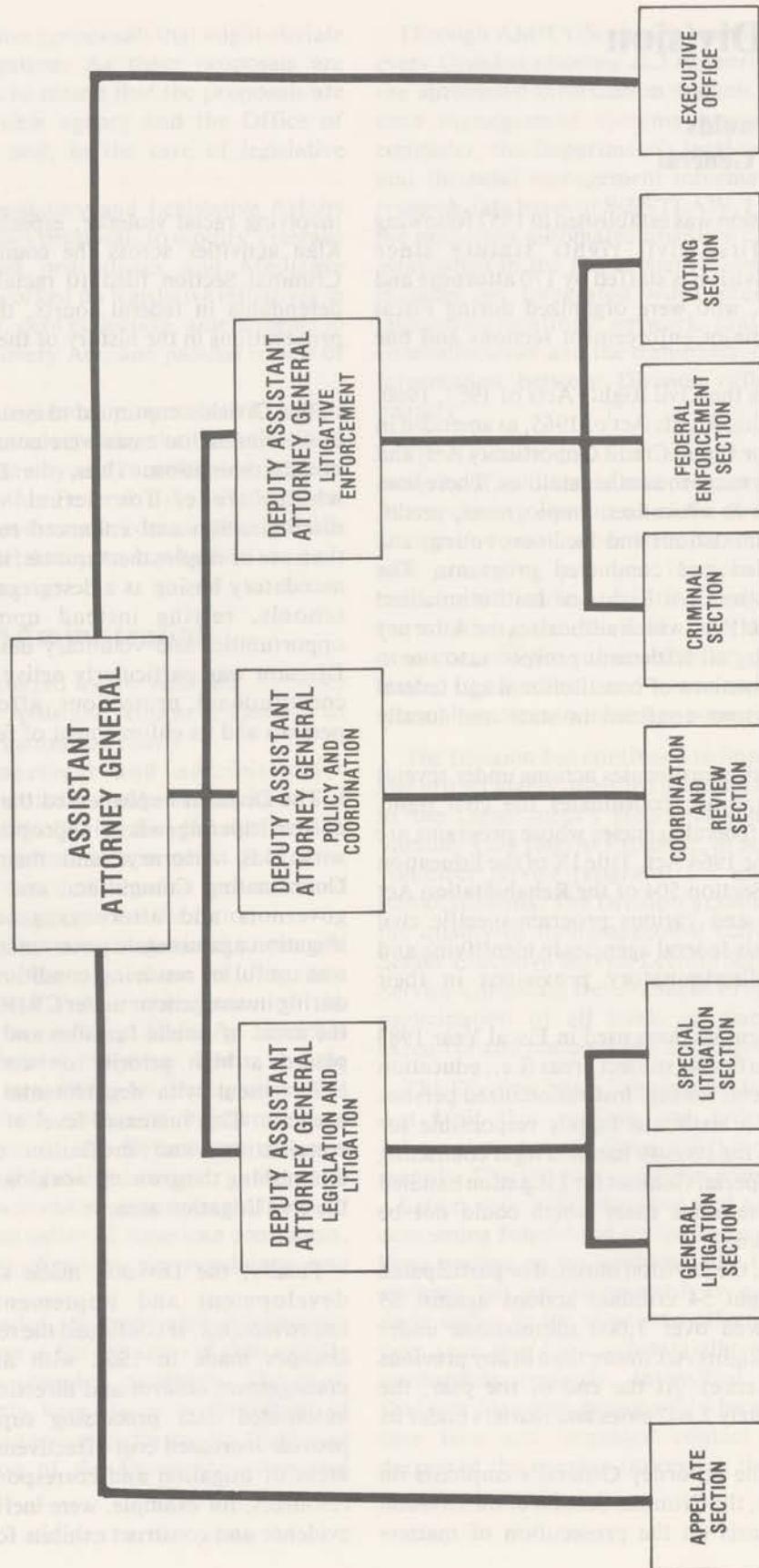
involving racial violence, especially the increased Ku Klux Klan activities across the country. During the year, the Criminal Section filed 10 racial violence cases against 23 defendants in federal courts, the largest number of such prosecutions in the history of the Section.

The Division continued to ensure that the remedies sought in discrimination cases were consistent with the principle of nondiscrimination. Thus, the Division advocated "make whole" relief for actual victims of employment discrimination and enhanced recruitment practices rather than use of employment quotas; it continued to oppose use of mandatory busing as a desegregation remedy for the public schools, relying instead upon enhanced curriculum opportunities and voluntary desegregation incentives. The Division was particularly active in its enforcement of the constitutional protections afforded to institutionalized persons and its enforcement of federal funding statutes.

The Division implemented the Attorney General's policy of participating where appropriate in cooperative actions with U.S. Attorneys and their local Law Enforcement Coordinating Committees, and undertook to notify state governors and attorneys general before commencing litigation against state governmental entities. This approach was useful in resolving conditions found in state facilities during investigations under CRIPA, and in resolving issues in the areas of public facilities and busing. The Division also placed a high priority on coordination of civil rights enforcement with departmental components and federal agencies. This increased level of consultation, negotiation, conciliation, and mediation of issues should aid in diminishing the growing workload of the federal judiciary in the civil litigation area.

Finally, the Division made significant progress in the development and implementation of management improvements. It continued the refinement of organizational changes made in 1982 with an increased emphasis on management control and direction. The Division improved automated data processing support for its activities to provide increased cost-effectiveness and productivity in the areas of litigation and correspondence control. Computer resources, for example, were increasingly utilized to analyze evidence and construct exhibits for use in trials.

## CIVIL RIGHTS DIVISION



## Appellate Section

The Appellate Section is primarily responsible for all Division cases in the Supreme Court and the courts of appeals, for legislative matters, and for providing legal counsel on legislative and other issues to federal agencies and other divisions within the Department. The Section is responsible for Division participation with the Office of the Solicitor General in the handling of civil rights cases in the Supreme Court, and solicits the views of its client agencies with respect to all litigation which involves those agencies. The Section participates as a party and as *amicus curiae* at both the Supreme Court and courts of appeals levels. Most of the Section's litigation as a party involves appeals from district court judgments in cases originally handled by Civil Rights Division trial sections.

During the past year, the Supreme Court issued six merits decisions in Division cases, five of which were consistent with the government's position. The Court, in three prominent voting rights cases, held: 1) that a district court has discretion to condition preclearance of an electoral plan on the elimination of a majority-vote requirement in order to compensate for the plan's possible dilution of minority voting strength,<sup>1</sup> 2) that although the adoption of a city home rule charter had not produced retrogression in Mexican-American voting strength, it constituted a change subject to preclearance under Section 5 of the Voting Rights Act,<sup>2</sup> and 3) by summary affirmance, that use of a state reapportionment formula which resulted in a substantial deviation from the "one person-one vote" principle of the Fourteenth Amendment was impermissible.<sup>3</sup>

The circuit courts of appeals rendered 35 merits decisions, of which 30 were in accord and one was in partial accord with the Division's contentions. The issues involved in these cases included employment discrimination, school desegregation, the rights of persons confined to institutions, and criminal and voting rights violations. In the area of employment, for example, the Fifth Circuit, on remand from the Supreme Court, reinstated a prior decision that the seniority system of a large utility company was the product of discriminatory intent,<sup>4</sup> and the Ninth Circuit held constitutional a regulation of the Department of Housing and Urban Development directing Indian Housing Authorities to extend contracting preferences to Indian-owned businesses.<sup>5</sup> Among the decisions involving public education, the Fifth Circuit upheld a district court decision implementing a desegregation plan for grades four through 12 in a large dual school district,<sup>6</sup> and, in another case, held that a district court had not abused its discretion in closing two racially identifiable schools as a component of a comprehensive plan to dismantle a dual school system.<sup>7</sup> Among the dozen appellate decisions in criminal cases, the most publicized was the Tenth Circuit's affirmance of the conviction of a young man for killing two

joggers in Salt Lake City.<sup>8</sup>

During the year, the Section provided legal counsel to federal agencies and other divisions within the Department on pending cases, and provided advice respecting the promulgation and revision of federal regulations which affect the civil rights of minorities and women. Additionally, the Section commented on numerous legislative proposals, and testified before and prepared extensive factual material for congressional committees regarding the Division's civil rights enforcement record. Finally, the Section developed legislation which would significantly strengthen the enforcement provisions of the Fair Housing Act and extend the Act's protection to the handicapped.

## Coordination and Review Section

The Coordination and Review Section operates a comprehensive coordination program under Executive Order 12250, to ensure consistent and effective enforcement of Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and similarly worded federally assisted statutes that prohibit discrimination on the basis of race, color, national origin, sex, handicap, or religion in federal programs. The Section achieves this objective primarily through administrative oversight and evaluation of those executive agencies identified as administering programs subject to the executive order, and through governmentwide coordination of related legal, regulatory, and policy issues.

The Section has responsibility for the review of civil rights regulations proposed by federal agencies. During 1983, the Section reviewed for substantive legal and policy considerations proposed regulations from the Departments of Labor, Health and Human Services, Transportation, Education, Commerce, State, and Agriculture; the Environmental Protection Agency; the General Services Administration; the Small Business Administration; and the Federal Communications Commission.

The Section completed a review of over 50 existing agency regulations against a listing of "generic" civil rights regulatory issues and against listings of specific issues related to each individual statute to ensure governmentwide consistency, clarity, and adequacy.

In 1978, Congress amended Section 504, which prohibited discrimination on the basis of handicap in federally assisted programs, to extend its coverage to include programs and activities *conducted* by executive agencies and the U.S. Postal Service. On April 15, 1983, the Department of Justice distributed to over 90 agencies a prototype regulation for the agencies to use, to the extent they choose, in developing regulations for their own programs and activities. The

Section is working closely with these agencies in their development and promulgation of regulations.

Issues relating to Executive Order 12250 are frequently the subject of litigation, and the Section provides legal and policy guidance for litigation activities within the Department of Justice and for other executive agencies. During Fiscal Year 1983, the Section participated in the drafting of over 40 litigation documents.

The Section has established an ongoing network to communicate policies to, provide technical assistance to, and monitor the activities of covered federal agencies. This network makes possible the continuing review of agency civil rights program operations in order to identify technical assistance needs and assess compliance with existing Department of Justice standards and policies. In its coordination and clearinghouse capacity, the Section received, referred, responded to, and provided technical assistance on a variety of citizen, agency, and congressional inquiries. Action frequently involved determining appropriate agency jurisdiction and coordinating referral and subsequent action when more than one agency had jurisdiction. Through annual updates of agency implementation plans, the Section assesses agency civil rights programs from year to year and reviews productivity among agencies. During 1983, the Section recommended for approval 28 agency implementation plans and reviewed 25 Office of Management and Budget Circular A-11 budget submissions from agencies. The Section has also aided in the establishment of basic goals and rudimentary programs in several agencies with small or new civil rights programs.

Approximately 60 formal complaints about civil rights programs of agencies were received, referred to appropriate agencies, and monitored at the agency level by the Section. A comprehensive model delegation agreement was developed to allocate more cost-effectively the civil rights enforcement efforts of agencies. The Section worked closely with the Equal Employment Opportunity Commission to develop a joint Department of Justice/Equal Employment Opportunity Commission regulation that establishes uniform procedures for handling employment discrimination complaints filed against recipients of federal financial assistance.

The Section developed more than 300 legal and policy interpretations concerning Executive Order 12250, and initiated a governmentwide survey to determine the most cost-effective methods to meet the civil rights training needs of federal agencies. During the year, the Section conducted 37 training sessions for other federal agencies and public groups concerning civil rights statutes.

During 1983, the Section refined its internal management information system to provide greater utility in tracking and managing the Section's workload. A Congressional Tracking

System was implemented to keep the Section informed of salient legislative developments.

## Criminal Section

The Criminal Section enforces 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 federally protected rights. Other statutes prohibit the holding of individuals in peonage or involuntary servitude. The Section is also responsible for the enforcement of those provisions of the 1968 Civil Rights Act which prohibits the use of force or threats of force to injure or intimidate any person involved in the exercise of certain federal rights and activities.

During the year, the Section reviewed 10,457 complaints alleging criminal interference with civil rights; more than 3,200 of these complaints were investigated by the Federal Bureau of Investigation. The results of 54 investigations were presented to federal grand juries; 31 indictments were returned and eight informations were filed charging a total of 85 defendants (including 44 law enforcement officers). Twenty-one cases were tried, resulting in conviction for 28 defendants and acquittal for 14 defendants. In addition, 23 defendants pleaded guilty to violations of criminal civil rights statutes.

In keeping with the Department's concern about incidents of racial violence around the country, the Section has placed greater emphasis on the prosecution of these matters. The 10 racial violence cases filed this year represent the largest number of such prosecutions in the history of the Criminal Section. Charges were brought against 23 defendants, 10 of whom have tendered guilty pleas.

Investigations into complaints alleging summary punishment by law enforcement officials continued to account for much of the Section's activity.

The Section continued in its efforts to deter the victimization of migrant workers and other minorities in violation of the involuntary servitude and peonage statutes.

## Federal Enforcement Section

During Fiscal Year 1983, the Section filed 15 new suits and obtained 13 consent decrees in cases under Title VII of the Civil Rights Act of 1964, Executive Order 11246, and other provisions of federal law prohibiting discriminatory employment practices based upon race, religion, sex, and national origin. The decrees reflected the policies of the Department of seeking vindication of the rights of victims of discriminatory practices and eliminating unlawful practices, without seeking (and indeed opposing) preferential treatment

in hiring, promotion, assignment, or lay-offs for those who are not victims. The consent decrees provided for over \$2,087,500 in backpay awards to persons identified as having been harmed by prior practices, plus the elimination of unlawfully discriminatory practices and enhanced recruitment of the group(s) previously excluded. The amount of backpay was one of the highest ever obtained in a single year by the Division.

Most of the suits filed during the year alleged a pattern or practice of discriminatory conduct on the part of substantial employers. However, consistent with the Division policies of seeking to vindicate the rights of individual victims and supporting the efforts of the Equal Employment Opportunity Commission to obtain voluntary compliance, the Section also filed several suits referred from the Equal Employment Opportunity Commission involving allegations of discriminatory practices by relatively small public employers against one or a few victims.<sup>9</sup>

The fiscal year saw the implementation of several unprecedented initiatives by the Section in the field of equal employment opportunity. These included:

- the first lawsuit combining allegations of discriminatory housing policies and discriminatory employment practices by a municipality;<sup>10</sup>
- the entry of a consent decree in our first suit alleging a pattern of discriminatory employment practices against female faculty members of a college;<sup>11</sup>
- the first two cases by the Division alleging violations of the Pregnancy Discrimination Act, including one suit which involves the rights of over 9,000 women;<sup>12</sup>
- successful resolution of the Division's first suit alleging discrimination against women in the hiring and promotion of correctional officers and other personnel of a state department of corrections;<sup>13</sup>
- the first suits by the Division asserting discriminatory employment practices by a municipality against an individual because of his Jewish religion<sup>14</sup> and by a school board against an individual because of her Iraqi national origin.<sup>15</sup>

The fiscal year also saw the completion of many months of joint effort with the Equal Employment Opportunity Commission to reduce the duplication and waste that had resulted from federal fund granting agencies and the Equal Employment Opportunity Commission conducting separate investigations of the same complaints against the same employer. Those efforts resulted in adoption in January 1983 of a joint regulation which requires fund granting agencies to refer investigations of most individual complaints of discriminatory employment practices by recipients of federal funds to the Equal Employment Opportunity Commission, while retaining for investigation by the agency complaints of

systematic discriminatory employment practices or practices involving discrimination in both employment and services.<sup>16</sup>

### **Services Discrimination**

On November 30, 1982, the Section filed its first suit alleging that a large municipality had engaged and continued to engage in the provision of park services in a manner which discriminated systematically against blacks and Hispanics.<sup>17</sup> The suit was also the Division's first suit to enforce the nondiscrimination provisions of the Housing and Community Development Act of 1974.

### **General Litigation Section**

The General Litigation Section enforces the federal laws designed to ensure nondiscrimination in public elementary and secondary schools and colleges; the Fair Housing Act of 1968, which outlaws discrimination in residential housing; and the Equal Credit Opportunity Act, which forbids discrimination in all aspects of credit transactions.

#### **Education**

During Fiscal Year 1983, the education activities of the General Litigation Section involved a variety of issues. In the area of desegregation of institutions of higher education, the Section initiated a major new case to desegregate the state colleges and universities in Alabama.<sup>18</sup> There was also extensive activity in our ongoing suit seeking to desegregate state colleges and universities in Mississippi,<sup>19</sup> including a trial on the merits regarding segregation in the junior colleges in Hinds County and a systematic review of the desegregation progress of other junior colleges in the state already under court order.

There was considerable activity in many of the Section's cases seeking to assure equal educational opportunities for students in elementary and secondary school districts throughout the nation. Trial on the merits began in our case against Yonkers, New York, the first suit ever brought combining allegations of school and housing discrimination.<sup>20</sup> An investigation of classroom segregation in West Feliciana Parish, Louisiana, resulted in the Section's intervention in a school desegregation case involving that district and the entry of a consent decree enjoining the segregative activity.<sup>21</sup> In a case involving Americus and Sumter County, Georgia, school districts, the Section filed a motion seeking to stop segregative transfers.<sup>22</sup> In a case involving the St. Louis, Missouri, school district, the district court approved a settlement plan in which several suburban school districts agreed to participate in an interdistrict desegregation plan based on the voluntary transfer of students.<sup>23</sup> While the Division generally endorsed the settlement, it has contested certain of the funding

arrangements on appeal. And in a Chicago, Illinois, case, the district court, over our objection, required the federal government to provide substantial amounts of federal financial assistance for expenses of the desegregation plan being implemented there.<sup>24</sup>

The Section also negotiated consent decrees in cases involving Big Spring, Texas (school desegregation),<sup>25</sup> Simpson County, Mississippi (faculty discrimination and student transfers),<sup>26</sup> Pointe Coupee Parish, Louisiana (school desegregation),<sup>27</sup> and Temple, Texas (school construction).<sup>28</sup> The Section also completed trial in its long-standing case against the Massachusetts Maritime Academy,<sup>29</sup> involving alleged discrimination against women in admission practices, and the parties are awaiting a decision by the district court.

Defensive litigation handled by the Section resulted in successful dismissals of claims against the Department of Education. In a suit involving the Trenton, New Jersey, school district's agreement to implement a teacher reassignment plan negotiated by the school board and the Department,<sup>30</sup> a stipulation of dismissal was entered. In a suit brought by Hillside, New Jersey, parents challenging the Department of Education's role in supporting the State of New Jersey in its efforts to desegregate schools, the court granted the government's motion to dismiss.<sup>31</sup>

## Housing

In Fiscal Year 1983, the Section filed five new housing cases and successfully resolved five other suits. Two of the new cases involve allegations that large apartment management companies in California have discriminated on the basis of race and national origin. One company operates complexes in several parts of the state;<sup>32</sup> the other manages buildings in the Los Angeles area.<sup>33</sup> Two other cases charged that local government officials interfered with minorities seeking to exercise housing rights. In one, a virtually all-white suburb of Chicago is alleged to have harassed blacks who sought to move into the community;<sup>34</sup> the other alleges that a northern Michigan town unlawfully refused to provide water and sewer services for a development designed to provide housing for American Indians.<sup>35</sup> Finally, the fifth new suit alleged that trailer park owners in Alabama discriminated against blacks.<sup>36</sup> This case was resolved through the entry of a consent decree filed at the same time as the complaint.

In addition to the Alabama case, four other housing suits were resolved by consent decrees entered during the 1983 fiscal year. The decrees settled suits involving allegations of racial discrimination in the operation of apartment buildings in the Detroit<sup>37</sup> and New York<sup>38</sup> metropolitan areas; a case alleging that a suburb of Hartford, Connecticut, had discriminated against blacks by refusing to grant zoning changes necessary for a planned integrated development;<sup>39</sup> and litigation alleging that three race tracks in the State of

New York discriminated against women in the provision of housing to track workers.<sup>40</sup>

## Credit

During the fiscal year, the Section filed two suits under the Equal Credit Opportunity Act. The first alleged that a nationwide loan company discriminated on the basis of sex and marital status.<sup>41</sup> The second charged a Georgia credit union with discriminating against blacks and with failing to give rejected applicants the notice of adverse action required under the Act.<sup>42</sup>

The Section was also successful in securing a favorable decision and order in a Pennsylvania case where the court ruled that a company which sold cookware and other products primarily to college students and young single people discriminated on the basis of race, sex and marital status in violation of the credit laws. This was the first credit discrimination case tried on the merits by the Department of Justice.<sup>43</sup>

## Special Litigation Section

The Special Litigation Section is responsible for the protection of rights secured under Title III of the Civil Rights Act of 1964, which prohibits discrimination in public facilities on the basis of race, color, religion or national origin, and for the enforcement of provisions of Section 504 of the Rehabilitation Act of 1973, 29 U.S. Code 794, *et seq.*, the CIPA, 42 U.S. Code 1997, the Education of Handicapped Act, 20 U.S. Code 1401, *et seq.*, and the Revenue Sharing Act, 31 U.S. Code 1227, *et seq.*, which protect the rights of institutionalized and other handicapped persons. The Section also coordinates the U.S. Attorneys' enforcement of Title II of the Civil Rights Act of 1964, which prohibits discrimination in places of public accommodation.

This year the Section took action in 13 cases, including one case filed under CIPA,<sup>44</sup> and another under Title III of the Civil Rights Act of 1964.<sup>45</sup>

The Section handled cases pursuant to Section 504 of the Rehabilitation Act of 1973 in three different postures: as a plaintiff in an enforcement action, as *amicus curiae*, and as a defendant. The enforcement action, filed against the Baylor University Medical Center,<sup>46</sup> was originally referred to the Section in 1981 by the Department of Health and Human Services. It was initiated due to the refusal of Baylor to permit the Department of Health and Human Services access to its premises to investigate complaints regarding the provision of interpreter services for hearing-impaired persons. The government argued that receipt of Medicare funds by the hospital confers jurisdiction on the Department of Health and Human Services to investigate Section 504 complaints against the hospital. On June 7, 1983, our Motion for Summary Judgment was granted.

The Section also won a favorable decision in *Nelson v. Thornburgh*, a Section 504 case in which we participated as *amicus curiae*.<sup>47</sup> The court issued an opinion and order in favor of visually-impaired plaintiffs who had sued the state and their employer for payment of reader services. The third case concerning Section 504 involves an attempt by the Hinds General Hospital to block a Department of Health and Human Services investigation of a complaint filed against the hospital by a handicapped person.<sup>48</sup> The Section has recommended that this case be held in abeyance pending the decision of the Fifth Circuit in *Baylor*.

