

REPORT TO CONGRESS
ON THE ACTIVITIES AND OPERATIONS
OF THE
PUBLIC INTEGRITY SECTION
FOR 1997



Public Integrity Section
Criminal Division
United States Department of Justice

Submitted Pursuant to
Section 603 of the Ethics in Government Act of 1978

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**Submitted Pursuant to
Section 529 of the Ethics in Government Act of 1978**

INTRODUCTION

This Report to Congress, prepared as required by the Ethics in Government Act of 1978, describes the activities and operations of the Public Integrity Section during 1997. It also provides statistics on the nationwide federal effort against public corruption in 1997 and over the previous two decades.

The Public Integrity Section was created in 1976 by former Attorney General Richard Thornburgh, then-Assistant Attorney General of the Criminal Division, in order to consolidate in one unit of the Criminal Division the Department's oversight responsibilities regarding the prosecution of criminal abuses of the public trust by government officials.

In 1978 the Section was given the responsibility of administering the Independent Counsel provisions of the Ethics in Government Act of 1978, an extremely sensitive area of criminal law enforcement. The Section reviews all allegations raising issues under the Independent Counsel Act, conducts initial inquiries and preliminary investigations when required, and makes recommendations to the Attorney General as to whether appointment of an independent counsel is appropriate in specific cases.

In 1980 an Election Crimes Branch was created within the Section to supervise the Department's nationwide response to election crimes, another form of corruption offense with sensitive law enforcement overtones. The Branch reviews all major election crime investigations throughout the country and all proposed criminal charges relating to election crime.

Lee J. Radek continued to serve as Chief of the Section throughout 1997. The Section maintains a staff of 25 to 30 attorneys, including experts in extortion, bribery, election crimes, and criminal conflicts of interest. Section attorneys prosecute selected cases involving federal, state, or local officials, and also provide advice and assistance to prosecutors and agents in the field regarding the handling of public corruption cases. Finally, the Section serves as the Justice Department's center for handling various issues that may arise regarding public corruption cases.

Part I of the Report discusses the operations of the Public Integrity Section and highlights its major activities in 1997. Part II describes the cases prosecuted by the Section in 1997. Part III presents data based on the Section's annual surveys of United States Attorneys regarding the national federal effort to combat public corruption from 1977 through 1997.

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PART I

OPERATIONAL RESPONSIBILITIES OF THE PUBLIC INTEGRITY SECTION

A. RESPONSIBILITY FOR LITIGATION

The focus of the Public Integrity Section is on crimes that reflect a corruption of the integrity of public officials. Most of the Section's resources are devoted to the supervision of investigations involving alleged abuses of the public trust by government officials and to litigation resulting from these investigations. Decisions to undertake particular matters are made on a case-by-case basis, based on the type and seriousness of the allegation, the sufficiency of factual predication suggesting criminal conduct, and the availability of federal prosecutive theories to reach the conduct. Cases handled by the Section generally fall into the following four categories:

1. Recusals by United States Attorneys' Offices

The vast majority of federal corruption prosecutions are handled by the local United States Attorney's Office for the geographic district where the crime occurred, a fact that is reflected in the statistical charts in Part III of this Report. At times, however, prosecution by the local Office of a particular corruption case may be inappropriate.

Public corruption cases often raise unique problems of public perception that are absent in more routine criminal cases. An investigation of alleged corruption of a government official, whether at the federal, state, or local level, always has the potential to be high-profile, simply because its focus is on the conduct of a public official. These cases may also be politically sensitive because their ultimate targets tend to be politicians or agents or employees of politicians.

To be successful, public corruption cases require that both the appearance and the reality of fairness and impartiality be maintained. Therefore if the United States Attorney or a prosecutor in his or her office has had a significant business, social, political, or personal relationship with a subject or principal witness in a corruption investigation, it may be difficult, and often inappropriate, for that United States Attorney's Office to handle the investigation. Cases involving corruption allegations in which the conflict is substantial are usually referred to the Public Integrity Section either for prosecution or direct operational supervision.

Allegations involving federal judges and other judicial officers almost always require local recusal, a procedure through which the local United States Attorney steps aside as primary prosecutor.

There are important policy and practical reasons for recusal by the local Office in these cases. In addition to possible professional or social ties with a judge who is the subject or target of the investigation, local prosecutors are likely to have official responsibilities before the judge on their other cases, both during and after the investigation. Having the case handled outside the local Office eliminates the possible appearance of bias, as well as the practical difficulties and the awkwardness that would arise if a prosecutor investigating a judge were to appear before the judge on other matters. Thus, as a matter of established Department practice, judicial corruption cases are generally handled by the Public Integrity Section.

Similar concerns of the possible appearance of bias or favoritism tend to arise when the target of an investigation is a federal prosecutor, or a federal investigator or other employee assigned to work closely with a particular United States Attorney's Office. Clearly, if an Assistant United States Attorney were to investigate one of his or her fellow AUSAs, the public would have reason to doubt that the matter would be handled vigorously and impartially. Thus, cases involving United States Attorneys, AUSAs, or federal investigators working with AUSAs in the field generally result in a recusal of the local Office. These cases are typically referred to the Public Integrity Section, where they constitute a significant portion of its caseload, as can be seen from a review of the cases described in Part II.

During 1997 the Section handled a number of significant cases as a result of recusals. One of these cases culminated in the conviction of an AUSA in Los Angeles for corruptly abusing his official position for personal gain. After an eighteen-month investigation by the Section, the AUSA pled guilty to three felonies and was sentenced to twenty-four months' imprisonment. Another recusal case resulted in the 1997 indictment, and subsequent guilty plea, of a special agent of the Federal Bureau of Investigation for accepting bribes from drug dealers.

The Section's series of prosecutions relating to corruption in the Mansfield Correctional Institution, a prison in Mansfield, Ohio, was also the result of a recusal by the local United States Attorney's Office. This investigation by the Section ultimately resulted in eight convictions between 1996 and 1997, including that of the prison's top security official, a prison guard, two inmates, and two local podiatrists, for various crimes, including racketeering, drug distribution, firearms offenses, and bank, wire and mail fraud.

2. Sensitive and Multi-District Cases

In addition to recusals, the Public Integrity Section also handles two other special categories of cases. At the request of the Assistant Attorney General of the Criminal Division, the Section handles cases that are highly sensitive and cases that involve the jurisdiction of more than one United States Attorney's Office.

Sensitive cases include those that may be significant for any of a number of reasons. Because of its importance, a case may require close coordination with high-level Department officials. Alternatively, it may require a substantial amount of coordination with other federal agencies in Washington. Sensitive cases also include those that are so politically controversial on a local level that they are most appropriately handled out of Washington. They may also include cases involving classified information, which require careful coordination with the intelligence agencies.

The Section handled numerous cases of these types in 1997. One example was the Section's investigation of a scheme to infuse illegal funds to federal candidates through straw donors, which resulted in the conviction of an official of the Commerce Department, two Democratic fundraisers, and a lobbyist. The fundraisers were sentenced to ten months of detention, and the Commerce official and the lobbyist were sentenced to 150 hours of community service.

Other sensitive cases handled by the Section in 1997 included three conflicts of interest matters involving high-level government officials. Alleged conflicts of interest violations by two successive National Security Advisors and by the Postmaster General were ultimately resolved, with the concurrence of the Civil Division, by civil settlements that included substantial civil payments.

During the year the Section also continued to be actively involved in the Department's investigation of alleged campaign violations during the 1996 presidential election. In late 1996 the Attorney General established a task force to investigate these allegations, which initially was staffed primarily by Section prosecutors and which reported to the Attorney General through the Chief of the Public Integrity Section. As its work expanded, the task force also expanded to include a number of detailees from throughout the Department; an experienced AUSA was named as its head, and it began reporting to the Attorney General through the head of the Criminal Division. However, several Section attorneys remained on the task force, and significant Section resources were devoted to the analysis of complex legal issues raised by these allegations, such as the scope of existing restrictions on foreign contributions and on the use of unregulated funds, so-called "soft money," by political parties.

The third category of special cases handled by the Section, multi-district cases, are simply cases that involve investigations that cross judicial district lines, and hence fall under the jurisdiction of two or more United States Attorneys' Offices. In these cases the Section often provides coordination among the various United States Attorneys' Offices, or, when appropriate, assumes operational responsibility for the entire case. For example, the case against the Los Angeles AUSA described above included multi-district allegations that required coordination between the Section and prosecutors in several different districts.

3. Federal Agency Referrals

The Section is also responsible for handling matters referred to it directly by the various federal agencies concerning possible federal crimes by agency employees. The Section reviews these allegations to determine whether an investigation of the matter is warranted and, ultimately, whether

the matter should be prosecuted, or instead referred back to the employing agency for possible administrative action.

Agency referrals of possible employee wrongdoing are an important part of the Section's mission. The Section works closely with the Offices of Inspector General for the various executive branch agencies and also invests substantial time in training agency investigators in the statutes involved in corruption cases and the investigative approaches that work best in these cases. These referrals require close consultation with the IG's Office prompt prosecutive evaluation, and, when a referral warrants investigation, coordination of joint investigations between the FBI, the IG, or any other investigative office that may be involved. For example, two 1997 convictions in connection with a Defense Department surplus property scheme were jointly investigated by the IRS's Internal Security Division, the FBI, and the Defense Criminal Investigative Service.

Over the past few years, the Section has focused particular attention on referrals from the various intelligence agencies. Matters involving employees of these agencies may be unusually sensitive, requiring high-level clearances and the application of specialized statutes. During 1997, referrals from the intelligence community resulted in the conviction of four CIA polygraphers for theft. Another intelligence agency referral resulted in the 1997 conviction of a former CIA employee on detail to the National Reconnaissance Organization for conflicts of interest and possession of child pornography.

4. Requests for Assistance; Shared Cases

The final category of cases in which the Section becomes operationally involved are cases that are jointly handled by the Section and a United States Attorney's Office or other Department office. Joint responsibility for a case occurs for a number of reasons.

At times the available prosecutorial resources in a United States Attorney's Office may be either insufficient to undertake sole responsibility for a significant corruption case or largely devoted to other priorities. In these cases the local Office may request the assistance of an experienced Section prosecutor to share responsibility for prosecuting the case. In 1997, a joint prosecution by the Section and the United States Attorney's Office for the District of New Jersey resulted in the conviction of the President of the School Board of Camden, New Jersey, for embezzling substantial funds from the Board for almost a decade.

In addition, on occasion the Section may be asked to provide operational assistance and also to assume supervisory responsibility for a case due to a partial recusal of the local Office. For example, in 1997 the Section was asked to assist and to supervise a case arising out of a scheme to steal surplus property from the Defense Department's Defense Reutilization and Marketing Office due to recusal of the United States Attorney for the District of Hawaii from allegations against one of the targets. This case was jointly prosecuted by the Section and an AUSA from the local Office, and resulted in the conviction of a former special agent of the IRS's Internal Security Division. The next case arising from

the scheme was jointly prosecuted, supervised by the United States Attorney, and resulted in the conviction of a federal court security officer.

Similarly, the Section may be assigned to supervise and assist a case originally assigned to another Department component. An example of this type of assignment arose when the Department's House Bank Task Force was disbanded, and resulted in the 1997 conviction of former Congresswoman Mary Rose Oakar on campaign-financing charges.

B. SPECIAL SECTION PRIORITIES

1. Independent Counsel Matters

The Public Integrity Section is responsible for supervising the administration of the Independent Counsel Reauthorization Act of 1994, codified at Title 28 of the United States Code, Sections 591-599. The Act requires the Attorney General to decide whether a criminal allegation involving certain very high-level official of the executive branch of the federal government, such as the President or one of his senior advisors or cabinet heads, must be investigated by someone outside the Department of Justice. This decision must be made in a short period of time and must also be made without the benefit of many normal investigative tools, such as grand jury process and plea bargaining.

This landmark legislation was controversial when enacted and it has remained controversial over the past two decades. Its purpose was to ensure both the appearance and the actuality of impartial prosecutive decisions concerning the President and high-level government officials who serve the President. Its premise is that the Attorney General of the United States, who was appointed by and serves under a sitting President, cannot investigate criminal allegations involving the President or his senior staff with the impartial vigor that is required of all prosecutors.

