

# United States Attorneys Bulletin

February 1996

Volume 44, Number 1,

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## **From the Editor-in-Chief**

Happy new year and welcome to the first Bulletin issue of 1996. In response to your requests, we are publishing our semiannual Commendations issue, including commendations we received from June through November 1995. The new members of the Attorney General's Advisory Committee, an MOU between the District of the Virgin Islands and the Virgin Islands Territorial Attorney General, OLE course schedules, and our newest publications are highlighted in this issue. We also highlight a case involving credit card fraud in California, a nationwide telemarketing fraud scheme involving more than 400 arrests in 12 states, and some cooperative efforts going on in the districts.

Once again, we are looking for feature stories from you. Have you tried a case recently where new evidentiary techniques were used? Have you uncovered a new fraud scheme that all of us should be aware of? Remember, this is your publication and it will reflect your contributions.

DAVID MARSHALL NISSMAN

# **Interview with Donna Bucella, Principal Deputy Director, Executive Office for United States Attorneys**

Donna Bucella, an Assistant United States Attorney from the Southern District of Florida (SDFL), has been serving as the Principal Deputy Director of EOUSA since May 1994. Donna was interviewed by Assistant United States Attorney David Nissman, Editor-in-Chief of the United States Attorneys' Bulletin. Donna has the perspective of an experienced Assistant United States Attorney. She is aware of Assistant United States Attorneys contributions to the policies of the Department, the value of their dedicated efforts, and the praise they continue to receive from top Department leaders.

DN: When did you first become an AUSA?

DB: I began working as an Assistant in 1987 in the SDFL. I began in the Appellate Section and then went to the Major Crimes Section. We tried a variety of cases (drugs, guns, immigration, treasury checks, etc.). We took as many duty calls as we could. It was a lot of fun, especially in South Florida where we never had to look for cases, they always came to us. I did that for about 1 1/2 years, then worked on fraud and corruption cases, and later became a supervisor of the Major Crimes Unit.

DN: What did you like best?

DB: Trying cases.

DN: Which kind?

DB: I really like a variety. If I were stuck doing one thing, I would be bored. I really like white collar cases because you have to put all of the pieces of the puzzle together, and you're not quite sure how the pieces fit when you begin an investigation, but as the evidence is gathered, you really see it all come together. It was an area that I didnt know much about. I love grand jury practice because you can make or break it right there. With white collar cases, you tend to have wonderful opposition and are up against some of the better lawyers who give you a run for your money. It really is an exercise in good trial work. I love long trials you have good days and bad days and it's a great learning experience.

DN: As I recall, when Carol DiBattiste was Director of the Office of Legal Education (OLE), she talked you into coming to Washington.

DB: Carol asked me to come to Washington to be an Assistant Director for Criminal Programs in OLE during the summer of 1993. At the time, Ted McBride, who was the Assistant Director for Criminal Programs, became the interim United States Attorney in the District of South Dakota. When Carol found out that Ted was going back to his district, she called me to ask if I would fill in. I went to my United States Attorney and he told me it would be a great opportunity and to have a good time. So I packed my car on Memorial Day weekend and drove to D.C. thinking I

would be in Washington for three months. The day I arrived, Carol told me that she was asked to be the Principal Deputy General Counsel for the Navy. Then she said, "You have an interview with Tony Moscato on Monday." I asked her what for and she said, To become the Director of OLE. She told me that I better take good care of OLE. The most important thing was to take care of the OLE staff. And, being a detailee, I have learned that. I was told a long time ago that there are sprinters and marathoners. The sprinters are the detailee's. We come up here and believe we are going to change the world and have all this energy. The marathoners are the people in EOUSA that are here day-in and day-out. They see detailees come and go. Everybody wants to change things. I didnt even know what EOUSA was, I really didnt. As an AUSA, I didnt realize that EOUSA really takes care of the USAOs and supports the entire function. I just thought it was all Washington. I've learned that we have some incredible people in Washington. The day-in, day-out people have different pressures you dont have to hear or care about when youre in the field. When youre in the USAO, you are only concerned with your office. When you're in EOUSA, youre concerned about 95 offices<sup>94</sup> are the USAOs and the 95th is Main Justice.

DN: What was the first thing that you did?

DB: I hired Charysse Alexander from MDAL as the Criminal Assistant Director. OLE was very active putting on courses during the first year I was here. I walked around the Main Justice Building and introduced myself to all the new AAGs. Charysse and I, armed with our up to date OLE books, went to visit Loretta Argrett, Tax Division, and Jo Ann Harris, Criminal Division. I believe we even sent the AG some materials. We met with the Environment Division and every litigating Division to discuss OLE, and the fact that we were here not only to train the Assistants but to train all attorneys in the Department. Whether an Assistant or from a litigating Division, we all carry DOJ credentials, we all represent the United States of America, and we all need the same kind of training.

DN: You were the Director of OLE and then the Principal Deputy of EOUSA. Tony Moscato appointed you as Principal Deputy Director, but you didn't really get to do that job because then you went to the Middle District of Florida (MDFL) to be the Interim United States Attorney.

DB: I thought I was going to be here a year and then I was going back to Miami to try cases. Then Tony asked me to be more involved in EOUSA. He started including me in more meetings and staff issues, and asked me if I wanted to become more involved. I wasn't sure what he meant at the time but I soon realized that he wanted me to work with him in the Directors office. I also didnt know what the position entailed at the time, but I talked to Wayne Rich and a number of career AUSAs who encouraged me to take the job. I knew it would be demanding. One of the reasons I'm in this job is to make it better for AUSAs. I dont know if Ill be able to accomplish all of the things Id like to in Washington. I talked to many people, sought advice from other Assistants in the field who said that I couldnt leave because they needed to have an AUSA in Washington, and then accepted the job. I remember Tony telling me, This job is going to be a lot harder than you think it's going to be. And he was right. I had the job for about eight or nine days when I was asked to go and help out the MDFL. I said sure. I was running out the door to go home, pack a bag, and go down there to be the Acting United States Attorneyit knocked me right out of my socks! I was smacking myself saying, What, why me? My mission while I was in MDFL

was to assist the office in any way that I could. I flew to every office the first couple of days to introduce myself, meet everybody in the branch offices, and to tell them I was not there permanently. I told them that I was an Assistant, and that I was proud to be an Assistant. We worked together for six months. What a terrific district with great people!

DN: How has EOUSA progressed during your tenure? What are three things that you think have been accomplished since you have been here in the last couple of years?

DB: The first is our responsiveness to the field. If anyone in a USAO has a problem that requires dealing with Washington, we're here for them anytime. We try to produce more for the USAOs to allow them to do their jobs better. In order to support the field and the AG/DAG the best way we can, we have brought to Washington more AUSAs and support staff than ever before. This gives us a much better sense on policy issues and how we can better assist the USAOs. Also, our OLE Publications Branch, with USABook, is absolutely incredible. Nobody has to carry big books any more. If you want books, we've cut down on shipping costs because its on your computer now. I think this is much more professional. Were progressing and were not just managing.

DN: Could you describe for the AUSAs in the field what role they have with respect to policy making in the Department? That has changed a lot, hasnt it?

DB: Yes, it certainly has. During the 2 1/2 years that I've been here, we have brought in a number of Assistants to help not only in OLE but in substantive areas of law such as financial litigation, health care fraud, and sentencing guidelines, just to name a few. We have the Office of Counsel to the Director, which works on legislative issues. We have assigned many AUSAs to work with the AGAC subcommittees on substantive issues in the Department. We also reach out to Assistants in the field. If an Assistant calls to ask who the expert is in a substantive area, we try to hook them up with the experts. In all substantive areas of the law, everything that effects policy is reviewed by the AGAC.

DN: There are a number of surveys that go out. Some Assistants have said that we don't give them enough time to respond to surveys or that they dont understand why EOUSA needs the information that is requested? Tell us about the process. Why does EOUSA send out surveys, how do they get used, and why is the response time so short?

DB: I think the Assistants should be concerned if we aren't asking for information. That may have been the case in the past. No one was asking and decisions were being made that affected trial attorneys in the courtroom, without input from the lawyers that they affected. So now we send out surveys requesting information on substantive issues. We may get a request from Congress on Wednesday at 5:00 p.m.; we would typically send out an email requesting information. We may ask for a response by 12:00 pm. on Friday. Why? Because we need time to evaluate the responses and get the information back to the Hill by 5:00 p.m. on Friday. If we respond quickly, it certainly demonstrates that we care. The information we receive in response to every EOUSA survey is used. Some surveys we distribute are not necessarily generated by EOUSA. They may contain requests from the Sentencing Commission, the courts, BOP, or the Hill. We just get the message out, after we clear the survey with EOUSA's Office of Legal Counsel. We are asking more and

more offices for their input because EOUSA does not establish policy, it is established by the Department after consideration of the input from the USAOs in response to the surveys.

DN: When I interviewed the Attorney General several months ago that's what she said. She wanted to know what was going on in the field and when a substantive question comes up. Are surveys the way to find out?

DB: This is one of the ways. The Attorney General gets input from the AGAC and she visits offices. When she returns (and I meet with her every morning at the coordination meeting), she covers issues and questions that were raised by AUSAs and support staff in the USAOs during her travels. I am responsible for all issues, substantive and administrative, that effect each of the 94 districts. I can get some of the information from the surveys and from the USA Overnites and just listening to the Assistants around the country. But there are times when the AG reads news clippings and wants to know the facts of a case how the arrest was made or what happened. When I first started going to the coordination meetings, I would call the USAOs and begin by saying, You're not in trouble. Now I don't have to say that, and I think everybody in the offices understands that EOUSA is the link between the USAOs and Washington. My job is to give the office a heads up. If there is a problem or if one of their cases is being talked about good, bad, or indifferent I get the message to the field. If I hear from the AG or DAG that an Assistant has done a great job, I'll pick up the phone and tell them. I don't like to be the bearer of bad news, and I think sometimes Assistants really get a kick out of the fact that somebody in Washington really does care about a case that they're working on, especially when they get an email from us saying that they've done a great job. I'm envious that there are so many fantastic cases out there, and proud that Assistants and support staff are really working hard and doing a bang up job! And I make sure that while in Washington, I'm an advocate for the USAOs.

DN: EOUSA has done a lot to support the field. For instance, tell us about the role EOUSA played with the USAO in Oklahoma City.

DB: EOUSA has done a lot more to support the USAOs, and not just regarding litigation. In the last year, we created the EOUSA disaster relief. We not only send money to those in need but we let other USAs know that their fellow USAOs need help. After the earthquake in California, we flew out to assist the office. After the flooding in Macon, Georgia, I, with the assistance of MDFL, brought gallons of fresh water to the USAO there. After the hurricane in the Virgin Islands, within 48 hours we arranged for generators and food. Fortunately, during periods of disaster, phone calls come in immediately. I received a phone call about an hour after the Oklahoma City bombing from a USAO asking what they could do to assist the WDOK. During the flooding in Louisiana, we received phone calls and Emails from USAOs around the country saying they heard that there were problems and asking if anybody needed anything. People offered to send clothes or anything else they needed. It is wonderful to get these calls offering assistance. Email is a great communicator that has broken down the geographical distance between districts. It has certainly made us realize that we all work for the same Department. After the bombing in Oklahoma City, I met with the Attorney General and she asked us to assist the district. I was on a plane to the Command Center in Oklahoma City the next day, and EOUSA set up a full fledged office at an off site within 48 hours. We brought counselors from the Employee Assistance

Program to the scene immediately to help the USAO and the employees in the office. We set up telephone and other communication lines, and backup telephone systems in case the power went out. We arranged for extra security. The display of effort was incredible. We organized and solicited assistance from support staff and Assistants all around the country and sent in teams of people to work in the Command Center around-the-clock. We had secretaries, paralegals, and receptionists from all around the country. More people volunteered than we could use. It was a tremendous show of support during this time of tragedy.

DN: One change that I have seen since I've been working here is that the Department now looks to an entire, available pool of talent within the USAOs and the Department to formulate strategies of how to put our best foot forward. Is that your perception?

DB: Without a doubt. When the AG came to Washington, her message was clear: We have to stop this us against them. This is a partnership. And I've heard it among a number of different agencies, including components and local law enforcement groups. There is a true cooperative effort between everyone in law enforcement. Cooperation is no longer just a word being used, I've seen it happen REALLY happen. When I was in the SDFL, on occasion I talked to Assistants from other USAOs when someone would get arrested in our district. We would talk on the phone and help each other out. And I see this cooperation on a daily basis since I've been here in Washington.

DN: Do you remember completing that career retention survey in 1988 or 1989?

DB: Yes I do. When the survey came out there was concern about keeping career prosecutors in the USAOs. I remember that in the category of job satisfaction, I believed that I had one of the best jobs. I loved coming to work in the morning. You never knew what was going to happen. Even in this job, I still don't know what's going to happen. But as an AUSA, every day brought something new, something good, and no two days were exactly alike. I could never say I was bored. My job was exciting and challenging.

DN: From your perspective, are personal attacks from the defense bar increasing?

DB: I am more aware of the allegations of prosecutorial misconduct. I believe the complaints have increased from ten years ago. However, many times allegations against AUSAs by the defense bar are not warranted. During the PRO Seminar, the Office of Professional Responsibility (OPR) reported that less than ten percent of the allegations are substantiated. We are concerned with getting rid of the frivolous allegations. Assistants are encouraged to talk to a colleague before doing anything that may be a little tricky or could cause problems. As far as being attacked, Assistants are starting to better equip themselves to defend themselves against frivolous complaints. When I came to Washington, one of the things that I discussed with a number of Assistants was who we could go to for answers to our ethics and professional responsibility related questions. And that's how the Professional Responsibility Program came about. There were several Assistants Rory Little, Rosalyn Moore-Silver, Charysse Alexander, Deputy Assistant Attorney General David Margolis, and myself-who started kicking around the idea of creating some kind of network in which litigating attorneys could rely on for answers to questions



concerning ethical issues. One of the greatest accomplishments the Department has made in that respect has been the establishment of the Professional Responsibility Program.

DN: Do you sense that the Department is more willing than it once was to stand behind Assistants when frivolous allegations are made against them? What level of comfort can you give to the Assistants in the field about the Department's position on these issues?

DB: I think if you are getting attacked, no matter what happens, you're going to feel somewhat alone. This Attorney General has taken a very active role in supporting her litigators. If faced with an ethical issue, go to your supervisors, sit down and explain it, and then contact the professional responsibility representative in your office or call Charysse Alexander. We have incredible resources to offer. David Margolis is the lawyers' lawyer for any trial lawyer around the country, and he is always willing to provide assistance. Both the DAG and the AG have gone to a number of Bar functions to speak on behalf of their lawyers. I am aware of instances where the AG has contacted attorneys who had frivolous claims made against them and OPR had found no misconduct. So yes, believe the Department is much more willing to stand behind its lawyers.

DN: What message would you like to leave AUSAs with in terms of how you perceive their work?

DB: I think the AUSAs have the best job in the country! Our people are our best resource. There are so many incredible cases out there. I read about a case and think that there must be 25 people working on this one case. And then I find out it's an AUSA with a computer and a great paralegal. The team approach, to me, is really important. Assistants with their support staff, with the paralegals on your team. It is wonderful now to see how many AUSAs have received thank yous for doing a nice job, thank yous signed by the Attorney General or the Director of EOUSA. The Attorney General and the Director of EOUSA know about your work because they read about it and hear about it. The Director of EOUSA was herself an Assistant United States Attorney and she regards her days as an Assistant as the best. It is also very exciting that we have a proactive Attorney General and Deputy Attorney General. They are proud of every case that is prosecuted or defended by our attorneys, and so am I. It is truly an honor to be able to say, "My name is \_\_\_\_\_ and I represented the United States of America."

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# Commendations

The following commendations were submitted to the Executive Office for United States Attorneys from the districts during the period June through November 1995. The *United States Attorneys Bulletin* publishes commendations of Assistant United States Attorneys semiannually.

**Stephen G. Ahrendt** (District of South Dakota), by the South Dakota Loan Resolution Task Force and others in the Farm Service Agency, U.S. Department of Agriculture, for his assistance in concluding a large number of their accelerated cases, and for his approach, guidance, and implementation of the legal process.

**Charysse Alexander** (Middle District of Alabama), by AUSA Richard S. Glaser, Jr., Middle District of North Carolina, for her outstanding efforts in *United States v. Michael Wade Chalmers*, a drug case for which a Rule 35 motion was filed.

**Mary Carter Andruess, Charles Kreindler, and Patrick Walsh** (Central District of California), by Colonel Riggs L. Wilks, Jr., U.S. Army Chief Trial Attorney, Office of the Judge Advocate General, for their efforts in the successful prosecution of several DEL Manufacturing Company principal officers for misusing Government progress payments.

**James E. Arehart** (Eastern District of Kentucky), by United States Attorney Edmund Sargus, Jr., Southern District of Ohio, for his successful prosecution of a mail fraud case.

**Steve Baer** (Western District of Virginia), by U.S. Probation Officer Jimmie F. Daniel, United States District Court, for his efforts in *U.S. v. Joseph Monroe and Tyrone Smith*, a drug conspiracy case.

**J. Malcolm Bales** (District of Colorado) and **Kerry Klintworth** and **John B. Stevens** (Eastern District of Texas) by FBI Director Louis J. Freeh, for their assistance during an investigation of the theft of 157 kilos of cocaine from the Beaumont, Texas, Police Department.

**David G. Barger** and **Charles P. Rosenberg** (Eastern District of Virginia), by Judge Terrence W. Boyle, United States District Court, Eastern District of North Carolina, for their exemplary performance in handling several difficult tax cases.

**Robert Bartels** and **Thomas P. Hannis** (District of Arizona), by Director Guy P. Caputo, Office of Investigations, U.S. Nuclear Regulatory Commission, for their successful prosecution of a high-level supervisor at the Arizona Public Service Company, Palo Verde Nuclear Generating Station, for employee discrimination under the Federal statute prohibiting discrimination against "whistle-blowers" in the nuclear power industry.

Paralegal **Jannie B. Bazemore** (Eastern District of Virginia), by FBI Special Agent in Charge Larry E. Torrence, Norfolk, for the trial of Salomon S. Loayza who was convicted of mail fraud.

**Robert J. Becker** (Northern District of Ohio), by Lieutenant Dennis M. Pellegrino, Agent in Charge, Stark County Metropolitan Narcotics Unit, for his efforts in the successful prosecution of Robert J. Smith for firearms possession, and distribution and possession of narcotics.

