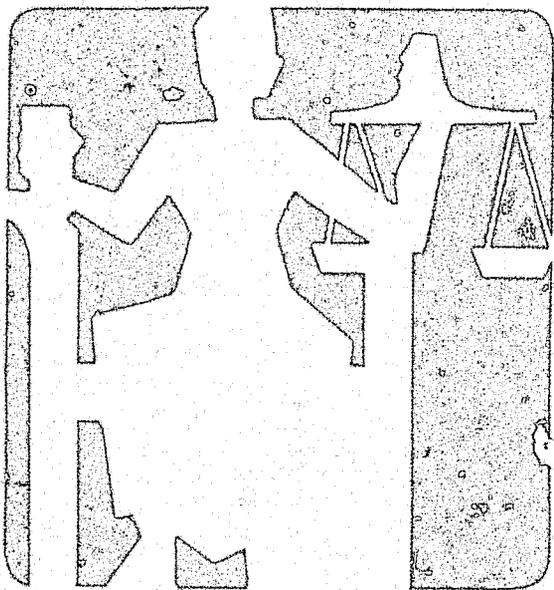


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1971 annual report
of the ATTORNEY GENERAL
of the United States

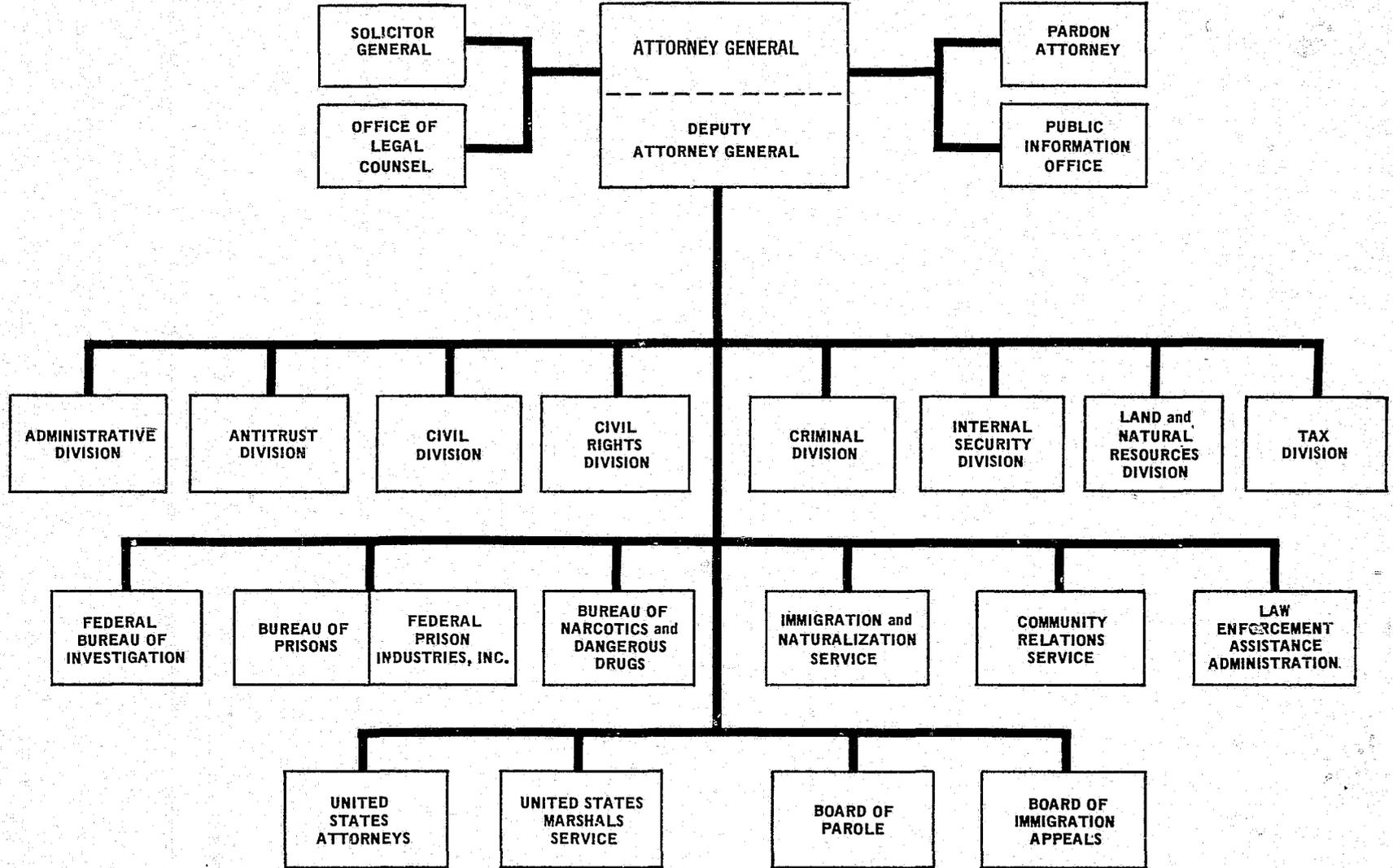


**1971 annual report
of the ATTORNEY GENERAL
of the United States**

contents

	Page
Summary Letter of the Attorney General	1
Office of the Deputy Attorney General	5
Legislative and Congressional Liaison	6
Office of Criminal Justice	8
Executive Office for U.S. Attorneys	9
U.S. Marshals Service	18
Office of the Solicitor General	23
Office of Legal Counsel	29
Antitrust Division	31
Civil Division	44
Civil Rights Division	52
Criminal Division	63
Internal Security Division	75
Land and Natural Resources Division	82
Tax Division	93
Administrative Division	107
Federal Bureau of Investigation	114
Bureau of Narcotics and Dangerous Drugs	123
Bureau of Prisons	135
Law Enforcement Assistance Administration	142
Immigration and Naturalization Service	149
Community Relations Service	155
United States Board of Parole	159
Board of Immigration Appeals	162
Pardon Attorney	166

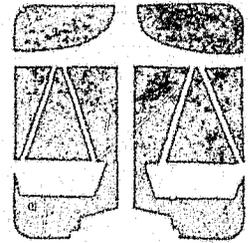
Department of Justice



summary letter of the attorney general

Department of Justice/Washington, D.C. **N C J R S**

SEP 22 1976



ACQUISITIONS

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

I have the honor to report on the business of the Department of Justice for the fiscal year 1971.

Following this summary of highlights, detailed descriptions of the activities of the various offices, divisions, and bureaus of the Department constitute the main body of this report.

After a period in which respect for the law seemed to be losing ground in the United States, the Department of Justice continued in fiscal 1971 to play a leading role in President Nixon's program to elevate and reinforce the law. To protect both the public interest and private rights, to enforce the Federal laws firmly and impartially, to insure justice to the innocent and the guilty—these were, more than ever, the Department's overriding objectives.

In carrying them out the administration asked and received from Congress additional funds to provide more manpower for Federal enforcement and more aid to State and local criminal justice systems. The administration asked and received from Congress new laws to facilitate enforcement still further. Among these were the Organized Crime Control Act and the Comprehensive Drug Abuse Prevention and Control Act, both enacted in October 1970. These provided new legal tools for the investigation and prosecution of Federal offenses associated with two serious threats to American life—organized crime and the illicit drug traffic.

DRIVE AGAINST ORGANIZED CRIME

Other weapons brought to bear against racketeering were:

- The President's National Council on Organized Crime, which is composed of the Cabinet-level heads of all departments and agencies having enforcement duties, and has directed the Federal strategy against the crime syndicates.
- The Federal strike forces, which were formed to focus Federal efforts on organized crime figures in major cities, and are composed of investigative experts from the appropriate agencies. The number of such strike forces was increased again in fiscal 1971 from 13 to 18. Justice Department agencies participating in this program include the Criminal Division, the Tax Division, and the Federal Bureau of Investigation.
- Larger legal staffs in metropolitan area offices of U.S. Attorneys, who conduct Federal prosecutions.
- Continuing use of court-authorized wiretapping, plus increased use of informants protected by provisions of the Organized Crime Control Act, in gaining evidence against high-echelon crime figures.
- Further refinement of the Criminal Division's computerized intelligence data system on organized criminals—probably the most effective of its kind in the world.

As a result, the impact of the Federal drive against organized crime was approximately doubled in fiscal 1971 over 1970. More than 2,000 defendants allegedly connected with organized crime were indicted in fiscal 1971, compared to just over 1,000 in 1970. Moreover, 679 were convicted, compared to 389 in

1970, while a large number of cases remained in the courts. Of those convicted, 61 were high-echelon figures, compared with 33 in 1970. In some major American cities there are now gaping holes in the ranks of the top syndicate leaders. The drive to smash this insidious and persistent parasite on the life of Americans continues in full force.

ANTI-NARCOTICS PROGRAM

The Department was also in the vanguard of the President's drive to cripple the illicit traffic of drugs into and within the United States. In cooperation with other Government officials, the Attorney General and the Director of the Bureau of Narcotics and Dangerous Drugs helped to win new agreements on cooperative narcotics enforcement with other countries.

Cooperative arrests by American and foreign agents increased by more than a third in fiscal 1971 over 1970. At the Nation's borders and points of entry, the Immigration and Naturalization Service arrested over one-third more alleged narcotics violators in 1971 than in 1970. The U.S. Marshals Service, in the course of its anti-skyjacking program, confiscated \$1.6 million worth of narcotics in fiscal 1971. Within the United States, the BNDD increased its arrests by one-third.

Moreover, between fiscal 1969 and 1971 the total quantity of heroin removed by Federal action from the world market doubled, and the quantity of marihuana removed in the same period more than tripled. Seizures of illicit dangerous drugs in the United States nearly quadrupled.

At the same time, recognizing that the war on narcotics must be a combined national effort, the Law Enforcement Assistance Administration has granted about \$100 million to State and local agencies for drug control in the past 3 fiscal years. Some of this has gone into drug education to prevent addiction—a nationwide program in which BNDD also participates.

Thus every appropriate agency of the Department of Justice is marshaled in this national drive against the drug menace. It is the most comprehensive and determined attack ever mounted against a continuing threat that calls for still greater efforts in the future.

IMPROVING CRIMINAL JUSTICE

In addition to its harder hitting offensive against Federal lawbreakers, the Department of Justice has also strengthened the law by improving the criminal justice system. The District of Columbia Court Reform and Criminal Procedure Act of 1970, drafted by the Department and enacted near the beginning of the fiscal year, went into effect on February 1, 1971. Both the Department's Office of Criminal Justice and the United States Attorney in the District of Columbia have helped to implement this basic reform of the District's court system, which has already brought a substantial reduction in the backlog of cases and has speeded the trial process. Moreover, the Bureau of Prisons continued to implement President Nixon's 10-year program to make the Federal corrections system a model for the Nation. In this forward-looking program, emphasis is placed on curbing the rate of crime repetition and training ex-offenders to return to useful, normal lives in the community.

Also in fiscal 1971, Federal financial aid to help improve State and local criminal justice systems almost doubled; as requested by the President and authorized by Congress, the budget of the Law Enforcement Assistance Administration increased from \$268 million in fiscal 1970 to \$529 million in fiscal 1971. These funds support programs to upgrade the effectiveness of police, courts and corrections across the country, and even greater support is in progress in fiscal 1972.

Redoubled efforts have also characterized other Justice Department activities.

New gains were achieved in every aspect of civil rights enforcement—employment, education, housing, public accommodations, and voting. In fiscal 1971 the Civil Rights Division filed 206 criminal and civil cases, compared to 189 in 1970 and 146 in 1969. The Community Relations Service gave timely help to minority groups and organizations in overcoming racial disadvantages, providing conciliators to 334 communities beset with racial conflicts.

Equally aggressive was the Department's role in President Nixon's overall program to improve the environment. In cooperation with the Environmental Protection Agency, the Department's Land and Natural Resources Division won critical cases against water polluters and continued to build an effective body of case law in cleaning up American rivers. In fiscal 1971, 191 criminal anti-pollution cases were filed under the Refuse Act of 1899; by comparison, 129 were filed in 1970 and 56 had been filed in 1967, the previous high year. For the first time the Division made extensive use of the same act to enjoin polluters through civil suits, filing 54 cases in 1971, compared to two in 1970 and none in all previous years. Many of these cases have been against very large companies, resulting in great reduction in dumping of waste.

The Antitrust Division continued to intensify its efforts to maintain the vigor of the American competitive system and protect the American consumer against monopolistic practices. In fiscal 1971 the Division filed 64 cases, compared to 59 in 1970 and 53 in 1969. The Division also commenced 43 grand jury investigations, compared to 26 in 1970 and 22 in 1969. Success of the Division in upholding competitive practices may be judged by the fact that, out of 54 anti-trust cases terminated in fiscal 1971, the Government won 51.

Details of these and many other Department accomplishments during fiscal 1971 are contained in the following individual reports of offices, divisions, bureaus, and services. They represent extraordinary industry and professional competence on the part of more than 44,000 men and women in the Department of Justice. They also represent the dedication of these Americans to the principles of firm but fair enforcement, promotion of the public interest, and protection of individual rights under the law.

John N. Mitchell
Attorney General

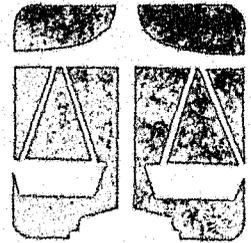
CIVIL RIGHTS ENFORCEMENT

PROTECTING THE ENVIRONMENT

ANTITRUST PROGRAM

office of the deputy attorney general

Richard G. Kleindienst/Deputy Attorney General



The Deputy Attorney General assists the Attorney General in the overall supervision and management of the Department and in the formulation and implementation of major departmental policies and programs. In addition, the Deputy Attorney General's Office coordinates the activities of the several departmental divisions and supervises the work of the U.S. Attorneys' and Marshals' office located in each of the 93 judicial districts, as well as other departmental offices located in the field.

The task of maintaining liaison between the Department of Justice and the Congress is one of the most important activities of the Office of the Deputy Attorney General. All proposed legislation prepared in the Department, or in which the Department has an interest, is handled through the Office of the Deputy Attorney General. The Deputy Attorney General and members of his staff are frequently called upon to testify before the Congress regarding proposed legislation. The Deputy Attorney General is also the chief liaison officer of the Department for other governmental departments and agencies.

In addition to his general duties, described above, the Deputy Attorney General represents the Department of Justice in many other areas. He heads the American delegation to meetings of Operation Cooperation, a joint agreement between the United States and Mexican Governments to increase enforcement activities against illegal drug traffic between the two countries. He participates in the Under Secretaries Group Urban Affairs Council. The Deputy Attorney General has

been designated by the Attorney General as his chief of staff to coordinate all Federal activities during demonstrations.

Under the Constitution, the President appoints Federal judges, U.S. Attorneys and U.S. Marshals, subject to confirmation by the Senate. The Office of the Deputy Attorney General is responsible for investigating and processing prospective candidates for Presidential appointments. During fiscal year 1971, 102 persons were appointed to the Federal judiciary, including three appointments to the District of Columbia Court of Appeals and 15 appointments to the Superior Court of the District of Columbia. In addition, 13 U.S. Attorneys and 16 U.S. Marshals were appointed during fiscal year 1971.

All appointments, promotions, and separations of Department attorneys are handled by the Deputy Attorney General's staff. His staff also supervises the appointments of law students for the Attorney General's employment program for honor law graduates and the summer law intern program.

Over 1,100 third-year law students made application for the 1971 Attorney General's employment program for honor law graduates. This year's class of 116 attorneys was selected from 80 law schools. The geographic divisions of the country were represented by 38 appointees from law schools in the East; 17 appointees from law schools in the South; 33 from law schools in the Midwest; 16 from law schools in the Far West; and 12 from law schools in the Southwest. The appointees represented 35 States and the District of Columbia.

Harlington Wood, Jr./Associate Deputy Attorney General

The Deputy Attorney General has three associate deputies on his staff. The first associate deputy assists the Deputy Attorney General on a daily basis in most phases of the Deputy Attorney General's work. Inasmuch as the Deputy Attorney General is responsible for supervising and directing the Department in behalf of

the Attorney General, the associate deputy as a member of his immediate staff participates in the executive planning, policy formulation, and program execution, at the highest level within the Department.

The associate deputy has been designated by the Attorney General as the liaison for the Department of

Justice in several important areas. He works with the State attorneys general on a wide range of problems and projects where the Department of Justice and the States have a mutual interest. The associate deputy represents the executive branch of the Government in making prior agreements with groups lawfully demonstrating in Washington as to the time and place of their activities. He is also the representative of the Department in certain areas of possible public disturbance throughout the United States. The associate deputy is also the coordinator for the Department's action program for the employment of women.

The associate deputy assists the Deputy Attorney General in general supervision and direction of the activities of the U.S. Attorneys, the U.S. Marshals, and the director of the honor program.

In the absence of the Deputy Attorney General, his associate deputy assumes the responsibilities of and maintains daily contact with the Deputy Attorney General.

The two other associate deputies are assigned a specific area of responsibility described in the sections of this report which are immediately following.

legislation and congressional liaison

Wallace H. Johnson/Associate Deputy Attorney General

The Attorney General's function of maintaining liaison with the legislative branch of the Government is performed primarily through the Legislative and Legal Section of the Office of the Deputy Attorney General under the supervision of the Associate Deputy Attorney General for Legislation.

The legislative functions of the Department include: formulation and promotion of its legislative program, responding to requests from congressional committees and the Office of Management and Budget for reports on pending and proposed legislation as well as enrolled bills, and maintaining liaison with the Congress.

The Attorney General's legislative program for the 92d Congress included the following bills which were sent to Congress in 1971:

- Bail Reform Act amendments, authorizing the consideration of danger to the community in connection with the release of offenders prior to trial, and authorizing the pretrial detention of certain dangerous offenders.
- The Law Enforcement Revenue Sharing Act of 1971, part of the President's special revenue-sharing program which would facilitate administration of the Law Enforcement Assistance Administration program.
- The Department's antipornography proposals, bills designed to prohibit the interstate transportation of prurient advertising, and to protect minors from obscenity.
- Police Officers Benefits Act, which would authorize a \$50,000 gratuity for families of police and correctional officers killed in the line of duty.

- The Department's proposals to implement the President's program for control of drug abuse, including a proposed amendment to the Narcotic Addict Rehabilitation Act to authorize additional addict treatment programs, and a proposed Drug Abuse Procedure Act, which would facilitate the receipt of certain evidence in drug abuse prosecutions.
- Wagering tax amendments, which would reinstate the provisions of the wagering tax law which were held unconstitutional by the U.S. Supreme Court in 1968.
- Nontestimonial identification of suspects, a bill which would authorize a judicial officer to issue an order requiring a suspect to appear for the purpose of obtaining nontestimonial identification, i.e., fingerprinting, lineups, blood tests, etc.
- Aircraft Piracy Amendments of 1971, which would facilitate the prosecution of certain crimes and offenses committed aboard aircraft.
- Criminal Justice Information Systems Security and Privacy Act of 1971, which would authorize the interstate exchange of criminal justice information while at the same time providing for the protection of privacy rights of individual offenders.
- The Department's consumer protection package, including the proposed Consumer Fraud Prevention Act, the Federal Trade Commission Act Amendments, and the Fair Warranty Disclosure Act.

Detailed information relating to the legislative activities of the Department follows.

Status report, 92d Congress, 1st session—Legislation referred to Legislative and Legal Section as of September 30, 1971

	Public bills	Private bills	Total			
Public and private bills referred by—						
Congressional committees.....	1,054	25	1,079	Deferred action.....	19	19
Budget Bureau (drafts, etc.).....	318	10	334	At budget for clearance.....	169	8 177
Budget Bureau (enrolled).....	24	4	28	Total disposed of.....	838	28 866
Miscellaneous sources.....	3		3	Pending—Public and private in—		
Total.....	1,399	45	1,444	Divisions.....	331	9 340
				Section.....	230	8 238
Public and private bills disposed of to—				Total pending.....	501	17 678
Congressional committees.....	383	7	390			
Budget Bureau (drafts, etc.).....	227	9	236			
Budget Bureau (enrolled).....	24	4	28			
Miscellaneous.....	4		4			
Congressional miscellaneous action.....	12		12			
Total.....	650	20	670			

Legislative Activity—90th Congress Through 92d Congress 1st Session

	From committees	From Budget	From miscellaneous	Grand total	
Requests for reports:					
90th Congress (end of 1st session, Dec. 15, 1967):					
Public bills.....	970	327	12	1,318	
Private claims.....	88	37		125	
Private immigration.....	3,622	137		3,759	
Total.....	4,680	501	12	5,202	
91st Congress (end of 1st session, Dec. 23, 1969):					
Public bills.....	1,163	320	8	1,500	
Private claims.....	48	27	1	76	
Private immigration.....	5,085	49		5,134	
Total.....	6,296	406	9	6,710	
92d Congress (as of Sept. 30, 1971):					
Public bills.....	1,054	342	3	1,399	
Private claims.....	25	20		45	
Private immigration.....	2,201	5		2,206	
Total.....	3,280	367	3	3,650	
	To committee	To Budget	To miscellaneous	Congress and deferred action ¹	Grand total
Requests disposed of:					
90th Congress (end of 1st session, Dec. 15, 1967):					
Public Bills.....	393	451	11	91	946
Private Claims.....	60	38		3	101
Private Immigration.....	3,238	137			3,375
Total.....	3,691	626	11	94	4,422
91st Congress (end of 1st session, Dec. 23, 1969):					
Public Bills.....	442	493	5	39	979
Private Claims.....	28	33	1	1	63
Private Immigration.....	2,832	49			2,881
Total.....	3,302	575	6	40	3,923
92d Congress (as of Sept. 30, 1971):					
Public Bills.....	383	420	4	31	838
Private Claims.....	7	21			28
Private Immigration.....	1,174	5			1,179
Total.....	1,564	446	4	31	2,045

¹ Congressional or deferred action prior to completion of report by Department.

office of criminal justice

Donald E. Santarelli/Associate Deputy Attorney General

Through its many activities, this Office works to improve the quality of criminal justice in America. Its mode of operation is to analyze the criminal justice system: its objectives, components, functions, and problems. It then seeks to strengthen and revitalize that system by recommending changes, new priorities, and reinforcements wherever necessary. The Office often assists in implementing reforms. The function of the Office is action-oriented, seeking not merely good ideas but good criminal justice performance as a consequence of good analysis.

In the first few days of his administration, President Nixon assigned to the Office special responsibility for reforming criminal justice in the District of Columbia. As a consequence, a 400-page legislative program for the District was submitted to Congress on July 11, 1969. On July 29, 1970, President Nixon signed into law the District of Columbia Court Reform and Criminal Procedure Act, which, among other things, completely reorganized the court system in the Nation's Capital.

Much of the past year's efforts have been devoted to implementing this important legislation. Office personnel have participated in numerous conferences, meetings, and briefing sessions for persons affected by court reorganization. They assisted in processing appointments to the District's expanded court system and the new District of Columbia Commission on Judicial Disabilities and Tenure. They prepared a comprehensive analysis of the criminal provisions of the act, cf. Rauh and Silbert, *Criminal Law and Procedure: D.C. Court Reform and Criminal Procedure Act of 1970*, 20 AM. U.L. REV. 252-341 (1971), and in other ways helped to explain its intended operation.

The Office also contributed significantly to a comprehensive legal defense of the pretrial detention section of the new statute, in the first litigation challenging its constitutionality. To prepare for this expected challenge, a staff attorney prepared a fundamental memorandum on the eighth amendment and its origins and the history of bail from early Anglo-Saxon times.

During the past year the Office has engaged in many other criminal justice activities. It formulated amendments to the Bail Reform Act of 1966 and commented on bills affecting the control of narcotics and the treatment of drug addicts, the physical protection afforded public officials and foreign dignitaries, intoxication testing, gun control, pornography, the status of U.S. magistrates, and crime control proposals for the District of Columbia. It served on the Department's important Law Enforcement Policy Committee. It helped prepare articles and speeches by the Department's top officials. It participated extensively in the review of the

proposed Federal rules of evidence and the proposed code advanced by the National Commission on the Reform of Federal Criminal Laws. It advised on certain questions of foreign law and engaged in fundamental research on the constitutional meaning of due process of law.

The Office also cooperated with the local U.S. Attorney's Office and the Metropolitan Police Department in briefing and arguing the case of *Wise v. Murphy*, 275 A. 2d 205 (1971), in which the District of Columbia Court of Appeals sustained the principle that a trial judge may order a suspect to appear in a lineup when there is probable cause to believe a felony has been committed and reasonable grounds (not amounting to probable cause to arrest) to believe that the suspect will be identified in the lineup. This landmark decision may be extended to include the gathering of other nontestimonial evidence before arrest, and directly supports the Department's nontestimonial identification bills in Congress.

The Office is a member of the District of Columbia Criminal Justice Coordinating Board, the planning agency for the District's criminal justice system. Working with the Board, the White House, and the Law Enforcement Assistance Administration, the Office has assisted the District's efforts to obtain Federal grants to support and improve vital criminal justice programs, including crime prevention, narcotics treatment, and inmate rehabilitation. The Office has also served on the overview committees planning for new court and detention facilities in the District of Columbia. These activities reflect a larger policy of the Department of Justice in support of local efforts in criminal justice.

In addition to its liaison with the District Government on crime and justice, the Office works closely with the American Bar Association, particularly its criminal law council; the American Trial Lawyers Association; and the National Association of District Attorneys. The Office was the Department's liaison with the National Committee on Discussion and Debate, which devised the 1971-72 national high school debate question on jury reform.

Among the most critical policy issues examined by the Office this year was the question of how to secure speedy justice. The Office coordinated Department policy on various speedy trial proposals and drafted comments on the speedy trial rule promulgated by the Second Circuit Court of Appeals.

Besides its legislative responsibilities, the Office advises top Justice officials on management matters. The Office is systems-oriented, both in problem assessment and problem solution.

executive office for united states attorneys

Philip H. Modlin/Director

The combined staffs of the 93 U.S. Attorneys total 2,634. This includes 1,213 Assistant U.S. Attorneys and 1,491 supporting personnel, representing a staffing increase of 694 positions for fiscal year 1971 over fiscal year 1970. This single most significant enlargement ever made in the U.S. Attorneys' staffs has been essential to the continuing success of their mission under today's demands.

Within their respective judicial districts, the U.S. Attorneys are the chief law enforcement representatives of the Attorney General. They enforce Federal criminal laws and handle most of the civil litigation in which the United States is involved.

Fiscal 1971 proved to be another year of increasing criminal and civil case activity for U.S. Attorneys. As the accompanying statistical data reflect, criminal cases filed rose by about 15 percent, with civil filings showing an approximate 8-percent increase. Criminal appeals filings in which U.S. Attorneys were involved rose by 27 percent. U.S. Attorneys brought approximately 18 percent more criminal proceedings before Federal grand juries and spent approximately 32 percent more time before grand juries in fiscal 1971 than in 1970. Despite this increase in workload, U.S. Attorneys labored to reduce the case backlog. U.S. Attorneys terminated over 13 percent more criminal cases and over 18 percent more civil cases in fiscal 1971 than in 1970. U.S. Attorneys tried approximately 9 percent more cases in fiscal 1971 than in fiscal 1970. Man-hours in court increased by approximately 30 percent—a reflection of the increasingly difficult cases being handled. Criminal appeal terminations rose by 32 percent, civil appeal terminations by 35 percent.

Much emphasis has been placed on collection of obligations due the Government. U.S. Attorneys collected \$94,847,902 in fiscal 1971, the most successful collections effort ever made by U.S. Attorneys. Continuing good results are expected in the future as collection efforts are further systematized.

Although impressive, the statistics do not reflect the U.S. Attorneys' goal of qualitative excellence. A sampling of U.S. Attorney involvement reflects both the quality and variety of their work. Fiscal 1971 was notable for the successful conviction by U.S. Attorneys of organized crime figures and certain public officials charged with Federal crimes. This activity was highlighted with successes in the districts of New Jersey, Colorado, and both northern and southern New York, among many.

Representative of the work accomplished this fiscal year in the district of New Jersey are the conspiracy and kickback convictions obtained in *United States v.*

Addonizio, et al. (Newark) and *United States v. Kenny, et al.* (Hudson County), convictions which reached into the highest officialdom of municipal and county government. The conspiracy and extortion convictions in *United States v. De Carlo et al.* and *United States v. De Cavalcante, et al.* struck a hard blow at organized crime elements in New Jersey.

The southern district of New York's successful handling of official influence peddling in *United States v. Voloshen* and *United States v. Sweig* set the tone of aggressive prosecution in that district of those who would seek to utilize government for illegal personal gain.

Following the passage of the Organized Crime Control Act, the district of Colorado moved swiftly to bring eight cases to trial resulting in the conviction of seven organized crime figures. This district has, in fiscal year 1971, established its own organized crime specialty unit.

The indictment of, and subsequent plea of guilty by, former Congressman McNealy for tax violations constitutes one of the major successes achieved by the northern district of New York this fiscal year.

U.S. Attorneys also concentrated their efforts against the narcotics traffic. A number of U.S. Attorneys, from the southern district of Florida to the southern district of New York, and westward to the central district of California, were involved in Operation Eagle, the Department of Justice's coordinated antinarcotics operation which resulted in the roundup of the principals responsible for smuggling into the United States large amounts of cocaine and heroin.

U.S. Attorneys are actively involved in enforcing laws to maintain the integrity and effectiveness of Federal programs to assist the poor. For example, the office of the central district of California was responsible for the conviction of a defendant illegally possessing \$500,000 worth of food stamps.

Unlike most prosecutive officers, the U.S. Attorneys also handle a substantial amount of Government civil litigation. Representative of this work is northern Mississippi's efforts on behalf of a \$3,300,000 claim by the Economical Development Administration and the Small Business Administration in a bankruptcy case pending in fiscal 1971.

This was also a year of broad involvement by U.S. Attorneys in the life of the law generally. The Delaware U.S. Attorney and his office assisted the Delaware Crime Commission in developing an understanding of organized crime and its potential impact in that State. This U.S. Attorney's efforts were geared to promote involvement in the antiorganized crime program by State and local government.

U.S. Attorneys have also become involved in the training of law enforcement personnel. For example, the western Kentucky office participated in the National Conference for Law Enforcement Officers by presenting training sessions on the law of search and seizure. Even foreign affairs can fall within the purview of U.S. Attorneys, as the southern district of New York was asked to review a proposed mutual cooperation treaty between our Government and Switzerland which would liberalize the exchange of banking information for law enforcement purposes.

The U.S. Attorney in the District of Columbia working with the new tools made available to him, has stressed implementation of the District of Columbia Court Reform and Criminal Procedure Act of 1970. Substantial numbers of cases have been brought to trial with special attention directed toward the recidivist and the most dangerous criminals. Project Trace, a computerized criminal fact-gathering program instituted by the District of Columbia U.S. Attorney, has played a major role in the success of the law enforcement effort in the District during fiscal 1971.

The evolution of U.S. Attorney roles and objectives is best highlighted by the concepts of specialization and project orientation. Much has been done in both the large- and medium-sized offices to effect these principles. Many U.S. Attorneys have developed client agencies. Many U.S. attorneys have developed new systems for gathering evidence in priority areas of enforcement, such as organized crime, securities frauds, environmental pollution, and consumer protection. Project units have been created to come to grips with such priority projects. These units have been supported

by paralegal personnel proficient in research, accounting, and the sciences. Both through specialization and project orientation, U.S. Attorneys are able to deal more effectively with the critical law enforcement and public protection problems which they face daily.

As an arm of the Deputy Attorney General, the Executive Office for U.S. Attorneys provides general executive assistance and supervision to the office of the 93 U.S. Attorneys. The Executive Office also maintains liaison between the U.S. Attorneys and the divisions, bureaus, and offices of the Department, as well as other Federal agencies.

The year 1971 has been one of close personal contact between the Executive Office and the offices of the 93 U.S. Attorneys. It has concentrated on assisting U.S. Attorneys to reorganize for the most effective use of the relatively large numbers of new personnel provided by Congress. The three Executive Office regional attorneys located in San Francisco, Atlanta, and Springfield, Ill., as well as Executive Office staff members of the Department in Washington, have continued to conduct on-site reviews of U.S. Attorneys' operations in fiscal 1971 to effect smooth integration of new personnel, as well as to assist in matters of general concern.

A continuing effort of the Executive Office has been to provide U.S. Attorneys, and Department and other agency officials, with a forum for the mutual exchange of ideas. Such communication has been maximized through the annual conference of U.S. Attorneys held in Washington in June 1971, four regional U.S. Attorneys conferences held during the fiscal year, and specialized topical conferences held throughout the fiscal year.

Table 1.—Work of U.S. Attorneys, Fiscal Year 1971

Judicial districts	Civil cases terminated		Criminal cases terminated ¹		Civil cases filed	Criminal cases filed ²	Criminal matters received	Proceedings before grand jury	Civil matters received
	Trials	Other	Trials	Other					
Alabama:									
Northern.....	19	183	22	312	222	337	1,208	245	266
Middle.....	2	75	21	210	83	217	664	161	100
Southern.....	7	102	37	124	108	130	444	61	124
Alaska.....	4	113	15	143	108	182	432	108	123
Arizona.....	16	485	108	1,179	600	1,550	3,825	1,072	626
Arkansas:									
Eastern.....	11	184	52	182	176	220	829	130	177
Western.....	4	108	10	84	140	84	405	45	134
California:									
Northern.....	13	567	253	800	553	1,254	4,585	953	593
Central.....	48	1,054	314	1,538	1,117	2,176	8,676	1,615	1,271
Eastern.....	14	213	74	862	248	1,012	2,887	783	311
Southern.....	42	190	154	2,059	223	2,485	14,750	1,532	287
Colorado.....	32	265	65	257	299	366	1,412	210	404
Connecticut.....	4	319	23	235	436	261	1,102	162	460
Delaware.....	1	35	8	53	61	91	312	48	70
District of Columbia.....	14	573	431	1,838	607	3,112	5,681	2,465	593
Florida:									
Northern.....	6	147	42	207	144	276	690	171	158
Middle.....	25	1,104	103	630	1,013	739	2,727	421	1,126
Southern.....	32	667	127	821	717	862	3,420	605	872
Georgia:									
Northern.....	21	734	101	571	782	679	2,119	507	829
Middle.....	4	122	58	278	147	339	886	220	182
Southern.....	14	114	13	290	102	279	1,192	191	115
Hawaii.....	2	79	14	180	73	183	765	102	78
Idaho.....	8	96	4	87	90	108	621	35	111

See footnotes at end of table.

Table 1.—Work of U.S. Attorneys, Fiscal Year 1971—Continued

Judicial districts	Civil cases terminated		Criminal cases terminated ¹		Civil cases filed	Criminal cases filed ²	Criminal matters received	Proceedings before grand jury	Civil matters received
	Trials	Other	Trials	Other					
Illinois:									
Northern.....	27	1,024	96	746	948	1,020	4,777	670	1,018
Eastern.....	3	166	33	151	168	162	600	115	196
Southern.....	3	139	12	159	186	205	977	148	207
Indiana:									
Northern.....	3	138	45	172	165	283	1,202	184	183
Southern.....	40	140	53	471	221	489	1,047	387	245
Iowa:									
Northern.....		81	12	69	83	82	352	50	112
Southern.....	9	149	31	85	130	147	536	111	164
Kansas.....	19	703	84	348	716	464	1,440	266	7
Kentucky:									
Eastern.....	17	221	90	303	305	405	978	316	320
Western.....		195	24	225	251	251	859	175	264
Louisiana:									
Eastern.....	15	843	44	457	923	601	2,110	335	1,617
Western.....	12	244	32	324	337	378	1,251	294	401
Maine.....	8	56	14	70	63	141	327	122	92
Maryland.....	37	392	52	475	456	521	2,544	385	489
Massachusetts.....	10	409	68	405	471	564	1,819	370	537
Michigan:									
Eastern.....	13	569	76	853	648	1,059	4,587	974	657
Western.....	4	106	8	123	119	148	479	73	141
Minnesota.....	5	301	50	233	378	403	1,430	306	406
Mississippi:									
Northern.....	8	94	16	84	162	136	611	102	166
Southern.....	16	150	18	136	267	162	1,038	102	276
Missouri:									
Eastern.....	17	263	67	332	292	458	1,851	193	312
Western.....	23	708	50	417	708	515	1,749	280	759
Montana.....	10	98	21	168	134	210	657	117	146
Nebbraska.....	4	204	17	184	205	183	721	137	231
Nevada.....	13	134	27	193	146	198	1,021	160	182
New Hampshire.....	2	28	16	70	40	88	1,122	63	55
New Jersey.....	6	561	47	575	939	817	4,249	577	1,001
New Mexico.....	9	187	36	238	210	295	1,707	174	236
New York:									
Northern.....	1	147	3	108	256	137	992	101	365
Eastern.....	22	1,092	61	808	1,146	1,382	5,488	894	1,230
Southern.....	18	1,057	247	1,887	902	1,426	3,896	935	1,016
Western.....	4	278	20	183	294	221	1,710	129	368
North Carolina:									
Eastern.....	30	142	32	243	104	290	969	236	193
Middle.....	10	91	121	224	106	340	740	275	114
Western.....	12	152	52	248	150	316	877	233	165
North Dakota.....	6	121	27	65	112	91	397	59	133
Ohio:									
Northern.....	1	875	40	818	849	962	2,568	553	859
Southern.....	4	591	19	343	725	360	2,107	177	765
Oklahoma:									
Northern.....	6	173	9	134	264	120	509	58	275
Eastern.....	12	93	20	75	99	93	399	62	94
Western.....	12	365	31	234	399	287	1,407	164	390
Oregon.....	19	301	47	294	309	316	1,182	167	339
Pennsylvania:									
Eastern.....	18	762	137	600	697	686	3,709	561	770
Middle.....		156	37	135	164	165	628	125	163
Western.....	16	410	44	260	407	291	1,200	216	431
Puerto Rico.....	2	103	30	167	177	226	749	172	183
Rhoda Island.....	1	131	20	98	146	96	640	56	144
South Carolina.....	53	311	24	307	490	340	1,893	231	556
South Dakota.....	2	70	29	143	100	170	454	110	103
Tennessee:									
Eastern.....	11	168	110	298	197	317	1,074	186	218
Middle.....	13	161	40	235	139	309	804	198	149
Western.....	16	135	45	233	149	282	902	224	162
Texas:									
Northern.....	24	493	72	692	607	750	3,291	587	725
Eastern.....	16	152	20	164	180	167	734	89	295
Southern.....	20	411	41	3,025	254	3,115	5,746	1,384	533
Western.....	35	315	68	1,824	542	1,899	3,340	704	336
Utah.....	5	145	20	100	159	113	852	21	181
Vermont.....		59	2	55	103	68	142	42	106
Virginia:									
Eastern.....	49	520	209	671	610	1,027	2,709	708	648
Western.....	2	142	22	187	142	217	610	134	147
Washington:									
Eastern.....	6	133	20	116	175	154	514	64	185
Western.....	6	574	64	363	647	442	1,958	238	721
West Virginia:									
Northern.....	1	99	14	209	86	170	372	73	97
Southern.....	1	180	23	150	172	201	627	164	187
Wisconsin:									
Eastern.....	10	301	22	171	313	193	921	129	313
Western.....	3	119	16	82	127	115	405	83	160
Wyoming.....	2	60	11	101	56	146	380	83	73
Canal Zone.....		6	56	181	8	251	289	11	8
Guam.....		28	1	2	26	3	15	2	26
Virgin Islands.....		36	88	227	11	300	354	12	11
Total.....	1,163	27,789	5,202	36,746	30,349	45,880	158,824	29,299	33,903

¹ Includes 1,603 cases terminated, by transfer under rule 20 and 1,956 cases dismissed because of superseding indictments or informations.

² Includes 1,480 cases initiated by transfer under rule 20.

Table 2.—Criminal and Civil Cases Handled by U.S. Attorneys in U.S. District and Appellate Courts and State Courts, Fiscal Year Ended June 30, 1971

Judicial districts	Criminal cases in U.S. district and appellate courts			Defendants in criminal cases in U.S. District and appellate courts				U.S. civil cases in U.S. district and appellate courts and State courts				
	Pending July 1, 1970 ¹	Filed ²	Terminated ³	Pending June 30, 1971	Pending July 1, 1970 ¹	Filed ²	Terminated ³	Pending June 30, 1971	Pending July 1, 1970 ¹	Filed	Terminated	Pending June 30, 1971
Alabama:												
Northern.....	128	337	334	131	170	499	485	184	173	222	202	193
Middle.....	26	217	231	11	29	275	292	12	43	83	77	49
Southern.....	107	130	161	76	152	165	230	87	107	108	109	106
Alaska.....	104	182	158	128	128	216	188	156	213	108	117	204
Arizona.....	462	1,566	1,287	725	601	2,084	1,767	618	352	500	601	351
Arkansas:												
Eastern.....	47	220	234	33	61	261	273	49	230	176	195	211
Western.....	27	84	94	17	29	107	116	20	93	140	112	121
California:												
Northern.....	678	1,254	1,053	879	783	1,414	1,219	978	831	553	580	804
Central.....	1,149	2,176	1,852	1,473	1,289	2,700	2,222	1,767	866	1,117	1,102	881
Eastern.....	264	1,012	936	840	302	1,132	1,040	394	305	248	227	326
Southern.....	1,537	2,485	2,213	1,809	2,237	3,488	3,166	2,559	211	223	232	202
Colorado.....	219	365	322	262	275	462	405	322	293	299	297	295
Connecticut.....	287	261	258	290	400	381	337	444	425	436	323	538
Delaware.....	88	91	61	88	80	133	89	124	83	61	36	108
District of Columbia.....	2,589	3,112	2,269	3,432	3,019	3,675	2,698	3,996	742	607	587	762
Florida:												
Northern.....	118	276	249	145	127	328	296	159	151	144	153	142
Middle.....	483	739	733	489	580	933	895	618	722	1,013	1,129	606
Southern.....	480	862	748	544	658	1,340	1,165	833	684	717	699	702
Georgia:												
Northern.....	370	679	672	377	515	960	957	618	236	782	755	263
Middle.....	80	339	336	83	97	538	526	109	86	147	126	107
Southern.....	144	279	303	120	185	385	418	152	114	102	128	88
Hawaii.....	101	183	194	90	122	225	230	111	83	73	81	75
Idaho.....	43	108	91	60	44	145	121	68	107	90	104	93
Illinois:												
Northern.....	627	1,020	842	805	752	1,435	1,105	1,082	944	948	1,051	841
Eastern.....	91	162	184	69	105	192	178	142	168	159	159	161
Southern.....	127	205	171	161	162	261	212	211	122	186	142	166
Indiana:												
Northern.....	174	283	217	240	212	334	271	275	159	165	141	183
Southern.....	287	489	524	252	410	697	697	310	375	221	180	416
Iowa:												
Northern.....	41	82	81	42	46	116	106	56	50	83	81	52
Southern.....	53	147	116	84	68	175	152	91	120	130	158	92
Kansas.....	216	464	432	248	281	564	548	297	386	716	722	380
Kentucky:												
Eastern.....	127	405	393	139	156	517	498	175	517	305	238	584
Western.....	53	251	249	55	56	364	323	87	235	251	195	291
Louisiana:												
Eastern.....	206	601	501	306	328	864	697	495	499	923	858	564
Western.....	190	378	356	212	232	454	417	269	240	337	256	321
Maine.....	60	141	84	117	60	165	95	130	35	63	64	34
Maryland.....	397	521	527	391	553	687	719	521	456	456	429	483
Massachusetts.....	251	564	473	342	375	782	651	506	404	471	419	456
Michigan:												
Eastern.....	855	1,059	920	985	1,165	1,563	1,220	1,508	642	648	582	708
Western.....	104	148	131	121	115	175	157	133	80	119	110	89
Minnesota.....	166	403	253	286	263	499	414	348	291	378	306	363
Mississippi:												
Northern.....	36	136	100	72	41	182	130	93	90	162	102	150
Southern.....	62	162	154	70	85	204	191	98	142	267	166	243
Missouri:												
Eastern.....	150	458	399	209	171	525	464	232	218	292	280	230
Western.....	181	515	467	229	234	636	601	269	370	708	731	347
Montana.....	43	210	189	64	44	233	207	70	143	134	108	169
Nebraska.....	130	183	181	122	144	208	200	152	249	205	208	246
Nevada.....	161	98	202	139	188	261	265	184	167	146	147	16
New Hampshire.....	65	188	86	67	113	104	142	75	17	49	30	36
New Jersey.....	645	817	622	840	1,194	1,291	984	1,501	839	939	867	911
New Mexico.....	86	295	274	107	91	369	320	131	175	210	176	209
New York:												
Northern.....	134	137	111	160	162	189	155	196	425	256	148	533
Eastern.....	458	1,382	869	971	779	2,095	1,138	1,736	1,521	1,146	1,114	1,553
Southern.....	1,612	1,426	1,634	1,404	2,598	2,054	2,396	2,256	2,021	902	1,075	1,848
Western.....	181	221	203	199	277	295	276	296	484	294	282	496
North Carolina:												
Eastern.....	67	290	275	82	72	368	352	88	142	194	172	164
Middle.....	57	340	345	52	101	429	469	61	61	106	101	66
Western.....	91	316	300	107	103	385	368	120	196	150	164	186
North Dakota.....	40	91	92	39	54	128	126	56	76	113	127	22
Ohio:												
Northern.....	522	962	858	626	658	1,108	998	768	905	849	876	878
Southern.....	135	360	362	133	140	473	451	162	752	725	595	882
Oklahoma:												
Northern.....	49	120	143	26	63	149	167	45	189	264	179	274
Eastern.....	27	93	95	25	30	133	128	35	106	99	105	100
Western.....	104	287	265	126	121	354	325	150	255	399	377	277
Oregon.....	279	316	341	254	323	370	409	284	267	309	320	256
Pennsylvania:												
Eastern.....	564	686	737	513	766	877	1,011	632	929	697	780	846
Middle.....	149	165	172	142	167	221	191	197	160	164	155	169
Western.....	243	291	304	230	326	397	428	295	295	407	426	276
Puerto Rico.....	232	226	197	261	269	270	238	301	279	177	105	351
Rhode Island.....	77	96	118	55	110	125	160	75	120	146	132	134
South Carolina.....	94	340	331	103	117	415	411	121	287	490	364	413
South Dakota.....	85	170	172	83	110	222	239	93	65	100	72	93

See footnotes at end of table.

Table 2.—Criminal and Civil Cases Handled by U.S. Attorneys in U.S. District and Appellate Courts and State Courts, Fiscal Year Ended June 30, 1971—Continued

Judicial districts	Criminal cases in U.S. district and appellate courts			Defendants in criminal cases in U.S. District and appellate courts			U.S. civil cases in U.S. district and appellate courts and State courts					
	Pending July 1, 1970 ¹	Filed ²	Terminated ³	Pending June 30, 1971	Pending July 1, 1970 ¹	Filed ²	Terminated ³	Pending June 30, 1971	Pending July 1, 1970 ¹	Filed	Terminated	Pending June 30, 1971
Tennessee:												
Eastern.....	186	317	408	95	243	481	591	133	93	197	179	111
Middle.....	84	309	275	118	132	436	398	170	204	139	174	189
Western.....	185	282	278	189	237	363	357	243	105	149	153	103
Texas:												
Northern.....	259	750	764	245	341	953	979	315	412	607	517	602
Eastern.....	89	167	184	72	115	205	232	88	211	180	163	223
Southern.....	431	3,115	3,066	480	425	3,558	3,478	605	453	484	431	506
Western.....	442	1,899	1,892	440	557	2,207	2,232	532	306	342	350	293
Utah.....	66	113	120	59	81	135	144	75	99	159	150	108
Vermont.....	48	68	57	59	60	86	77	69	65	103	89	76
Virginia:												
Eastern.....	407	1,027	880	554	453	1,228	1,039	642	357	610	569	398
Western.....	22	217	209	30	28	252	247	33	113	142	144	111
Washington:												
Eastern.....	59	154	136	77	67	160	148	70	126	175	139	162
Western.....	228	442	427	243	279	518	512	285	350	647	580	417
West Virginia:												
Northern.....	129	170	223	76	144	181	235	90	127	86	100	113
Southern.....	84	201	173	112	140	255	244	151	292	172	181	283
Wisconsin:												
Eastern.....	150	193	193	150	168	232	212	188	240	313	311	242
Western.....	100	115	98	117	116	131	110	137	134	127	122	139
Wyoming.....	26	146	112	60	27	198	148	77	41	56	62	35
Canal Zone.....	45	251	237	59	45	260	243	62	6	8	6	8
Guam.....	2	3	3	2	2	5	5	2	13	26	28	11
Virgin Islands.....	38	300	315	73	107	342	364	85	103	11	44	75
Total.....	23,364	46,880	41,048	27,296	30,640	68,829	53,586	35,983	28,647	30,349	28,942	30,664

¹ July 1, 1970 pending figures adjusted to reflect corrections reported by U.S. Attorney's offices.

² Includes 1,480 cases or 1,559 defendants, initiated by transfer under rule 20.

³ Includes 1,603 cases or 1,946 defendants, terminated by transfer under rule 20 and 1,956 cases or 3,533 defendants dismissed because of superseding indictments or informations.

Table 3.—U.S. Attorneys Financial Summary, Fiscal Year Ended June 30, 1971, Part I (Imposed)

Judicial district	Fines	Forfeitures	Penalties	Foreclosures	Other civil judgments	Bonds forfeited	Total	Prejudgment civil claims
Alabama:								
Northern.....	\$52,029.50	0	\$650.00	0	\$1,111,346.45	0	\$1,164,025.95	\$957,002.08
Middle.....	2,300.00	0	0	0	45,119.07	0	47,419.07	0
Southern.....	12,575.00	\$9,881.68	490.79	0	23,884.32	0	46,831.79	79,235.46
Alaska.....	75,878.00	0	0	\$46,435.18	179,468.31	0	301,781.49	38,095.16
Arizona.....	56,250.00	3,910.00	0	403,680.00	147,679.27	\$139,250.00	750,769.27	896,851.38
Arkansas:								
Eastern.....	20,393.00	0	2,075.28	26,313.20	328,787.61	8,500.00	386,069.09	38,556.07
Western.....	4,100.00	0	0	180,615.46	366,495.92	550.00	551,761.38	729,184.19
California:								
Northern.....	134,141.00	0	2,126.00	2,989,265.98	2,247,811.80	138,600.00	5,742,044.78	1,406,196.56
Central.....	163,074.28	4,105.15	2,617.16	0	1,244,122.45	159,350.00	1,574,169.04	12,053,754.27
Eastern.....	233,951.24	100.00	0	0	483,207.46	41,122.00	758,380.70	1,813,121.80
Southern.....	339,356.38	36,590.00	1,270.00	249,564.53	18,561.84	550,788.00	1,196,100.75	617,482.59
Colorado.....	162,525.00	1,000.00	32,088.00	0	276,122.14	0	471,735.14	7,614,753.26
Connecticut.....	73,350.00	0	0	0	125,801.42	0	199,151.42	0
Delaware.....	1,658.00	0	0	380,236.49	7,441.22	0	389,335.71	2,100.00
District of Columbia.....	164,275.00	0	0	0	48,975.63	7,000.00	220,250.63	77,126.99
Florida:								
Northern.....	20,200.00	0	0	109,494.15	29,162.46	7,500.00	166,356.61	54,005.83
Middle.....	133,876.00	4,292.00	5,923.00	11,194,175.00	1,632,857.00	20,000.00	12,991,123.00	894,222.00
Southern.....	280,252.04	10,450.00	1,379,500.00	364,447.96	1,168,147.10	0	3,182,797.10	242,745.82
Georgia:								
Northern.....	147,004.80	96,810.27	0	1,250,000.00	112,755.61	71,050.00	1,677,620.68	16,988.16
Middle.....	19,505.00	15,727.16	168.00	0	44,724.45	0	80,124.61	262.52
Southern.....	9,750.00	3,138.76	66,701.68	108,088.38	36,808.54	4,020.00	228,607.36	141,995.31
Hawaii.....	37,925.00	0	0	0	592.20	0	38,517.20	0
Idaho.....	8,150.00	0	0	352,426.72	41,469.27	0	402,045.99	378,180.11
Illinois:								
Northern.....	263,161.80	0	0	0	248,103.10	192,400.00	613,664.90	3,837,240.20
Eastern.....	20,045.00	575.00	0	741,626.61	25,576.00	0	787,822.61	33,158.01
Southern.....	43,315.00	0	0	129,182.36	1,578,996.42	203,500.00	1,954,993.78	248,537.32
Indiana:								
Northern.....	44,679.00	2,752.00	2,371.77	51,377.10	231,952.20	10,000.00	343,132.07	565,832.21
Southern.....	98,525.00	0	0	118,941.00	572,835.00	4,500.00	792,801.00	5,639,768.60
Iowa:								
Northern.....	60,000.00	41.00	500.00	43,163.00	36,670.04	10,000.00	150,374.04	568,723.64
Southern.....	178,978.47	446.24	3,145.32	15,206.64	43,049.09	23,500.00	264,325.76	366,225.53
Kansas.....	29,245.87	3,391.18	2,869.84	296,416.81	237,039.86	0	668,963.56	245,408.54
Kentucky:								
Eastern.....	33,095.00	0	4,750.00	66,002.85	75,896.67	27,500.00	207,244.52	48,387.54
Western.....	97,364.00	8,000.00	0	853,663.05	131,160.78	0	1,090,187.83	801,704.02
Louisiana:								
Eastern.....	3,417,034.00	8,400.00	5,000.00	1,074,159.78	579,399.66	0	5,083,993.44	4,486,076.51
Western.....	30,442.00	0	2,785.00	625,023.73	310,698.78	0	968,949.51	1,258,294.12

Table 3.—U.S. Attorneys Financial Summary, Fiscal Year Ended June 30, 1971, Part 1 (Imposed)—Continued

Judicial district	Fines	Forfeitures	Penalties	Foreclosures	Other civil judgments	Bonds forfeited	Total	Prejudgment civil claims
Maine.....	\$5,560.00	0	\$146,877.59	0	\$8,653.75	\$5,500.00	\$166,591.34	\$529,260.21
Maryland.....	114,983.15	0	14,773.36	\$177,675.17	233,333.27	117,000.00	567,764.96	755,283.34
Massachusetts.....	127,870.00	\$10,062.85	0	2,729,910.15	170,769.62	1,000.00	3,039,612.62	2,068,219.29
Michigan:								
Eastern.....	96,729.00	0	280.00	0	75,368.28	4,000.00	176,347.28	177,985.79
Western.....	22,125.00	5,200.00	885.32	0	167,796.39	15,260.00	201,266.71	390,372.06
Minnesota.....	165,810.00	0	0	0	886,373.93	0	1,042,183.93	0
Mississippi:								
Northern.....	7,815.00	3.00	1,000.00	20,226.51	51,302.82	200.00	80,547.33	144,488.41
Southern.....	79,800.00	0	0	0	109,386.04	0	189,186.04	0
Missouri:								
Eastern.....	76,946.40	6,000.00	2,353.52	0	82,092.32	96,006.00	263,398.24	369,648.76
Western.....	122,350.42	3,900.00	450.46	0	168,487.14	25,000.00	320,188.02	912,991.81
Montana.....	17,100.00	0	748.00	212,738.33	13,741.03	2,000.00	246,327.36	140,469.46
Nebraska.....	16,257.00	6,059.00	1,000.00	829,733.41	203,056.91	0	1,056,106.32	78,458.60
Nevada.....	67,300.00	0	0	686,528.00	131,064.54	1,000.00	885,892.54	1,510.00
New Hampshire.....	16,525.00	0	0	0	7,982.80	0	24,507.89	1,145.00
New Jersey.....	448,500.00	0	0	1,348,428.97	630,736.16	0	2,427,665.13	154,059.78
New Mexico.....	16,538.40	56.00	0	29,006.26	358,301.52	0	403,896.18	840,168.00
New York:								
Northern.....	21,450.00	0	0	7,968.00	7,756.86	0	37,174.86	47,657.49
Eastern.....	305,635.00	0	0	101,900.98	2,506,698.89	0	2,914,234.87	258,841.92
Southern.....	1,403,940.00	0	0	0	5,075,094.62	115,550.00	6,594,584.62	2,630,114.94
Western.....	57,900.00	3,250.00	15,665.00	1,221.00	53,972.00	1,000.00	133,008.00	70,830.00
North Carolina:								
Eastern.....	84,351.00	0	0	0	17,054.14	4,000.00	105,405.14	0
Middle.....	52,475.00	112.00	0	0	80,385.61	0	132,972.61	126,700.99
Western.....	110,503.00	891.48	3,035.50	0	116,198.06	400.00	231,028.04	61,413.43
North Dakota.....	21,535.00	0	0	446,201.94	57,428.31	0	525,165.25	777,307.48
Ohio:								
Northern.....	199,810.00	0	459.20	832,272.63	189,578.20	0	1,222,120.03	1,834,518.05
Southern.....	48,064.68	0	500.00	798,046.76	217,222.19	1,000.00	1,064,833.63	27,798.59
Oklahoma:								
Northern.....	3,574.00	0	0	257,232.96	437,821.32	40,000.00	738,628.28	64,660.54
Eastern.....	7,045.00	0	6,000.00	171,274.00	67,481.00	0	251,800.00	63,168.00
Western.....	14,020.00	0	47,548.04	1,276,420.00	406,589.00	0	1,744,577.04	262,088.00
Oregon.....	72,555.00	4,277.00	59,553.64	191,218.32	62,158.18	0	389,762.14	311,869.72
Pennsylvania:								
Eastern.....	226,400.00	0	8,500.00	1,336,899.41	1,957,371.50	92,000.00	3,841,170.91	103,197.91
Middle.....	9,400.00	0	0	87,323.00	75,516.07	0	172,239.07	0
Western.....	176,182.66	0	25.00	120,542.20	209,338.43	14,000.00	520,088.29	209,658.60
Puerto Rico.....	50,576.18	45,000.00	0	0	0	0	95,576.18	0
Rhode Island.....	19,400.00	0	1,000.00	319,376.28	80,279.82	2,000.00	422,056.10	705,923.71
South Carolina.....	31,125.00	0	0	117,012.02	562,047.53	4,000.00	714,184.55	978,809.94
South Dakota.....	31,305.00	55.00	0	133,743.81	234,312.18	490.35	399,906.34	1,199,480.40
Tennessee:								
Eastern.....	30,767.49	63.93	700.00	0	45,271.89	4,500.00	81,303.31	102,818.70
Middle.....	13,025.00	1,688.66	3,000.00	581,000.00	134,516.72	0	733,230.38	870,827.03
Western.....	31,300.00	3,573.26	705.56	3,000.00	84,410.83	250.00	123,239.65	407,982.17
Texas:								
Northern.....	165,250.00	0	1,925.00	0	1,641,531.85	21,000.00	1,829,706.85	1,667,887.97
Eastern.....	76,625.00	509.00	15,789.00	211,596.58	238,893.62	0	543,404.20	289,629.56
Southern.....	133,060.00	0	64,091.78	455,664.93	381,940.64	277,000.00	1,311,757.35	3,484,639.77
Western.....	160,385.00	2,000.00	3,938.50	0	715,212.91	13,300.00	894,836.41	8,219.53
Utah.....	13,035.00	0	1,530.00	1,647,955.26	378,711.96	8,000.00	2,049,232.22	119,313.93
Vermont.....	12,500.00	0	0	0	49,136.77	0	61,636.77	0
Virginia:								
Eastern.....	65,517.50	446.78	9,250.00	0	52,055.52	0	127,269.80	1,003,643.55
Western.....	20,275.00	0	169.00	0	106,119.00	0	126,563.00	1,557.18
Washington:								
Eastern.....	7,805.00	0	0	731,535.52	1,760.46	3,000.00	744,100.98	1,762,650.38
Western.....	68,160.00	2,617.99	11,667.75	57,808.00	211,163.67	0	351,407.41	156,529.81
West Virginia:								
Northern.....	39,450.00	0	0	0	64,120.82	0	103,570.82	365,272.04
Southern.....	10,775.20	0	0	0	25,678.19	0	36,453.39	39,196.43
Wisconsin:								
Eastern.....	30,475.00	0	58,576.73	167,113.14	47,120.57	0	303,285.44	1,364,294.47
Western.....	10,172.00	0	0	0	0	0	10,172.00	7,200.00
Wyoming.....	4,460.00	0	0	0	0	2,500.00	6,960.00	0
Canal Zone.....	2,709.60	330.00	0	0	0	0	3,039.60	0
Virgin Islands.....	1,400.00	0	0	0	0	500.00	1,900.00	0
Total.....	11,633,897.06	305,691.39	1,996,999.79	37,978,070.52	33,904,025.08	2,400,546.35	88,269,239.19	74,100,879.64

Table 4.—U.S. Attorneys Financial Summary, Fiscal Year Ended June 30, 1971, Part 2 (Collected)

Judicial district	Fines	Forfeitures	Penalties	Foreclosures	Other civil judgments	Bonds forfeited	Total	Civil without actual suit or prosecution
Alabama:								
Northern.....	\$50,275.00	\$2,000.00	\$50.00	0	\$44,513.94	0	\$96,838.94	\$36,687.17
Middle.....	1,600.00	0	0	0	48,531.00	0	50,131.00	35,571.28
Southern.....	5,210.98	9,881.68	0	0	20,510.41	0	35,621.07	27,690.47
Alaska.....	69,895.00	11,923.29	66.00	\$34,136.73	607,162.55	0	723,173.57	166,970.42
Arizona.....	52,529.00	250.00	4,825.00	102,436.00	100,496.00	\$83,161.00	343,697.00	84,112.00
Arkansas:								
Eastern.....	24,718.00	120.00	600.00	2,562.38	140,496.51	2,250.00	176,746.89	50,627.03
Western.....	3,430.00	218.00	0	100,673.00	55,708.04	560.00	160,579.16	53,552.34
California:								
Northern.....	94,307.48	20.00	0	2,727,505.87	373,532.77	0	3,195,366.12	396,411.35
Central.....	150,062.31	18,462.85	17,937.64	4,250,922.84	519,574.70	105,453.00	5,072,013.34	1,401,007.14
Eastern.....	83,348.51	100.00	0	0	55,577.92	12,572.00	161,598.43	599,211.66
Southern.....	267,331.80	36,590.00	0,314.98	130,000.00	4,497.13	301,703.00	749,436.91	203,857.28
Colorado.....	82,543.00	1,000.00	3,138.00	0	400,178.52	0	486,859.52	523,610.81
Connecticut.....	88,870.00	0	0	0	226,513.40	0	315,383.40	12,270.91
Delaware.....	6,975.00	0	0	43,598.27	4,285.42	4,547.00	59,405.69	1,292.10
District of Columbia.....	12,353.50	0	0	0	30,513.25	2,585.00	54,451.75	1,062,766.63
Florida:								
Northern.....	10,375.00	0	0	75,310.63	17,924.11	510.00	104,119.74	44,364.80
Middle.....	49,051.00	0	5,520.00	9,201,854.00	210,428.00	2,080.00	9,468,933.00	2,450,186.00
Southern.....	179,970.50	668.00	3,232.00	109,828.98	157,871.63	0	451,571.11	1,478,138.57
Georgia:								
Northern.....	132,982.12	2,900.00	0	1,250,000.00	101,924.94	0	1,487,807.06	21,048.48
Middle.....	15,915.00	6,277.16	2,110.80	0	15,833.33	0	40,186.29	23,883.61
Southern.....	8,900.00	3,034.59	130,409.93	55,800.00	24,442.83	2,041.88	225,629.23	101,773.59
Hawaii.....	12,155.82	0	0	22,006.73	398,032.92	0	432,795.47	14,241.26
Idaho.....	6,975.00	0	0	343,006.00	167,105.17	0	517,083.23	258,410.41
Illinois:								
Northern.....	226,517.54	6,546.08	10,972.00	93,376.20	531,488.89	0	868,900.71	2,726,849.30
Eastern.....	10,133.92	625.00	995.32	019,041.69	51,141.89	100.00	688,637.82	21,270.36
Southern.....	30,685.00	0	3,865.00	92,361.02	301,358.53	20,150.00	464,419.55	158,069.02
Indiana:								
Northern.....	63,433.94	2,812.00	4,118.27	35,795.17	15,655.46	750.00	122,564.84	146,640.27
Southern.....	62,313.00	1,300.00	18.00	108,437.00	86,571.00	800.00	259,439.00	190,348.08
Iowa:								
Northern.....	50,530.00	41.00	0	32,265.00	24,193.00	0	116,029.00	417,125.00
Southern.....	131,184.89	446.24	1,102.04	10,513.05	50,098.97	22,800.00	216,145.19	147,643.05
Kansas.....	46,808.44	1,779.20	4,877.59	106,397.69	162,913.81	610.00	313,386.73	375,302.46
Kentucky:								
Eastern.....	0,820.00	0	3,240.00	35,464.73	101,212.44	6,552.53	156,289.70	59,021.22
Western.....	58,470.00	0	1,622.00	212,631.68	65,995.47	100.00	338,819.15	54,019.34
Louisiana:								
Eastern.....	2,410,339.00	22,070.00	14,767.05	231,358.39	533,095.66	0	3,211,630.10	153,329.64
Western.....	20,630.00	0	1,785.00	367,151.00	1,055.66	0	408,621.66	80,455.00
Maine.....	5,685.00	0	146,877.50	0	5,091.55	13,000.00	170,664.14	287,653.38
Maryland.....	84,253.74	0	9,514.36	95,170.09	44,183.95	147,200.00	380,322.14	33,207.54
Massachusetts.....	146,331.28	10,562.85	2,429.26	2,329,127.18	185,825.16	0	2,674,275.73	642,657.33
Michigan:								
Eastern.....	187,801.79	0	250.00	0	48,585.03	5,000.00	241,637.42	471,180.22
Western.....	19,770.00	5,200.00	800.00	0	45,152.09	5,250.00	76,172.99	79,981.76
Minnesota.....	134,173.05	0	0	0	40,229.53	1,500.00	175,902.58	44,827.24
Mississippi:								
Northern.....	5,550.00	3.00	1,000.00	5,509.50	10,278.94	200.00	22,541.44	77,036.14
Southern.....	47,475.00	140.00	478.00	13,090.49	76,613.21	0	137,796.70	73,355.15
Missouri:								
Eastern.....	30,580.10	110.00	3,925.22	0	59,577.85	7,525.91	101,719.08	267,033.50
Western.....	54,644.69	3,900.00	280.46	0	75,526.70	0	134,351.85	224,210.93
Montana.....	12,910.00	50.00	792.00	131,576.87	15,989.95	2,000.00	163,318.82	232,598.70
Nebraska.....	16,532.58	15.00	703.41	146,512.40	74,921.43	0	238,684.82	362,373.77
Nevada.....	76,259.00	0	0	17,940.59	17,940.59	100.00	94,299.59	76,460.68
New Hampshire.....	11,875.00	0	0	0	15,715.43	0	27,590.43	25,729.08
New Jersey.....	235,616.05	617.80	4,095.00	4,802,662.84	351,384.41	0	5,394,376.10	841,235.36
New Mexico.....	14,773.40	2,154.42	0	103,585.31	114,074.07	0	235,487.20	67,033.68
New York:								
Northern.....	43,700.00	0	0	3,484.00	86,462.59	0	133,646.59	334,530.65
Eastern.....	180,020.95	66,419.00	0	167,264.18	3,088,209.14	45,000.00	3,526,913.27	230,313.98
Southern.....	994,364.82	0	0	0	124,255.78	109,450.00	1,228,070.60	5,668,476.27
Western.....	37,770.00	0	14,163.00	729.00	28,499.00	0	81,161.00	158,091.00
North Carolina:								
Eastern.....	79,702.70	201.00	0	0	29,333.27	4,120.00	113,356.97	71,113.18
Middle.....	37,190.00	112.00	0	0	1,896,123.22	0	1,933,425.22	95,864.68
Western.....	103,588.27	891.48	8,552.90	0	43,960.92	400.00	157,393.57	58,719.20
North Dakota.....	24,455.00	0	0	275,662.78	120,767.60	0	420,915.38	157,397.71
Ohio:								
Northern.....	105,490.00	0	137.20	766,077.67	373,580.89	0	1,245,285.76	395,239.34
Southern.....	51,595.00	0	40.00	822,568.60	57,245.92	5,500.00	936,947.52	568,499.28
Oklahoma:								
Northern.....	4,631.84	15,060.00	0	130,743.76	142,721.61	0	293,127.21	30,917.33
Eastern.....	4,643.00	0	500.00	71,087.00	35,990.00	0	112,222.00	36,793.00
Western.....	5,720.00	0	945.00	1,140,990.74	38,786.00	2,250.00	1,188,691.74	78,349.00
Oregon.....	61,438.64	4,277.00	16,764.48	132,051.64	174,367.10	0	388,898.86	139,283.08
Pennsylvania:								
Eastern.....	111,709.37	0	15,300.00	593,656.78	537,876.09	27,500.00	1,286,042.24	547,762.75
Middle.....	21,102.00	0	0	40,477.44	103,746.71	0	165,326.15	12,203.51
Western.....	362,540.58	0	29,717.74	99,942.08	61,539.25	2,071.00	456,810.65	261,890.96
Puerto Rico.....	13,030.50	20,000.00	0	0	105,429.21	0	138,459.71	43,705.41
Rhode Island.....	11,700.00	0	200.00	220,347.27	17,411.72	2,175.00	260,833.99	436,628.98
South Carolina.....	33,320.00	0	1,289.23	51,027.59	224,048.60	0	309,685.42	235,615.15
South Dakota.....	16,100.00	55.00	0	70,740.87	27,334.96	490.35	114,721.18	41,128.91
Tennessee:								
Eastern.....	15,857.00	766.13	0	0	55,902.39	450.00	72,975.52	896,540.00
Middle.....	15,270.00	1,688.66	525.44	581,000.00	35,522.32	2,000.00	636,006.42	50,803.01
Western.....	32,908.04	3,430.48	552.20	1,108.69	14,058.09	0	52,087.50	14,842.40

Table 4.—U.S. Attorneys Financial Summary, Fiscal Year Ended June 30, 1971, Part 2 (Collected)—Continued

Judicial district	Fines	Forfeitures	Penalties	Foreclosures	Other civil judgments	Bonds forfeited	Total	Civil without actual suit or prosecution
Texas:								
Northern.....	\$91,855.00	0	\$1,925.00	0	\$1,194,576.41	\$6,350.00	\$1,294,706.41	\$2,913,858.21
Eastern.....	32,134.35	\$500.00	6,602.00	\$177,796.58	61,265.01	0	278,297.94	531,810.51
Southern.....	102,382.53	0	7,994.06	246,137.70	998,652.67	40,175.00	1,395,342.05	255,270.88
Western.....	95,996.85	2,000.00	18,133.26	0	271,032.69	12,161.12	399,313.92	162,164.95
Utah.....	22,476.83	0	3,502.88	342,677.60	103,091.20	800.00	472,548.49	60,042.24
Vermont.....	16,410.11	0	0	0	21,036.00	0	37,456.11	112,636.67
Virginia:								
Eastern.....	80,987.50	546.78	7,265.00	200.00	26,126.96	0	115,216.24	83,919.32
Western.....	23,442.00	0	362.90	0	93,063.26	0	116,868.16	5,230.14
Washington:								
Eastern.....	7,645.90	0	0	431,502.02	22,675.10	2,500.00	464,323.02	42,653.11
Western.....	29,726.14	2,882.99	10,092.03	30,292.71	28,423.43	0	101,417.30	94,381.65
West Virginia:								
Northern.....	32,547.00	0	0	0	52,502.87	0	85,049.87	49,353.72
Southern.....	6,805.20	0	0	0	11,707.04	0	18,512.24	92,791.69
Wisconsin:								
Eastern.....	17,055.46	0	50.00	257,447.71	6,584.99	0	281,138.16	187,353.97
Western.....	15,502.00	0	0	0	21,211.10	0	36,713.10	20,571.39
Wyoming.....	4,460.00	0	0	46,600.00	93,381.47	0	144,441.47	10,401.62
Canal Zone.....	2,707.10	330.00	0	0	0	0	3,037.10	0
Guam.....	0	0	0	0	445.00	0	445.00	0
Virgin Islands.....	1,400.00	0	0	0	0	0	1,400.00	552.00
Totals.....	8,590,932.11	270,918.74	540,326.22	34,671,971.35	17,265,023.24	1,015,373.79	62,354,645.45	32,493,367.74

Table 5.—Criminal Cases and Defendants in U.S. District and Appellate Courts by Offense, Fiscal Year Ended June 30, 1971

Offense	Disposition of defendants in terminated cases								
	Cases filed ¹	Cases terminated ²	Defendants in cases filed	Total defendants terminated ²	GUILTY	Not guilty ³	Dismissed ⁴	Rule 20	Other ⁵
Accessory after the fact.....	28	26	42	35	25	2	7		1
Aiders and abettors.....	132	130	418	308	159	33	102	6	8
Animal health:									
Quarantine.....	22	18	31	23	13		6	4	
Transportation/diseased animals.....	3	2	4	3	2			1	
Antigambling.....	37	35	147	85	43	2	37	2	1
Antiracketeering.....	202	150	956	445	163	20	209	12	41
Antiriot laws.....	8	8	9	9	3	1	5		
Antitrust violations.....	8	10	59	47	25	12			10
Atomic energy, all facets.....	2	4	3	6	3		3		
Ball.....	477	355	487	367	206	4	110	41	6
Bank robbery.....	1,812	1,795	2,593	2,568	1,579	96	532	104	267
Banks and banking.....	50	55	56	60	43	2	12		3
Bankruptcy.....	69	63	105	92	36	5	41	2	8
Betrayal of office.....	104	108	106	113	84	3	24	2	
Bribery.....	108	118	138	193	101	6	76	1	9
Carriers and transportation:									
Air carriers and aviation.....	136	110	152	126	73	1	42	6	4
Freight forwarders.....	2	2	3	3	3				
Motorboats.....	4	3	4	3	3				
Motor commercial vehicles.....	274	304	297	326	298	2	23	3	
Navigation and navigable waters.....	36	29	39	29	10	1	7		11
Railroads and pipeline carriers.....	80	98	94	123	90	6	22	2	3
Shipping.....	1,075	1,063	1,701	1,629	1,054	96	377	31	71
Stowaways on vessels or air transporters of specific items:	9	11	10	12	10		1	1	
Explosives.....	32	36	32	37	31		4		2
Warehouse act.....	1	1	1	1	1				
Citizenship and nationality.....	626	625	629	628	605	1	20		2
Civil rights.....	82	65	187	162	26	66	65	1	4
Communications.....	18	14	23	20	8	2	10		
Conflict of interest.....	3	1	3	1			1		
Conservation and control of Federal land.....	99	95	152	219	153	3	55	1	7
Conservation of natural resources:									
Birds.....	494	497	771	772	626	17	115	8	6
Game.....	4	2	5	2	1	1			
Fishing violations.....	20	16	21	17	15		2		
Pollution.....	190	161	201	169	127	10	32		
Conspiracy.....	400	354	1,186	984	482	35	343	38	86
Consumer protection:									
Agriculture:									
Agricultural Adjustment Act.....	8	8	9	10	9		1		
Agriculture inspection.....	5	4	8	6	6				
Federal Insecticide Etc. Act.....	1	1	1	1		1			
Packers and Stockyards Act.....	2	2	4	4	4				
Plant quarantine.....	2	2	2	2					
Miscellaneous food:									
Filled Milk Act.....	1	1	1	1	1				
Meat Inspection Act.....	4	5	4	6	6				
Oleomargarine Act.....	1	1	1	1	1				
Milk and Cream Act.....	2	3	3	4	3		1		
Filled Cheese Tax Act.....	2	3	4	3	2		1		
Jenkins Act.....	1		1						

See footnotes at end of table.

Table 5.—Criminal Cases and Defendants in U.S. District and Appellate Courts by Offense, Fiscal Year Ended June 30, 1971—Continued

Offense	Disposition of defendants in terminated cases								
	Cases filed ¹	Cases terminated ²	Defendants in cases filed	Total defendants terminated ²	GUILTY	Not guilty ³	Dismissed ⁴	Rule 20	Other ⁵
Consumer protection—Continued									
Other protection:									
Mail and wire fraud.....	494	508	761	801	473	35	171	33	89
Securities frauds:									
Investment Act of 1940.....	2	1	2	1	1				
Motor vehicle master key.....	22	19	29	22	13		8	1	
Securities Exchange Act.....	11	9	20	10	16		3		
Trust Indenture Act of 1939.....	20	34	42	134	51	5	70		8
Contempt.....	53	40	60	73	32	2	33	1	5
Copyright.....	2	3	3	4	4				
Counterfeiting—misuse/money stamps.....	1,165	1,159	1,553	1,577	1,079	68	270	80	80
Crimes affecting military service.....	6	3	7	4	3			1	
Crimes by and against indians.....	6	6	7	7	1		6		
Customs:									
Customs laws.....	385	423	500	568	414	3	126	10	15
Elections and political activities.....	7	2	21	2			2		
Embezzlement.....	966	976	1,051	1,075	872	17	136	36	14
Escape.....	689	738	760	837	608	19	103	83	26
Espionage.....	1	1	1	2	2				
Extortion.....	78	42	132	90	45	4	28	5	5
Federal custody.....	34	28	48	33	14	2	13		4
Federal employee duties.....	1		2						
Food, Drug, and Cosmetic Act.....	135	133	222	215	149	6	42	8	10
Foreign policy impairment.....	1	1	1	1			1		
Forgery and misuse of insignias.....	35	44	38	46	27	1	10	4	4
Fraud against the Government.....	1,941	1,091	2,273	2,337	1,671	83	408	131	44
Immigration.....	3,553	3,549	3,867	3,877	3,502	21	303	21	25
Impersonation.....	59	47	61	50	29	4	8	0	
Income tax.....	882	872	986	984	707	38	165	20	45
Injury to government property.....	74	64	122	118	67		48	2	1
Int. Sec. miscellaneous violations.....	13	17	16	20	8	3	9		
Interference with Government officers.....	259	245	294	291	132	28	88	1	42
Liquor statutes:									
IRS liquor violations.....	1,321	1,471	2,009	2,210	1,694	102	284	15	124
Indian liquor laws.....	2	3	3	4	1		3		
Interstate shipments—bills.....	1	1	1	1				1	
Jurisdictional statutes.....	705	747	877	924	570	45	234	45	30
Juvenile delinquency.....	100	101	117	118	108		11	1	
Kidnapping.....	228	220	271	247	154	14	56	1	15
Labor laws.....	113	128	132	147	94	12	27	9	5
Mail crimes.....	3,317	3,004	3,778	3,410	2,735	54	482	85	63
Misprison of felony.....	15	13	16	14	9	1	3	1	
Motor vehicle theft.....	2,563	3,127	3,070	3,681	2,477	115	575	357	187
Narcotics.....	5,159	4,378	8,300	6,931	3,447	145	2,802	96	441
Obscenity.....	87	73	166	137	50	8	67	2	10
Obscene or harassing phone calls.....	2	2	2	2	1				1
Obstruction of justice.....	83	81	108	105	55	10	32		9
Occupational tax on gamblers.....	3	15	3	21	4		14		3
Other crimes of violence.....	194	193	235	226	127	25	51	4	19
Other stolen property.....	1,668	1,827	2,134	2,252	1,375	67	339	376	95
Passports and visas.....	915	891	929	899	848	2	43	3	3
Perjury.....	120	109	128	117	46	18	37		16
Prostitution.....	53	87	72	101	40	8	32	5	16
Protection of working men:									
Fair Labor Standards Act.....	4	3	8	6	4		2		
Longshoremen's compensation.....	2	1	3	2			2		
Railway Labor Act.....		3		3	3				
Railroad Retirement Act.....	1	1	1	1	1				
R.R. Unemployment Insurance.....	5	5	5	5	4		1		
Integrity of Federal programs:									
Commodity Credit Corporation charter.....	12	17	13	17	14	1	1	1	
Dependents Assistance Act/195.....	6	5	6	5	1		2	2	
Economic opportunity/1967.....	10	16	11	17	13		3		1
Federal Crop Insurance Act.....	1		1						
Food stamp program.....	103	65	146	100	70	6	19	3	2
Gold hoarding.....	13	2	22	7	3	1	3		
Gratuities Act.....	3	3	3	3	3				
Housing.....	32	33	39	39	18	8	6	4	3
Social Security Act.....	112	111	113	117	77	4	32	3	1
Soldiers' and sailors' relief.....	3	1	4	2	1		1		
Small Business Act.....	11	19	12	22	10	1	7	2	2
Subotage.....	9	7	16	14	11		3		
Selective Service.....	4,654	3,196	4,688	3,238	1,038	221	1,683	85	211
Theft of government property.....	690	763	662	1,024	666	37	213	56	52
Veterans' claims.....	8	9	8	0	4		4	1	
Wagering excise tax.....	1		1						
Weapons control.....	1,763	1,490	2,037	1,707	1,115	118	375	39	60
All other.....	309	282	410	358	225	17	82	15	19
Totals.....	41,971	39,342	54,451	51,105	33,170	1,807	11,873	1,940	2,315

See footnotes at end of table.

Table 5.—Criminal Cases and Defendants in U.S. District and Appellate Courts by Offense, Fiscal Year Ended June 30, 1971—Continued

Offense	Disposition of defendants in terminated cases					GUILTY	Not guilty ³	Dismissed ⁴	Rule 20	Other ⁵
	Cases filed ¹	Cases terminated ²	Defendants in cases filed	Total defendants terminated ¹						
DISTRICT OF COLUMBIA AND TERRITORIAL VIOLATIONS										
Abortions.....	4	4	4	5	3		2			
Arson.....	5	6	5	7	4		1			2
Assault.....	295	247	328	282	156	30	58	1		37
Bribery.....	12	11	13	13	3		0			1
Burglary.....	280	276	324	342	199	16	78			40
Counterfeiting and forgery.....	66	66	69	69	44	3	15	1		6
District of Columbia miscellaneous violations.....	22	24	23	25	2		2			21
Disorderly conduct.....	2	0	2	9	2		2			5
Embezzlement.....	20	14	23	17	7	1	7	1		1
Exclusion and deportation.....	24	23	24	23	22		1			
Extortion.....	8	6	9	7	5		2			
Fraud.....	27	30	30	33	15		15			3
Gambling.....	54	30	60	44	28	2	9			5
Homicide.....	204	179	228	203	98	32	38			35
Kidnaping.....	9	6	26	10	2	1	5			2
Larceny.....	188	222	214	250	133	8	43	2		64
Libel.....	1	1	1	1	3		1			
Manslaughter.....	4	3	4	3	49	4	21			3
Narcotic drugs.....	73	73	77	77	2					2
Obscenity.....	4	2	4	2	17		1	1		1
Prison breach.....	30	16	37	20	47	48	109			84
Robbery.....	708	541	877	688	48	18	30			7
Sex offenses.....	99	88	117	103	6		6			
Traffic violations.....	9	12	9	12	1					1
Trespass—injuries to property.....	3	2	3	2	6	2	5			
Vagrancy.....	11	12	12	13	44	8	15			29
Weapons control.....	131	94	135	96	65	5	30			25
All others.....	136	112	160	125						
Totals.....	2,429	2,106	2,810	2,481	1,409	178	505	6		383
Grand total.....	44,400	41,948	57,270	53,586	34,579	1,985	12,378	1,946		2,698

1. Excludes 1,480 cases or 1,559 defendants initiated by transfer under rule 20.
2. Includes 1,603 cases or 1,946 defendants terminated by transfer under rule 20 and 1,956 cases or 3,538 defendants dismissed because of superseding indictments or information.
3. Includes verdicts of not guilty by reason of insanity.
4. Includes appellate dismissals.
5. Includes appellate decisions other than dismissals and proceedings suspended indefinitely by court.

united states marshals service

Wayne B. Colburn/Director

The Director of the U.S. Marshals Service is appointed by the Attorney General and is responsible to the Deputy Attorney General. He directs and supervises the 93 U.S. Marshals—one in each of the Federal judicial districts.

