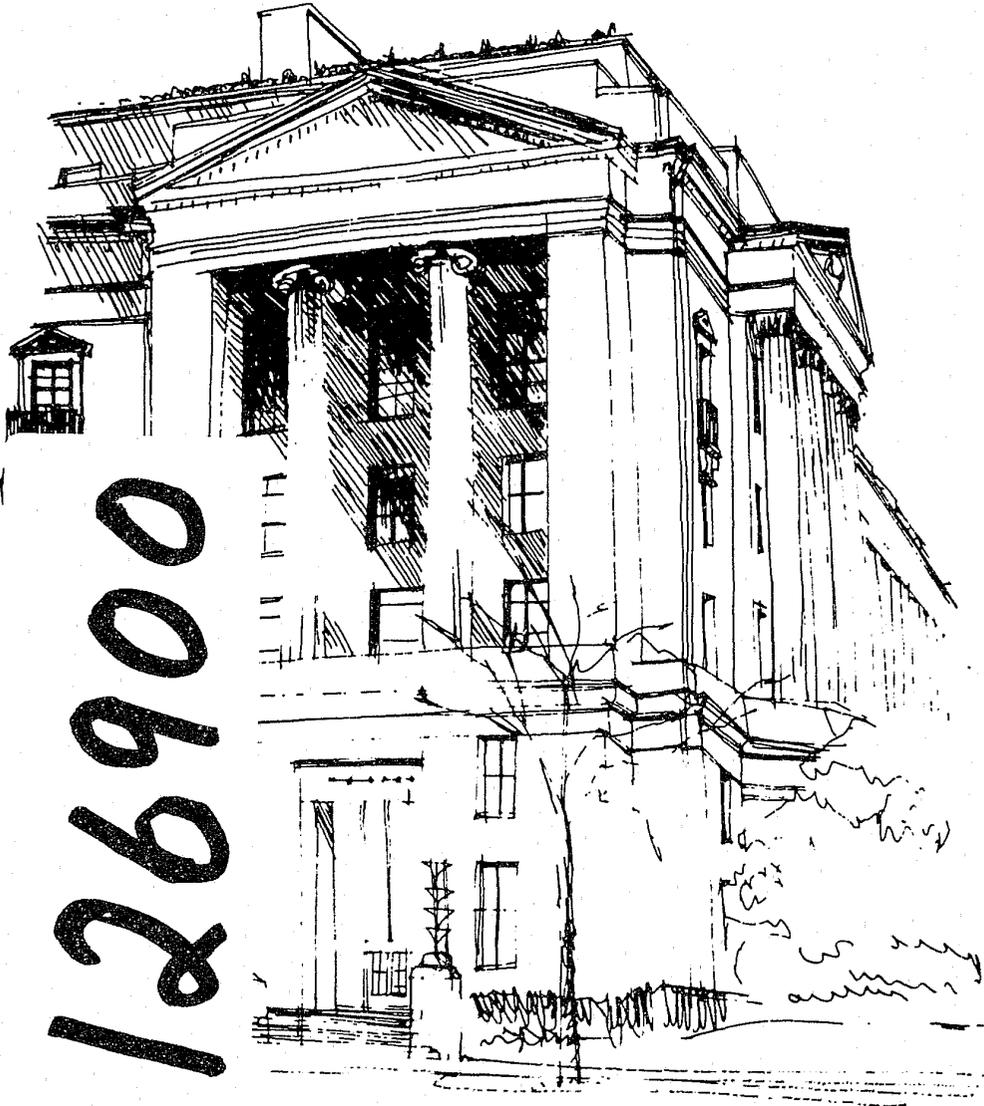


U.S. Department of Justice
Office of the Attorney General



Annual Report of The Attorney General of The United States 1986



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Annual Report of The Attorney General of The United States



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 1986.

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

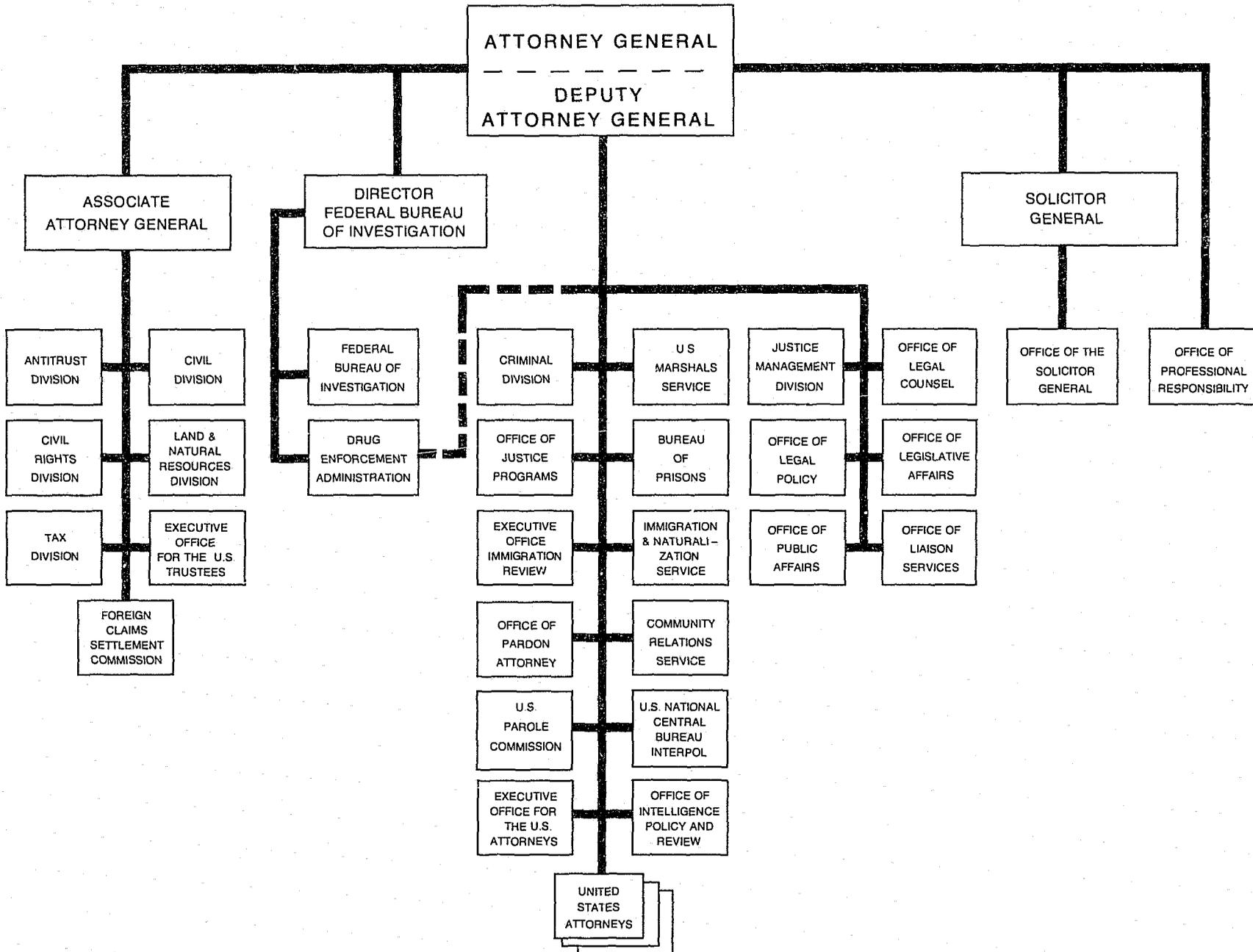
I hope it will provide additional insight into the
Department's activities and help Members of Congress assess the
Department's performance in executing the laws of the United
States.

Respectfully submitted,

A handwritten signature in cursive script that reads "Edwin Meeze III".

EDWIN MEESE III
Attorney General

DEPARTMENT OF JUSTICE



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

Edwin Meese III
Attorney General

Arnold I. Burns
Deputy Attorney General

Stephen S. Trott
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 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.

* * * * *

(The duties and responsibilities of the Offices of the Deputy Attorney General and Associate Attorney General as they are described below represent the official delegations of

authority as they existed during Fiscal Year 1986. On August 15, 1986, the Attorney General supplemented these delegations by issuing an interim communications plan which reflected a greater involvement of the Associate Attorney General in criminal matters but maintained the primary reporting mechanism through the Deputy Attorney General to the Attorney General.)

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: the Solicitor General and his office, Office of Public Affairs, Federal Bureau of Investigation, Drug Enforcement Administration, Office of Professional Responsibility, Justice Management Division, Office of Legal Counsel, Office of Legal Policy, Office of Legislative Affairs, Office of Liaison Services, Criminal Division, U.S. Marshals Service, Office of Justice Programs, Bureau of Prisons, Executive Office for Immigration Review, Immigration and Naturalization Service, Office of the Pardon Attorney, Community Relations Service, Executive Office for U.S. Attorneys, the office of each U.S. Attorney, Office of Intelligence Policy and Review, and the U.S. National Central Bureau, International Criminal Police Organization (INTERPOL). The U.S. Parole Commission is under the supervision of the Deputy Attorney General for administrative purposes.

In addition, the Deputy Attorney General coordinates departmental liaison with the 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 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: Antitrust Division, Civil Division, Civil Rights Division, Land and Natural Resources Division, Tax Division, and Executive Office for U.S. Trustees, and U.S. Trustees. The Foreign Claims Settlement Commission is under the supervision of the Associate Attorney General for administrative purposes.

Priorities

Constitutional Interpretation. The Attorney General and representatives of the Department continued the vigorous and spirited debate over the meaning and interpretation of the Constitution. This debate has been a most appropriate reflection as the nation celebrates the 200th anniversary of the founding charter.

The "jurisprudence of original intention" advocated by the Attorney General is an invitation to rediscover the basic principles of American government and the allocation of rights and governmental responsibilities embodied in the Constitution. In particular, it means defining the role of each branch of the government, and the federal government in its entirety, in accord with constitutional principles, so as to reinvigorate the political processes of democratic government and enhance the accountability of government to the people.

Drug Abuse and Enforcement. During the past year, the Department of Justice has spearheaded numerous fronts in our efforts to eradicate drugs from our society. Among the

initiatives proposed by the President involving the Attorney General and the Department of Justice was the creation of the National Drug Policy Board (NDPB). With the Attorney General serving as the Chairman, the NDPB will coordinate the activities of all federal agencies in the government efforts on the drug supply side. It will also promote the initiatives on the demand side, primarily by helping our youth to "just say no" to drug use.

The Attorney General also has promoted international cooperation in the area of drug trafficking. He has continued his personal effort to expand international cooperation in combating drug trafficking in meetings with law enforcement officials from Mexico, Spain, Great Britain, Italy, Switzerland, and Austria.

Child Pornography and Obscenity. In response to the report of the Attorney General's Commission on Pornography, the Attorney General implemented a seven-point program designed to curb the growth of child pornography and obscenity. The purpose of the program is to put the full weight of the federal government in responding aggressively to crimes of such dimension and consequence.

To implement the program, the Attorney General created a Center for Obscenity Prosecution within the Criminal Division of the Department to coordinate the government's efforts. Working closely with the Center will be a task force of attorneys who will give advice on the prosecution of crimes of this nature.

Immigration Reform Legislation. With the passage of a major immigration reform package by Congress, the government took a major stance in its battle to control the inflow of illegal aliens into the country. The Immigration and Naturalization Service will be the major agency responsible for implementing the programs within the new bill.

Civil Rights Enforcement. During 1986, the Civil Rights Division continued its vigorous enforcement of the civil rights laws. The Division gave high priority to racial violence cases, with active investigations of racial incidents in Howard Beach, New York, and Forsythe County, Georgia.

The Department has sought to ensure that the government treats all citizens equally and without regard to race, sex, or national origin.

Office of the Solicitor General

Charles Fried
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* or intervene 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 3, 1985 to July 7, 1986), the Office handled 1,966 cases, 38 percent of the 5,158 cases on the Court's docket [Table I]. Of the 4,384 cases acted on during the term, there were 1,433 in which the government appeared as the respondent, 48 petitions for writs of *certiorari* filed or supported by the government, and 16 cases in which it appeared as *amicus curiae* supporting the respondent [Table II-A]. During the same period, the Court acted upon 18 appeals filed or supported by the government and 19 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 six cases on the Court's original docket [Table II-D].

Of the 3,876 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, 79 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 18 appeals filed or supported by the government, probable jurisdiction was noted by the Court in 14 [Tables II-A and B].

The government participated in argument or filed briefs as *amicus curiae* in 106 (62 percent) of 171 cases argued on the merits before the Supreme Court. Of the cases decided on the merits, with or without argument, the government participated in 139 of 275 cases, 71 percent of which were decided in favor of the government's position and four percent of which were decided partially in favor of the government's position.

During the same period, there were 617 cases in which the Solicitor General decided not to petition for *certiorari* and 1,037 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 471 miscellaneous matters. This made a total of 4,091 substantive matters the Office handled during the year.

Cases heard during the Supreme Court's 1985 Term in which the Solicitor General's Office participated included those in which the Court held that: 1) Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is unconstitutional insofar as it vests responsibility for implementing aspects of the deficit reduction provisions of the Act in the Comptroller General (*Bowsher v. Synar*); 2) the Clean Water Act prohibits discharge of dredged or fill materials into wetlands adjacent to covered waters (*United States v. Riverside Bayview Homes*); 3) the Due Process Clause is not implicated by a state official's negligent act causing unintended loss or injury to life, liberty, or property (*Daniels v. Williams*); 4) the Speedy Trial Clause does not apply during the period from dismissal of an indictment until its reinstatement (*United States v. Loud Hawk*); 5) the Bank Holding Company Act does not authorize the Federal Reserve Board to regulate the activities of "nonbank banks" (*Board of Governors of the Federal Reserve System v. Dimension Financial Corp.*); 6) a trustee in bankruptcy may not abandon property in contravention of a state statute that provides for protection of the public health or safety from hazardous wastes (*Midlantic National Bank v. New Jersey Department of Environmental Protection*); 7) the Fifth Amendment does not require reversal of a conviction based on a procedural irregularity in the proceedings of a legally constituted and unbiased grand jury (*United States v. Mechanik*); 8) a statutory amendment that prohibits termination of agreements under which states and their political subdivisions participate in the Social Security program did not effect a "taking" of property with the meaning of the Fifth Amendment (*Bowen v. Public Agencies Opposed to Social Security Entrapment*); 9) unwelcome sexual advances by a superior toward a subordinate female employee that create a hostile working environment violate Title VII of the Civil Rights Act of 1964 (*Meritor Savings Bank v. Vinson*); and 10) Section 504 of the Rehabilitation Act does not apply to commercial airlines simply because the airports out of which they operate receive federal funds (*Department of Transportation v. Paralyzed Veterans of America*).

OFFICE OF THE SOLICITOR GENERAL

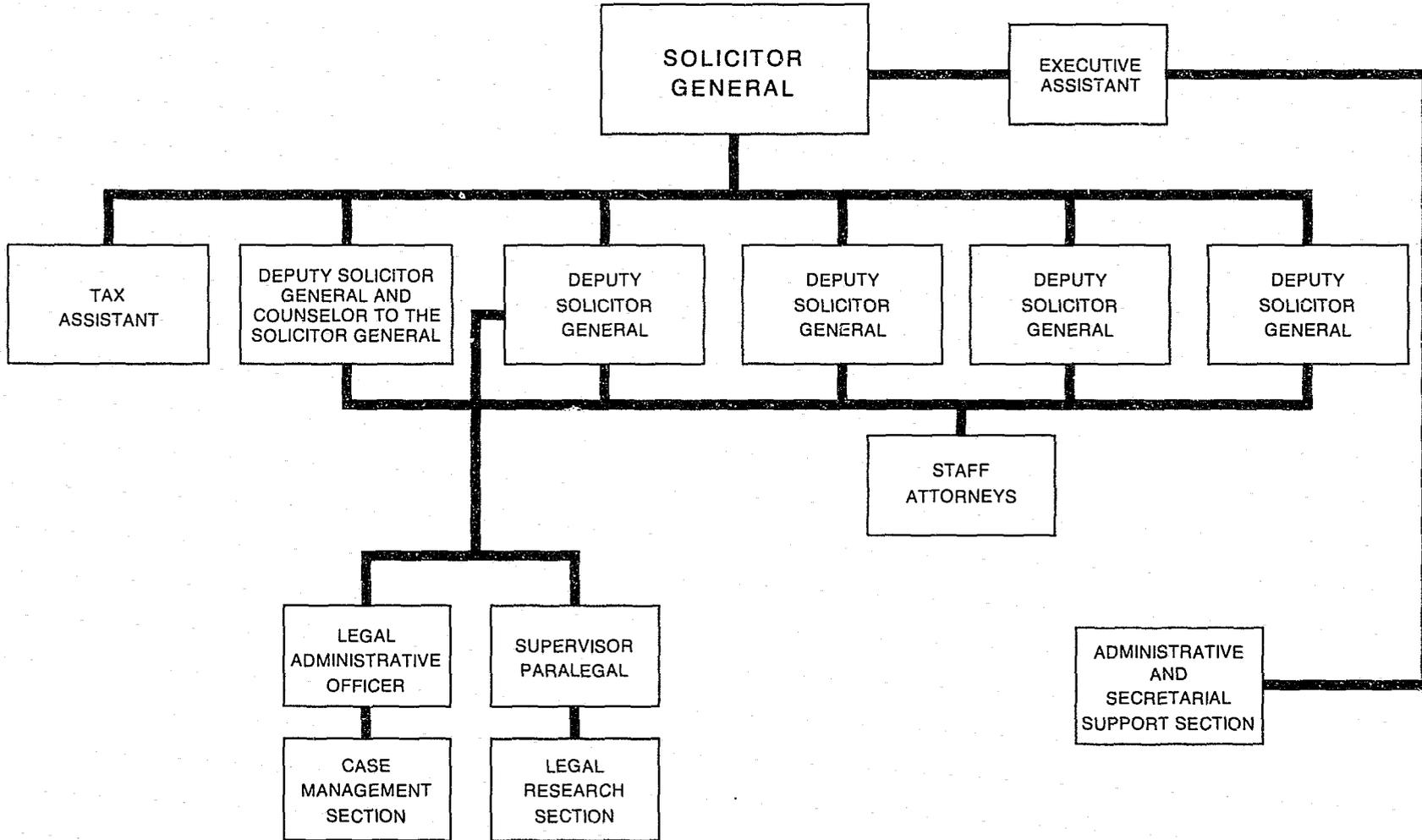


TABLE I
Office of the Solicitor General—Supreme Court Litigation
October Term, 1985
(July 3, 1985—July 7, 1986)
Total Cases

	1981		1982		1983		1984		1985	
	No.	%								
1. Total number of cases on dockets.....	5311	100	5079	100	5086	100	5006	100	5158	100
a. Brought over from preceding Term.....	889	17	878	17	864	17	956	19	745	14
b. Docketed during the Term.....	4422	83	4201	83	4222	83	4047	81	4413	86
2. Disposition of cases on dockets at the Term:										
Total.....	5311	100	5079	100	5086	100	5006	100	4949	100
a. Cases acted upon and closed.....	4433	83	4215	83	4140	81	4249	85	4285	87
b. Cases acted upon but not closed.....	132	2	109	2	112	2	81	2	99	2
c. Cases docketed but not acted upon....	746	14	755	15	834	16	676	13	774	16
3. Cases carried over to next Term.....	878	—	864	—	959	—	745	—	883	—
4. Classification of cases acted upon at the Term:										
Total.....	4565	100	4306	100	4165	100	4429	100	4384	100
a. Certiorari.....	4267	93	3904	91	3968	95	4196	95	4119	94
b. Appeals.....	213	5	264	6	142	3	171	4	178	4
c. Miscellaneous docket, original writs...	74	2	128	3	44	1	50	1	77	2
d. Original Docket.....	11	—	10	—	11	—	12	—	10	—
e. Certifications.....	0	—	0	—	0	—	0	—	0	—
5. Cases participated in by the Government.....	2052	39	2152	42	2026	40	1884	38	1966	38
6. Cases not participated in by the Government.....	3259	61	2927	58	3060	60	3122	62	3192	62

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

	1981		1982		1983		1984		1985	
	No.	%								
A. PETITIONS FOR WRITS OF CERTIORARI										
1. Total number docketed and acted upon .	4188	100	4005	100	3878	100	3997	100	3876	100
a. Petitions filed or supported by Govt:...	73	2	80	2	47	1	42	1	48	1
(1) Government as petitioner.....	56	1	66	2	38	1	36	—	41	1
(2) Government as <i>amicus</i> , supporting petitioner.....	16	—	14	—	9	—	6	—	7	—
b. Petitions not filed or supported by Government.....	4083	97	3919	95	3809	98	3917	98	3802	98
(1) Government as respondent.....	1564	37	1486	40	1490	39	1421	36	1433	37
(2) Government as <i>amicus</i> , supporting respondent.....	14	—	18	—	14	—	17	—	16	—
(3) No participation by Govt.....	2500	60	2415	59	2305	59	2479	62	2353	61
2. Total number of petitions granted.....	195	5	142	4	120	3	145	4	146	4
a. Petitions filed or supported by Govt:...	57	78	51	64	37	79	34	80	38	79
(1) Government as petitioner.....	45	80	39	59	30	79	29	80	34	83
(2) Government as <i>amicus</i> , supporting petitioner.....	12	75	12	86	7	78	5	83	4	57
b. Petitions not filed or supported by Govt:.....	106	3	91	2	83	2	111	2	108	3
(1) Government as respondent.....	18	1	28	1	24	2	24	1	23	2
(2) Government as <i>amicus</i> , supporting respondent.....	1	7	4	22	0	—	2	1	2	13
(3) No participation by Government.....	87	3	59	3	59	3	85	3	83	4
3. Total number of petitions denied or dismissed.....	3965	95	3838	98	3736	96	3814	95	3704	96
a. Petitions filed or supported by Govt:...	13	18	10	2	10	21	8	19	10	21
(1) Government as petitioner.....	9	16	9	15	8	21	7	19	7	17
(2) Government as <i>amicus</i> , supporting petitioner.....	4	25	1	4	2	22	1	16	3	43
b. Petitions not filed or supported by Govt:.....	3952	97	3829	98	3726	98	3806	99	3694	97
(1) Government as respondent.....	1546	99	1459	98	1466	98	1397	98	1410	98
(2) Government as <i>amicus</i> , supporting respondent.....	13	93	14	78	14	100	15	88	14	88
(3) No participation by Government.....	2393	96	2356	98	2246	97	2394	97	2270	96
4. Total number of petitions mooted or dismissed.....	28	1	24	—	22	—	38	—	26	—

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

	1981		1982		1983		1984		1985	
	No.	%								
B. APPEALS										
1. Total number docketed and acted upon .	190	100	154	100	142	100	138	100	152	100
a. Appeals filed or supported by Govt:....	22	12	10	6	14	10	13	9	18	12
(1) Government as appellant.....	17	10	8	5	7	5	7	5	10	7
(2) Government as <i>amicus</i> , supporting appellant.....	5	3	2	1	7	5	6	4	8	5
b. Appeals not filed or supported by Govt:.....	168	88	144	94	128	90	125	91	134	88
(1) Government as appellee	12	6	12	8	8	6	9	7	12	8
(2) Government as <i>amicus</i> , supporting appellee	2	1	5	3	5	4	1	1	7	5
(3) No participation by Government	154	81	127	82	115	81	115	83	115	77
2. Total number dismissed, affirmed or reversed without argument.....	141	74	130	84	114	80	101	73	112	74
a. Appeals filed or supported by Govt:....	6	27	2	20	4	29	4	31	4	22
(1) Government as appellant.....	5	29	2	25	3	43	3	43	1	10
(2) Government as <i>amicus</i> , supporting appellant.....	1	20	0	0	1	14	1	17	3	38
b. Appeals not filed or supported by Govt:.....	135	80	128	89	110	86	97	78	108	81
(1) Government as appellee	4	100	12	100	7	88	4	44	7	58
(2) Government as <i>amicus</i> , supporting appellee	2	100	3	60	5	100	1	100	7	100
(3) No participation by Government	129	84	113	89	98	85	92	80	94	82
3. Total number Jurisdiction Noted or set for argument	49	26	24	16	28	20	37	27	40	26
a. Appeals filed or supported by Govt:....	16	73	8	80	10	71	9	69	14	78
(1) Government as appellant.....	12	71	6	75	4	57	4	57	9	90
(2) Government as <i>amicus</i> , supporting appellant.....	4	80	2	100	6	86	5	83	5	63
b. Appeals not filed or supported by Govt:.....	33	20	16	11	18	14	28	22	26	19
(1) Government as appellee	8	67	0	0	1	13	5	56	5	42
(2) Government as <i>amicus</i> , supporting appellee	0	—	2	40	0	—	0	—	0	—
(3) No participation by Government	25	10	14	11	17	15	23	20	21	18

C. MISCELLANEOUS DOCKET—ORIGINAL WRITS

1. Total number of applications for original writs docketed and acted upon.....	74	100	76	100	44	100	50	100	82	100
a. Filed or supported by Government	0	—	0	—	0	—	1	2	0	—
(1) Government as petitioner.....	0	—	0	—	0	—	1	2	0	—
(2) Government as <i>amicus</i> , supporting petitioner	0	—	0	—	0	—	0	—	0	—
b. Not filed or supported by Government.....	74	100	76	100	44	100	49	98	82	100
(1) Government as respondent	14	19	13	17	11	25	11	22	27	33
(2) Government as <i>amicus</i> , supporting respondent	0	—	0	—	0	—	0	—	0	—
(3) No participation by Government	60	81	63	83	33	75	38	76	55	67
2. Total number decided without argument	74	100	76	100	44	100	50	100	82	100
a. Filed or supported by Government	0	—	0	—	0	—	1	2	0	—
(1) Government as petitioner	0	—	0	—	0	—	1	2	0	—
(2) Government as <i>amicus</i> , supporting petitioner	0	—	0	—	0	—	0	—	0	—
b. Not filed or supported by Government	74	100	76	100	44	100	49	100	82	100
(1) Government as respondent	14	19	13	17	11	25	11	22	27	33
(2) Government as <i>amicus</i> , supporting respondent	0	—	0	—	0	—	0	—	0	—
(3) No participation by Government	60	81	63	83	33	75	38	78	55	67
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	—

Continued on next page

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

	1981		1982		1983		1984		1985	
	No.	%								
D. ORIGINAL DOCKET										
1. Total number acted upon.....	11	100	10	100	11	100	10	100	9	100
a. Government participating.....	4	36	6	60	5	45	4	40	6	67
b. Government not participating.....	7	64	4	40	6	55	6	60	3	33
E. CERTIFICATES										
1. Total number of certificates docketed and acted upon.....	0	—	0	—	0	—	0	—	0	—
a. Government participating.....	0	—	0	—	0	—	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

	1981		1982		1983		1984		1985	
	No.	%								
A. ARGUED										
1. All cases argued.....	184	100	183	100	184	100	175	100	171	100
2. Government participating.....	104	57	131	72	118	64	114	65	106	62
a. Government as petitioner or appellant ¹	30	29	44	34	46	39	37	32	39	37
b. Government as respondent or appellee ²	27	26	44	34	33	28	34	30	24	23
c. Government as <i>amicus</i> ³	47	45	43	33	39	33	43	38	43	41
3. Government not participating.....	80	43	52	28	66	36	61	35	65	38
B. DECIDED ON MERITS WITH OR WITHOUT ARGUMENT										
1. All cases decided on merits ¹	315	100	283	100	262	100	236	100	275	100
2. Government participating.....	136	43	172	61	150	57	146	62	139	51
a. Decided in favor of Gov't's position ²	111	82	115	67	124	83	113	77	99	71
b. Decided against Gov't's position ²	20	15	50	29	23	15	30	21	35	25
c. Not classifiable as for or against ²	5	3	7	4	3	2	3	2	5	4
3. No participation by Government.....	179	57	111	39	112	43	90	38	136	49

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

²Percentage is based on the total cases in which the Government participated.

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

Office of Legal Counsel

Charles J. Cooper
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 the executive branch. During Fiscal Year 1986, 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 were reviewed by the Office as to form and legality before issuance. Examples of this function were the President's Executive orders prohibiting the sale of South African Krugerrands and imposing restrictions on transactions with Libya.

The Assistant Attorney General who heads the Office, his deputies, and members of the staff served on a number of formally constituted interdepartmental and intradepartmental committees during the year. These include 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, as well as numerous *ad hoc* working groups. The Assistant Attorney General continued his service as chairman of the governmentwide Federalism Working Group and a deputy served as the Department's representative to the Commercial Space Working Group, concerned with the development of a private sector launch capability for commercial and foreign satellites. 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.

In addition to advising and assisting other divisions of the Department in making litigation strategy judgments and in the preparation of briefs and memoranda relating to constitutional or statutory issues, the Assistant Attorney General during Fiscal Year 1986 represented the United States before the Supreme Court and the Office participated extensively in cases involving the President's power to pocket veto legislation and to defer the spending of appropriated funds, the Attorney General's power to settle cases and the compensability of regulatory takings. The Office also was active in the government's successful challenge to the Gramm-Rudman-Hollings legislation.

In the legislative area, the Office assisted other Department components in preparing legislation, such as that involving reform of the tort laws, civil aspects of the Racketeer Influenced and Corrupt Organizations Act, and drug testing. In addition, OLC analyzed legislation proposed by Congress and other executive branch agencies, including such matters as the constitutionality of tuition vouchers and the legal implications of extending access to rulemaking information. The Office reviewed a significant number of enrolled bills for constitutional or legal defect, preparing, when necessary, discussions of legal points to be included in the President's signing statements. Moreover, the Office continued to highlight the substantive importance of presidential signing statements as a means of direction to subordinate executive officers and, where appropriate, a source of legislative interpretation. The Office also delivered testimony before committees of Congress on a number of matters, including the handling of Presidential documents, the constitutional protection of commercial speech, the intended scope of the Rehabilitation Act of 1973, and the Compact of Free Association for the Trust Territory of the Pacific Islands. Similarly, the Office assisted in the preparation of testimony for various officials of this and other departments.

In assisting the Attorney General with respect to Department activities, the Office reviewed all orders and regulations submitted for the Attorney General's signature, and in this capacity during 1986, examined the Attorney General's legal authority to indemnify Department employees prior to the adoption of a new policy by the Attorney General. OLC also provided substantial advice concerning the ethical responsibilities of Department attorneys and other employees, and fulfilled 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.

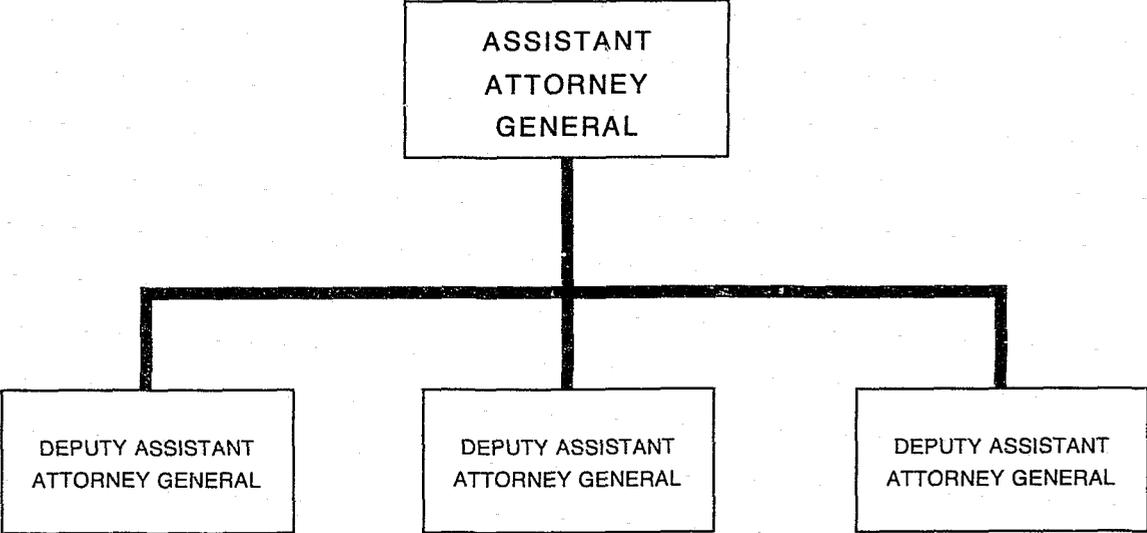
The Office also gave advice with respect to the legal aspects of treaties and other international actions. The Office dealt with a number of such matters during Fiscal Year 1986, including relations with South Africa, Libya, Nicaragua, and Cuba and on national emergencies declared under the International Emergency Economic Powers Act.

Finally, OLC has undertaken, at the direction of the Attorney General, responsibility for publishing a selected number of its legal opinions to provide greater public and agency access to them. Six volumes of OLC opinions have

been issued, covering the period 1977-81; a seventh volume, covering the Calendar Year 1982, is about to be issued; and

preparations for publication of additional volumes covering subsequent years are under way.

OFFICE OF LEGISLATIVE AFFAIRS



Office of Legislative Affairs

John R. Bolton
Assistant Attorney General

The Office of Legislative Affairs helps formulate and coordinate legislative policy among the organizations within the Department of Justice and it maintains Department liaison with Congress and other government departments and agencies.

During 1986, the Office devoted substantial resources to several major bills which the Department supported in furtherance of its various responsibilities. Significant milestones included:

- Enactment of immigration reform legislation. This sweeping revision of the immigration laws culminated a six-year struggle in three successive Congresses. For the first time, criminal and civil penalties may be imposed for employers who hire illegal aliens in the future. In addition, those aliens who have resided in the United States illegally since 1982 are eligible for amnesty, leading to permanent residence status and citizenship. The legislation also provided greater resources for enforcement of the nation's immigration laws.
- Enactment of major portions of the President's anti-fraud package. These bills update and toughen enforcement statutes designed to prevent and punish fraud against the government at all levels and by all means. Measures enacted include amendments to the False Claims Act; an Anti-Kickback Act; new penalties for computer-related fraud, sabotage, and theft involving government computers and data bases; and new authority permitting the Department of Justice to contract with private counsel for the collection of nontax delinquent debts owed the government.
- Enactment of several Administration initiatives to combat illegal drugs, which were ultimately incorporated into the Anti-Drug Abuse Act of 1986. Among the Administration proposals included in this legislation were increased penalties for the possession, manufacture, and importation of illegal drugs as well

as the "laundering" of drug profits, provisions criminalizing the manufacture of controlled substance analogues, expedited procedures for the deportation of narcotics traffickers, and additional resources and authorities which enhance the abilities of the Coast Guard and the Customs Service to interdict and apprehend drug traffickers.

- Enactment of various Administration anti-terrorism measures as part of the Diplomatic Security Act, an omnibus anti-terrorism bill. Department of Justice provisions included those to establish U.S. jurisdiction over murders of and assaults upon the U.S. citizens overseas and to enhance the security of nuclear power plants.
- Enactment of a package of minor and technical amendments to the Comprehensive Crime Control Act of 1986 which was developed by the Department. After more than a year of intensive staff work, this package of criminal justice improvements was passed on the final day of the 99th Congress.
- Enactment of the Electronic Communications Privacy Act. This legislation originated as a congressional initiative and, in its original form, was opposed by the Department. Through the Department's efforts, a compromise bill was developed which benefits law enforcement and individual privacy by codifying and clarifying many areas of federal wiretap law and by updating the 1968 wiretap statute to reflect the emergence of new communication technologies.
- Enactment of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986, one of the Department's major legislative priorities. In the justice administration area, this comprehensive reform bill created much-needed bankruptcy judgeships and provided for the nationwide expansion of the Department's highly successful U.S. Trustees pilot program.

Office of Liaison Services

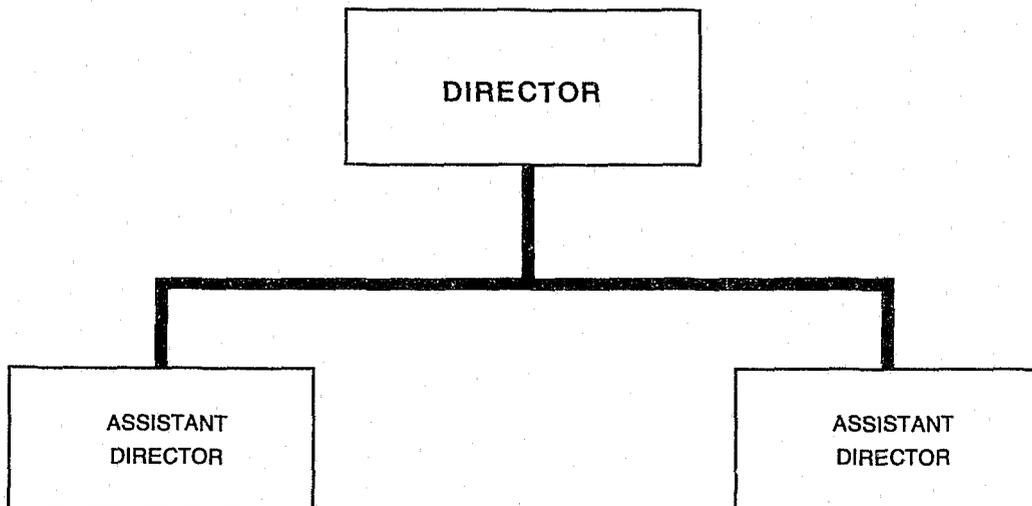
Herbert E. Ellingwood
Director

Since the Office of Liaison Services (OLS) began operation in April 1986, major outreach efforts have been inaugurated to governors, attorneys general, state legislators, mayors, the law enforcement community, and numerous special interest groups. An aggressive approach of going out to them, rather than having them come to us, has been undertaken. This ambitious effort has produced, in its first year, a

noticeable improvement in the working relationship with all these groups.

Because the Director of OLS meets daily with the Attorney General and other top Department officials, the concerns of these groups are assured to be properly and timely conveyed to the appropriate officials.

OFFICE OF LIAISON SERVICES



Office of Legal Policy

Stephen J. Markman
Assistant Attorney General

The Office of Legal Policy (OLP) is a strategic legal "think tank" that serves as the Attorney General's principal policy development staff. Responding to specific requests by the Attorney General as well as initiating its own proposals, OLP provides the thorough legal analysis necessary to develop and implement the Department's long-term policy objectives.

During Fiscal Year 1986, the Office produced concrete strategies for legal reform in a wide variety of areas. In the area of constitutional law, OLP formulated principles to be followed by federal government litigators when various constitutional issues arise at trial. The Office also analyzed religious liberty under the Free Exercise Clause of the First Amendment, and sought to develop an analytical framework for resolving contemporary religious liberty issues. In response to the Attorney General's call for constitutional interpretation according to the Constitution's original meaning, OLP began preparation of a source book to be used to educate the public regarding original meaning jurisprudence, and commenced an analysis of the economic liberties protected by various constitutional provisions.

OLP also worked to identify qualified judicial candidates who understand the importance of judicial fidelity to the rule of law. Working with other Department components and White House officials, OLP was instrumental in filling 38 of the 85 new judgeships created by the Bankruptcy Amendments and Federal Judgeship Act of 1984 (leaving only seven new judgeship vacancies to be filled), and 50 vacancies in existing judgeships (including two Supreme Court vacancies). At the close of the fiscal year, more than 40 nominees were well along in the selection process. OLP also aided many nominees, including U.S. Supreme Court Chief Justice William Rehnquist and Justice Antonin Scalia, in the confirmation process. In July 1986, OLP published a paper entitled *Myths and Realities—Reagan Administration Judicial Selection* to help the public better understand the Administration's judicial selection process.

In addition, OLP participated in several projects relating to criminal law reform. Its "Truth in Criminal Justice Project" seeks to identify features of contemporary criminal procedure that unduly hinder the search for truth. During Fiscal Year 1986, this project provided an indepth analysis of the law of pretrial interrogation, and began work on other topics relating to the general subject. Other criminal projects completed by OLP during this fiscal year include the preparation of testimony on white-collar crime law enforcement given by the Deputy Attorney General to the Senate Judiciary Com-

mittee; an analysis of an academic study purporting to identify miscarriages of justice in capital cases; and the rendering of assistance to the National Criminal Justice Association and the National Governors' Association regarding their study of state laws and procedures affecting organized crime and drug trafficking.

OLP has been involved in numerous other projects relating to legal policy:

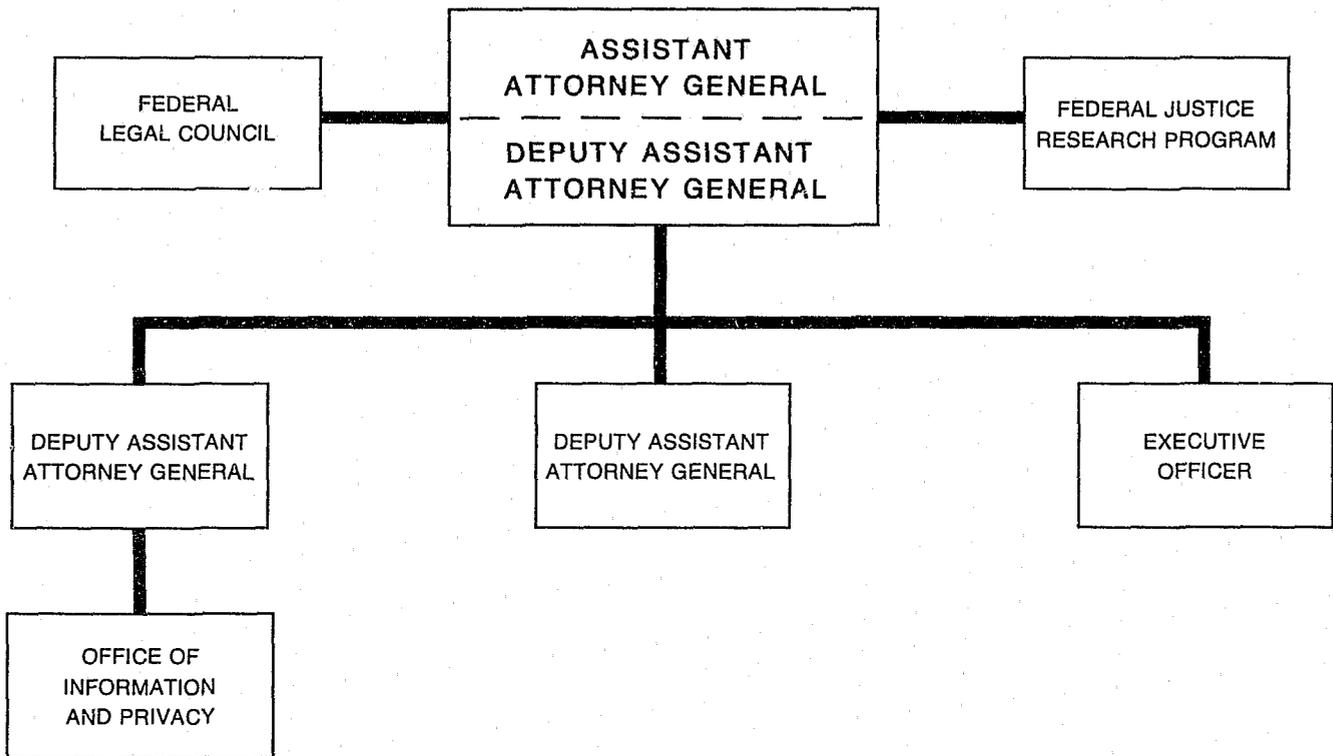
- The Office coordinated the Department's response to the American Law Institute's proposed Restatement of the Foreign Relations Law of the United States (Revised), adopted in June 1986.
- OLP provided substantial staff support to senior Department officials regarding reform of the civil damages provisions of the Racketeer Influenced and Corrupt Organizations Act.
- OLP addressed certain legal issues relating to immigration, efforts that contributed to the passage of the new immigration reform bill by the 99th Congress.
- The Office extensively analyzed several laws from which Congress has exempted itself—such as the Freedom of Information Act and civil rights legislation—and examined the legal policy issues that arise from this practice.

On many projects, OLP worked closely with other Department components and federal agencies. For example, OLP provided legal analysis and litigation recommendations to the Solicitor General and the Department's legal divisions in selected cases presenting major issues. The Office devoted a substantial amount of time working with the Office of Legislative Affairs and other components of the Department to develop positions on pending legislation, and to review and provide advice with respect to enrolled bills and presidential signing statements. OLP devoted substantial effort to obtain enactment of the United States Trustees Act in 1986.

OLP also monitored proposed legislation to determine its potential impact on federalism and separation of powers. In Fiscal Year 1986, OLP prepared testimony demonstrating the effect on federalism of bills relating to polygraph testing as well as maternity and paternity leave granted by private employers.

OLP also is charged with several continuing responsibilities. OLP administers the Federal Justice Research Program, a departmental program that supports, through funding contracts, empirical and analytic research on court

OFFICE OF LEGAL POLICY



reform issues and other topics of special concern to the administration of justice. Although the Federal Justice Research Program has received no additional funding from Congress since Fiscal Year 1984, the Program has been able to provide limited funding for projects from its remaining unobligated funds. OLP also supported the Attorney General in his role as permanent chairman of the Federal Legal Council, which was created to promote coordination and communication among federal legal offices with the goal of achieving effective, consistent, and efficient management

of legal resources throughout the federal government. Finally, the Office provides funding and assistance to the Brookings Institute for the annual Seminar on the Administration of Justice, at which representatives of each branch of government meet to discuss matters of common interest.

The Office of Information and Privacy, a separate office reporting to OLP, manages departmental and governmentwide responsibilities relating to the Freedom of Information Act and the Privacy Act.

Office of Professional Responsibility

Michael E. Shaheen, Jr.
Counsel

The primary responsibility of the Office of Professional Responsibility is the review and, where appropriate, investigation of allegations of misconduct against Department of Justice employees. The head of the Office is the Counsel on Professional Responsibility, who serves as a special reviewing officer and adviser to the Attorney General.

Jurisdictionally, the Counsel and his staff receive and review information or allegations concerning conduct by Department of Justice employees that may violate law, Department orders or regulations, or applicable standards of conduct. They also review conduct which may constitute mismanagement, gross waste of funds, abuse of authority, or a danger to the public health or safety, and allegations of reprisal against employees who disclose information relating to matters within the Office's jurisdiction.

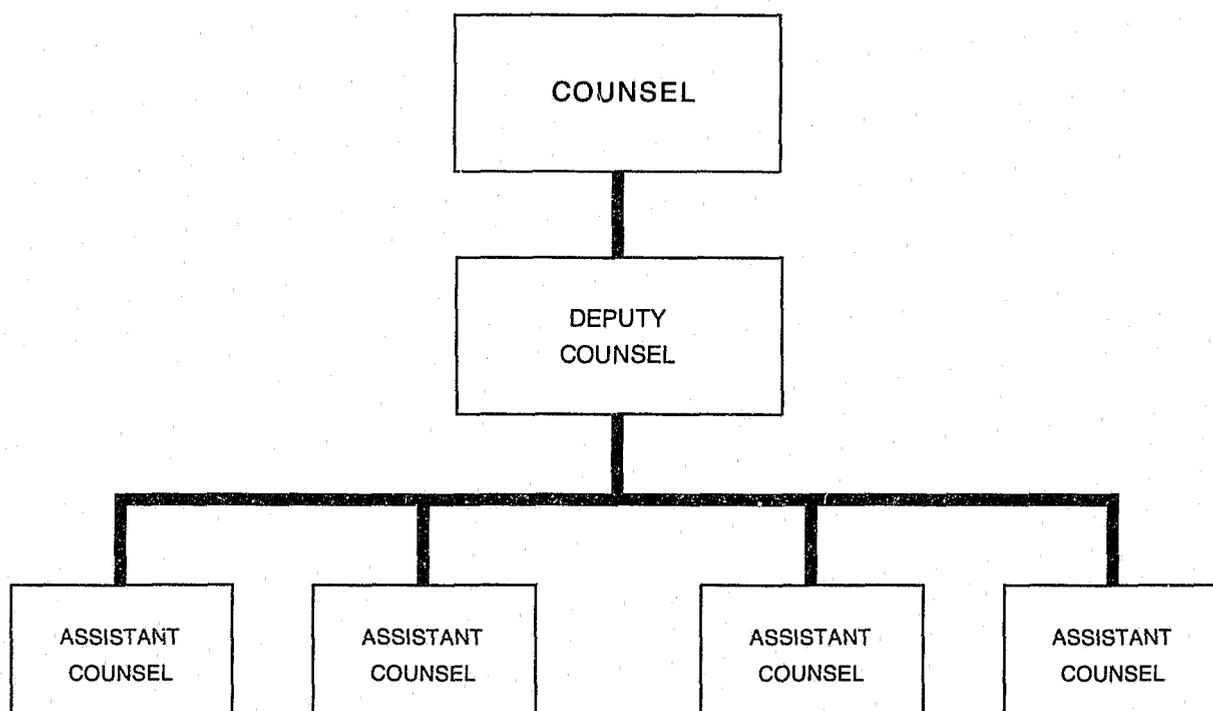
The Counsel generally conducts a preliminary inquiry into misconduct allegations which fall within the responsibility of the Office. Those cases in which there appears to be a violation of law are normally referred to the investigative agency

that has jurisdiction to investigate such violations. Other matters are referred to the head of the agency to which the employee is assigned or to the agency's internal inspection unit. Some matters are investigated by the Counsel and his staff.

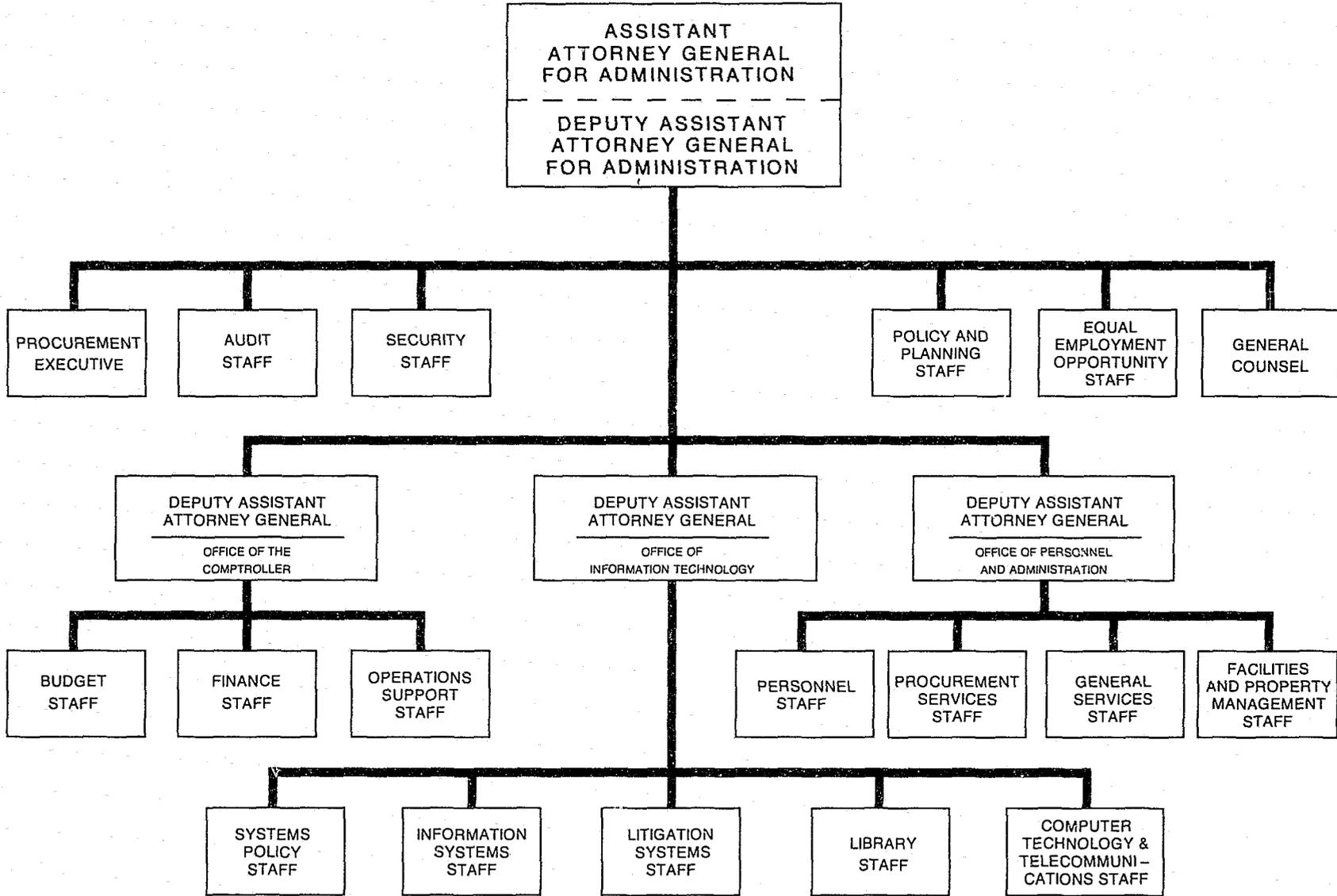
The heads of the Department's offices, boards, divisions, and bureaus report to the Counsel matters involving misconduct by their employees. The Counsel submits to the Attorney General an annual report reviewing and evaluating the Department's various internal inspection units. The Counsel also makes recommendations to the Attorney General on the need for changes in Department of Justice policies or procedures that become evident during the course of the Office's activities.

During Fiscal Year 1986, the Office of Professional Responsibility received 400 matters within its responsibility and closed 278 matters. The Office also monitored more than 1,700 investigations conducted by the internal inspection units of the Department's component agencies.

OFFICE OF PROFESSIONAL RESPONSIBILITY



JUSTICE MANAGEMENT DIVISION



Justice Management Division

W. Lawrence Wallace Assistant Attorney General for Administration

The Justice Management Division (JMD), has two missions: central control and oversight with regard to management issues across the Department and direct administrative services to the offices, boards, divisions and, to a limited extent, bureaus of the Department. JMD represents the Department with the federal management agencies, such as the Office of Management and Budget, the Office of Personnel Management, the General Services Administration, and the General Accounting Office. It also is the Department's principal liaison on budgetary matters with the appropriations and authorization 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 Operations Support Staffs constitute the Office of the Comptroller; the Computer Technology and Telecommunications, Information Systems, Library, Litigation Systems, and Systems Policy Staffs form the Office of Information Technology; and the Facilities and Property Management, General Services, Personnel, and Procurement Services Staffs make up the Office of Personnel and Administration.

Six components report directly to the Assistant Attorney General: the Office of the Procurement Executive, Audit Staff, Security Staff, Equal Employment Opportunity Staff, Office of the General Counsel, and Policy and Planning Staff.

Office of the Procurement Executive

The mission of the Office of the Procurement Executive is to develop Departmentwide procurement policies and provide management oversight of the Department's procurement system in accordance with all applicable laws, regulations, and departmental orders. Some of the significant actions completed within the Office in Fiscal Year 1986 are:

- Procurement Management Reviews were performed on all the bureau procurement offices in Washington, D.C., and at selected regional offices to determine what procurement reforms are necessary.
- During Fiscal Year 1986, the Contract Compliance and Review Unit reviewed 405 contracts valued at \$437,513,447 for compliance with statutes and regulations prior to award.

In 1986, the Department created a Competition Advocacy Forum composed of the agency advocate and the procuring

activity advocates. Two current initiatives of the Forum are the full implementation of advanced procurement planning in all component organizations and the maximum use of market research to locate and encourage new sources for our contract awards. Plans also include implementation of a system of organizational and personal accountability for competition and for the cooperative review of procuring activity competition programs.

Audit Staff

The mission of the Audit Staff is to formulate, implement, and review Departmentwide audit policies, standards, and procedures; to plan, conduct, and direct independent audits of the Department's internal activities and functions; and to conduct or coordinate the audits of parties performing under contracts, grants or other agreements with the Department. It also audits departmental automated data processing (ADP) systems and financial management information systems; and performs reviews at the request of the Office of Professional Responsibility. Fiscal Year 1986 Staff achievements include the following activities:

- The Staff contributed significantly to the integrity of the bankruptcy system in pilot judicial districts by performing financial audits of debtors under chapter 11 and trustees under chapters 7 and 13 of Title 11 of the U.S. Code.
- The Audit Staff completed 27 internal audits in Fiscal Year 1986. Two of the more significant audits were of the Organized Crime Drug Enforcement Task Force Program and the Drug Enforcement Administration's Domestic Marijuana Eradication and Suppression Program.
- The Audit Staff completed an update of Department of Justice Order 2900.5, Responsibilities for the Prevention, Detection and Reporting of Waste, Fraud and Abuse in Department of Justice Programs and Activities, which was signed by the Attorney General and distributed to designated Department officials.

Security Staff

The mission of the Security Staff is to develop, implement, and monitor compliance with Department and federal policies, procedures, and programs affecting personnel and document security, ADP and telecommunications security,

physical security, Sensitive Compartmented Information security, occupational safety and health, wartime civil emergency preparedness, and domestic emergency planning. Some of the Staff's major accomplishments in Fiscal Year 1986 include:

- The establishment of the Justice Command Center, a secure facility operating 24 hours a day in support of law enforcement and national security operational programs. The main functions of the Center are crisis/situation monitoring, crisis management support, and the communication of time-sensitive information to senior Department decisionmakers, including the Attorney General.
- Security assistance to the Office of Independent Counsel.

Equal Employment Opportunity Staff

The mission of the Equal Employment Opportunity Staff is to develop, monitor, and evaluate the Department's equal employment opportunity policies and procedures; provide complaint handling and recruitment support to the offices, boards, and divisions; provide technical assistance to bureau equal employment opportunity staffs, departmental managers and employees; and serve as liaison with the various equal employment opportunity organizations. Some of the Staff's major accomplishments during Fiscal Year 1986 include the following:

- Coordinated departmental participation in Inspire '85, a three-day event to highlight the role of handicapped individuals and disabled veterans in employment, education, health, and physical fitness;
- Designed a comprehensive pilot plan to announce in minority communities the annual open season for the submissions of applications for Border Patrol Agents and Deputy U.S. Marshals;
- Increased efforts to recruit Hispanic, American Indian, and other minorities for the Department's Honors Program; and
- Sponsored, with the Department of the Treasury, a two-day training conference for women in federal law enforcement.

Office of the General Counsel

The mission of the Office of the General Counsel is to provide legal advice and services to the Assistant Attorney General for Administration and to JMD staffs. This includes reviews of proposed regulations, legislation, responses to requests under the Freedom of Information Act and Privacy Act, and Department procurement actions involving expenditures of more than \$25,000. The Office serves as initial

contact with the congressional appropriations and authorization committees for JMD. In addition, the Office cooperates with the Department's legal divisions in responding to litigation involving JMD and provides Department representation in bid protest and Equal Employment Opportunity Act proceedings. Other Departmentwide functions of the Office include coordination of the Attorney General's responsibilities under the Newspaper Preservation Act and coordination of Department activities in compliance with the Ethics in Government Act of 1978.

Policy and Planning Staff

The mission of the Policy and Planning Staff is to provide guidance and coordinate Departmentwide policies, plans, and procedures for the improvement of management and productivity; provide evaluation assistance to Department leadership related to management, productivity, organization, and program activity; and oversee the development and implementation of the JMD plan for automated information systems. Major achievements for Fiscal Year 1986 include:

- Issued formal guidance on Office of Management and Budget Circular A-76 requiring agencies to identify commercial activities that could be contracted out with greater efficiency and savings;
- Monitored the President's Productivity Improvement Program designed to increase productivity by 20 percent in selected functions over seven years, which currently covers seven initiatives covering over 6,000 full-time employees;
- Established a productivity resource center that Department components use to develop their own productivity improvement programs;
- Developed the Five-Year Management and Productivity Improvement Plan; and
- Developed the Management and Productivity Improvement Tracking System and the A-76 Tracking System and provided assistance to the Legal Activities Uniform Office Automation and Case Management Project.

Office of the Comptroller

The Office of the Comptroller is responsible for all budget, financial management, and internal control review activities. The Comptroller also serves as JMD's principal contact for debt collection matters. The Office includes three staffs: Budget, Finance, and Operations Support.

Budget Staff

The mission of the Budget Staff is to develop and monitor policies and procedures for Departmentwide budget formulation, budget review, resource management, and budget

execution; to conduct analyses to assist senior management in their assessment of the effectiveness and efficiency of the utilization of the Department's resources; to administer Departmentwide controls on appropriations, reimbursements, outlays, employment ceilings, and other legal or administrative limitations pursuant to Office of Management and Budget or congressional directives; and to conduct monthly status of funds reviews and prepare official reports on budget execution. For Fiscal Year 1986, the Staff had several notable achievements:

- Developed workload assumptions and resource estimates associated with the Immigration Reform Bill;
- Improved the Department's internal budget formulation process by establishing an "initiative" format to provide the Department's senior officials with budget planning documents that related directly to the President's and Attorney General's goals and objectives for the Department;
- Provided detailed analyses of the effects of the Gramm-Rudman-Hollings Balanced Budget and Emergency Deficit Control Act of 1985 on Department components; and
- Obtained funding for two unbudgeted and unfunded Independent Counsel investigations, including the congressional action necessary to transfer the funding.

Finance Staff

The mission of the Finance Staff is to ensure that all components of the Department's financial management system meet statutory and regulatory requirements within principles and standards acceptable to the General Accounting Office and the Office of Management and Budget; to develop and operate financial systems in support of the Department's financial management programs; to ensure the timely payment and accurate accounting of employee compensation and the financial transactions of those departmental components serviced by the central financial management system. Notable achievements of the Staff during Fiscal Year 1986 include the following:

- Obtained Office of Management and Budget approval of the Department's Financial Management System Plan, a key initiative in the Department's management and productivity improvement program which will improve financial operations and financial decisionmaking.
- Developed and implemented procedures and systems to operate the Asset Forfeiture Fund to account for assets forfeited to the federal government under the laws enforced by the Department. This has improved the management of both seized and forfeited assets by centralizing management control within the U.S. Marshals Service.

- Assisted in the issuance of a contract to provide relocation services for all employees of the offices, boards, and divisions, which should assist employees in reducing the impact of government initiated transfers by allowing the contractor to purchase the employee's residence at the appraised value.
- Developed new system applications for the collection of procurement data required by the Federal Procurement Data System reports and the Competition in Contracting Act of 1984.

Operations Support Staff

The mission of the Operations Support Staff is to administer the Department's internal control review process which is designed to prevent waste, fraud, mismanagement, or misappropriation; to coordinate the activities necessary to complete the Attorney General's Annual Report to Congress; to review consulting services contracts; to monitor compliance with Privacy Act requirements; and to provide support for the Advanced Procurement Planning and Competition Advocacy process within the Justice Management Division. For Fiscal Year 1986, the Staff's achievements include the following:

- The internal control process was streamlined, thereby reducing the workload for Department organizations in responding to internal control requirements.
- Special internal control compliance reviews were conducted and reported for five major Department organizations; i.e., the Drug Enforcement Administration, the Immigration and Naturalization Service, the Antitrust Division, the Executive Office for U.S. Attorneys, and the Executive Office for U.S. Trustees.
- Special training programs on the Department's internal control and the budget process were conducted at the Federal Bureau of Investigation Academy, Quantico, Virginia, for more than 100 Department management personnel.

Office of Information Technology

The Office of Information Technology administers departmental information and telecommunications systems policy and programs, provides direct information systems support to components of the Department of Justice, and manages large-scale, sophisticated data centers in support of the offices, boards, divisions, and bureaus of the Department. The Office consists of the Computer Technology and Telecommunications Staff, Information Systems Staff, Library Staff, Litigation Systems Staff, and Systems Policy Staff.

Computer Technology and Telecommunications Staff

The mission of the Computer Technology and Telecommunications Staff is to provide common user automatic data processing and telecommunications facilities and services to support all departmental activities and to establish and maintain policy regarding the use of voice and data telecommunications. Examples of major accomplishments in Fiscal Year 1986 include the following;

- Performed programming and system development in response to a requirement from the International Criminal Investigative Training Assistance Program (ICITAP) for access to domestic and international message carriers and the Department of Defense's Automated Digital Integrated Network via the Justice Telecommunications System (JUST), which enabled ICITAP to coordinate critical training programs for South American, Caribbean, and Central American countries during the summer of 1986;
- Operated two data processing centers, located in Washington, D.C., and Dallas, Texas, which provide for the common-user automatic data processing requirements of departmental activities; and
- Acquired competitively state-of-the-art direct storage devices for up to 2.019 trillion characters of data in order to meet user requirements, which will save an estimated \$1.87 million during the first year of the new contract, a 33 percent reduction in equipment costs from the previous contract, with a five-year direct savings estimate of \$80.9 million over a General Services Administration Schedule Contract and at significant savings for departmental users.

Information Systems Staff

The mission of the Information Systems Staff is to develop, implement, and monitor Departmentwide policies and programs for office automation, systems development activities, and data base maintenance; and to provide efficient management controls and support services in these program areas for the Department. During Fiscal Year 1986, the Staff:

- Operated an electronic mail system for all executive and administrative components of the Department.
- Administered and provided technical support for the Narcotics and Dangerous Drugs Information System; the Controlled Substances Information System; and the ADP Capacity Management Program; the Governmentwide Drug Seizure System, consolidating federal agency drug seizure information; the Organized Crime Drug Enforcement Task Force Case Monitoring System for 13 regional task forces; and the Antitrust Management Information System.

- Issued a guide for acquisition and use of microcomputers.
- Provided both technical and project management support to the Department's Uniform Office Automation and Case Management Project.

Library Staff

The mission of the Library Staff is to identify, collect, organize, and disseminate information regardless of format to the offices, boards, and divisions in direct support of investigative and trial-level activities. Major accomplishments for Fiscal Year 1986 include:

- Operation of the Department's Main Library and six branch libraries (one per litigating division), operating at a total of 13 sites, and including comprehensive legal research assistance which emphasizes on-line full text and bibliographic data base searching; and
- Enhanced the on-line catalog during its second year of operation by adding thousands of new records to the data base, speeding entry of bibliographic data so they are now available for client use within one day after being cataloged, and developing training in the use of the on-line catalog so that it is provided routinely to interested clients.

Litigation Systems Staff

The mission of the Litigation Systems Staff is to analyze, design, and provide computerized services/systems in support of the litigation of the Department and other federal agencies and to provide liaison and coordination between the legal community and automation developments to ensure maximum utility of the systems in improving attorney resource utilization. The Staff operates the Justice Retrieval and Inquiry System (JURIS); designs and develops special files in support of litigation; maintains, updates, and implements the Department's case management systems; and designs nonlitigation special files. Examples of Staff achievements in Fiscal Year 1986 are:

- Trained over 2,000 representatives from the federal legal community on the use of JURIS and added eight new legal research data bases to the system; and
- Provided computer-assisted litigation support to litigating attorneys in the divisions and the U.S. Attorneys' offices on a variety of cases and converted a prototype case management system developed at the Federal Bureau of Investigation's Data Center to the Justice Data Center, defined the user's needs and requirements for the new system, and completed the functional design of the new system.

Systems Policy Staff

The mission of the Systems Policy Staff is to develop, coordinate, administer, and evaluate Departmentwide policy

and programs to manage the departmental Information Resources Management program with particular emphasis on automated systems, and to ensure compliance of departmental activities with related central management agency guidance. During Fiscal Year 1986, the Staff:

- Coordinated development of the Department of Justice Strategic Plan for Automated Information Systems, a document which provides senior management direction to all departmental components in the development of their associated plans; and
- Expanded and upgraded the Information Resources Directory which provides a comprehensive inventory of the Department's information systems.

In addition to those special projects, the Staff conducted its day-to-day functions, which include:

- Administering the Department's public use reports and interagency reporting clearance activities; and
- Developing formal analyses and recommendations concerning plans and related budget requests for automated information systems submitted by the Department's components.

Office of Personnel and Administration

The Office of Personnel and Administration is responsible for planning administrative management programs within the Department and for developing related policies and programs to support the various missions of the Department. The Office of Personnel and Administration comprises four staffs: Facilities and Property Management, General Services, Personnel, and Procurement Services.

Facilities and Property Management Staff

The Facilities and Property Management Staff is responsible for the development, administration, and evaluation of the Department's programs for real and personal property. The Staff provides administrative guidance and support in these areas to the Department's offices, boards, divisions, and bureaus. Additional responsibilities include the operation and maintenance of the Main Justice Building and other buildings controlled by the Department. During Fiscal Year 1986, the Staff:

- Initiated implementation of the Department's housing plan for the Washington, D.C., metropolitan area which involves moving approximately 3,000 employees into new or altered space;
- Prepared prospectuses to consolidate the headquarters activities of the Drug Enforcement Administration and the U.S. Marshal's Service after congressional approval was obtained;

- Acquired full lease management responsibilities for over 3 million square feet of space in 200 buildings nationwide under delegations from the General Services Administration; and
- Developed a contract for a commercial relocation management contract to provide home sale assistance to departmental employees transferring for the benefit of the government.

General Services Staff

The General Services Staff is responsible for development, implementation, management, and review of the Department's programs involving distribution, printing and duplicating, audio-visual, graphics, and photographic services. Additional responsibilities include mail processing, motor pool services, records management, and Privacy Act notices. Major accomplishments in Fiscal Year 1986 include:

- Established a formal contract through the Government Printing Office to obtain priority duplicating and copying of court documents for Department organizations. This contract improved production schedules, afforded lower prices, and increased management control.
- Established a commercial contract for typesetting and printing of the Federal Bureau of Investigation publication, Law Enforcement Bulletin. Use of this contract reduced production lead-time from 90 to 30 days and resulted in an annual cost savings of approximately \$135,000.
- Implemented a computerized abstracting system that allows customer job cost estimates to be prepared in less than two minutes and provides for the verification of Government Printing Office billings with the possibility of recovering an estimated \$50,000 annually in overcharges.
- Negotiated and awarded a contract for on-call special messenger service within the Washington, D.C., metropolitan area. The contract rates are approximately 42 percent less than other applicable commercial rates.
- Developed a prototype automated postage system to improve the mail sampling techniques used to determine the Department's annual postage cost reimbursement. The system, when fully implemented, is expected to save \$1.2 million annually.
- Assisted the U.S. Marshals Service in a reevaluation of its payment of the "gas guzzler" tax assessed against law enforcement vehicles. This examination resulted in revised procedures and a cost savings of approximately \$413,000.

Personnel Staff

The Personnel Staff formulates, implements, and reviews Departmentwide personnel policies and programs to facilitate compliance with legal, regulatory, and public policy requirements. The Staff also provides operating personnel support services to the offices, boards, and divisions. During Fiscal Year 1986, the Staff:

- Developed and implemented the Department's performance appraisal and recognition system for General Schedule, Prevailing Rate, and Senior Executive Service employees to improve individual employee and organizational effectiveness;
- Obtained Office of Personnel Management approval to extend hazard pay to certain Special Agents in the Drug Enforcement Administration; and
- Obtained Office of Personnel Management approval for early optional retirement authority for the JMD. This authority enabled the JMD to respond to the provisions of the Balanced Budget and Emergency Deficit Control Act of 1985.

Procurement Services Staff

The Procurement Services Staff is responsible for the award and administration of contracts and purchase orders which result in high quality goods and services at reasonable prices and timely support for departmental programs. In Fiscal Year 1986, this Staff:

- Awarded approximately \$75 million in new contracts, modifications to existing contracts and small purchases, while improving competitive awards to 92 percent of the dollars awarded as compared with only 68 percent during the prior year;
- Initiated a major effort to consolidate and compete similar requirements among the offices, boards, and divisions; e.g., equipment maintenance contracts, which will save the Department hundreds of thousands of dollars per year; and
- Awarded a percentage incentive contract to audit the Finance Staff's payment records for Fiscal Years 1984 and 1985 with options for Fiscal Years 1983 and 1986 to uncover and collect duplicate payments to firms operating under contracts and purchase orders.

Office of Intelligence Policy and Review

Mary C. Lawton
Counsel for Intelligence Policy

The Office of Intelligence Policy and Review (OIPR) assists the Attorney General and other senior Department of Justice and executive branch officials in ensuring that the national security-related activities of the United States are consistent with relevant law. This involves the development of legal opinions and memoranda of law, legislative review and comment, drafting and interpretation of procedures and guidelines, representation before the U.S. Foreign Intelligence Surveillance Court, oversight and approval of investigative techniques, and a variety of interagency and intradepartmental groups and coordination functions.

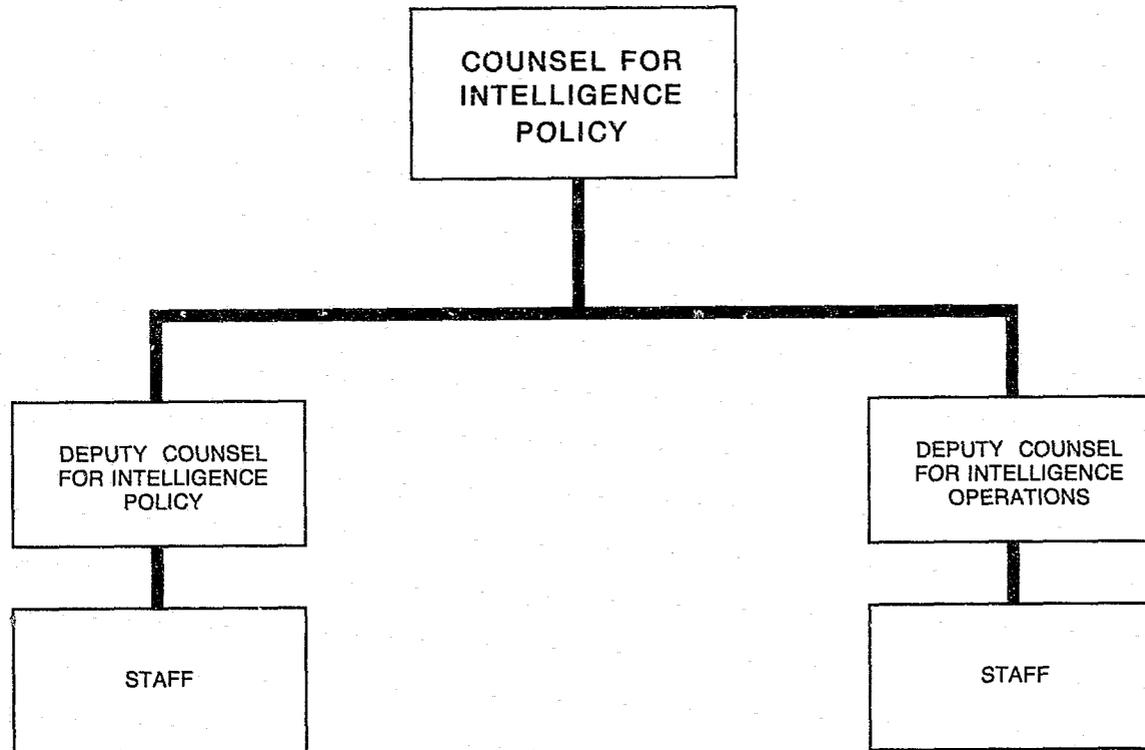
Much of what the Office does is classified in the interests of national security and cannot be described in detail in open publications. However, a few OIPR accomplishments during 1986 may be described in general terms to illustrate the scope and nature of the functions of the Office. Almost 600 orders approving various forms of electronic surveillance for foreign intelligence purposes were obtained during the past year by OIPR attorneys from the Foreign Intelligence Surveillance Court. The Office also chaired an interagency group charged by the President with responsibility for drafting a proposed new Executive order that would create governmentwide standards for investigating and adjudicating requests for access to classified information by government employees, contractors, and military personnel. The final version of an order, along with related recommendations and decision papers, was being drafted as the year ended.

OIPR attorneys worked closely with Senate and House staff in the drafting of the Electronic Communications Privacy Act of 1986 to ensure that the privacy interests of persons in the United States were protected without damaging legitimate foreign intelligence concerns. The Office

resolved a series of legal issues that were raised by the intelligence agencies in connection with the creation of a computer system that would facilitate the integration of intelligence and law enforcement data in order to combat the illicit flow of international narcotics into the United States. Attorneys from the Office visited the headquarters and field facilities of agencies engaged in the collection of foreign intelligence and counterintelligence to ensure that these activities were conducted in accordance with relevant guidelines and procedures.

Finally, the Office was involved in the development of briefs and other submissions in litigation relating to the Foreign Intelligence Surveillance Act. For example, in *United States v. Cavanagh*, 807 F.2d 787 (9th Cir. 1987), an espionage case involving an attempt to sell "Stealth Bomber" technology to the Soviets, the Ninth Circuit upheld the constitutionality of the Act and affirmed the defendant's conviction. In *Matter of Kevork*, 788 F.2d 566 (9th Cir. 1986), the Ninth Circuit affirmed a decision of the district court, reported at 634 F. Supp. 1002 (C.D. Cal. 1985), which upheld the provision to the Canadian government of information from a wiretap authorized by the U.S. Foreign Intelligence Surveillance Court. The Canadian government sought the information to prosecute certain Armenian terrorists who had assassinated a Turkish diplomat stationed in Ottawa. In *United States v. Pelton*, Criminal No. HM85-0621 (Slip Opinion dated May 5, 1986, D. Md.), the district court upheld the affidavit of the Attorney General asserting a claim of privilege regarding applications and orders of the Foreign Intelligence Surveillance Court and ruled that such documents need not be disclosed to defense counsel, even though defense counsel may be cleared for access to other classified material.

OFFICE OF INTELLIGENCE POLICY AND REVIEW



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 preparole 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.