Independent counsel matters are treated as the highest priority of the Section. These matters are always potentially serious as well as politically sensitive, because by definition they concern possible crimes by top government officials. In addition, they are often factually complex, and may also require resolution of complex or novel legal issues. However, the Act's constraints require that the attorneys handling these matters — and their supervisors — make difficult decisions without the benefit of a fully developed factual record with which prosecutors in corruption matters are accustomed to dealing. Finally, the handling of independent counsel matters by the Department is subject to narrow statutory procedural and time restrictions.

The Independent Counsel Act is triggered if the Justice Department receives specific information from a credible source alleging that any of certain specified high-ranking executive branch officials may have committed a federal crime. The Attorney General then must request that a special panel of federal judges appoint an independent counsel, unless a brief preliminary investigation establishes that there are no reasonable grounds to believe that further investigation is warranted. This limited investigation must be completed within 90 days and cannot involve use of the powers of the federal grand jury or plea bargaining.

The Public Integrity Section is responsible for the initial analysis of all independent counsel matters and for conducting preliminary investigations when warranted. The Section also prepares recommendations to the Attorney General as to whether the independent counsel provisions have been triggered and whether any further investigation is warranted. The number of independent counsel matters handled by the Section has increased dramatically over the past decade, to the point where these matters have become a significant portion of the Section's workload.

In addition to handling preliminary investigations under the statute, the Section also serves as the principal liaison between the ongoing investigations by the various independent counsels and the Department of Justice. Some of these independent counsel investigations have absorbed substantial Section resources. The Section also handles independent counsel inquiries concerning legal issues, Departmental policies, requests for documents, and interviews of Departmental personnel.

2. Election Crimes

Another Section priority is its supervision of the Justice Department's nationwide response to election crimes. Oversight of election matters by the Department is intended to ensure that the Department's nationwide response to election crime matters is uniform, impartial, and effective. When the Public Integrity Section was created in 1976, this oversight responsibility was assigned to the Section. In 1980, an Election Crimes Branch was created within the Section to handle this supervisory responsibility.

The Election Crimes Branch oversees the Department's handling of all election crime allegations other than those involving civil rights violations, which are supervised by the Voting Section of the Civil Rights Division. Specifically, the Branch supervises four types of corruption cases that relate to the electoral process: crimes that directly relate to voting ("vote fraud" or "election fraud"); crimes involving the financing of federal election campaigns; crimes relating to political shakedowns and other patronage abuses; and illegal lobbying with appropriated funds. Vote frauds and campaign financing offenses are the most significant and also the most common types of election crime. Providing guidance on these cases consumes a substantial portion of the Branch's resources.

As described above, after the 1996 presidential election the Attorney General established a special task force composed primarily of prosecutors from the Public Integrity Section to investigate alleged campaign-financing violations involving the two major political parties and the campaigns of their respective presidential candidates. Due to the scope and complexity of the allegations, the task force was subsequently augmented by attorneys from other sections of the Criminal Division and by Assistant United States Attorneys from the field. During 1997 the Section continued to provide substantial legal advice and assistance, as well as a number of its prosecutors, in connection with this broad-ranging investigative effort.

The election-related work of the Section and its Election Crimes Branch falls into the following categories:

a. Consultation and Field Support. Under long-established Department procedures, currently set forth in Section 85.210 of Title 9 of the United States Attorneys' Manual, the Section's Election Crimes Branch reviews all major election crime investigations and all election crime charges proposed by the various United States Attorneys' Offices for legal and factual sufficiency. In addition, the Branch reviews all proposed investigations concerning alleged violations of the Federal Election Campaign Act, 2 U.S.C. §§ 431-455 (FECA).

This increased oversight for campaign financing matters flows from the Justice Department's limited enforcement role in this area and the legal complexities presented by criminal cases based on FECA violations. By statute, most FECA violations are handled by the Federal Election Commission, an independent federal agency created by Congress in 1976. The FEC has exclusive civil jurisdiction over all violations of the FECA; criminal prosecution by the Justice Department is confined to violations that are aggravated both in amount and in the degree of criminal intent. 2 U.S.C. § 437g(d). Early consultation with the Section helps conserve prosecutive and investigative resources by ensuring that criminal FECA investigations are limited to those that fall within the Department's jurisdiction.

The Branch also advises prosecutors and investigators regarding the application of federal criminal laws to election fraud and campaign-financing abuses, and the most effective investigative techniques for particular types of election offenses. This consultation includes supervising the Department's use of the federal conspiracy and false statements statutes (18 U.S.C. § 371 and § 1001) to address aggravated schemes to subvert the campaign financing laws. The Branch also helps draft criminal charges and other pleadings in this area when requested.

As noted above, vote fraud and campaign financing violations are the most common election crimes. During 1997 the Election Crimes Branch devoted substantial resources to assisting United States Attorneys' Offices with both types of crimes:

* With respect to vote fraud, the Branch assisted United States Attorneys' Offices in Alabama, Arkansas, California, Florida, Illinois, Indiana, Kentucky, Louisiana, Maryland, Minnesota, Missouri, New York, Ohio, South Carolina, and Texas in investigating matters that arose in their respective districts. Several of these investigations ultimately resulted in election fraud convictions.

* With respect to campaign-financing crimes, the Branch continued to help develop and implement an effective enforcement strategy to address aggravated violations of the Federal Election Campaign Act. As part of this effort, the Branch assisted United States Attorneys' Offices in California, Illinois, Indiana, Massachusetts, Nevada, New York, Ohio, Pennsylvania, Virginia, and Washington in the implementation of this strategy for cases in their respective districts. A number of these cases have produced significant law enforcement results. For example, the campaign-fraud cases in Massachusetts, Pennsylvania, and Washington ultimately resulted in multiple convictions, millions of dollars in criminal fines, and home detention and community service for individual offenders.

b. Litigation. On occasion Section attorneys assume operational responsibility for handling selected election crimes. For example, in 1997 the Section obtained the convictions of four individuals for laundering illegal contributions to various federal candidates. These cases are described in the Election Crimes Section of Part II of this Report.

c. Inter-Agency Liaison. The Election Crimes Branch is the formal liaison between the Justice Department and the Federal Election Commission, which, as noted above, shares enforcement jurisdiction with the Department over aggravated campaign-financing violations. The Branch also serves as the Department's point of contact with the United States Office of Special Counsel. The OSC has jurisdiction over noncriminal violations of the Hatch Act, 5 U.S.C. §§ 7321-7326, §§ 1501-1508, which may also involve criminal patronage abuses that are within the Department's jurisdiction.

3. Conflict of Interest Crimes

Conflicts of interest is a wide-ranging and complex area of law, with many layers of administrative responsibility. Moreover, the federal criminal conflicts prohibitions overlap to some extent with the sometimes broader ethics restrictions imposed by civil statutes, agency standards of conduct, Presidential orders, and, in the case of attorneys, bar association codes of conduct. There are thus many layers of responsibility in the conflicts area in addition to criminal law enforcement.

The Public Integrity Section's work in the conflicts area falls into the following categories:

a. Criminal Referrals from Federal Agencies and Recusals. The Section's criminal enforcement role comes into play with respect to a narrow group of conflict of interest matters, namely, those that involve possible criminal misconduct proscribed by one of the federal conflict of interest statutes. These crimes are codified in Sections 203 through 209 of the federal criminal code and are prosecuted either by a United States Attorney's Office or by the Public Integrity Section.

Conflict of interest matters are often referred to the Section by the various federal agencies. If investigation of a referral is warranted, the Section coordinates the investigation with the Inspector General for the agency concerned or the FBI, or both, and prosecutes the case if warranted. The Section also handles recusals or special assignments involving conflicts matters. For example, in 1997 the Section obtained the conviction of a former AUSA from New Mexico, who subsequently served as head the Department of Justice's Office of Tribal Justice, for a felony conflict of interest in connection with his representation of private clients while employed by the Department.

b. Civil Enforcement for Conflicts of Interest. During 1997 the Section continued, with substantial success, to implement an effective enforcement strategy that is designed to accomplish the objectives of criminal enforcement while conserving prosecutorial and government resources. Under Section 216(b) of the federal criminal code, violations of the criminal conflicts of interest statutes may be addressed through civil sanctions as well as criminal prosecution. 18 U.S.C. § 216(b). The tiered remedies for conflicts violations reflect congressional recognition that many conflicts violations do not warrant criminal prosecution, yet nevertheless raise serious law enforcement concerns. In addition,

proof of the requisite criminal intent to support prosecution of a conflicts matter is often difficult to establish beyond a reasonable doubt. The Section has accordingly used the statutory civil option in appropriate cases. The goal of this strategy is to encourage compliance with the law by achieving timely, predictable, and appropriate resolution of conflicts allegations while at the same time making it clear that violations are not tolerated.

In 1997, the Section resolved four conflicts of interest matters under this enforcement strategy. Three of these matters involved top executive branch officials; the fourth involved an Assistant United States Attorney. Although each case was factually complex, in each the Section obtained, with the approval of the Civil Division, a civil settlement that included a substantial civil payment.

c. Coordination. The Public Integrity Section works closely with the United States Office of Government Ethics to coordinate conflicts of interest issues with other executive branch offices. The purpose of this coordination is to ensure that the overall efforts of the Administration are both complementary and consistent. The OGE has broad jurisdiction over the noncriminal conduct of executive branch personnel, including authority to provide guidance concerning the coverage of the federal criminal conflicts of interest statutes. The Section coordinates conflicts of interest issues with the OGE so that consistent guidance is provided with respect to the overlapping criminal and civil interests implicated by the statutory and regulatory restrictions.

C. LEGAL AND TECHNICAL ASSISTANCE

In addition to its litigation and oversight responsibilities, the Section provides legal and technical assistance as well as support services to various law enforcement agencies and officials. In 1997 the Section's assistance fell into the following general areas:

1. Southwest Border Initiative

During 1997 the Public Integrity Section continued its active involvement in the Department's Southwest Border Initiative, an ongoing multi-agency effort to increase the federal government's success in combating a variety of offenses occurring along our Southwest border with Mexico. Offices and agencies participating in this initiative include the various United States Attorneys' Offices whose jurisdiction includes the Southwest border, the FBI, the Drug Enforcement Agency, the Immigration and Naturalization Service, the U.S. Customs Service, and the Criminal Investigative Division of the IRS.

The Section's involvement in the Southwest Border Initiative is designed to help address one of the Initiative's immediate goals, which is to improve coordination and cooperation among federal law enforcement agencies concerning corruption offenses along the country's Southwest border. A long-range goal of the Initiative is to increase the federal government's ability to detect, investigate, and prosecute border corruption cases.

As part of this effort, in 1997 the Public Integrity Section and the Criminal Division's Asset Forfeiture and Money Laundering Section jointly sponsored a three-day Southwest Border Corruption/Forfeiture Conference for 150 federal prosecutors and investigators in Scottsdale, Arizona. Topics addressed by Section speakers included maximizing law enforcement resources, using a financial investigation to build a corruption case, interview/interrogation issues, and charging strategy for corruption/forfeiture cases.

During 1997 the Section participated regularly in meetings of the Southwest Border Council, a group consisting of the United States Attorneys for each of the Southwest border districts as well as senior representatives from the major federal law enforcement agencies with responsibility for the border area. The Section also continued to provide assistance to participating offices and agencies concerning investigative and prosecutive strategies for corruption offenses and the most effective ways to implement these strategies.

2. Advisor to President's Council on Integrity and Efficiency and Executive Council on Integrity and Efficiency

Pursuant to Executive Order 12993, signed by President Clinton on March 21, 1996, the Public Integrity Section serves as legal advisor to the Integrity Committee of the President's Council on Integrity and Efficiency (PCIE) and the Executive Council on Integrity and Efficiency (ECIE). The PCIE/ECIE is a body composed of the Inspectors General of the various agencies of the executive branch of the federal government.