Assisted by their deputies and administrative staffs, the marshals occupy a unique role in the Federal administration of justice. While agents of the executive branch of Government, they also function as executive officers of the Federal courts. They are located throughout the 50 States and in Guam, Puerto Rico, Virgin Islands, and the Canal Zone, and discharge varied responsibilities in widely divergent environments.

To insure efficient operation, the Federal judiciary must look to the executive branch for contributory support, which is provided in large measure by the U.S. Marshals Service, as follows:

1. In cases that will be brought before a Federal court, the U.S. Marshals Service arrests and takes

custody of persons named in warrants of arrest, seizes and takes custody of property, and serves process issued in civil and criminal cases. Federal warrants must be executed by officers who can be relied upon to act promptly and impartially, to advise defendants of their rights, and produce them before proper authorities according to legal requirements. In most judicial districts all Federal warrants issued by judges or magistrates are addressed to the U.S. Marshal. In addition, marshals execute Federal warrants of extradition and parole violator warrants. During the year, marshals and their deputies made 23,308 arrests, made 5,489 property seizures (including 1,181 vessels) valued at \$414,421,246, and received 967,195 pieces of process for service.

2. The U.S. Marshals Service enforces judgments of the Federal judiciary, transports prisoners, and disposes of seized property. The Marshals have custody of all Federal prisoners from the time of their arrest



The U.S. Marshals Service, in cooperation with airlines, plays a major role in deterring aircraft hijackings. This includes the use of electronic detection devices in preboarding screening, as demonstrated here.

by a Marshal or their commitment to a Marshal by other enforcement officers. This responsibility continues until the prisoner is delivered to a penal institution or released by the court. To transport prisoners to penal institutions with maximum efficiency and minimum cost, all long-haul prisoner movements (requiring more than 8 hours) are coordinated in the Office of the Director, U.S. Marshals Service. During the year, the Service transported 33,338 prisoners on long hauls, an increase of 18 percent over the previous year.

3. The Marshals protect participants in the litigative process from influences which could corrupt their integrity and undermine public confidence in the Federal judicial process. Protection is given to jurists, other officers of the court, and witnesses and their families from threats of violence and intimidation. Following the enactment of enabling legislation in March 1971, the U.S. Marshals Service undertook responsibility for the personal security of all Federal judges and responsibility for the physical security of all Federal court facilities. Since then, the U.S. Marshals Service has conducted surveys of 50 court facilities located throughout the United States and has initiated procurement of physical security surveillance and intrusion detection systems in each of the facilities surveyed. To provide security for facilities not yet surveyed, and a reinforcing capability for major problem trials, the Service has designed and procured sophisticated portable physical and personal security systems. During fiscal year 1971, the U.S. Marshals Service conducted 174 personal security assignments

involving witnesses whose lives had been endangered as a result of their cooperation with the Government in criminal prosecutions.

In addition to their role in the judicial process, Marshals and their deputies are actively engaged in many peripheral areas. They are frequently called upon to protect Federal buildings and property during episodes of civil disobedience and disorderly demonstrations. During recent months, the Service has participated in the removal of dissident groups illegally occupying Federal facilities at the Culebra Island Naval Gunnery Range, P.R.; the Twin Cities Naval Air Station, Minneapolis, Minn.; and at Alcatraz Island, San Francisco Bay, Calif.

In support of the Federal Aviation Administration and in cooperation with civil air carriers, the Service inaugurated an anti-air piracy program in fiscal year 1970. In this program passengers are screened through a confidential behavioral profile in conjunction with electronic search devices. Operating at 32 key airports throughout the country, it has proven eminently successful as Marshals Service personnel have made a total of 815 arrests, more than 100 of which were for concealed firearms and an additional 41 for possession of other concealed weapons. An ancillary benefit was the seizure of \$1.6 million worth of narcotics. No one will ever know how many hijackers have walked away because of the presence of Marshals Service personnel at these major airports, but the Service comfortably claims the abortion of at least eight hijackings due to this program.

During the fiscal year, the U.S. Marshals disbursed \$98,946,821 in appropriated funds. They and their designated representatives are both certifying and disbursing officers satisfying Government obligations incurred in the administration of Federal justice.

The workload of the Service was materially increased in fiscal year 1971 by the appointment of additional judges and magistrates and through the expanded role of the Service in the aforementioned areas of anti-air piracy, court security, and witness security. In order to meet the additional responsibilities, staffing ceilings increased from 1,294 in fiscal year 1970 to 2,521 in fiscal year 1971, an increase of almost 100 percent. Accordingly, training programs have been expanded. A total of 1,040 Marshals Service personnel participated in internal, interagency and nongovernment training programs during the year. To improve communications capability, plans are being finalized for the installation of a nationwide teletype system. This will also give personnel access to the National Crime Information Center data system (NCIC).

In fiscal year 1971, the U.S. Marshals Service experienced its most significant growth in three decades. Its continuing pursuit of professionalism has also been accelerated in order to service the Federal judiciary as well as the public, in general, more efficiently.

Table 1.—Work of U.S. Marshals, Fiscal Year 1971

Judicial district	Processes and warrants etc., served	Endeavors	Criminal cases filed	Civil cases filed	Total cases filed	Defendants terminated	Earnings
Alabama:							
Northern	8,478	1,147	337	1,094	1,431	485	18,225
Middle	5,991	752	217	414	631	202	11,622
Southern	7,292	1,207	130	645	775	230	15,976
Alaska	2,075	642	182	224	406	188	11,896
Arizona	11,397	1,379	1,550	884	2,434	1,767	26,263
Arkansas:							
Eastern	1,859	100	220	518	738	273	7,791
Western	2,721	282	84	201	375	116	4,272
California:							
Northern	31,702	6,588	1,254	2,726	3,980	1,210	24,790
Central	24,603	7,254	2,176	3,046	5,222	2,222	33,052
Eastern	5,764	874	1,012	653	1,665	1,040	6,050
Southern	18,146	776	2,485	456	2,941	3,166	78,892
Colorado	6,108	1,430	365	849	1,214	405	7,401
Connecticut	3,227	812	261	707	968	337	5,848
Delaware	1,715	545	91	273	364	89	4,475
District of Columbia	242,080	62,055	3,112	3,690	6,802	2,608	-----
Florida:							
Northern	3,800	384	276	349	625	206	3,390
Middle	16,672	2,741	736	1,961	2,700	895	37,079
Southern	15,111	2,073	862	1,951	2,813	1,165	33,141
Georgia:							
Northern	11,077	1,772	679	1,630	2,300	957	13,247
Middle	5,209	654	339	378	717	526	4,312
Southern	5,076	92	279	390	669	418	7,282
Hawaii	1,962	492	183	169	352	236	2,747
Idaho	1,977	369	108	195	303	121	4,103
Illinois:							
Northern	16,033	3,130	1,020	3,408	4,428	1,105	73,551
Eastern	2,631	837	162	405	567	219	6,358
Southern	2,978	796	205	378	583	212	4,482
Indiana:							
Northern	5,609	1,053	283	745	1,028	271	11,714
Southern	9,744	807	489	977	1,466	697	23,086
Iowa:							
Northern	2,158	238	82	190	272	106	4,105
Southern	3,020	331	147	343	490	152	5,996
Kansas	7,956	610	464	1,220	1,684	548	11,902
Kentucky:							
Eastern	7,791	331	405	516	921	498	7,227
Western	5,615	574	251	580	831	323	9,511
Louisiana:							
Eastern	20,391	3,569	601	4,140	4,741	697	57,195
Western	12,859	2,258	378	1,113	1,491	417	27,719
Maine	1,038	81	141	244	385	95	3,363
Maryland	5,657	1,293	521	1,507	2,028	719	43,425
Massachusetts	6,771	1,402	584	2,693	3,257	651	11,375
Michigan:							
Eastern	7,920	869	1,059	1,840	2,899	1,220	20,529
Western	3,020	330	148	520	668	157	8,057
Minnesota	6,426	1,271	403	1,108	1,511	414	14,719
Mississippi:							
Northern	2,763	121	136	435	571	130	8,175
Southern	4,218	789	162	680	842	191	12,775
Missouri:							
Eastern	6,813	1,797	458	870	1,328	464	12,945
Western	9,857	940	515	1,348	1,863	601	9,557
Montana	2,158	266	210	295	505	207	3,858
Nebraska	2,690	613	183	558	741	200	6,553
Nevada	4,074	1,284	198	351	549	265	7,307
New Hampshire	1,093	53	88	200	288	142	2,708
New Jersey	12,710	2,490	817	1,871	2,688	984	19,571
New Mexico	3,438	393	295	429	724	329	8,433
New York:							
Northern	2,128	184	137	541	678	155	2,634
Eastern	11,731	1,447	1,382	1,605	2,987	1,138	15,025
Southern	38,796	6,032	1,426	6,012	7,438	2,396	6,272
Western	2,022	770	221	645	866	276	5,237
North Carolina:							
Eastern	3,863	748	290	505	705	352	7,374
Middle	2,986	457	340	309	649	469	4,605
Western	3,670	935	316	377	693	368	5,022
North Dakota	1,513	133	91	138	229	126	1,633
Ohio:							
Northern	11,079	4,532	962	1,646	2,608	968	26,178
Southern	10,196	1,350	360	1,087	1,447	451	11,237
Oklahoma:							
Northern	4,250	796	120	445	565	167	10,957
Eastern	3,196	133	93	273	366	128	5,556
Western	4,875	980	287	734	1,021	325	6,212
Oregon	5,805	1,007	316	938	1,254	409	10,943
Pennsylvania:							
Eastern	15,422	971	686	3,966	4,652	1,011	23,372
Middle	3,552	407	155	801	956	191	6,153
Western	6,466	507	291	1,469	1,760	428	10,163
Puerto Rico	2,254	18	226	1,050	1,276	238	6,340
Rhode Island	1,686	198	56	293	389	160	3,556
South Carolina	9,206	1,012	340	1,269	1,609	411	14,286
South Dakota	2,247	288	170	187	367	239	4,147
Tennessee:							
Eastern	6,287	4,021	317	1,046	1,363	501	11,714
Middle	4,062	279	309	512	821	398	3,208
Western	5,000	555	282	601	883	357	10,842

Table 1.—Work of U.S. Marshals, Fiscal Year 1971—Continued

Judicial district	Processes and warrants etc., served	Endeavors	Criminal cases filed	Civil cases filed	Total cases filed	Defendants terminated	Earnings
Texas:							
Northern.....	13,556	449	750	1,700	2,540	979	19,072
Eastern.....	4,019	858	167	1,038	1,205	232	9,308
Southern.....	16,722	2,254	3,115	2,144	5,259	3,478	55,922
Western.....	17,213	1,251	1,899	1,145	3,044	2,232	14,453
Utah.....	2,090	822	113	385	498	144	10,998
Vermont.....	1,758	142	68	344	412	77	6,776
Virginia:							
Eastern.....	16,642	3,865	1,027	2,150	3,177	1,030	19,862
Western.....	2,623	349	217	551	768	247	6,597
Washington:							
Eastern.....	2,019	420	154	240	394	148	4,669
Western.....	5,382	1,064	442	960	1,411	512	29,211
West Virginia:							
Northern.....	2,683	565	170	235	405	235	1,896
Southern.....	6,229	445	201	549	760	244	11,501
Wisconsin:							
Eastern.....	3,051	725	193	700	893	212	11,585
Western.....	2,486	60	115	432	547	110	10,343
Wyoming.....	860	209	146	124	270	148	916
Canal Zone.....	533	11	251	360	611	243	539
Guam.....	1,023	424	3	165	169	5	1,634
Virgin Islands.....	3,779	836	300	1,168	1,468	364
Total.....	879,000	167,174	45,880	93,396	139,276	53,586	1,246,361

Table 2.—Statement of Costs in Judicial Districts for the Fiscal Year 1971, as of Aug. 31, 1971

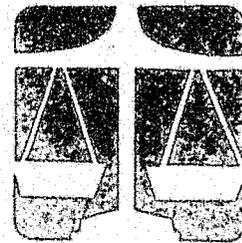
Judicial districts	Total	Fees and expenses of witnesses	Salaries and expenses U.S. attorneys and marshals	Support of U.S. prisoners
Alabama:				
Northern.....	\$642,641.67	\$49,994.16	\$542,191.85	\$50,455.60
Middle.....	394,335.73	50,882.97	322,920.72	20,532.04
Southern.....	318,106.35	31,636.05	272,518.70	11,951.60
Alaska.....	470,679.91	56,137.43	394,760.93	19,781.55
Arizona.....	1,307,386.70	156,170.04	940,129.94	211,086.72
Arkansas:				
Eastern.....	407,681.62	42,310.99	357,423.48	7,847.15
Western.....	316,465.97	33,020.18	273,195.82	9,649.97
California:				
Northern.....	1,652,412.33	74,740.28	1,463,094.82	114,568.23
Central.....	3,850,291.60	433,604.54	2,843,049.83	573,637.23
Eastern.....	804,817.60	60,325.67	695,636.37	148,855.56
Southern.....	2,306,208.64	124,602.20	1,139,424.72	1,061,181.72
Colorado.....	731,193.66	72,513.46	518,835.59	139,844.61
Connecticut.....	637,476.77	47,829.39	463,479.10	126,177.28
Delaware.....	227,320.49	7,947.90	198,555.40	20,817.19
District of Columbia.....	6,544,287.40	440,413.70	6,007,473.57	96,400.13
Florida:				
Northern.....	501,653.24	49,237.10	407,857.67	44,558.47
Middle.....	1,337,401.02	203,135.51	1,023,140.02	111,124.89
Southern.....	1,480,269.01	247,649.23	1,037,899.83	194,719.85
Georgia:				
Northern.....	985,023.42	107,135.75	682,347.41	196,140.27
Middle.....	432,793.32	65,541.50	342,810.52	21,440.30
Southern.....	433,714.70	42,659.42	375,090.56	15,964.78
Hawaii.....	352,995.48	12,000.72	280,873.01	60,124.75
Idaho.....	283,062.92	21,979.61	250,577.17	10,506.14
Illinois:				
Northern.....	2,280,988.65	139,302.56	1,953,771.48	187,914.61
Eastern.....	309,764.79	29,560.60	272,338.55	7,865.64
Southern.....	314,495.73	18,553.05	277,247.85	18,694.83
Indiana:				
Northern.....	256,542.13	13,990.70	230,872.35	11,679.08
Southern.....	695,776.08	35,974.11	480,689.02	79,112.95
Iowa:				
Northern.....	292,938.14	25,511.71	255,492.97	10,933.46
Southern.....	321,932.14	30,530.41	278,050.51	13,351.22
Kansas.....	883,017.23	144,955.56	663,105.01	74,956.66
Kentucky:				
Eastern.....	641,248.21	164,145.78	412,218.74	64,883.96
Western.....	490,352.41	29,280.45	411,023.57	56,048.39
Louisiana:				
Eastern.....	1,210,660.31	88,867.13	1,025,589.48	105,212.70
Western.....	641,079.09	85,680.45	517,360.01	38,038.63
Maine.....	215,111.48	8,101.65	199,090.18	7,919.65
Maryland.....	1,014,870.12	50,032.42	810,219.93	154,617.77
Massachusetts.....	1,128,260.78	77,429.37	933,075.86	117,765.55
Michigan:				
Eastern.....	1,101,598.23	94,624.73	797,667.11	209,306.39
Western.....	289,145.51	8,507.80	266,472.28	14,165.43
Minnesota.....	690,356.74	49,982.81	527,085.50	113,288.43
Mississippi:				
Northern.....	338,724.01	26,783.32	305,434.84	6,505.85
Southern.....	460,922.17	20,182.55	422,523.99	18,215.63

Table 2.—Statement of Costs in Judicial Districts for the Fiscal Year 1971, as of Aug. 31, 1971—Continued

Judicial districts	Total	Fees and expenses of witnesses	Salaries and expenses U.S. attorneys and marshals	Support of U.S. prisoners
Missouri:				
Eastern.....	742,185.41	60,799.43	569,542.82	111,843.16
Western.....	921,022.05	86,022.65	763,422.69	71,576.71
Montana.....	425,764.32	61,200.80	333,034.77	31,528.75
Nebraska.....	365,620.21	31,600.30	320,014.30	13,014.61
Nevada.....	470,669.13	66,063.30	334,470.43	70,166.40
New Hampshire.....	190,413.85	8,599.97	168,923.44	12,589.94
New Jersey.....	1,678,489.60	65,280.49	1,430,204.81	24,001.30
New Mexico.....	636,169.27	97,644.91	465,154.30	82,460.06
New York:				
Northern.....	396,440.53	9,440.90	350,848.83	36,169.80
Eastern.....	1,922,179.48	151,189.61	1,729,403.23	41,526.64
Southern.....	3,825,920.98	452,235.44	3,327,832.88	45,852.66
Western.....	648,973.94	31,930.20	487,636.99	29,406.75
North Carolina:				
Eastern.....	530,501.16	20,340.40	454,206.61	55,953.80
Middle.....	320,290.69	40,363.70	247,474.19	32,452.85
Western.....	416,111.92	35,307.10	342,059.91	38,684.91
North Dakota.....	308,907.83	23,460.80	289,625.58	15,821.45
Ohio:				
Northern.....	1,032,047.61	85,686.57	772,821.26	174,439.78
Southern.....	737,744.56	25,729.80	600,110.70	111,904.06
Oklahoma:				
Northern.....	309,113.84	11,468.94	281,331.86	16,318.04
Eastern.....	273,994.47	13,392.70	253,039.69	7,562.08
Western.....	486,075.71	26,971.88	398,140.37	60,963.40
Oregon.....	852,389.37	31,886.97	661,182.61	169,910.79
Pennsylvania:				
Eastern.....	1,376,204.58	94,793.03	1,041,352.41	240,058.24
Middle.....	633,829.78	26,200.92	345,636.00	101,986.85
Western.....	756,694.28	47,119.90	633,036.42	76,537.96
Puerto Rico.....	391,049.93	19,241.43	322,244.24	49,564.26
Rhode Island.....	274,929.23	21,714.10	242,676.13	10,639.00
South Carolina.....	822,516.88	48,642.60	733,048.28	40,226.00
South Dakota.....	335,016.01	38,270.03	284,508.22	12,828.76
Tennessee:				
Eastern.....	575,745.02	57,288.37	486,431.36	32,025.29
Middle.....	442,493.71	39,023.85	353,219.23	50,250.63
Western.....	492,254.07	61,505.28	392,780.50	37,968.29
Texas:				
Northern.....	1,148,646.61	109,245.45	933,780.14	105,621.02
Eastern.....	498,098.29	34,338.80	448,292.14	15,467.35
Southern.....	1,560,423.47	81,790.01	1,119,527.37	359,106.09
Western.....	1,352,901.18	113,800.89	919,577.04	319,517.25
Utah.....	486,109.92	40,863.90	291,655.38	153,590.64
Vermont.....	245,467.66	12,446.70	223,038.39	9,382.57
Virginia:				
Eastern.....	1,224,614.34	123,811.73	971,082.65	128,819.96
Western.....	262,069.66	8,731.20	242,239.37	11,999.09
Washington:				
Eastern.....	356,521.28	17,792.12	318,397.53	20,331.63
Western.....	832,950.41	45,074.61	694,815.87	93,065.93
West Virginia:				
Northern.....	264,163.28	23,908.30	206,569.60	33,685.38
Southern.....	384,175.54	43,068.05	288,700.98	51,416.51
Wisconsin:				
Eastern.....	322,792.07	12,196.80	299,772.73	10,823.44
Western.....	224,252.97	11,037.30	205,351.22	7,864.45
Wyoming.....	194,180.32	15,303.75	167,032.63	11,843.94
Canal Zone.....	107,829.71	-----	107,829.71	-----
Guam.....	120,979.29	1,950.00	108,452.29	10,567.00
Virgin Islands.....	142,749.44	10,229.35	131,800.59	719.50
Subtotal.....	72,931,534.13	6,174,262.79	58,889,088.85	7,868,182.49
Departmental total.....	15,825,832.87	721,773.21	10,974,644.15	4,129,415.51
Grand total.....	88,757,367.00	6,896,036.00	69,863,733.00	11,997,598.00

office of the solicitor general

Erwin N. Griswold/Solicitor General



The Solicitor General, with the assistance of a small staff of lawyers, has the responsibility for conducting and supervising all aspects of government litigation in the Supreme Court of the United States. In addition, the Solicitor General must pass upon every case in which a decision is rendered in any court against the United States to determine whether the Government will appeal, and must decide whether the United States should file a brief as *amicus curiae* in any appellate court.

During the past term of the Supreme Court (June 29, 1970, to June 30, 1971), the Office handled 1,620 cases (appendix, table I), 38 percent of the 4,213 cases on the Court's docket, an increase of 8 percent over the last term, and 91 percent over the past 10 terms. Of the cases acted upon at the term, there were 1,194 in which the Government appeared as the respondent, 58 petitions for writs of certiorari filed or supported by the Government, and two cases in which it appeared as *amicus curiae* for the respondent (appendix, table II-A). During the same period the Court acted upon 23 appeals filed or supported by the Government and 39 cases where the Office either represented the appellee or appeared as *amicus* supporting the appellee (appendix, table II-B). In addition, it participated in 10 cases on the Court's original docket (appendix, table II-C).

Of the 3,011 petitions for writs of certiorari on the Court's docket, only 6 percent were granted during the term, but 79 percent of those filed or supported by the United States (excluding one protective petition which was denied when the opposing petition was likewise denied and one petition dismissed) were granted. Of the appeals filed or supported by the Government (excluding two appeals dismissed) 13, or 62 percent, were accepted by the Court for argument (appendix, tables II-A and II-B). Of the balance of eight cases on appeal, five resulted in summary reversal or vacation of the judgment below, and three were vacated and remanded for further consideration in the light of intervening decisions of the Court.

The Government appeared in 89 (59 percent) of the 151 cases argued on the merits before the Supreme

Court, three of which were carried over for reargument in the 1971 term. Of the cases decided on the merits, with or without argument, the Government participated in 150 of 329 cases, 67 percent of which were decided in favor of the Government's position and three of which were not classifiable.

Among the important cases in which the Government participated during the term were those involving the constitutionality of the Voting Rights Act Amendments of 1970 that lowered the voting age to 18, the authority of the Government to enjoin newspapers from publishing top secret documents relating to national security, the constitutionality of statutes prohibiting the importation and interstate distribution of obscene materials, the appropriate remedies in school desegregation cases, the constitutionality of the District of Columbia abortion law, the constitutionality of State procedures under which the determination whether to impose the death penalty was left to the absolute discretion of the jury (the United States participated as *amicus curiae*), the validity and constitutionality of the provision in the Selective Service Act granting exemption from military service as a conscientious objector only to persons opposed to war in general rather than to a particular war, the authority of national banks to operate collective investment funds, the validity under the Confrontation Clause of the Constitution of the admission in a criminal trial of a coconspirator's out-of-court statement, and the constitutionality of the statute providing for loss of citizenship for persons who, born abroad and one of whose parents is an American citizen, fail to reside continuously in the United States for 5 years between the ages of 14 and 28.

In addition to the cases before the Supreme Court, there were 592 cases in which the Solicitor General decided not to petition for certiorari and 19 cases in which a direct appeal was not taken; and there were 1,066 cases in which the Solicitor General was called upon to decide whether to authorize taking a case to one of the courts of appeals—a total of 3,377 substantive matters handled by the Office during the fiscal year.

Table I.—Office of the Solicitor General—Supreme Court Litigation, October Term, 1970 (June 29, 1970 to June 30, 1971)—Total cases

	1961		1962		1963		1964		1965		1966		1967		1968		1969		1970	
	Num- ber	Per- cent																		
1. Total number of cases on dockets.....	2,585	100	2,824	100	2,779	100	2,662	100	3,284	100	3,356	100	3,586	100	3,918	100	4,202	100	4,213	100
<i>a.</i> Brought over from preceding term.....	385	15	428	15	474	17	367	14	482	15	591	18	453	13	613	16	767	18	793	19
<i>b.</i> Docketed during the term.....	2,200	85	2,396	85	2,305	83	2,295	86	2,802	85	2,765	82	3,133	87	3,305	84	3,435	82	3,420	81
2. Disposition of cases on dockets at the term:																				
Total.....	2,585	100	2,824	100	2,779	100	2,662	100	3,284	100	3,356	100	3,586	100	3,918	100	4,202	100	4,213	100
<i>a.</i> Cases acted upon and closed.....	2,157	83	2,350	83	2,412	87	2,180	82	2,693	82	2,903	86	2,973	83	3,151	80	3,409	81	3,321	79
<i>b.</i> Cases acted upon but not closed.....	95	4	85	3	61	2	66	2	90	3	67	2	68	2	79	2	101	3	115	3
<i>c.</i> Cases docketed but not acted upon.....	333	13	389	14	306	11	416	16	501	15	386	12	545	15	688	18	692	16	777	18
<i>d.</i> Cases carried over to next term.....	428		474		367		482		591		453		613		767		793		892	
3. Cases carried over to next term.....	428		474		367		482		591		453		613		767		793		892	
4. Classification cases acted upon at the term:																				
Total.....	2,252	100	2,435	100	2,470	100	2,246	100	2,783	100	2,970	100	3,041	100	3,230	100	3,510	100	3,436	100
<i>a.</i> Certioraris.....	2,047	91	2,120	87	2,172	88	1,980	88	2,464	90	2,618	88	2,704	89	2,880	89	3,165	90	3,067	89
<i>b.</i> Appeals.....	114	5	160	7	147	6	115	5	164	5	170	6	173	6	187	6	214	6	263	8
<i>c.</i> Miscellaneous docket, original writs.....	89	4	145	6	148	6	146	7	138	5	175	6	158	5	158	5	119	4	91	3
<i>d.</i> Original docket.....	2		9		2		5		15		6		6		5		12		15	
<i>e.</i> Certifications.....	0		1		1		0		2		1		0		0		0		0	
5. Cases participated in by the Government.....	850	33	877	31	910	33	1,000	38	1,116	34	1,143	34	1,274	36	1,325	34	1,500	36	1,620	38
6. Cases not participated in by the Government.....	1,735	67	1,947	69	1,869	67	1,662	62	2,168	66	2,213	66	2,312	64	2,593	66	2,792	64	2,593	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 applications for stays, extensions of time, or similar matters, or denied petition for rehearing]

	1961		1962		1963		1964		1965		1966		1967		1968		1969		1970	
	Number	Per cent																		
A. PETITIONS FOR WRITS OF CERTIORARI																				
1. Total number docketed and acted upon.....	1,980	100	2,048	100	2,104	100	1,929	100	2,414	100	2,549	100	2,645	100	2,843	100	3,125	100	3,011	100
a. Petitions filed or supported by Government.....	35	2	33	2	34	2	46	2	33	1	37	1	55	2	35	1	49	2	58	2
(1) Government as petitioner.....	33	2	29	2	29	2	36	2	30	1	30	1	38	1	27	1	37	2	45	2
(2) Government as amicus, supporting petitioner.....	2		4		5		10		3		7		17	1	8		12		13	
b. Petitions not filed or supported by Government.....	1,945	98	2,015	98	2,070	98	1,883	98	2,381	99	2,512	99	2,590	98	2,808	99	3,076	98	2,953	98
(1) Government as respondent.....	610	31	590	29	642	31	676	36	802	34	804	32	887	34	950	33	1,076	34	1,194	40
(2) Government as amicus, supporting respondent.....	2		1		9		11		4		2		12		8	1	9		2	
(3) No participation by Government.....	1,333	67	1,424	69	1,419	67	1,196	62	1,575	65	1,706	67	1,691	64	1,850	65	1,991	64	1,757	58
2. Total number of petitions granted.....	140	7	207	10	188	9	137	7	180	7	185	7	271	10	192	7	169	5	196	6
a. Petitions filed or supported by Government.....	25	71	25	76	21	62	37	80	23	70	31	84	36	65	28	80	29	59	44	76
(1) Government as petitioner.....	23	70	21	72	16	55	29	81	21	70	25	83	24	63	22	81	19	51	31	69
(2) Government as amicus, supporting petitioner.....	2	100	4	100	5	100	8	80	2	67	6	86	12	71	6	75	10	83	13	100
b. Petitions not filed or supported by Government.....	115	6	182	9	167	8	100	5	157	7	154	6	235	9	164	6	140	5	152	5
(1) Government as respondent.....	44	7	42	7	41	7	33	5	58	7	45	6	93	10	66	7	61	6	53	4
(2) Government as amicus, supporting respondent.....	1	50	0		0		1	9	2	50	1	50	5	42	2	25	4	44		6
(3) No participation by Government.....	70	5	140	10	126	9	66	6	97	6	108	6	137	8	96	5	75	4	99	6
3. Total number of petitions denied or dismissed.....	1,827	92	1,839	90	1,899	90	1,781	92	2,214	92	2,347	92	2,356	89	2,632	92	2,923	94	2,793	93
a. Petitions filed or supported by Government.....	10	29	8	24	13	38	9	20	10	30	6	16	17	31	6	17	20	41	13	22
(1) Government as petitioner.....	10	30	8	28	13	45	7	19	9	30	5	17	12	32	5	19	18	49	13	29
(2) Government as amicus, supporting petitioner.....	0		0		0		2	20	1	33	1	14	5	20	1	13	2	17		
b. Petitions not filed or supported by Government.....	1,817	93	1,831	91	1,886	91	1,772	94	2,204	92	2,341	94	2,339	91	2,626	93	2,903	94	2,780	94
(1) Government as respondent.....	562	92	548	93	596	93	637	94	739	92	752	94	791	89	877	92	1,006	93	1,133	95
(2) Government as amicus, supporting respondent.....	1	50	1	100	9	100	10	91	2	50	1	50	7	58	6	75	3	33	2	100
(3) No participation by Government.....	1,254	94	1,282	90	1,281	90	1,125	94	1,463	93	1,588	94	1,541	91	1,743	94	1,894	95	1,645	94
4. Total number of petitions mooted or dismissed.....	13	1	2		17	1	11	1	20	1	17	1	18	1	19	1	33	1	22	1

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

NOTE.—Percentages based on participation.

Table II-B.—Office of the Solicitor General—Classification of Cases Upon Which the Supreme Court Has Acted

	1961		1962		1963		1964		1965		1966		1967		1968		1969		1970	
	Num-ber	Per-cent																		
B. APPEALS																				
1. Total number docketed and acted upon.....	88	100	126	100	122	100	98	100	145	100	146	100	161	100	165	100	193	100	227	100
a. Appeals filed or supported by Govern-ment:	16	18	15	12	13	11	11	11	17	12	11	8	15	9	8	5	24	12	23	10
(1) Government as appellant.....	12	14	15	12	9	8	9	9	17	12	9	6	11	7	5	3	20	10	20	9
(2) Government as amicus, supporting appellant.....	4	4	0		4	3	2	2	0		2	2	4	2	3	2	4	2	3	1
b. Appeals not filed or supported by Govern-ment:	72	82	111	88	109	89	87	89	128	88	135	92	146	91	157	95	169	88	204	90
(1) Government as appellee.....	19	22	23	18	24	20	24	25	32	22	43	29	49	30	39	23	36	19	27	12
(2) Government as amicus, supporting appellee.....	0		0		2	1	1	1	1		3	2	1	1	3	2	5	2	12	5
(3) No participation by Government.....	53	60	88	70	83	68	62	63	95	66	89	61	96	60	115	70	128	67	165	73
2. Total number dismissed, affirmed or reversed without argument.....	53	60	90	71	92	75	67	68	101	70	114	78	106	66	112	68	130	67	168	74
a. Appeals filed or supported by Govern-ment:	2	12	4	27	4	31	2	18	4	24	4	37	3	20	2	25	8	33	10	43
(1) Government as appellant.....	2	17	4	27	1	11	2	22	4	24	4	44	3	27	2	40	8	40	9	45
(2) Government as amicus, supporting appellant.....	0		0		3	75	0		0		0		0		0		0		1	33
b. Appeals not filed or supported by Govern-ment:	51	71	86	97	88	81	65	75	97	76	110	81	103	71	110	70	122	72	158	77
(1) Government as appellee.....	11	58	21	91	20	83	16	67	23	87	36	84	33	67	30	77	27	75	25	93
(2) Government as amicus, supporting appellee.....	0		0		1	50	0		1	100	0		0		2	67	1	20	3	25
(3) No participation by Government.....	40	75	65	74	67	81	49	79	68	72	74	53	70	73	78	68	94	73	130	79
3. Total number jurisdiction noted or set for argument.....	35	40	36	29	30	25	31	32	44	30	32	22	55	34	53	32	63	33	59	26
a. Appeals filed or supported by Govern-ment:	14	88	11	73	9	69	9	82	13	76	7	63	12	80	6	75	16	67	13	57
(1) Government as appellant.....	10	83	11	73	8	89	7	78	13	76	5	56	8	73	3	60	12	60	11	55
(2) Government as amicus, supporting appellant.....	4	100	0		1	25	2	100	0		2	100	4	100	3	100	4	100	2	67
b. Appeals not filed or supported by Govern-ment:	21	29	25	23	21	19	22	25	31	24	25	19	43	29	47	30	47	28	46	23
(1) Government as appellee.....	8	42	2	9	4	17	8	33	4	13	7	16	16	33	9	23	9	25	2	7
(2) Government as amicus, supporting appellee.....	0		0		1	50	1	100	0		3	100	1	100	1	33	4	80	9	75
(3) No participation by Government.....	13	25	23	26	16	19	13	21	27	28	15	17	26	27	37	32	34	27	35	21

NOTE.—Percentages based on participation.

Table II-C, D, E.—Office of the Solicitor General—Classification of Cases Upon Which the Supreme Court Has Acted

	1961		1962		1963		1964		1965		1966		1967		1968		1969		1970	
	Number	Percent																		
C. MISCELLANEOUS DOCKET—ORIGINAL WRITS																				
1. Total number of applications for original writs docketed and acted upon.....	87	100	144	100	148	100	146	100	138	100	173	100	158	100	158	100	119	100	90	100
a. Filed or supported by Government.....	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----
(1) Government as petitioner.....	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----
(2) Government as amicus, supporting petitioner.....	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----
b. Not filed or supported by Government.....	87	100	144	100	148	100	146	100	138	100	173	100	158	100	158	100	119	100	90	100
(1) Government as respondent.....	23	26	42	29	16	11	29	20	33	24	34	20	26	16	40	25	36	30	22	24
(2) Government as amicus, supporting respondent.....	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----
(3) No participation by Government.....	64	74	102	71	132	89	117	80	105	76	139	80	132	84	118	75	83	70	68	76
2. Total number decided without argument.....	86	100	144	100	148	100	146	100	138	100	173	100	158	100	157	99	118	99	90	100
a. Filed or supported by Government.....	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----
(1) Government as petitioner.....	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----
(2) Government as amicus, supporting petitioner.....	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----
b. Not filed or supported by Government.....	86	99	144	100	148	100	146	100	138	100	173	100	158	100	157	99	118	99	90	100
(1) Government as respondent.....	22	25	42	29	16	11	29	20	33	24	34	20	26	16	39	24	35	29	22	24
(2) Government as amicus, supporting respondent.....	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----
(3) No participation by Government.....	64	74	102	71	132	89	117	80	105	76	139	80	132	84	118	75	83	70	68	76
3. Total argued or set for argument.....	1	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	1	-----	1	-----
a. Filed or supported by Government.....	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----
(1) Government as petitioner.....	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----
(2) Government as amicus, supporting petitioner.....	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----
b. Not filed or supported by Government.....	1	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	1	-----	1	-----
(1) Government as respondent.....	1	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	1	-----	1	-----
(2) Government as amicus, supporting respondent.....	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----
(3) No participation by Government.....	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	1	-----
D. ORIGINAL DOCKET																				
1. Total number acted upon.....	2	100	5	100	5	100	5	100	15	100	6	100	6	100	5	100	12	100	15	100
a. Government participating.....	1	50	4	80	2	40	1	20	11	73	5	83	3	50	3	60	6	50	10	67
b. Government not participating.....	1	50	1	20	3	60	4	80	4	27	1	17	3	50	2	40	6	50	5	33
E. CERTIFICATES																				
1. Total number of certificates docketed and acted upon.....	0	-----	1	100	1	100	0	-----	2	100	1	100	0	-----	0	-----	0	-----	0	-----
a. Government participating.....	0	-----	0	-----	1	100	0	-----	2	100	1	100	0	-----	0	-----	0	-----	0	-----
b. Government not participating.....	0	-----	1	100	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----	0	-----

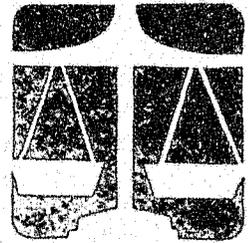
Table III.—Office of the Solicitor General—Classification of Supreme Court Cases Argued or Decided on Merits

	1961		1962		1963		1964		1965		1966		1967		1968		1969		1970	
	Number	Per cent																		
A. ARGUED																				
1. All cases argued.....	136	100	150	100	144	100	122	100	131	100	150	100	179	100	139	100	144	100	151	100
2. Government participating.....	76	56	81	54	83	58	70	57	76	58	77	51	115	64	68	49	73	51	89	59
a. Government as petitioner or appellant.....	22	16	27	18	32	22	33	27	35	27	30	20	33	18	25	18	26	18	33	22
b. Government as respondent or appellee.....	45	34	35	23	23	16	21	17	30	23	37	25	63	35	29	21	37	26	30	20
c. Government as amicus.....	9	6	19	13	28	20	16	13	11	8	10	6	19	11	14	10	10	7	26	17
3. Government not participating.....	60	44	69	46	61	42	52	43	55	42	73	49	64	36	71	51	71	49	62	41
B. DECIDED ON MERITS WITH OR WITHOUT ARGUMENT																				
1. All cases decided on merits ¹	176	100	230	100	269	100	234	100	282	100	307	100	369	100	258	100	239	100	329	100
2. Government participating.....	106	60	125	45	114	42	104	44	133	47	127	41	200	54	130	50	133	56	150	46
a. Decided in favor of Gov't position ²	60	57	86	69	78	69	78	75	81	61	95	75	126	63	83	64	77	58	100	67
b. Decided against Government's position ²	24	22	26	21	30	26	25	25	51	38	31	24	72	36	47	36	52	39	47	31
c. Not classifiable as for or against ²	22	21	13	10	6	5	1	-----	1	1	1	1	2	1	0	-----	4	3	3	2
3. No participation by Government.....	70	40	155	55	155	58	130	56	149	53	180	59	169	46	128	50	106	44	179	54

¹ Includes cases summarily affirmed, reversed or vacated on the miscellaneous docket.² Percentage is based on the total cases in which the Government participated.³ Includes 16 consolidated cases which constitute four groups of cases arising from lower court decisions in which the Government was a party; and one case dismissed on jurisdictional grounds after argument.

office of legal counsel

William H. Rehnquist/Assistant Attorney General



The Attorney General is required by law to render his opinion on legal questions at the request of the President, the heads of the executive and military departments, and the Administrator of Veterans' Affairs. He also issues opinions upon review of decisions by the Board of Immigration Appeals.

A principal mission of the Office of Legal Counsel is to assist the Attorney General in discharging these responsibilities. Under his direction the Office drafts the formal opinions of the Attorney General on a variety of significant and complex constitutional, statutory, and other legal questions involving the operation of the executive branch.

The Office also has certain ancillary functions:

Opinions and other legal advice.—Apart from the above mentioned work on formal opinions, the Office frequently renders legal views sought by the chief legal officers and other officials of the various departments and agencies on an informal basis.

The opinions and advice given by the Office encompass the whole range of legal problems which arise in the executive branch of the Federal Government. These include important problems whose solutions have not been resolved after they have been carefully considered by the legal staff of the affected department or agency. In other cases they cover matters on which two or more agencies have come to diverse legal conclusions.

The Office rendered 191 opinions of these kinds during the fiscal year.

The Office of Legal Counsel also serves as "house counsel" to the several divisions and bureaus of the Department of Justice on questions of law arising in the internal administration of the Department and in matters involving the Department of Justice and other agencies. During the fiscal year, 514 such intra-departmental opinions were prepared.

Executive orders, proclamations and regulations.—Under a procedure established by the President, the Director of the Office of Management and Budget channels all proposed Executive orders and proclamations to the Attorney General for his approval as to form and legality before they are issued. Review of these documents under the Attorney General's direction has been assigned by him to the Office of Legal Coun-

sel. During the fiscal year the Office passed upon 130 orders and proclamations. In this connection the Office also is frequently consulted by various departments and agencies concerning the use in particular circumstances of a proposed Executive order or proclamation, as well as for assistance in preliminary drafting.

Miscellaneous assignments.—In addition to the matters mentioned above, the Office of Legal Counsel handles numerous miscellaneous special assignments. These emanate from the White House, the Office of Management and Budget, the Attorney General, and the Deputy Attorney General.

The Office reviews as to form and legality all proposed regulations and orders to be issued by the Attorney General. Agency regulations and orders which require the approval of the President are reviewed by the Office upon submission by the Office of Management and Budget.

The Office reviews proposed legislation for the President's legislative program. It also comments upon proposed legislation referred to the Department by various committees of Congress.

Under the President's memorandum of March 24, 1969, establishing a procedure to govern compliance with congressional demands for information, the Office processes any matter in which the head of an executive department or agency believes that a request of a congressional committee raises the possible need for invoking the claim of executive privilege. The Office also handles matters involving the conflict of interest laws (18 U.S.C. 201 et seq.) which are presented by officials of the executive departments and agencies, and also matters arising under the Freedom of Information Act (5 U.S.C. 552). Many of these involve substantial legal problems.

During the past fiscal year the Office handled 1,994 such special assignments.

The Office of Legal Counsel is the liaison and coordinator for the Department of Justice with the Department of State in regard to United Nations affairs and matters involving other international organizations of which the United States is a member. The Office also reviews proposed conventions and treaties prior to their submission to the Senate for its advice and

consent, and on occasion assists the Department of State in considering their legal aspects during negotiation. It also participates on behalf of the Department of Justice in interdepartmental committees concerned with international matters, such as human rights and international aviation.

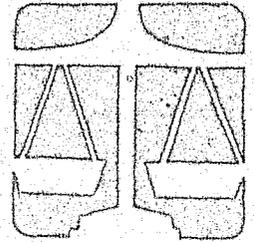
The Office acts as liaison for cooperation with the Council of State Governments and other bodies concerned with Federal-State relations.

During the year the Office of Legal Counsel rep-

resented the Attorney General on various interdepartmental committees. These included the Administrative Committee of the Federal Register, the Board of Trustees of the National Trust for Historical Preservation, and the Interdepartmental Committee on the Status of Women. A member of the staff has been designated by the Attorney General to represent him on the American Revolution Bicentennial Commission, established by statute to plan and organize appropriate observances of the 200th year of independence.

antitrust division

Richard W. McLaren/Assistant Attorney General



In the past fiscal year, the Antitrust Division has continued on three basic fronts in its program to foster competition in the domestic and foreign commerce of the United States. First, the Division seeks to protect the economy from price fixing and other business practices which deny the benefits of competition to the American economy. Second, the Division attempts to preserve a competitive market structure by challenging mergers which would reduce competition in a given market. Finally, the Antitrust Division appears before regulatory agencies to advocate competition as a critical factor which these agencies must consider in making regulatory decisions.

In fiscal year 1971, the Division filed 64 antitrust cases (52 civil and 12 criminal) in the Federal District Courts, as compared with 59 (54 civil and five criminal) in the prior year. Among the cases filed in fiscal 1971, 24 involved mergers, 23 challenged price fixing, and 17 involved monopolization charges. Eight of the 24 merger cases challenged bank mergers.

In the past fiscal year, 54 antitrust actions (44 civil and 10 criminal) were terminated. There were three additional cases in which consent decrees were signed by one or more, but not all, of the defendants or in which suits were settled, but not terminated, due to the customary 30-day waiting period between the time the decree is lodged with the court and the entry of the decree. Of the 44 civil cases closed, the Government won 42, lost one and dismissed one. The Government won nine criminal cases and lost one. Fines and damages imposed on defendants in Government criminal and civil antitrust actions totaled \$847,306. In the criminal case of *United States v. Charles W. Benjamin, et al.*, one defendant was given a 1-year jail sentence, suspended except for 3 months, and 3 years probation; a second defendant was also given a 1-year jail sentence, suspended except for 1 month, and 3 years probation.

At the end of June 1971, there were 112 antitrust cases pending (96 civil and 16 criminal) compared to 102 cases pending in June 1970 (88 civil and 14 criminal).

Two antitrust cases were appealed to the Supreme Court in fiscal 1970. In the one appeal terminated by

decision of the court in fiscal 1971, a decision was entered in favor of the Government.

In support of its mandate to preserve competition, the Division has proceeded vigorously to identify antitrust violators. In fiscal 1971, the Division issued 135 civil investigative demands involving suspected unlawful conduct or merger activity, as compared with 124 such demands issued in 1970. A civil investigative demand is similar to a subpoena and requires a firm under investigation to produce, for inspection and copying, documents relevant to the matter under investigation. Also in fiscal 1971, the Division commenced 43 grand jury investigations. Twenty-six such investigations were commenced in the prior year.

ACTION AGAINST ANTICOMPETITIVE CONDUCT

Fiscal 1971 saw the Division continuing its efforts to eliminate business conduct designed to limit or destroy competition. Such conduct often takes the form of price-fixing or market allocations among competitors. However, more subtle forms of restraint on competition—such as systematic reciprocity—have evolved over the years. The Division in the last several years has challenged these practices as well. Important cases brought by the Division in fiscal 1971 include the following:

United States v. The Standard Oil Company.—On September 18, 1970, a civil complaint was filed in the U.S. District Court in Cleveland, Ohio, charging that the Standard Oil Co. of Ohio (Sohio) had engaged in an unlawful combination and conspiracy through a series of written agreements with its commission managers, who operate a number of Sohio retail stations, in violation of section 1 of the Sherman Act.

The suit challenges agreements which provide that the Commission managers will sell gasoline and other service station products obtained from Sohio and will perform authorized customer services only at prices fixed by Sohio, and that the commission managers can purchase for resale only products which have been approved by Sohio. Commission managers are sepa-

rate from Sohio in that they assume the risks of independent businessmen rather than operating simply as employees of Sohio.

Sohio accounts for approximately 30 percent of the motor fuel sold in Ohio. Of the 2,116 service stations owned or leased by Sohio, 104 are operated under commission manager agreements, 382 are company-owned stations, and the remaining stations are leased independently. In 1969, Sohio and its subsidiaries had total sales and revenues in excess of \$1.4 billion.

The suit asked that Sohio be enjoined from fixing the prices of goods and services and from restricting the products and services such stations can offer for sale.

United States v. Atlanta Real Estate Board.—On February 17, 1971, the Division commenced its fifth action in a little over a year against price-fixing conspiracies among real estate brokers. The suit was filed in Atlanta, Ga., charging the Atlanta Real Estate Board with fixing commission rates on the sale of property.

The suit charged the Atlanta board and its more than 950 members with combining to fix brokerage commissions and fees in connection with the sale, lease, and management of real estate in the Atlanta area, in violation of section 1 of the Sherman Act.

The complaint alleged that the board and its members had agreed to uniform rates of commissions and fees, which are published, circulated, and adhered to by the members, and that they have agreed upon uniform rates of commissions and fees. As a result, the complaint asserted, commissions and fees had been fixed at a noncompetitive level and price competition among board members had been eliminated. The complaint alleged that in 1969, board members negotiated and arranged the sale of residential property having a value of \$257 million.

The suit asked that the Board and its members be enjoined from agreeing upon, publishing or adhering to recommended commission rates.

United States v. The American Society of Mechanical Engineers.—The Division's antitrust enforcement is also directed to efforts which permit foreign companies to compete in U.S. markets. Agreements among U.S. firms to exclude foreign competitors are illegal and will be challenged.

On July 22, 1970, the Government filed a civil injunction action against the American Society of Mechanical Engineers (ASME) and the National Board of Boiler and Pressure Vessel Inspectors (National Board), charging that they have combined and conspired to restrain the importation of foreign-made boilers and pressure vessels in violation of sections 1 and 2 of the Sherman Act. Sales of boilers and pressure vessels in the United States are over \$1 billion annually.

The ASME, a nonprofit membership corporation, is the national professional association for mechanical en-

gineers. The majority of the membership of the Boiler and Pressure Vessel Committee of the ASME (which committee has primary responsibility in the ASME for boilers and pressure vessels) is composed of engineers either employed by or associated with domestic boiler manufacturers, companies which sell supplies to domestic manufacturers, or insurance companies which do business with such manufacturers. The National Board is a private unincorporated association whose membership consists of the chief boiler inspectors of various States and municipalities. They maintain a close liaison with members and officials of the ASME Boiler and Pressure Vessel Committee.

The complaint alleged that the defendants have consistently refused to authorize use of their respective stamps (i.e., seals of approval) to qualified foreign manufacturers of boilers and pressure vessels. Many foreign boiler manufacturers have demonstrated their technical and manufacturing capability to satisfy ASME technical standards. These stamps have over the many years of their use acquired enormous commercial value and legal significance as shorthand symbols of quality. Many States and municipalities consider vessels bearing the ASME and/or National Board stamps as presumptively complying with their safety standards and do not require the detailed proof of safety required of vessels which do not bear these stamps. Many industrial purchasers of pressure vessels also require that vessels they intend to buy bear the ASME stamp.

The suit also alleged that the National Board consistently refused to register foreign-made boilers and pressure vessels. Registration with the National Board facilitates the reciprocal acceptance of vessels which have been approved by one State and then moved to another.

The complaint charges that these practices of the ASME and the National Board are arbitrary and unreasonable and seeks a permanent injunction to end this discrimination. It alleges that American purchasers of boilers and pressure vessels have been deprived of product options with respect to price, design, and quality which would otherwise be available to them.

United States v. General Adjustment Bureau.—On March 11, 1971, the Department filed a civil antitrust suit in the U.S. District Court in New York City, charging the Nation's largest insurance adjusting organization with illegally restraining trade in the business of adjustment and settlement of property damage insurance claims. A proposed consent judgment was also filed at the same time.

The suit charged that GAB, all of whose stock is owned by approximately 170 insurance companies, combined and conspired with its shareholders to cause them to utilize GAB's adjusting facilities, boycott independent adjusters, coerce and intimidate agents to channel claims to GAB, and adhere to GAB's billing

schedules in dealings with independent adjusters.

It also charged that GAB and its shareholders formulated uniform price lists for labor and material used in the replacement and repair of damaged property and established uniform practices and procedures to be used in the adjustment and settlement of claims.

In addition, the complaint said the alleged conspiracy had the effect of eliminating competition among the shareholder insurance companies of GAB in the adjustment and settlement of property damage insurance claims and denying to those insured the benefits of such competition.

It also alleged that independent adjusters were foreclosed from a substantial segment of the business of adjusting property damage claims and that agents representing the shareholder insurance companies of GAB were restricted to the use of GAB facilities. The suit said the alleged conspiracy violated sections 1 and 3 of the Sherman Act.

The proposed consent judgment requires that 62 shareholders owning or controlling 82 percent of the total outstanding stock in GAB must, within 90 days from the date of entry of the judgment, place their GAB stock in trust, and the trustee is required to divest the stock within 4 years.

The proposed judgment forbids GAB, after 4 years, from doing business with any of its present shareholders who to the knowledge of GAB own or control any shares of GAB's stock or have any other financial interest in GAB and prohibits GAB from making services available to its shareholders at rates lower than those offered to any other person.

It also prohibits GAB from acting in concert with any insurance company to coerce firms to do business with GAB or to boycott other adjusters. It further provides that GAB and insurance companies may not agree that fees paid to any other adjuster shall be based on GAB's charges.

With certain specified exceptions, GAB would also be prohibited from acting in concert with others to establish uniform practices and procedures to be used in adjusting and settling claims and from acting in concert with any supplier of labor and materials to fix the price paid for materials and labor used in repairing and replacing damaged property.

GAB, which has more than 700 branch offices throughout the United States, employs 3,500 claims adjusters. In 1968, GAB adjusted 1,077,672 property damage claims, resulting in paid losses of more than \$1 billion.

United States v. National Association for Air Freight, Inc.—On May 13, 1971, a Federal grand jury in Brooklyn, N.Y., indicted more than a dozen trucking firms in New York and New Jersey on charges of violating antitrust laws in connection with the delivery of air freight coming into Kennedy International Airport from abroad. These cases were developed by the

efforts of the Justice Department's strike force on organized crime.

One indictment named an association of airfreight trucking firms, 12 of its member firms, and four officials as defendants on conspiracy charges. They were accused of conspiring to allocate customers, impose a uniform surcharge for picking up freight, and boycotting international air carriers at the airport.

A companion civil suit was filed by the Department of Justice, naming only the association and the corporations as defendants. It seeks to enjoin continuation of the alleged conspiracy.

The same grand jury also returned an indictment charging three trucking firms and two officers of the firms with rate-fixing in connection with deliveries of import airfreight from Kennedy Airport to New Jersey.

The complaint alleged that the effects of the alleged conspiracies had been to restrain competition among the defendant and coconspirator trucking firms in the transportation of import airfreight, and to impede the flow of such freight to consignees in the New York metropolitan area and New Jersey.

The first indictment charged that the conspiracy had existed since about 1960, and that in 1969 the defendant firms received about \$3.7 million for making deliveries of import airfreight to customers in the New York metropolitan area.

In the civil suit, the Department asked that the defendants be perpetually enjoined from continuing the conspiracy or from engaging in practices having a similar purpose or effect. The complaint also asks that the association be dissolved and that the defendants be perpetually enjoined from establishing any organization having a similar purpose or effect.

The second indictment charged that the defendants and co-conspirators have agreed since about 1966 to raise, fix, and maintain rates for providing import airfreight trucking services from Kennedy Airport to New Jersey. The suits alleged that the defendant and co-conspirator trucking firms perform almost all of the deliveries of import airfreight to consignees located in New Jersey and received approximately \$500,000 in payments for providing such services in 1969.

Maximum penalty upon conviction of the association or the corporations named in each indictment is a \$50,000 fine, and for the individuals, a year in prison and a \$50,000 fine.

United States v. Ross Trucking, Inc.—On September 28, 1970, a civil complaint was filed in the Eastern District of New York naming Standard Fruit & Steamship Co. and Ross Trucking, Inc., as defendants, and charging them with conspiring to violate section 1 of the Sherman Act.

The complaint stated that Standard is the second largest importer of bananas in the Nation. Ross is a trucking firm which carts bananas from piers in the Port of New York to local jobbers and supermarkets.

The complaint alleged that Standard and Ross have had a continuing agreement and understanding since before 1957, pursuant to which all of Standard's customers located in the Metropolitan New York area have been required, as a condition of purchasing bananas from Standard, to hire Ross to cart their bananas from the piers to their respective warehouses. It is alleged that these customers have not been permitted to use their own vehicles, or those of any other trucking firm, for such carting, even though title passes to the jobber or supermarket when the bananas leave the pier and the customer must bear the carting expense. As a result, competition among trucking firms for the business of carting Standard's bananas in the Metropolitan New York area has been eliminated.

Since 1965 Ross has, pursuant to the conspiracy, carted over 8 million boxes of Standard's bananas, having a dollar value in excess of \$20 million, to customers in the Metropolitan New York area. The complaint sought to enjoin the defendants from conditioning the sale of bananas on the use of a designated trucking firm, and to permit customers to use their own vehicles or those of any trucking firm of their own choosing to cart their bananas.

Reciprocity

During 1971, the Antitrust Division maintained its challenge to systematic reciprocity, involving a company's use of large-scale purchasing power to promote sales. Examples of reciprocity cases are set forth below.

United States v. PPG Industries, Inc.—On November 6, 1970, a civil complaint was filed in the U.S. District Court for the Western District of Pennsylvania, together with a proposed consent judgment.

The complaint alleged that since 1958 PPG Industries, Inc., has entered into combinations with various suppliers to restrain trade by reciprocating purchases in violation of section 1 of the Sherman Act. The complaint also alleged that since 1958 PPG has used its purchasing power to promote sales in an attempt to monopolize the requirements of actual and potential supplier-customers of PPG for the products of PPG, thereby violating section 2 of the Sherman Act.

PPG was charged in the complaint with compiling comparative purchase and sales data, and utilizing such data to determine which suppliers should be favored and the extent to which they should be permitted to participate in supplying PPG's requirements of goods and services. The complaint also charged PPG with discussing with actual and potential suppliers and customers their sales and purchase positions relative to PPG, and with purchasing goods and services from certain suppliers on the understanding that such suppliers would purchase goods from PPG, and refusing to buy or reducing purchases from certain suppliers who did not purchase, maintain purchases, or increase purchases from PPG.

The complaint alleged both that competitors of PPG have been foreclosed from selling substantial quantities of goods to supplier-customers of PPG and that actual and potential suppliers have been foreclosed from selling substantial quantities of goods and services to PPG.

The consent judgment would prohibit the purchase or sale of products on the condition or understanding that the supplier or customer will purchase from PPG. The judgment would also prohibit PPG from communicating to suppliers or contractors that it will give preference to those who purchase from PPG. Also prohibited is the practice of comparing or exchanging statistical data with any supplier or contractor to facilitate reciprocal purchasing arrangements, as is the practice of discussing with any supplier, contractor, or customer the relationship between purchases and sales between PPG and such other company. Also prohibited is the communication by PPG of purchases by it (or by a prime contractor making purchases on behalf of PPG) to any customer or supplier for the purpose of promoting sales to such customer or supplier.

"Secondary" reciprocity would be prohibited by provisions of the judgment preventing PPG from agreeing with particular suppliers that such suppliers will purchase from certain of PPG's customers or that such suppliers will attempt to persuade other companies to buy from PPG in order to reciprocate for purchases from such suppliers by PPG.

The judgment would also prohibit PPG from preparing or maintaining comparative purchase/sales statistics; issuing to personnel with primary purchasing responsibilities any types of lists or notices which identify customers and their purchases from PPG, or which specify or recommend that purchases be made from any such customer; issuing to personnel with primary sales responsibilities any types of lists or notices which pertain to purchases made by PPG from particular customers; and referring lists of bids received on capital expenditures to any personnel having primary sales responsibilities for recommendations for job placements.

PPG is ordered in the proposed judgment to refrain from continuing or establishing any office or position whose activities, programs or objectives are to promote reciprocity. The judgment requires PPG to issue a policy directive to each of its employees with sales or purchasing responsibilities outlining the prohibitions of the judgment and informing said employees that violation of the directive may subject the offender to punishment by the court for violation of the judgment.

PPG is also required to furnish to each supplier from whom it has purchased \$50,000 worth of products, goods or services during any of the years 1967 through 1969 a copy of the final judgment and written notice that PPG's employees are prohibited from purchasing or selling on the basis of reciprocity.

The proposed judgment would be in effect for 10 years.

United States v. Bethlehem Steel Corporation.—On November 10, 1970, a complaint and proposed final judgment were filed against the Bethlehem Steel Corp. in the District Court for the Eastern District of Pennsylvania. The complaint alleged that Bethlehem has, since 1956, entered into combinations with customers and suppliers to restrain trade by reciprocal purchase arrangements, in violation of section 1 of the Sherman Act. The complaint also charged a violation of section 2 of the Sherman Act by attempting to monopolize the requirements of Bethlehem's supplier-customers for steel and steel products.

The complaint alleged that Bethlehem made purchases on the understanding that the suppliers would reciprocate by purchasing from Bethlehem. The complaint also alleged that Bethlehem utilized comparative purchase and sales data in determining from which suppliers it should purchase and that it discussed such purchase and sales data with its suppliers and customers. In addition, the complaint alleged that Bethlehem refused to buy from suppliers who did not reciprocate by purchasing from Bethlehem.

The judgment would enjoin Bethlehem from entering into any understanding with suppliers or customers to reciprocate purchases. The judgment would further enjoin Bethlehem from directing or recommending to any joint venture which it does not control where it shall place its purchases. Bethlehem is prohibited from engaging in the practice of discussing with any supplier, contractor or customer the relationship between its purchases and sales and from comparing or exchanging purchase and sales data with any supplier or contractor to facilitate, further or ascertain any relationship between their purchases and sales. The defendant is also prohibited from communicating to its suppliers that it will give preference to those who purchase from Bethlehem.

The proposed judgment contains relief involving Bethlehem's internal operations. Bethlehem is enjoined from preparing or maintaining statistical compilations which compare purchases or sales. It is prohibited from engaging in the practice of issuing to personnel with primary purchasing responsibilities any form of notice which directly or indirectly identifies suppliers as customers and either discloses their purchases from Bethlehem or recommend that purchases be made from such customers. Likewise, Bethlehem is enjoined from engaging in the practice of issuing to personnel with primary sales responsibilities any form of notice which directly or indirectly identifies customers as suppliers and either disclose their sales to Bethlehem or recommends that purchases from Bethlehem be solicited from such customers.

The proposed judgment contains a provision not appearing in previous judgments. When a customer or

supplier inquires about its purchase and sales relationship with Bethlehem, the customer or supplier cannot be referred to any Bethlehem employee having primary sales responsibilities.

Bethlehem would be directed to abolish any positions or duties which relate to reciprocal purchasing arrangements and to refrain from establishing or maintaining any similar positions. The judgment directs Bethlehem to issue to its employees having sales or purchasing responsibilities a policy directive containing the usual provisions prohibiting such personnel from engaging in reciprocal trade relations practices.

The proposed judgment contains the customary requirements concerning notice to suppliers of the various provisions of the judgment and would be in effect for 10 years.

United States v. Kennecott Copper Corporation.—On January 11, 1971, a civil complaint was filed in the U.S. District Court for the Southern District of New York, together with a proposed consent judgment.

The complaint alleged that since 1956, Kennecott has entered into arrangements with various suppliers to restrain trade by reciprocating purchases in violation of section 1 of the Sherman Act. It also alleged that Kennecott has used its purchasing power to promote sales in an attempt to monopolize the requirements of actual and potential supplier-customers for products produced by the company in violation of section 2.

Kennecott was charged in the complaint with compiling comparative purchase and sales data, and utilizing such data to determine which suppliers should be favored and the extent to which they should be permitted to participate in supplying Kennecott's requirements of goods and services. The complaint also charged Kennecott with discussing with actual and potential suppliers and customers their sales and purchase positions relative to Kennecott, and with purchasing goods and services from certain suppliers on the understanding that such suppliers would purchase goods from Kennecott, and refusing to buy or reducing purchases from certain suppliers who did not purchase, maintain purchases, or increase purchases from Kennecott.

The complaint alleged both that competitors of Kennecott have been foreclosed from selling substantial quantities of goods to supplier-customers of Kennecott and that actual and potential suppliers have been foreclosed from selling substantial quantities of goods and services to Kennecott.

The proposed consent judgment prohibits the purchase or sale of products on the condition or understanding that the supplier or customer will purchase from Kennecott. The judgment also prohibits Kennecott from communicating to suppliers or contractors that it will give preference to those who purchase from Kennecott. Also prohibited is the practice of comparing or exchanging statistical data with any supplier, contractor or customer to facilitate reciprocal purchasing

arrangements, as is the practice of discussing with any supplier, contractor or customer the relationship between purchases and sales between Kennecott and such other company. The judgment also prohibits Kennecott from communicating purchases by it to any customer or supplier for the purpose of promoting sales to such customer or supplier.

Other provisions of the proposed judgment prohibit "secondary" reciprocity. Kennecott is enjoined from agreeing with particular suppliers that such suppliers will purchase from certain of Kennecott's customers or that such suppliers will attempt to persuade other companies to buy from Kennecott in order to reciprocate for purchases from such suppliers by Kennecott.

The proposed judgment also prohibits Kennecott from preparing or maintaining comparative purchase/sales statistics; issuing to personnel with primary purchasing responsibilities any types of lists or notices which identify customers and their purchases from Kennecott, or which specify or recommend that purchases be made from any such customer; issuing to personnel with primary sales responsibilities any types of lists or notices which pertain to purchases made by Kennecott from particular customers; and referring lists of bids received on capital expenditures to any personnel having primary sales responsibilities.

Kennecott would be ordered by the judgment to refrain from continuing or establishing any office or position whose activities, programs or objectives are to promote reciprocity. The judgment requires Kennecott to issue a policy directive to each of its employees with sales or purchasing responsibilities outlining the prohibitions of the judgment and informing its employees that violation of the directive may subject the offender to punishment by the court for violation of the judgment.

Kennecott would also be required to furnish to each supplier from whom it has purchased \$25,000 worth of products, goods or services during any of the years 1967 through 1969 a copy of the final judgment and written notice that Kennecott's employees are prohibited from purchasing or selling on the basis of reciprocity.

The proposed judgment would be in effect for 10 years. Kennecott is to file with the Antitrust Division on each anniversary date of the judgment a report setting forth the steps which it has taken during the prior year to advise its appropriate officers, directors and employees of its and their obligations under the judgment.

United States v. Aluminum Company of America.—On May 26, 1971, the Department of Justice filed a civil antitrust suit in Pittsburgh, Pa., charging Aluminum Co. of America, the largest domestic producer of aluminum, with using reciprocal purchasing arrangements with customers and suppliers in violation of the Sherman Act.

The suit charged that Alcoa, which has its headquarters in Pittsburgh, has since at least 1960 entered into arrangements with various suppliers to restrain trade through reciprocal purchasing in violation of section 1 of the Sherman Act. The suit also charged that Alcoa had used its purchasing power since at least 1960 to promote sales in an attempt to monopolize the requirements of actual and potential supplier-customers for aluminum and other products sold by the company, in violation of section 2 of the act.

The violations, the suit said, have had the effect of foreclosing competitors of Alcoa from selling substantial quantities of goods and services to the firm's customers, and of preventing companies that do not buy from Alcoa from supplying goods and services to Alcoa.

A proposed consent judgment filed with the complaint would be in effect for 10 years. The judgment would prohibit Alcoa from purchasing products or services from any supplier on the condition that such supplier make purchases from Alcoa. It also prohibits Alcoa from discussing with any supplier or contractor the relationship of purchases and sales between them or from comparing statistical data to further such a relationship. The firm is further prohibited from maintaining statistical compilations that compare sales to and purchases from suppliers.

Alcoa would also be prohibited from communicating to actual or potential suppliers or contractors that preference will be given in purchasing products or services from them based on Alcoa's sales to them. In addition, Alcoa is prohibited from agreeing with any supplier that the supplier will buy from certain customers of Alcoa, or will attempt to persuade other companies to buy from Alcoa.

Alcoa is directed by the proposed consent judgment to refrain from establishing or maintaining any office or position whose activities, programs or objectives are to promote trade relations involving reciprocal purchasing arrangements.

In 1969, Alcoa had total sales of more than \$1.5 billion and accounted for approximately 40 percent of the total primary aluminum production in the United States.

ACTION AGAINST MERGERS AND ACQUISITIONS

United States v. White Consolidated Industries, Inc.—In fiscal 1971, the Division continued its challenge against conglomerate mergers. On January 27, 1971, the Department filed a civil antitrust suit in the U.S. District Court in Cleveland, to prevent White Consolidated Industries, Inc., of Cleveland, Ohio, from merging with White Motor Corp., also of Cleveland.

The suit asked for a temporary restraining order

and preliminary injunction blocking consummation of the merger, which was scheduled to occur on Friday, January 29, until a final determination of the suit had been made. The complaint also asked for a permanent injunction against a merger of the two firms.

The complaint charged that the proposed merger would violate section 7 of the Clayton Act by eliminating actual competition between White Motor and Allis-Chalmers Manufacturing Co., a firm in which about 25 percent of the outstanding stock is owned by White Consolidated, by foreclosing competitors of White Consolidated from selling to the merged firms, and by creating an industry structure conducive to the employment of reciprocal trading practices.

The suit also charged that the merger of White Consolidated and White Motor, two large manufacturing firms with a significant portion of their businesses devoted to the production and sale of nonelectrical machinery, would encourage the trend of mergers of large firms, thereby increasing the concentration of control of manufacturing assets, and particularly those assets devoted to the manufacture of nonelectrical machinery.

Such a merger also would reduce, according to the suit, the number of firms capable of entering concentrated markets, reduce the number of firms with the capability and incentive for competitive innovation, increase the barriers to entry in concentrated markets and diminish the vigor of competition by increasing actual and potential customer-supplier relationships among leading firms in concentrated markets.

In 1969, White Consolidated, with sales of \$767.6 million and assets of \$666.8 million, ranked as the Nation's 146th largest industrial corporation in sales and 142d largest in assets. It is engaged in producing and selling a variety of products, including appliances, heavy machinery, and other types of equipment, for the home, industry, and commerce. About 47 percent of the sales of its domestic manufacturing plants is derived from the sale of nonelectrical equipment.

White Motor, with \$950.5 million in sales and \$558.8 million in assets, was the Nation's 118th largest industrial corporation in sales and 168th largest in assets in 1969. It is engaged in producing and selling heavy-duty trucks, farm machinery and equipment, and construction and industrial equipment. About 45 percent of the sales of its domestic manufacturing plants is derived from the sale of nonelectrical equipment.

White Motor and Allis-Chalmers, in which White Consolidated acquired its 25 percent interest in 1968, were direct competitors in the manufacture and sale of farm machinery and equipment, industrial forklifts, lift trucks, and several other products.

The complaint alleged that as a result of the merger, substantial actual competition between Allis-Chalmers and White Motor in these product lines may be eliminated. Total sales of farm machinery and equipment in the United States in 1969 were \$3.5 billion, of which

Allis-Chalmers had \$179.6 million and White Motor had \$98 million.

The complaint also alleged that as a result of the merger White Motor would be foreclosed as a customer for heating and ventilating units for use in trucks and farm and construction vehicles. Total sales of these units in 1969 amounted to about \$30 million, with White Consolidated accounting for about 7.9 percent of these sales and White Motor accounting for 8.8 percent of the purchases of these units.

The complaint further charged that the proposed merger would increase White Consolidated's power to employ reciprocity and benefit from reciprocity effect in the sale of rolling mills, rolls, and finishing and processing lines to the steel industry. The increased power, according to the complaint, would flow from the addition of White Motor's substantial steel purchases to those already made by White Consolidated, and would have the effect of narrowing the markets for White Consolidated's competitors in this field.

The Federal District Court granted the Division's motion for a preliminary injunction against the acquisition and in doing so, adopted the basic theories of the Division on the conglomerate aspects of the case. The proposed merger was subsequently abandoned.

United States v. Asiatic Petroleum Corporation.—On December 8, 1970, the Government sued Asiatic Petroleum Corp. with respect to its acquisition of Sprague, a fuel oil wholesaler and retailer in New England. The complaint charged that the acquisition of Sprague on June 9, 1969, by Asiatic, one of the Royal Dutch/Shell group of companies, violated section 7 of the Clayton Act by eliminating competition between the companies in the fuel oil business. The complaint also alleged that the acquisition foreclosed fuel oil suppliers from a substantial share of the market, foreclosed fuel oil purchasers from a source of supply and increased concentration in the marketing of fuel oil in the New England States.

According to the complaint, Asiatic is a major supplier of residual, or heavy grade, fuel oil to New England deepwater terminal operators. As a result of the acquisition, Asiatic, which controlled 12.4 percent of sales of residual fuel oil to wholesale terminal operators in New England, now controls 11 percent of retail sales as well.

Sprague, one of only seven remaining independent deepwater residual fuel oil terminal operators before the acquisition, sold residual fuel oil and distillate, or light grade, fuel oil to jobbers, retailers, and consumers located throughout the New England area. The complaint also states that Sprague accounted for 11 percent of retail sales of residual fuel oil in New England, 72 percent of such sales in the tri-State area of Maine, Vermont, and New Hampshire, and 73 percent of such sales in Maine. The complaint further alleged

that Sprague, which controlled 15.7 percent of the sales of distillate fuel oil in New Hampshire, was eliminated by this acquisition as an independent competitor of Shell, an Asiatic affiliate, which controlled 4.4 percent of the sales of distillate in New Hampshire.

The complaint asked that the defendants be ordered to take all appropriate action for the complete restoration of Sprague as a substantial independent marketer of fuel oil. Pending final adjudication of the merits, the complaint requested that the court issue a preliminary injunction enjoining the defendants from further consolidating or intermingling the business operations and assets of the acquired business with those of Asiatic and from selling or disposing of any of Sprague's operations or assets.

United States v. R. J. Reynolds Tobacco Co.—On December 15, 1970, a civil antitrust suit was filed in the U.S. District Court in Newark, N.J., to prevent R. J. Reynolds Tobacco Co. from acquiring United States Lines, Inc., a containerized shipping company operating in the North Atlantic.

Reynolds owns a subsidiary called Sea-Land Service, Inc., which is the major competitor of United States Lines.

The complaint charged that Reynold's agreement with Walter Kidde & Co., Inc., owner of the United States Lines, would, if consummated, violate section 7 of the Clayton Act by eliminating competition between the two containerized operators. The steamship companies had filed their proposed merger agreements with the Federal Maritime Commission for approval of acquisition under the Shipping Act of 1916.

The complaint also charged that, as a result of a further agreement by Reynolds and Kidde on November 9, 1970, to otherwise dispose of United States Lines in the event its acquisition by Reynolds is frustrated, the two companies combined and contracted to unreasonably restrain interstate and foreign trade and commerce in the marine transportation of freight by full containership system in violation of section 1 of the Sherman Act.

According to the complaint, United States Lines and Sea-Land are the two leading operators of full containership systems in the foreign commerce of the United States. The full containership system is a highly automated mode of marine freight transportation permitting the shipment of freight in preloaded containers of up to 40 feet in length and utilizing specially constructed or converted vessels designed solely for carrying these containers.

The complaint alleged that Reynolds, Sea-Land, Kidde, United States Lines, and RJI Corp., a Reynolds subsidiary formed for the purpose of bringing about the acquisition, entered into a merger agreement on November 9, whereby Reynolds will acquire sole ownership and control of United States Lines.

The suit charged that the effect of this acquisition,

with respect to full containership freight transportation services in the foreign commerce of the United States, will be to eliminate actual and potential competition between United States Lines and Sea-Land, increase concentration and barriers to entry, and entrench and enhance Sea-Land's dominant position as the leading supplier of these services.

The suit also charged that Reynolds and Kidde entered into another agreement on November 9, which supplemented the merger agreement and under which Reynolds undertakes to provide for the sale of United States Lines in the event it fails in its attempt to acquire the Kidde subsidiary.

As a result of this supplemental agreement between Reynolds and Kidde, according to the complaint, Reynolds acquired control over the existence and disposition of United States Lines as a competitor, United States Lines suffered immediate and irreparable competitive injury and is threatened with ultimate elimination as an independent competitive force, and significant actual and potential competition between Sea-Land and United States Lines has been eliminated.

The suit asked the court to permanently enjoin Reynolds, Sea-Land, Kidde, United States Lines, and RJI Corp. from carrying out their merger agreement and asked that the supplemental agreement between Reynolds and Kidde be ordered rescinded. Pending a final disposition of the case, the suit asked for a preliminary injunction preventing the defendants from taking any action in furtherance of either the agreement of merger or the supplemental agreement.

At the time the complaint was filed, United States Lines controlled approximately 32.1 percent of the full containership capacity operating under the flag of the United States in the foreign commerce of this country. Sea-Land, which ranks second to United States Lines, controlled approximately 24.8 percent of the full containership capacity operating under the flag of the United States. Among full containership operators of all flags, United States Lines and Sea-Land also rank first and second, with 20.1 percent and 15.5 percent of all flag full containership capacity serving the foreign commerce of the United States.

On April 7, 1971, the district court ruled that the Federal Maritime Commission had no jurisdiction to pass on a merger agreement among the carriers and the Federal court had jurisdiction under section 7 of the Clayton and section 1 of the Sherman Act. Defendants are petitioning to the Supreme Court for writ of certiorari on this issue.

BANK MERGERS

Acquisitions in the banking industry in fiscal 1971 accounted for a major portion of cases brought by the Division. Examples of such cases are set forth below.

United States v. First National Bancorporation and

First National Bank of Greeley.—On July 8, 1970, the Department commenced an action in Colorado to challenge the acquisition of the second largest bank in Greeley by the second largest banking organization in Colorado, alleging the elimination of potential competition, the elimination of competition for correspondent banking services, entrenchment, and the triggering of other acquisitions resulting in a statewide oligopoly. The district judge held for the defendants after a trial on the merits. The Department is now considering an appeal.

United States v. The Owensboro National Bank.—On November 18, 1970, the Department brought an action against the acquisition of controlling stock interest in the largest bank in Owensboro by three individuals who already owned controlling stock interest in the second largest bank in Owensboro. The suit charged an elimination of direct competition resulting in a restraint of trade and monopolization. The case against the individuals was dismissed following the sale of their stock interest in the second largest bank. A motion to dismiss made by the bank is pending.

United States v. First National Bank of Atlanta.—On February 18, 1971, the Department commenced an action against the acquisition of stock of two suburban Atlanta banks by directors of one of the largest Atlanta banks. The Department alleged the elimination of actual and potential competition and significant increases in concentration. Defendants' motion to dismiss and sever is pending.

United States v. Washington Bancshares.—On May 25, 1971, the Department filed suit against acquisition of the only bank in Oroville by the fifth largest banking organization in Washington, which operated the only other bank in the Oroville-Tonasket area. The Department alleged the elimination of existing competition resulting in a monopoly. The merger was abandoned and the case was dismissed on July 2, 1971.

OLDER CASES CLOSED SUCCESSFULLY

United States v. General Tire and Rubber Company.—On August 24, 1970, a consent judgment was entered in Cleveland, Ohio, to prohibit the General Tire & Rubber Co. and three subsidiaries from entering into reciprocal purchasing agreements with suppliers.

The judgment concluded a civil antitrust suit filed on March 2, 1967, against General Tire, Aerojet-General Corp., Glendale, Calif.; RKO General, Inc., New York City; and A. M. Byers Co., Pittsburgh, Pa. The Division's complaint charged that the defendants had since 1958 entered into combinations with various suppliers to restrain trade by reciprocating purchases, in violation of section 1 of the Sherman Act.

The complaint also charged that the defendants used their purchasing power since 1958 to promote sales in an attempt to monopolize the requirements of actual and potential supplier-customers of various goods and services, in violation of section 2 of the Sherman Act. The practices, the suit alleged, have had the effect of foreclosing competitors of the defendants from selling substantial quantities of goods and services to the defendants' customers, and of preventing suppliers from selling goods and services to the defendants.

The consent judgment, to be in effect for 10 years, prohibits the defendants from purchasing products or services from any supplier on the condition that such purchases will be influenced by sales of the defendants, their subsidiaries, or their customers. It also prohibits defendants from discussing with any supplier or contractor the relationship of purchases and sales between them or from comparing statistical data to furnish such a relationship. In addition, the defendants are prohibited from maintaining statistical compilations that compare sales to and purchases from suppliers.

Defendants are also prohibited from communicating to actual or potential suppliers or contractors that preference will be given in purchasing products or services from them based on defendants' sales to them. The judgment also enjoins defendants from furnishing purchasing agents with lists which identify defendants' customers or sales personnel with lists which identify defendants' suppliers.

The decree directs the defendants to require their purchasing agents, consistent with the overall objective of maintaining adequate and reliable sources of supply, to purchase on the basis of price, quality, service, and financial responsibility and to ignore completely any consideration relating to the potential supplier's status as a customer.

The judgment requires that General Tire abolish the position of Director of Trade Relations and RKO abolish the position of Director of Corporate Relations, and forbids the defendants from assigning any trade relations function to any employee. The defendants are also ordered to refrain from membership in the Trade Relations Association or any association or group whose program or objectives are to promote trade relations.

United States v. American Standard, Inc.—On April 15, 1971, a consent judgment was entered in Pittsburgh, Pa., forbidding eight major manufacturers from fixing prices of enameled cast iron and vitreous china plumbing fixtures. Under the judgment, the manufacturers were required to pay to the United States a total of \$355,000 to settle a claim for damages for overcharges on plumbing fixtures purchased by the federal government.

The judgment concluded a civil antitrust suit filed on October 6, 1966, against American Standard, Inc., New York City; Kohler Co., Kohler, Wis.; Crane Co., New York City; Wallace-Murray Corp., New York

City; Universal-Rundle Corp., New Castle, Pa.; Rheem Manufacturing Co., New York City; Borg-Warner Corp., Chicago, Ill.; Briggs Manufacturing Co., Warren, Mich.; and Plumbing Fixture Manufacturers Association, Washington, D.C.

The suit charged these firms with conspiring to fix prices of enameled cast iron and vitreous china plumbing fixturers during the period from September 1962, until 1966, in violation of section 1 of the Sherman Act.

The judgment enjoins the manufacturers from agreeing on prices, terms, or conditions for the sale of plumbing fixtures; from agreeing to exchange information concerning bids, prices, terms, or conditions for the sale of plumbing fixtures; and from agreeing to limit, restrict, discontinue, or otherwise refrain from manufacturing any plumbing fixtures.

In addition, the judgment prohibits the manufacturers from communicating any past, present, or future plumbing fixture pricing information to any competitors, and forbids them from belonging for a period of 10 years to any trade association comprised exclusively of plumbing fixture manufacturers.

The judgment further requires each manufacturer, within 1 year of the entry of the judgment, to independently issue new prices, terms, and conditions for the sale of plumbing fixtures and requires dissolution of the trade association.

The civil suit paralleled charges in a criminal anti-trust indictment returned at the same time against the manufacturers, eight of their officers, and the trade association.

Five manufacturers and five of their officers and the trade association were convicted on their pleas of no contest. Four of the corporations received maximum fines of \$50,000. The individuals received sentences ranging up to 30 days in jail and fines ranging from \$15,000 to \$40,000.

The three other manufacturers and three other officers were found guilty by a jury in Pittsburgh on May 2, 1969, after a 72-day trial. The corporations were each fined \$50,000 and the individuals received sentences of up to 60 days in jail and fines of up to \$40,000. The convictions were upheld by the U.S. Court of Appeals for the Third Circuit, and on March 1, 1971, the Supreme Court declined to review the case.

Total sales of enameled cast iron and vitreous china plumbing fixtures in the United States, by the defendant manufacturers, during the period from September, 1962, through 1966 amounted to approximately \$1 billion. During that period the defendant manufacturers accounted for about 98 percent of the total sales of enameled cast iron plumbing fixtures and about 80 percent of the total sales of vitreous china plumbing in the United States.

United States v. Atlantic Richfield Company.—On July 28, 1970, a consent judgment was entered in New

York City requiring Atlantic Richfield Co. to sell 2,500 former Sinclair brand gasoline stations in the south and west within 3 years. The value of the properties to be divested by the proposed judgment, together with former Sinclair properties previously sold to BP Oil Corp., represented one of the largest anti-trust divestitures in recent years.

The proposed judgment concluded a civil antitrust action filed on January 15, 1969, which charged that the merger of Atlantic Richfield and Sinclair Oil Corp. would violate section 7 of the Clayton Act. The merger, perhaps the largest in oil industry history, would have made the resulting firm the Nation's sixth largest oil company in sales of gasoline.

