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FORMER

COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON D.C. 20548

B-204108

October 6, 1981

The Honorable Lawton Chiles  
United States Senator  
Federal Building  
Lakeland, Florida 33801

Dear Senator Chiles:

This is in answer to your letter of June 30, 1981, asking us to respond to the concerns raised by Mr. T. Patterson Maney, an attorney in Fort Walton Beach, Florida, in his letter of June 12, 1981, which you enclosed.

Mr. Maney indicates that the enactment of a Federal law which now allows state courts to garnish the wages of Federal employees has resulted in additional attorneys being hired by the Federal Government to process the writs of garnishment. He, therefore, suggests that the Government routinely seek reimbursement of its costs of processing these writs. As he points out, Florida has a specific statute which allows the garnishee to recover reasonable attorneys' fees, and he assumes that other jurisdictions have such a statute.

As Mr. Maney indicates, under the provisions of 42 U.S.C. § 659(a), the United States has waived its sovereign immunity as it applies to garnishments against the pay of Federal employees or military members for the enforcement of their legal obligations to pay child support or alimony.

In garnishment actions in which it is necessary for the United States to be represented in court the Department of Justice would represent the United States. Therefore, we informally contacted the Department of Justice concerning the matter. We were told that generally, it is not necessary for the Department of Justice to enter an appearance in garnishment cases. They also advised us that they have not hired any additional attorneys to handle garnishment cases.

However, in addition to representing the United States in court, there are administrative burdens imposed by a garnishment on the employing agency. These include reviewing the garnishment writ to see that it is valid on its face, a function usually performed by the agency's own attorneys, and supplying the court with information regarding the employee's earnings and withholding and forwarding the garnished wages. While at this time we do not know the cost of these

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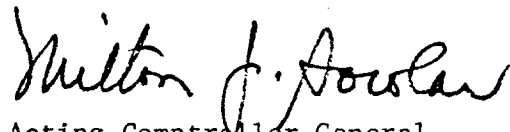
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administrative functions, the Department of Justice does indicate that the relative cost of administration is being studied so as to ascertain whether legislation should be suggested to Congress for a method of cost reimbursement. The study is being undertaken by the Office of Personnel Management, the agency responsible for formulating the implementing regulations for handling garnishments of employees and military personnel in the executive branch.

As we informally advised a member of your staff, we are forwarding a copy of Mr. Maney's letter to both the Department of Justice and the Office of Personnel Management so that they may take into consideration his suggestions as they concern each agency's responsibilities.

We trust the above will enable you to respond to the concerns of your constituent. As you requested we are returning the enclosure to your letter.

Sincerely yours,

A handwritten signature in cursive script that reads "Milton J. Fowler".

Acting Comptroller General  
of the United States

Enclosures