The 1996 Executive Order charged the Integrity Committee with handling allegations against Inspectors General and senior members of their staff. It also directed the Integrity Committee to establish policies and procedures to ensure consistency in conducting investigations under the Order.

On April 24, 1997, the Chairman of the Integrity Committee approved the "Policy and Procedures for Exercising the Authority of the Integrity Committee." Drafted with the assistance of the Principal Deputy Chief of the Public Integrity Section, the Procedures provide a framework for the investigative function of the Integrity Committee. Allegations of high-level wrongdoing by IGs and their senior staff are initially reviewed by the Public Integrity Section for potential criminal prosecution. In noncriminal matters, the Procedures guide the Committee's discretion to investigate the alleged misconduct and to report on its findings. The Public Integrity Section also advises the Integrity Committee on matters of law and policy relating to its investigations.

3. International Advisory Responsibilities

The Section's responsibilities in the area of international law enforcement have been increasing steadily over the past few years. In addition to its routine briefings of foreign delegations on U.S. corruption statutes, the Section has become increasingly involved in supporting U.S. efforts to assist the international community in its efforts to combat public corruption in foreign countries and at the international level.

To this end, the Section has participated in international conferences, such as Council of Europe proceedings relating to the preparation of an international convention on corruption. In 1997, the Section's Principal Deputy Chief traveled to Strasbourg, France, along with two other senior deputy chiefs of the Criminal Division, to work with the Council's Multi-Disciplinary Group on Corruption. In addition, in 1997 the Section's Deputy Chief for Litigation addressed an Interpol symposium on public corruption sponsored by the Centre Jacques Cartier in Lyons, France.

During 1997 the Section also continued working with the State Department on developing standards for the Inter-American Convention Against Corruption developed by the Organization of American States; working to develop the U.S. position on a United Nations code of conduct; reviewing anti-corruption proposals of the Organization for Economic Co-operation and Development; and supporting efforts of other agencies, such as the U.S. Office of Government Ethics, to assist foreign governments and institutions in implementing effective measures against public corruption.

In addition, during 1997 the Section's Election Crimes Branch was also active on the international front, participating in a Department-wide effort to provide enhanced training and law enforcement assistance to other nations. The Branch participated in official exchanges with election officials and lawmakers from other countries to share expertise on the handling and prosecution of election crimes. These presentations were conducted under the auspices of the Federal Election Commission, the U.S. Information Agency, and the Justice Department's Office of International Affairs and Office of Professional Development and Training. In 1997 the Branch addressed visiting officials from Egypt, Hungary, India, Japan, Latvia, Mexico, Russia, Spain, Thailand, and Turkey on election crime allegations and enforcement.

Also during 1997, the Election Crimes Branch Director was sent to Liberia, along with the Deputy Chief of the Civil Rights Division's Voting Section, as part of an educational effort sponsored by the Justice Department's International Criminal Investigative Training Assistance Program. The Republic of Liberia considers U.S. law precedent for its own laws. Over a three-day period, the Section's Branch Director and the Deputy Chief conducted seminars at which they addressed high-level Liberian officials, including the Liberian Supreme Court, on U.S. laws dealing with election administration and enforcement, election contests, and civil rights.

4. Legislative Activity

A major responsibility of the Public Integrity Section is the review of proposed legislation affecting the prosecution of public officials. The Section is often called upon to provide comments on proposed legislation, to draft testimony for congressional hearings, and to respond to congressional inquiries concerning legislative proposals.

5. General Advice and Training

The Public Integrity Section is staffed with specialists who have considerable experience investigating and prosecuting corruption cases. Section attorneys are available to advise federal

prosecutors and investigators on substantive questions, investigative methods, charging decisions, and trial strategy.

During 1997 the Section provided formal training on the handling of general corruption matters at seminars for prosecutors and investigators. Speakers at these corruption seminars typically include both the Section's senior prosecutors and Assistant United States Attorneys from the field who have handled significant corruption cases. These seminars provide training in the statutes most commonly used in corruption cases, guidance in the use of the complex and difficult investigative techniques necessary to investigate government corruption, and advice from experienced prosecutors on conducting corruption trials.

The Section frequently participates in a wide variety of other educational and training events. Section attorneys serve as faculty to the FBI Academy and the Federal Law Enforcement Training Center; make presentations to other government offices and agencies, such as the CIA, DEA, and various Offices of Professional Responsibility; provide instructors for the annual ethics training programs of the U.S. Office of Government Ethics; and train investigators in the various Offices of Inspectors General on the laws and investigative approaches applicable to corruption and conflicts offenses.

As noted above, Section experts also routinely address visiting foreign officials on the subject of U.S. corruption statutes and their enforcement.

Finally, the Section provides speakers for training seminars for state and local election officials on the Department's prosecutive responsibilities in the area of election crimes. In 1997, for example, a Section prosecutor was the keynote speaker at the four-state Mid-West Conference of Election Officials held in Kansas City, Missouri. The Branch also periodically prepares an election crime manual for federal prosecutors and investigators. The last manual, Federal Prosecution of Election Offenses (1995), was the sixth edition of this manual.

6. Case Supervision and General Assistance

Public corruption cases are frequently controversial, complex, and highly visible. These factors may warrant Departmental supervision and review of a particular case. On occasion Section attorneys are called upon to conduct a careful review of a sensitive public corruption case, evaluating the quality of the investigative work and the adequacy of any proposed indictments. Based on its experience in this area, the Section can often identify tactical or evidentiary problems early on and either provide needed assistance or, if necessary, assume operational responsibility for the handling of the prosecution.

The Section also has considerable expertise in the supervision of the use of undercover operations in serious corruption cases. The Section's Chief serves as a permanent member of the FBI's Criminal Undercover Operations Review Committee. Additionally, a number of the Section's senior prosecutors have experience in the practical and legal problems involved in such operations, and have the expertise to employ effectively this sensitive investigative technique and advise law enforcement

personnel on its use. As the case descriptions in Part II demonstrate, the Section has been highly successful in its use of undercover investigations to develop cases.

Finally, the Section provides numerous other miscellaneous support services to United States Attorneys in connection with corruption cases. Much of this support comes in the form of serving as liaison with other components of the Department in order to expedite approval of such procedures as immunity requests, wiretapping orders, and applications for witness protection.

PART II
PUBLIC INTEGRITY SECTION
INDICTMENTS, PROSECUTIONS, AND APPEALS
IN 1997

INTRODUCTION

As described in Part I, the participation of the Public Integrity Section in the prosecution of public corruption cases ranges from sole responsibility for the entire case to approving an indictment or providing advice on the drafting of charges. This portion of the Report describes each case either handled solely by the Section, or in which the Section shared substantial operational responsibility with a United States Attorney's Office or another Department component, during 1997. These cases are included in the statistics provided in Part III, which reflect the total number of public corruption cases nationwide in 1997 and in earlier years.

This section of the Report separates the Section's prosecutions into categories, based on the branch or level of government affected by the corruption. Election crimes are also grouped separately. The prosecutions summarized below reflect the Section's casework during 1997 and the status of its cases as of December 31, 1997. Related cases are grouped together; unrelated cases are set off by double lines. This section also provides statistics on the number of matters closed by the Section without prosecution during 1997 and the number of matters pending at the end of the year.

FEDERAL JUDICIAL BRANCH

<p>During 1997, the Public Integrity Section closed two matters involving allegations of corruption affecting the federal judicial branch. As of December 31, 1997, seven such matters were pending in the Section. Also during 1997, the Section handled the following cases involving crimes affecting the judicial branch:</p>

United States v. Atkin, Sixth Circuit Court of Appeals

On March 4, 1997, the Sixth Circuit Court of Appeals affirmed the conviction and sentence of attorney Sanford I. Atkin, who was convicted after a three-week trial in 1995 of 28 felonies, including obstruction of justice, money laundering, and tax evasion. The charges stemmed from Atkin's execution of a "rainmaking" scheme, in which he accepted \$550,000 from international pornographer

Reuben Sturman on the false representation that he would use the money to bribe the federal judge presiding over Sturman's criminal tax trial. The investigation uncovered no evidence that the judge received any money from Atkin or was otherwise corruptly influenced.

In sustaining his convictions for obstruction of justice, the Sixth Circuit held that a false promise to a criminal defendant that his case will be fixed has the natural and probable effect of interfering with the due administration of justice because it "can lull a defendant into abandoning lawful attempts" to defend himself. The Court also held that the trial court properly enhanced Atkin's sentence based upon a finding that he used his skills as an attorney to facilitate the commission and concealment of the offense.

United States v. Ford, Western District of Kentucky

At the conclusion of a four-day trial, on September 19, 1997, a federal jury convicted former bingo operator Donald G. Ford of conspiracy to obstruct justice and obstruction of justice.

The charges arose out of Ford's attempt to influence and intimidate a juror in his 1996 federal prosecution on gambling and money laundering charges. During his trial, Ford called the juror at home and used a ruse to arrange a secluded meeting with the juror, during which Ford talked about the ongoing trial and accused the government of persecuting him. Ford defended against the jury-tampering charge by presenting medical and psychiatric evidence that, at the time of the incident, he had recently had several small strokes and was suffering from clinical depression and psychotic delusions, all of which he contended was aggravated by uncontrolled diabetes and stress. Ford claimed his mental and physical condition undermined his ability to form the requisite specific intent for jury tampering. The jury was unconvinced and convicted Ford on both obstruction charges.

Ford was subsequently sentenced to a prison term of 35 months, three years of supervised release, and a \$141,748 fine.

United States v. Melton, Solesbee, and Melton, District of South Carolina

On May 20, 1997, James Vernon Melton, his brother-in-law, Donald Ray Solesbee, and his nephew, James Billy Melton, were sentenced on obstruction of justice charges relating to their scheme to obtain money by offering to fix federal and state criminal cases, largely involving defendants charged with drug offenses. The scheme began in 1990 and ended in 1994, when allegations concerning the scheme surfaced and James Billy Melton began cooperating with the government.

James Vernon Melton received a 30-month sentence in connection with his 1996 guilty plea to conspiracy to obstruct justice and obstruction of justice. Donald Ray Solesbee, who pled guilty to obstruction of justice in 1996, received a 12-month sentence. James Billy Melton, who pled guilty in 1994 to conspiracy to obstruct justice, was sentenced to two years' probation. The investigation

developed no evidence that any of the money collected by the defendants was paid to any judge, prosecutor, or other law enforcement personnel.

FEDERAL LEGISLATIVE BRANCH

During 1997, the Public Integrity Section closed three matters involving allegations of corruption within the federal legislative branch. As of December 31, 1997, four such matters were pending in the Section. Also during 1997, the Section was involved in the prosecution of the following case involving legislative branch corruption:

United States v. Oakar and DeMio, District of Columbia

Mary Rose Oakar, a former Member of the United States House of Representatives, pled guilty on September 30, 1997, to a two-count misdemeanor information charging her with conspiracy to violate the Federal Election Campaign Act and with causing the making of campaign contributions in the names of others in violation of the FECA.

The information was filed as part of a plea agreement to resolve outstanding charges against Oakar that arose from an investigation by the Department's House Bank Task Force. In the same case, an agreement was simultaneously filed involving Oakar's co-defendant, Joseph DeMio, who is Oakar's nephew and was a former aide in her 1992 reelection campaign. The agreement dismissed the case against DeMio when Oakar pled guilty and on the condition that DeMio fully comply with any civil compliance proceedings that the Federal Election Commission might institute against him.

Oakar and DeMio had been originally indicted in 1995 by the House Bank Task Force on charges stemming from a scheme in which they contributed \$16,000 to Oakar's 1992 reelection campaign in the names of others, including DeMio's wife, the wives and children of other Oakar campaign workers, and other Oakar relatives. Oakar and DeMio then made and caused Oakar's principal campaign committee to make false statements in reporting the true sources of these contributions to the FEC. Additionally, Oakar was charged with conversion of public money relating to her writing of a \$16,000 insufficient funds check drawn on her account at the former House Bank, and with making and causing the making of false statements both on her 1991 Financial Disclosure Statement and to federal agents about her over-drafting of checks at the House Bank.