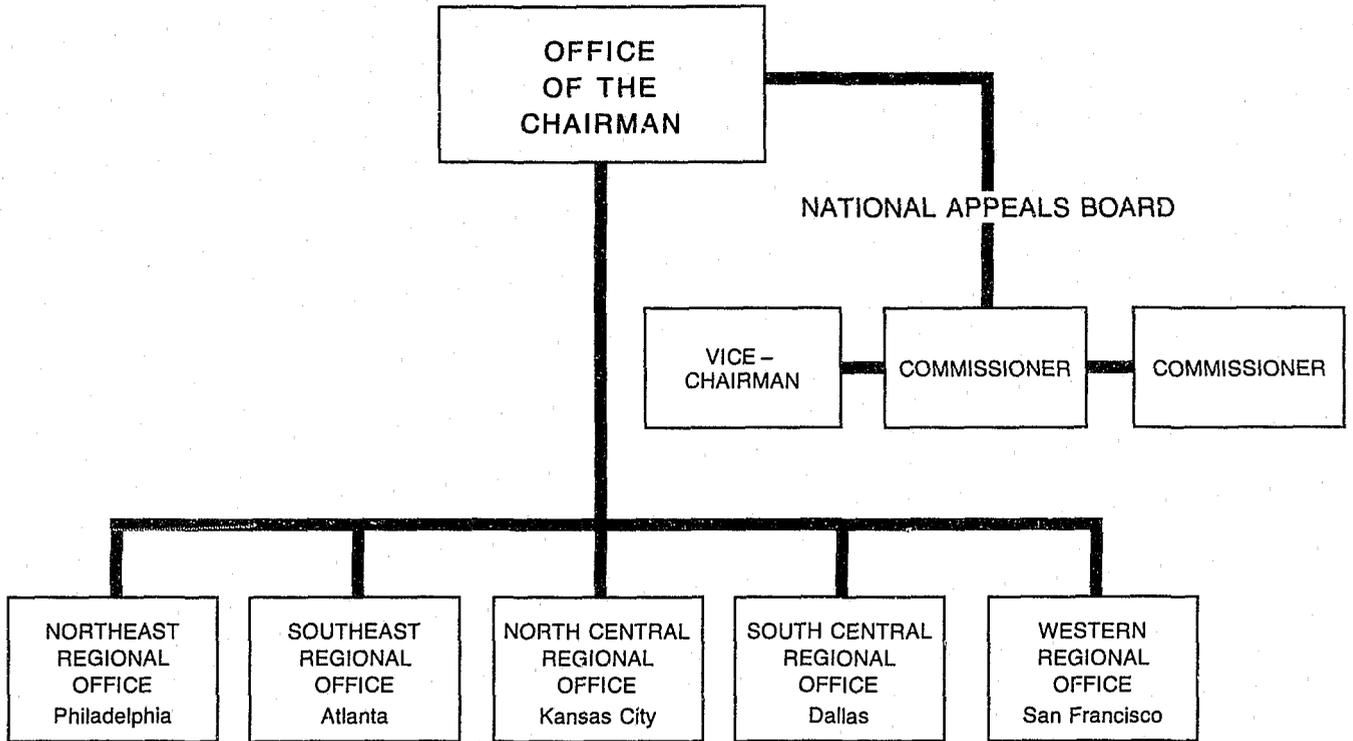
The Commission imposes conditions of Release for all prisoners who are released whether on parole or mandatory release. Special conditions are imposed for those cases requiring special conditions. For example, any prisoner who has used drugs will have a "Special Drug After Care Condition" imposed which requires periodic drug testing and treatment.

The Chairman and three Commissioners are stationed in Chevy Chase, Maryland. The other five Commissioners 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 1986, the Commission:

- Conducted 21,300 parole consideration and revocation hearings.
- Implemented a prehearing review process to enhance the reliability of the Commission's decisionmaking practices.
- Reinforced quality control review procedures and provided increased training of Commissioners and staff to assist in maintaining consistent application of Commission policy.
- Implemented procedures for notification of victims and witnesses of their rights to submit information and testify at parole hearings.
- The Commission continues to be accredited by the Commission on Accreditation for Corrections.

U.S. PAROLE COMMISSION



- In conjunction with the Bureau of Prisons, continues to participate in the community service project in which carefully selected offenders earn a two-month advancement of their parole dates by performing 400 hours of reparative work (community service) while in the custody of the Bureau of Prisons. A grant for this experimental project was awarded to the National Office of Social Responsibility by the National Institute of Justice.
- Was granted authority under the Comprehensive Crime Control Act to supervise persons on state parole or probation who are participants in the federal Witness Security Program.
- Eliminated the intermediate appeal of parole and revocation decisions to the Regional Commissioners and provided for direct appeals to the National Appeals Board under the authority of the Comprehensive Crime Control Act.

Office of the Pardon Attorney

David C. Stephenson
Pardon Attorney

The President exercises the pardon power, conferred on him by Article II, Section 2, Clause 1 of the Constitution, upon formal application and the recommendation of the Attorney General or his designee. The Pardon Attorney receives and reviews all petitions for Executive clemency, initiates the necessary investigations and prepares the recommendation of the Attorney General or his designee to the President in connection with the consideration of all forms of 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 reputation and arrest record, are reviewed to determine whether the petitioner has become and is likely to continue to be a responsible, productive, and law-abiding citizen. 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. Unless given for that specific reason, a pardon does not connote innocence.

Commutation or reduction of a prison sentence is a form of Executive clemency that is rarely granted. The President intervenes to reduce an inmate's sentence or simply to accelerate parole eligibility, 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 other unusual factors. Remission of fine and reprieve are less common forms of clemency. When a petitioner seeks remission of fine, his

ability to pay and his good faith efforts to discharge the obligation are important considerations. A reprieve temporarily suspends the effect of a sentence.

It may be said generally that the President's pardoning authority is absolute and extends to all offenses against the United States except impeachment cases. He has no authority to pardon state offenses. The granting of pardons 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.

The President has directed promulgation of certain rules governing the processing of petitions for Executive clemency. These rules are published in 28 Code of Federal Regulations 1.1 *et seq.*, and are regarded as internal advisory guidelines only. They neither create enforceable rights in clemency applicants nor restrict the President's authority.

Consistent with the President's goal of improving the criminal justice system, the Pardon Attorney has taken an increasingly exacting approach in determining the worthiness of applicants for clemency. This has entailed more careful screening of applicants and more thorough background investigations, as well as the application of stricter standards for granting clemency. The purpose is to ensure that pardon grantees demonstrate exemplary conduct and reputation, and that commutations of sentence are granted only in the most compelling circumstances.

Executive Clemency Statistics

In Fiscal Year 1986, 222 pardon petitions and 140 commutation of sentence petitions were received. The President granted 55 pardons and no commutations. The absence of any commutation grants for an entire year is virtually without precedent during the past 50 years, and is particularly significant when considered in the context of a record

high federal prison population. In addition, the 55 pardons granted during the year, though higher than 1985, represent the second smallest number granted during the last half century. Of 1,090 clemency petitions available for consideration during the fiscal year, 290 were denied or closed administratively. During the year, the Pardon Attorney received a total of 15,098 pieces of correspondence, reports and memoranda, and mailed out 16,077 items, including responses to 267 congressional inquiries and to 967 White House and special referrals.

The following is a tabular representation of Executive clemency case statistics concerning pardon and commutation actions taken for Fiscal Years 1981 through 1986.

(P = Pardons; C = Commutations of Sentence)

FY	Received		Granted		Denied		Closed Without Action		Pending at end of FY	
	P	C	P	C	P	C	P	C	P	C
1981*	339	208	76	7	42	35	77	105	510	169
1982	283	179	83	3	258	123	81	85	371	137
1983	298	149	91	2	74	33	96	103	409	147
1984	289	158	37	5	99	31	95	101	467	168
1985	256	151	32	3	86	18	66	109	539	189
1986	222	140	55	0	94	28	65	103	548	197

*In FY 1981, President Carter granted 74 pardons and seven commutations; and President Reagan granted two pardons and no commutations.

Federal Bureau of Investigation

William H. Webster
Director

The Federal Bureau of Investigation (FBI) investigates violations of over 200 categories of federal statutes, gathers evidence in cases in which the United States is an interested party, is solely responsible for all foreign counterintelligence investigations within the United States, and performs other duties imposed by law or Presidential directive.

In 1986, attention continued to be focused on four areas that affect society the most—organized crime (including drug trafficking), foreign counterintelligence, white-collar crime, and terrorism.

Investigative Efforts

Organized Crime

The goal of the Organized Crime Program during 1986 was to reduce the sphere of influence and neutralize the adverse effect that organized crime groups exert over the citizens of the United States by developing investigative programs that will approach this problem in a systematic, coordinated, and sustained manner. The areas of national investigative priority within the Organized Crime Program were identified as the labor-racketeering activities of the La Cosa Nostra, as well as the drug-trafficking activities of major organized crime groups which included Colombian/South American organizations, Mexican networks, Sicilian Mafia, national outlaw motorcycle gangs, and oriental organized crime groups. Investigations directed against these criminal elements also addressed corruption of public officials, illegal infiltration of legitimate business, laundering of illicit funds, and gangland slayings.

The Attorney General's delegation to the FBI of concurrent jurisdiction for violations of the Controlled Substances Act, Title 21, U.S. Code, has enabled the FBI to concentrate on a multijurisdictional approach against major drug violators and their financial assets. In the four years since this authority was first delegated, the FBI has evolved into a capable, effective, and respected participant in the battle against drug trafficking. In May 1986, the FBI adopted a national drug strategy that clearly focuses investigative efforts and resources on those groups controlling significant segments of the illegal drug and narcotics markets. The FBI has directed its resources against the Colombian/South American traffickers, the Mexican networks, and the La Cosa Nostra/Sicilian Mafia responsible for cocaine and heroin importation and distribution in the United States. As

of September 30, 1986, the number of cases being managed under the FBI's Narcotics Program was 1,844. Of that number, 603 were Organized Crime Drug Enforcement Task Force investigations.

A proven effective investigative technique used to combat criminal activity is the court-ordered Title III electronic surveillance. While a great benefit, this technique is very manpower intensive, often requiring around-the-clock monitoring of the equipment and the use of language specialists fluent in the dialects of these bilingual or non-English speaking groups. Between October 1, 1985 and August 31, 1986, the FBI had initiated a total of 105 Title III electronic surveillance installations and obtained 97 extensions within the Organized Crime Program. Of these, 53 installations and 30 subsequent extensions were in narcotics-related investigations.

A formidable weapon used to dismantle organized crime's enterprises has been the government's ability to obtain court-ordered forfeitures of assets which were acquired with illegal funds. In 1986, assets seized subject to forfeiture proceedings had an appraised value of \$45,194,898. Assets valued over \$38,673,000 remain to be litigated.

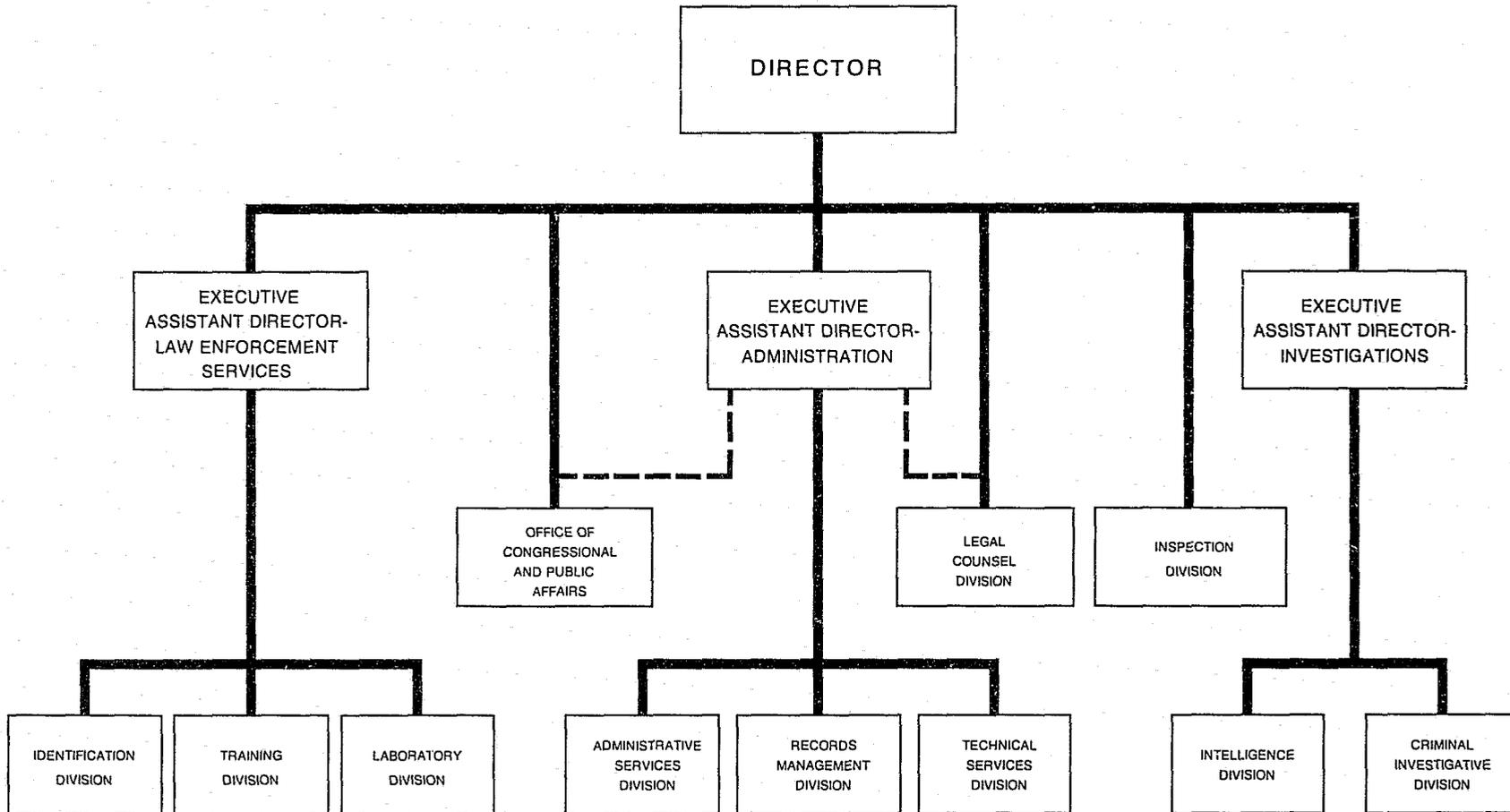
Additionally, during 1986, FBI investigative efforts against organized crime groups have resulted in over 3,300 convictions and over 3,900 indictments, including a number of organized crime members and associates. Organized crime investigations resulted in \$21,366,700 in fines, \$22,063,500 in recoveries, \$5,295,000 in restitutions, and \$123,192,000 in potential economic loss prevented.

Intelligence information concerning organized criminal activity disseminated to state and local law enforcement agencies by the FBI resulted in 455 convictions and \$2,618,000 in fines.

The following accomplishments are indicative of the successes the FBI has had within its Organized Crime Program:

On December 19, 1985, a Colombo organized crime family member and three associates were indicted on Racketeer Influenced and Corrupt Organizations (RICO) Act conspiracy charges as a result of an investigation into members of the Colombo, Bonanno, and Luchese families for defrauding the U.S. government in the collection of gasoline excise tax. As of July 1986, 11 federal and state convictions have been recorded and seven individuals are under New York state indictments. Through the use of physical surveillance and

FEDERAL BUREAU OF INVESTIGATION



cooperating witnesses, this investigation has exposed a multimillion dollar excise tax fraud throughout the nation.

On December 30, 1985, as a result of a RICO prosecution wherein the Genovese organized crime family was identified as a criminal enterprise, a Genovese capo and eight associates were convicted of having extortionate control over bars and restaurants in New York City.

On January 21, 1986, the STRAWMAN - ARGENT trial ended with guilty verdicts returned against the six defendants on all counts charged in the indictment. The Argent trial began September 23, 1985, with evidence presented as a result of extensive FBI investigations in Cleveland, Milwaukee, Chicago, Las Vegas, and Kansas City. The investigations were directed at a conspiracy among four separate La Cosa Nostra families to obtain loans from the Central States Pension Fund, International Brotherhood of Teamsters, to establish Argent Corporation, and to skim profits from Las Vegas casinos owned by Argent. The sentences for these persons totaled 129 years, fines of \$80,000, restitution of \$30,750 per person, and a court cost fee of \$175,015.

On February 26, 1986, four members and one associate of the Patriarca family were convicted in federal court, Boston, Massachusetts. Their trial began on July 7, 1985, and their convictions for loansharking, gambling, and RICO ended the longest trial in Massachusetts history. In addition to lengthy prison sentences, the defendants were ordered to forfeit approximately \$3 million in cash, securities, and property. In subsequent trials, three others have been found guilty, while six have pled guilty to charges including RICO, obstruction of justice, conspiracy, and gambling.

On March 5, 1986, through the use of several Title IIIs, a capo in the Gambino family and five codefendants were convicted in New York on charges of conspiracy, Civil Rights Act violations as a result of a murder, and mail fraud. The Gambino boss, Paul Castellano, a defendant in this trial, was murdered prior to the conclusion of the prosecution. Including plea agreements, 19 convictions have already been recorded, and the 165-year sentences given to two defendants were the longest sentences reported in the history of the federal court in New York.

On March 5, 1986, Matthew Trupiano, boss of the St. Louis organized crime family and four other subjects were convicted on charges of running an illegal gambling business and tax evasion. On May 23, 1986, Trupiano was sentenced to four years in prison and fined \$20,000.

On June 13, 1986, through the use of Title IIIs and cooperating witnesses, the boss of the Colombo La Cosa Nostra family, the underboss, three soldiers, and four associates were charged with RICO, RICO conspiracy, extortion, bribery of public officials, and dealing in narcotics. On June 19, 1986, the New York Office, utilizing the factual presentation from the Colombo family hierarchy criminal

prosecution, filed a civil complaint charging 31 defendants with controlling a labor organization through a pattern of racketeering activities.

On July 11, 1986, a sentencing in Las Vegas brought to four the total number of individuals convicted and sentenced in a major scheme to defraud the Southern Nevada Culinary Workers Union, Local 226, in Las Vegas. The individuals convicted included a labor union official, a benefit plan administrator, and an insurance agent, all of whom were associated with organized crime figures in the Chicago, Illinois, area.

During 1986, 27 individuals have been indicted and 16 convicted in an ongoing Hobbs Act-Extortion investigation in Chicago. The investigation which involved an extensive undercover operation concerned the Illinois Circuit Court system. Of the 27 indictments, three were Circuit Court judges, 15 were attorneys, one was a Chicago police officer, and seven were Cook County Deputy Sheriffs.

On February 19, 1986, Adler B. Seal, a Drug Enforcement Administration (DEA) informant who testified before the President's Commission on Organized Crime, was murdered in Baton Rouge, Louisiana. Within 48 hours, FBI Agents apprehended six subjects involved in the murder. On July 22, 1986, three ranking members of a Colombia drug-smuggling cartel were indicted on charges relating to Seal's murder. The investigation involved physical surveillances and consensual monitorings.

As of August 1986, after an extensive three-year investigation, more than 100 members of a major Mexican narcotics organization known to operate from Durango, Mexico, were indicted and arrested for various Title 21 violations in Chicago, Illinois. Forty-one subjects pled guilty or were convicted after lengthy trials. Through the use of Title IIIs, physical surveillances, consensual monitorings, informants, and translators, this investigation has exposed the sophistication and the extent to which a major Mexican drug trafficker conducted illegal business within the United States from the safe confines of Mexico.

The joint Italian-American Working Group to Combat Narcotics Trafficking, Organized Crime, and Terrorism met in Rome, Italy, on June 23 and June 24, 1986. It was the fourth formal meeting of the Group and it was chaired by the Italian Minister of Interior Oscar Luigi Scalfaro and Edwin Meese III, Attorney General of the United States. At the conclusion of the two-day meeting, the chairmen signed an agreement committing their respective ministries to work together to combat international terrorism. Other terms of the agreement included the creation of an operational subgroup to address organized crime and narcotics trafficking.

In May 1986, the FBI redefined its national drug strategy which prioritizes La Cosa Nostra/Sicilian Mafia narcotics-trafficking investigations. The premier case was the Genus-

Cattails (termed by the media to be the "Pizza Connection" case) investigation centered in New York. The trial of the 22 defendants commenced on September 30, 1985. Two defendants have pled guilty. Officers from Turkey, Italy, Brazil, and Spain have testified. Italian authorities indicted over 150 individuals in this case.

In May 1986, a Sicilian Mafia figure wanted on murder and heroin charges by Italian police in Sicily, Italy, was arrested in Newark, New Jersey. The arrest stemmed from a joint FBI, DEA, and Italian investigation regarding an international heroin smuggling and distribution network in Dallas, Texas; Newark, New Jersey; and Massa Carrara, Italy. Over 60 subjects were arrested and agents seized nine kilos of cocaine, 1½ kilos of heroin, \$7,100 in cash, and a car valued at \$50,000.

During 1986, a special task force of FBI and New York Police Department personnel actively investigated the illegal activities of a Chinese gang known as the United Bamboo Gang which originated in Taiwan. Two New York Police Department officers, in an undercover capacity, were inducted into the United Bamboo Gang. The investigation concerned illegal drug trafficking, the murder of journalist Henry Liu in California, extortion, weapons trafficking, and other criminal activities. Twelve defendants were convicted in September 1986.

White-Collar Crime

During Fiscal Year 1986, accomplishments for the White-Collar Crime Program included 4,390 convictions and pretrial diversions; \$24,551,664 in fines; \$1,382,720,614 in recoveries and restitutions; and \$378,106,137 in potential economic loss prevented.

On July 24, 1986, Litton Systems, Incorporated, was sentenced in U.S. District Court, Philadelphia, Pennsylvania, following a plea of guilty to 320 counts of false claims and mail fraud. The combination of restitutions, fines, and civil damages of \$15,698,997 was paid back to the U.S. government by Litton as a result of this investigation. The investigation in this matter, conducted jointly by the FBI and Department of Defense agencies, examined mischarged material costs on approximately 45 contracts for military hardware sold to the U.S. Army, Navy, and Air Force from 1975 through 1984.

On May 5, 1986, the president, vice president, and shipping manager of Golden Gate Forge and Flange, Incorporated, San Francisco, California, were sentenced in U.S. District Court, San Francisco, California, following their guilty pleas relating to the falsification of test reports on metal being provided to the U.S. Navy for use in nuclear submarines. The president and vice president of Golden Gate were each sentenced to two-year prison terms and fined \$10,000. The shipping manager of Golden Gate was sentenced to six months in prison and ordered to perform 500

hours of community service upon his release. The investigation in this matter determined that the defendants directed the alteration and falsification of test reports when materials failed to meet specifications.

On July 24, 1986, in Los Angeles, California, 19 subjects were charged with mail fraud, tax evasion, receipt of kickbacks, conspiracy, and aiding and abetting. The investigation, conducted jointly by the FBI, Internal Revenue Service, and the Defense Criminal Investigative Service, determined kickbacks were made by subcontractors on Department of Defense and National Aeronautics and Space Administration contracts.

On February 3, 1986, William C. Brennan, Judge, Supreme Court, State of New York, 11th Judicial District, was sentenced to five years' imprisonment following his conviction on bribery charges. An FBI investigation determined that Brennan sold his influence in criminal cases before him and other Queens, New York, Supreme Court Judges in exchange for cash bribes.

As a result of a lengthy investigation conducted jointly by the FBI and the Internal Revenue Service, Harry Eugene Claiborne, U.S. District Court Judge, Las Vegas, Nevada, was found guilty on August 10, 1984, of two counts of income tax violations, a conviction the U.S. Supreme Court sustained on April 21, 1986.

On March 31, 1986, Walter Louis Nixon, Jr., Chief Judge for the Southern District of Mississippi, was sentenced to five years' imprisonment following his conviction for two counts of perjury before a federal grand jury investigating allegations that Judge Nixon received bribes for his assistance in fixing criminal cases.

During 1985, 120 banks and 35 savings and loan associations either failed or merged in lieu of failure. The failures of federally insured financial institutions continue at a rate not experienced since the Great Depression.

Seven former officers of ESM Government Securities, Incorporated, Fort Lauderdale, Florida, and the former managing partner of the Miami Office of Alexander Grant and Company were convicted of participating in a nationwide fraud scheme involving the purchase and repurchase of government securities, which caused losses of over \$300 million to financial institutions, municipalities, and creditors.

Over 80 individuals were convicted in a real estate loan fraud scheme in Texas which caused the failures of two savings and loan associations and is expected to result in the payment of over \$400 million in Federal Deposit Insurance Corporation funds.

A group of individuals from south Florida was convicted of participation in a series of planned bankruptcies or "bust outs" in nine major cities, which caused credit losses of over \$10 million to manufacturers nationwide.

Antitrust and Civil Matters Program

As a result of evidence uncovered through FBI investigations in the Antitrust and Civil Matters Program during Fiscal Year 1986, there were 10 convictions and pretrial diversions, \$665,267 in fines were imposed, \$13,000 in restitutions and recoveries were made, and \$6,604,011 in potential economic losses were prevented.

Foreign Counterintelligence

The FBI's Foreign Counterintelligence Program has produced many noteworthy successes during the past year.

In June, 1986 Jonathan Jay Pollard, a Counterintelligence Analyst at the Anti-Terrorism Alert Center, Department of the Navy, and his wife, Anne Louise Henderson Pollard, were convicted of espionage. Pollard was charged with providing Israel with classified documents over a 2½ year period, receiving \$2,500 per month. His wife also was arrested and charged with espionage when it was determined that a suitcase, which she had supplied to a neighbor, contained classified documents.

Larry Wu-Tai Chin, a veteran of 33 years of service with the Central Intelligence Agency, was convicted February 7, 1986, of espionage, conspiracy, filing false income tax returns and failing to report control of and interest in foreign bank accounts. Chin had provided China with classified Foreign Broadcast Information Service documents and writings and supplied personality assessment data on his fellow employees.

Following his November 25, 1985 arrest, Ronald William Pelton was convicted June 5, 1986 on three counts of espionage that involved providing the Soviet Union with extremely sensitive classified information relating to U.S. intelligence activities directed at the Soviet Union.

Randy Miles Jeffries was arrested on December 20, 1985. He had previously contacted the Soviet Military Office in Washington, D.C., and indicated that he had classified information to sell. He met with an undercover Special Agent posing as a Soviet and requested \$5,000 for three classified documents. On January 23, 1986, Jeffries pled guilty and was sentenced to three to nine years' imprisonment.

On February 22, 1986, Bruce Damian Ott was arrested by U.S. Air Force authorities and charged with espionage. Ott had been the subject of a joint FBI/Air Force Office of Special Investigations investigation, predicated on information that he had offered to commit espionage on behalf of the Soviet Union. On August 7, 1986, Ott was sentenced to 25 years' imprisonment, reduced to the lowest rank in the Air Force, given a dishonorable discharge, and ordered to forfeit his pay.

Terrorism

The FBI has the dual responsibility of preventing terrorist acts through intelligence-type investigations and responding

through criminal investigations when terrorist acts are committed.

The great majority of terrorist incidents that occur in the United States and Puerto Rico take the form of actual or attempted bombings and firebombings against government, military, corporate, or other symbolic targets. Other terrorist incidents have included murder, hostage taking, shooting, and arson.

In Fiscal Year 1986, there were seven terrorist incidents (five bombings and two shootings). These incidents resulted in two deaths and nine injuries.

On June 14, 1986, four members of the Armenian Secret Army for the Liberation of Armenia, a left-wing Armenian terrorist group, pled guilty to Canadian charges of conspiracy to commit murder and were subsequently sentenced to terms ranging from approximately two to nine years in prison. These charges related to their involvement in the 1982 assassination attempt against a Turkish Embassy Commercial Attache. Arrests in this matter were predicated on investigations conducted by the FBI in Los Angeles and Cleveland.

On February 6, 1986, three members or associates of Omega 7, an anti-Castro Cuban exile group, pled guilty to conspiracy to murder a foreign official and conspiracy to bomb and destroy property of a foreign government. They were each sentenced to 10 years in prison.

On May 20, 1986, eight members and/or associates of the Provisional Irish Republican Army, a violent Irish militant Marxist terrorist group, were arrested in and around Boston, Massachusetts, while attempting to procure automatic weapons for shipment to the Provisional Irish Republican Army in Northern Ireland. On June 4, 1986, all eight subjects were indicted on weapons conspiracy charges.

On May 30, 1986, Canadian authorities arrested five persons believed to be Sikh terrorists, and charged them with conspiracy to manufacture and utilize an explosive device with intent to cause injury. These arrests prevented the potential bombing of an Air India facility or aircraft. An FBI undercover Agent contributed materially to this investigation.

On March 12, 1986, five individuals were convicted on charges relating to their involvement in a 1984 plan to stage a coup against the government of Honduras. Two others had previously pled guilty. On February 13, 1986, another individual was convicted in this matter.

On July 28, 1986, 14 individuals were arrested on charges relating to their involvement in a plan to invade the country of Surinam. On September 11, 1986, nine of the 14 individuals pled guilty.

On March 19, 1986, Richard Joseph Scutari, a member of the "Order," a right-wing terrorist organization, was arrested at San Antonio, Texas. Scutari was sought in connection with the armed robbery of an armored truck on July 19,

1984, at Ukiah, California. On April 30, 1986, Richard Scutari pled guilty and was sentenced to a total of 60 years' confinement.

In August 1985, intensive investigation resulted in the initial indictment of 16 members or associates of the Puerto Rican terrorist group, the Ejercito Popular Boricua-Macheteros. They were indicted on charges relating to the September 12, 1983, armed robbery of \$7.2 million from the Wells Fargo Terminal in West Hartford, Connecticut. On March 21, 1986, a superseding indictment was issued by a federal grand jury in Hartford, Connecticut, charging an additional three persons with participation in the robbery.

The Jewish Defense League is composed primarily of young Jewish-American extremists who consider themselves to be the front line of defense against anti-Semitism, as well as being supporters of the State of Israel.

On January 15, 1986, a former Jewish Defense League member was arrested by the U.S. Marshals Service in New York City after a month-long investigation spearheaded by the FBI. A provisional arrest warrant, which had been authorized by the Criminal Division's Office of International Affairs, U.S. Department of Justice, had been issued for his arrest based upon an Israeli indictment which charged attempted murder, arson, attempted arson, and conspiracy.

On March 12, 1985, a federal grand jury returned a 12-count indictment charging seven individuals with responsibility for the 11 bombing-related incidents attributed to the United Freedom Front, a left-wing terrorist group. Among those indicted were former Top Ten fugitives Raymond Luc Levaseur and Thomas William Manning. On March 4, 1986, all defendants were convicted of conspiracy and bombing of government and corporate buildings and were subsequently sentenced to terms ranging from 15 to 53 years in prison.

On August 5, 1986, two members of the El Rukn street gang were arrested as a direct result of their involvement in the purchase of an (inert) M-72 Light Anti-Tank Weapon from an undercover FBI Agent. The El Rukn street gang is a violence-prone organization under investigation for attempting to act as a surrogate for the Libyan government.

Civil Rights Violations

During Fiscal Year 1986, the FBI initiated over 6,200 investigations of civil rights complaints, over 87 percent of which were color of law violations by law enforcement personnel. During this period, 66 felony and 10 misdemeanor convictions were obtained in civil rights cases investigated by the FBI.

Racial violence cases continued to receive priority attention. Complaints in this area are monitored to determine whether patterns or common factors exist in what may otherwise appear to be isolated incidents. Twenty-four individuals were successfully prosecuted in federal court for activities involving racially motivated violence and/or intimidation.

General Property Crimes

The FBI's General Property Crimes Program focuses on thefts from interstate shipments, the interstate transportation of stolen goods and motor vehicles, individuals and groups engaged in such criminal activities, and fences buying and selling stolen property. Program investigations often develop links between property crime occurrences, fences, organized crime, and narcotics trafficking. Other Program investigations include arson matters, crimes on the high seas, and destruction of aircraft or motor vehicles. Traditional investigative approaches to property crime occurrences are complemented with the use of undercover operations directed against specific crime problems.

Property crime undercover operations have successfully penetrated organized automobile theft and "chop shop" operations throughout the country. An undercover operation related to organized automobile theft in the Memphis, Tennessee, area ceased operation in January of 1986. During this operation, state and local law enforcement officers, and FBI Agents, posing as buyers of stolen vehicles and heavy equipment, were able to infiltrate areas of these organized theft operations which previously have been virtually untouched by law enforcement. Numerous stolen high-value vehicles were purchased from professional thieves and their associates. Due to the efforts of this one undercover operation, 124 convictions and \$3.6 million in recoveries have been realized.

The culmination of an investigation by a task force of local police agencies and the Buffalo FBI Office in February 1986, resulted in 11 convictions, and as part of a plea agreement, two subjects were debriefed regarding the more than 50 burglaries committed by a "Hi-Tech Burglary Gang." This investigation concerning the "Hi-Tech Burglary Gang" was so named for the members' use of electronic devices to bypass sophisticated alarm systems and police scanners. A total of \$4 million in missing art and antiques was recovered.

Property crime undercover operations also have helped in addressing the increasing motor vehicle insurance fraud problem. In an operation conducted in Detroit, Michigan, 170 individuals were charged with mail fraud and 163 vehicles, valued at \$1,059,500, were recovered.

In 1986, the San Antonio FBI Office concluded an investigation into the bombing of American Airlines Flight 203 at the Dallas/Fort Worth Regional Airport on October 30, 1985. While in flight, a fire ignited in the baggage hold area of the plane, and upon landing, an improvised explosive device burst into flames when the cargo hold doors were opened. No injuries resulted. The FBI laboratory determined that the explosive device was located in the luggage of passenger Mary Thielman who was accompanied by her three children. Her husband, Albert Lee Thielman, was developed as a suspect. Extensive investigation determined that he was deeply in debt, used and sold narcotics, and had

purchased \$2.65 million in life insurance on his family. On June 10, 1986, Thielman pled guilty to both damaging a civil aircraft used in interstate commerce and placing a destructive device aboard an aircraft. On July 30, 1986, he was sentenced to 20 years on each of the two counts to run consecutively.

In Fiscal Year 1986, the General Property Crimes Program's efforts resulted in the conviction of 1,157 persons, 894 arrests, and 114 subjects located. In this period, stolen property in the amount of \$129,332,491 was recovered; \$1,900,855 in fines was assessed; and \$33,891,193 in potential economic losses were prevented.

General Government Crimes Program

The objective of the General Government Crimes Program is the thwarting of criminal activities directed against U.S. government property or individuals located on federal property. These crimes involved theft of government weapons, explosives, or high-value property, and acts of violence occurring on government reservations, on Indian reservations, and in federal penitentiaries. This includes approximately 430 major Department of Defense installations and 185 Indian reservations. During Fiscal Year 1986, 358 complaints and 1,269 informations/indictments were obtained, 914 persons were convicted, a total of 559 persons were arrested or located, and recoveries amounted to \$2,766,245.

A recent investigation, initially thought to involve drug trafficking, utilized undercover Agents from the DEA, the FBI, and the Arkansas State Police. Subsequent investigation revealed that the Agents were hired to assist two prisoners in an escape from the Lewisburg Federal Penitentiary. An Uzi machine gun and \$10,000 expense money were provided to the operatives. The plan called for a helicopter to land in the prison yard and pick up the two prisoners who would be wearing red shirts. As planned, an FBI helicopter hovered over the prison. The two men ran into the prison yard, tore off their outer garments exposing their red shirts, and signaled to the Agent-pilot in the helicopter. They were immediately taken into custody by prison authorities and all other coconspirators were apprehended at designated locations.

On January 20, 1986, information was received concerning the interstate transportation and sale of U.S. military weapons, including M-16s and other fully automatic weapons, that were stolen from Fort Bragg, North Carolina. An arrangement was made for an FBI undercover Agent to purchase the stolen U.S. military weapons. On April 11, 1986, one subject was arrested when he delivered stolen explosives and blasting caps to the undercover FBI Agent. Three subjects were subsequently charged with theft of government property.

On December 27, 1985, information was received regarding a burglary at the Research Armaments Industries, Rogers, Arkansas, in which numerous weapons and ammunition were taken. The stolen property was identified as U.S. government property. Two subjects were ultimately arrested in Orlando, Florida, tried in state court, and sentenced to prison. Twenty-one weapons and ammunition valued at \$268,000 were recovered.

Since January 1983, the Department of Justice has referred numerous Selective Service Act cases to the FBI for investigation. During Fiscal Year 1986, a total of 301 additional cases were received. Since 1983, 2,591 of these cases have been resolved.

Personal Crimes

The FBI aggressively participates in the Attorney General's initiatives to combat violent crime through Personal Crimes Program investigations. This Program addresses violations involving the common characteristics of threatened or actual personal injury or loss of life. These crimes include assaulting federal officers and other government officials, kidnaping, bank robbery, extortion, tampering with consumer products, theft of controlled substances, and aircraft hijacking.

In Fiscal Year 1986, Personal Crimes Program investigations resulted in 1,525 arrests and locates, 2,182 indictments and informations, and 2,119 convictions and pretrial diversions. Over \$11.4 million worth of stolen or illegally possessed property was recovered and \$1,935,021 in fines were levied against subjects convicted in federal court.

The investigative jurisdiction of the Personal Crimes Program was expanded at the start of Fiscal Year 1986 by the addition of the investigative and supervisory responsibilities for matters involving the sexual exploitation of children, interstate transportation of obscene matter, and violations of the White Slave Traffic Act.

The FBI investigates all matters involving an assault, kidnaping or murder of the President, Vice President, executive department heads, Supreme Court Justices, Members of Congress, certain federal law enforcement officers, and other designated government officials. Investigation of these offenses in Fiscal Year 1986 resulted in 101 convictions.

Actual and threatened extortions of individuals, businesses, and financial institutions are investigated under federal extortion statutes and the Hobbs Act. In Fiscal Year 1986, convictions for these offenses totaled 138.

In November 1985, corporate officials of a chain of restaurants in Atlanta, Georgia, began receiving a series of threatening letters demanding \$650,000 or patrons of the restaurants would be poisoned. The extortionist's payoff instructions were elaborate, innovative and unique. FBI Agents were able to maintain surveillance of the situation by

using a number of specialized and sophisticated techniques. The subject was arrested and a search of his vehicle resulted in the location of a quantity of cyanide and arsenic, a hypodermic needle, and several small sugar packets from the victimized restaurants. In March 1986, the subject was found guilty of violating the federal extortion statute, Hobbs Act, and tampering with consumer products. He was subsequently sentenced to 40 years' custody of the Attorney General and five years' probation.

During Fiscal Year 1986, 73 persons were convicted federally for kidnaping and 70 persons were convicted in state or local courts for kidnaping as a result of FBI investigative assistance.

On December 5, 1985, an eight-month-old baby girl was kidnaped at gunpoint from her parent's home in Texas. A \$687,000 ransom demand was left at the scene of the abduction. Two days later, the kidnaper telephonically contacted the family with additional instructions for the ransom drop and release of the victim. The FBI and local law enforcement established surveillance at the designated drop site, and thereafter, the money was recovered, the subject was arrested, and the child was recovered unharmed.

Crimes committed on board an aircraft, such as aircraft piracy, interfering with flight crew members, and carrying weapons aboard an aircraft are investigated by the FBI. Nine actual or attempted aircraft hijackings occurred in Fiscal Year 1986. Crime aboard aircraft investigations led to 68 convictions in Fiscal Year 1986.

Federal bank robbery statute violations include robberies, burglaries, and larcenies committed against federally insured or regulated banks, savings and loan associations, and credit unions. During Fiscal Year 1986, 1,656 convictions were recorded in federal court for bank robbery and related crimes. As a result of FBI investigative assistance provided, another 466 persons were convicted in state or local court for these crimes in Fiscal Year 1986. Investigations of extortionate demands against financial institutions are conducted under provisions of the Hobbs Act. Twenty-two federal convictions for these kidnap/extortion style offenses were achieved during Fiscal Year 1986.

A major breakthrough in the fight against product tampering occurred in May 1986, when a stockbroker trainee was arrested for contaminating cold, allergy, and diet capsules in an attempt to manipulate the stock price of the manufacturer. In March 1986, contaminated capsules were placed on store shelves in Florida and Texas. The manufacturer recalled the nonprescription drugs after news agencies received telephone calls from a man who said he wanted capsule drugs taken off the shelf for public safety. A fingerprint found on one of the packages containing poisoned capsules was linked to the stockbroker trainee. He was subsequently arrested and pled guilty to nine counts of tampering with

consumer products. During Fiscal Year 1986, 14 subjects were convicted on similar charges.

The Controlled Substance Registrant Protection Act of 1984 gave investigative jurisdiction to the FBI. Investigation of controlled substance offenses in Fiscal Year 1986 resulted in six convictions.

The National Center for the Analysis of Violent Crime has been operational since June 1, 1985, at the FBI Academy, Quantico, Virginia. One of the four missions of the center is to provide a national data information center designed to collect, collate, and analyze all aspects of the investigation of violent crimes. This particular function is under the supervision of the Personal Crimes Program as part of the FBI's Violent Criminal Apprehension Program. In the 16 months that it has been operational, Violent Criminal Apprehension Program analysis has proven to be a valuable tool that has greatly assisted in the identification of those responsible for violent crimes.

Beginning with Fiscal Year 1986, the Personal Crimes Program assumed responsibility from the Organized Crime Program for the overall supervision and investigation of matters involving the White Slave Traffic Act, interstate transportation of obscene matter, and sexual exploitation of children. Due to the investigative efforts of the FBI, 48 federal convictions have been achieved in Fiscal Year 1986.

During Fiscal Year 1986, 1,442 unlawful flight fugitives were arrested or located by the FBI, including 124 parental kidnaping subjects. In addition, the FBI's investigative programs were responsible for 7,314 arrests, 736 locates, and 1,621 summonses served for various other violations under their jurisdiction.

An integral part of the FBI's efforts to effect the timely apprehension of its most sought after fugitives is the "Ten Most Wanted Fugitives" Program and the Identification Order fugitives. During Fiscal Year 1986, 33 Identification Order fugitives and nine "Ten Most Wanted Fugitives" were apprehended.

Since September 1981, the FBI has assisted DEA by locating and apprehending major DEA drug trafficking fugitives referred to the FBI for fugitive assistance. During Fiscal Year 1986, a total of 98 referred DEA fugitives were arrested or located.

The criminal investigative responsibility for Foreign Police Cooperation matters involves providing investigative and fugitive assistance in the United States to requesting foreign countries. In Fiscal Year 1986, the FBI investigated a total of 1,368 Foreign Police Cooperation cases and apprehended or located a total of 15 foreign fugitives.

International Criminal Police Organization (INTERPOL) cases are handled as a part of the Fugitive Program. The FBI's participation as a member of the U.S. National Central Bureau provides a channel for the exchange of investigative requests with foreign nations who are members of

INTERPOL. During Fiscal Year 1986, the FBI handled a total of 375 cases through INTERPOL.

Applicant Investigations for Other Agencies

Pursuant to various statutes, Executive orders, departmental orders and agreements established with the Attorney General's approval, the FBI, upon written request from other agencies, has continued to conduct personnel background investigations concerning individuals who will occupy important and sensitive positions in the federal government.

During Fiscal Year 1986, over 3,900 background investigations and 433 expanded name checks were conducted by the FBI for other agencies. The timeliness with which these investigations are completed has been improved and a study to determine the feasibility of more fully automating the processing of these cases has been initiated.

Cooperative Services

Training Division

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

Primary courses of training at the Academy during Fiscal Year 1986 were in the following four areas:

- New Agents (15-week course) - 409 graduates;
- FBI In-Services (Agent and Support) - 4,870 students, 220 classes;
- FBI National Academy (Mid-Level and Senior Police Administrators for 11 weeks) - 800 students, four classes;
- General Law Enforcement Training (GLET - Criminal Justice Employees) - 3,420 students, 136 classes.

FBI Headquarters instructors and specially trained Agents assigned to the 59 field offices participated in 5,467 schools throughout the United States in which 194,082 law enforcement officials received 61,582 hours of instruction.

The major thrust of FBI sponsored training continues to be the violent crime issue. Some courses were very specific, such as hostage negotiation, death investigation, interpersonal violence, sexual assault, arson investigation, bomb crime scene, crime prevention for the elderly, and terrorism. Other courses related to dealing with the overall crime issue in an effective and efficient manner. These courses were in the areas of crisis management, stress management, planning and budgeting, effective leadership, and other police-related topics. Twenty-six police executives from large metropolitan

areas attended the National Executive Institute, 58 police executives from medium-sized agencies attended the Law Enforcement Executive Development Seminars, and an additional 94 criminal justice personnel participated in the FBI Academy's National Law Institute. One hundred and thirty-two mid-level FBI managers and executives also received management training to enable them to perform more effectively and efficiently. International symposia were conducted in the areas of police stress, crime prevention for the elderly, less-than-lethal weaponry, and in specialized forensic science matters. In-service training programs for FBI employees primarily covered economic and financial crime matters, computer crime matters, organized crime, foreign counterintelligence, management development, and related scientific and technical topics.

Pursuant to the Attorney General's directive to collocate the FBI and DEA at the FBI Academy, effective October 1, 1985, 944 DEA employees participated in Academy training sessions this past fiscal year. In addition to the eight DEA Basic Agents classes and three Diversion Investigator classes which graduated from the FBI Academy during this past year, 74 DEA managers received supervisory and executive development training. In-service classes for DEA personnel included training in such areas as narcotics raid planning, crisis management, hostage negotiation, firearms, forensic photography, and technical skills training. In a further effort to enhance both FBI and DEA investigative effectiveness, DEA provided specialized narcotics training to 90 FBI Agents.

In a continuing effort to address fraud that culminates in the failure of financial institutions, such as banks and savings and loan associations, the Training Division conducted four bank failure regional seminars during Fiscal Year 1986 for a combined group of bank examiners from the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, the Federal Reserve Board, and the Federal Credit Union Administration. This training, which has been provided a number of times since early 1985 in response to a request from the Department of Justice, remains a priority effort in view of the fact that in 1985 the United States experienced more financial institution failures than at any time since the Great Depression.

Following the hijacking of Trans-World Airlines Flight #847, in June of 1985, a joint task force consisting of representatives from the FBI Academy was formed by Presidential directive to research and develop a terrorist sky-jacker profile. This method of identifying individuals who may be terrorists is now being applied to airports within the United States and those in foreign countries which serve American carriers.

The National Center for the Analysis of Violent Crime has been fully operational since June 1985. It is a law enforce-

ment oriented behavioral science and computerized resource center which consolidates research, training, and investigative support functions to provide assistance to law enforcement agencies confronted with unusual, and/or particularly vicious or repetitive violent crime.

The National Center for the Analysis of Violent Crime addresses the issue of violent crime through its four major programs: Research and Development; Training; Profiling and Consultation; and the Violent Criminal Apprehension Program. Members of the Center joined an FBI Executive Assistant Director in testifying about serial violent crime before the Government Information, Justice, and Agriculture Subcommittee of the House Committee on Government Operations in April of 1986.

Major research projects have been conducted from the law enforcement perspective on categories of violent criminals such as the sexually-oriented serial murderer, the repeat rapist, and the multiple-victim child molester/abductor. Information obtained has contributed to the development of valuable investigative techniques and training programs.

Feedback from requesting agencies revealed that the National Center for the Analysis of Violent Crime assisted in the identification, prosecution, and/or convictions of offenders responsible for the following crimes: 17 subjects for 25 homicides, two subjects for two sexual abuse/homicides, three subjects for three kidnappings, two subjects for three kidnaping/homicides, one subject for one kidnaping/rape/homicide, one subject for two kidnaping/rapes, two subjects for 22/rape/homicides, seven subjects for 36 rapes, one subject for one false allegation of rape/kidnaping, one subject for one attempted rape, one subject for two robberies, two subjects for one arson, two subjects for two extortions, one subject for three child molestations, and three subjects for three equivocal deaths.

A nationwide law enforcement training needs assessment project is being conducted by the Training Division. The third of 10 annual reports on the project has been completed.

Two sessions of the Caribbean Police School for 33 foreign police officers and 11 Puerto Rico and Virgin Island officers were conducted in Puerto Rico for mid-management law enforcement personnel from the Caribbean area. These students were taught basic investigative skills and how to develop a training program in their respective departments.

Laboratory Division

The FBI Laboratory is divided into four major sections. These are the Document, Scientific Analysis, Forensic Science Research and Training, and Special Projects Sections. These Sections are subdivided into smaller units, each of which is equipped with state-of-the-art instrumentation which assists in the performance of a variety of forensic science examinations or Laboratory service activities.

The work of the Document Section deals with the ex-

amination of physical evidence involving handwriting and hand printing, ink and paper, obliterations and alteration of documents, records seized in drug cases and other illegal business investigations, cryptanalytic examinations of secret enciphered communications, and evidence involving shoe prints and tire treads. This Section manages the FBI Language Specialist Program in the field offices, translates and interprets a wide variety of written and spoken foreign language material, and manages the FBI Polygraph Program.

The Scientific Analysis Section is composed of eight units which handle a variety of highly specialized examinations such as chemistry, toxicology, arson, firearms, toolmarks, hairs and fibers, blood, metallurgy, mineralogy, number restoration, glass fractures, explosives, paints, plastics, and numerous related matters. This Section also trains bomb disposal technicians and investigators, prepares and distributes explosive-related publications, and conducts research and development of explosives-related devices and techniques.

The Forensic Science Research and Training Center, located at the FBI Academy, Quantico, Virginia, is engaged in a full program of forensic science research to improve examination techniques and expand methodology to support field operations. Training is provided to federal, state, and local crime laboratory and law enforcement personnel to increase awareness of the probative value of physical evidence and improve their skills and technical capabilities.

The Special Projects Section provides forensic examination of photographic evidence and unique services and products helpful to both the investigator and prosecutor. The Section is responsible for the application and oversight of 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 specialized investigative devices. Prosecutive assistance, which also includes civil matters, entails preparation of demonstrative evidence such as trial charts and three-dimensional scale models. The Special Projects Section designs and fabricates commemorative plaques, medals, and public displays relative to the FBI's mission. Additionally, the Section is responsible for nearly all photographic processing for the Department of Justice in Washington, D.C., and FBI offices nationwide, as well as FBI Headquarters.

During Fiscal Year 1986, the Laboratory Division received 18,723 requests for examinations and performed 1,294,734 scientific examinations on 162,141 specimens of evidence. Approximately 33 percent of all requests for examinations received were submitted from state, county, and municipal law enforcement agencies. Requests from FBI offices accounted for 62 percent and other federal agencies five percent.

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 perform research to advance the forensic sciences in support of the law enforcement and criminal justice communities. Student interns are utilized as an economical and effective means of augmenting the research staff.

The specialized training held at the Forensic Science Research and Training Center is not available to state and local crime laboratory examiners from any other source. This training includes courses which are vital to the investigation of crimes of violence such as basic forensic serology, introduction to hairs and fibers, and laboratory examinations in arson matters. During Fiscal Year 1986, 951 students received training in such specialized courses.

The Research Unit has established a research program concentrated in the areas of biochemistry, immunology, chemistry, and physics. This program is directed toward the development of new methods for forensic science. The ultimate goal is to develop and establish procedures to be used by the FBI Laboratory and state and local crime laboratories to benefit the law enforcement community. Twelve research projects were completed in Fiscal Year 1986.

The results of research projects are made available to the crime laboratory community through articles in various scientific journals and the Crime Laboratory Digest, a publication of the FBI Laboratory.

The FBI Laboratory was requested to perform examinations in several cases that achieved national prominence during the past year. One of the most significant of these involved the John Anthony Walker, Jr., spy ring. Long before John Walker's spy activities were known to the Bureau, four letters were received in the San Francisco Office of the FBI and forwarded to the Laboratory. An extensive examination was conducted to identify the author of these letters. Each was signed with the name "RUS," and outlined a spy network giving cryptographic information and materials to the Russians. All attempts to trace these letters were in vain. However, they would become an important part of a later trial procedure.

On May 19, 1985, John Walker left a brown paper bag by the side of the road in a rural Maryland suburb. After Walker departed, this package was rushed back to FBI Headquarters and examined by a Laboratory Document and Foreign Counterintelligence Tradecraft expert. Tradecraft is a term used to describe the physical devices and/or operational procedures specifically designed to relay information in a clandestine manner. Over 100 classified documents and a number of typewritten notes from Walker to his intelligence officer were in this makeshift concealment. This tangible evidence verified the existence of a major espionage ring.

A team of Laboratory personnel was gathered as soon as

possible, and with two vehicles full of equipment, such as X-ray, fiber optics, and other devices, proceeded directly to Norfolk, Virginia, for an extensive search of Walker's home.

Numerous pieces of tradecraft were located in Walker's home including Minicam miniature cameras; "drop" and "meet" instructions both for the United States and Vienna, Austria; several instruction sheets; more classified material; and a specially-made cryptomachine rotor decoding device. This device was later determined to have been specifically made by the KGB to decode our Navy's cryptographic rotors.

The material found in Walker's home, the extremely detailed instructions found on John Walker at the time of his arrest, and evidence seized in the home of a former Navy co-worker and friend, Jerry Alfred Whitworth, were all photographed and examined by FBI Laboratory personnel. Over 450 pieces of evidence were recorded as part of this case.

The results of these examinations, consisting mostly of handwriting, hand printing, typewriting, photographic, and hostile intelligence service tradecraft examinations, were key factors in the trials of Arthur Walker, John Walker's brother and co-conspirator, and Jerry Whitworth. At the conclusion of the Whitworth trial, the defense admitted that Whitworth had prepared the "RUS" letters laying out the espionage ring, and had difficulty refuting the remainder of the testimony by the Laboratory examiner. The prosecution was of the opinion that the results of the Laboratory work and testimony were absolutely critical to the successful conclusion of their case. This fact was borne out by the comments of the jury foreman to the prosecuting attorneys at the conclusion of the trial. He stated that the Laboratory examiner's forensic testimony, specifically, the handwriting testimony regarding Whitworth's "pay sheet," was the "...single most compelling piece of evidence in the trial."

Identification Division

The Identification Division's criminal file currently consists of over 23 million criminal records. Over 10 million of those have automated criminal history records. An additional 9 million name index records and approximately 18.3 million fingerprint cards are now automated.

During Fiscal Year 1986, the FBI received over 12.6 million fingerprint cards, correspondence, and other types of mail for a daily average of approximately 50,500 items. The Identification Division maintained an average in-house turnaround time of 12 workdays despite the almost five percent increase in receipts.

The completion of the automated name search file in March 1986, enables the Division to perform an automated name search on all incoming receipts. Approximately 85 percent of all criminal history records are now disseminated from our automated file and about 95 percent of all incoming fingerprint cards requiring a technical search are

searched through the automated fingerprint processing system.

Substantial progress has been made in the development of the Automated Identification Division System, Phase III (AIDS-III). This System will replace two major automated systems and will reduce the Identification Division's processing time for fingerprint cards and other documents to one day. It will also support the National Crime Information Center's Interstate Identification Index concept for decentralizing arrest records. Construction was started in January 1986, on the new major computer center for AIDS-III and in July the contractor moved the development effort into the J. Edgar Hoover FBI Building after installing the AIDS-III computers in the new computer center. Work continues on computer programming which has already resulted in the second release for testing. AIDS-III is expected to be fully operational by the end of 1987.

The Division has continued to utilize two computer operations for searching latent fingerprints. The first operation, the Latent Descriptor Index, selects potential suspects from the 18.3 million individuals in the AIDS-II data base using physical descriptors and classification data from the latent fingerprint. The manual comparisons of the selected candidates resulted in identifications in three cases. The second phase of the Latent Descriptor Index operation requires the use of an automated fingerprint matcher when the number of candidates renders manual comparisons infeasible. Use of the second phase of the Latent Descriptor Index provided identifications in eight additional cases. The second operation, the Automated Latent System Model, selects candidates from an on-line data base of approximately 200,000 highly active criminals and use of the System during 1986 resulted in one identification. By using these two computer operations, the Latent Fingerprint Section established identifications of 12 suspects in 12 cases that otherwise would have gone unsolved.

During Fiscal Year 1986, the Identification Division had several other notable achievements:

- The Divisions's latent fingerprint specialists processed 15,487 cases which resulted in the identification of 3,747 suspects and 209 deceased individuals. There were 310 court appearances by these experts which resulted in 3,203 years in prison terms, in addition to 23 life terms, 10 death sentences, and fines totaling \$1,638,849.40.
- The FBI Disaster Squad, a specially trained group of latent fingerprint specialists, assisted in the identification of the victims of four aircraft disasters in Gander, Newfoundland; Athens, Greece; Grand Canyon, Arizona; Cerritos, California; a hijacking in Malta; a mining disaster in Castle Dale, Utah; and the Space Shuttle disaster at the Kennedy Space Center, Florida.

There were 403 victims examined in these disasters and 168 were identified by fingerprints and/or footprints.

- The User-Fee System, a program which charges a fee for the processing of certain fingerprint cards submitted for noncriminal justice employment and licensing purposes and uses the revenue earned to pay for the cost of processing such work, processed a total of 1,135,044 fingerprint cards resulting in cash receipts of \$13,553,757.
- In June, the Identification Division, in cooperation with FBI's New York Field Office and other agencies responsible for the security during the Statue of Liberty Celebration, processed 13,020 name checks submitted by magnetic tape for security clearances of those individuals who were affiliated with the Celebration.

Administrative and Support Services

Administrative Services Division

The Administrative Services Division provides budget, personnel, and procurement support for all FBI administrative and investigative operations. Administrative services include recruiting and hiring, training, employee benefits, pay administration, disciplinary matters, transfer of personnel, and other staffing functions. In addition, this Division oversees the FBI's Equal Employment Opportunity Office and manages the security and space allocation of FBI facilities.

At the close of Fiscal Year 1986, there were 21,666 persons on the FBI payroll, including 9,026 Special Agents and 12,640 clerical, stenographic, and technical personnel.

In Fiscal Year 1986, the Property Procurement and Management Section completed and published a revised Forfeiture and Seized Property Manual which was distributed to all FBI field offices and other government entities within and outside the Department of Justice. This manual is used as a basis for the establishment of forfeiture operations within the Postal Service. In addition, the FBI prepared and had approved by the Attorney General a delegation of forfeiture authority which enhanced the FBI's ability to administratively forfeit property seized as a result of violations of eight federal statutes. This delegation of authority greatly expanded the FBI's role in enforcing forfeiture sanctions.

In Fiscal Year 1986, the Automotive Management Unit completed implementation of the pilot program for cross-servicing of DEA vehicles at FBI automotive maintenance facilities. This program includes approximately 1,000 DEA vehicles and should prove to be cost-effective to the government as well as a more secure method of having DEA vehicles serviced and repaired.

In July 1986, the FBI placed into operation the Southeastern Recruitment Pilot Project which utilizes three

Special Agents, on a full-time basis, as regional recruiters to specifically attract top caliber applicants in critical needs categories such as the engineering/science and language programs. Additionally, the aim of this program is to reduce the "cost per hire" figures associated with recruitment of qualified applicants. Substantial personnel costs should be saved while also attracting larger numbers of linguists, most notably fluent Spanish speakers, an area of immediate need for the Bureau.

In Fiscal Year 1986, a Human Resource Planning and Development function for service and support positions was established in the Personnel Section. Human Resource Planning and Development incorporates human resource planning, support staffing, and career counseling for approximately 12,000 employees. This action was taken to provide the operational framework for evaluating and developing the personnel system in a systematic way by the coordination of short- and long-range projects (i.e., job/task analysis, merit promotion plan, testing policies and procedures).

A review was completed of the flow of work through the FBI's Procurement and Contract Review Units. New procedures were implemented during Fiscal Year 1986 which resulted in a 33 percent reduction in the time necessary for the processing of disbursement of the purchase order to the vendor.

Records Management Division

The basic mission of the Records Management Division is the managing of information available to support FBI operations.

In addition to assuming control of all automation initiatives within the Division at FBI Headquarters, the Office of Automation and Information Management continues to direct the Field Office Information Management System effort which increasingly brings advanced information management systems to support field offices, speeding the reporting of investigative operations and making basic management data available in a more manageable form. Training support was provided to field office personnel during the implementation of the Field Office Information Management System in 19 field offices.

Automation progress during Fiscal Year 1986 included the conversion of 2.5 million index records to an automated medium, bringing the total number of records converted to nearly 16 million which is 87.5 percent complete. Conversion of letter groups A-G have been validated and these letter groups are on-line for automated searching. Acceptance of name check requests in a form and format for automated searching has progressed to where approximately one-third of the requests from the largest name check request contributors are processed automatically and a response provided within 24 hours. Other major contributors are preparing to participate in this service.

Records Management Division processed over 2 million name check requests submitted by approximately 80 other federal agencies, congressional committees, local and state criminal justice agencies, and foreign police and intelligence agencies.

A total of 1,376,492 pages of FBI documents were reviewed for the purpose of determining the National Security Classification of FBI records requested under the Freedom of Information/Privacy Acts (FOIPA). In response to challenges of FBI classification actions by FOIPA requesters, 467 administrative appeals were processed for adjudication by the Department Review Committee of the Department of Justice.

Security Programs of the FBI were examined, procedures evaluated, and program proposals were recommended to ensure improved security of our employees and national security information. Approval has been granted for the Records Management Division to assume full responsibility for an independent Industrial Security Program for FBI classified contracts.

The Records Management Division routed and dispatched in excess of 6 million pieces of correspondence and opened more than 80,000 new case files in various categories. The current record holdings exceed 6.5 million files.

The Records Management Division received 12,332 new FOIPA requests and reopened 651 FOIPA matters during Fiscal Year 1986. This is in addition to the 4,851 FOIPA requests that were pending at the close of Fiscal Year 1985. A total of 11,213 requests were completed during the past fiscal year. Approximately 60 percent of all FOIPA requests were generated by the general public, with the remainder received from incarcerated persons, scholars/historians, representatives of the news media, and FBI employees. There were 797 administrative appeals filed in Fiscal Year 1986 and 175 FOIPA requests in litigation at the end of the fiscal year.

Technical Services Division

The Technical Services Division is responsible for FBI technical operations and automated data processing and telecommunications. In line with the FBI's Long Range Automation Strategy, the Technical Services Division directs the use and enhancement of an array of automated data processing and telecommunications resources.

The FBI upgraded its FBI Headquarters Computer Center resources by acquiring a new mainframe and related equipment resources to support the rapid development of new information system applications. Purchase options of two mainframe systems were executed to provide economic benefits. Plans call for the collocation of FBI Headquarters Computer Center and the Mid-Atlantic Region Computer Support Center on a military reservation in Virginia.

The Field Office Information Management System presently provides administrative support, including case

management capabilities by a secure Bureauwide telecommunications network. Since 1984, the FBI has installed the Field Office Information Management System in 28 field offices with a total of over 600 work stations and 100 word processing terminals. Implementation of the Field Office Information Management System is nearly completed in 10 more offices. Two regional computer support centers support the Field Office Information Management System nationwide. A temporary Western Region Computer Support Center facility is in operation in Pocatello, Idaho, while a building to house the permanent computer center is under construction. The Northeast Region Computer Support Center in Fort Monmouth, New Jersey, is presently providing base-line support to the field offices on-line.

Atre International Consultants delivered an initial prototyping methodology to design a distributed data architecture to support the Field Office Information Management System and the Long Range Automation Strategy. This is the first step to extending Field Office Information Management System capabilities to direct investigative support.

A request for proposals for a family of intelligent work stations required for the Field Office Information Management System and other major information systems is being evaluated. The equipment will range from executive work stations for decision support systems to dumb terminals for data entry.

The Investigative Support Information System is an on-line system for managing large volumes of data in major criminal investigations. During 1986, the Investigative Support Information System expanded to 37 field offices and four FBI Headquarters locations, implemented 28 new data bases, and supported 87 major case investigations.

The Information Systems Engineering Center, the FBI's data processing research and development center, purchased fourth generation, rapid prototyping software and related resources to design the Generic Case Management System. The proposed system will incorporate all Investigative Support Information System functions and be integrated with Field Office Information Management System through the distributed data architecture. A prototype Computer-Assisted Visual Investigative Analysis System to provide analyses of complex investigations was developed through the use of the Information System Engineering Center. The Legal Case Management System, another product of Information Systems Engineering Center, lets the user obtain case status and related information with English-like queries. Since July, it is operational in four of the eight units of the FBI's Legal Counsel Division.

The Organized Crime Information System contains data related to organized crime and labor racketeering. In Fiscal Year 1986, it became operational in three additional locations for a total of 47 field locations plus FBI Headquarters, serving 91 percent of the field Agents assigned to these priori-

ty investigations. There have been almost 4 million transactions accessing about 3 million records during the year. The Terrorist Information System, supports detection and prevention of terrorism activities as well as cooperation in counterterrorism activities with other countries. It holds over one-half million records and averages 20,000 transactions per day. During the year, the Terrorist Information System became operational in 46 field offices.

Field Office Special Automation Support provided *ad hoc* processing of investigative information to 27 field locations on 44 investigative matters.

The FBI continues to work with the Institute of Defense Analysis, a Federal Contract Research Center, to implement knowledge-based expert systems capabilities. Technical Services Division Computer Scientists work with Institute of Defense Analysis Knowledge Engineers interviewing Special Agents who are experts in labor racketeering and counterterrorism. The interviews produce rules which are used in building prototypes of expert systems. A prototype built into an existing information system helps the FBI Agent navigate intelligently through the complex and voluminous investigative data files. The counterterrorism knowledge-based expert system is integrated with the Terrorist Information System. The generic name search expert system capability, which will improve the efficiency and accuracy of information retrieval from all FBI information systems, was initiated this year and will be completed at the end of 1987.

The National Crime Information Center continues to provide vital services to the criminal justice community. Over 500,000 transactions per day are processed by the National Crime Information Center against a data base of 18 million records. Response time is less than two seconds at a cost of approximately five cents each. The National Crime Information Center 2000 Study, initiated this year, is identifying the information and service needs of the criminal justice community. Its purpose is to design a system based on user requirements projected for the rest of this century. The new generation system will continue to address concerns for individual rights and privacy. The project plan was delivered by Mitre Corporation in April and accepted that month.

The Violent Criminal Apprehension Program component of the National Center for the Analysis of Violent Crime gives nationwide support to local law enforcement agencies investigating serial murders and persons missing under suspicious circumstances. This year its software underwent a major revision which streamlined the system. There are now 469 serial murder cases on-line. Based on analyses using the Violent Criminal Apprehension Program, the FBI notified law enforcement agencies in 27 states of possible linkages of murders committed in different states. Ten portable microcomputers were acquired to gather field data and send them to a minicomputer recently implemented for the National Center for the Analysis of Violent Crime.

Consistent with the Attorney General's support of Reform 88 and opportunities to realize productivity improvement and cost savings, the FBI has aggressively pressed forward with FBI/DEA link-up activities in the technical support arena. Such activities have and are continuing to progress in the following areas:

- The Integrated Digital Voice Privacy radio system will become the common carrier for FBI, DEA and U.S. Marshals Service broadcasting. Intensive start-up actions, including a pilot FBI/DEA implementation in the Boston FBI Office, were implemented to provide proof-of-principle and to gather required empirical data. DEA radio engineering personnel are now collocated with the FBI Engineering Section at the FBI's Newington Facility.
- The detailed architectural and engineering design of the Engineering Research Facility to support the collocation of the FBI and DEA engineering activities was completed. Ground breaking and site preparation have commenced.
- Cooperation between FBI and DEA engineering activities was enhanced to ensure that there is no duplication in the design and development of technical support equipment. Equipment is loaned between the two agencies and technical contracts are jointly shared to provide economies of scale.
- In support of the Associate Attorney General's decision, the FBI prepared and presented to the Deputy Assistant Attorney General for Information Technology, Justice Management Division, a systems plan to migrate operation of DEA's secure information systems to FBI facility and network resources. Rather than incurring construction costs for an independent secure computer center, DEA will operate its secure systems on equipment located in the combined FBI Headquarters/Mid-Atlantic Region Computer Support Center. DEA secure data will be transmitted by the FBI's secure Computer Applications Communications Network eliminating the need for DEA to implement its own network.
- The FBI supplies personnel and equipment to the El Paso Intelligence Center, a multiagency facility operating as a tactical intelligence collection point and coordinating center for interdiction matters. The Bureau is providing systems support to interface 11 federal data systems to enable a speedy exchange of information among agencies.

Important ties to the Defense and Intelligence Communities are now developed. The Chief Engineer of the FBI chairs the Technology Advisory Forum of the Intelligence Research and Development Council. A Memorandum of Understanding between the FBI and the Defense Advanced

Research Projects Agency was approved to develop a jointly funded, rapid prototype/quick reaction facility to respond to investigative needs for technical support. Technical Services Division's Assistant Director chairs the National Telecommunications and Information Systems Security Committee's Subcommittee on Telecommunications Security. Based on this Subcommittee's 1986 report, the National Security Council prioritizes the weaknesses of governmentwide telecommunications security and allocates resources to counter known threats.

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 are to supervise and/or investigate all allegations of criminality and serious misconduct on the part of FBI employees, and monitor disciplinary action taken concerning all employees of the FBI. In addition, the Office of Professional Responsibility maintains close liaison with the Office of Professional Responsibility in the Department of Justice and coordinates FBI submissions to the Intelligence Oversight Board at the White House. During Fiscal Year 1986, the Office of Professional Responsibility coordinated and/or personally investigated 438 separate inquiries of 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 work product of the Office of Inspections provides valuable input for management's short-range planning and decisionmaking and serves as a useful tool in the evaluation of FBI managers. During Fiscal Year 1986, the Office of Inspections conducted 40 inspections and issued 1,830 instructions or recommendations, of which 1,282 related to effectiveness or efficiency of operations. Further, the Office of Inspections undertook examination of 24 equal employment opportunity complaints and conducted 10 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 1986, three evaluations of FBI programs and 11 studies were initiated and four evaluations and six studies were completed and reported. These evaluations and studies resulted in numerous recommendations for improving operational and management effectiveness. All FBI major programs are scheduled for evaluations on a five-year cycle.

The Audit Unit is responsible for financial and Electronic Data Processing audits within the FBI and has the responsibility for liaison with the General Accounting Office, Department of Justice, and other government auditors. During Fiscal Year 1986, the Audit Unit conducted financial and compliance audits at 35 field offices and nine audits of FBI Headquarters funds. Also, two Electronic Data Processing audits were completed and additional Electronic Data Processing reviews were accomplished. During Fiscal Year 1986, the Audit Unit assisted the General Accounting Office and the Department of Justice in conducting 32 reviews/studies of FBI operations. The assistance rendered to the General Accounting Office and the Department of Justice ranged from the coordination of, and participation in, interviews of FBI management officials to extensive compilations of data at FBI Headquarters and in various field offices.

Legal Counsel Division

Legal Counsel Division provides legal advice to the Director and other FBI officials, serving as a consultant on legal policy and related administrative and investigative issues. In addition to affording evaluative and analytical services, the Legal Counsel Division 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 discovery demands made in litigation are handled by the Civil Discovery Review Units, Legal Counsel Division. 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 is conducted to prevent problems and ensure legality in the conduct of investigative activities, including highly sensitive investigative techniques such as undercover operations. Guidance also is offered to field investigative and supervisory personnel to ensure compliance with the various guidelines issued by the Attorney General.

In August 1983, the FBI commenced handling administrative forfeitures pursuant to the Controlled Substances Act. The Attorney General in 1986 delegated to the FBI the authority to administratively forfeit property

pursuant to eight nondrug-related statutes that have forfeiture provisions. This action substantially increased the number of forfeiture matters handled by the FBI.

The Legal Counsel Division has the responsibility to ensure legal sufficiency throughout each step of the administrative forfeiture process. This includes the declaration of forfeiture and rulings on petitions relating to the return of property or cash penalties.

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

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; provides the public with a factual accounting of FBI programs, operations and services; and furthers the Bureau's objective of enlisting public support in the fight against crime.

The Congressional Affairs Section also maintains liaison with Capitol Hill concerning legislative and oversight matters pertaining to the FBI and analyzes proposed or enacted legislation affecting FBI operations.

The Public Affairs Section coordinates the FBI's activities and liaison with various groups and agencies dealing with drug abuse prevention. Significant among these activities is the FBI/DEA Sports Drug Awareness Program. In recognition of their efforts in this Program, numerous well known athletes were feted at a ceremony held at the J. Edgar Hoover FBI Building on August 14, 1986. As a part of the day's activities, the athletes and other noted sports figures taped public service announcements in the FBI studios for national TV and radio distribution.

Uniform Crime Reporting Program

The Uniform Crime Reporting Program provides periodic assessments of crime in the nation as measured by offenses coming to the attention of the law enforcement community. Through a cooperative effort of nearly 16,000 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 law enforcement administrators in fulfilling their responsibilities. Statistical information on crime published under the program is 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 Sheriffs' Association. Training courses conducted by the Uniform Crime Reporting staff provide participants in the Program with assistance in utilizing the Uniform Crime Reporting procedures.

Auxiliary programs include data presentations detailing information on law enforcement officers feloniously and accidentally killed, bombing matters, assaults on federal officers, and arson.

Tours

During Fiscal Year 1986, specialized telephone equipment

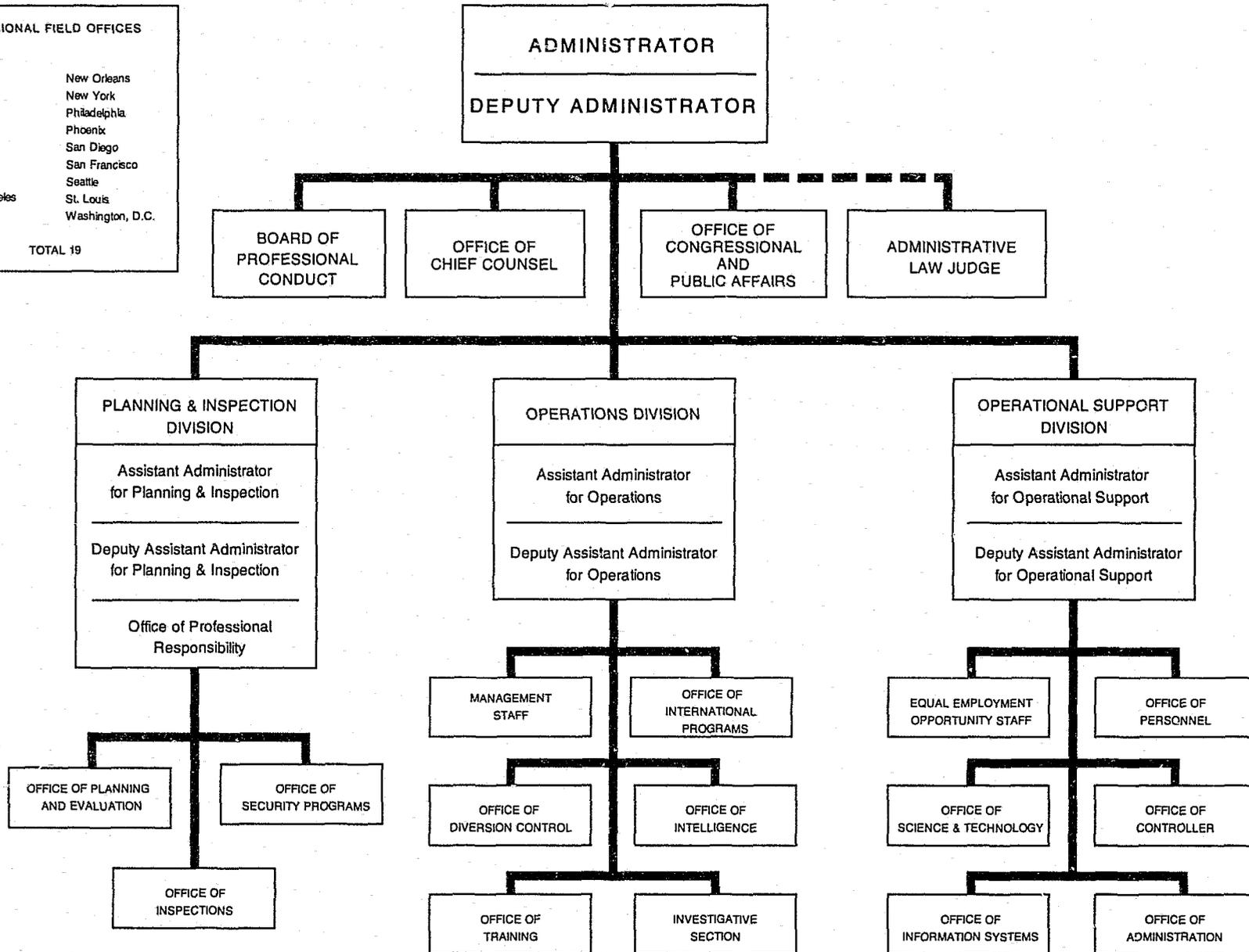
(TTY) was installed in the FBI Tour Unit to facilitate the participation of hearing impaired individuals in scheduling tours and/or making inquiries.

A videotape dealing with the abduction of children and narrated by Mr. Bill Cosby, was produced for the FBI in 1986, and is shown to visitors.

More than 515,000 persons toured the J. Edgar Hoover FBI Building in Fiscal Year 1986, viewing displays and learning about the Bureau's investigative jurisdiction, services, and history. Tours are offered daily between 8:45 a.m., and 4:15 p.m., except weekends and holidays.

DRUG ENFORCEMENT ADMINISTRATION

DIVISIONAL FIELD OFFICES	
Atlanta	New Orleans
Boston	New York
Chicago	Philadelphia
Dallas	Phoenix
Denver	San Diego
Detroit	San Francisco
Houston	Seattle
Los Angeles	St. Louis
Miami	Washington, D.C.
Newark	
TOTAL 19	



Drug Enforcement Administration

John C. Lawn
Administrator

The Drug Enforcement Administration's (DEA) primary responsibility is to enforce the controlled substances laws and regulations of the United States of America. DEA also recommends and supports nonenforcement programs aimed at reducing the demand for illicit drugs and reducing the availability of controlled substances in the illicit domestic and international markets.