Paralegal specialist **Joanne Bender** and **AUSA Bonnie Ulrich** (District of South Dakota), by Thomas J. Faugno, Assistant District Counsel, Department of the Army, for their research efforts concerning the Tanner v. United States ammunition disposal case.

**Jamie M. Bennett** (District of Maryland), by Regional Inspector General for Investigations Charles C. Maddox, Department of Health and Human Services, for her successful prosecution of Dr. Hakki Adam for Medicare fraud in connection with accepting kickbacks in return for his referral of patients.

**Jamie M. Bennett** and **Harvey E. Eisenberg** (District of Maryland), by ATF Special Agent in Charge Margaret M. Moore, for their successful prosecution of violent career recidivist Donald Andre Robinson.

**Terrence Berg** and **Janet Parker** (Eastern District of Michigan), by EPA Special Agent in Charge Louis Halkias, for their successful prosecution of John A. Rapanos for Clean Water Act violations.

**Terrence Berg** and **Jonathan Tukel** (Eastern District of Michigan), by FBI Director Louis J. Freeh, for their outstanding efforts in prosecuting 16 members of a drug trafficking ring.

**Gerald Bertinot, Jr.** (Western District of Louisiana), by USDA Acting Deputy Director Roberta E. Waggoner, Research and Development Division, Kansas City, for his assistance in the appeal hearing of Perry Smith who was charged with crop insurance fraud.

**Thomas H. Bienert** (Central District of California), by FBI Director Louis J. Freeh, for his successful prosecution of Malcolm Thomas Hardy for assault on a Federal officer and using his vehicle as a dangerous weapon.

Paralegal **June Binford** (Middle District of Georgia), by Director Carol DiBattiste, Executive Office for United States Attorneys, for providing information concerning cases for the successful transfer of seized property in numerous cases.

**Andre Birotte** (Central District of California), by FBI Special Agent Clifford J. Ruona, Los Angeles, for his investigation and trial preparation of a complex cocaine trafficking case in which two defendants pled guilty.

**Demetrius K. Bivins** (Western District of Texas), by Ambassador William Lacy Swing, United States Embassy, Port-au-Prince, Haiti, for his role as a member of the Civil Affairs Ministerial Advisory Team during Operation Uphold Democracy.

**Kristine Blackwood** (Central District of California), by Captain Roger K. Hull, Vice Commander, Naval Air Warfare Center, Weapons Division, for her outstanding advice and service during *Strickland v. United States, et al.*, a case involving alleged wrongdoing by several Federal employees and union officials.

**Kristine Blackwood** (Central District of California), by General Counsel Robert M. Fenner, National Credit Union Administration, for her outstanding representation of the National Credit Union Administration and its employees, who were sued for alleged wrongful termination, in *Robert Bruns v. National Credit Union Administration, et al.*

**Thomas J. Bondurant, Jr.** (Western District of Virginia), by Robert B. Reich, U.S. Department of Labor, for his successful prosecution of those responsible for the Southmountain Mine explosion.

**Edmund A. Booth, Jr.** (Southern District of Georgia), by USDA Regional Attorney Donald R. Kronenberger, Jr., for his outstanding representation in a Chapter 12 Bankruptcy case.

**Gregory Bordenkircher** (Southern District of Alabama), by Officer Johnny R. Thorton, Sr., Mobile Police Department's Narcotics and Vice Section, for his dedication during the successful prosecution of the Donald E. Jackson narcotics case.

**Richard Boscovich** and **Ellen Cohen**, and supervisory legal technician **Amber Walker** (Southern District of Florida), by Trial Attorney Will Traynor, Antitrust Division, Atlanta office, for their efforts during the Southern District of Florida's investigation into a nationwide criminal price-fixing conspiracy.

**Reese V. Bostwick** (District of Arizona), by United States Attorney Thomas J. Maroney, Northern District of New York, for his invaluable assistance in an OCDETF case prosecuted in the Northern District of New York.

**Susan Brandon** (Eastern District of Oklahoma), by District Counsel Clifton R. Byrd, Department of Veterans Affairs, for her efforts in obtaining a dismissal of a sexual harassment case.

**George Breitsameter** (District of Idaho), by Special Agent in Charge Noel Tognazzini, U.S. Department of Housing and Urban Development, for the successful prosecution of Ronald Casper and Franice Gough for mail fraud and equity skimming.

**Christa D. Brunst** (Northern District of Ohio), by FBI Special Agent Michael T. Bartley, Cleveland, for her assistance in handling Unlawful Flight to Avoid Prosecution matters and securing related court orders and other legal documents.

**Lynne H. Buck** (Northern District of Ohio), by ATF District Director Wayne P. Moran, for her excellent work in the Michele Comer employment discrimination case.

**Inga Bumbary-Langston** (Southern District of Iowa), by Senior Deputy Chief Counsel Brian C. McCormally, Office of Thrift Supervision, Department of the Treasury, for her assistance in resolving *Sahai v. Director, Office of Thrift Supervision*, a Right to Financial Privacy Act case.

**Sharon Burnham** (District of Hawaii), by DEA Assistant Special Agent in Charge Sidney A. Hayakawa, for her tremendous efforts with numerous drug investigations.

**Larry Butrick** (District of Hawaii), by Director Bryan Harry, National Park Service, Pacific Area Office, for the successful prosecution of Patrick Dennis for possession of drugs with intent to distribute and driving under the influence of drugs.

**Paul T. Camilletti** (Northern District of West Virginia), by Frank J. Frysiak, U.S. Customs Service, Washington, for his successful prosecution in a drug paraphernalia case.

**Barbara M. Carlin** (Western District of Pennsylvania), by Acting Inspector in Charge Edwin Rios, U.S. Postal Inspection Service, Pittsburgh, for her successful prosecution of *U.S. v. Manuel Joseph Moreno, Sr.*, for mail fraud.

**Randy Chartash** (Northern District of Georgia), by USDA Regional Inspector General for Investigations Greg A. Shubert, for his prosecution of *United States v. Elizabeth Martin*, a food stamp fraud/money-laundering case, and for his efforts in numerous significant USDA food stamp fraud cases.

**Robert Chesnut** (Eastern District of Virginia), by Mr. Glenn C. Lewis, President, Fairfax Bar Association, for his exemplary efforts with the Fairfax County Children's Task Force.

**Russell Chittenden** (Central District of California), by USPS Attorney Michael S. Emery, San Francisco Field Office, for his successful prosecution of *William L. Scott v. Runyon*, Postmaster General, a discrimination case under Title VII of the Civil Rights Act of 1964.

**Ellen Cohen** and **Richard Boscovich**, and supervisory legal technician **Amber Walker** (Southern District of Florida), by Trial Attorney Will Traynor, Antitrust Division, Atlanta office, for their efforts during the Southern District of Florida's investigation into a nationwide criminal price-fixing conspiracy.

**Richard Convertino** (Eastern District of Michigan), by Special Agent in Charge Stuart Eder, Department of Labor, for significant contributions in the successful prosecution of five former union officials involved in a racketeering, mail fraud, and embezzlement conspiracy.

**Frank Costello** (Eastern District of Pennsylvania), by Robert L. Burgess, National Insurance Crime Bureau, Atlanta, for his successful investigation and prosecution of a major Philadelphia law firm whose associates perpetuated widespread insurance fraud scams.

**Special AUSA Mary Ann Cozby** (Eastern District of Texas), by United States Attorney Mike Bradford, Eastern District of Texas, for her exemplary efforts in United States v. Nicole Brown, a cocaine conspiracy case.

**Thomas M. Daly** (Southern District of Illinois), by FBI Director Louis J. Freeh, for his successful prosecution of Dr. Thomas Bruce Vest for health care fraud.

**Thomas M. Daly** and **Robert L. Simpkins** (Southern District of Illinois), by Inspector General Martin J. Dickman, United States Railroad Retirement Board, Chicago, for his successful prosecution of the mail fraud case, United States v. Vest.

**Michael Reese Davis** (Middle District of Louisiana), by FBI Director Louis J. Freeh, for his efforts in the successful prosecution of a Mann Act case involving the transportation of prostitutes from Louisiana to casino gambling venues in Mississippi.

Secretaries **Jane Dean** and **Carol Tracey** and **AUSA Jim Moore** (District of Maine), by Assistant Attorney General Deval L. Patrick, Civil Rights Division, for their efforts in Abbott v. Bragdon, an Americans with Disabilities Act case.

**Patricia Diaz** (Southern District of Florida), by DEA Special Agent in Charge James S. Milford, Miami, for her efforts in Operation Wizard III, an OCDETF investigation into the Grajales faction of the Cali Mafia.

**Timothy Discenza** (Western District of Tennessee), by DEA Administrator Thomas A. Constantine for his efforts in a recent multi-agency investigation involving representatives of the Cali Mafia which resulted in the apprehension of seven Colombian nationals who went to Memphis to assassinate three U.S. citizens who owed the Mafia a huge debt.

**Timothy Discenza** and **Joseph Murphy** (Western District of Tennessee), by BOP Assistant Director/General Counsel Wallace H. Cheney, for their outstanding efforts in criminal prosecutions at the Federal Correctional Institution in Memphis.

**Donna Dobbins, Ginny Granade, and Gina Vann** (Southern District of Alabama), by FBI Special Agent in Charge Nicholas J. Walsh, Mobile, for their efforts in the William O'Farrell Assault on a Federal Official matter.

**Roger Dokken** (District of Arizona), by District Counsel Gregory G. Ferris, Department of Veterans Affairs, for obtaining a dismissal of a pro se action seeking VA benefits.

**James D. Donovan** (Western District of Pennsylvania), by BOP Warden James A. Meko, Federal Correctional Institution, McKean, Pennsylvania, for successfully prosecuting four prisoners for weapons offenses.

**Daniel R. Drake** (District of Arizona), by United States Attorney Michael J. Yamaguchi, Northern District of California, for his assistance in obtaining and executing an arrest warrant for William Geade for mail fraud and interstate transportation of stolen property.

**Mark Dubester** (District of Columbia), by Assistant Inspector General for Investigations, Stephen N. Marica, U.S. Small Business Administration (SBA), for his successful prosecution of Martha Thompson, president and owner of Innovative Technology Systems, Inc., for submitting fraudulent information to SBA, ATF, and several banks.

**Thomas Dworschak** (Eastern District of Virginia), by FBI Director Louis J. Freeh, for his successful prosecution of Colin M. Thomas, an accountant who grossly abused his position of confidence to steal money from his clients.

**John Earnest** (Northern District of Alabama), by DEA Resident Agent in Charge Charles Andrews, Birmingham, for his aggressive and untiring efforts in the successful prosecution of several high profile DEA drug investigations.

**John Earnest** and **Robert J. McLean**, and secretaries **Karen Ponder** and **Edna Kicker** (Northern District of Alabama), by FBI Director Louis J. Freeh, for their efforts in the successful prosecution of 16 key members of the Anthony Leo Stutson drug-trafficking organization.

**Larry Eastep, Quincy Ollison, and Bill Yahner** (Southern District of Texas), by FBI Special Agent in Charge Michael D. Wilson, Houston, for their efforts in the successful prosecution of Teresa Rodriguez on mail fraud, wire fraud, and money laundering.

**Robert L. Eberhardt** (Western District of Pennsylvania), by Senior Attorney Philip P. O'Connor, Jr., Department of Veterans Affairs, Office of District Counsel, Pittsburgh, for the excellent representation he provided in Gerard J. Tormey v. United States, a medical malpractice action.

**Thomas Eckert** (Western District of Virginia), by Inspector in Charge Delmar P. Wright, United States Postal Inspection Service, Richmond Division, for his efforts in the cases involving Walter Eugene Hoffman, and Hill Brothers Shoe Company, for violations of the mail fraud, wire fraud, bank fraud, and money laundering statutes.

**Jeffrey C. Eglash** and **Beverly Reid O'Connell** (Central District of California), by FBI Special Agent in Charge Charlie J. Parsons, Los Angeles, for their professional efforts in a matter involving a Special Agent and two cooperating witnesses in the O.J. Simpson trial.

**Harvey E. Eisenberg** and **Jamie M. Bennett** (District of Maryland), by ATF Special Agent in Charge Margaret M. Moore, for their successful prosecution of violent career recidivist Donald Andre Robinson.

**Deirdre Eliot** and **John Rayburn** (Central District of California), by DEA Special Agent in Charge Robert E. Bender, Los Angeles, for their successful prosecution of five defendants in United States v. Rafael Bustamante, et al., a multi-state cocaine trafficking conspiracy case.

**Kenneth Etheridge** (Southern District of Georgia), by District Counsel W. M. Thigpen, Department of Veterans Affairs, Atlanta, for his efforts in a sex discrimination case which led to a bench decision in the Government's favor.

**Eric Evenson, Jane H. Jolly, and Thomas P. Swaim**, (Eastern District of North Carolina), by U.S. Customs Resident Agent in Charge L. M. Flippin, Wilmington, Delaware, for their efforts in the Charles Glenn Parker OCDETF investigation which resulted in the dismantling of an organization for smuggling and distributing massive quantities of cocaine and marijuana into Eastern North Carolina.

**Edward Ewell** (Eastern District of Michigan), by FTC Attorney Dana J. Lesemann, for his assistance as legal counsel in *Federal Trade Commission v. Debra Mink*, a fraud case.

**Lisa Feldman** and librarian **Dennis Yanaihara** (Central District of California), by SEC District Trial Counsel Melvyn H. Rappaport, San Francisco District Office, for their research efforts regarding Sentencing Guidelines.

**Thomas L. Fink** (District of Arizona), by Assistant Attorney General Frank W. Hunger, Civil Division, for his successful prosecution of Tucson attorney Richard B. Arrotta on mail fraud charges.

**Patrick M. Flachs** (Eastern District of Missouri), by Allen P. Fallin, Divisional Inspector General for Investigations, United States Environmental Protection Agency (EPA), for his efforts during the prosecution of Michael Latas and Associates, Inc., and the corporate employees who participated in a conspiracy to defame the EPA.

**Pamela Foa** (Eastern District of Pennsylvania), by Inspector in Charge Bruce R. Chambers, United States Postal Inspection Service, Philadelphia Division, for her efforts in the successful prosecution of Michael Artis and Todd Wileczek.

**John T. Fowlkes** (Western District of Tennessee), by FBI Director Louis J. Freeh, for his successful prosecution of Auburn Calloway, a FedEx pilot who received a life sentence for attempted air piracy and assault on flight crew members.

**Richard French, Marsha Johnson, and Kent Penhallurick**, and paralegals **Vikki Friday** and **Wendy Leonard** (Northern District of Ohio), by Director Kendell King, U.S. Department of Housing and Urban Development, Single Family Housing Division, for their assistance with 146 foreclosures.

Paralegals **Vikki Friday** and **Wendy Leonard**, and AUSAs **Richard French, Marsha Johnson,** and **Kent Penhallurick** (Northern District of Ohio), by Director Kendell King, U.S. Department of Housing and Urban Development, Single Family Housing Division, for their assistance with 146 foreclosures.



**Dennis Fries** (Eastern District of Oklahoma), by United States Attorney John Raley, Eastern District of Oklahoma, for receiving the Oklahoma Narcotic Enforcers, Inc., Region III, 1995 Prosecutor of the Year Award.

**Roger Frydrychowski** (Eastern District of Virginia), by FAA Manager Edward Jones, Civil Aviation Security Division, Western-Pacific Region, for his successful prosecution of a series of unapproved parts cases.

**Craig P. Gaumer** (District of South Dakota), by Assistant United States Trustee Charles L. Nail, Jr., for his successful prosecution of a Chapter 12 debtor bankruptcy fraud case.

**Craig P. Gaumer** and **Bonnie P. Ulrich** (District of South Dakota), by USDA Regional Inspector General for Investigations Robert J. Hillman, Kansas City, for their efforts in United States v. James H. Coburn, a case in which Coburn submitted false claims for rental assistance and overcharged tenants.

**Kathleen Gavin** and **Gary P. Jordan** (District of Maryland), by Inspector General Susan Gaffney, U.S. Department of Housing and Urban Development, for their efforts in a contractual fraud and corruption investigation under Operation Safe Home, a program designed to reduce crime within publicly funded housing, and to eliminate corruption in the administration of public housing authorities.

**Michael Gennaco** (Central District of California), by FBI Director Louis J. Freeh, for his efforts in prosecuting a U.S. Marshals Service Inspector who allegedly assaulted an individual being placed under arrest.

**Michael Gennaco** (Central District of California), by FBI Special Agent Richard E. Boeh, New Orleans, for his outstanding efforts during the grand jury investigation concerning the Los Angeles Police Department's Special Investigations Section following a recent shooting.

**Robert Goldman** (Eastern District of Pennsylvania), by Attorney General Janet Reno, for his tremendous work as the First AUSA for the District of the Virgin Islands during a transition period.

**Richard H. Goolsby** (Southern District of Georgia), by Mr. Michael York Hayes, Office of Inspector General, Georgia Department of Health and Human Services, for his successful prosecution of Healthmaster Corporation for Medicare fraud.

**Dahil Goss** (Northern District of Georgia), by DEA Special Agent in Charge Raymond J. McKinnon, Atlanta, for her successful prosecution of Robert and Karen Gagnon for illegally distributing an herbal product which contained harmful substances.

**Ginny Granade, Donna Dobbins, and Gina Vann** (Southern District of Alabama), by FBI Special Agent in Charge Nicholas J. Walsh, Mobile, for their efforts in the William O'Farrell Assault on a Federal Official matter.

**Bonnie Greenberg** (District of Maryland), by FBI Special Agent in Charge Timothy P. McNally, for her excellent efforts in connection with the successful prosecution of the "Flexible Flyer" investigation, a three-year undercover drug operation.

**John Griffith** (Southern District of Iowa), by Counsel Patricia A. Barry and Counsel Amy J. Mills from The Principal Financial Group, Des Moines, for his efforts in the health care fraud case, United States v. Mark Clinton Russell.

**Robert C. Grisham** (District of Idaho), by FBI Principal Legal Advisor John S. Bradford, Salt Lake City, for his efforts in resolving the civil suit, Peredia v. Cade, et al.

**Wayne Gross** (Central District of California), by ATF Special Agent in Charge George A. Rodriguez, Los Angeles, for his successful prosecution of an illegal firearms trafficker on 34 counts of Federal firearms violations.