The complaint had alleged that the merger would have eliminated competition between Atlantic and Sinclair in the Northeastern and Southeastern States, and would have eliminated Sinclair as a substantial competitive factor in the sale of gasoline.

In addition, the complaint asserted Atlantic would be eliminated as a potential entrant into gasoline marketing in the Rocky Mountain and Central States, where Sinclair is a significant competitive factor.

In 1967, Sinclair sold 3,658,970,304 gallons of gasoline through over 22,000 retail outlets in a 42-State area, at a value of approximately \$549,811,737. During the same year Atlantic sold 2,777,277,000 gallons of gasoline through over 13,500 retail outlets on the east and west coasts, at a value of approximately \$444,705,000.

As of December 31, 1967, Atlantic had assets of \$1,885,991,000, while Sinclair had assets of \$1,810,183,100. In 1967, Atlantic had net earnings of \$130,005,000; Sinclair's net earnings for the same year were \$95,400,000. According to the complaint the assets, revenues, and net earnings of Atlantic and Sinclair have increased each year since 1964.

The judgment requires Atlantic Richfield within 3 years to divest all of the former Sinclair branded retail gasoline marketing outlets (except those located at agricultural farm centers), bulk plants, terminals and related equipment in Colorado, Idaho, Utah, Wyoming, North Dakota, South Dakota, Nebraska, Kansas, Minnesota, Iowa, Missouri, Oklahoma, Arkansas, and Louisiana (except in the metropolitan marketing areas of Tulsa, Okla.; Pine Bluff and Fort Smith, Ark.; and Shreveport, Monroe, and Rayville, La.). These stations pump in excess of 500 million gallons of gasoline per year.

In addition, Atlantic Richfield was required under the judgment to divest itself of the refinery at Sinclair, Wyo.; the former Sinclair crude oil reserves and production in seven Wyoming oil fields supplying the Sinclair refinery, and natural gasoline plants and associated equipment in those fields; and Sinclair's interest in the Medicine Bow and Pioneer refined product pipelines.

Atlantic Richfield was also required to divest all contracts for the sale of unbranded automotive gasoline and other petroleum products produced at the Sinclair, Wyo., refinery, and all customer lists, product agreements and other contracts which provide for the sale and delivery of branded Sinclair automotive gasoline completely within the divestiture States.

The purchaser of these properties will be granted the United States rights to the trademark "Sinclair" subject to the BP Oil Corp.'s present nonexclusive 5-year license to use the same in the Northeastern and Southeastern States. At the purchaser's request, Atlantic Richfield will also enter into an agreement to supply, for up to 3 years, gasoline for sale through the divested retail outlets except those outlets supplied by the refinery at Sinclair, Wyo.

The proposed judgment also forbids Atlantic Richfield for a period of 5 years from acquiring any refinery for the production of automotive gasoline in the United States. And, with specified exceptions, it imposes a 10-year limitation on Atlantic Richfield's ability to acquire automotive gasoline marketing properties in the United States.

ACTIONS IN REGULATORY PROCEEDINGS

In fiscal 1971 the Division participated in a number of regulatory proceedings involving important competitive issues. These included:

- Participating in a Civil Aeronautics Board proceeding concerning the proposed merger of American Airlines and Western Airlines (1).
- Filing comments in several successive phases of Civil Aeronautics Board proceedings concerning applications by airlines to engage in capacity reduction discussions (2).
- Participating in Federal Maritime Commission proceedings concerning a proposed new international shipping conference having unprecedented geographical coverage, which application was withdrawn toward the end of the fiscal year (3).
- Participating and filing brief in a Federal Maritime Commission proceeding which originally involved charter rights but was subsequently concerned with the proposed acquisition by Sea-Land Service, Inc., of United States Lines' fleet of container ships (4).
- Participating and filing brief in an Interstate Commerce Commission proceeding concerning proposed merger of Union Barge Line Corp. and A. L. Mechling Barge Lines, Inc. (5).
- Participating and making oral argument in an Interstate Commerce Commission proceeding concerning proposed acquisition by Illinois Central of Gulf, Mobile & Ohio (6).

- Participating in a Securities and Exchange Commission proceeding concerning the proposed acquisition of Columbus & Southern Ohio Electric Co., by American Electric Power Co. (7).
- Participating and filing a brief in a Securities and Exchange Commission proceeding concerning proposed merger of certain electric power companies in the Northeast (8).
- Filing a brief and offering oral testimony in a Federal Communications Commission proceeding involving carriage of distant signals by CATV systems (9).
- Filing briefs in the Federal Communications Commission supporting proposed rules regulating cross ownership of broadcast and other media serving the same market (10).
- Filing a memorandum in the Federal Communications Commission opposing proposed rules relating to pay-cablecasting on CATV systems (11).
- Filing comments supporting open entry policy in a Federal Communications Commission proceeding on the establishment of domestic satellites (12).
- Filing a series of briefs and participating in oral argument in the Federal Communications Commission supporting a rule to allow open entry into specialized common carriage of data and other services (13).
- Filing comments with the Federal Reserve Board on procedural and substantive matters relating to the Board's proposed regulations implementing the Bank Holding Company Act Amendments of 1970 (14).

BUSINESS REVIEW PROCEDURE

Although the Department is not authorized to give advisory opinions to private parties, the Antitrust Division in certain circumstances reviews proposed business plans for private firms and states its enforcement intentions.

Under the business review procedure, a request for a business review letter is submitted in writing to the Assistant Attorney General in charge of the Antitrust Division. The requesting parties are considered to be under an affirmative obligation to submit complete information on the proposed business conduct. This information may be supplemented with additional investigation by Department personnel. After a review of the request, a letter will be sent to the parties which may: (a) State the Division's present enforcement intentions with respect to the proposed conduct; (b) decline to pass on the request because of insufficient information or for other reasons, or (c) take such other position or action as is considered appropriate. When a business review letter states that the Division does not

presently intend to bring suit against the proposed conduct, the letter includes the proviso that the Division reserves the right to take action in the future if other evidence or subsequent developments warrant it. During the year, the Division received 18 requests for business review letters.

OTHER ACTIVITIES

Foreign Trade. The Division continued its program of notification and cooperation with Canada and the other members of the OECD as described in the 1970 annual report. Semiannual meetings of the OECD Restrictive Business Practices Committee were held in November and April. Many topics were discussed at these meetings, and special attention was given to the need for increased antitrust enforcement and legislation internationally as a restraint on inflation, and to the possibilities of increased cooperation in international antitrust enforcement. There was considerable discussion of the antitrust aspects of patent licensing arrangements. Antitrust actions instituted by the various members were reviewed, as in the past. It is interesting to note that there are increasing instances of enforcement actions by foreign countries against acts taking place outside their borders which have anti-competitive effects within their own territory.

In addition to the Division's normal case work and international cooperation, the Division has been increasingly active in its role as advocate for competitive policies in U.S. foreign commerce before other agencies of the U.S. Government.

Principal activities of this kind concern Tariff Commission proceedings, antidumping enforcement, and oil import policy. The Assistant Attorney General testified in hearings before the Tariff Commission in favor of maximum freedom of competition in international trade.

The Division has also, through its Foreign Commerce section, presented its views to the Tariff Commission and the Office of the Special Trade Representative in proceedings under section 337 of the Tariff Act of 1930, which statute provides for temporary and permanent exclusion of imports. These include: (1) Filing a brief with the Tariff Commission presenting views against the permanent exclusion of the drug Ampicillin (a temporary exclusion order was denied by the President earlier); and (2) participating in pending section 337 proceedings involving the drugs meprobamate and furazolidone.

In antidumping, the Division has filed briefs and proposed changes in the existing regulations with the objective of preserving fair import competition as sanctioned by law.

The establishment during the year of the Oil Policy Committee, in which the Division represents the Department of Justice, has involved substantial efforts toward moderating the effects of import controls on competition within the United States.

New Consumer Affairs Section.—To insure that the interests of consumers are fully represented in the Department's activities, a Consumer Affairs Section has been established in the Division. This Section was organized in December 1970, to consolidate the responsibilities of the Department of Justice for the enforcement of various consumer protection statutes, including the Child Protection and Toy Safety Act of 1969, the Disclosure of Automobile Information Act, the Consumer Credit Protection Act, the Federal Trade Commission Act, the Federal Hazardous Substances Act, and the Food, Drug, and Cosmetic Act. Responsibility for litigating matters referred by the Food and Drug Administration of the Department of Health, Education, and Welfare was assumed by this Section. The Section engages in litigation in the Federal courts and represents the interests of consumers in competition before various legislative, administrative and regulatory agencies, and participates in interagency activities affecting the interests of consumers.

Until this Section was organized, the consumer protection functions were divided among several divisions in the Department. Thus, for example, the Antitrust Division was responsible for the civil penalty cases, the Civil Division was responsible for enforcing FTC subpoenas, and the Criminal Division was responsible for enforcing a variety of statutes covering such fields as consumer credit, toy safety, automobile pricing stickers, and food and drugs.

Placing the consumer protection functions of the Department together with the activities of the Division which seek to promote and preserve competition has resulted in benefits for both antitrust and consumer protection enforcement. The Nation's competitive economy ultimately depends upon the exercise of an informed choice by consumers between competing goods and services in the marketplace. Adequately competitive industry, on the other hand, can do much to preserve and increase the safety, quality and durability of goods and services without undue or unreasonable increases in the cost of such goods and services.

LIST OF CASES CITED

(1) American-Western Merger Case, CAB docket No. 22916.

(2) Application of Trans World Airlines, Inc., et al. to engage in capacity reduction discussions, CAB docket No. 22908 et al.

(3) Conference Agreement Transatlantic Freight Conference—Agreement No. 69-58, FMC docket No. 69-58.

(4) United States Lines-Sea-Land Charter Agreement—Agreement No. 9827, FMC docket No. 69-56.

(5) Application of Union Mechling Corp. and Dravo Corp.—Merger, ICC docket F.D. No. 26167.

(6) Illinois Central Gulf Railroad Co.—Acquisition—Gulf, Mobile, Ohio RR Co. et al., ICC docket No. F.D. 25103.

(7) In the matter of American Electric Power Co., SEC docket No. 70-4596.

(8) In the matter of New England Electric System, SEC docket No. 70-4663.

(9) Comments of U.S. Department of Justice, Dec. 7, 1970, docket No. 18397-A.

(10) Comments of U.S. Department of Justice, Oct. 22, 1970, docket No. 18891; May 18, 1971, dockets Nos. 18891 and 18110.

(11) Memorandum in Support of Reconsideration, May 3, 1971, docket No. 18397.

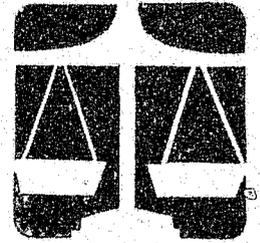
(12) Comments of U.S. Department of Justice, May 19, 1971, docket No. 16495.

(13) Comments of U.S. Department of Justice, Oct. 10, 1970; Reply Comments, Dec. 29, 1970; and Supplemental Comments, Feb. 2, 1971, docket No. 18920.

(14) Comments of U.S. Department of Justice on Proposed Amendment of Section 222.4 of Regulation Y: Bank Holding Companies—Interests in Nonbanking Activities and Related Matters, Feb. 26, 1971.

civil division

L. Patrick Gray, III/Assistant Attorney General



The Civil Division represents the interests of the United States in all types of cases except those within the specialized fields of the other divisions of the Department. It is thus responsible for the general litigation of the Government, in cases both initiated by or brought against the United States or against Cabinet members and other Federal executives in their official capacities. The cases arise out of both the commercial and purely governmental business of all Federal departments, agencies, and instrumentalities, and the acts of civilian and military personnel in the course of performing their Government service. The cases are litigated in all Federal courts, as well as in State courts and the tribunals of foreign countries. The litigation is conducted by the Division's staff of 196 attorneys, and by the U.S. Attorneys and their staffs, under the Division's direction and supervision.

Excluding a huge volume of customs cases, and also a few major alien property claims and matters in terminal stages, the Division worked on a total of 30,966 cases during fiscal 1971. This workload was comprised of 19,357 cases which were still in various stages of litigation at the end of fiscal 1970, plus 11,609 new cases which developed during the year. The Division terminated 9,555 cases in fiscal 1971, thus leaving 21,411 cases pending at the end of the year. Of those cases concluded, 5,720 were suits against the United States in which the plaintiffs sought a total of \$765,679,245. Recoveries were held to \$181,131,742 or 23.65 percent of the aggregate claims. The Government was plaintiff in the other 3,835 cases, claiming a total of \$158,671,900. Judgments and settlements in these cases amounted to \$105,600,327, or a recovery of 66.55 percent.

These case-and-dollar statistics do not, however, adequately indicate the significance of the Division's work. Comparatively small claims frequently present crucial questions of law and the decisions may have lasting and far-reaching effects on Government operations. Moreover, a large percentage of the most important cases do not involve a money judgment, but involve attacks upon the constitutional validity of acts of Congress, or challenge the constitutionality or statutory authority of administrative actions.

The Division is composed of nine sections: Admiralty, Court of Claims, Customs, Frauds, General Claims, General Litigation, Patent, Torts, and Appellate. In addition, the Division has a Foreign Litigation Unit. The following brief description of the functions of these subdivisions and the summary of their more important cases during fiscal 1971 gives some indication of the diversity of litigation within the Civil Division.

ADMIRALTY AND SHIPPING SECTION

The Admiralty Section, with offices in Washington, New York, and San Francisco, handles all maritime jurisdiction cases by and against the United States. The Division's admiralty litigation has increased in the last few years because of expanded shipping operations and other maritime activity in support of the worldwide U.S. military and economic obligations. In addition, water pollution cases involving oil spillage from tankers are increasing.

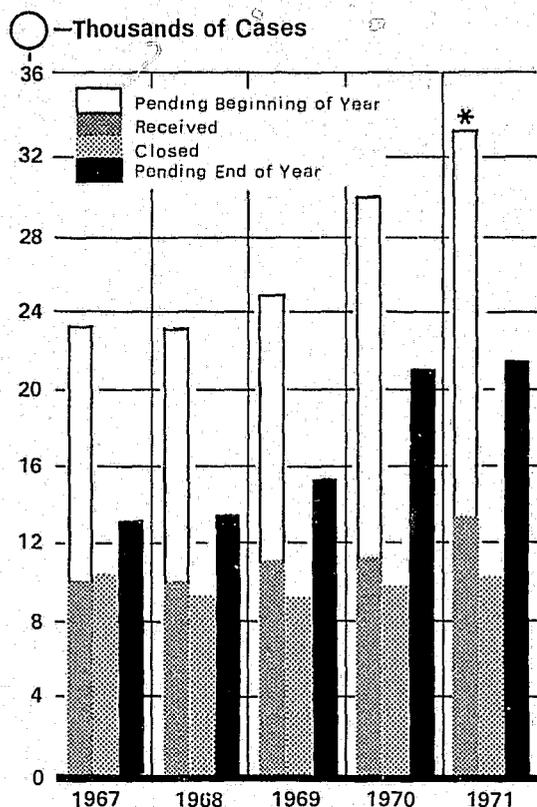
The Section's varied caseload, including suits ranging from ship collisions to minor mishaps of seamen, derives from the Nation's position as the world's largest shipowner. In 1971 the Section handled 2,891 such cases, terminating 1,039. Of the terminated cases, 351 involved claims on behalf of the Government, with \$1,980,080 awarded to the United States.

One of the more important claims against the Government was resolved in *Petition of United States, as Owner of the USS. YANCEY*, E.D. Va., Civil No. 495-70-N. On the early morning of January 21, 1970, the USS. YANCEY, Navy amphibious attack cargo ship, began dragging anchor and drifted until she crashed into the Chesapeake Bay Bridge Tunnel, near Norfolk, Va. The resulting damage was extensive, involving the collapse of several spans of the bridge structure.

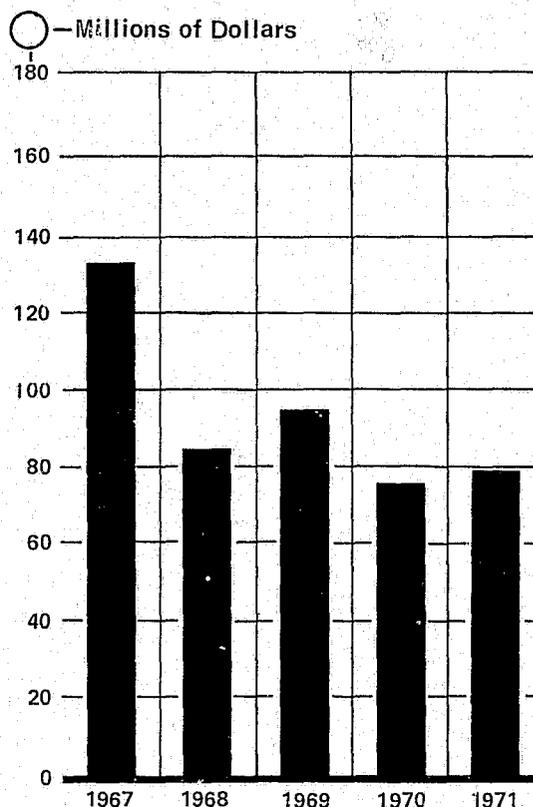
As the prospective damage exceeded the Navy's maximum administrative claims settlement authority of \$1 million (10 U.S.C. 7622), the Department of Jus-

Civil Division

Workload Data Submitted With Budget Justifications



Civil Division Collections



Fiscal years 1966-1970

* Includes 11 Administrative Claims added to Tort Section

These figures include Appellate Section caseload.

tice at the Navy's request commenced litigation with a complaint filed pursuant to the Shipowners' Limitation of Liability Act (46 U.S.C. 183-189). The Government claimed the right to limit its liability to the value of the USS. YANCEY following the collision and contested liability to those who might have claims against the United States as a result of the collision. Such a complaint must be filed within 6 months after receipt of the first claim (46 U.S.C. 185) and triggers a procedure which compels those with other claims against the shipowner to file them within a time specified by the court.

In due course, 19 claims were filed against the United States, including the main one by the Chesapeake Bay Bridge Tunnel owners for \$3 million. The claims fell into two distinct categories: (1) Three claims arising directly out of the collision, such as that of the bridge tunnel owners and the Chesapeake & Potomac Telephone Co., whose cable was cut; and

(2) those of a more indirect nature involving alleged business losses or expenses by those who used or derived their business from the bridge tunnel, such as trucking companies and nearby restaurants. Sixteen claims of this kind were filed totalling about \$208,000.

Following extensive discovery, attorneys in the Admiralty Section were able to negotiate a compromise with all those who had filed claims in the proceedings on terms whereby: (1) The first category of claimants are to receive 90 percent of their provable damages; and (2) the second category of claimants are to receive 90 percent of such provable damages as they can establish to have in fact resulted from the collision. The compromise offer was accepted by the Deputy Attorney General on June 2, 1971, and although further negotiations and prospective litigation on the amount of damages are still in progress, the results to date represent a saving to the Government of about \$300,000.

COURT OF CLAIMS SECTION

The Court of Claims Section attorneys represented the United States in 1,480 Court of Claims cases involving total claims against the Government in excess of \$159 million. The Section's caseload consists largely of suits based on construction, procurement and service contracts with the Government, and the termination of such contracts; claims involving transportation of Government property and for just compensation under the fifth amendment arising out of Federal requisition of private property; all claims for salary allowances and retirement pay by civilian and military personnel, and general claims founded on statutes, administrative regulations, and special Acts of Congress. Of these, 189 suits totaling \$196,224,762 in claims were terminated with recoveries against the Government of \$154,503,544, representing a 21.26 percent savings to the United States.

During the court session October 1970-July 1971, the U.S. Court of Claims handed down decisions in 110 cases. Seventy-two of these decisions involved cases handled by attorneys in the Court of Claims Section of the Civil Division. Each of these decisions affected in some way contracts, legislation, regulations, or other Government operations.

One of the most important decisions was *S & E Contractors, Inc. v. United States*, 193 Ct. Cl. 335, 433 F. 2d 1373 (1970), cert. granted, 402 U.S. 971 (May 17, 1971).

This suit arises out of a contract for the construction of a nuclear testing facility at the National Reactor Test Station in Idaho. Following completion of the construction, the contractor filed a number of claims for additional compensation. Upon their denial by the Government contracting officer, the contractor appealed, under the provisions of the disputes clause of the contract, and a trial was held before a hearing examiner. The examiner's decision was essentially favorable to the contractor and upon limited review by the Atomic Energy Commission the decision was substantially affirmed. Upon the request of a certifying officer, one item of payment under the contract was referred to the General Accounting Office, which issued a decision that the AEC's decision was not final under the standards of judicial review set forth in the Wunderlich Act (41 U.S.C. 321, 322) and payments thereunder should not be made. Relying on this ruling, the AEC refused payment and the contractor filed suit in the Court of Claims. In the initial stages the parties fully briefed the merits as to the finality of the AEC decision under the standards of 41 U.S.C. 321, 322. However, in a decision issued September 26, 1969, the Trial Commissioner declined to rule on the issues briefed but, instead, recommended that the plaintiff

be granted a judgment on the basis that the Government had no right to obtain judicial review of the AEC decision. In a divided decision issued November 30, 1970, the Court of Claims reversed the Trial Commissioner and ruled that judicial review was available to both parties to the contract. By its order of May 17, 1971, the Supreme Court of the United States has granted certiorari to resolve this question as to the extent of judicial review on Government contract disputes. The decision on this case is of considerable significance in the field of Government contracts for it enunciates that the Government has the same right as the contractor to obtain judicial review of an administrative decision.

CUSTOMS SECTION

The Customs Section represents the Government in all cases before the U.S. Customs Court in which importers (or in some instances, American manufacturers, producers, or wholesalers) attack decisions of the Bureau of Customs with regard to the appraisement or classification of imported merchandise and the assessment of duties on importations under the Tariff Act of 1930, as amended by the Tariff Schedules of 1963. In addition to responsibility for cases before the trial and appellate terms of the Customs Court, the Customs Section, working in conjunction with the Appellate Section, has responsibility for Customs cases appealed to the Court of Customs and Patent Appeals.

At the start of fiscal 1971, there were 436,475 cases pending in the Customs Court. While the number of cases pending reached a high count of 460,777 in October 1970, the number pending since then has seen a steady decline to 442,382 on June 30, 1971, for a total increase of 5,907 cases during the fiscal year.

Public Law 91-271, which completely reforms the Customs Court, became effective on October 1, 1970. Together with the new Rules of the United States Customs Court effective the same date, it should help reduce the backlog of cases pending in the Customs Court and substantially reduce the number of cases filed annually from approximately 100,000 to approximately 10,000. There were 466 civil actions filed pursuant to Public Law 91-271 pending at the close of the fiscal year.

One of the most important decisions rendered in the Customs law field in fiscal 1971 was *J. C. Penney Co. v. United States, Department of the Treasury, et al.*, 319 F. Supp. 1023 (SDNY, 1970), aff'd, 439 F. 2d 63 (C.A. 2, 1971), pet. for cert. pending. In this action Penney, as an importer of television sets from Japan, sought to enjoin the Treasury Department from making a less-than-fair market value determination in

dumping proceedings under the Anti-dumping Act of 1921, 19 U.S.C. 160, et seq. Penney contended, *inter alia*, that the proceedings followed by the Treasury Department (and later by the Tariff Commission in its arguments before the Second Circuit), violated its rights under the Constitution and the Administrative Procedures Act by not affording Penney an adversary-type proceeding. District Judge Weinfeld dismissed the complaint for want of subject matter jurisdiction in accordance with the Government's motion, thereby sustaining the Government's contention that the Customs Court had exclusive jurisdiction of the matter in dispute. Subsequent to Judge Weinfeld's decision, the Treasury Department issued a determination that television receiving sets manufactured in Japan were being sold in the United States at less than fair market value. Thereupon the matter was referred to the Tariff Commission, in accordance with the statutory provisions, to determine whether an American industry was being injured by such sales. On expedited appeal, the Second Circuit affirmed Judge Weinfeld's decision that jurisdiction over the subject matter lay in the Customs Court. Thereafter the Tariff Commission determined that an American industry was being injured, and the Secretary of the Treasury promulgated a dumping determination. Penney has filed a petition for certiorari which will not be considered by the Supreme Court until its October 1971 term.

While the decisions herein were significant as judicial affirmance of the exclusive judicial review of Customs decisions provided by Congress, the case's importance lies in heralding a renewed attack on the administrative procedures followed under the Anti-dumping Act. Related litigation raising many of these objections can be expected in the Customs Court. In addition, the principles involved may also be applied administratively in determining whether countervailing duties should be assessed pursuant to 19 U.S.C. 1303.

FOREIGN LITIGATION UNIT

In 1971, the Foreign Litigation Unit handled suits by and against the Government in some 32 foreign countries, arising out of the activities of U.S. Government agencies abroad. The cases continue to range the whole area of civil litigation (contracts, torts, bankruptcy, admiralty, and labor litigation).

A significant accomplishment was the termination of protracted and complex bankruptcy proceedings in France, which in turn led to a bankruptcy arrangement involving a family housing project constructed

by the Defense Department in the late 1950's. The project was vacated when the U.S. military personnel and their families left France in 1967. The termination of these proceedings has now resulted in a total cash recovery by the United States of \$8.6 million.

In domestic litigation, the Unit successfully represented the Treasury in a suit challenging the constitutionality of the Foreign Assets Control Regulations as they then applied to residents of Mainland China. *Cheng Yih-Chun v. the Federal Reserve Bank of New York and the Secretary of the Treasury of the United States*, 442 F.2d 460 (C.A. 2, Apr. 28, 1971). The Unit also represented the Government in a unique action in which the Government enjoined a municipality in New York from levying taxes on property belonging to the Soviet Union which was used as a residence for the Soviet Ambassador to the United Nations. Such property is specifically exempt from taxation under the 1968 Consular Convention between the United States and the U.S.S.R. *United States v. City of Glen Cove, et al.*, 322 F. Supp. 149 (E.D.N.Y. 1971).

The Unit's judicial assistance to foreign and international tribunals, pursuant to 28 U.S.C. 1696, 1782, continued its remarkable expansion. Some 350 requests for service and testimony were processed during the year, with Germany, Turkey, Greece, and Sweden submitting the majority of such requests. This amounts to an increase of more than 50 percent over the preceding year's total. The Hague Service Convention, T.I.A.S. 6638, 20 U.S.T. 361, which the United States and 11 other countries have now ratified, continued during the past year to provide a streamlined and expeditious channel for the processing of service requests among member nations. Service requests totaling 206 were received and processed under the Convention.

FRAUDS SECTION

Possible civil fraud action considered by the Frauds Section runs through the whole spectrum of Federal activities, including the negotiation and performance of procurement contracts; the granting of loans or other benefits by Government agencies; financial support or underwriting of projects in the national interest, such as housing, foreign aid, and agriculture; and grants or other monetary assistance in the welfare, job training, education, and medical aid areas. In fiscal year 1971 the Frauds Section, with the assistance of the U.S. Attorneys, worked on a total of 806 cases, terminating 242, representing a total award to the United States of \$2,065,844. Collections for the year amounted to \$2,555,745.

One of the most important cases handled by the Frauds Section during 1970 was *United States v.*

Timothy Chung Chew, et al., N.D. Calif., Civil No. C39435-GBH. Suit was brought under the False Claims Act alleging that the American exporters of generators and pharmaceuticals to Laos overcharged AID \$120,000, because these exporters had surreptitiously "kicked back" that amount to Laotian importers. After trial, a judgment of \$250,000 was entered in favor of the United States. Defendants have noted an appeal. This is only the second civil fraud case arising from the AID program that has proceeded to judicial resolution on the merits.

Also, during 1970 the Department received matters involving alleged submission of false claims by providers of medical services under the medicare program. The volume of these referrals has increased sharply, and the Frauds Sections in both the Civil Division and the Criminal Division are adopting new procedures to expedite these cases in view of the advanced ages of many of the witnesses.

GENERAL CLAIMS SECTION

An important function of the Civil Division is its collection activity and the bulk of this work is done by the General Claims Section. With responsibility for approximately 7,273 cases aggregating over \$355,803,635, its attorneys collected \$58,988,055 in fiscal 1971. The section's caseload includes suits arising out of Government contracts, mortgage foreclosure actions in federally financed housing projects, bankruptcy, insolvency, corporate reorganization, and arrangement proceedings.

One of the more important cases was *De Janda v. Administrator of Veterans Affairs*, C.A. D.C. Nov. 4, 1970. In this suit attorneys of the General Claims Section obtained a ruling that decisions of the Administrator of the Veterans' Administration on claims for benefits were final, and not subject to judicial review. This decision, plus subsequent congressional action, has terminated much prolonged litigation. This was a suit to recover death compensation benefits based on the death of plaintiffs' husband in 1945 while in the military service. Plaintiff filed a claim for such benefits with the VA in 1949. This claim was denied in 1951 on the basis of an incorrect report from the Army that plaintiff's husband did not have the requisite military service. The VA subsequently received a favorable service report, but again denied plaintiff's claim on the ground that she was not an unremarried widow, as required by 38 U.S.C. 101(3). The VA based this conclusion on evidence received by it that plaintiff had entered into another marital relationship after the death of her husband.

Thereafter, in 1962, plaintiff submitted evidence to the VA showing that her purported husband had a

prior existing marriage to another woman. Based on this evidence the VA in 1965 awarded plaintiff benefits, effective as of March 26, 1962, the date of VA's receipt of favorable evidence, as provided by their applicable statutes.

This action was instituted to recover benefits for the period from 1949, when plaintiff filed a claim with VA, to 1962, the effective date of the award. The District Court dismissed the suit on the ground that it was barred under the finality statute, 38 U.S.C. 211(a), which provided inter alia that the decision of the Administrator on any question concerning a claim for benefits under laws administered by the VA shall be final and conclusive, and not subject to judicial review.

On appeal, the dismissal was affirmed, and the Court of Appeals found that an exception which had been interpreted by courts in the finality statute in *Tracy v. Gleason*, 379 F. 2d 469 (C.A. D.C., 1967), in the past could not be invoked here. The court held further that the Administrator did not act unreasonably in concluding that the award should be effective as of the date the favorable evidence was submitted by plaintiff.

It should be noted that section 211(a) was amended by Congress by Public Law 87-674 on August 12, 1970, and was made effective as of October 17, 1940. The effect of this amendment is to make clear that section 211(a) applies to all death compensation claims, including the termination of claims by the VA, and that the rationale of *Tracy v. Gleason* can no longer be applied.

GENERAL LITIGATION SECTION

The General Litigation Section is responsible for a wide variety of litigation by and against the United States and its officers and agents in Federal district courts and State courts. This litigation includes proceedings to review orders of administrative agencies, defense of suits against Government agencies and their officials to enjoin official acts, affirmative suits to prevent interference with Government operations, and many other types of cases involving enforcement or protection of Federal rights and interests.

A substantial part of its caseload consists of suits under the Social Security Act, the Agricultural Adjustment Act, the Anti-Pandering Act, the Public Information Act, the Selective Service Act, the Civil Service and Veterans' Preference Acts, district court suits under the Tucker Act, and suits under special jurisdictional acts of Congress. Significant cases handled by this Section include interventions in litigation challenging the constitutionality of acts of Congress, Taft-Hartley Act national emergency injunction suits in situations affecting the national health or safety, and

civil enforcement proceedings under the Labor Management Reporting and Disclosure Act of 1959.

At present, suits for injunctions, declaratory judgments, and writs of mandamus against Government officials are among the most important cases defended by the Section. These suits challenge the constitutional or statutory validity of administrative action implementing legislative programs, and require immediate and effective handling. Moreover, they usually involve novel factual and legal issues. The number of mandamus and injunction cases outside the District of Columbia has continued to increase since the enactment of Public Law 87-748 in 1962. This statute allows suits to be filed against Government officials outside the District of Columbia, formerly the only district of proper venue and jurisdiction. During the fiscal year 1971, 1,231 such actions were instituted of which 1,039 were brought in jurisdictions other than the District.

During fiscal 1971 the General Litigation Section handled 12,380 cases, an increase of 2,085 over the number handled during fiscal 1970. Typical of the cases handled by the Section during the year is *Nichols v. United States*, D. Kan. (February 24, 1971), which held that:

materials pertaining to the assassination of President Kennedy were not subject to compelled disclosure under the Freedom of Information Act.

A physician instituted suit seeking to obtain and submit to examination and tests enumerated materials pertaining to the death of President Kennedy, which he alleged would afford him an opportunity to resolve conflicting opinions and uncertainties concerning the death, and asserted that the Public Information Section of the Administrative Procedure Act entitled him to obtain access to the materials. The Government contended that the bullets, bullet fragments, items of clothing and similar items including histological preparations were not records and, therefore, were not subject to the provisions of the Information Act. It was further contended that other property which the plaintiff sought to examine and inspect was transmitted to the Government pursuant to a letter agreement between the Government and the Kennedy family which precluded disclosure of the items covered by the agreement pursuant to its terms. Plaintiff argued that the agreement was a nullity because the Kennedy family did not have title to the materials described in it. The Government responded that the statute authorizing acceptance of the property under such agreements does not require that the materials which were the subject of the agreement be the property of the donors since that would tend to prevent the securing of presidential historical materials. The District Court agreed with the Government's contentions and granted its motion for summary judgment. Plaintiff has appealed.

PATENT SECTION

The Patent Section is responsible for the Government's patent, trademark, and copyright litigation. This litigation mainly involves the defense of patent infringement suits against the United States in the Court of Claims, representation of the Government in Board of Interferences and court proceedings to determine priority of invention, and patent infringement cases in Federal district courts. Many patent cases involve very sophisticated technology and require a general understanding of complicated pieces of equipment. This is necessarily so since most cases require a determination and evaluation by the court of the extent to which the patent advances the state of the art to which it pertains. There is also the issue of whether the equipment alleged to infringe the patent actually uses the improvement specified in the patent or, on the contrary, uses a technique substantially different in structure and principle of operation from that in the patent. Such questions arise in such areas as electronics (communication equipment, military ammunition fuses, computers, etc.), chemical processes, aerodynamics and high speed aircraft, and missiles and their guidance systems.

Despite the increasing complexity of patent cases involving the Government, the Section managed to decrease the case backlog during fiscal 1971 from 229 to 202.

One of the more important cases was *Dresser Industries, Inc. v. The United States*, Ct. Cl. 294-65; 167 U.S.P.Q. 473 (1970), Commissioner's Opinion at 166 U.S.P.Q. 336. This was a patent infringement suit involving a patent on a coupling for joining the ends of large-diameter pipes. The Government structures accused of infringing the patent were couplings used to join sections of water pipes or penstocks, installed for the U.S. Army Corps of Engineers at several public dams, one being the Garrison Dam at Riverdale, N. Dak. The water pipes at Garrison Dam were 24 feet in diameter. The sheer size of these pipes caused problems in shipping and installation, and rather severe problems in sealing against leakage due to small movements (drift) of the pipes while in operation.

The patent related to a coupling in which the ends of the pipes to be joined were inserted into opposite ends of a sleeve, with the sealing gaskets pressed into the circumferential space between the pipes and the sleeve. The alleged inventive feature was in the scheme used to compress the gasket and effect a watertight seal.

At the trial the Government presented defenses based on both noninfringement and invalidity, but the court decided the case on noninfringement and did not reach the issue of invalidity. The noninfringement defenses rested on a showing that the patent was in a crowded field, one in which the basic principles were well

known, and that accordingly it should be construed narrowly. Couplings of this type are manufactured and shipped in sections, and when assembled the sections do not necessarily function as an integral unit but may function as semi-independent and separate entities. This fact raised a number of issues regarding similarity or non-similarity of the Government coupling and the patented coupling. There were also issues of what elements constituted a section, the dependence of one section upon its neighbor, and the functioning of the various sections under the tendency of the pipe to twist, bulge or bend during operation.

Armed with the results of an exhaustive search of prior work in the field and with the aid of statements made by the patentee before the Patent Office concerning the differences between his invention and prior inventions, Section attorneys were able to convince the court that the Government couplings were more like those in prior patents than the patent in suit.

TORTS SECTION

The Torts Section is responsible for the following:

1. Defense of all suits against the United States under the Federal Tort Claims Act involving substantial claims for personal injury, death, and property damage allegedly caused by the negligence of U.S. civilian and military personnel in the course of performing their official duties and functions.
2. Defense of negligence suits against cost-plus-fixed-fee contractors.
3. Litigation of tort suits on behalf of the United States, including cases under the Medical Care Recovery Act to recover from third persons for the medical treatment and care furnished by the United States for Federal personnel whose injuries resulted from the negligence of such third persons. The Departments responsible for the administration of the Medical Care Recovery Act program have reported recoveries of \$6,774,198.81 for calendar year 1970. This increase of \$352,822.89 over 1969 recoveries represents the seventh consecutive year of significant growth and brings the total recoveries under the program to \$32,789,576.04. The program has probably reached maturity, as evidenced by its diminishing rate of growth, and it is anticipated that there will be an annual increase of between \$250,000 and \$500,000 in claims each year, with most of this gain being attributed to the increasing cost of hospitalization.

Since 1968 the number of claims asserted has increased by 665 representing approximately \$5 million. Although some of this amount is due to a change in accounting practices by the Department of the Air

Force, it does represent a substantial increase in assertions.

In terms of potential liability, besides liability for medical malpractice, the most important type of cases handled by the section are aviation accident cases. Litigation arising out of aviation accidents involving commercial airlines and privately-owned aircraft continues to pose a substantial source of tort liability to the Government. With increasing frequency the Department of Justice is called upon to defend the conduct of air traffic control personnel employed by the Federal Aviation Administration, which has areas of responsibility in the control, direction, and guidance of commercial and private aircraft and the dissemination of weather data for flight operations. In view of the growing reliance of the general public upon the airplane as a mode of transportation and the increasing ownership and operation of private aircraft, U.S. involvement in aviation accident litigation is expected to continue increasing. At present the United States is a party defendant in 459 such actions.

One of these was *Lawrence Reidinger, Jr., Admr. v. Trans World Airlines, General Dynamics, Kollsman Instruments, Inc. and United States* (E.D. Ky.). On November 20, 1967, a TWA Convair 880, manufactured by General Dynamics, crashed on an instrument landing approach to the Greater Cincinnati Airport. Five of seven crew members and 65 of 75 passengers were killed. Suits for wrongful death and personal injuries were subsequently commenced against TWA, General Dynamics, Kollsman Instruments, Inc. (the instrument manufacturer), and the United States under the Federal Tort Claims Act. Discovery in the form of interrogatories, motions to produce documents, and oral depositions extended over an 18-month period, following which the court entertained motions for summary judgment by all parties on the issues of liability. In a decision of first impression in multiple-party disaster litigation, the court granted the motion of the United States, absolving the Government of all responsibility for the accident. The court found on undisputed facts and deposition testimony that controllers employed by the Federal Aviation Administration, in their communication with the ill-fated flight, had performed every duty required of them by applicable law and regulation and that, as a matter of law, the United States could not be held liable. At the same time the court absolved General Dynamics and Kollsman of responsibility. It held that liability rested solely with TWA, whose crewmembers were negligent in failing to follow established cockpit procedures in an instrument landing approach and in failing to initiate in time the "missed approach" procedure when they failed to sight the runway after reaching their landing minimums.

APPELLATE SECTION

The Appellate Section, which is responsible for all appellate cases and matters developing out of Civil Division litigation in lower courts, briefs and argues cases in the U.S. courts of appeals and State appellate courts and assists the Solicitor General in preparing briefs or petitions for certiorari to the Supreme Court. In fiscal 1971 the Section worked on a total of 2,555 cases. It received favorable dispositions in 119 of the 136 Supreme Court decisions. The Section also won 503 or 83.8 percent of the 600 cases decided by the courts of appeals.

One of the more important decisions obtained in the Supreme Court was the case of *Commonwealth of Massachusetts v. Melvin R. Laird*, 400 U.S. 866 (Nov. 9, 1970).

Acting in response to a recently enacted State law, Massachusetts sought leave to file an original complaint in the Supreme Court challenging the constitutionality of U.S. participation in the military action in Vietnam. Massachusetts alleged that such participation was unlawful in the absence of a congressional declaration of war. As relief, Massachusetts requested that the U.S. participation be declared "unconstitutional in that it was not initially authorized or subse-

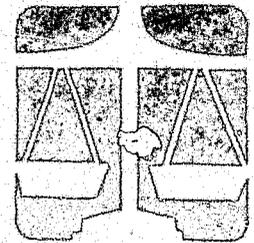
quently ratified by Congressional declaration;" also, it asked that the Secretary of Defense be enjoined "from carrying out, issuing, or causing to be issued any further orders which would increase the present level of U.S. troops in Indochina;" and it asked that within 90 days, absent appropriate congressional action, the Secretary be enjoined "from carrying out, issuing, or causing to be issued any further order directing any inhabitant of the Commonwealth of Massachusetts to Indochina for the purpose of participating in combat or supporting combat troops in the Vietnam war."

In a brief in opposition to Massachusetts' motion, the Government presented two arguments: (1) The suit did not fall within the original jurisdiction of the Supreme Court because Massachusetts had no sovereign interest in the war and could not challenge actions of the Federal Government as *parens patriae* for its citizens; (2) additionally, the court should decline jurisdiction, since the issue presented was a non-justiciable political question.

The Supreme Court, in a *per curiam* order, denied Massachusetts leave to file its complaint (400 U.S. 886). Justice Douglas dissented on the ground that the war was unconstitutional. Justices Harlan and Stewart also dissented, but simply on the ground that the case should be set down for oral argument.

civil rights division

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The Civil Rights Division enforces laws and executive orders prohibiting discrimination in employment, education, housing, voting, public accommodations and facilities, and federally assisted programs. The Division also enforces Federal criminal statutes which prohibit specified acts of interference with federally protected rights and activities.

The Division has grown steadily since its creation after passage of the Civil Rights Act of 1957. From the beginning of fiscal year 1969, the Division has increased from an authorized strength of 219 employees, 106 of whom were attorneys, to an authorized strength for fiscal year 1971, of 337 employees, 157 of whom are attorneys. The budget for the same period rose from \$2,818,000 to \$5,464,000.

The energies of the Division are devoted almost entirely to the actual litigation of cases. Except for criminal enforcement work, where the cases are normally jury trials, the suits filed are in equity—usually before a single judge—seeking remedies through the injunctive process.

The Division is organized basically along subject-matter lines, so that attorneys are generally assigned to one of five trial sections, each having particular statutes to enforce:

- The Employment Section, enforcing Title VII of the Civil Rights Act of 1964;
- The Education Section, enforcing Title IV of the Civil Rights Act of 1964;
- The Housing Section, enforcing Title VIII of the Civil Rights Act of 1968;
- The Voting and Public Accommodations and Facilities Section, enforcing the Voting Rights Act of 1965 and Amendments of 1970 and Titles II and III of the 1964 Act;
- The Criminal Section, enforcing the criminal provisions of the post-Civil War civil rights statutes and portions of Title I of the 1968 Act.

In addition to the five trial sections, there is an Office for Title VI, which assists Federal departments and agencies in coordinating their programs and activities, and in adopting consistent and uniform poli-

cies, practices, and procedures with respect to Title VI of the 1964 Civil Rights Act. Title VI prohibits discrimination in programs and activities receiving Federal assistance. Additionally, attorneys in this Office prepare and present litigation stemming from enforcement of Title VI.

Two other offices, the Office of Legislation and Special Projects and the Office of Planning and Special Appeals, advise and assist the Assistant Attorney General and the other lawyers in the Division on special legal, policy, and legislative problems.

All the Division's attorneys are headquartered in Washington, D.C., although it has been necessary from time to time to assign attorneys to other cities on a temporary basis.

Division attorneys must often travel to the scene of civil and criminal cases to conduct on-the-spot preparations, carry out discovery and depositions, and, of course, participate in the actual pre-trial and trial proceedings.

During fiscal year 1971, the Division's litigation involved important cases in all its areas of concern. The Division became involved in 206 new cases during fiscal 1971, for a total of 648 pending at the close of the year. Following are brief descriptions of recent developments in the Division's activities in each of these areas.

EMPLOYMENT SECTION

Unlawful employment discrimination continued to receive high priority attention during fiscal year 1971. Besides obtaining definitive rulings by the Supreme Court and other appellate courts on important issues of law, the Division reduced the backlog of pending cases awaiting trial, shortened the time between the bringing of a lawsuit and obtaining relief, and designed new methods of obtaining broader impact for each of the lawsuits brought. During the year, the Division tried approximately 15 "pattern or practice" cases (averaging 7 trial days each), and obtained 21 injunctions (1). It became involved in 18 new cases, includ-

ing 12 "pattern or practice" cases against 112 defendants in 13 states, bringing the total of pending cases to 77.

During fiscal year 1971, the Supreme Court rendered its first decisions on the merits in cases interpreting Title VII of the Civil Rights Act of 1964. Perhaps the most far-reaching decision of the year was that of the Supreme Court in *Griggs v. Duke Power Co.* (2). The Government participated in that case throughout the litigation and filed an *amicus* brief in the Supreme Court. The brief urged that the use of tests and general educational requirements as conditions for employment, promotion, and transfer is unlawful under Title VII, when such devices disqualify a disproportionate number of blacks, unless the employer can show that they are necessary or predictive of successful job performance. In a unanimous decision, the Supreme Court substantially adopted the Department's position in language which made it clear that Title VII prohibits all practices, regardless of motivation, which perpetuate the effects of past discrimination, unless required by business necessity. In so doing, the court adopted the interpretation given section 703(h) of Title VII by the Equal Employment Opportunity Commission.

In *Ida Phillips v. Martin Marietta Corp.* (3), the Court of Appeals for the Fifth Circuit had held lawful the practice of not hiring the mothers of preschool age children (while hiring the fathers of such children). But in its first decision under Title VII involving sex discrimination, the Supreme Court reversed, holding that such a practice constituted discrimination on grounds of sex and was prohibited by Title VII. In this case the Division filed *amicus* briefs first urging the court to accept the case for review, and one then urging reversal of the decision of the Fifth Circuit.

In a third decision, the Supreme Court in *Dewey v. Reynolds Metals Co.* (4), affirmed by an equally divided court, the ruling of the Sixth Circuit for the defendants in a case involving religious discrimination. The Sixth Circuit had ruled (a) that an employee who pursued grievance procedures set up by a collective bargaining agreement through to arbitration and lost was precluded from raising the same issue in a Title VII suit, and (b) that an employee who refused to work overtime on Sundays could be fired for such refusal even though his refusal was concededly based upon bona fide religious beliefs. The Division asked the Supreme Court to reverse the court of appeals on each of these issues. The affirmance by an equally divided court leaves these issues for resolution in further litigation.

Among the decisions of the courts of appeals in fiscal year 1971, three were especially important. In *Contractors' Association of Eastern Pennsylvania v.*

Secretary of Labor (5), the Court of Appeals for the Third Circuit unanimously upheld the lawfulness of the Philadelphia Plan. That Plan, which was issued pursuant to Executive Order No. 11246, required contractors bidding on Government contracts to set goals of minority participation with respect to each of the six affected trades in the Philadelphia area in which there was virtually no black participation.

In *United States v. Ironworkers Local 86* (6), the Court of Appeals for the Ninth Circuit sustained the district court's decree which had (a) included specific relief for 200 black journeymen; (b) eliminated the requirement of experience under the collective bargaining agreement; (c) eliminated the requirement of the need to pass a union examination; (d) required approximately 30 percent of each apprenticeship class be made up of blacks selected from qualified applicants; and (e) ordered the development of a special apprenticeship program for black workers, with specified numbers to be trained in each trade. The Court of Appeals for the Ninth Circuit unanimously ruled that such relief was appropriate under Title VII to correct the effects of past discrimination, and that such relief did not violate the provisions of section 703(j). The court held that section 703(j) was inapplicable upon a finding of violation of the Act.

In *United States v. Bethlehem Steel Corp.* (7), the Court of Appeals for the Second Circuit held that the departmental seniority provisions of the collective bargaining agreement between Bethlehem and the United Steel Workers were unlawful in the context of a past history of discrimination in which blacks had been assigned to certain less-desirable departments and excluded from the more-desirable, higher-opportunity departments. In that case, involving the Lackawanna, N.Y., plant of Bethlehem which employs approximately 18,000 workers of whom approximately 2,600 are black, the district court had found pervasive practices of discrimination against blacks in assignment and in access to apprenticeship programs. While granting some relief, the district court refused to order relief under which the blacks who transferred to the better jobs from which they had previously been excluded could utilize their plant seniority rather than departmental seniority after a transfer. In an unanimous decision the court of appeals reversed, holding that transfers without loss of seniority or pay were necessary to correct the effects of past discrimination. In addition the court of appeals reversed the district court's holding that all employees in 11 less desirable departments were entitled to special transfer rights, holding instead that only the blacks (who were the victims of racial discrimination) were entitled to such relief.

During fiscal year 1970, and the first part of fiscal year 1971, the Division largely eliminated the backlog

of employment cases previously filed but awaiting trial. For this reason, the Division was able to concentrate on filing new cases which would have substantial impact, and on expediting their resolution or trial. Among the more significant "pattern or practice" suits brought during the year were:

- A suit against the Nation's largest steel producer, *United States Steel Corp.* (8);
- A statewide suit against a major power company, *Virginia Electric & Power Co.* (9);
- A statewide suit against the locals representing the ironworkers in California (10);
- Corporate-wide suits against two major trucking concerns, *T.I.M.E.—D.C.* (11) and *Pilot Freight* (12);
- A suit against 17 hotels and five unions in the resort industry in Las Vegas (13); and
- Areawide suits against building trade unions in Newark (14), New York (15) and New Orleans (16).

Major accomplishments during the year included three decisions sustaining the authority of the Attorney General to obtain back pay for victims of discrimination in pattern or practice cases, *United States v. AMBAC* (17); *United States v. New York Lathers, Local 46* (18); and, *United States v. Ironworkers, Local 86* (19). The Division also filed and successfully concluded by a consent decree its first "pattern or practice" suit involving sex discrimination, *United States v. Libby-Owens-Ford* (20). In addition, a consent decree was obtained in the case of *United States v. Cannon Mills* (21), a suit involving an employer with more than 24,000 employees and with over 1,700 employees to whom relief was afforded. Discrimination in housing as well as employment was involved in that suit. A consent decree was also obtained in the case of *United States v. Roadway Express* (22), involving one of the Nation's largest trucking firms.

Among the 15 cases tried during the year was *United States v. Inspiration Consolidated Copper* (23), our first "pattern or practice" suit specifically concerned with discrimination against Mexican-Americans.

EDUCATION SECTION

During fiscal year 1971, much of the Division's resources were devoted to bringing into compliance those remaining school districts with a history of *de jure* segregation which were not yet operating in accordance with current judicial standards. To accomplish this end, the Division initiated 13 statewide or multidistrict

suits during the summer of 1970, involving 90 school districts (24).

In September 1970, an enforcement program was established to insure compliance with the court-ordered desegregation plans. Division attorneys assisted U.S. Attorneys in their efforts to solve school desegregation problems within their local jurisdictions. State and local biracial advisory committees were created to facilitate the process of desegregation, and schools opened with relatively few disruptions.

While compliance with the law has been widespread, the Division has a continuing responsibility to insure that the courts' orders are being followed. Department attention was directed to complaints from some districts involving such transitional problems as the demotion and dismissal of black teachers and principals, segregated classrooms and student activities, segregated transportation systems, and the transfer of public school property to segregated private schools.

Although many of these complaints were resolved through negotiations with local school boards out of court, much of the resources of the Division's Education Section were involved in litigation seeking the elimination of these practices. Approximately 55 motions were filed during the fiscal year in order to bring school districts into full compliance with the law.

The efforts of the Division were also turned toward the problems of minority groups other than blacks. In several cases arising in Texas, the Division sought equal educational opportunity for Spanish-speaking students. For example, in a suit against the Sonora School District in Texas, in which the United States intervened, the court entered an order which required special programs to meet the needs of the Mexican-American students in the district (25).

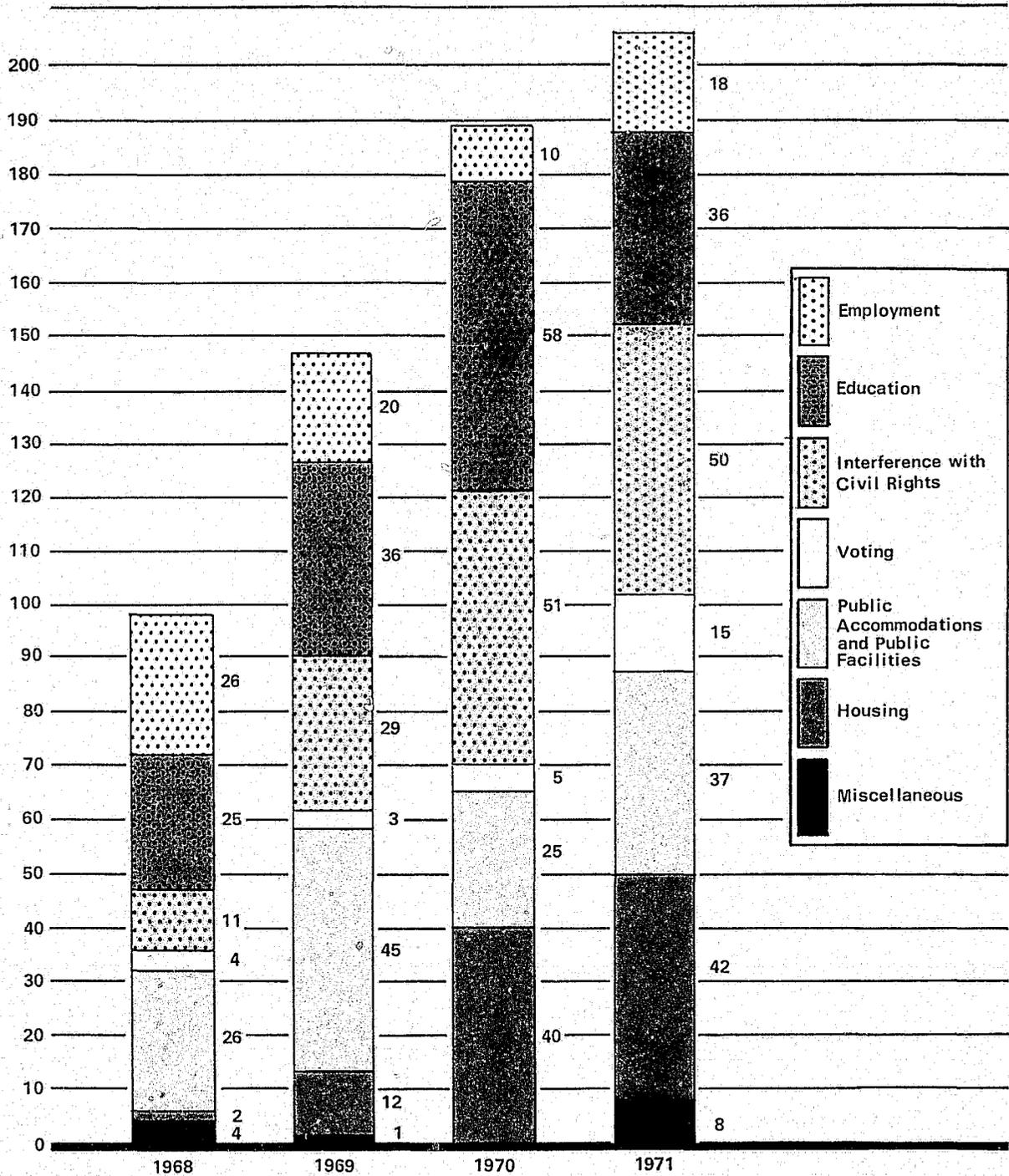
It should be noted that in April 1971 the Supreme Court set out some new judicial standards in its decision in *Swann v. Charlotte-Mecklenburg Board of Education* (26) and in its companion case, *Davis v. Board of School Commissioners of Mobile County* (27). The court addressed itself to many of the unanswered questions regarding the requirements for desegregating school districts which had formerly been segregated by official action. The court concluded that pairing and grouping of noncontiguous zones and the transportation of students were permissible tools in the development of a school desegregation plan.

During fiscal 1971, the Division became involved in 36 new education cases in 12 States. At the close of the year the Division had 250 school desegregation cases involving approximately four million students in 523 school districts pending before the courts in varying stages.

Civil Rights Division

Cases Filed

Fiscal Years 1968-1971



HOUSING SECTION

During the fiscal year ending June 30, 1971, the Civil Rights Division filed 40 fair housing suits against 135 defendants in 17 States, bringing the total of pending cases to 91. The Division also filed two *amicus* briefs, one in the Supreme Court and one in the Court of Appeals for the Ninth Circuit. Cases of various kinds were brought in many of the major urban areas of the United States including New York, Los Angeles, Chicago, Houston, Philadelphia, Boston, Atlanta, Cleveland, Dallas, Kansas City, and St. Louis. New suits in these areas as well as smaller cities have increased the likelihood for voluntary compliance. Twenty-four consent decrees were negotiated during fiscal 1971 resulting in court orders not only prohibiting further racial discrimination but also requiring comprehensive affirmative steps to correct the effects of past discrimination. Favorable court decisions have further defined the scope of the Civil Rights Act of 1968.

The most frequent subject of the Division's housing litigation was discrimination in apartment rental. The single most important suit in this area was brought against the Lefrak organization, which owns buildings containing approximately 21,000 units in Brooklyn and Queens, New York. A consent decree, which was entered in January 1971 (28), required not only an end to discriminatory practices but also required the defendant to take certain affirmative steps to overcome the discrimination. The decree included provisions that would assure equal treatment of applicants on a first-come, first-served basis as well as assure non-discriminatory assignments of tenants. As part of the affirmative relief, it required the defendants to notify all tenants in seven buildings predominantly occupied by blacks of vacancies in buildings occupied by white persons and to pay the equivalent of the first month's rent for up to 50 families who might decide to transfer.

The Division also sued several large management companies, including Fredrick W. Berens Sales, Inc. (29), a corporation which manages and operates 22 apartment complexes in the Washington, D.C. metropolitan area with over 4,500 units. Also of significance were the Division's suits against three apartment locator services, in Boston (Crimson Apartment Service) (30), Hollywood (AAA Rentals) (31), and Los Angeles (Choice Rentals) (32), alleging failure to show certain listings to blacks. After suit, the Division sent 66 notice letters to persons who had listed property with AAA Rentals and almost 400 letters to persons who had listed dwellings with Choice Rentals, advising them it is a violation to indicate a racial preference.

A particularly important decision regarding apartment rental was *United States v. West Peachtree Tenth Corp.* (33). There the Court of Appeals for the

Fifth Circuit reversed the lower court and ordered the defendants to cease discriminating and to undertake comprehensive affirmative steps to correct the effects of past discrimination. The decision in general validated the affirmative relief and objective standards the Division has required in consent decrees.

A second class of cases involved the sale of homes. The principal suit of this type filed in fiscal 1971 was *United States v. Homestead Realty* (34), in which we charged a real estate company (which operates in the southern suburbs of Chicago, employs over 80 salesmen and sells about 600 homes a year) with discriminatory practices designed to discourage prospective black buyers from purchasing in certain areas. In *United States v. Armbruster* (35), the Department charged four major realtors in the St. Louis area with steering blacks to certain areas and whites to others. This matter is currently the subject of negotiations. *United States v. Northside Realty* (36), which involves one of the largest realtors in Atlanta, was tried July, 1971, and a decision is pending.

A third class of cases in which the Division was active involved multiple-listing services which excluded persons on racially discriminatory grounds. In Cleveland, the Division sued Exclusive Multiple Exchange and its 14 member firms which operate in 29 communities in the eastern suburbs of Cleveland, alleging "steering" by constituent members and exclusion of blacks from a broker's organization (37). The Division also filed suit against Realty Multi-List, Inc., which is composed of 20 real estate brokers who are licensed to do business in Georgia, alleging that black brokers are excluded from the multiple-listing service (38). A suit against the Listing Bureau, Inc., a firm in Palm Beach, Fla., alleging exclusion of Jews, was dismissed as moot after the multiple-listing service disbanded and Jewish brokers were allowed to participate in the informal practices that replaced it (39).

The Division also brought three suits during fiscal 1971 against 17 defendants who own or operate mobile home parks in Titusville, Fla. (40), Wilmington, N.C. (41), and Myrtle Beach, S.C. (42). We sent notice letters to seven additional individuals who also allegedly discriminated against minority persons in the operation of their trailer parks.

Also in fiscal 1971, the Division took action against newspapers who printed advertisements indicating a racial preference, bringing suit in July 1970 against a Maryland newspaper publisher who refused to discontinue printing classified advertisements specifying that rooms were available in a "white home." The district court in *United States v. Hunter* (43), ruled that such advertisements do indicate a racial preference, that it is a violation of the Fair Housing Act for the newspaper to publish them, and that the application of the statute to newspapers is constitu-

tional and does not violate the First Amendment. The American Newspaper Publishers Association defended the suit and has appealed to the Court of Appeals for the Fourth Circuit. Although this was the only such suit brought against a newspaper in fiscal 1971, a total of six notice letters were sent to newspapers who permitted similar discriminatory ads to be printed.

An important part of Division activity during fiscal 1971 involved investigation of incidents of alleged use of zoning and land-use planning by local governments to discriminate against minority groups. Near the end of fiscal 1971 the Department filed suit against the city of Black Jack, Mo., charging that the city, with a racially discriminatory purpose and effect, has blocked the construction of federally approved housing for moderate-income families by rezoning the land (44). This is the first case brought by the Government as an original plaintiff charging that an exercise of zoning powers by a municipality is racially discriminatory. Also during fiscal 1971, in the landmark case of *Kennedy Park Homes and United States v. City of Lackawanna* (45), the Court of Appeals for the Second Circuit affirmed a district court decision which ordered local authorities to take all necessary steps to permit construction of federally assisted low-income housing. The Supreme Court denied certiorari. In that case the city had argued unsuccessfully that the additional housing would overburden sewerage facilities and that the land in question was needed for recreational purposes.

Finally, the Division sent a total of 153 notice letters to persons in over 63 towns and cities. Assurances of compliance have been received from 84 of them. Agreements are being negotiated in a substantial number of those remaining. One of the most important notice letters was sent to a large property management company which has 70 offices in most of the principal cities of California and in Seattle, Phoenix, Tucson, and Houston. Eighteen letters were sent to apartments and trailer parks who refused to sign the military nondiscrimination compliance forms; allegations of their noncompliance were forwarded to this Department by the Department of Defense. Other notice letters were sent to real estate companies, small and large apartment owners and managers, apartment referral services, trailer parks, recreational land developers, newspapers, child-care facilities, and a financial institution. An attempt is also being made to negotiate an affirmative action agreement which would bind all the members of the real estate board of St. Louis, Missouri.

During fiscal 1971 division attorneys made numerous appearances before real estate boards, local fair housing groups, local agencies, and other interested groups. These appearances and other activities were part of a comprehensive program to explain the fair housing law.

VOTING AND PUBLIC ACCOMMODATIONS SECTION

Section 5 of the Voting Rights Act of 1965 requires certain designated jurisdictions to submit for the consideration of the Attorney General (or to the District Court for the District of Columbia) all changes in voting qualifications or prerequisites. Under these provisions 333 submissions were received and reviewed during fiscal 1971 involving 624 changes in local election laws or procedures. Objections were lodged against 14 such changes.

Avery v. Midland County (46), requiring local governmental units to comply with the "one-man, one-vote" concept, resulted in many local governmental units in the covered States undertaking reapportionment. As a result, 105 of the submissions that the Attorney General received during fiscal 1971 involved reapportionment. Objections were made to nine of these. Additionally, the Supreme Court in *Perkins v. Matthews* (47) further defined the scope of Section 5, holding that municipal annexations in the covered States are also subject to the requirements of that section.

In accordance with its responsibilities under the Voting Rights Act, the Division coordinated the activities of 408 Federal personnel sent to observe three elections, ranging from municipal and local elections to general elections, in three States.

Five voting cases were filed this fiscal year and the Division became *amicus*, intervenor or defendant in 10 other voting cases.

Two voting cases filed in fiscal 1970 were tried during fiscal 1971 and a decision was reached in one (48) while the other continues under advisement by the court (49). Fifty-two cases were pending at the close of the year.

Other significant cases involving voting rights decided this year were *Connor v. Johnson* (50) and *Whitcomb v. Chavis* (51). The Department participated as *amicus* in *Connor*, where the court indicated that some judicially-mandated changes are exempt from Section 5 of the Voting Rights Act. *Chavis* concluded that multimember representative districts in metropolitan areas were not per se discriminatory. The impact of these decisions on the Division's responsibilities under the Voting Rights Act awaits further clarification.

Shortly before the beginning of fiscal 1971, Congress extended the provisions of the Voting Rights Act of 1965 for an additional five years. The 1970 amendments also suspended literacy tests in all States and counties not previously covered by the 1965 Act, eliminated durational residency requirements in presidential elections, and reduced the voting age to 18. The

Department defended the constitutionality of these new provisions in the Supreme Court (52) and the district courts (53).

After the Supreme Court's decision in *Oregon v. Mitchell* (54), the Department sent a letter to each Governor with a memorandum explaining the law as interpreted by the court. Potential logistic problems arising from the court's holding the 18-year-old vote provisions constitutional only for Federal elections were averted by the passage of the 26th Amendment to the Constitution.

To more effectively discharge its duty to review changes in voting laws and procedures submitted by States and subdivisions covered by the relevant provisions of the Voting Rights Act of 1965, as amended, the Department has formulated guidelines outlining the procedures for submission, evaluation, decision, and implementation (55). These procedures, which will be published in early fiscal 1972, make the requirements for a submission more clearcut for the jurisdictions involved and will enable the Attorney General to fulfill his responsibilities under the Act more efficiently.

The Division received 524 complaints involving alleged discrimination in places of public accommodation during fiscal year 1971.

A number of the complaints received were referred to State and local governments or agencies for resolution under their public accommodations laws. The Division requested the FBI to investigate 124 of the complaints. Many establishments voluntarily agreed to comply with the requirements of Title II of the Civil Rights Act of 1964 after the Division initiated preliminary investigations. Seven others furnished written assurances of compliance in response to 23 notice letters sent by the Division after investigation had established probable violation of the statute. Ten consent decrees were obtained as a result of court action. Thirty-seven new cases were filed; and 13 were closed for a total of 100 pending at the end of the year.

In addition to such establishments as restaurants, cafes, truck stops, and gas stations, public accommodations suits were filed this fiscal year against such places of entertainment as taverns, skating rinks, and a discotheque. The latter establishments were sued as "places of exhibition or entertainment" on the basis of their containing entertainment devices, such as juke boxes, pin ball machines, and pool tables, for the amusement of their patrons.

The developing judicial interpretation of the "place of exhibition or entertainment" provision of the public accommodations law was illustrated by the decision in *United States v. Central Carolina Bank and Trust Company* (56), in which the court of appeals held that items sold in a golf pro shop were sufficient to bring the operation of a golf course within the non-discrimination requirements of the statute.

United States v. Purkey (57) saw the first entry of a decree in a contested case where the defendant operated a tavern and statutory coverage was based on the presence of entertainment devices such as a juke box. The decision in *United States v. Boyd* (58) continued to broaden the relief awarded to correct the effects of past racial discrimination by ordering the closing of a "back room" formerly designated for blacks and later used entirely by them under a "freedom of choice" plan.

Two suits were filed alleging racial discrimination in the operation of public facilities; *United States v. City of Dadeville* (59), involving a municipal swimming pool and *United States v. McCall* (60), involving a county jail.

Two related suits were filed during the fiscal year challenging State miscegenation statutes which were used to deny white military personnel marriage licenses because they wished to marry blacks. In *United States v. Brittain* (61), the district court held that the United States has standing to challenge such statutes and enjoined their further enforcement. In *United States v. Roberts* (62), the Division obtained a temporary restraining order enjoining the local official from refusing to issue a marriage license; by the end of the fiscal year there had not been a hearing on the merits.

In a significant decision, *Palmer v. Thompson* (63), the Supreme Court rejected the position advanced by the Department in an *amicus* brief. It held that the city of Jackson, Miss., could, consistent with the 14th Amendment, close public facilities (swimming pools) even though the pools had been ordered desegregated by a district court order.

FEDERALLY ASSISTED PROGRAMS

Section 601 of Title VI of the Civil Rights Act of 1964 requires all Federal agencies providing financial assistance (other than by contracts of insurance or guarantee) to insure that no person is "excluded from participation in, . . . denied the benefits of, or . . . subjected to discrimination" in the operation of these programs. Executive Order No. 11247 placed responsibility for coordinating the Title VI activities of all other Federal agencies on the Attorney General. Title VI covers more than 400 programs, administered by more than 23 Federal departments and agencies. While the Civil Rights Division represents a relatively small percentage of the total Federal resources allocated to the attainment of equal opportunity, it nonetheless has critical responsibilities as the focal point for coordination of these Federal programs. Within the Department of Justice, the Title VI Office

in the Civil Rights Division handles this coordinating responsibility.

Early in fiscal 1971, the Division made an extensive survey of all federal equal opportunity programs. This study established the need to expand the manpower allocated to the coordination of Title VII enforcement. To this end, the size of the Title VII Office was doubled in May, 1971.

During fiscal 1971 the Division worked with the Interagency Committee on Uniform Civil Rights Policies and Practices in conducting a survey of the 13th largest Federal assistance agencies to determine their present ability to know and keep track of the extent and result of minority participation in their programs. In April 1971 the Committee issued a report of its findings and made a number of recommendations as to how the Federal Government could improve its racial data collection system. The Committee is now working with the Office of Management and Budget and revisiting the 13 agencies to try to aid them in developing specific steps for adopting improved racial data capabilities.

This past year the Section has also worked with the agencies to help them amend their Title VI regulations and bring them up-to-date to include the revised standards now accepted by the courts and the agencies themselves. At agency request, the Section has provided legal opinions on Title VI problems.

When an agency's compliance activities and the Attorney General's efforts at coordination have proved inadequate, the Division has participated in litigation at the request of other Federal agencies to insure that no person is discriminated against or denied the benefits of federally assisted programs.

A new area for the Division has been its activity in safeguarding the interests of migrant agricultural workers and their rights to Federal benefit programs. Early in the year the Division was involved in negotiating a settlement in Marion County, Oreg., between the Valley Migrant League, an OEO-funded migrant assistance group, and the local growers. This year the Division filed an *amicus* brief in a migrant case in New Jersey (64). On March 11, 1971, the United States filed suit in Michigan (65), following the filing of a private migrant suit (66), to protect the right of access for workers to federally funded assistance programs and other programs benefiting migrants. This case is currently pending in the district court.

During fiscal 1971, the Division moved to intervene in two cases alleging discrimination in employment and delivery practices of the Alabama and Mississippi State agricultural extension services (*Strain v. Philpott* (67), and *Wade v. Mississippi Cooperative Extension Service* (68)). The *Strain* case is currently pending decision and in *Wade* the United States is awaiting leave to intervene.

In March 1971, the United States filed suit to enjoin alleged interference by Mississippi State officials with the operation of the Tri-County Community Center, Inc., a nonprofit corporation operating an OEO-funded comprehensive health program (69). That case was still in the discovery stage at the end of the year.

The Division has investigated a number of alleged instances of discrimination in police employment and during fiscal 1971 participated as *amicus* in two cases alleging discrimination in employment in the Boston Police Department and in the Mississippi Highway Patrol (70). Both cases were pending at the close of the fiscal year.

CRIMINAL INTERFERENCE WITH FEDERALLY PROTECTED RIGHTS AND ACTIVITIES

The Civil Rights Division is charged, under the post-Civil War civil rights statutes and portions of the 1968 Act, with investigating incidents of criminal interference with federally protected rights and activities and, where necessary, bringing appropriate prosecutions.

By centralizing the enforcement of civil rights criminal statutes into one organizational unit, the Division has been able to expand its prosecutive efforts. During fiscal 1971, the first full fiscal year of the Criminal Section's existence, the number of grand jury presentations almost quadrupled over that of the prior year as a result of increased manpower and a significant reorganization.

The Division reviewed approximately 16,000 complaints of alleged criminal interference with the civil rights of citizens during fiscal year 1971, most of which alleged misconduct by police and other law enforcement agencies. More than 2,500 investigations based on these complaints were conducted. As a consequence of these investigations, 74 grand jury presentations were instituted, resulting in the indictment of 92 individuals, while two informations were filed against three additional individuals. By the end of the fiscal

Civil Rights Division school litigation by fiscal year

Source of jurisdiction	1959	1961	1963	1964	1965	1966	1967	1968	1969	1970	1971	Total
CRA 1964, Title IX (intervention).....	X	X	X	X	5	35	10	1	3	1	3	68
Title IV (school desegregation).....	X	X	X	X	2	12	42	12	21	15	19	123
Title VI (Federal funds).....	X	X	X	X	0	0	2	1	2	14	4	23
U.S. defendant.....	X	X	X	X	1	3	2	5	7	11	4	33
Amicus Curiae.....	1	5	4	5	2	8	0	5	2	16	6	54
Other.....	0	2	7	3	1	0	0	1	1	1	0	16
Totals.....	1	7	11	8	11	58	56	25	36	58	36	307
Number closed.....	1	5	11	6	0	9	3	1	0	22	8	64
Number still active at close of year.....	0	2	2	4	15	64	117	141	177	¹ 214	² 250	² 250

¹ One case reinstated included in number active but not in category listing.

² Reflects reinstatements and adjustments to number pending at close of FY 1970 because several cases consolidated on appeal had been counted as one.

Civil Rights Division statistical report—cases ¹ and matters ² fiscal year, 1965-71 ³

	1965	1966	1967	1968	1969	1970	1971
Cases filed:⁴							
Criminal.....	6	11	7	11	20	51	50
Civil.....	85	120	137	87	117	138	156
Total.....	91	137	144	98	140	180	206
Matters received:							
Criminal.....	1,023	1,885	1,652	1,670	2,281	2,431	2,604
Civil.....	1,695	1,972	1,768	1,113	956	968	⁵ 1,359
Total.....	3,318	3,857	3,420	2,783	3,237	3,399	4,053
Cases terminated:							
Criminal.....	6	9	2	12	17	40	48
Civil.....	33	50	40	108	81	44	29
Total.....	39	59	51	120	98	84	77
Matters terminated:							
Criminal.....	1,360	1,387	1,442	1,880	2,207	2,581	2,937
Civil.....	652	744	1,799	1,069	1,821	739	628
Total.....	2,012	2,131	3,241	2,958	4,118	3,320	3,565
Total terminated.....	2,051	2,190	3,292	3,078	4,216	3,404	3,642
Cases pending:							
Criminal.....	21	27	32	30	42	54	56
Civil.....	268	246	334	314	355	456	592
Total.....	289	273	366	344	397	^{6,7} 510	¹⁰ 648
Matters pending:							
Criminal.....	657	1,155	1,594	1,407	1,391	1,228	985
Civil.....	1,668	2,896	3,036	3,048	2,183	2,482	3,213
Total.....	2,325	4,051	4,630	4,455	3,574	⁸ 3,710	4,198
Total pending.....	2,614	4,324	4,996	4,799	3,971	4,220	4,846

¹ A "case" is a proceeding filed in court against or by the United States as party, intervenor, or *amicus curiae*. It remains pending as long as there is the likelihood of further enforcement proceedings.

² A "matter" is a complaint of racial discrimination which is being investigated. Each unit generally represents a single public or private entity against whom one or more such complaints have been made. Public education and voting matters ordinarily remain in pending status indefinitely and are accounted for only once as a single unit no matter how many successive complaints are received.

³ Division established Dec. 9, 1957. For statistics on the years 1958-63 see the "Annual Report of the Attorney General for the Fiscal Year 1964." At the close of fiscal year 1963 there were pending 16 criminal cases, 230 civil cases, 701 criminal matters, and 225 civil matters.

⁴ Until the responsibility for such cases was transferred to the Criminal Division in May 1966, the Civil Rights Division's statistics reflected cases and matters having to do with issues of Federal and State custody not related to the Federal civil rights laws. It is possible to separate "custody" cases filed and terminated statistics from civil rights statistics for the years shown by this table and this has been done by subtraction. For the years 1964-66 there were, in addition to the numbers shown above, the following: "custody" cases filed: 1964-165; 1965-112; 1966-76; "custody" cases terminated: 1964-200; 1965-66; 1966-170; 1967-1.

⁵ XX-4 cases reinstated-fiscal 1970.

⁶ 3 cases, *U.S. v. Palmer, Fairley v. Patterson and Gautreaux v. Chicago Housing Authority* were inadvertently omitted from count for fiscal year 1969 but were added to pending total for fiscal year 1970.

⁷ Although *State of Mississippi v. Hardin* was filed April 15, 1969, it was not counted in the pending cases for fiscal year 1969 because the division was only involved on counts two and three and did not begin participation until fiscal year 1970. It is counted in total pending fiscal year 1970.

⁸ 57-matters-reinstated-Fiscal 1970 included in Pending.

⁹ 199 of these matters were reinstatements.

¹⁰ Reflects reinstatements and adjustments to number pending at close of fiscal 1970 because several cases consolidated on appeal had been counted as one.

year, a total of 37 cases had been tried and 19 individuals had been convicted, nine through guilty or *nolo contendere* pleas and 10 through trial and verdicts. Forty-eight cases were closed and 57 were pending at the end of the fiscal year.

Major criminal cases tried by the Division during fiscal 1971 included a series of prosecutions resulting from the 1969 "People's Park" disturbances in Berkeley, Calif., during and after which several individuals were injured and one killed.

An investigation in Tennessee led to the indictment and trial of county and State law enforcement officers for soliciting payments from individuals to dismiss charges against them. The trial resulted in the conviction of five officers.

The Division participated in a joint presentation to a grand jury in Madison, Wis., which returned indictments against four individuals for conspiring to deny individual rights by bombing the Mathematics Research Center at the University of Wisconsin. The bombing resulted in the death of one man and the injury of three others. The defendants remain at large and trial proceedings await their apprehension.

The investigation of a racial bombing incident in Texas resulted in criminal proceedings against two men who bombed 36 schoolbuses. Both were convicted during the year and the verdict was sustained by the

appellate court. The defendants in this case were sentenced to 11 years imprisonment in addition to an \$11,000 fine (71).

Other significant cases filed during the year include those involving the shooting deaths of two Mexican nationals in Los Angeles; allegations of the death, woundings and beatings of inmates at two large penal institutions, and the practices of a pauper attorney who has been charged with extracting legal fees from indigents while receiving a salary from the State.

Because of the unique nature of cases that involve law enforcement officials themselves as defendants, special training is provided Division attorneys responsible for such cases. Each new attorney spends six weeks working in the Office of the U.S. Attorney for the District of Columbia. Because that office prosecutes the majority of crimes in the District, Division attorneys not only receive excellent training but also gain an insight into the types of crime problems faced by law enforcement officials in a large urban area. In addition, each of the attorneys in the Criminal Section is required once a year to accompany officers of the Metropolitan Police Department in their patrol car rounds. A Division decision to seek prosecution is thus made with reference to the problems facing our police and an awareness of what can and ought to be expected of good police work.

LIST OF CASES CITED

(1) Among the injunctions obtained after litigation were preliminary injunctions in *United States v. Georgia Power Co.*, 3 EPD ¶ 8143 (N.D. Ga. 1970); *United States v. Sheet-metal Workers, Local 10*, (D.N.J. 1970) 3 EPD [CCH] § 8068; and *United States v. Virginia Electric and Power Co.*, 327 F. Supp. 1034. (E.D. Va. 1971) Among the permanent decrees obtained were those in *United States v. Frazer*, 317 F. Supp. 1079 (M.D. Ala., 1970); *United States v. Georgia Power Co.*, 3 EPD ¶ 8318 (N.D. Ga. 1971); *United States v. Continental Can Co.*, 319 F. Supp. 161 (E.D. Va., 1970); and, *United States v. International Longshoremen's Association (Baltimore)*, 319 F. Supp. 737 (D. Md., 1970), *appeal and cross appeal docketed* Nos. 71-1367 and 71-1386, 4th Cir., April 20 and 23, 1971.

(2) *Griggs v. Duke Power Co.*, 401 U.S. 424 (1971).

(3) *Ida Phillips v. Martin Marietta Corp.*, 400 U.S. 542 (1971).

(4) *Dewey v. Reynolds Metal Co.*, 429 F. 2d 324 (6th Cir., 1970), *affirmed by an equally divided Court*, 402 U.S. 904 (1971).

(5) *Contractors Association of Eastern Pennsylvania v. Secretary of Labor*, 442 F. 2d 159 (3d Cir., 1971).

(6) *United States v. Ironworkers Local 86*, 315 F. Supp. 1202 (W.D. Wash., 1970), *affirmed*, 443 F. 2d 544 (9th Cir., 1971).

(7) *United States v. Bethlehem Steel Corp.*, 312 F. Supp. 977 (W.D. N.Y., 1970), *reversed in part*, 446 F. 2d 652 (2d Cir., 1971).

(8) *United States v. United States Steel (Fairfield Works)*, Civ. No. 70-906 (N.D. Ala., filed Dec. 11, 1970).

(9) *United States v. Virginia Electric and Power Co.*, 327 F. Supp. 1034 (E.D. Va., filed 1971) (order on preliminary injunction).

(10) *United States v. California Ironworkers*, Civ. No. 71-954 (N.D. Calif., filed May 5, 1971).

(11) *United States v. T.I.M.E.-D.C.*, Civ. No. 5-868 (N.D. Tex., filed Jan. 1, 1971).

(12) *United States v. Pilot Freight*, Civ. No. C-143-WS-71 (M.D. N.C., filed June 28, 1971).

(13) *United States v. Nevada Resort Association*, Civ. No. LV-1645 (D. Nev., filed June 4, 1971).

(14) *United States v. Newark Plumbers, Local 24*, Civ. No. 444-71 (D. N.J., filed Mar. 25, 1971).

(15) *United States v. New York Pipefitters, Local 638*, Civ. No. 71 Civ. 2877 (S.D. N.Y., filed June 29, 1971).

(16) *United States v. New Orleans Electricians, Local 130*, Civ. No. 71-1779 (E.D. La., filed June 30, 1971).

(17) *United States v. AMBAC*, 3 EPD ¶ 8210 (D.C. Mass., 1971).

(18) *United States v. New York Lathers, Local 46*, 3 EPD ¶ 8204 (S.D. N.Y., 1971), Supp decision, 3 EPD ¶ 8249 (S.D. N.Y., 1971); motion for contempt granted.

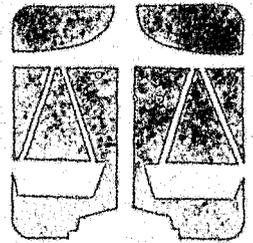
(19) *United States v. Ironworkers, Local 86, supra* (motion for suppl. relief against Electrical Workers Local 46 granted, May 28, 1971).

(20) *United States v. Libby-Owens-Ford*, 3 EPD ¶ 8052 (N.D. Ohio, 1971).