The Section has successfully completed negotiations regarding administrative segregation, access to courts, and building tender/security staffing in a case challenging conditions of confinement in the Texas prison system. In this case, the court has approved the access to court and administrative segregation plans<sup>49</sup> as well as the stipulation agreed to by the parties concerning the limited continued use of the prison infirmary.<sup>50</sup> In another important prison case concerning the Columbus Correctional Facility, the district court issued a temporary restraining order prohibiting the triple-celling of inmates.<sup>51</sup> An emergency order was subsequently issued allowing defendants to utilize an empty cellblock to house some inmates while awaiting implementation of a plan to transfer additional inmates to Lima State Hospital.<sup>52</sup>

Pursuant to the consent decree's requirements in the Bexar County Jail conditions case in which the government is *amicus curiae*, the Section filed a contempt motion regarding the inadequacy of defendants' plan for housing, classification, and treatment of seriously mentally ill and drug and alcohol-intoxicated inmates.<sup>53</sup> The Section entered into a consent decree concerning racial discrimination at the St. Landry's Parish Jail in the case of *Soileau and United States v. Phelps*.<sup>54</sup> The Section intervened in this case pursuant to Title IX of the Civil Rights Act of 1964 and the Revenue Sharing Act, 42 U.S. Code 1242 (G).

Section efforts on behalf of institutionalized mentally handicapped persons included the filing of a consent decree in a case concerning conditions at Forest Haven, a District of Columbia mental retardation facility.<sup>55</sup> Under the decree, which resolves the government's motion for contempt of the original 1978 consent decree and the appointment of a special master, defendants have agreed to place 100 Forest Haven residents per year in community residences culminating in its closure by 1988. Another noteworthy accomplishment of this Section was the entering of a settlement agreement which established systemwide standards for the use of psychotropic substances in all Texas state mental health facilities.<sup>56</sup> After lengthy settlement negotiations, the parties in *Connecticut Association for Retarded Citizens v. Thorne*, a case against the Mansfield Training School, entered into a settlement agreement.<sup>57</sup> The consent decree seeks to assure

professionally-based, individualized rehabilitation and placement for each class member. Some parent groups and the union are objecting to parts of the decree, however, and the Section is currently involved in court hearings on those objections.

The CRIPA, signed into law in May 1980, gives the Attorney General authority to initiate action on behalf of civilly and criminally institutionalized persons where "egregious or flagrant" conditions are believed to exist that deprive those persons of their federally protected statutory or constitutional rights. The Section filed its first independent (nonintervention) suit under CRIPA against the State of Hawaii after the state refused to permit the Division access to two state correctional facilities to investigate allegations of grossly unconstitutional conditions of confinement. Although the district court dismissed the complaint for failure to meet certain of the Act's prefiling requirements,<sup>58</sup> the Section is continuing discussions with state officials in order to proceed with the investigation.

The Section also initiated nine new investigations under CRIPA during the fiscal year. Three investigations were commenced in mental health facilities;<sup>59</sup> two were started in mental retardation facilities;<sup>60</sup> two concern jails;<sup>61</sup> and another two involve prisons.<sup>62</sup> There are currently 30 active investigations under the Act.

## Voting Section

This Section enforces voting laws, including 42 U.S. Code 1971 and 1974 and the Voting Rights Act of 1965, as amended in 1970, 1975 and 1982. These statutes are designed to ensure that all qualified citizens have the opportunity to register and vote without discrimination on account of race, color, membership in a language minority group, or age. The Section also enforces the Overseas Citizens Voting Rights Act.

Section 5 of the Voting Rights Act of 1965, as amended, requires that 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 to the Attorney General for administrative review. Changes not submitted and those that are not successfully "precleared" are not legally enforceable. The determination of the Attorney General, which must be made within 60 days of receipt of a complete submission, depends upon whether the proposed changes have the purpose or effect of discriminating on account of race, color, or language minority group.

During the year, over 3,000 submissions involving more than 10,000 voting-related changes were submitted to the Attorney General under Section 5. As had been anticipated, a major effort was necessary to continue the close analysis of

redistricting plans enacted to bring district boundary lines into conformity with the one person, one vote requirements, in the wake of the 1980 census. Over 1,650 changes involving redistricting have been received since 1980 census data became available to jurisdictions. Of this number, 388 changes were submitted this year, including 143 plans that changed the boundary lines of districts used in the election of county supervisors and justice court judges in the State of Mississippi.

In all, objections were interposed to 80 changes during the year (contained in 53 different submissions). In addition to objections to redistricting plans, these included an objection to a Mississippi law that would have increased the difficulty that black independent candidates face in gaining election; an objection to restrictions on voter registration procedures in Mobile County, Alabama; objections to the use of numbered positions where persons are elected at-large (in Kingsland and Hinesville, Georgia, and in Pleasanton and Stockdale Independent School District, Texas) or use of a majority vote requirement (in Lancaster, South Carolina), all of which would make it more difficult for minorities to elect candidates of their choice; and an objection to the use of at-large elections which would dilute minorities' voting strength in Tallapoosa County, Alabama, and Baldwin County, Georgia.

The Section participated in 11 new cases during the year, six as plaintiff or plaintiff-intervenor, two as *amicus curiae*, and three as defendant.

A case in which the Section intervened in 1981 was resolved when the court found that the at-large method of election diluted minorities' voting rights in Mobile, Alabama, and the parties agreed to a final order dividing the city into three single-member districts, one of which is approximately 65 percent black.<sup>63</sup> And a federal district court held, in three consolidated cases in which the Division had intervened as plaintiff, that the 1981 redistricting of the Chicago City Council violated Section 2, as amended in 1982, by changing to majority white two wards that had become majority black through natural population shifts, and by fragmenting portions of the city's Hispanic community.<sup>64</sup>

In two cases where the Attorney General had objected to changes submitted for review under Section 5, the Supreme Court ruled in accordance with the position of the United States. First, the Court found that a newly adopted method of election in the city of Port Arthur, Texas, failed to cure the dilutive impact on the city's minority voters that followed a series of territorial expansions by the city.<sup>65</sup> In addition, the Court found that the adoption of a home rule charter by the city of Lockhart, Texas, required preclearance under Section 5 and had produced no retrogression in the voting strength of Mexican-Americans.<sup>66</sup> In the Port Arthur case, the city subsequently adopted an election plan that was fair racially,

and our preclearance of the plan concluded that case as well as a companion case we had filed against the city.

Several three-judge panels of the U.S. District Court for the District of Columbia issued rulings in favor of the Department's position in voting cases. One panel decision rejected challenges to the constitutionality of the Voting Rights Act, as amended in 1982, and found that changes made in the method of government and methods of election in Sumter County, South Carolina, are subject to preclearance under Section 5.<sup>67</sup> In another case, the panel found "an astonishing pattern of racial exclusion and discrimination in all phases" of life in Pleasant Grove, Alabama, and denied the city's claim that there was no discriminatory effect from the city's actions in adding white voters but excluding black voters in its annexation decisions.<sup>68</sup> Other panels dismissed two suits brought by the State of Mississippi, one a Section 5 declaratory action brought after the Department administratively precleared the legislative redistricting plans for which the state sought judicial preclearance,<sup>69</sup> and a second requesting that the court find the state's congressional redistricting was without racial effect.<sup>70</sup> Meanwhile, a three-judge federal district court panel in Mississippi supported our claim that a school district's use of a majority-vote requirement should be enjoined for future elections because it had not received preclearance under section 5.<sup>71</sup>

In addition, objections last year to state legislative redistricting plans for Alabama and Texas resulted in the drawing of new redistricting plans which were ordered to be submitted for Section 5 review by the Attorney General, and subsequently were precleared. The new Alabama redistricting plan has been hailed as the first racially fair plan cooperatively adopted by blacks and whites in the history of the state. In separate actions relating to the application of Section 5 as well as the other special provisions of the Voting Rights Act, the Attorney General consented to court orders allowing Campbell County, Wyoming, and nine towns in Massachusetts to bail-out from (terminate) their special coverage under the Act after extensive investigation revealed that no literacy test had been used discriminatorily to deny the right to vote for the past 19 years.<sup>72</sup>

To improve future participation in vote dilution cases, the Section in September 1982 established a special team of attorneys to focus on litigation in this area. At the same time, the staff of the Section's litigation force was expanded to strengthen the vigorous overall Voting Rights Act enforcement program. These actions allowed the Section to review and respond to the extraordinary number of redistricting plans which were submitted by Mississippi counties in the months preceding the state's first primary election on August 2, 1983. In addition, the organizational and administrative actions allowed the Section to participate in six suits as plaintiff and plaintiff-intervenor this year as

compared with two such suits last year, and 4 such suits in 1981.

Finally, among the special provisions of the Voting Rights Act are those which 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, 1,058 observers were assigned to cover six elections in three states.

The Section maintained contact during the year with the Department of Defense's Federal Voting Assistance Program, the Federal Election Commission's National Clearinghouse on Election Administration, the Office of Personnel Management, and the U.S. Commission on Civil Rights to coordinate with and assist the personnel in those agencies who have responsibility for implementing programs relating to statutes enforced by the Section.

## Management Improvements

The Division has made significant progress in the development and implementation of management improvements and initiatives. It has continued the refinement of organizational changes made in 1982 with an increased emphasis on management control and direction.

In concert with the Attorney General's guidance, the Division has focused upon a policy of:

- Placing a high priority on civil rights enforcement coordination with other departmental components and federal agencies.
- Identifying criminal misconduct as it relates to the abuse of individuals' civil rights and voting rights.
- Moving toward an approach that employs an increased level of consultation, negotiation, conciliation, and mediation of issues, thereby aiding in diminishing the growing workload of the federal judiciary in the civil litigation area.

Management improvements were seen in the following areas:

- The Division was commended as having the best record within the Department regarding the use of its paralegal staff, exceeding the performance of many large law firms. The Division also prepared a paper on the effectiveness of paralegals for possible use by other divisions of the Department.
- The Division's expanded use of automated technology for its activities resulted in increased cost-effectiveness and productivity in the areas of litigation, administrative functions, and correspondence control. Computer resources, for example, were used to analyze

evidence and construct exhibits for use in trials. The Division was cited for the initiative displayed in developing computer applications which freed up attorney time and enhanced overall staff productivity.

## CITATIONS

- (1) *City of Port Arthur v. United States*, 51 U.S.L.W. 4033 (U.S. Dec 13, 1982).
- (2) *City of Lockhart v. United States*, 51 U.S.L.W. 4189 (U.S. Feb. 23, 1983).
- (3) *King v. Sanchez*, 51 U.S.L.W. 3252 (U.S. Oct. 4, 1982).
- (4) *United States v. Georgia Power Co.*, 695 F.2d 890 (5th Cir. 1983).
- (5) *Alaska Chapter, Associated Gen. Contr. v. Pierce*, 694 F.2d 1162 (9th Cir. 1982).
- (6) *United States v. Texas Education Agency (South Park ISD)*, 699 F.2d 1291 (5th Cir. 1983), cert. denied, 52 U.S.L.W. 3263 (U.S. Oct. 3, 1983).
- (7) *Valley v. Rapides Parish School Board*, 702 F.2d 1221 (5th Cir. 1983).
- (8) *United States v. Franklin*, 704 F.2d 1183 (10th Cir. 1983), cert. denied, 52 U.S.L.W. 3264 (U.S. Oct. 3, 1983).
- (9) See for example, *United States v. Lancaster Co. Sheriff*, Civ. No. 83-0136(P)(E.D. Va.); *United States v. Patrick Co. Sheriff*, Civ. No. 83-0094-D, (W.D. Va.); *United States v. Marietta (police dept.)*, Civ. No. 3-83-1875(A); *United States v. Hazelwood* (fire dept.), Civ. No. 83-2289-CV(E.D. Mo); *United States v. Kingsport Bd. of Ed.*, Civ. No. 83-316(E.D. Tenn.).
- (10) *United States v. Town of Cicero*, No. 83-C-0413(N.D. Ill.).
- (11) *United States v. Burlington Com. College*, No. 82-3255(D.N.J.). Consent decree entered 1/28/83.
- (12) *United States v. Buffalo Bd. of Education*, No. 83-366-C; *United States v. Rhode Island Dept. of Employment Security*, No. 83-0541(D.R.I.), which we believe involves the pregnancy benefits of over 9,000 women workers in Rhode Island.
- (13) *United States v. Indiana Department of Corrections*, Civ. No. P-80-1272-C. Consent decree entered 5/17/83.
- (14) *United States v. Hazelwood*, see no. 9 above.
- (15) *United States v. Kingsport Board of Education*, see no. 9 above.
- (16) "Procedures for Complaints of Employment Discrimination Against Recipients of Federal Financial Assistance," 48 Fed. Reg. 3570 (January 25, 1983), 28 C.F.R. 42.601, and 29 C.F.R. 1691.1, *et seq.* The regulation became effective on March 28, 1983, with respect to all federal fund granting agencies, except that with respect to the Education Department, where the procedures were only implemented in limited part because of the provisions of a court order in *Adams v. Bell*. See 48 Fed. Reg. 29686 (1983).
- (17) *United States v. Chicago Park District*, No. 82-C-7038(N.D. Ill.).
- (18) *United States v. State of Alabama*, C.A. No. 83-C-1676-5 (N.D. Ala.). Complaint filed July 11, 1983.
- (19) *Avers and United States v. Winter*, C.A. No. 75-9-K (N.D. Miss.).
- (20) *United States v. Yonkers Board of Education, et al.*, C.A. No. 80-CIV-6761 (S.D. N.Y.). Trial began August 1, 1983.
- (21) *Carter v. West Feliciana Parish School Board*, C.A. No. 3248-A(M.D. La.). Intervention granted and consent decree entered August 5, 1983.
- (22) *United States v. Americus and Sumter Boards of Education*, C.A. No. 2771 (M.D. Ga.). Motion filed October 29, 1982.
- (23) *Liddell and United States v. School District of St. Louis*, C.A. No. 72-C-100 (I) (E.D. Mo.). Settlement plan approved July 5, 1983.
- (24) *United States v. Board of Education of City of Chicago*, C.A. No. 80-C-5124 (N.D. Ill. 1983), *aff'd in part and vacated in part*, No. 83-2308 (7th Circuit September 9, 1983).
- (25) *United States v. Big Spring Independent School District*, C.A. No. 1-80-53 (N.D. Tex.). Consent decree entered December 5, 1982.
- (26) *United States v. State of Mississippi (Simpson County)*, C.A. No.

4706 (S.D. Miss.). Consent decree entered August 19, 1983.

(27) *Boyd and United States v. Pointe Coupee Parish School Board*, C.A. No. 3164 (M.D. La.). Consent decree entered July, 1983.

(28) *United States v. Texas Education Agency (Temple I.S.D.)*, C.A. No. 70-CA-80 (W.D. Tex.). Consent decree entered May 16, 1983.

(29) *United States v. Massachusetts Maritime Academy*, C.A. No. 76-1696-Z (D. Mass.). Complaint filed April 30, 1976.

(30) *Trenton Education Association v. Bell*, C.A. No. 82-2445 (D. N.J.). Stipulation of Dismissal entered June 2, 1983.

(31) *Diaz v. Kean*, C.A. No. 83-0217 (D. D.C.). Order of Dismissal entered July 27, 1983.

(32) *United States v. The Gersten Companies*, C.A. No. C83-2278-AJZ (N.D. Calif.). Complaint filed May 6, 1983.

(33) *United States v. Mesa Management, Inc.*, C.A. No. 83-C-1795-PAR (MCX) (C.D. Calif.). Complaint filed January 21, 1983.

(34) *United States v. Town of Cicero, Illinois*, C.A. No. 83-C-0413 (N.D. Ill.). Complaint filed January 21, 1983.

(35) *Lac Vieux Desert Band of Lake Superior Chippewa Indians and United States v. Watersmeet Township*, C.A. No. M82-161 (W.D. Mich.). Complaint filed March 28, 1983.

(36) *United States v. Bowman*, C.A. No. 83-T-780-N (M.D. Ala.). Complaint filed July 28, 1983.

(37) *United States v. Hartman and Tyner, Inc.*, C.A. No. 82-71666 (E.D. Mich.). Consent decree entered December 21, 1982.

(38) *United States v. Orlosfsky*, C.A. No. 79CIV4798 (S.D. N.Y.). Consent decree entered March 15, 1983.

(39) *United States v. Town of Glastonbury*, C.A. No. H80-770 (D. Conn.). Consent decree entered November 18, 1982.

(40) *United States v. New York Racing Association, Inc.*, C.A. No. CV-80-1332 (E.D. N.Y.). Consent decree entered April 15, 1983.

(41) *United States v. AVCO Financial Services*, C.A. No. Y-82-3032 (D. Md.). Complaint filed October 14, 1982.

(42) *United States v. Central State Hospital Credit Union*, C.A. No. 83-135-3 MAC (M.D. Ga.). Complaint filed April 12, 1983.

(43) *United States v. American Future Systems, Inc.*, C.A. No. 78-1517 (E.D. Pa.). Opinion and Order entered December 27, 1982, Amended Order entered August 12, 1983.

(44) *United States v. State of Hawaii*, C.A. No. 83-0248 (D. Hawaii, May 10, 1983).

(45) *United States v. Woodard*, C.A. No. 82-1546-CIV-5 (E.D. N.C.). Consent decree entered May 12, 1983.

(46) *United States v. Baylor University Medical Center*, C.A. No. 3-82-0453-D (N.D. Tex., June 7, 1983).

(47) *Nelson v. Thornburgh*, C.A. No. 81-5115 (E.D. Pa., July 13, 1983).

(48) *Hinds General Hospital v. Heckler*, C.A. No. J-82-654(N) (S.D. Miss.).

(49) *Ruiz and United States v. Estelle*, C.A. No. H-78-987 (S.D. Tex., March 8, 1983).

(50) *Ruiz and United States v. Estelle*, C.A. No. H-78-987 (S.D. Tex., June 15, 1983).

(51) *Stewart v. Celeste*, C.A. No. C-2-78-220 (S.D. Ohio, April 1, 1983).

(52) *Stewart v. Celeste*, C.A. No. C-2-78-220 (S.D. Ohio, April 7, 1983).

(53) *DeVenish v. Garza*, C.A. No. SA-73-CA-59 (W.D. Tex., Oct. 29, 1982).

(54) *Soileau and United States v. Phelps*, C.A. No. 76-1302 (W.D. La.). Consent decree filed February 24, 1983.

(55) *Evans and United States v. Barry*, C.A. No. 76-0293 (D. D.C.). Consent decree filed February 7, 1983.

(56) *R.A.J. v. Miller*, C.A. No. 3-74-349C (N.D. Tex.).

(57) *Connecticut Association of Retarded Citizens v. Thorne*, C.A. No. H-78-653 (D. Conn.). Settlement agreement filed May 25, 1983.

(58) *United States v. State of Hawaii, supra*.

(59) Worcester State Hospital, Worcester, Mass.; Northville Regional Psychiatric Center, Northville, Mi.; Elgin Mental Health Center, Elgin, Ill.

(60) Hazelwood ICF/MR, Louisville, Ky.; Fairview Training Center, Salem, Or.

(61) Grenada County Jail, Grenada, Miss.; Ada County Jail, Boise, Idaho.

(62) Graterford State Correctional Institution, Graterford, Pa.; Ossining Correctional Facility, Ossining, N.Y.

(63) *Bolden and United States v. City of Mobile, Alabama*, C.A. No. 75-297-P (S.D. Ala., April 7, 1983).

(64) *Keitchum and United States v. Byrne*, C.A. Nos. 82 C 4085, 82 C 4431, 82 C 4820 (N.D. Ill., Dec. 21, 1982).

(65) *City of Port Arthur, Texas v. United States*, 51 U.S.L.W. 4033 (U.S. Dec. 13, 1982).

(66) *City of Lockhart, Texas v. United States*, 51 U.S.L.W. 4189 (U.S., Feb. 23, 1983).

(67) *County Council of Sumter County, South Carolina v. United States*, C.A. No. 82-0912 (D.D.C., Jan. 10, 1983).

(68) *City of Pleasant Grove v. United States*, C.A. No. 80-2589 (D.D.C., Aug. 3, 1983).

(69) *State of Mississippi v. United States*, C.A. No. 82-2673 (D.D.C., Jan. 13, 1983).

(70) *State of Mississippi v. United States*, C.A. No. 82-0956 (D.D.C., April 11, 1983).

(71) *United States v. Louisville Municipal Separate School District*, C.A. No. EC 81-318-LS-P (N.D. Miss., Feb. 18, 1983).

(72) *Campbell County, Wyoming v. United States*, C.A. No. 82-1862 (D.D.C., Dec. 16, 1982); *Commonwealth of Massachusetts v. United States*, C.A. No. 83-0954 (D.D.C., Sept. 29, 1983).

# Tax Division

**Glenn L. Archer, Jr.**  
Assistant Attorney General

## Role and Mission of the Tax Division

The Tax Division, in coordination with the U.S. Attorneys, is responsible for all criminal prosecutions and all civil litigation involving federal taxes, with the exception of proceedings in the U.S. Tax Court where the Internal Revenue Service (IRS) is represented by its Office of Chief Counsel. Thus, the principal client of the Tax Division is the IRS. The Division also represents a variety of other federal agencies (Departments of Defense, Energy, etc.) in problems of state and local taxation.

An enormous variety of questions, necessarily involved in the administration of the federal tax system, come before the Division and resolution of these problems through litigation has wide application to large numbers of taxpayers as well as great fiscal impact. The Tax Division must therefore provide leadership, expertise and consistent direction in federal tax litigation to ensure that correct, precise and uniform interpretations of the internal revenue laws are obtained in the courts.

The voluntary, self-assessment system of taxation in the United States remains the most successful tax system in the world. However, severe tax noncompliance problems are becoming increasingly apparent. Noncompliance areas frequently identified have been illegal and abusive tax shelters, the tax protester movement, the underground economy, and use of foreign tax havens. The Tax Division has taken steps to respond to the nation's growing concern and provide effective assistance to the IRS in meeting this challenge to the integrity of the federal tax system.

During the past year, several significant actions have been taken by the federal government to address these areas of noncompliance including: 1) legislation, particularly the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), providing effective procedural tools to enforce taxpayer compliance in the tax shelter area; 2) the adding of more than 7,500 new positions to the IRS; 3) the establishment by Presidential order of 12 Regional Drug Task Forces, modeled after the prototype Task Force operating in southern Florida, to combat the problems caused by rampant narcotics trafficking; and 4) a major focus on collection of debts owed the federal government.

Each of these initiatives places important new responsibilities on the Tax Division of the Department of Justice, and the Division has acted over the past year to address these responsibilities.