In support of the Administration's and the Attorney General's commitment to the war on drugs, DEA's strategic goals for Fiscal Year 1986 were to:

- *Reduce the Availability of Illicit Drugs in the United States.* This was accomplished by targeting major drug traffickers and their organizations, fully exploiting DEA's authority to seize trafficker assets in each investigation, increasing the arrest and conviction rates for top-level violators, enhancing the Domestic Cannabis Eradication Program, and targeting for investigation chemical companies which provide precursor chemicals used in clandestine drug laboratories.
- *Reduce the Supply of Illicit Drugs from Foreign Source Countries.* This was accomplished by influencing foreign counterparts to significantly increase arrests and seizures overseas, developing strategies to reduce the supply of drugs in source countries, designing programs to improve the collection and utilization of foreign drug intelligence, aggressively promoting expansion of foreign eradication programs using aerial herbicidal techniques, and encouraging bilateral and multilateral working relations among all countries affected by international drug trafficking.
- *Enhance Investigative and Administrative Systems and Services Supporting DEA Operations.* This was accomplished by strengthening and modernizing DEA systems and services which provide telecommunications, advanced technology, logistical support, financial resources, training, and information.

Significant Events

Over the past year, various events affected the way in which DEA approached, performed, and accomplished its mission. There was a "new" drug epidemic in parts of the country, a "national mandate" to increase efforts in drug abuse prevention and education, and a renewed worldwide interest in fighting the war on drugs. These events and some

of DEA's more significant accomplishments are described below.

Our country experienced a problem associated with the cocaine derivative known as crack. In June 1986, DEA hosted a conference on crack in New York for representatives from DEA Headquarters and Special Agents in Charge of DEA field divisions experiencing the most severe crack problems. At this meeting, DEA consulted with some of this country's experts and developed the foundation for a multifaceted strategy to address the crack epidemic. In response to this problem and congressional requests, DEA modified its system for classifying its enforcement activities, the Geo-Drug Enforcement Program, to identify investigations targeting crack traffickers and their organizations. This permits DEA to monitor enforcement activity and results in this area.

The accumulation of vast assets enable drug trafficking organizations to continue large-scale operations, even after the arrest and conviction of their leaders. DEA processed over \$370 million of these assets. This amount is more than double that of Fiscal Year 1985 and constitutes more than 80 percent of the overall contributions to the Department of Justice Asset Forfeiture Fund. More importantly, this figure represents the first time that DEA seized assets which exceeded the agency's annual budget.

DEA strengthened its demand reduction effort as a vital and integral part of the federal strategy in combating international drug abuse and trafficking. In Fiscal Year 1986, DEA created a Demand Reduction Section to direct the agency's efforts in the area of drug abuse prevention and education. DEA participated in 15 national conferences and one international seminar related to drug abuse and disseminated publications and other information to approximately 200,000 drug abuse prevention advocates.

DEA expanded its drug abuse prevention activities with the Explorer division of the Boy Scouts of America. At the 1986 National Law Enforcement Explorer Conference in Seattle, Washington, the expanded program was launched at an All-Star Rally Against Drugs. Athletes and celebrities joined DEA, ACTION, and the Parents' Resource Institute for Drug Education, Inc. (PRIDE) in urging Explorer posts from around the nation to become involved in drug abuse prevention programs in their communities. Through this initiative, DEA estimated that more than 1 million young peo-

ple would be motivated to participate in drug abuse prevention programs.

The Sports Drug Awareness Program was introduced to the international community in March 1986 with the presentation of a seminar in Belgium.

Bolivia is one of the major cocaine producers of the world. During July 1986, the government of Bolivia, in coordination with DEA, initiated Operation BLAST FURNACE, an enforcement effort targeted at coca paste and cocaine production. Bolivian Narcotics Strike Force Troops and DEA personnel began a series of raids against cocaine laboratories in Bolivia, which DEA intelligence had pinpointed. DEA Intelligence Analysts were sent to La Paz where they developed daily situation reports, provided a strategic intelligence report for DEA management, and obtained and analyzed ledgers found at three different cocaine laboratory sites. The analysis of the ledgers provided tentative identification of several major Bolivian violators and an assessment of the cocaine production capacity of Bolivian trafficking organizations.

The government of Bolivia requested and received a contingent of six U.S. military Black Hawk helicopters, manned with U.S. Army pilots and support personnel, to transport the Bolivian Strike Teams to the suspected laboratory sites. Eight cocaine laboratories and one staging/transshipment location were located and destroyed. It was determined, from information gathered at the sites, that a number of these laboratories were capable of producing 1,000 kilograms of cocaine per week; at least one laboratory was operational since 1982.

Subsequent intelligence indicated that Operation BLAST FURNACE brought cocaine production to a virtual standstill in Bolivia. There was an exodus of known and suspected traffickers from Bolivia, a drop in the price of coca leaves from \$276 per hundred kilograms to \$44, a virtual end to small aircraft traffic throughout the country, a reduction in the availability of U.S. dollars, no harvesting of coca fields, and requests by farmers for assistance to plant alternate crops.

Frederick John Luytjes was formerly one of the most significant non-Colombian cocaine violators operating in the United States. On December 23, 1985, as a result of a joint investigation by DEA, the U.S. Customs Service, and the Internal Revenue Service, the U.S. Attorney for the Middle District of Pennsylvania indicted Luytjes and five others (including four Colombian nationals) for smuggling cocaine into northeastern Pennsylvania during the preceding four years. Luytjes dealt directly with the highest-level members of a Medellin, Colombia, drug cartel to smuggle cocaine into the United States.

The case received national media coverage, including a press release by Attorney General Meese, which highlighted the significance of this investigation. The conspiracy utilized

sophisticated high-performance aircraft over a five-year period to smuggle a minimum of seven metric tons of pure cocaine into the United States. At least \$30 million in drug profits were delivered to cocaine violators in Colombia, and U.S. banking officials were enlisted by the traffickers to launder millions of dollars belonging to the stateside members of the conspiracy.

This investigation resulted in the seizure of \$16 million in cash and assets and an additional \$5-\$10 million worth of assets were earmarked for seizure. A total of 13 defendants were indicted, including two prominent Colombian cocaine cartel members.

Because of Mexico's increasing role in drug trafficking, in Fiscal Year 1986, DEA established the U.S. Southwest Border Intelligence Task Force. This Task Force supports DEA intelligence operations and enhances intensified enforcement efforts along the United States-Mexican border. The Task Force provides strategic assessments of all aspects of drug trafficking from Mexico to the United States and, in conjunction with DEA field offices, collates, analyzes, and disseminates intelligence on major Mexican drug traffickers and their organizations. This information is used to target high-level traffickers operating in Mexico and affecting the United States.

An act of violence against a DEA Special Agent in Mexico occurred for the second time in the last two years. On August 13, 1986, Special Agent Victor Cortez, of the DEA office in Guadalajara, Mexico, along with an informant, was detained and tortured by Jalisco State Police detectives. They were subsequently released at the insistence of the DEA office in Guadalajara and with the aid of the Mexican Attorney General's office. This required DEA to review its working relationship with Mexican law enforcement authorities, its presence in Mexico, and the risks to family members of DEA personnel stationed in Mexico.

Agency Functions

To accomplish its many responsibilities, the DEA work force includes approximately 2,400 Special Agents and 2,500 professional, technical, and support personnel. DEA maintains 19 domestic field divisions with approximately 100 subordinate field offices, the EL Paso Intelligence Center, seven regional forensic laboratories, a Special Testing and Research Laboratory, and an Air Wing. Overseas, DEA maintains over 60 offices in over 40 foreign countries. DEA Headquarters is comprised of three main divisions, three staff offices, and an Administrative Law Judge.

International Accomplishments

DEA's international program strategy continued to be directed at reducing the supply of illicit drugs at their source. This was accomplished by providing program guidance, technical advice, investigative cooperation, intelligence, and training to many foreign governments. In Fiscal Year 1986,

there were important successes throughout the world in the following areas: crop eradication, prevention of illicit drug production, drug removals, asset seizures, criminal prosecutions, treaty initiations, legislative improvements, drug intelligence advancements, enforcement program development, conferences, and training.

DEA assisted and guided the continuation of established crop eradication programs and the development of new programs in several countries. Some of the most significant results were:

- The Royal Thai Army manually destroyed approximately 1,600 hectares of poppies throughout the major growing areas in northern Thailand. This year's eradication campaign was a clear demonstration to Thai farmers that opium eradication is now an accepted national policy of the Thai government.
- Burma destroyed approximately 13,800 hectares of poppies in the Northern and Eastern Shan States. The experience and tactics developed during one aspect of this effort formed the basis for a full-scale aerial eradication program.
- Panama destroyed approximately 85 percent to 90 percent of its cannabis cultivation.
- Jamaica expanded manual eradication efforts and reduced annual cannabis production by one-third.
- Venezuela discovered almost 7,000 hectares of cannabis planted among corn, banana trees, and other crops on the Venezuelan/Colombian border. The Venezuelan Police manually destroyed over 1 million cannabis plants. The Venezuelan government is reviewing the possibility of initiating a spraying program to eradicate any future discoveries of cannabis.
- The Royal Thai Police destroyed approximately 900 metric tons of fresh cannabis and three metric tons of dry cannabis in northeast Thailand. This campaign was the first concerted effort attempted during what is considered to be the "off" season and it took the growers and financiers by complete surprise.
- The Brazilian Federal Police initiated a major intelligence gathering operation to identify the organizations responsible for cannabis cultivation and distribution. The initial stages of the operation resulted in the eradication of over 3,000 metric tons of cannabis.

Cooperative efforts between DEA and its foreign counterparts disrupted the conversion of cultivated plants into illicit drugs. This cooperation resulted in the destruction of various processing laboratories and the seizure of illicit drugs and precursor chemicals which are essential to the production of illicit drugs. A sample of these accomplishments follow:

- Joint DEA and Royal Thai Border Patrol Police operations conducted in northern Thailand resulted in the

location and destruction of seven heroin laboratories, an unprecedented number.

- India seized two heroin laboratories along with approximately 1,600 kilograms of heroin during the first six months of 1986.
- The Brazilian Federal Police, through the investigation of chemical purchases, located and seized two cocaine laboratories capable of producing approximately 250 kilograms of cocaine per month.
- Peru and Colombia initiated a joint enforcement effort near the Colombian border to ensure that previously destroyed cocaine laboratories were not re-established. Only two new laboratory sites were discovered, one new and one abandoned.
- The Venezuelan Police seized approximately 2,650 kiloliters of acetone and ether, essential chemicals in the conversion of cocaine, and arrested numerous individuals involved in diverting these chemicals to clandestine laboratories.

Intense cooperative efforts between DEA and its foreign counterparts brought about significant results in the seizure of drugs and assets and the arrest and prosecution of international drug violators. For example:

- A major Southeast Asian narcotics trafficker was apprehended by the Royal Malaysian Police as a result of both intelligence derived from DEA and the Royal Thai Police and DEA's liaison with the Singapore Central Narcotics Bureau. The Malaysian authorities considered this arrest one of the most significant to occur in Malaysia in several years.
- DEA arrested four heroin couriers and seized eight kilograms of heroin as a result of an investigation involving two domestic and one foreign DEA office. Subsequent to the arrest, Malaysian Police seized an additional 23 kilograms of heroin at the couriers' residence.
- Five U.S. citizens and four foreign nationals were charged in the Southern District of New York as a result of an investigation involving three domestic and three foreign DEA offices. DEA seized approximately \$2 million and one heroin laboratory while the Swiss authorities seized another. Among those charged were two prior "French Connection" heroin chemists who were arrested in Switzerland. The group was responsible for importing more than 300 kilograms of morphine base from Europe and the Middle East and manufacturing approximately 64 kilograms of heroin in the United States.
- Two heroin and hashish traffickers were arrested by DEA while Dutch authorities arrested two others and seized 188,000 Dutch Guilders; 15 kilograms of hashish; \$20,000 in U.S. currency; and \$100,000 of

jewelry. A United States account at the Bank of America also was identified.

- Over 2,700 kilograms of cocaine were seized in a seven-month period as a result of Operation BAT in which DEA, the U.S. military, and Bahamian authorities utilized various radar and intelligence techniques to target drug trafficking staging areas for enforcement activity. This success was followed by several subsequent seizures of 450 kilogram quantities of cocaine.
- Thirteen duffel bags containing over 400 kilograms of cocaine were seized by the Mexican Federal Judicial Police as a result of information provided through a DEA domestic office investigation. The defendant is being held by Mexican authorities.
- Two Surinamese citizens and a high-ranking official of Surinam were arrested by DEA and charged with conspiracy to import cocaine and operating a narcotics enterprise. The high-ranking official was bribed by traffickers to provide protection for cocaine transshipments and sanctuary for cocaine laboratories. The Dutch government indicated that these arrests further strained its relations with its former colony to the point where aid may be withheld.

Progress in the initiation of treaties and laws demonstrated the international commitment to combat drug trafficking. Laws aimed at asset forfeiture, organized crime, precursor chemical control, and money laundering were proposed and/or enacted. The following are representative of this progress:

- DEA, in conjunction with the Department of State and other U.S. government agencies, finalized a draft treaty which addresses problems of international drug trafficking that are not currently covered by United Nations or other international conventions and treaties. The final draft will be presented to the United Nations Commission on Narcotic Drugs in February 1987.
- The United Kingdom enacted its first asset seizure legislation. Both the Department of Justice and DEA provided experts to assist in drafting the law.
- Hong Kong proposed legislation that would allow bank accounts of suspected traffickers to be frozen and seized if the violator is convicted. Hong Kong authorities also proposed legislation modeled after the U.S. Racketeer Influenced and Corrupt Organizations Act that would combat the secret society menace in Hong Kong.
- Malaysia drafted an asset seizure law modeled after the existing U.S. statute and passed the Dangerous Drugs Act which contains provisions to prosecute traffickers as conspirators.

- Venezuela also enacted a law regulating the importation of the essential chemicals used to manufacture illicit drugs. The law requires a permit to import ether, acetone, and potassium permanganate from the Ministries of Justice, Finance, and Development.
- Ecuador enacted a decree which requires chemical importers to be subject to an audit prior to receiving approval to import ether, acetone, and hydrochloric acid. As a result of this decree, a significant amount of acetone destined for Ecuador was seized during March 1986.
- Argentina reacted to the possible diversion of locally manufactured acetone and ether manufactured in Argentina by enacting legislation regulating the sale and distribution of these chemicals.

The collection and analysis of intelligence by DEA and its foreign counterparts was often the cornerstone for program developments, strategies, and specific enforcement activities. Some of the more significant efforts in Fiscal Year 1986 were accomplished or directed at the following:

- DEA intelligence and investigative cooperation produced 90 percent of all major arrests and seizures effected by the Malaysian Police.
- DEA initiated an intelligence probe into a black market money system in the Middle East known as "HUNDI." This ancient system, which predates banking, is used by drug traffickers to transfer funds virtually worldwide. The probe developed an understanding of this complex system, the extent of narco-trafficker involvement, and the identification of numerous HUNDI dealers both in the Mideast and the United States.
- DEA's comprehensive research and analysis of seized diazepam tablets in the United States established Canada as the major source of supply. The U.S. Ambassador to Canada considered a diplomatic approach to the government of Canada which would include recommendations for stricter controls on the importation, distribution, and exportation of diazepam.

DEA's international presence spurred the development of new drug law enforcement programs throughout the world. Some of the more significant initiatives were:

- India agreed to accept training and assistance on narcotics enforcement from DEA as a result of increased dialogue between the U.S. Embassy in India, DEA, and top Indian policymakers. DEA also assisted India in establishing the Indian Narcotics Control Bureau which used U.S. narcotics enforcement procedures to plan and execute their investigations. India also made overtures to neighboring countries for the exchange of narcotics intelligence.

- Malaysia planned to form a Coast Guard unit with marine drug law enforcement capabilities.
- The Dominican Republic, in conjunction with DEA, created an Overseas Satellite Intelligence Center to improve the level of intelligence to combat drug trafficking. This system was designed to improve the control of ports of entry by monitoring vessels, aircraft, and travelers arriving via commercial aircraft. Most importantly, the Overseas Satellite Intelligence Center provided the timely evaluation of operational information. This process required the complete coordination of virtually every Dominican Republic police and security agency.
- DEA assisted Singapore by supplying cocaine samples for use in training their drug detection canine force and for use in laboratory identification and quantification procedures.
- Nigeria, DEA, and U.S. Embassy officials discussed the possibility of the Nigerian government prosecuting Nigerian violators arrested in the United States.

DEA also took an active role in presenting and influencing drug law enforcement issues and policy throughout the world by initiating and/or attending various international conferences. Some of these activities included:

- A team of senior U.S. drug officials assembled in the People's Republic of China for the first formal policy-level conference on drug abuse and illicit traffic. This was the first comprehensive bilateral discussion on drug control and established cooperation between the United States and China in this area.
- A conference of the Heads of Narcotics Law Enforcement Agencies was held at the United Nations in Vienna, Austria. Proposals and initiatives from this conference will be presented at the United Nations World Conference on Narcotics to be held in 1987.
- Seminars relating to the diversion of drugs and chemicals into the illicit market were conducted in Argentina and Chile. These seminars provided the forum to bring together for the first time 40 country officials to discuss drug diversion issues and techniques for detection.
- The Fourth Annual International Drug Enforcement Conference was held in Buenos Aires for 20 nations. The meeting provided a vehicle for high-level representatives to share knowledge and problems related to drug cultivation, trafficking, and the financial impact on their societies.

Concomitant to the success of worldwide drug law enforcement efforts, some of DEA's international training accomplishments were:

- Twenty-six schools were conducted in foreign host countries, which provided instruction and assistance to more than 1,000 law enforcement officers. Concurrently, approximately 500 foreign officials from 70 nations were trained in the United States. The international training effort was principally directed at those nations which produce and manufacture illicit drugs and focused on methods of detecting and suppressing the narcotics traffic within their respective jurisdictions. Courses were conducted in intelligence collection and analytical methods, asset removal, and management and supervision of narcotics units.
- Two special international drug enforcement seminars relating to airport and maritime interdictions were held in Larnaca, Cyprus, for 91 foreign officials. Training regarding violator profiles and exchange of intelligence among the law enforcement agencies was provided.
- Two training seminars were held, one in Bangkok and the other in Nairobi, Kenya, on the diversion of licit drugs to the illicit market.

Domestic Cooperative Accomplishments

DEA, in pursuit of the war on drugs, works in concert with a number of other agencies. Domestic cooperative efforts generally consist of enforcement activities, crop eradication, intelligence activities, and law enforcement conferences. The following are examples of the extent of DEA's cooperation with various agencies on enforcement activities in Fiscal Year 1986:

- In April 1986, DEA Special Agents, assisted by Virginia State Police and members of the Roanoke County Sheriff's Department, arrested 13 defendants and seized 341 kilograms of cocaine. This was the culmination of a five-month investigation of Miami-based traffickers associated with the notorious Roberto Suarez of Bolivia. As a result of this investigation, a federal grand jury indicted six other defendants including Suarez. Efforts were initiated to extradite Suarez to the United States for trial.
- A cooperative investigation by Nassau County (New York) Police Department and DEA focused on the trafficking activities of a top-level violator, Philip Vasta, and resulted in the arrest of Vasta and several accomplices. A residence maintained by Vasta, which was utilized as a cache site and "cutting mill," yielded approximately six kilograms of heroin, nine kilograms of cocaine, and almost \$6 million.
- Diversion Investigators, in cooperation with the Michigan State Police and the Warren and Detroit, Michigan, Police Departments, investigated four medical clinics which operated in the Detroit area. In 1982 alone, approximately 430,000 monthly dosage units of Desoxyn, Preludin, Percodan, Valium,

Ritalin, Tuinal, Dilaudid, and Methaqualone were diverted by clinic doctors who illegally wrote double prescriptions per patient. In 1986, this investigation resulted in a 51-count indictment of three medical doctors and six other individuals. Three additional medical doctors were named as unindicted coconspirators.

- In Fiscal Year 1986, DEA in cooperation with the Buffalo, New York, Police Department initiated a special operation named Operation SET BUSTERS. Purchases of glutethimide and codeine products by retail pharmacies in New York were linked to a series of codeine overdose problems from Pennsylvania to Indiana. Nine pharmacies were targeted as possible sources of the diversion of glutethimide and codeine combination tablets, referred to on the street as "a set." Two persons were arrested and charged with the illegal distribution of approximately 860,000 dosage units of controlled substances.
- A major long-term conspiracy investigation involving DEA and the Internal Revenue Service revealed that an auto racing celebrity, William M. Whittington, and his organization were responsible for smuggling and distributing 360,000 kilograms of cannabis. Plea agreements by all parties resulted in sentences of up to five years and forfeitures of over \$8 million.

The DEA State and Local Task Force Program unites DEA Special Agents with state and local police officers into cohesive drug enforcement units in selected geographic areas to provide increased drug enforcement, interagency investigative cooperation, and continuing intelligence exchange. In 1986, 44 DEA State and Local Task Forces were operating. The following examples of recent achievements by separate Task Forces illustrate the success of the Task Force Program:

- The Sacramento Clandestine Laboratory Task Force, which became operational in March 1986, seized 29 clandestine laboratories in its first five months. One investigation resulted in the seizure of 113 kilograms of methamphetamine powder, and another in the seizure of 45 kilograms of methamphetamine oil, and 159 kilograms of an essential precursor chemical. This Task Force also provided clandestine laboratory training to over 300 state and local officials.
- The New York Drug Enforcement Task Force arrested more high-level drug violators in the first half of Fiscal Year 1986 than during the entire previous year. One of their undercover investigations resulted in the arrest of 19 defendants and the seizure of approximately 45 kilograms of heroin.
- The newly established Tucson Task Force produced an exceptional number of arrests, double the national average for arrests of high-level violators.

The Organized Crime Drug Enforcement Task Forces continued to target and pursue violators who direct, supervise, and finance the illicit drug trade. These Task Forces utilize the combined resources of DEA; the Federal Bureau of Investigation (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; the U.S. Coast Guard; the U.S. Attorneys' offices; and state and local law enforcement agencies. During Fiscal Year 1986, there were approximately 500 experienced DEA Special Agents working in the 13 Organized Crime Drug Enforcement regions. DEA initiated 346 cases in the first nine months of the year.

In Fiscal Year 1986, DEA's Domestic Cannabis Eradication Program was responsible for coordinated efforts among all 50 states and local agencies to eradicate domestically grown cannabis. DEA contributed funding, training, equipment, aircraft, and investigative resources. Eradication efforts in Fiscal Year 1986 resulted in the destruction of over 55 million plants in over 11,000 plots; the arrest of nearly 2,300 individuals; and the seizure of nearly \$3.7 million in assets.

An important law enforcement initiative, Operation PIPELINE, employs training to focus the resources of the nation's highway and state police to intercept cocaine shipments over the interstate highway system. DEA and officers of the New Mexico and New Jersey State Police travel to selected states and sponsor seminars to train officers to detect drug couriers and seize vehicles transporting cocaine. DEA monitors the seizures to keep abreast of the current trafficking trends and to update its instructional material. DEA produced a training film in conjunction with the New Mexico State Police that demonstrates Operation PIPELINE techniques. The following are a few of this Operation's results:

- Officers who attended a seminar in Harrisburg, Pennsylvania, for the 12 northeastern states made 11 multikilogram seizures of cocaine.
- Officers who attended another series of seminars on cocaine shipments from Mexico through Texas seized 454 kilograms of cocaine from just three pickup trucks coming out of Texas.

Intelligence is a major aspect of all DEA efforts and one that may continue in some operations for many years before achieving tangible results. Not only does DEA utilize intelligence on its own behalf, but it also provides analyses to many other federal, state and local law enforcement agencies.

DEA manages the El Paso Intelligence Center, a cooperative intelligence operation. The Center is designed to target, track, and interdict international movement of drugs, aliens, and weapons. The Center functions as a tactical intelligence center which provides for the immediate exchange

of intelligence for drug interdiction and investigations. Nine agencies participate in the El Paso Intelligence Center: DEA; the Immigration and Naturalization Service; the U.S. Customs Service; the U.S. Coast Guard; the FBI; the Federal Aviation Administration; the Internal Revenue Service; the Bureau of Alcohol, Tobacco, and Firearms; and the U.S. Marshals Service. In addition, all fifty states, the Virgin Islands, and Puerto Rico have information sharing agreements with the El Paso Intelligence Center. In Fiscal Year 1986, the Center processed over 300,000 calls regarding suspect persons, vehicles, aircraft, and vessels. El Paso Intelligence Center lookouts related to suspicious vessels or aircraft resulted in the seizure of 60 aircraft and 90 vessels.

Other intelligence accomplishments during Fiscal Year 1986 included:

- DEA increased efforts to disseminate drug-related intelligence, and DEA provided over 1,600 documents relating to drug trafficking to the U.S. Customs Service through their liaison officer stationed at DEA Headquarters. Customs Officers are now located in DEA offices in Colombia, Peru, and Panama.
- A Special Field Intelligence Program initiated to identify Colombian traffickers operating in the Houston area also dealt with identifying Houston-based chemical companies involved in shipping cocaine precursor chemicals to South America. As a result of DEA's intelligence analysis, approximately 1,000 cocaine violators were identified and several cases were initiated which involved conspiracies. The intelligence developed on the shipment of precursor chemicals led to a coordinated effort to target a major chemical company and its affiliates. DEA, the U.S. Customs Service, the U.S. Coast Guard, and the Internal Revenue Service were all involved in this case.

DEA coordinated and provided a range of speakers to several major conferences in Fiscal Year 1986. Of note was the midyear meeting of the National Alliance of State Drug Enforcement Agencies and the annual meeting of the National Criminal Justice Association.

Other Domestic Accomplishments

Although DEA accomplishments are often attained in conjunction with other law enforcement agencies, many are still achieved singularly. These include: performing drug enforcement investigations, investigations of clandestine laboratories, controlling the illegal diversion of commercially manufactured drugs, functioning as the focal point for drug intelligence, and providing training in drug law enforcement. Fiscal Year 1986 accomplishments in each of the above activities are amplified below.

Domestic investigations conducted singularly by DEA played a major role in DEA's efforts to eliminate major drug

trafficking. For example, former federal prosecutor, David P. Twomey, was sentenced, in March 1986, to 16 years in prison for obstruction of justice, conspiracy to obstruct justice, and conspiracy to defraud the government. His sentence served as a clear signal to others on the seriousness of complicity with drug traffickers.

The seizure of clandestine laboratories played a major role in preventing large quantities of domestically produced illicit drugs from reaching the streets. Certain DEA investigative techniques also helped to increase seizures.

- DEA was involved in over 400 laboratory seizures, which established a new yearly record. A large number of these laboratories were involved with the production of methamphetamines, amphetamines, and cocaine.
- An investigative program which resulted in significant laboratory seizures was entitled Operation ORIGINATION. This Operation utilized a technique for tracking the sale of precursor chemicals with the cooperation of major chemical manufacturers. The program is presently tracking the major precursor chemical for LSD, heroin, PCP, methaqualone, methamphetamine, and cocaine.

DEA continued to emphasize the diversion control program to more effectively reduce the amount of legally produced drugs which are diverted to the illicit market. This emphasis produced the following:

- DEA hired 125 new Diversion Investigators to expand major field diversion activities and to establish these activities where they did not previously exist.
- DEA's new authority under the Comprehensive Crime Control Act of 1984 resulted in a 360 percent increase in investigations designed to administratively revoke, suspend, or deny the registration of practitioners who are responsible for the diversion of controlled drugs to the illicit market.
- In March 1986, DEA hosted the Second National Conference on the Control and Diversion of Controlled Substances which was attended by 72 officials representing 43 states and jurisdictions. Emphasis was placed on legislative initiatives concerning the diversion of illicit drugs.

DEA's intelligence program continued to function as the government's center for collection, analysis, and distribution of virtually all drug intelligence information. This program sorted out vast amounts of information to enhance enforcement efforts. This is exemplified as follows:

- Intelligence analysts researched and analyzed over 1,000 DEA investigative documents involving the manufacture and distribution of LSD. This resulted in the identification of several well-documented LSD

chemists residing in the San Francisco area. Based on this intelligence, a program was initiated to target LSD trafficking from San Francisco to other parts of the United States including New York, Minneapolis, Miami, and New Orleans. Several LSD laboratories were identified and criminal investigations initiated.

- Intelligence support to enforcement operations resulted in the May 15, 1986 indictment of 41 defendants by a federal grand jury in the Northern District of Georgia for violation of federal drug statutes. This indictment was the culmination of an undercover conspiracy investigation that entailed 11 separate cocaine smuggling ventures spread over several states and involved over 3.4 metric tons of cocaine.
- DEA published four recurring drug intelligence reports dealing with drug trends and estimates, as well as reports on the Colombian drug situation and a general digest of significant information. Additionally, special in-depth reports were prepared which dealt with diverse issues such as: controlled substance analogs, outlaw motorcycle gangs, black tar heroin, Thai cannabis, and the crack situation. This information was disseminated to law enforcement personnel across the nation.

Support Accomplishments

In Fiscal Year 1986, diverse support accomplishments enhanced DEA's overall mission. These included: development of legal strategies, improvement in data processing, enhancement of laboratory and technology assistance, expansion of demand reduction activities, and training.

DEA's legal staff provided support on a broad range of issues which contributed to the success of many DEA programs.

- Ten substances were placed in the Schedule I category for controlled substances; these changes were pursuant to the emergency control procedures of the Comprehensive Crime Control Act of 1984. Hearings were held in one conventional drug scheduling matter and a previous decision was affirmed at the appellate level.
- Approximately 160 Orders to Show Cause were prepared proposing the revocation, suspension, or denial of registrations to handle controlled substances and 92 cases were docketed with DEA's Administrative Law Judge. These increases (over 90 percent in the number of Orders to Show Cause and 60 percent in the number of cases docketed) are directly attributable to special provisions of the Comprehensive Crime Control Act.
- Conferences and public hearings were held which addressed the Environmental Impact Statement on the Eradication of Cannabis on nonfederal and Indian Lands. These activities led to a Record of Decision

signed on August 19, 1986 by DEA Administrator, John C. Lawn, for the use of herbicides.

Improved efficiency was realized through advances in automatic data processing and related information systems. These improvements especially benefitted intelligence dissemination required for criminal investigations.

- The Fraudulent Document System was developed by DEA and implemented at the El Paso Intelligence Center. This is a computerized microfilm index of all seized fraudulent documents and is maintained by the Immigration and Naturalization Service at the El Paso Intelligence Center for use by law enforcement agencies having an interest in aliens.
- The Narcotic and Dangerous Drug Information System, which is a data base containing drug trafficker information, was redesigned to include data base management and additional data.
- During Fiscal Year 1986, DEA negotiated and coordinated the final development of the federal Drug Seizure System. DEA, as well as other federal agencies playing a major role in drug investigations and interdiction, modified their systems to conform to the new system's standardized procedures. This automated system will fulfill a long-standing need of high-level federal managers for an unduplicated accounting of drug seizures.

Criminal investigations and prosecutions were supported by DEA's forensic laboratory evidence analysis and by the development and deployment of technological tools to augment investigative efforts.

- The DEA laboratory program assisted federal, state, and local agencies by providing: laboratory analysis of almost 41,000 drug evidence exhibits, expert chemist testimony in over 800 trials, and direct field assistance on over 200 separate occasions.
- The laboratory program developed information on illicit drug availability and trends by conducting over 800 ballistics examinations (identification of drug manufacturing sources), 700 Heroin Signature analyses (identification of drug source regions), 140 Domestic Monitor analyses (identification of drug purity at the retail level), and 1,200 Operation CHEM CON analyses (identification of solvent materials used to process cocaine).
- Chemists also provided over 4,000 hours of classroom instruction associated with DEA sponsored training schools attended by law enforcement officials at the federal, state, and local levels.
- The use of satellite technology was expanded in areas of communications and worldwide tracking and locating aircraft, vessels, and vehicles.

DEA responded to increasing congressional and public interest in the nation's drug problem by disseminating information on related issues and stepping up demand reduction activities. DEA provided testimony at 34 congressional hearings dealing with a wide range of issues relating to the drug problem. Additionally DEA responded to 662 formal congressional inquiries and over 1,000 telephone inquiries from the Congress.

DEA provided training to law enforcement officials across the nation. The unique methods and expertise required for successful drug law enforcement were taught and the following accomplishments achieved.

- Introductory training was provided to 331 new DEA Special Agents, 129 DEA Diversion Investigators, and 37 DEA Intelligence Analysts.
- In-service training was provided to 1,800 DEA Agents and support personnel
- DEA provided training for over 9,500 local, state, and other federal officers in various aspects of narcotics enforcement, interdiction, and management.
- The training of 2,600 members of the Border Patrol of the Immigration and Naturalization Service supported DEA interdiction efforts on the Mexican border.
- Cannabis eradication training was provided to 1,400 law enforcement officers at the federal, state, and local level.
- DEA trained 30 additional physical fitness coordinators, 40 senior-level managers, and continued with health screening and fitness assessments of DEA's Special Agent work force.

Management Improvements

DEA's efforts to manage operations more effectively included the following: strategic planning, fiscal improvements, FBI and DEA cooperation, management information systems, and personnel management improvements.

DEA issued its first Strategic Plan in Fiscal Year 1986. The Plan guided the development of budget estimates for Fiscal Years 1986 through 1988, facilitated resolution of policy issues, and enabled DEA to target resources more efficiently based upon federal drug law enforcement priorities.

Fiscal management improvements assisted a wide spectrum of DEA programs. The examples below highlight some of these.

- Internal procedures were developed to utilize funds from the Department of Justice Asset Forfeiture Fund. These moneys were used to pay for the processing and storing of seized assets awaiting disposal and to supplement funding for other associated management costs.
- Closer interaction between DEA's enforcement and budget and accounting operations enabled DEA to deal with the constraints of the Gramm-Rudman-Hollings

Balanced Budget and Emergency Deficit Control Act of 1985 with no reduction in hiring, major planned operations, or ongoing programs.

DEA and the FBI continued to integrate operations in Fiscal Year 1986 to enhance each agency's effectiveness.

- To promote economy, DEA and the FBI combined several courses at the FBI Academy. DEA and FBI instructors jointly teach courses on legal issues, firearms, physical training, special operations and research, management science and executive development, and practical exercises.
- To increase the efficiency of field office operations, DEA and FBI personnel were collocated in several offices.
- To promote economy and efficiency, DEA relocated its training function from the Federal Law Enforcement Training Center at Glynco, Georgia, to the FBI Academy at Quantico, Virginia.
- To enhance the effectiveness of FBI Special Agents, entry level training now includes training in drug law enforcement which is taught by DEA instructors.

DEA developed the following management information systems in Fiscal Year 1986 to improve efficiency:

- To enhance property management, DEA implemented an automated system which also allows access by all domestic offices, as well as several foreign ones.
- To enhance expendable goods management, DEA implemented an automated inventory system which also provided an automatic reorder feature for both Headquarters and the field.
- To track the cyclical physical examinations of Special Agents and Chemists, DEA implemented an automated information system.

New personnel management improvements were implemented in Fiscal Year 1986. Some of these are described below.

- The hazards of clandestine laboratory operations led DEA to secure the Office of Personnel Management's approval of hazardous duty pay for Special Agents and Chemists involved in clandestine laboratory investigations.
- The Employee Assistance Program extended coverage to all field divisions and included additional services, including stress management techniques.
- The Post Incident and Injury Trauma Protocol Program began. This Program was designed to ensure that all DEA personnel and family members receive appropriate intervention counseling when involved in a traumatic incident (e.g., shootings, kidnappings, threats on one's life).

- The Drug Deterrence Program was implemented by testing Basic Agent Trainees for drug use in June 1986. DEA tested over 150 Basic Agents and DEA executives, and all tests were negative.

- A high level of minority hiring of Special Agents was achieved. Of the 330 applicants selected for Basic Agent training, 37 percent were minorities.

DRUG ENFORCEMENT ADMINISTRATION
FISCAL YEAR 1986
ENFORCEMENT ACCOMPLISHMENTS

	FY 1986
1. TOTAL DOMESTIC ARRESTS*	18,746
Total Domestic Case Class I and II**	
Arrests	12,819
Percent of Total Domestic Arrests that are Case Class I and II	68.4
2. TOTAL DOMESTIC CONVICTIONS*	12,178
Total Domestic Case Class I and II Convictions	7,595
Percent of Total Domestic Convictions that are Case Class I and II	62.4
3. DOMESTIC DRUG REMOVALS	
Heroin (kilograms)	356.9
Percent in Case Class I and II	64.0
Cocaine (kilograms)	26,872.9
Percent in Case Class I and II	87.0
Cannabis (kilograms)	824,367.5

Percent in Case Class I and II	90.0
Dangerous Drugs (dosage units)	45,528,700
Percent in Case Class I and II	68.0

	FY 1986
4. CLANDESTINE LABORATORY SEIZURES***	442
5. ASSET REMOVALS	
Total Seizures****	\$ 378,814,291
DEA Forfeitures	\$ 37,523,435

* Arrest and Conviction statistics do not necessarily refer to the same person. From Fiscal year 1985 to Fiscal Year 1986 there was a 19.2% increase in Total Domestic Arrests.

** Class I and II cases pertain to DEA's highest level of drug investigations. From Fiscal Year 1985 to Fiscal Year 1986 there was a 35.8% increase in Case Class I and II Domestic Arrests.

*** Seizures include DEA and DEA Cooperative Cases.

**** Total Seizures include DEA and DEA Cooperative Cases.

Criminal Division

William F. Weld
Assistant Attorney General

The mission of the Criminal Division is to establish federal criminal law enforcement policies and facilitate their implementation. It is responsible for the general supervision of all federal criminal laws, except for those specifically assigned to the Antitrust, Civil Rights, Land and Natural Resources, or Tax Divisions. The Division also supervises certain civil litigation arising under the federal liquor, narcotics, counterfeiting, gambling, immigration and naturalization, firearms, customs, and agriculture laws. Also, the Division is responsible for civil litigation arising from petitions from 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.

The activities of the Division also include reporting to the Congress, coordinating certain activities of the 94 U.S. Attorneys and the federal investigative agencies, and conducting litigation in organized crime, public corruption, fraud, narcotic, and other cases. In addition, certain specific types of litigation or investigative activities (e.g., securing wiretap orders) are directly controlled by the Criminal Division.

The following descriptions outline the functions and Fiscal Year 1986 activities of each component in the Division:

Organized Crime and Racketeering Section

The Organized Crime and Racketeering Section develops and coordinates nationwide enforcement programs to reduce the influence of organized criminal groups in the economic, political and social institutions of the United States. The Section works primarily through 26 Strike Forces and field offices located throughout the United States.

Strike Force efforts are directed toward specific priority areas. Foremost are cases designed to strip the top leadership from the organizations being addressed. Such cases remove the veneer of invulnerability, upon which most mobs depend to intimidate ordinary citizens, and force less experienced and less skillful organization members into the places thus vacated. Other priorities include organizational participation in legitimate business, public official corruption, labor racketeering, violence and drug dealing. Examples include:

Erosion of Leadership. Major mob leaders from Midwestern cities were awarded substantial prison terms following prosecution. Joseph "Joey Doves" Aiuppa, boss of the Chicago Syndicate, and his underboss, John "Jack the

Lackey" Cerone, received 28½-year terms. Carl Deluna, a top candidate for boss of an organization in Kansas City, received 16 years' imprisonment, as did Cleveland syndicate member Angelo La Pietra. Milton Rockman, the financial advisor to the Cleveland mob, received a 24-year sentence. Milwaukee mob boss Frank Balistrieri was given a 10-year sentence. All were convicted of creating and sharing in a systematic skim of cash from casinos in Las Vegas, Nevada.

New England underboss Gennaro Anguilo was sentenced to 45 years and fined \$130,000; mob captain Samuel Granito received a 20-year sentence and \$35,000 fine, while syndicate members Francisco Anguilo and Donato Anguilo received 25- and 20-year sentences. The sentences were passed in a racketeering prosecution in which six murders were attributed to the group, which used them to instill discipline and compliance in carrying out other racketeering businesses. Some \$4 million in property was forfeited to the government.

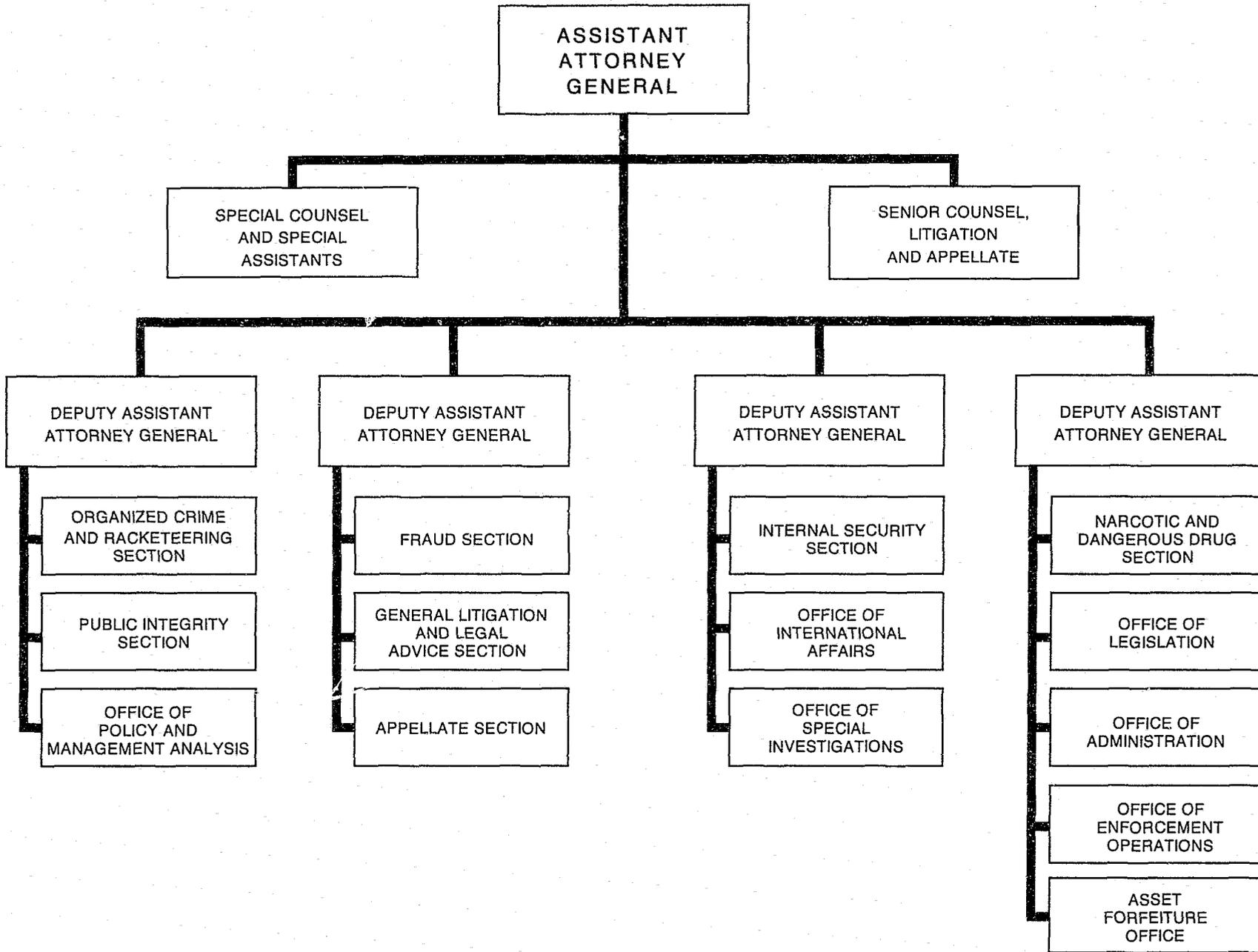
Infiltration of business. Family captain Michael Franzese was sentenced to 10 years, fined \$35,000 and ordered to make restitution of \$10 million. In addition, \$4.7 million in property acquired by Franzese was declared forfeit to the government. Franzese's pleas to racketeering and other charges were grounded in his participation in frauds committed in the automobile industry in New York City, including the evasion of millions in gasoline excise tax owing to the federal, state, and local governments.

Public Official Corruption. Two former Cook County, Illinois, Sheriff's Officers were sentenced to 15 years. They had received bribes for years prior to detection by a Federal Bureau of Investigation undercover investigation. The operation also resulted in the indictment of a prostitution operation and of Michael Spilotro, brother of Anthony Spilotro, who attempted to collect a mob "street tax."

Mob Violence. Vincent Frank Santa and Thomas Orlando were convicted of extortion for their part in a threat to kill at random an employee of an air freight firm and reinstall pickets from Teamster Local 295 if agreed payoffs were not continued.

Guilty pleas to racketeering charges were entered by Anthony Colombo and 17 of the 25 defendants associated with his "crew" of the Colombo family. The indictment charged systematic violations of murder, extortion, robbery, theft, and fraud statutes. Colombo pled to a charge resulting in a prison sentence of 14 years plus half a million dollars in forfeiture and restitution.

CRIMINAL DIVISION



Labor Racketeering. In what is probably the most significant labor racketeering case of the decade, the court of appeals affirmed a lower court judgment which installed court-appointed trustees to replace the racket-riddled seven-member executive board of Teamster Local 560 in Newark, New Jersey. The trial court had found that the Local had been infiltrated by "...mobsters..." and "...gangsters aided and abetted by their relatives and sycophants..." who had "...engaged in a multifaceted orgy of criminal activity..." which had extinguished all semblance of union democracy. Local 560 had been run for years by Anthony "Tony Pro" Provenzano, a captain in the Gambino crime family. When he was sentenced to 20 years in prison for extortion to be followed by a life term in New York prisons for the slaying of his original rival for union office, his brother Nunzio took over the union. When Nunzio received a 10-year sentence for labor racketeering, a third brother, Salvatore, assumed the presidency and Tony Pro's daughter, Josephine Provenzano, became secretary-treasurer. The government brought suit under the civil provisions of the racketeering statutes in an attempt to place the union into the hands of its members—the first such action ever filed in federal court. Approval of this strategy by the appeals court opens the possibility of wresting many union locals from the control of organized criminals, and another such suit has been filed.

Drug Trafficking. Raymond M. Thompson was convicted of importing and distributing over 1,000 tons of marijuana. Thompson used the Amity Yacht Center as his base of operations, dispatching prosperous-looking employees on yachts to meet mother-ships offshore and bring in the loads. At one point, two of his attorneys even duped the former president of the Dominican Republic into aiding them in laundering the profits from the enterprise. (Both lawyers also were convicted.) Forfeiture of the marina and other property related to the case approaches \$4 million.

A cocaine ring run by J.D. Thornton, originally capitalized by a \$1 million armored car robbery, was broken upon conviction of all major participants on racketeering charges. Cash and property worth \$650,000 was declared forfeit. Thornton was sentenced to 15 years.

Public Integrity Section

This Section is primarily responsible for Independent Counsel matters, investigations and prosecutions of federal judges, major federal corruption and misconduct investigations, election and campaign financing crimes, and significant state and local corruption cases. The Section also prosecutes selected cases in unusually complex or difficult areas of corruption, such as conflicts of interest crimes or cases involving corrupt activity overseas. The Section also provides training and legal advice to law enforcement officials at all

levels of government through consultation, publications, speeches, and seminars.

Areas of responsibility and major accomplishments included:

Independent Counsel Allegations. The Section is responsible for all Independent Counsel matters under the Ethics in Government Act. It supervises any investigation, and prepares a recommendation to the Attorney General as to whether the Independent Counsel provisions have been triggered and if a further investigation is warranted. In 1986, the Section handled preliminary investigations of allegations against former White House official Michael Deaver, and against Department of Justice officials concerning their handling of a 1983 investigation of the Environmental Protection Agency.

Investigations of Federal Judges and Federal Law Enforcement Officials. The Section obtained the conviction of Chief Judge Walter Nixon of the Southern District of Mississippi on charges of perjury.

The Section obtained the conviction of an Assistant U.S. Attorney in New York on drug charges, the conviction of a Federal Bureau of Investigation Agent on charges of perjury, and the convictions of several members of the South Florida Drug Task Force on allegations of fraud against the government.

Election Crimes. A special Election Crimes Branch has been part of the Section since 1980, and it has made considerable progress in making election fraud a national priority. The Branch has three major functions: it prosecutes selected cases itself, such as one ongoing project in North Carolina in which over 40 convictions for vote fraud and related offenses have already been obtained; it provides advice and support to the U.S. Attorneys' offices in the application of election fraud and campaign financing laws to the myriad situations that arise in the course of a campaign and election; and it encourages greater awareness of election crimes. It has taken on a major role in training prosecutors and election officials, giving lectures on the various statutes available to combat these offenses, and has published a comprehensive election crimes manual.

Other Section Priorities. The Section has developed valuable expertise and close working relationships with the Central Intelligence Agency, the Department of State, and other agencies with overseas operations, enabling it to prosecute a number of crimes occurring in whole or in part overseas. In the past, these cases received little attention because they are plagued by diplomatic complications, extremely expensive travel, uncooperative witnesses, and evidence beyond the reach of process. Despite these problems, the Section has actively pursued overseas corruption cases and successfully prosecuted American officials for their crimes committed abroad. For example, an officer of

the U.S. Agency for International Development assigned to North Yemen pled guilty to defrauding the government.

Office of Policy and Management Analysis

This Office conducts studies and recommends positions on policy and management issues of concern to top-level decisionmakers in the Division and the Department. This year the Office evaluated the first year of the Department's program for sharing federally forfeited property with state and local law enforcement agencies, provided ongoing analytic support to the Interagency Subcommittee on Asset Forfeiture, and drafted administrative procedures for handling sharing requests. The Office also analyzed options and offered recommendations for international asset forfeiture.

In conjunction with the Narcotic and Dangerous Drug Section and the Drug Enforcement Administration, the Office examined ways to expedite the destruction of massive quantities of drug evidence in storage.

Another study reviewed the domestic cannabis eradication/suppression program for the National Drug Enforcement Policy Board. The Office provided additional analytic assistance to the National Drug Enforcement Policy Board on other projects, including a proposed air interdiction plan for the Southeast border and a preliminary analysis of the recommendations from the President's Commission on Organized Crime.

The Office also completed a review of the implementation of the Bail Reform Act of 1984 and revised the information system monitoring its use.

The Office provided staff work for the Economic Crime Council's Sentencing Committee, and organized an advisory group from the Division's litigating sections to prepare a report on offender characteristics for the U.S. Sentencing Commission.

Fraud Section

This Section leads, directs, and coordinates federal law enforcement efforts in combating over \$200 billion in annual losses attributed to economic crime, with particular emphasis placed on waste, fraud, and abuse in government programs and contracting. The Section works with the investigative offices of federal agencies and departments, and the U.S. Attorneys' offices and their state and local law enforcement counterparts to identify trends and needs, develop new strategies and tools, and foster closer cooperation. Working through the Attorney General's Economic Crime Council, the Section gives direction to and supports a variety of innovative approaches to traditional problems through training programs and the initiation of new techniques or statutes.

Some specific accomplishments of the Section and Council are:

- The Section's Defense Procurement Fraud Unit continues to pursue cases of mischarging, product substitution, falsification of testing, kickbacks, and illegal sale of bidding information.
- Gould Defense Systems, Inc., a defense contractor involved in the development and manufacture of torpedoes, was convicted of making false statements in connection with payments on contracts and mischarging labor. Gould was fined \$50,000 and paid the United States approximately \$3.6 million in penalties.
- The GTE Government Systems Corp. was convicted of conspiracy to convert Department of Defense documents containing classified information to its own use, was fined \$10,000, and paid over \$3.6 million in civil penalties. Three individuals also were charged and are awaiting trial.
- The Section's investigation of the Defense Industrial Supply Center in Philadelphia resulted in the convictions of five corporations, eight corporate officials and 12 employees for giving or taking bribes totaling over \$500,000.
- The Section, working with the Federal Bureau of Investigation and the Defense Criminal Investigative Service, obtained convictions of the president and other personnel of Golden Gate Forge and Flange, Inc., for conspiring to falsify results for pipefittings in nuclear submarines when the materials failed to meet military safety specifications.
- The Section is carrying out a directive to upgrade, audit, and investigate capabilities of the Department of Health and Human Services to detect health care provider fraud. The Section organized a training conference on health care provider fraud enforcement efforts for representatives of the health care providers, the Federal Bureau of Investigation, the Department of Health and Human Services, U.S. Attorneys and others.
- In a major medicare provider fraud case, a thoracic surgeon was convicted on conspiracy, medicare fraud, and extortion charges. In sentencing him to 10 years and the maximum fine (\$70,000), the judge stated a desire to deter others and make it clear that white-collar "...offenders have no special status in our system of criminal justice."
- In a case prosecuted jointly by the Fraud Section and the U.S. Attorney's office in Hawaii, Ronald Rewald was convicted on 94 counts of mail fraud, securities and other charges for devising a Ponzi scheme through which he defrauded approximately 400 investors of over \$22 million. When Rewald's firm collapsed and

went into bankruptcy, he claimed that he was merely operating a front for the Central Intelligence Agency. Rewald was sentenced to 80 years in prison, fined \$352,000 and ordered to make restitution to all of the investors named in the indictment.

- The Fraud Section has joined with the U.S. Attorneys' offices in Miami and Los Angeles in developing "boiler-room" task force operations to combat the fraudulent sale of commodities, investments and products including precious metals, oil and gas leases, and office supplies.

General Litigation and Legal Advice Section

This Section's major role is to develop and implement enforcement programs in key statutory areas where special requirements exist. The current primary enforcement initiatives of the Section involve the following.

- *Terrorism.* The Section is combating terrorism through exhaustive investigation and vigorous prosecution of persons responsible for terrorist acts.

Investigations currently pending in the Section include, among others: 1) the hijacking of TWA Flight 847 by Shiite terrorists, 2) the hijacking of the Achille Lauro on the high seas, 3) the hijacking of Egyptair Flight 648, flying from Athens to Cairo, and diverted to Malta, 4) the taking and detention of American hostages in Beirut, Lebanon, 5) the bombing of TWA Flight 840 over Athens, 6) the kidnaping by the Popular Liberation Army of five employees of companies constructing an oil pipeline in Colombia, 7) the kidnaping of an American missionary and 10 Carmelite nuns in the Philippines by Moslem warlords and bandits, 8) the bombing of a Pan American Airlines jet en route to Hawaii, and 9) assisting in the matter of 16 defendants who are charged with the robbery of \$6,956,520 from a Wells Fargo Facility. The defendants include many leaders of violent Puerto Rican independence groups.

- *Pornography.* The Section continued to assist U.S. Attorneys in implementing the Department's aggressive enforcement efforts in child pornography. During the first 11 months of Fiscal Year 1986, 125 individuals involved with this material have been indicted and 83 have been convicted. One defendant, Mervyn H. Cross, was sentenced to 95 years for violations stemming from a scheme which would have involved numerous children in the production of sexually explicit films and photographs. Significant sentences were achieved in other cases as well, including two defendants who were each sentenced to 20 years.

In connection with the Department's international effort to stem the importation of child pornography, the Section designed a multiagency group to review imported and forfeited obscene material to develop information on producers of child pornography and furnish it to appropriate officials in the exporting countries.

The Section has initiated a major new enforcement effort in the obscenity (adult pornography) area and prepared legislative reports and testimony on legislation dealing with cable pornography, obscene telephone messages, the use of computers in pornography, and the interstate exchange of advertisements for child pornography and child sexual abuse.

- *Intellectual Property.* The Section continues to protect intellectual property through the enforcement of copyright and trademark statutes. The increasing use of counterfeit trademarks in domestic and foreign commerce was recently evidenced by enactment of the counterfeit trademark statute, and by the report accompanying the appropriations bill for the Department, in which the Senate Committee on Appropriations indicated its increasing concern about the rise in imports of goods that violate American copyright and trademark laws. For example, Aaroni Jacob Shinyder recently pled guilty to the manufacture and distribution of hair care products bearing counterfeit Nexxus trademarks. Shinyder was sentenced to five years. The Section has also participated in an investigation of the manufacture, importation, and distribution of counterfeit birth control pills.
- *Nuclear Safety.* The Section reviews all Nuclear Regulatory Commission referrals of criminal investigations. It successfully prosecuted a company and an individual for violations of Nuclear Regulatory Commission regulations in connection with the conduct of the business of radiography. Several cases involving the industrial use of radioactive materials as well as the operation of nuclear power plants are now being reviewed or investigated by Section staff. Two corporations and an individual were indicted for the operation of the D.C. Cook Nuclear Plant in Bridgman, Michigan, in violation of Nuclear Regulatory Commission fire protection regulations.

Section attorneys are working with the Federal Bureau of Investigation and Drug Enforcement Administration concerning the assassination of Drug Enforcement Administration Agent Enrique Camarena-Salazar who was kidnaped, tortured, and murdered in Mexico. The Section also is investigating the abduction and assault by Jalisco State Police officers in Mexico of Drug Enforcement Administration Agent Victor Cortez.

Robert Brodhead, Athletic Director of Louisiana State University, pled guilty to a conspiracy to intercept a radio communication. The plea resulted from Brodhead's endeavoring to intercept communications between National Collegiate Athletic Association investigators and Louisiana State University athletes concerning possible recruiting violations by the University.

Section attorneys are currently preparing for trial in a case involving nine people in the District of Columbia charged with 22 violations of conspiracy, obstruction of justice, false statements, and perjury. The defendants are present and former officials and residents of the Synanon Foundation, Inc., later known as the Synanon Church.

The Section defends civil suits seeking to obtain information or to interfere with criminal justice activities and national security operations. Currently, the Section is defending a class action suit which seeks injunctive relief and monetary damages against nine Parole Commissioners. It also is defending the *coram nobis* actions filed in three separate districts by American citizens of Japanese ancestry. These actions seek to overturn the 1942 convictions of these individuals for minor crimes which they committed while they were under the World War II Japanese internment program. The Section successfully defended the Secretary of the Treasury in denying Secret Service protection to Lyndon H. LaRouche who asserted that he was a major candidate campaigning for the 1984 nomination of the Democratic Party.

The Section has been involved in efforts to structure the Selective Service nonregistrant enforcement program and also is directing its efforts at nonregistrants who made false statements concerning Selective Service compliance to obtain federal student loans. Lastly, considerable Section effort was devoted to anti-terrorism legislation which recently culminated in the passage of the Diplomat Security and Anti-Terrorism Act of 1986.

Appellate Section

The Appellate Section's major role this year was to ensure that the new Comprehensive Crime Control Act of 1984 would be implemented in a manner consistent with its underlying purposes. To ensure that, the Section:

- Rendered advice to U.S. Attorneys' offices in connection with problems arising under the Act, including information on positions or policies adopted by the Department, and of relevant arguments, or supporting materials;
- Handled cases generated under the Act to ensure a favorable judicial interpretation. Such cases included one upholding the constitutionality of the new pretrial detention provisions of the bail statute;¹ and

- Assisted in the preparation of the government's petition for a writ of *certiorari* to have the Supreme Court review the constitutionality of the new Act.²

Another important statutory scheme which the Appellate Section successfully shepherded during the year was the Speedy Trial Act. The Section provided advice on policy issues arising under the Act, and handled cases involving questions of statutory construction.

Several cases handled successfully by the Section included issues of importance to the Department's mission, such as:

- The *Smith* case which held for the first time that governmental privileges applicable in other cases must be applied also in espionage cases brought under the Classified Information Procedures Act.³ This case allowed the government to insist upon a showing of special need before secret information is disclosed either to or by defense counsel.
- The President's power to convene a Commission and appoint to it members of the judiciary was upheld, over arguments that it violated the separation of powers.⁴
- A case upholding that any attempted assassination of an official guest of the United States may be prosecuted despite the failure of the Department of State to formally designate the victim as an "official guest."⁵

Internal Security Section

This Section is responsible for the enforcement of criminal statutes affecting national security and foreign relations. It also administers and enforces the Foreign Agents Registration Act, and related statutes. Functions include: 1) supervising the investigation and prosecution of offenses involving espionage, sabotage, treason, violations of the Atomic Energy Act, the neutrality statutes, Trading With the Enemy Act, Arms Export Control Act, and Export Administration Act; 2) providing policy guidance and litigative support to prosecutors, intelligence services, and law enforcement agencies in cases related to national security or foreign relations; 3) interagency coordination in cases of espionage, neutrality; and 4) arms export control violations; and developing, analyzing, and evaluating proposed legislation relative to the national security field.

During 1986, seven individuals were indicted for espionage. Six of these were convicted or entered pleas of guilty, and one case is pending trial. Additionally, six individuals previously indicted, were convicted or entered pleas of guilty to espionage or espionage-related offenses.

- John Walker, a retired Navy warrant officer, and his son Michael, a Navy enlisted man, entered pleas of guilty to charges of espionage on behalf of the Soviet Union. Arthur Walker, a retired Navy officer, John's brother, was sentenced to life imprisonment for his

participation in the spy ring. Thereafter, John Walker testified at the trial of his chief supplier of cryptographic secrets, Jerry A. Whitworth, a retired Navy chief radioman. Whitworth was convicted and sentenced to 365 years.

- Former Federal Bureau of Investigation agent Richard W. Miller was convicted of espionage and bribery involving the Soviet Union, resulting from his association with a Soviet emigre, Svetlana Ogorodnikova. He was sentenced to life imprisonment.
- Several prosecutions involved the sale to foreign governments of information concerning or derived from U.S. intelligence activities. Ronald Pelton, a former employee of the National Security Agency, was convicted of providing the Soviets with sensitive information about signals intelligence. Larry Wu-Tai Chin, a retired Central Intelligence Agency employee, was convicted of providing intelligence information from Central Intelligence Agency files to the People's Republic of China. Jonathan Pollard, an intelligence analyst for the Navy, who furnished intelligence information to Israel, pled guilty, with his wife Anne Henderson Pollard, to espionage and related offenses.
- Convictions in two other espionage cases became the basis for two international prisoner exchanges. Karl Koecher, a former Central Intelligence Agency employee, guilty of espionage on behalf of Czechoslovakia, was sentenced to life imprisonment, and then exchanged for Anatoly Scharansky, the Soviet dissident and human rights activist, and three individuals incarcerated in East Germany for espionage. The second exchange resulted from the prosecution of Central Intelligence Agency employee Sharon Scranage and Michael Soussoudis, a citizen of Ghana. Scranage pled guilty to disclosing the identities of covert Central Intelligence Agency assets in Ghana to Soussoudis, who entered a plea of *nolo contendere* to receiving the information on behalf of his government. Thereafter, Soussoudis was exchanged for a number of Ghanaians who were in jeopardy as a result of Scranage's disclosures.

The most significant export control cases during the year were:

- Thomas Denley and 13 other individuals were arrested as they boarded a chartered airplane to launch a mercenary expedition to overthrow the government of Suriname, formerly Dutch Guiana, in South America. All entered guilty pleas.
- Seven members of a criminal organization in Boston, Massachusetts, were charged in a 19-count indictment with the attempted illegal export of tons of weapons, explosives and military equipment to the Irish

Republican Army, and the attempted importation of 36 tons of marijuana into Boston.

- Eight individuals were charged with conspiracy and substantive offenses of the Racketeer Influenced and Corrupt Organizations statute and with seditious conspiracy in Massachusetts. The defendants formed and participated as an organization responsible for a series of 19 bombings and nine bank robberies.
- Piher Semiconductors, a Spanish company, pled guilty to charges of diverting in excess of \$2 million in semiconductor manufacturing equipment to the Soviet Union and Cuba. Piher was fined \$1 million.
- Werner J. Bruchhausen, a West German national, was charged with a scheme to defraud the United States by exporting \$8 million worth of computers and semiconductor materials to the Soviet Union, in violation of the national security controls placed on such equipment.

The Internal Security Section reviewed many additional registrations under the Foreign Agents Registration Act and indepth inspections of a broad spectrum of registrants were conducted.

The Section's "Graymail" Unit supervised 34 cases involving the Classified Information Procedures Act which involved violations of the fraud, narcotics, arms export, espionage, and other federal criminal statutes. The Unit is consulted in any case in which there is a possibility that classified information will be disclosed in litigation.

Office of International Affairs

This Office is responsible for formulating and supervising the execution of international criminal justice enforcement policies and procedures including: negotiating international agreements and treaties on subjects relating to criminal law enforcement (extradition, mutual assistance, and prisoner transfers); preparing and litigating requests for international extradition and obtaining evidence from foreign jurisdictions; coordinating requests to and from foreign countries to obtain evidence in connection with criminal investigations and prosecutions in the United States and in foreign countries; drafting legislation and developing policy on federal criminal law enforcement that requires extraterritorial involvement. Fiscal Year 1986 was marked by considerable progress in advancing international cooperation on issues of criminal law enforcement.

An attorney was stationed in Rome. That position has improved the Office's ability to respond to requests from both domestic and foreign law enforcement authorities for assistance in rapidly developing situations such as terrorist hijackings, and in implementing international policies and strategies.

The Office continued its program of negotiating new treaties and new treaties are in force with Italy, Thailand, the Cayman Islands and the United Kingdom.

The year also was marked by the extradition from the United States of a number of notorious figures, including the extradition to Italy of Francesco Pazienza (reputedly a major fraud artist and extortionist who was infamous in Italy after his success in insinuating himself into high levels of the Italian government), the extradition to Yugoslavia of Andrija Artukovic and to Israel of Ivan Demjanjuk (both named as Nazi war criminals), and the extradition to Mexico of Arturo Durazo Moreno (the former Chief of Police in Mexico City, accused of running a major portion of the organized crime in Mexico at that time).

The Office also was successful in obtaining the return from abroad of a large number of fugitives, including dozens of major federal fugitives charged with drug offenses and a large number of state fugitives including Catherine Evelyn Smith from Canada who since her return has pled guilty to the felony murder of entertainer John Belushi.

Office of Special Investigations

This Office's mission is to investigate and take legal action against persons in the United States who incited, participated, or assisted in the persecution of persons based on race, religion, or political beliefs, in conjunction with the Nazi regime of Europe from 1933 to 1945.

The Office has filed 63 cases to date. There are 27 denaturalization and deportation cases pending now. Of the 36 cases closed, 18 Nazi persecutors have lost their U.S. citizenship, and 12 individuals have permanently departed the United States. There are 521 investigations pending at this time.

During this year, there were several notable achievements:

- Completion of an investigation and report on the connection between Robert Verbelen, an accused Nazi war criminal living in Vienna, and the United States occupation and intelligence forces during the close of World War II.
- Completion of a report on the notorious war criminal Josef Mengele. The report is the result of 18 months of investigation and historical research and documents Mengele's career from the time he disappeared in 1945 until death in 1979.
- John Demjanjuk was extradited to Israel. This ended almost 10 years of litigation by the government, during which time Demjanjuk was denaturalized and then ordered deported.
- Andrija Artukovic was extradited to Yugoslavia. He was then tried and convicted in Yugoslavia for war crimes stemming from his cabinet-level position in the

Nazi puppet State of Croatia, in which position he was instrumental in the policy of persecution and genocide.

Narcotic and Dangerous Drug Section

The mission of this Section is the prosecution and conviction of high-level drug traffickers involved in the importation, manufacture, shipment, and distribution of illicit narcotic and dangerous drugs; the analysis and execution of the Criminal Division's drug prosecution policies; the training of agents and prosecutors in the techniques of major drug litigation; and the general support of controlled substances litigation in the offices of the U.S. Attorneys.

In carrying out its mission the Section prosecutes complex cases on a nationwide basis. It maintains operations in the Southern District of Florida and Puerto Rico prosecuting money launderers facilitating major drug trafficking organizations. It conducts litigation arising out of the regulatory functions of the Drug Enforcement Administration.

Some of its major accomplishments in 1986 include:

- In Rhode Island, the Section assisted in an investigation which included the Federal Bureau of Investigation, the Drug Enforcement Administration, and the Internal Revenue Service. Two indictments against 15 defendants were returned for evasion of taxes, importation and possession of drugs with intent to distribute, interstate and foreign transportation of securities (the proceeds of which were obtained by fraud), and the filing of a false tax return, were among the charges made. All but one of the nonfugitive defendants have been convicted or pled guilty.
- In Virginia, 14 defendants pled guilty to a continuing criminal enterprise which included a retired county police officer who was trafficking in marijuana.
- The Section is involved in the prosecution of approximately eight individuals in Florida. These individuals used a ranch with a clandestine airstrip to import multiton quantities of marijuana and multihundred kilogram quantities of cocaine.
- In Florida, an indictment was returned against 18 individuals, including a St. Petersburg attorney and a stockbroker, alleging conspiracy; marijuana importation; distribution, and money laundering offenses. Twelve defendants were convicted (two remain fugitives) and sentenced to terms ranging from six to 110 years.
- An intensive investigation has continued to disrupt the Panzardi narcotic trafficking organization which has been operating within the District of Puerto Rico, the U.S. Virgin Islands, and the Caribbean Islands, for approximately 10 years. A total of 62 persons have been

indicted, 43 of whom are now in custody. The investigation has yielded sufficient evidence for the seizure of 12 residences, 11 vehicles, three speedboats, and 12 aircraft.

- The Section has provided litigation support and consultations for: continuing criminal enterprise prosecutions, Dangerous Special Drug Offender applications, the parole of aliens into the United States, provisional arrests for extradition, pretrial detention in narcotics cases, requests for electronic surveillance; requests for witness protection in narcotics cases and the utilization of the pharmacy robbery statute. The Section publishes the Narcotics Newsletter as an aid to federal and local prosecutors.

Office of Legislation

This Office is responsible for the development and support of the Criminal Division's legislative program. Its contributions include:

- The Office had the lead responsibility for a major bill containing numerous technical amendments to the criminal code made necessary by the passage of the Comprehensive Crime Control Act of 1984.
- The Office drafted several bills relating to narcotics, including bills to provide increased penalties for drug traffickers, including lengthy mandatory sentences for manufacturers and distributors of illegal drugs that cause the death of another person and the death penalty for kingpins of especially large drug trafficking rings; a bill to provide criminal penalties for controlled substance analogs ("designer drugs") which have the same, or worse, effect as more common substances like heroin but which have a slightly different chemical composition.
- The Office continued to work for passage of key provisions of the money laundering bill which it drafted in 1985.
- The Office drafted a comprehensive bill to establish a commission to regulate high stakes gambling on Indian reservations.
- The Office continued its work in regard to the passage of death penalty legislation.

Office of Administration

This Office provides a wide range of administrative services to the Criminal Division through such operations units as the Personnel Unit; the Fiscal Unit; the Mail, File and Records Unit; the Procurement, Security, Safety and Space Unit; and the Information Systems Unit.

Among the functions performed by the Office of Administration are: development of policies and plans for the administrative management and organization of the Division; preparation of budget estimates and the fiscal management of funds assigned to the Division; personnel management; collection of statistics; maintenance and procurement for workspace, equipment, and services; travel and duty station transfers; protection of classified and sensitive materials and compliance with security, safety, and health standards; and, designing and operating automated data processing systems.

Within the last year the Office of Administration has initiated several management improvements:

- Developed and implemented the automated systems which record and track the status of cases and matters, immunity requests, seized assets, Department files, gambling registration, and Freedom of Information Act requests;
- Intensified efforts to reduce the quantity of internally stored files and records which resulted in nearly 50 percent of such records being disposed of;
- Completed a major office automation request with the Tax Division and the U.S. Attorneys which will allow multipurpose terminals at individual work stations, as opposed to the current system which consists of six different types of work stations; and
- The consolidation of employees from three buildings into one. The office space will provide improvements in security, file and storage areas, library and computer room working conditions.

Office of Enforcement Operations

This Office oversees the use of the most sensitive investigative tools at the Department's disposal, electronic surveillance, hypnosis in the interrogation of witnesses, witness relocation, and the authorization of witness immunity. The Office supervises all aspects of the Witness Security Program for the Criminal Division and oversees all electronic and consensual monitoring efforts being pursued within the federal justice system.

During this year, some 500 electronic surveillance authorizations were processed to approval. An Office of Enforcement Operations survey indicates that over 95 percent of targeted interceptees indicted were convicted. The Office revised publications to reflect new procedures mandated by the Witness Security Reform Act of 1984 and assumed responsibility for the Victims Compensation Fund. The Office completed 1,258 Freedom of Information Act and Privacy Act requests, and assumed responsibility for authorizations permitting disclosure of federal grand jury records to state law enforcement authorities, and such mat-

ters as: 1) responding to requests under the Freedom of Information and Privacy Acts, 2) letters authorizing Division attorneys to conduct and attend grand jury sessions, 3) responding to requests for Department personnel to testify at federal, state, and local civil and criminal proceedings, and requests to either subpoena a member of the news media or close part of a criminal proceeding, 4) histories of legislation enacted by the Congress, 5) compiling, indexing, and maintaining a file of briefs and memoranda that involve policy matters, 6) processing requests for access to information with the Secretary of the Treasury under the Currency and Foreign Transactions Reporting Act.

Asset Forfeiture Office

This Office's mission is to reduce criminal activity by depriving criminals of the profits of their illegal acts. Substantially increased success in fighting crime by civil and criminal forfeiture of crime-related property has occurred.

The Office supervises all federal forfeiture litigation and is the principal legal advisor on forfeiture matters to all federal enforcement agencies. This includes guidance on the management and disposition of seized and forfeited property, briefs, pleadings, and direct litigation assistance. The Office is responsible for the collection of criminal fines, criminal penalties, and appearance bond forfeitures within the jurisdiction of the Criminal Division. The Office monitors the Department's equitable sharing program which distributes the proceeds of forfeiture cases to state and local enforcement agencies, as appropriate. The Office also handles petitions for remission or mitigation of judicial forfeitures. Such petitions provide an equitable remedy to third parties who are affected by an order of forfeiture.

Lastly, the Office provides forfeiture legal advice and guidance to the Department of State and other Department of Justice components regarding international forfeiture activities and policies.

Significant accomplishments of the Office this year include:

- The criminal forfeiture of a two-thirds interest in the Thornapple Creek Golf course in Michigan. The Golf Course was purchased with the proceeds of unlawful drug activities and is currently being operated at a profit by the U.S. Marshals Service.
- The civil prosecution of 11 properties and over \$10 million related to "Operation Cash Crop" investigated by the Gulf Coast Organized Crime Drug Enforcement Task Force.
- Civilly prosecuting over \$1.5 million worth of real and personal property relating to the illegal drug profits of Denny Constantine White.
- Publication of a forfeiture manual covering both criminal and civil forfeiture law matters.
- Various items of proposed legislation including an International Forfeiture Bill authorizing the government to forfeit assets found in the United States relating to foreign drug violations.

CITATIONS

- (1) *United States v. Portes*, 786 F.2d 758 (7th Cir. 1986).
- (2) *United States v. Salerno*, No. 86-87.
- (3) *United States v. Smith*, 780 F.2d 1102 (4th Cir. 1985) (*en banc*).
- (4) In the Matter of: *The President's Commission on Organized Crime, Subpoena of Nicodemo Scarfo*, 783 F.2d 370 (3rd Cir. 1986).
- (5) *United States v. Birkh*, 797 F.2d 199 (5th Cir. 1986).

Executive Office for United States Attorneys

William P. Tyson
Director

Under the supervision of the Deputy Attorney General, the Executive Office for U.S. Attorneys provides general executive assistance and nonlitigative oversight to the 94 offices of the U.S. Attorneys. The Executive Office for U.S. Attorneys also serves a liaison function for U.S. Attorneys with the Department and other federal agencies.

Office of Administration and Review

The Office of Administration and Review provides support and technical assistance to U.S. Attorney personnel located in 167 permanently staffed and 150 intermittently staffed locations. In the review cycle ending September 30, 1986, 10 legal, two administrative, and 10 debt collection reviews were conducted. During this same period, administrative assistance was provided to five offices that were without the services of an administrative officer. A new development in the budget area was the establishment of litigative expense allowances for 11 districts. This was done as a forerunner to issuing litigative expense allowances to all district offices in Fiscal Year 1987. It is expected that improved financial management will result from this action generating savings needed to offset escalating costs in the litigative expense area.

Office of Legal Education

The Attorney General's Advocacy Institute and the Legal Education Institute offered 103 courses and seminars for attorneys in the departments and agencies of the executive branch. These courses and seminars qualified 1,199 hours of continuing legal education credits which could be used in mandatory continuing legal education states. More than 8,500 attorneys and other legal personnel attended the courses.

This year, the Attorney General's Advocacy Institute offered 10 seminars which included two new programs — one for experienced Assistant U.S. Attorneys handling government appeals and a conference on drug abuse prevention. Topics covered by the other eight seminars were economic crime enforcement, hazardous waste, federal practice for new U.S. Attorneys, creditors' rights and remedies, first assistants, public corruption, and the Federal Tort Claims Act. Training also was conducted in criminal, civil, and appellate advocacy.

The Legal Education Institute trained attorneys from over 100 separate agencies and departments of the executive branch. Seventy-eight seminars were presented to 4,165 federal attorneys and legal personnel. The Core Curriculum was finally completed with seminars developed in nine major areas of the federal practice: litigation, discovery, negotiations, legal research and writing, contracts, Freedom of Information Act/Privacy Act, bankruptcy, federal employment, and management. Five new courses were introduced and the Office's activity as legal training consultant to executive agencies increased substantially. A video library was circulated extensively. Nearly 1,300 attorneys in the regions were trained through video or live seminars. The Legal Education Institute sent mandatory continuing legal education information to all agencies and is acting as a clearinghouse for this information for federal agency attorneys.