- (21) *United States v. Cannon Mills*, Civ. No. C-65-S-69 (M.D. N.C., Feb. 24, 1971).
- (22) *United States v. Roadway Express*, 63 CCH Lab. Cas. § 9516 (N.D. Ohio, Sept. 1, 1970).
- (23) *United States v. Inspiration Consolidated Copper*, Civ. No. C-70-91 Globe (D. Ariz., trial completed Apr. 6, 1971).
- (24) *United States v. Bradley No. 20 et al.*, Civ. No. T-70-G-21 (W.D. Ark., filed July 9, 1970); *United States v. Colton Plant No. 1 et al.*, Civ. No. H-70-G-10 (E.D. Ark., filed July 9, 1970); *United States v. Baker County et al.*, Civ. No. 70-636-Civ.-J (M.D. Fla., filed July 9, 1970); *United States v. Gadsden County et al.*, Civ. No. TCA 1616 (N.D. Fla., filed July 9, 1970); *United States v. Hendry County et al.*, Civ. No. 70-1017 (S.D. Fla., filed July 9, 1970); *United States v. State of Mississippi*, Civ. No. WC 70-36-R (N.D. Miss., filed July 9, 1970); *United States v. State of Mississippi*, Civ. No. 4706 (S.D. Miss., filed July 9, 1970); *United States v. Barnwell County No. 19 et al.*, Civ. No. 70-599 (D.S.C., filed July 9, 1970); *United States v. Texas Education Agency*, Civ. No. 3-4076-A (N.D. Tex., filed Aug. 7, 1970); *United States v. Texas Education Agency*, Civ. No. 5193 (E.D. Tex., filed Aug. 7, 1970); *United States v. Texas Education Agency*, Civ. No. 70-CA-80 (W.D. Tex., filed Aug. 7, 1970); *United States v. Texas Education Agency*, Civ. No. 70-H-832 (S.D. Tex., filed Aug. 7, 1970); *United States v. Texas Education Agency*, Civ. No. 5188 (E.D. Tex., filed July 23, 1970).
- (25) *Perez and United States v. Sonora Independent School District*, Civ. No. 6-224 (N.D. Tex., order of Nov. 16, 1970).
- (26) *Swann v. Charlotte-Mecklenburg Board of Education*, 402 U.S. 1 (1971).
- (27) *Davis v. Board of School Commissioners of Mobile County*, 402 U.S. 33 (1971).
- (28) *United States v. Samuel J. Lefrak, d/b/a The Lefrak Organization*, Civ. No. 70 Civ. 964 (E.D. N.Y., consent decree entered Jan. 28, 1971).
- (29) *United States v. Frederick W. Berens Sales, Inc.*, Civ. No. 71-113-W (D. Md., filed Feb. 5, 1971, consent decree entered June 10, 1971).
- (30) *United States v. Crimson Apartment Service, Inc.*, Civ. No. 71-593-M (D. Mass., filed Mar. 11, 1971).
- (31) *United States v. Ray Kiltz and Maria Kiltz, d/b/a AAA Rentals*, Civ. No. 70-1894cc (C.D. Calif., filed Aug. 24, 1970).
- (32) *United States v. Edith Massey and Helen Hillsborough, d/b/a Choice Rentals*, Civ. No. 71-73-R (C.D. Calif., filed Jan. 12, 1971, consent decree entered June 4, 1971).
- (33) *United States v. West Peachtree Tenth Corp., d/b/a One Tenth Street Apartments*, 437 F. 2d 221 (5th Cir., 1971, consent decree entered February 25, 1971).
- (34) *United States v. Homestead Realty Inc.*, Civ. No. 71 C 205 (N.D. Ill., filed Jan. 25, 1971).
- (35) *United States v. John H. Armbruster and Co.*, Civ. No. 70-C-108 (1) (E.D. Mo., filed Mar. 10, 1970).
- (36) *United States v. Northside Realty Associates, Inc.*, Civ. No. 13-932 (N.D. Ga., filed July 10, 1970).
- (37) *United States v. Exclusive Multiple Exchange*, Civ. No. C70-969 (N.D. Ohio, filed Oct. 19, 1970).
- (38) *United States v. Realty Multi-List, Inc.*, Civ. No. 1493 (M.D. Ga., filed Mar. 16, 1971).
- (39) *United States v. Palm Beach Realty Listing Bureau, Inc.*, Civ. No. 70-373-CIV-CF (S.D. Fla., filed Mar. 23, 1970).
- (40) *United States v. Grooms*, Civ. No. 71-94-ORL-CIV (M.D. Fla., filed May 3, 1971).
- (41) *United States v. Continental Construction Co.*, Civ. No. 1526 (E.D. N.C., filed May 3, 1971).
- (42) *United States v. Perry Parks, Inc.*, Civ. No. 71-407 (D. S.C., filed May 4, 1971).
- (43) *United States v. Bill R. Hunter, d/b/a The Courier*, 324 F. Supp. 528 (D. Md., 1971).
- (44) *United States v. Black Jack, Missouri*, Civ. No. 71C 372 (1) (E.D. Mo., filed June 14, 1971).
- (45) *Kennedy Park Homes and United States v. Lackawanna, New York*, 318 F. Supp. 669 (W.D. N.Y., 1970), *aff'd*, 436 F.2d 108 (2d Cir., 1970), *cert. denied*, 401 U.S. 1010 (1971).
- (46) *Avery v. Midland County*, 390 U.S. 474 (1968).
- (47) *Perkins v. Matthews*, 400 U.S. 379 (1971).
- (48) *United States v. Democratic Committee of Wilcox County, Alabama*, Civ. No. 6047-70-P (S.D. Ala., filed June 3, 1970, decided Dec. 22, 1970).
- (49) *United States v. Myrtis Bishop*, Civ. No. 15747 (W.D. La., filed June 8, 1970).
- (50) *Connor v. Johnson*, 402 U.S. 690 (1971).
- (51) *Whitcomb v. Chavis*, 403 U.S. 124 (1971).
- (52) *Oregon v. Mitchell*, 400 U.S. 112 (1970).
- (53) *Christopher v. Mitchell*, 318 F. Supp. 994, vac. 401 U.S. 902 (1971); *United States v. New Hampshire*, Civ. No. 3191 (D.N.H., Oct. 27, 1970); *United States v. North Carolina*, (E.D.N.C., Oct. 29, 1970).
- (54) *Oregon v. Mitchell*, *supra*.
- (55) 36 Fed. Reg. 9781 (1971) (Proposed).
- (56) *United States v. Central Carolina Bank & Trust Co.*, 431 F. 2d 972 (4th Cir. 1970).
- (57) *United States v. Purkey*, Civ. No. 7050 (E.D. Tenn., June 7, 1971).
- (58) *United States v. Boyd*, 327 F. Supp. 998 (S.D. Ga. 1971).
- (59) *United States v. City of Dadeville*, Civ. No. 886E (M.D. Ala., filed Mar. 9, 1971).
- (60) *United States v. McCall*, Civ. No. 71-2 (M.D. Fla., filed Jan. 18, 1971).
- (61) *United States v. Brittain*, 319 F. Supp. 1058 (M.D. Ala. 1970).
- (62) *United States v. Roberts*, Civ. No. 15,145 (M.D. Ga., filed May 20, 1971).
- (63) *Palmer v. Thompson*, 403 U.S. 217 (1971).
- (64) *State v. Shack and Fejeras*, Civ. No. 1970-A-102 (D.N.J., filed as *amicus* Dec. 31, 1970).
- (65) *United States v. Hassle*, Civ. No. K26-71 (W.D. Mich., filed Mar. 11, 1971).
- (66) *Folqueras v. Hassle*, Civ. No. 252 (W.D. Mich., filed July 6, 1970).
- (67) *Strain v. Philpott*, Civ. No. 840-E (M.D. Ala., intervened Mar. 5, 1971).
- (68) *Wade v. Mississippi Cooperative Extension Service*, Civ. No. EG 7029-K (N.D. Miss., U.S. filed motion to intervene Apr. 28, 1971).
- (69) *United States v. Williams*, Civ. No. 4839 (S.D. Miss., filed Mar. 2, 1971).
- (70) *Castro v. Beecher*, Civ. No. AD-1220W (D. Mass., filed as *amicus* Apr. 26, 1971); *Morrow v. Crisler*, Civ. No. 4454 (S.D. Miss., U.S. filed as *amicus* Apr. 26, 1971).
- (71) *United States v. Hayes and McMaster*, 444 F. 2d 472 (5th Cir., June 17, 1971), *cert. denied* Oct. 19, 1971 (40 U.S. L. Week 3175).

criminal division

Will R. Wilson/Assistant Attorney General



Supervision of enforcement of all Federal criminal laws except those specifically assigned to other divisions is the responsibility of the Criminal Division. Significant accomplishments in 1971 are outlined in the nine sections' reports which follow:

ORGANIZED CRIME AND RACKETEERING SECTION

Significant achievements in the Federal fight to destroy organized crime included in fiscal 1971 the expansion of strike forces from 13 to 18, enactment of new legislative weapons, increased effectiveness of investigative work, and increased indictments and convictions through use of court-approved intercepts and Cabinet-level coordination by the President's National Council on Organized Crime.

Responsibility for supervising the Federal assault on organized crime rests with the Organized Crime and Racketeering Section. The section leadership is comprised of a Chief and four Deputy Chiefs, each of whom oversees the strike force activity in a specific geographical region of the United States.

Support services are provided by two special units, the Special Operations Unit and the Intelligence and Special Services Unit, located in Washington. The Special Operations Unit is charged with reviewing Federal requests for electronic surveillance court orders pursuant to title III of the Omnibus Crime Control and Safe Streets Act of 1968. Court orders authorize wiretaps or microphones if the government shows there is probable cause to believe that the subject of the surveillance is committing certain specified offenses which pose a particularly serious threat to public safety or are especially characteristic of organized crime. This investigative tool is under the direct supervision of the Attorney General.

From February 19, 1969, the date the first order was requested under title III, to June 8, 1971, a total of 387 court orders (including 65 extensions) have been obtained and executed in connection with Federal orga-

nized crime investigations. Of the total, 261 court orders were obtained in fiscal 1971. The categories of offenses in which the orders have been obtained and executed are: gambling, 279; narcotics, 74; extortionate credit transactions, 23; counterfeiting, 4; interstate transportation of stolen property, 3; theft from commerce and robbery, 2; kidnapping, 1; and obstruction of justice, 1.

The Special Operations Unit also is responsible for safeguarding the public interest in the matter of requests for authorization to seek grants of immunity from prosecution for witnesses in organized crime cases. Joined with it in this endeavor is the Intelligence and Special Services Unit.

The Intelligence Unit maintains a central automated data facility concerning the national scope and membership of the organized crime syndicates. With the support of the States of California, Florida, Illinois, Massachusetts, New York, and Pennsylvania, the Organized Crime and Racketeering Section now has a highly sophisticated organized criminal intelligence system—probably the most effective of its kind in the world.

Another responsibility of this unit is to arrange for the protection of witnesses in organized crime cases. Title V of the Organized Crime Control Act of 1970 authorizes the Attorney General to offer protected housing facilities and to offer to provide for the well-being of government witnesses who have testified against individuals who are alleged to have participated in organized criminal activity. This protection extends as long as the Attorney General determines there is jeopardy to the life of the witness or to the lives of members of his family. More than 100 witnesses have been given this assistance.

The Organized Crime and Racketeering Section supervises the enforcement of specific statutes associated with racketeering activities. These statutes include the Consumer Credit Protection Act, the Gambling Devices Act of 1962, other gambling, racketeering and liquor laws, and since October 15, 1970, the Organized Crime Control Act of 1970.

Supervision of Federal enforcement of other criminal statutes generally is assigned to the section whenever



A record seizure of 5½ tons of marihuana lies on the dock at San Francisco as evidence in indictments against 14 alleged members of a Mexican narcotics smuggling ring. The marihuana was taken from one of two vessels seized May 3, 1971, off Golden Gate by Coast Guard and Customs agents.

it is determined that the subjects under investigation are affiliated with syndicated criminal operations.

The section coordinates the efforts of the various Federal agencies against organized crime, particularly in investigating offenses and in exchanging intelligence information. Attorneys from the section work principally with the Federal Bureau of Investigation, the Bureau of Narcotics and Dangerous Drugs, the Office of Labor-Management and Welfare Pension Reports of the Department of Labor, the Postal Inspector's Office of the Postal Service, the Intelligence Division and the Alcohol, Tobacco, and Firearms Division of the Internal Revenue Service, the Secret Service and the Bureau of Customs. Agents and attorneys from these Federal agencies also participate in the strike force operations.

The strike forces have proved that a highly effective investigative effort can be achieved with investigators from different Government agencies working closely in the field. The strike forces depend upon a program of mutual planning, based on combined intelligence and

pooled experience to achieve their objectives. The strike force attorneys work closely with the U.S. Attorneys and Federal investigators in formulating the group's strategy, and each participant then calls upon his agency to implement that strategy.

Strike forces are now located in Baltimore, Boston, Brooklyn, Buffalo, Chicago, Cleveland, Detroit, Kansas City, Los Angeles, Miami, Newark, New Orleans, New York, Philadelphia, Pittsburgh, San Francisco, and St. Louis. A special project strike force, using the name "Operation Financier," is based in Washington and is aimed at the financial complex supporting organized crime throughout the country.

The effectiveness of court-approved wiretapping has been demonstrated by the number and prominence of organized crime figures subject to the criminal justice process. For example, *Samuel Rizzo DeCavalcante*, boss of the New Jersey organized crime syndicate, and 45 co-conspirators including several of his chief henchmen, pleaded guilty to Federal interstate gambling violations after hearing their own voices played back

to them on wiretap tapes. Sentences ranged from probation to 5 years imprisonment with DeCavalcante receiving the maximum sentence of 5 years and \$10,000 fine. Another example was the statement volunteered to the Miami press by *Martin Sklaroff*, convicted gambler: "You can't work without a telephone . . . Federal wiretaps are going to put us all out of business."

Other significant cases included the following:

Joseph Colombo, Sr., alleged boss of the Brooklyn organized crime syndicate, and 30 others were indicted for violation of the Federal gambling laws. Colombo was critically wounded by a gunman during an Italian-American Civil Rights League rally on June 28, at New York's Columbus Circle.

Nicholas Civella, boss of the Kansas City organized crime syndicate and three others were indicted for violations of the Federal antiracketeering law.

Carlos Marcello, boss of the organized crime syndicate in New Orleans, entered Federal prison on October 14, 1970, to serve a 6-month sentence for striking a Federal officer.

Carmine Tramunti, reputed acting boss of one of the New York organized crime syndicates, and 15 others were indicted in a 72-count indictment charging conspiracy to violate the Federal securities laws, the selling of unregistered stock, mail fraud, and interstate travel in aid of extortion.

Dennis Raimondi, acting boss of the New England organized crime syndicate, was indicted with six others on two counts for hijacking a \$1,000,000 interstate shipment.

James Fratianno, one of the top 10 organized crime figures on the west coast, was indicted on two counts for attempts to collect a debt by extortionate means.

Nicholas Forlano and *Charles R. Stein* were indicted for interstate gambling violations. In 1965, the New York State Commission on Investigation named Forlano and Stein as the two biggest loan sharks in New York City.

Paul Sciacca, reputed boss of the Bonnano New York syndicate faction, was indicted with seven associates for narcotics violations involving heroin.

Meyer Lansky, reportedly a financial mastermind of organized crime, was indicted twice by Federal grand juries. The first indictment resulted from his refusal to appear before a grand jury investigating the concealment and distribution of untaxed casino income. The second indictment charged Lansky and four other persons with conspiring to engage in illegal gambling activity and to conceal and distribute proceeds from the Flamingo Hotel in Las Vegas, Nev. Lansky is currently residing in Israel.

Stevell Annoreno, a member of the Chicago organized crime syndicate, two other members, and eight associates of the Chicago syndicate were convicted of conspiracy to make extortionate extensions of credit. This was the first case to be tried under this particular section of the Consumers Credit Protection Act of 1968. Annoreno was sentenced to 15 years imprisonment and a \$10,000 fine. Two other conspirators were sentenced to 12 years imprisonment and \$10,000 fine each.

Ilario Zannino, underboss in the New England organized crime syndicate, was convicted of interstate transportation of stolen property involving \$160,000 in stolen jewelry. He was sentenced to 7 years and fined \$5,000.

Anthony Giardano, reputed boss of the St. Louis organized crime syndicate, was indicted along with individuals from the Detroit organized crime syndicate on charges of conspiring to use interstate transportation facilities in aid of illegal gambling. The case involved hidden interests in the Frontier Hotel and Casino, Las Vegas, in 1966 and 1967.

Charles Phillip Testa, an alleged high-echelon member of the Philadelphia organized crime syndicate, was indicted with three others in June, 1971, for loansharking.

Salvatore Pieri, acting boss of the Buffalo organized crime syndicate, was convicted September 25, 1970, for jury tampering and obstruction of justice.

In September 1970, *Hugh J. Addonizio*, former mayor of Newark, N.J., was sentenced to 10 years imprisonment and a \$25,000 fine following his conviction on 64 counts of an extortion-conspiracy indictment. Four other former Newark public officials also were convicted and sentenced.

During fiscal 1971, 2,122 defendants were indicted and 679 convictions were secured of members and associates of the organized crime syndicates. Sixty-one of the convictions were of high-echelon figures compared with 33 such convictions in the preceding year.

Significant cases resulted from the continuing Federal organized crime effort to protect the integrity of government institutions from corruptive influences by the crime syndicates:

Thomas J. Whelan, mayor of Jersey City, N.J., and eight other public officials were convicted of extortion and conspiracy charges arising out of kickbacks from contractors doing business with Jersey City and Hudson County over a period of nearly 8 years. Political boss, *John V. Kenney*, was severed from the trial due to illness.

Former West Virginia Governor *William Wallace Barron* pleaded guilty to charges of paying

\$25,000 to the foreman of the Federal jury that acquitted him of bribery conspiracy charges in 1968. The court sentenced former Governor Barron to 25 years imprisonment.

Joseph L. Alioto, mayor of San Francisco, and three former public officials of the State of Washington were indicted on charges of bribery, conspiracy, and mail fraud. The indictments arose from antitrust suits by the State of Washington wherein various public utility districts and municipalities were allegedly defrauded.

In Detroit, Mich., 16 police, including an inspector, three lieutenants, and seven sergeants, were indicted on charges of obstruction of law enforcement involving illegal gambling businesses.

District Attorney *Jim Garrison* of New Orleans, La., two high-ranking New Orleans Police Department officers and seven persons connected with gambling-type pinball machine operations were arrested June 30, 1971, on Federal charges of bribery, illegal gambling, and obstruction of law enforcement. Arrest warrants were issued on a criminal complaint developed from a year-long investigation involving seven Federal agencies and supervised by the New Orleans strike force. The affidavit filed with the complaint charged bimonthly payoffs to Garrison over the last 9 years in exchange for protection of illegal gambling and pinball machine operations. In conjunction with the arrest of Garrison were FBI seizures of more than 600 gambling-type pinball machines in Louisiana and Mississippi. In earlier phases of this major action against organized crime were seizures in October by the Internal Revenue Service of 354 gambling-type pinball machines and raids in November by the Federal Bureau of Investigation which netted approximately 3,000 gambling-type pinball machines and more than 1,000 slot machines in Louisiana and Mississippi.

Other major actions against organized crime resulted in three raids of major significance. On December 12, 1970, the largest Federal gambling raid in history was conducted against illegal sports betting operations in 26 cities. This operation was a joint effort of the Federal Bureau of Investigation and the Internal Revenue Service. Development of the raid was through the Gambling Rackets Committee of the National Council on Organized Crime. Over \$2 million was seized during the raids; and two executives of Caesar's Palace in Las Vegas, Nev., were arrested.

In mid-November, 1970, a 2-day raid of six organized gambling rings in New Jersey and adjoining States resulted in the arrest of 65 persons. Their operations, estimated to handle \$35 million yearly, dealt largely with layoff betting on racing and sporting events.

The largest Federal crackdown ever on narcotics distribution by organized crime was accomplished through "Operation Flanker", which concentrated enforcement on importers, wholesalers, and distributors through raids in four cities: New York; Chicago; New Orleans; and Hartford, Conn. Strike forces were involved in the project and the prosecutions resulting from it. This operation, combined with earlier raids in Philadelphia, Detroit, and Baltimore, netted a total of 118 persons and heroin, cocaine, and marihuana representing a total street value of \$12.8 million.

One of the major achievements in the Federal war on organized crime was the passage of the Organized Crime Control Act of 1970. The Organized Crime and Racketeering Section has moved with great dispatch in implementing the various new remedies and penal sanctions of the Act.

The special grand juries provided for in title I of the act have already been summoned in at least a dozen districts. Under title VIII of the act, which prohibits illegal gambling businesses, there have been 45 indictments involving 469 defendants. Arrests or indictments under 18 U.S.C. 1511, which prohibits obstruction of State criminal laws to facilitate an illegal gambling business, have been developed in the Detroit and New Orleans police corruption cases discussed above. One indictment has been returned under Title IX—Racketeer Influenced and Corrupt Organizations.

Top-level strategic planning and coordination are maintained through the National Council on Organized Crime, which was created by Executive Order of the President on June 4, 1970. The Council, under the chairmanship of the Attorney General, is charged with the responsibility of formulating a national strategy for the elimination of organized crime. To this end it joins in a common effort the Cabinet-level representatives of all Federal agencies having major responsibilities affecting or affected by the activities of organized crime.

The work of the National Council is directed through the seven-member executive committee. The work at the operational level is performed by a number of staff committees, of which there are presently nine. The purpose of these working committees is to analyze needs, estimate fruitful areas of endeavor, support various agencies on budget and manpower requests, and bring more closely together all departments while looking to the elimination in the foreseeable future of rackets as entities and organizations.

The staff committees of the National Council are involved in matters concerning narcotics, gambling rackets, infiltration of legitimate business, labor racketeering, securities theft and fraud, credit card theft and fraud, advice and assistance to state and local efforts against organized crime, and speedy trials of organized crime defendants.

Organized Crime and Racketeering Statistical Analysis of Indictments and Convictions

Fiscal year	Number of defendants indicted	Number of defendants convicted
1971.....	2,122	1,679
1970.....	1,012	389
1969.....	813	449
1968.....	1,166	520
1967.....	1,107	400
1966.....	994	457
1965.....	706	468
1964.....	683	519
1963.....	436	350
1962.....	154	117
1961.....	49	49

¹ A number of cases reflected in the indictments for 1971 and other years remain in the courts.

² Commencing in fiscal year 1969, due to the reassignment of narcotic violations from the Organized Crime and Racketeering Section to a new section and a significant decrease in wagering cases due to the *Marchetti* and *Grosso* Supreme Court decisions, a meaningful comparison with prior fiscal years is difficult.

Organized Crime Syndicates—High Echelon Convictions

Fiscal year	Number of indictments	Number of defendants indicted	Number of cases	Number of defendants convicted
1971.....	68	106	47	61
1970.....	63	109	28	33
1969.....	44	59	28	29
1968.....	38	38	18	23

GENERAL CRIMES SECTION

The General Crimes Section supervises the enforcement of several broad statutory areas including violations of statutes which protect the integrity, operations, property and personnel of the government; offenses relating to legal processes including obstruction of justice, perjury, prison offenses and misconduct by those charged with the administration of justice; and general crimes such as offenses committed in the special maritime and territorial jurisdiction of the United States, antiriot violations, explosive control violations, weapons control violations, bank robbery, kidnaping and extortion. This Section also supervises proceedings under the Youth Corrections Act and the Juvenile Delinquency Act and matters involving habeas corpus and mental competency.

As part of the Department's responsibility to maintain the integrity of the Federal Government, all allegations of corruption involving public officials are investigated promptly and extensively. In fiscal 1971 several significant cases were developed. *Martin Sweig*, previously the administrative assistant to a former House Speaker, was convicted. *Robert Trebor Carson*, administrative assistant to a U.S. Senator, was indicted. *William Wooldridge*, former Sergeant Major of the Army, was indicted. *Maj. Gen. Carl C. Turner*

was convicted on his plea of guilty of unlawfully soliciting gifts for the United States and converting them to his own use.

Convictions for theft of Government property continued at a high rate; there were 926 in fiscal 1971 compared with 936 in 1970. Eight persons were convicted of burglarizing the Federal Building in Rochester, N.Y. Five were indicted for theft of ammunition and equipment from the Newburyport National Guard Armory. Alvin Glatkowski was convicted for seizing the munitions ship *Columbia Eagle*.

Reported offenses which involved killing, assaulting, or interference with Federal officials while engaged in the performance of their official duties continued to increase—291 offenses were reported in fiscal 1971 compared with 250 in 1970 and 168 in 1969. Proposed legislation was developed which would provide sanctions against attacks on Federal and foreign officials.

Aircraft hijacking offenses were a serious and costly problem in fiscal 1971. There were 23 successful hijackings and four unsuccessful attempts. Twenty-eight indictments were returned. Defendants in 16 of those cases are fugitives and in nine cases are awaiting trial. Two indictments resulted in conviction and one indictment was dismissed when the named defendant was found incompetent and was committed to a State mental institution. A conviction was also obtained on an indictment returned in fiscal 1970. The 1971 incidence of such offenses was slightly lower than in 1970.

Department representatives were members of the U.S. Delegation at the Draft Convention on Acts of Interference Against Aircraft in London, England, in October 1970, and also at the Diplomatic Conference on the Convention for the Suppression of Unlawful Seizure of Aircraft in The Hague, Netherlands, in December 1970.

Crimes involving the theft of goods in transportation received particular attention in fiscal 1971. Substantial amendments were proposed to legislation which would provide for voluntary guidelines for cargo security and a uniform loss reporting system. The Interagency Committee on Transportation Security, which is expected to initiate a program for increased security against thefts involving common carriers, was formed.

In June 1971 extensive information and testimony were given to the Senate Permanent Subcommittee on Investigations regarding organized crime's involvement in thefts of securities and negotiable instruments. National Crime Information Center (NCIC) records indicate that the value of missing or stolen securities for calendar years 1969–1970 exceeded \$400 million.

This section also receives all initial investigative reports involving firearms, explosives, and bombing violations. It assigns enforcement responsibility in these

cases. This section coordinates the investigative efforts of the Federal Bureau of Investigation and the Alcohol, Tobacco, and Firearms Division of the Internal Revenue Service under guidelines approved by the Department of Justice and the Department of the Treasury. During the 4-month period in which coordinating was performed, more than 2,000 reports of bombings and attempted bombings were received and processed.

Firearms prosecutions increased more than 300 percent in the past 2 years. In fiscal 1971 more than 2,200 indictments were returned and more than 1,200 convictions were obtained. In 1969, before implementation of the Gun Control Act of 1968, 494 defendants were indicted and 220 were convicted.

The year 1971 was the third full year that the Federal anti-riot statutes were in effect. Section attorneys reviewed investigation reports of several thousand possible violations, including those connected with the "Mayday" activities, and supervised investigations of possible violations of and conspiracies to violate anti-riot laws in localities such as Washington, D.C.; Cleveland and Columbus, Ohio; Pittsburgh, Pa.; Detroit, Mich.; Bloomington, Ind.; Hampton, Va.; Austin, Tex.; Buffalo, N.Y.; and on various college campuses.

During fiscal year 1971 there was a substantial increase in the number of violations under the Federal Bank Robbery Act. There were 2,565 bank robberies, 471 burglaries, and 318 larcenies for a total of 3,354 offenses. This compares with 2,040 bank robberies, 592 bank burglaries, and 154 bank larcenies for a total of 2,786 offenses in fiscal 1970. These figures represent a 26 percent increase in bank robberies in fiscal 1971 compared to 1970, a 106 percent increase in bank larcenies, a decrease of 20 percent in bank burglaries, and an overall increase of 20 percent in bank offenses as a whole.

ADMINISTRATIVE REGULATIONS SECTION

Litigation to enforce criminal and civil sanctions involving the regulation of private activity by Federal departments and agencies is supervised by the Administrative Regulations Section.

Within the purview of the Section is a wide variety of statutes concerned with the protection of consumers, conservation, the regulation of all modes of transportation, communications, and protection of miners and longshoremen. Also, the Section supervises international extraditions and legal matters arising under immigration, citizenship, naturalization and customs laws, and the enforcement of miscellaneous criminal statutes such as the White Slave Traffic Act and the copyright laws.

In fiscal 1971, in the field of immigration and naturalization, the Section received 210 petitions for review of deportation orders in the courts of appeal, as well as 105 declaratory judgment actions and 120 miscellaneous actions in the district courts. The Immigration and Naturalization Service referred directly to U.S. Attorneys potential criminal cases involving 15,813 individuals, resulting in the prosecution of 9,859 defendants, including cases of illegal entry, document fraud, false representation as to U.S. citizenship, and reentry without permission after deportation.

Within the past year, negotiations of three new treaties on extradition have been completed and the negotiation for new treaties has been scheduled with two other countries. Due in large part to a vigorous enforcement effort under the narcotic and dangerous drugs laws, the number of extradition requests has increased substantially.

In the food and drug area, 55 criminal cases were terminated by court action. All but two were in the Government's favor. In addition, 695 civil cases and six injunction proceedings were concluded.

Among other highlights were the following:

- Two important court decisions upheld the Food and Drug Administration's efforts to remove ineffective drugs from the market under the 1962 amendments to the Food, Drug, and Cosmetic Act without the necessity of conducting protracted administrative hearings (1).
- Two Ninth Circuit decisions upheld the legality of routine, warrantless FDA inspections where voluntary consent was given (2), and a First Circuit decision held that the Food, Drug, and Cosmetic Act applies to a corporation which receives food components for its products through interstate commerce even though it does not sell in interstate commerce (3).
- A 67-count indictment was returned in Baltimore, Md., against five former officials of a Baltimore meatpacking company and two Federal meat inspectors, charging the inspectors with accepting gifts of quantities of meat from company officials and charging the officials with mislabeling meat, injecting fluid into meat products to increase falsely their weight, falsely placing Federal meat-inspection marks on meat, and operating plants without Federal inspection (4).
- Nolo contendere pleas were entered in three complex cases involving extensive violations in the Delaware Valley of Department of Agriculture milk marketing regulations by two large dairies, a milk producers' cooperative, four subsidiaries of a major retail food chain, and a milk broker (5).
- In March 1971, the section successfully prosecuted the first case brought under the Clinical Laboratories Improvement Act, convicting a laboratory in Ohio of accepting in interstate com-

merce, human specimens for pathological examination without being licensed by the Public Health Service (6).

- In the area of environmental protection, the Department of Agriculture's suspension of a mercury fungicide was successfully upheld. The suspension was ordered after an Alamogordo, N. Mex., family ate pork heavily infected with mercury residue, resulting in the death of two family members and the total disability of two others (7).
- The first criminal action under the Federal Coal Mine Health and Safety Act of 1969 was brought in June 1971, with the return of a 24-count indictment at Pikeville, Ky., stemming from an investigation by the Bureau of Mines into a coal mine explosion in December 1970, at Hyden, Ky., which claimed the lives of 38 miners (8).
- In February 1971, a shipping company and ship captain were indicted in the Southern District of New York for transporting 80 wild animals from Africa to New York under inhumane conditions resulting in the death of 21 animals, in violation of 18 U.S.C. 42(c) (9).
- In a noteworthy case under the White Slave Traffic Act, the Fifth Circuit upheld the conviction of a practicing attorney in St. Petersburg, Fla., who induced a prostitute to travel from Georgia to St. Petersburg where an agreement was reached that larceny charges against her would be dropped in return for her agreement to provide her services to the attorney, his law partner, a local prosecutor, and a local magistrate (10). An indictment was returned in Chicago charging several individuals with violating the White Slave Traffic Act by recruiting girls in the Chicago area ostensibly for employment in Saigon as dancers and "B" girls and forcing them to work as prostitutes upon their arrival in Saigon (11).
- In August 1970, Chevron Oil Co. pleaded nolo contendere to 500 counts of a 900-count indictment charging violations of the Outer Continental Shelf Lands Act stemming from an extensive oil spill in the Gulf of Mexico, and a fine of \$1 million was imposed. Subsequently, in November 1970, informations charging violations of the same act, although oil spills did not result, were filed against Shell Oil Co. (170 counts), Humble Oil and Refining Co. (150 counts), Continental Oil Co. (121 counts), and Union Oil Co. (12 counts). After nolo pleas, the several companies received maximum fines of \$340,000; \$300,000; \$242,000 and \$24,000, respectively.

The section supervises litigation for enforcement of various transportation statutes. During the past fiscal year, 118 civil penalty cases were terminated under the aircraft safety provisions of the Federal Aviation

Act and a total of \$26,026 in penalties was collected; 18 cases under the railroad safety laws were concluded in favor of the Government, with fines and penalties of \$28,981; and 181 convictions were obtained under the motor carrier safety laws involving levied fines totaling \$139,643.

FRAUD SECTION

The Fraud Section supervises the enforcement of a variety of fraud-related statutes, which, in general, include embezzlements and misapplications in Federal and federally-insured financial institutions, fraud in bankruptcy proceedings, use of the mails or interstate wire facilities in fraud schemes, violations of securities laws and frauds perpetrated against the Federal Government.

Prompted by the recent brokerage house failures and reorganizations, as well as the increasing number of registrations, the Attorney General on September 8, 1970, created a special unit within the Fraud Section to focus on criminal violations in the securities field.

During July and August 1970, the Chief of the Fraud Section represented the Department of Justice in negotiations in Bern, Switzerland, between the Governments of Switzerland and the United States on a draft treaty of mutual assistance in criminal matters, which is intended principally to overcome law enforcement problems created by Swiss bank secrecy. Both Governments have the draft treaty under consideration. Meanwhile, the Swiss Government has provided assistance in several criminal prosecutions involving evidence of heretofore secret Swiss bank accounts.

More than 1,800 convictions were obtained under the fraud statutes last year. The section has continued to focus on certain fraud in the insurance industry, which can involve "looting" of the assets of insurance companies, diversion of premiums, and use of fraudulently issued life policies for loans or the creation of fictitious companies with worthless stock issues to enhance personal and corporate financial statements.

On October 15, 1970, in Phoenix, Ariz., Philip Goldberg, president, Financial Security Life Insurance Co., Edwin S. Newman, vice-president; Emil Tucker and William Skillman, loan brokers; and Robert Clark, a veterinarian, were indicted for mail fraud for misrepresenting to financial institutions the value of annuities obtained from the insurance company and used for collateral to obtain loans from financial institutions. Over \$200,000 was lost when the annuities were found to be worthless. One defendant has entered a plea of guilty. The remaining are awaiting trial.

On April 30, 1971, S. Mort Zimmerman, a Dallas, Tex., financier; C. Carey Matthews, an attorney and member of the Florida State legislature; and three

others were indicted for mail fraud, wire fraud and securities violations in Miami, Fla. The charges described a scheme to divert more than \$1 million of the assets of the State Fire and Casualty Co. to the use of the defendants, causing the company to be placed in receivership.

The Section is supervising investigations by the Securities and Exchange Commission and Postal Service into various fraud schemes utilizing paper foreign banks, offshore mutual funds and insurance companies. Likewise the Section is involved with the FBI and SEC in investigations of various alleged fraud schemes related to the Penn Central bankruptcy.

Significant developments in the enforcement of fraud against the Government statutes included a Chicago indictment on April 7, 1971, charging 23 members of a notorious Chicago street gang, the Blackstone Rangers, with conspiracy and fraudulently obtaining the funds of a grant from the Office of Economic Opportunity.

On November 24, 1970, in Birmingham, Ala., Southern Airways Co., Inc., and 12 of its employees were indicted for conspiracy and concealment of material facts by shipping and delivering defective and unacceptable 155 millimeter artillery shells to the Army.

On October 13, 1970, in Nebraska, Bradley P. Neer, a former official of the U.S. Department of Health, Education, and Welfare and Harold J. Strode, former Nebraska Director of Public Welfare, were indicted for fraudulently obtaining \$88,500 of State welfare funds by setting up a fictitious consulting firm to obtain payments under a nonexistent Federal grant for a welfare-related computer program. Neer has pleaded guilty and received a 5-year sentence. Strode, a fugitive for a time, is awaiting trial.

On August 5, 1970, in San Francisco, James Cotten and William Roberts, American citizens in Vietnam, were indicted for conspiracy and theft of Government property for purchasing over \$25,000 worth of post exchange merchandise in Japan through the use of fictitious identification and bank accounts.

Other important cases during the fiscal year include:

On January 10, 1971, in Des Moines, Iowa, five subsidiaries of Cowles Communications, Inc., entered pleas of nolo contendere to mail fraud charges arising out of fraudulent activities in door-to-door magazine subscription activity. A total fine of \$50,000 was imposed. In addition, the five subsidiaries and the parent corporation, Cowles Communications, Inc., consented to a civil injunction barring all six corporations from engaging in such activities in the future.

On December 21, 1970, in New Orleans, 12 defendants in a planned accident ring mail fraud prosecution, including five attorneys and two physicians,

were found guilty following a 9-week jury trial. Sentences in the case ranged from 18 months to 3 years, with the attorneys and one doctor receiving 3 years.

On August 20, 1970, indictments were returned in the northern district of Alabama charging two State judges, three disbarred attorneys and others with mail fraud in a scheme whereby over 5,000 innocent out-of-State residents obtained invalid divorce certificates between 1965 and 1970. Convictions and guilty pleas have been obtained, with sentences to date ranging up to 5 years imprisonment.

NARCOTIC AND DANGEROUS DRUG SECTION

Federal prosecutions for violations of narcotic, marijuana, dangerous drug, and controlled substances laws are under the supervision of the Narcotic and Dangerous Drug Section. Its responsibilities also extend to actions to commit narcotic addicts under the provisions of the Narcotic Addict Rehabilitation Act of 1966 and to forfeitures of property used in conjunction with violations of the Federal laws relating to narcotics, marijuana, liquor, controlled substances, counterfeit-ing, gambling, and firearms.

On May 1, 1971, an entirely new body of legislation relating to the control of narcotics, depressant, and stimulant drugs and other dangerous substances became fully effective. A manual analyzing this law, the Comprehensive Drug Abuse Prevention and Control Act of 1970, together with suggested forms of indictments were prepared by the section and distributed to all U.S. Attorneys and other officials concerned with the law's implementation.

A series of briefing sessions designed to insure a smooth transition from the old status to the new was also conducted by this section. These sessions were attended by selected U.S. Attorneys and their assistants from 36 districts.

The southwestern Unit of this Section, headquartered in San Diego, Calif., has provided assistance to the U.S. Attorney's office in complex drug cases involving major violators and has itself developed cases against these traffickers. In May 1971 the unit obtained a Federal grand jury indictment against Richard Michael King and 13 others who were arrested in connection with the largest marijuana smuggling case in history: 5½ tons of marijuana seized when the defendants tried to bring the drug into San Francisco Bay area from Mexico by sea.

During the past year, the New York Joint Task Force made over 125 arrests in its efforts to eliminate the middle level dealers in narcotics. The task force

actively participated in "Operation Flanker," a nationwide crackdown on major heroin dealers and in "Operation Stitch," a concentrated effort at middle-level traffickers within New York City.

In the western district of Texas, 90 pounds of heroin were seized when drug traffickers negotiated a sale to persons who proved to be Federal agents. The persons arrested, Alfred Montemayor, Salvado Mazatino, and Manual Suarez Dominquez, were part of an extensive smuggling ring that was bringing heroin into the United States from Europe through Mexico. The defendants were convicted in San Antonio, Tex., on November 3, 1970.

Members of another large scale cocaine smuggling ring were arrested in the northern district of Texas. The ring, composed of South Americans and Americans, was obtaining the cocaine in South America and channeling it through Panama to the United States. Found guilty by a Federal jury in Dallas, Tex., on April 28, 1971, were James D. Vicars, Joaquin Him Gonzales, and Robert L. Robertson.

Luis Stepenberg, one of the main wholesale distributors of heroin in the United States, fled to Europe while under surveillance. Stepenberg, Edwardo Poeta, and Jack Crosby were subsequently indicted in the eastern district of New York. Stepenberg and Poeta were extradited from France and Spain, respectively. They were then tried and convicted. Grosby was later extradited from Switzerland.

In the Federal Government's never-ending efforts to stamp out the smuggling of narcotics and dangerous drugs into the United States and to convict those responsible wherever they may go to try to escape prosecution, requests for the extradition of 14 defendants were made to other foreign governments. Of this number, six persons have been returned to the United States for prosecution for violations of the Federal law.

During the year, joint efforts with the Republic of Mexico to control the illicit narcotic traffic between the United States and Mexico continued. Two meetings of the joint working group were held in Mexico City in September and again in March. These meetings resulted in recommendations for control and cooperation which were submitted to both Governments and approved by the Attorneys General of both countries in meetings held in Washington, D.C., during March.

Litigation involving treatment of narcotic addicts under the Narcotic Addict Rehabilitation Act of 1966 continued to increase in fiscal 1971. Under title I of the act, where addicts charged with crimes may be treated on a deferred prosecution basis, 124 addicts were examined. There was an increase in examination of narcotic addict prisoners pursuant to title II of the act. The number of persons who voluntarily committed themselves under title III of the act for examination rose from 2,262 cases in fiscal year 1970 to 3,026 cases in fiscal 1971.

With respect to forfeitures, 1,275 vehicles and 4,637 assorted firearms were seized, valued at more than \$2 million, in addition to other property. In April 1971, the U.S. Supreme Court handed down a major decision in *United States v. United States Coin and Currency*, in which the practical effect was to nullify provisions in the Internal Revenue waging tax laws relating to this forfeiture of money, vehicles and other property.

APPELLATE SECTION

In fiscal 1971, the total workload of the Appellate Section increased 9 percent—from 1,521 cases in fiscal 1970 to 1,653 in fiscal 1971. Included in the 1971 figure were 777 briefs in opposition to petitions filed in the Supreme Court, representing an increase in such cases of 65 over those filed in the preceding year. This increased workload was registered despite the transfer to Internal Security Division in the middle of fiscal 1971, of the responsibility for Selective Service cases.

Contributing to the workload were increased number of briefs on the merits in the Supreme Court, and in addition for the first time the Section handled cases in the courts of appeals for the Organized Crime Section.

The expanded Court of Appeals Unit reviewed 173 briefs of appellants and 326 Government briefs in the review of criminal cases on appeal to the courts of appeal.

The Appellate Section was involved in briefing and arguing a number of significant Supreme Court cases. In *Katz v. United States*, 389 U.S. 347 the Supreme Court had previously held that wiretapping and electronic eavesdropping, without the consent of any party to the conversation, were subject to the safeguards of the fourth amendment, without regard to issues of physical trespass. In *United States v. White*, decided April 5, 1971, after reargument this past term, the Supreme Court held that where one party to the conversation consents to the overhearing, as where an informant carries a radio transmitter, the *Katz* rule does not apply and that the evidence obtained as a result of a warrantless surveillance under these circumstances may be introduced.

In the gun area, the Supreme Court in *United States v. Freed* upheld the constitutionality of the registration provisions of the National Firearms Act against claims that it violated the self-incrimination clause of the fifth amendment. The Court also held in that case that knowledge of the law requiring registration is not an element of the offense.

In *Perez v. United States*, the Supreme Court upheld the constitutionality, under the commerce clause,

of the Consumer Credit Protection Act, which prohibits "loan sharking" activities without proof of any effect upon interstate commerce by any particular transaction.

For the first time in many years the Government has begun to win significant cases in the attempt to control pornography. In *United States v. Thirty-Seven (37) Photographs* the Court upheld the right of the United States to seize obscene photographs which the claimant was bringing into the country for commercial purposes. Because *Freedman v. Maryland*, 380 U.S. 51 had held that only a prompt judicial determination in an adversary proceeding would insure the protection afforded to freedom of expression, the Supreme Court interpreted the Federal statute to require that forfeiture proceedings be commenced within 14 days and completed within 60 days of their commencement.

LEGISLATION AND SPECIAL PROJECTS SECTION

During the 91 Congress, the Section continued its function of providing supportive material to congressional committees and members on important pending legislation, including the District of Columbia Court Reform and Criminal Procedure Act, the Organized Crime Control Act of 1970, the Comprehensive Drug Abuse Prevention and Control Act, and the amendment of the Criminal Appeals Act to expand the Government's right to appeal from district court dismissals in criminal cases. As these bills became law, section personnel began disseminating memoranda, forms, and guidelines to U.S. Attorneys, strike force personnel, and other Federal agencies concerning such matters as the immunity provisions and utilization of forfeiture provisions of the Organized Crime Control Act, electronic surveillance and juvenile procedures under the D.C. Court Reform Act, and implementation of the Drug Act.

The Organized Crime Control Act added a broad new Federal witness immunity statute, substituting for the multitude of existing statutes, one general immunity provision for proceedings before court and grand jury, department and agency, and congressional committees. On December 14, 1970, an Immunity Unit was established within the Section to facilitate the processing of applications for immunity grants under the statute.

The Criminal Division prepared memoranda on over 200 items of legislation during the fiscal year. The section also prepared testimony and participated in briefing officials of the Department who testified before congressional committees and briefed congress-

sional committee staffs on background material on legislation of interest to the Division. This covered such important and diverse areas as bombing and terrorism, explosives and incendiary devices, criminal prosecution of juveniles, offenses by Indians in Indian country, problems of assertedly incompetent and insane defendants, dissemination of obscene materials, kidnapping and assault of foreign diplomats and Government officials, theft of Government securities and prevention of illegal traffic in stolen securities, and airplane hijacking threats.

The Section compiled legislative histories of 44 public laws which were of importance to the Criminal Division to add to its library of more than 850 histories. These compilations are used extensively by Department attorneys and U.S. Attorneys, and are made available to attorneys from other agencies.

In January of 1971, when the National Commission on Reform of Federal Criminal Laws made its final report, President Nixon ordered the Department of Justice to prepare a thorough evaluation of the report, make an independent examination of the present Federal Criminal Code and make recommendations for its comprehensive reform, considering procedural as well as substantive areas, and submit appropriate legislation. To achieve this, a special Criminal Code Revision Unit was established within the Section. In addition to utilizing their own expertise and study, attorneys of the Unit have worked with other Department personnel, the House and Senate Judiciary Committees, the American Bar Association, the Administrative Office of U.S. Courts, the Governor's Conference Task Force concerning Federal criminal law reform, and other interested entities.

The Section participated in the U.S. Attorneys conference and compiled sections of the U.S. Attorneys bulletin. Various aids are provided for attorneys representing the Government at all levels, including the inauguration during this fiscal year of a semiannual criminal trial training program for new trial attorneys. Written materials were prepared or revised, including "Guides for Drafting Indictments," the "Handbook on Proving Federal Crimes," and the "Handbook on the Law of Search and Seizure," and material concerning the powers of and procedures before U.S. magistrates.

The Section processed 752 inquiries from Senators and Members of the House for information to assist them in responding to constituents on matters coming within the expertise of the Division. In addition, the Section handled more than 1,600 communications referred from the Offices of the President and Vice President, and 4,607 letters from private citizens to the Department.

MANAGEMENT AND LABOR SECTION

The Management and Labor Section is responsible for supervising the enforcement of those Federal criminal statutes designed to regulate the employer-employee relationship and the internal operation of labor unions. Among these statutes are those prohibiting interference with interstate commerce by extortion, embezzlement of union assets, improper payments by employers to union officials, and the payment of kickbacks to influence the acts of trustees and agents of welfare and pension funds.

The Section completed for distribution to the U.S. Attorneys the first chapters of a new labor racketeering manual to provide a detailed analysis of those statutes together with sample indictments and jury instructions. In addition, the Section worked closely with the Office of Labor Management and Welfare Pension Reports of the Department of Labor to develop new techniques for enforcement of the Landrum-Griffin Act, in particular the provisions governing the maintenance of adequate records by labor unions.

A substantial portion of the Section's manpower during the past year was devoted to the ongoing investigation of alleged irregularities in the operation of the United Mine Workers of America (UMWA). This investigation resulted in the return of three major indictments against UMWA officers. President W. A. Boyle, Vice-President John Owens, and James Kmetz, director of the union's labor's non-partisan league, were indicted in the District of Columbia on charges of conspiring to make illegal political contributions in violation of 18 U.S.C. 610 and to convert the funds of the union for that purpose in violation of 29 U.S.C. 501(c). Michael Budzanoski and John Seddon, president and secretary-treasurer respectively of district 5 of the UMWA, were indicted in the western district of Pennsylvania on four counts charging conspiracy and substantive violations involving the making of false entries in the records of district 5, and they were convicted on all counts. Raymond Thornbury, international representative of district 28 of the UMWA was indicted and convicted in the District of Columbia on the charge of converting union funds for use in the 1969 election campaign of President Boyle.

Fiscal 1971 was marked especially by a much-expanded prosecutive effort in the area of employee benefit plans. In the southern district of New York alone, 12 defendants were convicted on charges involving kickbacks to agents of pension funds in violation of 18 U.S.C. 1954, and a major indictment was returned in the northern district of Illinois against Joseph DePaola, president of the Journeymen Barbers Union, Thomas Shaheen, financial adviser to the Barbers pension fund, Max Block, Jr., an attorney, and

the Columbia Financial Corp. for conspiring to violate the same statute. In addition, 13 defendants were indicted and six convicted for embezzling benefit plan assets in violation of 18 U.S.C. 664.

The number of persons indicted and convicted under all statutes within the Section's jurisdiction rose during the past year. Seventeen indictments charging 31 defendants with violations of the Hobbs Act (18 U.S.C. 1951) were returned and 12 defendants were convicted. Forty-eight defendants were named in 40 indictments for violation of 29 U.S.C. 501(c) (embezzlement of union funds) and in those cases tried in fiscal 1971, 36 defendants were convicted. Nine defendants were named in eight indictments for violating the recordkeeping requirements of the Landrum-Griffin Act (29 U.S.C. 439) and 12 defendants were convicted. Five indictments were returned against nine defendants for violating 29 U.S.C. 186 (improper payments by employers to union officials) and eight defendants were convicted.

GOVERNMENT OPERATIONS SECTION

The Government Operations Section is responsible for administering laws relating to criminal enforcement of the statutes regulating mailing, importation, and transportation in interstate commerce of obscene matters and the civil enforcement of the customs statutes relating to importation of obscene matters. The Section also is responsible for the statutes relating to the Federal Corrupt Practices Act (elections and political activities). In January 1971, responsibility for administering and enforcing the Military Selective Service Act of 1967 was transferred to the Internal Security Division.

In the area of obscenity prosecutions, 22 convictions were obtained during fiscal 1971. Fifteen of these were in the last 6 months. Among those convicted were Marvin Miller and Michael G. Thevis, who are among the largest distributors of pornography in the Nation.

By contrast, only two convictions of major distributors of obscene matter were reported in calendar 1968.

The Post Office Department reported that the number of complaints relating to the receipt of unsolicited pornography dropped 41 percent from 284,263 in fiscal 1970 to 168,391 in fiscal 1971.

Indictments of major commercial distributors of pornography increased from eight on January 1, 1969 to 40 on July 1, 1970 and to 52 on July 1, 1971. Investigations in the same period increased from five on January 1, 1969 to 76 on July 1, 1971.

On May 3, 1971, the Supreme Court handed down two significant decisions in *United States v. Thirty-Seven (37) Photographs* and *United States v. Reidel*

in which it was held that the right to possess obscene materials in the privacy of one's home does not imply the right to obscenity dealers to sell and distribute. These decisions were a significant victory in the Department's campaign against pornography.

The effort of the Government Operations Section to reestablish the Federal Government's role in the obscenity area was enhanced during fiscal 1971 by the establishment of search and seizure procedures and other investigative techniques which have been approved by the courts and have protected the public without infringing constitutional rights.

The Section was challenged by a significant legal question following an indictment May 19, 1971, involving violation of the statute prohibiting the interstate transportation of obscene material by the use of a common carrier—in this case, interstate land-lines electronically carrying the closed circuit transmission of the Broadway play "Oh! Calcutta!".

An additional issue of importance was raised by the indictment in February 1971, of a large west coast pornography distributor for publishing the "Illustrated Report of the Commission on Obscenity and Pornography." The publication contained the text of the official commission report as printed by the Government Printing Office in 1970, but added numerous photographs portraying explicit sexual activity pur-

porting to illustrate the matters discussed in the official report. At issue is whether the publication of hardcore pornography can be redeemed by the inclusion of "borrowed" textural material which is clearly not obscene.

In the area of election frauds and corrupt practices, on July 30, 1970, a Federal grand jury in the southern district of Texas indicted 24 defendants for conspiring to cause fraudulent absentee votes to be cast and counted in a primary election in May 1970. On October 30, 1970, a grand jury in the northern district of Illinois indicted four local election officials for conspiring to cause fraudulent votes to be cast and counted in the 1970 Illinois primaries. A fifth defendant was indicted in June 1971.

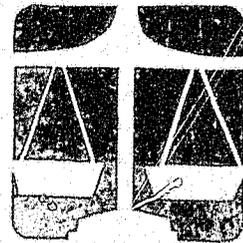
On June 9, 1970, the Court of appeals for the Eighth Circuit affirmed the conviction of *Pipefitters Local Union No. 562* and three of its officers for conspiring to make illegal contributions in violation of 18 U.S.C. 610, which prohibits corporations, national banks and labor organizations from making political contributions. After vacating its original opinion and setting the matter again for oral argument on October 14, 1970, the court again affirmed the conviction on November 24, 1970. The issue presently is before the Supreme Court. In February and March 1971, national banks in Texas and Ohio were indicted for violations of 18 U.S.C. 610.

LIST OF CASES CITED

- (1) *Pfizer, Inc. v. Richardson*, 434 F. 2d 536 (2d Cir. 1970); *PMA v. Richardson*, 318 F. Supp. (D. Del. 1970)
- (2) *United States v. Thriftmart, Inc.*, 429 F. 2d 1006 (9th Cir. 1970), rehearing denied Aug. 3, 1970; *United States v. Alfred M. Lewis, Inc.*, 431 F. 2d 303 (9th Cir. 1970), cert. denied 400 U.S. 878 (1970)
- (3) *United States v. Cassaro, Inc.* (1st Cir. May 10, 1971)
- (4) *United States v. Spevak, et al.* (D. Md.)
- (5) *United States v. Shearer's Dairies, et al.* (E.D. Pa.); *United States v. Rainier's Dairies, et al.* (D. N.J.); and *United States v. Harnig Milk Co., et al.* (D. N.J.)
- (6) *United States v. Automated Medical Services of Ohio, Inc.* (S.D. Ohio)
- (7) *Nor-Am Agricultural Products v. Hardin*, 435 F. 2d 1151 (7th Cir. 1970)
- (8) *United States v. Finley Coal Company and Charles Finley* (E.D. Ky.)
- (9) *United States v. States Marine Lines, Inc. and James Murray* (S.D. N.Y.)
- (10) *United States v. Eli Jenkins* (5th Cir. April 23, 1971)
- (11) *United States v. Zemaster, et al.* (N.D. Ill.)

internal security division

Robert C. Mardian/Assistant Attorney General



The Internal Security Division is responsible for all of the Department's internal security functions not assigned to the Federal Bureau of Investigation or the Immigration and Naturalization Service. It is charged with all criminal and civil litigation involving the Government's security programs and with all statutes relating to subversive activities, such as treason, espionage, sedition, and sabotage; with the enforcement of Federal statutes involving criminal activities of terrorist groups and individuals; and with statutes relating to other aspects of security policies including the Neutrality Act, munitions control laws, the Trading with the Enemy Act, and criminal offenses under the Selective Service Act. The diversity of cases within the Division is shown by the following examples:

Cases of national import involving the unauthorized disclosure of top secret material broke in June of fiscal year 1971, when the New York Times and other newspapers, including the Washington Post, published a series of articles on U.S. involvement in South Vietnam. Shortly after the publication of the articles a Federal grand jury in Los Angeles, Calif., returned a two-count indictment charging Daniel Ellsberg, a former member of the task force which had compiled the study, with having unauthorized possession of copies of this classified material and also with having converted these documents to his own use. On December 30, 1971, the Federal Grand Jury at Los Angeles returned a fifteen-count superseding indictment charging Anthony J. Russo, Jr. and Daniel Ellsberg with violations of the Espionage Act, Theft of Government Property and Conspiracy (1). The date of the trial has been set for May 9, 1972.

An important contempt of Congress indictment was returned, charging the public relations director of the Communist Party, U.S.A., with having refused to be sworn before the House Internal Security Committee after he had been summoned to testify concerning the activities of the New Mobe (2).

In a sabotage case involving the attempted aerial bombardment of the Badger Army Ammunition Plant in Wisconsin, a two-count indictment was returned. The two defendants are fugitives and are believed to have fled the country (3).

Two Cuban exiles entered pleas of guilty to charges of attempting to export large quantities of weapons

and ammunition to be used in an armed foray against Cuba in violation of the Munitions Control Law (4).

A leader in the May Day demonstrations was indicted on May 13, 1971, and charged with assault on a policeman with a dangerous weapon. Pretrial motions were argued and are pending (5).

Sixteen foreign fishing vessels were seized for fishing within our territorial seas and contiguous fisheries zone and were fined. Of these, three were Japanese, one Soviet, three Canadian, one German, and eight Cuban. The Japanese and Soviet violations occurred off the coast of Alaska, as did two of the Canadian violations. One Canadian vessel was seized off the coast of Washington, and the German vessel was seized near Boston, Mass. All of the Cuban violations occurred off the southern coast of Florida. Criminal penalties against the captains of the offending vessels ranged up to a fine of \$10,000 and 1 year in prison, suspended. Civil penalties varied from \$300 to \$40,000 (6).

The Internal Security Division was given the supervision of the Military Selective Service Act on January 1, 1971, at which time there were 4,524 cases pending in the U.S. Attorneys' Offices. Because of a 39% increase in the number of new indictments filed, the number of pending criminal cases at the end of fiscal 1971 had increased to 5,426. Criminal cases terminated during the year totaled 3,144, an increase of 8 percent over the preceding year. The Division gives guidance and assistance on questions of law, policy, and procedure in connection with *habeas corpus* petitions filed in Selective Service matters; such petitions again more than doubled in number over the previous fiscal year.

The Supreme Court handed down two significant decisions in the Selective Service field during the year. In *United States v. Gillette*, 401 U.S. 437, the Court held that the conscientious objector classification provided for under the act for registrants who oppose "participation in war in any form" applies only if they oppose participation in all wars. It does not apply to those who object to participation in a particular war, even if such objection is religious in character. In *Ehlert v. United States*, 402 U.S. 99, the Court held that local draft boards are not required to give consideration to conscientious objector claims filed after the mailing of an order to report for induction. A sig-

nificant number of defendants' appeals pending at the time of the Ehlert decision have been dismissed on the basis of that decision.

In cooperation with the Selective Service System, the Division effected a proposal to amend part 1632 of the Selective Service regulations by rescinding the provisions authorizing transfers for induction. The amendment, which became effective March 10, 1971, is designed to preclude transfers by registrants for induction to other local board jurisdictions, and thereby maintaining jurisdiction over a delinquent registrant in the local board of origin. As a result, venue for prosecution of delinquent registrants will remain in the judicial districts in which the local boards are located, thus preventing the clogging of trial court calendars in districts believed to be favorable to draft dodgers. The Criminal Section is taking steps to alleviate the problem of certain dockets backlogged with Selective Service cases.

During the fiscal year more than 300 memoranda recommending for or against appeal, certiorari, or rehearing en banc were prepared in connection with adverse decisions in Selective Service cases. Assistance was furnished to U.S. Attorneys in some 3,000 instances in connection with court cases and matters otherwise connected with enforcement of the act.

The Special Litigation Section was created in January, 1971, as a result of the transfer by the Attorney General of some of the prosecutive responsibilities formerly assigned to the Criminal Division. The Section supervises all Federal prosecutions involving organized terrorist groups and individuals. Because of the complexity of many of these cases and the need for a uniform policy, prosecutions of these individuals originate in the Special Litigation Section. Attorneys from the Section usually conduct the grand jury investigations and assist U.S. Attorneys' offices in the trial of the cases.

Since January 1971, 36 indictments have been returned charging 97 individuals with violations of Federal law in this field. In addition, proceedings were conducted which resulted in the granting of immunity to 37 individuals, primarily in bombing investigations. In 21 instances contempt of court hearings were held subsequent to the refusal of the witnesses to testify.

Among the more significant cases handled by the Special Litigation Section was the return of a 10-count indictment on April 30, 1971, by a Federal grand jury in Harrisburg, Pa., charging Eqbal Ahmad, Phillip Berrigan, John Theodore Glick, Elizabeth McAlister, Neil McLaughlin, Anthony Scoblick, Mary Cain Scoblick, and Joseph Wenderoth with plotting to destroy by explosives certain heating pipes belonging to the United States in Washington, D.C., and to kidnap presidential advisor Henry Kissinger. The April 30, 1971, indictment superseded an indictment which had been returned on January 12, 1971. The

new indictment included charges of conspiracy to violate 18 U.S.C. 1361, destruction of Government property; 18 U.S.C. 2071, mutilation of public records; 50 U.S.C. App. 462(a), hindering and interference with the administration of the Military Selective Service Act of 1967; 18 U.S.C. 844(f), destroying by explosives property of the United States; 26 U.S.C. 5861(d), possession of unregistered destructive devices, and 18 U.S.C. 1201, kidnapping.

On May 12, 1971, indictments were returned in the eastern district of New York charging Rabbi Meir Kahane and 11 other members of the Jewish Defense League with conspiring to violate the Gun Control Act of 1968. On July 9, 1971, during hearings concerning electronic surveillance matters, Kahane and two other defendants pleaded guilty to the indictment charging a conspiracy to violate title II of the Gun Control Act, by possessing and making explosive devices. The Court ordered all of the defendants to surrender all dynamite, gunpowder, and illegal weapons which they possessed. The Government recovered 197 sticks of dynamite, 31 pounds of blasting powder, 1 pound of TNT, six blasting caps, five rifles, two pistols and 50 rounds of ammunition. On July 23, 1970, Kahane was sentenced to 5 years probation and a \$5,000 fine. The other two defendants who had pleaded guilty were also fined and received sentences of 3 years probation. Charges against the other defendants were dismissed.

A 10-count indictment was returned on May 27, 1971, against five individuals by a Federal grand jury in the District of Hawaii as a result of the complete destruction of the Army Reserve Officer Training Corps building at the University of Hawaii on February 26, 1971. The indictment included violations of the Gun Control Act of 1968, the explosive provisions of the Organized Crime Control Act of 1970, and the Obstruction of Criminal Investigation Statute which was passed by Congress in 1967.

During June, 1971, two members of the now defunct Black Afro Militant Movement were convicted in Miami, Fla., of violating the civil disorder statute, 18 U.S.C. 231(a)(1), by teaching and demonstrating the making and use of explosive and incendiary devices with the intent to have them used in a civil disorder.

On June 25, 1971, Leslie Bacon was indicted in the Southern District of New York for violations of the explosives provisions of the Organized Crime Control Act of 1970, the Gun Control Act of 1968, and the conspiracy statute as the result of a plan to destroy by incendiary devices the First National City Bank in New York City. Prior to the indictment Bacon had been subpoenaed as a material witness to appear and testify before a grand jury in Seattle, Wash., that was investigating violations of the explosives provisions of the Organized Crime Control Act of 1970, the Gun Control Act of 1968, and other federal statutes involved in the bombing of the U.S. Capitol on March 1,

1971, and related matters. During her appearance before the grand jury she was held in contempt for refusing to testify after having been granted immunity under the new immunity statute, 18 U.S.C. 6003.

A lengthy grand jury investigation into the Washington, D.C., riots during May 1971, has resulted in an indictment charging Abbott Hoffman with violating the anti-riot statute, 18 U.S.C. 2101, and the civil disorder statute, 18 U.S.C. 231, and a complaint charging Rennard Davis and John Froines with conspiracy to violate the Civil Rights Act of 1968.

Prominent among the prosecutions pending in the Special Litigation Section is the indictment returned in Madison, Wis., concerning the bombing of the Mathematics Research Center at the University of Wisconsin in which one person was killed. All four of the defendants in this case are or have been on the Federal Bureau of Investigation's "Top Ten" fugitive list. Other important pending cases include the prosecution of 13 individuals associated with the Weatherman faction of the Students for a Democratic Society in Detroit, Mich., for alleged bombing activities in California, Illinois, Michigan, Vermont, New Hampshire, and New York State, and the prosecution in Chicago, Ill., of 12 members of Weatherman resulting from the riots in Chicago in October 1969.

In addition, during fiscal year 1971, grand juries in Seattle, Wash., and Detroit, Mich., have been investigating violations of the explosives provisions of the Organized Crime Control Act of 1970, the Gun Control Act of 1968, and other federal statutes involved in the bombing of the U.S. Capitol on March 1, 1971, and related matters. Moreover, a grand jury in Brooklyn, N.Y., is inquiring into the May 8-9, 1971, attempted burglary of the Garden City, N.Y., Resident Agency of the Federal Bureau of Investigation.

During the year the Division was engaged in extensive civil litigation brought about by attempts of individuals and organizations to enjoin subpoenas issued by congressional investigating committees. A series of cases filed in the District Court for the District of Columbia sought relief from subpoenas issued by the House Committee on Internal Security (7), the Senate Subcommittee on Internal Security (8) and the Senate Subcommittee on Investigations (9). These suits were filed both by individuals or officers of organizations who themselves had been subpoenaed by the respective committees or by individuals or organizations whose financial records had been subpoenaed by the committees from banks in the District of Columbia and New York City. Initially, the district court denied preliminary relief in the form of a temporary restraining order or a preliminary injunction in all these cases. However, in each case, the Court of Appeals for the District of Columbia granted emergency stays and remanded the cases to the district courts for further con-

sideration. When subsequent cases were filed, the district courts issued preliminary injunctions in three cases which restrained the execution of certain portions of the subpoenas issued by the House Committee on Internal Security. One of these cases, involving a plaintiff who was to be a witness before the committee, has been successfully concluded. The court of appeals ruled that the witness at least had the obligation to appear before the committee and to raise his legal objections at that time. The remaining cases are presently pending before either the district courts or the court of appeals.

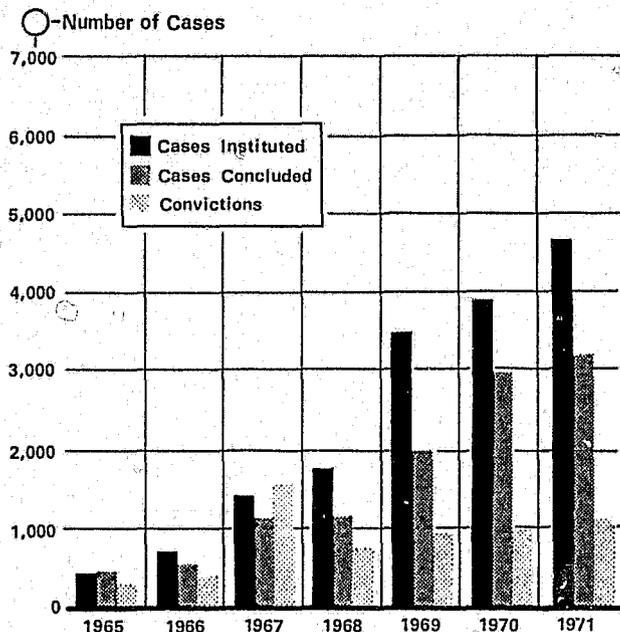
Congressional activities were also the subject of three other cases handled by the Division during the past fiscal year, each involving the House Committee on Internal Security. In one, a suit seeking to enjoin the use of the committee's records had been dismissed as nonjusticiable, and the dismissal was affirmed by the Court of Appeals for the District of Columbia (10). In the second, the District Court for the District of Columbia issued an injunction restraining the printing of a House report prepared by the committee (11). An emergency appeal was immediately taken from this injunction but the Court of Appeals for the District of Columbia denied emergency relief. A second report incorporating most of the same information was subsequently printed, but no further legal action was taken concerning this latter report, and the appeal from the original injunction has now been dismissed at the direction of the committee. Finally, the Division is defending a civil action (12) brought to declare the committee unconstitutional and to enjoin its present and future activities.

A number of suits were in litigation during the year which attack various Government investigative techniques and/or programs. Among these were civil cases against the Department of Defense and the Department of the Army seeking to enjoin the Army's intelligence activities as they pertain to civil disorders and other related activities. This issue was raised in three separate cases. In a case filed in the District Court for the District of Columbia (13) the Government was successful in having the case dismissed on jurisdictional grounds though the court of appeals reversed the dismissal. This issue is now being presented to the Supreme Court. In the other two cases (14, 15), the Government was successful in having the injunctive relief requested denied. These cases are now also on appeal. Finally in two civil suits the plaintiffs seek injunctive and other relief from alleged illegal or unauthorized activities of the Federal Bureau of Investigation (16, 17). The allegations have been denied, and these cases are now in litigation.

The Division also defended suits challenging the validity of several personnel security programs, including suits testing the procedures of the industrial secu-

Workload-Selective Service Cases

(Fiscal Years)



Responsibility for criminal enforcement of the Selective Service Act was transferred to the Internal Security Division in mid-January 1971. During the 5-month period, February 1 to June 30, 1971, when selective service responsibility was in the Internal Security Division, 2324 cases were instituted, 1473 cases concluded and 564 convictions were obtained. This represents a 39 percent increase in the monthly ratio of cases instituted; a 25 percent increase in cases concluded and a 49 percent increase in convictions obtained, over the first 7 months of fiscal 1971.

ity clearance program under Executive Order 10865 (18), the Civil Service Commission's procedures under the Federal employee security program (19), and the requirements, pursuant to statutes, of Federal employment appointment affidavits (20). Included in these cases was a civil suit filed by Alger Hiss (21) and others to have the provisions of 5 U.S.C. 8315 declared unconstitutional and to have the annuities which were denied by those provisions reinstated.

During the year the Division was involved in litigation testing the authority of the executive branch to preserve the secrecy of its records against the claim of newspapers of the right to freely disseminate such records as public information, even though the information was obtained through unlawful means, and in violation of security regulations and the Federal Criminal Code. Suits were brought to enjoin the Washington Post, the New York Times, the St. Louis Post-Dispatch, and the Boston Globe, from publishing documents stolen from the Department of

Defense, consisting of a 47 volume "History of U.S. Decision Making Process on Vietnam", classified top secret-sensitive pursuant to Executive Order 10501. The Government maintained that unauthorized disclosure of portions of the study could result in exceptionally grave damage to the Nation's diplomatic relations and military posture and thus affect the defense of the United States and jeopardize international relations. Injunctive relief was sought to prevent the publication of material pending a thorough review by the Department of Defense and the Department of State to determine which portions could be released without threat to the national security. Such injunctive relief was in fact obtained against the Boston Globe and the St. Louis Post-Dispatch, but was denied with respect to the Washington Post and the New York Times. On June 30, 1971, the Supreme Court ruled that the Government had not met the "heavy burden of showing justification for the enforcement" of a prior restraint on the publication of the documents (22). As noted earlier, criminal investigations are being conducted in connection with these cases.

The implementation and interpretation of the Omnibus Crime Control and Safe Streets Act of 1968, 18 U.S.C. 2510 et. seq., was at issue in numerous cases handled during this fiscal year. Also involved was the question whether or not electronic surveillance is reasonable within the meaning of the fourth amendment when it has been specifically authorized by the President, acting through the Attorney General, and used to gather intelligence information deemed necessary to protect against attempts to overthrow the Government by force or other unlawful means or against clear and present dangers to the Government's structure or existence. This power to use electronic surveillance, recognized by Congress in the Omnibus Crime Control and Safe Streets Act, 18 U.S.C. 2511, came into question in a number of criminal cases upon motion by the defendants for the production of the results of any illegal electronic surveillance. It is the policy of the Government to inform the defendants in these cases when they have been intercepted or overheard on national security surveillances and to produce the records of the surveillances to the Court for *in camera* review, but not to disclose the substance of the overhearings to the defendants on the grounds that if the surveillance were legal, no disclosure to the defendants is required. The Government's position as to the constitutionality of such surveillance was sustained by two district courts (23, 24), but was rejected by four others (25, 26, 27, 28). Since the district court decisions rejecting the President's power came in interlocutory orders concerning discovery during pretrial motions, an appeal from such orders would not normally lie. However, the Attorney General, in order to get the issue resolved as quickly as possible by the appellate courts, directed that every

effort be made to bring these cases and this issue to the appellate courts and accordingly writs of mandamus were filed in the Sixth, Ninth and Second Circuits. In the case of *United States v. Damon J. Keith*, the Sixth Circuit ruled that such warrantless surveillance violated the fourth amendment. A petition for certiorari was immediately filed in the Supreme Court seeking review of this decision and the matter is now pending before that court. Courts of Appeals for the Second and Ninth Circuits have reserved judgments in the remaining mandamus actions pending determination of the issue by the Supreme Court in the *Keith* case.

Other sections of the Omnibus Crime Control and Safe Streets Act came under judicial consideration in a number of cases involving grand jury witnesses. The courts considered, for the first time, the question of whether or not the Omnibus Crime Control Act (particularly sections 2515, 2518(5), and 2518(10) of title 18 of the United States Code), had changed the longstanding rule that a witness before a grand jury does not have standing to question the source of the Government's evidence or, in other words, whether the statute extended the "exclusionary rule" to grand jury proceedings. The first circuits to consider this question, the Ninth and Fifth Circuits, decided that grand jury witnesses do not have such standing and that Congress did not intend to grant it. The Third (29) and D.C. (30) Circuits, however, have interpreted the statute as changing the general rule and ruled to the contrary. The issue has now been presented to the Supreme Court on a petition for certiorari in order to resolve the conflict between the circuits.

The validity of the Omnibus Crime Control Act has been challenged in three civil suits. These suits were filed pursuant to 18 U.S.C. 2520 to collect damages for electronic surveillance conducted in violation of the statute. Two of these cases (31, 32) were brought by individuals who had been defendants in criminal cases and had been advised that they were overheard on Government-conducted surveillances. These suits bring into issue the legality of the national security surveillances which, as noted above, is the issue now before the Supreme Court in the *Keith* case.

The third case (33) was filed by a plaintiff who had not been so informed. In his complaint, the plaintiff made the bare allegation that he was the subject of an illegal surveillance, but gave no particulars. The Government argued that the plaintiff had to show that he was in fact the subject of surveillance before he had standing to bring a civil suit under the statute, 18 U.S.C. 2520. The District Court for the Southern District of New York ruled that the mere allegation of illegal wiretapping on "information and belief" is sufficient to give a plaintiff standing and an opportunity to prove his case. An appeal from this determination is now being sought.

During fiscal 1971, the Division also obtained the first judicial expression of the standards the Government must meet to subpoena before a grand jury a newspaper reporter to obtain information in his possession and compel testimony, notwithstanding his claim of privilege (34). The district court ruled that the necessary national interest may be shown by affidavits filed by Government prosecutors and this issue is now on appeal before the Ninth Circuit.

One portion of the Immigration and Nationality Act of 1952, 8 U.S.C. 1182, provides that certain aliens shall be excluded from the United States unless the Attorney General at his discretion waives inadmissibility. A three-judge panel of the District Court in the Eastern District of New York (35) ruled that this section unconstitutionally deprives American citizens, who wish to hear an excluded alien, of their right to free speech under the first amendment. This is the first court interpretation of the specific subsection of this section of the statute which relates to aliens who are members of certain types of subversive organizations or who advocate or teach subversive doctrines. The Supreme Court has decided to review the lower court decision striking down this statute.

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

During fiscal year 1971 administration of the Foreign Agents Registration Act of 1938 resulted in the filing of 67 new registration statements and terminations of 69, leaving a total of 452 active registration statements on file. In addition, 541 new short-form registration statements were filed by persons who directly rendered services or assistance as officials or employees of a registrant in the interest of the latter's foreign principal. A total of 3,052 active short form registrations remained after 228 were terminated during the reporting period.

Reviews were made of 17,972 separate pieces of propaganda filed during the reporting year and 7,482 dissemination reports were filed in connection with this propaganda.

Five registration statements were filed under Public Law 893 by persons who had knowledge of or had received an assignment or training in the espionage or sabotage service of a foreign country. This brings to a total of 106 such statements filed under this 1956 statute.

There were no registration statements filed pursuant to the Voorhis Anti-Propaganda Act.

Among civil matters for which the Internal Security Division is responsible are cases brought by the Attorney General before the Subversive Activities Control

Board. During this year hearings were held before that Board on two petitions which had been brought by the Attorney General seeking determinations that certain organizations were Communist-front organizations as defined in the Internal Security Act of 1950. These organizations are the Young Workers Liberation League and the Center for Marxist Education. Orders of the Board were pending at the end of the year.

On July 2, 1971, President Nixon signed Executive Order 11605 which amended Executive Order 10450 in connection with the Federal Employee Security Program. This amendment provided, among other things, that the Attorney General would petition the Subversive Activities Control Board for determinations with respect to whether certain organizations should be added to the so-called "Attorney General's List" of organizations designated pursuant to Executive Order 10450 or for determinations that certain organizations on the "List" have ceased to exist or no longer meet the criteria for designation.

On March 11, 1971, the President appointed the Assistant Attorney General of this Division as Chairman of the Interdepartmental Committee on Internal Security (ICIS). The ICIS is directed by its Charter to "effect the coordination of all phases of the internal

security field, except those specifically assigned to the Interdepartmental Intelligence Conference." It is responsible for taking action necessary to insure the establishment and maintenance of the highest practicable state of internal security, including planning and preparing for adequate internal security in the event of a war-related emergency. The ICIS is comprised of representatives of the Departments of Justice, State, Defense, and Treasury. It has under it a standing committee, five subcommittees (each of which is responsible for a particular area of internal security), and a joint committee with the Interdepartmental Intelligence Conference (IIC). This Division provides the Executive Secretary of the ICIS and his staff. Members of this Division represent the Department on the standing committee and on four of the subcommittees.

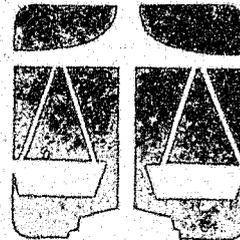
The Assistant Attorney General of this Division is responsible for maintaining within the Department a unit of the National Defense Executive Reserve, and through the Justice Department's Defense Coordinator prepares and coordinates plans and programs for use in a civil defense type emergency, including continuation of the Department's essential functions at a relocation site.

LIST OF CASES CITED

- (1) *U.S. v. Anthony J. Russo, Jr.* (C.D. Cal.)—18 U.S.C. 793; 18 U.S.C. 641; 18 U.S.C. 371.
- (2) *U.S. v. Arnold Johnson* (D.C.D.C.)—2 U.S.C. 192.
- (3) *U.S. v. Karleton and Dwight Armstrong* (W.D. Wisc.)—18 U.S.C. 2353.
- (4) *U.S. v. Ramon Orozco Crespo* (S.D. Fla.)—22 U.S.C. 1934.
- U.S. v. Rafael Antonio Paz Tejerio* (S.D. Fla.)—22 U.S.C. 1934.
- (5) *U.S. v. Bradford Lyttle* (Superior Court, D.C.)—22 D.C. Code 502 and 505(a) (b).
- (6) *U.S. v. Maritime Vessel CLIPPER II* (D. Alaska)—16 U.S.C. 1081.
- U.S. v. Maritime Vessel WENDY DAWN* (W.D. Wash.)—16 U.S.C. 1081.
- U.S. v. Maritime Vessel ALL STAR* (D. Alaska)—16 U.S.C. 1081.
- U.S. v. Maritime Vessel CONRAD* (D. Mass.)—16 U.S.C. 1081.
- U.S. v. Maritime Vessel KAKI MARU* (D. Alaska)—16 U.S.C. 1081.
- U.S. v. Maritime Vessel KIYO MARU 5* (D. Alaska)—16 U.S.C. 1081.
- U.S. v. Maritime Vessel KYOYO MARU* (D. Alaska)—16 U.S.C. 1081.
- U.S. v. Fishing Vessel SRTM 8-484* (D. Alaska)—16 U.S.C. 1081.
- U.S. v. Emberto Del Sol Rodriguez* (S.D. Fla.)—16 U.S.C. 1081.
- U.S. v. Gustavo Suspendes Cabriales* (S.D. Fla.)—16 U.S.C. 1081.
- U.S. v. Jorge Pena Atulla* (S.D. Fla.)—16 U.S.C. 1081.
- U.S. v. Pedro Rodriguez Sanchez Prito* (S.D. Fla.)—16 U.S.C. 1081.
- U.S. v. Maritime Vessel F^o7200-L^a3^a* (S.D. Fla.)—16 U.S.C. 1081.
- U.S. v. Maritime Vessel F^o7216-L^a3^a* (S.D. Fla.)—16 U.S.C. 1081.
- U.S. v. Maritime Vessel F^o7665* (S.D. Fla.)—16 U.S.C. 1081.
- U.S. v. Maritime Vessel F^o7394-L^a3^a* (S.D. Fla.)—16 U.S.C. 1081.
- (7) *Progressive Labor Party, et al. v. House Committee on Internal Security* (D.C. D.C.); *National Peace Action Coalition v. House Committee on Internal Security* (D.C. D.C.); *People's Coalition for Peace and Justice v. House Committee on Internal Security* (D.C. D.C.).
- (8) *United States Servicemen's Fund v. Eastland* (D.C. D.C.) (C.A. D.C.); *Ansara v. Eastland* (C.A. D.C.).
- (9) *Sanders v. McClellan* (D.C. D.C.) (C.A. D.C.).
- (10) *Davis v. Ichord* (C.A. D.C.).
- (11) *Hentoff v. Ichord* (D.C. D.C.).
- (12) *Stamler, Hall, and Cohen v. Willis* (D.C. N.D. Ill.).
- (13) *Tatum v. Laird* (C.A. D.C.).
- (14) *ACLU v. Westmoreland* (D.C. N.D. Ill.).
- (15) *Scolnick v. 113th Military Intelligence* (D.C. N.D. Ill.).
- (16) *Fifth Avenue Peace Parade Committee v. Hoover, et al.* (D.C. S.D. N.Y.).
- (17) *Collins v. Hoover, et al.* (D.C. D.C.).
- (18) *Smith v. Laird* (D.C. D.C.); *Oliva v. Laird* (D.C. D.C.); *Gayer v. Laird* (D.C. D.C.); *Grim v. Laird* (D.C. D.C.); *Subb v. Laird* (D.C. E.D. Pa.); *Cola v. Laird* (D.C. E.D. Pa.); *McKean v. Laird* (D.C. S.D. Calif.).
- (19) *Socialist Workers Party et al v. Blount* (D.C. D.C.); *Rodriguez v. Seamans et al.* (C.A. D.C.); *Finley v. Hampton* (C.A. D.C.); *Zuckerman v. Veterans Administration* (C.D.C. Minn.); *Cummings and Rudd v. Hampton* (D.C. N.E. Calif.).
- (20) *Walker v. Khosrovi* (D.C. D.C.).
- (21) *Hiss et al. v. Hampton* (D.C. D.C.).
- (22) *New York Times et al. v. United States* (Sup. Ct.); *United States v. Washington Post et al.* (Sup. Ct.).
- (23) *United States v. Dellinger, et al.* (D.C. N.D. Ill.).
- (24) *United States v. O'Neal* (D.C. Kan.).
- (25) *United States v. Smith* (D.C. G.D. Calif.).
- (26) *United States v. Sinclair et al.* (D.C. E.D. Mich.).
- (27) *United States v. Donghi* (D.C. W.D. N.Y.).
- (28) *United States v. Hillard* (D.C. N.D. Calif.).
- (29) *In re Joques Egan* (C.A. 3).
- (30) *United States v. Evans* (C.A. D.C.).
- (31) *Dellinger, et al. v. Mitchell, et al.* (D.C. D.C.).
- (32) *Seale and Huggins v. Mitchell, et al.* (D.C. Conn.).
- (33) *Kinoy v. Mitchell, et al.* (D.C. S.D. N.Y.).
- (34) *Burse and Pressley v. United States* (D.C. N.D. Calif.).
- (35) *Mandel v. Mitchell* (D.C. E.D. N.Y.).

land and natural resources division

Shiro Kashiwa/Assistant Attorney General



The Government's expanded efforts to improve the environment have been strongly reflected in the various activities of the Land and Natural Resources Division. During the year a Pollution Control Section was organized and responsibility for both civil and criminal pollution litigation was centralized in this Division. This greatly intensified the program of improving the environment through litigation. Moreover, the defense of environmental suits, initiated particularly under the National Environmental Policy Act of 1969, resulted in significant judicial illumination of the environmental impact of Federal programs and projects. In addition, the Division's work in legislative matters and in inter-departmental coordination was largely focused on the environment. The major accomplishments of the Land and Natural Resources Division are reflected in the following report by sections:

POLLUTION CONTROL SECTION

In 1970 this Division for the first time initiated civil suits to abate pollution on the basis of the Refuse Act, a criminal statute enacted in 1899. The sympathetic reception of these injunctive suits by the courts confirmed that the temper of the times demanded imaginative new uses of existing statutory authority to abate pollution. Accordingly, both to mount a litigation assault on pollution on the basis of this old statute, and to have an organization available to respond to the litigative needs of the impending Environmental Protection Agency, the Pollution Control Section was established in the Land and Natural Resources Division on October 1, 1970.