## Target Areas

### Abusive Tax Shelters

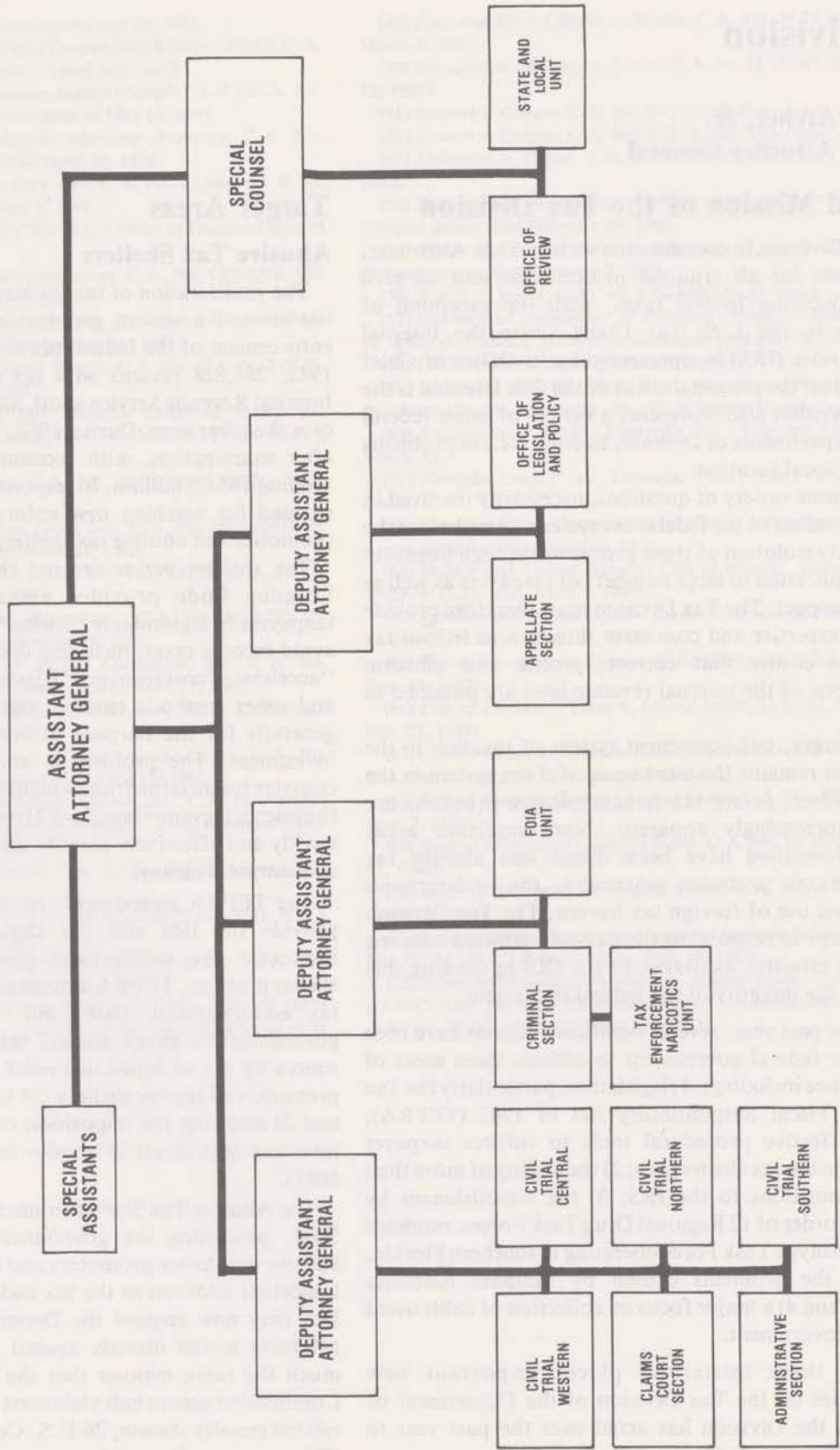
The proliferation of tax shelters as a tax avoidance device has created a serious problem in the administration and enforcement of the federal tax system. As of September 30, 1982, 284,828 returns with tax shelter issues were under Internal Revenue Service audit, an increase of 36,000 returns over the prior year. During 1982, 71,793 returns were closed after examination, with recommended tax and penalties totaling \$954.2 million. In response to this problem, TEFRA enacted far reaching new enforcement tools to curb the promotions of abusive tax shelters.

Tax shelters *per se* are not the problem. The Internal Revenue Code provides numerous opportunities for taxpayers to legitimately "shelter" or otherwise permissibly avoid income taxes, including depletion, depreciation (now "accelerated cost recovery"), individual retirement accounts and other methods enacted and sanctioned by Congress generally for the purpose of encouraging positive capital investment. The problem is *abusive* tax shelters: highly complex financial artifices which exploit 1) the complexity of the internal revenue laws, and 2) the government's inability to swiftly and effectively identify and react to such shelters by conventional means.

The TEFRA amendments to the Internal Revenue Code provide the IRS and the Department of Justice with important new enforcement provisions aimed at the tax shelter problem. TEFRA announced a new strategy in federal tax administration based on: 1) allowing the federal government to attack abusive tax shelters directly at their source by use of injunctive relief and penalties against the promoters of the tax shelters (26 U.S. Code 7408 and 6700), and 2) allowing the imposition of substantial penalties on investors who invest in abusive tax shelters (26 U.S. Code 6661).

The Abusive Tax Shelter Injunction Statute, 26 U.S. Code 7408, permitting the government to seek injunction of abusive tax shelter promoters and salesmen, is a particularly important addition to the tax code. Under this section, the IRS may now request the Department of Justice to take offensive action directly against tax shelter promoters in much the same manner that the Securities and Exchange Commission acts to halt violations of the securities laws. The related penalty statute, 26 U.S. Code 6700, also permits the IRS to assess substantial monetary penalties against abusive

## TAX DIVISION



• Dallas Field Office

tax shelter promoters, who may elect to contest the penalty assessment in federal district court.

The significance of the promoter injunction and penalty statutes enacted in TEFRA is that they now enable the government to concentrate its tax shelter enforcement resources at the promoter level. Prior to TEFRA, the government's primary recourse in this situation was to audit all the investors, requiring an enormous outlay of resources. In contrast, under TEFRA the government can now attack the shelter by going directly to the promoter. In this way, it is able to concentrate resources on relatively discrete targets—the promoter and others in concert with him—rather than spreading resources to reach all of the promoter's many investors. The gain in efficiency and effectiveness of this approach is substantial.

The added significance of these new provisions to the Department of Justice is that TEFRA, in instituting a more efficient approach to tax shelters, also allocates substantial responsibility for abusive tax shelter enforcement to the Department's Tax Division. The two statutes aimed directly at tax shelter enforcement, the injunction and related penalty statutes, are litigated in the federal district courts. Thus, effective implementation of the tax shelter injunction and penalty statutes ultimately depends on the Department of Justice and its Tax Division. To meet this challenge, the Division established an Office of Special Litigation, which will be responsible for all tax shelter litigation engendered under the new TEFRA provisions.

The IRS has referred eight tax shelter or tax avoidance schemes to the Division for injunctive action under Section 7408 and has under investigation a large number of other cases. Litigation has been initiated in six of those actions and four have already been terminated by the entry of injunctions. Cases filed to date are:

- *United States v. Hutchinson* (San Diego) - consent judgment entering injunction against promoter of family trusts.
- *United States v. Buttoff* (Dallas) - preliminary injunction entered against promoter of family trusts after trial on merits (only trial and opinion to date under Section 7408).
- *United States v. Jones* (Dallas) - preliminary injunction sought against promoter of family trusts—currently pending in litigation.
- *United States v. Philatelic Leasing Ltd.* (New York City) - permanent injunction sought against promoter of allegedly abusive tax shelter involving so-called stamp masters—currently pending in litigation.
- *United States v. Packaging Industries Group, Inc.* (Boston) - consent judgment entering injunction against promoters of equipment leasing tax shelter.
- *United States v. Gibraltar Properties, Inc.* (Dallas) -

consent judgment entering injunction against promoters of Rule of 78's condominium time-sharing tax shelter.

The Tax Division has also been active in the criminal prosecution of illegal tax shelter promotions. For example, in *United States v. Solomon* (N.D. Calif.), on April 1, 1983, a jury convicted two defendants of criminal violations in the promotion and sale of fraudulent patent tax shelter interests through limited partnerships and trusts. In *United States v. Barshov* (S.D. Fla.), on January 7, 1983, two defendants were convicted on 24 counts of conspiracy, subscribing false individual and false partnership tax returns, and aiding and assisting in the preparation of false individual and false partnership tax returns in connection with the charges stemming from the promotion and sale of fraudulent motion picture tax shelters. The defendants had obtained false appraisals and used false income forecasts in computing depreciation. Their activities had resulted in approximately \$5 million in false deductions being distributed to the limited partners.

### Offshore Tax Havens

The last few years have seen a dramatic increase in the use by American taxpayers of related foreign entities, often located in so-called tax haven countries, to avoid and evade taxation by the United States. Although the exact amount of income now escaping taxation through use of offshore tax havens is not known, reliable estimates place it in the many billions of dollars.

The Tax Division's recent experience supports this estimate. For example, the case of *In re Grand Jury Proceedings, United States v. Bank of Nova Scotia* (S.D. Fla.) involved a grand jury investigation of possible narcotics trafficking offenses and tax evasion. In its efforts to trace the flow of funds, the grand jury subpoenaed records from the Bank of Nova Scotia held by its branch in Nassau, Bahamas. The Tax Division sued to obtain a court order requiring the turnover of the subpoenaed records, which the Eleventh Circuit ordered on November 29, 1982. The records are expected to add several million dollars to the amount of unreported income of the individuals under investigation.

Another example is the case of *United States v. Kilpatrick, et al.* (D. Colo.). While counts against other defendants were dismissed, the case against William Kilpatrick resulted in his conviction on May 9, 1983, for obstruction of justice with respect to financial records located in the Cayman Islands. The remaining charges in the indictment alleged a scheme to provide tax shelter investors with \$122,500,000 in fraudulent tax deductions over a period of four years.

Recent congressional hearings by the Senate Permanent Subcommittee on Investigations highlighted the magnitude of the offshore tax haven problem and the need to take strong

steps to curb the trend. Officials of the Tax and Criminal Divisions, the IRS and the Department of the Treasury, testified before Congress concerning the importance of responding to this difficult problem and the commitment of the Administration to effective enforcement. The Tax Division, for example, through attorneys in its Criminal Section, has been working with the Office of International Tax Counsel, Department of the Treasury, and the staff of the Joint Committee on Taxation to negotiate a Protocol to the Tax Convention with Jamaica which commits that nation to conduct mutual assistance treaty negotiations with the United States covering, among other things, the obtaining of information relevant to tax evasion in this country. Division attorneys have also participated in the negotiations relating to several other mutual assistance treaties, including those with the Netherlands, West Germany and Italy.

In further recognition of the importance of the tax haven problem and specifically the problems of obtaining evidence located in tax haven countries, the Tax Division co-sponsored, in January 1983, with the Criminal Division and the Executive Office for U.S. Attorneys, a conference on obtaining evidence located in jurisdictions offshore. The conference was attended by attorneys and investigators from numerous federal agencies. Personnel from the Division lectured on the use of "offshore banks" in tax crimes and conducted workshops to evaluate means of prosecuting cases having foreign evidence gathering problems. The conference is the first of a series of proposed conferences that will be used to train those involved in investigating and prosecuting cases having international aspects.

## Tax Protesters

At present, an alarming threat to the federal tax system is presented by illegal tax protester groups. This pernicious movement pursues various strategies which have the potential, if unchecked, to disrupt parts of the federal tax gathering system. Illegal tax protesters operate in various ways

1. *Tax protesters engage in violence and threats of violence.* In a nationally publicized incident, tax protester and convicted tax evader Gordon Kahl killed a U.S. Marshal and a Deputy Marshal during the year in North Dakota. Other tax protesters have assaulted IRS special agents and revenue officers. One Wyoming protester held off U.S. Marshals for nine months from a barricaded home filled with explosives, home-made cannons, and a concrete "bunker." Other protester groups in Utah and Colorado are known to have accumulated large quantities of firearms, including prohibited weapons and explosives, in fortified areas. Unfortunately, some protesters have broad and vocal public support in the local area.

2. *Tax protesters pursue the systematic harassment and*

*intimidation of IRS personnel.* A great many forms of harassment are used against IRS employees, and Tax Court judges as well, in an effort to impede operation of the tax system. These methods include calling local utility companies and having IRS employees' residential phone, water and electric service disconnected; causing pornographic literature to be sent to the homes of IRS personnel; filing spurious judgment liens against the homes and other property of IRS revenue officers and agents; placing anonymous threatening calls to the homes of IRS agents and Tax Division attorneys; and many other similar frightening and demoralizing tactics.

3. *Tax protesters obstruct and impede the capability of the IRS to process tax returns and return information.* One large protester group in California has begun to urge its thousands of members to send in fictitious returns (having false names and social security numbers) to burden IRS computers and agents with false data to sort and examine; others are selling bogus "church" charters and "equity trust" and foreign trust packages, filing false exemption forms so that employee income taxes will not be withheld from wages, and filing false claims for refunds even where no returns have been filed for such years.

4. *Tax Protesters attempt to overburden the courts, especially the Tax Court, with spurious proceedings.* When civil tax deficiencies are determined against protesters, they commonly file a petition in the Tax Court, followed by a motion for summary judgment. Upon denial of the motion, they currently are filing petitions for mandamus in the appropriate courts of appeals solely for delay and to needlessly burden the judicial system. These protest groups have a network of communications established so that these obstructive techniques spread from one region to another. In one recent criminal tax case involving a tax protester in North Carolina, the motions urged were identical to those by counsel in a recent Texas prosecution.

Criminal prosecution of tax protesters has continued to be a priority concern of the Tax Division. During 1982, the Division authorized 116 cases involving tax protesters in which 59 indictments or informations were filed. Moreover, 19 tax protesters entered pleas of guilty and another 20 were convicted after trial. In *United States v. Jerome Daly, et al.* (N.D. Texas), on March 12, 1983, after the longest criminal tax trial in U.S. history (20 weeks), a federal jury in Fort Worth, Texas, found both men guilty of 32 counts of conspiracy to defraud the United States, filing false income tax returns, and aiding and abetting the filing of false income tax returns. Seven defendants, all former Braniff Airline pilots, had been charged with using a mail order ministry scheme promoted by Jerome Daly, the eighth defendant, to falsely claim total exemption from income taxes on over \$1 million in income between the years 1976 and 1979. Daly, the self-appointed "Pope" of his Basic Bible Church sold, for

between \$750 and \$1,250, ministry certificates, vows of poverty, and other documents which would be used by the buyer to substantiate his claim on his income tax return that his income (between \$35,000 and \$75,000 per year) from Braniff had been earned, not by him individually, but instead by a church, albeit a church consisting of one person, the pilot himself. Therefore, the pilot claimed that all of the income earned was exempt from taxation under 26 U.S. Code 501(c)(3). However, the evidence showed that the defendants, despite the so-called vow of poverty, spent their salaries on pleasure boats, luxury automobiles, private airplanes, mink coats, skiing condominiums in Colorado, certificates of deposit of \$10,000 each, and other investments. The evidence further showed that Daly, who has not filed an income tax return since 1967, earned hundreds of thousands of dollars promoting and selling this mail order ministry scheme. Daly spent over \$100,000 on gold purchases and other investments, utilizing secret bank accounts in the Grand Cayman Islands to disguise his purchases. It is estimated that these mail order ministry schemes have been utilized by more than 20,000 taxpayers across the country to evade many millions of dollars of taxes.

The Tax Division has continued to battle with tax protesters in civil litigation as well. Protesters using similar themes, tactics and pleadings continue to file an ever-increasing myriad of refund suits, tort suits, injunctive and mandamus actions, and even criminal actions against federal officials. While these judicial attacks are frivolous and are almost never successful, the government attorneys must respond to these actions. Affirmative litigation against federal officers (judges, revenue service personnel, attorneys, etc.) is particularly vexatious, often involving sensitive ethical and professional considerations when individual government officials are named as defendants. Protesters also are increasingly making use of petitions to quash Internal Revenue Code summonses. This new type of suit, created by TEFRA, permits persons entitled to notice of a third-party summons to file a petition to quash the summons. Between 30 and 50 percent of these petitions have been brought by tax protesters.

The new penalty and injunctive provisions of TEFRA can be expected to increase protester-related litigation dramatically. For example, the IRS intends to impose the new TEFRA-added penalty of \$500 for frivolous returns on identified protesters filing "constitutional," "Eisner," "Porth-Daly," etc., returns in 1983, for the 1982 tax year. These returns number in the tens of thousands, and the responsibility for the litigation of these penalties, if contested, resides solely with the Department of Justice. Consistent with previous tax protester litigation, it can reasonably be expected that a large number of these penalties will be challenged in the district courts by the protesters.

## Narcotics Enforcement

Federal narcotics enforcement efforts have increased dramatically since 1981. The societal problems caused by rampant narcotics trafficking (a racketeering activity that generates more than \$80 billion in gross revenue every year) occasioned the President to announce personally last year the formation of 12 Regional Drug Task Forces, modeled after the prototype Narcotics Task Force operating in southern Florida. Basically, the Task Forces, which are now operational, are designed to investigate and prosecute the major narcotics traffickers through multiagency participation. The IRS, the Tax Division's primary client agency, will make a substantial investigative contribution to the Task Forces with the assignment of 185 additional agents to do financial investigation of Task Force targets vulnerable to prosecution for tax evasion and other tax related crimes.

The Tax Division has acquired substantial experience and expertise in the area of tax narcotics enforcement. In early 1981, it took an active and vigorous role in the area with the formation of the Tax Enforcement Narcotics Unit, which was formed to assist U.S. Attorneys whose resources precluded their handling of lengthy tax investigations involving suspected narcotics dealers. The Unit generally confined its quite successful investigative and prosecutive effort to the IRS's Southeast Region, particularly southern Florida, but the Unit has also assigned an attorney to the Chicago Financial Crime Task Force to assist in the investigation and prosecution of tax and tax-related aspects of cases involving high-level narcotics traffickers in that area.

The work of the Tax Enforcement Narcotics Unit illustrates the extent to which it can contribute to the federal narcotics enforcement effort. The Unit has screened more than 80 IRS requests for grand jury investigations for investigative and prosecutive potential and initiated 35 investigations focusing upon violations of tax laws which frequently lead to evidence of other crimes. The Unit sought and obtained six major indictments and several informations charging various violations of the tax, narcotics, racketeering and currency reporting laws and proved over \$9 million of unreported income. At the present time, several other cases handled by the Unit are awaiting trial.

In convictions obtained in the past year, the Tax Enforcement Narcotics Unit of the Tax Division has been highly successful. For example, in *United States v. Spence* (S.D. Ga.), on December 10, 1982, the court sentenced a Richmond Hill, Georgia, shrimp boat operator and marijuana trafficker to a total of 10 years' imprisonment, imposed a fine of \$20,000, and also ordered him to pay the costs of prosecution (approximately \$12,000) as a result of his conviction on two counts of income tax evasion for the years 1976 and 1977. The importation and sale of marijuana was established as the source of the unreported income.

In *United States v. Tortoriello* (S.D. Fla.), on February 15, 1983, a Fort Lauderdale, Florida, defendant entered a plea of guilty to the major count of a three-count indictment charging him with individual income tax evasion for the years 1977, 1978 and 1979. Tortoriello is alleged to be a drug dealer's enforcer and is considered to be a violent individual. Finally, in *United States v. Capello* (S.D. Fla.), on March 17, 1983, another suspected Fort Lauderdale, Florida, narcotics trafficker, was sentenced to four years' imprisonment, fined \$50,000, and placed on probation for a period of five years. He was convicted on all counts of a five-count indictment charging him with attempted income tax evasion for the years 1976 through 1980.

In addition to its direct enforcement efforts, the Tax Division is assuming an equally important role of providing liaison assistance to and becoming a resource center for the Drug Task Forces. Division attorneys are monitoring the tax docket of each Regional Task Force and are assisting in investigations and prosecutions when requested by the Task Forces in order to permit the expeditious and efficient review of Task Force cases involving tax crimes. These attorneys are available to provide consultative assistance to the various Task Forces on financial investigations and provide legal assistance in tax cases which involve technical and complex issues. Finally, Division attorneys are providing training to the Task Forces in the area of financial investigation and criminal tax prosecution.

In addition to criminal prosecution by the Division, the Division also has a major role in seizing and collecting illicit narcotics income by civil means. Virtually all illicit income, particularly drug trafficking income, is not only unreported,

but actively concealed. In most such cases, the IRS can appropriately make use of the jeopardy and termination assessment provisions of the internal revenue laws to begin immediate collection of unpaid tax liabilities. These jeopardy type assessments and seizures almost always result in lawsuits by the parties assessed which the Tax Division must defend. The most common of these cases are actions for judicial review of jeopardy assessments under Section 7429 of the Internal Revenue Code. By statute these actions must be decided within 20 days of filing unless the taxpayer requests an extension, in which case the decision is due within 60 days. The Tax Division is generally successful in upholding these assessments.

## Debt Collection

In recent years, the number and amount of IRS delinquent accounts have risen dramatically. The IRS has more than \$27 billion in accounts receivable from taxpayers. As of October 1, 1982, two million of these accounts, involving more than \$6.7 billion, were delinquent. As a result, Congress authorized an increase of 4,000 IRS positions in 1983 specifically to reduce this growing number of delinquent tax accounts and to counter the growth in non-compliance with return filing requirements. The Tax Division, which represents the IRS in all debt collection litigation, has in conjunction with the IRS, and acting through the Division's Judgment Collection Unit, made major strides in streamlining procedures for tax debt collection in order to process more effectively current inventory and in anticipation of increased inventory occasioned by new resources at IRS allocated solely to debt collection.

## Land and Natural Resources Division

**F. Henry Habicht, II**  
Assistant Attorney General

The Land and Natural Resources Division represents the United States, its agencies, and its officials in matters relating to public lands, and natural resources, Indian lands and native claims, wildlife and fishery resources, and environmental quality. The client agencies served by the Division include the Departments of Agriculture, Commerce, Defense, Energy, the Interior, and Transportation, as well as the Environmental Protection Agency (EPA).

Although the Division's responsibilities are varied, its central goal is to provide first-rate legal representation in the most effective and efficient manner possible. During the past year, a number of significant improvements have been made in the Division's automated data processing capacity and in staffing cases to ensure optimum utilization of all resources. The Division continues to pursue management strategies to instill a greater degree of continuity in its operations, reduce administrative and overhead costs, improve management and accountability, and build public confidence.

In virtually all matters, the Division represents other agencies and departments and, as a result, places emphasis on the development and maintenance of good client relations. The Division pursues these goals by holding regularly scheduled meetings with agency lawyers and policy personnel. Matters in litigation are reviewed, policies and programs are discussed, and problem areas are identified and resolved. Where possible, the Division initiates pre-litigation contact with relevant agencies. Inasmuch as enforcement cases and challenges to important programs, such as offshore oil and gas leasing, can occur in a preliminary injunction context requiring fast action, the Division this year has created litigation "teams" of agency and Department of Justice personnel to ensure the most effective possible legal representation.

In enforcement actions, the Division has made progress by concentrating on obtaining concrete results, particularly in the areas of hazardous waste cleanup and criminal enforcement of the environmental laws.

In defensive matters, the Division has assumed a more aggressive litigating posture in successfully protecting important federal initiatives from legal challenge and withstanding pressures to pay attorneys' fees even where the government has prevailed on all issues in dispute.

At the end of Fiscal Year 1983, the Division had 355 employees: 190 attorneys and 165 support staff.