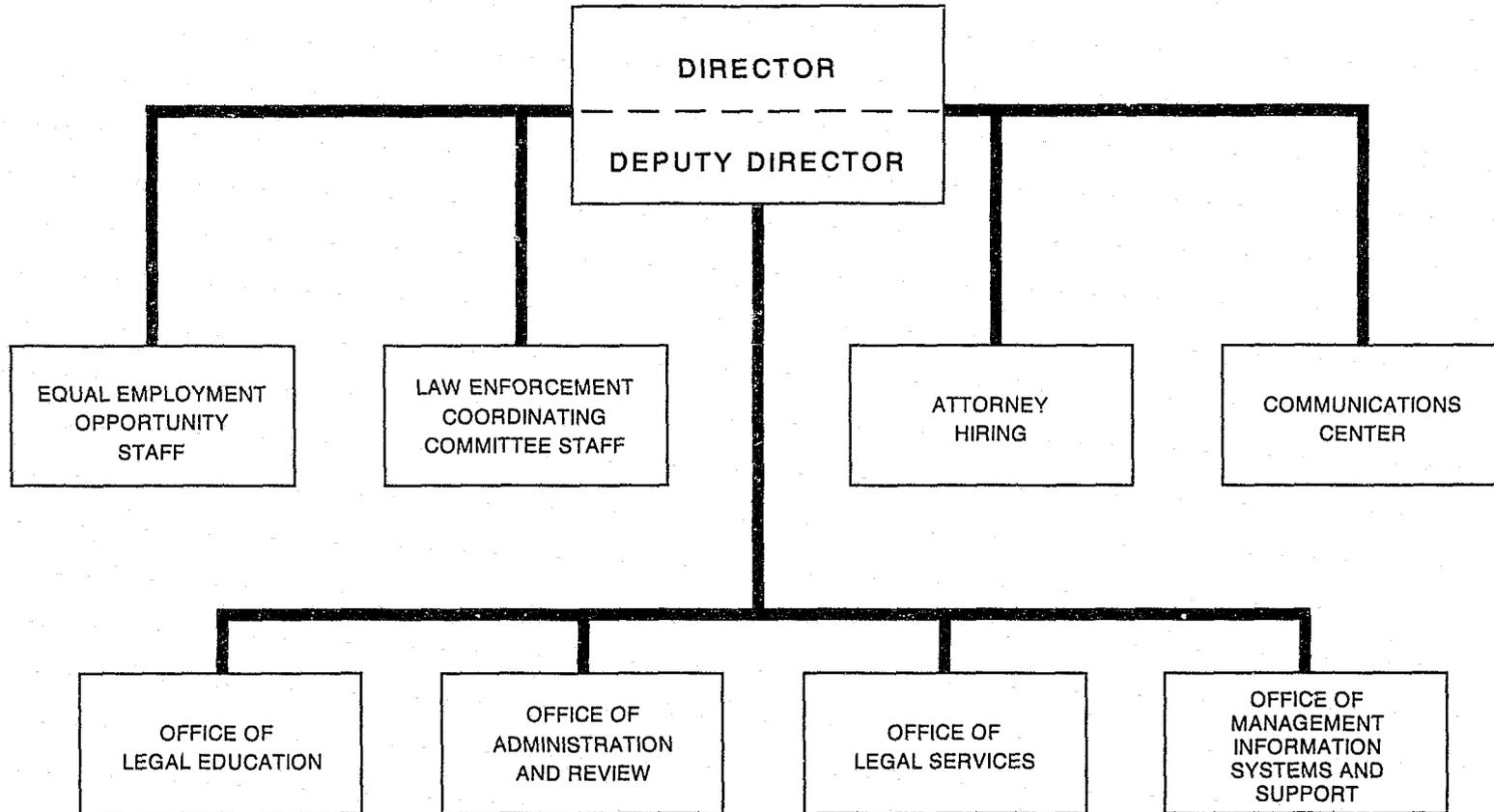
Office of Legal Services

The Office of Legal Services attorney and paralegal staff provide legal opinions, interpretations, and advice to U.S. Attorneys on concerns such as legislation, regulations, and departmental guidelines. This Office maintains effective liaison and guidance in intergovernmental legal affairs and responds to inquiries from Members of Congress and private citizens relating to the activities of the Executive Office for U.S. Attorneys and the 94 U.S. Attorneys' offices.

During the year, activities included: processing and/or closing of more than 2,940 Freedom of Information Act and Privacy Act requests; publishing the U.S. Attorneys' Bulletin, a publication designed to assist U.S. Attorneys in keeping current with administrative and legal changes; providing staff assistance on administrative and litigative actions involving employee rights, equal employment opportunity, and adverse actions; and monitoring legislation for the Attorney General's Advisory Committee.

Additionally, this Office administers a program in which U.S. Attorneys and Assistant U.S. Attorneys may be appointed as special state or local prosecutors, based on the Intergovernmental Personnel Act of 1970 and appropriate state and local government codes. There have been 13 appointments under this program, representing involvement by 11 different U.S. Attorney offices. Under a similar program, state and local prosecutors may be appointed Special Assis-

EXECUTIVE OFFICE FOR UNITED STATES ATTORNEYS



tant U.S. Attorneys. Presently, there are 1,578 Special Assistant U.S. Attorneys assisting in 89 districts.

Office of Management Information Systems and Support

The Office of Management Information Systems and Support provides office automation to the U.S. Attorneys and the Executive Office for U.S. Attorneys for the management and conduct of litigation. In addition, the Office provides direction to the U.S. Attorneys in the conduct of debt collection activities.

At the request of the U.S. Attorneys, the staff has spearheaded a legislative initiative to create standardized federal procedures for the collection of all debts owed to the federal government. Currently, the United States is hampered by diverse and varied state laws and procedures resulting in inequitable and inconsistent treatment of federal debtors and impeding the efficient and maximum recovery of monies owed to the United States. Work is also being done for the Department's entry into the highly-effective Internal Revenue Tax Refund Offset Program. The Department will initially submit 3,000 delinquent criminal fines as assessment cases for offset.

Law Enforcement Coordinating Committee Staff

The Department of Justice continued its strong commitment to the Law Enforcement Coordinating Committee program. Nearly all of the 47-allocated Law Enforcement Coordinating Committee positions have been filled. In December 1985, a three-day training conference, featuring a presentation by the Attorney General, was held for U.S. Attorney staff assigned Law Enforcement Coordinating Committee or Victim-Witness responsibility. Since then, the Law Enforcement Coordinating Committees have held over 100 full committee meetings and numerous subcommittee meetings.

In March 1986, a two-day conference on drug abuse awareness, education, and prevention was held for U.S. Attorneys. National experts addressed the scope and societal impact of the drug problem, drug pharmacology, drug screening, and school prevention programs. A panel on the role of law enforcement in drug prevention was also presented. The Attorney General advised the group that "Nothing you will probably do in your tenure as U.S. Attorney will be of more importance to the community and to the district that you serve, or to the nation as a whole, than your wholehearted support of this particular drug education and prevention effort."

As a result of this meeting, the Law Enforcement Coordinating Committees have played a key role in the Depart-

ment of Justice's drug demand reduction and education program. Law Enforcement Coordinating Committees across the country sponsored or cosponsored major community meetings to initiate drug prevention efforts within their districts. Smaller meetings were held by numerous other Law Enforcement Coordinating Committees on both narcotics enforcement and demand reduction issues, particularly the crack problem. Many U.S. Attorneys worked with community and educational leaders to develop school programs and related prevention activities on substance abuse. Activities held range from teacher training to "Just Say No" walks to antidrug rock concerts and rallies.

The U.S. Attorneys

Within each of the 94 federal districts in the 50 states, Guam, the 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 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 1986, U.S. Attorneys carried out their responsibilities with the support of 2,654 U.S. Attorneys and Assistant U.S. Attorneys and 3,169 non-attorney personnel. Their offices ranged in strength from three Assistant U.S. Attorneys to 204 Assistants. The annual budget for U.S. Attorneys' offices totaled \$308 million, which includes funds for the Organized Crime Drug Enforcement Task Forces.

During the year, approximately 94,512 criminal referrals were opened in U.S. Attorneys' offices; 20,111 grand jury proceedings were conducted; 31,012 criminal cases were filed; and 27,675 criminal cases were terminated. Of the approximately 39,715 defendants whose cases were terminated, 29,096 entered guilty pleas, and 5,532 were tried, 4,655 of whom were found guilty after trial.

During this same period, approximately 88,720 civil cases were filed; 84,709 civil cases were terminated; and 162,017 civil cases were pending at the end of the year. This pending civil caseload represents a potential liability of over \$25.2 billion against the United States and potential recovery of approximately \$4.5 billion for the government. Over 74.8 percent of the civil judgments entered in the cases terminated were in favor of the United States.

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, has played an increasingly active role in advocating U.S. Attorneys'

needs and views to Department leadership. The Advisory Committee is made up of 15 representative U.S. Attorneys who serve at the pleasure of the Attorney General, normally for a three-year term. The U.S. Attorney for the District of Columbia continually serves as an *ex officio* member.

Drug Trafficking Prosecutions

The number one law enforcement priority of the Department of Justice is the control of narcotic distribution and abuse, particularly since the problem transcends state and national boundaries. U.S. Attorneys across the country continued their efforts to stop the importation and distribution of illicit drugs. Many of the successes in this area are the direct result of cooperation and coordination of resources by federal, state, and local law enforcement agencies. Frequent use was made of the continuing criminal enterprise statute which provides that any person engaged in a continuing criminal enterprise be sentenced to a mandatory minimum sentence of 10 years' imprisonment.

In a Southwest Border Region Drug Task Force case, a massive Southern California/Florida cocaine trafficking organization was dismantled. The major indictment returned in the Southern District of California charged a total of 98 defendants in 270 counts. The three major defendants were convicted on continuing criminal enterprise violations and received mandatory prison sentences. More than \$2.5 million in assets have been forfeited to the United States. In all, over 80 defendants pled guilty to a variety of narcotics charges in the case. Fifteen Peruvian and Colombian nationals remain fugitives. The indictment was the product of a 14-month wiretap investigation in which 11 separate court orders authorized electronic surveillance of 40 telephone lines and four room bugs.

After entering guilty pleas, William Thomas Sheehan and Donald Kevin Groh were sentenced in the Eastern District of California to terms of 12 years' custody each, thus bringing to an end a Drug Task Force prosecution which resulted in the seizure of \$4 million in U.S. currency, \$2 million in real estate, and \$200,000 in jewelry and automobiles, in addition to 1,200 kilograms of cocaine and other drugs. Forfeited funds of \$92,000 will be used to repay the United States for the cost of prosecution. Sheehan and Groh were the kingpins in a drug distribution network that stretched from Colombia through Miami to California and involved the distribution of cocaine and methamphetamine. Their arrest and prosecution put a substantial dent in the availability of cocaine in California.

In Utah, all 21 defendants pled guilty to the cocaine conspiracy charges filed against them in a 170-count indictment. The sentences imposed range from 15 years to two years. The 15-year sentences against the principal defendants are the longest sentences ever imposed in federal court in Utah for the distribution of cocaine. Evidence leading to the arrests

and convictions of the defendants was gathered by the Organized Crime Drug Enforcement Task Force for the District of Utah.

The conviction of John Hernandez in federal district court in Colorado was the culmination of a two-year joint federal and local investigation. Hernandez and 44 other individuals were indicted for conspiracy to distribute cocaine and other Title 21 violations. A primary source of evidence was from a court ordered wire interception. There were no acquittals of cases that were jury tried; the majority of the defendants entered pleas of guilty. The conviction of Hernandez was the first conviction in Colorado under the continuing criminal enterprise statute. This case had a significant impact on the chain of distribution between Denver, Colorado, Phoenix, Arizona, and Los Angeles.

Richard Paul and eight other individuals were charged in a nine-count indictment with conspiracy to possess with intent to distribute cocaine and substantive narcotic offenses. Paul, a Milwaukee area businessman, headed a cocaine ring which trafficked in multikilo quantities of cocaine. He distributed cocaine throughout southeastern Wisconsin and provided cocaine to various groups of female minors. Convictions were obtained in the Eastern District of Wisconsin against all nine defendants. Numerous items of property were seized and forfeited including a house and various articles of jewelry.

In the Southern District of Texas, a concerned citizen, upon observing suspicious activity at a nearby ranch, contacted U.S. Customs Agents with information about the location and direction of travel of an 18-wheel truck. This truck was intercepted by U.S. Border Patrol Agents in Hebronville, Texas, who upon detecting the odor of marijuana, discovered 125 pounds of marijuana hidden in the trailer. A subsequent search of the trailer in McAllen, Texas, by Customs and the Drug Enforcement Administration revealed another false compartment containing approximately 700 pounds of cocaine. Three defendants were charged and convicted of a variety of narcotics trafficking charges, receiving a 50-year sentence, 15-year sentence, and a seven-year sentence.

A joint investigation by Customs, the Drug Enforcement Administration, the Oklahoma State Bureau of Narcotics, and the Oklahoma City Police culminated with the conviction in the Western District of Oklahoma of two ground crew members for air smuggling 725 pounds of cocaine with a street value of \$250 million. One defendant received a four-year sentence and a \$100,000 fine; the second defendant received a 20-year sentence.

A three-year joint investigation by state, local, and federal agencies centered on related conspiracies to distribute cocaine in the Lincoln, Nebraska, vicinity. The investigation resulted in 12 indictments charging 74 defendants with drug trafficking felonies. As of now, there have been 51 felony

convictions, 11 misdemeanors, five dismissals, and there are still five fugitives in the case.

Over the past several years, the Federal Bureau of Investigation has conducted a major undercover operation in the Eastern District of Tennessee resulting in numerous indictments. In one, the sheriff of Scott County, Tennessee, was arrested and pled guilty to narcotics conspiracy charges, along with a part-time deputy sheriff. The sheriff and his deputy allowed planes alleged to be carrying cocaine to land at different locations in Scott County and were paid by Federal Bureau of Investigation undercover Agents for protection and assistance. The sheriff was sentenced to 15 years imprisonment and fined \$10,000.

Twenty defendants have been charged with participation in a major cocaine transportation enterprise that operated from 1981 to 1983. The enterprise utilized light twin-engine airplanes to import loads of cocaine from Colombia, South America, to the Middle District of Georgia, where the cocaine was air-dropped to ground crews that transported the cocaine to south Florida for delivery to Colombians who paid the American participants a fee for this transportation service. Over 5,000 pounds of cocaine were successfully imported and delivered to the Colombians. Three Colombians were indicted but are fugitives at this time. Of the 17 Americans charged, two are fugitives and 15 have been convicted. The investigation was conducted as part of the Drug Task Force, and it resulted in the forfeiture of assets exceeding \$500,000 in value.

A Drug Enforcement Task Force comprised of state and local law enforcement officers investigated drug trafficking in the Charlottesville, Virginia, area. Subsequently, a federal grand jury in the Western District of Virginia returned an indictment charging individuals with conspiracy to possess with intent to distribute and distribution of cocaine and continuing criminal enterprise violations. Three scholarship athletes at the University of Virginia and members of the 1985 football team charged in informations have pled guilty to the conspiracy charge. An ex-Virginia football player, previously indicted on eight counts of violating federal narcotics laws, was sentenced to five years in prison. Also sentenced to five years was a University of Virginia law student.

In the Middle District of Pennsylvania, 13 individuals were indicted for smuggling over 7½ tons of cocaine into the Scranton, Pennsylvania, area and illegally smuggling \$25 million in drug money from Scranton to Colombia through an organization which used numerous aircraft, elaborate radio systems, and maintained smuggling facilities in Colombia and the United States. The pending seizures of property arising out of the case are estimated at over \$18 million.

The Eastern District of New York obtained a conviction in June 1986 against Colombian national Luis Ramirez-Leon for his role in the largest cocaine smuggling operation in the

history of John F. Kennedy Airport. In December 1985, the joint Drug Enforcement Administration/Customs Narcotics Task Force uncovered over 100 kilograms of high purity cocaine stashed in plastic refrigeration pipes, which had been shipped from Panama to a phony company in New York using the name "C & L Distributors." Ramirez was arrested after he accepted delivery of the shipment. Subsequent Drug Enforcement Administration investigation revealed seven other shipments of refrigeration pipes to the company via John F. Kennedy Airport and Port Elizabeth, New Jersey. After the seizure at John F. Kennedy Airport, over 700 kilograms of cocaine were discovered hidden in a false compartment in a shipment to Port Elizabeth. A subsequent controlled delivery of the container led to the arrest and indictment of three additional conspirators.

From 1980 through 1985, the "Pony Crew," an extremely dangerous and pervasive cocaine-heroin distribution ring in Detroit, Michigan, distributed drugs citywide using a network of juveniles, adults, and trusted family members. The Pony Crew's leadership enforced the continuing participation of distributors through a disciplinary arm known as a "wrecking crew" which guaranteed cooperation through death and violence to dissidents. In one instance, 50 conspirators, of whom approximately 20 were juveniles, cut and packaged heroin in the presence of a corpse who had been murdered because he was suspected of leaking information. In this case, the Drug Enforcement Administration and Detroit Police seized 10 pounds of heroin, a large quantity of cocaine, cash, cars, and jewelry worth in excess of \$250,000. Thirty-eight defendants were indicted originally and three were charged in companion cases. To date, 36 defendants have pled guilty. This matter was handled in the Eastern District of Michigan.

The prosecution of Michael Hovey in the District of Delaware involved the seizure of one of the largest amounts of synthetic heroin ever by the Drug Enforcement Administration as well as the arrest and conviction of the chemist who manufactured it. Hovey, a Ph.D. chemist employed by the DuPont Company, was arrested after a two-month investigation which began when he unwittingly contacted undercover Drug Enforcement Administration Agents in an attempt to set up a distribution system for 3-Methyl-Fentanyl which he was manufacturing. The investigation resulted in the seizure of four ounces of pure 3-Methyl-Fentanyl which is the equivalent of approximately 250 pounds of pure heroin. Hovey pled guilty to several charges and was sentenced to a total of 18 years' incarceration.

In April 1985, an explosion occurred at a farm in a rural, upstate county in the Northern District of New York. A task force of federal, state, and local investigators identified the farm as one of the largest cocaine processing factories ever discovered in North America at that time. Seven individuals

were convicted for their roles in its operation and received sentences ranging upward to 15 years' imprisonment.

In another major drug case, one of the largest drug laboratories ever discovered in the midwest was seized in the Western District of Kentucky along with the real estate and personal property used in connection with the laboratory. All 10 defendants entered pleas of guilty after the start of the trial. This matter was investigated by the Federal Bureau of Investigation and the Jefferson County Police Department.

In Reno, Nevada, the operator of a chemical distributorship which supplied precursor chemicals to manufacturers of methamphetamine, methaqualone, and PCP was charged with two counts of racketeering violations. This was the first case of its type in the country. The distributor had drug labs located in California and Nevada. The cooperative investigation between the U.S. Attorney's office, the Drug Enforcement Administration and state and local authorities in both states resulted in forfeiture of all stock and assets of the distributing company, totaling \$2.5 million. The defendant was sentenced to 35 years' imprisonment.

A federal jury sitting in Cheyenne, Wyoming, convicted Alfred Lee Apodaca, of a continuing criminal enterprise violation. Apodaca, and several associates, who had previously pled guilty to conspiracy charges, had manufactured and distributed large quantities of methamphetamine in Wyoming and in Oregon. The case was an Organized Crime Drug Enforcement Task Force case which involved the investigative efforts of several local law enforcement agencies. Apodaca, who had previously been convicted of possessing a destructive device in connection with the bombing of a police car, received a sentence of 45 years with no parole.

A federal grand jury in the Middle District of North Carolina returned a four-count indictment against two defendants and Far Eastern Merchants, a New York corporation, in connection with a conspiracy to import 1,220 pounds of hashish from Bombay, India, into the United States. These charges arose in connection with a scheme by the defendants to ship imported fabric with packages of hashish concealed within the bales of fabric. Following a five-day trial, the jury returned a verdict of guilty as to one defendant and Far Eastern Merchants on all four counts. The other defendant remains in India. Defendant Benarsi Mehra was sentenced to 14 years' imprisonment, fined \$500,000, and ordered to pay special assessments totaling \$150. The company was ordered to pay a fine in the amount of \$450,000 and pay special assessments totaling \$600. This case resulted from cooperative efforts by the Drug Enforcement Administration, North Carolina State Bureau of Investigation, Customs, and three local police departments. Properties seized by the government in ancillary civil forfeiture proceedings total approximately \$6,250,000.

In the Northern District of Florida, continuing criminal enterprise defendant Fernandez and 10 others were indicted in connection with a conspiracy to import in excess of 750,000 pounds of marijuana into the United States. The indictment followed a four-year joint state and federal investigation. Fernandez was sentenced to 25 years' imprisonment and is ineligible for parole. He also forfeited his interest in \$2 million of real estate. Codefendant Carlos Soto was sentenced to 25 years in prison and also forfeited real estate worth \$2 million. Others convicted included the chief deputy sheriff of Dixie County, Florida.

The sheriff, assistant sheriff, and the superintendent of schools of Fayette County, West Virginia, were convicted on charges involving theft of marijuana from the county evidence locker and its subsequent use and distribution. Members of the Fayette County Sheriff's Department Drug Unit worked undercover, in conjunction with the Federal Bureau of Investigation, against their own supervisors.

In December of 1985, a federal grand jury in the Western District of Pennsylvania indicted Steven Petrone and 11 other persons. This indictment culminated a 2½-year Organized Crime Narcotic Drug Task Force investigation conducted by numerous federal, state, and local law enforcement agencies. Petrone and two other defendants were charged with a continuing criminal enterprise violation for engaging in a continuing series of importations of marijuana from Colombia, South America, into the United States as well as the possession and distribution of marijuana and cocaine.

The Organized Crime Drug Enforcement Task Force completed an investigation of the Robert Watson marijuana trafficking organization, which resulted in a 17-count indictment in the Southern District of Iowa charging Watson with a continuing criminal enterprise violation, income tax evasion, conspiracy, and other narcotics offenses. The Watson organization employed load drivers, set up stash houses in Miami and Iowa, and maintained up to six large vehicles used to smuggle 600 to 900 pounds of marijuana a month into the central Iowa area over a 2½ year period. Watson received net profits of approximately \$30,000 per load. Both Watson and Allan Garbett, his supplier, are currently fugitives. The FBI, DEA, IRS, Iowa Division of Criminal Investigation, and Des Moines Police Department all cooperated in this case together with the Miami Police and the Florida State Highway Patrol.

The Drug Task Force for the District of South Carolina won the return of two Americans charged with continuing criminal enterprise engaging in the most significant extradition proceeding in Australian history. The High Court of Australia in a precedent setting decision recognized continuing criminal enterprise as an extraditable offense. As a result of the successful prosecution of the two Americans upon

their return to the district and their coconspirators, 47 persons have been convicted and over \$6 million in cash and property have been forfeited.

White-Collar Crime

Litton Systems, Inc., engaged in a scheme to defraud the Department of Defense of approximately \$6.32 million by submitting false costs and pricing data relating to various procurement activities of the Department of Defense. This was done by substantially inflating the cost for materials in contract pricing proposals and falsely certifying that the cost and pricing data were accurate, current, and complete. Litton pled guilty in the Eastern District of Pennsylvania to 300 counts of making false claims and one count of concealment of material facts from the Department of Defense. Over \$15 million in criminal and civil penalties were recovered from Litton.

In the Southern District of Ohio, the Space Dynamics Corporation and its president, Dr. Madan L. Ghai, pled guilty to four felony false claim offenses involving three Department of Defense contracts. Among the false claims was one for heater guns used on nuclear submarines for splicing wires and drying the ink on messages to be decoded. One of these heater guns burst into flames while the submarine was on patrol.

Four individuals and two corporations were convicted on mail and wire fraud charges relative to a deferred delivery coal contract boiler-room scheme which was headquartered in Memphis, Tennessee. The lead defendant received a 10-year prison sentence, and another defendant, a former state judge, received a four-year prison sentence. Investors from all over the United States were bilked out of more than \$7 million. Additionally, 10 other individuals and seven other corporations were indicted during 1986 on related charges of operating other boiler-room schemes in the deferred delivery coal contract area, in which the defendants obtained more than \$9 million.

In January 1986, Albert Gershman was sentenced to five years' imprisonment for mail fraud and false statements to a bank in connection with a multimillion dollar "Ponzi" scheme he operated in the greater Baltimore, Maryland, area. Gershman headed the pyramid scheme by convincing hundreds of victims to invest their money with him. He promised them huge returns and told the investors that the money was being sent to New York to buy merchandise at a discount for resale when, in fact, there was no such discount business in New York.

Two indicted cases, the first one developed by the Eastern District of Missouri's Health Care Task Force, involved a pediatrician and an anesthesiologist who defrauded Medicare and Medicaid of more than \$500,000 each. Most of the illegal activity involved the doctors charging for services not rendered.

In the Northern District of Illinois, a total of 37 defendants, mostly doctors and pharmacists, were convicted of defrauding the Illinois Medicaid Program of over \$20 million by distributing massive amounts of narcotics to drug addicts. Eleven defendants were convicted by a jury, the remainder pled guilty. The doctor and pharmacist defendants operated a series of public aid clinics and pharmacies which catered to drug addicts. These clinics attracted the drug addicts by giving them prescriptions for narcotic cough syrups and powerful sedatives, and then selling them the narcotics for cash. Before the addicts could receive the narcotics, however, the addicts were subjected to numerous unnecessary tests and were given up to 40 unnecessary prescriptions each—all of which were billed to Medicaid by the defendants. Sentences included substantial incarceration and a \$10 million forfeiture.

In May 1986, Alberto Duque and four codefendants were sentenced on their convictions in an \$108 million bank fraud in the Southern District of Florida. Duque received a 15-year sentence and \$285,000 fine as a result of his conviction on 60 felony counts. During the six-month trial, the government presented evidence that, during 1982 and 1983, the Duque companies obtained more than \$108 million by fraud from banks in New York, Florida, and Panama.

Miguel Serrano, senior vice president of Shearson American Express in Puerto Rico; Williams Stamps, operations manager; and Juan Luis Boscio, president of the board of directors of the Ponce Municipal Development Authority, were indicted for having devised a scheme to defraud the Home Federal Savings and Loan Association of Puerto Rico and having obtained \$1 million by means of false and fraudulent pretenses. After a jury trial, all three defendants were found guilty on all counts. Serrano was sentenced to a 12-year term of imprisonment and ordered to pay \$1 million in restitution to the Federal Deposit Insurance Corporation. The other defendants received probation terms. Previously, Serrano pled guilty to an indictment charging the misapplication of \$2.5 million of Home Federal's funds. He was sentenced to 12 years and ordered to pay restitution of \$2.5 million.

A Dubuque, Iowa, bank president who had embezzled over \$4 million pled guilty and was sentenced to 10 years' imprisonment and \$4.3 million in restitution. Fred Pape had used the money to pay gambling debts; his conviction has led to a joint state/federal gambling investigation resulting in several state and federal convictions in the Northern District of Iowa.

A complicated advance fee loan fraud was retried in South Dakota after reversal for the lack of a specific good faith instruction. By the time of the retrial, the ringleader of the conspiracy had been apprehended and extradited from Monaco. Convictions were obtained against all defendants. The scam involved a multidistrict mail and wire fraud operation which

induced farmers who had fallen upon hard times to advance money in return for large low interest loans from Arab sources. One of the convicted defendants, a lawyer, was subsequently convicted of perjury resulting from testimony given at the first fraud trial.

In a money laundering prosecution, the United States convicted New England's second largest bank, the Bank of New England, of 31 separate felony counts of violating the Bank Secrecy Act by willfully failing to file Currency Transaction Reports on 31 cash withdrawals made by a bookie. After the jury returned its verdict, the sentencing judge imposed a fine of \$1.24 million, the largest criminal fine imposed in a Bank Secrecy Act case at that time. This case was handled by the District of Massachusetts.

William and Elenora Mason were charged in the Southern District of Illinois with multiple counts of securities fraud, mail fraud, wire fraud, conspiracy, and sale of unregistered securities involving the bilking of over 300 investors from 20 states and foreign countries of over \$6.5 million arising from the operation of the now bankrupt Mason Oil Co. The case was a cooperative effort of the Postal Inspection Service, Federal Bureau of Investigation, Illinois Securities Department, and the Wisconsin Securities Commissioner's office.

The District of New Jersey continued a major prosecution of large-scale fraud involving government-insured mortgages issued to homeowners in southern New Jersey. Many real estate brokers, mortgage company officials, accountants, and title company employees have been successfully indicted, tried, and convicted. The essence of the schemes was to sell houses to unemployed and unqualified individuals by causing them to submit false mortgage applications. The total restitution to date exceeds \$500,000.

A two-year grand jury investigation in the Southern District of Mississippi into the Farmers Home Administration Section 515 low income rural housing program resulted in five defendants being convicted, and court orders for restitution of \$529,250. The scheme involved a major packager in the state for loans getting preferential applicant treatment for four developers, who covertly extorted substantial kickbacks from the construction contractors under the guise of "consulting contracts."

An investigation in Vermont concerned a pervasive mail fraud operation in connection with the distribution of fuel oil in the district. Four individuals and one corporation were convicted, including the father and son owner/operators of one of Vermont's oldest fuel oil distribution concerns. Each received a sentence of five years' imprisonment to be followed by five years' probation, with the special condition that they not be involved in any fuel oil businesses, and fines of \$150,000 and an order of restitution. The corporation was fined \$200,000.

On January 31, 1986, eight individuals and one corporation were charged with racketeering and mail fraud in a

37-count indictment involving a \$1 million, arson-for-profit ring and other insurance fraud schemes. The charges stemmed from one of the most pervasive arson and insurance fraud rings uncovered in the Western District of Missouri in a decade and involved fires set in four Missouri counties. The corporation and seven individual defendants had all entered pleas of guilty as of August 28, 1986. The defendants admitted to other insurance frauds as well, including fake car crashes and injuries to collect insurance money and to destroying their own cars so they could file false stolen car claims.

James Quincy, director of sales for Paradise Palms Vacation Club, a time-sharing company operating in Hawaii, was convicted of over 40 counts of racketeering, fraud, and interstate transportation of stolen property charges arising out of a time-sharing scheme which resulted in the loss of \$10 million from visitors to Hawaii. Quincy was also a principal in time-share operations in Colorado, Washington, California, and Texas which similarly left their purchasers with estimated total losses of over \$50 million. The case was prosecuted in the District of Hawaii.

Official Corruption

In a major political corruption case, the Bronx Democratic leader, the director of the New York City Parking Violations Bureau, a former New York City Commissioner of Transportation, and several accomplices were indicted in the Southern District of New York for a bribery scheme involving the award of city contracts related to New York City's collection of parking fines. The indictment alleged that the defendants operated the Parking Violations Bureau as a racketeering enterprise for their personal profit, through a series of schemes involving bribery of key New York City political figures. The defendants were convicted in November 1986. The case resulted from an investigation conducted by the U.S. Attorney's office in the Southern District of New York in coordination with the U.S. Attorney's office in the Northern District of Illinois, the Federal Bureau of Investigation, and the New York City Department of Investigation.

On September 3, 1986, the governor of the Territory of Guam, Ricardo J. Bordallo, was indicted in the District of Guam on 11 counts of eight federal charges, including extortion, bribery of a federally funded agency, and conspiracy to obstruct justice. The indictment alleged that the governor sold his influence to businessmen to finance his 1986 reelection campaign and subsequently attempted to hinder investigation by the Federal Bureau of Investigation and a federal grand jury by providing falsified documents. He was found guilty in Fiscal Year 1987.

Former Laurel County clerk C.A. Williams and his brother Emmit V. Williams entered guilty pleas in the Eastern District of Kentucky to charges of conspiracy to alter

odometer statements, giving such false statements to car buyers, and aiding and abetting. The case involved a multistate auto title laundering and odometer tampering scheme. Williams was the county clerk when the indictment was returned. Investigations by the Kentucky State Police, with the assistance of the Federal Bureau of Investigation revealed that as many as 1,400 car titles with false odometer readings passed through the Laurel County Clerk's office during a five-month period.

A series of 36 prosecutions in the Northern District of Mississippi involved corruption inside the Mississippi State Penitentiary. Inmates in the Penitentiary caused low denomination Postal Service money orders to be smuggled into prison, where they were altered to reflect a payable amount of up to \$700 each. The altered money orders were then sent to unsuspecting "pen pals," victims of the inmates; the inmates having cultivated a "pen pal" relationship with victims across the country, usually widows and elderly women. The victims were convinced to cash the money orders and forward the proceeds to friends and relatives of the inmates, or corrupt guards of the prison. The proceeds were smuggled into the prison, where they financed gambling, narcotics, bribery, and prostitution. The Postal Service lost in excess of \$2 million in altered money orders from the Mississippi State Penitentiary this past year alone. The U.S. Attorney's office successfully prosecuted 35 cases involving over 40 defendants. Approximately one-third of those convicted were guards.

Espionage

Jerry Whitworth, former U.S. Navy radioman and allegedly the central figure in the most damaging spy ring in U.S. military history, was convicted in the Northern District of California of spying in an espionage ring led by John Walker, Jr., that sold the Navy's most sensitive communications secrets to the Soviet Union. Whitworth also was convicted of tax evasion on the \$332,000 that he received over nearly 10 years for gathering, photographing, and selling to the spy ring the secrets of Navy decoding equipment, code keys, and communications systems. Whitworth, 47 years old, was sentenced to 365 years in prison and fined \$410,000.

An espionage case in the Eastern District of Virginia involved Larry Wu Tai Chin who was convicted on espionage-related counts, tax evasion, and failure to file certain Treasury documents. Before sentencing, Chin committed suicide. Chin had operated as an agent for the People's Republic of China Intelligence Service for approximately 30 years and was the longest known spy in American history.

Richard W. Miller became the first Federal Bureau of Investigation Agent to be accused of espionage when he was indicted in the Central District of California on seven counts of espionage, related offenses, and bribery. Miller conspired with Russian agent Svetiana Ogorodnikova, and her hus-

band Nikolay to pass classified Federal Bureau of Investigation documents to KGB officials at the Soviet Consulate in San Francisco, California. After two lengthy jury trials, Miller was convicted of six counts of espionage and related offenses, including the passage of a classified Federal Bureau of Investigation intelligence manual. Miller was sentenced to two terms of life imprisonment, a 50-year term of imprisonment, and a \$60,000 fine.

On June 4, 1986, Jonathan Jay Pollard pled guilty in the District of Columbia to conspiring to deliver information related to the national defense to a foreign government. His wife Anne Henderson Pollard pled guilty to conspiring to receive embezzled government property and to being an accessory after the fact to possession of national defense documents. Pollard was an intelligence research specialist for the U.S. Navy at the time he and his wife were arrested and charged with espionage.

Violent Crime

Ten members of the neo-Nazi gang known as "The Order" or "Bruders Schweigen" ("The Brother of Silence") that plotted to stage a right-wing revolution, who were among 23 originally indicted on racketeering charges in April 1985, were convicted in December 1985 in U.S. District Court, Western District of Washington. This prosecution was undertaken by a multidistrict task force of Assistant U.S. Attorneys from the Western District of Washington, Northern District of California, Eastern District of Washington, District of Oregon, and the District of Idaho. The 10 including Bruce Carroll Pierce, were convicted of conspiracy for murdering a fellow white supremacist Walter West and Denver radio talk show host Alan Berg; committing three armed car holdups and two bank robberies, including a \$3.6 million holdup of a Brinks armored car; counterfeiting; and weapons violations. The trial included three months of testimony by 370 witnesses and resulted in sentences ranging from 40 to 100 years' imprisonment for all 10 defendants. The other 13 defendants pled guilty. In addition, the parties stipulated to the forfeiture to the United States of large amounts of property, including approximately \$500,000 in cash; real estate in Idaho, Montana, and Missouri; numerous vehicles; a small airplane; hundreds of weapons including machine guns, hand grenades, and military explosives; the entire inventory of a survival equipment store used as a front; and numerous other items.

In the Western District of Wisconsin, inmates involved in the brutal stabbing murder of a correctional officer were prosecuted. The focus of the case was on the existence and structure of a prison white supremacy organization known as the Aryan Brotherhood. The government's theory, which was supported by testimony by numerous cooperating inmates, was that the defendants had murdered the correctional officer in order to meet the "entrance requirements"

of the Aryan Brotherhood. One defendant was convicted at trial after his guilty plea was vacated on appeal; a second defendant pled guilty and the third defendant was acquitted.

The gang-type beating and killing of a former Indian policeman on an Indian reservation was successfully prosecuted in the District of North Dakota. One defendant was convicted of first-degree murder, nine of second-degree murder, and one of assault resulting in serious bodily injury after a six-week trial. The defendants attempted to cover their crime by making it appear that the victim, Edward Peltier, had been struck by an automobile. The investigation was a cooperative effort that included law enforcement agents from the North Dakota State Highway Patrol, Ramsey County Sheriff's Office, agents of the Bureau of Indian Affairs, as well as the Federal Bureau of Investigation.

A bank in the Eastern District of Texas was robbed by five men armed with automatic weapons and wearing bulletproof vests, who utilized a helicopter stolen the previous day as a getaway vehicle. They eventually fled in the helicopter to Colorado where they boarded a stolen Cessna 210 for the flight back to Texas. All but one defendant pled guilty and received 25-year sentences. The one defendant was tried, convicted, and sentenced to a total of 75 years in prison.

Michael Joseph Onley was indicted in the District of Montana and charged with four counts of carnal knowledge and five counts of assault resulting in serious bodily injury. He was a foster parent in a group home for parentless girls. Over a period of years, he raped and sodomized approximately 30 girls ranging in age from two to 12. Onley was sentenced to 60 years' imprisonment.

Environmental Enforcement

In the Middle District of Florida, defendant Arthur J. Greer was charged with knowingly placing employees in imminent danger of death or serious bodily injury in his handling of hazardous wastes, and with false statements and mail fraud in the transportation, reclamation, and disposal of chemical wastes. This was the first major case in which the government brought criminal charges under the knowing endangerment section of the Resource Conservation and Recovery Act. Following a six-week jury trial, the defendant was convicted of mail fraud, false statements, and illegal dumping.

The owner of a parcel of property in Watertown, Connecticut, as well as a demolition company and its owner, were prosecuted in the District of Connecticut for tearing down a building without taking appropriate precautions to protect against dangerous emissions of asbestos. The two individuals charged in the indictment pled guilty and were sentenced to periods of incarceration and fined. This case was the first criminal prosecution of individuals in New England for violations of standards promulgated pursuant to the Clean Air Act.

Child Pornography

A sentence of 20 years in prison was obtained by the District of Maine in the prosecution of a Maine resident who was convicted of six counts of mailing photographs depicting minors engaged in sexually explicit conduct. The photographs which were the subject of the prosecution had been taken by the defendant and involved three separate females, ages 1½ to 13 years.

In the Northern District of Georgia, Dr. Charles Markham Berry, a prominent Atlanta psychiatrist and very active in church-related youth activities, pled guilty to three counts of using the mails to send and receive child pornography. A search of Dr. Berry's home and office disclosed elaborate camera and darkroom facilities and uncovered literally thousands of amateur photographs made by Dr. Berry of young boys, some of them patients, in various stages of undress. As a result of the federal investigation, local child molestation charges were also filed against Dr. Berry. He was sentenced to 20 years on the federal child pornography charges, and 20 years concurrent on the state charges.

On August 27, 1986, Terry Hinote, a youth minister at a local church, was indicted in the Southern District of Alabama for producing, shipping, and receiving child pornography. Hinote had taken pictures of a 14-year-old boy which he sent for development to a lab operated undercover by the Postal Service. This case resulted from the cooperative efforts of the Postal Service, Alabama Attorney General's office, and local law enforcement both in Alabama and Ohio.

On October 25, 1985, John Tolczeki, Jr., was sentenced to a period of five years' probation which included counseling, 360 hours of community service, and a fine of \$2,500. This case involved the first time in which the constitutionality of the Child Pornography Act of 1984 had been ruled upon by a federal district court. The Act was found to be constitutional. In addition to this case, the Northern District of Ohio has prosecuted 27 other child pornography cases since the Act was passed. These indictments have resulted in nine guilty pleas, two trials, and one dismissal due to death, with 16 cases awaiting trial.

In the Western District of New York, James Burns, James Gantzer, and Joseph Czerhak were separately indicted for violations of the Child Pornography Act. Burns and Czerhak pled guilty and Gantzer was convicted after trial. Large quantities of child pornographic materials were seized from each defendant pursuant to search warrants. The indictments were the result of undercover work by the Postal Service in cooperation with New York State Police and local sheriff and city police departments.

Other Crimes

Eight of the 11 defendants were convicted following trial in a "sanctuary movement" case in the District of Arizona.

Months of pretrial proceedings resulted in the court's granting the government's motion in limine that precluded several anticipated defenses regarding religion, necessity, duress, and international law.

A grand jury in the District of Oregon returned a five-count conspiracy indictment charging 21 defendants with illegal interception of communications. The indictment named followers and former followers of Bhagwan Shree Rajneesh, a religious leader of a commune named Rajneeshpuram. In 1981, the Rajneesh purchased a 65,000-acre ranch in Oregon and built a headquarters for supporters and disciples from around the world. Defendant Ma Anand Sheela was Rajneesh's personal secretary and a leader and director of most governmental and business operations at Rajneeshpuram. Ten of the 21 defendants have been convicted. The remaining 11 defendants have fled the country and are fugitives. Additionally, on March 20, 1986, the grand jury returned a one-count indictment charging Ma Anand Sheela and a licensed nurse practitioner, Dianne Onang, with conspiracy to tamper with consumer products. Investigators developed evidence that followers of the Rajneesh had secretly purchased and cultured salmonella bacteria through the commune medical clinic. The salmonella cultures were then placed in salad bars and food at restaurants in the Dalles, Oregon, area. Over 750 people became ill and 45 were hospitalized. Following complex extradition proceedings with the Federal Republic of Germany, both defendants entered pleas of guilty and were sentenced to 4½ year terms of imprisonment.

A joint investigation in the Southern District of Indiana into the fire of an Indianapolis tavern resulted in the conviction of five persons. An arson task force consisting of members from Bureau of Alcohol, Tobacco, and Firearms, the Indianapolis Police Department, and the Indianapolis Fire Department gathered evidence that led to convictions for arson, conspiracy, perjury, and obstruction of justice. The agents focused on not only the fire itself, but also the subsequent cover-up. Four of the five defendants received executed sentences.

In the Northern District of Indiana, Glen Shoffner, Richard Fiedler, and Leonard Michael Stange were convicted of conspiracy, mail fraud, and the interstate transportation of stolen vehicles. The indictment concerned a group of family members and friends who stole late model automobiles and trucks from Oklahoma, Michigan, Illinois, and Indiana. Stolen vehicles were taken to Shoffner's place of residence, where they were "chopped" and falsely re-identified for sale and profit. Shoffner received a 14-year term of incarceration and a \$20,000 fine. Fiedler was imprisoned for five years, and Stange received an aggregate 30-year term of incarceration for his conviction in the "chop shop" conspiracy and for tampering with a government witness during the course of trial.

Seven individuals were convicted in the Eastern District of Arkansas of mail fraud involving schemes in which the defendants would obtain inflated insurance policies on registered quarter horses and cause the death of the horses to collect the insurance proceeds. Approximately 20 to 25 registered quarter horses were killed by various methods during a 24-month period, resulting in the collection of approximately \$500,000 in insurance proceeds. Other claims also were submitted totaling approximately \$450,000. Among the defendants were two horse trainers and a veterinarian.

In the Middle District of Louisiana, Dr. Dan Laughlin, one of the nation's most knowledgeable exotic feline veterinarians, and Raymond Nicholas Long were convicted of interstate transportation of five, stolen, newborn white tiger cubs from the Ringling Brothers-Barnum & Bailey Circus. Laughlin was sentenced to two years' incarceration and Long was sentenced to one year. The newborn cubs were valued at \$55,000 to \$60,000 each. Two cats died in captivity while the remaining three were returned to the rightful owner.

A civil plaintiff filed a motion in the Eastern District of North Carolina to have the "White Patriot Party" and two of its leaders, Glenn Miller and Stephen Miller, show cause why they should not be held in contempt for allegedly violating a 1985 consent order prohibiting the conducting of a paramilitary organization in violation of North Carolina state statutes. The district judge ordered a jury trial and further ordered the U.S. Attorney to conduct the prosecution of the case. Glenn Miller and the White Patriot Party were convicted of two counts of criminal contempt; Stephen Miller was convicted of one count. The White Patriot Party, a white supremacist group, was fined \$2,000. Glenn Miller was sentenced to six months' imprisonment and three years' probation; Stephen Miller was given three years' probation.

Affirmative Civil

Theolene Dora Moon, current debtor in bankruptcy, and other members of her family pled guilty to certain criminal tax violations in the Northern District of Alabama. As a result of these convictions, the Internal Revenue Service filed a jeopardy tax assessment against the debtor, which showed a total liability of approximately \$500,000. The debtor filed chapter 11 bankruptcy one day later, and the Internal Revenue Service filed a claim showing a tax liability of approximately \$1.1 million. Through litigation, the debtor has paid to the United States the sum of \$1,003,667.26 in delinquent taxes, plus interest, and a criminal fine of \$60,000, without a plan of reorganization having been filed with or approved by the bankruptcy court. This type of aggressive debt collection litigation by personnel of the debt collection unit has enabled the U.S. Attorney in the Northern District of Alabama to collect more than \$16 million in less than four years.

In a bankruptcy proceeding in the Northern District of Texas, after multiple hearings and extensive negotiations, the court authorized sales of refined sugar on which the Commodity Credit Corporation had a lien interest because of its price support loan to Great Western Sugar. In 1986, the Commodity Credit Corporation received a payment of \$29,451,935.66 for the sale of its sugar in Nebraska and Montana and a payment of \$450,000 for its loan sugar in Ohio.

In the Western District of Arkansas, a suit brought under the Food, Drug and Cosmetic Act to enjoin the defendants from violating the Act by introducing into interstate commerce animal feed which was adulterated with aflatoxins and seed treated with pesticides. The defendants sold feed to livestock growers and dairy farmers in Arkansas, Eastern Oklahoma, and Southern Missouri. Samples of milk from cows fed the animal feed determined that the milk was contaminated with excessive levels of aflatoxin and heptachlor. The defendants entered into a consent decree which enjoined defendants from all sales or distribution of all animal feed which was contaminated. The defendants subsequently closed their facility and the case is currently under investigation for criminal violations.

In the Western District of Louisiana, judgement was rendered for the United States on a unique counterclaim filed in defense of a flood insurance claim. The court found violations by the insured of the False Claims Act and violations of the concealment and fraud provisions of the flood insurance contract which not only barred recovery by the insured but sustained a \$2,000 forfeiture to the United States. The impact of this decision has not only encouraged favorable settlements to the United States in pending cases but has virtually eliminated filings of additional false flood claims in this District.

The Western District of Texas in a forfeiture action obtained a Colombian religious artifact, the Host of Santa Clara, estimated to be worth \$3 million. This artifact is a two-foot tall, solid gold and jeweled monstrance made in the mid-1700's by a Spanish king's jeweler. It was smuggled out of Colombia and imported into the United States with false documentation. Colombia will receive the monstrance, part of its historical heritage, pursuant to an agreement reached during litigation.

Defensive Civil

In the Middle District of Tennessee, the Department of Transportation, the Federal Highway Administration, and the state of Tennessee settled the civil action brought by the state to enjoin the Federal Highway Administration from taking administrative action to recover by set-off the federal share of damages recovered by Tennessee in suits against construction companies that had rigged bids on federally-aided highway projects. Following prosecution of approximately 70 companies for antitrust violations, Tennessee

sued the companies for bid rigging state and federal highway contracts, recovering \$9.4 million. The State Attorney General, U.S. Attorney, and Federal Highway Administration negotiated a settlement, providing that \$2 million is to be allowed for costs and other items from the \$9,477,350.50 collected by the state. The balance was divided equally. The settlement preserves and restates the federal position of entitlement to the federal share of recoveries made by the state on federally-aided highway project overcharges.

The Southern District of Georgia continued to be involved in the Thiokol litigation, a massive federal Tort Claims Act case which has been pending for a number of years. There were 20 active cases involving 56 claims consisting of both personal injuries and wrongful death claims. The complaints sought recovery in excess of \$700 million. The cases were before the court solely on the question of damages as the government did not prevail on the liability question nor on its argument that it was immune from suit based on the doctrine of "statutory employer" as recognized under Georgia law. The district was involved in over 50 separate trials during a 15-month period. In efforts to date, the rulings have been successfully challenged and the awards substantially reduced.

In May 1986, in a \$3 million tort suit, the U.S. District Court for the District of Alaska granted summary judgment for the United States under the discretionary function exception to the Federal Tort Claims Act. Plaintiffs, tour companies, and insurers, sued the United States for claims that they had paid for the passengers injured or killed when plaintiffs' tour bus left the road and rolled over in Mt. McKinley National Park. The Court held the primitive condition of the park road, on which the plaintiffs' case depended, resulted from an exercise of discretion by the Park Service to preserve wilderness character.

A Federal Tort Claims Act case in the Western District of North Carolina concerned the alleged negligence of the Blue Ridge Parkway in construction, maintenance, and guardrail use upon the parkway with resulting loss of life for two college-age brothers and severe personal injury to the father. Plaintiffs sought an award of \$3.75 million. The district court dismissed entire action on the basis that all acts fell within the discretionary function exception to Federal Tort Claims Act.

The United States was sued in the Western District of Michigan by a class consisting of present and former owners of land within Sleeping Bear Dunes National Lakeshore who contended that the defendant improperly withheld funds from the sale price on a condemnation award to pay the *ad valorem* property taxes. After trial, the court concluded that the United States had properly interpreted and applied Section 303 of the Uniform Relocation and Real Property Acquisition Policies Act of 1970 in retaining funds to pay accruing taxes which has not then been billed. Plaintiffs were,

therefore, not entitled to the refund of the amount of the final year's taxes on every parcel in the 71,000-acre park.

Had the case been lost, the government's exposure in back taxes would have been \$2.5 million.

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 under chapters 7, 11, and 13 of Title I of the Bankruptcy Reform Act of 1978, 11 U.S. Code 101, *et seq.*, as amended in 1984. In creating the 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 federal courts are entitled." On October 27, 1986, the President signed the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (P.L. 99-554), which provides, in part, for the expansion of the program nationwide on a permanent basis.

The program now consists of 164 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, legal counsel, and administrative support services to the U.S. Trustee offices.

Significant Activities in Fiscal Year 1986

The active caseload confronting the program remained at high levels during Fiscal Year 1986. There were approximately 117,086 new bankruptcy cases filed in the pilot districts. The volume of new chapter 11 cases—the most important cases in terms of size, complexity, impact on jobs, taxes, and the economy—reached approximately 7,058.

Despite its limited resources, the program has made significant progress in improving the quality of bankruptcy case administration. For example, the Chamber of Commerce of the United States cited other independent studies conducted by Sears, Roebuck and Company and Montgomery Ward & Company which found that the actual dollar recoveries in bankruptcy cases were substantially higher in the pilot districts. *See Hearings on H.R. 2660 and H.R. 3664 Before the Subcommittee on Monopolies and Commercial Law of the House Committee on the Judiciary, 99th Cong., 2d Sess. (1986).*

Prevention and Control of Economic Crime

The U.S. Trustees work to prevent fraud, overreaching, and abuse in the bankruptcy arena. To meet this goal, they work closely with federal, state, and local law enforcement authorities and refer matters to them for action. In Fiscal Year 1986, the program began efforts to increase prosecution

of bankruptcy crimes by developing a standardized bankruptcy criminal referral system. The goal is to increase prosecution of bankruptcy crimes through a cooperative effort with local U.S. Attorneys' offices and the Federal Bureau of Investigation.

Monitoring Tax Payments

The program has been especially effective in preventing debtors in possession from accruing large post-petition taxes such as withholding tax liabilities—funds the Internal Revenue Service may never recover if reorganization efforts are not successful. Each U.S. Trustee office requires the debtor to report on the status of its post-petition taxes and receives documentary evidence from the debtor that taxes have been paid. Where there are delinquencies, the U.S. Trustees act quickly to remedy the situation. In one district, the actions of the U.S. Trustee have saved more than \$1,500,000.

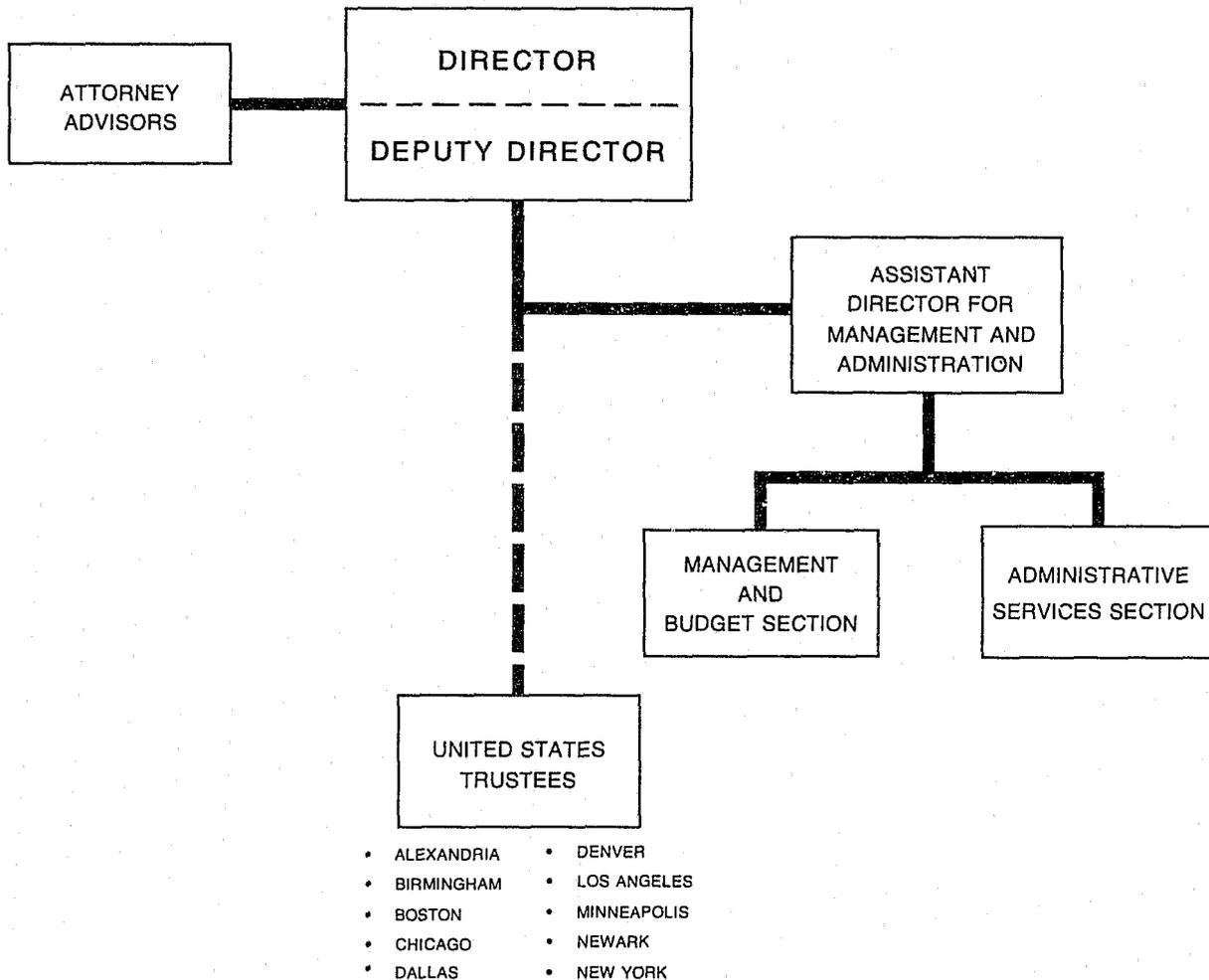
Monitoring of Fees and Applications for Professionals

The offices review applications for the retention of professionals to ensure that the individuals are qualified and that their services are necessary. Applications for the payment of their fees are carefully reviewed and inappropriate or excessive fee requests are challenged. This monitoring has resulted in an annual saving of over \$4 million to debtors' estates and thus to creditors. For example, in one case, the U.S. Trustee's objection to the payment of a bonus for what were essentially duplicative legal services resulted in a saving of close to \$100,000.

Monitoring Chapter 11 Business Reorganizations

In addition to handling the legal aspects of chapter 11 cases, 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. Every effort is made to appoint committees of creditors that will actively participate in the case. Where there is no such committee, the U.S. Trustee's office will fill that gap. The offices review debtors' financial reports and conduct status meetings to check on case progress. Where the debtor is not in compliance with U.S. Trustee requirements, or where the review shows that there is little likelihood of successful reorganization, the U.S. Trustee moves quickly to convert or dismiss the case.

EXECUTIVE OFFICE FOR UNITED STATES TRUSTEES



Disclosure statements are reviewed, statements regarding their adequacy are submitted to the court, and the development of successful reorganization plans is fostered.

Independent studies of the program have found that the pilot districts consistently have had almost twice as many confirmed plans as the non-pilot districts and significantly fewer cases with no action. Successful reorganizations translate into thousands of jobs saved and economic health restored.

Supervising the Administration of Chapter 7 Cases

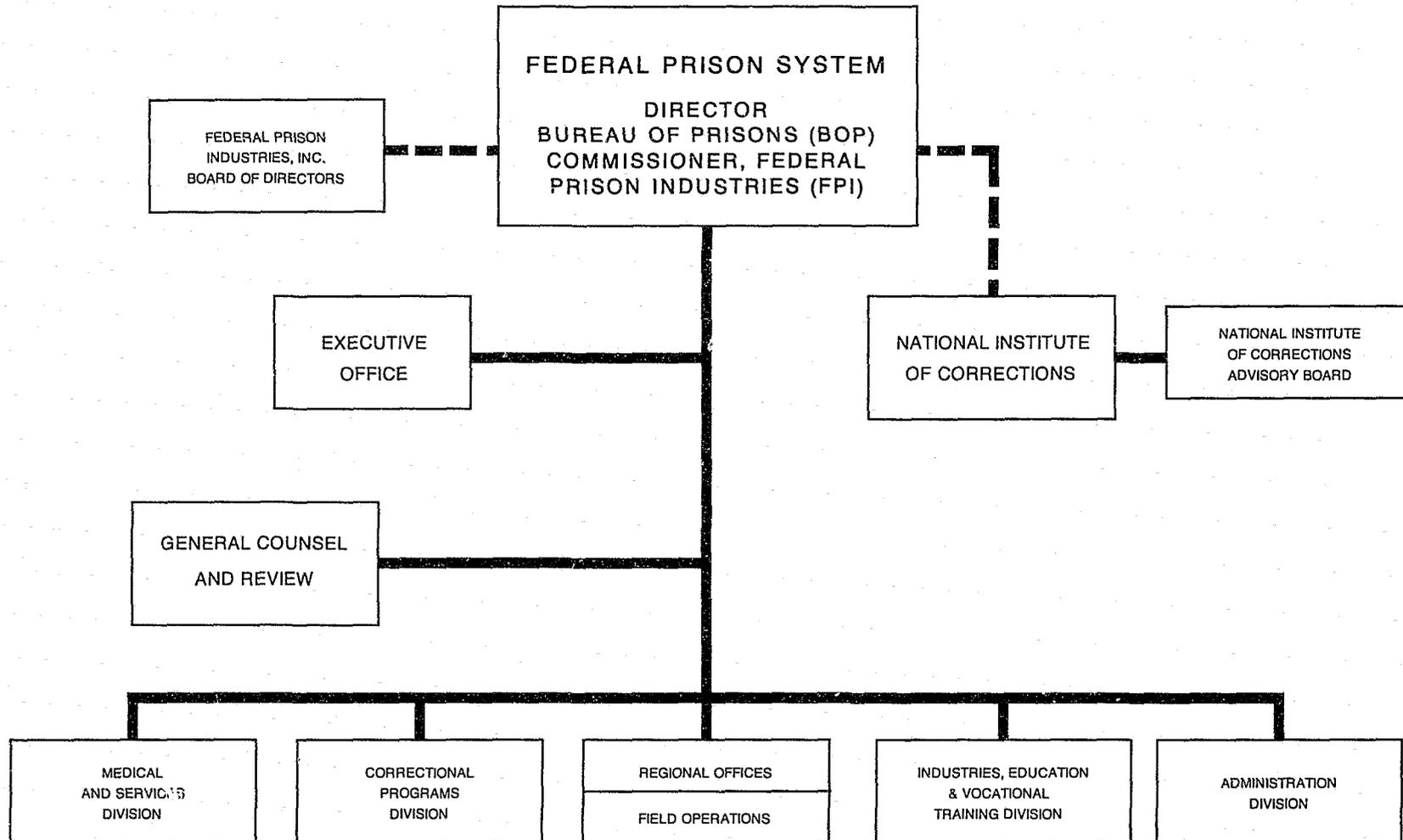
The U.S. Trustee offices appoint, supervise, and train panels of qualified individuals to administer liquidation cases. During Fiscal Year 1986, the program continued to operate under a directives system which was developed in conjunction with the Justice Management Division's Audit Staff. The system requires the submission by panel trustees

of periodic financial reports in the cases they are administering and allows the offices an enhanced capability for tracking the income and disbursement of all chapter 7 estates.

Supervising the Administration of Chapter 13 Cases

The U.S. Trustees appoint and supervise standing trustees who administer chapter 13 cases involving plans of individuals with regular income. In Fiscal Year 1986, the program operated under a directives system which was designed to assist in the process of setting annual percentage fees and standing trustee compensation. Excess percentage fees charged are returned annually to the U.S. Treasury. By the end of Fiscal Year 1986, over \$1,654,400 in excess fees were collected from the pilot program standing trustees. In 1985, the latest year for which figures are available, \$102 million in chapter 13 funds were disbursed to creditors in the pilot districts.

BUREAU OF PRISONS



Bureau of Prisons

Norman A. Carlson
Director

The Bureau of Prisons has 47 institutions, ranging from minimum to maximum security, and over 12,000 employees. Over 41,000 inmates are currently confined in federal institutions. All sentenced offenders who are medically able are required to complete regular daily work assignments. In addition, all offenders have opportunities to participate in education, vocational training, work, religion, recreation, and counseling programs. The following are Fiscal Year 1986 highlights in the Bureau of Prisons:

- The population of the Federal Prison System reached a record high on September 30, attaining a level of 41,506.
- Inmate employment in Federal Prison Industries, Inc. reached an all-time high of 12,955 on September 30, 1986.
- The Bureau acquired sites in Marianna, Florida; Bradford, Pennsylvania; and Sheridan, Oregon, for the construction of medium security Federal Correctional Institutions. The earliest opening date for these facilities is 1988.
- A Federal Detention Center in Oakdale, Louisiana, opened in March to house detainees for the Immigration and Naturalization Service. The facility is operated jointly by the Bureau of Prisons and the Immigration and Naturalization Service.

Inmate Population

The inmate population of the Bureau of Prisons was 41,506 at the end of Fiscal Year 1986. This number is 49 percent above the combined rated capacities of the 47 institutions and is 5,464 above the population at the end of Fiscal Year 1985.

There was a 22 percent increase in the number of unsentenced inmates in the Federal Prison System in Fiscal Year 1986 and the sentenced inmate population increased by 14 percent over the 1985 population.

Federal court sentencing of offenders to longer terms of confinement for serious crimes and the effort to combat organized crime and drug trafficking continued to contribute to the inmate population increase in Fiscal Year 1986. The percentage of inmates serving sentences for drug law violations increased from 26 percent in 1981 to 37 percent at the end of Fiscal Year 1986.

Bureau Construction and Renovation

In response to the increasing inmate population, the Bureau of Prisons continues to expand its capacity through

the construction of additional housing units and the renovation or construction of new facilities. New housing units were opened during Fiscal Year 1986 at the Federal Correctional Institutions in Butner, North Carolina; Tallahassee, Florida; La Tuna, Texas; and Lexington, Kentucky. These units added 521 beds to the capacity of the Bureau of Prisons. In addition, a 24-bed special housing unit for mental health inmates opened at the Federal Correctional Institution, Butner, and 78 beds were added to the Federal Prison Camp in Marion, Illinois.

Renovations were completed at the Federal Prison Camp, Duluth, Minnesota, bringing its capacity to 711. Additionally, the Bureau activated a 1,000-bed Federal Detention Center in Oakdale, Louisiana, to house aliens held for administrative review by the Immigration and Naturalization Service.

New institutions currently under construction are medium security Federal Correctional Institutions in Marianna, Florida (750 beds); Fairton, New Jersey (550 beds); and Bradford, Pennsylvania (700 beds); and a Metropolitan Detention Center in Los Angeles, California (500 beds). An 800-bed Federal Correctional Institution in Sheridan, Oregon, will be under construction by mid-1987. The earliest opening date for any of these facilities will be 1988.

Housing units are now under design or construction at nine institutions. These units are located at the Federal Correctional Institutions in Milan, Michigan; Seagoville, Texas; Texarkana, Texas; El Reno, Oklahoma; and Oxford, Wisconsin; the Federal Prison Camps at Maxwell Air Force Base, Montgomery, Alabama, and Eglin Air Force Base, Florida; the Metropolitan Correctional Center, Miami, Florida; and the Federal Detention Center, Oakdale.

Major housing unit renovations are under way at the U.S. Penitentiaries in Atlanta, Georgia, and Leavenworth, Kansas.

Community Programs

Prison space is a scarce and costly resource, to be used in situations where the interests of society must be protected. Because of the continued record high prison population in 1986, the use of alternatives to incarceration for nonviolent offenders was expanded.

At the end of Fiscal Year 1986, there were nearly 5,000 offenders confined in Bureau of Prisons contract facilities. Approximately 80 percent of eligible offenders released to the community were released through 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.

The Centers are also used for offenders serving short sentences, for unsentenced offenders participating in the Pre-Trial Service Program, and for offenders under community supervision who need guidance and supportive services beyond what can be provided through regular post-release supervision. At the end of the year, there were 3,100 federal inmates housed in over 330 contract Centers operated by state, local, and private agencies.

The Community Correctional Center project was implemented in Washington, D.C., in 1983. The project uses imprisonment alternatives such as community service, work, and victim restitution 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 not a risk to the community and who may be in custody up to one year.

A second Community Correctional Center was opened in Detroit, Michigan, in September 1985. During the first half of 1986, 109 offenders were placed in the Center and almost \$57,000 toward the cost of incarceration was collected from offenders. This is approximately 18 percent of the total cost of incarceration.

All persons adjudicated under the Juvenile Justice and Delinquency Prevention Act are placed under contract in local and state facilities as well as in such facilities as boys' ranches, group or foster homes. Most adult inmates sentenced to serve less than six months are confined in local jails. There were 1,700 such inmates at the end of Fiscal Year 1986.

Approximately 100 federal inmates were housed in state prisons at the end of the fiscal year. These inmates are housed in state facilities primarily for protection purposes, as most have cooperated with the federal government in providing court testimony.

Federal Prison Industries, Inc.

Federal Prison Industries, Inc., with the corporate trade name UNICOR, is a wholly-owned government corporation which sells its products and services to other federal agencies. UNICOR's mission is to support the Bureau of Prisons through the gainful employment of inmates in diversified work programs.

At the end of Fiscal Year 1986, 41.5 percent of all eligible inmates and 30 percent of all inmates confined in the Federal Prison System were employed by UNICOR. The 75 industrial operations located in 40 institutions constructively employ inmates and assist in preparing for employment opportunities upon release. Inmate employment in UNICOR rose from 9,995 at the end of Fiscal Year 1985 to 12,955 at the end of Fiscal Year 1986.

Gross sales this fiscal year were \$248 million. Inmate industrial wages increased from \$16.9 million in 1985 to \$18.5 million in 1986. The Corporation funded \$7.0 million in vocational training programs, including apprenticeship training and experimental vocational programs. Occupational training is also offered through UNICOR and includes on-the-job training, vocational education, and apprenticeship programs. There are 225 formal training programs in various trades offered in federal institutions. Apprenticeship programs, registered with the U.S. Department of Labor's Bureau of Apprenticeship and Training, exist at 34 institutions.

The sales of UNICOR products and services also fund payments to inmates who work in nonindustrial assignments involving institutional maintenance and operations. These payments totaled \$6 million in Fiscal Year 1986.

An active program of industries plant modernization and expansion began in 1983 and will continue through Fiscal Year 1988. The program includes 66 projects at 41 institutions. UNICOR will invest more than \$67 million in this program, which will provide for the potential employment of over 3,600 additional inmates in prison industries and will ensure modern production capacity far into the future.

An innovative quality enhancement program continued this year in UNICOR, with the goal of professionalizing and enhancing quality production systemwide. UNICOR staff trained at the Quality College in Winter Park, Florida, have conducted training at eight field installations and the Central Office and are preparing to provide assistance to states through the National Institute of Corrections.

Education and Training

The Bureau of Prisons provides academic and occupational training programs to prepare inmates for employment upon release. Although enrollment is voluntary, program options are extensive, ranging from adult basic education through college courses. Occupational training programs include accredited vocational training, apprenticeship programs and pre-industrial training.

A mandatory literacy program was implemented for inmates in 1983. This policy required all federal inmates who functioned below a sixth grade education level to enroll in the adult basic education program for a minimum of 90 days. In 1986, this standard was raised to an eighth grade literacy level, the nationally accepted functional literacy level. All promotions in Federal Prison Industries and in institution work assignments are contingent upon achieving an eighth grade literacy level.

The adult basic education program has been successful. Enrollments exceeded 11,000 in Fiscal Year 1986 and there were over 5,000 completions. Certificates for completion of the General Education Development program were awarded to approximately 3,000 inmates. The transition to the eighth

grade literacy level has been smooth and is anticipated to substantially increase the number of enrollments in the adult basic education program.

The Bureau's occupational training program includes on-the-job training, pre-industrial training, vocational education, and approved apprenticeship programs. Forty pre-industrial programs in 31 institutions prepare inmates for employment in Federal Prison Industries.

UNICOR allocated \$2.5 million in Fiscal Year 1986 for experimental vocational training efforts in emerging job opportunity fields. Projects were funded to provide job training in such fields as computer sciences, business, diesel mechanics, water treatment, petroleum technology, graphic arts, and food service. Over 8,000 students completed occupational training courses in 1986.

To operate these programs in 47 institutions, the Congress and Federal Prison Industries funded approximately \$24 million for Fiscal Year 1986. The education program is staffed by 500 employees.

National Institute of Corrections

The National Institute of Corrections was established by Congress in 1974 to assist state and local corrections agencies. The Institute is governed by a 16-member Advisory Board and is administered by a director who is appointed by the Attorney General.

Nearly \$11 million was awarded in 145 grants and contracts to state and local corrections agencies, organizations, and individuals during Fiscal Year 1986. The awards were

for training, technical assistance projects, research and evaluation, policy and program formulation, and clearinghouse activities.

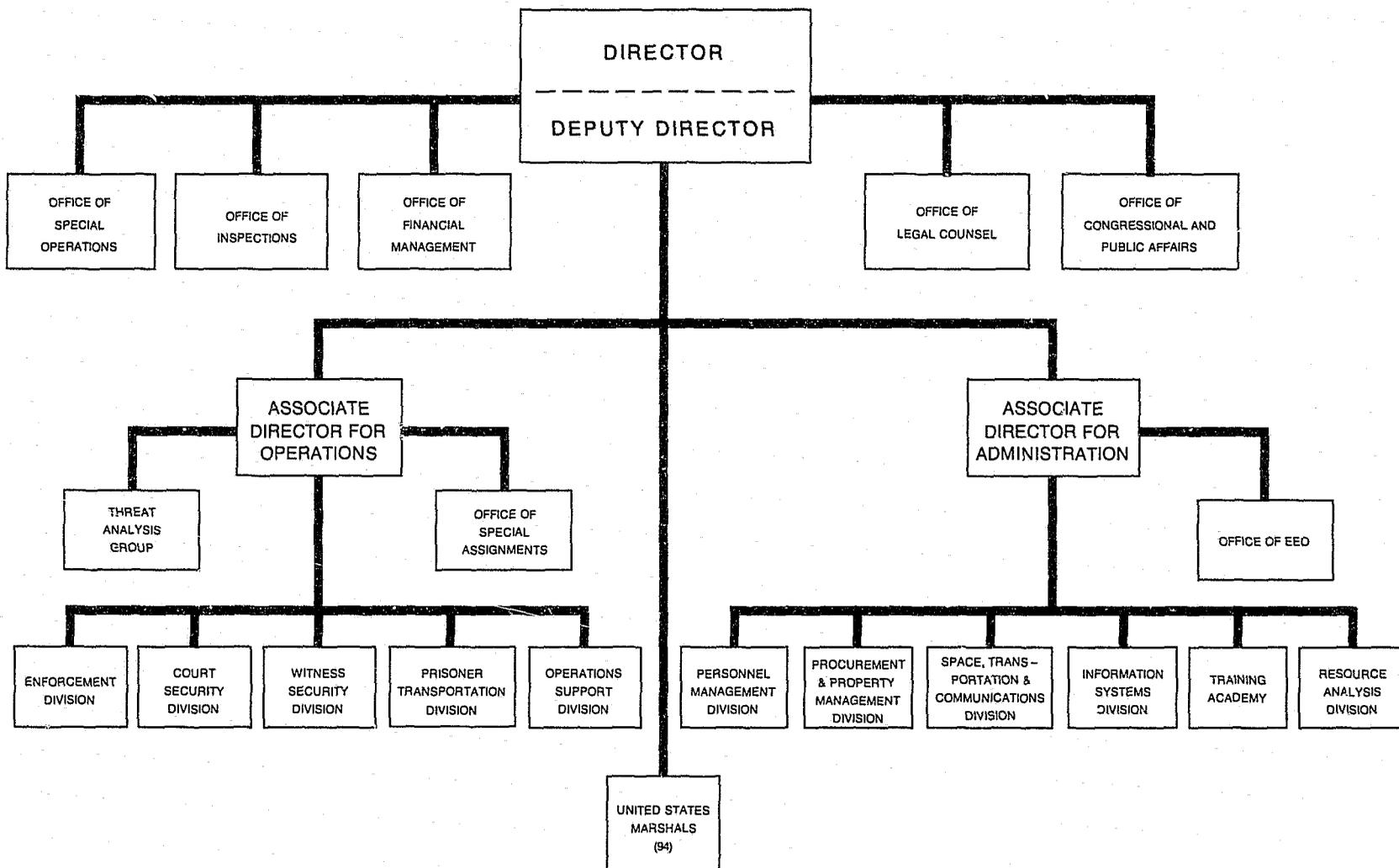
The Institute responded to 702 requests for technical assistance from state and local agencies in 50 states and the District of Columbia. These efforts led to improved record-keeping and information management, and advancements in many other areas of correctional management and programming.

Institutional overcrowding continued to prevail as the most critical problem in the field of corrections in Fiscal Year 1986. The Institute addressed crowding by assisting state and local corrections agencies in planning and designing new institutions, strengthening community corrections programs, and providing technical assistance to jurisdictions facing severe crowding.

The Institute's Information Center provided information in response to nearly 8,300 inquiries from federal, state, and local practitioners during the year and continued to serve 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 3,000 managers, administrators, and staff trainers during the year. The Academy also sponsored the participation of 144 state and local personnel at Federal Bureau of Prisons' training programs. Off-site, agency-based training was provided for 665 staff trainers who subsequently provided the same training for nearly 22,500 correctional staff in their respective agencies. Training needs were also met through grants and technical assistance to state and local agencies.

UNITED STATES MARSHALS SERVICE



United States Marshals Service

Stanley E. Morris
Director

The U.S. Marshals Service carries out a variety of vital criminal justice missions for the executive and judicial branches of government. Virtually every federal law enforcement initiative involves the Marshals Service and its primary responsibilities which include:

- Protecting federal judges and court officials;
- Apprehending criminal fugitives;
- Protecting and relocating federal witnesses;
- Executing court orders;
- Transporting, and providing security for prisoners awaiting federal court action;
- Taking custody, maintaining and disposing of seized and forfeited property and assets; and
- Performing special law enforcement functions requested by the Attorney General or in support of other federal agencies.

From its beginning nearly 200 years ago, the Marshals Service has grown from the original 13 Marshals appointed by President George Washington to 94 Marshals today supported by an organization of over 2,700 operational and administrative personnel. The Director of the U.S. Marshals Service reports to the Attorney General and works closely with all federal, state and local law enforcement agencies.

U.S. Marshals and Deputies are on duty in all federal judicial districts throughout the United States, Puerto Rico, the Virgin Islands, Guam and the Northern Mariana Islands. Each district office is managed by a U.S. Marshal and a Chief Deputy U.S. Marshal.

Court Security

A principal mission of the U.S. Marshals Service is to ensure the integrity of the federal judicial process by providing personal protection to federal judges and court officials. Court security personnel provide technical assistance to the federal judiciary in all phases of high-risk judicial proceedings, threats, judicial conferences, and courtroom and courthouse security.

In 1985, there were 240 verified threats made against members of the federal judiciary, an increase of 56 percent over 1984. In 1986, there were 207 threats recorded. Also during 1986, there were 132 sensitive trials (same level as Fiscal Year 1985) which required technical assistance; and there were 30 petit juries which resulted in sequestration orders because of threats or disruption to judicial proceedings.

Security and technical assistance also was provided during the year for 72 personal protection details. These protective details ranged from under 72 hours to over two years and typically resulted from threats on judicial officials and their family members. There also were 25 protective assignments providing security for members of the Supreme Court, a 79 percent increase over 1985. Security also was provided for 39 Judicial Conferences in 1986.