In fiscal 1971, 54 civil actions to abate pollution under the Refuse Act were initiated. Ten of these suits were against companies discharging mercury into the navigable waters of the United States. The immediate results of these suits were spectacular. Pursuant to stipulations entered into with the Department of Justice, the defendant companies immediately re-

duced their daily discharges to no more than 8 ounces per day. Before the suits were initiated, some of the companies had been discharging as much as from 20 to 30 pounds of mercury per day.

As required by the stipulations in the law suits, the defendant companies submitted their proposals for further reduction on or about December 1, 1970. These proposals are presently being studied by the Environmental Protection Agency to determine whether they are adequate.

Among the pollutants which were the subject of the other suits were cyanide, phenols, sulfite waste liquors, oil, hexavalent chromium, offal, acids, logs and bark, and miscellaneous chemicals and rubbish. Fifteen of these cases have terminated either by the immediate abatement of the pollution, pursuant to court decree, or by the entry of an order directing the abatement of the pollution under court direction and in a manner satisfactory to the Environmental Protection Agency.

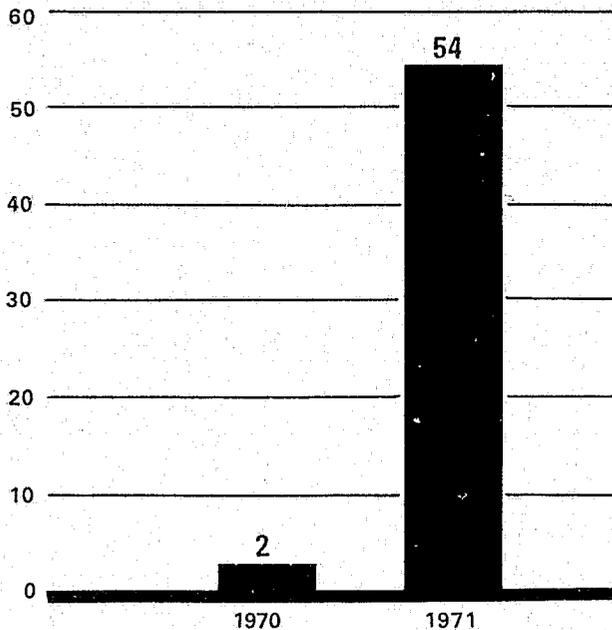
The expenditures of money which are required to comply with these court orders are sometimes very great. A pulp processing plant in the State of Washington is under direction to construct a waste treatment facility at a cost of about \$22 million, and an automobile assembly plant in New York is required to install treatment tanks at a cost of over \$2 million.

In addition to the one suit against the Florida Power and Light Co. filed by the Division last year, the other civil suits for injunctions under the Refuse Act filed by the Pollution Control Section this year are in various stages of negotiation or litigation. Some of the largest industrial concerns in the United States are among the defendants in these cases, and the outcome of these suits will have a significant effect upon the pace of pollution-abatement in this country.

Besides handling civil actions under the Refuse Act, the Pollution Control Section now handles criminal actions. Jurisdiction over such actions was transferred from the Criminal Division to the Land and Natural Resources Division on February 11, 1971. In fiscal 1971, 191 criminal actions were initiated under the Refuse Act, and 163 cases were terminated. In six cases, a total of \$16,750 in bounties was awarded by the courts to informers.

Civil Anti-Pollution Cases Filed Under Refuse Act of 1899

(None Filed Prior to 1970)



GENERAL LITIGATION SECTION

The concern of individuals and citizens' groups with protecting the environment has involved this Division in a rising number of a new type of cases. This is in addition to its continued participation in litigation on administration of public lands and related resources and protection of Indian property, including rights accorded Indians by treaty.

Persons or groups interested in protecting the environment have brought actions to question compliance by Government agencies with the requirements of the National Environmental Policy Act of 1969 (1). In one of the few cases to proceed beyond the preliminary injunction stage, the court enjoined a river improvement project in Arkansas because of an inadequate impact statement filed with the Council on Environmental Quality (2). Motions for preliminary injunctions have been denied in two cases involving location of an interstate highway (3). Some pending cases involve the construction of the Three Sisters Bridge and related highway facilities in the District of Columbia and construction of Interstate Highway 66 through Arlington County, Va. (4). Injunctions have been denied in cases involving a widespread use of insecticides (Mirex for fire ants (5) and Sevin for gypsy moths (6)). A preliminary injunction was

granted to halt further construction of the Cross Florida Barge Canal (7), closely followed by a directive of the President halting the project. A river improvement project in East Texas was preliminarily enjoined (8).

Other actions have been brought by private groups to control the use of jet aircraft at Washington National Airport (9) and to prevent development of a new airport to serve the Southern California area (10).

In the field of wildlife, private actions have been instituted to stop or control the predator control programs of the Department of the Interior (11), to stop the harvest of fur-bearing seals of the Pribiloff Islands by natives of those islands (12), and to place the polar bear on the endangered species list (13). A deer hunt on Federal lands in New Jersey to reduce the deer population to the carrying capacity of the area was enjoined (14).

Four private actions have been brought questioning the development of coal-fired electric power plants to meet the increasing demand for electric power in the southwest (15). The Cordova Fisheries Union has joined in litigation to stop construction of the Alaska Pipeline (16).

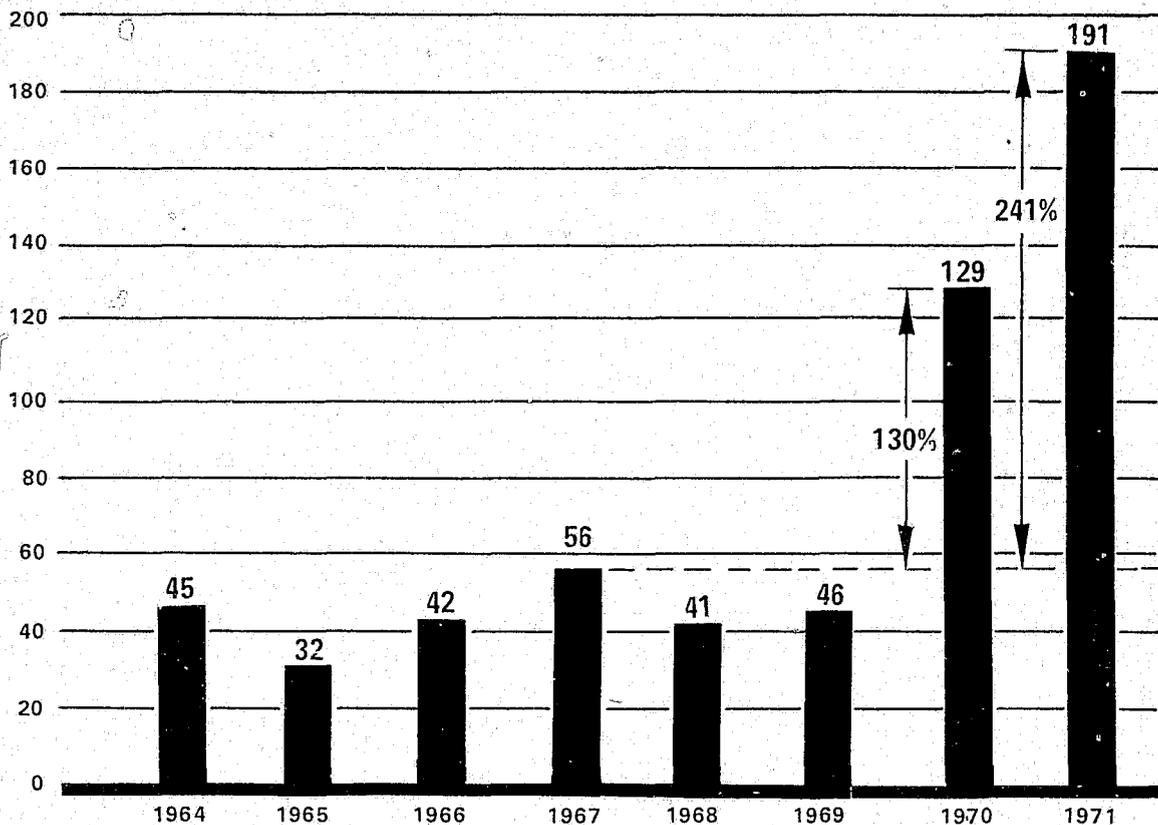
While environmental suits are more in the public eye, substantial litigation continues over the Nation's land and natural resources, including tribal and allotted Indian lands and water rights. The Department successfully defended against the claim that the mining laws of the United States, in force since 1872, are unconstitutional (17). Litigation is still pending over the validity of the Central Valley water project in California (18). A number of Indian tribes have brought suit in the Court of Claims alleging mismanagement of their funds on deposit in the treasury of the United States (19). In a suit in which the United States was not a party, treaty hunting and fishing rights of Indians in Michigan were upheld (20). The authority of the Department of the Army to control vehicular traffic in Arlington Cemetery was upheld (21), as was the authority of the National Forest Service to enter into a long-term timber sale contract on the Tongass National Forest, Alaska (22).

In pending litigation, it is alleged that facilities furnished by the District of Columbia and the administration of Federal housing projects in the District discriminate against residents living east of the Anacostia River as compared to the more affluent section of the city lying west of Rock Creek Park (23).

Increase in the amount and importance of water litigation has resulted from competition between private uses and Federal uses of water in national forests, Indian reservations, national parks, etc. According to a Supreme Court ruling, Congress has permitted Federal water rights to be adjudicated in Colorado State

Criminal Anti-Pollution Cases Filed Under Refuse Act of 1899

For Fiscal Years 1964 Through 1971



Bar chart shows far more extensive use of the Federal Refuse Act of 1899, in bringing criminal anti-pollution cases in fiscal 1970 and 1971, compared to the previous high year (1967).

courts, whether or not these rights are claimed under State or Federal law (24). This decision makes it clear, however, that the State courts will be required to apply Federal law where applicable in adjudicating Federal water rights, and that the State court decisions on Federal questions will be subject to review by the Supreme Court.

LAND ACQUISITION SECTION

In this fiscal year, U.S. Attorneys, under guidance from this Division and its attorneys, filed 505 new condemnation actions to acquire 2,691 tracts of land for the use of Federal departments and agencies. They obtained final judgments in 410 cases concluding the acquisition of 4,333 tracts of land. There were 1,993 condemnation cases pending at the end of the year

involving 16,313 tracts of land. Since there were 19,555 tracts pending in condemnation proceedings on June 30, 1970, the pending tracts were reduced by a total of 1,642. The Division rendered 15,911 title opinions relating to lands being acquired by direct purchase. The lands included in the closed cases and purchases totaled 499,912.21 acres and were acquired at a total cost of \$189,340,994.34.

Public Law 91-393, approved September 1, 1970, continues the requirement for written approval, before public money can be spent to purchase lands or any interest therein, of the sufficiency of the title to such lands or interests. However, the act authorizes the Attorney General to delegate his responsibility to other Departments or agencies, subject to his general supervision and in accordance with regulations promulgated by him. It also permits any Federal department or agency which has been delegated the responsibility

of approving titles to request title opinions of the Attorney General.

After this legislation was enacted, and after it was ascertained that these departments or agencies had competent legal staffs, delegations of authority to approve titles were issued to the Departments of Agriculture, Army, Interior, Navy, Post Office, the General Services Administration and the Atomic Energy Commission. At the request of the National Park Service of the Department of the Interior, the delegation did not relate to lands being acquired for that Service. The delegations set out certain limits deemed necessary to protect the interest of the United States. It required the delegated department or agencies to comply with the regulations promulgated by the Assistant Attorney General of this Division on October 2, 1970. Enactment of this legislation and the delegation of authority should result in a material savings in time and expense in acquiring lands for public purposes and in making payment to property owners.

Several meetings of the Interagency Land Acquisition Conference, which was organized pursuant to invitations of the Attorney General, were held in this Division. These meetings and the reports of the various committees of the Conference have been most helpful to Federal departments and agencies in acquiring real property for public purposes. A major accomplishment of this Conference was the publication, in October 1970 after exhaustive study, of the "Uniform Appraisal Standards for Federal Land Acquisitions." Federal departments and agencies and members of the appraisal profession rely on this publication to insure fair treatment to property owners and to protect the taxpayers.

APPRAISAL SECTION

During the fiscal year the Appraisal Section has analyzed 1,736 appraisal reports involving 2,021 acquisition tracts physically located throughout the United States, plus the Island of Guam. The analyses encompassed 177 days of field examination in addition to the necessary office time.

Concerning the Department's employment of fee appraisers, the Section has aided in developing the "Appraisal Contract Form" which is currently approved for distribution. The form will result in clearer understandings between the contracting parties, particularly in setting forth the work product desired and the legal premises involved.

MARINE RESOURCES SECTION

As in prior years, this Section's major activity has been in original suits in the Supreme Court to fix Federal-State offshore boundaries.

In *United States v. Louisiana*, S. Ct., No. 9, original, the special master held approximately 7 weeks of evidentiary hearings. This leaves only some discovery problems to be resolved before briefing and argument on the merits. As of May 31, 1971, impounded receipts from oil and gas wells in the disputed areas amounted to \$1,699,808,564.28. Over \$1 billion of that amount was derived from lands seaward of the State's outermost claim under the Court's opinion of March 3, 1969, and on April 21 at the request of the Office of Management and Budget, the Department filed in the Supreme Court a motion for a supplemental decree to declare the Federal right to that area and secure the immediate release of the impounded receipts therefrom. On June 26, Louisiana filed its objection on the ground that it intends to ask the Court to reconsider the March 3, 1969 opinion.

In *United States v. Maine, et al.*, S. Ct., No. 35, original, to determine the offshore rights of the Atlantic States, there have been four prehearing conferences and 1 day of oral testimony. Further evidentiary hearings are scheduled for the fall. Ruling on the U.S. motion for judgment on the pleadings has been reserved. In accordance with joint motions of the parties and special master's recommendation, the Court on June 28, severed proceedings as to Florida, agreed to entertain supplemental proceedings as to Florida's gulf coast in No. 9, original, and consolidated the two Florida proceedings into a new case, No. 52, original, which it referred to Judge Albert B. Maris, the same special master in No. 35, original. This will delimit Florida's submerged lands both in the gulf and Atlantic.

There has been a recurrent problem relating to State jurisdiction over fishing by aliens off the coast of Florida in waters which the United States regards as beyond the jurisdiction of the State. In one instance, the district court enjoined the State from arresting Cuban fishing boats in parts of the Gulf of Mexico regarded by the United States as high seas. The question of the status of these waters will be determined by the Supreme Court in No. 52, original *United States v. Florida*, N.D. Fla., Tallahassee Civil No. 1672.

Another instance involved foreign vessels fishing in the Gulf of Mexico in the contiguous fishery zone but within 9 miles from the coast of Florida. The State, claiming to have jurisdiction for fishing purposes out to 9 miles in the gulf under the Submerged Lands Act, seized three Cuban vessels and their crews. Litigation was avoided when the State agreed to release the vessels and crews to the U.S. Attorney in return for a promise that those and all other aliens fishing in the contiguous fishery zone would be diligently prosecuted by the Federal authorities.

Florida also requested at that time that the Government bring a declaratory judgment action to determine the respective rights of the State and the Federal Government to regulate fishing in the contiguous fishery zone out to 9 miles. On May 7, 1971, the State Department asked the Department to bring such an action against both Florida and Texas, the only other State which the Supreme Court has recognized as having rights under the Submerged Lands Act beyond 3 miles. That action is being filed.

Finally at the request of the Internal Security Division, the Section participated in the trial of four Cubans arrested for fishing in the contiguous fishery zone. The Section helped introduce into evidence the boundary maps which delimit the 3-mile limit of the U.S. territorial sea and the 12-mile limit of the contiguous fishery zone recently published by the Interagency Law of the Sea task force.

There have been three cases involving claims to the resources of the Outer Continental Shelf based on the general mining laws. In *Ratner v. Union Oil*, Civil No. 69-1538-S C.D. Cal., the defendants whom the Government supported with an amicus curiae brief, obtained a dismissal. In *United States v. Oceanographic Mining Systems, Inc.*, S.D. Fla., No. 70-1680-Civ-CA, a consent decree was obtained recognizing the exclusive rights of the Federal Government to those resources. In *Lowe v. Union Oil Co.*, C.D. Cal., Civil No. 71-272-RM the Government's motion for dismissal or summary judgment is pending. Dismissal and summary judgment were obtained in a fourth case which involved a "preemption" claim. *Santa Monica Bank v. United States*, C.D. Cal., Civil No. 69-1905-RM. The *Ratner* and *Santa Monica* cases have both been appealed.

INDIAN CLAIMS SECTION

During the year ending June 30, 1971, the Indian Claims Commission rendered substantive decisions involving 49 Indian claims cases.

Final judgments awarded to Indian tribes were entered in 18 cases amounting to \$49,585,204.49, bringing the total final judgments since the inception of the Commission in 1946 to \$390,941,341.79. The Court of Claims entered final judgments in two cases for \$11,626,451.00 which, when added to the \$16,944,909.39, previously determined by the Court, makes a grand total of \$419,512,702.18 rendered in Indian claims cases since 1946.

In addition, the Commission held in 19 cases that the Government was liable to the Indians for the value of 40,295,794.67 acres. In a number of cases, the Commission and the Court of Claims held the Government liable for miscellaneous derelictions such as the loss of

revenue from a power site and in general accounting cases.

During the fiscal year, the Court of Claims handed down six opinions on appeal from the Indian Claims Commission. It also has 12 cases on appeal at the close of the fiscal year. As previously stated, it rendered two judgments in special jurisdictional act cases aggregating \$11,626,451.

Several decisions are worthy of specific mention. In 1966 the Indian Claims Commission had held that the Government was liable to the Southern Ute Tribe for the value of 230,000 acres of land in southern Colorado which allegedly had not been ceded to the United States in 1880. The Government contended that not only had these lands in fact been ceded but that as a result of prior litigation the Utes had been paid for the land and had stipulated to that fact. The Commission held (25), however, that the land had not been ceded and that it was not the intention of the parties to include those lands in previous stipulations of judgments in which the Utes had received over \$31 million in settlement of all their claims. The Court of Claims affirmed (26). However, upon review of the whole matter, the Supreme Court reversed (27) and directed the dismissal of the petition on the ground that the lands had in fact been ceded to the United States under the Act of 1880 (28).

The matter of interest to be paid has loomed large in the consideration of Indian claims cases. The Court of Claims found it necessary to reverse the Commission in two cases recently. In a *Nez Perce* case (29), the Commission had awarded the tribe the sum of \$1,387,911 on the basis that the United States had not paid a "conscionable" consideration for lands ceded by the tribe in 1894. To this amount the Commission added interest in the amount of \$5,222,015.14 on the assumption that had the original agreement provided for the payment of the additional amount awarded, it also would have provided for interest on that amount. On the appeal of the Government the Court of Claims reversed (30).

In a *Creek* case (31), the Commission held that the tribe was not only entitled to recover the value of certain land excluded from their reservation but was also entitled to recover interest on the value of that land. Again the Court of Claims reversed (32).

APPELLATE SECTION

This past year the Division's appellate work has taken on a considerably broader base which is only partially reflected in the decided cases. Examples of pending matters in new areas of jurisdiction are: (1) Direct petitions to the courts of appeals for review of decisions of the Atomic Energy Commission where the

main thrust of the issue relates to environmental considerations rather than technical; (2) direct petitions for review of Environmental Protection Agency actions at various points in the agency's regulatory procedures; and (3) appeals from convictions for violations of the Refuse Act.

Even formerly well-defined areas of the law have been affected by one or more aspects of the new, and as yet undeveloped, environmental considerations. For example, in a case where the authority of the Government to acquire an area for the completion of a reservoir project in Texas was questioned, the court of appeals upheld the authority to condemn on more or less conventional grounds (33). The Supreme Court denied certiorari, but a lengthy dissent was filed with respect to possible failure to comply with the National Environmental Policy Act, a point neither briefed nor argued at any stage.

In another case, the authority of the Corps of Engineers to refuse to issue a permit to fill a low-lying area in Florida, on the grounds that ecological considerations were countervailing, was upheld by the court of appeals (34). The interesting fact is that the National Environmental Policy Act, though not in effect at the time the permit was denied, was used by the court of appeals to support the decision because the court's forward-looking appreciation of the problem had been justified by subsequent legislation.

Another continuing problem is that of sovereign immunity from suit. "Law Review" articles and other professional literature have been replete with general condemnation of this basic principle. Yet the courts have in some instances accepted this doctrine in unexpected areas and rejected it in others. One court rejected the Government's defense of sovereign immunity in a suit to compel officials to repair Federal housing alleged to be in disrepair in violation of a congressional direction to provide "decent, safe, and sanitary" housing (35).

Another court summarily affirmed the dismissal, on sovereign immunity grounds, of an action seeking to impose a public trust on all Federal property not needed to carry out the delegated powers of Congress (36). Likewise, a court dismissed, for lack of jurisdiction, an action by a holder of Sioux halfbreed scrip to compel the Secretary of the Interior to convey a specific tract of land selected by him in satisfaction of his land selection rights (37). Congress was found not to have waived the Government's sovereign immunity from suit in an action for partition of realty where the United States disputes the plaintiff's claim to joint ownership and possession of the land (38). Similarly, a local county's claim that its conveyance of 40,000 acres of forest land to the Government was void was rejected for lack of consent to suit (39). With respect to intratribal litigation, a court of appeals affirmed the

dismissal of an action by individual Cherokees against their principal chief and the Secretary of the Interior, challenging the chief's office-holding qualifications (40). On the other hand, another court of appeals rejected the sovereign immunity defense in a suit to recover possession of land in a national forest where both the United States and the claimant showed record title (41). The sovereign immunity issue would appear to merit consideration by the U.S. Supreme Court in an appropriate issue.

With respect to Supreme Court litigation, the Division has met with mixed results. The most important question was that of State court jurisdiction in determining Federal water rights under an act of Congress. The Supreme Court rejected the Government's view that the determination of these peculiarly Federal rights to water on public lands should not be determined in a State court, while at the same time it reaffirmed the nature of the Federal rights to water on the public domain (42).

Another significant development of the public land law was determined favorably by the Supreme Court. In the *Oil Shale* case, the Supreme Court reaffirmed the broad power of the Secretary of the Interior to determine the validity of all forms of statutory claims to the public domain. Specifically, the court reversed a decision of a court of appeals and sustained the Secretary's jurisdiction to contest oil shale claims for failure to do assessment work. Oil shale reserves are estimated in terms exceeding billions of barrels. In so doing, the Court effectively overruled its 1935 decision denying the Secretary that power (43).

The Secretary's broad power to act in the public interest was similarly sustained when he was permitted to demand 13 years' back royalty now worth about \$5 million, based upon a corrected method of calculation. The court specifically rejected the motion that the company could assert the defense of equitable estoppel against the Secretary based upon erroneous and misleading advice by subordinate departmental officials (44).

Similarly, the right of the Secretary to impose a reasonable rental fee for sulphur prospecting permits, even with respect to pending applications, was sustained by a court which recognized that the Secretary is empowered to exact a fair return on behalf of the Government from persons engaged in exploiting its resources. (45).

Most of the Nation's public lands not specifically devoted to park and forest purposes is managed under the Taylor Grazing Act which vests broad discretionary authority to classify such land for disposal or retention based upon the public interest. A court of appeals specifically reaffirmed that the validity of a classification decision by the Secretary was not judicially reviewable. (46).

Courts have continued to defer to departmental factual determinations. Thus, a decision by the Secretary of the Interior, declaring that mining claims and a mill-site were invalid, was sustained by a court declaring that ". . . in the absence of fraud, the decision of the Secretary on questions of fact is conclusive if supported by the record. . . ." (47)

In a decision with broad implications regarding the rights of environmental groups to challenge management decisions of the executive department in Federal court, the Ninth Circuit held that the Sierra Club lacked standing to challenge the executive creation of a large recreation area in Sequoia National Forest, with a highway to that area through Sequoia National Park, Calif. The Supreme Court has accepted jurisdiction in the case, and argument is pending (48).

In eminent domain litigation, the Division has continued its efforts to achieve an equitable balance between, on the one hand the right of the public, which must compensate for such acquisition, and on the other hand, the rights of the landowners whose property is taken for public use to receive their constitutionally guaranteed just compensation. Accordingly, the Division was able to resist successfully the claim of the owners of a grain elevator on a navigable river that they were entitled to relocation costs; that special value to them, rather than market value, was the proper standard in valuation; that they could recover for potential port-site value on the basis of revocable permits issued by the Corps of Engineers; and, finally, that business losses could be recovered in the guise of severance damage to nearby cropland used in connection with the grain elevator (49).

Also in connection with eminent domain, the rule barring courts from varying the nature or extent of the property interest which an administrator determines to acquire for the Government received renewed force from two circuits. In one case, the Eighth Circuit reversed a nearly \$1 million judgment that was about 7½ times the amount of the Government's estimate. The case involved the acquisition of flowage easements over 2,000 acres, and the district court had impermissibly allowed the landowner to introduce evidence of alleged flooding of 4,000 additional acres (50). In another case, The Fifth Circuit declined to supervise land acquisition said to be in excess of statutory authority; it held that whether land sought was actually necessary for a project presents a nonjusticiable question. (51).

One court vigorously applied the rule that, when the United States takes only part of a tract, but by its improvements increases the value of the remainder, this will be taken into account in adjusting the compensation. That court not only reversed a judgment which had disregarded project-created enhancement, but directed entry of judgment at the Government's valuation, which alone was legally sustainable (52).

The courts of appeals have continued to adhere to their practice of refusing to disturb condemnation valuation judgments in the absence of substantial legal error (53). Similarly, the United States avoided the possibility of having to pay a substantial damage claim in connection with acquisition of a trolley car company's right-of-way. The Fourth Circuit affirmed a district court's decision that the company did not, as claimed, own fee title, but an easement for railroad purposes only, which had been abandoned (54).

In a condemnation case involving the valuation of a sand and gravel lease with only a short term remaining, the Division successfully prevailed upon the Second Circuit to restrict the valuation of the condemnee's obsolete plant to the amount realized at an auction and to reject evidence of hypothetical reproduction cost, since no prudent investor would have invested the required quarter of a million dollars to modernize the plant (55).

With respect to litigation involving Indians other than Indian claims activities, the Division was successful in having the Supreme Court reject the State of Montana's argument that its courts had jurisdiction over a suit by a white person against an Indian in a transaction within a reservation (56). The Government's position with respect to payment for Indian head rights in connection with a Federal Power Commission determination was sustained (57). Another court agreed that certain Indian employment statutes do not give Indian employees of the Bureau of Indian Affairs protection against reduction in force (58). The Eighth Circuit determined that subsequent purchasers (white) of Indian allotments were entitled to the waiver of sovereign immunity of Indians under 25 U.S.C. sec. 345 (59). There was a significant development in Indian claims work when the Supreme Court agreed that a 1950 settlement with the Southern Ute Tribe barred an additional and new claim of the tribe on grounds of *res judicata* (60). In cases involving fraudulent inducements to transfer stock in an Indian reservation, the Tenth Circuit agreed that the Termination Act ended the Government's responsibilities for the Indians (61).

A substantial number of cases within the Division's jurisdiction which do not fit neatly into any traditional categories. Illustrative of these are the following: The Ninth Circuit upheld the Division's view that local authorities, under the guise of criminal negligence suits against Federal oil leases, could not interfere with the orderly development of submerged Federal resources in the Santa Barbara Channel (62). The view that tenants in a low-rent housing project did not have a right to a quasi-judicial hearing, before a rent increase, was also accepted (63). The Division succeeded in having an injunction against the continued development of an urban redevelopment program lifted (64). It also

achieved a significant victory in clarification of the Government's right to vast amounts of helium produced over a number of years under the Federal helium conservation program (65). As an example of an increasing number of emergency appeals with immediate hearings on unusual subject matters, the Division succeeded in reversing a district court decision enjoining Federal participation in the purchase of an area by a State for preservation for recreation purposes (66).

On the other hand, the Division failed to have vacated an injunction against an open day to shoot deer on a Federal reservation in connection with a State also ordering an open day for the purpose of reducing deer population so that the remainder would have enough forage for the winter months(67).

LEGISLATIVE ACTIVITY

The number of legislative reports rendered by the division during fiscal year 1971 increased sharply for the third consecutive year. Figures for the past 4 consecutive years illustrate that increase.

Total Number of Legislative Reports	
Fiscal year:	
1968 -----	263
1969 -----	312
1970 -----	321
1971 -----	379

There were 53 report requests pending at the beginning of fiscal year 1971, and 45 pending at year's end. An average of 50 legislative matters was pending during any one month of the last fiscal year, compared with a monthly average of 36 pending during fiscal year 1970, 15 pending during fiscal year 1969, and 9 pending during fiscal year 1968.

Congress enacted five public laws of particular importance to this division during the past fiscal year; (1) Public Law 91-393 which amended section 355 of the Revised Statutes, as amended, to eliminate mandatory submission for approval by the Attorney General of title to lands acquired for or on behalf of the United States; (2) Public Law 91-581, which provides for development of geothermal steam on Federal lands, thereby also providing an important new source of energy in the western States; (3) Public Law 91-611, the Rivers and Harbors Act of 1970, which contains a provision that in effect waives the Federal Government's navigation servitude in certain cases in determining compensation for land acquired by the Federal Government; (4) Public Law 91-604, the National Air Quality Standards Act of 1970; and (5) Public Law 91-646, the Uniform Relocation Assistance and

Real Property Acquisition Policies Act of 1970.

More than two-thirds of all requests for legislative reports during fiscal year 1971, were related to environmental issues. Proposals for prevention, abatement and control of water, air and noise pollution were most common. There were, for example, more than a dozen separate bills proposing amendments to the Federal Power Act which would authorize an adequate electrical power supply compatible with environmental quality.

In addition bills proposing amendments to the National Environmental Policy Act were received and reported upon during fiscal year 1971 these included several proposals to confer standing on private persons to sue for relief from pollution and several others advocating creation of a national environmental data system or national environmental data bank.

Protection of ocean, marine, coastal, territorial and navigable domestic waters, especially prohibitive or regulatory measures concerning dumping, was also emphasized in proposed legislation during the past fiscal year, as was the corollary subject area of protection and conservation of fish and marine resources and ocean mammals.

Proposals to prevent or control pollution from toxic or hazardous substances (especially mercury), from pesticides, and from detergents were more numerous than in other years. They were also more numerous, for the first time, than proposals pertaining to the prevention of oil spills on the Outer Continental Shelf and elsewhere.

Legislative reports were also rendered during the past fiscal year on bills proposing comprehensive national policies or programs for land use, or for all land and water resources; amendments to the Solid Waste Disposal Act, and recycling measures; class action suits against persons responsible for creating environmental hazards; creation of new Federal departments or agencies (e.g., an Office of Technology Assessment for the Congress, the Department of Human Resources Development, the Department of Natural Resources and Environment); various environmentally-related tax policy proposals; consent to interstate compacts; establishment of specific national recreation areas, national lakeshores, etc., and for the preservation of historic monuments; regulation of aircraft and motor vehicle emissions; a prohibition upon the introduction or shipping in interstate commerce of any polluting substance; waiver of sovereign immunity to permit quiet title suits; diverse mass transportation proposals, including a bill to authorize sale of the Alaska Railroad; settlement of Alaska native claims; extension of term of the Indian Claims Commission; creation of an Indian Trust Council authority; establishment of an Indian business development fund within the Department of the Interior; and codification of water rights of

the Federal Government under the reservation doctrine.

A task force on relocation was convened in January 1971, in accord with the President's statement when he approved Public Law 91-646, providing for uniform relocation assistance and real property acquisition policies, so that guidelines for implementation of the law would be developed by an interagency

group. This division furnished an attorney representative to that task force. Interim guidelines were completed and issued, and work has begun on the final guidelines.

A broad-gauge study of Federal laws, policies and institutional arrangements was also completed and submitted to the Great Lakes Basin Commission during fiscal year 1971.

Table 1.—Land Acquisition Section—tracts received, closed and pending fiscal years 1949 to 1971, inclusive

Fiscal year	Condemnation tracts received	Condemnation tracts closed	Condemnation tracts pending	Title tracts received	Title tracts closed	Title tracts pending
1971	2,601	4,333	16,313	12,599	⁴ 13,681	399
1970	8,495	4,431	17,955	17,204	³ 16,310	1,421
1969	4,717	3,696	13,891	15,521	² 15,443	607
1968	4,089	4,782	12,870	12,228	¹ 17,706	529
1967	3,967	6,788	13,563	12,263	11,555	6,007
1966	4,957	7,768	16,384	15,786	16,630	5,299
1965	10,062	6,614	19,106	18,685	17,011	0,143
1964	6,917	12,827	15,747	15,905	14,035	5,369
1963	8,259	16,361	21,357	14,030	16,449	4,399
1962	8,663	11,361	20,359	11,319	12,484	6,818
1961	10,848	6,399	32,057	8,768	11,600	7,083
1960	9,942	8,989	27,608	6,111	8,887	10,815
1959	7,276	8,007	26,655	11,322	7,647	13,191
1958	6,790	7,883	28,286	9,427	8,071	9,256
1957	7,437	7,864	29,373	9,534	7,645	7,900
1956	12,110	7,535	29,800	7,587	6,092	6,011
1955	6,147	7,598	25,216	5,210	6,146	4,516
1954	5,700	6,339	26,667	5,297	6,963	5,452
1953	10,025	9,282	27,306	7,923	11,458	0,231
1952	7,609	8,191	26,563	8,550	8,092	9,761
1951	7,851	6,870	27,145	10,164	7,564	9,303
1950	6,362	8,086	26,164	8,027	6,777	6,703
1949	5,417	8,483	27,888	6,360	4,379	5,453
	166,346	180,987		250,385	254,425	

- ¹ Includes 6,239 tracts closed by preliminary opinion or cancellation.
- ² Includes 4,466 tracts closed by preliminary opinion or cancellation.
- ³ Includes 7,210 tracts closed by preliminary opinion or cancellation.
- ⁴ Includes 4,935 tracts closed by preliminary opinion or cancellation.

Table 2.—Land Acquisition Section—tracts and parcels received, closed, pending—acres acquired—cost 1949 to 1971 fiscal years, inclusive

Fiscal year	Tracts received	Tracts closed	Tracts pending June 30	Acres acquired	Cost of parcels and acres
1971	15,290	⁴ 13,070	16,652	499,912	\$189,340,994.34
1970	25,699	³ 20,741	19,376	897,873	161,234,033.96
1969	20,238	² 19,139	14,498	594,141	175,392,775.19
1968	16,817	¹ 22,820	13,399	1,066,875	183,440,371.26
1967	16,230	18,343	19,670	1,129,087	171,826,978.83
1966	20,743	24,398	21,683	1,451,010	160,910,127.56
1965	28,747	24,525	25,338	1,729,207	177,069,764.98
1964	22,822	27,462	21,116	1,530,087	191,260,285.69
1963	22,289	32,710	25,756	701,953	149,543,359.20
1962	19,982	23,845	36,177	575,390	145,441,802.13
1961	19,616	17,999	40,040	405,094	116,615,398.79
1960	16,453	17,876	38,423	491,388	128,209,884.82
1959	18,858	16,554	39,846	456,630	107,195,951.52
1958	16,223	15,054	37,542	668,835	84,235,251.96
1957	16,971	15,509	37,273	753,710	59,998,318.04
1956	19,706	13,627	35,811	695,679	63,489,732.80
1955	11,367	13,744	29,732	448,233	60,954,619.48
1954	10,997	13,302	32,110	580,418	78,198,483.41
1953	17,953	20,740	33,537	626,426	74,145,508.79
1952	16,159	16,283	36,324	736,900	91,150,700.00
1951	18,015	14,434	36,448	1,405,745	60,801,140.14
1950	14,389	14,863	32,867	920,718	82,017,868.16
1949	11,777	12,862	33,341	901,039	51,042,003.73
	416,831	430,809		19,076,359	2,733,517,127.68

- ¹ Includes 6,571 tracts closed by preliminary opinion or cancellation.
- ² Includes 4,466 tracts closed by preliminary opinion or cancellation.
- ³ Includes 7,210 tracts closed by preliminary opinion or cancellation.
- ⁴ Includes 4,935 tracts closed by preliminary opinion or cancellation.

Table 3.—Indian Claims Section—summary

Category	Acres	Amounts claimed ²	Net final judgment
1. Final judgments (Comm.)	¹ 180	651,060,324.18	\$878,473,031.61
2. Final judgments (C.Cls.)	15	20,177,915.62	100,038,955.07
	105	581,238,230.70	978,512,887.28
<i>Dismissed</i>			
3. By plaintiffs	40		
4. By Commission	118		
5. By Court of Claims	11		
6. By district court	3		
	178		
<i>Liability Determined</i>			
7. Indian title	52	⁴ 103,140,976.47	
8. Recognized title	15	⁴ 47,784,947.21	
9. Treaty or res. title	4	⁴ 1,347,651.08	
10. Miscellaneous	⁵ 8	(b)	
	70	152,282,575.06	

¹ Includes 25 nonland claims.

² Includes 41 cases, amounts not specified.

³ Includes one case in Court of Claims.

⁴ Acres estimated.

⁵ Cannot determine.

NOTE: Appeals pending in Court of Claims, 10.

Appeals pending in Supreme Court, 1.

Table 4.—General Litigation Section—cases received, closed and pending fiscal years 1959 to 1971, inclusive

Fiscal year	Received	Closed	Pending
1971	779	754	1,297
1970	710	628	1,272
1969	710	621	1,190
1968	722	808	1,101
1967	801	772	1,187
1966	769	697	1,144
1965	806	614	1,070
1964	668	636	878
1963	523	468	846
1962	476	502	791
1961	500	500	817
1960	524	518	817
1959	496	492	811

Table 5.—Appellate Section—case statistics

	1971	1970	1969	1968
Number of new cases	204	274	143	170
Number of cases closed	214	163	130	185
Cases pending end of year	274	284	163	150
Total cases handled	488	437	293	335
Memoranda for the Solicitor General	94	96	71	106
Number of briefs filed	97	109	116	112
Number of oral arguments	58	53	57	54
Number of cases decided	95	84	89	64

LIST OF CASES CITED

- (1) Act of January 1, 1970, 83 Stat. 852, 43 U.S.C. 4321, et seq.
- (2) *Environmental Defense Fund v. Corps of Engineers*, 325 F. Supp. 728, 749 (E.D. Ark. 1971).
- (3) *Investment Syndicates, Inc. v. Richmond, Adm.*, 318 F. Supp. 1038 (D.C. Ore.) appeal filed; *Daly v. Volpe*, 326 F. Supp. 868 (W.D. Wash. 1971).
- (4) *Arlington Coalition on Transportation v. Volpe*, 332 F. Supp. 1218 (E.D. Va. 1971), appeal pending.
- (5) *Environmental Defense Fund v. Hardin*, Civ. 325 F. Supp. 1401 (D. D.C. 1971).
- (6) *Scarsdale Audubon Society v. Secretary of Agriculture*, S.D. N.Y.
- (7) *Environmental Defense Fund v. Corps of Engineers*, 324 F. Supp. 878 (D. D.C. 1971).
- (8) *Texas Committee on Natural Resources v. Resor*, Civ. No. 594, E.D. Tex.
- (9) *Virginians for Dulles v. Volpe*, Civ. 507-70-A, E.D. Va.
- (10) *Sierra Club v. Volpe*, Civ. No. 370-71, D. D.C.
- (11) *Defenders of Wildlife v. Morton*, Civ. No. 564-71, D. D.C.
Humane Society v. Morton, Civ. No. 775-71, D. D.C.

- (12) *Friends of Animals, Inc. v. Stans*, Civ. 1192-71, D. D.C.
- (13) *Friends of Animals, Inc. v. Morton*, Civ. 1081-71, D. D.C.
- (14) *Huntane Society v. Morton*, Civ. 3627-70, D. D.C.
- (15) *Yazzie v. Morton*, Civ. 938-71, D. D.C.
Lomayaktewa v. Morton, Civ. 974-71, D. D.C.
National Wildlife Federation v. Morton, Civ. 1090-71, D. D.C.
Jicarilla Apache Tribe v. Morton, Civ. 1089, D. D.C.
- (16) *Cordova District Fisheries Union v. Morton*, Civ. 861-71, D. D.C.
- (17) *Honchok v. Hardin*, 326 F. Supp. 988, D. Md.
- (18) *Sierra Club v. Morton*, Civ. C-71-500, N.D. Cal.
- (19) *Coeur d'Alene*, No. 523-71; *Coeur d'Alene*, No. 524-71; *Navajo*-No. 256-59; *Navajo*-No. 377-70; *Cheyenne-Arapaho*, No. 343-70; *Cheyenne-Arapaho*, No. 342-70.
- (20) *People of the State of Michigan v. Jondreau*, Supreme Court, Michigan, 1-12-71.
- (21) *D.C. Transit System, Inc. v. Resor*, Civ. No. 3631-70, D.C. D.C.
- (22) *Sierra Club v. Hardin*, 325 F. Supp. 99 (D. Alaska 1971) appeal pending.

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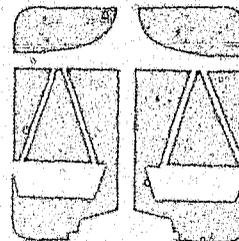
ON NEXT

FILE

- (23) *Bruner v. Washington*, Civ. 242-71, D.C. D.C.
- (24) *United States v. District Court in and for the County of Eagle, et al.*, 401 U.S. 520 (March 24, 1971).
- (25) 17 Indian Claims Commission 28. See also 21 Indian Claims Commission 268 (1969).
- (26) 191 Court of Claims 1 (1970).
- (27) 402 U.S. 1959 (1971).
- (28) Act of June 15, 1880, 21 Stat. 199.
- (29) 22 Indian Claims Commission 53 (1969).
- (30) 194 Court of Claims 490 (1971).
- (31) 21 Indian Claims Commission 271 (1969).
- (32) 192 Court of Claims 425 (1970).
- (33) *United States v. 2,606.84 Acres of Land in Tarrant County, Tex.*, 432 F. 2d 1286 (C.A. 5, 1970), cert. den., 401 U.S. 916.
- (34) *Zabel v. Tabb*, 430 F. 2d 199 (C.A. 5, 1970), cert. den., 401 U.S. 910.
- (35) *Knox Hill Tenant Council v. Washington*, 448 F. 2d 1045 (C.A. D.C. 1971).
- (36) *White v. United States* (C.A. D.C. No. 24667, Dec. 23, 1970) not yet reported.
- (37) *Colson v. Hickel*, 428 F. 2d 1046 (C.A. 5, 1970), cert. den., 401 U.S. 911.
- (38) *Stanton v. United States*, 434 F. 2d 1273 (C.A. 5, 1970).
- (39) *County of Bonner, Idaho v. Anderson*, 439 F. 2d 764 (C.A. 9, 1971).
- (40) *Groundhog v. Keeler*, 442 F. 2d 674 (C.A. 10, 1971).
- (41) *Armstrong v. Udall*, 435 F. 2d 38 (C.A. 9, 1970).
- (42) *United States v. District Court in and for Eagle County, Colorado*, 401 U.S. 520 (1971); *United States v. District Court in and for Water Division No. 5, Colorado*, 401 U.S. 527 (1971).
- (43) *Hickel v. Oil Shale Corp.*, 400 U.S. 48 (1970).
- (44) *Atlantic Richfield Company v. Hickel*, 432 F. 2d 587 (C.A. 10, 1970).
- (45) *Hannifin v. Morton*, 444 F. 2d 200 (C.A. 10, 1971).
- (46) *Lutzenhiser v. Udall*, 432 F. 2d 328 (C.A. 9, 1970).
- (47) *Moseley v. Hickel; Mineral Trust Co. v. Hickel; Crawford v. Hickel*, 442 F. 2d 1030 (C.A. 9, 1971).
- (48) *Sierra Club v. Hickel*, 433 F. 2d 24 (C.A. 9, 1970), cert. granted, 401 U.S. 97.
- (49) *United States v. 87.30 Acres in Whitman and Garfield Counties (Stueckle)*, 430 F. 2d 1131 (C.A. 9, 1970).
- (50) *United States v. 3,317.39 Acres in Jefferson Co., Ark. (Ark-Mo Farms)* (C.A. 8, 1971), cert. den. 404 U.S. 1025 not yet reported.
- (51) *United States v. 2,606.84 Acres in Tarrant Co., Texas (Richardson)*, 432 F. 2d 1286 (C.A. 5, 1970), cert. den., 401 U.S. 916.
- (52) *United States v. 901.89 Acres in Davidson and Rutherford Counties, Tenn. (Davenport)*, 436 F. 2d 395 (C.A. 6, 1970), cert. den., 402 U.S. 973.
- (53) *United States v. 883.89 Acres in Sebastian Co., Ark. (Peerless Coal Co.)*, 442 F. 2d 262 (C.A. 8, 1971); *United States v. 46.23 Acres in Benton Co., Mo.* (C.A. 8, No. 71-1004, May 14, 1971) not yet reported; *U.S. v. Deist*, 442 F. 2d 1325 (C.A. 9, 1971).
- (54) *United States v. 1.44 Acres in Montgomery Co., Md.* (C.A. 4, No. 14704, Mar. 11, 1971) not yet reported.
- (55) *United States v. 1,132.50 Acres (Upper Allegheny Sand & Gravel Co., Inc.)*, 441 F. 2d 356 (C.A. 2, 1971), cert. den. 404 U.S. 850.
- (56) *Kennerly v. District Court of Montana*, 400 U.S. 423 (1971).
- (57) *Montana Power Co. v. F.P.C.* 445 F. 2d 739 (C.A. D.C. 1969), cert. den., 400 U.S. 1013.
- (58) *Mescalero Apache Tribe v. Hickel*, 432 F. 2d 956 (C.A. 10, 1970), cert. den., 401 U.S. 981.
- (59) *Fontenelle v. Omaha Tribe of Nebraska*, 430 F. 2d 143 (C.A. 8, 1970).
- (60) *United States v. Southern Ute Tribe*, 402 U.S. 159 (1971).
- (61) *Reyes v. United States*, 431 F. 2d 1337 (C.A. 10, 1970); *Affiliated Ute Citizens of State of Utah v. United States*, 431 F. 2d 1349 (C.A. 10, 1970), cert. granted in both cases.
- (62) *Union Oil Company of California v. Minier*, 437 F. 2d 408 (C.A. 9, 1970).
- (63) *McKinney v. Washington*, 442 F. 2d 726 (C.A. D.C., 1970).
- (64) *Basyap, Inc. v. D. C. Redevelopment Land Agency*, 442 F. 2d 883 (C.A. D.C., 1971) not yet reported.
- (65) *Northern Natural Gas Co. v. Grounds*, 441 F. 2d 704 (C.A. 10, 1971).
- (66) *Johnson v. Morton* (C.A. 5, No. 71-1375, Feb. 3, 1972) not yet reported.
- (67) *Humane Society of United States v. Russell* (C.A. D.C. No. 24912, Dec. 17, 1970) not yet reported.

tax division

Johnnie M. Walters/Assistant Attorney General



GENERAL

Introduction

Lawyers in the Tax Division act as trial and appellate counsel for the Internal Revenue Service in controversies in court between the Government and taxpayers. While the Division's mission is to aid the Revenue Service in collecting the Federal revenue, it has equal interest in establishing correct legal principles which will serve as guidelines to taxpayers and the lawyers as well as the employees of the Revenue Service. Every taxpayer with a legal tax problem, after exhausting his administrative remedies with the Internal Revenue Service, is entitled to a fair and speedy resolution of the controversy by the judiciary. Therefore, the Division's personnel have adopted a sense of urgency in processing litigation.

The division also conducts criminal and civil litigation in a manner designed to generate respect for and promote the integrity of the Federal tax system. Vigorous prosecution of criminal offenders deters willful cheating by taxpayers, while careful and judicious handling of civil tax cases furnishes taxpayers and agents of the Internal Revenue Service with clear, fair, and practical means for the solution of controversies. Voluntary compliance, the backbone of the Federal system, is enhanced when there is assurance that each taxpayer is required to bear his fair share of the tax burden and that there will be fair resolution of disputes by the Revenue Service and the courts.

The Division played a major role in the Department's drive against organized crime, assigning top legal experts to the 18 strike forces throughout the country. As a result, convictions of racketeers and corrupt public officials for tax fraud more than doubled in fiscal year 1971.

During the year all phases of the Division's work—trial preparation, courtroom appearances, the processing of settlements in civil cases, the prosecution of defendants in criminal cases—were handled in record time and the margin of success was high. The number of new cases increased in 1971, but the Division, through its improved procedures and expeditious processing of all phases of its work, was able to reduce the

backlog of tax litigation. Without sacrificing legal principle or quality of work, fiscal year 1971 can be described as the year of the speedup in handling tax cases.

Improvements in Organization and Management

Several innovations instituted late in 1970 and throughout 1971 have contributed to the more efficient and expeditious handling of tax litigation. Increasing the quality of legal work and instilling a sense of urgency were primary objectives in making the improvements, among others, noted below.

1. *Redelgation.*—One of the methods selected for expediting the processing of tax cases was the redelegation of authority to Division Section Chiefs to settle tax cases. This has resulted in the elimination of several steps in the processing of offers in compromise and has aided in the reduction of our backlog.

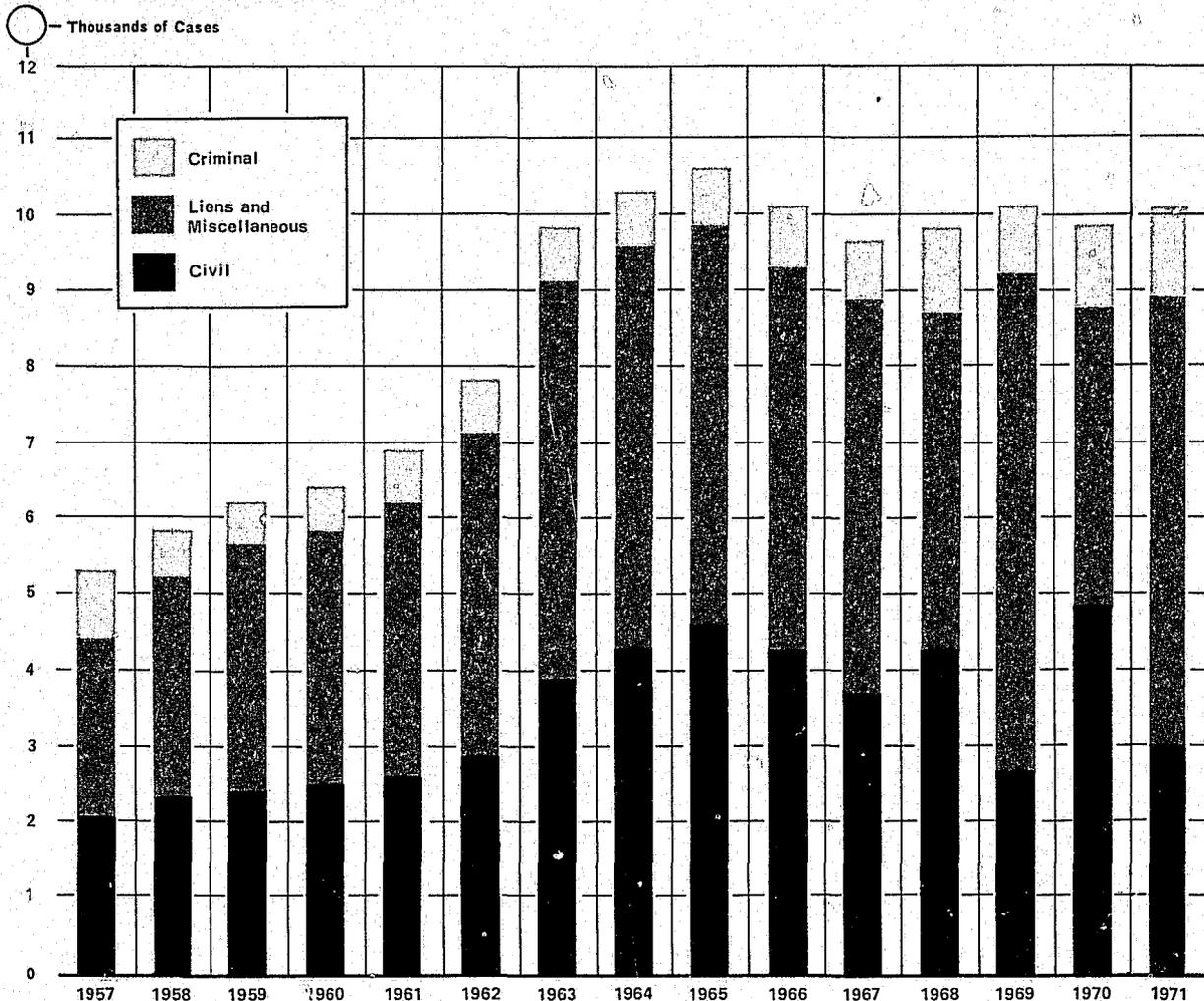
2. *Assistant Chiefs.*—In anticipation of redelegation of authority in settlement cases, to increase supervision and to improve the management of operating sections, an additional Assistant Chief was appointed in five of the eight operating sections.

3. *Prime Issues.*—Since January 1969, the Division has intensified its program for identifying and according special treatment to "prime" tax cases which the Justice Department and the Internal Revenue Service agree represent the best opportunities for clarifying major points of tax law with the greatest potential benefit to the tax system.

The Division's prime case committee, consisting of supervisory personnel directly involved with fashioning civil litigation tax policy, reviews pending cases and in cooperation with the Internal Revenue Service designates categories of "prime" cases which involve important legal issues and which warrant special attention and handling at all stages.

Heretofore, these cases were approached on a "one-man—one-case" basis. Recently, the Tax Division has experimented with the "team approach" to prime cases with very satisfactory results. Under this approach, teams of trial and appellate attorneys are assigned to further plan and implement litigation policy in this area and to jointly try such cases.

Tax Cases Received



4. *Liaison Committees Reorganization.*—The standing joint tax committees of the Department of Justice and the Internal Revenue Service were reorganized in 1971, with the establishment of three committees: Civil Procedure Committee, Litigation Policy Committee, and Enforcement Committee. Under the Civil Procedures Committee two subcommittees were established—the Refund Litigation Subcommittee and the General Litigation Subcommittee—which meet regularly throughout the year, while the parent committee will meet only twice a year. The Litigation Policy Committee was reconstructed and its operations, while on an ad hoc basis, were formalized. The Enforcement Committee, likewise, was reorganized and its procedures formalized. Provision was made for executive meetings of each of the committees when emergencies arise requiring immediate decision on particular cases or matters of litigating policy.

5. *Tax Dockets.*—We succeeded in establishing additional “tax dockets” in metropolitan areas where

large numbers of tax suits are filed. The use of tax dockets is advantageous to the courts, the tax bar, and the Tax Division; it saves considerable time and money.

6. *Increasing Collection of Delinquent Taxes.*—To further the Attorney General’s accelerated program to collect outstanding judgments and fines owed to the United States, a Judgment and Collection Unit was established in the Tax Division. In conjunction with the U.S. Attorneys throughout the country, the Unit is primarily responsible for coordinating the collection of the 400 civil tax judgments involving over \$55 million and the 300 criminal fines involving over \$2 million that are under the jurisdiction of the Tax Division.

7. *Legislation.*—Following a study of procedures, the Review Section was given responsibility for developing the Tax Division’s views and preparing comments on legislation within the Division’s jurisdiction.

This responsibility covers not only bills and legislative proposals referred to the Division for review and

comments, but also all activities essential to keep the Division advised of legislative developments directly or indirectly affecting Division activities.

To assist the Review Section in this area, a Tax Division Legislative Committee was established. It is composed of an Assistant Chief from each of the eight operating Sections, with the Chief of the Review Section as chairman. In this way, the entire Division is involved in considering legislation, marshaling the expertise and practical experience of its top legal talent.

Finally, all attorneys have been urged to be conscious of legislative and procedural changes and improvements, and have been asked to pass on their suggestions to members of the Legislative Committee.

8. *Training*.—Although the Tax Division had a rather extensive training program for its lawyers before 1969, the new administration of the Division reviewed the situation for several months and adopted a new training program.

The Division named a Director of Training and established a training committee composed of representatives from each operating unit. The program includes, among other things, a 1-day seminar for new attorneys, section seminars and internship programs, trial workshops, film demonstrations, and an advanced advocacy workshop. The Division invites outstanding trial lawyers, judges and prominent educators to participate in this program.

9. *Criminal Litigation Innovations*.—In order to expedite the handling of the substantially increased volume of criminal tax cases, two reviewers were appointed in the Criminal Section and greater authority was delegated to the Deputy Assistant Attorney General and the Chief of the Criminal Section to take final action within limited areas.

10. *Teamwork*.—Many of the accomplishments enumerated herein, to a great extent, are attributable to the close liaison which has been developed within the "tax team," consisting of the Assistant Secretary of the Treasury for Tax Policy, the Commissioner of Internal Revenue, the Chief Counsel of the Internal Revenue Service, and the Assistant Attorney General for the Tax Division.

Also contributing greatly to the excellent inter-organizational relationship between the Tax Division and the Internal Revenue Service are the Joint Tax Committees of the Department of Justice and the Internal Revenue Service. The reorganization of these committees as previously outlined permits them to operate with maximum efficiency.

11. *Summary of Workload*.—During fiscal 1971, regular tax cases increased 4 percent over the previous fiscal year. Closings exceeded 10,000, up 7 percent over the previous year. Despite the increase in receipts, a slight reduction in backlog was accomplished. Significantly, receipts of criminal, civil enforcement, and appellate cases increased 4 percent,

7 percent, and 8 percent, respectively, during the same period. On the other hand, there was a small decrease in refund suits.

For the third straight year, the Division's staff made more court appearances, wrote more briefs and legal memoranda, and performed more pretrial discovery than in the previous fiscal year.

More detailed statistical analysis of the work of the Tax Division during fiscal 1971 appears in section IV, *infra*.

CRIMINAL TAX WORK

General

The Criminal Section of the Tax Division is responsible for generating decisions to undertake or decline criminal tax cases for all 93 judicial districts. This centralization is aimed at maximum continuity and consistency of policy and national uniformity of legal positions in the use of the criminal provisions of the Internal Revenue Code.

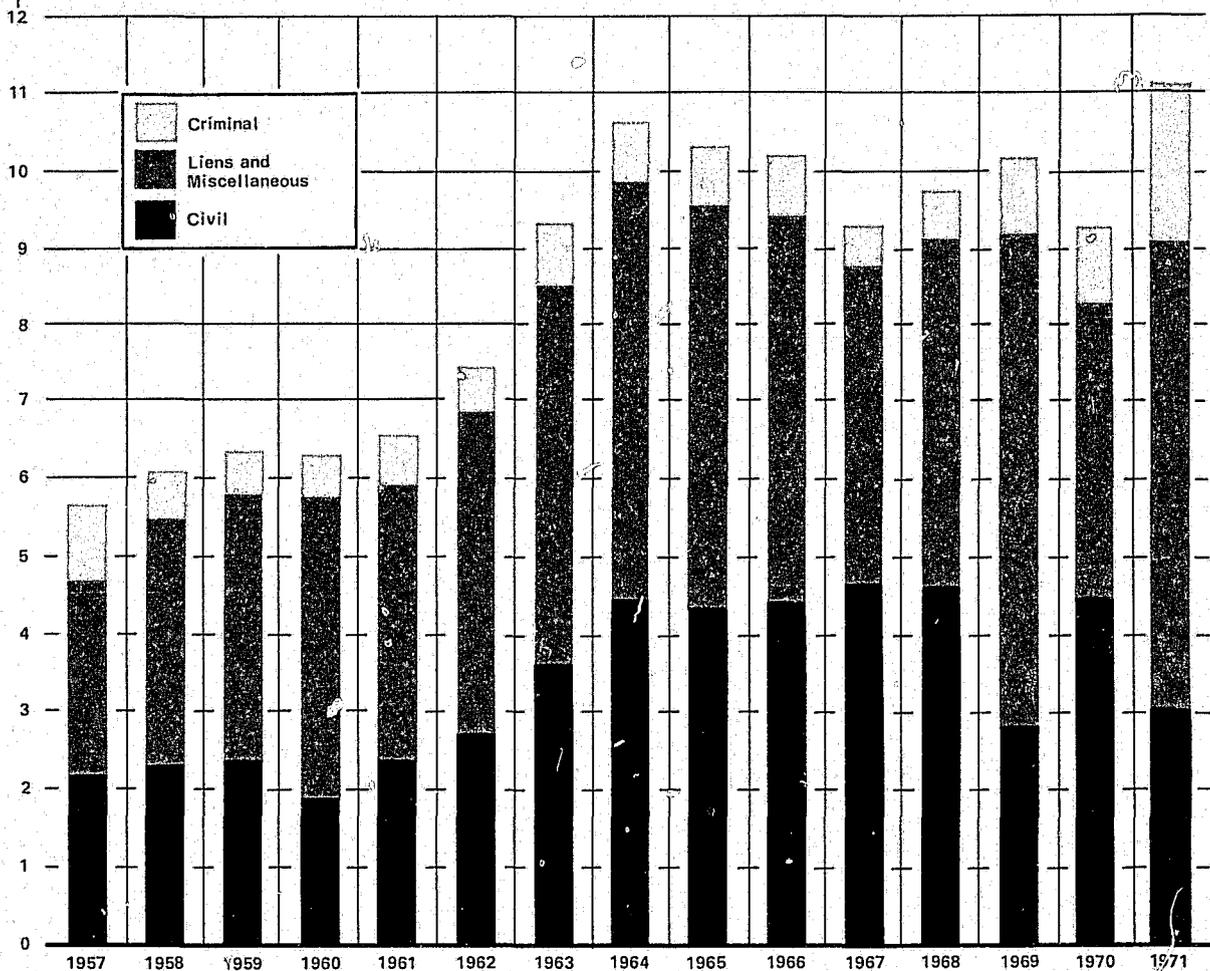
1. *Supervisory Function*.—Criminal Tax cases are developed by agents of the Internal Revenue Service. The resulting investigative reports and exhibit files are screened by the regional counsel. Those cases deemed appropriate for prosecution are referred to the Tax Division's Criminal Section for analysis. The Section then recommends that the Assistant Attorney General approve, modify, or reject the criminal action.

In its review, the Criminal Section examines the investigative reports compiled by the agents of the Service and checks those reports against the exhibits submitted. The legal sufficiency and admissibility of the evidence assembled and its persuasiveness are weighed. The role of the particular case in the enforcement program is considered. A written analysis is then prepared and this so-called prosecution memorandum in each case is subjected to a minimum of two separate reviews. The ultimate decision of the Tax Division is endorsed on the memorandum. In fiscal year 1971, more than 750 prosecution memoranda were prepared.

After a decision for prosecution is made, the Tax Division forwards the reports and exhibits supplied by the Revenue Service to the appropriate U.S. Attorney. The letter of transmittal details the action he is to take in terms of the charges to be brought, the indictment form to be followed, and other pertinent procedural instructions peculiar to the case. Regular reports are asked of the U.S. Attorney in order to keep the Tax Division fully abreast of the progress of its criminal litigation and as to maintain constant impetus for prompt handling of these cases. Another form of followup is initiated in the Criminal Section by automatic status inquiry procedures; mimeo-

Tax Cases Closed

○—Thousands of Cases



graphed status forms are forwarded for completion and return by the U.S. Attorneys. The staff of the Criminal Section is in frequent telephone and written communication with the U.S. Attorneys to resolve questions of criminal procedure, trial strategy and Department policy.

2. *Field Activities.*—To supplement the normal handling of prosecutions in the field by the U.S. Attorneys and their staffs, attorneys from the Tax Division are called upon to assist in grand jury investigations, trial preparations, and in the ultimate trial of many criminal tax cases. Cases deemed to be of national importance and cases developed in the Attorney General's drive on organized crime and racketeering are frequently of sufficient complexity that specialists from the Tax Division are instructed to conduct the prosecutions. In the past fiscal year, members of the Criminal Section staff of 37 attorneys performed field assignments on 86 cases in 32 districts.

3. *Role in Organized Crime Program.*—The Tax Division and the Criminal Division coordinate closely in cases arising in the drive against organized crime. Under special procedures, tax fraud cases against racketeers and cases involving income from criminal activities are brought to the attention of the Criminal Division. The Criminal Division, in turn, consults with the Tax Division on the tax aspects of matters developed through the Criminal Division's investigations. This close liaison enables each Division to carry out its responsibilities more effectively. The Tax Division's supervision of criminal tax matters enables it to apply the same high evidentiary and policy standards to racketeer tax cases as in other cases. The specialized knowledge of the Tax Division's attorneys is brought to bear on racketeer tax cases, and the same high percentage of success has been maintained in this category as in nonracketeer tax cases.

This year the Tax Division materially expanded its cooperation with the Department's antirackets drive by assigning experienced tax prosecutors to maintain liaison with each of the 18 interdepartmental strike forces in the major cities across the country. During the past 12 months, these Criminal Section specialists participated in the development and prosecution of major cases in Boston, New Haven, Stamford (Conn.), Newark, Brooklyn, Baltimore Philadelphia, Detroit, Cleveland, Chicago, Miami, Las Vegas, and San Diego.

In fiscal year 1971, 119 new racketeer cases were received. The racketeer caseload is about 10 percent of the Tax Division's total criminal tax caseload and is up 9 percent from last year. Some 35 convictions were obtained in 1971.

Caseload Summary

At the close of fiscal year 1971, there were 1,120 new criminal tax cases docketed in the Criminal Section, topping the 1,000 mark for the second successive year. The total docket of pending criminal tax cases, including those in the hands of the U.S. Attorneys and those pending in the appellate courts, was 1,474. This is a 9 percent case increase over the number pending at the close of fiscal 1970.

The rate of convictions was 95 percent of cases prosecuted. A total of 775 defendants were convicted. Most of these were found guilty on their pleas of either guilty or nolo contendere (accepted over the Department's continued objections to nolo pleas). In 138 cases going to trial, convictions were achieved in 100 for a trial success rate of 70 percent. Sentences im-

posed totaled 326 years to serve, 471 years suspended and 1,310 years of probation. Fines totaled \$2,353,258.

Tax prosecutions included persons across the full spectrum of occupations and economic status. Non-racketeer convictions included doctors, lawyers, accountants, judges, school teachers, a rabbi, a retired Army major general, druggists, funeral directors, and corporation officials.

Convictions of racketeers and corrupt public officials included two Cook County, Ill., deputy tax assessors, the madam of a very lucrative New York call-girl service, hoodlums high in syndicated crime operations in New York, New Jersey, and Michigan, a large-scale west coast dealer and distributor of pornography, so-called 10-percenters falsifying racetrack winner income reports for a fee, loan sharks in New Jersey and Texas, and two of the operators of the Caliente Racetrack in Tijuana, Mexico.

CIVIL TAX WORK

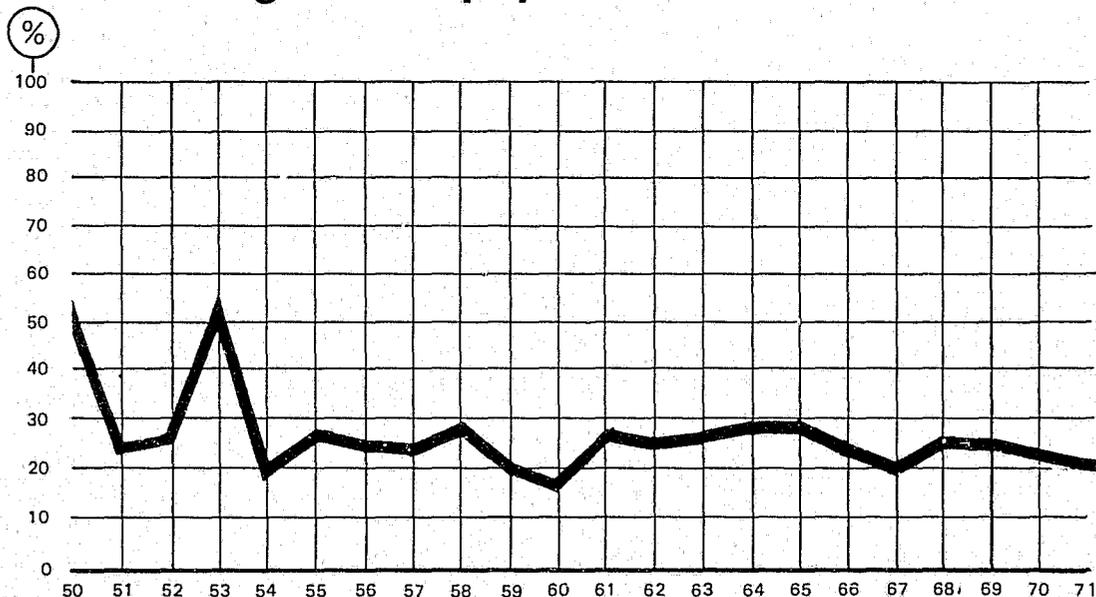
General

Civil cases account for approximately 90 percent of the volume of tax work of the Division. In fiscal 1971, 4,808 civil tax suits involving \$263 million in tax liability were filed in the trial courts. Taxpayers instituted 2,242 suits involving \$200 million, while the Government filed 2,566 suits involving \$63 million.

Appeals

With minor exceptions, the Tax Division is responsible for handling all appeals from judgments of the

Percentage of Taxpayers Recoveries 1971



district courts in civil and criminal tax cases, and for handling all appeals from decisions of the Tax Court of the United States. The Division also handles appeals to State appellate courts in cases involving certain defined issues, such as the enforcement of Federal tax liens and the applicability of State taxes to the Federal Government or its lessees. The Division, under the supervision of the Solicitor General, also prepares briefs and memorandums in tax cases in the Supreme Court.

There were 188 (176 last year) appeals from Tax Court decisions and 332 (338 last year) appeals from the Federal district courts processed in fiscal 1971. The Division handled 31 (3 last year) appeals from State courts, and 132 (124 last year) criminal appeals. The Supreme Court acted on 95 petitions for certiorari in tax cases. The Government petitioned in only 10 cases; six were granted and four denied. During fiscal 1971, 99 taxpayer petitions for review were pending or received, of which 85 were denied. The Supreme Court decided six cases on the merits: four for the Government, two for the taxpayers.

The Appellate Section prepared 532 (561 last year) briefs on the merits and presented oral arguments in 373 (366 last year) cases during this year. The Government prevailed in 231 of the 310 cases decided by the courts of appeal, a 75-percent margin of victory.

1. *Supreme Court Decisions on the Merits.*—The Supreme Court decided six Federal tax cases on their merits during the 1971 term, ruling in favor of the Government in four of these. One case decided for the Government disposed of the claims of two Louisiana women that they were not personally liable for Federal income taxes on their one-half vested interest in community property income realized during the existence of the community if they subsequently renounced their community rights or failed to accept them expressly. The Court unanimously reversed the court of appeals and held that both taxpayers were liable for Federal income taxes on their share of community income under Federal law despite any exemption which might obtain under State law (1). Two favorably decided cases involved the taxing of savings and loan associations. In one (2), the Court held that a savings and loan association may not deduct its "secondary reserve" payments made to the Federal Savings and Loan Insurance Corporation as ordinary and necessary business expenses. Instead, the Court ruled, these payments must be treated as nondeductible capital expenditures, since they created for the taxpayer a valuable asset over which it continued to retain certain rights and from which it continued to derive substantial benefits. In addition to answering several important questions concerning the dividing line between capital and noncapital assets, this case resolved in favor of the Government more than \$72.5 million of tax claims filed by some 2,487 savings and

loan associations. In the other savings and loan case (3), appealed directly by the Government, the Court reversed the district court and held that the exemption from income tax for mutual insurers limited to those organized before September 1, 1957, did not violate the due process clause of the fifth amendment. It was held that a rational basis for the cutoff date could be found in the fear that continued proliferation of State insurers might hinder the operation and threaten the financial stability of the Federal Deposit Insurance Corporation and the Federal Savings & Loan Insurance Corporation.

The final case decided for the Government involved an Internal Revenue Service summons proceeding (4). In this, the Supreme Court unanimously held that a taxpayer had no right to intervene in a proceeding involving a summonses issued to compel his former employer to produce records of taxpayer's employment and compensation during certain years under investigation, where taxpayer had no proprietary or other protectable interest in the records. In addition, the Court held that an Internal Revenue Service summons may be issued by special agents although the investigation may result in a criminal prosecution.

In the first of two cases decided against the Government, the Supreme Court let stand the dismissal, on grounds of double jeopardy, of an information charging the defendant with willfully assisting in the preparation of fraudulent income tax returns. After the jury had been impaneled and the first witness called, the trial judge dismissed the jury and aborted the trial in the belief that none of the Government's witnesses had been adequately warned of their constitutional right to remain silent. The case was set for retrial before another jury, but on defendant's pretrial motion, the judge dismissed the information on grounds of former jeopardy. While it agreed with the Government that the trial judge's initial action was a clear abuse of discretion under the circumstances, the Supreme Court held that jeopardy had attached and the defendant could not again be tried for the same crime (5).

Finally, the Court in a 5 to 4 decision (6) held that the Government's claim for employee taxes withheld by a debtor corporation did not have priority over the administrative expenses incurred in a chapter XI bankruptcy proceeding, even where the trustee in bankruptcy failed to segregate the withheld taxes as ordered by the bankruptcy court. The Court held that the Bankruptcy Act expresses an overriding statement of Federal policy on the question of priorities in bankruptcy proceedings which overcomes the trust fund provisions of the Internal Revenue Code with respect to employee withholding taxes.

2. *Appellate actions generally.*—A number of significant decisions were rendered by the courts of appeals during fiscal 1971. Two significant cases involved commuting expenses and travel expenses away from

home. In one case (7), it was held that a taxpayer, who could not reside at the site of his permanent job at an air base and who could not obtain public transportation to his job, was not entitled to deduct that portion of his automobile expenses allocable to travel between the closest habitable community and his work-site, since these were merely commuting expenses. The second case (8) concerned food and lodging expenses incurred by a traveling salesman with no permanent abode while in his employer-assigned sales territory. The court rejected taxpayer's argument that, in the absence of a permanent residence, his employer's business headquarters should be considered his "tax home" and ruled instead that the statutory phrase "away from home" should be interpreted as those words are normally used—in which case, taxpayer had no home from which he could be away.

In a significant Government victory in the charitable organization area (9), the court of appeals reversed the lower court and held that the taxpayer foundation's tax exemption was properly revoked where the foundation was not "operated exclusively for exempt purposes" even though all of its profits were ultimately distributable to an exempt institution, and that it was taxable on income derived from its transactions as a "used-business dealer."

In a series of cases (10) in the estate tax area, the appellate courts reversed the unanimous rulings of the lower courts and held that broad discretionary powers vested in a trustee over the administration and management of a charitable remainder trust were capable of being used to divert trust corpus (which would normally pass to the charitable remainderman) from trust principal into the hands of the noncharitable income beneficiary. In so ruling, the courts held that any estate tax charitable deduction based on an actuarial valuation of the remainder interest must be denied in full, since the interest could not be deemed to be "presently ascertainable."

Finally, on the criminal side of appellate tax litigation, one significant case (11) held that the financial records of a physician suspected of filing fraudulent income tax returns could not be used in an investigation of his potential criminal liability. The court concluded the search warrants issued upon the affidavits of an Internal Revenue agent and taxpayer's former employees were constitutionally defective and, further, that they violated his fifth amendment privilege against self-incrimination. The Government has applied for a rehearing en banc.

Trial Court Proceedings

1. *General.*—Tax Division attorneys tried 583 civil cases in the lower courts in fiscal 1971. Of the total, 458 were before the Federal district courts, 87 before State courts, and 38 before the Court of Claims. The Government's position was upheld in 81 of the de-

isions handed down by the trial courts.

During fiscal 1971, the Division continued its active preparation of cases for trial. Its attorneys took 2,214 discovery actions and conducted 863 pretrial proceedings.

Civil cases at the trial level were concerned with over \$700 million in tax liability and involved a variety of transactions.

2. *Refund Suits.*—During the fiscal year, the Division continued its efforts to litigate those cases representing the best opportunities for clarifying major points of tax law with the greatest potential benefit to the tax system. Important developments in refund litigation in fiscal 1971 are set forth below.

In the annual report for fiscal 1970 (p. 120) it was noted that one of the most important areas of civil tax litigation involved the construction and application of the Life Insurance Company Income Tax Act of 1959, which substantially revised the method of taxing life insurance companies. This continues to be true, and at yearend there were some 20 cases pending in this area. Two cases involving the application of the aforementioned act were decided at the trial level during fiscal 1971.

In one (12), the court, deciding from the bench, held that mortgage escrow funds held by the taxpayer in its own account were assets for purposes of computing investment income, whereas funds held by correspondents were not assets. In the other case (13) the court held that the taxpayer, which issued group credit life, accident, and health insurance, qualified as a life insurance company. The Government had contended that accident and health premiums held by a related finance company were properly allocable to the taxpayer and that as a result the taxpayer failed to meet the 50-percent reserve ratio test.

In the area of investment credits it was held, in a case of first impression (14), that the taxpayer was entitled to a credit for motion picture film negatives. The court did, however, limit the costs allowable for computing the credit to those which are directly related to the finished negative. This is a significant decision in that very substantial taxes turn on this issue which affects the entire industry. Undoubtedly, further litigation will be necessary in order to resolve the issue.

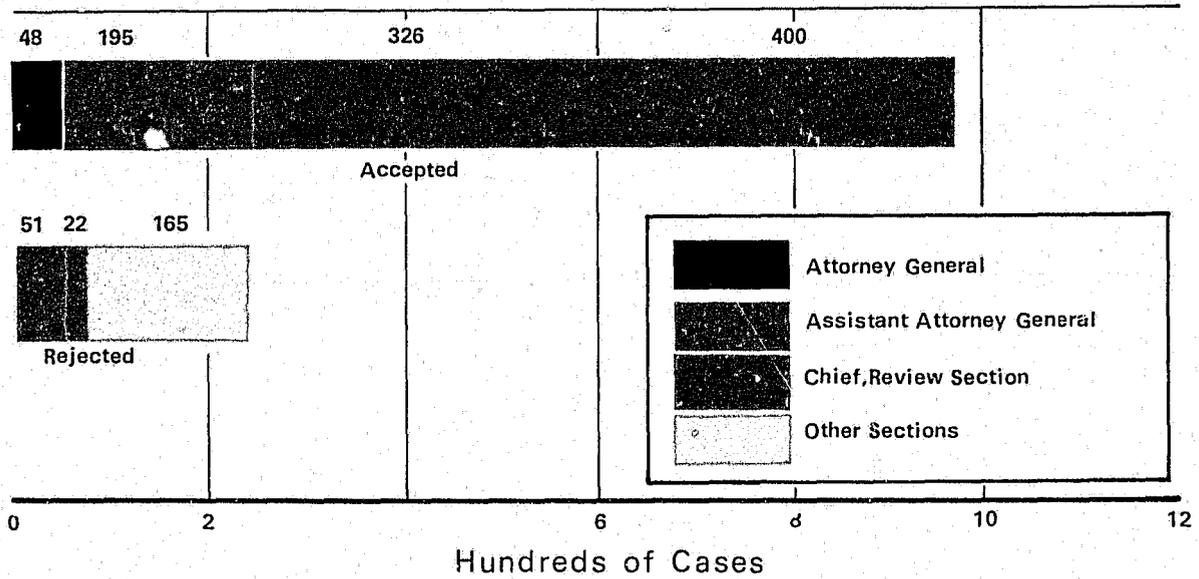
In a case brought to test the constitutionality of a tax provision (15), the court held that the retroactive application of section 483 providing for imputed interest on installment sales was not unconstitutional. The court was of the opinion that the statute did not retroactively tax a consummated transaction, but merely provided for the taxation of income from such a transaction in a different manner than had previously been the case. An appeal is currently pending.

Another constitutional case of interest, currently pending, involves the 1970 increase in the excise tax on air transportation from 5 to 8 percent, and the removal

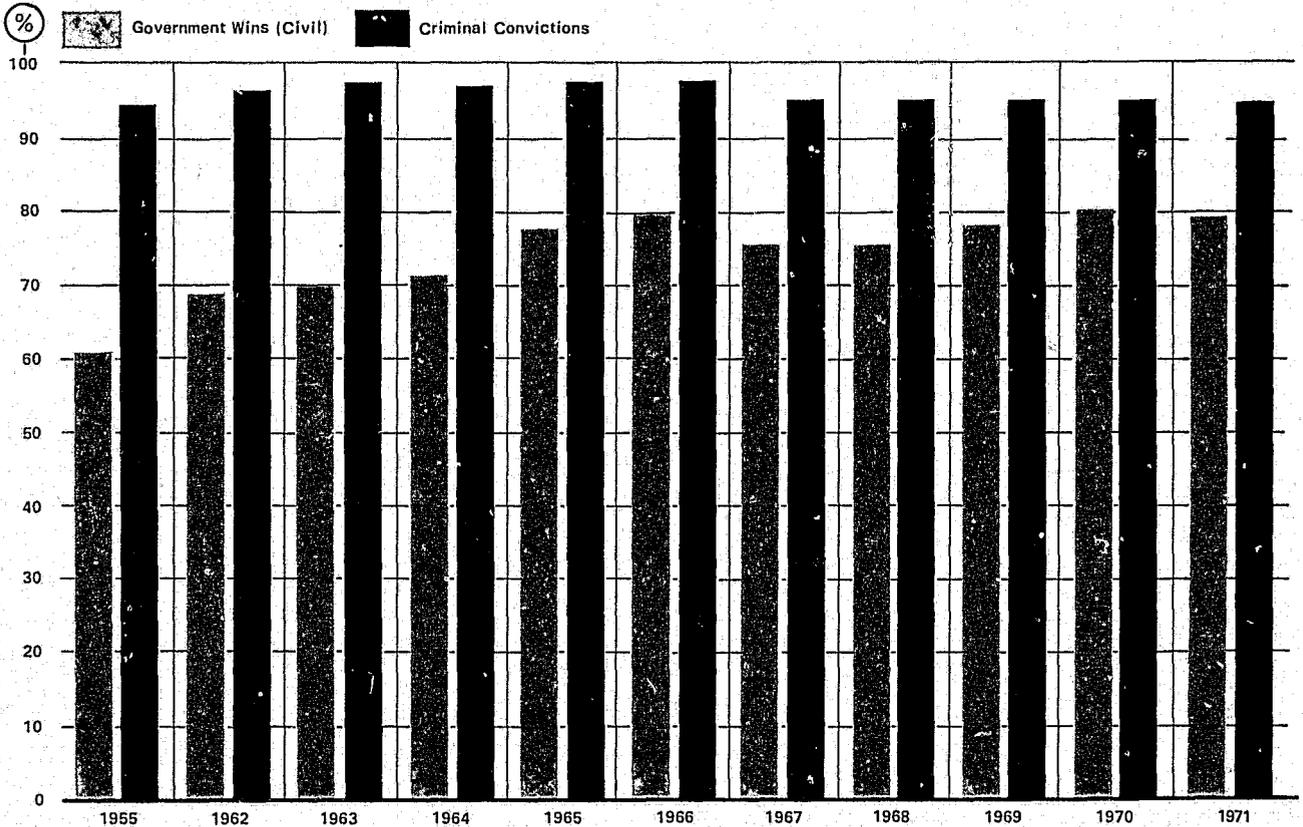
Compromise of Civil Cases

Fiscal 1971

(Total Cases 1207)



Tax Cases Concluded-1971



of provisions exempting from the tax tickets purchased by Federal and State agencies. The State of Texas has filed a refund suit contending that the imposition of the tax on official travel of its employees is unconstitutional. It is expected that this case will be tried or submitted for decision during fiscal year 1972.