Water Act, the Federal Insecticide, Fungicide and Rodenticide Act, the Toxic Substances Control Act, the Safe Drinking Water Act, the Resource Conservation and Recovery Act, and the Comprehensive Environmental Response, Compensation, and Liability Act (Superfund), and, under the Resource Conservation and Recovery Act, the Resource Conservation and Recovery Act, the Clean Water Act, issued permits with

### Appellate Section

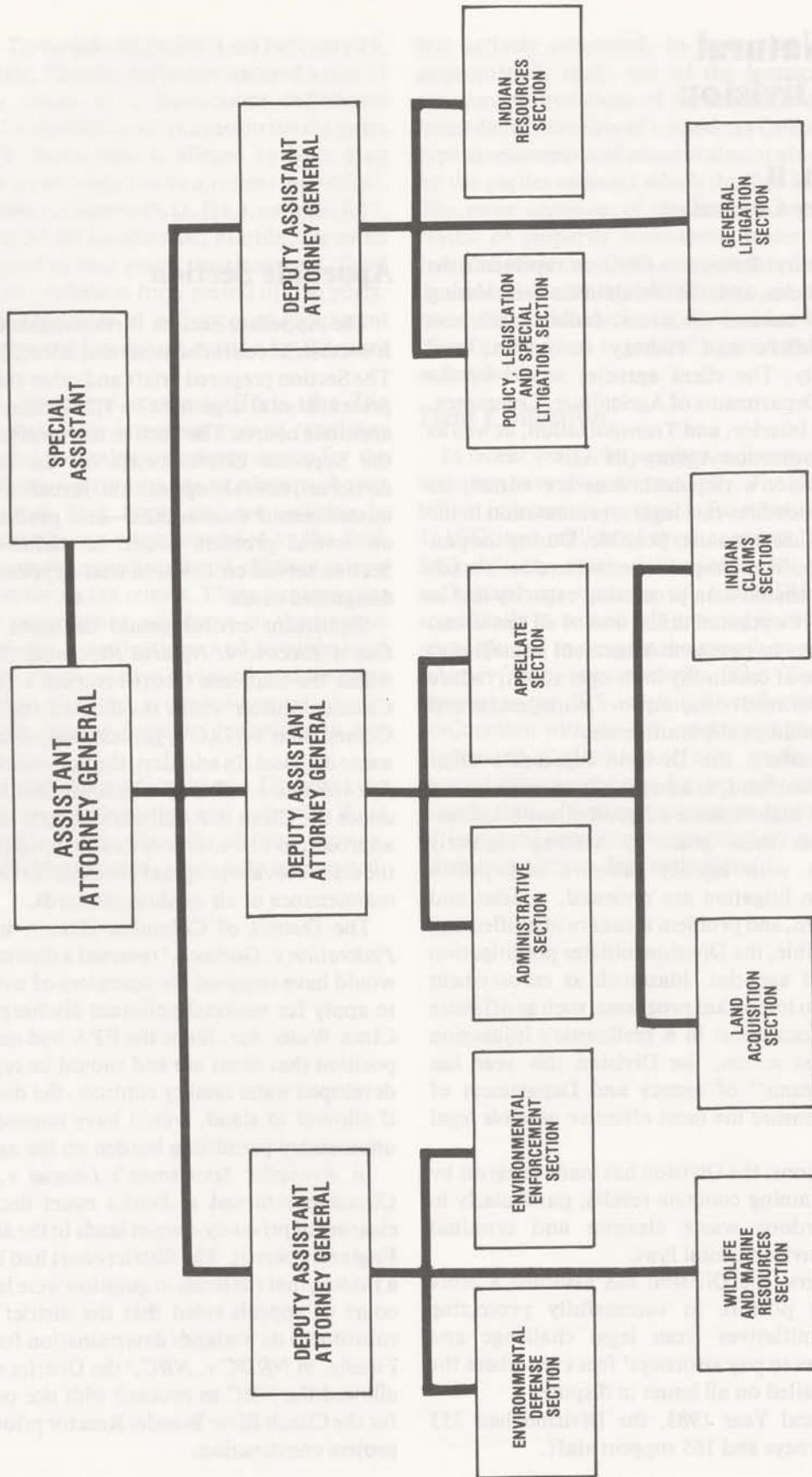
The Appellate Section is responsible for handling appeals from district court decisions and selected petitions for review. The Section prepared briefs and other substantive papers and presented oral argument in 1,267 cases in federal and state appellate courts. The Section also drafted documents filed in the Supreme Court—briefs on the merits, petitions for *certiorari*, briefs in opposition, jurisdictional statements, and miscellaneous memoranda—and produced research papers on several problem issues. In addition, members of the Section served on Division trial-appellate litigation teams in designated cases.

Significant environmental decisions included *Baltimore Gas & Electric v. Natural Resources Defense Counsel*,<sup>1</sup> in which the Supreme Court reversed a District of Columbia Circuit decision which invalidated the Nuclear Regulatory Commission's (NRC's) generic analysis of impacts of nuclear waste disposal. In addition, the Supreme Court agreed to hear *Ruckelshaus v. NRDC*,<sup>2</sup> which will decide whether EPA may, under the Clean Air Act, allow a state to adopt a plant-wide approach to new source review in nonattainment areas where the state's review program provides for timely attainment and maintenance of air quality standards.

The District of Columbia Circuit, in *National Wildlife Federation v. Gorsuch*,<sup>3</sup> reversed a district court decision that would have required the operators of over two million dams to apply for national pollutant discharge permits under the Clean Water Act. Since the EPA had consistently taken the position that dams are and should be regulated under state-developed water quality controls, the district court decision, if allowed to stand, would have imposed a significant and unnecessary permitting burden on the agency.

In *Avoyelles Sportsmen's League v. Marsh*,<sup>4</sup> the Fifth Circuit overturned a district court decision enjoining the clearing of privately-owned lands in the absence of a Corps of Engineers permit. The district court had based its decision on a finding that the lands in question were largely wetlands. The court of appeals ruled that the district court had wrongly substituted its wetlands determination for that of the agency. Finally, in *NRDC v. NRC*,<sup>5</sup> the District of Columbia Circuit allowed the NRC to proceed with site-preparation activities for the Clinch River Breeder Reactor prior to authorization of project construction.

## LAND AND NATURAL RESOURCES DIVISION



The Section expended substantial effort litigating significant coastal zone management issues of critical importance to the Department of the Interior's oil and gas leasing program. In *California v. Watt*,<sup>6</sup> the Supreme Court agreed to review the application of the consistency requirements of the Coastal Zone Management Act, 16 U.S. Code 1451 *et seq.*, to oil and gas leasing on the Outer Continental Shelf pursuant to the Outer Continental Shelf Lands Act, 43 U.S. Code 1331 *et seq.* This issue is of significance because the oil and gas leasing program is a key element in this nation's efforts to reduce its dependence on imported energy sources, and the application of the Coastal Zone Management Act at the leasing stage of the program threatens to frustrate the phased system of decisionmaking created to expedite that program. A substantial amount of time has been involved litigating other cases presenting related issues.<sup>7</sup>

In the water law area, *United States v. City & County of Denver (Water Districts 4, 5 and 6)*<sup>8</sup> represented the first comprehensive ruling by a state supreme court concerning federal claims for reserved water rights presented in general stream adjudication proceedings. The court's decision addressed numerous issues involving federal reserved water rights claimed in connection with national forests, monuments, parks, and approximately 1,500 reserved public springs or water holes on lands administered by the Bureau of Land Management.

There has been a significant increase in appellate cases involving attorneys' fees under the Equal Access to Justice Act, the Clean Air Act, the Outer Continental Shelf Lands Act, and the Clean Water Act. Of particular interest is *Ruckelshaus v. Sierra Club*,<sup>9</sup> in which the Supreme Court reversed a District of Columbia Circuit decision awarding \$90,000 in attorneys' fees to two environmental organizations that had unsuccessfully challenged an EPA rulemaking. The District of Columbia Circuit had made the award on the theory that the organizations had substantially contributed to the goals of the Clean Air Act by litigating "important complex and novel issues". In other cases, two courts of appeals ruled that the Equal Access to Justice Act applies to condemnation cases.<sup>10</sup>

## Environmental Defense Section

The Environmental Defense Section supervises and conducts the defense of civil cases involving the abatement of pollution and protection of the environment. The Section's caseload is comprised of litigation in which regulations, permits, or other actions or determinations by the EPA and other agencies have been challenged by industry or environmental organizations. The Section has responsibility for defensive actions under the Clean Air Act; the Clean

Water Act; the Federal Insecticide, Fungicide and Rodenticide Act; the Toxic Substances Control Act; the Safe Drinking Water Act; the Resource Conservation and Recovery Act; and the Comprehensive Environmental Response, Compensation and Liability Act (Superfund); and for wetland enforcement cases arising under the River and Harbor Act and the Clean Water Act, handled jointly with the Environmental Enforcement Section.

During the past year the Section successfully litigated several challenges to important regulatory programs administered by the EPA. In *National Association of Metal Finishers v. EPA*,<sup>11</sup> the Section defended EPA regulations implementing a program for pretreatment of toxic wastes prior to discharge into publicly owned treatment works. Similar victories were won for two important regulatory programs under the Clean Air Act. In *Duquesne Light Co. v. EPA*,<sup>12</sup> the U.S. Court of Appeals for the District of Columbia Circuit substantially upheld EPA regulations implementing the noncompliance penalty program under Section 120 of the Act. The objective of the program is to recoup through administrative civil penalties the economic benefit derived by sources that failed to comply with air pollution limitations. And in a trilogy of cases,<sup>13</sup> the same court approved a group of regulations under Title II of the Clean Air Act governing the in-use performance of motor vehicles with respect to emission standards.

The Section has also secured several favorable district court decisions in Superfund defensive cases over the past year. Attempts to remove sites from EPA's National Priority List and to secure pre-enforcement determinations of the propriety of the expenditure of Superfund money have been rejected by the courts as premature.<sup>14</sup>

In the wetlands enforcement area, the Section has secured a number of significant penalties for illegal dredge and fill activities, ranging from \$20,000 for illegal fill of a wetlands area in New Hampshire<sup>15</sup> to \$325,000 for illegal fill of wetlands and a navigable canal in Chincoteague, Virginia.<sup>16</sup> On the defensive side of the wetlands regulatory program, the Fifth Circuit issued an important opinion definitively holding that judicial review of a Corps of Engineers wetland determination must be on the administrative record and that courts may not substitute their own judgments regarding the existence of wetlands for the expert determinations of the Corps.<sup>17</sup>

## Environmental Enforcement Section

Fiscal Year 1983 marked significant growth and achievement in the area of environmental enforcement. The number of civil and criminal enforcement cases increased dramatically. In the civil enforcement area, the Environmental Enforcement Section received 143 referrals

from the EPA and filed 200 civil actions, including 39 cases in the hazardous waste enforcement area. The Section settled 105 EPA enforcement cases with consent decrees. As of October 1, 1983, the Section had an active litigation docket of almost 200 filed cases. At the same time the Environmental Enforcement Section continued to reduce the number of older cases and has reduced its backlog of unfiled cases to one of the lowest levels in the Section's history.

### Hazardous Waste

The Section's most important area of concentration is hazardous waste enforcement. The focus in this area is on obtaining cleanup of abandoned hazardous waste dump sites by responsible parties or, alternatively, using the \$1.6 billion Superfund created by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) to clean up the sites and then suing for recovery of the government's costs. In Fiscal Year 1983 the Section filed 27 Superfund cases and added CERCLA claims in eight previously filed cases. It also filed four cases under the Resource Conservation and Recovery Act. The total of 39 cases was the highest number of cases the Section has filed in one year in this area. The Section currently has 63 hazardous waste cases filed and pending. The Section entered into settlements in 17 of these cases in Fiscal Year 1983, amounting to \$69,260,000.

The Section has recently begun to obtain judicial decisions interpreting CERCLA. For example, the district court in *Chem Dyne*<sup>18</sup> held that liability under CERCLA was strict and "where appropriate on the facts" joint and several. The court held that once the government established a presumption of the presence of a defendant's waste at a dump site, the burden was on the defendant to rebut the presumption created that it was jointly and severally liable for the cost of cleanup.

In *United States v. Price*,<sup>19</sup> the court ruled that the government may bring an action under Section 106 of CERCLA to compel generators of waste sent to a disposal site in the past to perform remedial actions. The court further ruled that strict liability, rather than negligence, is the governing standard.

### Other Civil Enforcement

The dynamics of our Fiscal Year 1983 enforcement efforts in the iron and steel industry—which continues to be a focus of our enforcement efforts under the Clean Air Act—were complicated by 1) the arrival of the statutory nonattainment compliance deadline of December 31, 1982, and 2) the passage of the Steel Industry Compliance Extension Act of 1981 (SICEA).<sup>20</sup> SICEA allowed the EPA Administrator to extend the December 31, 1982 deadline for iron- and steel-producing sources under certain circumstances and subject to a list of requirements. In exchange for these extensions, which

could be up to three years in length, companies were required to invest the capital savings in modernization projects designed to increase the productivity of their steelmaking processes. SICEA required that the extensions be formalized in comprehensive federal judicial decrees.

Ten companies formally requested extensions from EPA, but the applications of five of the companies were subsequently denied or withdrawn. The Department represented EPA in the negotiations with the five successful applicants, and during Fiscal Year 1983 12 consent decrees were entered (for most companies there were multiple decrees, one for each major iron- and steel-producing plant). These decrees required pollution control capital expenditures of about \$61 million and modernization capital expenditures of about \$50 million. Moreover, the decrees require additional millions of dollars for operating and maintenance and very significant additional capital expenditures for air pollution control contingent only upon the companies restarting certain facilities which were then shut down.

### Criminal Enforcement

One of the important new initiatives in the environmental enforcement area was the creation in November 1982 of the Environmental Crimes Unit within the Environmental Enforcement Section. The Unit, in conjunction with U.S. Attorneys, prosecutes cases of national importance that involve significant environmental misconduct, deliberate disregard for pollution control requirements which creates or threatens serious environmental contamination or human health hazards, or deliberate falsification of information required to be reported to the government under federal environmental statutes and regulations.

During Fiscal Year 1983, more cases were brought (19) and more defendants indicted (50) and convicted (33) than in any previous year. Twenty-five grand jury investigations were in progress in 14 states at the end of the fiscal year. Moreover, because the number of cases under investigation by EPA's investigative staff has more than doubled over the last year, and tripled over the last three years, the number of cases referred by EPA for prosecution is likely to increase in the future.

Several noteworthy prosecutions took place this year. For example, the A.C. Lawrence Leather Company, Inc. of Massachusetts and four of its officers were convicted of numerous violations of the Resource Conservation and Recovery Act, the Clean Water Act, and other federal statutes, including conspiracy, false statements and false claims.<sup>21</sup> The district court awarded fines and restitution totaling \$475,920.00—the largest ever in the District of New Hampshire—and the individual officers each received suspended prison terms of one year, two years of probation, 200 hours of voluntary community service, and fines of between \$5,000 and \$27,500.

This year saw an increase in the number of criminal cases involving the illegal handling of toxic and hazardous wastes as a result of our emphasis on prosecuting those crimes. Of the 15 cases prosecuted this year, eight involved hazardous or toxic wastes. In *United States v. Case, et al.*,<sup>22</sup> mail fraud and conspiracy charges resulted in sentences ranging from six months to 2½ years and fines totaling \$30,000. In *United States v. Yaron, et al.*,<sup>23</sup> pleas of guilty to charges of illegal handling of hazardous wastes and false documentation resulted in sentences of up to six months incarceration and fines totaling \$17,000.

## General Litigation Section

The jurisdiction of the General Litigation Section is the broadest and most varied in the Division. Its primary task is to defend federal agency actions in a number of substantive areas. These include issues concerning public lands, waters, minerals, and other natural resources, and programs and projects such as highways, dams and nuclear waste transportation and treatment. The Section also defends challenges to agency actions under the National Environmental Policy Act (NEPA); decisions regarding Indians and Indian tribes; agency action under the Alaska Native Claims Settlement Act; water rights litigation affecting federal interests, including defense of the United States interest in general stream adjudications; and the federal surface mining program. The Section also handles litigation relating to mineral resources of the adjacent seas and seabed, including the determination of the location of the coastline and other maritime boundaries of the United States, and protects the United States monetary interest against claims based on inverse condemnation in the U.S. Claims Court.

The Section has litigation responsibility for federal programs under more than 70 statutes. Of particular importance are the Outer Continental Shelf cases involving challenges to the Administration's federal offshore oil and gas leasing program. Chief among such cases were challenges by the States of California and Alaska, together with environmental groups, to the Five-Year Outer Continental Shelf Oil and Gas Leasing Program promulgated in July 1982 by the Secretary of the Interior. These cases involved the first judicial consideration of new procedures adopted by the Department of the Interior for increasing the size of lease offerings. On July 5, 1983, the U.S. Court of Appeals for the District of Columbia held that the Secretary had satisfied the requirements of the Outer Continental Shelf Lands Act in developing the program and dismissed the petitions in their entirety.<sup>24</sup>

In 1983, the Section also handled approximately 300 suits instituted under NEPA.<sup>25</sup> These suits involve challenges to

federal agency action for failure to comply with NEPA and, because they generally come to the Section on motions for preliminary injunction, require fast, effective action.

Many controversial federal projects and programs have been challenged in these cases. In *Friends of the Earth, et al. v. Weinberger, et al.*,<sup>26</sup> several environmental and antinuclear organizations sued to require the Air Force to prepare a more comprehensive Environmental Impact Statement under the NEPA for the MX missile. The district court agreed with the Department's position that the litigation was rendered moot by the Jackson Amendment to the Defense Appropriations Act which initially blocked development of the MX, and dismissed the case.

Several important cases have arisen under the Surface Mining Control and Reclamation Act,<sup>27</sup> enacted by Congress in 1977 to regulate the health and environmental effects of surface mining in the United States. The statute creates a cooperative federal-state program and is implemented in two stages. Environmental groups and industry filed broad challenges to agency regulations issued for the interim program and for the permanent (state-run) program.

The Section also handles an extensive caseload of water rights cases. First Colorado and now other states are seeking to quantify their rights with respect to major water sources. Because the United States owns substantial land in water-short western states, it must quantify its rights and participate in these general water rights adjudications.

The General Litigation Section also has pending approximately 150 cases in which private landowners allege that the United States has effectively condemned their property to federal use. Enormous sums of money are at risk in many of these cases, which include claims of flooding caused by construction of dams; claims that the United States, particularly the military agencies, have taken an avigation easement over private property by overflight; and claims that the United States has condemned a leasehold by remaining as a carry-over tenant. The Section has also defended against allegations that the United States condemned property through such actions as bombing practice, misuse of Indian funds, federal regulation of dune areas, or legislative action.

Over 500 cases have been filed pursuant to Section 204 of the Omnibus Territories Act of 1977,<sup>28</sup> exposing the United States to potential liability for millions of dollars to Guamanians who believe the United States did not treat them fairly in condemning their land during and after World War II.

Complex litigation has also arisen under the Alaska Native Claims Settlement Act, passed in 1971,<sup>29</sup> which established a fund of money and land to be distributed to Alaska natives in exchange for the extinguishment of aboriginal claims which they might have against the United States. The Section also

defends suits brought against federal officials administering programs for Indians. These include election certifications, school closing cases, heirship determinations, and claims of entitlement to funds. Also defended are claims regarding the provision of health services by the Indian Health Service, suits regarding use and distribution of assets held for Indians, and suits regarding tribal determinations.

## Indian Claims Section

The Indian Claims Section defends the United States against legal and equitable claims asserted by Indian tribes under the Indian Claims Commission Act of 1946.<sup>30</sup> Since the termination of the Indian Claims Commission on September 30, 1978, all claims are litigated in the U.S. Claims Court. In addition, the Section defends the United States against claims by Indian tribes arising under 28 U.S. Code 1505.

The Section has placed emphasis on disposing of "ancient" claims filed under the Indian Claims Commission Act. Approximately two-thirds of the cases closed during the year were cases filed under the Act. The total claimed in all cases closed in Fiscal Year 1983 was \$662,973,933. As evidence of the success of the Section, three of the cases closed were dismissed without any money awards, two on the merits, and one at the request of the plaintiff. One of those three cases, *Inupiat Community of the Arctic Slope v. United States*,<sup>31</sup> involved a claim of \$500 million. The remaining two cases closed involved claims for approximately \$1.5 million. The balance of the cases closed in Fiscal Year 1983, presenting total claims of \$161,473,933, were settled by the award of compromise judgments in the amount of \$40,350,000 or about 25 percent of the amount claimed.

During the year, the Supreme Court rendered a landmark decision in *United States v. Mitchell*.<sup>32</sup> The Court held the United States accountable in money damages for alleged breach of trust responsibilities in connection with the government's management of forest resources on the Quinault Reservation. The Court held that where the government exercises significant control over Indian tribal property (or monies), a fiduciary relationship necessarily arises with respect to such property or monies.

## Indian Resources Section

Throughout its history, the United States has had a special relationship with the Indian tribes within its borders. This relationship has been given concrete form in many treaties and federal statutes which call upon the United States to protect the rights of Indian tribes and, sometimes, individuals. The relationship has also been repeatedly sanctioned and enforced by decisions of the Supreme Court and lower courts. As a result, the United States frequently

initiates or defends suits on behalf of Indians. In other situations, the United States participates as *amicus curiae* in an effort to explain and develop the law relating to Indian rights.

During the year, the Division spent much effort on suits which seek to quantify Indian water rights as well as water rights held by the government on its own behalf. These cases are extremely complicated. For instance, on December 15, 1982, a Special Master issued his report in an adjudication of the rights of the Big Horn River system in Wyoming.<sup>33</sup> The report, which was 451 pages long, largely upheld the rights of two Indian tribes in accord with the United States position. Trial in the case took more than a year and a half, and the government's proposed findings of fact were 223 pages in length. Similar water adjudications are in various stages of development in New Mexico, Arizona, California, and Montana.

A pervasive issue in general water rights adjudications is defining the appropriate forum for litigating these cases. In July 1983, the Supreme Court shed additional light on this question in cases concerning water rights adjudications in Arizona and Montana.<sup>34</sup> In those cases, the Court found that provisions in the states' enabling acts disclaiming jurisdiction over Indian lands did not prohibit the states from adjudicating Indian water rights in suits naming the United States as a defendant as trustee for the Indians. On the facts of those cases, the Court found that it would be proper for the federal courts to defer to state adjudication of the water rights "assuming that the state adjudications are adequate to quantify the rights at issue." The Court also upheld the previously established balancing of factors to determine whether federal or state court should entertain the suits.

In two other cases, the Supreme Court clarified that the United States may represent the interests of Indian tribes in court, and held that the result of the representation binds the tribes in any subsequent litigation to the same degree as if they were parties in their own right.<sup>35</sup>

Finally, the Section continued to support the legitimate claims of Indians. In June 1983, the Supreme Court upheld a tribe's right to regulate its own wildlife resources in accord with our argument as *amicus curiae*.<sup>36</sup> In another case decided by the Supreme Court,<sup>37</sup> the Section supported the argument that Indian tribes had the right to regulate the sale of alcohol on their reservations, to the exclusion of state regulation. And, in a case before a federal district court in Idaho, the United States won a jury verdict totaling \$113,300 on behalf of individual Indians for historic trespass on their lands.<sup>38</sup>

## Land Acquisition Section

The Land Acquisition Section is responsible for initiating and prosecuting condemnation proceedings in U.S. district

courts for the acquisition of land for public use. Condemnation proceedings are instituted pursuant to the sovereign power of eminent domain, as codified in the General Condemnation Act, the Declaration of Taking Act, and other statutes authorizing the acquisition of land by condemnation.

The Redwood National Park expansion cases continue to be of particular significance. Congress, in Public Law 95-250, authorized the expansion of the Park through condemnation of approximately 49,000 acres and has to date appropriated \$359 million for all properties. Sixteen cases have been disposed of by settlement at a total cost of \$5,947,988.97. Three cases involving claims by major timber companies have yet to be resolved. The combined claims in these cases are expected to be about \$750 million, exclusive of interest.