For the protection of the federal judiciary, the Service also managed a national contract for the acquisition, installation, and maintenance of judicial security systems. This was the first contract in the Department's history to be awarded under the auspices of the Office of Management and Budget Circular A-109, Major Systems Acquisition. With the strong support and assistance of the Administrative Office of the U.S. Courts, the Service maintained a contract force of 888 Court Security Officers to provide judicial security protection at 241 court facilities nationwide. These Court Security Officers provide protective services for the federal judiciary at the entrances of court facilities and ancillary space used by the judges and other officers of the court.

Enforcement

During 1986, Marshals Service investigators arrested or located 10,080 felons on warrants for escape, bond default, parole and probation violations, and for other related criminal activities. Among those arrested were seven criminals from the Service's list of "15 Most Wanted" fugitives. In addition, the Service assisted other law enforcement agencies in apprehending nearly 4,000 other federal felons.

In a single operation along the Southwestern border and in Mexico, the Marshals Service conducted a 10-week Fugitive Investigative Strike Team (FIST) operation netting 3,506 felony arrests. This operation, in conjunction with state and local law enforcement, cost the American taxpayer only \$495 per felony arrest.

On an international level, the Service acts on leads to fugitives overseas. For example, Marshals Service investigators working closely with Colombian officials caused the arrest of Victor Mera and Severo Escobar in Colombia. These fugitives were responsible for the importation of tons of narcotics into the United States prior to their capture. Marshals Service investigators located Larry Levy for arrest

in Hong Kong. Levy was responsible for the largest cocaine distribution organization in Colorado history.

The Service conducted 136 international extraditions during 1986, bringing these fugitives back to the United States to face charges.

The Marshals Service is a charter member of the Organized Crime Drug Enforcement Task Force and during 1986 had full-time investigators assigned to all 13 Task Force locations.

Witness Protection

The Witness Security staff of the U.S. Marshals Service is responsible for the protection of key federal and state witnesses whose lives are threatened by virtue of their willingness to provide government agencies with information essential to the prosecution of major criminals. Physical relocation, change of identity, employment assistance, and a variety of other services were provided to assist Program participants in establishing a "new life" in a safe environment. Over 215 new principal witnesses entered the Witness Security Program in 1986. During the same period, the Service provided protection and funding to more than 1,800 principal witnesses and their families.

Witness Security personnel continued to provide personal protection throughout 1986 for high-level government and international officials. These security assignments included the protection of several prominent individuals before hearings of various congressional committees, the continuing support of the Department of State during meetings of the United Nations General Assembly, as well as a principal security involvement in two international spy exchanges.

Construction begun in late 1985 continued on the Witness Security Safesite and Orientation Center. Located in the greater Washington metropolitan area, with a scheduled completion of April 1987, this facility will serve as the central intake processing center for all Witness Security Program participants. The combination of state-of-the-art security equipment with appropriate living accommodations will make this safesite the most innovative security facility for law enforcement in the world. This facility will complement the Witness Security safesites already in operation in the Los Angeles, New York City, Miami, Houston, and Atlanta areas.

Prisoner Transportation

The U.S. Marshals Service is responsible for the custody and transportation of all federal prisoners from the time of apprehension until they are incarcerated to serve their sentences. The movement of prisoners from one district to another is accomplished by the Service's National Prisoner Transportation System. Last year, the National Prisoner Transportation System transported 74,824 prisoners, a 12.1 percent increase over 1985. In addition, 15,398 in-district prisoner movements were completed.

Expanded operation of the Service-owned Boeing 727 jet (acquired at no government cost) provided a doubling of the transportation service available to the federal criminal justice system while reducing Bureau of Prisons direct operating costs and institutional space required for hold-over prisoners.

During 1986, the Service transported 150 nonfederal extradition cases for state and local governments on the National Prisoner Transportation System airlifts. The state and local jurisdictions utilizing the Service's transportation system have experienced a 75 percent reduction in prisoner transportation costs.

National Asset Seizure and Forfeiture

Under the Marshals Service's National Asset Seizure and Forfeiture Program, \$385 million in cash and property was in the custody of the Service at the end of Fiscal Year 1986, thus demonstrating the effectiveness of this powerful legal tool in dealing with major criminal conspiracies.

Fiscal Year 1986 was the first full year of operation for the Department of Justice Asset Forfeiture Fund (the Fund). Gross income to the Fund during the year was \$98,711,430. Payment of liens and mortgages, cases of remission and mitigation, equitable sharing, and allowed expenses for the year totaled \$42,831,539.

Full operation of the Fund enabled the Department, through the Equitable Sharing Program, to share a portion of cash and sale proceeds with state and local agencies that participated in case investigations resulting in forfeiture. In 1986, a total of \$17,127,972 was disbursed to state and local agencies under this Program, which is a strong testimony to the high degree of federal, state, and local cooperation in drug enforcement cases.

Many valuable operating businesses were successfully managed by the Marshals Service during 1986, such as The Plant Recording Studio in California; the Accurate Brass and Aluminum Foundry in Wisconsin; and Pardon My Garden (a florist/nursery) in Massachusetts. In addition, several forfeiture sales were conducted, such as the Brass Key Apartments in Atlanta, Georgia, for \$2.4 million, netting over \$1 million; forfeiture of over \$7 million in Certificates of Deposit in Houston, Texas; a consolidated auction of jewelry and other valuables in Chicago, Illinois, which earned \$600,000; and the Shelburne Glebe, an historic estate in Loudon County, Virginia, which was sold for \$4.1 million, approximately \$2 million more than the appraised value.

Prisoner Operations

During 1986, the Service continued to experience dramatic growth in the number of prisoners in its custody as a result of the Administration's war on crime and the implementation of the Comprehensive Crime Control Act. For example, the districts reported a 12 percent increase in the average daily

number of prisoners in custody (800 more) in June 1986 versus June 1985. To meet the rapidly increasing jail space requirements of the Service, the Bureau of Prisons, and the Immigration and Naturalization Service, the Marshals Service awarded 132 and administered a total of 825 Intergovernmental Detention Service Agreements with state and local units of government.

The Service also awarded funds for 18 new Cooperative Agreement Program projects totaling over \$9.7 million to state and local authorities. These funds are provided for local jail construction and renovation in exchange for guaranteed bedspace for prisoners in Marshals Service custody. The 1986 Agreements resulted in 594 additional guaranteed spaces for federal prisoners. Since 1982, the Service has provided a total of \$47.4 million for 65 Cooperative Agreement Program agreements and 2,863 guaranteed bedspaces at an average cost of only \$16,600 per bed. During 1986, the Service provided \$1.5 million of excess federal property to 90 detention facilities located in 32 judicial districts to improve the level of prisoner support services.

Threat Analysis

Three years of experience has enabled the Threat Analysis Group to provide indepth threat assessments in support of high-security trials, dangerous prisoner movements, and other situations where security was threatened, and to support tactical and strategic planning. In 1986, the Threat Analysis Group performed 51 formal threat assessments on a wide variety of matters, including drug cartels (12) and terrorism (four). Three of those involving drug cartels were performed in support of Organized Crime Drug Enforcement Task Force operations.

The expertise developed by Threat Analysis Group investigators continued to prove valuable in providing onsite assistance to Marshals Service field operations. For example, during the Liberty Weekend celebrations in New York City, the Group provided intelligence support to the Marshals Service security detail that protected Chief Justice Warren Burger. Also, as Organized Crime Drug Enforcement Task Force agents conducted concurrent drug raids in several locations in Puerto Rico, Threat Analysis Group intelligence operations assisted Service personnel in safely seizing the properties of the traffickers. This joint operation included more than 200 federal law enforcement officers. Although almost 30 persons were arrested and more than \$3 million of property was seized, there were no injuries or serious operational incidents.

Threat Analysis Group personnel have been exceptionally active in training of both Service personnel and federal, state, and local law enforcement agencies. Seminars were presented on dangerous motorcycle gangs, terrorism, and paramilitary and other extremist groups by Group personnel.

In addition to producing threat assessment reports, the Group produced more than 25 Threat Intelligence Briefs in support of field operations. Most notable among these were briefs on the Glock-17 plastic pistol and the "Ballistic Knife," which were distributed widely to law enforcement personnel at the federal, state, and local levels.

Special Operations

The Special Operations Group is a highly trained and disciplined law enforcement unit consisting of Deputy U.S. Marshals who volunteer for this extra duty. The Special Operations Group has the capability to respond to emergency situations anywhere in the continental United States within a few hours and to provide law enforcement and security assistance to other federal and state agencies.

During 1986, the Special Operations Group was activated to support the following missions: Operation Flagship (fugitive roundup) in Washington, D.C.; the FIST 9 fugitive operation along the U.S.-Mexican border; twice for Puerto Rico details involving the Macheteros terrorist organization; a peace-keeping operation at the Kwajalein Missile Range in the Marshall Islands, on three occasions; and the "Operation Pedestal" drug ring roundup in Puerto Rico. At Camp Beauregard, the Service's operational training centers in Pineville, Louisiana, the Special Operations Group conducted specialized training programs for the Mexican Federal Judicial Police, Louisiana State Police Tactical Team, Virgin Islands Police Department, U.S. Forest Service, and many others.

Employee Development and Training

Another major Service objective for 1986 was to improve and increase its overall operations in connection with employee development and training. During 1986, the Marshals Service instituted a more systematic and sophisticated approach to the promotion and development of operational personnel with the establishment of an assessment center for evaluating applicants for supervisory and management positions. The assessment center also identifies needed skills within the Service so that appropriate training opportunities can be provided. Meanwhile, the Service developed a computer system which captures biographical, organizational, and assessment data on supervisory and management selectees in order to help determine personnel trends and develop career paths for employees.

Recruitment activities for Deputy U.S. Marshal positions included panel interviews for 936 applicants and the subsequent hiring of 400 new Deputies during 1986. Further, more than 12,000 men and women applied to take the new deputy examination and, of those completing the test in March 1986, 5,600 passed the test. Because of new authority delegated to the Service by the Office of Personnel Management, certain of those certified from that most recent test may be eligible for hire at the GS-7 grade level.

Participation in the agency's Fitness-In-Total Program increased in 1986 to over 60 percent of operational personnel.

A Cooperative Education Program was fully implemented in 12 major metropolitan areas during 1986 as a continuing effort to attract qualified minority employees. Contract agreements have been signed employing 25 students under the Program. In addition, a Servicewide policy relating to pregnant law enforcement personnel was developed and promulgated during the year and is in operation in all districts.

The training programs of the Marshals Service are centered at its Training Academy at the Federal Law Enforcement Training Center, Glynco, Georgia. It provides the basic deputy training to all new recruits, advanced courses for experienced deputies, and specialized training for state, local, and foreign law enforcement officers.

The U.S. Marshals Service Academy trained a record 1,790 students during 1986, including the largest number of recruits in any single year—394, and 470 students from state and local criminal justice agencies. The latter group included 48 participants in the Academy's newly developed Fugitive Investigators Course, the only training program of its kind in the country.

Administrative and Technological Support

Administrative and technological support by the Service to its many units and personnel continued to grow during 1986. The Marshals Service began the expansion of its District Automation Project, including the Prisoner Population Management System, the District Accounting System, and the Warrant Information Network beyond the prototype sites implemented in 1985. By the end of 1986 eight districts were operational on the Prisoner Population Management System, 11 districts were operational on the District Accounting System, and 20 districts were operational on the Warrant Information Network. A benefit-cost study of the District Automation Project was initiated and completed during the year.

The Service also implemented the Employee Skills Data Base and canvassed all operational employees for skills data; questionnaires on over 1,200 employees have been entered

into the system. This system automates data on employees' language skills, weapons qualifications, and special skills to allow for rapid identification of employees qualified for special assignments.

A Data Project Work Group, consisting of district and Headquarters managers and program analysts was established to review the collection, analysis, and use of information as well as to begin the development of the Director's Data Base. The Data Base will contain information useful to all levels of management in the Service and will provide information to other criminal justice agencies such as the Bureau of Justice Statistics.

Implementation of the long-range radio communications plan continued in 1986. Purchases of fixed and hand-held equipment make the total system 70 percent complete. A lease/purchase arrangement with Motorola was completed which allowed the Service to complete its nationwide procurement of mobile radios.

To help meet its vehicle requirements during 1986 the Service utilized seized and surplus vehicles both for normal usage and as a source of surveillance vehicles. Although basically successful and cost-effective, maintenance and start-up costs were relatively higher than expected due to the long periods these vehicles were in storage before being placed in official use. A particularly successful part of this program was the renovation of seized and surplus buses for prisoner transportation at the Bureau of Prisons facility at Terre Haute, Indiana, at minimal cost to the government.

Of the major construction and renovation projects in various districts, 19 were completed in 1986 and 135 are still either in planning and design or under construction. Fifty designs were completed for district offices and 165 minor renovation projects were funded. Approximately \$925,000 was committed to improve cell block facilities and upgrade field office security.

In conclusion, the Service ended 1986 convinced that it had met its responsibilities to the executive and judicial branches of our government, and anticipates successfully meeting the challenges of 1987.

Justice Assistance Act Agencies

On October 12, 1984, President Reagan signed into law the Justice Assistance Act of 1984 as part of the Comprehensive Crime Control Act of 1984. The Justice Assistance Act restructured the criminal justice research and statistics units of the Department of Justice and established a new program of financial and technical assistance to state and local governments.

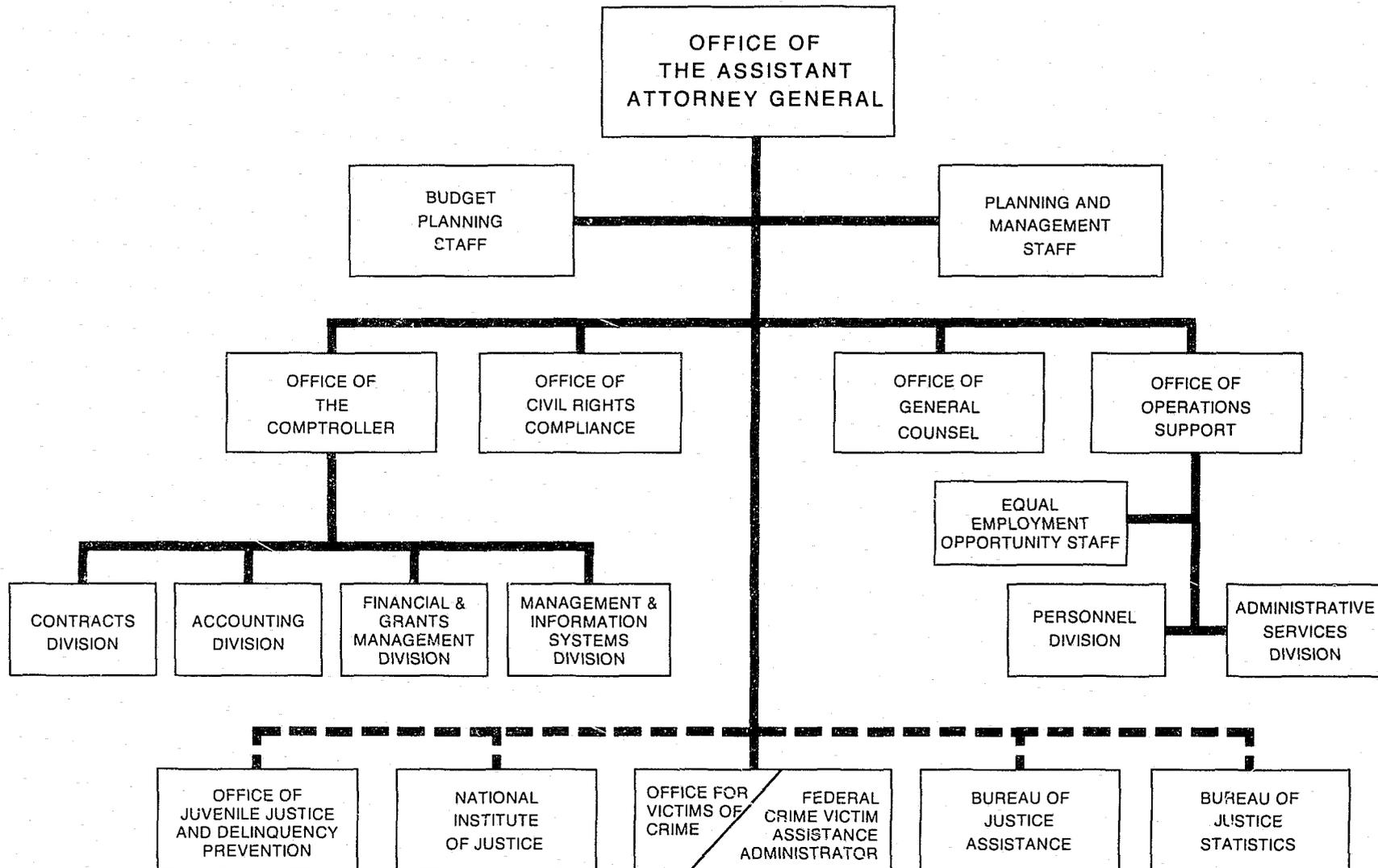
The Act established an Office of Justice Programs, headed by an Assistant Attorney General, *inter alia*, to coordinate the activities of the National Institute of Justice (NIJ), the Bureau of Justice Statistics (BJS), the Office of Juvenile Justice and Delinquency Prevention (OJJDP), and a newly created Bureau of Justice Assistance.

The Fiscal Year 1986 appropriation for the five agencies was \$195.1 million. The allocation was as follows:

- \$64,694,000 for OJJDP.
- \$18,566,000 for NIJ.
- \$15,982,000 for BJS.
- \$48,520,000 for state and local assistance.
- \$10,910,000 for the Public Safety Officers' Benefits Program.
- \$3,828,000 for the Missing Children's Program.
- \$1,148,000 for the Emergency Assistance Program.
- \$9,474,000 for the Regional Information Sharing Systems program. (This program was funded in the Department of Justice General Administration appropriation account from 1980 through 1985.)
- \$4,785,000 for the Mariel Cubans program.

The appropriation also provided management and administration funds for the Justice Assistance program units.

JUSTICE ASSISTANCE ACT AGENCIES OFFICE OF JUSTICE PROGRAMS



NOTE DOTTED LINES INDICATE GENERAL AUTHORITY, POLICY COORDINATION, AND ADMINISTRATIVE SUPPORT THAT THE ASSISTANT ATTORNEY GENERAL PROVIDES TO THESE OFFICES

Office of Justice Programs

Lois Haight Herrington Assistant Attorney General

During the year, the Assistant Attorney General continued working to improve the treatment of victims of crime and family violence, to promote crime prevention programs, and to manage federal assistance programs. Major activities included implementation of the Victims of Crime Act of 1984 and the recommendations of the President's Task Force on Victims of Crime and the Attorney General's Task Force on Family Violence. The Office of Justice Programs (OJP) also provided support and assistance for the President's Child Safety Partnership.

Office for Victims of Crime

The Office for Victims of Crime develops and directs programs to facilitate state implementation of the recommendations of the President's Task Force on Victims of Crime and the Attorney General's Task Force on Family Violence.

The Office also is responsible for administering the Crime Victims Fund established under the Victims of Crime Act of 1984. In Fiscal Year 1986, more than \$23 million from the Fund was awarded to the 38 states having active victim compensation programs and \$41 million in grants to all the states and territories was awarded to enhance public and private nonprofit programs that provide direct assistance to crime victims.

One of the Office's first priorities was to develop and implement training packages for law enforcement officials and prosecutors to inform them about the needs of victims. Grants were awarded to the National District Attorneys' Association, the National College of District Attorneys, the National Sheriffs' Association, the National Association of State Directors of Law Enforcement Training, and the National Organization of Black Law Enforcement Executives.

Another priority was the development of model state legislation. Eight of the 12 legislative enactments proposed by the President's Task Force to help crime victims are addressed by the model legislation developed through grants to the American Bar Association and the National Association of Attorneys General. Models were developed, for example, to protect the addresses of victims and witnesses, prevent victim counseling from being subject to defense discovery or subpoena, to modify bail laws to protect the public, and to make available the arrest and conviction records of employees whose work would bring them into regular contact with children.

Grants also were awarded to the National Judicial College to provide training for judges on victims issues and to the Na-

tional Center for State Courts to fund training for state court administrators on victims issues. Another grant, to the National Organization for Victim Assistance (NOVA), enables NOVA to continue its support of state networks for victims service providers.

The Office's National Victims Resource Center collects and responds to requests for information on programs throughout the United States that provide direct services to victims, on victim/witness programs in each state that receive funds under the Victims of Crime Act, and on victim/witness efforts at the federal level.

The Office for Victims of Crime also administers the Federal Crime Victims Assistance Program authorized by the Victims of Crime Act. Major efforts under way include establishing victim assistance training programs for federal law enforcement officials, providing training and technical assistance to U.S. Attorney victim/witness coordinators, and establishing procedures for monitoring compliance with the Attorney General's Guidelines for Victim and Witness Assistance.

During the year, the Office's Family Violence Section entered into a cooperative agreement with the Task Force on Families in Crisis to establish community task forces in five locations to develop community plans for preventing family violence; establish a directory of private victims services; and develop increased public awareness and prevention efforts.

To coordinate the medical and legal response to family violence, the Office signed an interagency agreement with the U.S. Public Health Service. The Law/Health Initiative will: 1) cosponsor meetings of medical professionals to assure a criminal justice perspective on the treatment of family violence; 2) assure medical/mental health input at criminal justice meetings on family violence; 3) facilitate the placement of articles on criminal justice issues regarding family violence in medical journals and newsletters; 4) facilitate the placement of articles on the medical perspective on family violence in criminal justice newsletters and journals; and, 5) develop a medical/mental health component in appropriate Department of Justice grants related to family violence.

The Office also is providing assistance to the President's Child Safety Partnership. The Partnership held hearings around the country to study ways the public and the private sector can become more involved in initiatives to safeguard children and respond to the victimization of children, including child sexual abuse and neglect.

Other Offices

Also within OJP is:

- The Office of General Counsel, which provides legal advice to the component bureaus and offices within OJP;
- The Office of Civil Rights Compliance, which monitors compliance with the civil rights responsibilities of the recipients of financial assistance from the OJP component agencies;
- The Office of Congressional and Public Affairs, which promotes effective communications with the Congress, the news media, and the general public, and which advises the OJP component agencies in intergovernmental affairs;
- The Office of the Comptroller, which provides policy guidance, control, and support services for the OJP component agencies in accounting, grants management, procurement, claims collection, and automated data processing, and which provides financial management technical assistance to grantees;
- The Office of Operations Support, which directs and coordinates activities relating to administrative support, personnel management, and equal employment opportunity programs for the OJP component agencies;
- The Planning and Management Staff, which provides assistance to OJP in its planning, coordination, and management activities; and
- The Budget Planning Staff, which plans, develops, and coordinates all phases of budget formulation, execution, and control, including the preparation of the multiyear plan, annual budget submissions, and justification of OJP budget requests.

Bureau of Justice Assistance

Mack M. Vines
Director

The Bureau of Justice Assistance (BJA) administers the state and local Justice Assistance program to improve criminal justice system operations. BJA sets priorities for and awards discretionary grants, makes block awards to the states and territories, and administers the Public Safety Officers' Benefits Program. The Emergency Federal Law Enforcement Assistance, Regional Information Sharing System, Mariel-Cuban Reimbursement, Surplus Federal Property, and Prison Industry Certification programs are administered by BJA under authority delegated by the Assistant Attorney General for Justice Programs.

Demonstration Program

BJA tests and implements new program strategies for improving the criminal justice system by funding demonstration programs that, based on previous research or experience, are likely to be successful in more than one jurisdiction. The following programs were supported during Fiscal Year 1986:

Family Violence Intervention. The goal of this program is to reduce domestic violence in adult relationships by instituting a comprehensive, effective criminal justice intervention program, with an emphasis on arrest and prosecution, in domestic violence cases.

Drug Abuse/Narcotics Trafficking. Three programs are testing new strategies for addressing the problems of drug abuse and trafficking. The Police/School Drug Use Prevention Program, modeled after the successful DARE program in Los Angeles, will demonstrate effective police/school efforts to prevent school children's experimentation and use of illegal drugs. The Organized Crime/Narcotics Trafficking Enforcement Program will assist state and local law enforcement agencies through joint operations with federal personnel to break up major criminal organizations involved in narcotics trafficking. In addition, the Detection and Monitoring of Drug-Using Arrestees Program is testing the effectiveness of urinalysis to detect drug use in arrestees.

Child Abuse Prosecution. This program is testing improved methods of prosecuting child sexual and physical abuse cases in order to protect the child from further abuse, reduce trauma caused by the criminal justice process, streamline the investigative process, and improve cooperation and coordination among criminal justice, mental health, and child protective service agencies in seven jurisdictions.

Law Enforcement Crime Prevention. The importance of crime prevention as a major police activity equal in professional stature to patrol and investigation is being

demonstrated in three cities. The objective of these programs is to integrate crime prevention activities into routine daily operations throughout the departments by a combination of command initiatives and restructuring incentives for line officers, manpower reallocations, and special training.

Intensive Probation Supervision. Five jurisdictions are implementing Intensive Supervision Programs that emphasize highly-structured, noncustodial supervision as an alternative to or in conjunction with incarceration, while providing penalties that are both punitive and rehabilitative.

Training and Technical Assistance Program

Successful Implementation of Block Grant and Demonstration Programs. BJA provides training and technical assistance to block grant recipients to assist with program development, implementation strategies, and transfer of information on new programs and techniques.

Asset Seizure and Forfeiture. This program will provide training and technical assistance to law enforcement officials and prosecutors on methods of using asset seizure and forfeiture as an effective means of depriving drug traffickers of economic support and incentives.

Arson-for-Profit Training. More than 150 prosecutors nationwide are participating in training in the use of a creative new strategy for prosecuting complex arson-for-profit cases that was developed by the National Institute of Justice and the Department of the Treasury's Bureau of Alcohol, Tobacco, and Firearms.

Targeting Law Enforcement Resources. Law enforcement executives and managers are receiving training and technical assistance on various methods for targeting law enforcement resources on repeat offenders.

National/Multi-State Program

Law Enforcement Accreditation. More than 500 law enforcement agencies have applied for accreditation. Of these, 217 have progressed into the important self-assessment phase, or beyond, and 29 agencies have been accredited by the Commission on Accreditation for Law Enforcement Agencies. The accreditation process requires an agency to comply with most of the 944 standards developed by the Commission.

National Crime Prevention Campaign. Over \$55 million worth of free advertising per year is generated by the National Crime Prevention Council, the secretariat for the National Crime Prevention Coalition. During the year, the McGruff puppet program was introduced in approximately 30,000 classrooms.

Crime Stoppers International. Since 1980, crime stoppers programs have assisted in solving approximately 119,500 crimes and recovering \$693 million worth of stolen property and narcotics through leads provided by citizens. The evidence obtained through anonymous citizens' tips resulted in the conviction of 97 percent of individuals tried for crimes showcased by crime stoppers. The international program provides support to the 600 ongoing crime stoppers programs and assists in the development of new ones.

Alternatives to Deadly Force. Training and technical assistance on model policies for the use of deadly force is being developed to upgrade a police administrator's ability to identify issues inherent in the use of deadly force and to formulate policies and procedures that correspond to departmental needs.

Drug Control Strategy Development. The goals of this program are to define the nature and structure of the nation's drug problem; identify and describe effective drug abuse prevention and control strategies and develop new strategies; and, encourage the implementation of effective strategies.

Victim Assistance. BJA, in cooperation with the Office for Victims of Crime, is implementing a number of victim assistance programs to increase the awareness of victims' needs in the criminal justice process and to improve the treatment of victims by the system.

Justice Assistance Block Grant Program

Approximately \$56 million in Justice Assistance block grant funds were awarded to the 50 states, the District of Columbia, the Virgin Islands, and Puerto Rico in Fiscal Year 1986. The states used these funds to make awards to state and local units of government for programs in 18 areas defined by the Justice Assistance Act of 1984 as offering a high probability of improving the criminal justice system, with a special emphasis on violent crime and serious offenders.

Because this is a new program, results of project activities are not yet available. During 1986, states concentrated on implementing programs planned and developed during 1985. The allocation of funds falls into the following seven major program types:

Crime Prevention	16 percent
Victim/Witness Assistance	10 percent
Investigation/Apprehension	18 percent
Prosecution/Adjudication	15 percent
Corrections and Treatment	23 percent
Information Systems	11 percent
Training/Technical Assistance	7 percent

Public Safety Officers' Benefits Program

In Fiscal Year 1986, \$9 million was paid to the survivors of 180 public safety officers by the Public Safety Officers' Benefits Program. This Program provides a \$50,000 lump-sum, tax-free benefit to the eligible survivors of federal,

state, and local public safety officers killed in the line of duty.

Emergency Federal Law Enforcement Program

During the year, BJA awarded a grant to the West Virginia Department of Public Safety to assist with flood-related law enforcement expenditures associated with the operation of a state flood coordinating office.

Regional Information Sharing System

Six Regional Information Sharing System projects, covering all 50 states, received \$8.4 million in Fiscal Year 1986, to enhance the ability of state and local criminal justice agencies to identify, investigate, and prosecute multijurisdictional organized crime, drug trafficking, and white-collar crime. A seventh project—LEVITICUS, funded at \$1 million—is an operations-oriented, shared management and resources effort targeted against coal, oil, and natural gas fraud in Appalachia.

State Reimbursement for Incarcerated Mariel Cubans Program

Twenty-four states received a total of \$4.8 million in Fiscal Year 1986 as reimbursement for incarcerating Mariel Cubans in state correctional facilities. States are reimbursed for inmates convicted of a felony committed after having been paroled into the United States during the 1980 influx of Cubans leaving the port of Mariel. During the year, states were awarded \$208.43 per month for each of the 2,363 inmates verified as meeting the reimbursement criteria.

Federal Surplus Property Program

Federal surplus real property was transferred to two sites under the Federal Surplus Property Program, and an additional seven properties were recommended for transfer by the Assistant Attorney General for Justice Programs. The Justice Assistance Act authorizes the Administrator of the General Services Administration, after a recommendation from the Attorney General, to transfer to states or territories surplus property to aid in relieving crowded state and local correctional facilities.

Private Sector/Prison Industry Enhancement Certification Program

Seven states currently participate in this program, and several other states have expressed an interest in participating. Inmates employed in the programs between 1981 and June 1986 have earned \$4,613,390 in wages and paid \$522,465 in room and board to the states, \$469,085 in federal taxes, \$68,416 in state taxes, and \$1,175,263 in family support. The purpose of the program is to provide limited deregulation of federal prohibitions affecting the movement of state prisoner-made goods in interstate commerce and their purchase by federal government agencies.

Bureau of Justice Statistics

Steven R. Schlesinger
Director

The Bureau of Justice Statistics (BJS) 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. BJS also provides financial and technical support to state statistical agencies and analyzes national information policy on such issues as the privacy, confidentiality, and security of data and the interstate exchange of criminal records.

Data Analysis and Dissemination

During the year, work continued on the second edition of Report to the Nation on Crime and Justice for release in 1987. The Report describes comprehensively crime and the justice system in a nontechnical format. To supply similar summary information to users in years when a Report to the Nation is not issued, Crime and Justice Facts, 1985 was prepared and printed during the fiscal year.

Victimization Data

BJS' largest statistical series is the National Crime Survey—the nation's only systematic measurement of crime rates using national household surveys.

In April 1986, BJS released 1985 data that showed no significant change in victimization rate since 1984, which had the lowest rate since the survey began 13 years ago. Final data available in September confirmed the preliminary figures and showed that some crime categories registered statistically significant decreases.

In June, BJS released the findings of a National Crime Survey indicator measuring the proportion of American households touched by crime. Although the percentage of households touched by crime fell to its lowest level, 25 percent, 22 million households suffered a robbery, burglary, rape, assault, or theft.

Topical National Crime Survey studies released during the year included those on reporting crime to the police, the location of crime, the use of weapons in crime, crime prevention measures taken by citizens, and domestic violence.

Adjudication Statistics

During the year, the 1980 and 1981 Prosecution of Felony Arrests reports were released. In the jurisdictions studied for 1981, 48 of every 100 adults arrested for a felony were convicted of either a felony or a misdemeanor. Also during the year, Felony Case-Processing Time was released showing that about half of the felonies charged in court were disposed of within 3½ months in the 12 sites studied.

Correctional Statistics

The National Probation Reports series provides annual data, by state, on the number of admissions to probation supervision and the yearend total of persons under such supervision. The Uniform Parole Reports Program provides data on persons admitted to and released from parole supervision. At the end of 1985, almost 2.7 million adults were under the custody or supervision of correctional authorities. Of these, 1.9 million were on probation and 227,438 were on parole.

During 1986, data from the 1983 National Jail Inmate Survey were released, showing that at least 80 percent of the men and women in jail had a prior criminal conviction and that about two-thirds had served time before in jail or prison.

The Survey of State Prison Inmates also was conducted during the year. The survey interviewed approximately 15,000 inmates on criminal history, demographic characteristics, drug and alcohol use, and so on.

The National Prisoner Statistics reports during the year documented the continued growth in the nation's prisons: by June 30, 1986, a record high of 528,945 was reached.

In March 1986, the third report of data was made from a new program—the National Corrections Reporting Program. This report provided detailed information on demographic characteristics, offenses, sentences, and time served of persons admitted to and released from state prisons.

Expenditure and Employment Statistics

The July 1986 Bulletin, Justice Expenditure and Employment 1983, reported that government spending for justice activities remained at less than 3 percent of all government spending. Also during the year, data collection was completed for Fiscal Year 1985 data using an earlier methodology that will provide additional substantive and geographic detailed data.

Federal Statistics and Information Policy

A major priority during Fiscal Year 1986 was the continued development of the Federal Justice Statistics Data Base tracing offenses from investigation through prosecution, adjudication, and corrections. The data base includes input from the Federal Bureau of Investigation, Drug Enforcement Administration, U.S. Attorneys, U.S. courts, and Bureau of Prisons. A compendium and additional reports analyzing these data were prepared for release in early Fiscal Year 1987.

Also during the year, three publications on information policy and legislation were released. In addition, a National Conference on Data Quality was held featuring speakers from the federal, state, and local justice systems.

State Statistical Programs

Through BJS's support, 44 state Statistical Analysis Centers for criminal justice have been established and are actively functioning. Statistical Analysis Centers also have been established in the District of Columbia and three territories. They provide statistical services and policy guidance to governors, executive branch agencies, legislators, state and local criminal justice agencies, the judiciary, the media, and the public. In addition, the Statistical Analysis Center provide data to BJS for multistate analyses.

During Fiscal Year 1986, grants and cooperative agreements were awarded to three states and two territories to continue the development of Statistical Analysis Centers that had been started recently, and partial support was given to established Statistical Analysis Centers in 31 states, primarily for serving as clearinghouses for criminal justice statistical information.

Also during the year, awards were made to one state to assist it in continuing the effective operation of its Uniform Crime Reporting system and to another state to serve as a test implementation site for the redesigned Uniform Crime Reporting program.

New Initiatives

During the fiscal year, BJS continued to refine existing data series and to develop new data collection programs to inform policymakers in areas where no or only limited data have been available. Work during the year included:

National Crime Survey redesign. BJS implemented the first phase of design changes to the National Crime Survey. In addition to questionnaire revisions, BJS has been investigating adoption of Computer-Assisted Telephone Interviewing technology for National Crime Survey data collection. Preliminary feasibility testing was completed during the year.

Uniform Crime Reporting redesign. Specific data element definitions, coding instructions, and incident reporting form revisions for a redesigned Uniform Crime Reporting were developed. An award was made to the State of South Carolina to test a major overhaul of its system to capture and report the expanded data elements.

National Crime Survey supplements. During the year work continued on the National Institute of Justice/BJS jointly-sponsored program to encourage researchers to consider the widest possible range of research and analytic interests that could be addressed by adding supplemental questions to the National Crime Survey.

National survey of serious victimization injury and drug-related injury. During the year, feasibility studies began for supplementing the Consumer Product Safety Commission's National Electronic Injury Surveillance System to obtain information on drug-related injuries (including drug overdoses) and on violent crime injuries (including child abuse, family violence, and physical assaults) treated in hospital emergency rooms.

Law enforcement administrative and management statistics. BJS commissioned a study of the need for police administrative and management data along with recommendations as to what types of data should be collected. This study was completed during the fiscal year as was a complete census of police agencies that will be used for drawing a sample of those agencies to produce nationally representative data.

A BJS Special Report, issued in February 1986, examined police expenditures over the past four decades.

Pretrial statistics. A study is being conducted to investigate the feasibility of developing a national data base covering persons who have been released pending trial. Initial work, completed in June, covered the development of methodology.

National court statistics program. During 1986, a survey was conducted to update the sampling list of general jurisdiction courts to support future data collection efforts. Also during the year, feasibility studies were begun to develop methods that can produce annual national data on felony conviction counts. Another project involving the collection of information on sentences received by felony defendants was expanded from covering 18 local jurisdictions to more than 25. An additional project, collecting data in 10 sites, is studying burglars and robbers brought to the attention of local prosecutors.

Juvenile justice statistics. During Fiscal Year 1986, BJS and the Office of Juvenile Justice and Delinquency Prevention continued an interagency agreement leading to the development of more complete statistics for juveniles. BJS assumed responsibility for the analysis, publication, and dissemination of data from the Children in Custody series, the periodic surveys of juvenile detention and correctional facilities. During the year, two reports from that series were prepared. In addition, a comprehensive evaluation of existing data sources on juvenile justice and an assessment of the need for new data sources were conducted during the year.

Comparative international statistics on incarceration. Studies suggesting that the United States is among the most punitive of industrialized nations have been criticized due to methodological problems and the failure to test alternative explanations for observed differences in prison use, such as differential crime rates. BJS has initiated work that will pro-

vide more definitive information on this topic. Comparisons will be made among the United States, Great Britain, West Germany, and Canada taking into account the amount of crime in these countries as well as incarceration rates.

National recidivism statistics. With the help of the Federal Bureau of Investigation's Identification Division, a program has been designed to link BJS correctional data with Federal Bureau of Investigation criminal history information and enable BJS to derive a nationally representative sample of

persons released from prison, follow this group for several years, and ultimately produce estimates on the incidence, prevalence, and seriousness of subsequent arrests and dispositions.

Federal civil justice data. BJS recently launched a project to develop a data base that traces the flow of federal civil cases and describes the interface between different agencies and organizational components involved in civil case processing.

National Institute of Justice

James K. Stewart
Director

The National Institute of Justice (NIJ) is the primary federal sponsor of research on crime and justice. During the year, the National Institute significantly increased the research resources committed to national policy development in these key areas:

Combating Drugs and Crime

Using advanced and highly reliable urinalysis technology, researchers tested over 14,000 persons arrested in Washington, D.C., and New York City for felonies and serious misdemeanors. They found that 56 percent of arrestees in both cities tested positive for drug use, while only one-half of those who tested positive admitted drug use. Given the relationship between drugs and high criminality, mandatory court-supervised drug testing can lower the risk to the community and control demand for drugs. Objective information on a suspect's drug use can then be reflected in judges' orders on conditions of bail release. Drug-using defendants can be ordered to report for periodic testing while on release.

Urinalysis detects drugs consumed in the past 48 hours. Analysis of a few strands of human hair can detect drug consumption that occurred as long as six months prior to the analysis. New research will assess the accuracy of drug histories taken from hair samples and develop techniques to lower the costs of hair sampling for drug detection.

The National Institute studied the state and local experience with anti-paraphernalia legislation. It found that the availability of drug paraphernalia has declined as a result of the "Model Drug Paraphernalia Act, 1979," developed by the Drug Enforcement Administration as a guide for state legislators. Thirty-eight states and the District of Columbia have enacted statutes based on the model act.

Better enforcement is another crucial element in drug control efforts. The National Institute assessed a low-cost local program in Lynn, Massachusetts, that sought to control street crime by focusing law enforcement efforts on retail heroin trafficking. The concentrated effort disbanded local street dealers and reduced burglary rates by nearly 40 percent.

The National Institute also completed an evaluation of Project DARE, a drug prevention education program jointly operated by the Los Angeles Police Department and the Los Angeles Unified School District. The evaluation measured changes in attitudes about drugs and drug-taking behavior in a group of seventh graders who had taken the DARE curriculum compared to a similar group who had not. It found

that the DARE students said "no" more often and more effectively to offers of cigarettes, alcohol, and drugs than did the non-DARE group.

Controlling Career Criminals and Violent Crime

The National Academy of Sciences reported the results of a two-year study funded by the National Institute in Criminal Careers and Career Criminals. The findings strongly suggest that giving more weight to the juvenile record and to serious drug use by offenders could improve crime control through incapacitation.

Another project, an NIJ-sponsored evaluation of the Washington, D.C., Metropolitan Police Department's Repeat Offender Project, concluded that the unit substantially increased the chances of arrest, prosecution, and incarceration of chronic felony offenders.

Selective prosecution can be an effective tool for local prosecutors in dealing with career criminals. A National Institute study identified different stages at which prosecutors can affect the outcomes of career criminal cases. The project outlines key alternatives that should be considered in deciding who should be charged with a crime, what the charge should be, who should be recommended for pretrial detention, how best to prepare for trials, and the most effective procedures for obtaining convictions and appropriate sentences.

The National Institute published a Comparative Analysis of State Laws on Public Danger as a Factor in Pretrial Release. More than 32 states and the U.S. Congress have passed laws that permit judges, when setting bail and other pretrial release conditions, to consider whether a released defendant might pose a danger to the community and therefore detain the person if necessary. NIJ research has found, however, that jurisdictions apparently were not using the preventive detention strategy because a hearing is required, and that judges continued to set high bail to restrict defendants' movements.

During the year, the National Institute also published *The Robbery of Financial Institutions*. The study concluded that while the Federal Bureau of Investigation and the banking industry have done much to apprehend robbers and minimize injuries to victims, there is much banks can do to analyze security weaknesses and improve employee training.

Punishment and Control of Offenders

Prison Construction. With more and more states under court orders to end crowding in prisons and jails, the Na-

tional Institute is providing information to state and local officials to help them expand jail and prison capacity more rapidly and less expensively than they have been able to do through traditional methods.

Among the approaches being examined are modular construction, alternative financing, and improved construction management. Case studies of successful projects are included in a series of Construction Bulletins, four of which were published during the year.

NIJ also has made available a new National Directory of Corrections Construction. The Directory is based on the results of a survey, conducted in cooperation with the American Institute of Architects, of jails and prisons built since 1978.

The Private Sector and Prison Industry. Results from The Private Sector and Prison Industries study found there were almost 1,000 prisoners employed by 19 private firms in 17 state correctional facilities throughout the country. When properly managed, the study concluded, private prison industries can lower maintenance costs and increase opportunities for more efficient operations and better job skills for prisoners.

Privatization of Corrections. The National Institute funded an analysis of the key issues state administrators and legislators must address before contracting with a private firm for the operation of facilities or provision of services. The project is drawing on the growing literature as well as current developments in Kentucky and Tennessee.

AIDS in Correctional Facilities. During the year, NIJ published AIDS in Correctional Facilities: Issues and Options. Conducted in conjunction with the American Correctional Association, the Centers for Disease Control, and the National Institute of Corrections, the study is helping correctional administrators develop educational programs to prevent the spread of AIDS in correctional institutions.

Felony Probation. National Institute research on a sample of felons on probation in Alameda County and Los Angeles County, California, found that two-thirds were rearrested within three years, often for crimes such as robbery, burglary, and theft. A follow-up study concluded that public safety would benefit if more serious felons were incapacitated for longer periods.

National Institute research on Georgia's Intensive Probation Supervision program targeted a group of serious, but nonviolent, offenders, who normally would have been imprisoned. NIJ's evaluation reported the Intensive Probation Supervision program reduced the percentage of offenders sentenced to prison. The costs, although higher than regular probation, were less than the cost of a prison stay. In Georgia, more intensive supervision reduced risk to the community compared to regular probation, the study said.

Electronic Monitoring. A National Institute project will examine some questions about electronic monitors by com-

paring the performance and effectiveness of various equipment. Another NIJ project will help determine whether the use of urinalysis and monitoring equipment will allow jurisdictions to release pretrial offenders safely with a condition of home confinement during their nonworking hours.

NIJ also is funding a project that monitors nonviolent offenders' compliance with house arrest as part of their sentence. The three options for monitoring compliance in this study include: personal means of verification; use of continuously signaling electronic monitors; or use of programmed electronic monitors that provide random surveillance.

Public Safety and Policing

National Institute research is examining ways of stabilizing communities and increasing the public's confidence. One study of "Downtown Safety, Security, and Economic Development" showed that urban design can help attract more pedestrian traffic downtown and foster a sense of security if it relies on compact development, more housing and mixed use structures, and special events.

Increasing Police Efficiency. National Institute research in Newport News, Virginia, tested "problem-oriented policing" with encouraging results. Rather than treat repeated requests for help as separate, individual incidents, officers analyze groups of incidents and derive solutions that draw upon a variety of public and private resources. They then assess police performance in dealing with the problem. As a result of the program, downtown robberies were reduced by 39 percent. Burglaries in an apartment complex declined 35 percent, and theft from parked vehicles outside a manufacturing plant dropped 53 percent.

The National Institute also studied a number of stress units in police departments. The report, *Coping with Police Stress*, included suggestions for program planning, services, organization, and administration, as well as training, monitoring, and evaluation.

Court Efficiency and Effectiveness

The National Institute is reassessing the impact of determinate sentencing changes made by the Minnesota Sentencing Guidelines Commission. In addition, the Institute recently completed a study of commercial bail bonding that recommended closer monitoring of the bail bonding industry along with improvements in the licensing examination procedures. NIJ also is studying the effective use of various forms of criminal sanctions, such as incarceration, fines, community service, and various community-based programs that both punish and control.

The Institute's study on Maximizing Public Defender Resources provides information on service delivery, personnel issues, the management of defender resources, caseload control standards, and public administration. A Handbook

for Budget Preparation gives public defenders a management tool for weighing felony caseloads and determining costs and budget requirements.

Assisting Victims of Crime

Nineteen states have adopted the allocution right for victims—the right of victims to present their views at sentencing and parole hearings. An NIJ study of the effects of the allocution right in California concluded that inadequate notification of victim procedures was a major problem in implementing victim allocution rights. Less than one-half of the victims sampled were aware that they had this right.

A corollary study concluded that assisting victims following a crime made the work of police and prosecutors easier. In general, victims receiving such services were more responsive in dealing with the criminal justice system.

The National Institute is funding start-up costs for the Model Victim Crisis Center at Hollywood Presbyterian Medical Center in Los Angeles. The Center will develop and

provide information on the types of in-hospital crisis intervention services that have the greatest impact on violent crime victims.

The Institute also examined the most recent findings on spouse abuse. *Confronting Domestic Violence: A Guide for Criminal Justice Agencies* details state-of-the-art practices in five jurisdictions to assist the police, prosecutors, and courts to improve the handling of spouse assault cases.

Research Into Practice

The National Institute's primary goal is to answer real world questions about crime control and assure that this new knowledge is disseminated to those who can use it. It publishes *Issues and Practices* reports and research summaries to highlight findings for busy criminal justice policymakers.

NIJ's National Criminal Justice Reference Service—with fee-for-service income of \$300,000 in 1986—gives the criminal justice community access to a data base of over 83,000 reference materials.

Office of Juvenile Justice And Delinquency Prevention

Verne L. Speirs
Acting Administrator

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) was created by the Juvenile Justice and Delinquency Prevention Act of 1974 in response to national concern about juvenile crime.

During Fiscal Year 1986, OJJDP continued its focus on programs for serious juvenile offenders and on developing and implementing programs to respond to the mandates of the Missing Children's Assistance Act of 1984.

Special Emphasis Division

During Fiscal Year 1986, the Division implemented or continued support of the following major programs:

The Private Sector Probation Program is designed to demonstrate the feasibility of private sector involvement in the delivery of probation services. Eight communities have been selected to form "Juvenile Justice Partnerships" to develop and implement contracts between local private and public probation agencies.

The Serious Habitual Offender/Drug Involved Program is designed to increase the effectiveness of the police, juvenile probation/intake workers, prosecutors, judicial officials, and corrections or aftercare agencies to deal with and suppress juvenile criminal activity and drug use, especially by those who are serious repeat juvenile offenders. Program prosecutors report an 80 percent conviction rate for juvenile offenders identified and handled by the Program.

Habitual Serious Violent Juvenile Offender Programs continued operating in 13 jurisdictions. The Programs target youths who exhibit a repetitive pattern of serious delinquent behavior for more intensive prosecutorial and correctional intervention.

The National Center for Missing and Exploited Children also continued to receive support during the year. Since it began operations in 1984, the Center has assisted in the recovery of more than 5,000 children, and its toll-free telephone hotline has received more than 181,000 calls.

Under a separate OJJDP grant, the Center is operating a program to make financial awards to states that have legislatively-established, state-operated clearinghouses that serve as central repositories of information on children believed to be missing in the state.

In November, OJJDP provided funds to establish a National Center for the Prosecution of Child Abuse. The Center provides technical assistance, training, and clear-

inghouse services to improve the prosecution of child abuse cases and procedures for dealing with children who have been victims of physical and sexual abuse.

OJJDP also continued funding for the last year Proyecto Esperanza/Project Hope. The Project provides technical assistance, training, and clearinghouse activities to neighborhood-based organizations in nine states. The objectives are to identify and assist Hispanic juvenile runaways and sexually abused and exploited youths.

Three Private Sector Corrections Programs began or continued operations during the year. The Programs are designed to test the effect of innovative private sector corrections projects versus more traditional corrections programs.

State Relations and Assistance Division

Formula Grant Program. Of the 57 states and territories eligible to participate in the Formula Grant Program, 52 participated during Fiscal Year 1986. These states and territories received formula grant awards totaling \$41,089,000.

The provision of alternatives to secure confinement for status offenders and nonoffenders and the separation of juveniles from adult offenders in institutions have been the major emphases of state programs, with a goal of completely removing juveniles from adult jails and lockups by December 1985. Based on Fiscal Year 1984 data, 48 states were in full or substantial compliance with the deinstitutionalization mandate. Thirty-five states were in compliance with the separation mandate, 11 were making progress, two achieved no progress, and four states had unresolved issues. Nineteen states and territories were experiencing difficulty in making progress toward substantial compliance with jail removal.

Non-participating State Initiative. This program provides support for projects to improve the detention and incarceration practices and alternative services within the five states not participating in the Formula Grant Program. During Fiscal Year 1986, the states continued under programs supported the previous year.

Technical Assistance. During the year, OJJDP launched a major technical assistance effort to assist states in complying with the Juvenile Justice and Delinquency Prevention Act requirements. It provided nationwide assistance to improve detention practices, policies, facilities, alternative services,

and other issues related to the preadjudicatory handling of juveniles.

Marketing. Marketing efforts continued to focus on the Restitution Education, Specialized Training, and Technical Assistance Program and the State Clearinghouse effort of the National Center for Missing and Exploited Children. Information about these two programs was disseminated to the states.

Research and Program Development Division

Etiology and Prevention of Delinquency Behavior and Child Exploitation. During the year, the Research and Program Development Division initiated a Program of Research on the Causes and Correlates of Delinquency. Researchers will look beyond established delinquency correlates such as age, race, and sex to investigate more practical factors such as personality characteristics, family relationships, school experiences, the community environment, peer/gang associations, and juvenile justice sanctions.

A joint solicitation was released with the National Institute on Drug Abuse for Research on the Etiology of Drug Abuse Among Ethnic and Minority Populations. The research is designed to inform the development of initiatives to encourage low socioeconomic level communities with high levels of crime to mobilize against drug use.

The School Crime and Discipline Research and Development Program is developing and testing the efficacy of improved disciplinary policies and procedures for the reduction of school crime and disorder in two secondary school systems.

Under the Missing Children's Assistance Act, four research projects have been initiated: a National Incidence Study of Missing Children, to provide accurate estimates of the number of missing children in the country; a National Study of Law Enforcement Agencies' Policies and Practices on Missing Children and Homeless Youth, to describe how police respond to reports of missing children and how to improve investigations; a study on Families of Missing Children: Psychological Consequences and Promising Interventions; and, the Child Victim as a Witness Research and Development Program, to determine how procedural and evidentiary reforms can be suited to the needs of child witnesses.

Improvement of the Juvenile Justice System. OJJDP and the Bureau of Justice Statistics undertook a major Assessment of National Data Collection Efforts regarding the quality and utility of a broad range of federal statistical programs to gather needed data on children as victims and offenders.

In addition, studies on the Delinquent Careers of Serious Juvenile Offenders and the Impact of Juvenile Court In-

terventions on Delinquency Careers were completed during the year.

Alternatives to Juvenile Justice System Processing. One of the OJJDP Private Sector Corrections Programs was featured in a special report, *Vision Quest: An Assessment of Treatment Effects and Sources of Controversy*. Also, a request for proposals was issued for Research on the Effects of Deinstitutionalization of Status Offenders.

Training, Dissemination, and Technical Assistance Division

In Fiscal Year 1986, the Restitution Education, Specialized Training and Technical Assistance Program provided education, training, and technical assistance to juvenile justice personnel on the range of successful juvenile restitution programs.

The National School Safety Center continued to operate a clearinghouse for information on school crime and crime prevention, conduct statutory and case law research, and sponsor conferences and workshops on school safety.

The Permanent Families for Abused and Neglected Children Program focuses national attention on the need for providing permanent homes for abused and neglected children. The Program is designed to aid judges in their decisions on child abuse and neglect cases.

A related program recruits and trains volunteers as Court-Appointed Special Advocates. In 1986, 6,200 Court-Appointed Special Advocate volunteers served as advocates for more than 20,000 children during placement hearings. The Court-Appointed Special Advocate project has encouraged the development of 212 permanency planning projects in 44 states.

Also during the year, the Law-Related Education Program, which helps youth understand the law and its application to everyday life, expanded its coverage to include 25 states.

Concentration of Federal Effort Program

In Fiscal Year 1986, OJJDP cosponsored projects that were endorsed by the 18 member agencies of the Coordinating Council on Juvenile Justice and Delinquency Prevention, including:

- A project with the Drug Enforcement Administration to continue support of a project to train coaches and student athletes in drug abuse prevention;
- A project with the Department of Health and Human Services to support a Surgeon General's study of the effects of pornography and its relationship to violence committed against and by children; and

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- A project with the Departments of Health and Human Services, Labor, and Education to prevent school dropouts.

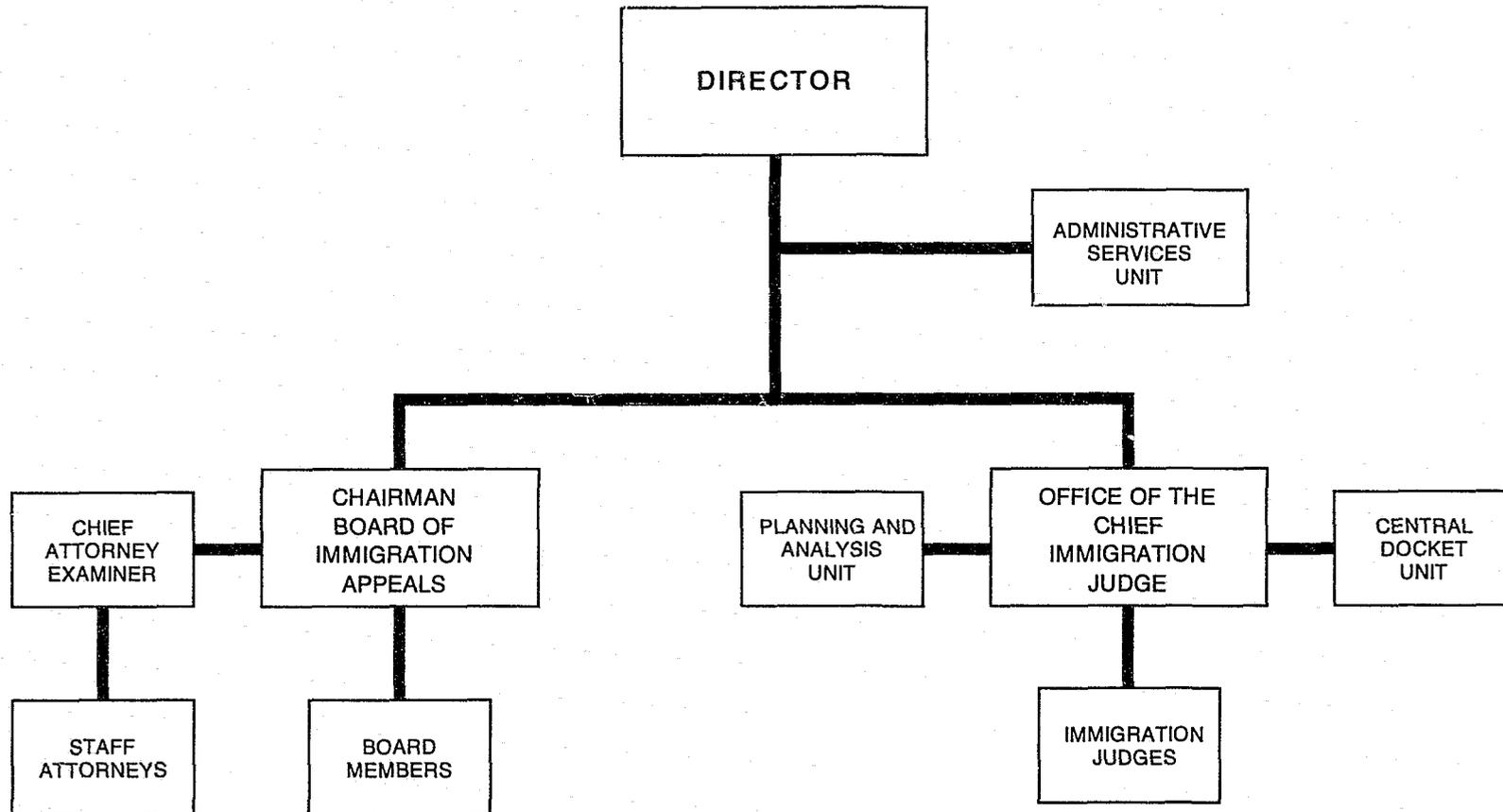
Missing and Exploited Children's Program

OJJDP established and announced the following program priorities for making grants and contracts for the second year of the Missing Children's Program: 1) a National Study of Law Enforcement Agencies' Policies and Practices on

Missing Children and Homeless Youth, 2) the Child Victim as Witness Research and Development Program, 3) research on the Psychological Consequences of Abduction and Sexual Exploitation, 4) a training/public awareness program, 5) assistance to State Clearinghouses for Missing Children, and 6) assistance to private voluntary organizations.

Also during the year, the Missing Children's Advisory Board presented its comprehensive plan on missing children to the President and the Congress. The Board advises the OJJDP Administrator and the Attorney General on missing children's issues.

EXECUTIVE OFFICE FOR IMMIGRATION REVIEW



Executive Office for Immigration Review

David L. Milhollan
Director

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 independent of the Immigration and Naturalization Service, which is charged with the enforcement of the immigration laws. It includes the Office of the Director, 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. The Board's primary mission is to ensure that immigration laws receive uniform application mainly through the adjudication of appeals.

The Board has jurisdiction to hear appeals from specified decisions of immigration judges and immigration officers. The wide variety of cases reaching the Board consist of appeals from decisions rendered by immigration judges and district directors involving formal orders of deportation, discretionary relief from deportation, exclusion proceedings, claims of persecution, bond and detention, petitions for immediate relative and visa preference classification for alien relatives of U.S. citizens and permanent resident aliens, and administrative fines imposed upon carriers because of violations of the immigration laws.

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. 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 1986, the Board rendered decisions in 5,471 cases.

Office of the Chief Immigration Judge

The Chief Immigration Judge is responsible for the general supervision of all immigration judges in the performance of their duties under the Immigration and Nationality Act. The immigration judges are located in 20 field offices throughout the United States.

The immigration judges preside at formal, quasi-judicial deportation and exclusion proceedings. They act independently in their decisionmaking capacity and their decisions are administratively final unless appealed or certified to the Board of Immigration Appeals.

The Office of the Chief Immigration Judge has completed implementation of its nationwide 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 full hearings on cases which do not require lengthy hearings) and an Individual Calendar (individual cases heard on the merits) 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.

Further management initiatives include the following: a nationwide contract for transcription services which has reduced the backlog of hearings awaiting transcription and expedited appellate processing time; a nationwide contract for interpreter services which provides for onsite professional interpreters for immigration hearings; the expansion to all offices of a telegraphic mail service which substantially reduces the cost and time required to prepare and send hearing notices to all parties; the publication in the Federal Register of Rules of Procedure which codifies the procedures to be followed by the participants in immigration hearings; the compilation of an Immigration Judge Benchbook; implementation of the Executive Office for Immigration Review's Automated Nationwide System for Immigration Review (ANSIR) with continued implementation anticipated during Fiscal Years 1987 and 1988; and the recruitment of management officers, law clerks, and summer law inter-as.

The Executive Office for Immigration Review conducted for the fourth time in early Fiscal Year 1986 another highly successful Immigration Judges Conference. This annual event assembles the entire corps of immigration judges for training in developing immigration law and innovative methods and procedures which increase productivity. Further, the Executive Office for Immigration Review con-

ducted, in conjunction with the Attorney General's Advocacy Institute, a one-week training course for new immigration judges.

During Fiscal Year 1986, nearly 120,000 matters were received and over 137,000 matters completed nationally by immigration judges.

Antitrust Division

Douglas H. Ginsburg
Assistant Attorney General

In Fiscal Year 1986, the Antitrust Division continued to emphasize the investigation, detection, and criminal prosecution of price fixing, focusing particularly on bid rigging. The Division placed special emphasis on implementing its intensified program to detect collusion in the area of defense procurement. The defense procurement initiative involves a significant degree of collaboration between the Departments of Justice and Defense, and exemplifies the Administration's commitment to combating fraud, waste, and abuse in the government. The Division also studied in depth questions regarding sentencing for antitrust crimes in connection with the work of the U.S. Sentencing Commission. In testifying before the Commission, the Division urged that corporations and individuals be fined amounts that increase in direct relation to the harm caused by their antitrust violations, and that all individuals also receive a certain term of imprisonment that begins with some fixed minimum and increases with the amount of harm.

The Division also undertook during Fiscal Year 1986, on behalf of the Attorney General, two major legislative initiatives: antitrust reform and intellectual property rights improvements. These legislative proposals, submitted to Congress by the Attorney General and the Secretary of Commerce on behalf of the Administration, will promote consumer welfare, enhance the ability of U.S. firms to compete in worldwide marketplaces, and stimulate productivity and efficiency.

Overall, with a staffing level of 649 full-time employees, the Division filed 59 antitrust cases against a total of 79 corporations and 61 individuals during Fiscal Year 1986. It opened 274 formal investigations of possible antitrust violations and spent more than 2,665 attorney days in court. The Division filed briefs in the Supreme Court and the courts of appeals in 20 antitrust cases where the Division was a party, and in eight other cases where the Division was an *amicus curiae*. It also appeared in 55 federal regulatory agency proceedings by filing briefs or formal comments, participating at hearings, or presenting oral argument.

The Division's two major legislative initiatives were complemented by competition advocacy in the legislative area generally during the past year. The Assistant Attorney General or his representative made 10 appearances before congressional committees on matters relating to antitrust law and policy. The Division answered a total of 374 requests from the Office of Management and Budget and from congressional committees for comments on proposed legislation (up from 235 the previous year).

In addition, the Division continued to provide information on a wide variety of matters to Congress and others. It responded to 656 mail inquiries from the legislative branch, 151 inquiries referred to it by the White House, as well as inquiries received directly from the public. Three hundred and forty-three requests filed under the Freedom of Information and Privacy Acts were also processed, and the Division responded under Section 4F(b) of the Clayton Act to 11 requests from state attorneys general seeking access to investigative materials.

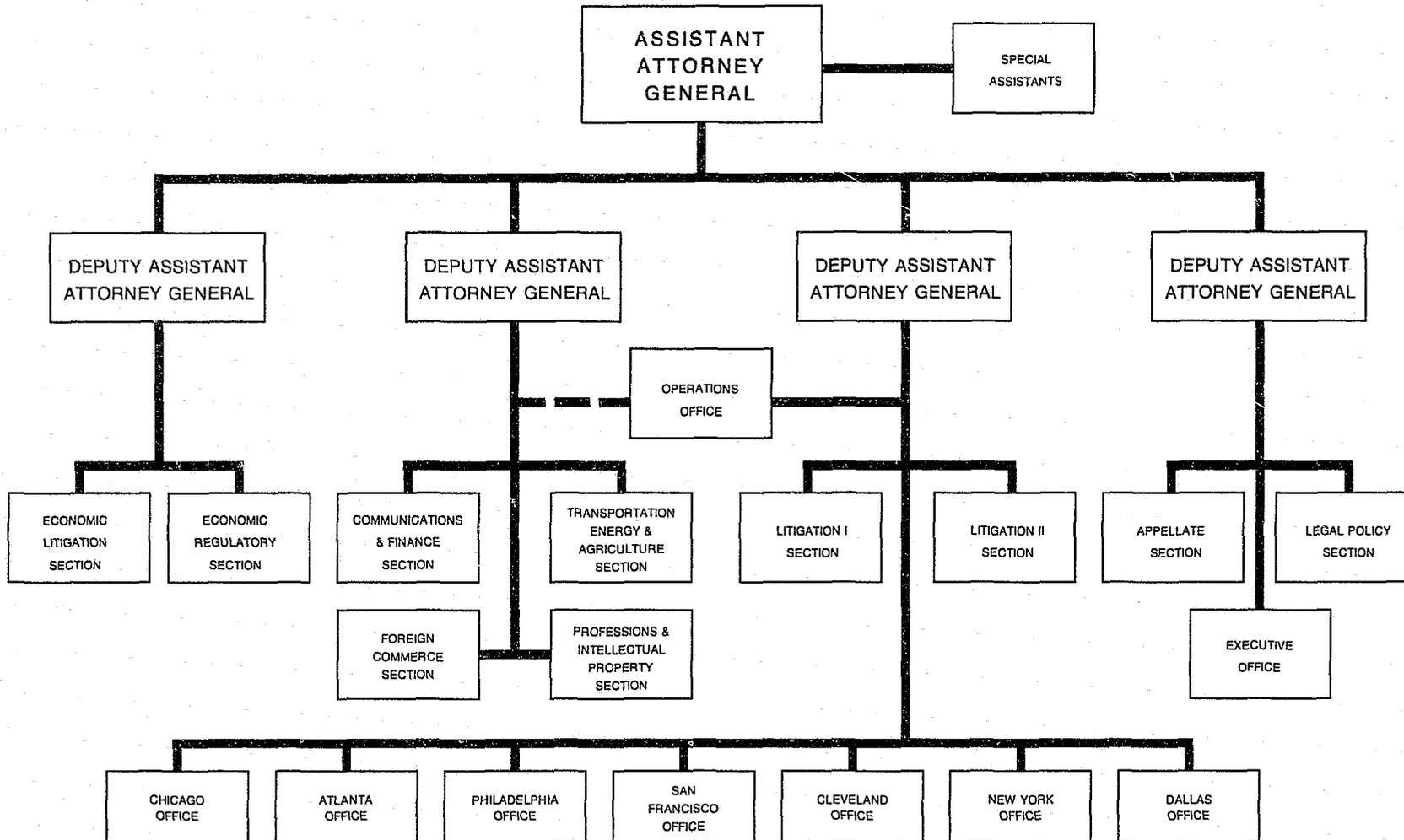
Competition advocacy by the Division in Fiscal Year 1986 also occurred in a variety of other forums. Division personnel participated in 18 interagency and international committees dealing with a wide range of subjects, such as antitrust reform legislation, international trade policy, telecommunications, maritime policy, and regulation of financial services. As required by various statutes, the Division provided advice to other federal agencies on the competitive implications of over 850 proposed transactions, most of them involving mergers and acquisitions of financial institutions, but also including 77 other matters, such as nuclear power plant operating licenses, disposition 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 state of competition in the coal industry, the activities of the International Energy Agency and the competitive effects of airline ownership of computer reservation systems.

Price Fixing and Related Restraints of Trade

The Antitrust Division places special emphasis on criminal enforcement of the Sherman Act as a major deterrent to collusive behavior. Protecting the marketplace 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. Fifty-three criminal cases were filed by the Division during Fiscal Year 1986. The 3,820 days of incarceration imposed constituted the fourth highest total in history. Fines and recoveries totaled approximately \$10.7 million.

The Division's enforcement program against bid rigging in public procurement continued to generate a large number of indictments. In industries involving public highway and airport construction, electrical construction, and utility construction, the Division initiated 34 new criminal prosecutions involving 45 corporations and 34 individuals. At year's end, 25 of those cases had been resolved in the government's

ANTITRUST DIVISION



favor. During the year, fines totaling nearly \$6.7 million were assessed and 3,135 days of incarceration were imposed in these areas. The Division's investigation of these industries is continuing, with 31 grand juries under way in 27 states at year's end.

The Division expanded its educational programs aimed at helping procurement personnel detect bid rigging and marshal evidence of collusion. During the year, the Division conducted approximately 25 informal training sessions for individuals from many different service groups within the Department of Defense, the Federal Bureau of Investigation, the Army Corps of Engineers, and other federal agencies on detecting and preventing collusion in public procurement.

The Division continued to move forward with its program to detect bid rigging in defense procurement. Senior Division attorneys met with Department of Defense officials, including procurement officers, audit commands, and the Inspector General's Office, to discuss ways of enhancing the ability to discover collusive military contracting. Within the Department of Justice, the Division coordinated its efforts with the Defense Procurement Fraud Unit in the Criminal Division and with the Civil Division so as to maximize the federal government's ability to prosecute all forms of procurement fraud and recover damages as well. As part of investigations of possible price-fixing violations by moving and storage companies providing services to the Department of Defense, a two-day training session was held for Federal Bureau of Investigation Agents, Department of Defense Inspector General investigators and Antitrust Division attorneys.

The Division's initiative against collusion in Department of Defense procurement generated a number of cases during the year. In particular, several cases were filed alleging bid rigging on Army Corps of Engineers dredging construction projects in the Southeast. The Division's Atlanta office, with assistance from the Defense Criminal Investigative Service, is conducting those continuing investigations.

Enforcement actions against horizontal price fixing and other restraints of trade also were successfully completed in such product areas as grocery and meat items, bread, produce, gasoline, and cordage. At year's end, a case alleging price fixing of dielectrics (insulating material used in the manufacture of certain capacitors) was pending. The Division also continued its scrutiny of anticompetitive conduct in the service industries. Cases filed or successfully completed by the Division include a series of cases against motion picture exhibitors who had allocated films among themselves, and cases involving waste disposal and air passenger services.

Preservation of Competitive Market Structure

Merger Enforcement

Effective enforcement of Section 7 of the Clayton Act against anticompetitive mergers requires that proposed

acquisitions be reviewed—and, if necessary, challenged—before they are consummated. Under the premerger notification provisions of the Hart-Scott-Rodino Antitrust Improvements Act, the Antitrust Division (and the Federal Trade Commission) obtains information on all significant mergers, and those transactions may not be consummated until prescribed waiting periods have passed.

In all, 1,949 transactions were reviewed by the Division during Fiscal Year 1986 under the Hart-Scott-Rodino Act. Almost 1,750 other mergers and acquisitions involving banks and other depository institutions also were reviewed under applicable banking statutes.

The Division filed six new merger cases, all of them alleging the elimination of existing or prospective horizontal competition. Four consent decrees, involving hospital supplies, gabions (equipment used primarily in public works projects), vidicon tubes used for U.S. military applications, and low-volume embossers (machines used to make raised lettering on plastic or metal cards such as credit cards) were negotiated in which the merging firms agreed to divest the assets that created the competitive overlap. The largest of these cases, *United States v. Baxter Travenol Laboratories, Inc.*, involved competitive overlaps in markets that totaled \$1.7 billion in sales, and the consent decree required divestiture of assets worth \$200 million. A consent decree also was negotiated in a case involving cellular radio service. A case pending at the end of the year challenged acquisitions by a motion picture exhibitor of all of its competitors' first-run theaters.

Another case, a civil penalty suit alleging a violation of the premerger notification provisions of the Hart-Scott-Rodino Act, was resolved by a consent decree requiring the payment of a \$450,000 civil penalty.

In at least eight cases, proposed mergers or acquisitions were abandoned or restructured without resort to judicial or administrative agency proceedings after the Division advised the parties that the transaction appeared to be anticompetitive. The industries involved included movie theaters, nursing homes, certain herbicides, surgeons' gloves, and steroid inhalants used to treat asthma.

AT&T Settlement and Other Sherman Act Section 2 Action

During Fiscal Year 1986, the Division devoted substantial efforts to securing compliance with the AT&T consent decree, most importantly, the requirement that the Bell Operating Companies provide "equal access" to all interexchange carriers and information service providers. The Division extensively investigated and reported to the court on the Bell Operating Companies' progress in implementing equal access. The Division also secured AT&T's commitment to improve substantially the computer systems used to submit carrier selection orders to the Bell Operating Companies.

Another important aspect of the Division's *AT&T* decree activities was processing requests for waiver of the decree's line of business restrictions to permit the Bell Operating Companies to engage in unregulated businesses where their doing so would not be anticompetitive. The Division received 40 waiver requests during the year. The Division recommended 29 waivers to the district court (including some submitted to the Division before October 1, 1985). All of the recommended waivers were granted by the court, with the exception of five that remained pending at year's end.

During the year, the Antitrust Division testified before the Senate Committee on Commerce, Science, and Transportation in support of the Federal Telecommunications Policy Act of 1986, which was introduced by Majority Leader Dole. This legislation would require the Federal Communications Commission to promulgate and enforce new federal regulations identical in substance to the antitrust consent decrees entered in the *AT&T* and *GTE* cases. The legislation would effectively consolidate federal regulation of the telecommunications industry, including the requirements currently embodied in those decrees, under the authority of the Federal Communications Commission. While supporting this change in jurisdiction, the Division remained committed to the vigorous enforcement of the decrees. In addition, a detailed factual study of competition in the telecommunications industry was compiled by an independent consultant for the Division. That study will provide a significant part of the basis for the Division's report to the court on the need for the line of business restrictions imposed on the Bell Operating Companies, due to be filed in January 1987.

In *United States v. American Airlines, Inc.*, another case under Section 2 of the Sherman Act, a consent decree was entered barring the airline for five years from discussing the pricing of airline passenger services with other airlines except when necessary to implement legitimate joint activities. The decree also, for two years, bars the airline's president from discussing pricing with the management of other airlines and requires him to maintain written notes of all communications with any other airline.

Review of Antitrust Decrees

A major Division project for several years has been to modify or eliminate older antitrust decrees that have become anticompetitive or otherwise undesirable. Twenty such decrees were modified or terminated during Fiscal Year 1986, and at year's end, termination of another 14 was pending in court.

Legislative Initiatives

During Fiscal Year 1986, the Antitrust Division, on behalf of the Attorney General, undertook two major legislative initiatives that will substantially improve U.S. antitrust and intellectual property laws.

Antitrust Reform Legislation

On February 19, 1986, the Attorney General and the Secretary of Commerce sent to Congress five legislative proposals for improvements in American antitrust laws. These proposals were designed to modernize the antitrust laws, ensuring that they serve their intended purpose of promoting consumer welfare, and enhance the ability of U.S. firms to compete in worldwide marketplaces.

The Merger Modernization Act of 1986 would amend Section 7 of the Clayton Act to distinguish more clearly between procompetitive mergers and mergers that create a significant probability of increasing prices to consumers. The Act defines, in modern economic terms, the harm with which antitrust merger law should be concerned—the ability to exercise market power—and sets forth sound economic criteria for courts to consider in reaching conclusions regarding market power.

The Antitrust Remedies Improvements Act of 1986 would encourage meritorious private antitrust litigation while addressing the possibility that the threat of treble damages may be discouraging procompetitive activities. This bill would permit the recovery of treble damages for antitrust overcharges in private suits and suits by the United States, while limiting persons injured by other antitrust violations to recovery of their actual damages plus prejudgment interest. The Act would also permit the recovery in certain circumstances of attorneys' fees by prevailing defendants. Finally, the Act would require, when antitrust damage cases are settled, the deduction of a settling defendant's fair share of the damages from the plaintiff's remaining claim, thus promoting the equitable distribution of antitrust liability in a manner that does not reduce antitrust deterrence.

The three other proposals would: remove unwarranted and cumbersome restrictions on permissible corporate directorships by establishing exceptions to current prohibitions on interlocking directorates among competitors so as to permit interlocks where overlaps in the firms' business are small and do not pose any risk to competition; clarify the application of the antitrust laws in private cases involving international trade and commerce; and amend the Trade Act of 1974 to provide limited antitrust relief for mergers and acquisitions in a domestic industry injured by increased imports as a new alternative to import restrictions.

Intellectual Property Legislation

In May 1986, the Attorney General and the Secretary of Commerce submitted to Congress a proposal, entitled the Intellectual Property Rights Improvement Act of 1986, to extend and clarify the legal protection afforded to owners of patents and other intellectual property. Like the antitrust reform legislation also submitted on behalf of the Administration, this proposal would stimulate productivity, ef-

efficiency, and competition by enhancing the ability of innovators to realize the full value of their investments.

One important provision of this bill would ensure that intellectual property licensing arrangements are not deemed illegal *per se* under the antitrust laws, but are instead evaluated under a rule of reason that recognizes the competitive benefits of intellectual property. Another would streamline the application of the trade laws to unfair import practices involving intellectual property.

A key title would extend greater protection to process patent holders by making the use or sale in the United States or importation into the United States, of products made by patented processes infringement, regardless of where such products were made. Another provision would restore patent terms for certain agricultural and chemical products to those patentees who are not able commercially to market their patented products while federal regulatory review is under way.