When the House Bank Task Force was disbanded, the Public Integrity Section was assigned operational supervision for the case, and a Section attorney was assigned joint responsibility for the case with an attorney from the Fraud Section who served on the Task Force.

Oakar was subsequently sentenced to two years of probation, 200 hours of community service, and a \$32,000 fine.

FEDERAL EXECUTIVE BRANCH

During 1997, the Public Integrity Section closed 117 matters involving allegations of corruption within the federal executive branch. As of December 31, 1997, 203 such matters were pending in the Section. Also during 1997, the Section handled the following cases involving executive branch corruption:

United States v. Avestro, Central District of California

Special Agent Jesse A. Avestro of the Immigration and Naturalization Service was indicted for perjury and obstruction of justice on November 19, 1997. The charges relate to Avestro's false statements regarding his receipt of allegations of immigration violations at Nationwide Distribution Services (NDS), a warehouse and freight-forwarding company in California.

In 1992, Avestro received allegations of immigration violations by NDS. He completed an INS complaint intake form detailing the NDS allegations, and then conducted an investigation, during which he was offered bribes by the owner of the company, Steve Moallem. Avestro reported the bribe to the FBI. During the FBI's subsequent undercover investigation, Avestro took several bribes at the FBI's request from Moallem and other NDS officials. Moallem and three coconspirators were subsequently indicted by the United States Attorney's Office on bribery charges.

In 1996, during pre-trial proceedings in Moallem's bribery trial, Avestro made false statements about the source of the 1992 allegations against NDS. In addition, during Moallem's trial, Avestro repeatedly denied under oath that he had prepared the 1992 INS complaint intake form against NDS. As a result of his false testimony, the bribery case against Moallem was dismissed with prejudice. Proof of Avestro's motive in lying was not a legal element of the charges against Avestro, and the investigation was unable to conclusively establish why he lied.

Avestro subsequently pled guilty to perjury and resigned from the INS. He was sentenced to four months in prison and four months of home confinement.

United States v. Becker, District of Columbia

Herbert A. Becker, a former Assistant United States Attorney and former Director of the Justice Department's Office of Tribal Justice, pled guilty on March 13, 1997, to an information, filed pursuant to a plea agreement, charging him with a felony conflict of interest and a felony theft of government funds. Becker was sentenced on June 3, 1997, to four months of home detention, one year of probation, and a \$5,000 fine. He was also ordered to pay the cost of his probation.

Becker was an AUSA for the District of New Mexico from 1982 through 1994, and then served as Director of the Department's Office of Tribal Justice in its Washington, D.C., headquarters through September 1996. From 1987 through 1995, while employed by the Justice Department, Becker

represented private clients in litigation against the Bureau of Indian Affairs and the Department of the Interior concerning his clients' eligibility to receive federal trust funds designated for certain Indian tribes. This private representation resulted in substantial fees to Becker and was basis of the felony conflict of interest charge. Additionally, Becker submitted five fraudulent government travel vouchers between 1991 and 1994 for trips related to his private clients, for which he received \$3,226 in government funds. As part of his plea agreement, Becker agreed to make restitution in the amount of \$5,000, which included the \$3,226 as well as an amount intended to approximate the cost of other government resources he used in connection with his private legal work.

United States v. Berger, District of Columbia

On November 10, 1997, Assistant to the President for National Security Affairs Samuel R. ("Sandy") Berger entered into a settlement agreement with the United States, under which he agreed to remit \$23,043 to the United States to resolve a civil complaint filed against him pursuant to Section 216 of the federal criminal code on the same day. The complaint alleged a conflict of interest under Section 208 of the criminal code, which prohibits government officials from participating personally and substantially in matters affecting their personal financial interests. A civil complaint under Section 216 is one remedy available for such violations.

The complaint related to Berger's family's ownership of stock in Amoco Corporation. In January and March of 1994, attorneys from the White House and the National Security Council advised Berger to sell the Amoco stock Berger had reported on his financial disclosure forms in order to avoid any conflict of interest in the performance of his official duties. However, after receipt of this advice Berger failed to instruct his financial advisors to sell the Amoco stock. In 1994 and early 1995, as Deputy Assistant to the President for National Security Affairs, Berger participated in matters affecting Amoco in violation of the federal conflict prohibition. Berger finally sold the stock in June 1995.

In his answer to the government's complaint, Berger alleged that he intended to sell the Amoco stock but forgot about the issue. The \$23,043 settlement represents the increase in value of Berger's family's Amoco stock and the dividends paid on that stock between the date Berger was initially advised to sell the stock and the date 18 months later when he did sell it.

United States v. Brooks, Southern District of New York

Mark M. Brooks, former Financial Manager and Budget Officer for the United States Attorney's Office for the Southern District of New York, was sentenced on February 7, 1997, to four months' imprisonment, six months' home detention, and three years' supervised release in connection with his guilty plea to a felony information charging him with stealing approximately \$61,000 in federal funds.

In pleading guilty, Brooks admitted that from 1991 through 1996 he submitted false time and attendance reports, for which he was paid a total of \$61,000. The \$61,000 Brooks received was for unauthorized overtime and overtime he did not work.

United States v. Condon, Dunleavy, Kirk, and Morrisette, Eastern District of Virginia

Patrick L. Condon, James T. Dunleavy, and William J. Morrisette, all polygraphers for the Central Intelligence Agency's Office of Security, each pled guilty on December 12, 1997, to a misdemeanor charge of converting government funds; a fourth CIA polygrapher, Oliver D. Kirk, pled guilty the same day to two misdemeanor counts of converting government funds. In addition, all four resigned from the CIA and agreed to make full restitution, Condon in the amount of \$5,120, Dunleavy in the amount of \$3,720, Kirk in the amount of \$9,020, and Morrisette in the amount of \$4,024.

The defendants, whose duties included interrogating CIA contractors and employees regarding their possible violation of federal criminal law, engaged in a systematic effort to convert CIA travel funds by falsely claiming lodging per diem. In addition, Kirk, when questioned by a federal investigator, lied about his lodgings.

On December 12, 1997, Morrisette was sentenced to one year of probation. Subsequently, Conlon and Dunleavy were each sentenced to a fine of \$1,000 and one year of probation, and Kirk was sentenced to four months of community confinement at his own expense, two years of supervised probation, and a fine of \$2,000.

United States v. Council, Eastern District of Louisiana

FBI Special Agent Daron A. Council was arrested on November 21, 1997, in New Orleans, Louisiana, on bribery charges relating to his solicitation and receipt of bribes from drug dealers. Council's arrest followed an undercover operation, during which Council accepted \$1,000 in FBI funds from a drug dealer who was cooperating with the investigation. When confronted by investigators, Council confessed to soliciting bribes on several occasions. He was indicted on December 19, 1997, on two counts of bribery and one count of extortion.

Council subsequently pled guilty to the two bribery counts, which charged him with receiving \$3,000 in bribes and soliciting another \$3,000 from a New Orleans cocaine dealer in exchange for giving the dealer confidential information about pending FBI investigations and a fake FBI property receipt the dealer had requested, and was sentenced to sixteen months' imprisonment.

United States v. Daniel, Eleventh Circuit Court of Appeals

On January 30, 1997, the United States Court of Appeals for the Eleventh Circuit affirmed the conviction of Miami businessman Georges T. Daniel on charges relating to his scheme to supply illegal aliens with bona fide green cards and social security cards in exchange for cash. Daniel is currently serving a sentence of 52 months.

Daniel was convicted by a jury in 1995 of conspiring to defraud the Immigration and Naturalization Service and the Social Security Administration, providing illegal immigration documents, and supplying social security cards to aliens. His conviction was one of thirteen convictions obtained by the Section in connection with Operation Byte, a long-running, multi-district investigation focusing on manipulation of the INS central computer system by a Miami INS employee, and on official misconduct in a Miami Social Security Office.

United States v. Duddey, District of Columbia

John F. Duddey, a former employee of the Securities and Exchange Commission, pled guilty on April 16, 1997, to making a false statement in a matter within the jurisdiction of the SEC. He was sentenced on July 11, 1997, to one year of probation and a \$5,000 fine, the maximum amount authorized under the sentencing guidelines. As conditions to the sentence of probation, Duddey was ordered to perform 200 hours of community service and to continue to receive psychiatric treatment for his diagnosed depression.

From 1992 through 1996, while an employee of the SEC, Duddey violated several SEC rules concerning purchases and sales of securities by SEC employees, including its prohibition against SEC employees carrying securities on margin, and its requirement that SEC employees hold all securities they purchase for at least six months. To conceal his violations of the six-month holding rule, Duddey filed numerous false mandatory securities transaction reports with the SEC, and also made numerous false statements and omissions concerning his securities holdings in his annual securities reports for 1994 through 1996.

United States v. Gervacio, Northern District of California

Senior Special Agent Frank M. Gervacio of the U.S. Customs Service was indicted on September 22, 1997, on a charge of accepting an illegal gratuity. The charge arose out of Gervacio's involvement with an informant.

From 1987 until 1996, Gervacio supervised a paid informant who assisted the Customs Service in investigations of marijuana smugglers. During this period Gervacio recommended the informant for numerous significant cash awards and other compensation.

In August 1992, Gervacio told the informant that he needed \$5,000. Several days later, the informant received a cash award of \$110,875 from the Customs Service, for which Gervacio had recommended him. The day the informant received the award, Gervacio suggested that the informant "accidentally" lose an envelope containing \$4,000 in the back of Gervacio's government car. The informant complied. Gervacio later admitted that he "found" and kept the money.

Gervacio subsequently pled guilty to a misdemeanor charge of illegal supplementation of salary and resigned from the Customs Service. As part of his plea agreement, Gervacio, having admitted that his conduct rendered him unfit to serve as a law enforcement officer, agreed not to seek future employment with any federal, state or local law enforcement agency.

United States v. Gweshe, District of Columbia

On October 8, 1997, Mathias M. Gweshe, the Controller for the United States Agency for International Development's Mission in Lusaka, Zambia, pled guilty to a misdemeanor charge of conversion of government funds.

As the Controller, Gweshe had overall responsibility for the financial management of the Mission. His duties included supervising the cashier's office, where USAID funds that were to be used for official purposes were kept in a cash drawer. Between October 1995 and May 1996, Gweshe withdrew over \$8,000 from the cash drawer which he used for personal expenses.

Gweshe was sentenced on December 19, 1997, to three years' probation with a condition of six months' home confinement. He was also ordered to pay restitution of \$8,195 to USAID and to perform 200 hours of community service. As part of his pre-indictment plea agreement, Gweshe resigned from USAID.

United States v. Kutt, Middle District of Florida

Stanley W. Kutt, a Supervisory Property Management Specialist for the United States Marshals Service, pled guilty on January 7, 1997, to a misdemeanor information charging him with converting property of another. He was sentenced on March 26, 1997, to one year of probation and 100 hours of community service.

The charge arose from Kutt's misuse of his government credit card while with the Marshals Service. On numerous occasions in 1994 and 1995, Kutt made unauthorized cash withdrawals totaling \$2,450 from ATMs while on official travel. He was warned twice to stop the unauthorized withdrawals. After twice agreeing to stop and to repay the funds to American Express, Kutt made additional unauthorized withdrawals. The information charged Kutt with the unlawful withdrawals in March and April 1995. Kutt subsequently resigned from the Marshals Service and repaid American Express.

United States v. Lake, District of Columbia

On February 7, 1997, W. Anthony Lake, former Assistant to the President for National Security Affairs, entered into a settlement agreement with the United States in connection with a conflict of interest created by his participation as a government official in matters affecting certain stock he held. Under the agreement, Lake agreed to pay \$5,000 to the United States and the government agreed to settle a civil complaint filed against him under Section 216 of the federal criminal code.

After joining the White House staff, between March and October 1993, Lake was advised by the White House Counsel and the Legal Advisor's Office of the National Security Council to sell stock he and his wife held in Exxon Corporation, Mobil Corporation, Duke Power Company, and Teco Energy, Inc. in order to avoid a possible conflict of interest in the performance of his official duties. In November 1993, Lake requested certificates of divestiture that would have permitted the sale of the stocks. However, Lake and his wife retained their ownership of the stocks until June 1995, despite receiving numerous documents, including routine statements from his financial advisor, that should have alerted Lake to the fact that he still owned the stocks. In addition, Lake's and his wife's ownership of the stocks was reflected in two financial disclosure forms intended for public filing that Lake signed.