The Section successfully tried two cases of major significance during 1983. The first, *United States v. 729.772 Acres in the City and County of Honolulu, Hawaii*,<sup>39</sup> involved the partial taking of 730 acres of land on behalf of the Department of the Navy for use as a "blast zone" in connection with the Lualualei Naval Magazine near Pearl Harbor. At trial, the landowner claimed \$58 million in damages and the United States presented evidence of \$14.5 million. The jury awarded \$14.5 million. The second significant trial, in *United States v. 230 Acres in Marion County, Arkansas*,<sup>40</sup> involved the acquisition of 230 acres of unimproved land and 80 acres of mineral rights for the Buffalo National River Project. The landowners claimed the property had a large and valuable zinc deposit worth \$31.5 million. The United States position was that there was no marketable zinc and the value of the property was \$46,300. The Lands Commission awarded \$47,450.

In addition, trial preparation is proceeding in two cases involving property in West Virginia containing large coal deposits. The claims in each case are \$50 million or more.

## **Policy, Legislation and Special Litigation Section**

The Policy, Legislation and Special Litigation Section handles the Division's policy functions and legislative responsibilities and provides legal counsel to the Assistant Attorney General. The Section is responsible for providing analysis and comment on proposals in the legislative process, preparing testimony for Department witnesses, developing accurate and timely responses to all congressional referrals and inquiries, and processing requests under the Privacy Act and the Freedom of Information Act. Other responsibilities include intergovernmental affairs activities, media and press relations, representation of the Attorney General on the Executive Board of the National Trust for Historic Preservation, and provision of legal counsel relating to

federal legislative jurisdiction and ethical questions facing the Division.

The Section has focused particular attention on several bills seeking to establish federal mechanisms for compensating individuals injured by exposure to hazardous substances, as well as bills that would reauthorize several recently expired environmental laws, including the Toxic Substances Control Act, the Federal Insecticide, Fungicide and Rodenticide Act, the Clean Water Act, the Clean Air Act, and the Resource Conservation and Recovery Act. In the context of the Resource Conservation and Recovery Act reauthorization, Congress has reaffirmed the importance of the centralized authority of the Department of Justice to commence and conduct judicial enforcement actions. The Section has also monitored and provided the Division's comments on recent legislative proposals concerning federal coal leasing, offshore oil and gas leasing, and coal slurry pipeline legislation.

In addition to its role in congressional affairs and other counseling or representational activities, the Section is involved in a broad range of cases being litigated in the Division. Attorneys in this Section have litigated cases at all levels of the federal courts and in several state supreme courts. The Section has drafted, in conjunction with the Appellate Section and the Solicitor General's office, *amicus curiae* briefs filed in the Supreme Court involving important national programs, policies or statutes.

For example, on April 19, 1983, the Supreme Court in *Metropolitan Edison Co. v. People Against Nuclear Energy*,<sup>41</sup> unanimously reversed an appellate decision that would have required the Nuclear Regulatory Commission to assess the adverse psychological effects of the proposed restart of Unit 1 at the Three Mile Island nuclear facility. And in *Summa Corporation v. State of California ex rel. Lands Commission and City of Los Angeles*,<sup>42</sup> the Section is addressing the application of the California public trust doctrine to certain non-sovereign tidelands.

In addition to litigation, the Section provides the Assistant Attorney General with legal opinions and memoranda covering such wide-ranging issues as attorneys' fees, executive privilege, state severance taxes, and water adjudications. The analyses in some instances have been transmitted to the Attorney General, other federal officials and agencies, and the highest levels of the government.

## **Wildlife and Marine Resources Section**

The Wildlife and Marine Resources Section is responsible for civil and criminal litigation arising under statutes that call for federal management of living resources, or that regulate private conduct regarding such resources. The Section

handles prosecution of illegal taking, trade or importation of endangered and other regulated species. The Section is also charged with defending cases where client agency action affecting wildlife is challenged. In addition to the Endangered Species Act,<sup>43</sup> the Section's work focuses on the Magnuson Fishery Conservation and Management Act,<sup>44</sup> the Marine Mammal Protection Act,<sup>45</sup> and the Lacey Act.<sup>46</sup>

Fiscal Year 1983 brought an increase in significant and complex litigation in which plaintiffs sought to upset rulemaking by the Section's client agencies. In *Humane Society v. Watt*,<sup>47</sup> the Section successfully defended a lawsuit attacking the Department of the Interior's management of allegedly declining populations of black ducks under the Migratory Bird Treaty Act. A similar case is *Defenders of Wildlife v. Watt*,<sup>48</sup> concerning the population dynamics of American bobcats, where the Department of the Interior's decision to allow the export of pelts was upheld. And in *H.J. Justin & Sons, Inc. v. Brown*,<sup>49</sup> the court adopted the reasoning outlined in our *amicus* submission regarding the appropriate relationship between state and federal management of endangered species, holding that states may adopt more stringent prohibitions except where specific federal permits have been issued to importers or retailers.

Fiscal Year 1983 also saw the intensification of the Section's prosecutorial efforts in major cases. In one of the most egregious wildlife cases to date, *United States v. Slocum*,<sup>50</sup> the Section obtained affirmance of the convictions of exotic bird importers who violated quarantine requirements to hide evidence of Newcastle's disease in a shipment. As a result of defendants' actions, infected birds were allowed into the stream of commerce and a several million dollar nationwide cleanup was necessitated. The major figure in the scheme was sentenced to a long incarceration.

Many of the prosecutions related to conspiracies involving many individuals or were multidistrict. In *United States v. Sohappi, et al.*,<sup>51</sup> the Section helped to convict 16 defendants involved in the illicit sale of illegally caught salmon. In the widely publicized "Operation Eagle" cases centered in the District of South Dakota, the Section helped to obtain the convictions of all 23 defendants charged with commercializing the killing of migratory birds.

## Administrative Section

The Administrative Section substantially expanded the scope of its activities during 1983. In addition to maintaining prior levels of service, the Section launched undertakings in the areas of management analyses, use of computer technology, personnel, and equipment acquisition.

To ensure that the Division derives maximum productivity from its existing resources, the Section conducted detailed

analyses of several key internal practices. Data collection and assessment began on such matters as time consumed by various types of cases and the manner in which information is transmitted within the Division.

Similarly, substantial emphasis was placed on improving the use of computers to support the Division's litigators and managers. For example, an innovative contract was drafted to allow maximum flexibility in the provision of automated litigation support for Division cases. By the end of the year, the systems staff was involved in 48 cases, an increase of almost 300 percent over last year.

The Section also made major progress in refining Division personnel policies and practices. Numerous directives were revised, including those involving such important areas as promotion, leave and awards. In addition, the Section issued detailed work plans and realistic appraisal standards which set forth clearly the performance expected of personnel, to promote uniformity and fairness in the rating processes. An orientation program for new employees was designed; formal exit procedures were implemented; and, to enhance productivity, increased use was made of training. For example, specially designed courses on negotiation concepts and the application of computers to the work of the Division were developed.

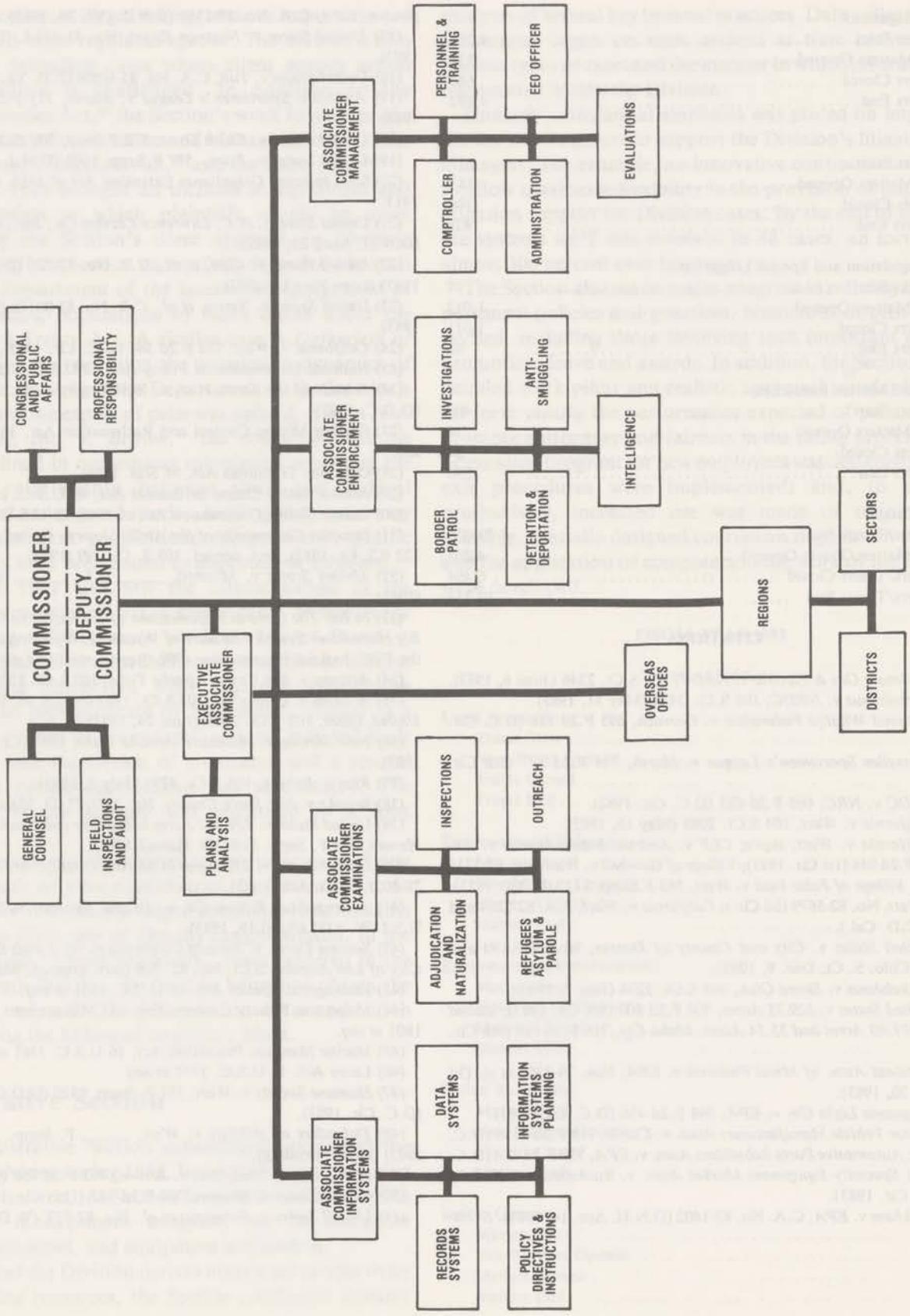
### FISCAL YEAR 1983

#### Workload Statistics

Land Acquisition:	
Tracts Start .....	13,720
New Tracts Opened .....	1,328
Tracts Closed .....	3,811
Tracts End .....	11,237
Environmental Defense:	
Matters Start .....	1,441
New Matters Opened .....	247
Matters Closed .....	323
Matters End .....	1,365
Environmental Enforcement:	
Matters Start .....	705
New Matters Opened .....	208
Matters Closed .....	187
Matters End .....	726
Indian Resources:	
Matters Start .....	484
New Matters Opened .....	87
Matters Closed .....	26
Matters End .....	545
Indian Claims:	
Matters Start .....	79
New Matters Opened .....	11
Matters Closed .....	18
Matters End .....	72

General Litigation:	
Matters Start .....	4,275
New Matters Opened .....	857
Matters Closed .....	640
Matters End .....	4,492
Appellate:	
Matters Start .....	837
New Matters Opened .....	383
Matters Closed .....	394
Matters End .....	826
Policy, Legislation and Special Litigation:	
Matters Start .....	97
New Matters Opened .....	1,012
Matters Closed .....	1,011
Matters End .....	98
Wildlife and Marine Resources:	
Matters Start .....	400
New Matters Opened .....	74
Matters Closed .....	84
Matters End .....	390
Division Totals:	
Matters/Tracts Start .....	22,038
New Matters/Tracts Opened .....	4,207
Matters/Tracts Closed .....	6,494
Matters/Tracts End .....	19,751
<b>CITATIONS</b>	
<p>(1) <i>Baltimore Gas &amp; Electric v. NRDC</i>, 103 S.Ct. 2246 (June 6, 1983).</p> <p>(2) <i>Ruckelshaus v. NRDC</i>, 103 S.Ct. 2427 (May 31, 1983).</p> <p>(3) <i>National Wildlife Federation v. Gorsuch</i>, 693 F.2d 156 (D.C. Cir. 1982).</p> <p>(4) <i>Avoyelles Sportsmen's League v. Marsh</i>, 715 F.2d 897 (5th Cir. 1983).</p> <p>(5) <i>NRDC v. NRC</i>, 695 F.2d 623 (D.C. Cir. 1982).</p> <p>(6) <i>California v. Watt</i>, 103 S.Ct. 2083 (May 16, 1983).</p> <p>(7) <i>California v. Watt</i>, <i>supra</i>; <i>CLF v. Andrus, Massachusetts v. Andrus</i>, 716 F.2d 946 (1st Cir. 1983); <i>Village of Gambell v. Watt</i>, No. 83-3735 (9th Cir.); <i>Village of False Pass v. Watt</i>, 565 F.Supp. 1123 (D.A.K. 1983); <i>Kean v. Watt</i>, No. 82-5679 (3d Cir.); <i>California v. Watt</i>, Nos. 82-2284 and 82-2665 (C.D. Cal.).</p> <p>(8) <i>United States v. City and County of Denver</i>, Nos. 79SA99 and 79SA100 (Colo. S. Ct. Dec. 9, 1982).</p> <p>(9) <i>Ruckelshaus v. Sierra Club</i>, 103 S.Ct. 3274 (July 1, 1983).</p> <p>(10) <i>United States v. 329.73 Acres</i>, 704 F.2d 800 (5th Cir. 1983); <i>United States v. 101.80 Acres and 35.54 Acres, Idaho Cty</i>, 716 F.2d 714 (9th Cir. 1983).</p> <p>(11) <i>National Assn. of Metal Finishers v. EPA</i>, Nos. 79-2256 et al. (3d Cir. Sept. 20, 1983).</p> <p>(12) <i>Duquesne Light Co. v. EPA</i>, 698 F.2d 456 (D.C. Cir. 1983).</p> <p>(13) <i>Motor Vehicle Manufacturers Assn. v. Costle</i>, 719 F.2d 1159 (D.C. Cir. 1983); <i>Automotive Parts Rebuilders Assn. v. EPA</i>, 720 F.2d 124 (D.C. Cir. 1983); <i>Specialty Equipment Market Assn. v. Ruckelshaus</i>, 720 F.2d 124 (D.C. Cir. 1983).</p> <p>(14) <i>Tinkham v. EPA</i>, C.A. No. 83-1402 (D.N.H. Apr. 14, 1983). <i>D'Imperio v. EPA</i>, C.A. No. 83-1369 (D.N.J. Oct. 24, 1983).</p> <p>(15) <i>United States v. Norman Royal</i>, No. 81-434-L (D.N.H. July 22, 1983).</p> <p>(16) <i>United States v. Tull</i>, C.A. No. 81-688N (E.D. Va. Sept. 28, 1983).</p> <p>(17) <i>Avoyelles Sportsmen's League v. Marsh</i>, 715 F.2d 897 (5th Cir. 1983).</p> <p>(18) <i>United States v. Chem Dyne</i>, 572 F.Supp. 802 (S.D. Ohio 1983).</p> <p>(19) <i>United States v. Price</i>, 577 F.Supp. 1103 (D.N.J. 1983).</p> <p>(20) <i>Steel Industry Compliance Extension Act of 1981</i>, 42 U.S.C. 7410, 7413.</p> <p>(21) <i>United States v. A.C. Lawrence Leather Co., Inc.</i>, C.R. No. 81-111 (D.N.H. April 29, 1983).</p> <p>(22) <i>United States v. Case, et al.</i>, C.R. No. 82-200 (D.N.J. March 16, 1983) (Lone Pine Landfill).</p> <p>(23) <i>United States v. Yaron, et al.</i>, C.R. No. 83-00170 (D. Pa. Aug. 17, 1983).</p> <p>(24) <i>California v. Watt</i>, 712 F.2d 584 (D.C. Cir. 1983).</p> <p>(25) <i>National Environmental Policy Act</i>, 42 U.S.C. 4321 <i>et seq.</i></p> <p>(26) <i>Friends of the Earth, et al. v. Weinberger, et al.</i>, 562 F. Supp. 265 (D.D.C. 1983).</p> <p>(27) <i>Surface Mining Control and Reclamation Act</i>, 30 U.S.C. 1201 <i>et seq.</i></p> <p>(28) <i>Omnibus Territories Act</i>, 91 Stat. 1159.</p> <p>(29) <i>Alaska Native Claims Settlement Act</i>, 43 U.S.C. 1601 <i>et seq.</i></p> <p>(30) <i>Indian Claims Commission Act of 1946</i>, 25 U.S.C. 70 <i>et seq.</i></p> <p>(31) <i>Innupiat Community of the Arctic Slope v. United States</i>, 680 F.2d 122 (Cl. Ct. 1982), cert. denied, 103 S. Ct. 299 (1983).</p> <p>(32) <i>United States v. Mitchell</i>, ____ U.S. ____, 103 S. Ct. 2961 (1983).</p> <p>(33) <i>In Re: The General Adjudication of All Rights to Use Water in the Big Horn River System and State of Wyoming</i>, Wyoming District Court of the Fifth Judicial District, No. 4992 (Report modified on May 10, 1983).</p> <p>(34) <i>Arizona v. San Carlos Apache Tribe</i>, 103 S.Ct. 3201 (July 1, 1983).</p> <p>(35) <i>Arizona v. California</i>, 103 S.Ct. 1383 (March 30, 1983); <i>Nevada v. United States</i>, 103 S.Ct. 2906 (June 24, 1983).</p> <p>(36) <i>New Mexico v. Mescalero Apache Tribe</i>, 103 S.Ct. 2378 (June 13, 1983).</p> <p>(37) <i>Rice v. Rehner</i>, 103 S.Ct. 3291 (July 1, 1983).</p> <p>(38) <i>Brooks v. Nez Perce County</i>, No. 2-72-27 (D. Idaho Dec. 7, 1982).</p> <p>(39) <i>United States v. 729.772 Acres in the City and County of Honolulu, Hawaii</i>, 551 F. Supp. 1100 (D. Hawaii 1982).</p> <p>(40) <i>United States v. 230 Acres in Marion County, Arkansas</i>, C.A. No. 78-3021 (W.D. Ark. 1983).</p> <p>(41) <i>Metropolitan Edison Co. v. People Against Nuclear Energy</i>, 51 U.S.L.W. 4371 (April 19, 1983).</p> <p>(42) <i>Summa Corp. v. State of California ex rel. Lands Commission and City of Los Angeles</i>, S.Ct. No. 82-708 (cert. granted, March 21, 1983).</p> <p>(43) <i>Endangered Species Act</i>, 16 U.S.C. 1531 <i>et seq.</i></p> <p>(44) <i>Magnuson Fishery Conservation and Management Act</i>, 16 U.S.C. 1801 <i>et seq.</i></p> <p>(45) <i>Marine Mammal Protection Act</i>, 16 U.S.C. 1361 <i>et seq.</i></p> <p>(46) <i>Lacey Act</i>, 16 U.S.C. 3371 <i>et seq.</i></p> <p>(47) <i>Humane Society v. Watt</i>, 551 F. Supp. 1310 (D.D.C.) 713 F.2d 865 (D.C. Cir. 1983).</p> <p>(48) <i>Defenders of Wildlife v. Watt</i>, ____ F. Supp. ____ (D.D.C. 1983) (appeal pending).</p> <p>(49) <i>H.J. Justin &amp; Sons, Inc. v. Brown</i>, 702 F.2d 758 (9th Cir. 1983).</p> <p>(50) <i>United States v. Slocum</i>, 708 F.2d 587 (11th Cir. 1983).</p> <p>(51) <i>United States v. Sohappy, et al.</i>, No. 82-53T (W.D. Wash.).</p>	

## IMMIGRATION AND NATURALIZATION SERVICE



# Immigration and Naturalization Service

Alan C. Nelson  
Commissioner

The Commissioner of Immigration and Naturalization is responsible for administering and enforcing the Immigration and Nationality Act, as amended, and serves as the principal advisor to the Attorney General and the President on immigration and naturalization policy. Implementation of the immigration, naturalization, refugee and asylum laws of the United States is administered by the Immigration and Naturalization Service (INS) through a broad network of regional and district offices located around the country (and in some foreign nations) which function in three areas:

- Examinations, involving activities related to the admission of people to the United States;
- Enforcement, involving activities to prevent illegal entries and to apprehend and remove those who enter illegally;
- Information systems and management support, which provides the support services necessary to the conduct of the Service's basic missions.

A major reorganization of INS was initiated in January 1983, with the objective of implementing a sound, comprehensive management system that would result in more efficient and effective operation of the Service. This would be accomplished by establishing tighter accountability, better utilizing Senior Executive Service positions, and clarifying the role of the regions.

Significant to the overall reorganization was the establishment of the Executive Associate Commissioner position as the number three position in the agency, with direct responsibility over Examinations, Information Systems, Planning and Analysis, and Overseas Offices. Creation of this position has reduced the day-to-day management demands on the Commissioner and Deputy Commissioner, while continuing to provide top level oversight and coordination of these programs.

Another major change occurring during the year was the transfer on January 9, 1983, of the Chief Immigration Judge and the Immigration Judge functions from INS to the newly created Executive Office for Immigration Review within the Department of Justice. The move of this function to the New Executive Office is administratively more efficient, and supports continued independent execution of the immigration hearing process.

## Office of the General Counsel

The Office of the General Counsel is responsible for providing legal counsel to the Commissioner and INS operating officials on questions of law that arise in the administration and enforcement of the immigration and nationality statutes.

Efforts to develop an aggressive posture have led this Office to implement a task force approach toward litigation. These task forces include attorneys from the recently created Office of Immigration Litigation, the central office of INS, U.S. Attorneys' offices, Special Assistant U.S. Attorneys, and most importantly, local INS unit attorneys. This approach has been used in the Cuban, Haitian, and Salvadoran lawsuits.

In addition to the creation of the Office of Immigration Litigation within the Civil Division, this Office has expanded the Special Assistant U.S. Attorneys program for immigration to 13 positions nationwide. This involves assigning an INS attorney to the U.S. Attorney's office to assist in specialized prosecution efforts in both civil and criminal cases.

The major accomplishments within the Legal Proceedings Unit of INS included the following: the consolidation program, placing all INS attorneys in the litigation unit, and terminating their involvement with non-legal examination functions; increased responsibility of field attorneys in advising INS operating officials on all legal matters (this includes the areas of contracts, debt collection, torts, labor, equal employment opportunity and Merit Systems Protection Board, Freedom of Information Act and advice in management objectives); participation by field attorneys and Assistant U.S. Attorneys in nationwide immigration law training seminars, and the development and distribution of the first INS Attorneys Manual.

During 1983, the General Counsel developed a system to track by computer all of the 90,000 litigation cases handled annually by the Service, from administrative review through the federal court system. Special effort has been expended to create a liaison committee with both the private bar and community leaders in an effort to improve the Service's image and to increase its accessibility to the public sector. A recent recruitment program by this Office, in anticipation of increased needs for representation of the Service and its

enhanced enforcement projects resulted in INS attorneys visiting 111 law schools nationwide and receiving over 450 applications from law students across the nation seeking positions with INS through the Department of Justice's Honors Program.