**Neil Hammerstrom** (Eastern District of Virginia), by Chief Glenn A. Gaines, Fairfax County Fire and Rescue Department, for his exemplary assistance to the Fire Investigations Branch in U.S. v. Eric Ambuhl, et al., a drug case.

**Rosie Haney, Nash Schott, and John Martin** (Eastern District of Virginia), by EPA Associate Director Mary Kendall Adler, Office of Criminal Enforcement, for their assistance to her while she was in the SAUSA Unit in the Eastern District of Virginia.

**Thomas P. Hannis and Robert Bartels** (District of Arizona), by Director Guy P. Caputo, Office of Investigations, U.S. Nuclear Regulatory Commission, for their successful prosecution of a high-level supervisor at the Arizona Public Service Company, Palo Verde Nuclear Generating Station, for employee discrimination under the Federal statute prohibiting discrimination against whistle-blowers in the nuclear power industry.

**Eric Havian and Donna Sanger** (District of Maryland), by Fraud Counsel Christine L. Poston, Defense Logistics Agency, Alexandria, for their efforts in a civil fraud case, United States v. Issca Rusha Company, Inc., and a False Claims Act criminal case, United States v. Gerald Gray.

**Tom Helper** (District of Hawaii), by Director Bryan Harry, National Park Service, Pacific Area Office, for his successful efforts in the Government's case against the Pai families claim of national historical park land ownership.

**Leslie Herje** (Western District of Wisconsin), by Mayor Paul R. Soglin, City of Madison, for her successful efforts in defending the Environmental Protection Agency and the Army Corps of Engineers in Shoreline Park Preservation, Inc., et al. v. United States Army Corps of Engineers, et al., an environmental case.

**Bruce Hinshelwood** (Middle District of Florida), by FBI Supervisory Senior Resident Agent Edward J. Bodigheimer, for his efforts in the successful prosecution of United States v. Luther Woods, et al., a bank robbery case.

**Ian F. Hipwell** (Middle District of Louisiana), by Jim Hill, Vice President of Sales/Marketing/Distribution of the General Instrument Corporation, San Diego, for his successful prosecution of an individual for theft of satellite television services.

**Michael Hluchaniuk** (Eastern District of Michigan), by FDA Special Agent in Charge Michael E. Cleary, Chicago Field Office, for his successful prosecution of the Edwin Dews drug case.

**Nathan J. Hochman** (Central District of California), by Inspector General James F. Hoobler, Small Business Administration, for his successful efforts in SBA cases.

**Linda Dale Hoffa** and **Robert A. Kauffman** (Eastern District of Pennsylvania), by Inspector General Susan Gaffney, U.S. Department of Housing and Urban Development, for their efforts in *United States v. Patrick McCrystal, et al.*, a case involving a widespread pattern of defrauding HUD property rehabilitation programs.

**David Hoffer** and **Al Jarrin** (Central District of California), by Regional Director David C. Ganz, U.S. Department of Labor, Los Angeles, for their successful prosecution of Henry Hay for mail fraud.

**Dennis Holmes** (District of South Dakota), by Susan Gerlinski, Warden of the Federal Prison Camp in Yankton, South Dakota, for his successful prosecution of inmate Julian Avila for distributing illegal drugs and unauthorized contraband during his incarceration.

**Edward L. Holt** (Eastern District of Tennessee), by FBI Special Agent in Charge Virgil L. Young, Jr., Knoxville, for his efforts in the continuing investigation of the Huskey Drug Trafficking Organization.

**Michele Horn** (Eastern District of Louisiana), by U.S. Postal Inspector in Charge Karl D. Kell, for her invaluable assistance to the New Orleans Division Postal Inspection Service in three investigations involving mail theft by postal employees.

**Ronald D. Howen** (District of Idaho), by USPS Chief Field Counsel Harold J. Hughes, Law Department, Salt Lake City, for his efforts in the successful defense of the U.S. Postal Service in *Sam A. Barzilla III v. U.S. Postal Service*, a case in which the plaintiff wanted to receive his mail through his authorized commercial mail receiving agency and have the post office selectively forward some of his mail, postage free, to a purported residence.

**Cynthia J. Hyde** (Western District of Missouri), by FBI Special Agent in Charge Donald E. Stuke, II, Springfield, Illinois, for her efforts in obtaining an 18-month Rule 35 sentence reduction for an informant, which permitted the FBI to resume investigation of an important case.

**Cynthia J. Hyde** and **Greg Johnson** (Western District of Missouri), by Superintendent Fred M. Mills, Missouri State Highway Patrol, for providing legal guidelines and advice in a one and one-half year undercover investigation resulting in a Federal grand jury indictment against five individuals for distributing drugs in Missouri, Oklahoma, and Kansas.

**James Ingram** (Northern District of Alabama), by FBI Director Louis J. Freeh, for his efforts in handling the forfeiture aspects of the prosecution of 16 key members of the Anthony Leo Stutson drug-trafficking organization.

**Mark V. Jackowski** and **Edmund W. Searby** (Middle District of Florida), by FBI Director Louis J. Freeh, for their outstanding efforts in the successful prosecution of *United States v. Eugene O'Neill and Mark Edward Larkin*, a complex bank robbery case.

**Brian A. Jackson** and **Robert W. Piedrahita** (Middle District of Louisiana), by DEA Special Agent in Charge Ronald J. Caffrey, New Orleans Field Division, for their successful prosecution of a cocaine trafficking organization.

**Al Jarrin** and **David Hoffer** (Central District of California), by Regional Director David C. Ganz, U.S. Department of Labor, Los Angeles, for their successful prosecution of *Henry Hay* for mail fraud.

**Robert Jaspén** and **Debra Prillaman** (Eastern District of Virginia), by Captain S. J. Louge, Naval Undersea Warfare Center Division, Newport, Rhode Island, for their efforts in successfully prosecuting an employment discrimination case.

**Marcia Jensen**, **Amber Rosen**, and **Tony West** (Northern District of California), by IRS Chief Vincent J. Weltz, Criminal Investigation Division, San Francisco District, for their assistance in prosecuting numerous IRS cases.

**Mike Johns** (District of Arizona), by Assistant Attorney General Lois J. Schiffer, Environment and Natural Resources Division, for his efforts in settling a major dispute between the Forest Service, environmentalists, and the timber companies after a district judge entered an injunction against logging in Northern Arizona.

**Greg Johnson** and **Cynthia J. Hyde** (Western District of Missouri), by Superintendent Fred M. Mills, Missouri State Highway Patrol, for providing legal guidelines and advice in a one and one-half year undercover investigation resulting in a Federal grand jury indictment against five individuals for distributing drugs in Missouri, Oklahoma, and Kansas.

**Marsha Johnson**, **Richard French**, and **Kent Penhallurick**, and paralegals **Vikki Friday** and **Wendy Leonard** (Northern District of Ohio), by Director Kendell King, U.S. Department of Housing and Urban Development, Single Family Housing Division, for their assistance with 146 foreclosures.

**Michael Anne Johnson** (Northern District of Ohio), by Director Eli M. Rosenbaum, Office of Special Investigations, Criminal Division, for her outstanding assistance in a denaturalization case, *United States v. Lindert*.

**Pamela L. Johnston** (Central District of California), by Director Jeffrey Axelrad, Torts Branch, Civil Division, for her efforts in achieving an outstanding result in *St. Andrews Investments v. FDIC, et al.*, a banking and tort claims case.

**Pamela L. Johnston** (Central District of California) and Civil Rights Attorney **Robert Moossy**, by Dr. Michael J. Morris for prosecuting a FACE case concerning Dr. Morris, a private citizen who the U.S. represented.

**Jane H. Jolly** (Eastern District of North Carolina), by U.S. District Court Judge James C. Fox, Eastern District of North Carolina, for her work on a drug case involving six defendants.

**Jane H. Jolly, Thomas P. Swaim, and Eric Evenson** (Eastern District of North Carolina), by U.S. Customs Resident Agent in Charge L. M. Flippin, Wilmington, Delaware, for their efforts in the Charles Glenn Parker OCDETF investigation which resulted in the dismantling of an organization for smuggling and distributing massive quantities of cocaine and marijuana into Eastern North Carolina.

Legal secretaries **Martin Jones and Kathie Soto** and **AUSA J. Daniel McCurrie** (Central District of California), by DEA Special Agent in Charge Robert E. Bender, Los Angeles, for their efforts during the prosecution of five defendants in *United States v. Jose E. Topete, et al.*, in which four of the five defendants were convicted of drug and firearms charges.

**Gary P. Jordan** (District of Maryland), by Special Agent in Charge James E. Childs, Defense Criminal Investigative Service, for his efforts in the successful prosecution of defense fraud and corruption cases in Maryland.

**Gary P. Jordan and Kathleen Gavin** (District of Maryland), by Inspector General Susan Gaffney, U.S. Department of Housing and Urban Development, for their efforts in a contractual fraud and corruption investigation under Operation Safe Home, a program designed to reduce crime within publicly funded housing, and to eliminate corruption in the administration of public housing authorities.

**John N. Joseph** (Eastern District of Pennsylvania), by EPA Acting Regional Counsel William C. Early, Philadelphia, for his efforts in handling *U.S. v. Consolidated Rail Corporation, et al.*, a Clean Air Act case.

**Kathleen M. Kahoe** (Eastern District of Virginia), by Director Carol DiBattiste, Executive Office for United States Attorneys (EOUSA), for her willingness to assume the collateral duty as an Equal Employment Opportunity Investigator on behalf of EOUSA.

**Steven J. Katzman** (Central District of California), by FBI Special Agent in Charge Charlie J. Parsons, Los Angeles, for the successful prosecution of Robert and June Dubin, who were convicted of conspiracy, bankruptcy fraud, and filing false tax returns.

**Robert A. Kauffman** and **Amy L. Kurland** (Eastern District of Pennsylvania), by Robert L. Burgess, Manager, National Insurance Crime Bureau, Eastern Region, for their efforts during an insurance fraud investigation.

**Robert A. Kauffman** and **Linda Dale Hoffa** (Eastern District of Pennsylvania), by Inspector General Susan Gaffney, U.S. Department of Housing and Urban Development, for their efforts in *United States v. Patrick McCrystal, et al.*, a case involving a widespread pattern of defrauding HUD property rehabilitation programs.

**Richard Kay** (District of Maryland), by DEA Assistant Special Agent in Charge Robert J. Penland, Baltimore District office, for the successful prosecution of the Randolph Ayersmans marijuana trafficking organization.

**Richard Kay** (District of Maryland), by William F. Burch, United States Secret Service, for his successful prosecution of several credit card fraud cases for the Metro Alien Fraud Task Force.

LECC/VW Coordinator **Sandra Keil** and **AUSA Samuel A. Wilson** (Middle District of Georgia), for their efforts in resolving unique and complex legal issues associated with the forfeiture of drug proceeds from Jimmy Lee Jefferies, Sr.

**Dale P. Kelberman** (District of Maryland), by Director Terry Garlock, Field Investigations, Resolution Trust Corporation, for his efforts in a civil fraud case.

Secretaries **Edna Kicker** and **Karen Ponder**, and **AUSAs John Earnest** and **Robert J. McLean** (Northern District of Alabama), by FBI Director Louis J. Freeh, for their efforts in the successful prosecution of 16 key members of the Anthony Leo Stutson drug-trafficking organization.

**James R. Klindt** (Middle District of Florida), by Sheriff Taylor Douglas, Putnam County Sheriffs Office, for his aggressive and professional assistance in the prosecutions of several violent cocaine traffickers.

**Kerry Klintworth** and **John B. Stevens** (Eastern District of Texas) and J. Malcolm Bales (District of Colorado), by FBI Director Louis J. Freeh, for their assistance during an investigation of the theft of 157 kilos of cocaine from the Beaumont, Texas, Police Department.

**William J. Kopp** and **Maureen Murphy** (Northern District of Ohio), by General Counsel Mary Lou Keener, Department of Veterans Affairs (VA), for their dedication and efforts in the Charles Smith case and other medical malpractice cases for VA.

**Charles Kreindler**, **Mary Carter Andruess**, and **Patrick Walsh** (Central District of California), by Colonel Riggs L. Wilks, Jr., U.S. Army Chief Trial Attorney, Office of the Judge Advocate General, for their efforts in the successful prosecution of several DEL Manufacturing Company principal officers for misusing Government progress payments.

**Mark J. Krum** (Middle District of Florida), by Acting Inspector General James A. Renick, Federal Deposit Insurance Corporation, for his successful prosecution of two fraud cases.

**Edward Kubo** (District of Hawaii), by Deputy Chief Constable R. H. Rollins, Commanding Investigation Division, Vancouver Police Department, for his efforts in the prostitution case against Lamar Baker.

**Amy L. Kurland** and **Robert A. Kauffman** (Eastern District of Pennsylvania), by Robert L. Burgess, Manager, National Insurance Crime Bureau, Eastern Region, for their efforts during an insurance fraud investigation.

**LeAnn L. LaFave** (District of South Dakota), by Mr. Denny Coplin, Postal Inspector in Charge, St. Paul U.S. Postal Inspection Service, for his successful prosecution of Gertrude Zwanziger for mail fraud.

Victim/Witness Coordinator **Nancy Stoner Lampy** and **AUSA Thomas Wright** (District of South Dakota), by FBI Supervisory Special Agent Charles W. Draper, Minneapolis, for their successful prosecution of United States v. Ernest White Buffalo, et al., an aggravated sexual abuse case.

**Thomas Larson** and **Patrick McInerney** (Western District of Missouri), by FBI Special Agent in Charge David M. Tubbs, for their successful prosecution of Randy Ray Downey for interstate transportation of stolen property.

**Arthur W. Leach** (Northern District of Georgia), by Mr. William Merritt, Corporate Counsel, Comdisco, Inc., for his successful prosecution of a complex financial fraud case.

**Dyana Lee** (District of New Jersey), by FBI Director Louis J. Freeh, for her efforts in the investigation and prosecution of an insurance fraud case.

**Larry B. Lee** (Southern District of Georgia), by District Counsel W. M. Thigpen, Department of Veterans Affairs, Atlanta, for his excellent representation in Linda Holt v. W. E. Morgan, et al., a medical malpractice suit against the Veterans Administration which resulted in a favorable decision for the U.S.

Paralegals **Wendy Leonard** and **Vikki Friday**, and **AUSAs Richard French, Marsha Johnson,** and **Kent Penhallurick** (Northern District of Ohio), by Director Kendell King, U.S. Department of Housing and Urban Development, Single Family Housing Division, for their assistance with 146 foreclosures.

**Sheldon Light** (Eastern District of Michigan), by IRS Criminal Investigation Division Chief John H. Imhoff, Jr., for his successful prosecution of United States v. Tommy Joe Barrow, a complex and lengthy tax fraud case.

**Ellyn Lindsay** (Central District of California), by FBI Special Agent Richard E. Boeh, New Orleans, for her efforts in a Federal savings and loan fraud case.

**Ellyn Lindsay** (Central District of California), by FBI Supervisory Special Agent Kathleen D. Timmons for her outstanding prosecutive work in complex criminal cases for the FBI's Santa Ana Resident Agency, White Collar Crime Squad #3.

**Richard Lloret** (Western District of Virginia), by James A. Kiser, U.S. Department of Labor, Mine Safety and Health Administration, Norton, Virginia, for his assistance during a recent civil suit.

**Ellen A. Lockwood** (Western District of Texas), by USDA Associate Regional Attorney James O. Boyd, for her excellent representation and successful defense of the Department in an Administrative Procedures Act suit.

**Rusty Loftin** (Southern District of Alabama), by Alabama Attorney General Jeff Sessions for his efforts on a case involving Lacey Act and Endangered Species Act violations.

**Rebecca Lonergan**, secretary **Allena Malona**, clerk typist **Alice Romero**, and receptionist **Ina Thomas** (Central District of California), by United States Attorney Katrina C. Pflaumer, Western District of Washington, for the assistance they provided to two AUSAs from the Western District of Washington while they were in Los Angeles to conduct a video deposition and interview witnesses.

**Stacy M. Ludwig** (District of Columbia), by General Counsel Terry Russell, Corporation for National Service, Washington, for her successful efforts in representing the Corporation in a difficult and complex debt collection case.

**Mary A. Luxa** (Southern District of Iowa), by Deputy Assistant Secretary Edmundo A. Gonzales, U.S. Department of Labor, and District Director John B. Mitchell, U.S. Department of Labor, St. Louis District Office, for her efforts in the successful prosecution of Donald McKee, who was convicted of 64 counts of embezzlement.

**Jan L. Luymes** (Central District of California), by Director Robert E. Kopp, Appellate Staff, Civil Division, for her efforts in *Lyman D. Spurlock v. FBI*, a FOIA case.

**Jan L. Luymes** (Central District of California), by Postmaster Marianne Black, Crestline Post Office, for her exemplary efforts in the defense of Postmaster General Marvin Runyon of an action brought by Rosanna Zdunich who claimed employment discrimination based on an alleged failure to reasonably accommodate her handicap.

**Ross MacKenzie** and **William Soisson** (Eastern District of Michigan), by Director Gregory W. Anderson, Corporate and Financial Investigations, Blue Cross/Blue Shield of Michigan, for their efforts in the J.W. Kerr/Sav Mor Pharmacy health care fraud investigation.



Secretary **Allena Malona**, **AUSA Rebecca Lonergan**, clerk typist **Alice Romero**, and receptionist **Ina Thomas** (Central District of California), by United States Attorney Katrina C. Pflaumer, Western District of Washington, for the assistance they provided to two AUSAs from the Western District of Washington while they were in Los Angeles to conduct a video deposition and interview witnesses.

**Robert P. Marcovitch** (Northern District of Georgia), by Chairman Richard P. Conaboy, United States Sentencing Commission, and by Assistant Attorney General Jo Ann Harris, Criminal Division, for his work in defending the constitutionality of the Sentencing Commission and the Sentencing Guidelines in *United States v. McLellan, et al.*

**George Martin** (Southern District of Alabama), by Regional Inspector General for Investigations Albert A. Hallmark, Department of Health and Human Services, Atlanta, for his successful prosecution of Janice Long and Tiane Bryan for Medicare fraud.