In a case in the exempt organization field it was held that the taxpayer, which was organized to construct and operate a public off-street parking facility, was exempt from tax as a charitable organization under section 501(c)(3) and as a social welfare organization under section 501(c)(4). The court found that the public parking lot lessened the burden of local government and also resulted in the promotion of social welfare. Although the court recognized that the taxpayer's organizers were benefited, the court found that such benefit was indistinguishable from that which inhered to the community as a whole (16). An appeal is currently pending.

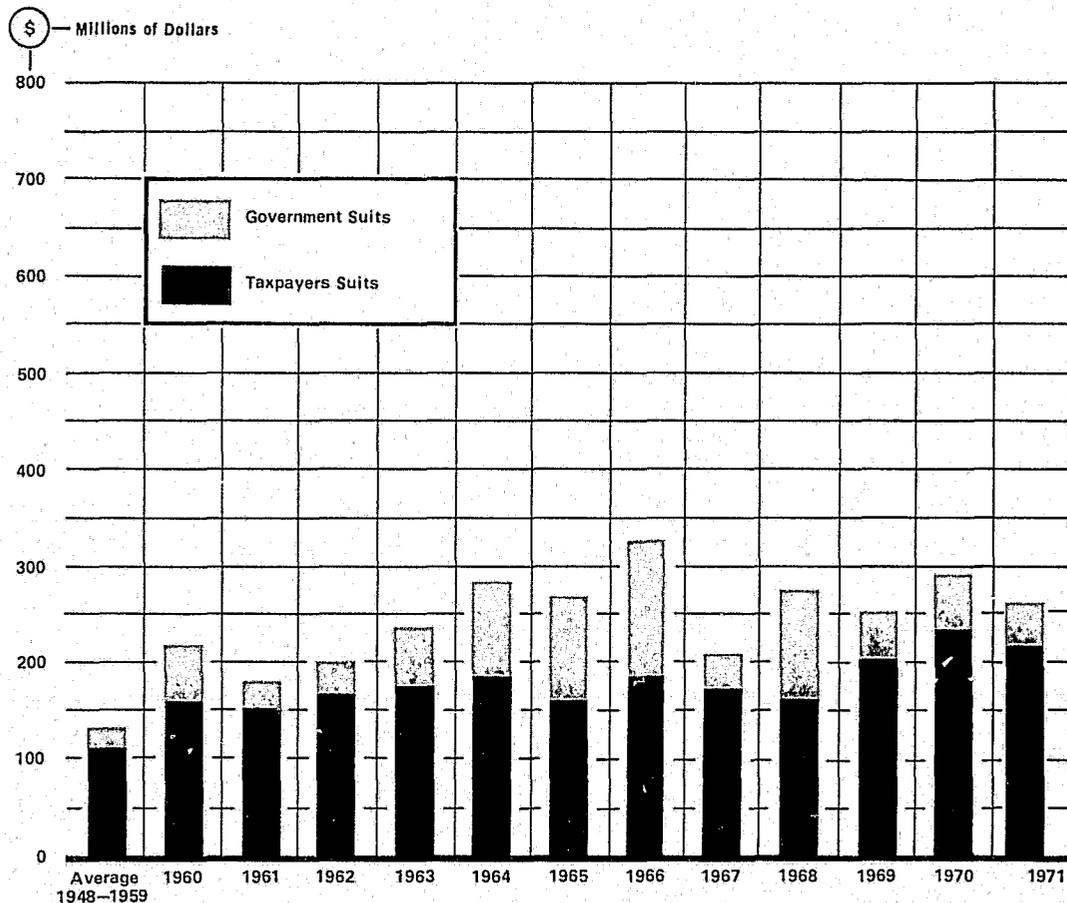
After losing a number of cases in which taxpayers were allowed to deduct from ordinary income losses

on sales of corporate stock purchased for business purposes, the Government prevailed in a Court of Claims case decided in fiscal 1971 (17). There, the taxpayer was limited to capital loss treatment on stock held for 14 years and then sold at a loss. The court found that taxpayer's purpose was not limited to the acquisition of a source of raw material, but also included the intention to operate the acquired business as a permanent, profitable business in its own right, to receive dividends, and to make fee income through the provision of management services.

A significant victory was scored in a test case concerning the proper method of inventory valuation (18). Each party presented several expert witnesses during the 10-day trial of this highly technical and complex issue. While there was \$400,000 at stake in this case, the decision will have a much broader impact on revenue since most major manufacturing businesses use the practical capacity method which the court invalidated.

3. *Collection Litigation.*—In addition to handling suits brought by taxpayers to recover taxes alleged to

**Amount of Money in Litigation, 1948/59-1971
Received During Each Fiscal Year**



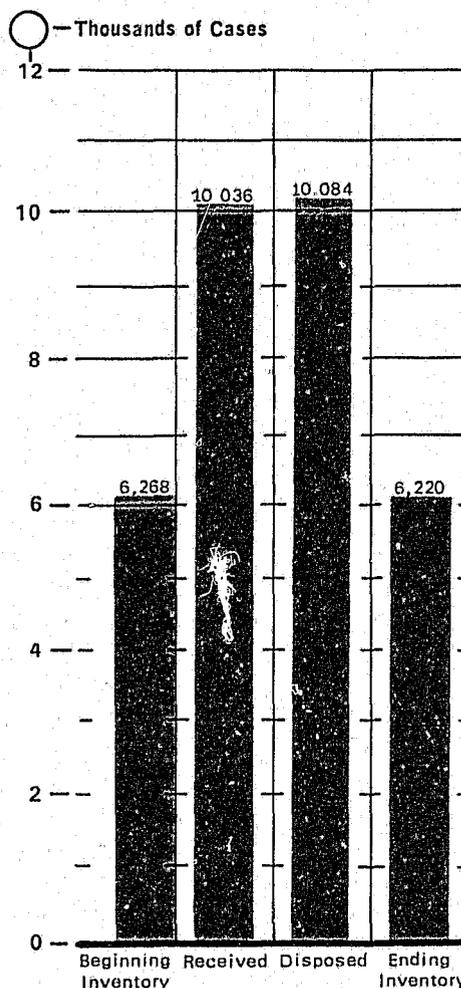
have been erroneously paid or collected, the Tax Division is responsible for all other types of civil tax litigation in Federal and State courts, including suits for the collection of taxes. The major areas of litigation other than tax collection suits in the nonrefund area concern the enforcement of Internal Revenue Service summonses and bankruptcy proceedings.

In the summons area, fiscal 1971 continued to be a year of taxpayer assaults on the Commissioner's summons power providing for the production of books and records to determine correct tax liabilities or to ascertain the correctness of a tax return. While, in general, many of the substantive legal problems in this area were resolved this past term by the Supreme Court's *Donaldson* decision, supra, litigation still continues to increase. By forcing the Government to seek the aid of the courts in enforcing summonses, the taxpayer has developed an effective device to thwart and slow investigations.

The dischargeability of tax debts in bankruptcy continues to present major problems in the litigation of bankruptcy cases by the General Litigation Section. A Supreme Court decision (19) coupled with the 1970 amendment to the Bankruptcy Act materially widened the jurisdiction of bankruptcy courts to grant discharges with respect to taxes which have become legally due and owing more than 3 years prior to bankruptcy. A bankruptcy case (20), presenting unusual and complex questions, involved the Penn Central Transportation Co., the Nation's largest railroad carrier. The Penn Central filed a petition under section 77 of the Bankruptcy Act, asserting inability to meet \$31 million in current liabilities. Thereafter, Judge John P. Fullam appointed four trustees to manage the affairs of the railroad pending a formal submission of a reorganization plan. On October 27, 1970, a petition was filed by the trustees requesting the right to defer the railroad's payment of all taxes including Federal taxes which might be owing to the United States. An objection to this petition was filed on behalf of the United States arguing that the court was without jurisdiction to defer payment of Federal taxes. Subsequently, a stipulation was entered into between the parties setting forth that the railroad is obliged to make timely payments of both employee and employer withholding taxes to the United States, including FICA, FUTA, and Railroad Retirement Act taxes. These taxes amount to approximately \$71 million per quarter. At the present time, the Internal Revenue Service is in the process of auditing Penn Central's tax returns for the years 1954 through 1970.

Two cases of national interest were decided during fiscal 1971 by three-judge courts. In one case (21), the three-judge district court upheld the constitutionality of section 3306(c)(1) of the Federal Employee Tax Act which excluded farm workers from coverage under the act. The court found that there were several exist-

Summary of Workload Fiscal 1971



ing bases for classification which excluded farmworkers from the act. Plaintiff's appeal to the Supreme Court was denied on June 9, 1971.

On June 30, 1971, a three-judge Federal court entered a permanent injunction and filed an opinion in a class action (22) instituted in 1969 by black taxpayer parents of school children attending public schools in Mississippi.

This action sought to enjoin the Secretary of the Treasury and the Commissioner of Internal Revenue from according tax exempt status to private schools in Mississippi which excluded black students on the basis of race or color. The permanent injunction, in effect, adopts the Commissioner's position, i.e., it bases the denial of exemptions to schools which have a racially discriminatory admissions policy on statutory construction rather than on constitutional grounds. The opinion basically adopts the present Revenue Service policy and is an effort to freeze this policy

rather than have it subject to change by successor Commissioners. The court has added several conditions which a school must meet before it may retain its exempt status.

Compromise of Civil Tax Cases

In fiscal 1971, the Department took final action on 1,207 settlement offers under authority of section 7122, Internal Revenue Code. The comparable figure for fiscal 1970 was 1,083, and for fiscal 1969, 1,320. Of the 1,207 offers acted on in fiscal 1971, 969 or approximately 80 percent were approved and 238 or approximately 20 percent were rejected. This compares with 79 percent approved and 21 percent rejected in fiscal 1970. Final actions for fiscal 1971 were taken as follows:

Final action	Approved	Rejected	Total
Attorney General.....	48	-----	48
Assistant Attorney General.....	195	51	246
Chief, Review Section.....	326	22	348
Chiefs of other sections.....	400	165	565

Of the 243 settlements approved by the Attorney General or the Assistant Attorney General, 71 involved refunds in excess of \$100,000 which were submitted to the Joint Congressional Committee on Internal Revenue Taxation. There were only 38 such refunds for fiscal 1970.

The total actions taken by the Chief of the Review Section in fiscal 1971 (348) are substantially less than the total actions (643) taken by him in fiscal 1970. This is largely due to the fact that fiscal 1971 is the first full year during which delegation of settlement authority was effective. (As of March 3, 1970, subject to certain conditions and limitations, the chiefs of the civil trial sections were authorized to accept offers in compromise in which the amount of the concession by the United States does not exceed \$20,000.)

The experience of the first full year under redelegation of settlement authority indicates that the time for processing of settlements has been measurably decreased. The Review Section, having been freed from many of the smaller cases, processed 243 offers requiring action at a higher level as compared to 170 in fiscal 1970. Further, an important new function was delegated to the Review Section during fiscal 1971: responsibility for developing and coordinating the Tax Division's position on legislative matters.

STATISTICAL REVIEW OF 1971

General

Fiscal 1971 was an extremely successful year for savings and recovery of revenue through the conduct of litigation. A total of \$73 million in judgments obtained against delinquent taxpayers was the third

highest in history. Savings in refund suits were \$108 million, while taxpayers received \$30 million. Further, decisions of the Tax Court involving assessed deficiencies of over \$4 million were upheld in the courts of appeals. Thus, the total monetary benefit to the Federal Government attributable to the Division's activities was \$185 million, an increase of \$1 million over fiscal 1970. The direct contribution to effective case law, while not susceptible of calculation, would probably dwarf the determinable dollar value by comparison.

Workload Data and Backlog

The tables and charts which follow show the trend in the volume of new tax litigation over the past 11 years. It will be noted that receipts increased during this period 32 percent and have leveled off at a 10,000-case plateau. What lies ahead will be directly influenced by the recent revision of the tax laws, the Division's increased involvement in the administration's organized crime program, the further increase in the enforcement staff of the Internal Revenue Service, continued business expansion and prosperity, and the growing population.

Work Production

The staff of the Tax Division continued very active in fiscal 1971. For the 13th consecutive year, over 1,000 court appearances were made by Division attorneys, and for the 9th straight year, over 1,500 formal trial and appellate briefs were prepared and filed in court. In every area of work production, i.e., pleadings prepared, discovery actions taken, pretrials, trials and appellate arguments conducted, briefs prepared and legal memoranda written, the Division surpassed the fiscal 1970 figures.

Success

Fiscal 1971 was another successful year in handling tax litigation in the courts. The percentage of taxpayers' recoveries of moneys paid into the Treasury was the second lowest in history. The following table compares the 1971 results with those of the 5 previous years:

	[In percent]					
	1966	1967	1968	1969	1970	1971
Government wins.....	80	75	75	78	81	79
Criminal convictions.....	97	95	95	95	95	95
Taxpayer's recovery of money.....	24	21	25	24	23	22

Supreme Court: The Division won four of six tax cases.

Courts of appeals: The Government's position was upheld in 231 of 310 decisions of the courts of appeals (a 75 percent margin).

Trial courts: The Government was successful in 569

Workload data 1961-71

	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971
Pending at beginning of year.....	4,416	4,704	5,212	5,880	5,610	5,023	5,909	6,031	5,827	5,824	6,268
Received.....	6,885	7,881	9,811	10,362	10,608	10,142	9,462	9,602	10,127	9,835	10,036
Closed.....	6,597	7,373	9,143	10,032	10,295	10,156	9,370	9,806	10,130	9,391	10,084
Pending at end of year.....	4,704	5,212	5,880	5,610	5,923	5,909	6,031	5,827	5,824	6,268	6,260

Comparison of work received and closed, 1961-71 fiscal years

	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971
RECEIVED											
Civil cases.....	1,923	1,991	2,629	2,877	3,035	2,855	2,871	2,893	2,731	2,869	2,999
Criminal cases.....	726	739	743	727	745	786	695	852	934	1,077	1,120
Total cases.....	2,649	2,730	3,372	3,604	3,780	3,641	3,566	3,745	3,665	3,946	4,119
Liens.....	3,312	3,875	4,829	4,880	4,853	4,624	4,835	4,125	3,428	3,528	4,108
Miscellaneous.....	924	1,276	1,610	1,878	1,975	1,877	1,091	1,732	3,034	2,361	1,809
Total misc.....	4,236	5,151	6,439	6,758	6,828	6,501	5,926	5,857	6,462	5,889	5,917
Totals.....	6,885	7,881	9,811	10,362	10,608	10,142	9,492	9,602	10,127	9,835	10,036
CLOSED											
Civil cases.....	1,801	1,799	2,484	2,810	2,585	2,911	2,695	3,178	2,727	2,515	3,054
Criminal cases.....	645	578	646	708	700	719	651	711	1,024	1,046	1,005
Total cases.....	2,446	2,377	3,130	3,518	3,285	3,630	3,346	3,889	3,751	3,561	4,059
Liens.....	3,329	3,884	4,658	5,020	4,894	4,605	4,853	4,138	3,423	3,527	4,108
Miscellaneous.....	822	1,112	1,355	2,094	2,116	1,921	1,171	1,779	2,956	2,303	1,917
Total misc.....	4,151	4,996	6,013	7,114	7,010	6,526	6,024	5,917	6,379	5,830	6,025
Totals.....	6,597	7,373	9,143	10,632	10,295	10,156	9,370	9,806	10,130	9,391	10,084

of 703 trial court judgments (a 81 percent margin).

Criminal cases: The Division obtained the conviction of 775 persons for tax offenses.** It brought to

11,669 the number found guilty in the past 15 years, and 14,569 in the past 40 years. The number of convictions in each of the past 10 years follows:

	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971
Convictions.....	552	597	607	625	632	653	664	673	612	775

Savings and Recoveries

The amount of monetary gain is not a true measure of the success of the Division and it fluctuates from year to year, depending upon the taxes involved in concluded cases. Of paramount importance is the contribution of litigation to the development of sound interpretations of the revenue laws and their effect upon the determination of cases at the administrative level. Nevertheless, fiscal 1971 was an extremely successful year for savings and recovery of revenue through the conduct of litigation. A total of \$73 million in judgments obtained against delinquent taxpayers was the third highest in the history of the Division (\$74 million was collected last year). Savings in refund suits were \$108 million, a \$2 million increase over last year. Taxpayers recovered \$30 million, or 22 percent of their

** There were 112 trials in criminal cases, with the Government obtaining convictions in 78, or a 70 percent margin.

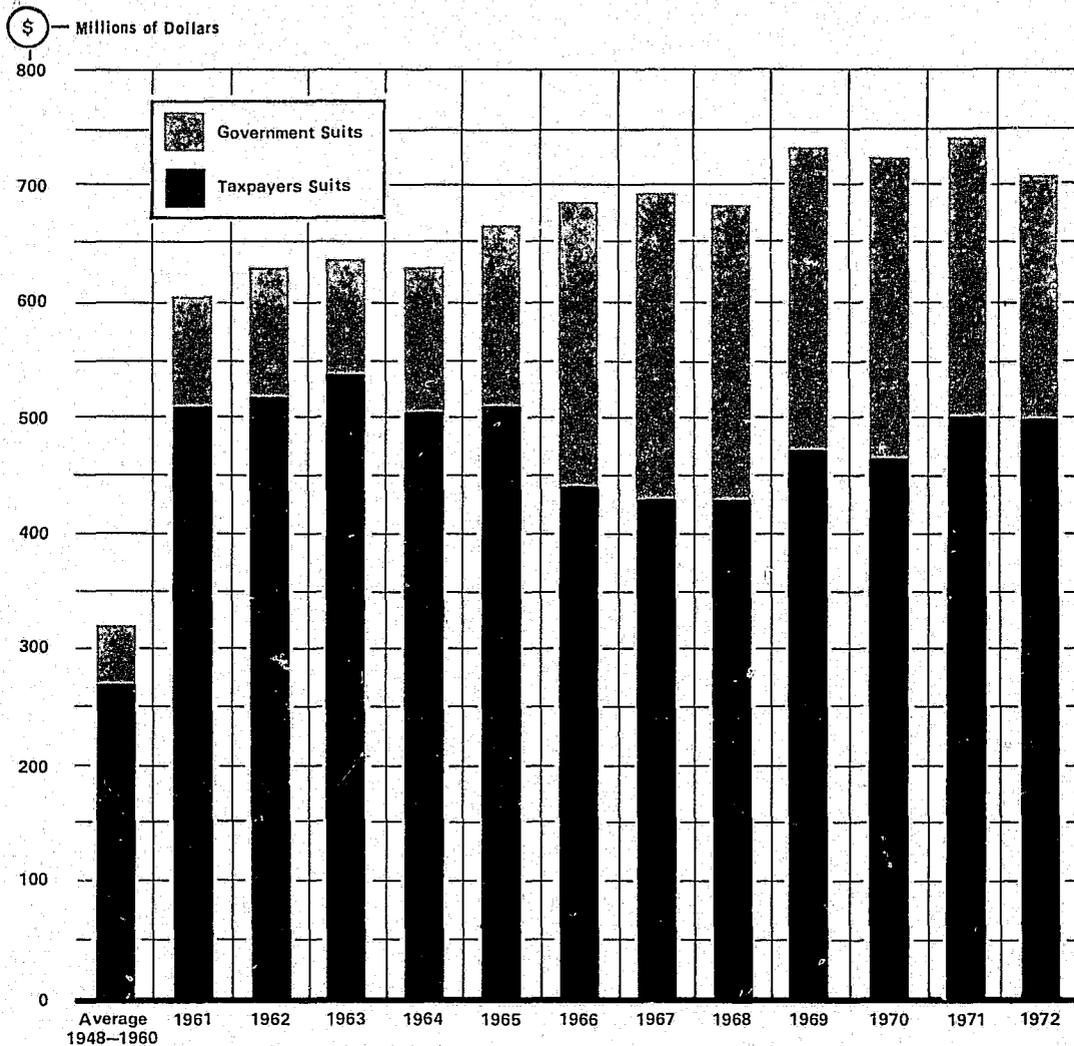
claims, compared with \$31.5 million or 23 percent in fiscal 1970. Further, decisions of the Tax Court involving assessed deficiencies of \$4 million were upheld in the courts of appeals. Thus, the total direct monetary gain attributable to the Division's activities was \$185 million, an increase of \$1 million over last year.

Speedup

Even though the Division gave increased attention to cases of prime importance and difficulty, all work was handled with dispatch. The number of requests for extensions of time to file responsive pleadings was the lowest since such records have been kept; the time required to process settlement offers, to issue checks to successful taxpayers in refund suits and to dispose of criminal cases in the Department remained within acceptable time limits; and the complete time required to dispose of the average tax case continued to be under 2 years.

Amount of Money in Litigation, 1948/60-1972

Beginning of Each Fiscal Year



	1965	1966	1967	1968	1969	1970	1971
Average time to:							
Dispose of a tax case.....	1 year	1 year	1 year	1 year	1 year	1 year	1 year
Process a criminal case in Department.....	3 months 26 days	3 months 23 days	3 months 8 days	2 months 29 days	3 months 5 days	2 months 10 days	3 months 1 day
Process a settlement offer.....	2 months 12 days	2 months 3 days	2 months 11 days	2 months 4 days	2 months 2 days	2 months 1 day	2 months 0 days
Issue a check to a taxpayer.....	1 month 11 days	1 month 19 days	1 month 28 days	2 months 7 days	1 month 17 days	1 month 9 days	1 month 7 days
Average number of extensions per case.....	0.09	0.07	0.06	0.05	0.05	0.04	0.04
Percentage of cases under 2 years old.....	80	80	74	72	73	73	71

Work Production

	1960	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971
Pleadings prepared.....	1,837	1,516	1,678	1,854	2,506	2,736	3,100	2,834	3,162	3,167	2,835	3,356
Discovery action.....	(1)	(1)	921	1,776	2,039	2,843	3,755	2,934	2,435	2,521	2,203	2,214
Pretrials.....	492	575	779	1,389	1,121	1,194	1,215	1,193	1,007	1,032	852	863
Trials.....	812	898	923	766	1,211	1,136	1,159	1,202	1,049	1,126	1,127	1,159
Appellate arguments.....	319	300	373	340	321	416	296	317	297	353	366	373
Briefs prepared.....	1,114	1,398	1,534	1,617	1,578	1,539	1,598	1,539	1,557	1,630	1,662	1,674
Legal memos.....	2,826	2,949	2,992	3,610	3,523	3,547	3,599	3,734	3,792	3,840	3,657	3,975

¹ Figures not available.

Tax division wins and losses

	Won		Lost		Total		Percent of Government Wins	
	1971	1970	1971	1970	1971	1970	1971	1970
Supreme Court.....	4	6	1	1	6	7	67	86
Circuit court of appeals.....	231	314	79	66	310	380	75	82
District court.....	455	340	105	82	560	422	81	81
Court of claims.....	26	29	11	13	37	42	70	69
State court.....	88	74	18	12	106	86	83	86
Total.....	804	763	214	174	1,019	937	79	81

Percent wins, prior years

1969.....	78	1961.....	70
1968.....	75	1980.....	71
1987.....	75	1959.....	68
1966.....	80	1958.....	56
1965.....	77	1957.....	58
1964.....	72	1956.....	58
1963.....	70	1955.....	61
1962.....	69	1954.....	57

Tax Division Savings and Collections

[Shown in millions]

Fiscal year	Collections ¹	Savings	Total
1971.....	\$73.0	\$108.0	\$181.0
1970.....	74.0	108.0	180.0
1969.....	75.0	104.0	179.0
1968.....	72.0	100.0	172.0
1967.....	67.0	122.0	189.0
1966.....	65.0	123.0	188.0
1965.....	28.0	85.0	111.0
1964.....	35.8	97.5	133.3
1963.....	24.3	93.2	117.5
1962.....	41.6	80.2	121.8
1961.....	14.0	85.9	99.9
1960.....	19.2	120.7	139.9
1959.....	18.6	174.9	193.5
1958.....	7.1	118.9	126.0
1957.....	22.5	67.5	90.0
1956.....	6.8	60.1	66.9
1955.....	20.3	32.1	52.3
1954.....	6.1	48.4	54.5
1953.....	7.6	16.7	23.3
1952.....	9.2	17.3	26.5
1951.....	6.1	14.3	20.4

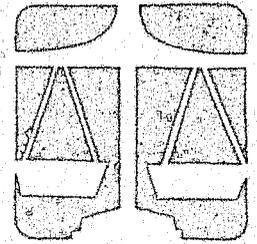
¹ Figures do not include money involved in Tax Court cases upheld in the courts of appeal.

LIST OF CASES CITED

- (1) *United States v. Mitchell, Angello*, 39 U.S. Law Week 4658.
- (2) *Commissioner v. Lincoln Savings & Loan Association*, 39 U.S. Law Week 4726.
- (3) *United States v. Maryland Savings-Share Insurance Corp.*, 400 U.S. 4.
- (4) *Donaldson v. United States*, 400 U.S. 517.
- (5) *United States v. Jorn*, 400 U.S. 470.
- (6) *United States v. Randall*, 39 U.S. Law Week 4336.
- (7) *Sanders v. Commissioner*, 439 F. 2d 296 (C.A. 9).
- (8) *Rosenspan v. United States*, 438 F. 2d 905 (C.A. 2), certiorari petition pending.
- (9) *University Hill Foundation v. Commissioner*, 27 A.F.T.R. 2d 71-1419 (C.A. 9).
- (10) *Estate of Stewart v. Commissioner*, 436 F. 2d 1281 (C.A. 3), certiorari petition pending.
Florida National Bank at Lakeland v. United States, 27 A.F.T.R. 2d par 147,568 (C.A. 5).
Miami Beach First National Bank v. United States, 27 A.F.T.R. 2d par 147,570 (C.A. 5).
First National Bank in Palm Beach v. United States, 27 A.F.T.R. 2d par. 147,570 (C.A. 5).
- (11) *Hill v. Philpott*, 27 A.F.T.R. 71-1367 (C.A. 7).
- (12) *Liberty National Life Insurance Co. v. United States*, 27 A.F.T.R. 2d 5041 (N.D. Ala., 1971).
- (13) *Superior Life Insurance Co. v. United States*, 322 F. Supp. 921 (S. Car., 1971).
- (14) *Walt Disney Productions v. United States* (C.D. Calif., 1971).
- (15) *Shanahan v. United States*, 315 F. Supp. 3 (Col., 1970).
- (16) *Monterey Public Parking Corp. v. United States*, 321 F. Supp. 972 (N.D. Calif., 1970).
- (17) *Dearborn Co. v. United States*, 27 A.F.T.R. 2d 1520 (Ct. Cl., 1971).
- (18) *Waukesha Motor Co. v. United States*, 322 F. Supp. 752 (E.D. Wis., 1971).
- (19) *In re Braund*, 289 F. Supp. 604 (C.D. Cal., 1968), aff'd per curiam, 423 F. 2d 718 (C.A. 9, 1970), cert denied sub nom. *United States v. McGugin*, 400 U.S. 823 (1970).
- (20) *In the Matter of Penn Central Transportation Company*.
- (21) *Ramon Romero v. Hodgson*, F. Supp. 1202 (N. D. Calif. 1970).
- (22) *William H. Green, et al. v. John B. Connally, Jr. Secretary of the Treasury v. Dan Coit, et al.* (Dist. Col.).

administrative division

Leo M. Pellerzi/ Assistant Attorney General



The Administrative Division is charged with responsibility for Department-wide policy direction to all elements of the Department in the areas of budget, financial management, personnel administration, training, information processing, procurement, communications, space management, internal audit, judicial examinations, and library activities. It also has responsibility for providing direct administrative support services to the Department's headquarters offices, the legal divisions, the Community Relations Service, and the field offices of the 93 U.S. Attorneys and U.S. Marshals.

During fiscal year 1971, the Division brought to fruition a number of significant administrative programs and systems that were in the planning and development stage during the previous fiscal year. In addition, new systems for improved management were being planned or developed during the fiscal year to provide improved administrative management capability in the areas of accounting, telecommunications, legal information retrieval, Department directives, forms distribution and stocking, property accountability, legal caseload information and analysis, and personnel action processing. Most of these systems or programs are scheduled to be implemented during fiscal year 1972. Together with the administrative programs brought into operational status during the past fiscal year they will provide the basis for a modern and responsive administrative support system which will maximize the utilization of the Department's personnel and budgeting resources in meeting its mission goals.

BUDGET AND ACCOUNTS

During the year the Department further increased its ability to carry out intensified criminal justice programs. Fiscal year 1971 appropriations totaled \$1,250,518,000 compared to \$862,579,000 in fiscal year 1970. Authorized positions rose from 38,530 to 42,766.

Several supplemental appropriations requests were enacted in fiscal year 1971. Included were funds for the Federal Bureau of Investigation, the U.S. Attorneys

and Marshals, and the Criminal Division, in order to implement the Organized Crime Control Act of 1970. Supplemental funds were provided to the U.S. attorneys and marshals to service the 61 additional district judgeships authorized by Public Law 91-272, to support 13 additional District of Columbia judgeships authorized by Public Law 91-358 and to accommodate an expanded litigative workload throughout the 93 district offices of the U.S. Attorneys. Added funds were also provided to strengthen the system of Federal court security in the wake of threats and attacks on many Federal, State and local governmental buildings including a number of courtroom bombings.

Supplemental funds were also authorized to enable the Bureau of Narcotics and Dangerous Drugs to carry out its new responsibilities under the Comprehensive Drug Abuse Prevention and Control Act of 1970. The Law Enforcement Assistance Administration was granted a supplementary appropriation enabling it to implement the provisions of the Omnibus Crime Control Act of 1970, which authorized a new program of grants for State and local governments to upgrade correctional facilities, and programs, including probation and parole service.

This expansion of programs has required increased emphasis on Department level financial management and coordination. The Office of Budget and Accounts continued to coordinate improvement of the Department's system of program planning, financial analyses and reporting, budget administration, and accounting. Significant improvements during fiscal year 1971 included:

- Design and implementation of an integrated payroll and accounting system. As the fiscal year ended, the new system was entering operational status to service the 6,000 employees now payrolled by the Administrative Division. By the end of calendar year 1972, the new system will service approximately 19,000 employees. In addition to providing payroll services, the system automatically generates reports for internal management use as well as data required by other Federal agencies such as the Treasury Department, the Office

of Management and Budget and the Civil Service Commission.

- Centralization of certain fiscal service functions including voucher examination and payments for the legal and administrative activities. This will permit better control, facilitate the adoption of accrual accounting techniques, and assure more uniform application of law, rules and procedures.
- Additional delegation to program managers of approval authority for overtime and travel, which previously required central approval. These changes will reduce paper flow, speed up actions, and place authority for approval of costs in the hands of the official in each organization that controls allotments.

Under development for future implementation or to meet recent existing statutory requirements are:

- A new automated and integrated budgeting and accounting system for the legal and administrative activities. This comprehensive new system will meet existing statutory, management and General Accounting Office requirements and provide a degree of fiscal control capability not available with presently used accounting procedures. Testing of the system design and new procedures is currently underway.
- Coordination of bureau accounting systems requiring GAO clearance to insure their compliance with established and approved departmental principles and standards.

Additional effort is being focused upon improved control of expenditures, the management of positions and man-years of employment, and the development of more reliable statistical data in the development of resource needs.

PERSONNEL AND TRAINING

Fiscal year 1971 was a period of extraordinary personnel growth to meet added statutory responsibilities. Total Department employment increased from 38,717 in June 1970 to 44,299 in June 1971. This increase of 14.4 percent included all major occupations and required an unusual recruiting effort by personnel staff members throughout the Department.

The Office of Personnel and Training played a key role in these recruiting efforts by promoting a variety of recruitment techniques and hiring innovations. A streamlined hiring process was authorized for the Bureau of Narcotics and Dangerous Drugs, thus speeding up that Bureau's appointments of special agents. A similar shortcut assisted the Immigration and Naturalization Service to secure more applicants for crim-

inal investigator vacancies. Veteran readjustment appointments were widely used by bureaus and offices to fill vacancies in many different occupational areas. By year's end 267 such appointments had been made. Support for work-study programs also grew; the Department was hosting about 200 work-study trainees by the end of the year.

Innovations in hiring and training clerical employees were also employed. An aggressive multistate secretarial recruitment campaign helped fill many clerical vacancies in the District of Columbia. Recruiters visited communities in six States with high unemployment levels to secure applicants. The Justice Upward Mobility Program (JUMP) was inaugurated with 26 lower-graded employees participating in a program of remedial education, training, and counseling designed to prepare them for higher-level clerical and secretarial positions.

The Department's equal employment opportunity efforts have been vigorously pursued. During the past fiscal year, about one of every five new employees was a member of a minority group. Between May 31, 1970 and May 31, 1971, the Department's full-time work force increased by 4,284 persons, or 11.4 percent, while minority employment increased by 815, or approximately 19 percent. Overall, minority employees comprise 12.8 percent of the Department's full-time work force. This progress in furthering equal employment opportunity was based on strong support and efforts at all administrative and management levels.

The Office of Personnel and Training compiled and published a comprehensive "Directory of Organizations Serving Minority Communities" as an aid to Department recruiters. Some 3,400 copies of this publication have been distributed within the Department and to other Federal and private agencies interested in using it to aid their own EEO program efforts.

Employment and advancement opportunities for women in the Department have continued to improve. The Department's 129 female attorneys represent 5.14 percent of the Department's attorney work force. This compares favorably with the 3 percent of all bar memberships that are reported to be women.

At the close of the fiscal year the Department employed 108 women in grade levels GS-13 through 15 or equivalent. The Attorney General has established broad program goals, including specific hiring and promotion objectives for the employment of women in supergrade and midlevel positions. In addition, a major occupational breakthrough occurred as the Bureau of Narcotics and Dangerous Drugs began selecting qualified female applicants for criminal investigator positions. Active consideration for law enforcement positions was also being given female applicants by the Immigration and Naturalization Service.

Improvement of management procedures in the Department's operating personnel offices has been the

object of considerable staff time and attention.

The Department's new computer-based personnel information system became operational at the close of the fiscal year. Known as JUNIPER (Justice uniform personnel system), the system streamlines the collection of information on the Department's work force, reduces the total amount of paperwork and data handling in the Department's 30 personnel offices, and provides a more comprehensive computer master file from which work force information and reports can be automatically retrieved. Data is entered directly into the system from the individual personnel offices through the use of video terminals, thus eliminating key punching and coding forms for data input. The system improves personnel office efficiency by allowing each personnel transaction to be handled only once. The Department's personnel information system and the central payroll system are simultaneously updated by JUNIPER entries from the personnel office terminal. The system also produces a computer-generated "Notification of Personnel Action" for the employee. The team which developed the JUNIPER system was awarded a Presidential Management Improvement Certificate.

The Department's executive manpower procedures for registering executives in the Civil Service Commission's inventory were tightened and an agreement was negotiated with the CSC exempting the Department from searching the inventory in cases where Department's authority to appoint supergrades was increased by 23 positions.

The Department's suggestion system, which has won national recognition, produced tangible benefits of over \$356,000 during fiscal year 1971.

Advances were also made in a number of areas affecting employee effectiveness and morale.

The Department's safety program was also revitalized during the year. Reporting procedures were improved and a 10-percent accident reduction goal was established. The Department's grievance and appeals machinery was overhauled. Hearing examiners were designated and trained. And for our retiring employees a series of special preretirement seminars was conducted.

New classification standards were established for correctional officers, affecting some 2,900 employees in the Bureau of Prisons.

An issue of continuing concern to Department managers over the years has been the establishment of maximum age limit qualifications for certain positions. Existing law prohibits maximum age limits for all Department occupations except for FBI agents. However, experience has demonstrated the desirability of age limits for trainee border patrol agents, correctional officers, deputy U.S. marshals and special agents of BNDD. Legislation to authorize such limits has been

proposed and was pending in the Congress at the end of the fiscal year.

The Department's labor relations program commands increased staff attention from the Office of Personnel and Training as employee unions and Department management began operating under the provisions of Executive Order 11491. Significant labor relations developments included the renegotiation of bureau-wide exclusive agreements in the Bureau of Prisons and the Immigration and Naturalization Service.

Employment of both exceptional college students and of economically disadvantaged youth continued to characterize the Department's summer employment program. During the summer of 1971, over 1,000 young people were employed under a number of different employment programs. Of special note were 84 young Federal summer interns drawn from the top of their college classes who were employed throughout the country in Bureau of Prisons institutions.

The war on crime and increased professionalization of law enforcement occupations had demanded greater emphasis on training and developing of employees. During the year, there was considerably greater utilization of agency, interagency, and non-Government training resources. Total training expenditures for fiscal year 1971 were \$4,833,283, a 99 percent increase over the \$2,429,442 spent in fiscal year 1970.

Department and bureau management personnel attended advance management development programs such as the Federal Executive Institute, executive seminar centers, the American Management Association, and Brookings Institution. Steps were taken to establish a comprehensive career development program for attorney personnel; a task force was established to survey the needs of attorneys and to recommend an appropriate attorney career program.

Important training improvements were also under way at the bureau level. The Bureau of Prisons inaugurated a training center at El Reno, Okla., and BNDD expanded its National Training Institute to include more drug-control and law enforcement training for military, State, and local officials and foreign officials.

MANAGEMENT SUPPORT

To meet the Department's rapidly growing data processing requirements, further changes and additions were made to the computer hardware available. During the fiscal year the computers of the Office of Management Support provided over 18,000 hours of processing time to support Department operations.

Significant systems design and programming projects were completed during the year. Among these were:

- JUNIPER, the Department's new automated personnel management information system which became operational at the end of the year.
- JURIS, the Justice Retrieval and Inquiry System, which went into operation on a pilot basis. Productive use of the system at the headquarters level is scheduled for fiscal year 1972. It is then scheduled to be expanded to provide a research resource for the field offices of the legal divisions and the 93 U.S. Attorneys.
- Drug licensing and authorizations, which were controlled by a new computer system. This system functioned in a data communications environment to support the Bureau of Narcotics and Dangerous Drugs in enforcing the Controlled Substances Act.
- An Alien Index System for the Immigration and Naturalization Service, which underwent initial program testing.

JIMS, the Justice Information Management System, on which detailed systems design was completed. This project completely revises and significantly improves the system for legal caseload management now available to Department attorneys and managers. The JIMS system will ultimately provide management with operational and statistical data in an on-line communications environment. In addition to supporting caseload inventories, JIMS is designed to be a caseload defendant tracking system which will provide complete histories of all litigation in which a defendant has been involved for all phases of the criminal justice process.

An important byproduct of JIMS and other related systems is the linking of U.S. Attorney-U.S. Marshal offices via a computer switch to the National Crime Information Center computers of the Federal Bureau of Investigation. The preliminary work for this type of communications network was completed during the fiscal year and is scheduled for implementation during fiscal year 1972.

ADMINISTRATIVE SERVICES

The continued expansion of the Department has placed increased demands on the administrative support areas.

Occupancy plans for Department offices in the Washington, D.C., area were revised. While completing the alterations and occupying the 100,000 square feet of office space leased in fiscal year 1971, the Department acquired through the General Services Administration, approximately 80,000 square feet of additional office space at 521 12th Street NW., to accommodate additional increases in the legal staffs. Space for organized crime strike forces was acquired in three major cities.

A total of 95 additional space acquisitions were processed through GSA for headquarters and field offices, an increase of 16 percent over the previous year.

The newly established graphics unit provided a wide variety of graphic services to the nonlegal areas of the Department, as well as developing court exhibits and visual aids for use by the Department attorneys in 55 different court cases.

Reproduction volume increased by 514 million units, approximately 21 percent over printing production in fiscal year 1970. Based on a study of needs two total copy duplicating centers were established in buildings occupied by the Department in Washington. This has increased responsiveness to customer's need, decreased turnaround time and allowed the cancellation of two high production quick-copy units formerly operated at the Division and office level. The establishment of a third duplicating center is under consideration.

Working with the General Services Administration, a self-service supply store was installed in the basement of the Main Justice Building to meet Washington area needs. The Department central supply facility was closed and requests from field organizations placed under GSA's Fed-Strip System which allows direct delivery from the GSA warehouse closest to the requisitioning field office.

Just as decentralization was the key to greater efficiency in supplying the Department's field offices, centralization was the key to improving the distribution and storage system for Department issuances. All distribution work formerly widely dispersed throughout the different divisions and offices and performed on a manual basis, has been centralized and automated. This includes both initial distribution and subsequent requests for copies of specific issuances.

A study of the telecommunication needs of the Department, concentrating primarily on the present and future requirements, has been completed. A teletype communications system designed to meet current needs and to provide the necessary flexibility has been selected. It is expected to be operational in the early spring of 1972.

Design was completed on a modern, fully integrated computerized property accounting and inventory control system designed to provide accurate and reliable financial and quantitative data on property resources of the Department. Implementation of the system will be completed during fiscal year 1972.

Continued improvement has been made in the property utilization program. During the current fiscal year excess property valued at \$4,316,959 was acquired from other Federal agencies at no cost to the Department. In addition, Department owned property valued at \$1,600,291 was transferred to other Federal and State agencies.

Procurement operations issued a total of 10,834 pur-

chase orders covering 30,636 line items having a combined cost of \$6,210,188.

A new Department Directives System was developed and installed. This self-indexing subject classification system will provide a single source of information for agency policy and procedures.

RECORDS MANAGEMENT

Mail volume and record handling have continued to increase. In the legal and administrative activities alone almost 1,300,000 pieces of mail were received and 1,400,000 pieces dispatched during fiscal year 1971. Nearly 900,000 papers and enclosures were filed in the central recordkeeping organization, and over 40,000 new files established. Over 63,000 citizen letters not assigned to other organizations were answered by the Office of Records Operations and Management.

The Records Administration Office was reorganized and is now called the Office of Records Operations and Management. The Office's two major operating sections, the Central Files Section and the Record Assignment, Classification, and Control Section, are broken into small units that integrate directly with the legal divisions of the Department.

The new organization and internal procedures considerably reduced the time required to respond to questions on cases being litigated by a division.

OFFICE OF JUDICIAL EXAMINATIONS

The Office of Judicial Examinations was established as an independent office in March 1970.

The Examination staff reviewed the official acts, records, and accounts of the 235 offices of U.S. Attorneys, U.S. Marshals, U.S. commissioners, U.S. magistrates, U.S. probation officers, referees and trustees in bankruptcy, official court reporters, clerks of the U.S. courts, and judicial personnel. This compared with 130 examinations in fiscal 1970, or an increase of 80 percent. In the past there has been an average of approximately 4.2 years between general examinations. Efforts have now begun to attempt to reduce the length of this cycle.

Twelve of the largest U.S. Attorneys' offices were included in 31 of those offices examined. Offices of 24 U.S. Marshals, 24 district court clerks, 15 judges' personnel, 20 U.S. probation officers, one clerk of a court of appeals, nine U.S. magistrates, 37 referees in bankruptcy, 58 U.S. commissioners, and 16 official court reporters were examined.

Examination outlines and methods were reviewed and new examination programs were instituted to increase scope, depth, and quality, and to make examinations more meaningful and useful to management in overcoming administrative problems.

Projected examination time schedules were established to achieve closer supervision and control over examinations. Greater emphasis was placed on office systems and more significant problem areas. Preliminary surveys and a postexamination followup procedure was inaugurated in order to assure more effective reports and implementation of necessary changes. Research at headquarters was instituted in place of lengthy research by examiners in the field, while traveling on expense allowance.

Examiners gave greater attention to collections. Between 25 and 45 percent of examiner's time in U.S. Attorneys' offices was spent on collections, in contrast to approximately 5 percent in the past.

Management and procedural operations of U.S. Attorneys' offices were analyzed and administrative standards and procedures were drafted. Standard office procedures were prepared after consultation with divisions and offices in the Department, U.S. Attorneys' offices, and other authorities.

The revised procedures will transfer all clerical functions from professionals and secretarial personnel to paraprofessionals and clerks who are centralized in an Administrative Section of U.S. Attorneys' offices. Standard procedures are included for clerks to carry out a persistent and aggressive program for collection of moneys due the Government. The collections procedures have already been installed in several of the largest U.S. Attorneys' offices.

INTERNAL AUDIT

The Office of Internal Audit officially organized on March 12, 1971, became operational during fiscal year 1971. Twenty-five auditor man-years were expended in performing audits and planning, and identifying areas for future audits during the fiscal year.

The internal audit staff is responsible for performing internal audits of all administrative and program functions of the Department of Justice with the exception of the Federal Bureau of Investigation. Audits are aimed primarily at evaluating management controls. Their primary purpose is to assist officials at all management levels in improving operating programs and functions.

During fiscal year 1971 a total of 34 audit reports were issued covering (1) property management and accounting in the Immigration and Naturalization Service, (2) administrative activities at 14 field insti-

tutions of the Bureau of Prisons, (3) financial activities at 12 field locations of the Federal Prison Industries, (4) motor vehicle activities of the Bureau of Narcotics and Dangerous Drugs, (5) the processing of personnel actions for positions in the Law Enforcement Assistance Administration, (6) property management and accounting in the departmental headquarters offices and divisions, and (7) control and use of imprest petty cash funds, bus tokens, and taxi coupons by departmental headquarters offices and divisions. Five of the audits were performed on the basis of special requests by management officials. At the close of the year additional audits were underway in the departmental headquarters offices and divisions and in each of the four bureaus.

Effective June 7, 1971, seven auditors were loaned to the Law Enforcement Assistance Administration (LEAA) to help review the effectiveness of management controls and procedures instituted by State planning agencies in carrying out LEAA programs. This cooperative effort enables prompt reporting to management of conditions and problems in a rapidly expanding program area.

Other activities included (1) assistance to bureaus, divisions, and offices of the Department in developing appropriate responses to recommendations contained in six General Accounting Office audit reports, (2) development of training material for a 1-week auditor training program scheduled in early fiscal year 1972 for grades GS-5 through GS-11, and (3) work on an Internal Audit Manual to be issued in fiscal year 1972 setting forth policies, standards, and general guidelines for planning, programing, and conducting audits,

reporting findings and recommendations to management, and maintaining an effective followup system on corrective actions taken.

LIBRARIES

Use of the Department's library facilities continued at a high level. More than 400,000 volumes were used in the libraries for reference purposes and more than 88,000 volumes were circulated. A total of 1,345¹ volumes was borrowed from other libraries through interlibrary loan while 1,836 volumes were loaned to other libraries.

Some 1,310 volumes were acquired for the main library and over 5,000 to all collections combined. A total of 2,671 cards were added to the catalog in the main library and 1,142 volumes were bound and repaired.

New sections were created on consumer affairs, patents, and a new field office library was established in the Antitrust Division. In the main library more than 6,000 reference questions were answered, 735 business information reports obtained, and four legislative histories compiled.

The new Environmental Protection Agency began operating with no library facilities. Both the main library staff and that of the Land and Natural Resources Division assisted this new agency by providing its staff with complete access to materials, including compiled legislative histories, and special loan privileges so that vital materials could be quickly accumulated by copying.

Department of Justice, Summary Statement of Funds and Positions, Fiscal Years 1967-71 inclusive

(Dollars in thousands)

	1967	1968	1969	1970	1971
APPROPRIATIONS					
General Administration.....	\$5,743	\$6,036	\$6,285	\$8,353	\$9,332
General legal activities.....	22,001	23,039	25,112	30,000	36,065
Antitrust Division.....	7,495	7,820	8,090	10,026	11,079
U.S. attorneys and marshals.....	36,404	37,842	42,381	53,223	65,654
Fees and expenses of witnesses.....	2,800	3,100	4,200	5,500	6,900
Community Relations Service.....	1,500	2,000	2,277	3,393	4,627
Federal Prison Systems.....	182,325	134,086	216,670	256,857	294,665
Immigration and Naturalization Service.....	78,835	85,684	89,726	105,798	121,940
Federal Prison Systems.....	65,307	69,001	69,448	93,599	124,995
Law Enforcement Assistance Administration.....	¹ 7,250	¹ 7,500	63,000	268,119	529,000
Bureau of Narcotics and Dangerous Drugs.....		5,035	18,545	28,112	43,705
Total appropriations.....	408,820	442,043	545,734	863,580	1,250,862
APPROPRIATED POSITIONS					
General Administration.....	581	588	574	617	653
General legal activities.....	1,725	1,734	1,686	1,792	2,018
Antitrust Division.....	614	614	555	505	610
U.S. attorneys and marshals.....	3,016	3,016	3,022	3,221	4,446
Fees and expenses of witnesses.....					
Community Relations Service.....	85	130	131	180	237
Federal Bureau of Investigation.....	15,940	16,226	16,973	17,684	19,947
Immigration and Naturalization Service.....	7,194	7,219	6,703	6,920	7,230
Federal Prison Systems.....	4,841	4,929	4,675	5,024	5,208
Law Enforcement Assistance Administration.....	25	25	207	343	448
Bureau of Narcotics and Dangerous Drugs.....		948	1,253	1,463	2,321
Total appropriated positions.....	34,021	35,429	35,779	37,839	43,117

¹ Office of Law Enforcement.

Funds Available and Expenditures, Fiscal Year 1971

	Available			Expenditures
	Appropriated ¹	Reimbursements	Total	
Legal activities and general administration:				
General administration.....	\$9,332,000	\$1,734,000	\$11,066,000	\$11,065,200
General legal activities.....	36,060,000	116,000	36,176,000	36,379,154
Antitrust Division.....	11,079,000	2,610,000	11,079,000	11,070,755
U.S. attorneys and marshals.....	68,644,000	625,000	71,254,000	69,863,733
Fees and expenses of witnesses.....	6,900,000	5,085,000	6,900,000	6,896,036
Community Relations Service.....	4,612,000	5,280,000	5,237,000	5,233,783
Total.....	136,627,000	4,126,000	141,712,000	140,568,661
Immigration and Naturalization Service.....	121,930,000	3,827,000	127,210,000	127,194,286
Federal Bureau of Investigation.....	294,434,000	3,827,000	298,560,000	298,284,129
Federal Prison System:				
Bureau of Prisons.....	90,831,000	44,000	94,658,000	94,224,061
Buildings and facilities.....	² 27,609,000	108,000	27,609,000	6,561,440
Support of U.S. prisoners.....	12,000,000	18,468,000	12,000,000	11,097,598
Total.....	130,440,000		134,267,000	112,783,099
Law Enforcement Assistance Administration.....	³ 528,954,000		528,998,000	426,861,843
Bureau of Narcotics and Dangerous Drugs.....	43,692,000		43,698,000	43,660,771
Total general fund.....	1,255,077,000		1,274,445,000	1,140,299,680
Office of Alien Property.....	206,000		206,000	206,000
Prison Industries, Inc.....	4,920,000		4,920,000	4,407,797
Total limitations.....	5,135,000		5,135,000	4,613,797
Grand total.....	1,261,172,000	18,468,000	1,279,580	1,153,913,480

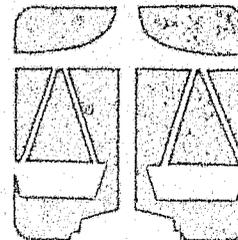
¹ Net of direct transfer to GSA for rent.

² Includes unobligated balance available from prior year appropriations of \$5,458,845.

³ Includes transfer of \$64,000 from Department of Labor.

federal bureau of investigation

J. Edgar Hoover/Director



Summary of Investigative Accomplishments

During the 1971 fiscal year, the Federal Bureau of Investigation recorded notable achievements in its many and varied investigative responsibilities.

Fines, savings, and recoveries resulting from this Bureau's investigative activity totaled \$475,074,108, exceeding by 16 percent the previous year's record total and representing an average return of \$1.61 for each dollar appropriated for Bureau operations during the fiscal period. Also, 95 percent of the persons brought to trial in FBI cases during the 1971 fiscal year were convicted. Of the 13,357 convictions, 83 percent were on guilty pleas. Actual, suspended, and probationary sentences imposed amounted to approximately 50,604 years.

In the field of organized crime, FBI activities during the fiscal period resulted in the conviction of 631 hoodlum, gambling, and vice figures on an assortment of Federal charges.

In other areas of FBI investigative activity, a record number of 33,863 fugitives were located, including four individuals carried on the FBI's "Ten Most Wanted Fugitives" list.

Stolen motor vehicles, numbering 32,076 and valued at \$58,613,402, were recovered in FBI cases. This attainment marked the 16th consecutive year of record achievements in this investigative field.

Also, as a result of FBI investigations during the fiscal period, more than 60 persons were arrested in connection with thefts of securities from financial institutions, and stocks and bonds valued in excess of \$20 million were recovered.

A total of 6,565 FBI fugitives and subjects were arrested and money and merchandise valued at \$30,007,005 were recovered in FBI cases through the willing cooperation of Bureau confidential informants.

CRIMINAL INVESTIGATIONS

Organized Crime

FBI accomplishments in the Government's intensive campaign against organized crime and racketeering rose substantially during the 1971 fiscal year. A total of 631 hoodlum, gambling, and vice figures were con-

victed in cases investigated by the FBI—an increase of 170 over the number of such convictions during the preceding year. In addition, as the year ended, FBI organized crime cases involving over 1,900 other persons, including six national syndicate leaders, were in various stages of prosecution.

Prominent among those convicted in this area of the FBI's operations during the year were:

New Jersey organized crime chieftain Samuel Rizzo DeCavalcante, who was convicted on interstate gambling charges.

Florida bookmaking figures Martin and Jesse Sklaroff, who also were convicted on interstate gambling charges.

Wisconsin-Illinois strong-arm gangster Charles Vince, who was convicted on extortion charges.

New York racketeer James Plumeri, whose conviction stemmed from "kickback" payments in connection with Teamsters pension fund loans.

Buffalo (N.Y.) key hoodlum Salvatore Pieri, who was convicted of bribing and tampering with a juror during an earlier trial.

New York City mobster Salvatore Manarite, who was convicted of violating the Interstate Transportation of Obscene Matter Act. This conviction followed closely a May 1970, conviction of Manarite for threatening the lives of a loan-shark victim and the victim's family.

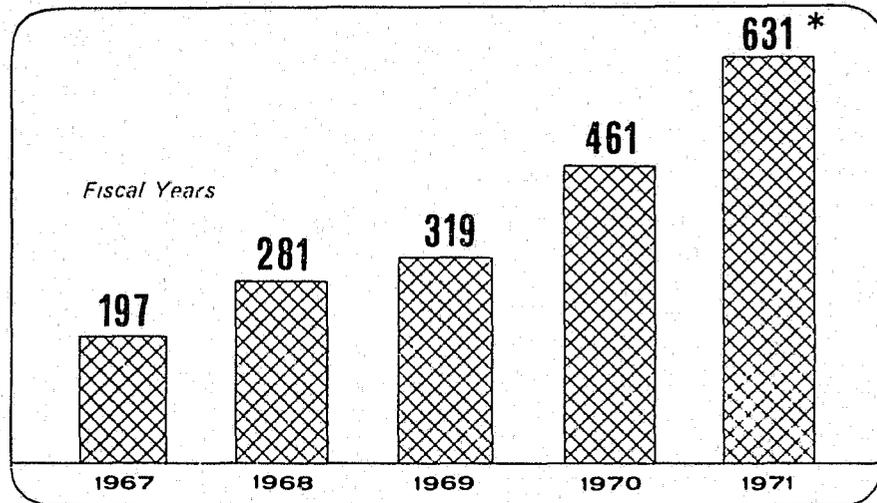
Colorado rackets leaders Eugene Smaldone and Joseph Salardino, who were convicted of violating Federal firearms laws.

New England gang figure Ilario Zannino, who was convicted of conspiring to fence \$165,000 worth of stolen jewelry.

The FBI's authority to investigate illegal gambling operations was significantly expanded in October 1970, when the Organized Crime Control Act of 1970 was passed by Congress. Although this new law was in effect for less than 9 months of the fiscal year, FBI agents made some 725 arrests and confiscated approximately \$1,700,000 in cash, property, and gambling paraphernalia under its provisions.

Highlighting FBI antigambling operations during the year was the largest series of raids in the Bureau's history. The two most extensive of these raids—one

CONVICTIONS OF ORGANIZED CRIME AND GAMBLING FIGURES AS A RESULT OF FBI INVESTIGATION



*More than 1,900 in various stages of prosecution at end of fiscal year.

conducted on December 12, 1970, and the other on May 6, 1971—each required participation by more than 400 special agents.

Another phase of the FBI's intensive activity in the organized crime field is its program of close cooperation and prompt dissemination of information to other law enforcement authorities. During the 1971 fiscal year, approximately 340,000 items of criminal intelligence data were furnished to local, State, and other Federal agencies by FBI field offices throughout the Nation. Included among this was information which led to the arrest of nearly 4,000 rackets and gambling figures by these other agencies—and to the seizure of more than \$2 million in currency, contraband, and gambling paraphernalia.

Information furnished to one police department during the year resulted in 100 arrests and the smashing of two major gambling operations handling a combined total of nearly \$1 million a week in wagers. Acting on information developed by FBI agents, another police department conducted a raid in which 184 persons were arrested on assorted gambling, liquor, and morals charges. In a third instance, facts disseminated to a sheriff's office resulted in 70 arrests and the seizure of \$150,000 worth of pinball machines.

Confidential Informants

During the 1971 fiscal year, 6,565 subjects of FBI investigations, including fugitives, were arrested as a result of data furnished by confidential informants.

In addition, 1,690 persons being sought for questioning in FBI cases were located as a result of information supplied by informants; and their services also aided special agents in the recovery of money and merchandise valued at \$30,007,005.

Information received from confidential informants regarding crimes outside the FBI's jurisdiction is promptly furnished to the authorities concerned. During the 12 months ending June 30, 1971, such data resulted in the arrest of 672 persons by other Federal law enforcement agencies and in 6,996 arrests by State and local authorities. It further led to the recovery by other Federal agencies of money and merchandise valued at \$7,591,736; whereas, State and local law enforcement agencies realized recoveries amounting to \$14,047,548 through FBI informant-supplied data.

Major Criminal Investigations

FBI jurisdiction now covers some 185 investigative matters, involving a wide range of Federal criminal statutes. FBI investigations relating to criminal matters composed a large part of the Bureau's activities during the 1971 fiscal year. Among the major categories of criminal offenses investigated and the results achieved in each were the following:

In connection with investigations relating to criminal acts pertaining to labor union activities, as well as rackets directed against businessmen, an increase was noted in prosecutions involving the shakedown of businessmen. In addition, various cases occurred involving

payoffs by businessmen to local government officials and employees, particularly in connection with construction contracts granted by local authorities.

Among those convicted in cases of this type were Hugh J. Addonizio, former mayor of Newark, N.J., and others involved in payoffs of over \$250,000 in connection with the granting of construction contracts in violation of the Hobbs Act.

FBI investigations of antitrust matters, which are conducted only at the request of the Department of Justice and relate to monopolies and restraints of trade in interstate and foreign commerce, led to 34 convictions during fiscal year 1971.

To kill, assault, or interfere with certain designated Federal employees while on duty or as a result of performing their official duties is a violation falling within FBI investigative jurisdiction. Offenses of this nature continue to increase, with 291 reported during the fiscal period. Convictions recorded in this category of crime totaled 76, while 18 fugitives were located in these cases.

Reported total violations of the Federal bank robbery and incidental crimes statute reached a record total high of 3,354, a 20 percent increase over the previous year's total. Included in this figure were 2,565 robberies, 471 burglaries, and 318 larcenies. In those cases investigated by the FBI and federally prosecuted, convictions reached an all-time high of 1,613 with many of those convicted having committed more than one offense. Savings and recoveries in these cases amounted to \$3,554,706, and 770 fugitives were located, a substantial increase over the previous year's total.

The increasing installation by the banking community of camera equipment to comply with security standards established by the Bank Protection Act of 1968 has proved to be of invaluable assistance in the investigation of bank robberies, having led to the prompt identification of numerous persons involved in these crimes. An increase was noted in the taking of bank officials and their families as hostages by bandits in furtherance of bank robberies. In one such case that occurred during March 1971, almost \$600,000 was obtained from a Florida bank president whose wife and small child were held as hostages. The individuals allegedly involved in this crime were arrested and federally charged.

Acts of violence continue to characterize many bank robberies. During the robbery of an Iowa bank in June 1971, two armed men murdered a police officer while attempting to escape. FBI agents responding to the robbery were met by gunfire and subsequently shot and killed one of the robbers. All of the stolen loot, amounting to over \$64,000, was recovered and, as the fiscal year ended, intensive investigation was underway to apprehend the other bandit.

In a bribery investigation conducted by the FBI, a

contract specialist at a Government arsenal in Maryland and five employees of a Government agency dealing in defense contracts were convicted of accepting money and other gratuities from a Long Island firm which had been awarded Government contracts totaling about \$5 million through the assistance of these Federal employees.

In connection with certain crimes committed aboard aircraft, such as aircraft piracy and intimidating or threatening members of a flight crew and attendants, FBI investigations resulted in 54 convictions during the fiscal year, an increase of 23 over the previous fiscal period. Acts of violence continued to occur in the commission of these air crimes. One such incident happened on June 11, 1971, when an individual boarded a Trans World Airlines flight at Chicago, Ill., and hijacked the plane at gunpoint. After killing a passenger, the hijacker ordered that the plane be flown to New York, and he demanded \$75,000, a machine-gun, and safe passage to North Vietnam. During the flight to New York, a deputy U.S. marshal aboard engaged the hijacker in a gun battle. Upon landing at John F. Kennedy International Airport, the plane's crew and the deputy marshal escape from the aircraft. The hijacker was then wounded and captured by FBI agents after an exchange of gunfire.

A total of 40 convictions were recorded for violations of the Federal extortion statutes, and 48 fugitives were apprehended in connection with these cases.

Federal Reserves Act cases reported during the fiscal year showed a sharp rise with a total of 5,494, an increase of 1,369 over the previous year. The total amount of shortages involved in these alleged irregularities amounted to approximately \$113,516,555. Also in this category, a record 949 convictions were recorded and fines, savings, and recoveries totaling \$23,020,740 resulted from FBI investigations.

Among the cases investigated under this category was the alleged embezzlement by a Northeast bank president of more than \$5 million to help finance his investment in the stock market. This individual, together with four employees of various stockbrokers, was subsequently indicted by a Federal grand jury.

Investigation of fraud against the Government cases led to 163 convictions during the fiscal period, an increase of 68 over the previous year, while fines, savings, and recoveries in this category totaled \$5,690,895. In one such case, awaiting trial at the conclusion of the fiscal year, a munitions firm and 12 of its officers and employees were federally indicted during November 1970, in Birmingham, Ala., for conspiring to defraud the Government in connection with a \$12 million contract to supply 155 mm. shells to the Army. It is alleged that rejected shells were supplied.

As a group, violations of Federal interstate transportation statutes command a substantial share of FBI investigative resources. Violations of the interstate

transportation of stolen property statute and closely related ones led to 1,277 convictions during the 1971 fiscal year. Savings and recoveries realized from such investigations set an alltime record of \$43,346,633, while fugitives numbering 1,162 were located in connection with these cases.

Theft and counterfeiting of securities constitute a most serious problem within this investigative area, and during the fiscal year securities valued in excess of \$20 million were recovered by the FBI and more than 60 arrests were made in these cases.

A record 32,076 motor vehicles, valued at \$58,613,402, were recovered in connection with violations of the interstate transportation of stolen motor vehicles statute. Interstate automobile theft rings operated by professional thieves continued to pose a major challenge in this investigative field with approximately 120 active ring cases under investigation as the fiscal year closed. One such criminal operation smashed by the FBI involved 300 automobiles and encompassed the States of Georgia and Tennessee. As the fiscal year ended, 12 persons had been federally indicted in connection with this matter and were awaiting prosecution.

Also during the fiscal period, a total of 279 convictions were recorded for violations of the interstate transportation in aid of racketeering statute, which constituted an increase of 127 such convictions over the previous fiscal period.

Violations of the Federal kidnapping statute, which fall under the investigative jurisdiction of the FBI, resulted in 49 convictions and the apprehension of 52 fugitives during the fiscal year. FBI investigative activity involving a variety of offenses under the National Bankruptcy Act led to 34 convictions during the 1971 fiscal year and resulted in fines, savings, and recoveries totaling \$3,911,386.

Fugitives numbering 2,107 were apprehended during the fiscal period in connection with FBI investigations relating to criminal violations under the Selective Service Act. This figure represents a substantial increase over the number apprehended during the previous fiscal year. Although departmental policy in these matters calls for the FBI to locate selective service delinquents as quickly as possible and, by so doing, make them available for military service, these offenses are prosecuted in aggravated situations. Convictions under this act during the fiscal period totaled 992.

In relation to violations of the theft of Government property and related statutes, National Guard armories, with their stockpiles of weapons and ammunition, continued to be the target of the criminally inclined. Violations under this general category resulted in 926 convictions and the location of 270 fugitives during the 1971 fiscal year.

Violations of laws designed to protect our Nation's interstate and foreign shipments continued to call for

a major commitment of FBI investigative activity. In one such case investigated by the FBI and involving a series of thefts from cargo shipments at John F. Kennedy International Airport in New York, 18 persons were arrested in October 1970, on charges arising from these crimes. During the fiscal period, a total of 1,106 convictions were recorded in these cases, and savings and recoveries amounting to \$14,517,432 were realized.

Civil Rights and Bombing Matters

Complaints alleging deprivation of rights and privileges secured under the Federal civil rights statutes are given immediate and intensive investigative attention, and the results of these investigations are promptly furnished by the FBI to the Civil Rights Division of the Department of Justice for prosecutive determination. During the 1971 fiscal year the handling of 6,995 such cases required an extremely heavy commitment of Bureau investigative resources.

At the request of the Civil Rights Division, the FBI conducted an extensive investigation into a shooting incident at the Indiana State Reformatory, Pendleton, Ind. On September 26, 1969, two inmates were killed and over 40 others injured by reformatory guards in quelling a disturbance. Nine indictments were subsequently returned by a Federal grand jury in March 1971, charging prison personnel with violating the civil rights of inmates.

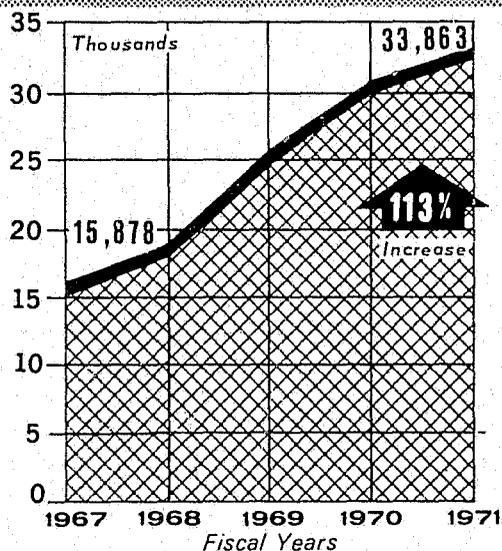
Investigations conducted into alleged voting irregularities during a primary election in May 1970, in Logan County, W. Va., resulted in an indictment being brought by a Federal grand jury in January 1971. It charged a violation of the civil rights-conspiracy statutes by persons involved in this case, including a West Virginia State senator, the Logan County sheriff, a deputy sheriff, the county clerk and the circuit court clerk.

On July 23, 1970, a Federal grand jury at Detroit, Mich., indicted 13 leaders of the Weatherman, a violence-prone extremist New Left group, on charges of conspiring to violate Federal bombing and gun control statutes. It was alleged that this group conspired to use bombs and other destructive devices against police stations, business places, and civic and educational establishments throughout the country. As the fiscal year closed, five of those indicted had been arrested, the indictment against one had been dismissed at the request of the Government, and the remaining seven were being sought.

Fugitives

During the 1971 fiscal year, fugitive apprehensions of all types by the FBI totaled 33,863, the highest number ever recorded in this regard. Another record high in the apprehension of general fugitives (those fugitives other than deserters) was attained with the ap-

FUGITIVES LOCATED IN FBI CASES



prehesion of 13,693 such fugitives. Included in this figure were over 2,800 fugitives located under the Federal unlawful flight statute for State and local law enforcement agencies. Also during this fiscal period, four individuals wanted under the FBI's "Ten Most Wanted Fugitives" program were apprehended, raising to 291 the total number brought to justice since the program was instituted in 1950.

As a cooperative matter, the FBI, upon request, located for the Armed Forces 20,170 individuals who had been declared deserters.

INTERNAL SECURITY INVESTIGATIONS

A major responsibility of the FBI is protecting the Nation's internal security. This responsibility stems from legislative enactments, Presidential directives, and instructions from the Attorney General. The FBI has a two-fold responsibility in its investigation of activities such as espionage, treason, and subversion: (1) Gathering intelligence-type data and (2) collecting evidence for possible use in subsequent judicial proceedings. Data gathered by the FBI is promptly disseminated to appropriate officials in the executive branch of the Government.

The Extremist New Left

New Left extremism posed a serious danger to the Nation's internal security in fiscal year 1971. One of

the most important extremist groups was the Weatherman, the violence-prone wing of the pre-June 1969, Students for a Democratic Society.

The beginning of the fiscal year saw 22 members of the Weatherman being sought by the FBI based on violations of the antiriot laws, local mob action statutes, and the sabotage statute.

Actually, during this period the Weatherman had gone underground. Messages were released by the group in this status. For example, on October 6, 1970, at a New York City press conference held by the Youth International Party (Yippies), an announcement was made that a tape recording had been received from the "Weatherman Underground." The voice on this recording was alleged to be that of Weatherman fugitive Bernardine Dohrn. The recording stated that the bombing of a police statue in Haymarket Square, Chicago, on October 5, 1970, was the work of the Weatherman group and this bombing "begins a fall offensive of youth resistance that will spread from Santa Barbara to Boston, back to Kent and Kansas. Now we are everywhere, and next week, families and tribes will attack the enemy around the country."

As if in response to this recording, on October 8, 1970, predawn bomb blasts jarred two military facilities and a county courthouse on the west coast. Credit for these bombings was claimed by the Weatherman group, the Perfect Park Home Grown Garden Society and the Quarter Moon Tribe (the latter two also being violence-prone New Left extremist groups).

Subsequent bombings occurred for which the Weatherman claimed responsibility. On March 1, 1971, the U.S. Capitol building was bombed. A letter dated February 28, 1971, and postmarked March 1, 1971, at Elizabeth, N.J., was received from the "Weather Underground" in which that organization claimed credit for the bombing. On May 3, 1971, a radio station in San Francisco received a letter from the "Weather Underground" postmarked May 1, 1971, Washington National Airport. This letter stated the Weatherman group was responsible for bombing the U.S. Capitol building.

The willingness of the Weatherman and its allies to use violence makes them a continuing threat.

Sabotage

One of the statutes under which New Left extremism is investigated is the sabotage statute. During the fiscal year, the FBI conducted a number of such investigations, including the bombing of Sterling Hall at the University of Wisconsin, Madison, Wis., on August 24, 1970. This bombing caused the death of one individual, injury to three others, and millions of dollars in damage. The FBI's investigation resulted in indictments being returned against the brothers, Karleton and Dwight Armstrong, and David Sylvan Fine and Leo Frederick Burt, charging these individuals with vio-

lations of the destruction of Government property, civil rights-federally protected activity, national firearms, and conspiracy statutes. All four were fugitives at the end of the fiscal year and were carried on the FBI's "Ten Most Wanted Fugitives" list.

Venceremos Brigade

Organized in 1969 by a coalition of New Left groups, the Venceremos Brigade consists, in the main, of young people who have gone to Castro's Cuba for the announced purpose of performing voluntary manual labor in the citrus and sugar cane fields, thereby aiding that nation's economy. Approximately 900 Americans, mostly young people, in two contingents, visited Cuba in early 1970 in defiance of a State Department ban on travel to Cuba. In August 1970, a third contingent of more than 400 individuals, and in March 1971, a fourth contingent of some 235 persons made such journeys. A fifth brigade was planned for December 1971. Many of these young people have adopted Cuba's anti-U.S. position and have aligned themselves with the violence-prone Weatherman and other extremist groups.

Subversive Influences in the Anti-Vietnam War Movement

Two major groups operated to organize mass protests against the war in Vietnam: the National Peace Action Coalition (NPAC) and the Peoples Coalition for Peace and Justice (PCPJ). The NPAC was dominated by the Trotskyist Socialist Workers Party and its youth group, the Young Socialist Alliance. The PCPJ received the support of various groups, including the Communist Party, U.S.A.

While the NPAC was primarily interested in concentrating on mass agitation on the single issue of opposition to the Vietnam War, the PCPJ advocated a more militant approach, urging that agitation also be focused on such issues as poverty, racism, and repression.

On April 24, 1971, peaceful demonstrations, cosponsored by the NPAC and the PCPJ, were held in Washington, D.C. (attracting an estimated 200,000 demonstrators), and in San Francisco (estimated 100,000).

However, in early May 1971, PCPJ demonstrations were held in Washington, D.C., for the purpose of closing down the U.S. Government. These resulted in disorders and more than 12,000 arrests.

Old Left Organizations

Old Left groups, such as the Communist Party, U.S.A. (CPUSA), the Trotskyist Socialist Workers Party (SWP), and the Progressive Labor Party (PLP), continued their efforts to subvert America's democratic form of government.

In March 1971, Gus Hall, CPUSA general secretary,

led a delegation of CPUSA leaders to Moscow to attend the 24th Congress of the Communist Party of the Soviet Union. The SWP has been particularly aggressive, especially through its youth front, the Young Socialist Alliance. The Trotskyists have been extremely active in the anti-Vietnam war agitation. The PLP has over 300 hardcore members. It controls the Worker Student Alliance (WSA), a group which formerly was part of the pre-June 1969, Students for a Democratic Society. The PLP and the WSA have as a prime target the infiltration of industry.

Hate Groups

Black extremist groups, such as the Black Panther Party (BPP), continue as dangers to national security.

During the fiscal year, the BPP continued to call for the violent overthrow of the U.S. Government. At the end of the fiscal year, there was an estimated membership of 710 full-time hardcore members plus thousands of sympathizers.

In February 1971, a split occurred between Huey P. Newton, supreme commander of the BPP, and Eldridge Cleaver, BPP minister of information, a fugitive from justice currently in exile in Algeria. An estimated 100 members, mostly in New York City, have declared their loyalty to the Cleaver faction. Within 2 months one prominent member of each faction was murdered and each faction accused the other and threatened reprisals.

Other black extremist groups include the Student National Coordinating Committee, the Black Revolutionary Party, and the United Black Oppressed Peoples' Nation located in Chicago, Ill.

The FBI continued its investigation of a number of white extremist groups whose activities on occasion have resulted in violence. The largest and most prominent of these groups was the United Klans of America, Inc., Knights of the Ku Klux Klan, headed by Imperial Wizard Robert M. Shelton. Other hate-type groups included the National Socialist White People's Party (formerly the American Nazi Party), the National States Rights Party, and the National Renaissance Party.

Minutemen

The Minutemen, a diminutive, secret, paramilitary, vigilante-type group formed in 1960, remained operational despite the imprisonment of its leader, Robert Bolivar DePugh. Considerable discontent, however, existed within the organization.

Foreign Intelligence Activities

Soviet-bloc intelligence remained a serious danger during the fiscal period. As of July 1, 1971, there were 1,092 Soviet-bloc officials and 1,331 of their dependents in this country (in addition to numerous communist officials temporarily residing here). FBI

experience indicates that a high percentage of these diplomats have intelligence assignments.

Efforts of Castro's Cuba to penetrate the upper echelon of the U.S. Government was highlighted by a case involving the use of a female employee of a foreign embassy in Washington. This provocation led to persona non grata action against the two top intelligence officers assigned to the Cuban Mission to the United Nations, New York City.

Revolutionary Union

The Revolutionary Union, organized in 1968, is a group with some 300 members which seeks to form a new domestic Marxist-Leninist party allied with the Communist Party of China and devoted to the teachings of Mao Tse-tung. It believes in violent revolution and open guerrilla warfare to overthrow the American government.

COOPERATIVE SERVICES

The FBI has long been committed to the complete professionalism of law enforcement at all levels of government. This goal cannot be achieved without a cooperative spirit at all agency levels. In furtherance of this cause, the FBI provided a wide range of valuable services on a cost-free basis to other law enforcement agencies during the fiscal period.

Police Training

Fiscal year 1971 marked a continuation in the long-established policy of the FBI to provide extensive police training, and unprecedented levels of attainment were achieved in this field. Upon specific request, the FBI provided police instructors to 9,110 law enforcement training schools attended by 311,210 officers. It was estimated that well over 83,00 instructional and classroom hours were devoted to various recruit, in-service, and specialized training schools for local police during this time.

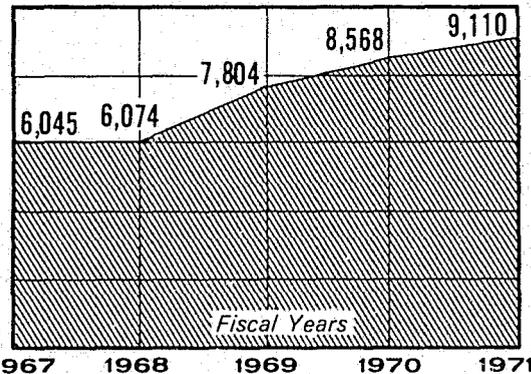
The Bureau provided a total of 277 specialized law enforcement conferences on bombings and bombing threats attended by 33,730 persons, representing 8,305 different agencies. Additionally, 1,288 newly appointed special agents of the FBI were afforded extensive training prior to assignment in the field service.

During the past fiscal year, 200 police officers attended the 86th and 87th Sessions of the FBI National Academy, often referred to as the "West Point of Law Enforcement." The total number of graduates from the Academy, with the addition of those who attended the last fiscal year, swelled to 5,934 officers.

Nine of the 11 projected buildings at the new FBI Academy complex at Quantico, Va., were well under construction as the fiscal period ended, and dates for their completion range from August 1971, through April 1972. When this training complex is finished, the

POLICE TRAINING

LOCAL, COUNTY, AND STATE
POLICE TRAINING SCHOOLS
EXTENDED FBI ASSISTANCE



total number of National Academy graduates each year will increase from its present 200 to 2,000.

The highlight of the past year from a training standpoint was President Nixon's request of the FBI to arrange for a conference of selected police officers from across the country to meet with the President on June 3 at the White House in connection with police killings. Also, at the President's request, 100 chiefs of police, sheriffs, and other police officials representing the 50 States later met for 2 days at the FBI to discuss the problem and determine what could be done to prevent these unlawful acts.

FBI Laboratory

The FBI Laboratory in fiscal year 1971 set an all-time record of accomplishments as it handled 462,595 examinations of 291,008 pieces of evidence. The services of the laboratory are provided without cost to other Federal Government agencies and to State, county, and municipal law enforcement organizations throughout the United States and its possessions.

In the front rank of President Nixon's declared war on organized crime, the FBI Laboratory still is the only agency possessing the technical capacity, wide exposure, and depth of experience necessary to identify, interpret, and demonstrate the significance of any and all types of gambling records and related paraphernalia.

The Laboratory, through the imaginative application of modern science and technology, was able to

meet the widely ranging needs of law enforcement. For example, upon release of a kidnap victim after a ransom of \$250,000 had been paid, dog hairs were found adhering to the victim's clothing and also in the car in which the victim rode. After an extensive investigation which culminated in identifying a suspect, the dog hairs previously found were compared with those of the suspect's pet dog, and the Laboratory advised they were microscopically similar. Testimony of an expert at the suspect's trial was given and the kidnaper was sentenced to life imprisonment.

Fingerprint Identification

The largest collection of fingerprint records in the world is maintained by the FBI Identification Division. At the close of the 1971 fiscal year, the collection totaled 201,315,031. During that period, 6,710,518 sets of fingerprints were received. As a result of the work of the Identification Division, 41,983 fugitives from justice were identified for various law enforcement agencies. In addition, the Latent Fingerprint Section of the Division handled 32,864 cases, an all-time record high, and, as a result of this work, 4,217 suspects were identified.

Uniform Crime Reporting Program

The uniform crime reporting program is a nationwide voluntary effort by law enforcement directed toward the collection, analysis, and publication of crime figures for geographic regions, States, and cities with 2,500 or more population. The FBI compiles these statistics based on information received from more than 9,200 law enforcement agencies covering 97 percent of the total U.S. population living in standard metropolitan statistical areas. These figures are published by the FBI in a quarterly and annual publication entitled "Crime in the United States."

National Crime Information Center

The National Crime Information Center (NCIC), a computerized law enforcement information system, is now linked to 104 law enforcement control terminals covering all 50 States, the District of Columbia, and Canada. These terminals provide direct access to NCIC for more than 4,000 police agencies. The NCIC has stored almost 3 million records on wanted criminals, motor vehicles, stolen property, firearms, securities, and other identifiable items, and it handles an average of 67,000 transactions daily. About 600 of these inquiries result, on the average, in positive responses.

Upon approval of the Attorney General in December 1970, implementation of a criminal history file was begun. This will make needed information instantly available to prosecutors, courts and correction officers as well as to law enforcement, and will constitute another major step in NCIC's progress toward improving the criminal justice system.

Police Killings

At the direction of the President in June 1971, the FBI will, upon the request of the chief of police having jurisdiction, enter the investigation of police killings.

This investigative activity would be in addition to making available the cooperative services of the FBI Laboratory, Identification Division, and National Crime Information Center, as well as covering out-of-State leads. As an indication of the seriousness of this problem, there were 110 law enforcement officers killed during the 1971 fiscal year by felonious criminal action.

APPLICANT AND EMPLOYEE INVESTIGATIONS

One of the FBI's most vital responsibilities is the protection of the Federal Government from infiltration and employment of criminals, subversives, and other undesirables.

The FBI is charged under Executive Order 10450 with the responsibility of checking through its files the names and fingerprints of employees and applicants in the executive branch of the Federal Government. Although matters involving general suitability are normally handled by the Civil Service Commission or the employing agency, the FBI is requested to conduct investigation where information of a disloyal or subversive nature is disclosed. During fiscal year 1971, a total of 286,571 individual security forms were handled by the FBI under this order. As a result of processing these forms, specific requests by the Civil Service Commission and other agencies, and complaints received directly by the FBI, 1,296 investigations were instituted.