## Field Inspections and Audit

This Office furnishes the Commissioner with independent appraisals of the effectiveness, and economy of INS programs and operations.

During 1983, inspections, audits, and special reviews conducted by Field Inspections and Audit led to recommendations which improved operations and administrative procedures at the field, regional, and central office levels. Some of these included: improving procedures to ensure timeliness of billings and collection of debts owed the government; improving Service contracting procedures, and establishing controls to correct erroneous time and attendance reports or erroneous payments made on the basis of these reports; strengthening internal controls relating to security, fees, bonds, aliens' funds and valuables, and overtime; reducing alien detention costs and time; improving work measurement statistical reporting; and enhancing procedures to ensure better management control and timely processing of Service cases.

## Office of Professional Responsibility

The Office of Professional Responsibility investigates allegations regarding duty-related criminal activity by Service employees. It also seeks to alert managers and supervisors through a series of Management Integrity Reports and seminars to potential weaknesses in control systems so that they can be made more resistant to fraud.

During Fiscal Year 1983, this Office received 544 allegations, of which 227 were referred to INS Regions for local investigation.

In addition to resignations and other administrative actions, 17 Service employees were indicted, along with 22 non-Service employees, as a result of the Office's investigations.

## Office of Congressional and Public Affairs

The Office of Congressional and Public Affairs is responsible for coordinating Service communication and interaction with the Congress, press and public. As part of this mission, the Office is responsible for relations with other federal agencies as well as state and local units of government.

Additionally, this Office supervises the design and production of printed and other communication materials for the agency. The unit is organized into two offices: the Office of Congressional Affairs and the Press Information Office.

### Office of Congressional Affairs

The Office of Congressional Affairs is responsible for establishing and maintaining effective liaison with various congressional committees and subcommittees and with individual Members of Congress and their staffs on matters pertaining to immigration and nationality.

During Fiscal Year 1983, members of the Office assisted the Commissioner in the preparation of testimony, attended numerous hearings, and responded to committee and subcommittee inquiries concerning INS operations and issues, particularly the legislation for the relief of Amerasian children, guidelines for refugee processing in Southeast Asia, the Krome detention center in Florida, federal identification fraud, and the pending immigration reform and control legislation.

The Office, during the same period, conducted liaison with other government agencies and coordinated program activities relating to the briefing by INS officials of dignitaries from five foreign countries. Maintaining administrative oversight of INS field office congressional activities, the Office conducted a seminar for congressional staff workers in Washington, D.C., and also assisted in the planning of, and participated in, seminars for congressional district office staff workers conducted by the New York, Chicago, Los Angeles and Miami district offices.

All written congressional inquiries received in the central office are controlled by the Office of Congressional Affairs. During the year, the Office prepared over 5,000 written responses to congressional inquiries, and reported 191 suspension of deportation cases to the Congress for consideration.

### Press Information Office

The Press Information Office is responsible for coordinating and responding to inquiries about INS activities from the nation's news gathering organizations. This media contact ranges from the answering of routine questions regarding Service enforcement activities to working with in-depth investigative reports into pending policy changes in this country's immigration laws. Additionally, the Office is responsible for producing two periodic publications for internal and external distribution on the major activities of the Service.

During the year, the media expressed increased interest in INS activities and policies. Of particular interest were the Immigration Reform bill, detention policy, control of the borders and the problem of illegal immigration into the

United States. Overall interest resulted in over 3,500 inquiries and numerous television and radio interviews.

## Office of the Deputy Commissioner

The Deputy Commissioner assists the Commissioner in all aspects of administration of the Service. He oversees the day-to-day operations of the Service, exercising authority delegated by the Commissioner and performing such functions as the Commissioner may prescribe. He serves as Acting Commissioner in the absence of the Commissioner, and represents the Commissioner in discussions with the general public, Members of Congress, special interest groups, and associations.

During 1983, the Deputy Commissioner had primary responsibility for the development and execution of the Priorities Management System and for preparing the Service to implement the pending Immigration Reform Act.

The Priorities Management System is a management-by-objectives system established to provide a uniform method of planning, implementing and monitoring the achievement of the Commissioner's 1983 priorities. The system consists of plans for each priority, quarterly progress reports, independent assessments and quarterly meetings among top managers to review progress and make adjustments. The system, refined on the basis of the experience gained in 1983, is being used again in 1984.

Preparations for the pending legislation involved several program offices for the enforcement and examinations provisions of the bill, and a specialized planning team, the Reform Act Implementation Office, for the legalization provisions of the bill. All plans were completed and the Service was prepared to implement the bill upon enactment.

## Reform Act Implementation Office

The Service, aware of the inherent operational and workload implications of the Simpson/Mazzoli legislation introduced in the 98th Congress, engaged in extensive planning and preparation for its possible enactment. The specially created Reform Act Implementation Office brought together personnel with needed skills and expertise from throughout the Service, on both full-time and as-needed basis, to smooth the way for eventual implementation of the legislation's provisions. Although passage of the Simpson/Mazzoli legislation is uncertain, the Service stands to benefit substantially from the Reform Act Implementation Office's work.

Legalization systems and procedures were designed with a careful eye toward the efficient and expeditious flow of applications. The Adjudications division is now engaged in planning ways to adapt many of these systems and procedures to streamline the processing of other applications. For

example, efforts are now under way to automate record checks, security checks, and case tracking along the lines envisioned for the legalization program.

A modular office concept has been developed to expedite the opening of 95 legalization offices within 90 days following enactment of Simpson/Mazzoli legislation. This concept, which standardizes seating, counters, signs, and supplies, has been adopted for general use throughout the Service.

More generally, much of the work done under the aegis of the Reform Act Implementation Office, particularly with regard to the "electronic 'A' file," will complement efforts of the National Records Center Project.

And finally, the concepts, systems designs, resource specifications, procedures manuals, training programs, and interagency liaisons will serve as a foundation for quickly building any future legalization program.

## Office of the Executive Associate Commissioner

The Executive Associate Commissioner assists the Commissioner and Deputy Commissioner in all aspects of the administration of the Service. As the number three position in the agency, the Executive Associate Commissioner has both line and staff functions with primary responsibility for oversight and coordination of policies and programs relating to agency management systems, strategic planning, information resource management, new Servicewide initiatives and special projects. The Executive Associate Commissioner also assists the Commissioner and Deputy Commissioner in formulating and monitoring Servicewide goals, objectives, and priorities. The Executive Associate Commissioner supervises the Offices of Plans and Analysis, Examinations, Information Systems, and INS overseas operations.

## Office of Plans and Analysis

The Office of Plans and Analysis serves as the principal staff advisor to higher management for the development and implementation of servicewide policies, strategic plans and programs. The Office develops and maintains planning systems for establishing Service priorities and a management-by-objectives program. It conducts reviews and studies of mission organization, functions, activities and procedures; administers the Service's statistics and research programs; and develops plans for new legislation and its subsequent implementation.

This Office produced two major plans of significance during 1983: 1) an Immigration Emergency Plan for southern Florida, designed to meet the specific threat of a mass influx of illegal aliens from Caribbean countries; and 2) an initial

plan containing policies, operating procedures and guidelines for implementation of major immigration reform legislation under consideration by Congress. In addition, the Office conducted extensive analysis of the functions and staffing of regional offices which served as the basis for streamlining those offices in order to put additional positions in the field.

Finally, significant refinements were made to the Commissioner's priority-setting system: by developing better measures of achievement of priorities, achieving better integration with the budget execution process, and obtaining level of field involvement in development and implementation of the priorities.

## **Examinations**

The Examinations program involves the inspection of persons arriving at sea, land and air ports of entry to determine their admissibility to the United States; the adjudication of applications and petitions for benefits provided by law; supervision of refugee and parole programs; examination of applicants for naturalization; and the conduct of outreach to the community.

## **Adjudications and Naturalization**

This Section is responsible for the processing and adjudication of applications and petitions filed by aliens and citizens for benefits under the Immigration and Nationality Act. During Fiscal Year 1983, merger of Adjudications with Naturalization into one activity was completed in accordance with the reorganization plan approved by the Department. This has enabled INS to provide better service to the public using the combined resources of the two programs in meeting its overall mission. Attorneys, formerly assigned to naturalization work, were consolidated with all other Service attorneys to form the Trial Litigation Unit, for better utilization of legal resources.

A balanced adjudications system was developed during the year, designed to increase productivity in adjudicating applications. To accomplish this, the number of applications sent to ports of entry for adjudication by Immigration Inspectors on standby time has been increased, and additional personnel have been assigned to Regional Adjudication Centers. In Regional Adjudication Centers, examiners devote full time to the adjudication. This has achieved a 20 percent productivity gain over work performed in district offices, where examiners also conduct interviews and respond to telephone inquiries.

Working with the Visa Office of the Department of State, a computerized method for obtaining visa number allocations each month was implemented. This has eliminated the flow of 10,000 paper documents per month from INS to the Department of State, and the return of 5,000 of those pieces to INS, and has increased the accuracy of the data exchanged.

With the implementation of a uniform admission period of six months for nonimmigrant visitors, applications for extension of stay have been reduced by 66,000 cases, resulting in reallocation of 10.5 workyears to higher priority adjudicative work. It is expected that over a full year, 150,000 of these cases will be eliminated, representing 24 work years to be devoted to higher priority work.

Other major accomplishments during the year included: revised regulations relating to L-1 intra-company transferees to simplify and speed processing of these visas for companies that regularly engage in transfer of executives and managers; implementation of an automated naturalization casework/tracking and support system at eight INS locations; and revision of the *Examinations Handbook*, a comprehensive operations guide for Immigration Inspectors and Examiners.

## **Inspections**

The Service has the task of facilitating entry to the United States while maintaining the integrity of the Immigration and Nationality Act by determining the admissibility of persons seeking entry at some 200 ports throughout the country.

To facilitate entry, the Service, during Fiscal Year 1983, initiated a program on cruise vessels in which U.S. Customs officers examine documents of U.S. citizens while INS officers concentrate on aliens or problem cases; began an expedited inspection system in the Buffalo district, permitting prescreened Canadian border travelers to pass through an "express" lane; implemented the use of a revised arrival-departure record (Form I-94) and eliminated the use of the form by alien permanent residents and immigrants; began a uniform six-month admission policy for nonimmigrant visitors; and simplified the documentary requirements for Mexican nationals who are already in possession of valid border crossing cards.

To improve enforcement of the Immigration and Nationality Act, Inspections implemented an automated Nonimmigrant Alien Information System at all ports of entry; initiated the development of an automated lookout system to be available at all major ports of entry in Fiscal Year 1984, which will aid in the interception of subversives, criminals, and other inadmissible aliens; and began intensive training for the interception of fraudulent documents.

## **Refugee, Asylum and Parole**

The Office of Refugee, Asylum and Parole has responsibility for Service refugee and asylum programs, the oversight of INS overseas office activity, the adjudication of requests for exercise of the Attorney General's parole authority; and, with the U.S. Coast Guard, the interdiction and return of undocumented aliens on the high seas.

During Fiscal Year 1983, the Service began a program to achieve and maintain currency on applications for asylum in the United States, a major priority of the Service.

More than 73,600 refugee applicants were processed for entry into the United States during the year, some 51,000 from East Asia. Additionally, 1,571 requests for exercise of the Attorney General's restrictive parole authority were adjudicated in cases involving humanitarian factors, or for emergency reasons in the public interest.

Working with the U.S. Coast Guard in carrying out the Presidential proclamation to suspend the illegal entry of undocumented aliens from the high seas, 17 vessels with 397 Haitians and eight nationals of other countries were interdicted on the high seas in 1983, and returned to their respective countries. This cooperative effort has been effective in reducing the flow of illegal aliens attempting entry in this manner.

Through the coordinated efforts of INS and the Department of State, in consultation with the Judiciary Committees of the Congress, refugee processing priorities and guidelines were developed and implemented worldwide to ensure that the U.S. refugee program is administered in an orderly and equitable fashion.

#### **Outreach**

The Outreach program of the Service provides liaison, training and technical assistance to voluntary and community agencies involved in immigration counseling and refugee resettlement.

During Fiscal Year 1983, the Outreach Program conducted 27 workshops in 26 cities for 998 participants. In addition, the program developed a project with the Office of Refugee Resettlement and the Department of Health and Human Services to monitor the placement of Amerasian children coming to the United States under P.L. 97-359, to guard against the possibility of sponsorship breakdowns.

Among its other accomplishments, the Outreach program prepared for publication a revised *Directory of Voluntary Agencies*, including the names and addresses of more than 900 immigration counseling and refugee resettlement organizations. Approximately 50 percent of staff time was devoted to the INS Legalization Implementation Team working on legalization procedures in the event of passage of the Immigration Reform bill.

#### **Information Systems**

The Information Systems Program provides technical direction and support to INS in the achievement of the goals and strategies set forth in the Service's long-range automated data processing plan, with particular emphasis on the Commissioner's priority initiatives for each year. The functional areas under Information Systems during Fiscal Year 1983 were Information Systems Planning, Data

Systems, Records Systems and Policy Directives and Instructions.

#### **Information Systems Planning**

This Office develops and disseminates policy for the design, development, implementation and operation of INS Information Systems, coordinates the establishment of agencywide information requirements, and develops long-range information system plans.

Implementation of the Service's long-range automated data processing plan continued during 1983, with the award of a contract for development of the Central Index System, the solicitation and receipt of proposals for a task order contract for software development, and expansion of the interim data communication network to 56 service locations.

Also during the year, a significant improvement was made in the management of word processing systems by the award of a contract for standard systems following a competitive procurement. The cost-effectiveness of this effort was shown by a 40 percent increase in the number of installed units and a decrease in total outlays for word processing systems.

#### **Data Systems**

The Data Systems Office develops and coordinates programs for the automated processing and delivery components of INS information systems. These include automated data processing, word processing, data telecommunication, radio and sensor, and telephone system information processing components. The Office also provides support for the acquisition of automated data processing and telecommunication technology and systems services including systems development, maintenance and operation. It also develops and oversees the implementation of automated data processing standards and procedures and administers the INS data base.

The Online Lookout System became operational for use at major points of entry during Fiscal Year 1983. This system, which will be used heavily during the 1984 Olympics in Los Angeles, supports Enforcement efforts in the detection of inadmissible persons and others of particular interest to the Service or other law enforcement agencies.

The Interim Casework Support Systems for Deportable Alien Control and Naturalization Casework Control were expanded to eight INS offices during Fiscal Year 1983. The information contained in these systems represents over 260,000 active cases the Service had open at the close of the fiscal year.

Completion of an automated system for accounting and reporting of the acquisition, use, maintenance and disposition of over 3,000 INS vehicles located in and outside the central United States, has enabled the Service to better manage this critical resource. This system tracks vehicles

obtained through the Service's enforcement efforts as well as through normal acquisition procedures.

During the year, the Service's Productivity Measurement System was automated and began providing computer generated analyses and graphics from a data base of over 2,100 data elements. This capability is providing INS managers a flexible, more timely, responsive tool for program evaluation and review.

### **Records Systems**

This Office is responsible for evaluation of records management programs to support INS management and operational needs. This includes maintenance and use of centralized alien files and records, and providing policy guidance and technical support on records management activities and the Freedom of Information and Privacy Acts. In addition, the Office responds to inquiries from the public and other federal agencies regarding immigration law, regulations and procedures.

In line with INS efforts to provide better service to the public, "Ask Immigration" tape library systems were installed or expanded in eight field offices during Fiscal Year 1983, bringing the total of systems now in operation to 11. These systems provide callers with prerecorded general information on 47 different subjects representing the most common Immigration and Nationality Act questions raised by the public. Under current "Ask Immigration" procedures, the caller is screened by a trained, bilingual tape librarian. The tape librarian will either respond to the caller by playing the subject matter tape or transferring the caller to other sources. The tapes have been recorded in English, Spanish, Vietnamese, and Haitian/Creole to serve the clientele served by each of the district offices.

In June 1983, the Eastern Region Telephone Service Center prototype began operations in Philadelphia to test the feasibility of a centralized telephone service. The test center is scheduled to operate for a six-month period, and is equipped and staffed to handle general information calls originating in the New York, Newark and Philadelphia district offices. When callers dial the Service's information numbers in these cities, the calls are automatically routed to the Center for response by the "Ask Immigration" system.

Since the Service's effectiveness in administering the immigration and nationality laws hinges in a major way on the availability of alien files information, INS during the year initiated a project to modernize its recordkeeping function. The initial objectives of the project are to gain accountability of all existing files, and to establish a uniform Servicewide system for retrieving information from the records.

### **Policy Directives and Instructions**

Under the Commissioner's reorganization plan, the Office of Management Analysis and the Instructions Office were

consolidated during 1983 into the Office of Policy Directives and Instructions, to provide a single source within the agency for control of dissemination of regulations and other administrative directives.

This Office is responsible for the implementation and operation of directives and instruction systems to ensure uniformity in publication and distribution of INS regulations, procedures, and instructions.

### **Enforcement**

The Associate Commissioner for Enforcement is responsible for the enforcement programs of the Service. He is responsible for the development and evaluation of programs to guard against illegal entry into the United States, and to investigate, apprehend, and remove aliens in this country in violation of the law. The functional programs under Enforcement are: Border Patrol; Investigations; Anti-Smuggling; Detention and Deportation, and Intelligence.

#### **Border Patrol**

The Border Patrol, as the mobile, uniformed, enforcement arm of the INS, is charged with detecting and preventing the illegal entry and smuggling of aliens into the United States. Patrol agents operate along 6,000 miles of international boundary and the Gulf Coast. Agents utilize sophisticated technology, including sensors, infrared detection devices and low-light level television. The Border Patrol has become a world leader in the application of this technology.

During Fiscal Year 1983, the Border Patrol surpassed all previous records by apprehending more than one million illegal entrants. Preliminary figures show 1,106,131 Border Patrol apprehensions, of which 1,034,132 were on the southern land border. This 28 percent increase over southern border apprehensions for last year was caused by operational improvements within the Border Patrol, and by a surge in the number of illegal entries due to economic conditions in Mexico and in other Latin American countries.

During the year, the Service utilized Mobile Task Force operations to combat the influx of illegal entries. In mid-March, 100 officers were detailed to the Chula Vista, California, Sector, where the largest number of illegal entries occur each year. By mid-April, agents at Chula Vista were apprehending over 2,000 illegal entrants per day. This disrupted established smuggling and illegal entry patterns, causing the illegal entrants to move eastward to attempt entry at other locations. By the third week of April, apprehensions were up 67 percent at El Centro, California, and 126 percent at Yuma, Arizona.

#### **Investigations**

The Investigations Division identifies violations of the Immigration and Nationality Act and related federal statutes,

and presents violators for prosecution. It also gathers information to support administrative proceedings under the Act, and to remove aliens who are unlawfully residing in the United States.

During 1983, successful task force investigations with other federal and state agencies uncovered large-scale document counterfeiting operations, schemes to fraudulently obtain entitlement benefits and loans, and conspiracies to assist aliens to enter or remain unlawfully in the United States. Investigations also continued its participation in the Organized Crime Strike Force and the Vice President's Task Force to interdict the smuggling of narcotics.

Liaison with the Department of Labor, State employment service agencies, and social service organizations resulted in the referral of unemployed U.S. citizens and lawful resident aliens to jobs previously held by illegal aliens, the recovery of unpaid wages, and the correction of other law violations. Ongoing liaison during the year also resulted in the identification of illegal aliens enrolled in entitlement programs and has saved millions of dollars of public funds.

A newly implemented case management system has provided better controls over case reporting, workloads, and resource allocation.

### **Anti-Smuggling**

The Office of Anti-Smuggling Activities focuses on destruction of organized conspiracies engaged in smuggling and transporting illegal aliens into the United States.

In 1983, the program underwent a comprehensive assessment by the Department's Justice Management Division, resulting in immediate and long-term improvements in the program. Significant improvements thus far include: 1) a revised Case Management System to strengthen criminal investigations; 2) improvements in the collection and analysis of alien smuggling data; 3) refinements in undercover operations, and 4) closer coordination with U.S. Attorneys in prosecuting smuggling cases.

The Anti-Smuggling program continues to work closely with officials from Mexico and Canada in combating alien smuggling. The Mexican government instituted assignment of special units at interior road checks in Mexico during the year which resulted in the interception of Central American aliens before they reached the U.S. border.

In Fiscal Year 1983, INS officers apprehended more than 14,000 alien smugglers and achieved some 6,600 convictions on alien-smuggling and related charges. Anti-smuggling officers attained a conviction rate of 89 percent on 2,023 felony charges and 4,539 misdemeanors. In addition, during the year Anti-Smuggling officers seized over 6,900 conveyances, valued at more than \$19.2 million, used in the smuggling of aliens.

### **Detention and Deportation**

The Detention and Deportation programs detain and deport aliens who are in the United States in violation of the law.

During Fiscal Year 1983, INS added to its five existing Service Processing Centers, taking over operation of the federal detention center in Florence, Arizona, in July. Through an expansion program, the combined capacity of the six facilities is nearly 2,000 beds.

The Service continued to make improvements in its Service Processing Centers to ensure that they meet standards developed in 1981. To ensure that non-Service facilities (states and local jails) are equally acceptable, a jail inspection program was begun. Ninety Service officers have been trained in jail inspection, and a survey of all non-Service facilities was conducted in Fiscal Year 1983.

INS worked closely with the U.S. Public Health Service to ensure that adequate medical and mental health care services are available in Service Processing Centers.

The Deportable Alien Control System, an automated docket control and detention booking system, was established in 1983 and is now operational in all Service Processing Centers as well as in four major district offices (San Diego, Chicago, Philadelphia and New York).

### **Intelligence**

The Intelligence Program provides strategic and tactical intelligence support and technical assistance to INS policymakers and field personnel. This support enhances efforts to prevent the entry of illegal aliens, terrorist operatives, and narcotic traffickers, and to disrupt alien smuggling operations and schemes designed to gain federal benefits.

During Fiscal Year 1983, the Intelligence Program was reorganized in accordance with recommendations provided by the Justice Management Division. The program was divided into two distinct functional areas: Liaison Activities and Operational Intelligence. This has resulted in improvements in operations and better coordination of field intelligence activities.

#### **Office of Intelligence Liaison**

The Office of Intelligence Liaison Activities maintains liaison for the exchange of intelligence information with federal, state and local agencies. The Office responds to requests from these agencies for information which may be maintained in INS records.

#### **Office of Operational Intelligence**

The Office of Operational Intelligence provides planning, coordination, and direction on a national level and maintains

program responsibility over INS resources at the Forensic Document Laboratory and the El Paso Intelligence Center.

#### **Forensic Document Laboratory**

In Fiscal Year 1983, the Forensic Document Laboratory was moved to a new facility in northern Virginia. Improvements in Laboratory capabilities are expected to provide increased support to INS personnel in the scientific analysis of documents. Laboratory examiners provide expert testimony in federal cases involving counterfeit or altered documents. In addition, the Laboratory conducts research of document fraud, provides technical assistance and fraud assessments to field personnel, and assists development of secure federal identification systems.