The bill also would clarify and improve the doctrine of patent misuse by listing patent licensing practices that could not provide the basis for a finding of such misuse unless such practices also violated the antitrust laws. Finally, this proposal would codify the judicial rule that licensees may not be prevented from challenging the validity of patents they have licensed, while giving patent holders and licensees broad discretion to define, during the license negotiation process, their rights during the pendency of a patent validity challenge.

Amicus Curiae Briefs and Other Appellate Cases

In Fiscal Year 1986, the Division continued its program of urging the appellate courts to interpret the antitrust laws in a manner that enhances consumer welfare. The Division not only pursued its own enforcement efforts in the appellate courts, but also emphasized the filing of briefs as *amicus curiae* challenging interpretations of the antitrust laws that inhibit procompetitive, efficiency-enhancing conduct. The Division also filed several briefs as *amicus curiae* reaffirming the importance of avoiding undue interference with the functioning of state and local governments.

The Division took the relatively unusual step of volunteering an *amicus* brief asking the Supreme Court to review the Tenth Circuit's decision in *Cargill, Inc. v. Monfort of Colorado, Inc.*,¹ that a competitor had standing to challenge a merger because it might permit the merged firm to engage in predatory pricing. At the least, the Division argued, competitors lack standing to challenge mergers on an incipient predation theory in the absence of a showing that the merged firm would have a dominant position in the market, and thus that there is a dangerous probability that it could succeed in monopolizing the market. Moreover, given the strong incentive of competitors to block procompetitive transactions, the reluctance of firms to pursue an acquisition tied up in litiga-

tion, the rarity of actual predation and the ease with which intense competition may be characterized as predation, and the existence of a remedy under Section 2 of the Sherman Act for any actual predation, the Division contended that the Court should hold that competitors lack standing to challenge acquisitions on an incipient predation theory.

The Division also volunteered an *amicus* brief in *Square D Company v. Niagara Frontier Tariff Bureau, Inc.*,² where it argued unsuccessfully that the *Keogh* doctrine, which precludes antitrust suits based on rates filed with the Interstate Commerce Commission, should be overruled. The Division emphasized that Congress has now determined that competition rather than regulation will best serve consumer welfare in this area, which was once pervasively regulated.

The Division also continued its program of reviewing private antitrust cases in the lower courts and volunteering briefs in cases involving anticompetitive interpretations of the antitrust laws. As part of that program, it filed a brief as *amicus curiae* in the Fifth Circuit in *Mazda Distributors, Inc. v. R.D. Ryno Industries, Inc.*,³ arguing that a vertical distribution scheme designed to allocate a product in response to a shortage of supply did not violate the Sherman Act.

The Division filed five briefs in response to requests by the Supreme Court. In one case, *324 Liquor Corp. v. Duffy*,⁴ the Division successfully urged the Court to review a state court decision upholding a statutory resale price maintenance plan for liquor. The Division contended that an industrywide system of resale price maintenance imposed by statute is inherently anticompetitive because it denies consumers the benefits of competition among manufacturers free to formulate their marketing strategies in light of their perceptions of consumer needs and preferences. In its other briefs filed in response to the Supreme Court's requests for views, the Division concluded that the cases were not appropriate for Supreme Court review for various prudential reasons, but availed itself of the opportunity to set forth its views on the underlying decisions.

The concerns of state and local governments also played a large role in the Division's *amicus curiae* filings. Two briefs filed by the Division in response to the Supreme Court's requests dealt with the relationship between the antitrust laws and state or local governments. In *Gulf Coast Cable Television Co. v. Affiliated Capital Corp.*,⁵ the Division argued that an alleged conspiracy between private parties and the mayor of New Orleans to limit competition for cable television franchises was immune from the antitrust laws under the *Noerr-Pennington* doctrine, which protects attempts to obtain governmental action. In *Sakamoto v. Duty Free Shoppers, Ltd.*,⁶ the Division argued that the federal antitrust laws do not apply to the government of Guam and that an exclusive concession granted by Guam did not constitute an undue burden on interstate or foreign commerce. Addi-

tionally, in *City of Los Angeles v. Preferred Communications, Inc.*,⁷ the Division volunteered a brief as *amicus curiae* in which it argued successfully that, although cable television system operators are protected by the First Amendment, those rights must be balanced against local governments' interests in the use of public property.

The Division also achieved success in the appellate courts in a variety of cases arising from its own enforcement program. In addition to a number of significant victories in its cases in the courts of appeals, the Division successfully petitioned the Supreme Court to review two adverse appellate decisions, *United States v. Ben M. Hogan Company, Inc.*,⁸ and *United States v. John Doe, Inc. I.*⁹ The *Ben Hogan* case was remanded for reconsideration in light of *Rose v. Clark*,¹⁰ which held that harmless error analysis must be applied where a jury instruction is held to have contained an unconstitutional conclusive presumption. The *John Doe* case, which will be heard this term, involves an issue left unresolved by the Supreme Court in *United States v. Sells Engineering, Inc.*:¹¹ whether a Department of Justice attorney who participated in grand jury proceedings may make continued use of the grand jury materials in preparing and litigating a subsequent civil case without obtaining an order under Rule 6(e) of the Federal Rules of Criminal Procedure.

Regulated Industries

During Fiscal Year 1986, the Antitrust Division pursued competitive goals in regulated industries, both through direct antitrust enforcement (including cases noted earlier in this report) and by advocacy of regulatory reform. It 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 of the economy, the Division was especially active in merger proceedings. The Division participated in Department of Transportation matters pertaining to seven airline acquisitions, three of which resulted in hearings during this fiscal year. In Texas Air Corporation/Eastern Airlines, after Texas Air agreed to spin-off sufficient slots to Pan American to enable it to offer a competing shuttle service along the eastern corridor, the Division urged the Department of Transportation to approve the merger. In TWA/Ozark and NWA/Republic, the Division opposed the mergers on the grounds that at St. Louis and Minneapolis/St. Paul, although the possibility of entry by a nonhub carrier on nonstop city pairs served by the merging carriers (which had hubs at those cities) could theoretically deprive the merged carriers of market power, such entry would be sufficiently difficult due to airport factors that the mergers would be anticompetitive. Both mergers were ap-

proved by the Department of Transportation despite the Division's opposition.

In the rail area, the Division appeared before the Interstate Commerce Commission and successfully opposed the merger between the Southern Pacific Railway and the Atchison, Topeka and Santa Fe Railway. Also, an indepth study of the viability of certain divestitures proposed by Norfolk Southern Railroad to remedy competition problems associated with Norfolk Southern's proposed acquisition of Consolidated Rail Corporation (Conrail) was undertaken. This study was terminated in the summer of 1986 when Norfolk Southern withdrew its offer to buy Conrail stock.

The Division also was active in other proceedings at the Interstate Commerce Commission and at the Federal Maritime Commission, assisting those agencies by commenting on the competitive effects of proposed rules, other petitions, tariffs, and conference agreements. In the past year, for example, the Division advocated that the Interstate Commerce Commission deregulate the charges a railroad pays for using another railroad's freight cars, and urged the Commission to revoke antitrust immunity that permits the members of the Association of American Railroads to establish car hire rates collectively. At the Federal Maritime Commission, the Division sought to ensure that the major procompetitive elements of the Shipping Act of 1984 were interpreted so as to achieve their intended purpose.

The Division filed 11 comments with the Federal Communications Commission. Several comments addressed the complex issues related to the provision of unregulated competitive services by monopoly rate-regulated carriers. Other comments addressed carriage of television broadcast signals by cable systems, and competitive issues related to cellular mobile telephone systems.

The Division took the lead within the Administration to oppose in four different comments before the Postal Service restrictions on private international remail services and possible below-cost pricing of the Postal Service's international priority airmail service.

At the Securities and Exchange Commission, the Division opposed adoption of new tender offer rules. At the Commodity Futures Trading Commission, comments filed by the Division opposed extension of regulation to foreign exchange-traded futures but agreed that some regulation of foreign exchange-traded options would be appropriate.

Before the Federal Reserve Board, the Division filed comments on behalf of the Department of Justice, the Department of Labor, the Council of Economic Advisers, and the Office of Management and Budget questioning both the procedure and the substance of the Board's proposed interpretation of its regulation G that would have extended margin requirements to debt securities issued to finance takeovers. The Division's comments to the Federal Home Loan Bank Board opposed its proposed extension of a three-year protection

from takeovers for any institution converting from a mutual stock form of ownership or acquiring such a converted institution.

In comments to each banking regulator—the Federal Reserve Board, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the Federal Home Loan Bank Board—the Division expressed its view that pricing of deposit insurance is preferable to uniform capital requirements as a means of influencing asset risk decisions by depository institutions. At the Environmental Protection Agency (EPA), the Division urged EPA to auction permits EPA proposes to issue in its program to limit most uses of asbestos in the United States.

The Division also commented at the Federal Energy Regulatory Commission on rulemaking proceedings involving the natural gas and electric utility industries. In particular, the Division supported efforts to achieve market-based pricing of regulated old gas. The Division also concluded the 15-year-old Williams pipeline litigation that was designated by the Federal Energy Regulatory Commission as the vehicle for setting forth new methodology for oil pipeline rate regulation. The Commission's new methodology adopts the cost-based methods advocated by the Division for limiting the rates charged by oil pipelines with significant market power. In another proceeding, the Division and other parties submitted a revised offer of settlement designed to end the Trans-Alaska Pipeline System litigation, pending since 1977.

The Division continued its analysis of oil pipeline deregulation and, in May, the Department issued a report prepared by the Division recommending immediate deregulation of all crude and product oil pipelines except 11 of those that carry refined petroleum products, such as gasoline, and the Trans-Alaska Pipeline System.

During the last fiscal year, the Division participated in hearings called by the Department of Agriculture to consider whether the Department of Agriculture should issue an egg marketing order and amend the existing lemon marketing order, and opposed these marketing orders because they harm consumers by restricting supplies, raising prices, and misallocating economic resources without promoting the long-term interests of egg producers and lemon growers.

Foreign Commerce

During Fiscal Year 1986, the Division participated actively in the Committee of Experts on Restrictive Business Practices of the Organization for Economic Cooperation and Development. That Committee is concerned with international antitrust investigative methods, the relationship between trade policy and competition policy, international cooperation and conflict resolution in antitrust proceedings, and merger control and joint venture policies in member countries.

In the United Nations Conference on Trade and Development, 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 for developing countries seeking to adopt or implement an antitrust policy. The Division also consulted closely with the Department of State and the domestic business community regarding a United Nations Conference on Trade and Development project to develop a Code of Conduct on the International Transfer of Technology.

Division staff were involved during the year with competitive questions that arose during market-opening negotiations with Japan. The Division also participated in negotiations with the European Civil Aviation Community concerning antitrust issues in international air transport, and with the Consultative Shipping Group (composed of representatives of European and Japanese governments) respecting maritime trade.

Bilateral antitrust consultations were held during the year with antitrust officials of the European Community. The Division also had informal discussions with antitrust officials and individual specialists from numerous other countries.

The Division continued to implement the Export Trading Company Act of 1982, which is intended to encourage export trade by U.S. companies. The 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. Certificate holders are granted limited immunity from federal and state antitrust laws. During Fiscal Year 1986, 15 certificate applications were processed, 10 of which were approved, and five applications were pending at year's end. The Division has appealed an adverse district court decision that invalidated one certificate.

Business Reviews

Although the Department of Justice is not statutorily empowered to issue formal advisory opinions, the Division may respond to written requests from private parties by stating its present enforcement intention with respect to proposed business conduct. The Division responded to 17 such business review requests during Fiscal Year 1986. Among the proposed activities that received favorable review were a joint venture to construct and operate a fiber-optic telecommunications network, a joint venture of more than 60 airlines operating joint airline ticketing facilities and providing other travel services at military and other federal government installations, and several group purchasing plans relating to ocean shipping freight rates.

Management Initiatives

During Fiscal Year 1986, the Antitrust Division successfully concluded a pilot test to assess the impact of placing work stations at the desks of Division attorneys. In addition to providing word processing capabilities for the generation and revision of legal documents, these work stations introduced legal research tools such as JURIS at attorneys' desks, as well as expanded electronic mail capabilities and added professional productivity tools. As a result of the test's success, the Division plans to provide work stations to attorneys on a larger scale during Fiscal Year 1987, as funds are available. The Division has continued to expand the availability of litigation support services to its attorneys through improvements in minicomputer-based systems as well as judicious use of mainframe software systems. A par-

ticular effort was initiated in 1986 to provide minicomputer-based systems and training to field office litigating staffs.

CITATIONS

- (1) No. 85-473 (S. Ct.), *cert. granted*, 106 S. Ct. 784 (1986).
- (2) 106 S. Ct. 1922 (1986).
- (3) No. 86-1087 (5th Cir.).
- (4) No. 84-2022 (S. Ct.), *prob. juris. noted*, 106 S. Ct. 1456 (1986).
- (5) No. 84-951 (S. Ct.), *cert. denied*, 106 S. Ct. 788 (1986).
- (6) No. 85-552 (S. Ct.), *cert. denied*, 106 S. Ct. 1457 (1986).
- (7) 106 S. Ct. 2034 (1986).
- (8) 106 S. Ct. 3325 (1986).
- (9) No. 85-1613 (S. Ct.), *cert. granted*, 106 S. Ct. 2244 (1986).
- (10) 106 S. Ct. 3101 (1986).
- (11) 463 U.S. 418 (1983).

Civil Division

Richard K. Willard
Assistant Attorney General

The Civil Division has four basic missions: to defend or assert the programs and initiatives of the federal government, including the President's domestic and foreign policy initiatives, and the statutory and regulatory integrity of many other federal programs; to bring suit to collect money owed the United States by delinquent debtors and to recover sums lost to the government through waste, fraud, and corruption; to defend the government and its officers and employees in lawsuits seeking damages from the U.S. Treasury or from its employees personally; and to enforce federal consumer protection laws, the nation's immigration laws and policies, and other program initiatives.

During Fiscal Year 1986, the Division received or initiated 11,231 new personally handled cases, and the pending workload grew by 5.5 percent to a total of 23,610 cases. The potential loss to the Treasury in these cases through direct awards, higher program costs, or changes in anticipated revenue was over \$132 billion. The Division had outstanding success in protecting the interests of the government in these cases. During the fiscal year, the Division closed 10,008 cases, 3,822 of which involved claims against the government totaling \$6.9 billion. Division attorneys defeated 98 percent of these claims, limiting awards to the plaintiffs in these cases to \$162 million. In addition, Division attorneys concluded 551 cases in which they recovered \$73 million for the Treasury.

Commercial Litigation Branch

In 1986, the Commercial Litigation Branch was extremely successful in protecting the financial interests of the United States. In 3,065 cases closed during the year that sought \$274 million from the government, the Branch limited awards to just \$25 million, or 9 percent of the amount claimed. The Branch obtained \$66 million for the government in affirmative litigation.

Examples of the Commercial Litigation Branch's successful representation of the government's commercial interests include the following:

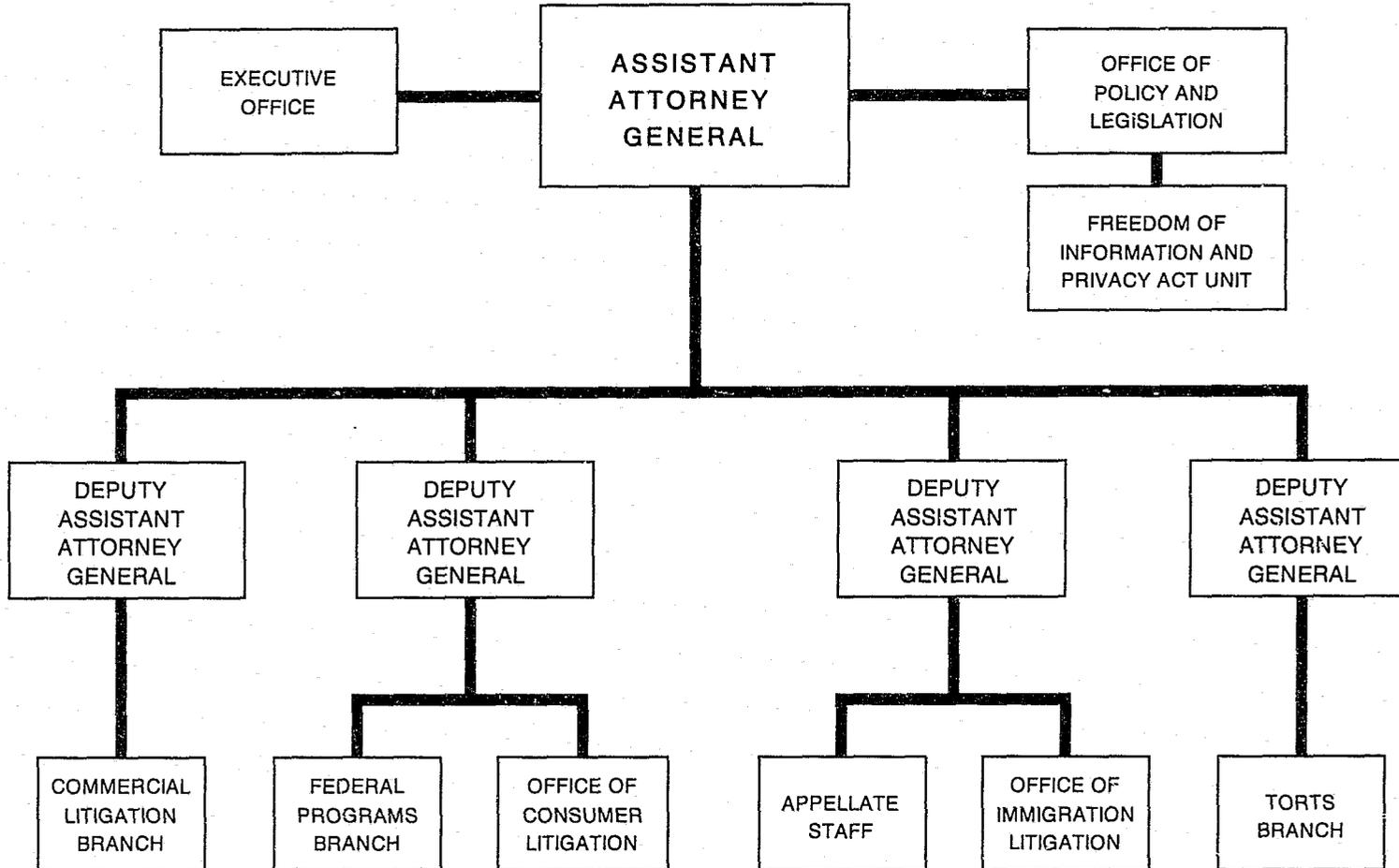
Corporate/Commercial Debt Recovery. Branch attorneys worked closely with the Rural Electrification Administration concerning numerous rural electric cooperatives whose poor financial condition seriously jeopardized billions of dollars in loans and loan guarantees made by the agency. Branch attorneys negotiated agreements restructuring over \$1.6 billion in aggregate debt owed by two generation and transmission cooperatives. The Branch is pursuing the Rural Electrifica-

tion Administration's \$700 million loan claim in the bankruptcy proceeding of the Wabash Valley Power Association, an Indiana cooperative that participated in the now-terminated Marble Hill nuclear power plant. The Branch also defended the Rural Electrification Administration in several cases challenging wholesale power contracts that insure the availability of revenues to permit the repayment of over \$41 billion in loans to cooperatives. The Branch protected the Maritime Administration's security interest in vessels in over 20 bankruptcies involving shipping companies that owed the government over \$1 billion. Branch attorneys continued their representation of the monetary and regulatory interests of such agencies as the Federal Aviation Administration, General Services Administration, Equal Employment Opportunity Commission, Customs Service, and the National Mediation Board. Cases include the chapter 11 bankruptcy proceedings of Braniff, Air Florida, and Continental airlines, and also the bankruptcy proceedings of steel companies such as Wheeling-Pittsburgh Steel Company and the LTV Corp., which each owe the Economic Development Administration over \$90 million. The Branch also represented the government's interest in the LTV case bankruptcy with respect to over \$4.5 billion in active contracts outstanding between defense agencies and LTV Aerospace. It also successfully foreclosed on security and enforced gas purchase agreements in connection with the Department of Energy's \$1.5 billion guaranty of now defaulted loans that financed construction of the Great Plains Coal Gasification Plant in North Dakota.

Claims Court. The Branch defended the United States in litigation before the Claims Court and the Court of Appeals for the Federal Circuit. The Federal Circuit, in an *en banc* reconsideration decision, accepted the Branch's argument that military service as an air traffic controller was not creditable toward the 25-year period that civilian air traffic controllers are required to serve to qualify for an early retirement annuity under 5 U.S. Code 8336(e). This result produced a savings of approximately \$6 million in air traffic controllers' retirement benefits and a potential savings of \$18 million in similar early retirement programs.

Branch attorneys successfully argued in the Federal Circuit that the treaty agreement between the People's Republic of China and the United States releasing the People's Republic of China from all claims by the United States and its nationals arising out of the People's Republic of China's seizures of property in exchange for a payment of \$80.5 million, to be shared by all claimants against the People's

CIVIL DIVISION



Republic of China, did not constitute a fifth amendment taking without just compensation of the unreimbursed portions of the claims.

In a congressional reference case, Branch attorneys successfully argued to a Claims Court review panel that the Food and Drug Administration's 1969 removal of cyclamates from the so-called "GRAS" (generally recognized as safe) list created neither a legal nor an equitable claim against the United States for losses incurred when food products containing cyclamates could not be marketed. The review panel rejected the hearing officer's recommendation that Congress enact a private bill to pay the claimant \$6 million.

Frauds. The Branch continued to emphasize the recovery of monetary losses resulting from fraud on the United States and the corruption of its officials, an Attorney General priority. The Branch directed particular emphasis to abuses of federally funded programs such as business, housing, and student loan insurance programs, and overpricing in Department of Defense and General Services Administration procurement contracts. During Fiscal Year 1986, recoveries from settlements and judgments were just under \$50 million. Among these recoveries were General Services Administration Multiple Award Schedule Contract cases in which the Branch recovered approximately \$3.6 million from General Services Administration suppliers who submitted fraudulent and defective pricing data during the negotiation of contracts to purchase computer software and related products or services. In addition, the Branch recovered more than \$22 million in cases involving cost mischarging and other fraudulent conduct in contracts with the Department of Defense. The Branch also recovered \$2.6 million from a meat processor that fraudulently diverted ground beef and substituted filled-in meat and distributed it for the National School Lunch Program. In the Court of International Trade, the Branch recovered \$4.5 million in a settlement of a case alleging customs fraud.

Intellectual Property. The Branch handled a wide variety of cases and matters involving intellectual property in the Claims Court, the Court of Appeals for the Federal Circuit, the district courts, and the circuit courts of appeals. Branch attorneys successfully defended several patent infringement suits seeking large money judgments for the government's use of inventions ranging from air traffic control antennas to surface effect ships.

Customs and International Trade. Branch attorneys handled cases involving the collection of customs duties and the enforcement of international trade policies. Successes in Fiscal Year 1986 included sustaining the validity of regulations governing the importation of the so-called gray market goods in two courts of appeals; sustaining the validity of regulations governing the importation of textiles; and preventing the premature release from customs custody of

documents and articles belonging to the former President of the Philippines.

Foreign Litigation. The Commercial Litigation Branch also represented the United States in foreign courts throughout the world. In one case, the Branch has initiated proceedings in Panama to recover \$5.5 million in Panamanian bank accounts fraudulently diverted from the United States.

Portland Field Office. The Branch's Portland Field Office represents the United States in litigation related to the 1982 default of the Washington Public Power Supply System on approximately \$2.25 billion in bonds issued to construct two nuclear power plants in the State of Washington. This massive litigation involves claims by bondholders against the Supply System, the Bonneville Power Administration, and others for losses caused by the default, which is the largest municipal bond default in the history of the United States.

Torts Branch

The workload of the Torts Branch grew by 53 percent in 1986, to a total of 7,770 cases. The number of new tort cases filed against the government in district courts doubled during this period to 3,289 cases. In spite of the growing workload, the Branch was highly successful in limiting awards to plaintiffs in 1986. In those cases closed during the year, claimants received only 2.1 percent of the money sought in tort claims. Branch attorneys limited awards to just \$137 million of the \$6.6 billion sought in those cases.

The Torts Branch continued its aggressive defense of asbestos claims. The Branch filed motions to dismiss or filed requests for certification for interlocutory appeal in several districts in light of a favorable ruling on the "vessel owner" issue in the First Circuit, wherein the court ruled that the government could not be held liable as a vessel owner in public shipyard cases. The court in Washington State dismissed all of the claims before it and that case is pending on appeal before the Ninth Circuit. The Third Circuit dismissed plant worker cases based on the discretionary function exception, holding that the government's decision to sell raw asbestos without warning labels to knowledgeable asbestos insulation manufacturers was discretionary.

The Branch maintained a superior record in radiation litigation, despite a rapidly expanding caseload. Branch attorneys continued to defend government contractors in suits involving nuclear activities or nuclear weapons testing.

Cases that use the tort system to challenge the administration of federal programs provide a seemingly limitless variety of novel legal and factual situations. The actions of the regulatory, safety, and environmental agencies have long been fertile ground for lawsuits; 1986 particularly saw a rash of litigation attempting to hold the United States responsible for the recent failures of private banks. In Fiscal Year 1986,

the Branch defended successfully many pending toxic tort suits, including a \$1.3 billion case brought to trial by 1,300 plaintiffs allegedly exposed to DDT manufactured on federal property.

Agent Orange litigation, in which members of the U.S. military in Vietnam claim exposure to this toxic defoliant, involves millions of dollars in money damages against the government. The Torts Branch obtained dismissal of all claims against the United States, including all third party claims. Appeals of these favorable rulings are pending.

During the past year, Branch attorneys became increasingly active in the defense of *Bivens* cases, or personal suits for money damages against federal officials based on their official actions. *Bivens* litigation is highly complex since it covers the entire spectrum of governmental activity, from law enforcement to contract disputes. In addition, the law in this area is still developing and changes rapidly. The Branch's record in *Bivens* suits is quite impressive, given that these cases require from 20 to 50 percent more attorney and support time than cases filed solely against the government. The government has received favorable judgments in over 99 percent of the 11,000 *Bivens* cases filed in the past decade. Moreover, the Branch has never lost a personally handled *Bivens* suit.

Torts Branch attorneys continued to defend the United States effectively in regulatory torts suits. In these cases, plaintiffs seek compensation for injuries stemming from the alleged failure of federal regulatory agencies to execute their inspection, examination, and enforcement responsibilities properly. In recent years, suits have involved such diverse regulatory functions as mine safety, food and drug laws, and other consumer protection activities.

The Torts Branch represents the United States in aviation cases arising from accidents involving air carrier, military, and general aviation aircraft. During the past year, intensive discovery took place among the parties in the multidistrict cases arising out of the Delta 191 crash at Dallas/Ft. Worth, with a trial expected in 1987. In litigation involving the downing of Korean Airlines Flight 007, the district court granted a motion to dismiss all remaining claims against the United States. The Branch also participated for several months in liability and damages trials arising out of the World Airways DC-10 runway accident at Boston. The Torts Branch continued to handle complex, multimillion dollar cases arising from virtually every kind of flight operation, including general aviation, package express, military, corporate, government, and charter flights.

The Branch also is responsible for admiralty and maritime litigation, with cases ranging from individual seaman injuries to massive shipping disasters. The Torts Branch obtained a highly significant reversal of a district court decision that held the government liable for an allegedly negligent weather forecast. This case had important ramifications for

not only weather forecasting but for all kinds of forecasting activities in which the government engages. The Torts Branch led a working group that developed important departmental testimony before Congress concerning pending legislation on the limitation of liability in admiralty cases. Additionally, affirmative admiralty claims continued to provide the Torts Branch with its largest area of monetary recoveries. The Branch provided extensive support to the Maritime Administration to recover government monies in ship mortgage foreclosure cases. In affirmative admiralty and maritime cases, the Branch recovered \$7 million for the government in 1986.

Finally, the Assistant Attorney General established a new policy and research office in the Branch, headed by a Deputy Director, which contributed to the Administration's program in the area of tort reform and coordinated policy on issues of importance to the defense of the United States and its officers.

Federal Programs Branch

During 1986, the workload of the Federal Programs Branch grew significantly. By the end of the year, its personally handled caseload had increased 87 percent, to a total of 859 cases, largely as a result of the increased number of new cases it received in which it defended government programs. The Branch achieved favorable results in 92 percent of the cases it closed during the year.

This year, the Federal Programs Branch was again in the forefront of defending and advancing the Administration's most important concerns. For instance, the Branch was deeply involved in defending the President's new Executive order mandating a drug-free federal work force and other lawsuits attacking various federal drug-testing programs. The Branch successfully deflected challenges to the Army's drug-testing program for civilian employees by persuading the courts that government employees challenging the program must exhaust their administrative remedies before bringing suit. In another context, the Branch successfully defended the Federal Railroad Administration's regulations requiring the testing of rail crews after certain rail accidents and incidents. On behalf of the Attorney General and pursuant to the Executive Order, the Federal Programs Branch is additionally responsible for advising all agencies concerning the legality of their drug-testing programs and, ultimately, for reviewing and approving them.

The growing crisis in Social Security disability litigation is another major concern on which the Federal Programs Branch focused. These cases have a substantial effect on both the administration and fiscal viability of the Social Security system. The Federal Programs Branch handled the major cases that raised constitutional, statutory, and regulatory issues that were nationwide in scope and in-

fluence. The Federal Programs Branch also handled extremely sensitive and important contempt actions against the Secretary of the Department of Health and Human Services and persuaded a court not to hold the Secretary in contempt for allegedly violating a cessation order, even though the court had itself initiated the action.

In defensive employment discrimination matters, the Federal Programs Branch was successful in stemming the tide of million-dollar classwide discrimination judgments by insisting on a hearing for each individual where the courts have entered adverse class action judgments against the federal government. This also enabled the Branch to resist judicial efforts seeking to impose on the federal government timetables and goals or preferences based on race or sex.

The Federal Programs Branch also was successful in defeating, on grounds of standing, a statutory and constitutional challenge to the implementation of the new U.S. policy on funding organizations engaged in family planning activities abroad. Under the new policy, announced in a White House statement and in effect for over a year, the United States will not permit its funds to be provided to nongovernmental organizations that engage in designated abortion-related activities abroad, even if they do so with their own funds.

The Branch also prevailed in defending the Department of Education's implementation of the Supreme Court's decision that it was unconstitutional, under the establishment clause, to offer statutory remedial educational services to children in sectarian schools on the premises of their schools. The Department has thus far prevailed in its position that circumstances within particular school districts justified the continued delivery of services on school premises for the 1985-1986 school year while planning for implementation of the decision, and that such services can be offered through mobile classrooms or at sites not identified with the sectarian schools. The Branch's successful defense has enhanced the Administration's policy, which recognizes the important educational role of these schools and the remedial services and seeks a reasonable application of the establishment clause.

In other constitutional litigation, the Branch successfully defended the constitutionality of the Federal Open Market Committee, a component of the Federal Reserve System. The Branch also successfully defended the constitutionality of the Judicial Councils Reform and Judicial Conduct and Disability Act of 1980, which empowers the judicial branch to discipline Article III judges.

In support of an important agency program, the Federal Programs Branch successfully opposed the entry of a preliminary injunction against the Farmers Home Administration in a nationwide class action challenge to its farmer loan acceleration procedures. This permitted the agency to implement a comprehensive set of regulations,

promulgated in November 1985, to liquidate and foreclose defaulted farmer program loans while providing adequate due process protection to Farmers Home Administration borrowers.

In 1986, Branch efforts defeated several actions that challenged the Department of Energy's marketing and pricing of hydro-electric and thermal generated power to municipalities, cooperatives, and other public bodies entitled by law to a "preference" in the purchase of this less expensive power. These cases resulted in substantial financial savings for the government and supported the Department of Energy's statutorily mandated policy of marketing power in the most widespread manner and at the lowest price consistent with sound business judgment.

Finally, in national security litigation, the Federal Programs Branch defeated an attempt to gain access to material previously classified by the National Security Agency but now in a private institutional library. The court found that the National Security Act of 1959 gave the National Security Agency the authority to instruct the library on maintenance of the documents. The court further held that when a designated classification authority determines that disclosure of material previously in the public domain would constitute a threat to national security and the classification authority properly classifies such material, as in this case, there is no independent First Amendment right of access.

Office of Consumer Litigation

The Office of Consumer Litigation was highly successful in its litigation during 1986. It obtained favorable results in 92 percent of the cases it terminated during the year and secured fines and penalties amounting to \$3.2 million.

In 1986, the Office actively pursued odometer fraud, with enforcement activities resulting in a series of successful prosecutions in Tennessee and Georgia. In the largest odometer case instituted thus far, a grand jury in Georgia returned a 124-count indictment against five individuals and a corporation for felony and misdemeanor violations in an odometer tampering scheme.

In other affirmative litigation, the Office prosecuted numerous criminal violations of the Food, Drug, and Cosmetic Act and related acts. The results included the conviction of several major figures, including a licensed pharmacist, involved in the illegal distribution of steroids; the indictment of a major health products firm for conspiracy and criminal misbranding in a promotion involving health claims; and the conviction of one of the largest repackagers and distributors of generic drugs for criminally obstructive behavior.

In defensive litigation, the Office won a number of major appellate victories. In one case, the circuit court upheld controversial Food and Drug Administration infant formula

regulations. In another, the court found a stipulation providing for a stay of enforcement proceedings was an unreviewable exercise of agency enforcement discretion.

In Federal Trade Commission litigation, the Office successfully concluded several suits against large consumer finance companies for violations of the Equal Credit Opportunity Act; suits against several firms misrepresenting the down content of pillows; and a suit against a major real estate development company for credit advertising violations.

With respect to Consumer Product Safety Commission matters, a circuit court ruling that the automatic stay provisions of the bankruptcy code are inapplicable to criminal fines aided the Office in its efforts to collect a criminal fine against a firm that had violated the ban on distribution of TRIS-treated children's garments. The Office also obtained an injunction against the distribution of certain prescription drug vials that were not child-resistant.

Office of Immigration Litigation

In spite of the increasing number and complexity of cases at both the trial and appellate court levels, the Office of Immigration Litigation continued to maintain a remarkable rate of success in Fiscal Year 1986. The Office obtained dispositions favorable to the government in 503 of the 572 appellate cases decided this year. In the same period, the Office achieved favorable results in 93.8 percent of all completed district court cases.

During the past year, the Office of Immigration Litigation handled a variety of cases of particular importance. For example, in several separate decisions the Eleventh Circuit Court of Appeals sustained the Attorney General's authority to detain Mariel Cubans with a history of antisocial behavior.

In other cases challenging the Attorney General's authority to detain aliens, the Office obtained favorable decisions in several class action suits seeking effectively to bar the use of centralized detention facilities; to require that deportation proceedings be held at the place of the alien's apprehension; and to limit the Attorney General's discretion in determining the number and type of aliens to be detained at the various processing centers located throughout the country.

The Office continued to handle a substantial volume of district and appellate court litigation involving asylum claims. On the government's petition, the Supreme Court agreed to decide whether such claims should be determined according to the same standard by which aliens threatened with persecution may seek withholding of deportation, an issue that continues to divide the courts of appeals.

In other litigation at the trial and appellate court levels, the Office successfully resisted efforts to compel the exercise of the Attorney General's prosecutorial discretion to excuse en-

tire nationalities or other groups of illegal aliens from all enforcement of the immigration laws. In light of the continued crisis in illegal immigration, the extent to which economic and political turmoil may be asserted as a basis for circumventing the statutory immigration procedures and numerical limitations remains an important issue. Over the past year, the Office defended an increasing number of cases challenging the denial of visas to aliens seeking to enter the United States. For example, the Office obtained a dismissal judgment in an action challenging the denial of an immigrant visa to a Libyan national for reasons of internal security. The Office also pursued several cases in which the Supreme Court will be asked to resolve the authority of the Secretary of State to recommend the denial of nonimmigrant visas to aliens whose entry into the United States would prejudice American foreign policy interests.

Finally, the Office also is responsible for a variety of suits challenging the efforts of the Immigration and Naturalization Service to locate and apprehend illegal aliens. Several pending class action suits attempt to enjoin the continued cooperation between federal officers and state and local law enforcement agencies. In other litigation, the Ninth Circuit Court of Appeals recently joined several other courts of appeals in sustaining the use by federal officers of administrative warrants in work-place operations.

Appellate Staff

The Appellate Staff received or initiated 1,969 new cases during 1986, thereby increasing its pending workload by 18 percent to an end-of-year total of 2,473 cases. The Staff terminated 1,593 cases during the same period. In spite of this growing caseload, the Staff maintained its excellent record in obtaining favorable decisions: 95 percent favorable in Supreme Court decisions and 67 percent favorable in appeals courts' decisions. This record is noteworthy because the cases handled by the Appellate Staff are ordinarily those lost in district courts.

During the past year, the Appellate Staff handled a variety of cases of national importance, including the challenge to the Gramm-Rudman-Hollings Balanced Budget and Emergency Deficit Control Act of 1985. The Gramm-Rudman-Hollings Act provided that, after Congress passes the budget each year, the Comptroller General must determine whether that budget meets specified budget deficit reduction targets based on the Comptroller General's predictions regarding economic conditions in the United States. Plaintiffs challenged the statute on constitutional grounds. The executive branch, represented by the Appellate Staff, declined to defend the statute because it delegated an executive task to the Comptroller General, who is removable by Congress. A three-judge district court accepted the Staff's argument that the action at issue was executive in nature and

could not be carried out by an officer removable by Congress. An appeal went directly to the Supreme Court, which affirmed the district court decision.

The Appellate Staff also successfully litigated a number of cases involving international concerns. For example, plaintiffs in one case sued the President and other officials, claiming that the establishment of a diplomatic mission in the Vatican violated the First Amendment. On appeal, the Third Circuit unanimously affirmed the dismissal of this action on both grounds argued by the Appellate Staff—lack of standing and involvement of a political question.

The Appellate Staff also handled significant social security litigation, such as the case involving an attempt by the State of California and others to withdraw from the federal Social Security system. The district court held that the states had contract rights allowing them to withdraw from the system, and declared the statute unconstitutional insofar as it prohibited termination of the states' participation. The government appealed directly to the Supreme Court, which unanimously accepted the position developed by the Appellate Staff to sustain the statute's validity. The decision will save the government \$500 million to \$1 billion annually.

In the defense of federal regulations, the Appellate Staff won the latest round in the continuing controversy over the Secretary of Transportation's passive restraint and seat belt regulations. The Secretary provided for a phased implementation of passive restraint requirements in new cars unless states with two-thirds of the population passed seat belt laws that met certain minimum criteria before 1989. State Farm Insurance and others challenged this decision, but the U.S. Court of Appeals for the District of Columbia Circuit accepted the Staff's arguments and sustained the validity of the Secretary's regulations.

In addition, the Appellate Staff continued to litigate successfully cases involving the Privacy Act, the Freedom of Information Act, and the Sunshine Act. A recent example was the *en banc* rehearing in the U.S. Court of Appeals for the District of Columbia Circuit of a ruling that the government must make public the transcripts of agency meetings once the litigation that was the subject of the meeting has ended. The court issued a new decision adopting the Appellate Staff's position that the Sunshine Act's plain language and legislative history supported the propriety of continued non-disclosure.

Office of Policy and Legislation

The Office of Policy and Legislation continued to play an active role in furthering the Administration's legislative program. Over the past year, the Office was directly involved in two major Administration initiatives: the legislative proposals developed by the Tort Policy Working Group to meet the crisis in insurance availability and the Administration's

major drug legislation, the Drug-Free America Act. In addition, the Office contributed to the enactment of a major revision in the civil fraud laws.

Working in conjunction with the Division's Torts Branch and members of the White House staff, the Office helped prepare the final report of the Domestic Policy Council's Tort Policy Working Group—a special task force established to confront the crisis in insurance availability and affordability. This report, and the Administration's legislative proposals, which followed its issuance, became the centerpiece of a major congressional debate on product liability and tort reform during the second session of the 99th Congress.

The Office also was involved in the preparation of the Administration's major legislative initiative against illegal drugs, the Drug-Free America Act. Along with other components of the Civil Division, the Office drafted Title I of that bill, which sought to foster a drug-free federal work place. The Office also was involved in drafting Executive Order 12564, authorizing a program to foster a drug-free federal work place. Moreover, because of time constraints, the Office coordinated the drafting of the entire 240 page Administration bill, major portions of which the Congress enacted.

In a major legislative accomplishment, the Office oversaw the enactment of two major antifraud measures, which constituted the heart of the Administration's antifraud initiative that the Attorney General announced in September 1985. These bills, the Program Fraud Civil Remedies Act and the False Claims Act Amendments, which were drafted by the Office last year, will greatly strengthen civil remedies in cases of procurement fraud.

The Office also worked with the Office of Management and Budget and the Congress on a regular basis to ensure consideration of the effects on government litigation in the development of new legislation and regulations. The Office also sought to ensure that the Civil Division was prepared to meet the challenges of new legislation. In addition, the Office worked with other agencies to modify regulations that have been challenged in court.

The Office of Policy and Legislation responded to hundreds of public inquiries regarding the Division's activities. To ensure timely responses, it streamlined recordkeeping programs and established special mail response programs.

The Freedom of Information and Privacy Act Unit continued to respond to requests quickly and efficiently and increased its productivity through the implementation of efficient processing procedures. During 1986, the Unit prepared amended regulatory language to protect "routine uses" of Civil Division records from challenges under the Privacy Act. It prepared system notices, which will protect five records systems within the Civil Division, for publication in the *Federal Register*. The effect of these changes will be to ex-

pand the number of Civil Division records protected from mandatory disclosure under the Privacy Act.

Management Improvements

During 1986, the Division's Executive Office continued a comprehensive program to transform the Civil Division into a highly efficient, automated, modern legal office. Consistent with the President's and the Attorney General's goals for productivity improvement, the Civil Division has realized enormous benefits from this program and will continue to do so for years to come. Some of the most prominent components of this program are:

AMICUS. AMICUS is an advanced office automation and communications network system that has increased the flexibility and productivity of Division employees by providing direct access to standardized word processing; communications between work stations and among field offices; high-speed electronic printing facilities; and access to litigation support, legal research, case management and tracking, employee timekeeping, and personnel and financial information systems. In 1986, the Civil Division installed the second generation of AMICUS equipment. The new system enhances employees capabilities by providing: increased storage and processing capacity; faster and more efficient data entry, processing, communications, and printing; additional flexibility in using portable computers and stand-alone intelligent work stations; and a greater number of applications such as data base management programs, electronic spread sheets, and graphics. These features contribute to attorney, professional, and clerical productivity and enhance the quality of the Division's work.

Automated Litigation Support. The Division's automated litigation support program employs contractors and micrographic and computer technologies in cases involving large document collections to enable Division attorneys to control the storage and movement of documents and to manipulate, analyze, and retrieve electronically the relevant information contained in the documents. In 1986, the Division obtained a new, comprehensive contract for the provision of these services at a considerable cost savings.

The Division employed automated litigation support in 1986 for 33 major cases and case families. A major portion of this support went to asbestos litigation. The Division examined more than 40 million pages of asbestos documents and microfilmed 1.3 million of the most relevant pages. The second largest support effort involves the litigation surrounding the bond default of the Washington Public Power Supply System. In this litigation, the Division acquired through microfilm over 7 million pages of documents from the 140 million produced and coded and computerized 165,000 of the most pertinent documents.

Automated Legal Research. Since AMICUS brought the Division easy access to legal research data bases, there has been a 728 percent increase in its use that suggests a shift in work habits favoring computer-assisted research methods over traditional library work. This tool reduces the time needed for legal research while vastly increasing the volume of accessible information. Recent survey results demonstrate a 7.2 percent rise in attorney productivity between 1985 and 1986 that is attributable to automated legal research technology.

Privatization. To control administrative costs, the Division transferred several administrative activities to the private sector. The Division contracted: mail and messenger services; mail classification and case docketing; centralized records management; supply services; and accounts maintenance.

Operational Improvements. The Division considerably improved the quality of its management support services in 1986. It enhanced its automated case management system by developing several interactive reports; establishing data base integrity procedures; and implementing the Automated Records Management System, which contains information on the location and contents of the Division's case files. The Division also developed an accounts receivable system for implementation in 1987 and established a direct deposit and electronic fund transfer system to reduce the time between the collection and deposit of debt receipts. The reduction of the time needed to deposit money from a few weeks to a maximum of two days has enabled the Treasury to accrue savings in interest payments that should amount to \$423,000 between 1984 and 1988.

Civil Rights Division

Wm. Bradford Reynolds
Assistant Attorney General

The Civil Rights Division was established in 1957 and is staffed by 184 attorneys and 266 support personnel organized into eight major enforcement sections. The Division enforces eight major civil rights acts 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. In addition, the Division prosecutes actions under several criminal civil rights statutes, coordinates the civil rights enforcement efforts of certain federal agencies and assists federal agencies in identifying and eliminating sexually discriminatory provisions in their policies and programs.

During the fiscal year, the Division initiated or participated in over 70 civil suits, presented results of 49 criminal investigations to federal grand juries which returned 35 indictments and 14 informations charging a total of 112 defendants, filed 79 appellate briefs and substantive papers in the Supreme Court and courts of appeals, and reviewed over 3,700 submissions under Section 5 of the Voting Rights Act, involving more than 20,000 changes. At the end of the year, the Division had approximately 3,200 cases and matters under its supervision.

Division actions were taken during the year in support of the Attorney General's priorities in the areas of reducing violent crime; strengthening existing programs through management improvements; participating where appropriate in cooperative actions with U.S. Attorneys and their local Law Enforcement Coordinating Committees; and continuing to give prior notice to state governors and attorney generals before commencing any litigation against entities of state government.

In the area of reducing violent crime, the Criminal Section of the Division continued to place a great emphasis on the prosecution of incidents involving racial violence, especially on increased Ku Klux Klan activities across the country. During the year, the conviction rate for violations of the criminal civil rights statutes was 82 percent, the highest in the Section's history.

The Division continued its policy of declining to seek quota relief in employment discrimination cases and, instead, seeking relief for actual victims through backpay and priority job offers and requiring enhanced recruitment and objective merit selection criteria. The Division also reviewed its policy of providing notice to states before commencing litigation. This notice was extensively used in resolving unconstitutional conditions found in state facilities during in-

vestigations under the Civil Rights of Institutionalized Persons Act. Notice to state officials before commencement of litigation also assisted in the resolution of issues in the area of public facilities and busing. Similarly, policy reviews were undertaken and policy modifications made in the areas of busing to provide racial balance in schools, services provided to the institutionalized handicapped, and compliance with federal civil rights regulations by institutions receiving federal funds.

The Division has made significant progress in the development and implementation of management improvements and initiatives. It has refined the organizational changes made in 1982 and has increased the emphasis on management control and direction. In concert with the Attorney General's guidance, the Division placed a high priority on coordinating civil rights enforcement with departmental components and federal agencies. The Department increased its consultation, negotiation, conciliation, and mediation of issues to aid in diminishing the civil litigation workload of the federal judiciary. Management efficiency also was evidenced in the Division's automated data processing support which resulted in increased cost-effectiveness and productivity in litigation and in correspondence control.

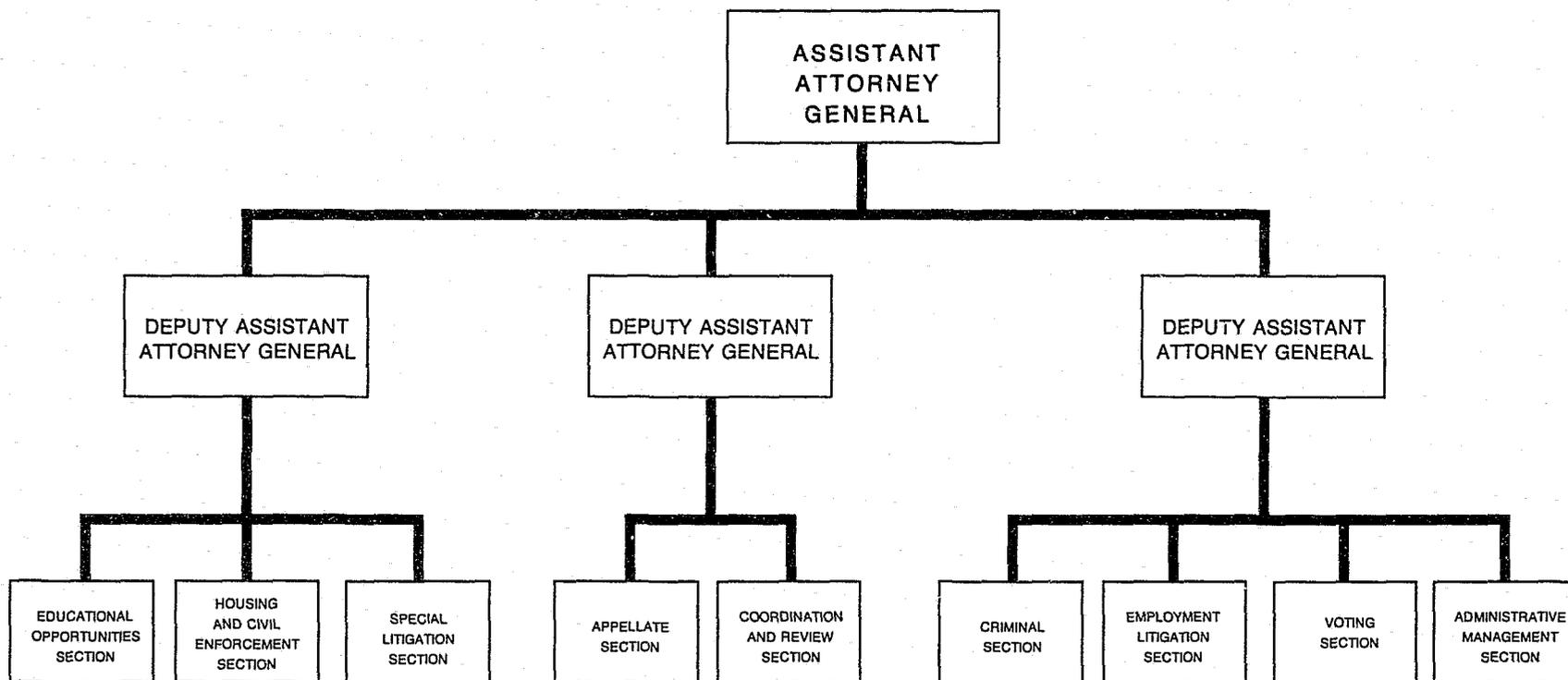
Appellate Section

The Appellate Section has primary responsibility for handling Division and *amicus curiae* cases in the Supreme Court and the courts of appeals, for giving legal advice to federal agencies and other organizations within the Department, and for preparing comments on selected legislative matters. Most of the Section's appeals are from district court judgments in cases originally handled by Civil Rights Division trial sections.

During the year, the Division filed 35 briefs and substantive papers in the Supreme Court and 44 in the courts of appeals, 95 percent of which were prepared by the Appellate Section. Seventy-six percent of the decisions reaching the merits were in full or partial accord with the Division's contentions. The Supreme Court reached the merits in 10 Division cases; eight of these decisions were consistent with the government's position. The courts of appeals rendered 36 merits decisions, 27 of which were in full or partial accord with the Division's contentions. Highlights of these cases included:

- A Fourth Circuit decision upheld the constitutionality of a school board's decision to abandon its busing of

CIVIL RIGHTS DIVISION



elementary school students because the board had eliminated all vestiges of its dual system and found that it was free to eliminate busing unless its decision was motivated by discriminatory intent.¹

- The Supreme Court held that a public school faculty layoff quota based on race violates the Equal Protection Clause. The court accepted the arguments made as *amicus curiae* that: the same strict judicial scrutiny must be applied to all racial classifications, including those that disadvantage whites; and the concept of societal discrimination (rather than actual discrimination by a particular employer) cannot justify racial preferences.²
- The Fourth Circuit accepted in full the Division's contention that the United States was improperly denied an opportunity to demonstrate the need for a special election in a vote dilution case.³
- The Sixth Circuit affirmed a lower court's entry of a consent decree in a higher education case. The court held that a special preprofessional program for black students was sufficiently tailored to correct the effects of past discrimination.⁴

The Section provided 34 written comments for other offices within the Civil Rights Division, other divisions, and other agencies. The Section also prepared nine comments on legislative matters.

Coordination and Review Section

The Coordination and Review Section coordinates, pursuant to Executive Order 12250, the implementation and enforcement by the executive branch of federal laws that prohibit discrimination in federally assisted programs on the basis of race, color, national origin, sex, handicap, religion, and in federally conducted programs on the basis of handicap. The Section also assists federal agencies in developing and publishing regulations implementing the amendments to Section 504, which prohibit discrimination on the basis of handicap in the programs and activities conducted by the agencies. Highlights of these activities included:

- The Section commented on the proposed or final regulations of 12 agencies, including a final Section 504 regulation published by the Federal Deposit Insurance Corporation, and publication by the Farm Credit Administration and the Panama Canal Commission of Notices of Proposed Rulemaking.
- During Fiscal Year 1984, the Section made arrangements with the Office of the Federal Register to coordinate joint publications of proposed Section 504 regulations. In Fiscal Year 1986, the first and second joint publication of proposed Section 504 regulations for 39 agencies were published.

- To carry out the requirements of the Department of Justice's Section 504 regulations, the Section has continued working with the component agencies within the Department in the writing of a transition plan and in the conducting of self-evaluation of compliance with Section 504.

The Section also reviewed the civil rights implementation plans and Office of Management and Budget Circular A-11 responses of 25 agencies. Finally, the Section reviewed and commented upon numerous revisions or amendments to agencies' regulations that prohibit discrimination in programs and activities receiving federal financial assistance.

Criminal Section

The Criminal Section enforces statutes designed to preserve personal liberties. Two of these laws prohibit persons from acting under color of law or in conspiracy with others to interfere with an individual's federally protected rights. Other enforced statutes prohibit the holding of individuals in peonage or involuntary servitude. The Section also is responsible for the enforcement of the provisions of the 1968 Civil Rights Act which prohibit the use of force or threats of force to injure or intimidate any persons involved in the exercise of certain federal rights and activities.

During Fiscal Year 1986, the Section reviewed over 7,500 complaints alleging criminal interference with civil rights; approximately 2,700 of these complaints were investigated by the Federal Bureau of Investigation. The results of 49 investigations were presented to federal grand juries; 35 indictments were returned and 14 informations were filed charging a total of 112 defendants, including 70 law enforcement officers. Trials were held in 34 cases, resulting in conviction for 55 defendants and acquittal for 20 defendants.

The Criminal Section continued to emphasize the prosecution of incidents of racial violence. Highlights of this activity included:

- A three-year grand jury investigation in the Western District of North Carolina into cross burnings and shootings by members of the White Knights of Liberty of the Ku Klux Klan was concluded. Of 21 individuals charged during the investigation, 19 were ultimately convicted, including three statewide leaders of the Ku Klux Klan. Sentences included prison terms of up to seven years and a total of \$17,000 in fines.⁵
- In Philadelphia, four defendants, including a juvenile, were convicted of destroying by fire the home of a black couple who had moved into a white neighborhood in order to intimidate that family and other black families who may have wished to move into the neighborhood. The defendants received prison

terms and were ordered to pay restitution to the family.⁶

- In North Carolina, a white state prison guard, a member of the Carolina Knights of the Ku Klux Klan, pled guilty to interfering with the employment rights of a black correctional officer, who had filed a grievance for his unsuccessful attempt for a promotion at the correctional facility. The defendant had sought to intimidate the victim by burning a cross near his home.⁷

Investigations into complaints alleging misconduct by law enforcement officials continued to account for much of the Section's activity. In important actions:

- A New Jersey state police trooper was convicted of unlawfully beating a shackled prisoner, resulting in the prisoner's death and, along with a second state trooper, of conspiracy to obstruct justice by covering up evidence of the fatal beating and of committing perjury before the grand jury.⁸
- In Puerto Rico, five police officers were convicted and two others pled guilty in two cases. In both cases, the victims died as a result of the unlawful acts of the officers.⁹
- In North Carolina, the superintendent of a state correctional institution as well as five other correctional officers were indicted for the severe beatings of two inmates. Four of the defendants pled guilty prior to trial, and the superintendent was convicted of conspiracy at trial. The remaining defendant, the assistant superintendent of the prison, was convicted of perjury.¹⁰
- An indictment charging 13 prison officials and guards of the Texas Department of Corrections with conspiring to cover up their involvement in the beating of an inmate who suffered permanent brain damage resulted in two guilty pleas. Others await trial.¹¹

The Section also litigated several cases involving violations of the peonage and involuntary servitude statutes in order to deter the victimization of migrant workers and others:

- A trial involving the smuggling of Indonesian laborers into the United States to perform domestic work resulted in two convictions. A guilty plea was subsequently obtained from a third defendant who had been a fugitive. Two of these defendants were fined a total of \$21,000 and ordered to pay restitution to the victims.¹²
- Two wealthy homeowners, who recruited illegal aliens to perform domestic work in their homes in California, Nevada, and Hawaii, and who physically abused them, were tried and convicted of violations of the laws against involuntary servitude, conspiracy, transportation of illegal aliens, and escape from federal custody.¹³

- Eight members of a religious cult called the House of Judah, including its leader who was called "the Prophet," were indicted, tried, and convicted for conspiring to hold children in involuntary servitude and for the actual enslavement of one child. One child was severely beaten with an axe handle by several cult members and later died from the injuries he sustained. Eleven other children were found to have been physically abused, one child with facial burns from an iron.¹⁴

Special Litigation Section

The Special Litigation Section is responsible for the enforcement of the Civil Rights of Institutionalized Persons Act of 1980, which gives the Attorney General authority to initiate action on behalf of institutionalized persons where conditions are believed to exist that deprive those persons of their federally protected or constitutional rights. The Section also enforces Section 504 of the Rehabilitation Act of 1973, the Education of the Handicapped Act of 1973, the Revenue Sharing Act, and 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.

This year, the Section took action in 21 investigations, including six cases filed pursuant to the Civil Rights of Institutionalized Persons Act. The Section also initiated 21 new investigations under the Act.¹⁵

The Section's enforcement actions included:

- The United States moved for a preliminary injunction to prevent the County of Los Angeles from interfering with the Section's investigation and granting the Section access to the Los Angeles Juvenile Halls. The court issued a permanent injunction barring the county from imposing state confidentiality laws to control access to the facilities and their records.¹⁶
- The Section filed its first contested lawsuits against state institutions for the mentally retarded to remedy unconstitutional deficiencies when attempts at reaching settlement agreements failed.¹⁷
- In other matters, the Section successfully negotiated and entered into 4 consent decrees pursuant to the Act, involving the South Carolina State Hospital, a mental health facility in Columbia, South Carolina;¹⁸ the Wheat Ridge Center, a mental retardation facility in Colorado;¹⁹ two Michigan state mental health institutions, the Northville Regional Psychiatric Center and Ypsilanti Psychiatric Hospital.²⁰
- Following evidentiary compliance hearings, the district court found the State of Michigan to be in non-compliance in the area of prison mental health care services and ordered the enforcement of a consent decree in this case involving conditions of confinement at three Michigan prison facilities. The issues include fire

safety, medical care, access to courts, sanitation, safety and hygiene, and overcrowding and protection from harm.²¹

Educational Opportunities Section

The Educational Opportunities Section enforces federal statutes which require nondiscrimination in public education. The statutes enforced by the Section include Title IV of the Civil Rights Act of 1964 and the Equal Educational Opportunities Act of 1974. The Section also has responsibility for representing the Department of Education in certain types of suits filed against the Secretary of Education. Significant actions for the year included:

- On December 7, 1985, the federal district entered an order finding the State of Alabama liable for continuing racial vestiges in its public system of higher education.²² Four Alabama public institutions, which opted to sign consent decrees rather than litigate the issues completed their first year under those decrees and reported some very positive results.
- In the final resolution of the Yonkers, New York, housing and school case,²³ the court, on November 10, 1985, entered a 600-page opinion finding the defendants guilty of racial discrimination in the areas of housing and schools; subsequently, the court approved remedial plans covering both areas.
- A suit was filed alleging that school systems are engaging in discriminatory practices with respect to students and teachers.²⁴ A second suit was filed, pursuant to Section 504 of the Rehabilitation Act of 1973, against the University of Alabama at Birmingham.²⁵

This past year, the Section significantly increased its expenditure of resources in defending the Department of Education in several suits:

- Fort Wayne, Indiana, school officials sued the Department of Education in federal district court in an attempt to stop the Department from proceeding with an administrative proceeding against the Fort Wayne schools.²⁶ The Department of Justice was successful in obtaining a dismissal of the suit and allowing the administrative proceeding to continue.
- In another defensive suit, the Department of Justice successfully defended the Department of Education in a suit filed by Morris County (New Jersey) Junior College, and again obtained a dismissal of the case.²⁷
- A long-standing defensive case involving the Cincinnati, Ohio, school district's entitlement to Emergency School Aid Act funds was resolved;²⁸ the court found that the school district was entitled to receive funds previously withheld by the then Department of Health, Education and Welfare.

- Finally, the Section is defending the Department of Education in a recently filed suit against it by the Dekalb County, Georgia, school district.²⁹

Housing and Civil Enforcement Section

The Housing and Civil Enforcement Section is responsible for the enforcement of the Fair Housing Act of 1968 and the Equal Credit Opportunity Act. The Section also is responsible for coordinating the enforcement of Title II of the Civil Rights Act of 1964 which prohibits discrimination in places of public accommodation and for handling matters relating to discrimination in the provision of municipal services.

During the year, the Section filed 12 new Fair Housing Act cases and eight of these were successfully resolved through the entry of consent decrees:

- The new suits settled by consent decrees included an action against a public housing authority alleging discrimination on the basis of national origin;³⁰ a case against the publishers of a statewide daily newspaper in Jackson, Mississippi, involving advertisements that indicated preferences or limitation based on race, religion, or sex;³¹ and race discrimination suits against the owner of apartment complexes,³² a resort developer,³³ apartment rental firms,³⁴ and trailer park operators.³⁵
- Four other cases involved race discrimination claims against public housing authorities,³⁶ a 1,200 unit apartment complex,³⁷ and a community association responsible for racially restrictive covenants in deeds.³⁸

Consent decrees were also obtained in three housing suits initiated in previous fiscal years:

- One of these cases was commenced in 1983, alleging that officials of a Chicago suburb had acted to exclude blacks from living in the town.³⁹
- Two cases involved allegations of racial discrimination at an apartment complex in Winston-Salem and by a time-share resort developer.⁴⁰

Also this year, four Equal Credit Opportunity Act cases were filed and resolved by consent decrees.

- Two cases involved creditors with offices in a number of California cities. The first alleged that a thrift institution with 17 offices discriminated on the basis of race, national origin, age, sex, marital status, and source of income.⁴¹ The other involved a lender with 72 offices and charged the company with discriminating on the basis of age, marital status, and source of income.⁴²
- A third suit alleged that a North Dakota bank discriminated against Indians living on a nearby reser-

vation,⁴³ and the remaining case, which also raised Fair Housing Act claims, involved a resort developer.⁴⁴

The Section filed four suits under Title II of the 1964 Civil Rights Act; two others were filed by a U.S. Attorney's office. Three of the six suits were resolved by consent decrees. Highlights of these cases included:

- In three of the cases, the defendants were the owners or operators of nightclubs which allegedly discriminated against blacks by refusing them admittance or service or by imposing different terms or conditions upon admittance or service than were imposed for white patrons.⁴⁵ Two other defendants were swim clubs which allegedly discriminated against blacks by denying them admission or membership on the same conditions admission or membership was made available to whites.⁴⁶ The remaining suit involved alleged racial discrimination by a trailer park owner who also offered camp sites. This case raised Title VIII issues as well as violations of Title II.⁴⁷
- Two consent decrees were entered in suits which had been filed in previous years. The defendant in one of those cases owned and operated nightclubs in a chain of motels; the defendant allegedly discriminated against blacks by denying them admission or service on the same terms and conditions as imposed on white patrons.⁴⁸ The other defendant owned and operated a nightclub which allegedly discriminated against blacks by charging higher cover charges than were charged to whites.⁴⁹

Employment Litigation Section

The Employment Litigation Section is responsible for the enforcement of Title VII of the Civil Rights Act of 1964 which prohibits discrimination on the basis of race, color, religion, sex, or national origin in employment. During the year, the Section filed 23 new suits. Twenty-four decrees or orders were obtained in 23 cases. The decrees and orders provided for the payment of over \$1,900,000 in backpay to persons identified as having been harmed by the defendants' prior practices. The decrees and orders also provided for priority job offers to such persons, the elimination of unlawfully discriminatory practices, and the enhanced recruitment of the group(s) previously excluded. In addition, a court ruling was obtained in another case holding unlawful the use of a promotional fire captain examination developed and administered by a state civil service agency for municipal fire departments in the state.⁵⁰

Consistent with the Division's policy of seeking to vindicate rights of individual victims and of supporting efforts of the Equal Employment Opportunity Commission to obtain voluntary compliance with Title VII, nine of the new

suits filed during the year were based in whole or in part on referrals from that agency which involved allegations of discriminatory practices made by individuals. While these suits are usually small in scope, the cases are designed to enhance the Commission's ability to obtain relief through negotiations with other employers.

Among the highlights of the year's litigation were:

- Implementation of a program to eliminate durational residency requirements for application for municipal employment and related practices by Cook County towns. These requirements, which operate to exclude nonresidents from employment with the town, exclude all or substantially all black applicants from competing for jobs with these majority white towns. During the year, we prosecuted an appeal from the district court's denial of our motion for a preliminary injunction on this issue and obtained a favorable appellate ruling.⁵¹ An additional 13 suits were filed under this program. The Section filed four motions for summary judgment, and obtained satisfactory decrees in the *Cicero* case and in eight of the newly filed cases.
- The Section filed its first suit alleging sexual harassment of female employees by a superior, and was successfully resolved.⁵²
- A consent decree was entered in a suit alleging systemic discrimination against American Indians by a municipal employer.⁵³ The decree calls for \$750,000 in backpay and priority job offers to at least 225 American Indians and three non-Indian women with retroactive seniority. The Section believes, this decree provides the most thorough relief and the greatest amount of backpay for American Indians in any employment discrimination case.
- A consent decree was entered with a major police department which calls for the development and validation with the Section's cooperation of an examination for entry-level police officers.⁵⁴ Other police departments already have joined in this effort which is the Division's first to help fill the void caused by the absence of lawful objective selection devices for entry-level police officers.

Voting Section

The Voting Section enforces voting laws 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 and the Voting Accessibility for the Elderly and Handicapped Act. The Section achieves compliance with the statutes through litigation, the assignment of federal observers to monitor election-day activities in specially

covered jurisdictions, and administrative review of changes of any standard, practice, or procedure affecting voting which occur in a jurisdiction covered by the special provisions of the Voting Rights Act.

During Fiscal Year 1986, over 3,700 submissions involving more than 20,000 changes were submitted to the Attorney General under Section 5. This was the largest number of submissions ever made, and the largest number of changes ever submitted under Section 5. The submissions involved 101 changes to which objections were interposed, including:

- Redistricting plans for Lynn County, Texas, and Sunflower and Yazoo Counties, Mississippi, the latter two of which represented the third objectionable redistricting plans that the counties presented for review;
- Annexations where the proposed addition of white persons would have diminished black persons' voting strength in at-large elections for city council members in Forsyth, Georgia; Sumter, South Carolina; and Franklin, Virginia;
- Changes in methods of holding elections for city or county council members and districting plans which were dilutive of minority voting strength in the cities of El Campo and Plainview, Texas; Jesup, Lyons, and Quitman, Georgia; Elizabeth City, North Carolina; and in Lamar County, Texas, and Marengo County, Alabama;⁵⁵ and
- A deannexation from Greensboro, Alabama, of land on which a housing project with a projected majority black occupancy was scheduled to be built.

The Section participated in 14 new cases during the fiscal year.⁵⁶ Highlights included:

- Boundary lines for city council districts in Chicago, Illinois, and in Los Angeles, California, were redrawn as the result of lawsuits that claimed that the lines as originally drawn diluted the voting rights of, respectively, black, and black and Hispanic voters.⁵⁷ Special elections were scheduled in both cities to give their residents an opportunity to choose representatives from the new, fairly drawn districts, and in Chicago the results made a significant difference in the make-up of the city council.
- Consent decrees required that single-member district election plans replace at-large methods of election in Darlington County, South Carolina; Wilson County, North Carolina; Chavez County, New Mexico; the Roswell, New Mexico, Independent School District; the City of Demopolis, Alabama; and the City of Bessemer, Alabama,⁵⁸ where the decree also required the city to adopt a racially nondiscriminatory annexation policy and to hold annexation referenda in nearby areas of predominantly black population that

previously were not permitted to become a part of the city. In Bessemer's first elections after new districts were adopted and surrounding territory was fairly annexed, black persons, who never had won an election for city office, were elected to four of the seven city council seats.

- Another racially selective annexation policy was enjoined by the terms of a consent decree in our lawsuit against the Town of Indian Head, Maryland; and the Section successfully opposed racially motivated annexations by the all-white City of Pleasant Grove, Alabama.

Under the special provisions of the Voting Rights Act that authorize the Attorney General to assign federal 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, 431 observers were assigned to cover 11 elections in 17 counties in five states in Fiscal Year 1986. Included in this activity were the first ever assignments of federal observers to New York, for the 1986 municipal primary election, and to New Mexico, during the 1986 primary election, in both instances to monitor the jurisdictions' compliance with the language minority provisions of the Voting Rights Act.

In continuing efforts to assure that jurisdictions' voting and election procedures do not violate the rights of protected classes of voters under federal civil rights laws, the Section conducted a survey of the methods of election in the State of Arkansas for the councils of 27 counties and 16 cities in which minorities comprise a significant percentage of the populations, and a survey of all 40 specially covered counties in North Carolina to determine whether changes in their method of election and, for the county school boards, changes in their voting constituency, have been submitted for preclearance under Section 5 of the Voting Rights Act. Violations of federal law that were disclosed by these surveys are being pursued, and the Section was successful in obtaining the submission of nine previously unprecleared changes made by North Carolina county commissions.

Management Improvements

During Fiscal Year 1986, the Civil Rights Division undertook several projects to improve productivity. The primary emphasis was the expansion of the microcomputer system to automate many of the day-to-day tasks, as well as using the equipment to provide better access to automated litigation support systems. Many of the sections also have restructured internal administrative and management responsibilities with marked results. Efforts to implement these improvements included:

- Use of approximately 81 microcomputers for a variety of purposes ranging from word and data processing to

legal research and litigation support. The word processing package used on microcomputers is superior to outdated dedicated word processors, and access by attorneys and paralegals has improved the quality of our work product and the time required to complete assignments.

- Desk-top access to legal data bases have enabled lawyers and others to rededicate their time to more productive activities.
- The use of automated data bases for docketing, scheduling, recordkeeping, and direct litigation support has made the Division more efficient and placed the most essential information at the Division's fingertips.
- The Division also upgraded its equipment and increased its ability to support large data bases maintained at the Department's Justice Data Center. Both of these efforts have significantly improved the quality and quantity of the Division's litigation.

In the last quarter of the year, the Division established a prototype networked office automation system, AMICUS II, developed by the Civil Division and used by other divisions in the Department. Preliminary results, confirmed by evaluations elsewhere in the Department, have shown productivity enhancements beyond those realized using stand-alone microcomputers. These benefits derive from the additional benefit of communications and document transmission. In a fully configured AMICUS II environment, operating with a mixture of microcomputers and non-intelligent terminals, the Division expects a productivity gain in the range 12 percent to 18 percent.

CITATIONS

- (1) *Riddick v. School Board of the City of Norfolk*, 784 F.2d 521 (4th Cir. 1986).
- (2) *Wygant v. Jackson Bd. of Educ.*, 54 U.S.L.W. 4479 (U.S. May 19, 1986).
- (3) *United States v. City of Cambridge*, 799 F.2d 137 (4th Cir., 1986).
- (4) *Geier v. Alexander*, 801 F.2d 799 (6th Cir. 1986).
- (5) *United States v. Earp, et al.*, No. ST-CR-86-2 (W.D. N.C.).
- (6) *United States v. Stewart, et al.*, CR No. 86-52 (E.D. Pa.).
- (7) *United States v. Jerry L. Lewis*, CR No. 86-86-01-R (M.D. N.C.).
- (8) *United States v. Messerlian, et al.*, CR No. 85-262 (D. N.J.).
- (9) *United States v. Lopez, et al.*, CR No. 85-240 (GG) (D. P.R.); *United States v. Lopez-Andino, et al.*, CR No. 86-032 (JAF) (D. P.R.).
- (10) *United States v. Hinton, et al.*, CR No. 86-84-01-S (M.D. N.C.).
- (11) *United States v. Wallace, et al.*, CR No. H-86-142 (S.D. Tx.).
- (12) *United States v. Mussry, et al.*, CR No. 82-802-RG (C.D. Calif.).
- (13) *United States v. Kimes and Kimes*, CR No. LV CR 85-134, HDM (D. Nev.).
- (14) *United States v. William Lewis, et al.*, CR No. G85-133 CR (W.D. Mich.).
- (15) Vermont State Hospital, Waterbury, VT.; Buffalo Psychiatric Center, Buffalo, N.Y.; New Mexico State Hospital, Las Vegas, N.M.; Guam Mental Health Unit, Agana, Guam; Eastern Oregon Training Center,

Pendleton, Oregon; Northeast Ohio Developmental Center Located at Broadview, Cleveland and Warrensville, Ohio; Howe Developmental Center, Tinley Park, Ill.; Ebensburg Center, Ebensburg, Pa.; Embreeville Center, Coatesville, Pa.; Edgemoor Geriatric Hospital, Santee, Ca.; Preston School of Industry, Ione, Ca.; Essex County Youth House, Newark, N.J.; Los Angeles County Jails, Los Angeles, Ca.; Jefferson County Jail, Steubenville, Oh.; Hinds County Detention Center, Jackson, Ms.; Agana Lock-Up, Agana, Guam; Sandusky County Jail, Fremont, Oh.; Santa Rita Jail, Pleasanton, Ca.; Missouri Training Center for Men, Moberly, Mo.; Kansas State Penitentiary, Lansing, Ks.; Guam Adult Correctional Institution, Agana, Guam.

(16) *United States v. County of Los Angeles*, C.A. No. CV 86-1951-RMT (Tx) (C.D. Ca.), permanent injunction issued May 12, 1986.

(17) *United States v. Oregon*, C.A. No. 86-961LE (D. Or.), complaint filed July 28, 1986; *U.S. v. New Mexico*, No. 86-0932M (D. N.M.), complaint filed August 8, 1986.

(18) *United States v. South Carolina*, C.A. No. 3:86-1677-0 (D. S.C.), complaint filed and consent decree entered June 24, 1986.

(19) *United States v. Colorado*, C.A. No. 86-F1470 (D. Co.), complaint filed July 10, 1986, and consent decree entered July 24, 1986.

(20) *United States v. Michigan*, C.A. No. 86CV73321-DT (E.D. Mi.), complaint filed August 7, 1986, consent decree entered August 8, 1986.

(21) *United States v. Michigan*, C.A. No. G84-63 (W.D. Mi., July 22, 1986).

(22) *United States v. State of Alabama*, C.A. No. 83-C-1676-S (N.D. Ala.).

(23) *United States and Yonkers Branch NAACP v. Yonkers Board of Education, et al.*, C.A. No. 80 CIV 6761 (LBS) (S.D. N.Y.).

(24) *United States v. Richland Parish School District*, C.A. No. 12, 169 (W.D. La.).

(25) *United States v. University of Alabama at Birmingham*, C.A. No. CV 86-C-1779S (N.D. Ala.).

(26) *Fort Wayne School District Community Schools v. United States Department of Education*, C.A. No. F 80-0030 (N.D. Ind.).

(27) *Board of Trustees of the County College of Morris, New Jersey v. United States Department of Education*, C.A. No. 86-1494 (HJS) (D. N.Y.).

(28) *Board of Education of the City School District of the City of Cincinnati, et al. v. The Department of Health, Education and Welfare, et al.*, C.A. No. C-1-74-185 (S.D. Oh.).

(29) *Rogers, et al. v. Bennett, et al.*, C.A. No. C86-1304 A (N.D. Ga.).

(30) *United States v. Holyoke Housing Authority*, C.A. No. 85-0439-1 (D. Mass.), complaint and consent decree filed November 21, 1985.

(31) *United States v. Mississippi Publishers Corporation*, C.A. No. J86-0585 (B) (S.D. Miss.), complaint and consent decree filed August 22, 1986.

(32) *United States v. Herrick*, C.A. No. 86-977-CIV-J-14 (M.D. Fla.), complaint and consent decree filed September 23, 1986.

(33) *United States v. Sea Dome Resort Club*, C.A. No. PCA 86-4007-RV (N.D. Fla.), complaint filed January 13, 1986, and consent decree entered April 14, 1986. This suit also included Equal Credit Opportunity Act claims.

(34) *United States v. Silva Realty Co.*, C.A. No. 85-4027-T (D. Mass.), complaint and consent decree filed October 28, 1985; *United States v. Murphy*, C.A. No. 85-4168-WD (D. Mass.), complaint filed November 7, 1985, and consent decree entered July 18, 1986.

(35) *United States v. F.W. Jackson & Sons*, C.A. No. 85-3675 (S.D. Fla.), complaint and consent decree filed November 26, 1985; *United States v. Dicus*, C.A. No. CV85HM5788NE (N.D. Ala.), complaint and consent decree filed December 10, 1985. The *Jackson* case includes Title II allegations.