**James Martin** (Eastern District of Missouri), by Postal Inspector in Charge R. J. Terlep, United States Postal Inspection Service, St. Louis Division, for his efforts in negotiating a final settlement with Crane National Vendors (CNV), St. Louis, which resulted in a \$70,000 payment to the U.S. Postal Service.

**John Martin, Nash Schott, and Rosie Haney** (Eastern District of Virginia), by EPA Associate Director Mary Kendall Adler, Office of Criminal Enforcement, for their assistance to her while she was in the SAUSA Unit in the Eastern District of Virginia.

**Special AUSA Steve Matheny** (Eastern District of North Carolina), by District Director James V. Witmer, U.S. Department of Labor, Raleigh, for his efforts in the successful prosecution of Migrant and Seasonal Agricultural Worker Protection Act violations.

**John R. Mayfield** (District of Arizona), by Field Director John E. Cook, U.S. Department of the Interior, National Park Service, Intermountain Field Area, for the successful prosecution of a case against an employee who was terminated from the National Park Service for insubordination and bizarre conduct.

**William H. McAbee II** (Southern District of Georgia), by Assistant Attorney General Deval L. Patrick, Civil Rights Division, for his outstanding efforts in *United States v. Stevie Alan Lee and Matthew Jarrard*, who were convicted of civil rights and weapons-related offenses.

**Chris McAliley** (Southern District of Florida), by FBI Director Louis J. Freeh, for his outstanding work in the Viking Princess investigation and prosecution of violations of the Clean Water Act and the Oil Pollution Act.

**J. Daniel McCurrie** and legal secretaries **Martin Jones** and **Kathie Soto** (Central District of California), by DEA Special Agent in Charge Robert E. Bender, Los Angeles, for their efforts during the prosecution of five defendants in *United States v. Jose E. Topete, et al.*, in which four of the five defendants were convicted of drug and firearms charges.

**Patricia McGarry** (Eastern District of Missouri), by FBI Special Agent in Charge James W. Nelson, St. Louis, for her successful prosecution of an interstate transportation of obscene material/sexual exploitation of children case.

**Patrick McInerney** and **Thomas Larson** (Western District of Missouri), by FBI Special Agent in Charge David M. Tubbs, for their successful prosecution of Randy Ray Downey for interstate transportation of stolen property.

**Robert J. McLean** and **John Earnest**, and secretaries **Karen Ponder** and **Edna Kicker** (Northern District of Alabama), by FBI Director Louis J. Freeh, for their efforts in the successful prosecution of 16 key members of the Anthony Leo Stutson drug-trafficking organization.

**Tom Mehan** (Eastern District of Missouri), by Detective Sergeant Robert Brady, Commander, Municipal Enforcement Group, North-Central, for his assistance to the detectives in Mr. Bradys command during numerous drug and gun cases.

**Joe Mirsky** (Southern District of Texas), by George C. Shoemaker, Jr., Law Office of Harry Gee, Jr., for his successful efforts in Joe King Discount Market, Inc., v. U.S.A., U.S.D.A., and Texas Department of Health, a food stamp program/W.I.C. (Women, Infants, and Children) program case in which Joe King Discount Market, Inc., filed a complaint seeking judicial review of an administrative decision to temporarily disqualify them from participating in the food stamp and W.I.C. programs.

**Michael J. Mitchell** (Eastern District of Tennessee), by Special Agent in Charge Bonni G. Tischler, U.S. Customs Service, for his successful prosecution of Herb Crandall, a supplier of stolen military equipment and illegal weapons to survivalist and militia groups.

**Robert Monk** and **Monte Richardson** (Middle District of Florida), by Inspector in Charge J. J. Slavinski, Inspector Generals Office, for their efforts in the successful prosecution of United States v. Herbert A. Raprager, et al., a complex telemarketing fraud case.

**Robyn Monteleone** and **John E. Nordin II** (Central District of California), by Mr. Alan K. Achen, District Counsel, Department of Veterans Affairs, for their extra efforts in handling a troubling situation regarding an AIDS patient.

**Craig N. Moore** and **Charles A. Tamuleviz** (District of Rhode Island), by United States Attorney Sheldon Whitehouse, District of Rhode Island, for their efforts in the conviction of Charles Christopher for looting American Universal Insurance Company.

**Jim Moore** and secretaries **Jane Dean** and **Carol Tracey** (District of Maine), by Assistant Attorney General Deval L. Patrick, Civil Rights Division, for their efforts in Abbott v. Bragdon, an Americans with Disabilities Act case.

**Joseph B. Moore** (Eastern District of Missouri), by USPS Chief Counsel William R. Gilligan, Jr., Claims Division, for his efforts in Mardis v. United States, a federal tort claims case.

**Richard W. Moore** (Southern District of Alabama), by United States Attorney Stephen C. Lewis, Northern District of Oklahoma, for his excellent work on the U.S. v. Russell Hampshire VCA Labs obscenity case, a major obscenity prosecution and forfeiture.

**Craig S. Morford** (Northern District of Ohio), by Deputy Assistant Attorney General John C. Keeney, Criminal Division, for his outstanding efforts in the investigation and prosecution of an attorney who was convicted in a fraud scheme.

**Craig S. Morford** (Northern District of Ohio), by FBI Director Louis J. Freeh, for his efforts in the successful prosecution of Reuben Sturman, Naomi Delgado, and Sanford I. Atkin for tax conspiracy, jury tampering, and attempted corruption of a district court judge.

**James V. Moroney** and **John D. Sammon** (Northern District of Ohio), by FBI Director Louis J. Freeh, for their work on a case involving Michael I. Monus, who was responsible for the bankruptcy of a major discount drugstore chain.

**Nicholas Morosoff** (Central District of California), by FBI Special Agent in Charge Charlie J. Parsons, for successfully obtaining a court order forfeiting two vehicles originally seized in September 1993, in connection with an investigation of a gang-related drug enterprise operating in the San Fernando Valley.

**Dixie Morrow** (Middle District of Georgia), by Regional Inspector General for Investigations Albert A. Hallmark, Department of Health and Human Services, for her efforts in the successful prosecution of the former Co-Director of Third Party Reimbursement for Charter Medical Corporation in Macon, who was found guilty of three counts of mail fraud and eight counts of making false statements to a Government agency.

**Robert Mosakowski** and **Ernest Peluso** (Middle District of Florida), by IRS District Director Dale F. Hart, for their outstanding prosecution in United States v. Weeks-Katona, et al., a complex fraud scheme.

**Anne E. Mosher** (District of Arizona), by Special Agent in Charge Awilda Villafane, U.S. Customs Service, Arizona District, for her support, cooperation, and professionalism during the investigation of Carlos Antonio Duque, et al., in a drug case.

**Joseph Murphy** and **Timothy Discenza** (Western District of Tennessee), by BOP Assistant Director/General Counsel Wallace H. Cheney, for their outstanding efforts in criminal prosecutions at the Federal Correctional Institution in Memphis.

**Maureen Murphy** and **William J. Kopp** (Northern District of Ohio), by General Counsel Mary Lou Keener, Department of Veterans Affairs (VA), for their dedication and efforts in the Charles Smith case and other medical malpractice cases for VA.

**R. Michael Murphy** and **Mark A. Wohlander** (Eastern District of Kentucky), by FBI Special Agent in Charge V. Dave Kohl, for the successful prosecution of three major drug-trafficking cases.

**Gregory J. Nescott** (Western District of Pennsylvania), by Richard Kranitz, Office of the District Attorney, Westmoreland County, for his assistance in the investigation and prosecution of three individuals on gun and drug charges.

**David D. Newbert** and **Matt J. Whitworth** (Western District of Missouri), by FBI Special Agent in Charge David M. Tubbs, for their aggressive prosecution of United States v. Brian Thomas and Antwon Turner, who were convicted of bank robbery.

**Paula Newett** (Eastern District of Virginia) was presented the Civilian Meritorious Service Award by the Commander of the Eighth United States Army, Korea, on July 27, 1995, for her outstanding performance in the trial of Bush et al. v. West, a Title VII discrimination and retaliation case.

**John E. Nordin II** (Central District of California), by IRS Agent Jonathan Dietch, for his successful efforts in the procurement of additional payment due the IRS in Mahin Saeid v. United States and ensuing income tax matters.

**John E. Nordin II** (Central District of California), by Secret Service Special Agent in Charge James Bauer, for his successful defense of members of former President Reagans Secret Service protective detail in a civil rights case.

**John E. Nordin II** and **Robyn Monteleone** (Central District of California), by Mr. Alan K. Achen, District Counsel, Department of Veterans Affairs, for their extra efforts in handling a troubling situation regarding an AIDS patient.

**David J. Novak** (Eastern District of Virginia), by DEA Administrator Thomas A. Constantine, for his outstanding prosecutorial contributions to numerous drug-related murder investigations.

**Sharon K. Novitsky**, **Patrick J. Schneider**, and **Joseph C. Welty** (District of Arizona), by Sergeant Ken Thatcher, Jr., Criminal Investigation Section, Chandler Police Department, for their efforts in the successful prosecution of Michael DeWayne Payne for gun possession.

**Christopher Nuechterlein** and **George Z. Toscas** (Eastern District of California), by Special Agent in Charge Gary N. Overby, San Francisco Field Office of the Office of the Inspector General, for their excellent work in the successful prosecution of a former Los Angeles County Probation Officer on multiple counts of bribery.

**Nancy Nungesser** (Eastern District of Louisiana), by Branch Manager E. A. Burgess, Defense Contract Audit Agency, for her assistance which led to the dismissal of a Bivens case alleging conspiracy, fraud, and due process violations against two Government auditors by a Government contractor.

**Beverly Reid O'Connell** and **Jeffrey C. Eglash** (Central District of California), by FBI Special Agent in Charge Charlie J. Parsons, Los Angeles, for their professional efforts in a matter involving a Special Agent and two cooperating witnesses in the O.J. Simpson trial.

**Michael J. O'Leary** and **Russell G. Vineyard** (Northern District of Georgia), by Director Wayne A. Blank, Division of Legal and Regulatory Services, Georgia Department of Medical Assistance, for their successful prosecution of U.S. v. Bernard Gales, a case involving fraudulent billing to Medicaid for non-emergency transportation services.

**Quincy Ollison, Larry Eastep, and Bill Yahner** (Southern District of Texas), by FBI Special Agent in Charge Michael D. Wilson, Houston, for their efforts in the successful prosecution of Teresa Rodriguez on mail fraud, wire fraud, and money laundering.

**Marvin Opotowsky** and **Gaynell Williams** (Eastern District of Louisiana), by U.S. Postal Inspector in Charge Karl D. Kell, U.S. Postal Inspection Service, New Orleans, for their successful prosecution of U.S. v. Robert L. Dutschke, a white collar crime case which resulted in convictions of all defendants.

**Carla B. Oppenheimer** (Western District of Missouri), by IRS Regional Inspector Mary E. Davis, Midwest Region, for her successful prosecution in the Darwin Jones, et al., embezzlement case.

**Sean O'Shea** and **Lauren Resnick** (Eastern District of New York), by Howard Safir, Fire Commissioner of New York City, for their efforts in an investigation involving an arson homicide.

**Janet Parker** and **Terrence Berg** (Eastern District of Michigan), by EPA Special Agent in Charge Louis Halkias, for their successful prosecution of John A. Rapanos for Clean Water Act violations.

**Ernest Peluso** and **Robert Mosakowski** (Middle District of Florida), by IRS District Director Dale F. Hart, for their outstanding prosecution in United States v. Weeks-Katona, et al., a complex fraud scheme.

**Kent Penhallurick, Richard French, Marsha Johnson,** and paralegals **Vikki Friday** and **Wendy Leonard** (Northern District of Ohio), by Director Kendell King, U.S. Department of Housing and Urban Development, Single Family Housing Division, for their assistance with 146 foreclosures.

**Luis Perez** (Southern District of Florida), by George W. Proctor, Director, Office of International Affairs, for his efforts with the extradition of Alvaro Lievano Vela who was found guilty of conspiracy to import cocaine into Italy.

**Howard Perzan** (Eastern District of Pennsylvania), by Inspector in Charge Bruce R. Chambers, U.S. Postal Inspection Service, Philadelphia Division, for his successful prosecution of Julius A. Wilson, who was found guilty of stealing credit card letters from the U.S. mail.

**Karen Peters** (Western District of Virginia), by Vice President Bryan L. Childress, Blue Cross/Blue Shield of Virginia, Financial Investigations, for her efforts in the Chopski/Wonder Drug indictment, a health care fraud case.

**William Petersen** (Eastern District of Pennsylvania), by Brigadier General Henry T. Glisson, U.S. Army Soldier Systems Command, Natick, Massachusetts, and Colonel Timothy E. Naccarato, U.S. Army Chief, Litigation Division, Arlington, for his outstanding service to the Department of the Army in *Easley v. West*, a Title VII and Rehabilitation Act discrimination case.

**Robert W. Piedrahita** and **Brian A. Jackson** (Middle District of Louisiana), by DEA Special Agent in Charge Ronald J. Caffrey, New Orleans Field Division, for their successful prosecution of a cocaine trafficking organization.

Secretaries **Karen Ponder** and **Edna Kicker**, and AUSAs **John Earnest** and **Robert J. McLean** (Northern District of Alabama), by FBI Director Louis J. Freeh, for their efforts in the successful prosecution of 16 key members of the Anthony Leo Stutson drug-trafficking organization.

**Shari L. Potter** (Northern District of West Virginia), by IRS Group Manager Larry R. Mincks, Criminal Investigation Division, Parkersburg, West Virginia, for being presented a Special Agent plaque for her work on three criminal cases: *U.S. v. Garzarek, et al.*; *U.S. v. Masiarczyk, et al.*; and *U.S. v. Bishop*.

**James P. Preston** (Middle District of Florida), by Acting Special Agent in Charge Steven J. Trent, U.S. Customs Service, for his aggressive and thorough prosecution of Operation Decoy, a joint U.S. Customs Service, FBI, and DEA narcotics smuggling investigation.

**Mike Price** (Eastern District of Missouri), by Project Manager Michael McClendon, Department of the Army, Corps of Engineers, St. Louis District, for his successful prosecution of William Jack Street on two counts of assaulting a Federal officer.

**Debra Prillaman** and **Robert Jaspén** (Eastern District of Virginia), by Captain S. J. Louge, Naval Undersea Warfare Center Division, Newport, Rhode Island, for their efforts in successfully prosecuting an employment discrimination case.

**Randall Ramseyer** (Western District of Virginia), by J. Davitt McAteer, Assistant Secretary for Mine Safety and Health, Department of Labor, for his successful prosecution of high profile cases involving harassment and falsification of training records.

**S. Robert Raskin** (Central District of California), by Inspector in Charge Lamar S. Crawford, Jr., United States Postal Inspection Service, Los Angeles Division, for successfully obtaining a jury conviction of Vincent Chabolla on 14 counts of violation of 18 U.S.C. Section 1703(a) delay or destruction of mail by a postal service employee. (The district court later granted a post-trial judgement of acquittal and an appeal of that judgement is under consideration.)

**John Rayburn** and **Deirdre Eliot** (Central District of California), by DEA Special Agent in Charge Robert E. Bender, Los Angeles, for their successful prosecution of five defendants in *United States v. Rafael Bustamante, et al.*, a multi-state cocaine trafficking conspiracy case.

**Mark Recktenwald** (District of Hawaii), by Director Bryan Harry, National Park Service, Pacific Area Office, for many years of assistance to the Park Rangers, both with training and successfully prosecuting a variety of cases.

**Lauren Resnick** and **Sean O'Shea** (Eastern District of New York), by Howard Safir, Fire Commissioner of New York City, for their efforts in an investigation involving an arson homicide.

**Michael Rich** and **Special AUSA Michael F. Ruggio** (Eastern District of Virginia), by Assistant Inspector General for Investigations Robert S. Terjesen, Office of Inspector General, U.S. Department of State, for their successful prosecution efforts in the Kiev false claims cases.

**Monte Richardson** and **Robert Monk** (Middle District of Florida), by Inspector in Charge J. J. Slavinski, Inspector General's Office, for their efforts in the successful prosecution of *United States v. Herbert A. Raprager, et al.*, a complex telemarketing fraud case.

Paralegal **Dee Rivers** (Western District of Virginia), by USPS Attorney Janet E. Noble, Appellate Division, for her assistance in the *Bullard v. Runyon* and U.S. Postal Service employment discrimination case.

**Michael Roden** (Middle District of Tennessee), by Major General Jackie D. Wood, The Adjutant General, Military Department of Tennessee, for his efforts defending the interest of the Secretary of the Army and three members of the Tennessee Army National Guard in the case of *Grooms vs. State of Tennessee, et al.*; and by LTC J. David Norwood, Corps of Engineers, Department of the Army, Nashville, for his outstanding work in prosecuting a Title 36 case.

**D. Wayne Rogers, Jr.** (Northern District of Alabama), by Major General J. A. Van Prooyen, Deputy Commander, U.S. Army Space and Strategic Defense Command, for the successful conclusion of two lawsuits against the Command, filed under the Federal Torts Claims Act.

Clerk typist **Alice Romero**, **AUSA Rebecca Lonergan**, secretary **Allena Malona**, and receptionist **Ina Thomas** (Central District of California), by United States Attorney Katrina C. Pflaumer, Western District of Washington, for the assistance they provided to two AUSAs from the Western District of Washington while they were in Los Angeles to conduct a video deposition and interview witnesses.

**Amber Rosen**, **Marcia Jensen**, and **Tony West** (Northern District of California), by IRS Chief Vincent J. Weltz, Criminal Investigation Division, San Francisco District, for their assistance in prosecuting numerous IRS cases.

**Charles P. Rosenberg** and **David G. Barger** (Eastern District of Virginia), by Judge Terrence W. Boyle, United States District Court, Eastern District of North Carolina, for their exemplary performance in handling several difficult tax cases.

**John Roth** (Southern District of Florida), by U.S. Attorney Randall K. Rathbun, District of Kansas, for his efforts in securing search warrants during an investigation in the District of Kansas.

**Ann C. Rowland** (Northern District of Ohio), by Chief Counsel Kathryn T. Hoener, Department of the Army, Fort Monmouth, New Jersey, for her efforts in the successful prosecution of U.S. v. Karl Hoffman, who was convicted of making false statements to the U.S.

**Special AUSA Michael F. Ruggio** and **Michael Rich** (Eastern District of Virginia), by Assistant Inspector General for Investigations Robert S. Terjesen, Office of Inspector General, U.S. Department of State, for their successful prosecution efforts in the Kiev false claims cases.