#### **El Paso Intelligence Center**

INS personnel at the El Paso Intelligence Center provide intelligence support to operational units. During the fiscal year, the Center responded to approximately 222,000 field inquiries. In addition, INS personnel maintained data bases including Mexican Border Smuggling, Private Aircraft Entries, and Fraudulent Document Indices.

### **Office of Management**

The Office of Management provides management, budgetary and administrative policy and support services necessary for the efficient conduct of the INS mission.

Major initiatives undertaken during Fiscal Year 1983 focused on the identification of inefficient, wasteful or outdated administrative policies, practices and procedures, and the application of systematic improvements designed to eliminate waste, and possibility of fraud and abuse, and attain a more effective support service delivery system. Building upon improvement projects begun in Fiscal Year 1982, and targeting new areas using the results of our internal control reviews conducted under the auspices of Office of Management and Budget Circular A-123, and the Federal Managers Financial Integrity Act, the following activities typify the efforts undertaken to achieve more efficient and effective operations.

#### **Administration**

The Office of Administration has responsibility for contracting and procurement, property management, fleet management, general services, security, health and safety, facilities and engineering, printing, and publication management.

During the year, significant accomplishments include full implementation of a centralized automated vehicle accounting and reporting system, designed to improve the management and control of the over 3,000 vehicles

comprising the INS fleet; the design, implementation and testing of an automated property management system for improving accountability and utilization of personal property resources needed to accomplish our mission; and an automated contracts and purchase order tracking system designed to improve contracting policies and procedures. The success of the improvement program increased the reliability and acceptance of the procurement process, resulting in managers utilizing contracting alternatives in increasing numbers.

The relocation of the Miami district office in 1983 provided the opportunity to develop and apply new facility design and construction standards. The success of these standards have been tested, resulting in efficient utilization of space, improved workflow and better service to the public. Consequently, these standards were utilized in plans for upgrading six additional major offices in Fiscal Year 1984.

#### **Comptroller**

The Office of the Comptroller is responsible for review of Service resource requirements and utilization; coordinates the development of INS budget submissions; and develops and implements Servicewide accounting policy and procedures.

A task force effort to review, revise and strengthen policy and instructions concerning payroll matters was undertaken to increase the accuracy in the preparation of time and attendance reports. The resultant time and attendance report monitoring system has proven to be successful in curtailing mistakes and possible abuses in recording charges for overtime and other types of premium pay.

#### **Personnel and Training**

This Section has responsibility for the development, implementation, administration, and evaluation of the full range of personnel management programs and of programs for technical training and employee development.

A completely revised Merit Staffing Plan for nonbargaining unit positions was implemented during 1983 to improve the manner in which key supervisory and managerial positions are filled by: 1) expanding management flexibilities in determining recruitment/placement options; 2) involving selecting officials more actively in the staffing process; and 3) streamlining major procedures and reducing the paperwork required.

In addition, the Service instituted a competitive, accelerated development program which emphasizes the development of professional management skills so that highly trained, competent managers are available to fill critical positions in its districts and sectors.

## **Evaluation and Management Assistance Division**

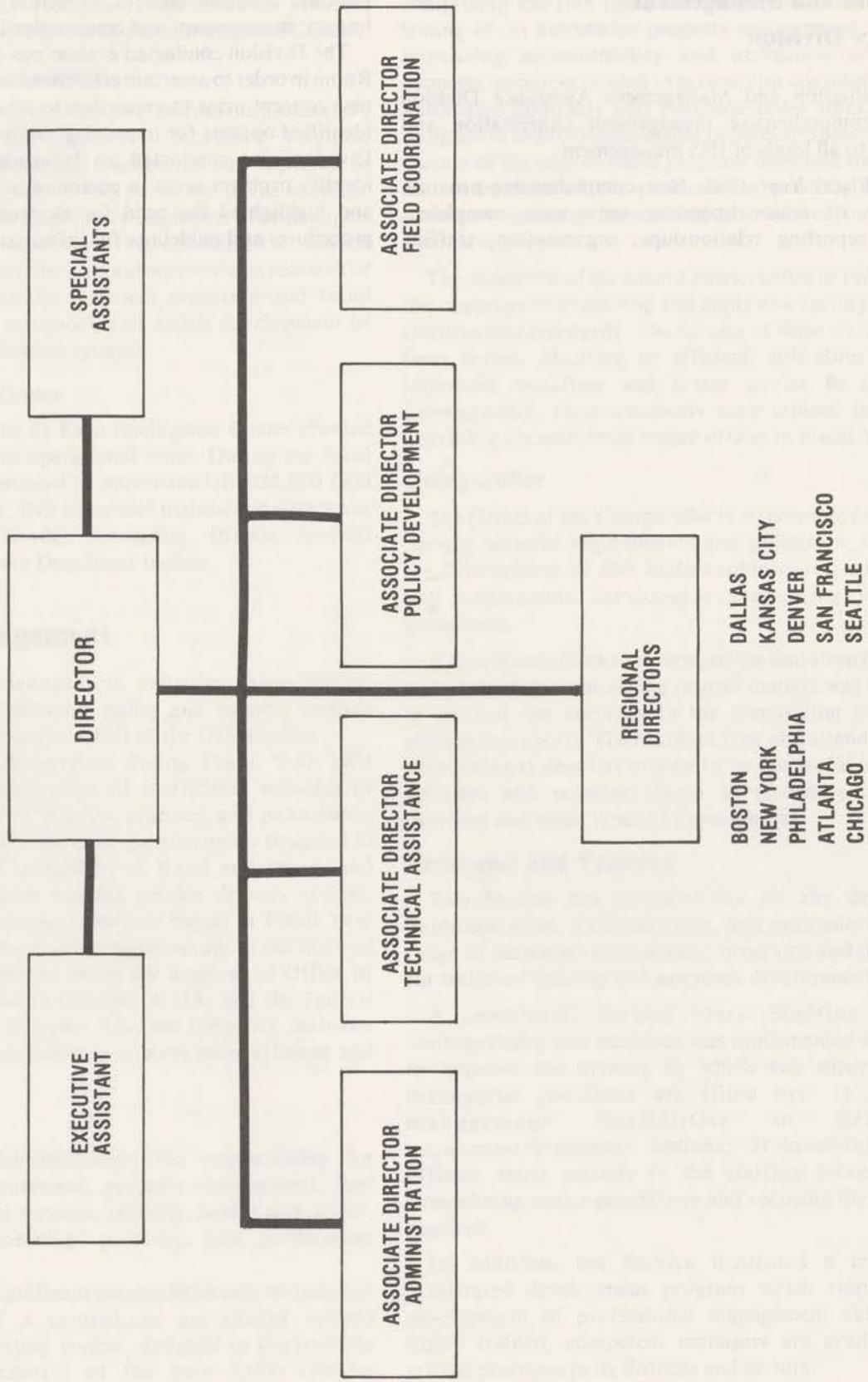
The Evaluation and Management Assistance Division provides comprehensive management consultation and evaluation to all levels of INS management.

During Fiscal Year 1983, four comprehensive program evaluations of major operating units were completed, reviewing reporting relationships, organization, staffing

policies, program content, direction and priorities, field impact, management and communications.

The Division conducted evaluations of the Miami Waiting Room in order to ascertain effectiveness and efficiency of this new concept prior to expansion to other INS facilities, and identified options for improving service to INS clients. The Division also conducted an Information Flow Study to identify problem areas in communications throughout INS and highlighted the need for electronic mail and revised procedures and guidelines for information control.

## COMMUNITY RELATIONS SERVICE



# Community Relations Service

## Gilbert G. Pompa Director

The mandate of the Community Relations Service (CRS) is set forth in Title X of the Civil Rights Act of 1964 as follows: "It shall be the function of the Service to provide assistance to communities and persons therein in resolving disputes, disagreements, or difficulties relating to discriminatory practices based on race, color, or national origin which impair the rights of persons in such communities under the Constitution or laws of the United States or which affect or may affect interstate commerce."

The agency directly aids troubled communities as a conciliator or mediator, assisting in the resolution of any race-related conflict. This mission is carried out through 10 regional offices, which are alerted to community problems by public officials who seek the agency's help, by other interested parties, through direct observation, or through news media reports. Problems within the agency's jurisdiction are carefully assessed to determine the issues, the parties involved and their positions, whether the problem appears amenable to CRS's conflict resolution process, objectives to be pursued, and the resources required. Whatever steps are necessary to resolve the conflict are then initiated through conciliation or through formal mediation. CRS has complete discretion to provide this service to communities, subject to the immediate supervision of the Deputy Attorney General.

## Program Structure

The basic program structure that CRS uses to plan its work reflects three major areas of race-related conflict: Administration of Justice, Education, and General Community Relations. These program areas generally do not change from year to year, and the agency determines in each planning cycle the volume of cases it expects to pursue in each category. Within that general framework, priorities are established based on such factors as the incidence of certain types of conflicts in the preceding year, analysis of current conditions, projected race relations trends, and on other considerations.

### Administration of Justice

This program area is directed toward resolving and reducing the occurrence of conflicts arising from actual or perceived discrimination in the way justice is administered in the United States. Although the agency also responds to disputes involving prisons and the courts, the greatest

emphasis is placed on improving relations between minority citizens and the police because that is where the greatest problem has been. This is especially true with respect to police use of firearms or other means of deadly force. In fact, in recent years the perceived unnecessary use of deadly force has been the greatest single cause of community conflicts to which CRS has responded.

### Education

This program area is concerned with resolving and reducing the occurrence of conflict in the nation's schools relating to race, color, or national origin. One component is directed toward conflicts arising out of a variety of issues in elementary and secondary schools and colleges. For example, CRS is frequently called upon to assist in resolving disputes over such matters as alleged discrimination in the use of school resources. The influx of new student groups as a result of refugee resettlement or changes in residential patterns also continues to provoke hostile community reactions.

A second component of the education program area deals with the peaceful implementation of school desegregation. Although the first-time implementation of desegregation has leveled off, community problems related to it remain a concern for CRS.

### General Community Relations

This program area is directed toward resolving and reducing the occurrence of conflict over a wide range of other problems. The diverse components of this program area, which include Ku Klux Klan and other hate-group violence, are grouped in a single category to facilitate the agency's planning and response. In addition to hate-group cases, it includes such other community conflicts as protest demonstrations, discrimination in public facilities, and disputes over jobs, housing or delivery of municipal services.

### New Initiatives and Policies

Fiscal Year 1983 was a particularly eventful year for CRS with respect to major new undertakings and the advancement of Department priorities. The agency continued to support the Attorney General's priorities through its ongoing casework. For example, crime reduction was stressed as one potential benefit of increased cooperation between the police and the community. Although minority citizens are disproportionately the victims of crime, conflict over such

issues as police use of deadly force often impedes the cooperation needed to fight a crime problem.

One new initiative the agency undertook is a cooperative project with the National Urban League, at the League's request, to help its affiliates develop anti-crime programs in selected cities. CRS also expanded participation by its regional offices in the U.S. Attorneys' Law Enforcement Coordinating Committees, which are a cornerstone of the Department's overall effort to improve the federal fight against crime.

### New Statutory Responsibility

Regarding the Department's responsibility with respect to immigration and refugees, CRS continued to assist communities and the Immigration and Naturalization Service in resolving a variety of community relations problems. In addition, on March 6, 1983, the agency assumed responsibility for the Cuban/Haitian Reception Processing Program, substantially increasing its role regarding refugee and immigrant problems in the United States. This program was authorized by Section 501 (c) of the Refugee Education Act of 1980 and was formerly administered by the Office of Refugee Resettlement in the Department of Health and Human Services.

President Reagan delegated responsibility for the program to the Department of Justice on January 21, 1982, in Executive Order 12341. Transfer of the program to CRS in Fiscal Year 1983 brought 17 positions and \$8.2 million in funds to the agency.

The Cuban/Haitian entrant program was created in response to the needs of almost 180,000 persons who entered the country in 1980—and Haitians who entered subsequently—without documentation or imminent prospects for returning to their homelands. Its mission is to provide humanitarian assistance for those persons in detention or institutional care, and resettlement and placement services for those who are released. The program also attends to the concerns of communities especially affected by large influxes of Cubans or Haitians. CRS took over three ongoing activities: 1) resettlement of Cubans from federal detention sites; 2) conduct of a Haitian interim placement program; and 3) secondary resettlement of entrants out of Florida.

### Alternatives to Litigation

Another priority of the Attorney General is to bring about the increased use of conciliation and mediation in civil litigation. He has directed CRS to offer its expertise to the legal divisions. Accordingly, in Fiscal Year 1983 the agency established a pilot program on alternatives to litigation. The pilot program's general objectives are to set the direction for the agency's effort, to determine how best to allocate

resources that subsequently may be devoted to this purpose, and to provide a foundation for future agency approaches to alternatives to litigation.

### Quality Assurance Program

An ongoing CRS concern is to achieve maximum possible efficiency in its operations. In that connection, the agency inaugurated in Fiscal Year 1983 its Quality Assurance System. This system will determine new standards of practice and measurements of effectiveness for conciliation and mediation casework. It established a peer review program for selective sampling of casework practice to measure performance against standards.

### Improved Data Processing

A review of data processing and word processing procedures and costs indicated that putting a CRS-owned, minicomputer-based system in place of the current leased equipment and purchased services would yield annual savings estimated at \$60,000 after a one-time expenditure for equipment. Purchase of the necessary equipment has been approved, and the agency expects to move forward with installation of its own system.

### Fiscal Year 1983 Operations

During the fiscal year, the agency continued to operate through these main units, all of which report directly to CRS's Director:

- The Associate Director for Administration handles all personnel, fiscal management, and other administrative services. The Office has primary responsibility for formulation and preparation of the agency's budget, a responsibility it shares with the Office of Policy Development.
- The Associate Director for Technical Assistance is responsible for providing a range of support services to the agency's conciliators and mediators to facilitate effective delivery of conflict resolution assistance. The Office keeps staff apprised of pertinent developments in areas such as police practices and school trends, assists on site when needed, develops publications and other materials required to advance the agency's conflict resolution efforts, conducts research on particular problems, and maintains a bank of consultants qualified to provide the expert knowledge sometimes required in the resolution of disputes.
- The Associate Director for Policy Development oversees the function of the agency's Operational Planning System, its central mechanism for policy analysis, planning, management information flow and analysis, and program evaluation. The Office also plays

a key role in developing the budget in cooperation with the Administrative Office, and initiates policy options for the Director's consideration. This office was responsible for the Quality Assurance Program and the improved data processing initiated during Fiscal Year 1983.

- The Associate Director for Field Coordination is responsible for monitoring the day-to-day delivery of conciliation and mediation services by the agency's regional offices. The Office is charged with ensuring that routine operational problems are addressed, that the regional offices are kept informed of policy decisions and other management actions affecting their casework, and that casework activity adheres to policy directives, established priorities, and standards.
- The Regional Directors supervise all conflict resolution activity and delivery of other CRS services in their respective areas of assignment. In addition to supervising the day-to-day delivery of assistance to troubled communities by their staffs, Regional Directors are also expected to develop and maintain liaison with all appropriate public and private organizations and agencies in their areas.

fatal shooting of a young black adult in December 1982 led to renewed civil disorder, and that fatality was one of several which occurred in fairly rapid succession over a period of about a year. CRS helped city officials reevaluate the firearms training given to officers, and also recommended purchase of a computerized audiovisual simulator that in other cities has enhanced police officers' ability to make better decisions about when to use deadly force in real-life situations. This "Shoot-Don't Shoot" training appears to be having some effect on Miami police officers' performance.

Growing concern among public officials over liability problems became another avenue for CRS involvement in deadly force disputes. In the wake of lawsuits totaling \$7 million in 18 months, officials in Chester, Pennsylvania, asked the agency to help design and implement a new firearms training program for that city's police officers. CRS also later convened a statewide conference on municipal liability and use of deadly force at which top Pennsylvania law enforcement executives, civil rights attorneys, insurance experts and others made presentations. Similar sessions were arranged in other states, including a seminar for public officials from 15 cities in south central Connecticut at the request of the Southern Connecticut Justice Advisory Board.

In Colorado, the agency resolved disputes in jails at Georgetown and Antonito. Both cases involved charges of inhumane treatment of inmates, such as overcrowding, poor sanitary conditions, and inadequate medical care. In addition, inmates at the Antonito jail sued the sheriff and county commissioners in federal court; CRS's intervention led to settlement of the suit. Elsewhere, the agency assisted in an effort by community groups and the Washington (State) Council on Crime and Delinquency to address their concerns over the disproportionate numbers of blacks incarcerated in state penal institutions.

Finally, the agency helped resolve a number of disputes in which minority citizens charged that a double standard of justice was applied in matters of prosecution. For example, after a five-year-old Hispanic boy was struck and killed by a car in Billings, Montana, the Hispanic community reacted angrily to the fact that the white driver was charged only with speeding. It was alleged that there had been a similar result in five other cases involving minority victims. Ultimately, the state attorney general's office charged the driver with negligent homicide. However, CRS worked with the protesting Hispanic citizens and city officials throughout the controversy to promote an objective evaluation of the use of discretion and other factors in the local justice system's decisionmaking process.

## **Education Cases**

Many disputes in this category involved alleged inequities in what was happening to minority students in schools. For

## **Cases and Priorities**

As indicated above, the primary focus of CRS's casework in Fiscal Year 1983 was its program areas of Administration of Justice, Education, and General Community Relations. Beyond that, the agency established four priorities to give special attention: 1) cultivation of police-minority community cooperation against crime; 2) containment and reduction of racial harassment; 3) reduction of the risk of civil disorders; and 4) response to refugee resettlement problems.

Its main operational units collectively addressed all these concerns through ongoing casework. Altogether, the agency processed 1,741 alerts, or intake reports, to potentially serious situations. It conducted in-depth assessments in 1,382 of these. It provided extended conciliation or mediation assistance in 1,052 cases, 815 of which were concluded. Most of these figures are decreases from the preceding year, but the decreases are due in large measure to an effort to correct an over-extension of staff in Fiscal Year 1982—to the possible detriment of casework quality—a concern which influenced the establishment of the Quality Assurance System.

Following are examples of race-related conflicts that disrupted communities in Fiscal Year 1983 and CRS's impact on those conflicts:

## **Administration of Justice Cases**

Police use of deadly force remained the predominant Administration of Justice issue. In Miami, for example, the

example, a predominantly Chicano parents group sought CRS's help in Center, Colorado, because they contended that no provisions were made in the 1983-1984 school plan to deal with serious academic deficiencies among 74 percent of the Hispanic students. The agency persuaded school authorities to accept an independent review of the plan, and they and Chicano parents began working toward common objectives for students.

The University City, Missouri, school district requested CRS's assistance in responding to racial conflict in its major high school over the circulation of materials regarded as demeaning to blacks. CRS helped set up and train a multi-ethnic "Student Response Team" whose responsibility was to take a leadership role in helping to combat racial polarization among students. In a similar situation, the agency helped Burien, Washington, school authorities develop a detailed plan for dealing with hostility between white and Asian students. The pattern had been to respond to repeated violent clashes with a large contingent of police officers and school staff patrolling the halls, but with no concentrated effort to alleviate the underlying causes of the problem.

Another type of school dispute is illustrated by a Pike County, Georgia, case in which black residents—aided by the American Civil Liberties Union—sued in federal court to change school board election procedure. CRS was asked for assistance after a black citizen appointed to the board—the first black to serve—began receiving threats. Eventually, the agency served as mediator in negotiations that produced a consent decree and a new election procedure.

CRS also continued to assist some cities with school desegregation. In Hillside, New Jersey, for example, the agency helped mobilize all segments of the community around the objectives of avoiding disruption and minimizing danger to children. The state superior court ruled that desegregation of schools from kindergarten through eighth grade must proceed following 10 years of delay due to litigation.

### General Community Relations Cases

Among the more general community conflicts to which CRS responded, many involved helping public officials organize to cope with actions by the Ku Klux Klan, Nazi Party, or similar groups. In Erie, Pennsylvania, the agency helped the local branch of the NAACP, public officials, and civic leaders put together a communitywide effort to avoid a confrontation after the Ku Klux Klan announced it would stage a recruiting drive and a parade through downtown. Similar efforts were organized after a Ku Klux Klan group threatened minority students at a school in Bethel, Maine,

and when black students boycotted the Oroville, California, schools following the discovery of Nazi literature in student lockers.

Another significant body of cases grew out of the presence in communities of refugees, immigrants, or migrants. Sometimes, the immediate problem was economic, as in Pass Christian, Mississippi, where CRS helped alleviate tension between white and Vietnamese fishermen competing to make a living from the area's oyster beds.

In other cases, the issue was a question of services to a new and unfamiliar group, as in Richmond and San Pablo, California, where Laotian refugees charged that police paid little attention to assaults, burglaries, and vandalism committed against them. CRS arranged a meeting with the police that set in motion several specific steps to improve the situation. The agency was also active in Des Moines, Iowa, much of eastern Washington State, and other locations helping negotiate understandings to minimize friction resulting from the enforcement actions of the Immigration and Naturalization Service.

Among other notable types of cases to which CRS responded are these:

- In Atlanta, the agency was requested by the federal district court to mediate a case in which blacks alleged that they were denied access to a swimming pool on the basis of race. Although the neighborhood has become approximately 50 percent black, no black person had ever been accepted for membership in the community association which owns the pool. CRS served as mediator in negotiations which resulted in a consent decree.
- In the past three years, tension has escalated between whites and Indian fishermen in Washington's Puget Sound over ancient treaty fishing rights upheld in federal court. Confrontations have usually come when the Indian fishermen have gone onto private beaches to anchor one end of their salmon nets to land. CRS continued in Fiscal Year 1983 to mediate agreements, involving several different tribes, that spell out steps that fishermen and property owners will take to accommodate each other. The agency and the parties review these agreements each year to make any revisions necessary.
- In Milpitas, California, the agency acted as mediator in negotiations that produced a number of actions by city government to address alleged racial harassment against blacks in the fire department.
- Following several tense demonstrations and a work stoppage at a building site in Lower Manhattan,

CRS—at state officials' request—helped set up a minority contractors and construction workers advisory board to look at ways the minority group's participation in the building industry could be increased.

- When minority citizens in Sioux City, Iowa, became sufficiently upset about allegedly biased news reporting to picket the local newspaper, CRS helped bring community residents and media representatives together for discussions that alleviated tension and produced less criticism for news coverage.

#### COMPARISON OF WORKLOAD DATA FOR FISCAL YEARS 1982 and 1983

	FY 1982	FY 1983	Percent of Change
Alerts.....	1,996	1,741	-12.8
Assessments.....	1,476	1,382	-6.4
Conciliation Cases:			
Conducted.....	1,070	1,026	-4.1
Concluded.....	836	799	-4.4
Mediation Cases:			
Conducted.....	26	26	0
Concluded.....	19	16	-15.8

- to determine claims of U.S. military personnel and their dependents as a result of military operations during World War II and
- to determine claims of U.S. military personnel and civilians held in a captured status during World War II, the Korean conflict, and the Vietnam conflict.

The Commission was formed by George H. W. Bush on Sept. 14, 1984 (P.L. 98-223, 98 Stat. 223, 224) which included the War Claims Commissioner and the Congressional Claims Commissioner representing the Government to the War Commission. This act created two independent, independent, federal agencies with the task and mandate to consider claims against the U.S. armed services and the administration of programs.