At the request of the Department of Justice, the FBI conducts investigations of persons employed in various divisions and bureaus of the Department, as well as applicants for positions of U.S. Attorney, assistant U.S. Attorney, and U.S. Marshal. Investigations are also conducted of applicants for Federal judgeships, U.S. magistrates, and public defenders. In the fiscal year, 4,964 such investigations were conducted.

Other applicant or employee-type investigations handled by the FBI in the 1971 fiscal year included: 242 referred by the Civil Service Commission under various public laws, 2,082 for the Atomic Energy Commission, 888 for the White House, 224 for the Pardon Attorney, and 110 for certain congressional committees.

During the fiscal year, the FBI received name check requests from a number of Government agencies. Of the 2,361,372 name checks handled by the FBI, 1,649,755 were from such agencies; 286,571 involved the Federal employee security program; and 425,046 pertained to other FBI work.

PERSONNEL AND ADMINISTRATION

Organization

FBI Headquarters in Washington, D.C., supervises and coordinates all FBI activities. Headquarters operations are divided into 10 Divisions, designated Identification, Training, Administrative, Files and Communications, Domestic Intelligence, General Investigative, Laboratory, Crime Records, Special Investigative, and Inspection. In addition, the Office of Legal Counsel was established during the fiscal year to provide counsel and instruction in legal matters.

Investigative work of the FBI is handled by 59 FBI field Offices located in major cities throughout the United States and Puerto Rico. More than 400 resident agencies, or suboffices, operating out of the field offices provide wide geographic coverage and thus prompt investigative attention.

Six additional liaison posts staffed by FBI representatives were opened during the fiscal year, bringing the total number of posts in major foreign cities to 17. These posts facilitate the exchange of information with foreign agencies on matters pertaining to international

crime and subversive activities. The new posts were opened in Beirut, Lebanon; Caracas, Venezuela; Copenhagen, Denmark; LaPaz, Bolivia; Managua, Nicaragua; and Tel Aviv, Israel.

Personnel

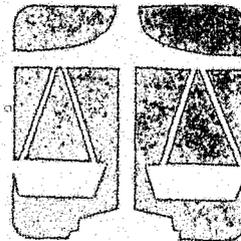
While investigative work of the FBI is done by special agents, a wide variety of noninvestigative personnel, many of whom are highly trained specialists, are also employed. At the end of the 1971 fiscal year, there were 19,628 employees on FBI rolls, consisting of 8,548 special agents and 11,080 clerical, stenographic, and technical personnel.

Files and Communications

Careful processing and filing of information and an efficient communications system are essential to successful FBI operations. By the end of the fiscal year, more than 6,134,000 central files were maintained at FBI Headquarters. More than 1,647,000 pieces of mail were processed and filed, and over 154,000 new files pertaining to FBI investigations were opened during the fiscal year.

bureau of narcotics and dangerous drugs

John E. Ingersoll/Director



Fiscal year 1971 was marked by three major developments. Two were positive: Enactment of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (also known as the Controlled Substances Act, or CSA), and the first use of diplomatic channels to foster international cooperation in the control of production and trafficking of drugs and narcotics. The other was negative: An epidemic-like increase in the use of narcotics and drugs in the United States.

In October 1970, President Nixon signed into law the CSA, which consolidated 14 pieces of legislation into a coherent and effective vehicle to regulate and control drugs in the United States. It established a series of five schedules into which the Attorney General can place drugs in relation to their actual and potential abuse properties. It also provided a schedule of penalties for offenders.

Initial success of the use of diplomatic channels to foster cooperation became evident with the announcement by the Turkish Government that it would eliminate the growing of opium by 1972.

It is recognized that the new legislation and the diplomatic efforts have not had time to become fully effective. But an evaluation of the drug situation in the United States indicates that despite increased efforts and record seizures of drugs and narcotics by all concerned Federal agencies, the flow of illicit drugs and narcotics continued to increase in fiscal 1971 as indicated by the increase in the availability of heroin and increased arrests for narcotic and drug offenses.

SPECIAL OPERATIONS

BNDD operations in fiscal year 1971 removed 653 pounds of hard narcotics, 12,723 pounds of marihuana and 14,336,665 dosage units of dangerous drugs. Of this total, 33.1 percent of the narcotics, 5.1 percent of the marihuana and 56.6 percent of the dangerous

drugs were removed from the domestic market directly as a result of five BNDD special operations.

These special operations are unique outgrowths of the BNDD "identified systems" concept. When an organization consisting of traffickers and wholesalers is identified by BNDD intelligence, it is designated as a "system." It is then continually monitored and infiltrated using undercover agents, informants, and all other tools available to enforcement agencies. When a system is judged to be at its most vulnerable position, through analysis of intelligence, a more intensified and concentrated surveillance and monitoring action is brought into play. Each concentrated action is a specific operation. It is limited in scope, centering on only one or two goals. This limited target concept brings maximum resources to a central area or target, allowing a more efficient action and producing far better results in the attempt to either disrupt or destroy the target or system. By infiltrating the system, making purchases, using informants and telephone intercept techniques, evidence is collected which is used in arresting and hopefully convicting the system's personnel.

Operation Eagle.—Although it was begun and terminated in fiscal 1970, Operation Eagle merits mention because it was the first major test of the combined operation concept and systems concept. Operation Eagle was in the planning and information gathering stage for 6 months. On June 20-21, 1970, agents in nine cities and Puerto Rico moved in to arrest the 199 targeted personnel in the system. One hundred and thirty-nine defendants were arrested immediately. To date, Operation Eagle has led to the arrest of 178 defendants, with 21 still at large. It has removed from the domestic market 106.6 pounds of narcotics and seized 27 weapons, 31 vehicles, and a total of \$22,616.

Operation Stitch.—This operation was directed against mid-level wholesalers in the New York and Chicago inner city. Mid-level traffickers are those persons in the system who deal in 1- to 8-ounce quantities

of heroin and cocaine. The concept was based on intelligence that this area could be exploited by a short, swift, decisive strike. Ten agents from a BNDD task force were used in an undercover role, to augment regional agents. The initial groundwork was terminated in 6 weeks, and on June 28, 1971, agents concluded the operation by arresting 115 of the targeted 159, with 44 defendants still at large. Sixteen and three-fourths pounds of heroin, 40½ pounds of cocaine, 38½ pounds of marihuana, and 308 dosage units of dangerous drugs were seized, as well as 33 weapons, 23 vehicles, and \$27,431 in cash. Followup investigations, including investigations in other regions, have resulted from intelligence and evidence gathered during Operation Stitch.

Operation Flanker.—The second operation of major size, Flanker, was initiated in August 1970. More than 200 agents worked in both undercover and conventional roles in New York City, Hartford, Philadelphia, Baltimore, Detroit, Chicago, and New Orleans gathering evidence in this 6-month-long operation. The basic concept of Flanker was to concentrate resources on three major systems involved in narcotics traffic in these seven cities. Major emphasis was placed on obtaining evidence as to trafficking in heroin and cocaine. Infiltration techniques were highly successful in this operation. In one instance, a BNDD agent penetrated a New York crime organization, gained total acceptance, and later surfaced with information leading to narcotic and conspiracy convictions as well as nonnarcotic related crime convictions. Twelve court-authorized wiretap intercepts were used in five of the cities.

Operation Flanker was terminated on February 24, 1971, with very rewarding results. Of the 179 original people identified with the system, 162 have been ar-



As part of Operation Cooperation between the United States and Mexico, clandestine growth of opium poppies is destroyed in Mexico by Federal judicial police and soldiers.

rested to date. Several arrested were major crime bosses in the New York area. Removed from the market were: 71¼ pounds of heroin, 50 pounds of cocaine, 256 pounds of marihuana, and 7,263 dosage units of dangerous drugs, in addition to \$431,340 cash seized.

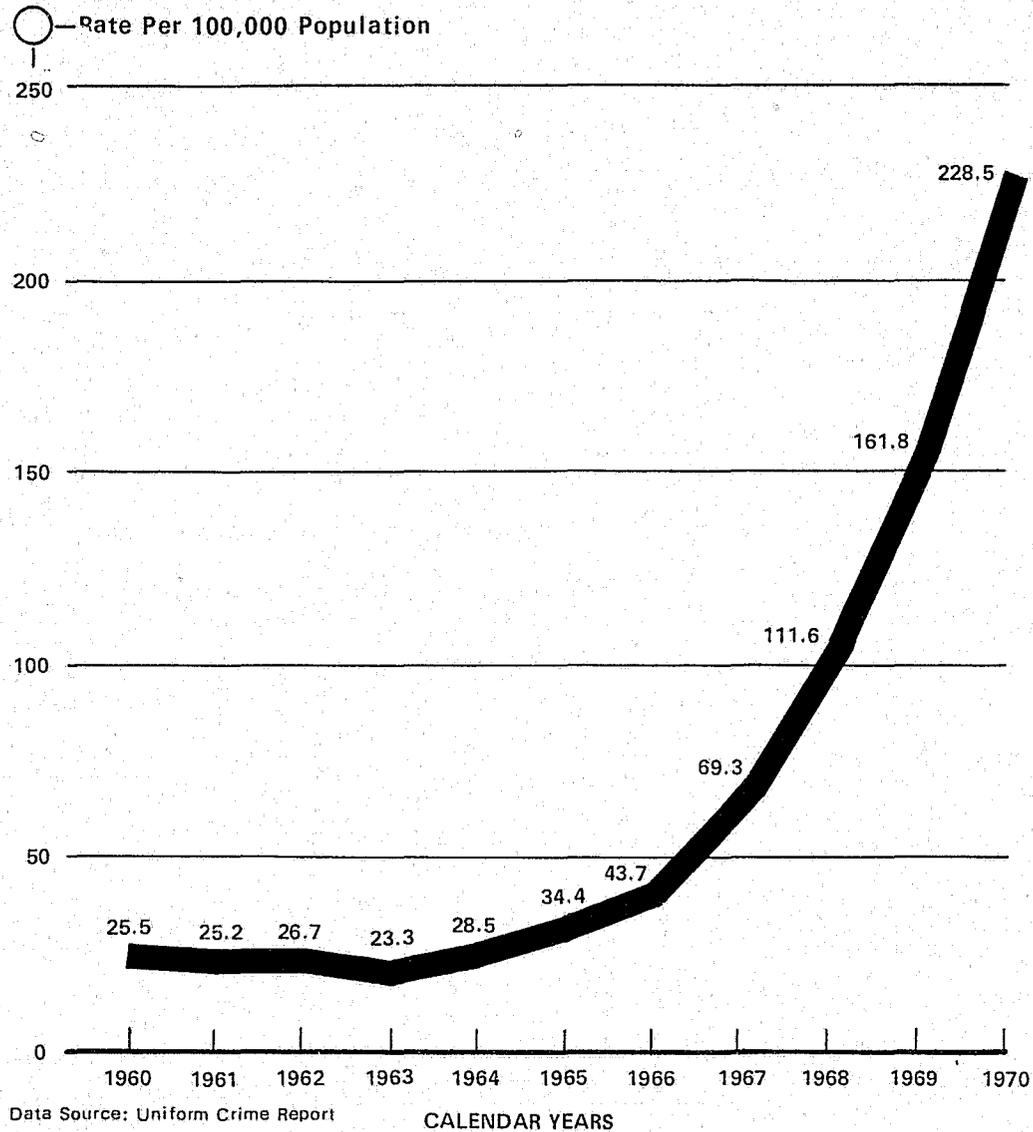
Independent from, but concurrent with Operation Flanker, was Operation Spearhead. Primary targets for Operation Spearhead were secondary systems based in Detroit with major system connections in New York and California. This operation was aimed at total removal of the Detroit system. On October 23 and 25, 1970, after weeks of extensive undercover work and the use of court-approved wiretaps, 21 arrests were effected, completely eliminating one system. Also netted from this operation were: 13 pounds of heroin, 22 pounds of cocaine, 250 pounds of marihuana and \$300,000 cash.

Operation Beacon.—This was the last operation to begin and end during fiscal 1971. It was initiated to undermine the production of hallucinogens, stimulants, and depressants by eliminating clandestine laboratories. As in other operations, extensive amounts of time were spent in the initial stage of information gathering and analysis. Four hundred and fourteen of the original 467 personnel identified have been arrested and 21 clandestine laboratories seized. Standouts among these seizures were one of the largest and most sophisticated hallucinogen laboratories unearthed to date and the four largest known multiproducing laboratories in the United States. As a result of this operation, 2.2 pounds of cocaine, 99 pounds of marihuana,



Federal, State, and local enforcement cooperation was demonstrated in New York on February 2, 1971, with the largest single seizure of hashish ever made in the United States. Approximately one-half ton was seized and four defendants arrested by the New York joint task force. Part of illicit material was concealed behind panels in vehicle (above).

Narcotic Drug Law Arrests Rate Per 100,000 Population



and 8,114,438 dosage units of dangerous drugs were seized. In addition, 28 weapons, 21 vehicles and \$13,540 in cash were confiscated.

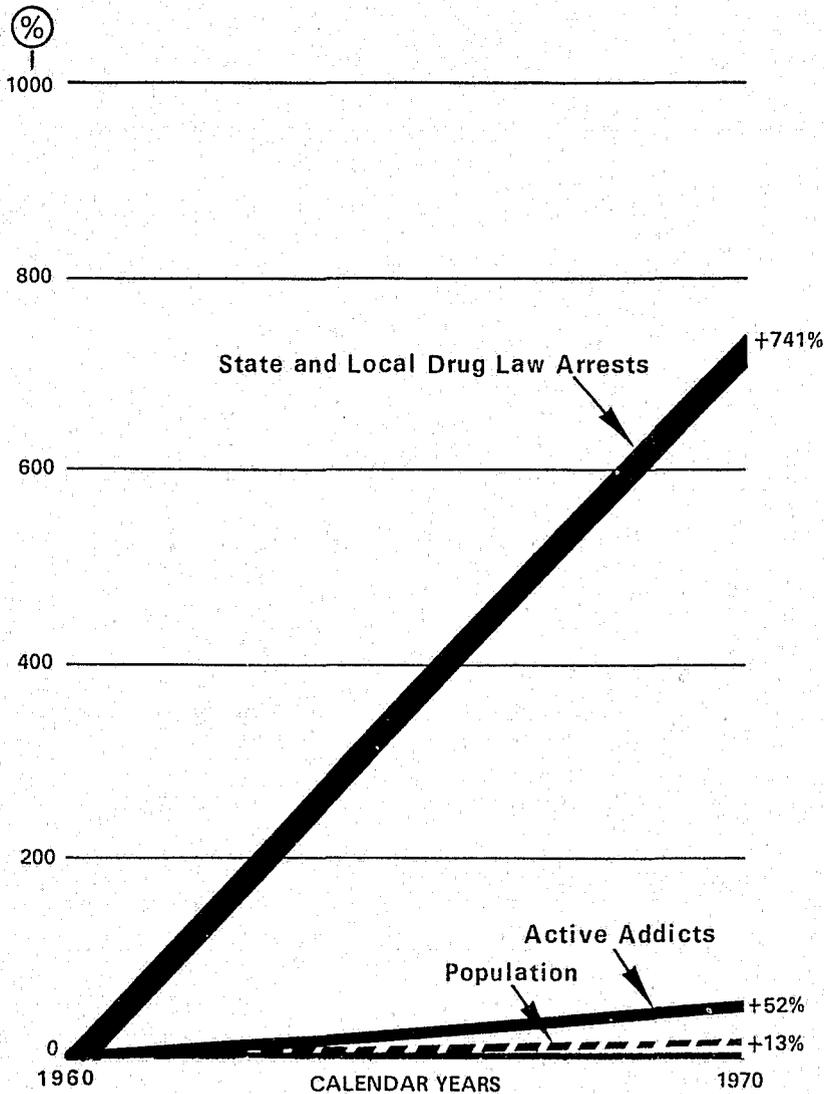
Operation Condor.—Operation Condor, begun in late 1970, is becoming the Bureau's longest operation. The concept of Condor is to intercept the flow of narcotics and dangerous drugs from Central and South America and eliminate the primary system involved in this trafficking. This operation has become a joint effort involving not only BNDD agents, but other Federal, State, local, and foreign enforcement agencies. Intelligence sources have discovered shipment routes used, smuggling techniques, and names of traf-

fickers. Of the original 142 identified system personnel, 73 have been arrested. In addition, 48 persons not of the initial systems identification have been taken into custody. To date, over 1,000 pounds of narcotics have been removed from the market.

Operations by BNDD at the end of fiscal 1971 have netted a total of 890 arrests out of a target of 1,025 defendants. Over 320 pounds of narcotics, 540 pounds of marihuana, and 8,122,000 dosage units of dangerous drugs have been removed from the domestic market. In addition to the removal of the illicit drugs, 150 weapons, 125 vehicles and \$795,000 in cash have been seized.

Percent Change 1960-1970

Total Drug Law Arrests, Active Addicts, Population



Data Source: Uniform Crime Report and BNDD

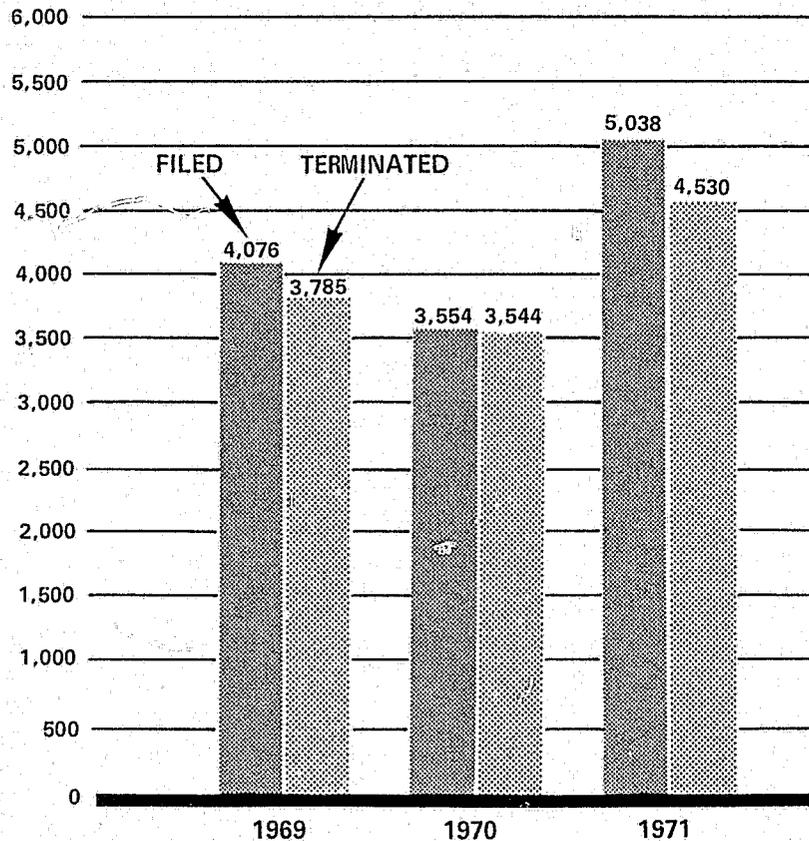
COMPLIANCE OPERATION

The compliance responsibilities of BNDD, consisting of regulatory and investigatory activity, were greatly expanded in fiscal 1971. On May 1, 1971, in accordance with the Comprehensive Drug Abuse Prevention and Control Act of 1970, the Bureau enlarged its scope of activity to include the mandatory registration of all physicians, retail and wholesale pharmacies, pharmaceutical houses, and medical and research institutions.

The basic duties of BNDD in accomplishing its regulatory responsibilities are threefold. First is the registration of all persons and organizations dealing in drugs listed under schedules I through V. During the first 2 months of operation, BNDD registered approximately 450,000 type A (physicians and retail dispensing establishments) applicants and 4,000 type B (wholesale dispensing establishments, pharmaceutical houses, medical and research institutions) applicants. These figures include not only all registrants carried over from the files of the Internal Revenue Service and

Narcotic and Dangerous Drug Cases Filed and Terminated In U.S. District and Appellate Courts

Fiscal Years 1969-71



the Food and Drug Administration, but 11,640 new type A and 540 new type B registrants as well.

Second, the BNDD is responsible for controlling the order forms necessary for the registrants' purchase of all schedule I and II substances. The distribution of these forms must be rigidly controlled to eliminate the possibility that a nonregistrant or a prior registrant who has had his privileges revoked could obtain these forms through legitimate sources. This new centralized control is a great step forward in that the Bureau now maintains all records on a national level and, as such, is able to control manufacture and sale of all drugs much more effectively than under the earlier decentralized system utilized by its predecessors. As of June 30, 1971, the Bureau had supplied over 75,000 order forms to bona fide registrants. This 2-month figure represents 38 percent of the first yearly projection of nationwide order form requests.

Third, the registration section is concerned with registering all importer-exporter permit holders. They

also monitor all invoices of these permit holders to insure their compliance with the Controlled Substances Act.

Prior to May 1, 1971, BNDD instituted investigations based on the "target principle." That is, a firm or individual was only investigated as a result of a complaint being lodged or a directive being issued to the effect that all firms dealing in a specific drug of abuse be investigated to determine if the abuse could be traced to illegitimate possession or sale. During fiscal 1971, a total of 562 investigations were completed which resulted in 151 seizures, 11 voluntary surrenders, and 46 letters of admonition. These actions netted 821,267 dosage units of surrendered and over 200,000,000 dosage units of seized controlled drugs.

This approach was, at best, a hit or miss operation, but because of the Bureau's limited authority and manpower, it was the most effective approach under the circumstances.

With the inception of the Controlled Substances Act, however, a new category was added. This category, the Mandatory Regulatory Inspection, provides for continuing inspections of selected firms manufacturing and selling narcotics and dangerous drugs.

In the first 2 months that the Mandatory Regulatory Inspection has been possible, approximately 10 percent of all inspections completed have shown marked discrepancies of one sort or another. During this period, the Bureau completed 95 investigations, resulting in four seizures and 10 letters of admonition. In the four seizures, 1,966,747 dosage units and 8,488 grams of controlled drugs were confiscated.

The following compliance cases are particularly noteworthy and should serve to point out the type of action being taken by the Bureau in this area. In early 1971, a large pharmaceutical house in New Jersey was found to be greatly deficient in its recordkeeping activities. As a result, BNDD agents seized over 10½ million dosage units of controlled drugs as well as a number of capsule- and tablet-making machines. The president of the firm subsequently pleaded guilty to all counts of the charge. This company had been the subject of two prior investigations which had resulted in a seizure and a letter of admonition.

In a second case, a former employee of a drug manufacturer in Connecticut was arrested as he delivered approximately 200,000 tablets of amphetamines and barbiturates to local officers. When these drugs were

traced to his former employer, the Boston regional office initiated an in-depth audit of the company resulting in the immediate seizure of the company's entire stimulant and depressant stock, approximately 80 million dosage units.

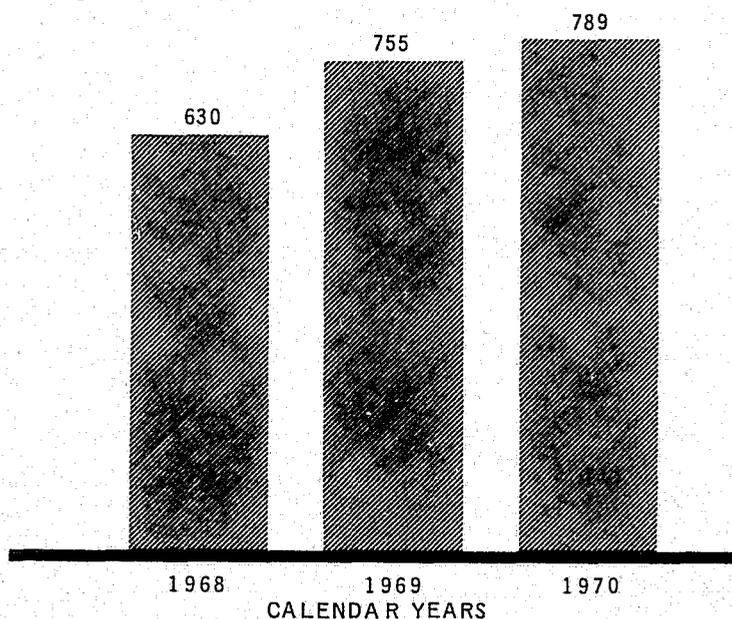
Compliance cases of this sort are not limited to pharmaceutical manufacturers and nonregistrants, however. There are also numerous cases involving the individual practitioner. A case in point is a New York doctor who, it was discovered, did not maintain complete or accurate records, and who had a shortage of over 600,000 dosage units of amphetamines and barbiturates. This discrepancy led to a BNDD seizure of over 1 million dosage units of controlled substances.

STATE AND LOCAL COOPERATION

Cooperative BNDD/State and local arrests totaled 2,247 in fiscal year 1971, compared to 900 in the previous fiscal year. BNDD received and acted on 4,491 requests for assistance in State and local criminal investigations during the year.

The task force concept has been initiated by BNDD to aid large metropolitan areas. It consists of a combination of BNDD agents and local law enforcement agents working as a team with a central headquarters. Under this concept, BNDD provides its own operating expenses, including funds for the purchase of evidence and information.

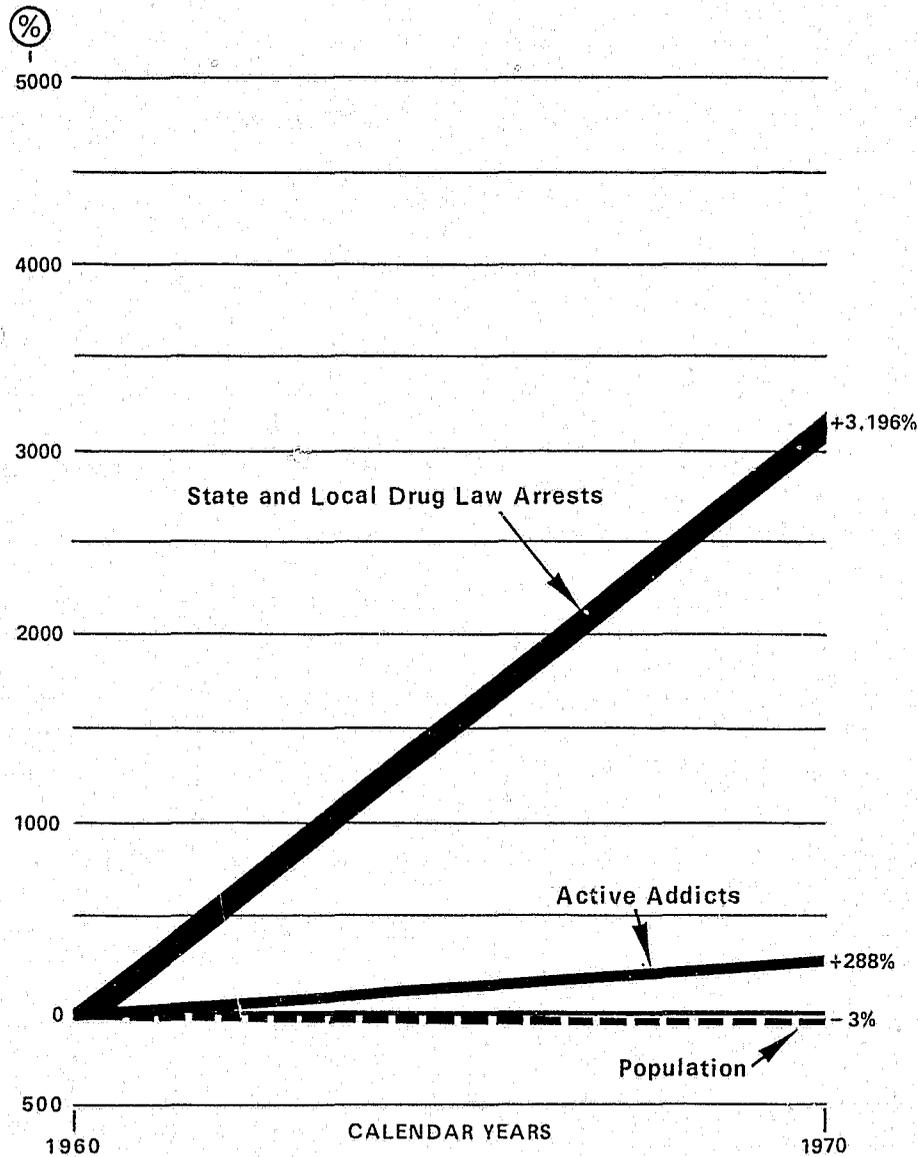
Heroin Removed from the Market by Federal Authorities Worldwide (in pounds)



Percent Change 1960-1970

Under 18 Years of Age

Drug Law Arrests, Active Addicts, Population



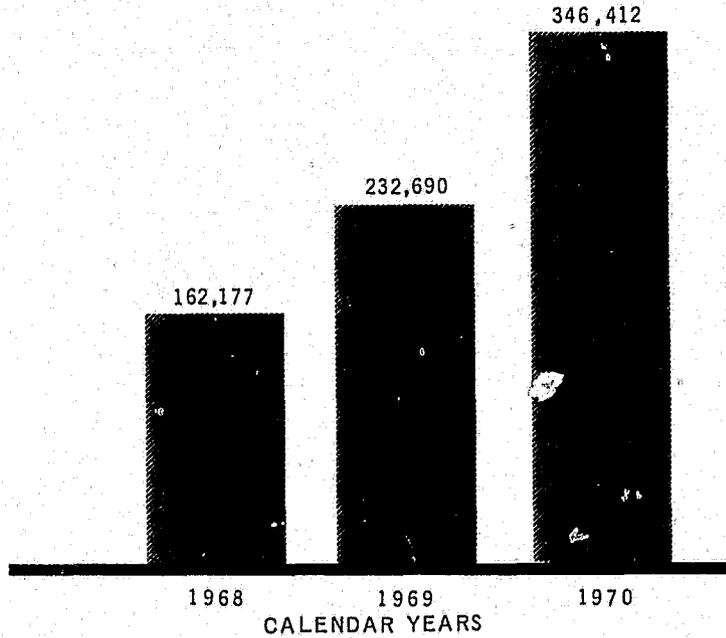
Data Source: Uniform Crime Report, Bureau of Census, BNDD

The BNDD innovation of the metropolitan enforcement groups (MEGs) continued to be received with enthusiasm in many areas of the country. A MEG is a group of law enforcement officers from several neighboring jurisdictions whose mission is to detect, investigate, and apprehend drug law violators. The utility of the MEG is that it provides for the exchange of intelligence and undercover agents, pooling of informants and "buy money," and cooperation in long-range planning. At the close of the year, 37 MEGs were

operational in the United States, and many more were in the processing stage.

During the year, BNDD lab operations performed in excess of 20,000 drug analyses for State and local agencies. While these analyses have always been free, testimony expenses have previously been paid for by the requesting agency. Beginning in October 1970, these costs were also absorbed by BNDD, affording a completely free service to State and local agencies of drug analyses and court testimony by BNDD chemists. In

State and Local Arrests*



*Source: Uniform Crime Report

addition to these analyses, BNDD has prepared standard drug samples for use by forensic chemists, to aid in their analysis at their own labs. Five hundred of these samples were furnished to State and local agencies, as well as to the Federal and foreign agencies during the year, compared to 200 in the previous year.

Training of State, local, and military investigative officers and allied personnel continued to increase during the past year. Individuals attending BNDD schools, seminars, and sessions totaled 55,539, including 344 foreign police officers.

The Uniform State Controlled Dangerous Substance Act, which was designed by BNDD to complement the Federal Controlled Substances Act, has now been adopted by 22 States and three territories. Eight additional States are now considering this legislation.

FOREIGN COOPERATION

The success of BNDD is greatly dependent on reaching the highest possible sources of drug supply and apprehending the greatest quantity of illicit drugs before they reach the street. Because major drug trafficking operations are often dependent upon extensive international distribution systems, in fiscal year 1971 BNDD expanded the already substantial operations against foreign drug traffickers. A major aspect of BNDD

operations is the disruption, neutralization, and ultimate destruction of these systems. Accomplishing this mission in fiscal 1971 has been dependent upon foreign cooperation at all levels. It has included high level international agreements, and assistance to foreign and local police in enforcement operations by providing resources and intelligence and helping with education and training of selected enforcement cadres.

During fiscal 1971, BNDD initiated actions that culminated in agreements with Turkey, France, and Mexico.

On June 30, 1971, following months of diplomatic talks, the Turkish Government agreed to ban the growth of opium following the harvest of the 1972 crop. Although the long-range effects of this ban cannot be known, the fact that a major portion of the heroin used in the United States comes from Turkish-grown opium suggests that the flow of drugs into this country may be substantially reduced, and that international drug traffickers may find their main source of drugs seriously limited.

Another important agreement was drawn up between France and the United States by Attorney General John Mitchell and French Interior Secretary Raymond Marcellin on February 26, 1971. The purpose of this agreement is to foster increased cooperation between the two Governments in combating illicit international narcotic trafficking at the law enforcement level.

Further use of diplomatic channels to stop the illicit flow of drugs was made when the Attorneys General of the United States and Mexico discussed the serious drug problems between the United States and Mexico and agreed to continue the present framework for cooperation between the two countries. In addition, the U.S. Government gave the Mexican Government five helicopters and three airplanes to be used in detecting and eradicating marihuana and opium poppy plants.

The sudden increase of drug abuse among servicemen in Vietnam in early 1971 was of great concern to all Americans. After discussions with the U.S. diplomatic mission, the Vietnamese Government implemented effective measures to curtail drug trafficking in Vietnam, particularly as it concerns U.S. servicemen stationed there.

Finally, BNDD, working with the State Department, participated in two international conferences concerning drug problems.

In his role as U.S. representative to the United Nations Commission on Narcotic Drugs, the Director of BNDD led a delegation to a special session at Geneva in September 1970. During this session the United States led the establishment of a special fund to strengthen the control of drug abuse via the United Nations.

In January and February 1971, the United States participated in the Plenipotentiary Conference in Vienna to adopt a new treaty governing international traffic in pills. The new treaty, known as the Convention on Psychotropic Substances, provides for a system of international and national controls on many dangerous drugs, especially hallucinogenics, amphetamines and barbiturates. These drugs had not previously been subject to international control.

Tangible evidence of the Bureau's work in cooperation with foreign governments is found in many significant operations during the fiscal 1971.

With U.S. assistance, the Turkish Government increased its efforts to eradicate the illicit production of opium. As a result, over 80 acres of opium poppies were destroyed and 250 people arrested.

Programs to destroy plantations, similar to those found in Turkey, were also carried out in Mexico. In April 1971 the Guadalajara district office agents and Mexico Federal judicial police agents located and destroyed five poppy plantations (resulting in the destruction of 6 acres of opium plants) and one plantation of marihuana near the tillage of Tepozan, Jalisco, Mexico. However, a more comprehensive group of drug eradications took place in September 1970, although many of the drugs destroyed had already been harvested and processed within that month. The attorney general of Mexico conducted massive drug destruction operations all over Mexico. More than 16 tons of marihuana, 3.1 kilograms of heroin, 276 grams of cocaine, and 7.7 kilograms of opium poppy seeds were

destroyed. The overall effort of BNDD in Mexico to persuade the Mexican Government to locate and destroy drugs and drug plantations has resulted in the cooperation Mexican officials in an active search for illegal drug production.

In order to stop the flow of drugs in the possession of traffickers, the Bureau also conducted operations designed to intercept drugs enroute to the United States. These activities often necessitated the coordination of BNDD with more than one government.

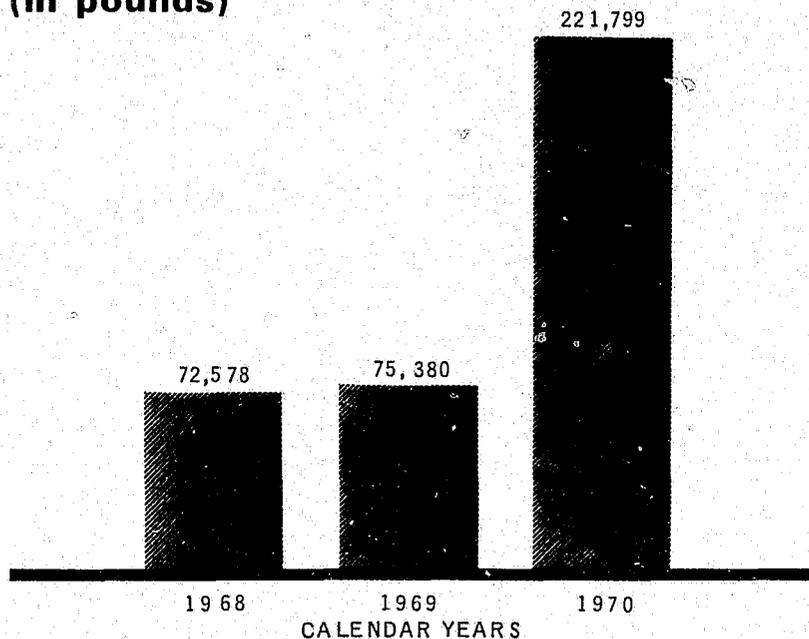
In October 1970, BNDD agents in cooperation with French and British authorities received information that two men would try to smuggle heroin to Freeport, Bahamas, and from there to the United States. When the suspects arrived in Paris from Marseilles, French police arrested them and found over 114 pounds of pure heroin in their car. In December of the same year, another seizure of drugs was made; in this case 220 pounds of amphetamine powder was confiscated. The powder was being shipped from Milan, Italy, and was destined for an illicit laboratory which had been discovered in Georgia. Conversion of this bulk powder would have yielded 10 million dosage units.

In February 1971, a severe blow was dealt to the network of an important morphine supplier, who had been importing morphine from Turkey to France. Following a lead from a French fisherman, French customs officials searched a boat 30 miles out of Marseilles. On the boat they found some morphine base and arrested a French national and a Turkish shopkeeper. Subsequent investigations involved the arrest of a number of other key personnel in the operation including the supplier himself, and 358 kilograms of morphine base were seized. This was the largest seizure of this drug ever made in the region and had the effect of crippling one of the most important morphine suppliers for clandestine labs in southern France.

In April, as a result of intelligence gathered by BNDD and information forwarded by German police, a joint investigation conducted by French authorities led to the arrest of four defendants and the seizure of 162 kilograms of morphine base. The morphine was concealed in an auto owned by a German national. This operation, which utilized the cooperative efforts of German, French, and United States officials, stopped a group of traffickers who were known to have made continuous drug runs from Marseilles.

In February 1971 Mexican Federal personnel, aided by BNDD agents, seized approximately 23½ kilograms of cocaine at Mexico City International Airport and arrested several Chilean suspects. This action illustrates the efforts made by Mexican authorities, supported by the BNDD, in searching international flights. Several other seizures have been made at Mexico's International Airport because of information forwarded to Mexican authorities by BNDD, including

Marihuana Removed from the Market by Federal Authorities Worldwide (in pounds)



one raid which produced 5 kilograms of heroin, the largest seizure at that airport in 8 years.

On February 26, 1971, a BNDD agent in Buenos Aires received information that a private aircraft owner was utilizing a tourist charter business as a "front" for the shipment of illegal narcotics. This information was furnished to the U.S. Bureau of Customs, which seized a large quantity of heroin from the aircraft in Miami.

The above cases dramatize the effectiveness of U.S. cooperation with foreign officials at both policymaking and enforcement levels.

PREVENTIVE PROGRAMS

During fiscal year 1971 the drug abuse prevention effort of the Bureau concentrated on three major activities. They were the public inquiry and information program, the voluntary compliance program, and the community organization program. These activities are interrelated, with the major focus on prevention of illicit drug use, possession, and trafficking through the involvement of public and private agencies, organizations, and institutions in programs which include law enforcement.

The Bureau is not a funding agency. However, it provides technical assistance to enforcement-related prevention programs through its headquarters and regional offices, as well as providing films, publications, and speakers. The Bureau's prevention efforts, involv-

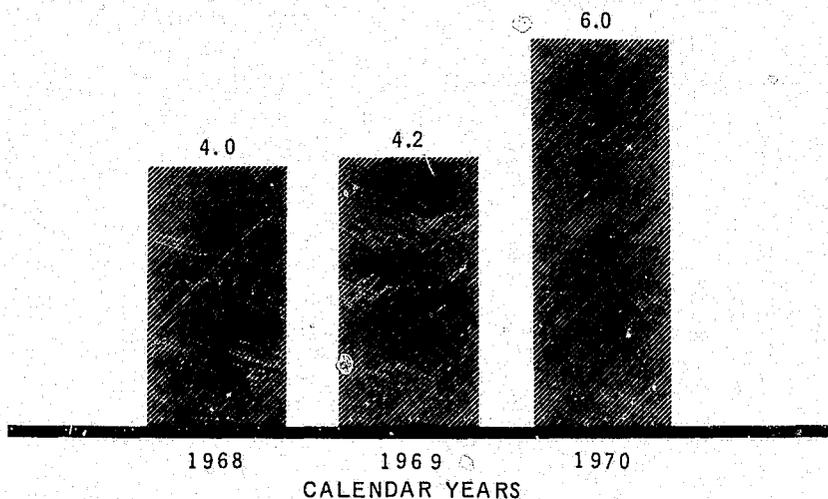
ing many groups and organizations, are necessarily catalytic and aim at involving law enforcement with other community organizations to establish prevention programs at the State and local level.

PUBLIC INQUIRY ACTIVITY

A more specific focus for the public inquiry program has evolved as a result of the Bureau's cooperation with the Department of Defense and the National Institute of Mental Health in a 3-year mass media advertising campaign conducted through the Advertising Council. It continues to provide information to the general public; however, the focus is increasingly on enforcement-community cooperation and on the prevention role that can be played by people in drug-related and educational professions. A broad spectrum of materials is provided.

Voluntary compliance.—The voluntary compliance program involved primarily the distribution of information, including publication of the existing laws and regulations relating to controlled substances. It encouraged prevention programs by the regulated industries and the professions involved, and maintained liaison with professional associations such as the American Pharmaceutical Association. Encouragement and assistance was also provided to the Pharmaceutical Manufacturers Association and to individual manufacturers in the development of prevention materials, films, and publications.

Heroin Availability in the United States* (in tons)



* Source: United Nations Report

Community organization.—The Bureau's unique contribution to the prevention effort has been the establishment of pilot community projects for drug prevention. These projects involve local leadership in specific communities in each of the Bureau's 13 domestic regions. The 13 pilot areas were selected with the intention of getting as wide a distribution of sizes and types of communities as possible. The pilot areas ranged from a city the size of Omaha, on the one extreme, to the virtually isolated small town of Odessa, Tex., on the other.

New approaches to drug abuse prevention were developed through contact with organizations concerned with youth, the arts, business and labor, education, communications, religion, mass media, and other areas. The flexibility of the Bureau's preventive programs effort made it possible to explore and evaluate promising approaches at minimal cost and time expenditure. The innovations and new concepts discovered were communicated to the appropriate organizations at the Federal, State, and community levels for their use.

RESEARCH AND DEVELOPMENT

Research projects in fiscal 1971 attempted to create better methods of drug detection, identify the scope of the drug problem, and analyze the workings of the drug abuse subculture. For the most part, this research was tailored to BNDD's enforcement activities.

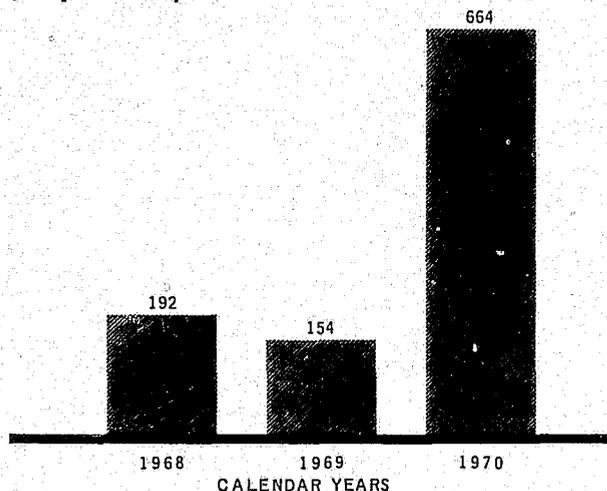
A large part of BNDD's research in fiscal 1971 was

devoted to new methods for analyzing drug evidence. This research, performed at all of the regional labs, provided vital technical support to the agents in the field. BNDD scientists and professionals conducted continuing research projects to determine new substances in which illicit drugs were to be found, as well as developing additional and often better methods to detect drugs in suspected samples. Additional research was done by using comparative tests of drugs to assist agents in detecting common drug sources. In fiscal year 1971, over 30 projects of this type were initiated. BNDD scientists reported the results of their research to law enforcement personnel, through professional channels.

In fiscal year 1971 the BNDD also initiated several projects still in progress. Their results should help the Bureau to define the drug problem more accurately and to put it in a better social perspective.

One of these projects is geared to improve the present methods of identifying the number of drug users in the United States. In the first phase of this project, under contract to the Matrix Research Division of URS Systems, Inc., BNDD will determine the requirements for and the feasibility of a national uniform drug addict/drug abuser reporting system from law enforcement sources. Later phases of the program will make similar determinations with regard to nonlaw enforcement sources. If the overall results of this project are favorable, the Bureau should be able to obtain consistently accurate counts of drug abusers in the United States.

Cocaine Removed from the Market by Federal Authorities Worldwide (in pounds)



BNDD has also initiated studies to provide a better understanding of the relationship of crime to drug abuse. One of these studies, begun last July, compares the patterns of criminal behavior of drug users with nonusers. The results of this study should indicate the proportion of serious crimes that are related to drug abuse. Another project is attempting to determine the connection between illicit drug activity and other criminal activity.

If the relationship between drug activity and other crimes can be determined and better defined, the Bureau should be able to predict trends in criminal activity and establish definite links between certain types of crime and drug abuse. Still another BNDD project now in progress is an attempt to give a picture of the nonmedical use of dangerous drugs in the United States through a compilation of surveys, studies, and polls.

Other research is approaching the drug problem from a different perspective. One study, which was begun in fiscal 1969 and was continued during fiscal 1971, is examining both the nature and sources of supply of illegal drugs used by high school and college students, and trying to determine how the choice and use of drugs are related to drug sources. When com-

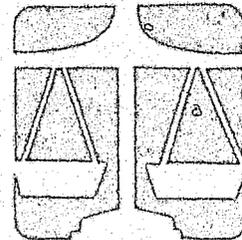
pleted, the study will help to define the sociological characteristics of drug peddlers and may prove to be an aid in identifying peddlers who would not otherwise have been identified.

The Bureau has developed and is now testing marketing analysis techniques to assist the enforcement effort. In one of these projects, illegal drug prices at the retail and wholesale level are being analyzed as economic indicators of the availability of illicit drugs to the drug user. Begun in March 1971, the program works from the theory that illicit drug prices behave as and should be treated as commodities in an economic market. It is expected that the study of fluctuating drug prices will be indicative of the fluctuating availability of the drugs themselves. The analysis of illicit drug prices may well be vital to BNDD in the future as a measure of the effectiveness of enforcement activities and as an indicator of weaknesses in the drug trafficking system.

Fiscal year 1971 also marked the final stages in development of new techniques to aid enforcement, two of which utilize foreign cooperation. In the first, BNDD is making inroads against illegal production of LSD. By identifying certain countries in Central Europe as the inadvertent sources for the chemical precursors used to make LSD, BNDD was able to make informal arrangements with these countries and with the legitimate manufacturers of the precursors. In essence, these agreements will help BNDD to identify the illegal supply lines of precursors and to keep the chemicals within legitimate supply chains. Another method of drug control was the further refinement of drug "ballistics." Since all tableting machines leave their own characteristic marks or "fingerprints" on the tablets they produce, a ballistics-type system can be used for tracing tablets to their source. Through the cooperation of the Mexican Government and Mexican drug manufacturers, BNDD was able to obtain a representative sample of all legitimate drugs made in Mexico. Working with Customs officials, BNDD can now trace many drugs which have been confiscated by Customs or seized after entry into the United States back to their source in Mexico. This information should help BNDD and Mexican officials to trace the flow of drugs from licit to illicit supply lines.

federal bureau of prisons

Norman A. Carlson/Director



In fiscal year 1971, the Federal Bureau of Prisons accelerated the implementation of its long-range plan for correctional reform.

The Bureau's blueprint for progress had been prepared in May 1970, after President Nixon called for a 13-point program of prison reform in the United States and directed the Federal Bureau of Prisons to establish itself as a model for State and local systems. The plan includes the following major elements:

- Increased emphasis on developing a professionally trained staff
- Development of correctional programs relevant to a changing society
- Increased development and utilization of research and evaluation capabilities
- Provision of facilities to meet present and future requirements
- Expansion of the Bureau's technical assistance to State and local correctional systems.

CAREER DEVELOPMENT AND STAFF TRAINING

The inmate population in Federal correctional institutions increased from 21,200 on June 30, 1970 to 21,410 a year later, a trend that has prevailed for the past few years. A continuation of this trend is expected inasmuch as the number of prisoners confined in local jails awaiting trial is growing each year, the average length of sentences is increasing, and the number of criminal cases pending in the U.S. courts is rising steadily. It is also significant that offenders being committed to Federal institutions are in general more aggressive and assaultive than those received in the past and less responsive to correctional treatment.

To meet these challenges, intensified staff training and career development programs are mandatory. Correctional staff members must have highly developed interpersonal skills and the ability to apply those skills. In response to this need, the Bureau opened the first of five planned regional staff training centers at the Federal Reformatory, El Reno, Okla. in March 1971.

Two additional staff training centers are projected for the next year.

In addition to providing orientation for all new employees, the training centers will include in-service training for present staff members. As the program develops, the centers will provide training programs for State and local correctional personnel. The University of Oklahoma has been given a contract to conduct a 1-year evaluation of the El Reno training program.

A cadre of 40 Federal, State and local correctional educators was trained in 1970, the first year's operation of a 3-year project funded by the U.S. Office of Education. The project was administered by the University of Hawaii in cooperation with the Bureau of Prisons. Those in the initial group are now serving as faculty at regional staff institutes designed to upgrade correctional education and training programs at Federal, State, and local levels.

The Bureau of Prisons and the Law Enforcement Assistance Administration cosponsored an "Institute on Innovative Programming for Youthful Offenders" at the Kennedy Youth Center, Morgantown, W. Va., in 1970. Thirty participants from 15 different State correctional systems were introduced to innovative ideas for possible adaptation in their own facilities. In response to this program eight similar institutes were held during 1971, as a systematic means of sharing new techniques with State and local correctional agencies.

The Bureau of Prisons is conducting a continuing national recruiting program to attract interested and qualified people to the Federal Prison System. Recruitment arrangements are being made with more than 20 colleges and universities across the country to tell the "Federal Corrections Story" and to interview interested persons. Recruiting efforts encompass a broad range of occupational interests including education, casework, business administration, personnel administration, and counseling. In addition, upwards of 100 college students at both graduate and undergraduate levels are participating in the Bureau's 1971 summer internship program.

DEVELOPMENT OF CORRECTIONAL PROGRAMS

Programs designed for the individual treatment of each offender are initiated in the first few weeks following his commitment to a Federal correctional institution. During this time the inmate receives a thorough evaluation, including intensive diagnostic studies, to help determine the treatment program that will assist him towards becoming a useful citizen. Services provided may include education, vocational training, counseling, and attention to serious psychiatric problems. The treatment program is individualized, and progressive goals are set for each inmate.

In nearly all of the Federal institutions, the planning for and management of the inmates' programs are the responsibilities of a "treatment team." The "team" method differs from the traditional method of classification by a central committee and makes it possible to develop a close working relationship between the inmate and the staff members responsible for his program. The result is better use of institutional and other resources and more effective treatment for the inmate.

A new classification technique has been developed and is expected to bring a greater measure of effectiveness to the treatment of the offender. The basic thrusts are: (1) to implement the concept of case-by-case differentiation and a full range of various treatment programs; (2) to put a stronger emphasis on

goal setting and measurement of progress; and (3) to develop a more effective link between the treatment team and long-range planning and budgeting. These techniques also involve the employment of computer technology on a large scale for the retrieval of data vital to program evaluation and inmate treatment.

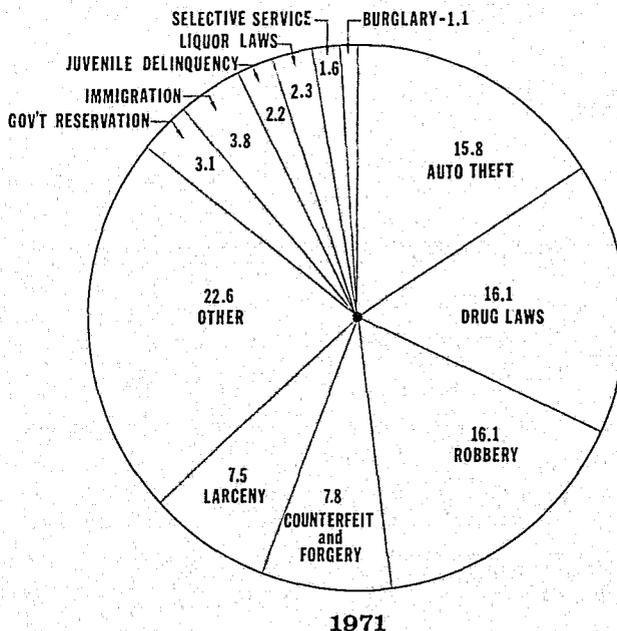
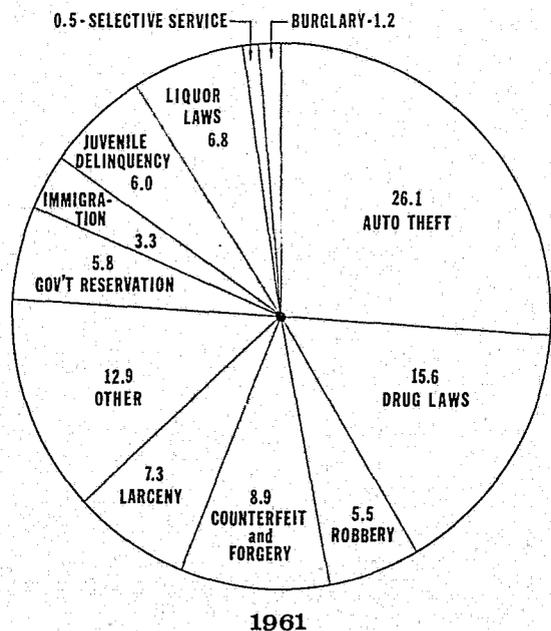
Most offenders are academically, vocationally, and culturally handicapped. While Federal inmates have about the same intelligence level as the national population, they are educationally retarded by an average of about 5 years. Approximately 70 percent of the adult offenders and an even higher percentage of the youth are ill-equipped to enter the job market.

To reduce these knowledge and skill deficiencies, the Bureau of Prisons operates an educational program in all of its institutions. There is a full-time staff of approximately 360 and an average pupil load of 7,000. This means that one out of every three Federal inmates is involved in some kind of education and training activity, ranging from remedial reading through college-level education, and a wide spectrum of occupational skill training.

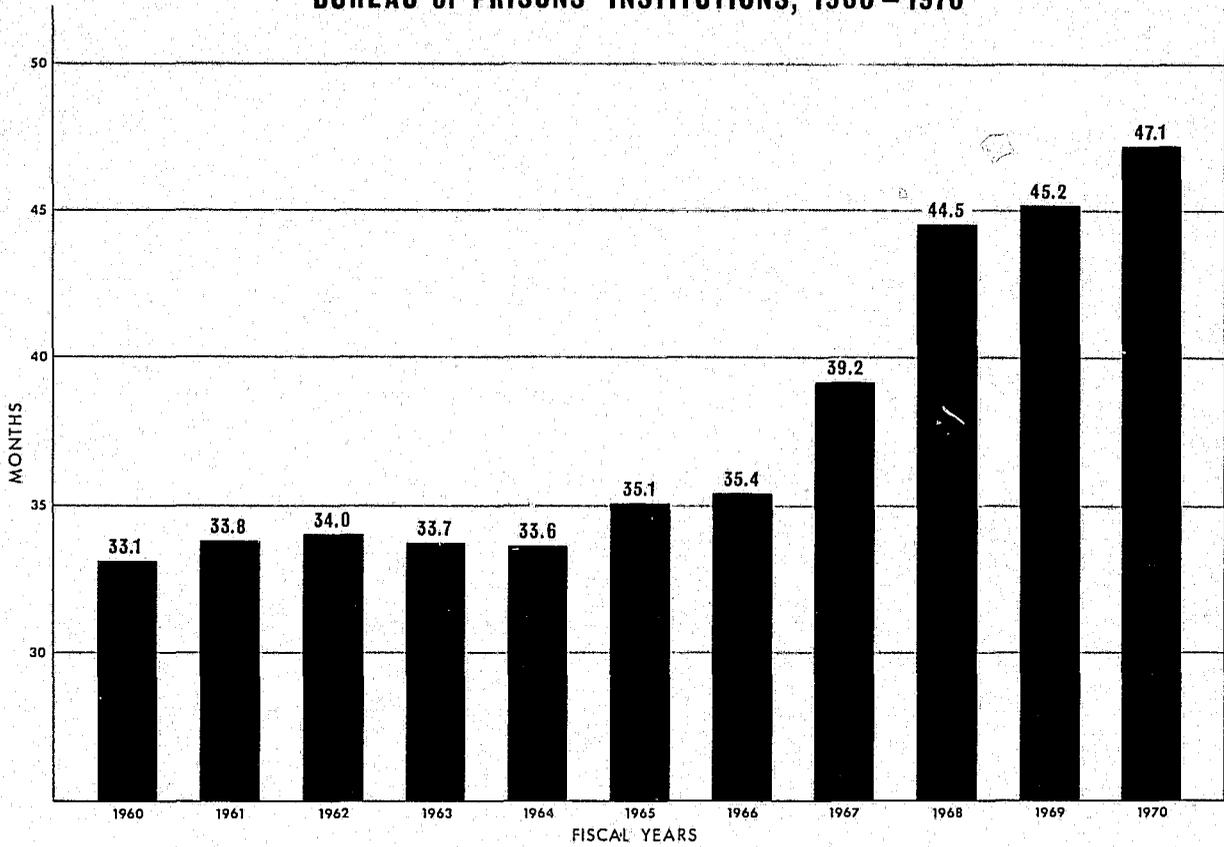
Increased enrollment and greater effectiveness are being achieved in the Bureau's adult basic education programs through the use of innovative approaches, such as learning material centers, team teaching, programmed instruction, individual prescription programs, and speech therapy.

More than 2,100 inmates were prepared for and passed the high school equivalency test during the fiscal year.

Percent of Inmates Confined in Bureau of Prisons' Institutions, by Offense, FY 1961 and FY 1971



AVERAGE SENTENCE of COURT COMMITMENTS to BUREAU of PRISONS' INSTITUTIONS, 1960 - 1970



Inmates in two Federal institutions are receiving college preparation through "Project Newgate," an Office of Economic Opportunity grant program for men and women in prison. The program is in its second year at the Federal Youth Center, Ashland, Ky., where it is conducted by instructors from Morehead University. It is in its first year at the U.S. Penitentiary, Lewisburg, Pa., where it is operating as an extension of a University of Pennsylvania grant program.

Sixty men at the U.S. Penitentiary, Atlanta, Ga., are enrolled in a college level program that combines correspondence courses, use of audio tape cassettes and tutoring via conference-type telephone. Those who pass college level examinations will receive college credit at the University of Georgia.

The Bureau's vocational training program is financed entirely from the profits of Federal Prison Industries, Inc. (FPI). This Government-owned corporation operates 50 industrial shops in 21 institutions, and employs approximately 4,650 inmate workers. The products and services produced are used by other Federal Government agencies.

Training and industrial programs are reviewed continually and revised to meet changing employment conditions. The current emphasis is on such areas as automatic data processing, furniture manufacture and repair, and a wide range of equipment operation and repair.

Skill training also is being provided to inmates under Manpower Development and Training Act (MDTA) grants authorized by the Department of Labor. Public and private facilities are conducting the training at Federal institutions in Sandstone, Minn.; Lewisburg, Pa.; Springfield, Mo.; and Danbury, Conn.

Twenty-six employment placement officers, financed by FPI, Inc., assisted one out of every two men and women released from Federal institutions who were seeking employment in fiscal year 1971. The efforts of the placement staff produced a 6.3 percent increase in the number of such placements in 1971 compared to 1970.

The Corporation has followed a policy of deactivating industrial operations which have little training potential in marketable skills. Clothing factory opera-

tions were closed at the Federal Correctional Institution at Lompoc, Calif. and a glove manufacturing operation at the Federal Correctional Institution, Danbury, was reduced 50 percent. At both locations, FPI expanded its electrical cable assembly operations. A wood products factory at the Ashland (Kentucky) Youth Center was closed to make way for a new-type automotive vocational training program through which each student progresses at his individual pace.

An industrial training program in computer key-punch operations is conducted at the Federal Reformatory for Women, Alderson, W. Va. A supplemental training program in the printing industry at Lompoc, Calif., enables inmates to learn technical skills related to the printing trade. Following recommendations by the Illinois Printing Industry Association, the Industries printing plant at the U.S. Penitentiary, Marion, Ill., improved inmate training opportunities to provide them with work-experiences more in line with the printing industry in the community.

HEALTH SERVICES

Federal inmates receive comprehensive health care through the Bureau's Division of Health Services. Almost all of the Division's 388 full-time employees are U.S. Public Health Service personnel. They include physicians, physician's assistants, dentists, psychiatrists, psychologists, and technical staff.

During the fiscal year the Health Services Division, following the guidelines of the Bureau's 10-year improvement plan, developed a regionalization program that will provide a more efficient alinement of Health Services resources. Each of the Division's 27 hospital facilities has been classified into one of five treatment categories, ranging from primary care to regional medical centers. Springfield, now the single major medical center for the Bureau, will continue as the central referral facility until regional centers are operational.

The Springfield center also has had an important role in the Division's training program. The center recently graduated its third class of physician's assistants. A number of these paraprofessional employees are now on the staffs of Bureau hospitals and several have participated in demonstration projects with the Bureau of Indian Health. The center also offers training to paraprofessionals from State correctional systems.

Over 80 inmates are receiving paramedical training at the Springfield center under an MDTA grant. The training programs include clinical laboratory procedures, X-ray technology, operating room techniques and hospital housekeeping.

The Central Dental Laboratory at the U.S. Penitentiary, Lewisburg, conducts a 2-year dental technician course, in which about 30 inmates are currently enrolled.

Narcotic Addicts Program

The rehabilitation process is made much more difficult when narcotic addiction is among the problems present. One of the most important of the Bureau's programs is to provide special treatment facilities for inmates committed under title II of the Narcotic Addict Rehabilitation Act (NARA). The NARA program is conducted at five Bureau institutions. The most recent treatment unit was established this year at the Federal Correctional Institution, La Tuna, Tex. The other NARA units are at Danbury, Conn.; Alderson, W. Va.; Terminal Island, Calif., and Milan, Mich.

The NARA treatment program emphasizes the development of improved socialization among patients. The primary technique used to accomplish this objective is the comprehensive therapeutic community. All units have structured their program to include elements of this treatment approach.

Aftercare is a key element upon which the NARA program is based. Since the inception of the program, the Bureau has negotiated more than 50 contracts with public and private organizations to provide title II releasees with a wide range of aftercare services in the community, a requirement of the act. Currently there are 380 title II aftercare cases.

A special research program is under way to analyze the success of the NARA patients in the aftercare phase.

Drug Abuse Program

In 1971, the Bureau of Prisons began a drug abuse program for offenders who have a history of drug problems but who do not qualify for treatment under the NARA statute. Five institutions were selected to begin an intensive program for offenders who are within 1 year of their release date. The drug abuse programs are being established at: Lewisburg, Pa.; Petersburg, Va.; Terre Haute, Ind.; El Reno, Okla.; and Lompoc, Calif. Initially these programs will be staffed for a patient population of 50 each.

PROGRAM EVALUATION

Progress is being made in developing a computerized information system that will provide the Bureau with rapid synthesis and analysis of data for on-going and current management needs. It also will permit the testing of program elements for the refinement of long-range plans.

Several programs are now producing a variety of statistical and demographic reports. The data base for the inmate information program generated information used in congressional appropriation requests and for the preparation of the annual statistical reports. Computer-based programs are now being designed for

the Bureau's accounting, personnel, research, telecommunications, Federal Prison Industries, education and training activities. Telecommunications terminals are being installed at four pilot institutions: Alderson, W. Va.; Leavenworth, Kans.; Morgantown, W. Va.; and Lewisburg, Pa. This is the first phase of a nationwide telecommunications network that will link all of the Bureau's institutions to the Justice Department's computer. The information collected will enable the computer to produce statistics and reports at the local and national levels and to perform a variety of other operations essential to management.

Plans are being developed for an on-line computer hookup between the Bureau and the Federal Bureau of Investigation's new National Crime Information Center system. Scheduled for operation within the next year, the linkage will improve the Bureau's long-range evaluation efforts by permitting direct retrieval of recidivism data and enhancing validation studies.

Work-release prediction studies have been developed to help program managers estimate the pre- and post-release success probability for a given inmate in a given program. The same method is being used with Community Treatment Center data. If the method proves

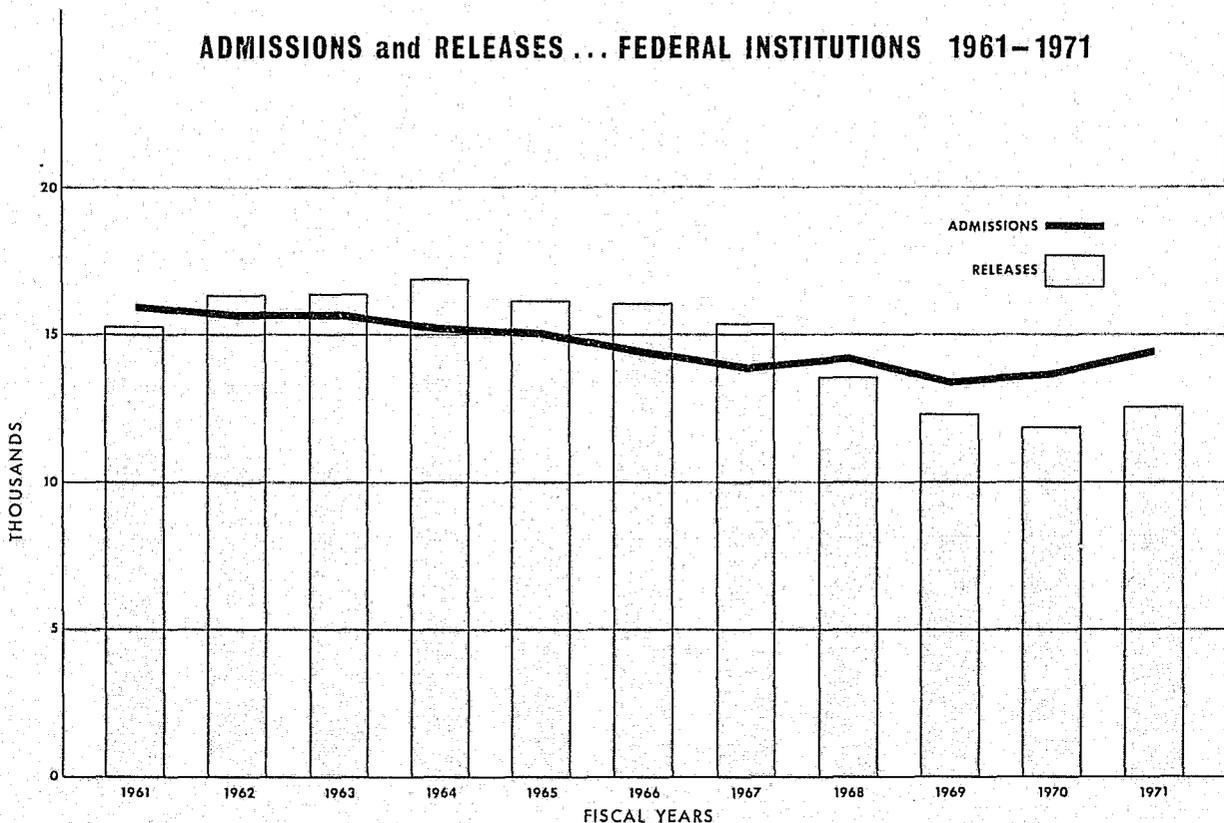
successful, it will be expanded to improve the management of other programs.

University of Michigan researchers conducting evaluation studies at the Kennedy Youth Center, Morgantown, W. Va. have developed an internal audit system that helps determine whether programs are functioning as intended. The audit system will be used extensively at the center and may be applied at other institutions. Preliminary data from the center also has provided an indication of the overall effectiveness of the institution's program.

Legal

Evaluation in a different vein is the new responsibility of the Bureau's legal section, expanded June 1, 1971, into the Office of General Counsel and Review. In addition to responsibility for legal matters, the Office will monitor institutional programs to assure service-wide consistency in the application of Bureau policies and procedures.

By a law enacted during the year, the Federal Government joined the Interstate Agreement on Detainers, thereby making it easier for Federal inmates to



have pending State charges disposed of and for State prosecutors to obtain Federal prisoners for trial on State charges.

NEW AND IMPROVED FACILITIES

The Bureau's buildings and facilities budget for fiscal year 1971 was a little over \$22 million. An additional \$46 million, requested in the fiscal year 1972 budget, includes funds for the construction of new facilities and for planning and site acquisition of others, as outlined in the Bureau's 10-year plan. The responsibility for planning and activation of this large and complex construction program has been placed with a new Bureau section, the Office of Facilities Development. The Bureau also has enlisted the aid of a national advisory panel of business leaders and professionals to serve as consultants for the construction program.

An architectural firm engaged in January 1971 is now working with Bureau representatives and consultants to develop the architectural design for the Behavioral Research Center in Butner, N.C., scheduled for completion in 1975.

The facility will serve as a Center (1) for the treatment of the mentally disturbed and violent offender, (2) for correctional research into violent behavior and development of appropriate treatment techniques and (3) for training of professional and administrative personnel from Federal, State, and local correctional agencies. The Bureau plans to make the Center's facilities available to State correctional systems, as space permits.

Sites have been selected and design is under way for the Metropolitan Correctional Centers to be built in New York City and Chicago.

The multipurpose Metropolitan Correctional Centers are intended to serve as models for the replacement of traditional jails. The Centers will accommodate male, female, and juvenile offenders in separate units and will provide a full range of correctional services. The programs, designed for intensive short-term treatment, will include educational, vocational, and counseling activities. A community treatment unit will provide counseling and guidance to inmates being readied for return to the community. A third section will provide diagnostic services to assist the courts in making appropriate judicial decisions. Six additional Metropolitan Correctional Centers are planned for other major urban communities.

Two new camps were added to the Bureau's facilities during fiscal year 1971 and a number of major construction programs were undertaken. The camp facilities are located on the grounds of the Federal Correctional Institution, Lompoc, Calif., and the U.S. Penitentiary, Marion, Ill. The Lompoc camp, housing

350 minimum custody offenders, includes a factory for the manufacture of office furniture. The Marion camp houses 100 minimum custody adults, who are assigned to maintenance work outside the institution perimeter.

Construction began during the year on a program complex at the Federal Correctional Institution, Texarkana, Tex., to convert the adult institution to a facility for youthful offenders. The complex will provide space for a wide variety of counseling and training programs.

The Federal Correctional Institution, Terminal Island, Calif., has begun construction on an addition to its administration building which will provide space for a new hospital, the education department, and administrative staff.

A modern surgical suite is now in operation at the Springfield Medical Center, following extensive remodeling of the surgery facilities at the hospital.

IMPROVING STATE AND LOCAL PROGRAMS

The Justice Department's program of technical assistance to State and local corrections is a joint venture, administered and financed by the Law Enforcement Assistance Administration (LEAA), with correctional expertise and guidance supplied mainly by the Bureau of Prisons. A Bureau correctional adviser is an integral team member in each of LEAA's seven regional offices across the country and is responsible for coordinating all correctional assistance requests.

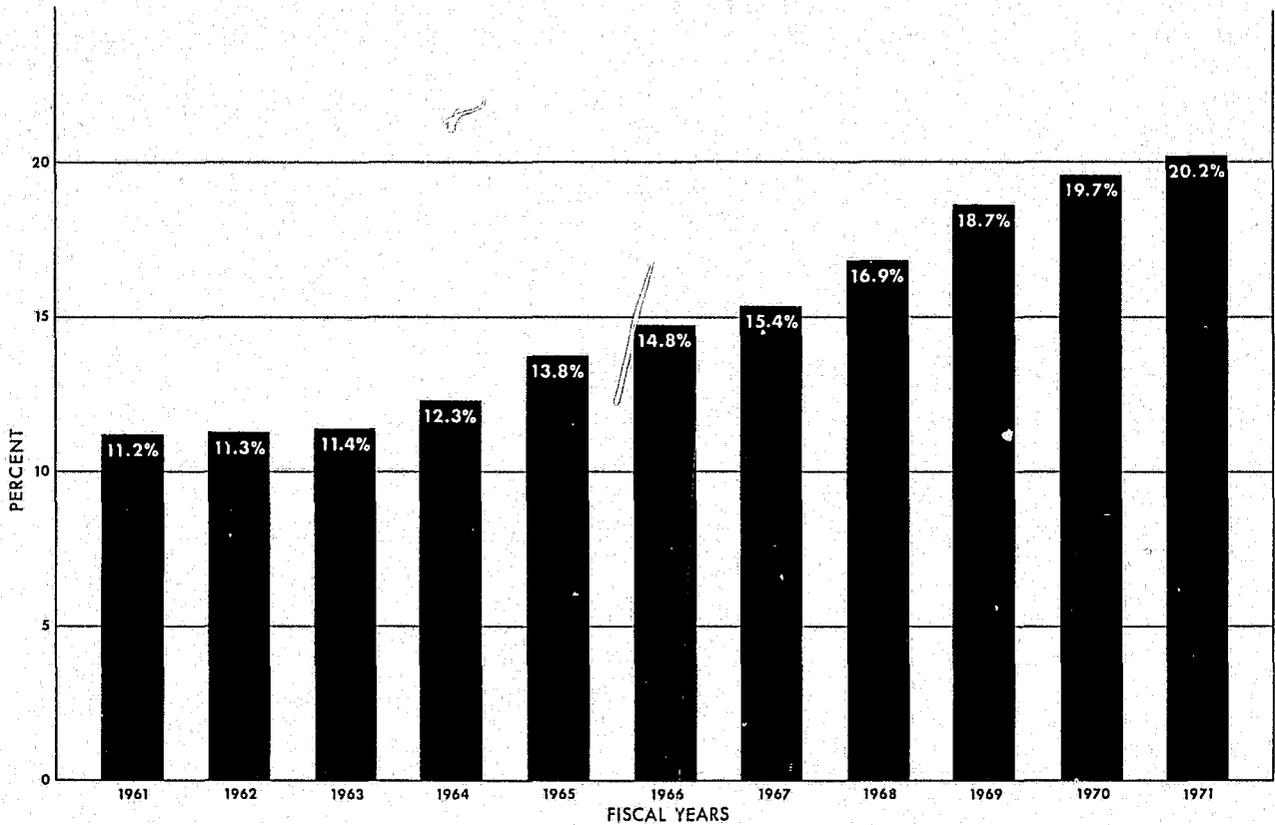
An additional Bureau specialist was assigned to each LEAA office during the year to furnish assistance in jail planning and development.

Over 1,000 requests for technical assistance were handled in fiscal year 1971, the majority concerning improvements in local jails and community-based programs. Surveys and recommendations for improvements were made in three statewide correctional systems.

To supplement its own resources, the Bureau contracts with over 800 jails and other non-Federal facilities across the country to furnish short-term care and custody for about 4,800 Federal offenders daily. The individuals confined in contract facilities usually are awaiting trial or transfer or are serving short sentences.

Jail inspectors and other Bureau community services have an active role in improving the operations of local jails. During the past fiscal year, the inspectors conducted 119 on-site classes for local jail employees, provided guidance to 28 jail administrators in strengthening management programs and participated in a Bureau-sponsored conference of State jail inspectors from 30 States.

Percent of Total Federal Prison Population Confined for Violent Offenses (Assault, Homicide, Kidnapping, Robbery, Rape)



A classification questionnaire is now being tested by a number of jail administrators. Comments so far indicate that by using the form, jailers can compile background information on prisoners from which they can make better decisions on inmate housing supervision and other needs. This test experience has been published and distributed as a pamphlet entitled, "Classification of Jail Prisoners."

On April 15, 1971, the Bureau completed a 2-year effort, in collaboration with the University of Wisconsin, to revise its jailer training courses. Since publication this year, over 5,000 jail employees have requested the self-study courses, which are divided into "Jail Operations" and "Jail Administration." The Bureau plans a second printing and translation into Spanish for use in Puerto Rico and the Southwest.

FUTURE

The Federal Bureau of Prisons has a mandate to provide leadership by example for the improvement of the Nation's correctional systems. In the past year, sub-

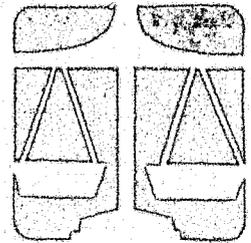
stantial gains have been made toward this goal. The next year should see even greater progress as additional staff training centers begin operation, construction of new facilities gets under way and research and evaluation systems become fully operative.

Progress on the national correctional scene is gaining momentum as State and local criminal justice systems become more actively involved in improving their correctional facilities and programs. A number of factors are contributing to this progress, namely, increased assistance from LEAA, expanded technical assistance from Bureau of Prisons consultants, and greater interest and support from the community at large.

One of the key factors in correctional progress is the involvement of the community, as evidenced by increased institutional use of community-based resources and the growing interest and contributions of local citizens in institutional activities. With this vital community participation, far-reaching progress can be expedited towards the improvements of our Nation's correctional system and their ultimate goal—returning the offender to society as a law-abiding, contributing member of the community.

law enforcement assistance administration

Jerris Leonard/Administrator



BACKGROUND OF LEAA

Congress established LEAA in 1968 in response to the growing need for a major national anticrime effort. Congress set out three main goals for LEAA: (1) To encourage State and local governments to develop comprehensive law enforcement plans; (2) to grant Federal funds to State and local governments to improve and strengthen their law enforcement; and (3) to encourage research and development directed toward the improvement of law enforcement and the reduction of crime.

That mandate was contained in the Omnibus Crime Control and Safe Streets Act of 1968 (Public Law 90-351), which embodied the first comprehensive anticrime program involving substantial expenditures of Federal funds.

The Act requires that States establish State planning agencies (SPA's) to develop comprehensive law enforcement plans and to receive Federal grants. The act authorizes planning grants and action grants which finance actual improvement projects. States first receive planning grants to maintain their SPA's and to develop comprehensive plans. When the comprehensive plan is approved, the State receives its block action grant. LEAA also can award action funds directly to State or local governments or to other recipients. These are called discretionary grants. Congress provided that 85 percent of the action grant budget is to be allocated for block action grants and 15 percent for discretionary grants.

Congress also provided for certain matching requirements. Originally, the Federal share was 60 percent and the State share 40 percent for most projects. In programs dealing with civil disorders and organized crime, however, the Federal share was set at 75 percent and the State share 25 percent. Recent amendments to the Safe Streets Act raised the Federal share to 75 percent for all action projects except construction projects, on which the split is 50-50.

The act established within LEAA the National In-

stitute of Law Enforcement and Criminal Justice to carry out research and development in the law enforcement field.

The legislation also authorizes expenditure of funds to provide educational opportunities for law enforcement personnel. Under these provisions, LEAA established the Law Enforcement Education Program (LEEP), which provides funds to institutions of higher learning for tuition and fees for law enforcement personnel. Awards are made in the form of grants and loans with forgiveness provisions for students working in law enforcement.

The act also provided for the collection, evaluation, and dissemination of statistics and other information, as well as LEAA-established programs to provide such services. In support of the act's provisions, LEAA provides statewide assistance to facilitate integrated information and communications systems to enhance intergovernmental cooperation in crime control efforts.

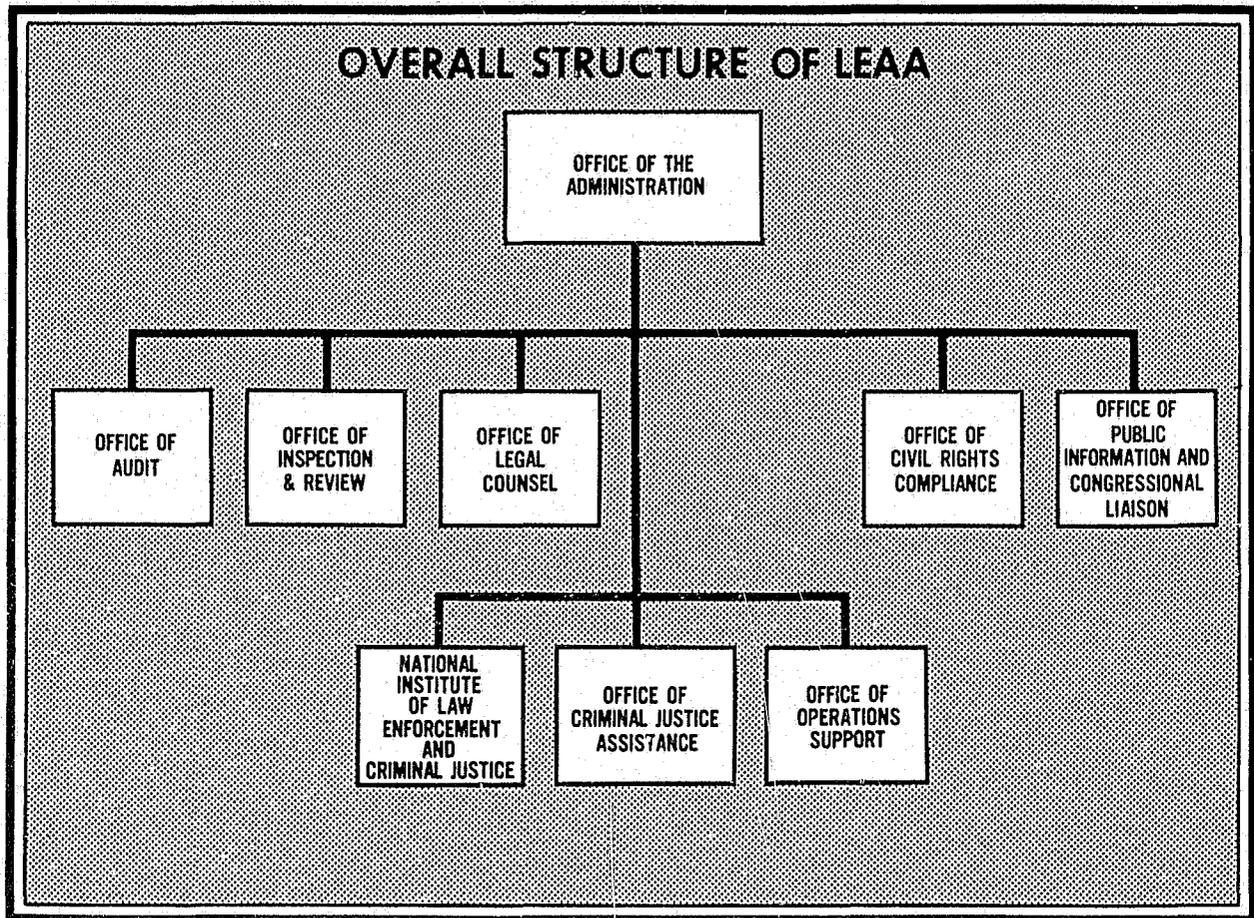
In 1970, Congress amended the basic act in title I of the Omnibus Crime Control Act of 1970 (Public Law 91-644). Important provisions are as follows:

(1) The former troika arrangement of administration was eliminated and all administrative power was vested in one Administrator; other functions and duties are exercised by the Administrator with the concurrence of at least one of the two Associate Administrators.