While Lake and his wife owned the stock, Lake participated in his official capacity in matters that may have had a direct and predictable effect on Exxon and Mobil. In June 1995, Lake finally told his financial advisor to sell the stocks, and they were sold on June 16, 1995. In his answer to the complaint, Lake denied that he knew that he continued to own the stocks after November 1993.

United States v. Lanning, D.C. Circuit Court of Appeals

On September 11, 1997, the Court of Appeals for the District of Columbia Circuit affirmed the conviction and sentence of former Defense Intelligence Agency Senior Program Manager William D. Lanning. After a three-week jury trial in 1995, Lanning was found guilty of conspiring to defraud the United States of \$401,464, making a false statement, and a felony conflict of interest. He was sentenced to 37 months of incarceration and ordered to pay \$201,732 in restitution to the United States.

The charges against Lanning stemmed from a scheme in which Lanning caused a defense contractor, Interactive Television Company (ITC), to hire a woman named Catherine Winters as a technical consultant at a salary of \$500 per day. At the time, Lanning was negotiating with ITC on behalf of the government for a sole-source contract to develop a sophisticated computer-based system that would facilitate rapid military command decisions; he was also involved in a romantic relationship with Winters, who had not completed high school and had no military experience or computer training. At Lanning's direction, ITC paid Winters over \$400,000 between 1989 and 1993 for technical consulting services she did not perform.

On appeal, Lanning contended that he had been sentenced improperly because the jury did not return a special verdict on the conspiracy count. He also challenged his conviction on legal and evidentiary grounds. The Court rejected each of Lanning's contentions and upheld his conviction and sentence.

United States v. LePere, Western District of Tennessee

On November 17, 1997, former Postal Inspector Perry L. LePere, Executive Protection Coordinator of the U.S. Postal Inspection Service, pled guilty to making false statements on travel vouchers submitted to the Postal Service. The Postal Service terminated LePere's employment on July 28, 1997. Because of LePere's conduct, the Postal Service suffered a \$7,268 loss. Pursuant to the plea agreement, LePere agreed to pay restitution and a \$15,000 civil settlement to the Postal Service. Additionally, he was subsequently sentenced to two years' probation and \$1,000 fine.

As Executive Protection Coordinator, LePere was required to coordinate official trips and conferences attended by Postmaster General Marvin Runyon. LePere traveled to the proposed location prior to the Postmaster General's arrival for advanced security logistics, and routinely submitted travel vouchers for reimbursement of his official travel expenses. In 1995 and 1996 LePere submitted travel vouchers for expenses he claimed were for official travel, but which included unauthorized personal expenses.

United States v. McElmurry, Eastern District of California

United States Border Patrol Agent James O. McElmurry was sentenced on January 21, 1997, to six months' confinement in a residential community corrections and two years' probation for theft and false statements. McElmurry had pled guilty to misdemeanor conversion of an FM Hi-Power 9mm pistol and to making subsequent false statements regarding the pistol. In addition, McElmurry resigned from the Border Patrol and, pursuant to his plea agreement, turned over 32 firearms in his possession that he had acquired in his official capacity.

In 1995, while acting in his official capacity, McElmurry seized and kept a firearm from an illegal alien. McElmurry falsified official paperwork associated with the processing of the firearm and made verbal and written misrepresentations to his supervisors when questioned about the circumstances surrounding his retention of the weapon.

In sentencing McElmurry, the Court stated that the six-month period of community confinement was necessary for deterrence and also to ensure that there was no public perception that special treatment was given to a former government officer.

United States v. Miller, Eastern District of Virginia

Former CIA employee David C. Miller was sentenced on January 17, 1997, to 15 months' incarceration, 36 months' probation, and a \$4,000 fine in connection with his guilty plea to possession of child pornography and to a felony conflict of interest. Miller had previously resigned from the CIA in lieu of being fired.

While on detail to the National Reconnaissance Organization, Miller had been a Contracting Officer's Technical Representative (COTR) for several contracts with a particular company in connection with a classified government program. Allegations surfaced that Miller was accepting gratuities from the company's program manager, including government-furnished equipment for unauthorized personal use. After being interviewed by agents, Miller voluntarily surrendered numerous such items, including an Apple McIntosh computer system. When agents reviewed the contents of that computer system, they found large quantities of pornography, including child pornography.

Additionally, Miller admitted that he had arranged for a friend to be hired by the company under the government contracts for which Miller was COTR, at a time when the friend owed Miller and his wife \$18,500 but was bankrupt. After the friend got the government program job, he repaid some of his debt to Miller. This was the basis for the criminal conflict of interest charge against Miller.

When the investigation disclosed that the computer Miller turned over contained child pornography, the Section requested the assistance of the Criminal Division's Child Exploitation and Obscenity Section on the case, and the prosecution was handled jointly.

United States v. Pitt, Central District of California

On June 16, 1997, former Assistant United States Attorney Andrew S. Pitt pled guilty to two counts of wire fraud and a felony conflict of interest. He was sentenced to two years in prison, three years of supervised release, and a \$7,500 fine on September 8, 1997.

In pleading guilty, Pitt admitted that between April 1993 and July 1995, while an AUSA for the Central District of California, he engaged in a scheme to defraud the Department of Justice and the citizens of the United States of his honest and faithful services by accepting thousands of dollars from cooperating witnesses and defendants over whom he exercised official power, and for whom he made favorable recommendations to the court, the probation office, and other prosecuting offices.

In particular, Pitt accepted \$33,000 from a cooperating witness under false pretenses, and then used the entire sum of money for his personal expenses; accepted \$98,000 from a cooperating witness who had previously been convicted in the Northern District of Texas, and on whose behalf Pitt had argued strenuously and successfully for leniency at sentencing; and solicited and received \$35,000, an \$800 diamond and sapphire tennis bracelet, and a \$1,500 cut diamond from another cooperating

witness, previously convicted in the Northern District of Georgia, at a time when Pitt was taking official steps to postpone the cooperating witness's reporting date to prison.

Finally, Pitt also engaged in a felony conflict of interest by using his official position to secure the entry into the United States of certain foreign nationals, who Pitt believed would invest in a company he and his wife controlled. After the foreign nationals arrived in the United States, two Iranian companies with which they were affiliated loaned \$860,000 to Pitt's company.

United States v. Reece, Eastern District of North Carolina

On February 3, 1997, former Bureau of Alcohol, Tobacco and Firearms agent William Marshall Reece was sentenced to 87 months in prison, the maximum sentence available under the sentencing guidelines, in connection with his guilty plea to charges of mail fraud and evading almost \$55,000 in federal income taxes. In addition, Reece was ordered to pay \$195,723 in restitution.

In imposing the seven-year, three-month prison term, the Court determined that the total loss to the government of Reece's fraudulent schemes was \$1,457,000, the largest ever internal ATF theft; that Reece had not accepted responsibility for his actions; that an upward departure of two levels under the sentencing guidelines was warranted for a "systematic or pervasive corruption of a governmental function;" and that a two-level increase under the guidelines was also warranted because of Reece's role in the offense. In addition, the day after his sentencing, the government seized a 52-HarborMaster Motoryacht, worth approximately \$160,000, that had been purchased with proceeds from his fraudulent schemes by a woman with whom Reece had been living.

As Chief Pilot of ATF's Aviation Section, Reece obtained approval to lease replacement aircraft on a short-term basis to replace aircraft purportedly undergoing repairs. Reece then used a series of companies he secretly controlled to bill ATF for short-term leases of aircraft that were never provided to ATF. As part of his scheme, Reece opened post office boxes and bank accounts under other people's names for receipt of ATF checks. Between 1988 and 1993, Reece stole over \$550,000. In addition, for tax year 1990, he failed to report or pay taxes on \$187,714 in income stemming from his scheme.

United States v. Roberts, District of Massachusetts

On March 13, 1997, a grand jury returned a three-count indictment against Charles R. Roberts, former Assistant Inspector in Charge in the Boston Division of the U.S. Postal Inspection Service, charging two counts of wire fraud and one felony count of misappropriation of postal funds. Roberts subsequently pled guilty to five misdemeanor counts of misappropriating postal funds, was sentenced to one year of probation plus restitution, and was terminated from his employment with the Postal Service.

Roberts was responsible for the accounting and distribution of money from the Confidential Informant/Controlled Substance Fund. The indictment charged that over seven months, Roberts took cash and negotiated eight \$500 postal money orders totaling \$4,000. On the same day or the following day after Roberts cashed seven of the money orders, large sums of cash were deposited into his personal checking account. Roberts also filed fraudulent accountings of the CI/CS fund to the Postal Service headquarters in Washington.

United States v. Rockwell, District of Alaska

Theodore Rockwell, a former environmental scientist with the U.S. Environmental Protection Agency, pled guilty on August 14, 1997, to a misdemeanor conflict of interest violation of Section 208 of the federal criminal code, which bars a federal official from taking official action on behalf of a company with which he is negotiating for or has an agreement with respect to future employment. Rockwell was sentenced on November 6, 1997, to two years of probation, 80 hours of community service, and a \$2,400 fine. He was also ordered to pay the costs of his supervision, \$217 per month, throughout his probationary period.

While with the EPA, Rockwell served as EPA coordinator for the State of Minnesota. After Minnesota passed the Wetland Conservation Act in 1991, the EPA approved a federal grant to assist Minnesota's wetland program. From March 1992 until his resignation from the EPA in January 1993, Rockwell was the project manager for the Minnesota wetland project. When the Minnesota Board of Water and Soil Resources needed to hire an instructor, Rockwell arranged and attended a meeting with the Minnesota Board and Lyndon Lee of Lyndon Lee and Associates, Inc., an environmental consulting firm. In reliance on Rockwell's recommendation, the Minnesota Board awarded Lee the contract.

In August 1992, Rockwell began employment negotiations with Lee. The following month, acting as EPA project manager on the Minnesota wetland project, Rockwell authorized payment of EPA grant funds to Minnesota for Lee's services. Rockwell signed an employment agreement with Lee in December 1992 and began working for Lee in January 1993. The EPA was unaware of Rockwell's future employment plans.

United States v. Runyon, District of Columbia

Postmaster General Marvin T. Runyon entered into a civil settlement with the United States on October 30, 1997, in which he agreed to pay \$27,550 to settle a complaint charging him with a violation of 18 U.S.C. § 208, which prohibits federal employees from participating personally and substantially as a government employee in a matter that may affect their personal financial interests.

The civil settlement arose out of allegations that in 1996 Runyon took official actions in connection with a proposed strategic marketing alliance between the Postal Service and the Coca-Cola Company at a time when he owned substantial amounts of Coca-Cola stock. In agreeing to the

settlement, Runyon admitted that he knew of the prohibitions in Section 208, and that he nevertheless became involved in moving the strategic alliance proposal through the Postal Service. However, Runyon denied that he participated in the Coca-Cola matter "personally and substantially;" he also asserted that he was entitled to rely on Postal Service ethics officials to alert him to any conflict of interest and that his potential financial interest in the proposed alliance was too attenuated to violate Section 208.

The \$27,550 payment provided for in the settlement agreement represents the increase in value of Runyon's Coca-Cola stock between the time when he should have recognized the conflict of interest -- specifically, when he signed his 1995 Financial Disclosure Report, which reflected his Coca-Cola holdings -- and the time he actually disqualified himself from involvement in the alliance. In paying the \$27,550, Runyon forfeited the potential profit he obtained as a result of his failure to comply with the statutory conflicts prohibition during that period.

United States v. Shibata, Northern District of California

On March 26, 1997, a federal grand jury charged Special Agent Clifford T. Shibata of the Drug Enforcement Agency with six counts of mail fraud, one count of theft of government property, and six counts of false statements in connection with a scheme to defraud the DEA and embezzle over \$120,000 between 1994 and 1996.