On October 1, 1985, the Commission was transferred to the DOD (P.L. 98-223, 98 Stat. 223, 224, 225, 226, 227) to the Department of Defense as a separate agency. Under the statute, the Commission maintains its independence as an independent federal agency, however, it can submit its views and recommendations to the Congress.

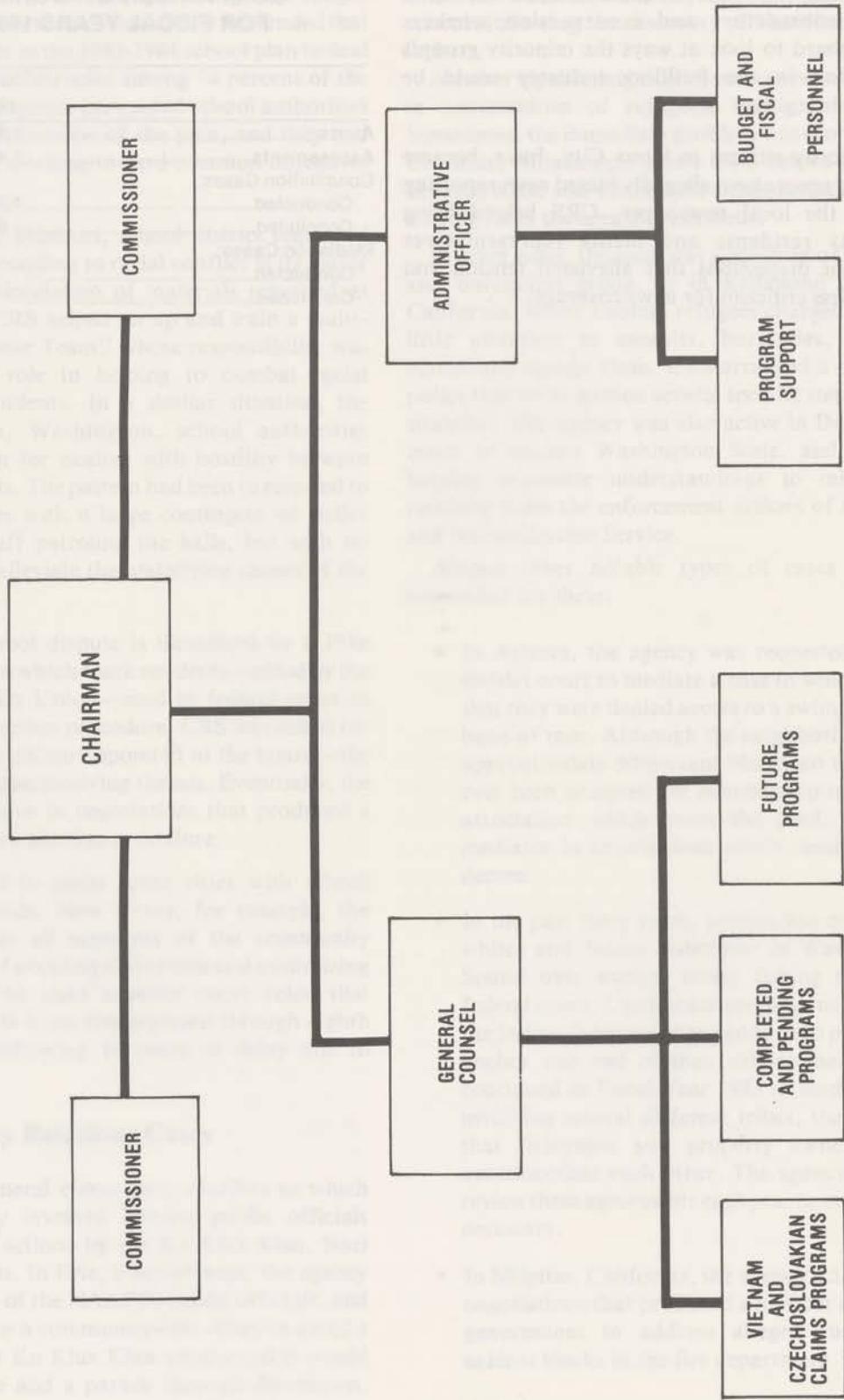
The Commission consists of a full-time Chairman and two part-time Commissioners, each with a staff of one and one-half secretaries. The Chairman and Commissioners are responsible for the review of laws and staff proposals and the issuance of decisions. All decisions

are issued in the name of the Commission and are subject to the approval of the Secretary of Defense as the final authority for those claims against the government.

On January 1, 1986, the Commission assumed 221 million claims from the backlog of 400 million claims which had accrued to approximately 100 million claims.

On the last day, the Commission assumed 221 million claims from the backlog of 400 million claims which had accrued to approximately 100 million claims.

## FOREIGN CLAIMS SETTLEMENT COMMISSION



# Foreign Claims Settlement Commission

**J. Raymond Bell**  
**Chairman**

The Foreign Claims Settlement Commission is a small, quasi-judicial federal agency which has been authorized:

- to determine claims of U.S. nationals for loss of property in specific foreign countries as a result of the nationalization or other taking of property by those governments;
- to determine claims of U.S. nationals for damages and loss of property as a result of military operations during World War II; and
- to determine claims of U.S. military personnel and civilians held in a captured status during World War II, the Korean conflict, and the Vietnam conflict.

The Commission was created by Reorganization Plan No. 1 of 1954 [68 Stat. 1279, 22 U.S. Code 1622 Note] which abolished the War Claims Commission and the International Claims Commission, and transferred their functions to the new Commission. This act created one permanent independent federal agency with the staff and expertise to consider claims resulting from armed conflicts and the nationalization of property.

On October 1, 1980, the Commission was transferred by P.L. 96-209 [94 Stat. 96, approved March 14, 1980; 22 U.S. Code 1622a] to the Department of Justice as a separate agency. Under the statute, the Commission maintains its independence as an adjudicatory federal agency but receives certain administrative support services from the Department.

The Commission consists of a full-time Chairman and two part-time Commissioners—all appointed by the President, and confirmed by the Senate. The Chairman and Commissioners are responsible for the review of claims and staff proposals and the issuance of decisions. All functions,

powers and duties not directly related to adjudicating claims are vested in the Chairman.

The awards made by the Commission for the expropriation of property by foreign governments or for wartime destruction are not paid by appropriated funds from the U.S. Treasury. Rather, the authorizing statutes provide for the payment of such awards from funds made available either as a result of the liquidation of foreign assets blocked in the United States or from claims settlement agreements negotiated with the foreign governments which have nationalized or otherwise taken property of U.S. nationals.

Commission operating expenses are only partially, if at all, borne by U.S. taxpayers. The statutes authorizing payments of awards also provide for the deduction of a certain percentage (usually five percent) of the funds resulting from the liquidation of vested assets or a claims settlement agreement for deposit in the Treasury as reimbursement to defray the administrative expenses of the Commission and the Department of the Treasury in implementing the various claims programs. As of the end of Fiscal Year 1983, over \$31 million had been so returned to the Treasury, with additional amounts anticipated from the future settlement of claims already adjudicated by the Commission. The total administrative expenses of the Commission and its predecessors from the beginning of Fiscal Years 1950 through 1983 amounted to approximately \$25 million.

During the last year, the Commission continued the adjudication of claims against the Socialist Republic of Vietnam and continued a program to determine the validity and amount of certain claims against Czechoslovakia. The Commission was consulted by Congress and the executive branch concerning legislation involving claims against Iran, and responded to numerous requests concerning past claims programs.

# INTERPOL—United States National Central Bureau

## Richard C. Stiener Chief

As specified in its Constitution, the International Criminal Police Organization (INTERPOL) was created to promote mutual assistance between all law enforcement authorities in the prevention and suppression of international crime. Established in 1923, and reorganized in 1946, INTERPOL has grown from an organization composed of a small number of European countries to a worldwide consortium consisting of 135 member countries.

The United States participation in INTERPOL began in 1938 when Congress authorized the Attorney General to accept membership in the organization on behalf of the U.S. government. Currently, INTERPOL—United States National Central Bureau (INTERPOL—USNCB) operates as a component of the Department of Justice pursuant to a Memorandum of Understanding between the Department of Justice and the Department of the Treasury. The Attorney General is the permanent U.S. representative to INTERPOL and the Secretary of the Treasury is the alternate representative.

The Memorandum of Understanding was amended in April 1983 and again in January 1984 to ensure management and leadership continuity in INTERPOL—USNCB. It now provides for service by a Senior Executive Service law enforcement employee of the Department of Justice or the Treasury as Chief of INTERPOL—USNCB for a term not exceeding four years, and for service by a senior law enforcement employee of the Department of Justice, Department of the Treasury, or another participating agency as Deputy Chief for Investigations for a four year term. To maintain continuity, the terms of service of the Chief and Deputy Chief for Investigations may not commence simultaneously. In addition, the position of Deputy Chief for Operations and Administration must be occupied by a career employee of the Department of Justice.

## Functions of USNCB

As the United States liaison to INTERPOL, the INTERPOL—USNCB functions as a central conduit providing efficient communications between this country, other INTERPOL member countries, and the INTERPOL Headquarters, or General Secretariat. The INTERPOL—USNCB telecommunications facilities also enable state and local police organizations and other federal law enforcement agencies to obtain the assistance of foreign

law enforcement authorities in combating international crime.

The National Central Bureau of each INTERPOL member country operates within the guidelines of its national laws and the INTERPOL Constitution, which specifically prohibits member countries from intervention in, or activities or investigations of, matters of a military, religious, racial or political character. The broad range of requests for assistance and investigative information received by the INTERPOL—USNCB include requests pertaining to crimes of murder, robbery, large-scale narcotics violations, large-scale fraud and counterfeiting, and the location and apprehension of international fugitives. The latter cases often involve arrests and extraditions to the countries where the crimes were committed. Requests for information are also made regarding criminal history backgrounds, license checks, and information of a humanitarian nature. In addition, INTERPOL and the INTERPOL—USNCB can assist foreign and domestic police organizations in tracing weapons, and/or locating witnesses to interview for investigative purposes.

## Caseload

With the increase in international crime, the caseload of the INTERPOL—USNCB is constantly expanding. In 1983, the INTERPOL—USNCB caseload totaled 24,249, including 8,903 newly received or reactivated investigative matters and cases, 173 requests for information from the Criminal Division's Office of International Affairs, 350 Canadian license traces, and 14,823 cases pending from 1982. The total 1983 investigative caseload of the INTERPOL—USNCB reflects approximately a 15.1 percent increase over that of 1982.

In addition to the investigative workload, the Administrative and Special Projects Unit of the INTERPOL—USNCB handled 648 inquiries and matters. These included, for example, preparing responses to requests for information pursuant to the Freedom of Information and Privacy Acts and providing information about INTERPOL and its programs to foreign and domestic law enforcement agencies.

The Operational Units of the INTERPOL—USNCB transmitted 19,122 outgoing international messages, a 111.5 percent increase from the previous year. Domestic messages increased by 36.4 percent and totaled 13,938 received and 7,514 transmitted.

## Programmatic Initiatives

Significant programmatic initiatives were implemented by the INTERPOL-USNCB in 1983. An Anti-Terrorist program, initiated in 1982, became firmly established in 1983. The Anti-Terrorist Unit within the INTERPOL-USNCB evaluates information pertaining to terrorist activities to determine if such information would assist other participating federal agencies in combating international terrorism. An analyst has been assigned to study and organize terrorist information already existing in the INTERPOL-USNCB case files, and to coordinate information exchange among domestic and foreign law enforcement agencies regarding international terrorist activity.

In conjunction with the U.S. Marshals Service, a study was conducted to evaluate the need for establishing a Fugitive Unit within the INTERPOL-USNCB. As a result of the study's recommendation, discussions were initiated between the INTERPOL-USNCB and the U.S. Marshals Service to establish a Fugitive Unit. This specialized Unit will centralize and augment the existing fugitive tracking program and will coordinate information exchange pertaining to the investigation, identification, location and return of internationally wanted fugitives. When fully implemented, the activities of this Unit will be of benefit to the U.S. Marshals Service, the Federal Bureau of Investigation and the Office of International Affairs, as well as to the INTERPOL-USNCB.

Plans were also initiated in 1983 which led to the creation of a Financial/Fraud Crime Unit in conjunction with existing programs of the agencies currently participating in the INTERPOL-USNCB. This Unit is maintained by the INTERPOL-USNCB and directed by an Assistant Chief detailed from the U.S. Customs Service. Representatives from the Internal Revenue Service, Postal Inspection Service, Secret Service, Customs Service, and Department of Agriculture, coordinating with the Drug Enforcement Administration and Federal Bureau of Investigation, comprise this Unit. Investigations of financial and economic crimes are coordinated through this Unit to ensure cooperation and avoid duplication of existing agency programs or investigations.

In connection with the creation of the Financial/Fraud Crime Unit, closer cooperation with the Treasury Financial Law Enforcement Center (TFLEC) of the U.S. Customs Service has been established. INTERPOL-USNCB queries directed to the Treasury Enforcement Communications Systems (TECS) data base will be cross-checked through the TFLEC computer indices.

During 1983, increased emphasis was placed on broadening the INTERPOL-USNCB's visibility with both the domestic and foreign law enforcement communities. A

slide and video presentation was developed to explain the role of the INTERPOL-USNCB and the services it provides to law enforcement agencies. In addition, a transportable INTERPOL/INTERPOL-USNCB display booth was constructed, which has been used frequently for law enforcement conferences and seminars.

## Innovations in Telecommunications and Data Management

Significant improvements in telecommunications networks and computer systems were implemented in 1983. Information transmission between the INTERPOL member countries and domestic law enforcement agencies is effected through the INTERPOL radio network, and the international telex/cable facility in the INTERPOL-USNCB which is used for contacting countries that are not connected to the INTERPOL radio network. In 1983, a new, direct telecommunications link between INTERPOL-USNCB and the INTERPOL General Secretariat was installed. This linkage enables the INTERPOL-USNCB to transmit and receive messages instantaneously among the INTERPOL General Secretariat and the 66 other member countries presently having INTERPOL radio network equipment. Previously, messages were transmitted through several organizations' telecommunications channels, which generally resulted in a delay of several hours.

In addition, photofacsimile equipment, enabling international and domestic transmission of high resolution, laser-beam images of identifying photographs and fingerprint records, was acquired and installed in 1983. This advanced technology is particularly useful to domestic and international law enforcement organizations in emergency criminal situations, in court proceedings, and in border protection operations. This technological capability also reduces delays in receiving identifying documents needed to prevent the release or flight of international fugitives.

INTERPOL-USNCB also undertook further development of its computer systems capabilities in 1983. Currently, the INTERPOL Case Tracking System (ICTS), an in-house computer system indexing names of persons, organizations and property associated with international criminal activity, is the principal method for opening cases and processing investigative requests.

This system is inadequate for the INTERPOL-USNCB's needs because of its poor response time due to systems overloading. To alleviate case and administrative backlogs, the INTERPOL-USNCB is presently installing more sophisticated computer systems capabilities which will accommodate the organization's increasing workload. The implementation of Phase I of the new system was begun in 1983 and it is anticipated that both Phase I and Phase II of the new systems operations will be fully implemented by the end

of 1984. Phase III of the systems development should be completed by the end of 1985.

The implementation of the new computer systems capabilities is critical to the investigative activities of the organization, since it will provide a systems network which will permit the automation of interrelationships between multifaceted criminal investigations. The new systems will also improve the reliability of investigative information and enable the future development of international law enforcement related programs. Finally, when fully implemented, the new automated systems will provide data required for various statistical reports, and will further enhance management's ability to monitor the organization's productivity and effectiveness.

## International Activities

The maturation and development of the INTERPOL-USNCB in 1983 is also reflected in the expanding involvement of the United States in the INTERPOL General Secretariat. U.S. representation in the General Secretariat has grown from one to six government agencies during the past several years. With the additional support provided by the United States, it was possible to focus international law enforcement attention on financial assets investigation and the problem of offshore banking. As a result, a financial group at the INTERPOL General Secretariat was created specifically to address this problem. This group presently includes representatives from the U.S. Customs Service and is soon to include a representative from the Internal Revenue Service. In addition, an American Regional Working Party on financial crime was established to address the problem of offshore banking in the Americas.

With the support of the United States, a financial and fiscal review of the international organization was also implemented. This ongoing review resulted in the creation of a fiscal advisory group to the Executive Committee of the General Secretariat. This group presently consists of representatives from Belgium, Switzerland, and the United States. The financial advisors have been appointed for three-year terms, and improvements in the fiscal and financial management of the organization have already occurred.

In addition, plans to conduct a management review of INTERPOL operations, procedures, and organizational

structure were stimulated in 1983. It is anticipated that a management audit and review of the INTERPOL General Secretariat will be conducted in 1984 by a private management firm in close coordination with representatives from the United States and other member countries.

The INTERPOL-USNCB played, and is continuing to play, a significant role in generating support for these initiatives among the INTERPOL member countries.

The INTERPOL-USNCB encouraged the establishment of an INTERPOL Standing Committee on Telecommunications in 1983. Establishing a viable telecommunications network for INTERPOL is critical for maintaining the organization's effectiveness. Presently, only 67 member countries are linked through the INTERPOL telecommunications network. The primary objective of the Standing Committee is to incorporate all INTERPOL member countries into this network, thereby minimizing delays in transmitting international messages of a law enforcement nature. Additional standing committees to address other operational problems of the organization are likely to be established in the future.

The increasing involvement of the United States and the INTERPOL-USNCB in the international organization is also reflected in the resolutions drafted in 1983 and proposed during the 52nd Meeting of the General Assembly. A resolution to address the problem of international fraud and counterfeiting was approved at the recent meeting of the INTERPOL General Assembly. In addition, a resolution addressing the problem of international terrorism was successfully passed by the General Assembly with the full support of the United States. As a result, a study will be undertaken in 1984 to evaluate procedures necessary to ensure international cooperation in addressing the problem of international terrorist activity. It is noteworthy that the politically sensitive issue of international terrorism has never before been raised as a matter for discussion. The fact that this was permitted during the 52nd Meeting of the General Assembly indicates a significant development in the maturation of the international organization. With the increasing support of the United States and the INTERPOL-USNCB, it is likely that INTERPOL will undergo additional changes improving its effectiveness as an international law enforcement organization.

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## Recipients of Attorney General Awards at the 33rd Annual Department of Justice Awards Ceremony

### Attorney General's Exceptional Service Award

**Mary C. Lawton**  
*Counsel for Intelligence Policy  
Office of Intelligence Policy and Review*

### Attorney General's Distinguished Service Awards

**Michael E. Shaheen, Jr.**  
*Counsel on Professional Responsibility  
Office of Professional Responsibility*

**Roger P. Brandemuehl**  
*Assistant Commissioner  
Border Patrol  
Immigration and Naturalization Service*

**Robert L. Matthews**  
*U.S. Marshal  
District of Columbia*

**Robert L. Hoffman, Sr.**  
*Senior Correctional Officer  
U.S. Penitentiary-Marion, Illinois  
Bureau of Prisons*

**William J. Carroll**  
*Criminal Investigator, Eastern Regional Office  
Immigration and Naturalization Service*

**Allen Lance Emory**  
*Special Agent, Charlotte, North Carolina Field Office  
Federal Bureau of Investigation*

**Gerald P. Franciosa**  
*Special Agent, New York Division  
Drug Enforcement Administration*

**Fernando E. Mata**  
Special Agent, Miami Field Office  
Federal Bureau of Investigation

**Charles J. Alexander**  
Special Litigation Counsel  
Tax Division

**Gerald W. Jones**  
Chief, Voting Section  
Civil Rights Division

**Stephen D. Ramsey**  
Chief, Environmental Enforcement Section  
Land and Natural Resources Division

**Douglas P. Roller**  
Attorney-In-Charge, Chicago Strike Force  
Criminal Division

**William M. Tendy**  
Chief Assistant U.S. Attorney  
Southern District of New York

### **John Marshall Awards**

#### *For Interagency Cooperation in Support of Litigation*

**Peter Beeson**  
Director, Office of Criminal Enforcement  
Environmental Protection Agency

#### *For Providing Legal Advice*

**Carol A. Williams**  
Attorney-Advisor  
Office of Legal Counsel

*Attorney General's* ***For Handling of Appeals***

**Lawrence H. Sharf**

*Trial Attorney*

*Brooklyn Strike Force*

*Criminal Division*

*Attorney General's* ***For Preparation of Legislation***

**Gary H. Copeland**

*Attorney-Advisor*

*Office of Legislative Affairs*

*Attorney General's* ***For Preparation of Litigation***

**Carol B. Amon**

*Assistant U.S. Attorney*

*Eastern District of New York*

**Herbert B. Hoffman**

*Assistant U.S. Attorney*

*Southern District of California*

*Attorney General's* ***For Support of Litigation***

**E. Lawrence Barcella, Jr.**

*Assistant U.S. Attorney*

*District of Columbia*

**Theodore S. Greenberg**

*Assistant U.S. Attorney*

*Eastern District of Virginia*

**Jane A. Restani**

*Director*

*Commercial Litigation Branch*

*Civil Division*

*For Trial of Litigation*

**W. Ray Jahn**  
*Assistant U.S. Attorney  
Western District of Texas*

**Sharon A. Werner**  
*Assistant U.S. Attorney  
District of Kansas*

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

**Ernest Ira Rowe, Jr.**  
*Superintendent of Waste and Water Division  
City of Columbia  
Columbia, South Carolina*

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

**Danny A. Defenbaugh**  
*Supervisory Special Agent-Laboratory Division  
Federal Bureau of Investigation*

**Lawrence Putman**  
*Warden  
Metropolitan Correctional Center-Miami, Florida  
Bureau of Prisons*

**Attorney General's Award  
for Outstanding Service to  
Department of Justice Handicapped  
Employees**

*Group Award - Federal Bureau of Investigation*

**L. Clyde Groover, Jr., Assistant Director**  
**Nick F. Stames, Assistant Director**  
**Danny W. Greathouse, Assistant Section Chief**  
**William P. Crawford, Equal Employment Opportunity Officer**  
**Gloria M. Alfaro, Equal Employment Specialist**

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## Attorney General's Award for Equal Employment Opportunity

**William P. Crawford**  
*Equal Employment Opportunity Officer*  
*Federal Bureau of Investigation*

## Attorney General's Award for Upward Mobility

**Quinlan J. Shea, Jr.**  
*Senior Management Counsel*  
*Justice Management Division*

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

### *Paralegal Category*

**Gaylord D. Draper**  
*Paralegal Specialist*  
*Civil Rights Division*

### *Legal Secretary Category*

**Betty R. Wilson**  
*Legal Technician*  
*Land and Natural Resources Division*

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

### *Administrative Category*

**Terry Samuels**  
*Director*  
*Executive Secretariat*  
*Justice Management Division*

### *Secretarial Category*

**Alta M. Southers**  
*Administrative Assistant*  
*Executive Assistant-Director for Administration*  
*Federal Bureau of Investigation*

## Attala County's Year for Equal Employment Opportunity

William E. Gribble

Equal Employment Opportunity Officer

Department of Administration

## Attala County's Year for the Disabled

District of Columbia

Deborah T. Peter, Jr.

Equal Employment Opportunity Counsel

Attala County's Year for Quality Customer Service Award

Attala County's Year for Quality Support

City of Atlanta

City of Atlanta

City of Atlanta

Attala County's Year for Quality in Law Enforcement

City of Atlanta