**John D. Sammon** and **James V. Moroney** (Northern District of Ohio), by FBI Director Louis J. Freeh, for their work on a case involving Michael I. Monus, who was responsible for the bankruptcy of a major discount drugstore chain.

**Donna Sanger** (District of Maryland), by Chief Counsel Richard J. Riseberg, Public Health Service, U.S. Department of Health and Human Services, for her successful prosecution of Dr. Prince Kumar Arora for his willful destruction of scientific work of other NIH scientists.

**Donna Sanger** and **Eric Havian** (District of Maryland), by Fraud Counsel Christine L. Poston, Defense Logistics Agency, Alexandria, for their efforts in a civil fraud case, United States v. Issca Rusha Company, Inc., and a False Claims Act criminal case, United States v. Gerald Gray.

**Patrick J. Schneider**, **Sharon K. Novitsky**, and **Joseph C. Welty** (District of Arizona), by Sergeant Ken Thatcher, Jr., Criminal Investigation Section, Chandler Police Department, for their efforts in the successful prosecution of Michael DeWayne Payne for gun possession.

**Albert W. Schollaert** (Western District of Pennsylvania), by Inspector Attorney James J. Puchala, U.S. Postal Inspection Service, for his assistance regarding a subpoena compliance matter involving an agent of the Pittsburgh field office.

**Nash Schott**, **Rosie Haney**, and **John Martin** (Eastern District of Virginia), by EPA Associate Director Mary Kendall Adler, Office of Criminal Enforcement, for their assistance to her while she was in the SAUSA Unit in the Eastern District of Virginia.

**Edmund W. Searby** and **Mark V. Jackowski** (Middle District of Florida), by FBI Director Louis J. Freeh, for their outstanding efforts in the successful prosecution of United States v. Eugene O'Neill and Mark Edward Larkin, a complex bank robbery case.



**Peter S. Sexton** (District of Arizona), by USPS Postal Inspector in Charge C. M. Macho, Phoenix Division, for the successful prosecution of a U.S. postal letter carrier for mail theft.

**Robert Simpkins** (Southern District of Illinois), by FBI Director Louis J. Freeh, for his contributions to the successful prosecution of Dr. Thomas Bruce Vest for health care fraud.

**Robert L. Simpkins** and **Thomas M. Daly** (Southern District of Illinois), by Inspector General Martin J. Dickman, United States Railroad Retirement Board, Chicago, for his successful prosecution of the mail fraud case, United States v. Vest.

**William Soisson** and **Ross MacKenzie** (Eastern District of Michigan), by Director Gregory W. Anderson, Corporate and Financial Investigations, Blue Cross/Blue Shield of Michigan, for their efforts in the J.W. Kerr/Sav Mor Pharmacy health care fraud investigation.

Legal secretaries **Kathie Soto** and **Martin Jones** and **AUSA J. Daniel McCurrie** (Central District of California), by DEA Special Agent in Charge Robert E. Bender, Los Angeles, for their efforts during the prosecution of five defendants in United States v. Jose E. Topete, et al., in which four of the five defendants were convicted of drug and firearms charges.

**John B. Stevens** and **Kerry Klintworth** (Eastern District of Texas) and **J. Malcolm Bales** (District of Colorado), by FBI Director Louis J. Freeh, for their assistance during an investigation of the theft of 157 kilos of cocaine from the Beaumont, Texas, Police Department.

**Christian H. Stickan** (Northern District of Ohio), by Deputy Assistant Inspector General for Investigations William H. Tebbe, U.S. Railroad Retirement Board, Chicago, for his successful prosecution of three individuals who defrauded the U.S. Railroad Retirement Board.

**Peter G. Strasser** (Eastern District of Louisiana), by Special Agent in Charge Christopher M. Nelson, U.S. Customs Service, for his outstanding efforts in heading the prosecution of United States v. Brown and Williamson Tobacco Corporation, investigated for allegedly diverting tax free cigarettes into the U.S. market.

**James Sullivan** (Western District of North Carolina), by IRS District Counsel Alan I. Weinberg, Southeast Region, for his consistent professionalism and dedicated efforts in representing the IRS in numerous bankruptcy cases.

**Timothy Susanin** (Eastern District of Pennsylvania), by Special Agent in Charge Ernest J. Kun, U.S. Secret Service, for his efforts in a computer fraud case.

**Thomas P. Swaim**, **Jane H. Jolly**, and **Eric Evenson** (Eastern District of North Carolina), by U.S. Customs Resident Agent in Charge L. M. Flippin, Wilmington, Delaware, for their efforts in the Charles Glenn Parker OCDETF investigation which resulted in the dismantling of an organization for smuggling and distributing massive quantities of cocaine and marijuana into Eastern North Carolina.

**Dennis Szybala** (Eastern District of Virginia), by Program Coordinator Jeffrey S. Holik, Commodity Futures Trading Commission, for his excellent contributions in the successful prosecution of Commodity Futures Trading Commission v. Grand Capital Commodity, Inc., Emperor International Exchange Co., Ltd. et al., an illegal transfer of offshore assets case.

**Charles A. Tamuleviz** and **Craig N. Moore** (District of Rhode Island), by United States Attorney Sheldon Whitehouse, District of Rhode Island, for their efforts in the conviction of Charles Christopher for looting American Universal Insurance Company.

**Gay L. Tedder** and **Alleen S. VanBebber** (Western District of Missouri), by Deputy Prosecuting Attorney Mark S. Jones, Jackson County, Missouri, for their outstanding efforts in the State v. Willie Mitchell murder case. Ms. VanBebber and Tedder helped expedite Jackson County's request to have an FBI agent available for testimony.

Receptionist **Ina Thomas**, AUSA **Rebecca Lonergan**, secretary **Allena Malona**, and clerk typist **Alice Romero**, (Central District of California), by United States Attorney Katrina C. Pflaumer, Western District of Washington, for the assistance they provided to two AUSAs from the Western District of Washington while they were in Los Angeles to conduct a video deposition and interview witnesses.

**Roderick Thomas** (District of Columbia), by General Counsel Lorraine Lewis, Office of Personnel Management, for his successful representation of OPM in a recent appeal before the District of Columbia Circuit.

**Mary P. Thorstenson** (District of South Dakota), by FBI Supervisory Senior Resident Agent Charles W. Draper, Minneapolis, for her successful prosecution of Craig Allan Van Buskirk, who pled guilty to bank fraud.

**Eric Tolen** (Eastern District of Missouri), by District Counsel David E. Davenport, Jr., Department of Veterans Affairs, for his efforts in Barbara Ann Lowe and Kristy Lowe v. United States, a medical malpractice case.

**Eric Tolen** (Eastern District of Missouri), by Director Lynn Bruner, U.S. Equal Employment Opportunity Commission, St. Louis District Office, for his successful defense of EEOC in a discrimination case.

**Jim Torgerson** (District of Alaska), by Trial Attorney Miriam L. Chesslin, Environmental Section, Environment and Natural Resources Division, for his efforts in United States v. Alaska Railroad Corp. et al., a CERCLA Act of 1980 case.

**George Z. Toscas** and **Christopher Nuechterlein** (Eastern District of California), by Special Agent in Charge Gary N. Overby, San Francisco Field Office of the Office of the Inspector General, for their excellent work in the successful prosecution of a former Los Angeles County Probation Officer on multiple counts of bribery.

Secretaries **Carol Tracey** and **Jane Dean** and AUSA **Jim Moore** (District of Maine), by Assistant Attorney General Deval L. Patrick, Civil Rights Division, for their efforts in *Abbott v. Bragdon*, an Americans with Disabilities Act case.

**Jonathan Tukel** and **Terrence Berg** (Eastern District of Michigan), by FBI Director Louis J. Freeh, for their outstanding efforts in prosecuting 16 members of a drug trafficking ring.

**Bonnie Ulrich** (District of South Dakota), by John Arrigo, Staff Judge Advocate, Ellsworth Air Force Base, South Dakota, for her efforts in a sexual harassment case.

**Bonnie Ulrich** (District of South Dakota), by USPS Chief Counsel William R. Gilligan, Jr., Claims Division, for her outstanding performance in the successful resolution of *Bonnie Siebrecht v. United States*, a case involving an accident with a postal vehicle that resulted in a victim becoming a quadriplegic.

**Bonnie P. Ulrich** and **Craig P. Gaumer** (District of South Dakota), by USDA Regional Inspector General for Investigations Robert J. Hillman, Kansas City, for their efforts in *United States v. James H. Coburn*, a case in which Coburn submitted false claims for rental assistance and overcharged tenants.

**Bonnie Ulrich** and paralegal specialist **Joanne Bender** (District of South Dakota), by Thomas J. Faugno, Assistant District Counsel, Department of the Army, for their research efforts concerning the *Tanner v. United States* ammunition disposal case.

**Nandor Vadas** (Northern District of California), by Major Hugh C. Irwin, Commander, U.S. Department of Interior, National Park Service, San Francisco Field Office, for his efforts in prosecuting two juvenile offenders who assaulted visitors at Baker Beach, part of the Golden Gate National Recreation Area.

**Alleen S. VanBebber** and **Gay L. Tedder** (Western District of Missouri), by Deputy Prosecuting Attorney Mark S. Jones, Jackson County, Missouri, for their outstanding efforts in the *State v. Willie Mitchell* murder case. Mses. VanBebber and Tedder helped expedite Jackson County's request to have an FBI agent available for testimony.

**Valerie A. VanBrocklin** (District of Alaska), by FBI Special Agent in Charge Wiley D. Thompson, III, and General Manager Kevin Sheridan, Rogers Cablesystems of Alaska, Inc., for her successful prosecution of a case involving the sale of illegal cable television descramblers.

**Gina Vann**, **Donna Dobbins**, and **Ginny Granade** (Southern District of Alabama), by FBI Special Agent in Charge Nicholas J. Walsh, Mobile, for their efforts in the *William O'Farrell Assault on a Federal Official* matter.

**Nicholas Vassallo** (District of Wyoming), by Regional Solicitor Gina Guy, U.S. Department of the Interior, Denver, for his efforts in successfully securing a dismissal of *Tippett, et al. v. U.S., et al.*, a personal injury case.

**Nancy A. Vecchiarelli** (Northern District of Ohio), by ATF Special Agent in Charge Charles E. Wallace, Middleburg Heights, Ohio, for her efforts in the successful prosecution of U.S. v. Saide Latouf, et al., an arson case.

**Russell G. Vineyard** and **Michael J. OLeary** (Northern District of Georgia), by Director Wayne A. Blank, Division of Legal and Regulatory Services, Georgia Department of Medical Assistance, for their successful prosecution of U.S. v. Bernard Gales, a case involving fraudulent billing to Medicaid for non-emergency transportation services.

**Laura Voorhees** (Eastern District of Kentucky), by FBI Special Agent in Charge V. Dave Kohl, for her assistance in the successful prosecution of three defendants in three related bank frauds.

Supervisory legal technician **Amber Walker** and AUSAs **Richard Boscovich** and **Ellen Cohen** (Southern District of Florida), by Trial Attorney Will Traynor, Antitrust Division, Atlanta office, for their efforts during the Southern District of Floridas investigation into a nationwide criminal price-fixing conspiracy.

**Patrick Walsh, Mary Carter Andruess, and Charles Kreindler** (Central District of California), by Colonel Riggs L. Wilks, Jr., U.S. Army Chief Trial Attorney, Office of the Judge Advocate General, for their efforts in the successful prosecution of several DEL Manufacturing Company principal officers for misusing Government progress payments.

**Lamar Walter** (Southern District of Georgia), by FBI Director Louis J. Freeh, for his efforts in the indictment of nine persons for defrauding victims in an advance-fee scheme. This case resulted in a guilty plea and \$1.7 million restitution from the primary defendant.

**Thomas L. Watson** (Eastern District of Louisiana), by Rear Admiral R. C. North, Commander, Eighth Coast Guard District, for his assistance which led to the dismissal of a subpoena for deposition of Captain Robert F. Powers in the AMTRAK litigation regarding the 1993 train derailment in Mobile, a Coast Guard test case of the new Touhy regulations.

**Joseph C. Welty, Sharon K. Novitsky, and Patrick J. Schneider** (District of Arizona), by Sergeant Ken Thatcher, Jr., Criminal Investigation Section, Chandler Police Department, for their efforts in the successful prosecution of Michael DeWayne Payne for gun possession.

**Stephen A. West** (Eastern District of North Carolina), by DEA Special Agent in Charge Raymond J. McKinnon, DEA, Greensboro, for his negotiation efforts during a case against a pharmacy chain that resulted in a civil settlement.

**Tony West, Marcia Jensen, and Amber Rosen** (Northern District of California), by IRS Chief Vincent J. Weltz, Criminal Investigation Division, San Francisco District, for their assistance in prosecuting numerous IRS cases.

**Brent A. Whittlesey** (Central District of California), by FBI Director Louis J. Freeh, for his work in the investigation and prosecution of subjects and businesses engaged in mail and wire fraud and money laundering activities.

**Brent A. Whittlesey** (Central District of California), by FBI Special Agent Richard E. Boeh, New Orleans, for his prosecutive efforts in a case that resulted in the indictment and guilty pleas of Roy and Susan Vincent, who helped negotiate a counterfeit check.

**Matt J. Whitworth** and **David D. Newbert** (Western District of Missouri), by FBI Special Agent in Charge David M. Tubbs, for their aggressive prosecution of United States v. Brian Thomas and Antwon Turner, who were convicted of bank robbery.

**Diane M. Wikert** (Western District of Pennsylvania), by FBI Special Agent in Charge John P. OConnor, for her significant contribution in an investigation to locate and apprehend Gerald Keith Watkins, an FBI Top Ten Fugitive.

**Sandy Wilkinson** (District of Maryland), by AUSA Glenda G. Gordon, Western District of Michigan, for her efforts in a multi-defendant, historical cocaine case.

**B. Frederick Williams** (Western District of North Carolina), by Director George W. Proctor, Office of International Affairs, Criminal Division, for his superb assistance in securing Russian fugitive Vasily Bornovs return to Russia.

**Gaynell Williams** and **Marvin Opotowsky** (Eastern District of Louisiana), by U.S. Postal Inspector in Charge Karl D. Kell, U.S. Postal Inspection Service, New Orleans, for their successful prosecution of U.S. v. Robert L. Dutschke, a white collar crime case which resulted in convictions of all defendants.

**Glyndell E. Williams** (Eastern District of California), by Special Agent in Charge Gary N. Overby, San Francisco Field Office, Office of the Inspector General, for his successful prosecution of Gloria Martinez for conspiracy and blackmail.

**Samuel A. Wilson** and LECC/VW Coordinator **Sandra Keil** (Middle District of Georgia), for their efforts in resolving unique and complex legal issues associated with the forfeiture of drug proceeds from Jimmy Lee Jefferies, Sr.

**Stephen G. Winerip** (District of Arizona), by Special Agent in Charge George R. Strehle, Department of Veterans Affairs, for his efforts in the successful prosecution of three significant cases that were investigated by the Department of Veterans Affairs and resulted in criminal convictions and prison sentences.

**Ron Wise** (Southern District of Alabama), by Rear Admiral R. C. North, U.S. Coast Guard, New Orleans, for his efforts in a case involving the sinking of the S/V LE BON RISQUE. Mr. Wise filed a successful motion for the court to reconsider a previous order, requiring the Coast Guard to make several Coast Guard personnel available for deposition.

**Mark A. Wohlander** and **R. Michael Murphy** (Eastern District of Kentucky), by FBI Special Agent in Charge V. Dave Kohl, for the successful prosecution of three major drug-trafficking cases.

**Donald R. Wolthuis** (Western District of Virginia), by Assistant Attorney General Deval L. Patrick, Civil Rights Division, for his efforts in the successful prosecution of two individuals involved in a racial shooting.

**Donald R. Wolthuis** (Western District of Virginia), by ATF Special Agent in Charge Patrick D. Hynes, Roanoke Field Office, for his efforts in the investigation and prosecution of James R. Mullins, et al., for Federal Conspiracy and Firearms violations.

**James R. Wooley** (Northern District of Ohio), by Erie County Prosecutor Kevin J. Baxter for his assistance in the successful prosecution of State of Ohio v. Mark Verdi, et al., an aggravated murder case.

**James R. Wooley** (Northern District of Ohio), by Organized Crime and Racketeering Chief Paul E. Coffey, Criminal Division, for his successful prosecution of Cleveland attorney Sanford Atkin for conspiring to bribe a U.S. District Court Judge.

**Thomas Wright** and Victim/Witness Coordinator **Nancy Stoner Lampy** (District of South Dakota), by FBI Supervisory Special Agent Charles W. Draper, Minneapolis, for their successful prosecution of United States v. Ernest White Buffalo, et al., an aggravated sexual abuse case.

**Bill Yahner, Larry Eastepp, and Quincy Ollison** (Southern District of Texas), by FBI Special Agent in Charge Michael D. Wilson, Houston, for their efforts in the successful prosecution of Teresa Rodriguez on mail fraud, wire fraud, and money laundering.

Librarian **Dennis Yanaihara** and **AUSA Lisa Feldman** (Central District of California), by SEC District Trial Counsel Melvyn H. Rappaport, San Francisco District Office, for their research efforts regarding Sentencing Guidelines.

**Debra Yang** (Central District of California), by Jai Daemion, father of Amiel Daemion, the victim in U.S. v. Friedlander, for her successful prosecution of this sexual molestation case.