The indictment alleged that Shibata, a Group Supervisor of the DEA's San Francisco Field Division, used his official position to take money from an imprest fund intended to be used for authorized purchases of narcotics and payments for information. The indictment further alleged that Shibata submitted false and fraudulent forms bearing the forged signatures of agents under his supervision to conceal his scheme.

Shibata was subsequently found guilty by a jury on all counts and was sentenced to 37 months' imprisonment and \$177,000 in restitution.

United States v. Stevens, Northern District of California

Roberta A. Stevens, the imprest fund custodian at a federal government office, pled guilty on September 24, 1997, to a felony information charging her with theft of government funds. Pursuant to a plea agreement, Stevens resigned from her government employment and agreed to make full restitution. She was subsequently sentenced to ten months' community confinement and three years' probation.

Between 1995 and 1996, Stevens removed a total of \$45,210 in cash from the imprest fund, depositing \$26,236 of this amount in bank accounts that she controlled. She used the money for various goods and services, including jewelry, a new car, and cosmetic surgery.

United States v. Taylor, Eastern District of Virginia

CIA employee Jeffrey M. Taylor pled guilty on June 20, 1997, to a felony information charging him with theft of government property. Taylor was sentenced on October 10, 1997 to one year of supervised probation and a \$2,500 fine. He has resigned from the CIA.

In addition to being an employee of the CIA, Taylor was an amateur astronomer. In February 1997, he obtained possession of a sophisticated CIA telescope, which was designed for surveillance operations and which had a market value of approximately \$5,000. He took the telescope to a private telescope retailer, falsely stated that he owned the telescope, and then traded the CIA telescope for a new telescope that was designed for astronomical observation instead of surveillance.

Taylor pled guilty to the theft of the telescope; he also admitted that he previously stole other CIA equipment, including cameras and lenses. The government subsequently recovered the telescope from the retailer.

United States v. Tsubota, District of Hawaii

On October 23, 1997, Clint T. Tsubota, a former Special Agent with the IRS's Criminal Investigations Division, pled guilty to felony conspiracy to convert government property. The case arose from Tsubota's involvement with the Defense Reutilization and Marketing Office (DRMO), an agency of the Defense Department charged with distributing surplus property such as tools, furniture, and computers to other federal agencies and to eligible state and private organizations.

In pleading guilty, Tsubota admitted that he conspired with several reserve and active duty officers of the Honolulu Police Department to convert large quantities of DRMO property to his own personal use and to the personal use of the other HPD officers. In particular, Tsubota acknowledged that between February 1995 and March 1997, he and his co-conspirators obtained federal property from DRMO with an acquisition cost of more than \$915,000 and a current value of approximately \$258,000. He further acknowledged that in doing so, he knew that "substantial amounts" of this property would be illegally converted to personal use. Tsubota also admitted that he personally converted DMRO property, including knives, furniture, clothing, rucksacks, and other equipment.

Tsubota was subsequently sentenced to three months in a halfway house, three years' probation, and a \$10,000 fine. Due to Tsubota's substantial assistance in the prosecution of others, the government moved for a downward departure at his sentencing.

The United States Attorney was recused from this case. It was supervised by the Public Integrity Section and was jointly prosecuted by the Section and an AUSA from the local Office.

United States v. Hirano, District of Hawaii

Chester H. Hirano, a federal court security officer and reserve police officer with the Honolulu Police Department, pled guilty on November 20, 1997, to an information charging one misdemeanor count of conversion of federal government property. Hirano was the second law enforcement officer convicted in connection with the government's investigation into alleged theft from the Defense Department's Defense Reutilization and Marketing Office.

In entering his guilty plea, Hirano admitted converting to his personal use DRMO file cabinets, bayonets, chairs, bookcases, tools, and other items. Hirano was subsequently sentenced to three years of probation, 1,500 hours of community service, and a \$5,000 fine.

This case was jointly prosecuted by the United States Attorney's Office and the Section.

United States v. Wincelowicz, District of Columbia

On November 13, 1997, FBI Supervisory Special Agent Vincent C. Wincelowicz pled guilty to a misdemeanor information charging him with theft of government funds. As part of his plea agreement, Wincelowicz resigned from the FBI. He was subsequently sentenced to one year of probation.

Wincelowicz had traveled to New York in July 1996 to attend an Undercover Certification School in his capacity as Unit Chief of the FBI's Undercover and Sensitive Operations Unit. He subsequently submitted a false travel voucher inflating his expenses. As part of his plea agreement, Wincelowicz agreed to make \$1,887 in restitution, which included restitution of travel reimbursement he had improperly claimed for personal travel during a European trip.

United States v. Wingate, Seventh Circuit Court of Appeals

On November 5, 1997, the United States Court of Appeals for the Seventh Circuit affirmed the conviction of Dale K. Wingate, a former Special Agent of the Immigration and Naturalization Service. Wingate had been convicted by a jury of a mail and wire fraud scheme to deprive the INS of his honest services by giving unauthorized benefits to illegal aliens, harboring an illegal alien, and transporting an illegal alien. He was sentenced to 15 months' imprisonment.

Wingate's convictions related to his scheme to reward illegal aliens and their families with unauthorized immigration benefits and other assistance in exchange for their children or their assistance in his adoption of foreign children. Wingate executed the scheme by falsely documenting aliens as confidential informants of the INS and by providing them with false papers, room, board, and transportation within the United States.

On appeal, Wingate argued, among other things, that his criminal prosecution violated the Double Jeopardy Clause because it followed his suspension without pay upon his indictment. The Court of Appeals rejected this claim, holding that the suspension of an indicted government official is always remedial in nature.

United States v. Womack, Eastern District of Texas

Guy Lee Womack, a former Assistant United States Attorney for the Eastern District of Texas, paid a \$5,000 civil penalty on January 24, 1997, in connection with his violation of a federal conflict of interest law prohibiting a federal employee from taking official acts in a matter that may affect a personal financial interest. The fine was the maximum available under the sentencing guidelines had the case been prosecuted criminally.

While an AUSA, Womack had served as the Violent Crimes Coordinator for his office. In August 1995, he became interested in obtaining distribution rights for the Quadro Tracker, a device which allegedly could be used to detect such diverse items as controlled substances, handguns, and missing persons. He suggested to his office's Law Enforcement Coordinating Committee coordinator that the Tracker be demonstrated at the next LECC meeting, scheduled for August 23, 1995. Womack then took personal leave to visit the Tracker manufacturer's corporate headquarters in South Carolina, where he negotiated for distribution rights to the Tracker for Alabama, Arkansas, New Mexico, and Wyoming.

At the subsequent August 23 LECC meeting, Womack, acting in his official capacity as Violent Crimes Coordinator, introduced the Tracker, described its capabilities, and participated in a lengthy demonstration of the device. In addition, although the meeting was designed solely for law enforcement officials, Womack arranged for one of his potential private co-investors to attend in order to encourage his investment in the Tracker.

<p style="text-align: center;">STATE AND LOCAL GOVERNMENT</p>
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<p>In 1997, the Public Integrity Section closed seven investigations of alleged corruption involving state or local government. At the end of 1997, 28 such matters were open. Also during 1997, the Section prosecuted the following cases involving state or local corruption:</p>
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United States v. Allyn, Castillo, Maldonado, Peavy, Reyes, and Yarbrough, Southern District of Texas

On July 30, 1997, a federal grand jury returned an 11-count indictment against Houston City Councilmen John E. Castillo and Michael J. Yarbrough, former City Councilmen Ben T. Reyes and

John W. Peavy, Jr., and lobbyists Ross C. Allyn and Elizabeth Maldonado. The indictment charged all six defendants with conspiracy and bribery concerning programs receiving federal funds. Reyes was also charged with a mail fraud scheme to defraud the citizens of the City of Houston of his honest and faithful services as a public official.

The charges stem from an FBI undercover investigation initiated in 1995, based upon an allegation that Councilman Reyes regularly demanded payoffs from city contractors. Shortly after the investigation began, Reyes, while still a member of the City Council, directed a fictional company established by the FBI, "The Cayman Group," to seek an ownership interest in a \$150 million convention center hotel to be developed under city contract. To ensure the award of that contract to a favored developer, Reyes orchestrated a conspiracy in which he solicited and received a \$50,000 cash payment from the Cayman Group and made cash payments to Council Members Castillo, Yarbrough, and Peavy. Reyes was assisted by Allyn and Maldonado in carrying out the conspiracy.

At the subsequent trial, the case against Allyn was dismissed and the jury was unable to agree on verdicts for the remaining defendants. Subsequent retrial of Reyes and Maldonado, whose charges were severed from those against the other defendants, resulted in convictions on all counts. The remaining three defendants are being retried.

United States v. Askew, District of Columbia

Roosevelt Askew, a retired detective from the D.C. Metropolitan Police Department, pled guilty on July 15, 1997, to causing the submission of a false statement regarding a fatal shooting to the D.C. United States Attorney's Office.

The charges arose out of an early morning traffic stop in 1994 by Detective Askew and Sergeant William Middleton of the MPD. During the stop, Askew fired his weapon accidentally, killing the 19-year-old driver of the car. In written statements, Askew and others attempted to justify the shooting and conceal the accidental discharge of Askew's weapon. The statements falsely reported that Sergeant Middleton was standing in front of the stopped vehicle at the time of the shooting, that Askew feared the driver was attempting to put the car in gear and run over Middleton, and that Askew shot the driver in order to save Middleton's life.

Based on these misrepresentations, the Homicide Branch of the MPD concluded that the shooting was a "justified homicide" and closed its investigation. The files were presented to the D.C. United States Attorney's Office, which is responsible for reviewing all fatal shootings by police officers. When questions were asked in 1995, Askew ultimately acknowledged that the cover-up story was false. The United States Attorney's Office concluded that the shooting was an accident, and referred the matter to the Public Integrity Section for an investigation of the false statements in connection with the shooting.

Askew cooperated in the Section's investigation, and was subsequently sentenced to two years of probation and a \$5,000 fine.

United States v. Middleton, District of Columbia

William Middleton, a former Sergeant with the D.C. Metropolitan Police Department, pled guilty on September 26, 1997, to submitting a false statement to the Homicide Branch of the MPD regarding the fatal shooting by Detective Askew. As part of his plea agreement, Middleton resigned from the Police Department and cooperated in the investigation.

Middleton was sentenced on December 10, 1997, to six months' imprisonment, with all but 15 days suspended, six months' probation, and a \$500 fine.

United States v. Bey, District of New Jersey

On September 30, 1997, Elaine A. Bey, former President and Member of the Camden City School Board of Education, pled guilty to one felony count of an 11-count indictment charging her with wire fraud, mail fraud, theft of federal funds, and embezzlement from the Board. The charges spanned Bey's conduct over a nine-year period, during which she had abused her Board position by using the Board's credit card and restaurant accounts to pay for \$23,700 in personal goods and services.

Bey was subsequently sentenced to five months' imprisonment, five months' home detention with an electronic monitoring device, \$23,700 in restitution, and three years' probation.

This case was jointly handled by the Section and the United States Attorney's Office.

United States v. Brown and Green River Coal Co., Inc., Sixth Circuit Court of Appeals

On February 18, 1997, the United States Court of Appeals for the Sixth Circuit reversed the mail fraud and Travel Act convictions of Clyde Brown, Jr. and his company, Green River Coal Co., Inc., and remanded for a new trial. The convictions stemmed from Brown's payment of bribes and kickbacks in exchange for confidential bid information that enabled Green River Coal to obtain a \$500 million coal supply contract from Big Rivers Electric Corporation, a major public utility in Western Kentucky. Brown used a middleman to obtain the information from William Thorpe, the general manager and CEO of Big Rivers. Thorpe received \$773,000 in bribes and kickbacks in exchange for providing the bid information to Green River Coal and another major coal supplier, E & M Coal. Brown had been sentenced to 18 months' imprisonment, three years' probation, and a fine of \$77,978; Green River Coal was fined \$150,000, and the defendants were ordered jointly and severally to pay \$200,000 in restitution.