(36) *United States v. Charlottesville Public Housing Authority*, C.A. No. 86-0033-C (W.D. Va.), complaint filed August 8, 1986; *The Housing Authority for the City of Jersey City v. Marion Gardens Community Association*, C.A. No. 86-1651 (D. N.J.), counterclaim alleging both Title VI and VIII violations filed May 24, 1986.

(37) *United States v. Southern Management Corp.*, C.A. No. N-86-2730 (S.D. Tex.), complaint filed September 4, 1986.

(38) *United States v. Royden Oaks*, C.A. No. H-86-1744 (S.D. Tex.), complaint filed April 28, 1986.

(39) *United States v. Town of Cicero*, C.A. No. 83 C 0413 (N.D. Ill.), consent decree entered May 15, 1986. This case also included employment discrimination claims.

(40) *United States v. Wilson-Covington*, C.A. No. C-85-311-WS (M.D. N.C.), consent decree entered May 16, 1986; *United States v. International Direct Mail Marketing, Inc.*, C.A. No. H-84-3626 (S.D. Tex.), consent decree entered January 2, 1986.

(41) *United States v. Capitol Thrift and Loan Association*, C.A. No. 86-1148-MHP (N.D. Calif.), complaint filed March 9, 1986, and consent decree entered March 12, 1986.

(42) *United States v. Fireside Thrift Co.*, C.A. No. C 86-23 79 MHP (N.D. Calif.), complaint filed May 7, 1986, and consent decree entered September 2, 1986.

(43) *United States v. Midwest Federal Savings Bank*, C.A. No. A4-86-171 (D.N.D.), complaint filed September 24, 1984. A proposed consent decree has been submitted for court approval.

(44) *United States v. Sea Dome Resort Club*, *supra*.

(45) *United States v. Dunn*, C.A. No. CV 85 G2823W (N.D. Ala.), complaint filed October 29, 1985; *United States v. Lollar*, C.A. No. CV 85 P2824W (N.D. Ala.), complaint filed October 29, 1985; *United States v. Cutraro*, C.A. No. 86 CV 72704DT (E.D. Mich.), complaint filed June 23, 1986.

(46) *United States v. Keytesville Club*, C.A. No. N86-0006-C (E.D. Mo.), complaint filed January 16, 1986, and consent decree entered May 9, 1986; *United States v. Glasgow Hills Swim Club*, C.A. No. 86-4255-CV-C-9 (W.D. Mo.), complaint filed and consent decree entered April 21, 1986.

(47) *United States v. F.W. Jackson & Sons*, *supra*.

(48) *United States v. DeHaan*, C.A. No. M-84-4655 (D. Md.), complaint filed December 27, 1984, and consent decree entered June 4, 1986.

(49) *United States v. Bradtree*, C.A. No. 85-558-N (E.D. Va.), complaint filed August 13, 1985, and consent decree entered January 14, 1986.

(50) *United States v. New Jersey (Fire Depts.)*, C.A. No. 77-2054 (D. N.J.), decision entered December 19, 1985.

(51) *United States v. Town of Cicero*, C.A. No. 83 C 0413 (N.D. Ill.).

(52) *United States v. Northside Independent School District*, C.A. No. SA85-CA-3377 (W.D. Tex.), complaint filed December 30, 1985, and consent decree entered September 8, 1986.

(53) *United States v. Gallup, New Mexico*, C.A. No. 83-1395-M (D. N.M.), consent decree entered June 23, 1986.

(54) *United States v. Suffolk County (P.D.)*, C.A. No. CV-83-2737 (E.D. N.Y.), consent decree entered September 12, 1986.

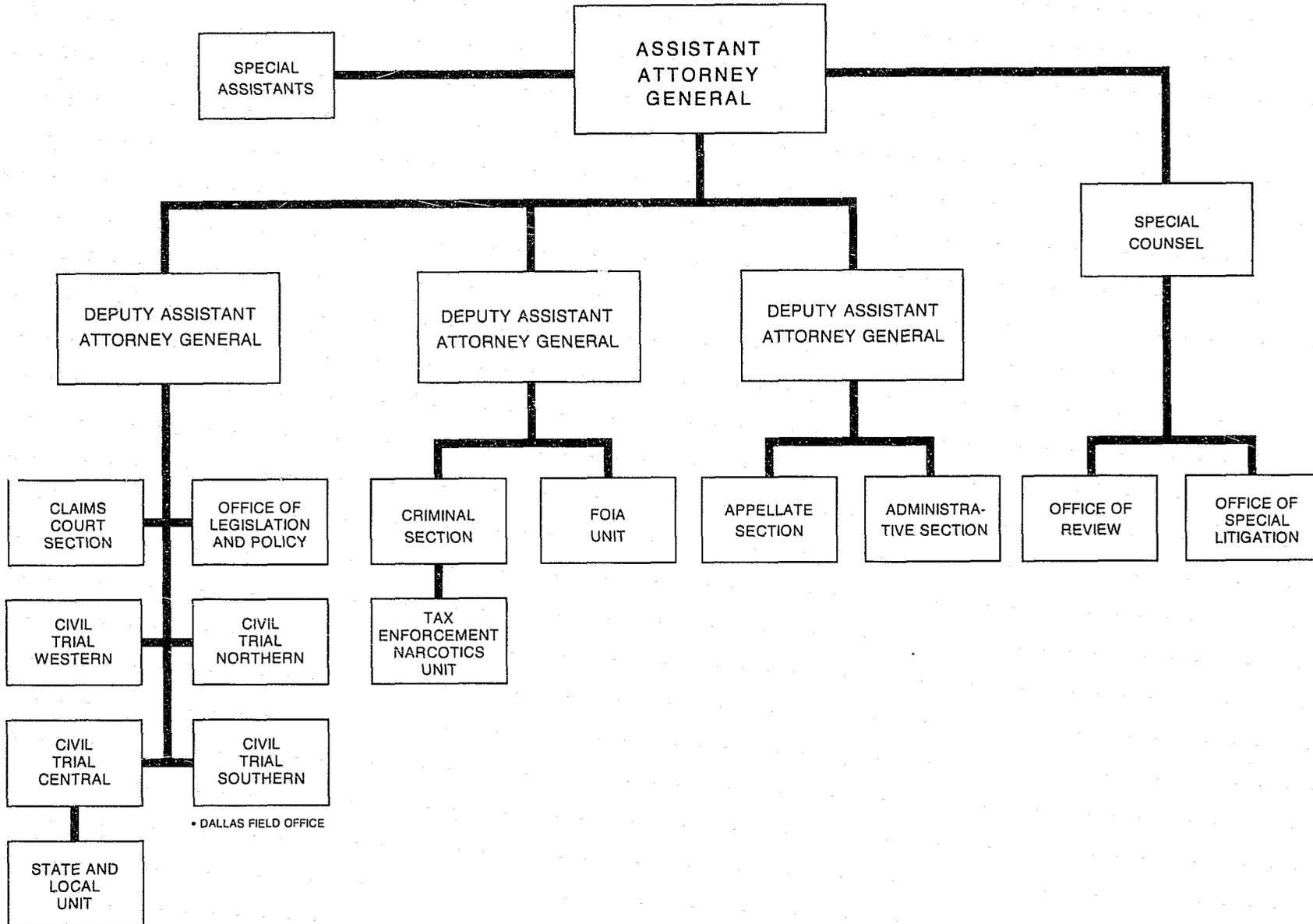
(55) Marengo County had submitted its changes as a purported cure for its use of at-large elections which were found by the court to be racially discriminatory in our lawsuit against Marengo County under Section 2 of the Voting Rights Act. *United States v. Marengo County Commission*, C.A. No. 78-474-H (S.D. Ala., August 8, 1986). Subsequent hearings in this eight-year-old racial vote dilution lawsuit resulted in a court ordered plan that fairly reflects black voting strength in the county.

(56) *United States v. McKinley County, New Mexico*, C.A. No. 86-0028-C (D. N.M., February 4, 1986); *United States v. Victoria Independent School District*, C.A. No. V-86-17 (S.D. Tex.); *McNeil v. City of Springfield*, C.A. No. 85-2365 (C.D. Ill.); *State of North Carolina v. United States*, C.A. No. 86-1490 (D. D.C.); *Brunswick-Glynn County Charter Commission v. United States*, C.A. No. 86-0309 (D. D.C., July 22, 1986); *Clarke v. U.S. States Attorney [sic]*, C.A. No. H-85-6188 (S.D. Tex., May 21, 1986); *Groce v. McDaniel*, C.A. No. H-86-3139 (S.D. Tex.); *City Council of the City of Franklin v. State Board of Elections of Virginia*, C.A. No. 86-0200-R (E.D. Va., April 4, 1986); *McLaurin v. Sunflower County*, C.A. No. GC83-247-EK-0 (N.D. Miss.).

(57) *Ketchum and United States v. City Council of the City of Chicago*, 651 F. Supp. 551 (N.D. Ill., 1985); *United States v. City of Los Angeles*, Case No. CV-85-7739 JMI (JRX) (C.D. Cal.).

(58) *United States v. Darlington County, South Carolina*, C.A. No. 4:85-2288-2 (D. S.C., March 8, 1986); *United States v. Wilson County Board of Education*, No. 86-889-CIV-5 (E.D. N.C., September 15, 1986); *United States v. County of Chavez, New Mexico*, Civ. No. CV-85-0033JB (D. N.M., February 6, 1986); *United States v. Roswell Independent School District*, Civ. No. 85-33 (D. N.M., February 21, 1986); *United States v. City of Demopolis, Alabama*, Civ. No. 86-0071-C (S.D. Ala., February 28, 1986); *United States v. City of Bessemer, Alabama*, C.A. No. CV84-08935 (N.D. Ala., October 21, 1985).

TAX DIVISION



Tax Division

Roger M. Olsen
Assistant Attorney General

The Tax Division is responsible for representing the United States and its officers in all litigation arising under the internal revenue laws (other than proceedings in the U.S. Tax Court). This includes both civil and criminal proceedings at the trial and appellate levels. The Division's principal client agency is the Internal Revenue Service, but it also represents other federal departments or agencies in matters involving immunity from state or local taxes.

The Tax Division's primary activities are to collect federal revenues by instituting many types of collection actions at the request of the Internal Revenue Service and defending tax refund and a variety of other suits brought by taxpayers; to provide the Internal Revenue Service with litigation support in the conduct of its extensive investigation, audit, and collection functions; to enforce the criminal tax laws by authorizing, supervising, and conducting criminal tax investigations and prosecutions; and to handle appellate tax cases, both civil and criminal. In its role as the government's legal representative in litigated tax matters, the Division deals with a wide variety of complex and difficult issues that affect the tax reporting obligations and tax liabilities of millions of taxpayers. It must, therefore, coordinate its litigating positions with the administrative policies of the Internal Revenue Service and the tax legislative concerns of the Department of the Treasury. The Division strives to maintain correct and consistent positions in its litigation, and to promote the establishment by the courts of uniform legal principles of taxation that will serve as nationwide guidelines.

Organization of the Tax Division

The Tax Division is divided into seven sections. The Criminal Section authorizes, supervises, and prosecutes criminal tax cases nationwide. The four Civil Trial Sections (Northern, Southern, Western and Central) handle most refund suits in the district courts and other civil tax and tax-related litigation in federal and state trial courts. The Claims Court Section handles suits in that forum. The Division's Appellate Section handles appeals of civil cases and many criminal tax cases in the U.S. courts of appeals and assists the Solicitor General in proceedings before the Supreme Court. In addition, there are three offices: the Office of Review, which considers settlements of the largest and most important cases; the Office of Special Litigation, which handles litigation arising from tax shelter promotions; and the Office of Legislation and Policy, whose mission is to monitor the

legislative process and provide pertinent input. With the exception of one branch office in Dallas, Texas, where normally 13 attorneys are assigned, all Tax Division attorneys are stationed in Washington, D.C.

As of September 30, 1986, the Division operated with a staff of 326 attorneys, 25 paralegals, and a support staff of 300.

Division Priorities

Despite an increasing caseload, the Tax Division in the past year has continued to focus particular attention and increased resources on several important areas in which there have been significant noncompliance with the tax laws. These include abusive and illegal tax shelters, offshore tax havens, tax protesters and tax enforcement in narcotics cases.

Abusive Tax Shelters. The proliferation of abusive and illegal tax shelters has created a severe burden on the administration of the federal tax system and resulted in significant revenue losses. As of June 30, 1986, more than 435,171 investor returns with tax shelter issues were under Internal Revenue Service audit, and an additional 74,742 were closed unagreed. While the Internal Revenue Code contains provisions which permit taxpayers to reduce their income taxes legitimately—e.g., the investment tax credit, depletion, depreciation and other credits and deductions designed to encourage capital investment and growth—many of these same provisions are often used in fraudulent or abusive schemes. Under the Tax Equity and Fiscal Responsibility Act of 1982, the government was authorized to initiate injunctive actions against the organizers and sellers of abusive and illegal tax shelters to curb their current sales activities and future promotions. In addition, significant civil penalties can be imposed on promoters of such shelter schemes. The efficiency and effectiveness of this approach has been substantial.

Litigation to seek tax shelter injunctions and to defend challenges to promoter penalty assessments is handled solely by the Tax Division. On November 1, 1983, the Division established the Office of Special Litigation for the purpose of conducting all of the tax shelter and related litigation under these provisions. That Office now has 21 attorneys to handle its expanding caseload of injunction and penalty actions. As of September 30, 1986, 173 cases involving more than 85,000 investors and \$9 billion in potential revenue losses had been referred by the Internal Revenue Service to the Tax Division for injunctive relief. One hundred and ten

suits, some having multiple parties, have been filed, and 119 injunctions obtained. In addition, the Office of Special Litigation is currently defending 57 actions involving Internal Revenue Code Section 6700 promoter penalties totaling approximately \$61 million.

Although many of the injunction cases require a full trial on the merits, the Office of Special Litigation has successfully concluded part or all of 68 of its cases through the use of negotiated consent decrees. Each of these decrees resulted in the government's obtaining remedies comparable to those that would have been obtained after a successful trial, including some \$5 million in penalties paid pursuant to the consents, and court orders prohibiting the defendants from engaging in future abusive tax shelter conduct. Violations of the injunction orders or consent decrees obtained in these cases have resulted in criminal contempt convictions. In three instances, promoters were jailed for up to two years for violating injunctions.

In enacting the abusive tax shelter injunction and civil penalty provisions in 1982, the Congress did not in any way curtail the authority of the Internal Revenue Service and Department of Justice to proceed criminally against the promoters of fraudulent tax shelters and similar tax evasion schemes. Moreover, Congress, in the Deficit Reduction Act of 1984, facilitated the government's criminal enforcement efforts in this area by limiting the situations in which a defendant can avail himself of the home venue transfer provisions of 18 U.S. Code 3237 (b).

The government's vigorous criminal enforcement efforts against fraudulent tax shelters continue, and the Tax Division obtained several noteworthy convictions in this priority tax enforcement area during the past year. In *United States v. Fred F. Solomon, Jr. and George Nicoladze* (N.D. Calif.), during April 1986, in San Francisco California, a jury convicted patent tax shelter promoters Fred F. Solomon and George Nicoladze on 71 counts of an 88-count indictment which charged a *Klein* conspiracy to defraud the United States and substantive income tax violations. Solomon and Nicoladze devised a fraudulent patent tax shelter scheme, which created false depreciation deductions for investors in limited partnerships. Solomon and Nicoladze caused approximately 400 taxpayers to claim approximately \$36,387,917 in fraudulent tax deductions on their income tax returns for 1976 through 1980. The defendants received more than \$4.2 million in cash from the investors. In June 1986, Judge William Orrick sentenced Solomon and Nicoladze each to serve six years in prison.

In *United States v. Robert L. Moore, Jr.* (D. Conn.), during April 1986, in New Haven, Connecticut, Robert L. Moore, Jr. entered a plea of guilty to a charge of conspiring to defraud the United States (*Klein* conspiracy) through the sale of literary tax shelters. The fraud involved approximately \$37 million in false deductions claimed on more than 1,000

individual income tax returns filed throughout the country.

Moore, the author under the pen name of "Robin Moore" of such best-selling books as the *The Green Berets*, *The French Connection*, and *The Happy Hooker*, willfully conspired between 1976 and 1982 to defraud the United States through the marketing and selling of tax shelters involving paperback books whose values had been artificially inflated. Moore aided and assisted taxpayers who invested in these tax shelters to file false income tax returns, which claimed false depreciation deductions and tax credits. As a result of audits and court proceedings, approximately \$37 million in deductions based on Moore's literary tax shelters have been disallowed to date. Prosecutions arising out of the *Moore* fraudulent book tax shelter presently are ongoing in the Eastern District of Texas and also are being conducted by Tax Division attorneys.

Offshore Tax Havens. Criminal tax investigations and prosecutions, whether involving illegal tax shelters, narcotics trafficking, tax protesters, or even general enforcement matters, increasingly have offshore implications. The Tax Division continues to expand its use of various mechanisms to obtain evidence from tax haven entities and offshore banks. In the past, it has successfully relied on the use of grand jury subpoenas and administrative summonses to achieve these goals. Presently, the Tax Division combines such measures with an increased emphasis on obtaining offshore evidence through cooperative means such as tax conventions and mutual assistance treaties. When utilizing unilateral means, the Tax Division attempts initially to focus its enforcement measures against the taxpayer who holds the offshore account by compelling his directive to disclose financial documents otherwise protected by foreign secrecy laws.

Moreover, in civil cases, the Tax Division is increasingly utilizing the legislative provisions under 26 U.S. Code 982, enacted in the Tax Equity and Fiscal Responsibility Act of 1982, which provide that formal document requests for offshore evidence may be made directly to the taxpayer under examination. Under this provision, the taxpayer must produce the foreign documents or else he cannot adduce them in any future civil proceeding unless there was "reasonable cause" for his noncompliance. When unilateral measures against a taxpayer are found to be unproductive, the Division focuses enforcement efforts against the institutions holding the offshore evidence.

The Division also is implementing new enforcement methods to collect taxes when a delinquent taxpayer's assets are located abroad. Initially, the Division generally seeks the repatriation of such assets through cooperative means, such as the mutual collection assistance provisions under certain of the United States tax conventions with foreign jurisdictions. However, when a transnational collection matter cannot be successfully resolved through such means, the Division attempts to unilaterally repatriate delinquent taxpayers'

assets to satisfy such tax liabilities. See, e.g., *United States v. Ross*, 302 F. 2d 832 (2d Cir. 1962); *United States v. McNulty*, 446 F. Supp. 90 (N.D. Calif. 1978); *United States v. Greene*, 84-1 U.S.T.C. para. 9434 (N.D. Calif. 1984). If transnational collection matters cannot be resolved unilaterally, the Division pursues enforcement measures against third-party stakeholders, such as the banks having foreign branches where the offshore assets are located. See, e.g., *United States v. First National City Bank*, 379 U.S. 378 (1965).

With respect to bilateral means of obtaining foreign evidence and cooperation in transnational tax matters, the Tax Division increasingly is involved in the formulation and negotiation of treaties and other international agreements and in obtaining exchanges of information from foreign treaty partners for use in tax, and often narcotics related, litigation. With respect to tax treaties and Caribbean Basis Initiative agreements, the Division negotiates, in conjunction and coordination with the Department of the Treasury, to ensure that advantageous exchange of information provisions are included. Such negotiations and agreements often are conducted with Caribbean nations and other "tax havens" and "bank secrecy" jurisdictions, which traditionally have thwarted U.S. law enforcement efforts, including the war against narcotics trafficking and money laundering. For example, in July and August 1986, the United States signed new tax treaties with Bermuda and the Netherlands Antilles, respectively, which were negotiated by the Department of the Treasury and the Tax Division's Office of Policy and Tax Enforcement Analysis and contain substantially liberalized exchange of information provisions. Such treaties should facilitate the United States ability to obtain information in criminal and civil tax matters, including an ever-increasing number of narcotics and money laundering related cases.

The Tax Division, again through Office of Policy and Tax Enforcement Analysis, also negotiates in conjunction and coordination with the Office of International Affairs of the Criminal Division, general mutual legal assistance treaties in criminal matters. The Criminal Division has come to rely upon the expertise of the Tax Division regarding the scope and interpretation of federal tax crimes in negotiating such treaties. Continuing and increasing joint Criminal/Tax Division participation in negotiating such treaties is aimed at obtaining the broadest possible mutual assistance treaties to combat the joint burgeoning problems of international money laundering and narcotics trafficking. In addition to recently ratified mutual legal assistance treaties, the United States signed a treaty with the Cayman Islands in July 1986, and is negotiating with Mexico, England, and many Caribbean nations for broadly scoped mutual legal assistance treaties. The Tax Division also carefully coordinates with the Criminal Division on requests for foreign evidence in joint

tax/nontax criminal prosecutions, often involving money laundering and narcotics trafficking activities.

In addition to its coordinated efforts with the Criminal Division in foreign evidence gathering in joint tax/nontax criminal proceedings, the Tax Division also is solely involved in an ever-increasing number of foreign evidence gathering requests, again often with money laundering and narcotics implications, in criminal tax investigations and prosecutions. Given the increasing number of new tax and mutual assistance treaties and other similar international procedures calling for more liberalized exchange of information between treaty partner countries and the liberalized foreign evidence gathering provisions contained in the Comprehensive Crime Control Act of 1984, the number of requests for foreign evidence gathering, already dramatically on the increase, can be expected to increase further in both tax and joint tax/nontax criminal matters.

The Tax Division accords the *highest* priority to the continuing development of the transnational tax activities in order to fulfill its mandate to enforce properly the Internal Revenue Code. Such priority is in accord with the Senate's Permanent Subcommittee on Investigations recent report, *Crime and Secrecy: The Use of Offshore Banks and Companies*, S. Rep. No. 99-130, 99th Cong. 1st Sess. 136 (1985), which recommended that: "...the Government aggressively press forward with the negotiation of (broad) multilateral treaties or understandings with offshore jurisdictions where the exchange of law enforcement information....Congress and the Executive Branch, taking into account issues of foreign sovereignty, should consider the imposition of sanctions against such havens which express no interest in treaty negotiations."

The Senate Subcommittee specified sanctions which, for the most part, comprise tax specific legislative initiatives and enforcement measures requiring skills unique to the Tax Division. Such report recommendations and the recent money laundering legislative proposals can only serve to enhance the Division's growing role in this critical area of federal criminal tax enforcement.

Tax Protesters. Criminal prosecution of illegal tax protesters remains a priority concern of the Tax Division. While prosecutions of tax protest leaders continue, the Division again utilized during the past year a concurrent prosecution approach to such cases in which numerous indictments were returned against tax protesters in a given localized area. Often, the tax protesters share a common occupation, employer, and/or labor union. For example, in *United States v. Otto and Matti Hurst* (D. Nev.), Tax Division attorneys successfully prosecuted tax protester Otto Hurst, Assistant Business Manager of Local 357, International Brotherhood of Electrical Workers, in Las Vegas, Nevada. Hurst and his wife were convicted of five counts of willfully attempting to evade their 1979 through 1983 individual income taxes, in

violation of 26 U.S. Code 7201. Hurst was sentenced to serve four years in prison and fined \$10,000. The prosecution of Hurst culminated a two-year series of investigations and prosecutions of tax protesters within Local 357 in Nevada.

In the Alaska tax protest prosecutions, the keynote case involved *Alexander F. Newhall*, the most prominent tax protester in Alaska. In December 1985, Newhall, a minister of the Life Science Church and leader of Patriots of Action, was convicted of three counts of willfully failing to file his individual income tax returns for 1979 through 1981, in violation of 26 U.S. Code 7203. Newhall received a prison term of one year and was placed on probation for five years.

In another major tax protester prosecution during the past year, Division attorneys successfully prosecuted nationwide tax protest leader *Burton Linne* in the Eastern District of Virginia. Linne, the leader of several tax protest organizations, Jack Slater, President of Citizens for Dollars, one of Linne's tax protest grounds, and John Imlay IV, were convicted of conspiring to defraud the United States (*Klein* conspiracy), in violation of 18 U.S. Code 371, and mail fraud charges, in violation of 18 U.S. Code 1341. Linne and Slater also were convicted of five and two counts, respectively, of willfully failing to file individual income tax returns, in violation of 26 U.S. Code 7203. Linne and his tax protest minions devised and marketed an illegal scheme which promised purchasers an elimination of their past, present, and future income tax liabilities for fees ranging from \$2,000 to \$32,000. The defendants negotiated checks from investors and deposited funds totaling several millions of dollars into bank accounts under the name of Citizens for Dollars for the purpose of concealing members' assets and income from the government. The defendants also moved members' funds offshore to the Bahamas. In January 1986, Linne was sentenced to prison for 5½ years. Slater and Imlay received 18-month and six-month prison terms, respectively.

Tax Enforcement in Narcotics Cases. Federal narcotics enforcement efforts have increased dramatically since 1981. In 1983, the President and the Attorney General formed 12 regional Organized Crime Drug Enforcement Task Forces modeled after the prototype narcotics task force that had been operating in south Florida since 1981. These Organized Crime Drug Enforcement Task Forces, which now number 13, are designed to investigate and prosecute major narcotics trafficking organizations through multiagency participation.

The Tax Division has acquired substantial experience and expertise in the area of tax and financial investigations of narcotics traffickers. In early 1981, the Division took an active and vigorous role in the area with the formation of the Tax Enforcement Narcotics Unit to assist U.S. Attorneys whose resources precluded their handling prolonged and complex tax investigations involving suspected narcotics dealers and their organizations. The Unit generally confined its efforts to the Internal Revenue Service's Southeast

Region, but it also assisted the Chicago Financial Crime Task Force in tax investigations and cases involving high-level narcotics traffickers in that area.

The Tax Division now provides nationwide review and coordination in Organized Crime Drug Enforcement Task Force cases. A Tax Division attorney is assigned as a liaison official to each of the 13 Organized Crime Drug Enforcement Task Forces. This provides the local task forces with guidance and expertise in developing and handling the tax investigations and prosecutions in task force cases. Moreover, these liaison attorneys improve communications between drug task force field personnel and other Tax Division attorneys with specialized expertise.

In addition to assisting in individual case development, Tax Division liaison attorneys participate in training new Assistant U.S. Attorneys and task force investigators. They attend conferences in each region and participate in panel discussions on narcotics/tax prosecutions. The liaison attorneys communicate frequently with regional Internal Revenue Service coordinators to keep abreast of new developments which might be of particular importance not only to the Tax Division but to other drug task force components. The Tax Division has also maintained a clearinghouse of legal and investigative materials and information, and coordinates the dissemination of this information to regional task force personnel.

The Tax Division personnel are involved increasingly in the investigation and prosecution of major narcotics trafficking rings. For example, in *United States v. William A. Lusk, et al.* (W.D. Texas), a Division attorney culminated a three-year series of criminal narcotics/tax investigations and prosecutions in the District of Columbia and Texas by successfully prosecuting William A. Lusk and Richard M. Oshman for narcotics distribution conspiracy violations. This narcotics/tax/money laundering investigation and series of prosecutions previously had resulted in convictions of more than 30 defendants in the District of Columbia and Texas, including notorious Washington, D.C., lobbyist Fred Black. These cases involved, *inter alia*, narcotics trafficking and money laundering through offshore entities and Atlantic City, New Jersey, casinos.

In another case from the major series of prosecutions against nationwide narcotics traffickers, a Tax Division attorney successfully prosecuted Ira Grossman, a Florida attorney, for perjury before a grand jury in connection with the three-year *Fields* narcotics trafficking grand jury investigation in the Northern District of Illinois. During 1977 and 1978, Grossman participated in marijuana and cocaine transactions with fugitive Miami resident Carl Valdes and convicted Florida cocaine dealer James Holmes. Grossman was sentenced to serve 3½ years and was fined \$10,000. Grossman was the twenty-fifth defendant to be sentenced in

the Northern District of Illinois in connection with the investigation and prosecution of the major cocaine ring led by Edward Fields, Valdes, and Holmes. This ring distributed more than 200 kilograms of cocaine with a wholesale value in excess of \$14 million through Chicago during the period 1978 through 1981.

The Administration's Organized Crime Drug Enforcement Task Force often initiates investigations which result in prosecutions in other priority areas of federal criminal law enforcement. For example, in *United States v. Burton H. Gorelick* (S.D. Ind.), an Organized Crime Drug Enforcement Task Force investigation in Indianapolis, Indiana, resulted in the July 1986, tax indictment of Gorelick, the owner and operator of several adult entertainment businesses in Indiana, Ohio, and Michigan. With respect to the tax aspects of the pending multiple indictments against Gorelick, he is charged with filing false joint personal income tax returns for the years 1979 through 1981; attempting to evade his 1982 joint income taxes; and willfully aiding and assisting in the preparation of numerous fraudulent corporate income tax returns for four of his adult movie theaters. Gorelick also has been indicted in the Southern District of Indiana on charges including racketeering, interstate travel in aid of racketeering, conspiracy to commit arson, mail fraud, and obstruction of justice. Subsequently, he pled guilty in Fiscal Year 1987. Such prosecution of a major pornographer indicates the seamless web of organized criminality which the Administration's law enforcement efforts are aimed at eliminating.

The Tax Division also has a major role in civil litigation involving the assessment and collection of taxes on illicit narcotics income. In many cases, the Internal Revenue Service has appropriately made use of the jeopardy and termination assessment provisions of the Internal Revenue Code to begin immediate collection of unpaid tax liabilities. These jeopardy type assessments and seizures frequently are challenged in lawsuits which Tax Division attorneys defend. The most common of these cases are actions for judicial review of jeopardy assessments. By statute, these cases must be decided within 20 days of filing unless the taxpayer requests an extension, in which case the court's decision is due within 60 days.

Appellate Section

During Fiscal Year 1986, the Appellate Section filed approximately 750 briefs and its attorneys argued approximately 350 cases in the courts of appeals. Of the 830 appellate decisions entered, the government prevailed, in whole or in part, in 767 suits, for an overall success rate of 92 percent. This record in the appellate courts enhances the government's ability to determine and collect taxes and to promote a fair and equitable tax system.

In connection with tax litigation in the U.S. Supreme Court, attorneys in the Division's Appellate Section prepare petitions for *certiorari* and memoranda in opposition to taxpayers' petitions, as well as briefs and memoranda of law on the merits, under the supervision of the Office of the Solicitor General. During the year, 149 petitions for *certiorari* were pending or received, 142 of which were taxpayer petitions.

The Supreme Court decided five federal tax cases in the last term, and the government prevailed in four of them. Two cases involved the tax imposed on an otherwise tax-exempt organization's "unrelated business income." In one, the Court held that the American College of Physicians was taxable on the advertising income derived from its journal, *Annals of Internal Medicine*.¹ In the other, the Court ruled that the American Bar Endowment was taxable on the income derived from selling group insurance policies to members of the American Bar Association. The Court also held that the American Bar Association members who purchased such insurance were not entitled to claim a charitable contribution deduction for the portion of their premiums that exceeded the organization's actual cost of providing insurance coverage.²

The Court also agreed with the government that the Department of the Treasury was entitled, under the Internal Revenue Code and the Social Security Act, to "intercept" and to pay over to the states tax refunds in the form of refundable earned-income credits that were due to persons who had failed to meet child-support obligations.³ And the Court held that the government's interpretation of a statutory transitional rule, enacted to bridge the pre- and post-1976 law governing taxation of estates and gifts, was correct, finding that this provision has been construed consistent with its language and its purpose, and that its application during the transition period was not constitutionally prohibited by the Due Process Clause of the Constitution.⁴ The Court held for the taxpayer in a tax accounting case involving the deductibility of amounts guaranteed for eventual payment on its "progressive" slot machines, ruling that these payments met the "all events" requirements for accrualability. It rejected the claim that payment of the jackpots was too contingent for an accrual method taxpayer to treat them as "incurred" during the current taxable year.⁵

The Appellate Section has continued to advance the position that third parties do not have standing to challenge the Internal Revenue Service's tax treatment of others. This position has recently been accepted by the District of Columbia Circuit, which affirmed the trial court's dismissal of a suit brought by, among others, several former Palestinian West Bank mayors and a member of the Israeli parliament, seeking to have the tax exemption of the United Jewish Appeal and several other Jewish organizations revoked.⁶ Litigation in this area continues, however, and the Supreme Court

has recently denied government petitions for mandamus or *certiorari* to overturn a district court order refusing to dismiss a suit brought by various individuals and organizations seeking to have the tax exemption of the Roman Catholic Church revoked, on the basis of the church's alleged lobbying and political activities in opposition to legal abortion.⁷ (Related litigation in this controversy continues before the Second Circuit, where the government has filed a brief in that court arguing that the district court lacked constitutional jurisdiction, and that therefore no discovery should be allowed.)

The Section has been successful in several substantial cases involving a taxpayer's claim for a deduction for the premiums paid to a "captive" insurance company subsidiary. The Section has argued that these transactions are essentially efforts to set up a (nondeductible) reserve against future losses, not the purchase of genuine insurance coverage.⁸ It also prevailed in the frequently litigated area of the deductibility of "pre-opening" expenses, with the Sixth Circuit agreeing that such expenditures are not deductible either as business expenses or as expenses for the production of income.⁹ (This holding is contrary to a 1984 Ninth Circuit decision.)

In a case of importance in tax shelter litigation, the Fifth Circuit held that the appropriate analysis for the presence of a profit motive in the transaction should focus on the partnership's purpose, not on that of the individual investor/limited partner; the court ruled that the partnership's deduction of advanced minimum royalties in a coal tax shelter was improper because the partnership did not enter the venture with the primary purpose of making a profit.¹⁰

In a case of considerable significance in terms of the government's ability to use grand jury materials in civil cases under a Rule 6(e) order, the Fourth Circuit held that the Supreme Court's 1983 decisions in *Sells Engineering, Inc.* and *Baggot*, which limit the government's ability to use such materials, should not be given retroactive application. There are many pre-*Sells* and *Baggot* 6(e) orders that are being relied on by the Internal Revenue Service and Tax Division attorneys, and this ruling provides strong precedent in the government's favor for future cases.¹¹

Criminal Section

The Criminal Section of the Tax Division promotes the uniform enforcement of the nation's criminal tax laws. Its attorneys review and analyze the recommendations for prosecution of tax offenses received from both the Internal Revenue Service and U.S. Attorneys to determine whether prosecution should be authorized. The Tax Division's Criminal Section also has substantial authority with respect to the initiation and expansion of tax grand jury investigations arising under the internal revenue laws. Criminal Sec-

tion attorneys conduct and participate directly in some of the more important grand jury investigations. They also handle the trial of these cases and provide assistance to many U.S. Attorneys' offices in specific criminal tax litigation. The Criminal Section also handles policy, information dissemination and other matters through its Office of Policy and Tax Enforcement Analysis which was established in a 1984 Section reorganization.

The Criminal Section played a substantial role during the past year in high-visibility prosecutions which, because of media attention, served to improve voluntary compliance. Criminal Section attorneys are actively participating in the prosecutions arising out of the collapse of the Butcher financial empire in Tennessee which, to date, have led to the convictions, among others, of Jacob F. "Jake" Butcher on charges including income tax and bank fraud. In November 1985, Tax Division attorneys successfully convicted George W. Ridenour, an attorney for banker Jake Butcher, on charges of conspiring to defraud the United States; filing false individual income tax returns; and aiding Butcher in the filing of false income tax returns. Ridenour acted as a nominee for Butcher in many of Butcher's fraudulent loan transactions with his financial institutions. Ridenour was sentenced to serve 20 years in prison for his income tax offenses in December 1985.

In *United States v. Elaine R. Crane* (N.D. Ohio), a Division attorney successfully prosecuted Elaine R. Crane, an Ohio judge, following a 2½-month trial, for willfully attempting to evade estate taxes and willfully filing a false state tax return regarding an estate for which she was the executrix. Crane formerly was employed as an attorney in the Civil Division of the Department of Justice. She was fined \$10,000 and ordered to surrender her law license following her conviction.

In *United States v. Dominic C. Frontiere* (C.D. Calif.), a Tax Division attorney completed a year-long grand jury investigation of Dominic C. Frontiere, which resulted in his pleading guilty in October 1986 to filing a statement stemming from scalping 1980 Super Bowl tickets.

During the past year, the Criminal Section published and distributed its new two-volume Criminal Tax Manual (Manual) to Department and field prosecutors and personnel. The Manual covers virtually all aspects of criminal tax prosecutions and is recognized as the preeminent work in criminal tax. It is now available on the JURIS computer system.

During the past year, Office of Policy and Tax Enforcement Analysis also instituted a weekly Criminal Section Newsletter containing current information on Section litigation and criminal tax developments. Portions of the newsletter are also available on JURIS.

On the legislative front, the Office of Policy and Tax Enforcement Analysis prepared testimony and submissions for

Assistant Attorney General Olsen's appearance in June 1986, before the Senate Finance Committee on several criminal tax cases, including tax shelter prosecutions. The Office of Policy and Tax Enforcement Analysis personnel also prepared the Tax Division's submission for Deputy Attorney General D. Lowell Jensen's February 1986, Senate Judiciary Committee testimony on white-collar crime.

Under the Division's streamlined case review procedure, all criminal tax cases received from the Internal Revenue Service are screened to determine which can be categorized as noncomplex cases. After limited legal and factual review by senior attorneys, those authorized for prosecution can generally be forwarded to U.S. Attorneys within 10 days after receipt. Complex cases and cases with sensitive issues continued to receive full review by the Division.

Ninety-five percent of the criminal tax cases brought in Fiscal Year 1986 resulted in convictions, *viz.* 1,621 defendants prosecuted and 1,539 defendants convicted. Most convictions are based on pleas of guilty but a total of 284 defendants were convicted following trial, and the conviction rate following trial was over 89 percent.

Civil Sections

The Division's Civil Trial Sections not only represent the government in tax refund suits brought by taxpayers, but also in a wide variety of other litigation under the Internal Revenue Code and in tax-related litigation in federal and state courts. These actions include:

- Suits brought by the United States to collect unpaid assessments, to foreclose federal tax liens or to determine the priority of such liens, to obtain judgments against delinquent taxpayers, to enforce Internal Revenue Service administrative summonses and to establish tax claims in bankruptcy, receivership, and probate proceedings;
- Proceedings involving mandamus, injunctions and other writs arising in connection with internal revenue matters;
- Suits against Internal Revenue Service employees for damages claimed because of alleged injuries caused by them in the performance of their official duties;
- Suits seeking damages for alleged wrongful disclosure of tax return information by Internal Revenue Service employees;
- Suits against the Secretary of the Treasury, the Commissioner of Internal Revenue, or other officials to test the validity of federal tax regulations or rulings;
- Proceedings under the Freedom of Information and Privacy Acts;

- Suits pursuant to Section 7428 of the Internal Revenue Code challenging the revocation by the Internal Revenue Service of the tax-exempt status of an organization;
- Suits brought by taxpayers pursuant to Section 7429 of the Internal Revenue Code challenging the reasonableness of jeopardy and termination assessments; and
- Suits contesting the imposition by states and localities of taxes on the agencies and instrumentalities of the federal government, including attempts to tax the possessory interest of federal contractors in federal property.

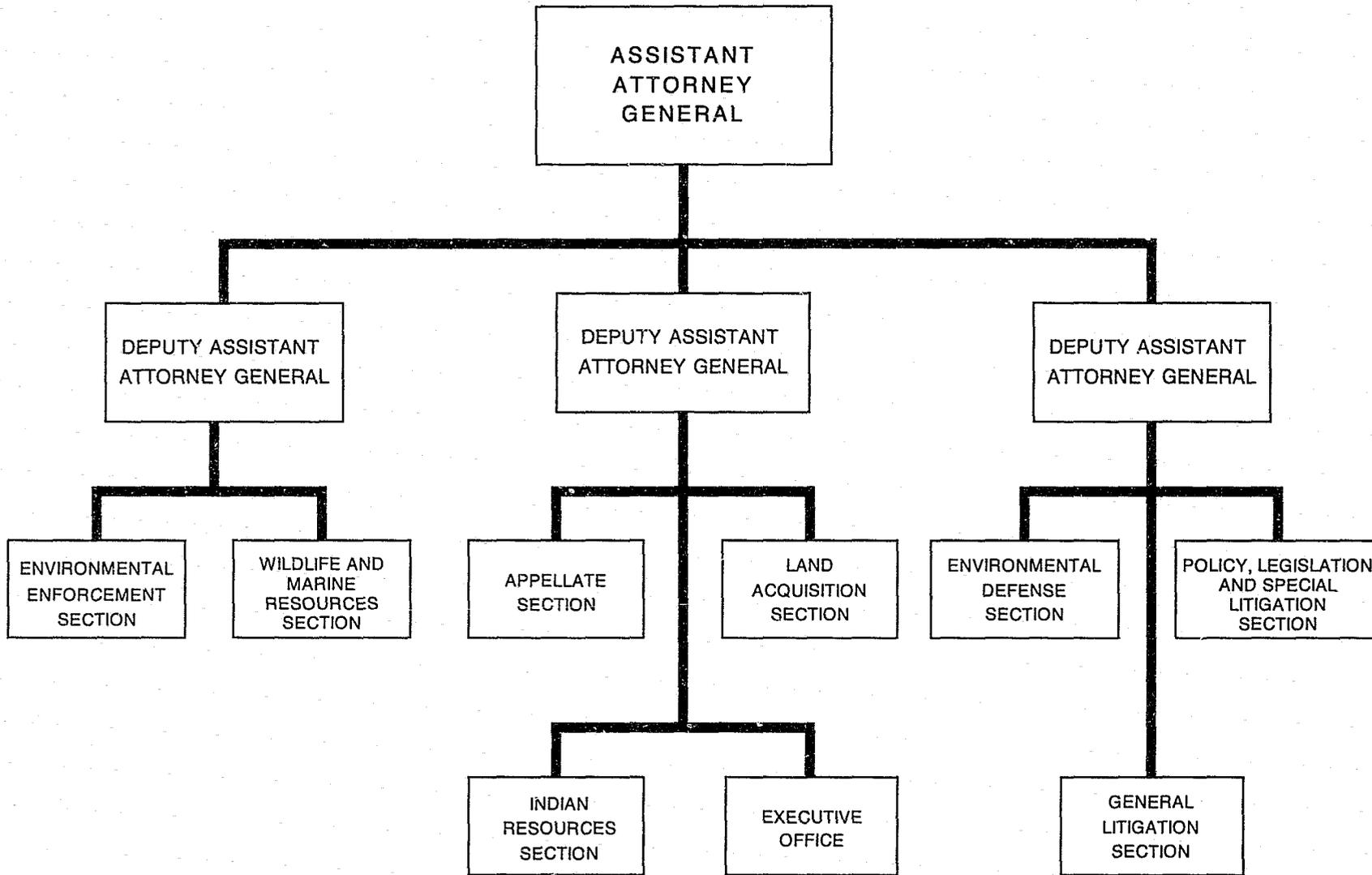
Office of Review

The Tax Division's Office of Review appraises settlement offers in light of litigating potential and policy considerations, giving particular attention to settlements that are significant because of the legal issues or amount of money involved. In addition to furnishing advice and assistance to the trial sections on particularly complex cases, the Office takes final action on those settlements within its redelegated authority, and advises the Assistant Attorney General or his delegate on settlements which require final action at a higher level within the Division or Department. It is active in resolving disputes between the litigating sections and the Internal Revenue Service, so that the Division's and the client agency's positions are in conformity. During Fiscal Year 1986, the Office of Review completed action on 37 settlement offers, of which 24 were approved and 13 were rejected or returned to the trial sections for further development. The Office of Review also approved 40 administrative settlements, concessions, and dismissals.

CITATIONS

- (1) *United States v. American College of Physicians*, 54 L.W. 4387 (April 11, 1986).
- (2) *United States v. American Bar Endowment, et al.*, 54 L.W. 4717 (June 23, 1986).
- (3) *Sorenson, et c. v. Secretary of the Treasury of the United States*, 54 L.W. 4391 (April 22, 1986).
- (4) *United States v. Hemme, et al.*, 54 L.W. 4563 (June 3, 1986).
- (5) *United States v. Hughes Properties, Inc.*, 54 L.W. 4572 (June 3, 1986).
- (6) *Khalaf, et al. v. Regan* (D.C. Cir. September 19, 1986).
- (7) *In re James A. Baker, et c. v. Abortion Rights Mobilization, Inc., et al.* Sup. Ct. Nos. 86-157, 86-1628, petitions denied October 6, 1986).
- (8) *Beech Aircraft Corp. v. United States* (10th Cir. August 6, 1986); *Stearns-Roger Corp. v. United States*, 774 F. 2d 414 (10th Cir. 1985).
- (9) *Johnsen v. Commissioner*, 58 A.F.T.R. 2d 86-5396 (6th Cir. 1986).
- (10) *Tallal v. Commissioner*, 778 F. 2d 275 (5th Cir. 1985).
- (11) *United States v. (Under Seal) In re Grand Jury 78-3, Dr. Murdock Head, Airlie Trust, Airlie Foundation and Raven's Hollow, Ltd.* (4th Cir. February 7, 1986).

LAND AND NATURAL RESOURCES DIVISION



Land and Natural Resources Division

F. Henry Habicht II Assistant Attorney General

The Land and Natural Resources Division, which was created in 1909, represents the United States, its agencies and officials in matters relating to environmental quality, natural resources, public lands, Indian lands and native claims, and wildlife and fishery resources. The client agencies commonly served by the Division include the Departments of Agriculture, Commerce, Defense, Energy, the Interior, Transportation and the Environmental Protection Agency.

The Division's central goal is to provide first-rate legal representation in the defense and advancement of client agency programs. In addition, the Division seeks to further the legal policy goals of the Department of Justice by encouraging deferential judicial review of executive agency decisions, by minimizing unnecessary litigation, and by promoting state-federal cooperation on environmental and natural resource issues. A major initiative undertaken in this area was the establishment of the National Environmental Enforcement Council. The purpose of the Council is to facilitate communication and coordination among top federal, state, and local environmental officials on a growing number of issues, leading to joint initiatives ranging from specific prosecutions to cooperative training. This effort supports policy initiatives of both this Department and the Environmental Protection Agency.

In all matters handled for its client agencies, the Division places great emphasis on conducting high quality litigation for the United States and on the development and maintenance of effective client relations. To accomplish this, matters in litigation are reviewed regularly and the Division attorneys work closely with their counterparts at the client agencies. Pre-litigation contact with the client agencies has produced major successes in sustaining client agency initiatives, such as offshore oil and gas leasing programs and Comprehensive Environmental Response, Compensation and Liability Act (Superfund) implementation.

During the past year, the Division has continued to make major progress in enforcement actions, particularly in the areas of hazardous waste cleanup, criminal enforcement of environmental laws, and prosecutions to protect endangered wildlife. In addition, efforts are ongoing to coordinate the simultaneous filing of enforcement actions in order to increase the deterrent effect throughout the regulated community. Close contacts with other agencies continue to play a critical role in these areas.

In defensive matters, the Division has assumed an aggressive litigation posture in successfully protecting important federal programs and regulatory initiatives from legal challenge. A key component of defending agency actions has been early anticipation and preparation for litigation.

At the end of Fiscal Year 1986, the Division had 418 employees: 228 attorneys and 190 support staff.

Appellate Section

The Appellate Section is responsible for handling appeals from district court decisions and selected petitions for review. Staffed with 19 attorneys, the Section prepared briefs and other substantive papers or presented oral argument in 1,475 cases in federal and state appellate courts. Appellate Section attorneys also filed briefs on the merits, petitions for *certiorari*, briefs in opposition, jurisdictional statements, and miscellaneous memoranda in the Supreme Court in Division cases. In addition, members of the Section served on Division trial-appellate litigation teams in designated cases.

Significant environmental decisions included *Midlantic Natl. Bank v. New Jersey Department of Environmental Protection*, — in which the United States appeared as *amicus curiae*. The owner of toxic waste sites in New York and New Jersey filed for bankruptcy after being faced with state agency directives to clean up the sites, and attempted to have those sites abandoned from the bankrupt's assets. The Supreme Court held that the 1978 Bankruptcy Code did not preempt "all" state and local laws, and that bankruptcy courts did not have the power to authorize an abandonment of a toxic waste site without formulating conditions that would adequately protect the public's health and safety. In *Dow Chemical Co. v. United States*,² the Court accepted the Environmental Protection Agency's investigatory techniques holding that aerial photography of a commercial establishment from navigable airspace using commercially available photographic equipment did not constitute a Fourth Amendment search. In another case before the Supreme Court, the Court unanimously reversed the Sixth Circuit and issued an opinion upholding the Corps of Engineers' regulations asserting Clean Water Act jurisdiction over "adjacent wetlands." *United States v. Riverside Bayview Homes*.³

One of the most important environmental decisions during Fiscal Year 1986 was handed down by the D.C. Circuit,

reversing a mandatory injunction requiring the Environmental Protection Agency to identify and order appropriate states to abate emissions linked to Canadian acid rain damage. *Thomas v. State of New York, et al.*⁴

The Section also prevailed in the Ninth Circuit case of *Wyckoff Company v. Environmental Protection Agency*⁵ involving federal and state programs governing hazardous wastes under the Resource Conservation and Recovery Act. The Court agreed with the Section's argument that even though Washington State had a federally-approved program, the Environmental Protection Agency had authority under Section 3013 of the Resource Conservation and Recovery Act to require Wyckoff to conduct monitoring, testing, and reporting where substantial quantities of hazardous wastes were escaping from the corporation's wood-preserving facilities into Puget Sound. In three other cases, *Time Oil Co. v. Barnes*,⁶ *Wheaton Industries v. Environmental Protection Agency*,⁷ and *Wagner Seed Co. v. Daggett*,⁸ the Ninth, Third, and Second Circuits joined with the Fifth Circuit in accepting the Section's reasoning that the Comprehensive Environmental Response, Compensation and Liability Act precludes pre-enforcement judicial review of the Environmental Protection Agency's actions under the Act.

There have been a number of successes in Nuclear Regulatory Commission cases where the Court of Appeals for the District of Columbia has upheld the Commission's actions. In *San Luis Obispo Mothers for Peace v. Nuclear Regulatory Commission*,⁹ the court found that the Nuclear Regulatory Commission is not required to hold hearings concerning the potentially complicating effects of a risk calculated as being one in several tens of millions. The court also held that the Nuclear Regulatory Commission has complete discretion to decide the appropriateness of financial qualifications of electric utilities seeking to obtain licenses to operate nuclear power plants. *Coalition for the Environment v. Nuclear Regulatory Commission*.¹⁰

The Division continued to combat successfully challenges to the Department of the Interior's oil and gas leasing program. In *Marathon Oil Co. v. United States*,¹¹ the Ninth Circuit upheld the Department of the Interior's computation of royalties on liquid gas which is produced from federal lands in Alaska and sold to Japanese public utility customers by "working back" from the price of the product sold in Japan. In another case involving Alaskan lands, *Alaska v. Block*,¹² the court of appeals upheld the Forest Service's interpretation of the Alaska Statehood Act that the national forest lands which the state selects under the Act for the purpose of furthering the development of communities must have a community nexus.

In the area of Indian law, the Section has had several notable accomplishments. In two related cases in a long-continuing dispute over water rights on the Fort Apache

Reservation, the Ninth Circuit affirmed dismissal of the tribe's action to bar the government from presenting tribal water claims in an Arizona State court proceeding and enjoined the tribe from interfering with officials of the United States in the preparation and filing of those water rights claims. In accord with our arguments, the court found that the government had a firm obligation to represent the tribe's interests forcefully, even where the tribe disagreed, and said that the tribe could intervene in the state action if not satisfied. *White Mountain Apache Tribe*.^{13/14}

The Supreme Court in *United States v. Mottaz*,¹⁵ reversed the Eighth Circuit, finding the action to be a contest of the government's claim to title of Indian allotments that fell within the scope of the Quiet Title Act and was thus barred by that Act's 12-year statute of limitations. This decision will do much to protect the United States from actions for the return of Indian land where the government's claim began long ago.

The Tenth Circuit, *en banc*, in *Mountain States Legal Foundation v. Hodel, et al.*,¹⁶ found that the Wild Free-Roaming Horses and Burros Act was not unique in the area of wildlife protection legislation and that the degree of governmental control over the wild horses under the Act was not different in character than other protection statutes. The court rejected appellants' Fifth Amendment takings claim and said that a purpose of the Act was to ensure the survival of a particular species of wildlife.

Finally, in a matter of nationwide importance to the government's ability to relay emergency messages between strategic military areas in the United States in the event of a nuclear strike, the Ninth Circuit refused to enjoin the Air Force's construction of a low frequency communications network known as Ground Wave Emergency Network (GWEN). The Section is currently handling the appeal of this case in which No-GWEN, an antinuclear group against the GWEN, contends that the Air Force is required by the National Environmental Policy Act to prepare an environmental impact statement on its decision to establish this system. *No-Gwen Alliance v. Aldridge*.¹⁷

Environmental Defense Section

The Environmental Defense Section conducts the defense of civil cases involving the abatement of pollution and protection of the environment. The Section's caseload is largely comprised of litigation in which environmental organizations or regulated industries challenge regulations, permits, or other actions of the Environmental Protection Agency, the Department of Energy, and the Army Corps of Engineers. The Section is responsible for defensive litigation under numerous environmental statutes including: the Clean Air Act; the Clean Water Act; the Resource Conservation and Recovery Act; the Comprehensive Environmental

Response, Compensation and Liability Act; and others. In addition, the Section supervises and conducts wetlands enforcement cases arising under the Clean Water Act and the Rivers and Harbors Act of 1899. The Section also defends all federal agencies and facilities that are sued under most environmental statutes.

The Section achieved significant victories in defending the Environmental Protection Agency's implementation of several statutes. In *Natural Resources Defense Council v. Environmental Protection Agency*,¹⁸ the D.C. Circuit sustained the Environmental Protection Agency's authority to consider both cost and feasibility in issuing regulations governing hazardous air pollutants. The courts upheld effluent limitation regulations for the nonferrous metals industry,¹⁹ discharge permits for the offshore oil drilling industry,²⁰ experimental use permits for Compound 1080 to control coyotes,²¹ and regulation of emissions from coke oven batteries under the Clean Air Act.²²

In *Environmental Defense Fund v. Environmental Protection Agency*,²³ the Section defended the role of the Office of Management and Budget in reviewing regulations before they are issued by the Environmental Protection Agency. This was one of the first cases to test the regulatory review process established by President Reagan under Executive Order 12291.

In addition, the Section successfully defended numerous challenges to the government's environmental enforcement programs. A district court that had previously held portions of the Superfund statute to be unconstitutional was persuaded to reverse itself and uphold the law.²⁴ Several courts ruled that potentially responsible parties under the Superfund statute cannot invoke the federal judicial power to interfere with government cleanup efforts at hazardous waste sites.²⁵ Similar results were achieved under the Clean Air Act, thwarting attempts to involve the courts in pre-enforcement review of governmental policy.²⁶ The courts also rejected several efforts to use the bankruptcy laws as an escape from environmental compliance.²⁷

In the area of wetlands enforcement, the Supreme Court upheld the Army Corps of Engineers' jurisdiction over wetlands. The sweeping opinion in *United States v. Riverside Bayview Homes, Inc.*²⁸ confirmed that wetlands need not be frequently flooded or saturated in order to be protected under the Clean Water Act. In another major victory, the District Court for the District of Massachusetts ordered full restoration of the Great Cedar Swamp, a large and ecologically valuable wetland that was converted to agricultural use.²⁹ Several other courts upheld the Army Corps of Engineers' jurisdiction over wetlands³⁰ and gave a narrow interpretation to the statutory exemption for agricultural activities.³¹

Finally, the Section continued to be active in defending federal facilities facing environmental compliance or liability

problems. In *McClellan Ecological Seepage Situation v. Weinberger*,³² the court held that federal agencies are not liable for civil penalties under the Clean Water Act or the Resource Conservation and Recovery Act because Congress has not waived sovereign immunity from such penalties. In *State of New York v. United States*,³³ the court ruled that the doctrine of sovereign immunity barred the State of New York from enforcing its groundwater quality standards against the Air Force.

Environmental Enforcement Section

The Environmental Enforcement Section handles district court enforcement litigation under a wide range of statutes designed to protect the public health and the environment from pollution of air and surfaces, drinking water, and groundwater. Most of the Section's litigation arises out of statutes designed to address the cleanup of hazardous waste sites (the Comprehensive Environmental Response, Compensation and Liability Act of 1980), the ongoing disposal of hazardous wastes (the Resource Conservation and Recovery Act), the pollution of our waters (the Clean Water Act), the integrity of our drinking water (the Safe Drinking Water Act), and the quality of our air (the Clean Air Act). The Section initiates enforcement litigation at the request of a large number of federal agencies, but the leading client is the Environmental Protection Agency which accounted for about 98 percent of the referrals in Fiscal Year 1986.

The Section is a litigating unit whose staff acts as lead counsel for the government in about 80 percent of its environmental enforcement cases. It has pending litigation in over 75 of the federal judicial districts. Major priorities of the Section include the growing area of civil enforcement of hazardous waste laws, the criminal enforcement of environmental statutes, and the continued enforcement of the more traditional areas of air and water pollution. The Section is engaged in strategic planning efforts with the Environmental Protection Agency to ensure a consistent, fair, and effective presence around the nation. The workload of the Section has increased dramatically in recent years; consequently the size of the Section has grown substantially. It has successfully prosecuted more people and corporations for criminal violations of the environmental laws than ever before, obtaining over 257 guilty pleas and convictions since 1981 that resulted in more than \$3 million in fines and almost 150 years in jail sentences. The Section has also filed more civil environmental enforcement suits than ever before—more than 1,000 since 1981—and in hazardous waste cases alone has obtained court-ordered cleanups worth nearly \$400 million.

Hazardous Waste Enforcement

The Section devotes over half of its resources to the enforcement of hazardous waste laws, chiefly through civil ac-

tions brought pursuant to Superfund. The Superfund was established in 1980 to address the problem of abandoned hazardous waste dump sites. The Section handles cases to recover Fund expenditures from responsible parties, to require responsible parties to undertake cleanup in the first instance, and to recover damages to natural resources managed by the United States. This year Superfund was reauthorized at over five times its previous budget (\$8.5 billion), which will inevitably lead to more Fund expenditures and more litigation for this Section. For example, the new law gives the Section a greater role to play in settlement negotiations and in securing access onto hazardous waste sites. As a consequence, there will be more and earlier Section involvement at Superfund sites. In fact, this trend has already started. The Section currently has some level of involvement in 48 Comprehensive Environmental Response, Compensation and Liability Act cases which have not yet been formally referred from the Environmental Protection Agency.

The number of filed Comprehensive Environmental Response, Compensation and Liability Act cases has greatly increased over the past six years. Annual filings have risen steadily from 10 in 1981 to more than 37 in 1986. The present National Priorities List currently contains over 800 sites, and the Environmental Protection Agency predicts it will reach 2,000. Almost all hazardous waste lawsuits involve multiple parties: many contain over 10 parties, some have in excess of 300. The amount in controversy in these cases varies considerably—ranging from a few hundred thousand dollars to hundreds of millions of dollars. This element of the Section's docket includes many widely-publicized sites such as: Stringfellow Acid Pits and Allied Chemical in California; AVX in New Bedford, Massachusetts; Love Canal and associated sites in New York; the Missouri Dioxin sites; the Rocky Mountain Arsenal in Denver, Colorado; and Nell Taylor (Valley of the Drums) in Kentucky.

At the end of Fiscal Year 1986, the Section had 141 Comprehensive Environmental Response, Compensation and Liability Act actions pending (116 filed and 25 referred). In addition, the Section's Resource Conservation and Recovery Act cases have increased nearly fivefold from 12 to 58 cases in Fiscal Year 1986. Several of these cases involved closing down operating hazardous waste facilities that have failed to comply with the terms of the 1984 Resource Conservation and Recovery Act amendments.

The Section was very successful in both settling and litigating hazardous waste cases this year. Motions practice was utilized widely in an effort to efficiently and expeditiously prosecute actions. In the past year, favorable precedents have been established on such issues as: landowner liability (*United States v. Maryland Bank & Trust*);³⁴ establishing a right of contribution under Comprehensive Environmental Response, Compensation and Liability Act; (*United States v. New Castle County*);³⁵ and on record

review of remedies (*United States v. Ward*³⁶ and *United States v. Western Processing*).³⁷

Criminal Enforcement

The Environmental Crimes Unit was created within the Section in November 1982 to focus the government's prosecutorial resources on the specialized field of environmental crimes and to establish an adequate deterrent against intentional violations of the environmental statutes. This initiative, the first undertaking of its kind, developed at the same time the Environmental Protection Agency created a Criminal Enforcement Division and hired criminal enforcement investigators to prepare cases for referral to the Department.

In Fiscal Year 1986, the Environmental Crimes Unit obtained 89 indictments and 60 convictions, building on an equally impressive record in 1985. Such cases are generally unambiguous, deliberate violations, such as "midnight dumping" of hazardous wastes. Significantly, the targets of these prosecutions are usually the highest corporate official directly responsible for the wrongdoing. Thus, 85 out of 212 indictments over the last four years have been against individuals. Further, several cases have focused on fraudulent activities in the handling of hazardous wastes by government contractors, particularly those hired by the Department of Defense. There have been 169 guilty pleas and convictions over the last four years.

Other Civil Enforcement

In addition to the rapidly expanding areas of hazardous waste civil and criminal enforcement, the Section has continued to maintain an active docket of air and water enforcement actions. This year, the Section filed 81 Clean Air Act cases, and 100 Clean Water Act/Safe Drinking Water Act cases. Indications from the Environmental Protection Agency are that this traditional docket will continue to experience steady growth.

Major new initiatives under the Clean Air Act include the enforcement of asbestos demolition and volatile organic compound regulations. Older programs, including enforcement of hazardous pollutant regulations involving vinyl chloride, particulate and sulfur dioxide regulations against the steel industry and state or municipal-owned facilities, and new source performance standards, continue as major components of the Section's docket. Under the Clean Water Act the Section increased its enforcement efforts against municipalities, by filing several initiatives to bring municipalities in line with the requirements of the Clean Water Act. The Section has also maintained a substantial docket of industrial-discharger actions.

Staffing

To meet a burgeoning caseload, the Section's staff increased from 146 (including 76 attorneys) to 157 (including

86 attorneys) during the year. This growth helped the Section to meet an expanding and complex caseload, while maintaining a substantially reduced percentage of unfiled referrals. Unfiled referrals have dropped from more than 50 percent of the Section's docket in 1982 to less than 27 percent in 1986.

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 and related fiscal challenges in the substantive areas of public land management, federal minerals, federal water rights, and federally funded or constructed dam and highway projects. This unit defends challenges under the National Environmental Policy Act³⁸ to any agency's actions, including those as important and diverse as deployment of nuclear missiles and conduct and licensing of genetic research. The Section defends cases brought by Indians and Indian tribes; agency actions under the Alaska Native Claims Settlement Act³⁹ and the Alaska National Interest Lands Conservation Act;⁴⁰ the adjudication of federal reserved and appropriated water rights in state court general stream adjudications;⁴¹ and quiet title and boundary disputes involving federal land, including navigability and maritime boundary disputes between states and the United States. The Section also has a substantial Claims Court practice defending money damages suits—including constitutional inverse condemnation claims arising out of agency project activities, regulations, and asserted legislative takings, contract claims, and Indian claims in the area of governmental trust. Total claims in these suits approach \$2 billion.

In 1986, the Indian Claims Section was merged into the General Litigation Section. That section's responsibility included two areas of monetary claims related to the government's broad relationships with Indian tribes. It defended historical claims filed by Indian tribes before the Indian Claims Commission and transferred to the Claims Court on September 30, 1978. It also handled claims of breach of governmental trust by the United States in the management of tribal property and resources, involving the full range of federal responsibilities in Indian affairs. These cases have increased in number in the wake of an adverse 1983 Supreme Court ruling. The merger of the two sections has strengthened the resulting Section's expertise and focus both in Indian law and in Claims Court practice.

The Section has litigation responsibility for federal programs under more than 70 statutes. In securing coordination and expertise among Section staff, U.S. Attorneys' offices, and agency counsel on important programs where there are multiple related cases, the Section has successfully employed a litigation team approach. For example, a team coordinates

defense of the government's activities in recombinant DNA (gene technology) research and licensing. Some one-half dozen cases have challenged activities as diverse as Department of Agriculture research grants involving rabies vaccines and swine growth hormones, Environmental Protection Agency licensing of pesticides tests, and National Institutes of Health medical research grants. Two important new cases challenge the Biological Sciences Coordinating Committee's publication of its Coordinated Framework for agency activities in the biotechnology area,⁴² and the Department of Defense's conduct of biological weapons research and testing.⁴³ The former is chiefly an Administrative Procedure Act challenge; the latter a National Environmental Policy Act case. Additionally, the many lawsuits involving federal water projects in the Central Valley of California, most prominently those involving Kesterson National Wildlife Refuge and the Westlands Water District, but also the D-1485 Delta water quality decision of the California Water Resources Control Board, are being coordinated by such a team.

The Section also will employ the team approach defending challenges to the "homeport" program for Navy surface ships and to National Forest Management Plans. As for the latter, some 130 plans are expected to be completed in the next two years, and the controversies over allocations of land to timber harvesting and other commercial activities on the one hand and to recreation or wilderness on the other are expected to generate numerous cases involving large, complex administrative records and difficult National Environmental Policy Act issues, as well as the first substantive construction of the National Forest Management Act of 1976. Extensive interagency coordination is underway in this area.

The Section continues to place a high priority on defense of the Administration's federal offshore oil and gas leasing program. The Supreme Court will hear the government's petition in *Hodel v. Village of Gambell*,⁴⁴ which should resolve two issues: the discrete Outer Continental Shelf program issue whether the subsistence lifestyle preference of the Alaska National Interest Lands Conservation Act applies to the Outer Continental Shelf; and the general injunction law question whether traditional standards of balancing relative harms to the parties and determining the public interest apply in determining whether to issue an injunction after finding either a likelihood of, or an actual violation of, an environmental protection statute. The Outer Continental Shelf litigation has otherwise shifted from lease sales to lease revenues. Congress amended Section 8(g) of the Outer Continental Shelf Land Act to settle the three suits that the states had brought to recover a "fair and equitable" share of Outer Continental Shelf revenues derived from pools of oil and gas common to state and federal submerged lands. The legislated payments resulted in dismissal with prejudice of the Texas and Alaska suits. Louisiana has received its payment of \$640

million, but has not agreed to dismiss its actions with prejudice, and continues to pursue litigation over drainage from state leases and unitization of state and federal leases in a new *Louisiana v. Hodel* case.⁴⁵ Royalty litigation, involving both Outer Continental Shelf and onshore mineral activities, is increasing, and now involves several tens of millions of dollars.

The Section's National Environmental Policy Act responsibilities remain particularly challenging. The Section regularly deals with "overnight" preliminary injunction hearings as project opponents seek to prevent project construction after completion of administrative permitting or grants. The Section won the dismissal of suits to prevent deployment of the MX/Peacekeeper missile system, chiefly on political question/justiciability grounds, although an appeal is pending in the Eighth Circuit.⁴⁶ Similarly, the Section also won a National Environmental Policy Act challenge against the Department of Agriculture's conduct of research that may involve recombinant DNA technology.⁴⁷ In January, the Section won the first challenge to National Environmental Policy Act compliance by the Bureau of Land Management on an environmental impact statement governing public land livestock grazing.⁴⁸ This "Reno Environmental Impact Statement" case is significant not only because the environmental impact statement format, proposed action and alternatives design will be employed by the Bureau of Land Management in over 100 other grazing environmental impact statements around the West, but also because the court endorsed the agency's design of its substantive program for public land grazing management. In the Indian law area, several important focus points continue. The Supreme Court decision in *United States v. Mottaz*⁴⁹ makes it clear that the Quiet Title Act's 12-year statute of limitations for suits against the United States applies as well to suits by Indians. The Section is examining the host of pending cases comparable to *Mottaz* and will brief and argue each on its facts in light of *Mottaz*, but in the long run a troublesome area in litigation, involving stale evidence and similar serious trial difficulties, should substantially diminish. On remand to the Claims Court in the *Mitchell* case, the Claims Court granted dismissal motion based on the statute of limitations. The ruling reduces our liability exposure by \$80 million (of the \$100 million claimed for breach of governmental trust in timber management on allotted lands in Washington) and reduces the burdens of the remaining trial.⁵⁰ The Section will continue to pursue the statute of limitations defenses successfully asserted here against other alleged breaches of the governmental trust relationship, in situations ranging from tribal jurisdiction to governmental resource management obligations, as were involved in the *Navajo Tribe v. United States* cases.⁵¹ With the delegation of several environmental regulatory programs to tribal governments, these issues will become even more complex.

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. It also has been repeatedly sanctioned and enforced by decisions of the Supreme Court and lesser 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.

As in past years, the Division devoted a great deal of time and effort to lawsuits initiated by state governments seeking to quantify federally-owned water rights, including water rights held for Indian tribes. More and more, state governments are showing a preference for negotiation over litigation and the Division is encouraging and supporting these efforts to resolve uncertainties in state property matters. Negotiations are ongoing with Montana, Colorado, Nevada, Utah, Idaho, Wyoming, and New Mexico. Litigation is still pending in these states and in Washington, California, and Arizona. It appears, however, that the States realize that negotiations can save huge amounts of state money and time that would be consumed in litigation; the federal government obtains a similar saving whenever trial is avoided.

A perennial problem that the Division has been involved with is the dispute between the Navajo and Hopi Tribes to title to 2.5 million acres of land in Arizona. In the past year, Congress removed the deadline of July 6, 1986, to relocate several hundred Navajo families from the land partitioned to the Hopi Tribe. In addition, Congress shifted much of the responsibility for the relocation away from the Navajo-Hopi Indian Relocation Commission back to the Bureau of Indian Affairs. At the same time, several cases in this long dispute addressing relocation and other issues have been going forward in the district court. This controversy is expected to continue to demand the Division's attention in the coming year.

The Division's attention to the issue of tribally-sponsored gambling operations, which are becoming more popular with the tribes as a source of income to fund much needed tribal programs, increased during the year because of a growth in litigation and on account of various legislative and administrative initiatives that have been under consideration to regulate the gaming operations. The Division worked closely with the Criminal Division and the Department of the Interior in drafting an Administration bill, as well as critiquing other proposals. Although no single bill garnered sufficient support to pass the 99th Congress, the question of state regulation of tribal gambling operations is before the Supreme Court in its 1986-1987 term. *State of California v.*

*Cabazon Band of Mission Indians.*⁵² This case may go far in clarifying legal uncertainties in this area, as well as in the broader area of state regulation of activities on Indian reservations.

Land Acquisition Section

The Land Acquisition Section is responsible for the acquisition of real property for public use. When a voluntary purchase by one of the acquiring agencies is not possible, the Section initiates and prosecutes condemnation proceedings in the U.S. district courts. These 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.

At the end of Fiscal Year 1986, the Section had pending 6,312 tracts. The amount of money at issue in the pending tracts is over \$1 billion—the difference between the landowners' known claims of \$1.9 billion and the government's appraisal of \$616.8 million.

The largest case now pending is the National Park Service acquisition from three large timber companies of nearly 45,000 acres of additional redwood timberland in northern California for expansion of the Redwood National Park. The three timber companies have appraisals that range from \$761 to \$820 million, exclusive of interest. The appraisals of the United States range from \$289 to \$390 million, exclusive of interest. The case began trial on October 15, 1985, before a three-member Rule 71(A)(h) commission. The evidentiary phase concluded on May 20, 1986, proposed findings of fact were filed and final argument was held on August 12, 1986. Additionally, trial on the issue of the appropriate rate of interest to be applied, in the event of deficiency due two of these defendants, will be had before a commission commencing on October 13, 1986. A final judgment is not expected during this calendar year.

During the past year the Section successfully litigated several cases of significance. *United States v. 566.08 Acres*⁵³ involved the acquisition of a portion of geothermal resource (the balance of the case having been settled) in connection with the Lassen Volcanic National Park Project. The government's testimony at trial was \$250,000 and the landowner presented testimony of \$24 million. The award was \$1.5 million.

*United States v. 408.75 Acres*⁵⁴ involved the acquisition of a ranch. The government's testimony at trial was \$397,000 and the landowners presented testimony of \$1,073,063. An award was returned in the amount of the government's testimony.

*United States v. 456.657 Acres*⁵⁵ involved the acquisition of an agricultural tract of land. The government's witness estimated the property's value at \$919,660. The landowners

claimed \$9,405,691 based on a highest and best use for a residential subdivision. The award was \$926,657.

Policy, Legislation and Special Litigation Section

The Policy, Legislation and Special Litigation Section handles the Division's legislative responsibilities and provides legal counsel and policymaking support to the Assistant Attorney General. Among many other duties, it is responsible for providing analysis and comment on legislative proposals, preparing testimony for Division witnesses, developing accurate and timely responses to all congressional referrals and inquiries, responding to press inquiries, and processing requests under the Privacy Act and the Freedom of Information Act. During 1986, the Section was particularly active in both Superfund and Clean Water Act reauthorization and was successful in seeing amendments to the Declaration of Taking Act passed.

Other responsibilities include intergovernmental affairs activities, media and press relations, providing legal counsel relating to federal legislative jurisdiction and ethical questions facing the Division, and representing the United States in selected litigation at all levels of the judiciary. The Section provides litigation support to other sections and often drafts the Division's Supreme Court *amicus curiae* briefs for the Solicitor General.

The Section has worked to support state regulatory programs and authorities, for example, in working with Congress on groundwater legislation and in drafting the Supreme Court *amicus* brief in *Maine v. Taylor*, in which the Court upheld a state statute prohibiting the importation of live baitfish. Litigation issues addressed by Section attorneys during the past year also include a successful appeal upholding the government's authority to bring condors, a vanishing species, into captivity. Challenges under the National Environmental Policy Act on airport expansions were also successfully defended. The Section also handled litigation in both district and appellate courts under the Clean Water Act, the Toxic Substances Control Act, the Lacey Act, and the Quiet Title Act as well as several cases under the hazardous waste statutes.

In addition to litigation, the Section provides the Assistant Attorney General with legal opinions, memoranda, and speeches on a wide variety of issues ranging from the Superfund implementation and settlement policy to energy development and constitutional questions. The analyses in some instances have been provided by the Assistant Attorney General to the Attorney General and to other federal officials and agencies.

Wildlife and Marine Resources Section

The Wildlife and Marine Resources Section is responsible for civil and criminal litigation arising under statutes which call for federal management of living resources, or which regulate private conduct regarding them. The Section handles prosecution of illegal taking, trade or importation of endangered and other regulated species. The Section also is charged with defending cases where client agency action affecting wildlife is challenged. In addition to the Endangered Species Act,⁵⁶ the Section's work focuses on the Magnuson Fishery Conservation and Management Act,⁵⁷ the Marine Mammal Protection Act,⁵⁸ and the Lacey Act Amendments of 1981 (Lacey Act).⁵⁹ Litigation under some 20 other environmental laws also is handled by the Section.

The Wildlife Section won three significant victories in the Supreme Court during Fiscal Year 1986. In *Japan Whaling Association, et al. v. American Cetacean Society, et al.*,⁶⁰ the Supreme Court, reversing a divided appellate court, upheld an historic executive agreement between the United States and Japan under which the latter commits to abandon its commercial whaling industry by 1988. The Supreme Court found no congressional intent in amendments to the Magnuson Fishery Conservation and Management Act to require imposition of severe, automatic sanctions when the executive concluded that the instant agreement would contribute more to the effectiveness of whaling conservation than an unenforceable moratorium established by the International Whaling Convention.

The Supreme Court also addressed the extent to which Indians with on-reservation hunting rights are subject to federal wildlife laws. In *United States v. Dwight Dion, Sr.*,⁶¹ the Court held that the Bald Eagle Protection Act⁶² abrogated on-reservation rights to hunt bald and golden eagles. The Court reserved for later consideration the extent to which the Endangered Species Act applies to on-reservation hunting of protected species and the extent to which these federal conservation statutes may constitutionally be applied to Indians hunting or possessing protected species for religious purposes. The latter two questions are currently at issue in two related cases in which the Chief of the Seminole Indian Tribe killed, ostensibly for religious reasons, one of 25 remaining Florida panthers.⁵³

In *Maine v. Taylor*,⁶⁴ a Lacey Act prosecution based upon violation of a Maine statute prohibiting the importation of live baitfish, the Supreme Court refined the Commerce Clause test applicable in challenges to state statutes developed in *Hughes v. Oklahoma*.⁶⁵ *Hughes* held that state statutes which discriminate against interstate commerce either facially or in practical effect, such as the statute in *Taylor*, are constitutionally permissible only if the statute

serves a legitimate local purpose which could not be served as well by available nondiscriminatory means. Although there were potential tests which could be developed to screen for diseased baitfish, the *Taylor* Court held that states are not constitutionally required to develop new and unproven means of protection at an uncertain cost.