**Francis L. Zebot** (Eastern District of Michigan), by USPS Chief Counsel William R. Gilligan, Jr., Claims Division, for his efforts in Mark A. Kroll v. United States, et al., a collective bargaining agreement case. ❖

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## Attorney General Highlights

### AG Announces Arrest of Juan Garcia Abrego in Mexico

On January 16, 1996, Attorney General Janet Reno announced that Juan Garcia Abrego was arrested in Mexico and returned to Houston, Texas, and then personally congratulated Mexican Secretary of Foreign Relations Jose Angel Gurria and Attorney General Antonio Lozano Gracia. The Attorney General said that Abrego's arrest and, "his expulsion by the Government of Mexico the following day, clearly demonstrate that even those who have most successfully eluded capture can be brought to justice by law enforcement entities that act with determination, courage, and vigor." Abrego, leader of one of the most powerful drug trafficking organizations operating on both sides of the border, faces charges for not only transporting tons of cocaine into the United States for the Cali Cartel but for authorizing murder and other violent acts to promote drug activities. He will stand trial in the U.S. District Court of the Southern District of Texas. ❖

## **AG Promotes Federal/State/Local Cooperative Law Enforcement**

On November 27, 1995, Attorney General Reno sent a memorandum to United States Attorneys announcing the Executive Working Group (EWG) for Federal/State/ Local Prosecutorial Relations, created to enhance law enforcement coordination among Federal, state, and local prosecutors, and emphasizing the importance of prosecutors and investigators at every level of Government working together. The EWG addresses ideas and concerns at informal, non-public meetings. At the Attorney General's request, an EWG Task Force was created to address fundamental principles that further strong partnerships between Federal, state, and local officials. They developed four principles to ensure that a culture of cooperation exists among Federal, state, and local law enforcement agencies. The Attorney General's memorandum provides guidance concerning these principles and encourages Federal prosecutors to employ them in relationships with state and local prosecutors and investigators. If you would like a copy of her memorandum, including the principles of effective law enforcement cooperation developed by the EWG Task Force, please contact the United States Attorneys' Bulletin Staff, (202)514-3572. ❖

## **White House Drug Testing Initiative**

On January 18, 1996, EOUSA Director Carol DiBattiste sent a memorandum to United States Attorneys, First Assistant United States Attorneys, and Criminal Chiefs, attaching a directive from the President to the Attorney General regarding development of a policy requiring drug testing for Federal arrestees prior to their first appearance before a judge or magistrate. The Department is developing procedures to implement this requirement. Those procedures will be included in future issues of the USAB. If you have questions, please call AUSA Kirby Heller, EOUSA's Legal Counsel Staff, (202)514-4024. ❖

## **DOJ Initiative Supports Communities to Reduce Juvenile Crime**

On November 9, 1995, Attorney General Janet Reno announced that six communities in California, Massachusetts, Missouri, Washington, and Montana, will share nearly \$8 million in Federal grant money in a comprehensive program, "SafeFutures," to combat juvenile crime and delinquency. Attorney General Reno cited recent statistics that predict a doubling in juvenile arrests for violent crime by the year 2010, if current trends continue. The program, developed by

OJJDP, combines efforts such as community-wide gang strategies; juvenile justice interventions for juvenile offenders; and prevention programming including after school, mentoring, and family strengthening programs, into a collaborative initiative that targets at-risk and delinquent youth throughout their development. In a November 28, 1995, press release, United States Attorney Sherry Scheel Mateucci, announced that Fort Belknap Community College in Harlem, Montana, the only American-Indian community to be selected to receive a grant under the SafeFutures program, received \$900,000. Questions about the program should be directed to OJJDP, (202)307-0703. ❖

## **AG Announces 1996 AG Advisory Committee**

On December 22, 1995, the Attorney General appointed seven new members to the Attorney General's Advisory Committee (AGAC). Each of the new members will serve two-year terms beginning on January 1, 1996. They are:

**J. Michael Bradford**, Eastern District of Texas  
**Christopher Droney**, District of Connecticut  
**Peggy A. Lautenschlager**, Western District of Wisconsin  
**Stephen C. Lewis**, Northern District of Oklahoma  
**Don C. Nickerson**, Southern District of Iowa  
**Donald K. Stern**, District of Massachusetts  
**Charles J. Stevens**, Eastern District of California

Attorney General Reno said, "Each of these talented U.S. Attorneys brings a significant amount of expertise to the Committee which will be important as we move ahead in the fight against crime." These United States Attorneys have made valuable contributions to DOJ not only through their service as United States Attorneys but as active members of AGAC Subcommittees and Working Groups.

Other members of the Committee who were appointed to two-year terms in January 1996 are:

**Alan D. Bersin**, Southern District of California  
**Janice McKenzie Cole**, Eastern District of North Carolina  
**Kathryn E. Landreth**, District of Nevada  
**Sherry S. Matteucci**, District of Montana  
**Thomas J. Monaghan**, District of Nebraska  
**P. Michael Patterson**, Northern District of Florida  
**Gregory M. Sleet**, District of Delaware

United States Attorney for the District of Arizona, **Janet Napolitano**, was reappointed to the Committee and will serve as its Chair, and United States Attorney for the District of Delaware, **Gregory M. Sleet**, will serve as Vice Chair. Outgoing Chair **Michael R. Stiles**, United States Attorney for the Eastern District of Pennsylvania, and **Eric Holder**, United States Attorney for the District of Columbia, will serve as ex officio members of the Committee. Deputy United



States Attorney for the Southern District of New York, **Shirah Neiman**, will serve as an ad hoc member. ❖

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## **Highlights of United States Attorneys' Offices**

### **Honors and Awards**

#### **USA Elected to Bar Association**

On December 8, 1995, United States Attorney **Carol Privett**, Northern District of Alabama, was elected to the Executive Committee of the Birmingham Bar Association. ❖

### **Significant Issues/Events**

#### **Resignations/Appointments**

##### **District of Kansas**

United States Attorney Randall K. Rathbun, District of Kansas, resigned on January 17, 1996, and on January 18, **Jackie N. Williams** was Attorney General-appointed as the Interim United States Attorney for the District of Kansas. ❖

##### **District of South Carolina**

United States Attorney J. Preston Strom, Jr., District of South Carolina, resigned on January 19, 1996, and on January 20, 1996, **Margaret Seymour** was Attorney General-appointed as the Interim United States Attorney for the District of South Carolina. ❖

#### **Attorney General's Advisory Committee Update**

The AGAC met on December 13 and 14, 1995, and on January 22 and 23, 1996. The next meeting is scheduled for March 13 and 14, 1996, in Washington, D.C. ❖

#### **Increase in Salaries for AUSAs**

In January 1996, EOUSA Director Carol DiBattiste announced the approval of a two percent, nationwide annual pay comparability increase for AUSAs, equal to the nationwide annual pay comparability increase which was authorized by the President for General Schedule (GS) employees and Senior Executive Service (ES) employees. AUSAs also will receive locality pay increases, equal to locality pay increases which were authorized by the President for GS and ES employees. (In limited circumstances, locality pay will be somewhat reduced for certain supervisory AUSAs.) The locality pay increases, like GS and ES locality pay increases, vary based

on the employee's official duty station and are paid only to those AUSAs whose official duty stations are in the 48 contiguous United States. These increases were effective on January 7, 1996. ❖

## **National Association of Attorneys General (NAAG) Annual Civil Rights Conference**

NAAGs Civil Rights Conference will be held in Washington, D.C., on March 7 through 9, 1996. The Conference is intended to build upon a Memorandum of Understanding (MOU) on Affirmative Civil Rights Enforcement, signed last year by NAAG and the Department of Justice. Currently, it is anticipated that a resolution to amend the MOU to include U.S. Attorneys will be considered at the NAAG Spring Meeting. The MOU commits the states and the Federal Government to work together to enforce the nation's civil rights laws, and establishes four Federal-state task forces: housing discrimination, bias-motivated crimes, mortgage lending, and discrimination on the basis of disability in public accommodation. NAAG encourages U.S. Attorneys and AUSAs to attend this conference. To register or receive a copy of the conference agenda, please contact Ms. Valarie Gibson, (202)434-8018. ❖

## **United States' Brief in *U.S. v. Armstrong***

On December 20, 1995, EOUSA Director Carol DiBattiste forwarded a copy of the United States' opening brief in *U.S. v. Armstrong* to United States Attorneys. The issue pending before the U.S. Supreme Court questions whether the Ninth Circuit Court of Appeals erred in holding that evidence that members of a particular race have been prosecuted for a particular offense is sufficient to justify an order requiring discovery from the Government on a claim of selective prosecution, absent evidence that similarly situated persons of a different race have not been prosecuted for that offense. For a copy of the brief, please contact the United States Attorneys' Bulletin Staff, (202)514-3572. For further information concerning the brief, please contact AUSA Charysse L. Alexander, EOUSAs Legal Counsel, (202)514-1023. ❖

## **Prosecutorial Immunity**

On January 23, 1996, the United States Court of Appeals for the District of Columbia Circuit denied the Petition for Rehearing with Suggestion of Rehearing *En Banc* filed by the United States in the case of *Moore v. Valder*, 65 F.3d 189 (D.C. Cir. 1995). The rehearing petition was filed in November 1995 at the urging of EOUSA; the Immunity Liability Working Group, chaired by United States Attorney Paul Coggins, Northern District of Texas; and other Department of Justice components.

The plaintiff in the case was president of a company which sought business with the United States Postal Service. He was indicted on charges of conspiring to defraud the Postal Service and corrupt its contracting procedures, but obtained a judgment of acquittal. He then brought a *Bivens* action against the Assistant United States Attorney (AUSA) who had prosecuted him, as well as several postal inspectors. Two district courts (initially the Northern District of Texas and later the District of Columbia, to which the case was transferred) entered orders dismissing all claims. On September 22, 1995, the District of Columbia Circuit reversed

those orders in part. With respect to the AUSA, the court of appeals ruled that absolute prosecutorial immunity does not apply to alleged "coercion" or "intimidation" of witnesses, even though the allegations at issue involved the AUSA's interviews of potential witnesses in preparation for the presentation of their testimony to a grand jury.

Because of the prospect that this ruling could seriously weaken the protection of Federal prosecutors from personal liability suits, the Department filed a petition for rehearing en banc. Although the court of appeals initially took the encouraging step of calling for a response to the petition, it denied the petition by order of January 23, 1996. The case is being handled by the Appellate Staff of the Civil Division, and it is expected that they will seek input as to whether the United States should petition the Supreme Court for a writ of certiorari. The Immunity Liability Working Group is scheduled to meet on February 8, 1996, in Washington, D.C., to discuss this and other immunity issues. EOUSA will continue to report significant developments in the case. ❖

## **Virgin Islands' Territorial Attorney General and United States Attorney Sign MOU**

On January 11, 1996, the Virgin Islands territorial and Federal prosecutors entered into an agreement to promote coordinated law enforcement in the territory that will result in increased protection for the public. Historically, Federal prosecution in the territory of the Virgin Islands has been very different than Federal prosecution in any of the 50 states. Originally, the United States Attorney served both as the Federal prosecutor and the local District Attorney, much like the situation in the District of Columbia. Over time, the territorial legislature shifted the prosecution of local offenses to the Office of the Territorial Attorney General. The United States Congress enacted legislation that gave the local Virgin Islands' legislature the authority to vest the local Attorney General with criminal jurisdiction when they are properly equipped and staffed to do so. The Virgin Islands legislature shifted the jurisdiction to the Attorney General's Office several years ago. However, ancillary jurisdiction still remained with the United States Attorney; i.e., if a criminal episode violated both Federal and local laws, the United States Attorney was empowered to bring both cases in a single indictment.

When recently appointed United States Attorney James Hurd, Jr., assumed duties in the District of the Virgin Islands, he contacted newly appointed Territorial Attorney General Julio Brady to suggest that the two offices implement a series of procedures that would allow them, as well as the law enforcement community, to determine by category of offense which office to initiate cases in. Within several weeks, a comprehensive agreement that also established a working team effort including cross designations, cross training programs, and a jointly sponsored community outreach program, was reached. The Virgin Islands (along with Puerto Rico) has been designated a High Intensity Drug Trafficking Area (HIDTA), and the agreement will aid in that Federal and local law enforcement coordination effort. ❖

## **400 Individuals Charged in Nationwide Telemarketing Fraud District of Nevada**

A two-year, joint Federal and state undercover operation, "Operation Senior Sentinel," in which volunteer retired persons secretly tape recorded dishonest telemarketers who preyed on the

elderly, has resulted in at least 400 arrests in 12 states, and involved the efforts of 15 United States Attorneys' offices. The tape recorded telephone calls from telemarketers were forwarded to a computerized collection point in San Diego, where they were catalogued and indexed for investigation. Approximately 156 individuals were named in 25 indictments for Federal felony offenses, arising from their ownership and employment in fraudulent telemarketing businesses. ❖

### **Credit Card Fraud Crackdown Central District of California**

A nine-month investigation, "Operation Repayment," targeting only individuals who were in credit card debt more than \$100,000, resulted in over 40 arrests in December 1995 in California, in one of the nation's toughest crackdowns on credit card fraud. In another raid in August 1995 which netted 98 arrests, banks lost only \$2.5 million but credit cards collected had a potential credit limit of \$170 million. These credit card schemes work as follows:

A booster check for \$2,000 to \$20,000, drawn on insufficient funds, is sent to a credit card company to pay a bill that may be only about \$200. Regardless of the person's credit limits, by law credit card companies must post the check to the account as soon as it is received, before it clears the issuing bank. Once the booster check is posted (which is easily determined by calling the automated information line), the cardholder and the operator of the scheme go on a shopping spree and pick up large cash advances. The cardholder then splits the proceeds 50-50 with the operator of the scheme. After the checks are returned for insufficient funds and payment is demanded, the cardholder files for bankruptcy protection to thwart collection efforts.

Assistant United States Attorney Marc R. Greenberg said, "This corrupts the community, because people were told they could go bankrupt and wouldn't go to jail because we have no debtor prisons." Some individuals involved in the scheme are alleged to have had as many as six accounts with debts totaling \$100,000 to \$650,000 each. ❖

### **USAO Generates Millions of Dollars for Federal Government District of Rhode Island**

The USAO in Rhode Island collected nearly \$3.5 million more in fines, forfeitures, and recovered loans than the total amount of money spent by their office during Fiscal Year 1995. They collected or seized \$7,326,889 in criminal fines, proceeds of property forfeited in criminal cases, and defaulted Federal loans. During that same period their expenses totalled \$3,862,352. The money they collected goes to a variety of programs and funds including the Federal Crime Victims Fund, Federal agencies to which the money was owed, and state and local law enforcement agencies as part of the Equitable Sharing Program. ❖

### **Forfeited House of Convicted Drug Dealer Given to Drug Treatment Center Eastern District of Wisconsin**

As part of the Milwaukee Weed and Seed Project, a forfeited house of a convicted drug dealer was given to a drug treatment center for women and children. ❖

### **"Ten Most Wanted" Property Conversion District of Massachusetts**

In a cooperative effort, a four-story building in Dorchester, which was one of the ten most drug-involved properties in Boston, was rehabilitated to house 14 elderly residents in congregate housing. Since 1990, Boston police arrested 56 individuals at the property. In 1992, the United States Attorney's office began a lawsuit in Federal court to have the building forfeited to the U.S., and in 1994, the Court gave the property to the U.S. The United States Marshals Service then worked to secure the building and to protect area residents. As part of the conversion process, the Public Facilities Department for the City of Boston agreed to finance rehabilitation of the property; the Boston Police Department and the DEA relinquished their rights (under forfeiture law) to the proceeds from the sale of the building; and the Department of Housing and Urban Development discharged its substantial mortgage on the property and committed the primary funding source, allowing the \$991,200 Section 202 Housing Program project to go forward. Questions should be directed to AUSAs Patrick Hamilton or Christopher Bator, (617)223-9400. ❖

### **Seized Counterfeit-Label Clothing Given to Needy Eastern District of Kentucky**

More than 290 pieces of counterfeit-label clothing seized from illegal distributors were presented to the Hope Center Homeless Shelter and an educational day care facility for young mothers. ❖

### **USAO Members Assist in Sponsorship of Holiday Party for Weed and Seed Neighborhoods Northern District of Georgia**

On December 20, 1995, USAO members helped to sponsor a Holiday party for children of three Atlanta Weed and Seed neighborhoods. After collecting gifts for children, USAO representatives and others from the Atlanta Police Department, HUD-OIG, Fulton County Sheriffs Office, and the Atlanta Victim-Witness program distributed presents, food, and candy-filled stockings to over 200 children. Over 2,800 gifts were collected which allowed the USAO to provide gifts not only for children in the Weed and Seed neighborhoods but to other children through the Battered Womens Program; Grady Rape Crisis Center; Fulton State and Superior Court Victim-Witness Programs; and Safe Haven and Viewpoint, a drug treatment program. They also provided gifts to a family who lost everything as a result of a recent fire bombing. ❖

### **New Regulations Regarding Record Keeping Requirements for Email**

On December 19, 1995, EOUSA Director Carol DiBattiste forwarded to United States Attorneys, interim guidance regarding the preservation of Email messages which meet the definition of Federal records. The Justice Management Division's Information Management and Security Staffs are preparing Department-wide instructions that will be available shortly and will implement new regulations issued by the National Archives and Records Administration (NARA) on September 17, 1995. In the interim, the guidance issued with Ms. DiBattistes memorandum of December 19 should be used. The new NARA regulations direct all Federal agencies to prepare and implement a program for managing all Federal records created or received on electronic mail (Email), and are in response to the case of Armstrong v. Executive Office of the President, 810 F. Supp. 335 (D.D.C. 1993), affd, 1 F.3d at 1296. In that case, the D.C. District Court held that Email messages are subject to the retention provisions of the Federal Records Act (FRA), 44 U.S.C §§ 2101-2118, 2901-2910, 3101-3107, and 3301-3324, if they qualify as Federal records. The District Court held that substantive communications meeting the definition of record and contained on Email fall within the FRA. Armstrong, 810 F. Supp. at 340-41. The Court further held that the guidelines of both the Executive Office of the President and of the National Security Counsel failed to meet the FRA standard because the paper printouts of Email documents did not include necessary identifying information, such as the names of the document's sender and receiver, the date sent, or the date received. Id. at 341. The record keeping systems were also deficient in that they did not provide for monitoring employee compliance with the FRA. Id. at 343. If you have questions, please contact Attorney Advisors Kevin J. Keefe or Juliet Eurich, EOUSAs Legal Counsel, (202)514-4024. If you would like a copy of the memorandum, please contact the United States Attorneys Bulletin Staff, (202)514-3572. ❖

## **Important Notice to Users of Information America**

As of February 1, 1996, users should connect to Information America (IA) through their Westlaw menu because as of March 1, 1996, IA passwords will no longer be valid. If you are an IA user and do not have a Westlaw password, please contact the Westlaw Administrator in your office to have a Westlaw password assigned as soon as possible. Questions should be directed to Gerry Connolly at (202)616-6969. ❖

## **"Cops Under Fire"**

On December 7, 1995, EOUSA Director Carol DiBattiste forwarded, "Cops Under Fire," a report published by Handgun Control, Inc., that documents a study of law enforcement officers killed with assault weapons or guns with high capacity magazines. The purpose of the study is to determine what percentage of fatal shootings of law enforcement officers involved assault weapons or guns sold with high capacity magazines banned by the 1994 Crime Bill. The study covers the period January 1, 1994, to September 30, 1995, and covers all fatal shootings reported to the FBI.