The Court of Appeals reversed the convictions of Brown and Green River Coal because the government was allowed to put on evidence concerning the corrupt relationship between Thorpe, who had been severed from the trial of Brown and Green River Coal due to illness, and the middleman, Eddie Brown. Thorpe was convicted in a separate trial, and has been sentenced to 57 months' imprisonment and ordered to pay \$3,189,537 in restitution. Following the Court of Appeals' decision, the government moved to dismiss the case, concluding that retrial would not serve the interests of justice.

United States v. Hamed and Hum-Moo-Da, Inc., Northern District of Ohio

On February 25, 1997, Aly Hamed, former owner of a grocery store in Cleveland, Ohio, and the corporation he formed to operate the store, Hum-Moo-Da, Inc., were sentenced in connection with their guilty pleas to illegally redeeming over \$2,500,000 in food stamps between 1990 and 1993. Hamed also pled guilty to tax evasion for 1990 and 1991 and to aiding in the filing of false corporate tax returns for 1990 and 1991. Hamed was sentenced to five months' incarceration, five months' home confinement, and restitution to the United States Department of Agriculture in the amount of 15% of his gross income during his period of court supervision. By sentencing, Hamed had already paid \$265,000 to the IRS for back taxes and penalties. Hum-Moo-Da, Inc. was sentenced to three years' probation.

Hamed and Hum-Moo-Da, Inc. had pled guilty in 1995. However, sentencing on both defendants was continued on the government's motion because Hamed was cooperating with the FBI in a number of ongoing federal criminal investigations. Several of the matters in which Hamed was cooperating, as well as Hamed's sentencing, were referred to the Public Integrity Section by the United States Attorney's Office.

Hamed's assistance to the government has since led to the Section's conviction of a former Ohio State Senator and former housing police officer on corruption charges; his assistance in other investigations ultimately resulted in several convictions by the Fraud Section of the Criminal Division.

Prior to sentencing, the United States filed a motion for a six-level downward departure under the sentencing guidelines based on Hamed's substantial assistance to the government. The Court granted the government's motion, and at sentencing gave Hamed an eight-level downward departure because of his extraordinary assistance to the government.

United States v. McCue, Eastern District of Pennsylvania

On October 28, 1997, a felony information was filed against former Philadelphia police officer Michael J. McCue charging him with distributing approximately 70 pounds of marijuana while on detail to the Drug Enforcement Administration.

McCue, a member of the Philadelphia police force since 1977, was detailed in 1986 to a DEA task force comprised of federal, state and local law enforcement officials. In 1992 McCue and a partner were assigned to destroy marijuana that had been seized by DEA. Instead of destroying all the marijuana, McCue took a portion and distributed it to another person, who had agreed to sell it and share the proceeds with him. McCue's DEA detail ended in 1994, when he resigned from the Philadelphia police force.

McCue subsequently pled guilty to distributing the marijuana and was sentenced to prison for a year and a day, a \$5,000 fine, and three years of supervised release.

MANCI Prosecutions, Northern District of Ohio

An investigation into corruption and other misconduct at the Mansfield Correctional Institution (MANCI) in Mansfield, Ohio, led to the conviction of eight defendants. The investigation uncovered corrupt payments to prison guards and a scheme to smuggle drugs into the prison involving two inmates, a prison guard, the prison's chief of security, two licensed medical practitioners, and a former Mansfield deputy sheriff. Six defendants pled guilty in 1996, and three of those defendants were sentenced in 1996. The remaining five cases, handled in 1997, are described below:

United States v. Crow

James D. Crow, an inmate at MANCI, was sentenced on January 30, 1997, to 87 months in prison in connection with the corruption, bank fraud, and drug distribution schemes that Crow carried out while incarcerated in the prison. Crow had pled guilty to racketeering and firearms charges related to his schemes. The seven year and three month prison term was the maximum available under the sentencing guidelines.

Crow bribed the prison's Chief of Security, William Mack, and a prison guard, Robert Snow, to get preferential treatment, such as unauthorized conjugal visits with his girlfriend and Mack's assistance in obtaining Crow's early release, as well as Snow's assistance in smuggling drugs into the prison. In addition, Crow executed a bank fraud scheme through which he obtained a \$101,000 bank loan. Crow also pled guilty to aiding and abetting the possession of two firearms with the serial numbers obliterated. In the hopes of obtaining early release from the prison as a reward for removing a dangerous weapon from MANCI, Crow arranged to have one of the weapons delivered to the home of an Ohio State Representative, making it appear to have been mailed by him from inside the prison.

United States v. Hamilton

Crow's girlfriend, Valerie Hamilton, was sentenced on January 30, 1997, to two years of probation, including ten months of home confinement. Hamilton had pled guilty to wire fraud, possession of controlled substances, and possession of a firearm with the serial number removed. The

Court granted the government's motion for a downward departure based upon Hamilton's substantial assistance in the investigation and prosecution of others.

Hamilton's charges arose from her involvement in Crow's schemes. She aided in providing gratuities to the prison's Chief of Security. She also admitted to obtaining a firearm at Crow's request, filing off its serial number, and delivering it to an Ohio State Representative. Hamilton addressed the package to make it appear as though Crow had obtained the weapon himself, and mailed it directly to the Representative from inside the prison. Finally, she admitted to possession of a variety of controlled substances, including cocaine and marijuana, that were sealed in food cans to be smuggled into the prison.

United States v. Mack

After an eight-day trial, on May 29, 1997, a jury found William T. Mack, former Chief of Security at MANCI, guilty on all counts of an indictment charging him with honest services wire and mail fraud. He was sentenced on August 19, 1997, to 18 months in prison, followed by three years of supervised release.

Mack, the top ranking uniformed officer at MANCI, was convicted of taking gifts from, engaging in secret business agreements with, and providing a range of preferential treatment to inmate James Crow. Among the gifts Mack accepted from Crow were a round-trip airline ticket from Cleveland, Ohio to Sarasota, Florida, and an expensive bottle of scotch. Mack also entered into a series of business partnerships with Crow in which they agreed to jointly incorporate and establish a trucking company and a firearms shooting range. In return, Mack arranged for Crow to have private, unsupervised visits with his girlfriend and wrote a letter on official prison letterhead advocating Crow's early release from prison.

United States v. Spognardi

On March 4, 1997, the day his trial was scheduled to begin, William N. Spognardi, Jr., a private investigator and former deputy sheriff in Mansfield, pled guilty to bank fraud. He was sentenced on May 20, 1997, to one day in prison followed by four years of supervised release and a fine of \$4,000. In addition, Spognardi was required to perform 200 hours of community service during his period of supervision.

In pleading guilty, Spognardi admitted that he executed a scheme to defraud a local bank in order to finance the sale of four of his apartment buildings to a company owned by James Crow. Spognardi and Crow submitted numerous documents to the bank in which they lied about the existence of a down payment in order to induce the bank to issue a \$101,000 loan to Crow's company. Spognardi made more than \$42,000 as a result of this fraudulently obtained loan.

United States v. Swiger

On January 31, 1997, MANCI inmate Edward M. Swiger was sentenced to 115 months in prison. The nine year and seven month prison term will run consecutive to Swiger's current sentence in the State of Ohio. Swiger pled guilty to conspiracy to distribute cocaine, marijuana, and prescription drugs in connection with his role in the scheme to smuggle drugs into the MANCI facility for distribution inside the prison.

Operation Lost Trust District of South Carolina, Fourth Circuit Court of Appeals

On February 28, 1997, the District Court granted the motions of five defendants in the Operation Lost Trust investigation, all former state legislators, for dismissal of the indictments pending against them. The defendants' motions were based on alleged prosecutorial, agency, and investigative misconduct.

"Operation Lost Trust" was a public corruption investigation handled by the United States Attorney's Office for the District of South Carolina and the FBI in the early 1990s that focused on extortion by state legislators. It was assisted by a cooperating lobbyist, who paid cash to various legislators for support of a parimutuel betting bill. The investigation resulted in criminal charges, primarily involving Hobbs Act extortion and drug violations, against 28 individuals. Twenty defendants pled guilty. Eight defendants went to trial on Hobbs Act charges; seven defendants were convicted and one was acquitted. On appeal, the convictions of two of the defendants were affirmed. The remaining five defendants either were granted new trials by the District Court because of a post-conviction Supreme Court interpretation of the Hobbs Act charge or had their convictions reversed on appeal.

After the remand and new trial orders, and due to allegations of misconduct by the defense, the United States Attorney's Office requested that the Justice Department's Office of Professional Responsibility investigate the matter. The USAO also recused itself from further responsibility for these cases and referred them to the Public Integrity Section. OPR's investigation found no intentional misconduct on the part of the USAO or the FBI.

The District Court then conducted its own extended proceedings on the defendants' motions. Despite explicit rulings from the Supreme Court that "an indictment may not be dismissed for governmental misconduct absent prejudice to the defendant," the Court did not address whether the alleged misconduct prejudiced the defendants. Rather, the Court, in granting the motions, stated that it was "convinced that the totality of the government's actions in these matters rises to the level of egregious prosecutorial misconduct, and that this is a sufficient finding on which the court can exercise its supervisory power."

Subsequently, the United States Court of Appeals for the Fourth Circuit reversed the District Court's decision, finding that the record did not support its findings of prosecutorial misconduct. Two of the five defendants have since died. The remaining three are awaiting retrial by the Public Integrity Section.

ELECTION CRIMES

<p>The Public Integrity Section closed three matters involving allegations of election crimes during 1997. As of December 31, 1997, five such matters were pending in the Section. The case against former Congresswoman Oakar, described above, also involved election crimes. Also during 1997, the Section handled the following additional cases involving election crimes:</p>

United States v. Brown, District of Columbia

Michael A. Brown pled guilty on August 28, 1997, to a misdemeanor information charging him with illegally funneling \$4,000 to the 1994 Kennedy for Senate campaign through "straw" donors after he had already contributed the maximum permitted under the Federal Election Campaign Act.

On September 20, 1994, Brown received a \$5,000 check from Dynamic Energy Resources, Inc., an Oklahoma natural gas company owned by Nora T. Lum, and her husband, Gene K.H. Lum. At the time Brown was an officer of Dynamic. On the same day, Brown made a \$1,000 contribution to the reelection campaign of Senator Edward Kennedy in his own name and asked three colleagues at his place of employment to contribute a total of \$4,000 to the Kennedy campaign, for which he immediately reimbursed them.

Brown was sentenced on November 21, 1997, to three years of supervised probation, 150 hours of community service, and a \$5,000 fine, the maximum amount authorized under the sentencing guidelines for Brown's offense level. In addition, the Court ordered Brown to pay \$7,800 for the costs of his probation.

United States v. Gene and Nora Lum, District of Columbia

On June 5, 1997, Democratic fundraisers Nora T. Lum and Gene K.H. Lum pled guilty to an information filed on May 21, 1997, charging them with conspiracy to defraud the United States and to cause the submission of false statements to the Federal Election Commission.

The charges arose out of a scheme in which Nora and Gene Lum made approximately \$50,000 in unlawful campaign contributions through straw donors. In 1994 and 1995, the Lums funnelled illegal contributions through friends, family members, and business associates to the reelection campaign of Senator Kennedy; the campaign of W. Stuart Price, a candidate for the U.S. House of

Representatives from Oklahoma; and to the Democratic Congressional Campaign Committee. They also made numerous money order contributions in the names of straw contributors, many of whom were unaware that contributions were being submitted in their names. The funds for the unlawful contributions came from the Lums and their corporation, Dynamic Energy Resources, Inc. As a result of the Lums' actions, the contributions were falsely reported by the recipient political committees in reports submitted to the FEC.

On September 9, 1997, Nora and Gene Lum were each sentenced to 10 months' detention, two years of supervised release, and a \$30,000 fine.

United States v. Trisha Lum, District of Columbia

On June 5, 1997, Trisha Lum, the Lums' daughter, pled guilty to a misdemeanor charge, filed on May 21, 1997, of allowing her name to be used to make a contribution, in violation of the Federal Election Campaign Act. At the time of her violation, Trisha Lum was a political appointee in the U.S. Department of Commerce.