During the past fiscal year, the Wildlife Section successfully defended important agency programs against alleged failures to comply with the Endangered Species Act. In *National Audubon Society v. Hester*,⁶⁶ an environmental group challenged the Fish and Wildlife Service's decision to capture the five remaining wild condors in order to prevent their imminent extinction. The Service acted after it discovered highly elevated lead levels in several of the wild condors. Although the district court enjoined the Fish and Wildlife Service's action, the court of appeals reversed, holding that the Service's action was consistent with the recovery goals of the Endangered Species Act. In *National Wildlife Federation v. Hodel*,⁶⁷ an environmental group sought to compel the Fish and Wildlife Service to impose an immediate nationwide ban on the use of lead shot to kill migratory birds. The environmentalists argued that the Service's decision to phase out lead shot over a five-year period violated the Endangered Species Act since the use of lead shot resulted in secondary impacts to bald eagles. The district court found the Service's proposed course of action reasonable. In a pending action, ranchers who lost sheep to grizzly bears are claiming that the Endangered Species Act's prohibition on taking listed species unconstitutionally deprives them of their property. *Christy, et al. v. Dunkle, et al.*⁶⁸

During Fiscal Year 1986, the Section made significant criminal enforcement advances on a variety of fronts. In the culmination of "Operation Falcon," an investigation into the illegal taking and trading of falcons and other raptors on both a domestic and international scale, the Section snared a high-ranking Saudi prince. The prince, who admitted that intermediaries acquired wild gyrfalcons on three occasions, agreed to pay \$150,000 settlement and pledged no recurrences. "Operation Three-J's" focused on the smuggling of parrots and other exotic birds across the United States/Mexican border. To date, over 30 individuals have been convicted or have pled guilty. This year, the Section concluded a series of prosecutions into the widespread sale and use of highly toxic pesticides (aysdrin and aldrin) in Louisiana and Texas, which were illegally being applied to rice crops to kill migratory birds. These cases have resulted in over 50 convictions of distributors and farmers for violations of the Migratory Bird Treaty Act and the Federal Insecticide, Fungicide, and Rodenticide Act. Finally, the Section is coordinating several other domestic and international investigations, expected to result in numerous indictments within the next year.

Executive Office

The Executive Office provides the broad array of vital administrative services in support of the litigation efforts of the Division's legal sections. During 1986, the Executive Office instituted a computerized system of managing expert witness requests and took an active role in reducing outstanding travel advance balances by over \$60,000. Opportunity was provided to senior staff for broadening skills and obtaining valuable experience through a "working sabbatical" program. In addition, a "resident scholar" program was instituted to bring academic experience and exchange of knowledge to the Division. Training courses for attorneys, client agency and state officials remain a top priority.

Automated litigation support, using computer and microfilm technologies, was provided to 29 large, complex cases, including the operation of document centers for two hazardous waste cases with combined document collections of over 3 million pages and the establishment of pretrial support centers in Boston and Kansas City. A fully-integrated office automation system currently being installed in the Division will further increase the flexibility and productivity of attorneys and other professional workers.

Management and productivity reviews were completed in the three largest sections, comprising over 50 percent of the Division's staff. These detailed assessments were discussed with the individual section chiefs and at several management conferences chaired by the Assistant Attorney General and attended by all section managers. As a result of the completed studies, a number of management reforms have been introduced, covering such areas as management structure, attorney supervision, and office procedures.

Fiscal Year 1986

Workload Statistics

Land Acquisition:	
Tracts Start	6,594
New Tracts Opened	1,727
Tracts Closed	2,009
Tracts End	6,312
Environmental Defense:	
Matters Start	1,318
New Matters Opened	358
Matters Closed	326
Matters End	1,350
Environmental Enforcement:	
Matters Start	645
New Matters Opened	620
Matters Closed	362
Matters End	903

Indian Resources:	
Matters Start	561
New Matters Opened	19
Matters Closed	39
Matters End	541
Indian Claims:	
Matters Start	68
New Matters Opened	5
Matters Closed	6
Matters End	67
General Litigation:	
Matters Start	3,469
New Matters Opened	857
Matters Closed	985
Matters End	3,341
Appellate:	
Matters Start	967
New Matters Opened	385
Matters Closed	463
Matters End	889
Policy, Legislation and Special Litigation:	
Matters Start	145
New Matters Opened	1,319
Matters Closed	1,347
Matters End	117
Wildlife and Marine Resources:	
Matters Start	577
New Matters Opened	322
Matters Closed	355
Matters End	544
Division Totals:	
Matters Start	14,344
New Matters Opened	5,612
Matters Closed	5,892
Matters End	14,064

CITATIONS

- (1) *Midlantic Natl. Bank v. New Jersey Department of Environmental Protection*, 106 S.Ct. 755 (1986).
- (2) *Dow Chemical Co. v. United States*, 106 S.Ct. 1819 (1986).
- (3) *United States v. Riverside Bayview Homes*, 106 S.Ct. 455 (1985).
- (4) *Thomas v. New York, et al.*, D.C. Cir. Nos. 85-5970, 85-5972, 85-5994, 85-6113, 85-6114, September 18, 1986.
- (5) *Wyckoff Company v. Environmental Protection Agency*, 9th Cir. No. 85-3518, August 4, 1986.
- (6) *Time Oil Co. v. Barnes*, 9th Cir. No. 86-3506, August 16, 1986.
- (7) *Wheaton Industries v. Environmental Protection Agency*, 781 F.2d 354 (3d Cir. 1986).
- (8) *Wagner Seed Co. v. Daggett*, 2d Cir. No. 86-6023, September 10, 1986.
- (9) *San Luis Obispo Mothers for Peace v. Nuclear Regulatory Commission*, D.C. Cir. No. 84-1410, April 25, 1986.

- (10) *Coalition for the Environment v. Nuclear Regulatory Commission* (No. 84-1313) and *New England Coalition on Nuclear Pollution v. Nuclear Regulatory Commission* (No. 84-1514), D.C. Cir., July 11, 1986.
- (11) *Marathon Oil Co. v. United States*, 9th Cir., No. 85-3800, July 24, 1986.
- (12) *Alaska v. Block, et al.*, 9th Cir. No. 85-3992, August 20, 1986.
- (13) *United States v. White Mountain Apache Tribe*, 9th Cir. No. 85-1719, March 7, 1986.
- (14) *White Mountain Apache Tribe v. Hodel*, 9th Cir. No. 85-1721, March 7, 1986.
- (15) *United States v. Mottaz*, 106 S.Ct. 2224 (1986).
- (16) *Mountain States Legal Foundation, et al., v. Hodel, et al.*, 10th Cir. No. 82-1485, August 22, 1986.
- (17) *No-Gwen (Alliance of) Lane County v. Aldridge*, 9th Cir. No. 86-4082, September 8, 1986.
- (18) *Natural Resources Defense Council v. Environmental Protection Agency*, Civ. No. 85-1150 (D.C. Cir. 1986).
- (19) *Kennecott v. Environmental Protection Agency*, 780 F.2d 445 (4th Cir. 1985).
- (20) *American Petroleum Institute v. Environmental Protection Agency*, 787 F.2d 965 (5th Cir. 1986).
- (21) *Humane Society v. Environmental Protection Agency*, 790 F.2d 106 (D.C. Cir. 1986).
- (22) *Bethlehem Steel Corp. v. United States Environmental Protection Agency*, 782 F.2d 645 (7th Cir. 1986).
- (23) *Environmental Defense Fund v. Environmental Protection Agency*, 627 F. Supp. 566 (D.D.C. 1986).
- (24) *Aminoil, Inc. v. United States*, Civ. No. 84-5853-KN (June 30, 1986).
- (25) *Lone Pine Steering Committee v. United States Environmental Protection Agency*, 777 F.2d 882 (3d Cir. 1985), *cert. denied*, 106 S.Ct. 1970 (1986); *Solid State Circuits, Inc. v. Environmental Protection Agency*, 23 Env't Rep. Cas. (BNA) 1758 (W.D. Mo. 1985).
- (26) *Dow Chemical Co. v. United States Environmental Protection Agency*, 635 F. Supp. 126 (M.D. La. 1986).
- (27) *United States v. Professional Sales Corp.*, 56 Bankr. 752, 764 (N.D. Ill. 1985); *In re Commonwealth Oil Refining Co.*, 58 Bankr. 608 (Bankr. W.D. Tex. 1985), *aff'd sub nom. Official Committee of Unsecured Creditors v. Environmental Protection Agency*, SA-85-CA-2045 (W.D. Tex. Nov. 5, 1985), *appeal pending*, Nos. 85-2827, 85-2828 (5th Cir.).
- (28) *United States v. Riverside Bayview Homes, supra*, note 3.
- (29) *United States v. Cumberland Farms of Connecticut, Inc.*, Civ. No. 85-0846-Y (D. Mass.).
- (30) *Swanson v. United States*, 789 F.2d 1368 (9th Cir. 1986); *Conant v. United States*, 786 F.2d 1008 (11th Cir. 1986); *Track 12, Inc. v. District Engineer*, 618 F. Supp. 448 (D. Minn. 1985); *Bailey v. United States*, Civ. No. 85-3147 (D. Idaho 1986).
- (31) *United States v. Akers*, 785 F.2d 814 (9th Cir. 1986).
- (32) *McClellan Ecological Seepage Situation v. Weinberger*, Civ. No. S-86-475-RAR (E.D. Cal. 1986).
- (33) *State of New York v. United States*, 620 F. Supp. 374 (E.D. N.Y. 1985).
- (34) *United States v. Maryland Bank & Trust*, Civ. No. 84-4026 (D. MD. 1986).
- (35) *United States v. New Castle County*, Civ. No. 80-489 (D. Del.).
- (36) *United States v. Ward*, Civ. No. 83-63-5 (E.D. N.C.).
- (37) *United States v. Western Processing*, Civ. No. 82-113 (W.D. Wash.).
- (38) National Environmental Policy Act, 42 U.S.C. 4321, *et seq.*
- (39) Alaska Native Claims Settlement Act, 43 U.S.C. 1601 *et seq.*
- (40) Alaska National Interest Lands Conservation Act, P.L. 96-487, 94 Stat. 2371-2551, codified in part at 16 U.S.C. 3101 *et seq.*
- (41) The McCarran Amendment, 43 U.S.C. 666, provides that the United States is subject to state court jurisdiction for these adjudications.
- (42) *Foundation on Economic Trends v. Johnson*, Civ. No. 86-1956 (D.D.C.).
- (43) *Foundation on Economic Trends v. Weinberger*, Civ. No. 2436 (D.D.C.).
- (44) *Hodel v. Village of Gambell*, 774 F.2d 1414 (9th Cir. 1985), *cert. granted*, No. 85-1406.
- (45) *Louisiana v. Hodel*, Civ. No. 86-0924L (W.D. La.).
- (46) *Lamm v. Weinberger*, Civ. No. 84L-423 (D. Neb. February 20, 1986), *appeal pending*, No. 86-1458/1517NE (8th Cir.).
- (47) *Foundation on Economic Trends v. Block*, Civ. No. 84-3045 (D.D.C. April 29, 1986), *appeal pending*, No. 86-5452 (D.C. Cir.).
- (48) *Natural Resources Defense Council v. Hodel*, 624 F. Supp. 1045 (D. Nev. 1986), *appeal pending*, No. 86-1687 (9th Cir. Feb. 18, 1986).
- (49) *United States v. Mottaz, supra*, note 15.
- (50) *United States v. Mitchell*, 463 U.S. 206 (1983), *on remand* Nos. 772-71 through 775-71 (Cl. Ct. May 22, 1986).
- (51) *Navajo Tribe v. United States*, 9 Cl.Ct. 227 (1985); 9 Cl. Ct. 336 (1986).
- (52) *State of California v. Cabazon Band of Mission Indians*, 783 F.2d 900 (9th Cir. 1986), S.Ct. No. 85-1708.
- (53) *United States v. 566.08 Acres*, Civ. No. S-80-305-PCW (E.D. Cal. 1980).
- (54) *United States v. 408.75 Acres*, Civ. No. 84-1393-HB (D.N.M. 1984).
- (55) *United States v. 456.657 Acres*, Civ. No. S-82-35-CA-MF-1521-18 (E.D. Tex. 1982).
- (56) Endangered Species Act, 16 U.S.C. 1531 *et seq.*
- (57) Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*
- (58) Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.*
- (59) *Lacey Act Amendments of 1981*, 16 U.S.C. 3371 *et seq.*
- (60) *Japan Whaling Association, et al. v. American Cetacean Society, et al.*, Nos. 85-954, 85-955 (S.Ct. June 30, 1986).
- (61) *United States v. Dwight Dion, Sr.*, No. 85-246 (S.Ct. June 11, 1986).
- (62) Bald Eagle Protection Act, 16 U.S.C. 668 *et seq.*
- (63) *Billie v. Marcus*, No. 84-6695 (S.D. Fla.); *United States v. Billie* (S.D. Fla.).
- (64) *Muine v. Taylor*, 106 S. Ct. 2440 (1986).
- (65) *Hughes v. Oklahoma*, 441 U.S. 322 (1979).
- (66) *National Audubon Society v. Hester*, 801 F.2d. 405 (D.C. Cir. 1986); 791 F.2d 210 (D.C. Cir. 1986).
- (67) *National Wildlife Federation v. Hodel*, Civ. No. 86-194-EJG (E.D. Cal.).
- (68) *Christy, et al v. Dunkle, et al.*, Civ. No. 86-024-GF-PGH (D. Mont.).

Immigration and Naturalization Service

Alan C. Nelson
Commissioner

The Immigration and Naturalization Service (INS) carries out the federal laws, regulations, and policies governing immigration, naturalization, refugees, and asylum. It is responsible for all activities related to the temporary or permanent admission of people into the United States and for the exclusion and removal of illegal alien entries and residents.

The Service continued to improve its operations, reduce its costs, and streamline its organization during Fiscal Year 1986. In Examinations, backlogs declined even as receipts in applications for immigration benefits increased. In Enforcement, enhanced Border Patrol resources helped to boost the number of illegal alien apprehensions and drug interdictions to an unprecedented level. And in Management, most programs realized further gains in productivity and efficiency as automated systems expanded to cover more operations.

The Service also made progress in gaining support for state and local authorities for such programs as the Systematic Alien Verification for Entitlement program and the newly established Legally Authorized Worker program to prevent illegal aliens from taking entitlement and employment benefits away from citizens and legal alien residents.

Office of General Counsel

The General Counsel was involved in the litigation of more than 1700 cases in U.S. district courts and courts of appeals in Fiscal Year 1986. The Service's position was upheld in over 80 percent of the cases. Major cases included:

- *Cardoza-Fonseca v. INS*, in which the Supreme Court granted *certiorari* to resolve a question concerning the "well-founded fear" standard for asylum;
- *Garcia-Mir v. Smith*, in which the Eleventh Circuit Court of Appeals upheld the authority of the executive branch to detain and deny parole to Mariel Cuban criminals; and
- *United States v. Merkt*, in which the Fifth Circuit Court of Appeals decided that the convictions of Sanctuary workers for smuggling illegal aliens were not barred by the First Amendment.

Additionally, this Office collected over \$2.4 million of debts owed to INS and placed INS attorneys in El Paso and San Antonio, Texas, as Special Assistants to the offices of U.S. Attorneys to engage not only in the defense of civil litigation but also in the prosecution of criminal aliens.

Office of Program Inspection

The Office of Program Inspection was formed by combining the Evaluation and Management Assistance Division from the Office of the Associate Commissioner, Management, with the Office of Field Inspections and Audit in order to bring both functions together in the Office of the Commissioner.

The Field Inspection and Audit Staff inspected district offices in Helena, Montana; Phoenix, Arizona; San Diego, California; and San Antonio and El Paso, Texas. The Staff also conducted an audit of debt collections to identify weaknesses in accounting practices and Service policies concerning accounts receivable. Other audits and reviews in progress at the end of Fiscal Year 1986 included a review of controls over property and fuel in the Border Patrol, an audit of Service policies on 1931 Overtime Act reimbursements, and a followup review of implementation and utility of the automated Nonimmigrant Information System.

The Evaluation and Productivity Improvement Branch conducted studies to improve mail, file, and data transcription activities, mostly in field offices, and to evaluate communications center operations in the central office.

Office of Professional Responsibility

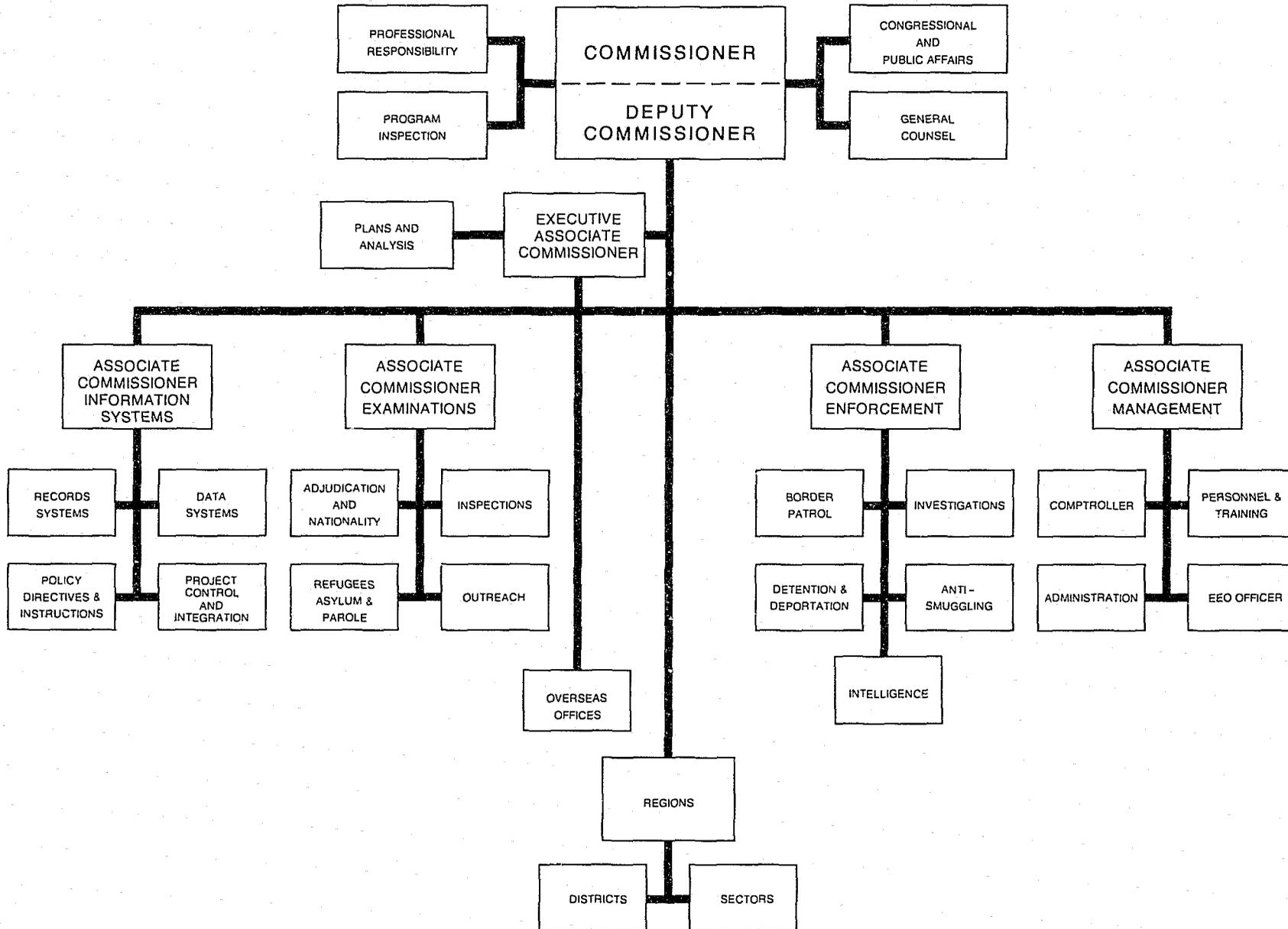
This Office received 560 allegations of duty-related unlawful activity by employees in Fiscal Year 1986, including such suspected activities as the sale of immigration benefits, smuggling of aliens, abuse of civil rights, and supervisory and managerial misconduct. It investigated 310 cases and referred the rest to the regional offices.

Office of Congressional and Public Affairs

The Congressional Affairs Office closely monitored and analyzed all efforts to secure passage of general immigration reform legislation during the 99th Congress. Finally, through a series of last-minute compromises in both Houses, the Immigration Reform and Control Act of 1986 was passed on October 17, 1986.

The Office also assisted Service officers in briefing dignitaries from nine countries and in holding seminars for congressional staff workers in Washington, D.C., and in various field locations.

IMMIGRATION AND NATURALIZATION SERVICE



Approximately 34,000 telephone inquiries were received from Congress and other sources. The Office prepared more than 5,000 written responses to congressional inquiries and received and relayed to field offices reports of agency checks in more than 1,500 specially expedited orphan petition cases.

The Press Information Office responded to an average of 100 queries per week from the news media. They also prepared 29 news releases and arranged three news conferences and 26 public appearances for the Commissioner, including seven interviews on television news programs broadcast by national networks.

Office of Deputy Commissioner

The Deputy Commissioner played a leadership role in several executive programs, including the Productivity Improvement Program and the Priorities Management System. In addition, the Deputy Commissioner:

- Coordinated Service support of Operation Alliance, the Administration's war on drug trafficking and terrorism on the border;
- Personally negotiated with Irish government officials in establishing preinspection at Shannon Airport; and
- Established and presided over the Hiring Waiver Panel and the Conference Control Program to control spending.

Office of the Executive Associate Commissioner

Overseas Program

In 1986, the overseas offices processed 65,122 applications for refugee status or other immigration benefits and granted 52,081 of them.

These offices also expanded activities meant to deter aliens from attempting to enter the United States illegally. By working with the Department of State and with officials of host governments, airlines, and other agencies abroad to share intelligence and inspect travel documents, the Service succeeded in preventing an estimated 5,000 illegal entries during the first six months of Fiscal Year 1986.

As part of this program, the Service initiated a preinspection test program at Shannon Airport, Ireland, in June 1986. Travelers bound for the United States from Shannon Airport were inspected before leaving and thus avoided the long lines at their destinations. Undesirable aliens and travelers with improper documents were prevented from leaving foreign soil.

Office of Plans and Analysis

The Office of Plans and Analysis carried out the following major projects during Fiscal Year 1986:

- Development of the Legally Authorized Worker program to ensure that jobs vacated by apprehended illegal aliens are filled by legal U.S. workers;
- Publication of two new series of statistics, Quarterly: Nonimmigrant Statistics and Immigration Statistics: Fiscal Year 1985;
- Initiation of cooperative efforts with the Defense Advanced Research Projects Agency, the U.S. Army, and members of the academic community to improve surveillance systems used along the border; and
- Administration of a national survey of illegal aliens and structuring of a major survey of Korean and Filipino immigrants, both of which surveys are being conducted by private research organizations.

Examinations

As part of its function to facilitate the entry of legitimate travelers and to deter those who try to enter illegally, the Inspections Division established the Terrorism, Drugs, and Fraud Detection Team and began its first phase with three training sessions conducted by specialists from the U.S. Army, the Federal Bureau of Investigation, the Drug Enforcement Administration, the Federal Aviation Administration, and other agencies, to prepare INS inspectors to train others at major ports of entry.

Adjudications and Naturalization

The Adjudications Branch conducted a major study of cases of marriage fraud in order to find a reliable profile of aliens who marry citizens solely to obtain permanent resident status. Results confirmed earlier estimates that approximately 30 percent of marriages between citizens and aliens may be fraudulent. Data from this study will be analyzed to find better methods of detecting and preventing this type of fraud. Adjudications rulemaking in Fiscal Year 1986 included:

- Amendment of a regulation for aliens who apply for immigrant visas based on labor certification, closing a loophole that enabled them to circumvent immigration restrictions by living and working in the United States after obtaining their labor certification but before becoming eligible for their visas; and
- Proposal for new regulations intended to reduce the paperwork burden on American employers seeking to hire, transfer, or maintain foreign-born temporary employees.

Adjudications successfully conducted a six-month test in which the public mailed applications and petitions directly to regional adjudications centers rather than to district offices. This "direct mail" program reduced administrative delays in processing and received overwhelmingly favorable com-

ments from the public. As a result, the Service implemented direct mail in 33 of the 50 states for five major types of applications. Ultimately, the program will be expanded to all areas and more types of applications.

The quality assurance program in Adjudications was selected as an element of the Department's productivity improvement program. Extensive quality assurance measures were implemented at all of the Service's regional adjudications centers to ensure more timely and error-free service to the public.

The Naturalization Branch helped more than 250,000 immigrants to become U.S. citizens in Fiscal Year 1986. More than 25,000 were naturalized in ceremonies held during Liberty Weekend, including 14,183 in Miami, Florida, which became the largest naturalization ceremony in Service history. A special ceremony on Ellis Island brought in 265 new citizens, including 60 persons from 33 different states or territories who were eligible to participate under special legislation (P.L. 99-238) passed by Congress to symbolize the historical link between Ellis Island and the rest of the nation.

Refugee, Asylum and Parole

In Fiscal Year 1986, asylum receipts increased by approximately seven percent but prompt adjudication of asylum claims was maintained in all but one of the major INS offices. Continuing attention to the backlog of claims in that one office has reduced the interview backlog to less than one month, while elsewhere asylum applicants are either interviewed on the day of filing or scheduled for an interview in 15 days. District directors granted asylum to more than 4,000 individuals and approximately 17,000 cases were completed, not counting the Cuban claims closed under the special Cuban Adjustment Program.

For a second year a special cadre of asylum examiners was designated and specialized training was provided. Through the provision of greater program direction, country condition and case law information, and training of supervisory personnel, the quality of these complex adjudications has been raised.

The improper return of a Soviet crewman to his vessel resulted in a thorough review of Service policies, procedures, and training relative to the handling of such crewmen and other possible asylum applicants under circumstances with potential publicity or impact on foreign relations. Some operating instructions and training curricula were rewritten to clarify how such cases should be handled.

The United States admitted 56,500 refugees in Fiscal Year 1986, including the 52,000 whose approvals for resettlement were processed by offices overseas. Admissions were diminished by the suspension of refugee processing by governments in Sudan and Vietnam. The Service is involved in negotiations to resume processing under the Orderly

Departure Program for both refugees and immigrants from Vietnam.

This office exercised the Attorney General's delegated authority to parole 962 otherwise inadmissible aliens into the United States during Fiscal Year 1986. It denied 742 requests for parole. In May 1986, the Service issued special guidance on humanitarian parole to persons who might seek the admission of members of the so-called "Border Khmer" living in Thailand.

Under the Haitian Migrant Interdiction Operation program, approximately 9,522 "boat people" were intercepted at sea and returned to Haiti during Fiscal Year 1986. This unusually high number of interdictions can be attributed at least in part to the fall of the Duvalier government in Haiti.

Outreach Program

Successful completion of the Mariel Cuban Adjustment Program and the One-Time School Recertification Project marked the Outreach Program's major achievements of Fiscal Year 1986.

As a result of Outreach training provided to voluntary service agencies, in cooperation with the Department's Community Relations Service, 68,871 Mariel Cubans were able to file applications to adjust their status to lawful permanent residents as of August 31, 1986.

Outreach also concluded the One-Time School Recertification Project during the fiscal year after reviewing approximately 20,000 existing school files. The Recertification Task Force recommended that 9,334 academic and technical institutions be authorized to enroll foreign students, and that 10,118 schools be withdrawn from the system for failing to respond to repeated requests to renew their applications.

In other accomplishments in Fiscal Year 1986, Outreach:

- Conducted 38 regular training workshops for 1,283 participants from voluntary agencies, community organizations, congressional staffs, and state and local governments to instruct them on INS application procedures;
- Helped the INS Washington District Office and a local voluntary agency to establish an information desk at the district office where agency volunteers have provided information or assistance to an average of 318 persons daily since the desk opened in July; and
- Reported to Congress that 78 Amerasians immigrated to the United States in Fiscal Year 1985 under P.L. 97-359 which provides for the admission of children from Korea and Southeast Asia who were fathered by U.S. citizens.

Administrative Appeals Unit

During Fiscal Year 1986, the Administrative Appeals Unit completed nearly 4,800 appeals, 800 more than during Fiscal Year 1985. Now in its third year of operation, this Unit im-

plemented several management improvements designed to improve the quality and consistency of decisions, which are widely disseminated by several private publications, as well as within the Service, as guides for interpreting policy.

Information Systems Division

Project Control and Integration Division

This Division continued to update the Long-Range ADP Plan to reflect changes in priorities and basic system structure alternatives and participated in interagency planning to find potential areas for data exchange with the Department of State. The automated A-File Accounting and Control System was implemented in five more of the Service's largest district offices.

Data Systems Division

Data Systems and the Department of Justice have continued to increase production processing at their Washington Data Center and its companion Southwest Data Center in Dallas, Texas. This operation supported the following critical applications during Fiscal Year 1986:

- The Integrated Network Communication System was expanded to provide on-line terminal support for approximately 140 INS locations.
- Low Light Level Television Systems were installed to enhance surveillance in the Tucson and Yuma Border Patrol Sectors.
- The Naturalization Casework System was installed in an additional 15 district offices; the Legal Case Tracking System in an additional three offices; and the Deportable Alien Control System in an additional 13 district offices during the year.
- The Central Index System, consisting of approximately 22.1 million alien records, was placed into full operation in September 1985, and has been enhanced and maintained throughout 1986.
- The National Automated Immigration Lookout System was expanded to additional ports of entry. Inspections sites at Baltimore, Newark, Toronto, Montreal, New York, Miami, San Juan, Chicago, Honolulu, Buffalo, Los Angeles, San Francisco, San Ysidro, Detroit, Vancouver, and nine other locations were on-line and operational at year's end.
- The Nonimmigrant Information System's Form I-94, Arrival-Departure Record, was revised to incorporate needed enhancements into the form.
- The FRAUD Subsystem, which records and distributes information on fraud perpetrators and fraudulent documents, joined the Seized Vehicle (SEVIS) and the Anti-Smuggling (ASIS) subsystems as an operational component of the Operational Activities Special Information Systems.

- IBM System/36 equipment supporting the Service's office automation requirements was installed in eight offices and a library of videos was produced to provide continuous, onsite, low cost training support.
- Installation of office automation equipment was completed at seven overseas offices in cooperation with Department of State officials.
- The Fees and Applications Receipt Entry System was installed and became operational at regional adjudications centers in St. Alban's, Vermont, and Lincoln, Nebraska, to provide automated support in fee receipting and case tracking of applications and petitions.
- The Immigration Card Facility in Grand Prairie, Texas, issued approximately one million alien identification cards to various classes of aliens. It also completed a survey of current and long-range requirements for identification cards and analyzed various card technologies which may satisfy those requirements.

Office of Policy Directives and Instructions

This Office trained 250 INS employees for the on-line Directives and Instructions Access System, which provides access to the INS Law Books, and redesigned four forms to promote greater economy and efficiency in the collection of information as well as reduce confusion for applicants.

Records Systems Division

The Records Systems Division continued in Fiscal Year 1986 to improve service to the public and to operations by:

- Developing a User Satisfaction Survey Program to evaluate feedback from system users and developers to improve training, systems operations, and management. Onsite surveys have been made and completed of the Deportable Alien Control System in Chicago and New York and Alien File Accountability and Control System in New York.
- Developing a Data Integrity Program and implementing it at the Chicago District Office to validate the local Deportable Alien Control System data base.
- Reducing backlogs of Freedom of Information Act and Privacy Act requests by 33 percent Servicewide.
- Responding to more than 3.8 million telephone inquiries, including 1.1 million at our "ASK IMMIGRATION" system sites and 1.4 million at the Eastern and Western Telephone Service Centers.
- Personally assisting over 4.7 million people who visited INS offices throughout the country.
- Purchasing seven automated 24-hour-a-day "ASK IMMIGRATION" telephone answering systems to enable smaller INS offices to offer more efficient and timely assistance and information to the public.
- Expanding training for contact representatives to focus on skills and abilities required to respond to public in-

quiries more efficiently, courteously, and professionally.

- Revising the INS correspondence manual and distributing it throughout the Service to improve the quality and efficiency of correspondence.
- Realizing a refund of \$789,752 as a result of mail management techniques, bringing total savings to \$1,222,764 since the Mail and Correspondence Section was established in 1984.
- Preparing approximately 43,900 records for conversion from the Naturalization Case Control Systems to the Naturalization Casework Systems in the Newark, Houston, and San Jose field offices.

Enforcement Division

Border Patrol

The Border Patrol apprehended more than 1.6 million illegal aliens during Fiscal Year 1986, the largest number in history and an increase of 37 percent over last year. In addition, as part of the Vice President's Task Force on Drugs, it made some 1,200 seizures of narcotics valued at \$150 million, compared with 885 seizures in Fiscal Year 1985.

The rise in illegal traffic also resulted in more than 220 assaults against Border Patrol agents in Fiscal Year 1986. This violence was not only directed at agents but also often involved illegal aliens who were victimized by unscrupulous smugglers or bandits. In one southern California area, a special task force of Border Patrol officers and local police exchanged gunfire with such bandits at least five times in the past year. These incidents resulted in the death of three bandits and the wounding of one officer.

Investigations

Fiscal Year 1986 marked the third full year in which the Investigations Case Management System was in effect, and saw numerous noteworthy successes in combating fraud and impeding the illegal residence of aliens in the interior of the United States.

Several major efforts received national press coverage. A massive immigration marriage fraud scheme was shut down when Indian guru Bhagwan Shree Rajneesh and his subordinates pled guilty to immigration fraud charges and left the United States with numerous followers. A million-dollar marriage fraud and smuggling ring based in Seattle involving over 100 Indian Sikhs was broken up with the arrest and conviction of 24 conspirators. More than 150 fugitives were apprehended in two "sting" operations in Texas.

Special agents also participated in a number of multi-agency narcotics task forces focusing on alien violators in New Jersey, Michigan, Maryland, Connecticut, Ohio, Maine, New York, Louisiana, and California.

Investigations completed as of September 30, 1986, included:

- 593 major fraud conspiracies, involving facilitators of fraudulent immigration schemes and vendors of counterfeit documents;
- 7,929 cases of individual fraud;
- 12,543 cases involving criminal aliens;
- 44 complex cases of alien organized crime; and
- 968 cases involving employers notorious for hiring illegal aliens, resulting in apprehensions of 15,593 illegal workers.

The Systematic Alien Verification for Entitlement program identified 1.99 million aliens as unlawfully applying for entitlement benefits, and resulted in a savings of \$67.9 million to the administering agencies.

Anti-Smuggling

In Fiscal Year 1986, special agents in anti-smuggling units apprehended 17,300 alien smugglers and seized 14,000 conveyances used in smuggling operations valued at over \$29 million.

Among the more significant cases was one involving a black market baby ring operating out of Brazil and Israel uncovered by the New York City anti-smuggling unit when it foiled an attempt to smuggle a 14-day-old Brazilian baby into the United States using an altered Brazilian passport. As a result of this investigation, subjects in both Israel and Brazil (including an attorney) were arrested. Another case involved a lengthy undercover investigation of the Sanctuary Movement which resulted in a six-month trial and conviction of eight members of the Movement on charges of conspiracy, smuggling, transporting, and harboring illegal aliens.

Detention and Deportation Division

The detention and deportation program was significantly enhanced by the opening in March 1986 of the new Federal Alien Detention Center in Oakdale, Louisiana, the first facility to be jointly operated by the Service and the Bureau of Prisons. The facility provides additional space for 1,000 detainees.

Because of the suspension of a special agreement with the government of Cuba in 1985, increasing numbers of Mariel Cuban criminals have remained in custody throughout the year. As of September 1986, more than 1,000 Mariel Cubans were being held. A supplemental appropriation of \$3 million was passed by Congress to address this detention problem. The Service also continued to work with the Bureau of Prisons and the Community Relations Service to develop alternative detention strategies.

To support the alien transportation effort, particularly to and from Oakdale, the Service acquired a Convair 580 aircraft from the U.S. Army Corps of Engineers. Since the

plane became operational, it has been used to transport more than 2,700 aliens, including Mariel Cuban criminals, in a variety of special operations.

Intelligence Office

In major initiatives for 1986, this Office produced special assessments on such subjects as Asian organized crime, population trends, and monthly assessments on Mexico's economy, political situation, and illegal migration. It also established a periodical, Intelligence Report, for distribution to all Service officers, a number of federal agencies, and selected foreign government officials. In addition, the Office:

- Conducted document fraud detection training for Bahamian, Haitian, and Honduran immigration officers;
- Along with the government of Canada, co-produced and distributed a Fraud Document Detection Program for air carriers;
- Initiated efforts to create an interagency data base on alien terrorists and potential terrorists;
- Coordinated implementation of the Operation Activities Special Information System, a nationwide data base on smugglers, perpetrators of fraud, and other immigration violators; and
- Coordinated INS involvement with other law enforcement agencies in national antidrug efforts.

Office of Management

Administration

Major administrative accomplishments in Fiscal Year 1986 included initiation of a nationwide vehicle maintenance program which has reduced repair costs and improved cost control over the fleet of some 3,400 vehicles. This office also developed and activated the automated Weapons Inventory Control System. The Facilities and Engineering branch completed development of supplemental space standards to allow the Service to reduce its space utilization rate to 135 square feet per person or less by 1990.

Comptroller

This office improved cash and debt management in Fiscal Year 1986 by accomplishing the following:

- Completion of a Servicewide cash management review in coordination with the Department of the Treasury,
- Automation of travel advance management and collection resulting in a 27 percent reduction in outstanding balances,
- Expansion of the Diners Club Charge Card Program and initiation of a pilot program to evaluate the use of travelers checks in lieu of cash or Treasury checks, and
- Completion of plans and scheduling for Servicewide automation of special overtime billing and collection.

The Comptroller also performed a fee review and cost analysis resulting in overall fee adjustments of plus 14 percent. The revised fees will add \$7 to \$8 million annually to government revenue.

Personnel and Training

During Fiscal Year 1986, major efforts continued to focus on the hiring and training of Border Patrol agents. In addition to hiring approximately 650 trainees, the selection process itself was improved including: 1) updating the interview screening format and 2) implementing "state of the art" drug testing procedures as part of the medical standards. Following the completion of training at the Border Patrol Academy, these trainees will be assigned to various duty locations along the southern border.

Equal Employment Opportunity

This office reports the following gains in the employment of minorities and women in 1986:

- The increase of 1.1 percent in Hispanic representation to 23.5 percent of the INS work force;
- Minority representation increases in all five affirmative action target occupations (Border Patrol agent, special agent/criminal investigator, immigration inspector/examiner, the combined analyst occupations, and attorneys) with the most significant being a 3.2 percent increase of blacks in the combined analyst occupation to 20.2 percent representation; and
- Female representation increase of 1.2 percent, to 13.3 percent of the grades 13 through 15 in the General Schedule and General Manager categories.

Community Relations Service

Wallace Warfield Acting Director

The primary responsibility of the Community Relations Service (CRS) is set forth in Title X of the Civil Rights Act of 1964 (42 U.S. Code 2000g): "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"

Under this basic mandate, the agency provides conciliation-mediation assistance directly to troubled communities to facilitate voluntary, peaceful resolution of racial-ethnic conflict. This mission, which the agency designates as its Program Area I, is carried out through 10 regional offices that are alerted to community problems by local officials seeking assistance, by other interested parties, through direct observation by CRS staff, or through news media reports. Disputes determined to be within the agency's mandate are carefully assessed to establish such factors as the specific issues involved, the parties involved and their positions on the issues, whether the dispute appears amenable to CRS's voluntary process, and the objectives to be pursued. Then whatever steps necessary to achieve those objectives are initiated through various conciliation activities or through formal mediation.

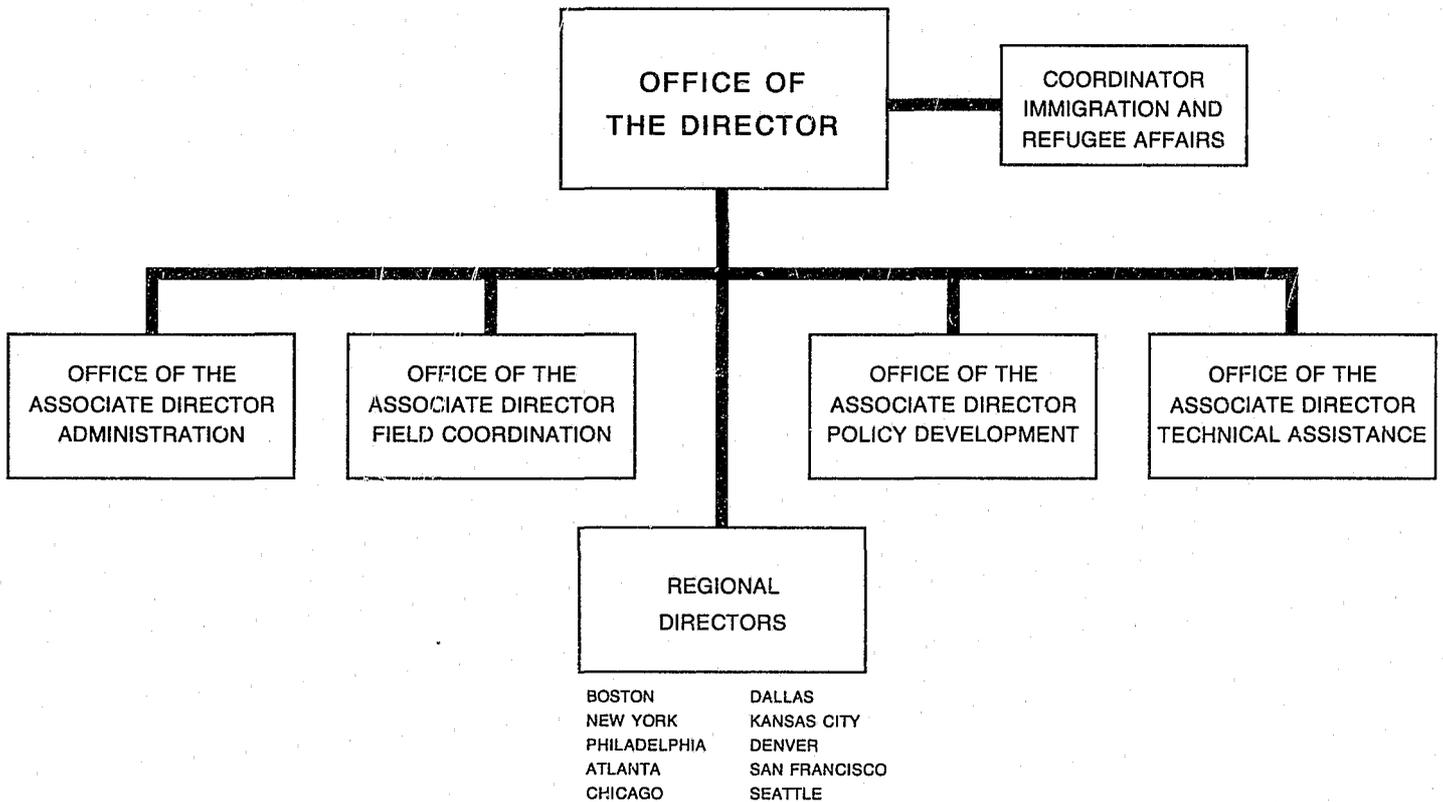
A second major CRS responsibility involves the care and processing of Cuban and Haitian entrants to the United States as authorized by Title V of the Refugee Education Assistance Act of 1980 (P.L. 96-442) and Executive Order 12341 of January 21, 1982. (Executive Order 12341 transferred these functions to the Department of Justice from the Department of Health and Human Services.) The mission of the Cuban and Haitian Entrant Program, which CRS designates as its Program Area II, is to provide humanitarian assistance for persons in detention or institutional care, and placement/resettlement services for those who are released.

Departmental Priorities

While CRS's conflict resolution mandate is unique among Department of Justice agencies, the Service's community focus extends departmental goals in a number of areas. The racial-ethnic conflict to which the agency responds affects many population groups and areas of community concern: law enforcement, education, housing, employment opportunity, health and welfare, and others. By promoting voluntary compliance with the law, and helping communities avoid disruption and violence, CRS advances departmental objectives in these areas both directly and indirectly. For example:

- Drug-related crime in minority neighborhoods and the presence of drugs in schools often contribute to community tension and impede efforts to resolve conflicts. CRS is frequently asked by community organizations, police agencies, and local public officials to assist with these problems, particularly when concern about drugs and crime lead to friction and misunderstanding between the residents of affected neighborhoods—or the school community—and the police.
- The growing organized crime problem which affects the Southeast Asian refugee community increasingly encroaches on the resettlement-related conflicts addressed by CRS. Poor communication and lack of trust have hindered the cooperation needed between the refugees and local police to address problems most effectively. Improving police-Asian refugee communication is a major thrust of CRS's conciliation activities.
- CRS helps to reduce the caseload of federal courts by accepting referrals from federal district courts for mediation of disputes that fall under the agency's mandate. The agency also makes its services available, as appropriate, to facilitate increased use of Alternatives-to-Litigation approaches by the Department's litigative divisions.
- The Service assists state and local corrections authorities seeking to reduce racial violence in correctional facilities. Upon court referral or through requests from prison or jail administrators, CRS has mediated disputes in state and local correctional facilities which have improved physical plant conditions, staff preparedness, and inmate grievance procedures. In addition, CRS's ouplacement of Mariel Cubans from the Atlanta Federal Penitentiary and Immigration and Naturalization Service detention facilities frees up space to help the Immigration and Naturalization Service and the Bureau of Prisons accommodate the 80 to 100 Cuban entrants returned to federal custody each month. Outplacement also reduces the risk of prison violence since it offers detainees hope of eventual release.
- CRS technical assistance is effective in two areas related to domestic terrorism: 1) overcoming racial-ethnic intimidation by violence-prone hate groups and other extremists, and 2) helping law enforcement agencies develop strategies to deal with community impact. Many communities have little experience in dealing with such hate groups as the Ku Klux Klan and the

COMMUNITY RELATIONS SERVICE



Aryan Nation. In such circumstances CRS draws on its experience to advise on preparations to minimize community disruption. At the same time, the agency provides contingency planning assistance to police agencies, recommending practices and techniques which have proven effective. But CRS recognizes that in building defenses against other kinds of terrorism, or in handling hostage-barricade situations, police agencies may impede their effectiveness by needlessly offending or provoking animosity from entire racially-ethnically identifiable groups. Thus, the Service places considerable importance on helping police agencies develop community impact strategies related to such actions.

Management Improvements

During the year, CRS sought to make management improvements in a number of areas to increase the overall effectiveness and efficiency of its operations:

Racial Tension Assessments

All of CRS's activities are guided by an Annual Work Plan which is comprised of work plans for each regional and central office. The individual work plans are developed in accor-

dance with guidance issued each year by the Director. However, they—and, hence, the agency's overall plan—are also conditioned by the results from annual assessments of racial tension.

The agency began assessing racial tensions in selected cities in the late 1960's. Then in 1981 it initiated a more structured appraisal of tensions to identify cities at greatest risk of racial upheaval. Analysis of these cities enabled CRS to apply its casework resources through a comprehensive, citywide plan of conflict reduction rather than in response to individual outbreaks. The multiplier effect achieved by this approach pointed the way to better management of casework resources.

In Fiscal Year 1986, CRS began evaluating ways to convert its Annual Assessment of Racial Tension into a broad-based community analysis system to provide more highly targeted application of casework resources. The agency believes this can be done while maintaining the instant response capability that is necessary for crisis response. While this expanded means of community analysis—to be developed more fully during 1987—will still identify those communities most at risk of racial violence, it will also improve case selection

methods to permit greater focusing of resources on providing high-impact intervention to problem jurisdictions.

Quality Assurance Program

CRS regularly assesses the standards used for casework practice, and measures casework effectiveness and performance. This system has proven very useful in maintaining managerial accountability. However, in Fiscal Year 1986 the agency sought to increase the amount of useful feedback obtained through this process by enlarging the sample of closed cases selected for onsite review.

Computerization

CRS now operates a management information system which has streamlined both the utilization of its limited casework resources and the agency's ability to relate essential information about its casework response capability. The installation of new data/word processing equipment continued in Fiscal Year 1986. A concerted effort was made throughout the year to maximize the benefits of this new equipment through appropriate training and some system redesign. It has improved the communication of management information and helped to improve the management of regional offices.

Program Operations

As indicated above, CRS carries out its responsibilities under a two-part program structure: *Program Area I - Conciliation and Mediation of Community Disputes*, and *Program Area II - Placement and Resettlement of Cuban and Haitian Entrants*.

Program Area I has three main subdivisions: 1) Administration of Justice, 2) Education, and 3) General Community Relations. Priorities in each of these subdivisions are determined each year based on such factors as the incidence of various kinds of disputes, analysis of current conditions, race relations trends, and other considerations. In Fiscal Year 1986, the agency established five priorities: 1) reducing the risk of civil disorder, 2) police use of excessive force, 3) containment and reduction of racial harassment, 4) educational policies and programs, and 5) responding to problems involving refugees and cross-cultural understanding.

Program Area II has four main subdivisions:

- Placement of Cuban and Haitian entrants released from Immigration and Naturalization Service special processing centers, primarily the Krome Center in Miami, for humanitarian reasons, under exclusionary bond, or when minors are involved;
- Secondary resettlement of Cuban and Haitian entrants living in the south Florida area whose initial resettlements have been unsuccessful;
- Placement of Cuban entrants with mental health problems into transitional programs once they have com-

pleted treatment provided by the U.S. Public Health Service; and

- Resettlement of Cuban entrants from Immigration and Naturalization Service and Bureau of Prisons detention facilities, primarily the Atlanta Federal Penitentiary, into special placement projects.

Conciliation and Mediation of Community Disputes

In Fiscal Year 1986, CRS processed 2,167 alerts to serious racial-ethnic conflict; from these alerts 1,656 indepth assessments were conducted. The result was 1,061 conciliation and mediation cases. A total of 788 cases were concluded during the year, leaving 273 in various stages of progress at the year's close.

Administration of Justice Cases

Alleged police use of excessive force remained the most common source of the more volatile community conflicts CRS handled in Fiscal Year 1986. Thus, its status as a casework priority remained unchanged from previous years. The interest of local police departments in reviewing and revising deadly force policies in light of the Supreme Court's March 1985 *Garner* decision brought new attention to this issue.

Among cities where CRS's involvement helped lead to adoption of a new weapons policy is Plainview, Texas, where Hispanic citizens had complained vehemently of alleged police use of excessive force. The agency also responded to disputes over use of deadly force following fatal police shootings of minorities in Cleveland; Indianapolis; Lawton, Oklahoma; Norwalk and Stamford, Connecticut; and other cities.

In some cases the disputes were more rancorous because the victims were mentally ill persons, a type of encounter which CRS's experience suggests may be on the increase. In Portland, Oregon, the agency assisted city and county agencies, including the police, in working out a new cooperative arrangement for handling the mentally ill which should reduce the number of encounters. In addition to these police-related community conflicts, CRS resolved a number of other conflicts involving alleged discrimination against minorities by court systems or prosecutors, and race-related conflict inside penal institutions.

Education Cases

Although student racial conflict was often the problem that prompted CRS's intervention in schools, disputes over alleged discrimination in education policies and programs required the most innovative responses. These disputes manifested themselves in a number of ways. For example, Hispanic parents who believed their children were being denied equal educational access because of language problems sued the Center, Colorado, Consolidated School District. Upon referral from U.S. district court, CRS

mediated negotiations between the parties which resulted in a settlement that was incorporated in a consent decree.

CRS involvement in disputes over school policies and programs in other jurisdictions raised such issues as student dropout rates, test scores, curriculum content, hirings and firings of minority employees, and disciplinary practices, among others. For example, in Albuquerque, black, Hispanic, and Native American groups sought CRS's help in addressing alleged discrimination the coalition said was reflected in minority student dropout rates, inferior facilities at predominantly minority schools, and the small number of minority employees among school staff. The agency helped resolve a number of such disputes elsewhere, including Indianola, Mississippi, where controversy over selection of a school superintendent led to a black student boycott that was given national news media coverage.

A major thrust of CRS's response to student racial conflict was helping schools establish Student Response Teams, a mechanism designed to reduce the problem through involving students themselves in its solution. School systems in Oakland, California; Albany, New York; and several other cities experimented with the teams in Fiscal Year 1986. In another initiative, CRS and the governors' offices and education departments of six New England states sponsored a school violence conference. The information developed at the conference is expected to provide the underpinning for a new effort to address school violence throughout the New England region. It also should be noted that the agency assisted several cities with the peaceful implementation of school desegregation plans, most notably Yonkers, New York, where major disruption was avoided despite vigorous opposition to the desegregation order.

General Community Relations

As usual, CRS responded to a wide range of community conflicts in Fiscal Year 1986 which did not specifically involve Administration of Justice or school issues. Many conflicts in this category resulted from the attempts of hate groups such as the Ku Klux Klan, or individuals, to intimidate or harass minorities. Another significant number of cases dealt with the large numbers of refugees and undocumented aliens who continue to migrate to the United States. Frequently called upon to intervene in conflicts involving these groups, CRS found that cultural misunderstanding was often a causal factor in disputes.

But these disputes represent only some of the kinds of racial-ethnic conflict the agency encountered. The following examples give a picture of typical situations to which CRS responded during Fiscal Year 1986:

- When the Ku Klux Klan announced a rally to boost membership in Fayette County, Pennsylvania, the National Association for the Advancement of Colored People, American Jewish Committee, and other

groups joined in a plan to stage a counter-demonstration. CRS assisted these groups and local officials, including the police, with contingency planning to ensure that both events would remain peaceful.

- When white supremacist groups met at the "Aryan World Congress" in Coeur d'Alene, Idaho, public officials and community leaders from throughout the Pacific Northwest organized a counter-demonstration called "Northwest Neighbors Day." In this instance as well, CRS provided conciliation assistance to ensure that the two events would be kept separated and peaceful.
- Everett, Washington, police officials requested assistance when conflict arose over allegations that over-fishing by Vietnamese, Laotian, and other refugees had depleted area shellfish stocks. The agency also responded to the resurgence of fishing-related conflict between whites and Vietnamese along Texas' Galveston Bay.
- At the request of the Immigration and Naturalization Service, CRS provided conciliation assistance when raids at New York City plants owned by Korean businessmen led to friction and complaints of discriminatory practices. CRS facilitated meetings between Immigration and Naturalization Service officials and Korean leaders to defuse tensions.
- As mediator in a job discrimination suit brought by black firefighters in Annapolis, Maryland, CRS helped the parties reach an agreement which settled the suit. The agency also successfully mediated a voting rights suit in Princess Anne, Maryland, which resulted in an elections system and voter registration procedures that the plaintiffs regard as fairer to minority residents.
- In Newburgh, New York, CRS intervened when a Hispanic community organization threatened to sue the county social services agency to stop the alleged relocation of Hispanic clients outside of the agency's service area. The result was an agreement to ensure use of procedures which protect the rights of all agency clients.

PROGRAM AREA I

Comparison of Workload Data for Fiscal Years 1985 and 1986

<i>Activity</i>	<i>1985</i>	<i>1986</i>
Alerts Received	2,060	2,167
Assessments Processed	1,494	1,656
Conciliation Cases	1,069	1,031
Conciliation Cases Closed	826	766
Mediation Cases	28	30
Mediation Cases Closed	16	22
Community Tension Appraisals	60	60

Placement and Resettlement of Cuban and Haitian Entrants

The most important development in the Cuban-Haitian resettlement program during Fiscal Year 1986 was the resumption of the re-parole and outplacement programs for Mariel Cubans in the Atlanta Federal Penitentiary and Immigration and Naturalization Service detention facilities. These programs had been suspended in Fiscal Year 1985 while the repatriation agreement with the government of Cuba was in effect.

With respect to secondary resettlement, CRS responded to the continuing need of Cuban and Haitian entrants in south Florida for better housing and employment opportunities. To meet that need, the agency continued to provide secondary resettlement services through awards to its grantees. These grantees were encouraged to make their services better known and more accessible in entrant communities.

During Fiscal Year 1986, CRS pursued a number of other program objectives and initiatives in carrying out its responsibility for the reception, processing, and care of Cuban and Haitian entrants. For example, in Fiscal Year 1985 the Immigration and Naturalization Service frequently sought CRS's assistance in serving nonentrant minors in detention. The issue of minors became a matter of growing concern and litigation during Fiscal Year 1986. Therefore the Immigration and Naturalization Service and CRS signed a Memorandum of Agreement which enabled CRS to begin providing various child welfare services, on a cost-reimbursable basis, at the Krome Center in Miami.

The agency's major initiative with respect to research and evaluation was the award of a research grant to Atlanta University to develop training curricula on dealing with Cuban and Haitian entrants for use in police academies and by local law enforcement agencies. This grant proposes to: 1) collect information about community needs and law enforcement agencies' capability to handle entrant-related problems in selected cities, 2) design pilot training programs, and 3) field-test those programs once developed. A quan-

titative overview of CRS's activities and accomplishments in its second major program area is presented in the following table.

PROGRAM AREA II
Comparison of Workload Data for Fiscal Years 1985 and 1986

<i>Activity</i>	<i>1985</i>	<i>1986</i>
Entrant Population:		
- Cuban-Haitian entrants in INS/Krome SPC at beginning of year	394	345
- Cuban entrants in Atlanta Federal Penitentiary at beginning of year	1,474	1,845
- Cuban entrants revoked to federal custody	1,020	910
- Backlog of mentally ill Cuban entrants at Atlanta Federal Penitentiary	250	260
CRS Resettlements:		
- From INS/Krome SPC	366	156
- Secondary resettlement assistance in S. Florida	269	278
- From Public Health Service outplacement projects	56	64
- From Atlanta Federal Penitentiary	28	185
- From other INS detention facilities	...	48

Foreign Claims Settlement Commission

Bohdan A. Futey
Chairman

The Foreign Claims Settlement Commission is a quasi-judicial agency which determines claims of U.S. nationals for loss of property in foreign countries and claims of prisoners of war and of civilians who were interned by hostile forces during certain periods.

The Commission was established in 1954 and was transferred as an independent agency to the Department of Justice on October 1, 1980 by P.L. 96-209 (94 Stat. 96, approved March 14, 1980, 22 U.S. Code 1622a). Under the law, the Chairman of the Commission has the sole administrative responsibility for the agency and participates with two part-time Commissioners in the adjudication of claims.

Most of the programs authorized by Congress require that five percent of the funds obtained from foreign governments for payments on losses is to be used to reimburse the United States for the Commission's expenses. At the end of Fiscal Year 1986, approximately \$32 million had been returned to the U.S. Treasury, which is more than the cost of operating the Commission since its formation.

The Chairman, who serves on a full-time basis, and the two Commissioners are appointed by the President, by and with the advice and consent of the Senate. On May 3, 1984, Bohdan A. Futey was appointed as Chairman. Joseph W. Brown and Frank H. Conway have served as part-time Commissioners since 1981.

Program Activities

During the period of this report, on February 25, 1986, the Commission completed its work with respect to claims against Vietnam, as authorized by Title VII of the International Claims Settlement Act of 1949, as amended, for property losses occurring on or after April 29, 1975. This included the holding of oral hearings on objections to Proposed Decisions previously issued, issuing Final Decisions on all claims, and certifying awards in the total principal amount of \$99,471,983.51 to the Secretary of the Treasury, as required by law.

On December 19, 1985, Ethiopia agreed to pay \$7 million in settlement of claims for the nationalization or other taking of property owned by U.S. nationals. Under Title I of the International Claims Settlement Act of 1949, as amended, the Commission is authorized to establish a claims program

when a claims settlement agreement is reached with any country, except one against which there was a state of war declared by the United States during World War II.

On March 28, 1986, the Commission published notice in the Federal Register of a six-month period for filing claims against Ethiopia, to end on September 30, 1986, and a program deadline of September 30, 1987. The Commission has acted on 17 claims and granted awards, including interest, totaling \$4,804,110.46.

In Fiscal Year 1986 the Commission continued to act under P.L. 91-289 on claims of American citizens and ex-prisoners of war captured and held by hostile forces in Southeast Asia during the Vietnam conflict. Four decisions were issued, including one award for \$2,727.50.

In the event of a lump sum settlement between the United States and Iran, the Commission is authorized to adjudicate certain claims which are now being presented by the Department of State at the Iran-U.S. Claims Tribunal in The Hague.

The Commission also is aware of a number of potential claims against the Soviet Union, for losses in Eastern Europe on areas annexed by the U.S.S.R. after World War II, and Albania.

The Commission's staff has been assisting the Department of State in ongoing negotiations with East Germany (German Democratic Republic) in order to obtain funds for payment on awards granted to American citizens under P.L. 94-542.

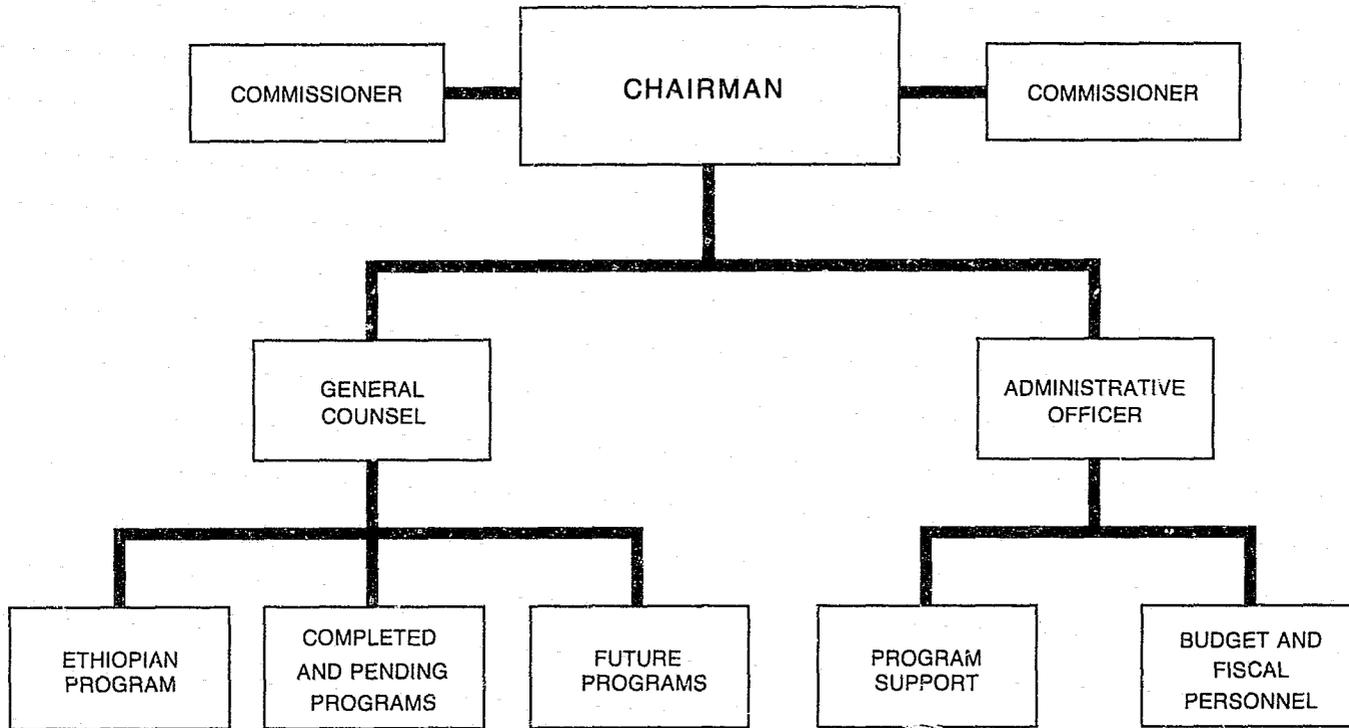
By statute, the Commission is required to issue an annual report to Congress on its activities, including the issuance of significant decisions concerned with international law. Copies of these reports are available at the offices of the Commission.

Management Improvement

The Commission took action during the report period to reduce its legal and clerical staff positions by 50 percent by the end of Fiscal Year 1986. While this reduction was based on a projected decrease in the Commission's workload, the future savings will be enhanced due to the management initiative of reorganizing the Commission's legal staff.

The Commission also took steps in Fiscal Year 1986 to reduce its total workspace requirements by over 40 percent.

FOREIGN CLAIMS SETTLEMENT COMMISSION



INTERPOL—United States National Central Bureau

Richard C. Stiener
Chief

The United States National Central Bureau (USNCB) represents the United States, on behalf of the Attorney General, in the International Criminal Police Organization, known as INTERPOL.

In its role as U.S. liaison to INTERPOL, the USNCB is the primary channel for law enforcement communications among police entities at all levels within the United States, the National Central Bureaus in other INTERPOL member countries, and the INTERPOL General Secretariat in Paris, France.

History and Functions

Founded in 1923 for the purpose of promoting mutual assistance between international law enforcement authorities in the prevention and suppression of international crime, INTERPOL's membership today totals 142 countries.

The goals of INTERPOL, and hence the USNCB, are to promote and ensure mutual assistance between all police authorities within the limits of the laws existing in the different member countries and in the spirit of the "Universal Declaration of Human Rights."

The National Central Bureau of each INTERPOL member country operates within the framework and guidelines of the INTERPOL Constitution. Article 3 of the Constitution prohibits intervention in, or investigations of matters of a military, religious, racial, or political character.

Organization of the USNCB

Although the USNCB was established as a separate organization of the Department of Justice in 1981, dual authority for administering the USNCB rests with both the Departments of Justice and the Treasury in keeping with a 1977 Memorandum of Understanding between the two Departments.

The USNCB functions through the collaborative efforts of 14 participating federal law enforcement agencies which detail both senior investigative personnel and support personnel to the USNCB to coordinate matters relevant to their parent agencies.

Management Initiatives

In support of the Attorney General's management improvement efforts, the following initiatives were effected during Fiscal Year 1986:

On February 28, 1986, a sub-bureau of the USNCB was officially created in San Juan, Puerto Rico. Known as IN-

TERPOL—Puerto Rico, the sub-bureau is the first to be established by the United States. The sub-bureau will operate as a separate and distinct entity under the management of the Attorney General of the Commonwealth of Puerto Rico, while the USNCB will provide guidance and supervision of the operation. The purpose of the sub-bureau is to support INTERPOL's goals in the designated geographic area of the Caribbean.

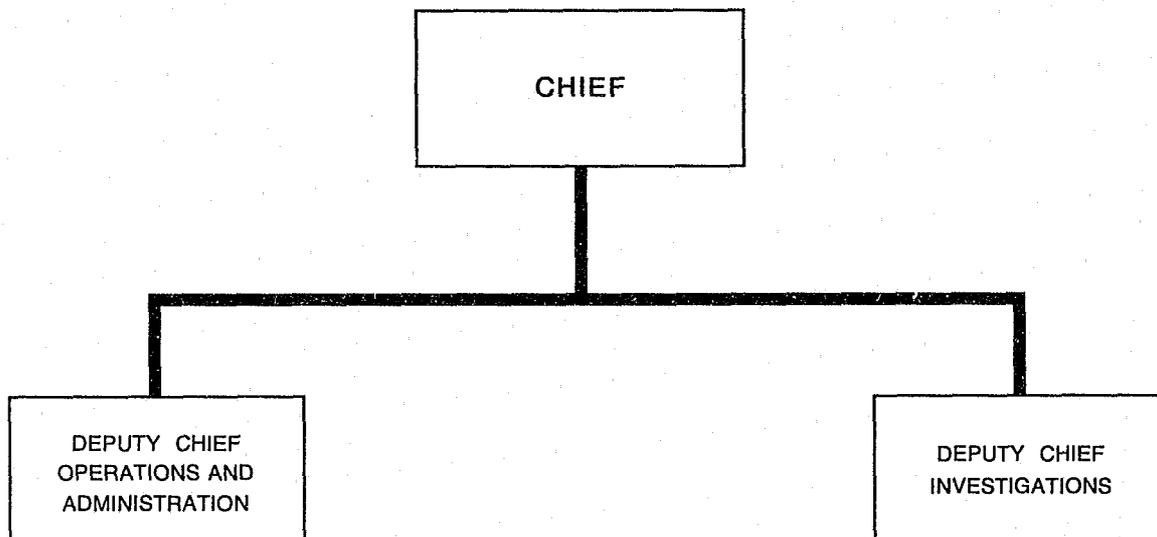
Closely following creation of the sub-bureau in San Juan, the United Nations, through its Funds for Drug Abuse Control, agreed to finance an INTERPOL telecommunications network in the Caribbean/Central American Region. Puerto Rico was selected by the INTERPOL Caribbean/Central American Regional Conference as the Regional Station for the network. The message switch, enabling message transmission throughout the area, will be located at the USNCB's sub-bureau in San Juan. In association with the telecommunications network, a case tracking system is also being established in the San Juan sub-bureau to facilitate cooperation by allowing INTERPOL members within the Region to coordinate case inquiries.

USNCB operations were expanded to 24 hours per day in order to more efficiently and effectively process the high magnitude of investigative information transmitted via INTERPOL communications channels between international and domestic law enforcement agencies. This expansion of USNCB operations provides the mechanism for immediate relay and response in criminal cases, and assures rapid identification of INTERPOL subjects encountered at U.S. borders and points of entry.

The USNCB instituted a realignment of certain operational functions to reduce the backlog of unprocessed incoming documents and eliminate the possibility of double processing. This realignment, coupled with the addition of 24-hour coverage and maximum efforts by USNCB staff, reduced the backlog from approximately 1,400 to roughly 100 in just six months.

During Fiscal Year 1986, the USNCB applied advanced information processing technology in several Operations areas. The Translation Section installed a Computer Assisted Foreign Language Translation System which accepts radio messages and scanned documents in both French and Spanish and outputs draft English translations. The System also provides French or Spanish drafts from English.

INTERPOL – U.S. NATIONAL CENTRAL BUREAU



The INTERPOL Files Accountability and Control System became operational in March 1986. This System electronically tracks the movement of all files within the office, providing the exact location of a case file at any time.

An independent telecommunications link was established between the USNCB and INTERPOL Headquarters at St. Cloud, France, to ensure uninterrupted message communications in support of the USNCB 24-hour operations.

The USNCB completed the classification structure for a computerized storage and retrieval system for information about stolen works of art and other cultural objects. The Stolen Art System will utilize the latest computer file management and retrieval techniques and video imagery to provide analysts the capability to search a data base of stolen cultural objects.

The new Drug, Financial, and Terrorism Analytical Unit was created in 1986 to provide extensive analytical support to the USNCB through the review of documents and event analysis of USNCB and INTERPOL investigative files and computerized data bases.

Investigative and Analytical Efforts

In support of the Attorney General's attack against terrorism, drug trafficking, and organized crime, the USNCB continued during 1986 to streamline its investigative and analytical functions. The units which comprise the investigative and analytical staff include the Criminal Investigative Unit; the Financial Fraud Unit; the Alien/Fugitive Enforcement Unit; and the General Analytical Unit.

The Criminal Investigative Unit, headed by an Assistant Chief detailed from the Federal Bureau of Investigation, focuses on international terrorism, drugs, organized crime activities, explosives matters, and gun traces. During 1986, 2,878 new cases were added to their 5,803 ongoing investigations.

The Financial Fraud Unit, headed by an Assistant Chief detailed from the U.S. Customs Service, coordinates investigations concerning counterfeiting, computer fraud, international swindles, bank fraud, and concealment of assets, to name but a few. During 1986, 1,790 new cases were added to this Unit's 5,829 ongoing investigations.

The Alien/Fugitive Enforcement Unit, headed by an Assistant Chief detailed from the Immigration and Naturalization Service, not only coordinates the identification, location, and return of internationally wanted fugitives, but also strengthens existing measures that permit the exclusion of undesirable aliens at border points before actual entry into the United States and utilizes immigration laws which allow deportation of known criminals and fugitives in lieu of the formal extradition process. During 1986, 1,700 new cases were added to this Unit's 4,604 ongoing investigations.

The General Analytical Unit handles routine investigative matters which include the processing of international notices pertaining to fugitives, habitual offenders, and missing persons; background checks on various criminal justice applicants; vehicles registration checks; and notification of next of kin in emergency situation. Analysts assigned to this Unit extract information from incoming international notices for entry into the Treasury Enforcement Com-

munications System's computer which is the lookout system used by the Customs/Immigration Inspectors at U.S. borders. More than 4,000 new cases were added to this Unit's 7,597 ongoing cases in 1986.

Internationally, a new unit, known as the International Terrorism Group was created at the General Secretariat in January 1986. The Group, which serves as the focal point for all information concerning terrorist activity, developed a manual outlining the parameters governing the sharing of terrorist-related information among the member countries. In addition, they will organize symposia on the subject and develop various means to enhance coordination between other international groups and organizations.

Here in the United States, the USNCB transmitted essential documentation in several of the more widely publicized terrorist incidents and received continuous message traffic relevant to all. For example, notification of simultaneous terrorist attacks of almost identical scenario were immediately reported to the USNCB by both INTERPOL-Rome and INTERPOL-Vienna in December 1985. The information was instantly transmitted to federal law enforcement agencies. Photographs, fingerprints, and other identifying documents regarding the attackers were transmitted to the USNCB and immediately passed to the Federal Bureau of Investigation.

Following seizure of the cruise ship "Achille Lauro" in October 1985, identifying documentation concerning the American passenger killed by the terrorists was transmitted to appropriate authorities via the INTERPOL communications channel.

In addition, the USNCB requested, on behalf of the Federal Bureau of Investigation, that INTERPOL International Wanted Notices be issued on the suspected terrorists involved in the crime. Those notices remain in effect.

In other areas of international involvement, the United States chaired the 5th INTERPOL Symposium on Fraud in March 1986. In addition, the model legislation on money laundering and forfeiture of assets, which had been drafted last year by an INTERPOL Working Group in Anguilla, was adopted at the 54th INTERPOL General Assembly Meeting in Washington, D.C., in October 1985.

Additionally, the United States served as a member of a Working Group on the Migration of Offenders. In August 1986, the Group drafted a resolution that would permit member countries to use the INTERPOL channel to request criminal record checks on immigrant applicants. The document was approved with amendments at the 55th General Assembly Meeting in Yugoslavia.

Examples of cases coordinated through the USNCB and drawn to successful conclusions during 1986 are:

- INTERPOL-Jerusalem alerted the USNCB that a fugitive sought for narcotics trafficking since 1978 had

departed Tel Aviv on a flight to New York via Montreal. The Drug Enforcement Administration in Long Island and INTERPOL-Ottawa were notified; however, a check of the passenger manifest revealed that the subject had deplaned in Montreal. Appropriate border alerts resulted in the subject's arrest when he attempted to cross the land border into Buffalo, New York. Coincidentally, Canadian authorities recovered stolen Israeli art from the same aircraft on which the fugitive was traveling, and although a connection between the two has not been established, the investigation is continuing.

- Police authorities in Newark, New Jersey, contacted the USNCB for information on two Swedish nationals who had been arrested while in possession of six kilos of cocaine. A check of USNCB files indicated that an International Wanted Notice had been issued for one of the individuals based on a warrant issued in Stockholm in 1983 charging him with a serious drug offense and smuggling of merchandise. Swedish authorities and the Criminal Division's Office of International Affairs were notified by the USNCB and extradition proceedings were initiated.
- An international bank swindler and subject of an INTERPOL International Wanted Notice was apprehended by U.S. authorities in Anchorage, Alaska, during a refueling stop as he was attempting to flee to Copenhagen, Denmark. The subject, wanted by Hong Kong authorities on suspicion of swindling a Hong Kong bank of 140 million Hong Kong dollars (\$18 million U.S.), had been living in Japan where he remained safe because of the lack of an extradition treaty between Japan and Hong Kong. When Hong Kong authorities learned the subject had left Japan en route to Denmark, they notified U.S. authorities through the USNCB and the subject was detained in Anchorage for extradition to Hong Kong.
- A U.S. Citizen, wanted by Israeli authorities for attempted murder, arson, and conspiracy to commit a felony, was the subject of a joint investigation involving INTERPOL-Jerusalem, the USNCB, New York City Police, and the U.S. Marshals Service. The subject, along with others, was involved in terrorist attacks against Arab civilians living in Israel. After fleeing Israel, the subject was concealed by his family and friends in New York City. Using photographs and other family information supplied by Jerusalem, the U.S. Marshals Service arrested the subject after tracing him through an old traffic ticket he had received while working as a cab driver in New York City.
- Coordination among the USNCB, U.S. Secret Service, New York City Police Department, INTERPOL-

Jerusalem, and Israeli police authorities resulted in the seizure of \$13 million in counterfeit Federal Reserve Notes, three printing plants in Israel and one in the United States, and the arrest and conviction of 12 individuals. The case began when INTERPOL-Jerusalem advised the USNCB that three Israel nationals were planning to travel to the United States via the Federal Republic of Germany to set up an illegal print shop for the purpose of manufacturing counterfeit U.S. currency. The subjects had purchased all necessary printing equipment in Israel and intended to ship the equipment to the United States. The information was relayed to the U.S. Secret Service and, subsequent to extensive surveillance and coordination in both the United States and Israel, four persons were arrested in New York City at the same time that eight persons were arrested in Israel. At the time of the arrests, the group had enough paper to print more than \$100 million in bogus U.S. currency.

- The U.S. Department of Agriculture, Office of the Inspector General, requested the USNCB to obtain telephone subscriber information from a number of INTERPOL member countries in connection with the theft of \$4.8 million in food stamps from an American corporation. Information provided as a result of the inquiries helped in the recovery of food stamps totaling \$2.8 million.

- At the request of U.S. Immigration authorities, the USNCB initiated a criminal record check with INTERPOL-Madrid on a Spanish national arrested for illegally entering the United States. The query revealed that the subject was wanted in Spain for theft, illegal possession of firearms, and murder. As a result, the subject was found deportable by the Immigration and Naturalization Service and returned to Spain where he was arrested by Spanish police upon his arrival there.
- Police officers in Mississippi requested USNCB assistance in identifying a German national being held for suspicion of murder. Through transmission of the individual's fingerprints to INTERPOL-Wiesbaden, it was learned that the subject had a lengthy record of theft, fraud, and immigration violations in West Germany and the Philippines, and was the subject of a rape investigation in Winnipeg, Canada. Each country was advised of the subject's incarceration, and because of the open investigation in Canada, INTERPOL-Ottawa requested that he be released for trial there.

Investigative matters pending at the beginning of Fiscal Year 1986 totaled 28,800. That number increased by nearly 50 percent with the receipt of 14,383 investigative matters, while 404 were declined because they did not meet USNCB criteria or deferred pending receipt of additional information. Nearly 10,000 investigative matters were closed during the fiscal year.