## **Relocation of United States Attorney's Office for the Middle District of North Carolina**

The Middle District of North Carolina has relocated to the following address:

101 South Edgeworth Street  
Fourth Floor  
Greensboro, NC 27401

Their mailing address and telephone number did not change.

### **Address Changes in the Western District of Tennessee**

The new mailing and shipping address, and telephone and fax numbers are:  
United States Attorneys Office for the Western District of Tennessee  
801 Federal Office Building  
167 North Main Street  
Memphis, Tennessee 38103  
Phone: (901)544-4231  
Fax: (901)544-4230

The Jackson Branch Office of the Western District of Tennessee relocated to:  
United States Attorneys Office  
139 Stonebridge Boulevard  
Jackson, Tennessee 38305  
Phone: (901)668-2373  
Fax: (901)668-2376 ❖

### **Relocation of the Toledo Branch Office**

The new address and telephone number are:  
United States Attorneys Office  
Suite 308, Four Seagate, Third Floor  
Toledo, Ohio 43604  
Phone: (419)259-6376 ❖

### **Relocation of United States Attorneys Office for the Eastern District of Virginia**

The new mailing address and telephone number are:  
United States Attorneys Office for the Eastern District of Virginia  
2100 Jamieson Avenue  
Alexandria, Virginia 22314  
Phone: (703)299-3700 ❖

### **New Staffed Branch Office in District of Wyoming**

The District of Wyoming opened a staffed branch office at the following address:  
United States Attorneys Office for the District of Wyoming

933 Main Street  
Lander, Wyoming 82520  
Phone: (307)332-8195  
Fax: (307)332-7104 ❖

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## **Executive Office for United States Attorneys**

### **EOUSA Staff Update**

#### **Appointment of Principal Associate Director**

On January 16, 1996, EOUSA Director Carol DiBattiste announced that Theresa Bertucci was appointed Principal Associate Director of EOUSA. Theresa will continue as the Chief of Staff of EOUSA and have direct reporting responsibility to all staffs as part of EOUSA's management team. In addition, she will serve on a temporary detail as the Assistant Director of EOUSA's Financial Management Staff, and will relocate to the Bicentennial Building. Theresa will continue to work on the United States Attorneys National Conference. She can be reached at (202)616-6886 or (202)514-4506 and, until further notice, Email AEX03(TBERTUCC). ❖

#### **Law Enforcement Coordination/Victim-Witness Assistant Director**

On January 2, 1996, Kimberly Lesnak, on detail from the Northern District of Illinois, joined EOUSA as the Assistant Director of the Law Enforcement Coordination Committee/Victim-Witness Staff. She can be reached at (202)616-6792 or Email AEX02(KLESNAK). ❖

#### **Interim Marking Guide for Classified Information**

In a November 22, 1995, memorandum to United States Attorneys, District Security Managers, and Administrative Officers, Acting Assistant Director David Downs, EOUSA Security Programs Staff, forwarded an interim marking guide for classified information for use pending completion of a new marking guide by the Information Security Oversight Office. Changes in the marking of classified information were promulgated by Executive Order 12958, "Classified National Security Information," distributed on September 8, 1995. Questions should be directed to David Downs, (202)616-6885. ❖

#### **Office Automation Update**

EOUSA's Office Automation (OA) Staff is evaluating a Computer Aided Legal Research program, CDB Infotek, as a possible replacement or enhancement for asset forfeiture, public corruption, or economic crime investigations. If you have any comparison information or comments about this service or Information America that may assist in OAs evaluation, please contact Gerry Connolly or Ray Collado, EOUSA's Office Automation staff, Email AEX11(GCONNOLL) or AEX11(RCOLLADO). Both may be reached at (202)616-6969. ❖



## **Voluntary Leave Bank Program**

The Voluntary Leave Bank Program is available to United States Attorneys and United States Attorneys office personnel. By donating leave to the Voluntary Leave Bank Program, employees are entitled to take leave for personal emergencies during the 1996 Leave Year, January 7, 1996, through January 4, 1997. Questions about the program should be directed to your Administrative Officer. ❖

## **Office of Legal Education**

### **OLE Publication Corner**

Despite furloughs, snowstorms, and floods, the OLE Publications Unit library continues to grow. The newest book, *Federal Crimes of Violence*, in USABook computer format on the EOUSA Bulletin Board, is ready to be downloaded. A current list of USABook publications follows:

#### **USABook Publications**

*Capital Litigation*—death penalty litigation manual (published in May 1995).

*Civil Rights*—September 1995 manual on civil and criminal civil rights litigation.

*Death Penalty Cases*—collection of summaries of the holdings in U.S. Supreme Court death penalty cases since Furman.

*Drafting Indictments*—the March 1995 Indictment Form Book. Environmental Casesa collection of summaries of the holdings in environmental crimes appellate decisions.

*Ethics*—the November 1995 Ethics and Professional Responsibility Manual.

*Ethics CFRs*—the complete text of all Government ethics regulations from the Code of Federal Regulations.

*Fair Housing Act*—substantive provisions of the Fair Housing Act, accompanied by the text of related C.F.R. provisions and annotations.

*Firearms Offenses*—an OLE/Criminal Division manual on prosecuting firearms offenses (published in July 1995).

*Guideline Sentencing*—the October 1995 outline of case law on the sentencing guidelines originally published by the Federal Judicial Center.

*Health Forms*—a collection of sample forms and memoranda for use in health care fraud prosecutions.

*Immigration Law*—a manual on civil and criminal immigration law (published in October 1995).

*Violent Crimes*—a manual for prosecutors handling cases involving crimes of violence, with a special emphasis on juvenile and gang prosecution issues (published in January 1996).

**Coming next month:** the Federal Judicial Centers *Scientific Evidence* manual.

Contact your Systems Manager for information on how to get these useful publications on your desktop. NOTE: Systems Managers nationwide have been encouraged by EOUSA Director Carol DiBattiste to install USABook on every AUSAs computer. ❖

### **OLE Projected Courses**

Tom Majors, Director, OLE, is pleased to announce projected course offerings for the months of February through May 1996 for the Attorney Generals Advocacy Institute (AGAI) and the Legal Education Institute (LEI). Lists of these courses are on the following pages.

#### **AGAI**

AGAI provides legal education programs to Assistant United States Attorneys (AUSAs) and attorneys assigned to Department of Justice (DOJ) Divisions. The courses listed are tentative; however, OLE sends Email announcements to all United States Attorneys offices (USAOs) and DOJ Divisions approximately eight weeks prior to the courses.

#### **LEI**

LEI provides legal education programs to all Executive Branch attorneys, paralegals, and support personnel. LEI also offers courses designed specifically for paralegal and support personnel from USAOs (indicated by an \*). OLE funds all costs for paralegals and support staff personnel from USAOs who attend LEI courses. Approximately eight weeks prior to each course, OLE sends Email announcements to all USAOs and DOJ Divisions requesting nominations for each course. Nominations are to be returned to OLE via FAX, and then student selections are made.

Other LEI courses offered for all Executive Branch attorneys (except AUSAs), paralegals, and support personnel are officially announced via mailings to Federal departments, agencies, and USAOs quarterly. Nomination forms are available in your Administrative Office or attached as Appendix A. They must be received by OLE at least 30 days prior to the commencement of each course. Notice of acceptance or non-selection will be mailed to the address typed in the address box on the nomination form approximately three weeks prior to the course. Please note that OLE does not fund travel or per diem costs for students attending LEI courses (except for paralegals and support staff from USAOs for courses marked by an \* ). ❖

### **Office of Legal Education Contact Information**

Address:	Bicentennial Building, Room 7600	Telephone:	(202)616-6700
	600 E Street, N.W.	FAX:	(202)616-7487

Washington, D.C. 20530

Director . . . . . Tom Majors, AUSA, WDOK  
Deputy Director . . . . . David W. Downs  
Assistant Director (AGAI-Criminal) . . . . . Dixie Morrow, AUSA, MDGA  
Assistant Director (AGAI-Criminal) . . . . . Mary Jude Darrow, AUSA, EDLA  
Assistant Director (AGAI-Civil and Appellate) . . . . . Jeff Senger, Civil Rights Division  
Assistant Director (AGAI-Asset Forfeiture and  
    Financial Litigation) . . . . . Kathy Stark, AUSA, SDFL  
Assistant Director (LEI) . . . . . Donna Preston  
Assistant Director (LEI) . . . . . Eileen Gleason, AUSA, EDLA  
Assistant Director (LEI-Paralegal and Support) . . . . . Donna Kennedy

## AGAI Courses

<b>Date</b>	<b>Course</b>	<b>Participants</b>
<b>February 1996</b>		
5-14	Criminal Trial Advocacy	AUSAs, DOJ Attorneys
6-9	Negotiations for AUSAs and DOJ Trial Attorneys	AUSAs, DOJ Attorneys
13-15	Alternative Dispute Resolution	AUSAs, DOJ Attorneys
21-23	Asset Forfeiture for Criminal Prosecutors	AUSAs, DOJ Attorneys
26-3/1	Appellate Advocacy	AUSAs, DOJ Attorneys
<b>March</b>		
4-7	Civil Federal Practice	AUSAs, DOJ Attorneys
4-8	Advanced Criminal Trial	AUSAs, DOJ Attorneys
11-13	Native American Issues	AUSAs, DOJ Attorneys
18-22	Evidence for Experienced Litigators	AUSAs, DOJ Attorneys
18-22	Criminal Federal Practice	AUSAs, DOJ Attorneys
18-29	Civil Trial Advocacy	AUSAs, DOJ Attorneys
19-21	Advanced Money Laundering	AUSAs, DOJ Attorneys
<b>April</b>		
2-4	Financial Litigation Investigation & Enforcement	AUSAs, DOJ Attorneys
9-12	Advanced Civil Evidence	AUSAs, DOJ Attorneys
9-12	Health Care Fraud	AUSAs, DOJ Attorneys
15-24	Criminal Trial Advocacy	AUSAs, DOJ Attorneys
16-18	Alternative Dispute Resolution	AUSAs, DOJ Attorneys
16-18	Asset Forfeiture for Criminal Prosecutors	AUSAs, DOJ Attorneys
16-19	Advanced Medical Malpractice	AUSAs, DOJ Attorneys
23-25	Alternative Dispute Resolution	AUSAs, DOJ Attorneys
23-26	Computer Crimes	AUSAs, DOJ Attorneys
29-5/1	Criminal Chiefs	USAO Criminal Chiefs
29-5/10	Civil Trial Advocacy	AUSAs, DOJ Attorneys
<b>May</b>		
7-9	Sixth Circuit Asset Forfeiture Component	AUSAs
7-10	Advanced Environmental Crimes	AUSAs, DOJ Attorneys
7-10	Complex Prosecutions	AUSAs, DOJ Attorneys
8-10	ARPA	DOJ Attorneys
14-16	Asset Forfeiture for Criminal Prosecutors	AUSAs, DOJ Attorneys
21-23	Advanced ACE	AUSAs, DOJ Attorneys

## LEI Courses

<b>Date</b>	<b>Course</b>	<b>Participants</b>
<b>February 1996</b>		
5-7	Basic Bankruptcy	AUSAs, Attorneys
12-16	Criminal Paralegal *	USAO Paralegals
15-16	Legislative Drafting	Attorneys, Paralegals
21	Freedom of Information Act Administrative Forum	Attorneys, Paralegals
22-23	Natural Environmental Protection Act	Attorneys
26-3/1	Civil Paralegal *	USAO Paralegals
<b>March</b>		
5-7	Advanced Case Management	Docket Clerks
11	Introduction to the Freedom of Information Act	Attorneys, Paralegals
11-15	Experienced Legal Secretaries *	USAO Support Staff
12-15	Examination Techniques	Attorneys
18-22	Legal Support *	USAO Paralegals
19-20	Agency Civil Practice	Attorneys
22	Legal Writing	Attorneys
25	Computer Acquisitions	Attorneys
<b>April</b>		
1-3	Discovery	Attorneys
9	Ethics and Professional Conduct	Attorneys
10-12	Trial Preparation	Attorneys
15-19	Experienced Paralegal *	Paralegals
23-25	Criminal Collections and Management for Paralegals *	USAO Paralegals
<b>May</b>		
1-3	Attorney Supervisors	Attorneys
6-10	Legal Support Staff *	USAO Paralegals
13	Ethics for Litigators	Attorneys
14-15	Freedom of Information Act for Attorneys and Access Professionals	Attorneys, Paralegals
14-17	Grand Jury Clerks *	USAO Grand Jury Clerks
16	Privacy Act	Attorneys
20-22	Negotiation Skills	Attorneys
29	Computer Assisted Legal Research	Attorneys
30-31	Law of Federal Employment	Attorneys

## WordPerfect 5.1 Tips

### Importing Westlaw Documents into WordPerfect Documents

*By Ed Hagen, OLE Publications Unit*

Legal documents often require the importation of lengthy quoted material. Typing the full text is time consuming and prone to small errors. There is a better way to do the job.

For example, if you are in the middle of a memorandum on an illegal reentry case and want to quote the full text of 18 U.S.C. 1326, press the <**PrintScrn**> key to go to your EAGLE workstation menu. Log into Westlaw in your normal fashion, entering the password and identifying your work session.

The default Westlaw format for exported text is called **Standard**. This is unsuitable for WordPerfect documents since it contains hard carriage returns in the wrong places, odd margins, and other nuisance formatting codes. It is easy to check and correct this setting. Type **OPT** and then press <**Enter**>. Type **P3** and <**Enter**> to go to the third option page. If item 18 ("Assign your downloading format") is **Standard**, change it to **WordPerfect 5.1/5.2**. Then press <**Enter**> to continue your research.

The following Westlaw commands will bring up the statute and save it to disk: **FI 8 USC 1326, DLD, and D**. When you log off, you will be queried for a file name. Since this is just a temporary file, use the name **TEMP**. When you return to your WordPerfect document, you can retrieve the text by pressing <**Shift**><**F10**>, and entering **C:\WESTLAW\TEMP.WL** at the prompt.

The text will begin with about a half of a page of Westlaw copyright information that you can block and delete. Relevant annotations will appear after the statute. To delete the annotations, position the cursor at the beginning of them and press <**F12**> to start marking a block. Press <**F2**> and type out **\*END\*** at the search prompt. Press <**F2**> again. This will move you close to the end of the annotations. Press the down arrow key to move to the end of the annotations, and then press <**Delete**> to delete the block. ❖

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## DOJ Significant Issues and Events

### Civil Division

#### \$2.2 Million Medicare False Claims Settlement

On December 1, 1995, DOJ announced that Health Care Capital of Shreveport, Louisiana, and eight Florida nursing homes it managed; Central Park Lodges in Florida; and Health Resources Northwest, which operated a nursing facility in Seattle, Washington, will pay a total of \$2.2 million to the U.S. to settle allegations that they submitted false Medicare bills for supplies.

❖

#### Attacking Financial Institution Fraud Report

In November 1995, Gerald Stern, Special Counsel for Financial Institutions Fraud released his third quarterly report to the Congress of the United States. ❖

## **Civil Rights Division**

### **Q&As Concerning ADA and Persons with HIV/AIDS**

The Civil Rights Division recently published a question/answer document concerning the Americans with Disabilities Act (ADA) and Persons with HIV/AIDS, including sections on employment, public accommodations, state and local governments, telecommunications, housing, air transportation, and resources. The document provides telephone numbers of Federal agencies that can provide information on the ADA and persons living with HIV/AIDS. The document is available in Braille, large print, audiocassette, electronic file on computer disk, and on the electronic bulletin board. If you would like a hardcopy, please contact the United States Attorneys' Bulletin Staff, (202)514-3572. To obtain the document in alternate formats, call the Department of Justice ADA Information Line, (800)514-0301(Voice), (800)514-0383(TDD). ❖

### **Fighting Discrimination Against Persons with HIV/AIDS**

The Civil Rights Division recently published the highlights of their efforts to protect the rights of persons living with HIV/AIDS under the Americans with Disabilities Act and the Fair Housing Act. The document provides information on cases in the areas of emergency medical treatment, dental care, volunteer fire fighters, funeral homes, moving services, housing, and technical assistance/outreach. If you would like a hardcopy, please contact the United States Attorneys' Bulletin Staff, (202)514-3572. To obtain the document in alternate formats, call the Department of Justice ADA Information Line, (800)514-0301(Voice), (800)514-0383(TDD). ❖

## **Criminal Division**

### **Supreme Courts Decision in Bailey v. United States, No. 94-7448 (December 6, 1995)**

In a December 13, 1995, memorandum from Acting Assistant Attorney General John C. Keeney, Criminal Division, he discusses the retroactivity effects of Bailey v. United States on cases in which defendants were convicted under 18 U.S.C. § 924(c)(1). The memorandum also documents the jury charges and the "carrying" prong of Section 924(c)(1). The following excerpt is from the memorandum.

Under 18 U.S.C. § 924(c)(1), a person who during and in relation to any crime of violence or drug trafficking crime \* \* \* uses or carries a firearm is subject to a five-year minimum sentence. In Bailey v. United States, the Supreme Court held that conviction of a defendant for "use" of a firearm under Section 924(c) requires evidence sufficient to show an active employment of the firearm by the defendant.

The Court explained that "use" under Section 924(c)(1) "includes brandishing, displaying, bartering, striking with, and most obviously, firing or attempting to fire, a firearm." In addition, "an offender's reference to a firearm in his possession could satisfy § 924(c)(1)," if it is "calculated to bring about a change in the circumstances" of the underlying crime of violence or drug trafficking crime.

The Court rejected the government's contention that "placement of a firearm to provide a sense of security or to embolden" a defendant constitutes "use" under the statute. Thus, the Court held that "[a] defendant cannot be charged under § 924(c)(1) merely for storing a weapon near drugs or drug proceeds." Moreover, "use" does not encompass a defendant's hiding a gun where it is available for use if necessary, "if the gun is not disclosed or mentioned by the offender."