(2) Representation on SPA's and regional planning councils must be drawn from public agencies maintaining crime control or reduction programs, in addition to being drawn from law enforcement agencies.

(3) Action programs were extended to include criminal justice coordinating councils for units of local government with more than 250,000 population and for community-based delinquency-prevention programs.

(4) The Federal share for all action programs except construction was raised from 60 to 75 percent of the total cost of the programs.



(5) The Federal share of funds for discretionary grants was increased to 75 percent.

(6) Each comprehensive State plan was required to show that adequate assistance was provided for areas characterized by "high crime incidence and high law enforcement activity."

(7) The LEEP program was modified to permit use of funds for the purchase of books; to provide for curriculum development programs; to provide for law enforcement internships; and to provide for regional and national training programs; provided they do not duplicate the FBI training programs.

(8) A special training program was authorized for State and local organized crime prosecutors.

(9) A new program in corrections was established under part E of the amendments. This program authorizes the expenditure of funds for construction and improvement of corrections facilities and capabilities. It includes grants for construction, acquisition, and renovation of corrections institutions. It provides that the Federal share will be 75 percent of the cost. LEAA is required to grant 50 percent of its part E funds as block grants to SPA's; it grants the remaining 50 percent at its discretion.

(10) Special criminal penalties were added, providing for up to 5 years in prison and a \$10,000 fine, for misuse of LEAA funds.

REORGANIZATION

On May 18, 1971, 1 month before the third anniversary of LEAA, Jerris Leonard, the new Administrator, announced a thorough reorganization of the agency. The reorganization was the first major change in the structure of the agency and has set it on a new direction in terms of fulfilling its congressional mandate.

The reorganization resulted from an intensive study of the agency by a task force of governmental and administrative experts. These experts were drawn from the Department of Justice, including LEAA, from the Office of Management and Budget and from State government. The Administrator appointed the task force on March 29, 1971, and charged it with recommending whatever changes were necessary to improve the agency's operation. The resulting reorganization

had two major objectives: (1) To provide for long-range programs for improvement of the entire law enforcement and criminal justice system—police, courts, and corrections; and (2) to develop programs which would have an immediate impact on crime, especially on street crime.

The major thrust of the reorganization was to restructure the agency along functional lines and to revamp audit and other internal information systems.

The agency was restructured into eight offices reporting directly to the Office of the Administration. Five of those are staff function offices: Audit; Inspection and Review; General Counsel; Civil Rights Compliance; and Public and Congressional Liaison. Three are line function offices dealing with all operations of LEAA other than staff functions. They are: Criminal Justice Assistance; National Institute of Law Enforcement and Criminal Justice; and Operations Support.

The newly created Office of Inspection and Review consists of a small staff of specialists who are charged with providing the administration with an effective planning and evaluation program.

The Office of Criminal Justice Assistance (OCJA), replaces the former Office of Law Enforcement Programs (OLEP). It has overall responsibility for administering the planning, action, and discretionary programs. It reviews grant applications and provides technical assistance to States. Under reorganization, however, authority for final review of nearly all types of grants was placed in the regional offices, which were increased from seven to 10.

The LEEP program, under reorganization, now is administered by the Manpower Development Assistance Division in OCJA, and much of the authority in awarding grants is decentralized to the regional offices.

The National Institute was restructured to broaden its research functions, to include criminal justice statistics operations, and to provide more dissemination of information and more transfer of technology from the laboratory to the field.

Systems analysis, systems development, and statistics functions were restructured, creating the Systems Analysis Division in the Office of Operations Support; the Systems Development Division in the Office of Criminal Justice Assistance; and the Statistics Division in the National Institute.

FUNDING

LEAA began operations in fiscal year 1969 with a budget of \$63 million. In fiscal 1970, funds appropriated for LEAA quadrupled to \$268 million. LEAA's original fiscal year 1971 budget was \$480 million—almost eight times the size of the first year budget. A

supplemental appropriation during fiscal year 1971 of \$49 million brought the total LEAA funds available to \$529 million.

PROGRAMS AND GRANTS

Grants to States.—The Office of Law Enforcement Programs (OLEP) administered LEAA grants to States to improve their criminal justice systems and awarded a record \$505.8 million in fiscal year 1971. (As noted earlier, the Office of Criminal Justice Assistance (OCJA) has replaced OLEP.) Here is a breakdown of funds awarded by type of grant:

	<i>Thousands</i>
Planning	\$ 26, 000
Block action.....	340, 000
Discretionary	70, 000
Part E (corrections):	
Block	25, 000
Discretionary	22, 500
Technical assistance.....	4, 000

Comparable figures from fiscal year 1970 demonstrate the substantial increase in the size of the grant program. In that year, OLEP distributed \$21 million in planning grants, \$182.5 million in action grants and \$32 million in discretionary grants.

Planning funds are granted for the purpose of operating the State planning agencies (SPA's) established by the 55 eligible governments. With the aid of these grants, each State annually drafts a comprehensive law enforcement improvement program in cooperation with its cities and counties. States reallocate a portion of their planning funds to units of local government to permit them to take part in preparation of State plans. Recognizing the value of local inputs at the planning stage, OLEP also distributed some planning funds directly to city governments in fiscal year 1971. Local involvement in the planning process was emphasized in the recent amendments.

A total of over \$342 million (including small states' supplements) was distributed in fiscal year 1971 in block action grants to States. The funds were distributed among the following areas:

- \$164,463,245 or 48 percent for police programs.
- \$110,834,065 or 32.4 percent for corrections programs.
- \$35,430,870 or 10.4 percent for courts.
- \$10,330,722 or 3 percent for police-community relations programs.
- \$9,703,304 or 2.8 percent for control of riots and civil disorders.
- \$11,695,791 or 3.4 percent for programs against organized crime.

States emphasized increased funding for courts and corrections programs. Grants for courts programs were nearly three times their fiscal year 1970 level, while

corrections grants were somewhat over twice the amount allocated a year earlier.

Further impetus for corrections improvement programs came from the 1970 amendment establishing a new grant program for correctional institutions, facilities, and programs. This part E program addresses all aspects of corrections, emphasizing probation and parole improvement and community-based programs. Of these part E funds, 50 percent goes in block grants to States, and 50 percent is awarded by LEAA at its discretion to SPA's or units of local government.

The discretionary grant program was expanded both in volume and scope in fiscal year 1971. LEAA uses discretionary funds to advance national priorities, to draw attention to programs not emphasized in States plans, and to stimulate reform and experimentation.

Discretionary grants are awarded to cities, States, counties, and other groups or agencies for programs in the areas of police, courts, corrections, organized crime, civil disorders, juvenile delinquency, and narcotics abuse. A special discretionary program earmarked \$25 million for the Nation's largest cities for a variety of anticrime programs. The \$70 million awarded in discretionary grants in fiscal year 1971 represents over 600 grants, compared with 426 grants in fiscal year 1970. For the most part, individual grants were larger in 1971 than in 1970.

Both discretionary and block action grants in fiscal year 1971 reflect growing concern in the area of juvenile delinquency. Almost \$85 million was awarded last year for delinquency prevention and control and rehabilitation of young offenders.

In addition to the administration of various grants, OLEP provided technical assistance that included aid to States in developing planning abilities, advice and guidance in program development, training programs, development of written materials to assist States and local agencies and dissemination of information to professional personnel.

Funds allocated for technical assistance increased fourfold in fiscal year 1971, and activity increased greatly in programs involving training activities, advisory personnel, and publications.

Technical assistance in 1971 was especially important in corrections programs. The OLEP Corrections Programs Division, for example, handled 434 requests for technical assistance by using outside consultants. The list of activities ranged from correctional personnel task analysis to the development of new programs for correcting and rehabilitating offenders.

Training activities designed to upgrade law enforcement skills and knowledge were another major area of technical assistance in fiscal year 1971. These ranged from a national conference on organized crime for police administrators, court officials, and representatives of private organizations to a conference for food

supervisors on upgrading food service in State penal institutions. The First National Conference on the Judiciary was held in Williamsburg, Va. and at that conference Chief Justice Warren E. Burger proposed the creation of the National Center for State Courts. Soon after the conference the Center was established with LEAA financing. The Center will aid State and local courts in court reform and improving the administration of justice.

Academic assistance.—Under the reorganization, LEAA's efforts in the field of law enforcement education and training were expanded. The new Manpower Development Assistance Division is responsible for regional and national training programs, curriculum and teacher development for criminal justice education programs, as well as the ongoing Law Enforcement Education Program (LEEP).

LEEP provides funds for college study by police, courts, and corrections employees, and students preparing for criminal justice careers. Participating colleges and universities approve and make the grants and loans to students. The money does not have to be repaid if recipients fulfill service requirements in the criminal justice field.

LEEP's budget for fiscal year 1971 was \$21.2 million (including a supplemental appropriation). This compares with \$18 million in fiscal year 1970 and \$6.5 million in fiscal year 1969.

During the past fiscal year, 891 educational institutions awarded some \$24.4 million (including fiscal year 1970 carryover funds) in LEEP grants and loans to 73,280 criminal justice students. In the previous fiscal year, 735 institutions awarded \$15.6 million to 54,778 students.

Of the total fiscal year 1971 participants, 59,953 (82 percent) were in-service students and 13,327 (18 percent) were preservice. These LEEP recipients included 48,698 police personnel, 8,465 corrections employees and 2,790 representatives from the courts and other agencies.

The average grant was \$178 and the average loan was \$650. Seventy percent of the fiscal year 1971 awards were grants.

In both fiscal year 1970 and fiscal year 1971, in-service students constituted more than 80 percent of LEEP participants. And in both years, police personnel constituted about 81 percent of in-service students. Corrections employees made up 14 percent of in-service recipients in fiscal year 1971 and 12 percent in fiscal year 1970.

The education amendments in the Omnibus Crime Control Act of 1970 authorized LEAA to award grants to colleges and universities to improve the quality of criminal justice curricula. Congress appropriated a supplemental \$250,000 to implement the new program. Guidelines for proposals were issued in fiscal year 1971. LEAA anticipated making awards in fiscal year 1972

using both fiscal year 1971 and fiscal year 1972 funds. Grants may be up to 75 percent of the cost of projects.

The new legislation also created a program of law enforcement internships. Included in the fiscal year 1971 supplemental appropriation was \$500,000 for the intern program. LEAA may award grants to colleges and universities for payment "not exceeding \$50 per week" to undergraduate or graduate degree candidates serving as full-time interns in law enforcement agencies.

LEAA approved internships in the amount of \$125,000 for 46 educational institutions in the summer of 1971. Agencies employed 258 interns—96 with police, 122 with corrections, 36 with the courts and four others. Interns were students who had completed at least 2 years of higher education and who were enrolled in criminal justice degree programs.

Another amendment authorized LEAA to develop and support regional and national law enforcement training programs. The new training program will be implemented in fiscal year 1972.

Research. In fiscal year 1971, the National Institute of Law Enforcement and Criminal Justice operated on a budget of \$7.5 million. In carrying out its research and development mandate, the Institute made 94 project awards. Other awards included 50 graduate research fellowships, three visiting fellowships and grants to "pilot cities"—cities and counties selected as Metropolitan Criminal Justice Centers.

The emphasis of the criminal justice center (formerly known as pilot cities) program is an across-the-board improvement of all criminal justice operations—police, courts, and corrections. Seven such Centers were selected in fiscal year 1970 and fiscal year 1971—San Jose and Santa Clara County, Calif.; Dayton and Montgomery County, Ohio; Charlotte and Mecklenburg County, N.C.; Albuquerque and Bernalillo County, N. Mex.; Norfolk, Va., metropolitan area; Omaha and Douglas County, Nebr.; and Des Moines and Polk County, Iowa. Institute funds support the intensive research and planning that are a part of each Center program, and LEAA discretionary funds are a principal source of funding for specific improvement projects. During the past 2 years the Institute provided funds for the seven Center programs amounting to \$1,127,571, and discretionary fund grants added \$1,973,400.

In the area of crime deterrence, Institute efforts focused on delinquency prevention. A multiyear project being carried out in cooperation with the Louisville, Ky., public schools will evaluate the delinquency prevention effectiveness of educational reforms in 27 inner city schools and determine the effect of new educational approaches on preventing or reducing juvenile delinquency. A study of a group of youths in Philadelphia was funded to determine why some, but not others, become delinquents.

The Institute is continuing its support of projects begun in fiscal 1970 to determine the influence of architectural design on crime prevention. Various architectural design techniques are being tested in New York City public housing projects to increase tenant security. Results of the project will be disseminated throughout the country.

To help combat growing narcotics abuse, the Institute is continuing to fund a long-range study to assess the impact of methadone treatment on addict crime. A University of Texas study of the effects of chronic marijuana use is now in its second year. Another drug project involves development of a "clinicstick," which when inserted in the mouth or in urine samples, will verify the presence of heroin by an immediate color change. If successful, this technique will radically affect treatment programs as well as provide a reliable, inexpensive means of identifying addicts.

The Institute also funded several projects to help police locate, neutralize, and safely dispose of terrorist bombs. Efforts to combat assassination and hijacking involving armed weapons included a project to design an improved device for detecting concealed weapons.

Statistics. In fiscal year 1971 LEAA's activities in collecting and disseminating criminal justice statistics were carried on by the Statistics Center (later restructured as noted earlier in this chapter). The Center also provided assistance to States and local communities in their development of statistical systems.

During fiscal 1971, the Statistics Center completed a number of projects begun in its first year. Several projects provided previously unknown information on various parts of the criminal justice system.

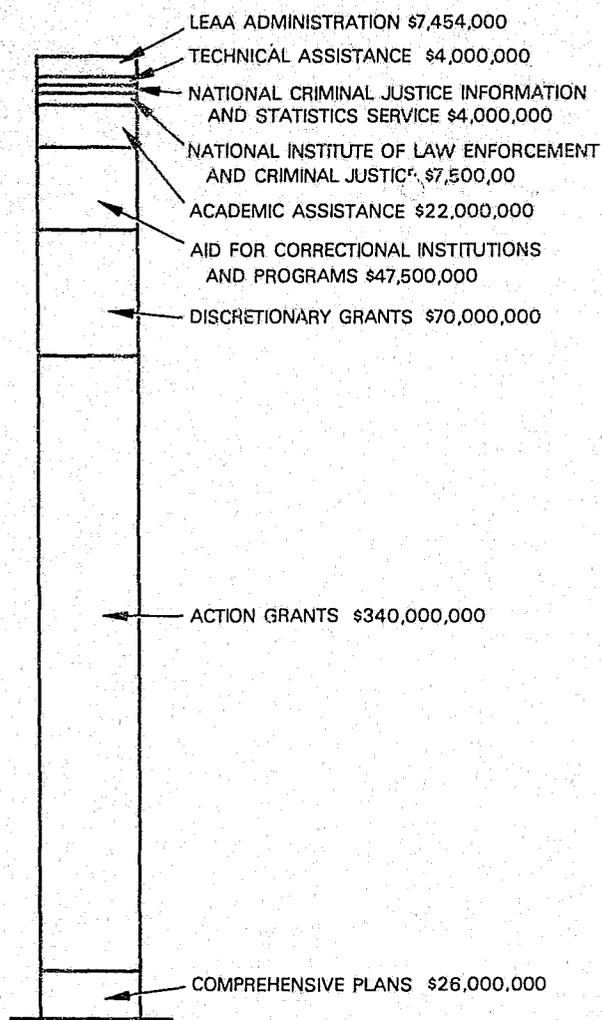
Three crime victim surveys were completed which provided important information on crime—including crimes not reported to police. Data and methodology from the surveys will be used in developing a continuing victimization survey scheduled to begin in fiscal year 1972.

The national crime victim survey will be conducted among a sample of 60,000 households known as the National Crime Panel. The sample design, which was completed during fiscal year 1971, includes seven rotating panels and selection of enough households to permit interviewing 10,000 households every month for a period of 10 years. A supplemental rotating sample of 1,000 households in each of 15 large cities was designed. Data gathered in the national survey will complement information currently available in the FBI's Uniform Crime Reports which includes only those crimes known to police. Detailed information will be published on an annual aggregate basis.

A directory of all criminal justice agencies in the Nation was compiled by the Statistics Center and will be published in fiscal year 1972. The first national jail census was completed and published during fiscal year 1971. This survey identified the total number of

DISTRIBUTION OF LEAA FUNDS

FY 1971 BUDGET: \$529,000,000 *



* INCLUDES SUPPLEMENTAL APPROPRIATION

jails in the country and revealed heretofore unknown data in such critical areas as number and types of inmates, physical characteristics of jails, and operating costs. A followup to the national jail census will survey juvenile detention and correction facilities.

The Statistics Center also published the LEAA-sponsored "Expenditure and Employment Data for the Criminal Justice System: 1968-69," the first such nationwide estimates of total Government expenditures for criminal justice and the number of persons employed. In addition, the Center assumed responsibility for the national prisoner statistics program begun in 1950 by the Bureau of Prisons.

A survey of court organization was also begun in fiscal year 1971. When published during the next fiscal year, it will describe each independent court system in the country. Plans were developed for a national criminal justice statistics data base expected to be in operation in fiscal 1972. Included in the data base will be data from the 1970 decennial census, current census surveys, the uniform crime reports, and the criminal justice employment and expenditure survey. State planning agencies, LEAA regional offices, and other public or private organizations with legitimate interest in criminal justice statistics will have access to the data.

Another major effort in fiscal year 1971 was Project SEARCH (System for the Electronic Analysis and Retrieval of Criminal Histories). (Following LEAA reorganization, SEARCH is now monitored and coordinated by the Systems Development Division of OCJA.) SEARCH has received some \$3 million in LEAA funds since it was launched in 1969. This multi-State project is designed to enable criminal justice agencies to exchange computerized information on offenders. Fifteen States participated in the demonstration phase of the project which was completed during fiscal year 1971. The SEARCH system of interstate criminal histories exchange will be operational in fiscal year 1972. Approximately 20 States will participate in the operational phase of Project SEARCH during fiscal 1972. The national central index of offender records developed by the project will be operated by the FBI as part of its National Crime Information Center. Initially, the index will contain a minimum of 300,000 offender records.

The success of Project SEARCH in developing compatible programs for each State in the criminal history exchange project led LEAA to a similar approach in developing statistical programs among a smaller number of States. Five States are participating in the project. They will begin to collect data for annual publication on the operations of their criminal justice systems beginning in January 1972.

Systems Analysis. In fiscal year 1971, LEAA's activities in systems analysis were carried on by the Systems Analysis Center which has been restructured as noted earlier. These activities included data processing support to LEAA and national-level systems, and data processing assistance to State and local criminal justice agencies.

LEAA encourages application of systems analysis techniques to criminal justice problems. In the area of police operations, for example, computer technology is being successfully utilized for command and control systems, manpower allocation, crime investigation, fingerprint identification, and radio communication. To reduce court delay, work is being carried out to automate resource allocation and court docketing. In

corrections, a systems analysis approach to institutional statistics, offender records, rehabilitation techniques and recidivism patterns can contribute to improved treatment for the offender.

During fiscal 1971, LEAA focused these efforts on developing and implementing national-level systems designed to meet criminal justice problems or to assist various offices within LEAA.

The national criminal justice statistics data base, which is being developed in cooperation with the Statistics Division, is an example of a national-level system. The criminal justice information system, the grants management information system, and the law enforcement education program system are designed to meet the needs of LEAA offices, as well as State and local governments, the General Accounting Office, the Office of Management and Budget, and the Department of the Treasury.

Activities in fiscal 1971 also centered on providing technical assistance to States and local governments in the computer-related areas of systems analysis and design, data processing management, analysis of hardware and software requirements, programing techniques, teleprocessing systems and their associated communications network.

Another important project is developing a computer application to assist LEAA's National Institute in the correlation of data on civil disturbances. Each of the Nation's 84 major riots during the 1964-66 period has been categorized by date, time, demographic characteristics of the riot scene, etc. Analysis of the data can reveal trends and causal factors—information that can be valuable in developing programs to prevent and control disorders.

Among the projects funded in fiscal year 1971 were a \$120,000 grant to develop a criminal justice system cost model in Dayton-Montgomery County, Ohio. Another \$200,000 was awarded for two research projects designed to speed the transmission and identification of fingerprints.

Audit. Under the reorganization, the new Office of Audit reports directly to the Administrator. The move was intended to provide the Administration with timelier information on the expenditure of LEAA funds.

During fiscal year 1971, comprehensive audits were begun in Alabama, Florida, Maryland, and Massachusetts. In addition, an intensified audit program calling for a survey of all 50 States and a followup audit of 21 States was initiated late in the fiscal year.

Audit guidelines for SPAs developed during the audits of Maryland and Florida were tested in the audits of Alabama and Massachusetts. Those guidelines will be distributed to SPA's, State audit agencies, Federal audit agencies, and other audit organizations performing audits of LEAA programs.

CIVIL RIGHTS COMPLIANCE

On December 31, 1970, the Attorney General promulgated regulations prohibiting employment discrimination on the grounds of race, color, creed or national origin among law enforcement or other agencies or offices participating in any LEAA assistance program.

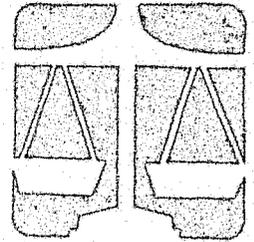
Those regulations were promulgated in accordance with the provisions of title VI of the Civil Rights Act of 1964. The agency also is subject to Executive Orders 11246 and 11375 prohibiting employment discrimination in federally-assisted construction contracts. The Omnibus Crime Control and Safe Streets Act of 1968, however, prohibits LEAA from requiring grant recipients to adopt a percentage or quota system to achieve racial balance or eliminate racial imbalance in employment or to deny funds for failure to adopt such a system.

The Attorney General has assigned civil rights compliance responsibility in the areas of education and health to the Department of Health, Education, and Welfare. That includes the LEEP program, juvenile detention facilities, alcoholic detoxification centers and similar grant programs funded by LEAA.

In the spring of 1971, LEAA sponsored a conference at Marquette University, Milwaukee, Wis., for the purpose of drafting a broad program for expanding employment opportunities in law enforcement for minority group members. The conference resulted in creation of a task force which will provide technical assistance to law enforcement agencies to help them recruit minority group members.

immigration and naturalization service

Raymond F. Farrell/Commissioner



The Immigration and Naturalization Service administers and enforces Federal statutes relating to immigration and nationality.

The Travel Control Division is responsible for determining the admissibility of persons seeking entry into the United States and for adjudicating requests for benefits and privileges under the immigration laws. The Domestic Control Division is responsible for the enforcement functions of the law, which are carried out by the investigations and border patrol arms of the Service. Enforcement responsibilities include preventing illegal entry of persons into the United States, investigating the status of aliens already in the country, and apprehending aliens who, through violation of terms of admission or other elements of law, may be subject to deportation.

Although granting or denying citizenship through naturalization is a function of Federal and State courts, the Immigration and Naturalization Service is responsible for examining applicants for citizenship to determine whether or not they meet the qualifications for naturalization and, based upon the facts of each case, for recommending eligible candidates to the naturalization courts. Also within this area of Service responsibility is the issuance of certificates of citizenship to persons who have derived or acquired U.S. nationality and the administration of programs designed to assist aliens in preparing for naturalization.

TRAVEL CONTROL

Entry Into the United States

The number of international travelers to the United States increased again in 1971. In all, Service personnel inspected 238 million aliens and citizens during the year, an increase of 42 percent over the 168 million inspected in 1961. The number of travelers coming here by air grew at an even more striking rate: In 1961, 2,609,466 air passengers arrived in the United States; by the close of 1971, this figure had reached 10,236,887, an increase of 292 percent.

Admissions. Of the 237,557,274 persons admitted to the United States in 1971, there were 220,364,917 border crossers; 7,636,925 U.S. citizens and 363,513 resident aliens returning from temporary visits abroad; 5,382,168 nonimmigrant aliens admitted as tourists, businessmen, students, foreign government representatives, temporary workers, and others for temporary periods; 3,439,273 crewmen granted shore leave; and 370,478 immigrant aliens admitted for permanent residence.

Immigrants. The Immigration and Nationality Act, as amended, provides an annual numerical limitation of 170,000 immigrants for countries outside of the Western Hemisphere with a maximum of 20,000 for any one country, and an annual limitation of 120,000 immigrants from the independent countries of the Western Hemisphere. Parents, spouses, and children of U.S. citizens are designated under the law as "immediate relatives" and are not subject to these numerical limitations.

For other than the Western Hemisphere, immigrant visa numbers are assigned on a basis of seven preference categories, four of which provide for reunion of families of U.S. citizens and resident aliens; two for professional, skilled, or unskilled alien workers needed in the United States; and one for refugees. For each of the preferences and for the Western Hemisphere, visa numbers are allocated on a first-come, first-served basis in the order in which applicants are found qualified for immigration.

Of the 370,478 immigrants admitted in 1971, 280,626 were subject to these numerical limitations of the law. The greatest number of immigrants came from Mexico (50,324), the Philippines (27,688), Italy (22,818), Canada (22,709), Cuba (21,741), and Greece (15,002). There were 297,153 immigrants who obtained visas abroad to come to this country, while the remaining 73,325 had their temporary status in the United States administratively adjusted to that of permanent residence.

Adjudications. Decisions on petitions for preference visas for aliens, applications for adjustment of status,



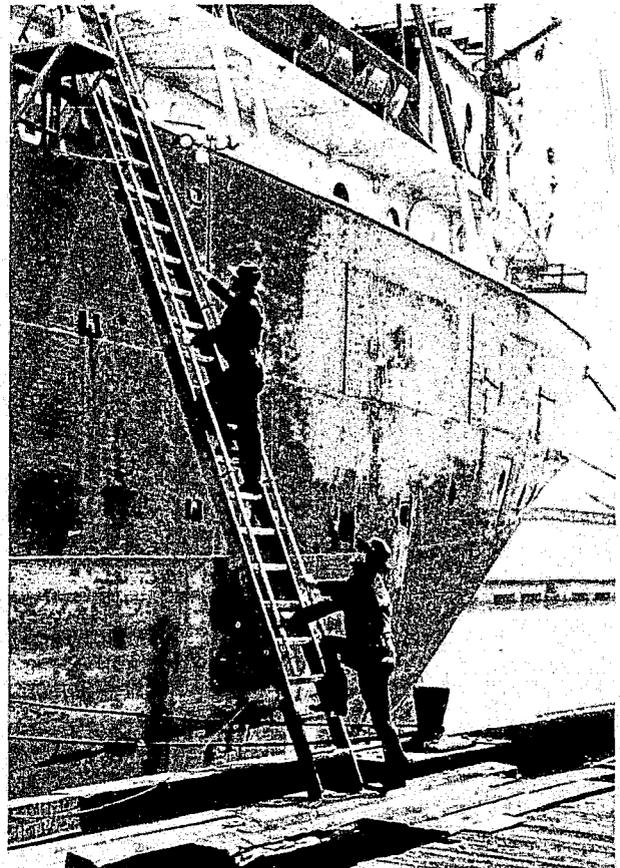
A patrol agent of the Immigration and Naturalization Service checking a possible illegal alien on snowcat near the international Boundary at Pembina, N. Dak.

extensions of temporary stay in the United States for nonimmigrant aliens, issuance of border crossing cards, and petitions to import temporary workers are some of the types of cases that make up adjudications work.

Along with the continuing increase in the number of persons coming to the United States, there has been a steady rise in the annual receipts of applications and petitions to be adjusted. There were 1,339,111 applications and petitions received in fiscal year 1971 as compared to 1,336,447 in 1970.

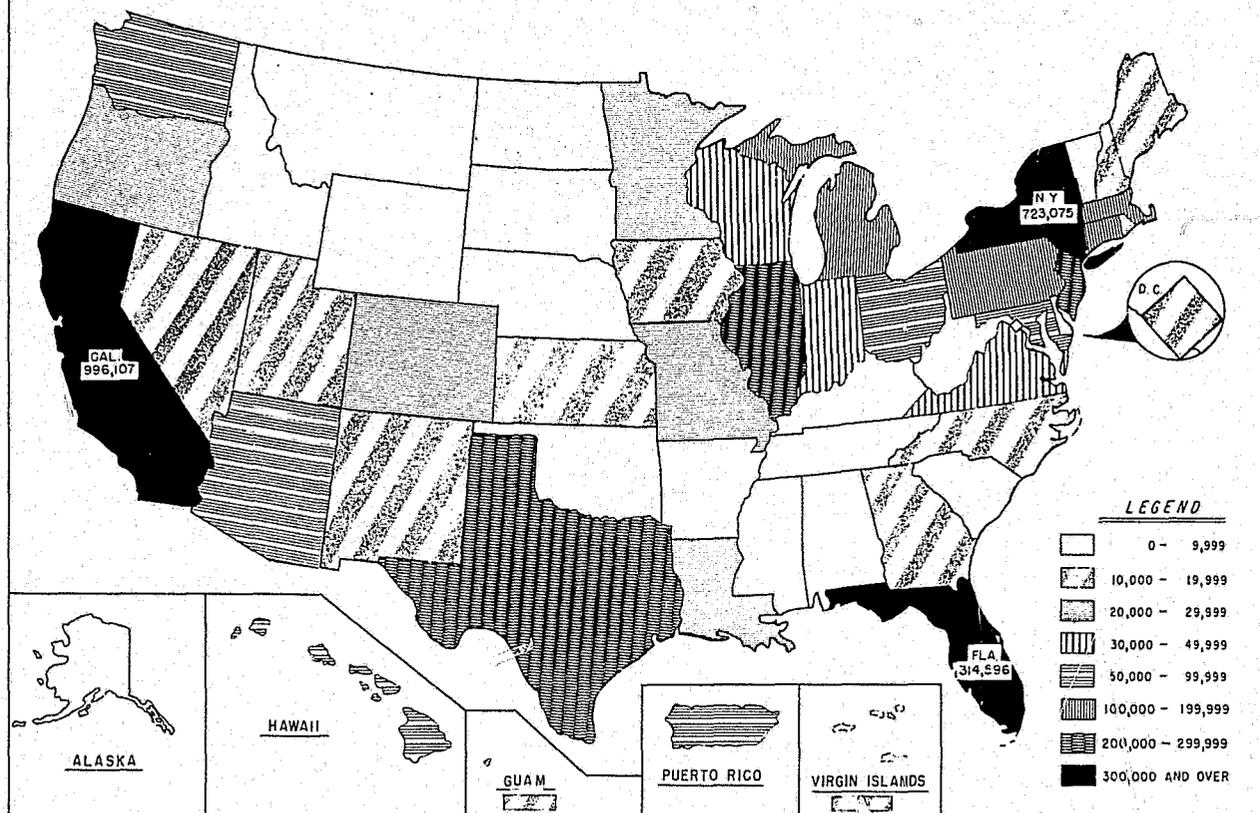
Inadmissible Aliens. The Service's inspection procedures are designed not only to permit the expeditious entry into the United States of those persons meeting the qualifications set out by law, but also to turn back those who do not qualify for entry.

In the course of inspection, 297,425 aliens were denied entry in fiscal year 1971. There were 208,512 who had applied for entry as border crossers, 20,594 crewmen who were denied the privilege of landing, and 282 stowaways who were found and detained on board the vessels which brought them. Formal exclusion proceedings led to the denial of entry to 655 of these aliens, 496 of which were excluded because they lacked proper documents for the type of admission applied for, 11 because of subversive grounds, 50 because they had criminal, immoral, or narcotic records, and 11 because the Public Health Service certified them as being afflicted with mental or physical defects rendering them inadmissible under the law. Some 67,382 others withdrew their applications for admission rather than face formal exclusion proceedings.



Patrol agents of the Immigration and Naturalization Service board ships at Buffalo, N.Y., to verify detainment of crew members while vessel is in port.

ALIEN ADDRESS REPORTS — BY STATES 1971



DOMESTIC CONTROL

Deportable Aliens Located. The number of deportable aliens located by the Service increased again in 1971. Service officers located 420,126 deportable aliens, 22 percent more than last year. For the most part, this is attributed to an increase of 70,801 in the number of Mexican aliens located. Of the total, 348,178 or 83 percent were Mexican nationals.

The Border Patrol located 302,558 deportable aliens. The remaining 117,568 were located by investigators and other officers of the Service. Of the total, 317,822 or 76 percent entered illegally at points other than ports of entry. Almost all (317,302) came across land borders—98.9 percent from Mexico. There were 102,304 aliens legally admitted to the United States who became deportable after entry because they violated the terms of their admission.

Sixty-eight percent of the 412,578 aliens found in illegal status (other than crewman violators) were located within 30 days after they became deportable.

Only 6 percent had been here more than 1 year before they were located. At the time of apprehension, 209,921 were in travel status and 159,915 were employed.

Smuggling. The volume of alien smuggling kept pace with other illegal alien activity throughout the year. New records were established in both the number of smugglers and the number of smuggled aliens located by the Border Patrol. The 19,765 aliens who had been induced or assisted to enter unlawfully or who had been transported unlawfully after entry represent a 5-percent increase over the number located by Border Patrol agents last year. Alien smugglers and violators of statutes relating to unlawful transportation of aliens numbered 3,814—a 16-percent increase. Service officers completed 3,411 smuggling investigations—an increase of 80 percent over last year. Prosecution was authorized against 959 violators of the smuggling statutes.

Throughout the year, there was increasing evidence of commercial smuggling operations. Fees in excess of

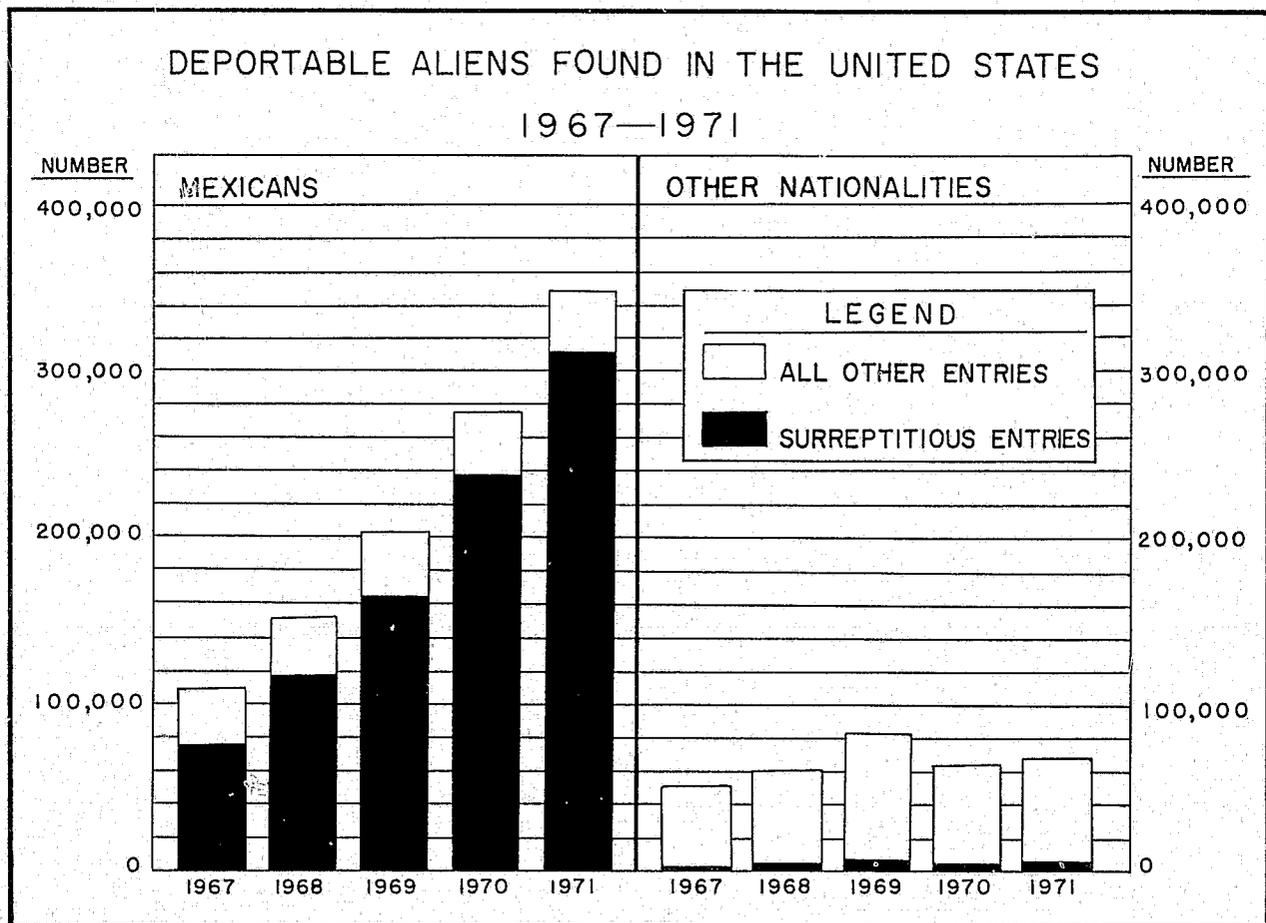
\$150 were commonplace. Smugglers of aliens used various methods to avoid detection and arrest. This included the employment of drivers and rented cars as well as the development of many different schemes for concealing aliens in all types of vehicles.

Cooperation With Other Law Enforcement Agencies. The Service has continued to emphasize liaison with Federal, State, local, and foreign law enforcement agencies. Field supervisors have served as instructors at various police schools and academies, have explained the mission of the Service, and described the problems and violations of law which are of primary interest to the Service. The effectiveness of such mutual cooperation among law enforcement agencies is reflected in the 36,214 violators of immigration and nationality laws who were referred to Service officers by other agencies. At the same time Immigration and Naturalization officers encountered and released to other appropriate agencies 1,664 violators of other laws, including 689 narcotic law violators. Over \$5 million in narcotics, marihuana, and dangerous drugs were seized by our officers in 1971.

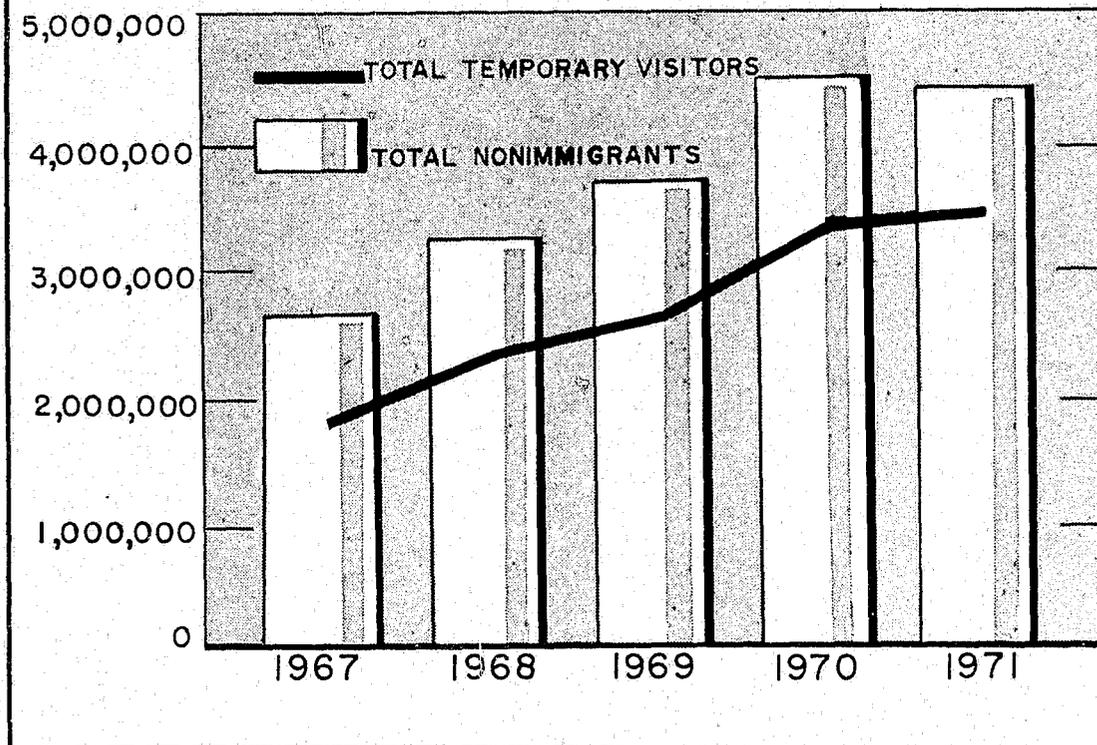
Foreign-born Law Violators. During the year, 12,770 investigations of possible immigration frauds were completed. The investigations revealed a continuation of fraudulent schemes to evade the legal requirements for immigration. These schemes include "sham" marriages to U.S. citizens or resident aliens, counterfeit marriage and birth records, and false registrations of birth in the United States of foreign-born children whose parents were visa applicants.

Increased numbers of false claims to citizenship were encountered. Of the 3,423 false claims developed during the year, 3,403 involved Mexicans; and 20 were aliens of other nationalities. Sixty-four percent of the aliens used documents to support their citizenship frauds.

During the year, 12,618 investigations involving persons of the criminal, immoral, and narcotic classes were completed. Border criminal identification activity resulted in the posting of 2,307 lookouts designed to prevent entry into the United States of aliens of the criminal, immoral, and narcotic classes. On the basis



NONIMMIGRANTS ADMITTED 1967—1971



of such lookouts, 727 aliens of these classes were prevented from entering the country.

Continued emphasis was placed on the Service anti-subversive programs, whose purpose is to identify foreign-born subversives and develop evidence for exclusion or expulsion proceedings, and where warranted to deny benefits under the U.S. immigration and nationality laws. Under the Canadian border program, 53 Service lookouts were posted and 15 aliens applying for admission were denied entry at the border. Under the Mexican border program, 69 investigations were completed on applicants or potential applicants for admission. Service lookouts were posted against 40 of the aliens involved, and 25 such aliens were denied entry.

Deportations and Required Departures. The number of aliens deported under orders of deportation was 17,639, reflecting a 4-percent increase compared to 16,893 the prior year. Among those deported were 527 on criminal, immoral, and narcotic charges.

Aliens required to depart without the issuance of formal orders of deportation increased from 303,348 in the last year to 370,074 in 1971. Of this total, 8,723

were technical violators—*i.e.*, crewmen, and 305,715 were persons who were directly required to depart under safeguards—*i.e.*, Mexicans who entered without inspection. The remaining 55,636 departed voluntarily after receiving appropriate notifications from this Service.

Naturalizations Granted. During the year 108,407 aliens were admitted to U.S. citizenship at final hearings held in Federal and State courts. The Government is represented at these proceedings by designated Service officers, whose recommendations are based on a complete administrative investigation and examination establishing beyond doubt that the persons to be naturalized have complied fully with all statutory prerequisites for naturalization. In the process of naturalization, the applicant takes an oath of allegiance to the United States, as well as renouncing allegiance to his former country of citizenship.

Of the newly naturalized persons, 79,491 petitioned under the general provisions of the Immigration and Nationality Act, having resided continuously in the United States as permanent residents for at least 5 years. Next in number, respectively, were 14,162

spouses and the 5,116 natural or adopted children of U.S. citizens, who became eligible after lesser periods of residence. The remainder included 9,549 American servicemen and veterans, whose naturalizations were expedited because of honorable military service, and 89 others.

Many of the military naturalizations were accomplished under Public Law 90-633, which classified service during the period of the South Vietnam hostilities as wartime service and had the effect of making many present and former alien members of the Armed Forces immediately eligible to proceed with naturalization.

More than 56 percent of the 108,407 new citizens were nationals of Cuba (19,754), Germany (8,455), Italy (7,637), the United Kingdom (6,983), Mexico (6,361), Canada (5,915), and the Philippines (5,488); the remaining 47,814 represented 139 other foreign states. The newly naturalized persons were in the following occupational groups: 13,121 persons in the professions; 9,116 craftsmen and kindred workers; 5,422 managers, foremen, and merchants; 25,402 clerical, sales, and service workers; 758 private household workers; and 3,687 farmers, farm laborers, and laborers.

Derivative Citizenship. In 1970, certificates of citizenship were issued to 28,882 persons who had derived

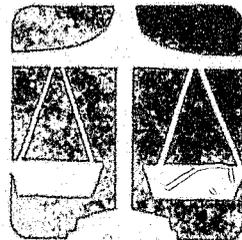
or acquired U.S. citizenship at birth abroad to citizen parents, 15,453 through the naturalization of a parent or parents, 12,995 through marriage to a U.S. citizen prior to 1922 (252), or for other reasons (182). For all of these persons, the certificate of citizenship had value—it is the only document authorized by statute as proof of citizenship.

Citizenship Education and Responsibility. An important aspect of Service operation in the citizenship field is the implementation of programs designed to assist aliens in their preparation to learn the English language and to gain knowledge of the American system of Government, which are requirements for naturalization. The Service continued to advise educational authorities of aliens in need of instruction. During the year, 110,849 candidates for naturalization attended 5,076 active citizenship classes, and another 3,586 candidates were enrolled in home study courses.

The Federal Textbooks on Citizenship, the heart of which is the "Becoming a Citizen Series," continued to demonstrate their value as educational tools to be used by candidates for naturalization. This year, 132,811 textbooks were made available free of cost to the public schools and the State educational authorities who administer the home-study courses. Supplementing the textbook materials is the Service's portfolio of instructive films, which was put to extensive use.

community relations service

Benjamin F. Holman/Director



By legislative mandate, helping to conciliate conflicts based on race, color, or national origin is the specific concern of the Community Relations Service. Experience has shown, however, that conciliation of conflicts is not enough to insure racial peace. Consequently, a considerable amount of CRS time is now spent assisting communities in developing programs and projects to help avoid racial disputes and conflicts and in enlisting the support and assistance of the private sector to deal effectively with these problems.

In each major area of CRS concern, the CRS sought during fiscal 1971 to enhance the prospects for racial harmony and equality through concentrated efforts toward citizen and institutional initiative in solving socioeconomic problems. Areas of involvement and brief examples within each program are given below:

EDUCATION

The CRS education program seeks expanded minority participation in education decision-making and harmonious relationships with communities prepared to cope with racial change in education. The CRS continued and expanded its work in fiscal 1971 in helping minority communities to have a voice in the educational system at the local level. Additionally, the CRS worked to prepare all segments of selected communities to cope more effectively with the trauma of educational change being brought about by the realities of student unrest, desegregation, financial stress, and movements toward community control of schools.

Because of the Service's successful history in ameliorating racial tensions and disputes in communities and its programmatic involvement in desegregation, it was called upon to help school districts and communities resolve problems that would arise during the period of transition from dual to unitary systems.

Thousands of contacts were made with students, teachers, parents, school officials, community groups, city officials, and others concerned with desegregation problems in 409 counties and 492 school districts. Approximately 7,500 persons and groups were contacted between August 1970 and February 1971. Major CRS efforts were directed toward easing community ten-

sions and avoiding possible violence, assisting in the establishment of programs and activities designed to resolve problems concomitant with desegregation, and providing liaison between the community and the Department's Civil Rights Division, office for U.S. attorneys, and the Office of Civil Rights of the Department of Health, Education, and Welfare.

COMMUNICATIONS

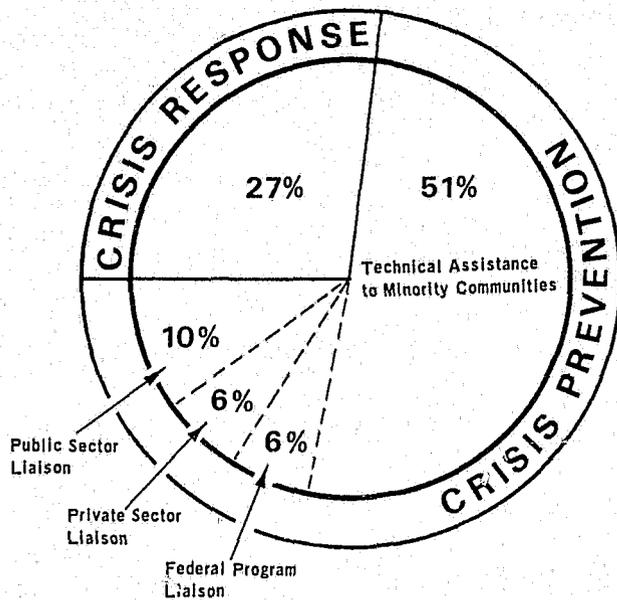
Key efforts of the CRS communications program during the fiscal year were directed at remedying injustices arising from the exclusion of minorities from positions of ownership, control, and influence in this dynamic industry. The following exemplify CRS work in this area:

The National Academy of Television Arts and Sciences (NATAS) provided assistance to IMAGE, a national group of Chicanos working to improve the image of Chicanos through media, in developing a television variety show special. NATAS and the CRS representatives helped IMAGE to obtain free consultation from national television executives on production of the show and advised IMAGE on how to obtain a sponsor. This activity holds promise of opening doors in television and films for many Chicanos.

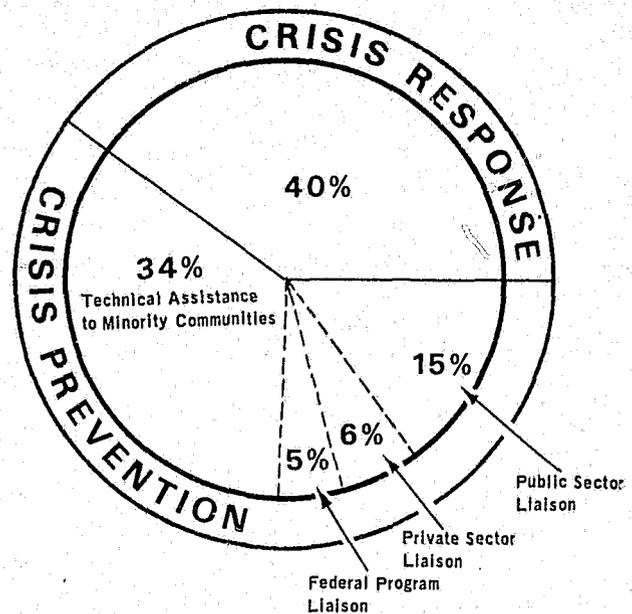
The CRS helped the Association for Education in Journalism in linking up with minority group leaders in the media. The resultant coalition of minorities and association members will approach foundations and Government agencies to seek support for a nationwide program to recruit, train, place, and upgrade minorities in broadcasting, newspaper, magazine, public relations, and advertising fields. A conference to bring together the coalition and funding agencies was held in September 1971.

The CRS helped bring together more than 50 organizations concerned about the public issues involved in the development of the Community Antenna Television (CATV) industry. With expansion of CATV in metropolitan areas and the development of numerous services and businesses utilizing CATV systems, minority communities have an opportunity to get in on the early stages of this rapidly developing industry. The

CRS Workload Data



Fiscal 1970



Fiscal 1971

The above charts show the proportions of time and manpower used by the Community Relations Service in fiscal 1970 and 1971, in resolving problems before they erupt into racial crises (crisis prevention) and in conciliating and mediating racial conflicts (crisis response).

CRS assisted several minority organizations in efforts to set up a nationwide clearinghouse, to be supported by one or more foundations, which will provide technical assistance to citizens concerned with the direction CATV development takes.

ECONOMIC DEVELOPMENT

The CRS cannot generate new economic resources through its own authority, nor does it have any usable funds under its direct control. Yet because the CRS, possibly more than any other Federal agency, has developed a working relationship with a broad cross section of minority groups, it can assist minorities upon request to identify the most realistic directions and resources needed for their own development.

The CRS worked with the Colorado Economic Development Association (CEDA) to continue its outreach activity in Denver. In June 1970, CRS learned that the Small Business Administration (SBA) was not going to refund CEDA. Upon request, the CRS assisted CEDA's executive officers in presenting their appeal. In November 1970, CEDA was refunded by the SBA for \$61,000, which enabled the organization to continue its operation as an outstanding minority loan-packaging agency in the United States.

Also, in fiscal 1971, the CRS held several economic

development seminars. As a result of one seminar, a \$100,000 line of credit was committed by the San Antonio Catholic Diocese and a \$350,000 bank loan was obtained to enable a local Chicano group to purchase a profitable sporting goods store.

The CRS assisted the Council for Self-Help Development, New Jersey, a northeast organization backed by regional cooperative resources and capable of providing technical assistance to beginning minority-owned cooperatives. Working as liaison between the Council and the Internal Revenue Service, the CRS was able to effect the necessary procedures through which the IRS granted tax exempt status to the organization.

STATE LIAISON

CRS State liaison personnel are working through the offices of governors to assist State agencies to channel their resources more effectively and efficiently to local social and economic programs, helping the States to develop wider programs, and assisting minority communities to utilize better the resources already provided by the States.

In February 1971, the Law Enforcement Assistance Administration (LEAA) asked the CRS to encourage the participation of predominately black colleges at a regional conference in Atlanta, Ga., where the law en-

forcement education program (LEEP) was explained. The CRS provided technical assistance in modifying curricula and filing applications to colleges wishing to participate in the LEEP, because the LEAA Office of Academic Assistance had neither the staff nor funding prerogatives to provide the necessary assistance. Representatives of 36 colleges attended the conference. Through CRS assistance and followup on-campus visits by CRS staff, 22 colleges requested a total of \$3,784,656 of LEEP funding for 2,488 students. This brought the total requests for LEEP funding to \$5,365,404 for 44 predominately black schools for fiscal year 1972, up from \$508,146 for 28 schools for fiscal year 1971.

The CRS provided consultant services and technical assistance to the International Association of Official Human Rights Agencies. Moreover, CRS staff served as resource personnel to over 300 human relations directors and volunteers throughout the country. As a result of CRS participation, the Association held regional workshops at its 1971 national conference in July. These regional training workshops were sponsored by the U.S. Equal Employment Opportunity Commission.

The CRS also continued to provide supportive services to strengthen existing human relations commissions as well as assisting in the development of new commissions. CRS guidelines on the creation of human relations commissions were distributed to approximately 2,500 additional individuals and groups in fiscal year 1971.

ADMINISTRATION OF JUSTICE

The CRS in fiscal year 1971 continued its ongoing project of reviewing and evaluating comprehensive State plans submitted to LEAA and State Planning Agencies for Omnibus Crime Control and Safe Streets Act funds. CRS reviewers take particular note of the community relations components and criminal justice provisions, or lack thereof. After comparing the State plans with the needs of the communities, the CRS makes suggestions and recommendations concerning the plans and, at times, has aided LEAA in revising those plans that lack community perspective.

At the request of the Delaware State Planning Agency, the CRS provided consultant services for planning the police-community relations component in the 1971 Delaware State Plan. Also, in Delaware, the CRS worked with the Model Cities Program of the U.S. Department of Housing and Urban Development (HUD) in establishing a community law center to serve the minority communities.

The creation of a Puerto Rican Legal Defense and Education Fund was initiated through the CRS and

received its first funding from the Ford Foundation in May 1971, a \$25,000 seed grant to support the development phase of the organization. The CRS was instrumental in helping to identify and organize the national board for the organization. Technical assistance and consultant services also were provided by the CRS.

The CRS conducted a workshop on the administration of justice in Tulsa, Okla., for the National Association of Intergroup Relations Officials. Advice was rendered on availability of LEAA funds and how to apply for them.

HOUSING AND PLANNING

The CRS was asked to mediate a conflict in Cleveland, Ohio, in which a general rent strike escalated into a public housing crisis. Working with the tenants' union, the former safety director, and the housing authority, the CRS assisted this community in reaching an agreement to reduce any show of force by city departments, and the crisis was brought under control. In addition, with the help of the CRS, tenants were able to bring HUD officials to Cleveland to review tenant participation in decisions of the modernization program. The CRS worked closely with all parties, including continued liaison with the HUD regional staff, through a series of meetings to draw up an agreement between the tenants' union and the housing authority.

Location of a crosstown expressway in Philadelphia, Pa., was viewed by minority residents of the planned construction area as an attempt, on the part of the city, to build a buffer between the downtown business district and the minority community. Building the expressway would have meant demolition of 3,500 homes and massive relocation of residents. At the request of the Crosstown Community Development Corp. and the Citizens Committee to Preserve and Develop the Crosstown Community, the CRS performed an extensive liaison function with appropriate city, State, and Federal officials. During this controversy, the CRS worked as an advocate of the local citizens' group and was instrumental in getting the group an audience with proper officials of the U.S. Department of Transportation and HUD. Once the decision not to proceed with the crosstown expressway was made, the city was able to receive Neighborhood Development Program (NDP) funds from HUD in the amount of \$3 million, which otherwise would have been delayed. The citizens' group was then designated by the city as the Project Area Committee (PAC), an advisory role, for its NDP area. The PAC has now received funds, hired staff, and is receiving technical assistance from the city planning commission.

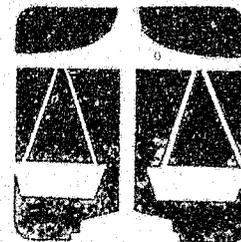
The CRS also worked closely with the Tenants Council of San Ysidro in San Diego, Calif. Through liaison with appropriate local and Federal officials, the CRS has helped the tenants council to secure a commitment of \$5,000 from HUD's Model Cities Program for San Diego to be used to establish a buyers' club. Negotiations were conducted to draw up a third-party contract with the Urban League consumer affairs project, Model Cities, Chicano Federation, and legal aid office. Although one club can work effectively and efficiently with its 35 members, it is planned to develop many clubs for the 400 resident families in the housing project.

CRISIS RESOLUTION

During the fiscal year, in 335 cities and 27 States, the CRS provided conciliators in 836 actual crises which grew out of problems in police-community relations, unemployment, housing, and school desegregation. The assistance was either volunteered or requested, and came during various phases of trouble. Frequently, assistance began when a crisis was imminent; at times, assistance was provided after volatile situations exploded into full-blown crises and continued through the post-crisis phase.

united states board of parole

George J. Reed/Chairman



The Federal parole system has been in operation since 1910. A centralized Board, with parole jurisdiction over all Federal prisoners wherever housed, was created by statute in 1930. Amendments to the statutes through the years have resulted in the present Board of eight members, appointed by the President, with the advice and consent of the Senate. Members serve 6-year, overlapping terms and may be reappointed. The Board has jurisdiction over all Federal prisoners paroled and other prisoners released on mandatory release "as if on parole" under the "goodtime" statutes. The Board issues a release certificate for each parolee and may issue a warrant for his return if he violates the Board's regulations governing his behavior in the community.

In 1950 Congress created a Youth Correction Division within the Board. That Division has specific powers with regard to the Federal Youth Corrections Act of 1950. Any member of the Board may be designated by the Attorney General to serve on the Youth Division. The Chairman of the Board and the Chairman of the Youth Division are designated by the Attorney General.

REORGANIZATION

During 1971 the Board completed a major reorganization of its operations. Throughout most of the Board's history, the members have conducted practically all of the personal hearings with parole eligibles. After returning to headquarters, they considered and made decisions on the parole applications. The result was often a long delay before the inmates were advised of the outcome. Further, the members' workload was consistently heavy and excessively demanding of their attention. Adequate time was not always available for careful deliberation and for conferences with one another on the more difficult cases.

The development of a full staff of eight parole hearing examiners in 1971, signaled a new approach to decision-making, which has reduced the time lag and also more nearly assures that every decision is as appropriate as possible. Members are now more available

at the Washington, D.C., offices to engage in decision-making on a more timely basis.

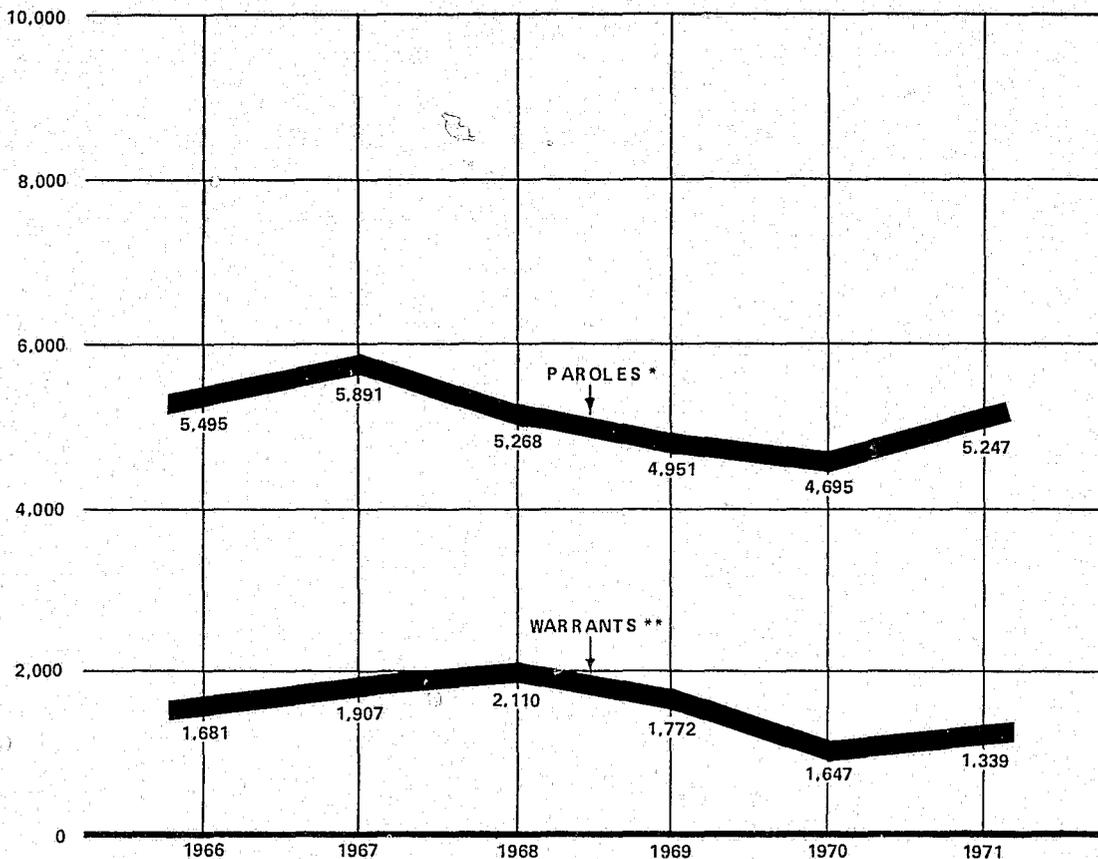
Time gained from the improved processing methods has permitted the Board to inaugurate appeals procedures relative to its own decisions, and to give careful study by the Board, sitting *en banc*, to the more complicated and unusual cases. Under these new procedures, a staff person prepares a full summary of the case and makes an oral presentation to the members who meet on a monthly basis for this purpose. Group decisions are then arrived at after thorough consideration and discussion.

STUDY OF DECISION-MAKING

A study funded by a grant from the Law Enforcement Assistance Administration in 1970, was well under way at the close of fiscal year 1971. The study is being conducted by the Uniform Parole Reports organization, a subsidiary of the National Council on Crime and Delinquency. The purpose of the study is to improve Federal parole decision-making through the use of computerized data concerning the Board's decisions and a 2-year followup of the success or failure of those released on parole. The goal of the project is to develop "base expectancy" or "experience" profiles which can be used by the members in comparing similar types of offenders. Using this technique, the members may compare the prisoner currently under consideration with comparable types previously released. An actuarial table of probable success will be available as the members vote on each case. Such information will be readily available through use of a computer terminal station now located in the Board's offices. The station can immediately recall data stored in a computer at Davis, Calif., on all Federal cases considered by the Board since the study began.

Until experience profiles are tabulated specifically for Federal offenders, the Board has ready access through the computer terminal to the computer-stored data on more than 115,000 prisoners paroled from the 50 States, as well as a sample of Federal parolees since 1966.

Paroles Granted and Parole Violation Warrants Issued. All Federal Prisoners Fiscal Years 1966 to 1971



*Does not include reparaoles

**Does not include warrants withdrawn during year of issuance

NEW LEGISLATION

Court-appointed attorneys at revocation hearings

Congress amended the Federal Criminal Justice Act, effective February 11, 1971, to provide that an alleged parole violator may have court-appointed counsel represent him at his revocation hearing, if the interests of justice demand it and if the individual cannot afford his own attorney. The number of revocation hearings with court-appointed attorneys has increased substantially since the legislation went into effect. Many such hearings are conducted in the community where the alleged violation occurred. Such local hearings are granted by the Board where there has been no criminal conviction while on parole; where the parolee denies he violated parole; and where he wishes to have legal representation or witnesses testify in his behalf.

Use of community treatment centers for parolees

Prior to passage of enabling legislation, the Board often found itself without adequate community resources for short-term residence or treatment for parolees who needed time to replan their lives. It is now possible for a special condition to be imposed requiring a parolee to participate temporarily in a program operated by a Federal community treatment center under the jurisdiction of or under contract to the U.S. Bureau of Prisons. Use of such facilities makes it possible to salvage a parolee without parole violation and return to custody.

Use of examiners at hearings with youth offenders

Prior to 1971, the Federal Youth Corrections Act stipulated that an initial hearing and a violator hearing with a committed youth offender should be conducted by a member of the Board's Youth Correction Divi-

sion. Examiners previously conducted such hearings only when the inmate waived his statutory rights. Under new legislation, however, such hearings may be conducted by any member or by an examiner appointed by the Division. This approach makes it possible to make full use of the parole hearing examiners recently appointed by the Board.

TRENDS IN BOARD'S DECISIONS

During the past year, the Board conducted 11,848 hearings with Federal prisoners. In addition, reviews were made of previous decisions on the basis of institutional progress reports in 3,791 cases. The Board made

16,028 parole decisions of all types during the year. The Board also issued 1,339 parole and mandatory release violator warrants.

The statistical trend over the years has shown that when there is an increased number of paroles, the number of violator warrants increases in proportion. A reversal of this trend occurred in 1971. The number of paroles granted in 1971 was 5,247, an increase from 4,695 in 1970, while the number of parole violator warrants decreased, from 1,647 in 1970, to 1,339 in 1971. It thus may be concluded that the Board's reorganization and the resulting improvement in its decision-making is being reflected in a higher degree of success by those selected for parole.

the board of immigration appeals

Maurice A. Roberts/Chairman



The Board is a quasi-judicial body appointed by and responsible to the Attorney General. It has jurisdiction, fixed by regulation (1), to hear and determine appeals from Immigration and Naturalization Service decisions in deportation, exclusion, visa petition, and other types of cases arising under the Immigration and Nationality Act.

The Board hears oral argument when requested. Its rulings on behalf of the Attorney General on all questions of law under the act are controlling (2). Selected decisions designed to serve as precedents are published (3), comprising 12 bound volumes to date. During fiscal 1971, the Board published 28 additional interim decisions as precedents. Votes of Board members are recorded as required by the Freedom of Information Act (4).

WORKLOAD

As indicated in table II, the Board adjudicated 3,204 appeals and motions during fiscal 1971, and had pending 564 cases at the end of that year. During that period it heard 262 cases on oral argument and considered 840 briefs. The Board handled 3,700 pieces of correspondence and earned for the United States \$70,065 by way of fees and administrative fines and penalties imposed.

During the year, the Board decided a number of cases involving interesting and complex issues, many having wide application. The following are typical.

DEPORTATION

Expungement Under Arizona Criminal Code

Subsequent to an alien's convictions of burglary in Arizona, court orders were issued setting aside the judgments of conviction and dismissing the complaints for all purposes pursuant to article 13-1744 of the Arizona Code as amended by chapter 221, section 1, effective January 1, 1971. The Board ruled that such convictions have been expunged and are no longer convictions of crimes within the meaning of section 241(a)(4) of the Immigration and Nationality Act (5).

Burden To Show Evidence Illegally Received

An alien presented no competent legal evidence in support of his claim that the documents entered into evidence to establish his deportability were obtained in violation of his constitutional rights. The Board dismissed the contention on the ground that one who raises such claim must come forward with proof establishing a *prima facie* case of illegality before the Immigration and Naturalization Service can be held to assume the burden of justifying the manner in which it obtained its evidence (6).

Stay of Deportation—Scope of Board's Authority

The Board concluded that it lacked authority to review a district director's denial of a stay of deportation sought for a purpose unrelated to the deportation proceedings (7).

Relief From Deportation Under Section 241(f) of the Immigration and Nationality Act, as Amended—Effect of Adoption Under California Law

Respondent had not established, pursuant to the provisions of section 230 of the Civil Code of California, the adoption of his child (a United States citizen) who had been born out of wedlock, and who had always lived with its natural mother and had never been received into the household of respondent. The Board held that there was a failure to prove the requisite familial relationship to qualify for the benefits of section 241(f) of the Immigration and Nationality Act, as amended (8).

Good Moral Character

The alien in this case, who was admitted as a non-immigrant student, was convicted of a single petty offense involving moral turpitude for which she was imprisoned. The Board ruled that such conviction did not preclude establishing good moral character under section 101(f)(3) of the Immigration and Nationality Act to qualify for the privilege of voluntary departure under section 244(e) of the act. This decision overruled *Matter of Neely and Whyllie*, 11 I. & N. Dec. 864, insofar as it dealt with the privilege of voluntary departure. The cases that were overruled in part in-

volved crimes of recent origin, whereas, in the present case, the offense occurred during the 5-year period required for a showing of good moral character (9).

Deportation to Country Other Than That of Nationality

The aliens in this case were admitted to the United States as Argentine nationals for temporary visits. Thereafter they executed declarations renouncing Argentine nationality under the United Nations Declaration of Human Rights Act, and Covenants. The aliens were nevertheless ordered deported to Argentina, the country they selected as their destination. The Board held that section 243(a) of the Immigration and Nationality Act does not require generally that an alien be a national of the country he chooses as his destination. The choice was in compliance with the statute (10).

Competency of Evidence

The Board ruled that admissions made by an alien to a Service officer in a preliminary interrogation at a travelers aid society office, in a noncustodial setting, were not tainted by the absence of a warning of the type in *Miranda v. Arizona*, 384 U.S. 436 (1966), and constitute competent evidence to support an order of deportation (11).

ADJUSTMENT OF STATUS

Section 245—Exercise of Independent Judgment

The Board ruled that a special inquiry officer must make an independent exercise of discretion on the facts of record; and the fact that adjustment of status under section 245 of the Immigration and Nationality Act had been granted to aliens with spouses and children in prior cases is not controlling (12).

EXCLUSION PROCEEDINGS

Withdrawal of Application for Admission

The Board held in this case that an applicant for admission, whether or not the application is made at a land port, and whether or not the special inquiry officer has entered a decision, may not withdraw an application as a matter of right (13).

Valid Labor Certification

Notwithstanding the presentation of a third-preference immigrant visa supported by a labor certification based upon a B.S. degree in animal husbandry, the Board held that an alien who upon arrival in the United States had no intention of working in the field of animal husbandry, or reasonable prospects of doing so, is excludable under section 212(a) (14)

of the Immigration and Nationality Act, as amended, for lack of a valid labor certification (14).

Status of Alien Parolee

An alien parolee was arrested for a crime, thereafter escaped from custody, and was not apprehended for 7 years thereafter. As a result the continuing inspection of his parole conduct was, of course delayed. The Board ruled that his status as an alien parolee was not altered by this, and that, upon apprehension and termination of parole, exclusion and not deportation proceedings were proper (15).

VISA PETITION PROCEEDINGS

Legitimation Under Louisiana Law for Immigration Purposes

In this case it was held that the legitimation of a beneficiary, who was born out of wedlock, for preference status, was not accomplished by the acknowledgment of paternity by the U.S. citizen petitioner in Louisiana in 1970, when he had legitimate children. Under the law of Louisiana a parent cannot legitimate his natural child by notarial act of acknowledgment when there exist on the part of such parent legitimate ascendants or descendants (16).

Chinese Adoption—Children

The beneficiary in this case was born in Hong Kong in 1940, the daughter of a female servant who resided in the petitioner's household. The petitioner sought to accord the beneficiary status as the adopted daughter of the U.S. citizen. The child's care and custody were vested in the petitioner in Hong Kong upon the death of the beneficiary's mother in 1949. The Board ruled that this did not constitute a valid adoption since the governing Chinese law and custom permits adoptions only for purposes of family succession and is limited to males; further, adoption of strangers is allowed only when a person has exhausted all his kindred, and even then the adopted child must be of the same surname (17).

Legitimation Under the Laws of Panama

A U.S. citizen petitioner filed to accord the beneficiary immediate relative status as his child under the immigration and naturalization laws. This was denied by the Service because of failure to establish legitimacy of the child beneficiary. The petitioner, a native of Panama, became naturalized as a U.S. citizen on August 5, 1963, and filed the petition on behalf of the beneficiary, who had been born on December 13, 1947, in Panama, to the petitioner and a woman to which the petitioner was not married.

On appeal, the Board ruled that under the laws of Panama the legitimation of the beneficiary, who was

born out of wedlock, was accomplished by petitioner's acknowledgment of paternity of the beneficiary before the mayor of Colon (18).

Adoption Under the Laws of Guyana

The petitioner, a native of Guyana and a naturalized citizen of the United States, filed petition to accord immediate relative status to a minor beneficiary, the natural child of another. Petitioner claimed that the child was given to her in adoption by the natural mother on January 20, 1959, and in support therefor presented a deed poll executed before a notary public in Guyana.

The Board held that a deed poll executed by the natural mother of the beneficiary, declaring that the beneficiary was henceforth to assume the maiden name of the U.S. citizen petitioner, does not constitute a valid adoption, since under the law of Guyana an adoption can be accomplished only in compliance with the Adoption of Children Ordinance (through a specially constituted authority, the adoption board), and by court order (19).

Guyana—Illegitimate Child, Acknowledgment of

A petition was filed in this case to accord to minor beneficiary immediate relative status under the Immigration and Nationality Act as the child of a U.S. citizen. The beneficiary was born out of wedlock but was given the father's name at birth and was cared for by him. The petitioner's position was that a child once given the father's name and taken care of by him is considered a legitimate child.

The Board ruled that under section 3(1) of the Legitimacy Ordinance of British Guiana [volume IV The Laws of British Guiana, chapter 165 (May 14, 1932)] acknowledgment or recognition alone of an illegitimate child by the putative father does not result in legitimation of such child; that legitimation of a child born out of wedlock requires the marriage of the natural parents under the laws of Guyana (20).

Adoption—Chinese

The petitioner, a female native and citizen of China and a permanent resident of the United States, sought classification of the beneficiary as her adopted son. Petitioner claimed that the beneficiary was adopted in 1952 in China with the consent of her husband. The beneficiary was then 4 years of age. No adoption paper was executed, nor was any other consideration given with respect to the alleged adoption.

The Board ruled that an adoption was not created on the basis of the facts presented. It was pointed out that no adoption papers were presented nor adoption procedures or formalities followed; that all previous Chinese laws and decrees regarding adoption were abolished in 1950 after the Chinese Communist Government seized control; and, further, article 13 of the

Communist Chinese Marriage Law pertaining to foster parents and foster children does not create a relationship equivalent to adoption (21).

Table I.—Appeals—Immigration and Nationality Act

Fiscal 1971 (July 1, 1970-June 30, 1971)	Pending June 30, 1970	Re- ceived	Adjudi- cated	Pending June 30, 1971
Categories (class A cases):				
Deportation.....	193	968	915	246
Exclusion.....	17	160	122	45
Fines.....	36	48	51	3
Others: Secs. 204, 212(c), 212(d), 242(a), 246.....	82	253	282	53
Total.....	328	1,419	1,400	347
Categories (class B cases):				
Section:				
243(a).....	1	0	1	0
243(h).....	107	190	297	0
244.....	92	176	293	0
245.....	308	209	445	72
249.....	26	4	28	2
Total.....	534	579	1,039	74
Total appeals (classes A and B).....	862	1,998	2,439	421

Table II.—Motions—Immigration and Nationality Act

Fiscal 1971 (July 1, 1970-June 30, 1971)	Pending June 30, 1970	Re- ceived	Adjudi- cated	Pending June 30, 1971
Categories (class A cases):				
Deportation.....	8	397	395	10
Exclusion.....	3	5	3	5
Fines.....	0	3	3	0
Others: Secs 204, 212(c), 212(d), 242(a), 246.....	4	12	9	7
Total.....	15	417	410	22
Categories (class B cases):				
Section:				
243(a).....	0	0	0	0
243(h).....	23	16	30	9
244.....	9	157	69	97
245.....	5	244	235	14
249.....	14	8	21	1
Total.....	51	425	355	121
Total motions (classes A and B).....	66	842	765	143
Grand total appeals and motions.....	928	2,840	3,204	564

Table III.—Workload summary, fiscal 1971

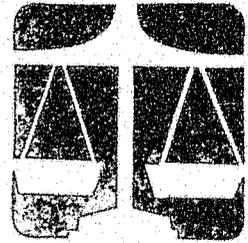
Number of oral arguments heard.....	262
Number of briefs in lieu of oral argument.....	566
Number of reply briefs received.....	274
Total briefs.....	840
Correspondence handled.....	3,700
Filing fees earned.....	\$41,965
Administrative fines on penalties imposed.....	28,100
Total fees earned and fines imposed.....	70,065

LIST OF CASES CITED

- (1) 8 C.F.R., pt. 3.
- (2) Sec. 103, I. & N. Act, 8 U.S.C. 1103; 8 C.F.R. 3.1(g).
- (3) 8 C.F.R. 103.3(d).
- (4) Public Law 89-554, 80 Stat. 383 (July 4, 1967).
- (5) *Matter of Gutnick*, Interim Decision 2075 (Mar. 17, 1971).
- (6) *Matter of Tang*, Interim Decision 2080 (Apr. 22, 1971).
- (7) *Matter of Paduano*, Interim Decision 2071 (Jan. 21, 1971).
- (8) *Matter of Johnson*, Interim Decision 2067 (Dec. 7, 1970).
- (9) *Matter of Urpi-Sancho*, Interim Decision 2066 (Sept. 15, 1970).
- (10) *Matter of Laurenzano, et al.*, Interim Decision 2065 (Nov. 30, 1970).
- (11) *Matter of Lane*, Interim Decision 2064 (Nov. 24, 1970).
- (12) *Matter of Aguirre*, Interim Decision 2072 (Feb. 3, 1971).
- (13) *Matter of Vargas-Molina*, Interim Decision 2069 (Jan. 8, 1971).
- (14) *Matter of Ortega*, Interim Decision 2055 (Aug. 19, 1970).
- (15) *Matter of Dabiran*, Interim Decision 2051 (July 17, 1970).
- (16) *Matter of Ramirez*, Interim Decision 2073 (Mar. 11, 1971).
- (17) *Matter of Yiu*, Interim Decision 2061 (Nov. 19, 1970).
- (18) *Matter of Sinclair*, Interim Decision 2057 (Sept. 30, 1970).
- (19) *Matter of James*, Interim Decision 2058 (Sept. 23, 1970).
- (20) *Matter of Gouveia*, Interim Decision 2054 (Aug. 7, 1970).
- (21) *Matter of Yee*, Interim Decision 2060 (Nov. 5, 1970).

pardon attorney

Lawrence M. Traylor



Under the Constitution, the President has the power to grant reprieves and pardons for Federal offenses and he looks to the Attorney General for advice on all matters concerning executive clemency. The pardon attorney, as a member of the Attorney General's staff, receives and reviews all petitions for clemency, initiates the necessary investigations and prepares the Attorney General's recommendations to the President. It is the responsibility of the pardon attorney to provide the President with the best information available on which to base a fair and just decision.

The pardoning power as set forth in the Constitution (article II, section 2) is unlimited and unqualified. It gives the President discretionary authority to grant a pardon or to deny a pardon. His authority extends to all offenses against the United States excepting only impeachment cases. He has no authority in State cases. The exercise of the authority is not subject to review by the courts, nor may it be circumscribed by Congress. There is no appeal from a clemency decision.

The pardoning power is exercised by the President personally. He does not delegate the power to any other official or agency. Accordingly, the decision to pardon or not to pardon is the President's alone even though, as a matter of practice, he relies on the written advice of the Attorney General. The single exception is the modification of prison sentences in military cases. In such cases clemency (i.e., commutation of sentence) is exercised by clemency boards within the military departments.

Clemency takes four forms. Of lesser importance are reprieves and remissions of fines. Pardon after completion of sentence is the most common form of clemency. Commutation or shortening of sentence is a form of restricted pardon. A commutation of sentence may reduce the number of years of a sentence to permit a prisoner to be released at some future time or to accelerate his eligibility for parole. It frequently reduces a sentence to time already served.

The ground on which a pardon is usually granted is in large measure the demonstrated good conduct of the petitioner for a certain period of time after his release from confinement. Among the factors considered are his subsequent arrest record, his financial

responsibility, his family responsibility and his reputation in the community. These and other relevant considerations are carefully reviewed to determine whether the petitioner has become and is likely to continue to be a responsible, law-abiding person.

A commutation of sentence is usually granted only in cases in which exceptional circumstances are present, such as terminal illness or disparity of sentence. Outstanding conduct in prison and evidence of rehabilitation are important factors but commutations are rarely granted on such grounds alone.

A pardon is a forgiveness of an offense. It does not expunge the record of conviction and does not in itself restore civil rights. As a general proposition it may be said that a pardon by the President relieves the recipient of legal disabilities attached to his conviction by reason of Federal law. Whether or not an offender has lost any other civil rights as a consequence of a Federal conviction depends upon the laws of the State in which he resides or attempts to exercise such rights. In some instances, State authorities restore such rights without a Presidential pardon.

In a recent study based upon all 194 persons who received pardons in fiscal year 1965, it was found that only 3 percent had been convicted of subsequent

EXECUTIVE CLEMENCY STATISTICS

[Fiscal years 1963 to 1971, inclusive]

Fiscal year	Received	Granted		Denied	Pending
		Pardons	Commutations		
1963	599	97	8	356	681
1964	461	55	7	348	732
1965	662	69	4	684	647
1966	585	192	0	568	463
1967	585	232	4	443	369
1968	406	98	6	302	369
1969	434	117	2	280	388
1960	437	149	5	244	437
1961	481	220	18	260	408
1962	595	166	16	315	506
1963	592	133	45	233	687
1964	921	314	74	437	783
1965	1,008	195	80	569	947
1966	865	364	81	726	641
1967	863	222	23	620	739
1968	749	13	3	415	1,057
1969	724	0	0	605	1,276
1970	459	82	14	698	941
1971	454	167	16	648	674

crimes. Only 1 percent (two persons) had felony convictions and 2 percent had misdemeanor convictions. In an earlier study based upon all 149 persons who received pardons in fiscal year 1960, it was found that none had been convicted of subsequent felonies and less than 4 percent had been convicted of misdemeanors.

Only a very small percentage of convicted persons ever apply for Executive clemency. The table below presents statistics for fiscal years 1953 through 1971. In addition to the 821 clemency cases closed in fiscal year 1971, the correspondence amounted to 6,903 items received and 6,457 mailed, an average of 575 per month incoming and 538 outgoing.