The charge related to a \$10,000 contribution to the Democratic Congressional Campaign Committee that was made by Trisha Lum in 1994 with funds from Nora Lum and Dynamic.

On August 27, 1997, Trisha Lum was sentenced to three years of supervised probation, 150 hours of community service, and a \$5,000 fine. She was also ordered to pay \$7,800 for the costs of probation.

PART III

NATIONWIDE FEDERAL PROSECUTIONS OF CORRUPT PUBLIC OFFICIALS

INTRODUCTION

The tables in this section of the Report reflect data that is compiled from the annual nationwide surveys of United States Attorneys by the Public Integrity Section.

As discussed in Part I, most corruption cases are handled by the local United States Attorney's Office for the district where the crime occurred. However, on occasion outside prosecutors are asked either to assist the local Office on a corruption case or to handle the case entirely as a result of recusal of the local Office due to a possible conflict of interest.

The figures in the following tables include all public corruption prosecutions brought in each district, whether handled solely by the local United States Attorney's Office, jointly by the local Office and a component of the Justice Department in Washington, D.C., or solely by prosecutors outside the local Office.

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TABLE I

NATIONWIDE FEDERAL PROSECUTIONS OF CORRUPT PUBLIC OFFICIALS IN 1997

Federal Officials

Indicted	459
Convicted	392
Awaiting Trial	83

State Officials

Indicted	51
Convicted	49
Awaiting Trial	20

Local Officials

Indicted	255
Convicted	169
Awaiting Trial	118

Others Involved

Indicted	292
Convicted	243
Awaiting Trial	106

Totals *

Indicted	1057
Convicted	853
Awaiting Trial	327

* 2 Districts Did Not Provide Data

TABLE II

PROGRESS OVER THE LAST TWO DECADES: NATIONWIDE FEDERAL PROSECUTIONS OF CORRUPT PUBLIC OFFICIALS

	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987
FEDERAL OFFICIALS										
Indicted	133	114	123	198	158	460	408	563	596	651
Convicted	91	102	131	159	147	424	429	470	523	545
Awaiting Trial as of 12/31	42	21	16	23	38	58	77	90	83	118
STATE OFFICIALS										
Indicted	55	56	72	87	49	81	58	79	88	102
Convicted	56	31	51	66	43	65	52	66	71	76
Awaiting Trial as of 12/31	20	29	28	36	18	26	21	20	24	26
LOCAL OFFICIALS										
Indicted	171	211	247	244	257	270	203	248	232	246
Convicted	127	151	168	211	232	226	196	221	207	204
Awaiting Trial as of 12/31	72	63	82	102	58	61	74	49	55	89
PRIVATE CITIZENS INVOLVED IN PUBLIC CORRUPTION OFFENSES										
Indicted	171	198	285	279	349	265	262	267	292	277
Convicted	144	135	252	294	249	257	257	240	225	256
Awaiting Trial as of 12/31	71	65	87	70	72	77	97	97	84	135
TOTALS										
Indicted	530	579	727	808	813	1076	931	1157	1208	1276
Convicted	418	419	602	730	671	972	934	997	1026	1081
Awaiting Trial as of 12/31	205	178	213	231	186	222	269	256	246	368

TABLE II (continued)

	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	Totals
FEDERAL OFFICIALS											
Indicted	629	695	615	803	624	627	571	527	456	459	9410
Convicted	529	610	583	665	532	595	488	438	459	392	8312
Awaiting Trial as of 12/31	86	126	103	149	139	133	124	120	64	83	1693
STATE OFFICIALS											
Indicted	66	71	96	115	81	113	99	61	109	51	1589
Convicted	69	54	79	77	92	133	97	61	83	49	1371
Awaiting Trial as of 12/31	14	18	28	42	24	39	17	23	40	20	513
LOCAL OFFICIALS											
Indicted	276	269	257	242	232	309	248	236	219	255	4872
Convicted	229	201	225	180	211	272	202	191	190	169	4013
Awaiting Trial as of 12/31	79	122	98	88	91	132	96	89	60	118	1678
PRIVATE CITIZENS INVOLVED IN PUBLIC CORRUPTION OFFENSES											
Indicted	303	313	208	292	252	322	247	227	200	292	5301
Convicted	240	284	197	272	246	362	182	188	170	243	4693
Awaiting Trial as of 12/31	109	109	71	67	126	99	95	91	80	106	1808
TOTALS											
Indicted	1274	1348	1176	1452	1189	1371	1165	1051	984	1057	21172
Convicted	1067	1149	1084	1194	1081	1362	969	878	902	853	18389
Awaiting Trial as of 12/31	288	375	300	346	380	403	332	323	244	327	5692

TABLE III

FEDERAL PUBLIC CORRUPTION CONVICTIONS BY DISTRICT OVER THE PAST DECADE

U.S. Attorney's Office	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	Totals
Alabama, Middle	8	9	0	0	4	4	0	1	4	6	36
Alabama, Northern	0	8	1	0	3	4	12	2	4	4	38
Alabama, Southern	9	8	3	2	0	4	11	3	1	9	50
Alaska	0	6	1	0	1	0	0	2	2	3	15
Arizona	11	27	4	8	8	16	10	2	6	8	100
Arkansas, Eastern	5	3	0	6	2	4	2	0	1	4	27
Arkansas, Western	5	0	3	1	2	2	1	0	0	1	15
California, Central	15	52	57	34	35	92	62	94	66	58	565
California, Eastern	32	30	23	22	20	23	19	18	26	17	230
California, Northern	19	9	2	6	13	22	7	25	16	7	126
California, Southern	6	13	6	6	5	0	4	7	16	2	65
Colorado	0	14	10	13	Not Reported	0	Not Reported	0	0	0	37
Connecticut	15	12	8	4	10	3	16	8	5	4	85
Delaware	2	1	0	0	0	8	1	0	0	1	13
District of Columbia	19	25	50	23	Not Reported	39	80	Not Reported	37	32	305
Florida, Middle	24	40	19	28	23	11	Not Reported	22	24	15	206

TABLE III (continued)

U.S. Attorney's Office	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	Totals
Florida, Northern	3	5	9	6	4	10	5	5	7	8	62
Florida, Southern	16	36	42	14	21	22	51	42	29	31	304
Georgia, Middle	4	16	10	19	4	4	17	6	5	6	91
Georgia, Northern	33	27	19	21	17	13	19	19	11	Not Reported	179
Georgia, Southern	7	8	5	1	Not Reported	10	0	7	1	38	77
Guam	Not Reported	9	2	0	3	10	9	1	3	7	44
Hawaii	6	0	6	2	1	7	9	6	4	4	45
Idaho	2	1	1	0	2	3	0	7	4	3	23
Illinois, Central	4	5	1	1	1	4	4	10	10	7	47
Illinois, Northern	119	96	80	18	53	84	74	67	71	55	717
Illinois, Southern	0	1	3	0	1	1	2	24	2	2	36
Indiana, Northern	9	16	9	2	2	6	6	7	12	14	83
Indiana, Southern	7	14	6	6	2	5	8	5	5	4	62
Iowa, Northern	2	2	6	3	2	5	3	4	2	1	30
Iowa, Southern	5	7	4	2	2	4	0	0	0	0	24
Kansas	9	6	0	1	0	5	11	3	1	3	39
Kentucky, Eastern	4	6	12	5	1	9	13	9	8	11	78
Kentucky, Western	6	4	12	7	0	5	5	5	11	4	59
Louisiana, Eastern	18	15	36	6	2	13	20	6	30	24	170

TABLE III (continued)

U.S. Attorney's Office	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	Totals
Louisiana, Middle	7	9	14	0	0	5	4	6	7	4	56
Louisiana, Western	5	6	8	4	3	8	11	8	11	11	75
Maine	4	4	3	8	7	10	3	1	6	4	50
Maryland	31	27	2	14	15	21	17	0	11	3	141
Massachusetts	49	15	15	1	Not Reported	9	12	27	35	12	175
Michigan, Eastern	11	14	27	8	13	11	6	1	4	10	105
Michigan, Western	3	0	12	8	3	9	10	11	14	3	73
Minnesota	9	21	9	3	Not Reported	4	5	5	7	1	64
Mississippi, Northern	12	14	3	0	2	13	13	12	6	3	78
Mississippi, Southern	17	10	9	7	13	12	6	3	9	4	90
Missouri, Eastern	12	16	1	8	2	7	17	19	5	7	94
Missouri, Western	3	6	13	9	5	6	9	6	16	18	91
Montana	5	4	17	0	1	0	3	0	0	1	31
Nebraska	9	4	0	3	1	1	1	4	1	1	25
Nevada	3	2	0	5	0	0	1	0	6	1	18
New Hampshire	Not Reported	1	1	2	1	1	1	0	0	0	7
New Jersey	Not Reported	34	20	8	13	21	23	16	41	21	197
New Mexico	2	Not Reported	6	0	6	6	6	0	5	Not Reported	31
New York, Eastern	82	28	24	16	7	62	20	23	11	39	312

TABLE III (continued)

U.S. Attorney's Office	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	Totals
New York, Northern	15	Not Reported	17	13	12	14	8	11	22	9	121
New York, Southern	39	65	29	68	Not Reported	29	58	39	38	43	408
New York, Western	11	7	19	11	5	11	21	6	11	11	113
North Carolina, Eastern	8	7	3	16	0	3	2	2	5	9	55
North Carolina, Middle	5	9	4	6	3	4	3	1	0	4	39
North Carolina, Western	3	5	2	1	1	1	2	10	1	8	34
North Dakota	6	6	4	2	2	3	8	10	4	5	50
Ohio, Northern	19	23	36	21	15	35	19	19	25	29	241
Ohio, Southern	29	28	26	13	21	26	21	12	13	11	200
Oklahoma, Eastern	3	4	0	0	0	0	1	1	4	3	16
Oklahoma, Northern	0	3	0	1	7	10	0	2	2	4	29
Oklahoma, Western	1	2	3	0	0	6	6	6	1	1	26
Oregon	0	6	5	0	5	1	2	6	0	0	25
Pennsylvania, Eastern	48	24	27	34	14	29	10	24	11	35	256
Pennsylvania, Middle	6	13	4	6	4	9	9	8	8	14	81
Pennsylvania, Western	7	16	4	8	8	9	1	11	10	2	76
Puerto Rico	10	3	7	3	12	13	4	1	4	2	59
Rhode Island	2	1	6	4	0	2	6	6	0	2	29
South Carolina	28	8	7	0	20	26	22	5	4	6	126
South Dakota	3	2	9	0	2	1	1	6	6	7	37

TABLE III (continued)

U.S. Attorney's Office	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	Totals
Tennessee, Eastern	4	6	21	4	0	8	5	7	5	6	66
Tennessee, Middle	8	3	23	1	1	6	6	1	4	1	54
Tennessee, Western	20	30	33	6	4	12	16	12	10	13	156
Texas, Eastern	8	3	1	3	0	5	Not Reported	31	5	2	58
Texas, Northern	15	10	0	0	1	11	2	4	5	26	74
Texas, Southern	23	21	9	3	6	15	33	26	26	34	196
Texas, Western	3	11	11	2	9	16	7	7	9	2	77
Utah	Not Reported	6	6	0	0	0	0	0	0	5	17
Vermont	0	1	0	3	0	1	1	2	0	0	8
Virgin Islands	0	0	10	0	0	3	1	0	Not Reported	5	19
Virginia, Eastern	30	55	32	51	26	15	11	13	7	9	249
Virginia, Western	3	0	2	5	7	4	3	1	1	2	28
Washington, Eastern	0	1	5	0	Not Reported	Not Reported	2	0	0	1	9
Washington, Western	Not Reported	1	12	7	1	1	2	17	8	6	55
West Virginia, Northern	0	0	2	2	1	0	0	2	0	1	8
West Virginia, Southern	3	12	13	3	1	5	0	3	3	2	45
Wisconsin, Eastern	7	7	7	4	7	7	1	7	8	6	61
Wisconsin, Western	2	3	0	0	0	0	0	0	1	0	6
Wyoming	2	3	5	1	1	1	4	0	3	3	23