One of the defendants in Bailey was arrested after police officers, who stopped him for a traffic offense, found cocaine in the driver's compartment of his car; the officers then seized a loaded gun from a bag in the trunk of the car. A second defendant kept an unloaded gun in a locked footlocker in a bedroom closet; she also stored crack cocaine in the bedroom. The Supreme Court held that this evidence was insufficient to support either defendants conviction for "using" a firearm under Section 924(c)(1), finding that neither "defendant actively employed the firearm." The Court noted, however, that the court of appeals had not considered whether the defendants could be liable under the "carrying" prong of the statute, and it remanded "for consideration of that basis for upholding the convictions."

The decision in Bailey substantially alters prior law concerning the evidence necessary to show "use" under Section 924(c)(1). In all pending and future trials involving charges under that statute, the jury should be instructed that it may convict the defendant of using a firearm only if it finds that he "actively employed" a firearm, as the Court defined that term in Bailey. Also, in appropriate cases, the jury may be instructed that it can find the defendant guilty of a Section 924(c)(1) violation under aiding and abetting or Pinkerton theories. See United States v. Luciano-Mosquera, 63 F.3d 1142, 1149 (1st Cir. 1995) (aiding and abetting); United States v. Dean, 59 F.3d 1479, 1487 (5th Cir. 1995) (Pinkerton); United States v. Laury, 49 F.3d 145, 151 (5th Cir. 1995) (aiding and abetting). In addition, the decision will require us to respond to numerous challenges to prior convictions under Section 924(c)(1).

The preliminary guidelines in Mr. Keeney's memorandum are available from the United States Attorneys' Bulletin Staff, (202)514-3572. Questions should be directed to AUSA Kirby A. Heller, EOUSA Legal Counsels Office, (202)514-4024 or Email AEX03(KHELLER); or John DePue, (202)616-0725, or Stanley Rothstein, (202)616-3102, Criminal Division, Terrorism and Violent Crime Section. ❖

**Executive Order 12978—Blocking Assets and Prohibiting Transactions with Significant Narcotics Traffickers**



On December 20, 1995, in a memorandum to United States Attorneys, Chief Theresa M.B. Van Vliet, Narcotic and Dangerous Drug Section, forwarded information pertaining to U.S. Government sanctions against significant Colombian narcotics traffickers and their assets. On October 21, 1995, pursuant to the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. §§ 1701-1706, President Clinton signed Executive Order 12978, "Blocking Assets and Prohibiting Transactions with Significant Narcotics Traffickers." The Order (1) finds that the violence, corruption, and harm associated with narcotics trafficking constitutes an extraordinary threat to the national security, foreign policy, and economy of the U.S., and declares a natural emergency to deal with this threat; (2) directs the Secretary of the Treasury, in consultation with the Attorney General and Secretary of State, to block the property and interest in property subject to U.S. jurisdiction of all persons and entities that have a significant role in Colombia-based narcotics trafficking or who assist in or materially support this trafficking; and (3) imposes sanctions on the four leaders of the Cali Cartel - Gilberto Rodriguez Orejuela, Miguel Rodriguez Orejuela, Jose Santacruz Londono, and Helmer Herrera Buitragoas - well as 43 front persons and 33 front companies. If you would like a copy of the memorandum, including Executive Order 12978 and an overview of the blocking of assets and prohibitions against transactions with narcotics traffickers, please contact the United States Attorneys' Bulletin Staff, (202)514-3572. Questions regarding IEEPA or the Executive Order should be directed to Ms. Van Vliet, (202)514-0917, or Sandi Acosta, (202)514-1186. ❖

## **Environment and Natural Resources Division**

### **ENR Division Fills Leadership Positions**

On December 4, 1995, Assistant Attorney General Lois J. Schiffer appointed Joel Gross as Chief and Bruce Gelber as Principal Deputy Chief of the Environment Enforcement Section, and Eileen Sobeck as Chief of the Wildlife and Marine Resources Section. ❖

### **First Judicial Auto Recall**

On November 30, 1995, in the first judicial auto recall aimed at curbing damage to the environment and the largest case ever brought by DOJ under the Clean Air Act rules for car and truck emissions, the U.S. announced that General Motors (GM) Corporation will spend approximately \$45 million to settle Government charges that it put illegal devices to defeat pollution controls inside nearly a half-million Cadillacs since 1991, which resulted in carbon monoxide emissions of up to three times the legal limit. GM will pay an \$11 million fine, more than \$25 million to recall and retrofit the polluting vehicles, and up to \$8.75 million on projects to offset emissions from these vehicles. ❖

## **Federal Bureau of Investigation**

### **One Percent Decrease in Serious Crime**

On December 17, 1995, the FBI announced that according to a preliminary Uniform Crime Report, there was a one percent decrease in serious crime reported by the nations law enforcement agencies in the first six months of 1995. FBI Director Louis J. Freeh said, "While these preliminary figures are consistent with the recent, modest decreases in the overall crime rate, violent crime remains at an intolerable level. Even more disturbing, violent crime involving young people, both as perpetrators and victims, is on the rise - an alarming indicator of future trends." Violent crime was down five percent in the first half of 1995, while property crime showed no change. In the violent crime category, murder dropped 12 percent; forcible rape, seven percent; robbery, ten percent; and aggravated assault, two percent. Among the property crimes measured, burglary decreased four percent; motor vehicle theft, five percent; and arson, seven percent. Larceny-theft was the only offense to show an increase - three percent. Serious crime decreased two percent in the Northeast and South, and one percent in the Midwest. In the West, crime increased two percent. The complete semiannual Uniform Crime Report is available on the FBI's Internet World Wide Web at <http://www.fbi.gov>. ❖

## **Bureau of Justice Statistics**

### **State and Federal Prisons Report Record Growth in Last 12 Months**

State prison population grew 9.1 percent and the Federal prison population, 6.1 percent during the 12 months ending June 30, 1995. This is the largest one-year population growth DOJ has recorded. The number of inmates in State and Federal prisons grew by 89,707, which is slightly higher than the average annual growth of 7.9 percent recorded since 1990. ❖

## **Bureau of Prisons**

### ***Prosecutors Guide to the Bureau of Prisons***

In December 1995, General Counsel Wallace H. Cheney, Federal Bureau of Prisons (BOP), forwarded the handbook, *1995-96 Prosecutors Guide to the Bureau of Prisons*, to Federal prosecutors to familiarize them with BOP and to assist them in performing their critical law enforcement function. The book is divided into three sections: pre-trial issues, sentencing issues, and post-conviction issues. Questions or comments concerning the handbook should be directed to the Office of General Counsel of BOP, (202)307-3062. ❖

## **Office of Justice Programs**

### **Establishment of Violent Crime Statistics Working Group**

The Office of Justice Programs recently established a Violent Crime Statistics Working Group, chaired by OJP Assistant Attorney General Laurie Robinson, to study violent crime on a

local level that can be used to aid Federal, state, and local policymakers in areas such as police deployment, budget allocation, and crime prevention and reduction programs. Members of the Group include representatives of OJP's National Institute of Justice, Bureau of Justice Statistics, Office of Juvenile Justice and Delinquency Prevention, Criminal Division, FBI, DEA, Bureau of Prisons, and EOUSA. The group's efforts will include discerning data available to the Department that represents actual violent crime rates and trends, and its use in conjunction with other data to provide useful information on violent crime. In addition, the group will study specific areas of concern to the Attorney General to identify information that can be shared with policymakers to aid them in their efforts to address violent crime. For further information about the Working Group, please contact Barbara Tone, EOUSA's Data Analysis Group, (202)616- 6779. ❖

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## **Ethics and Professional Responsibility**

### **Grand Jury Procedures**

Defense counsel in a criminal prosecution informed OPR that a court had dismissed an indictment because potentially exculpatory information had not been presented to a grand jury. Counsel claimed that the prosecutor had mischaracterized exculpatory evidence in a question to a witness before the grand jury, that an attachment to a grand jury exhibit that contained exculpatory information had not been presented to the grand jury, and that other exculpatory evidence had not been presented. OPR's investigation determined that the challenged question did not accurately reflect the weight of the evidence witnesses had provided, and that the government had not obtained the attachment in question until after the indictment had been returned, in spite of the fact that a grand juror questioned the prosecutor about it. OPR also determined that the term of the grand jury that heard most of the evidence expired before the investigation had concluded. That evidence was presented by way of summaries to the indicting grand jury, summaries that did not contain exculpatory information the first grand jury had received. Because the indictment in question had been dismissed and the entire case had been re-presented to another grand jury, which also indicted, OPR concluded that counsel's client had not been prejudiced. OPR also concluded that the prosecutor who handled the prosecution had not intended to mislead the grand jury and had not committed any other intentional misconduct. ❖

### **Trial Misconduct**

After a court granted motions of acquittal to former bank officers, they complained to OPR that a Federal prosecutor had prosecuted money-laundering charges against them knowing that the case was not supported by good cause. The officials also alleged that the prosecutor suborned perjury, threatened witnesses with prosecution if they did not testify, used the criminal indictment as a weapon in a related forfeiture case, and withheld evidence favorable to the defendants. Finally, the officials asserted that a settlement in the forfeiture proceeding violated their property and privacy rights because it contained a provision barring the officials' employment with a certain financial institution. After reviewing the evidence and conducting interviews, OPR

determined that the allegations of trial misconduct were baseless and that the settlement of the forfeiture case was proper. ❖

## **Improper Gifts**

OPR received allegations that a Federal prosecutor may have improperly accepted a gratuity in the form of a ticket to a closed-circuit telecast of a highly publicized sporting event. The prosecutor allegedly knew that the source of the ticket had been involved in illegal narcotics activity. The prosecutor reportedly received the ticket through a special agent, who had obtained it from a confidential informant, who was an associate of the source. The confidential informant had previously pled guilty to drug charges. Largely through the prosecutor's cooperation and candor, OPR's inquiry concluded that the prosecutor had received the ticket and was aware that it had come from the source through the confidential informant. OPR concluded that the prosecutor violated the Department's standards of conduct and exercised poor judgment. ❖

## **Getting Paid to Conduct Outside Training Courses**

The Office of Legal Counsel, EOUSA, has recently received several requests from Assistant United States Attorneys (AUSAs) for approval to receive compensation for training courses which are not part of a regularly established curriculum. These requests have been examined under 5 C.F.R. § 2635.807 and also under § 2636, because no determination has yet been made whether AUSAs are covered by or exempt from the honorarium ban. Whether they are covered by the honorarium ban depends on the interpretation of *United States v. National Treasury Employees Union*, 115 S.Ct. 1003 (1995), in which it was held that the honorarium ban is unconstitutional as applied to employees paid under the general schedule. The Civil Division is currently examining the issue of whether AUSAs should be considered the equivalent of general schedule employees with respect to this issue.

Section 2635.807 prohibits accepting compensation for a teaching assignment when it relates to an employee's official duties. When the course does not concern the employee's official duties, § 2635.807 does not apply. The employee may have learned general information that will be of assistance in conducting the training from his employment, but this does not necessarily make the course related to his or her official duties.

When the course does concern an employee's official duties, he or she may be able to take advantage of an exception to the prohibition that would still allow him or her to accept compensation. According to § 2635.807(a)(3), when the course requires multiple presentations and when it is either offered (1) as part of the regularly established curriculum at a college, university, secondary school, or elementary school or (2) as part of a program of education or training funded by the Federal or a state or local government, accepting compensation for teaching it is allowed even if the course does relate to the employee's official duties. In other words, if the course meets the criteria established by this exception, it does not matter whether it relates to the employee's official duties or not. As a practical matter, it is frequently easier to determine whether the exception applies than it is to determine whether it involves the employee's official duties.

Even if the employee could accept compensation for teaching the course under § 2635.807, the honorarium ban needs to be examined since it may apply to AUSAs. Generally, §

2636 prohibits receipt of payment for certain outside activities whether they relate to the employee's official duties. These outside activities are defined as "appearances, speeches, or articles." 2636.203(a). The teaching of a training course is generally covered as either an appearance or a speech, unless one of three exceptions applies. The first two exceptions are similar to those in § 2635.807(a)(3). Thus, an honorarium is defined as not including compensation for teaching a course involving multiple presentations either at a college, university, secondary school, or elementary school [(a)(9)] or when offered as part of education or training sponsored and funded by the Federal or a state or local government [(a)(8)]. Additionally, "honorarium" does not include payment "for a series of three or more different but related appearances, speeches or articles, provided that the subject matter is not directly related to the employee's official duties and is not made because of the employees status with the Government." 5 C.F.R. § 2636.203(a)(13). The regulation does not indicate a time frame within which the three courses must be taught, but one year has been used as a rule of thumb.

When the AUSA wishes to teach just one or two courses and they are related to his or her official duties, receiving compensation for doing so is prohibited by § 2635.807. If the course is not related to the employees official duties, and if the employee is covered by the honorarium ban, he or she may not accept compensation under any of the applicable exceptions in § 2636. In this situation, AUSAs have been advised that they may teach the course but they should have their compensation paid to an escrow account pending resolution of the issue whether AUSAs are covered by the honorarium ban. ❖

## **1993 Annual Report of the Office of Professional Responsibility**

On November 24, 1995, EOUSA Director Carol DiBattiste forwarded to United States Attorneys and Professional Responsibility Officers, the Office of Professional Responsibility's 1993 Annual Report, which contains information about the sources of misconduct complaints, including the subject matter of these complaints; the percentage of all complaints against attorneys involving prosecutorial misconduct; and the operations of the internal inspection units of the BOP, FBI, DEA, INS, and USMS. The report also contains examples of allegations that were investigated without identifying the personnel involved. Of 243 investigations that were closed in FY93, only 3 percent of the allegations were substantiated, a decrease over the previous year. The report attributes the increase in allegations to "improvement in reporting and the expanded use of misconduct allegations as a defense tactic." If you would like a copy of the report, please contact the United States Attorneys' Bulletin staff at (202)514-3572.

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## **Career Opportunities**

**The U. S. Department of Justice is an Equal Opportunity/Reasonable Accommodation Employer. It is the policy of the Department of Justice to achieve a drug-free workplace and persons selected for these positions will be required to pass a urinalysis test to screen for illegal drug use prior to final appointment.**

**Attorney Advisor, GS-14 to GS-15**

## **Federal Bureau of Investigation, Office of Equal Employment Opportunity Affairs**

This position is open only to DOJ attorneys.

The DOJ Office of Attorney Personnel Management is seeking an experienced attorney for the Complaint Processing Unit (CPU), Office of Equal Employment Opportunity Affairs (OEEOA), FBI located in Washington, D.C. **This is a non-agent attorney position.** The CPU, OEEOA oversees the processing and administration of all EEO complaints filed by former/current FBI employees and applicants for employment.

Responsibilities of the Attorney Advisor include, but are not limited to, providing legal advice on complex legal questions arising out of FBI operations and administrative procedures, with specific regard to matters of discrimination falling under Title VII and related statutes. This includes thorough reviews of all complaints of discrimination for acceptance or dismissal, determination of the issues and bases to be investigated, and reviews of reports of investigation for completeness and sufficiency.

Applicants must possess a J.D. degree, be a member in good standing of one State bar, and possess at least one year post-J.D. experience as a practicing attorney. In addition, applicants should have extensive knowledge of the laws, rules, regulations, and case law relating to EEO matters, to include Federal court litigation. No telephone calls please. Applicants should submit a current resume describing their legal education and experience, a writing sample, and their latest performance appraisal to the following address:

Federal Bureau of Investigation  
Attn: OEEOA, Room 7901  
9th Street & Pennsylvania Avenue, N.W.  
Washington, D.C. 20535

This position is open until filled but no later than February, 14, 1996. The grade/salary range is GS-14 (\$62,473 to \$81,217) to GS-15 (\$73,486 to \$95,531), with the appropriate level determined by the experience and qualifications. The selectee will be subjected to a rigorous background investigation, including a polygraph examination, in connection with the issuance of a required top secret security clearance prior to final approval. ❖

## **Experienced Attorney, GS-11 to GS-13 Federal Bureau of Prisons, Commercial Law Branch**

This position is open only to current DOJ attorneys.

The DOJ Office of Attorney Personnel Management is recruiting for one experienced attorney for the Federal Bureau of Prisons' (BOP) Lands Section of the Commercial Law Branch. This Section handles a variety of land and environmental related transactions and cases, including acquisitions of property that involve millions of dollars.

Applicants must possess a J.D. degree, be an active member of the bar in good standing (any jurisdiction), and have at least one year post-J.D. experience. Applicants should have a

strong interest in real property and environmental issues, and an exceptional academic background. Litigation or comparable experience, or direct experience in land acquisition, National Environmental Policy Act (NEPA) compliance, or related issues are highly desirable. For information, please contact Ms. Elizabeth A. Nagy, (202)307-1240. Applicants must submit a current OF-612 (Optional Application for Federal Employment) or resume and a writing sample to:

Federal Bureau of Prisons  
Legal Administrative Officer  
320 First Street, N.W.  
Washington, D.C. 20534

A current SF-171 (Application for Federal Employment) will still be accepted as well. This position is open until filled but no later than February 14, 1996. Current salary and years of experience will determine the appropriate grade and salary levels. The possible range is GS-11 (\$36,174 to \$47,025) to GS-13 (\$51,557 to \$67,021). ❖

### **Experienced Attorney, GS-11 through GS-15 U.S. Trustee's Office/Tampa, Florida**

The DOJ Office of Attorney Personnel Management is seeking one experienced attorney for the United States Trustee's Office in Tampa, Florida. Responsibilities include assisting with the administration of cases filed under Chapters 7, 11, 12, and 13 of the Bankruptcy Code; drafting motions, pleadings, and briefs; and litigating cases in the Bankruptcy Court and the U.S. District Court.

Applicants must possess a J.D. degree, be an active member of the bar in good standing (any jurisdiction), and have at least one year of post J.D. experience. Outstanding academic credentials are essential, and familiarity with bankruptcy law and the principles of accounting is helpful. Applicants must submit an OF-612 (Optional Application for Federal Employment) or a resume and law school transcripts to:

Office of the U.S. Trustee  
Attn: Donald F. Walton  
75 Spring Street  
Suite 362  
Atlanta, Georgia 30303

A current SF 171 (Application for Federal Employment) will still be accepted as well. No telephone calls please. Current salary and years of experience will determine the appropriate salary level. The possible range is GS-11 (\$36,426 to \$47,353) to GS-15 (\$72,162 to \$93,811). The position is open until filled but no later than February 16, 1996.