

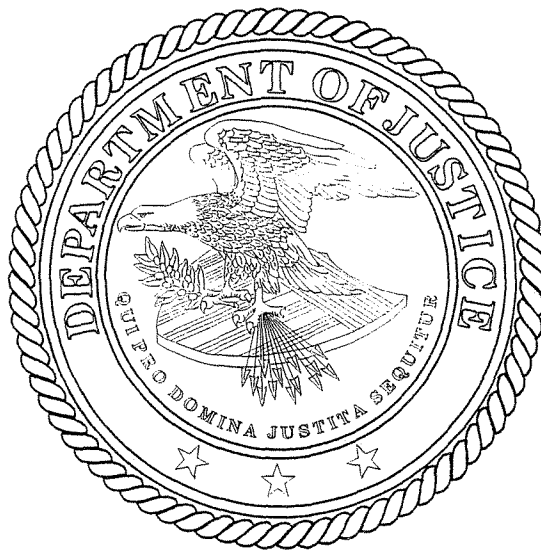
REPORT TO CONGRESS
ON THE ACTIVITIES AND OPERATIONS
OF THE
PUBLIC INTEGRITY SECTION
FOR 1998



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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INTRODUCTION

This Report to Congress, prepared pursuant to the Ethics in Government Act of 1978, describes the operations and activities of the Public Integrity Section of the Justice Department during 1998. The Report also provides statistics on the nationwide federal effort against public corruption during 1998 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 with respect to the prosecution of criminal abuses of the public trust by government officials. 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. In addition, the Section serves as the Justice Department's center for handling various issues that may arise regarding public corruption statutes and cases.

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 federal law enforcement focusing on criminal allegations against top executive branch officials. During 1998, the Section reviewed all allegations raising questions under the Act, conducted preliminary investigations when warranted, and made recommendations to the Attorney General as to whether appointment of an independent counsel was required 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 1998. The Section maintains a staff of 25 to 30 attorneys, including experts in extortion, bribery, election crimes, and criminal conflicts of interest.

Part I of the Report discusses the operations of the Public Integrity Section and highlights its major activities in 1998. Part II describes the cases prosecuted by the Section in 1998. Part III presents nationwide data based on the Section's annual surveys of United States Attorneys regarding the national federal effort to combat public corruption from 1979 through 1998.

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PART I

OPERATIONAL RESPONSIBILITIES OF THE PUBLIC INTEGRITY SECTION

A. RESPONSIBILITY FOR LITIGATION

The Public Integrity Section's work focuses on crimes that involve corruption by 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 prosecutions 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 fall primarily 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. At times, however, prosecution by the local United States Attorney's Office of a particular corruption case may be inappropriate.

Public corruption cases tend to raise unique problems of public perception that are generally absent in more routine criminal cases. An investigation of the 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 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 of criminal misconduct by 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 generally are handled by the Public Integrity Section.

Similar concerns regarding bias also arise when the target of an investigation is a federal prosecutor, or a federal investigator or other employee assigned to work in or closely with a particular United States Attorney's Office. If an Assistant United States Attorney were to investigate a fellow AUSA in the same office, the public would be likely to question the vigor and impartiality of the investigation. Thus, cases involving United States Attorneys, AUSAs, or federal investigators or employees 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 1998 the Section handled a number of significant cases as a result of recusals. One of these cases resulted in the conviction of a special agent of the Immigration and Naturalization Service for perjury, stemming from his testimony in a prosecution involving immigration violations brought by the United States Attorney's Office in Los Angeles. Another recusal case culminated in the conviction of a senior agent of the United States Customs Service on a criminal conflict of interest charge arising out of the agent's solicitation of a kickback from a paid informant. In each case, the agent pled guilty at the end of the Section's investigation.

Two of the Section's 1998 cases that went to trial also arose as a result of recusals by the local United States Attorney's Office. An Ohio State Senator was found guilty of extortion for demanding personal "loans" and contributions from Cleveland-area grocery store owners in return for helping the owners obtain various state and county contracts. And in Texas, after a three-month trial, a Houston City Councilman and a lobbyist were convicted of conspiracy and bribery offenses relating to the receipt of federal funds.

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.

Cases may be sensitive 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 substantial coordination with other federal agencies in Washington. The latter subgroup includes cases involving classified information, which require careful coordination with the intelligence agencies. Sensitive cases

also include those that are so politically controversial on a local level that they are most appropriately handled out of Washington.

The Section handled a number of sensitive cases in 1998. One of these cases culminated in the conviction of an FBI agent for soliciting and receiving bribes from a New Orleans drug dealer. The agent pled guilty to two felonies and was sentenced to sixteen months' imprisonment. In another case, the Section resolved a conflict of interest allegation against a senior official of the National Science Foundation by obtaining, with the concurrence of the Civil Division, a civil settlement that included a substantial civil payment.

During 1998 the Section also handled a significant campaign-financing case involving a California fruit company that had been referred to the Department by the Office of Independent Counsel. At the conclusion of the Section's investigation, the company pled guilty to two counts of making illegal federal contributions through conduits and agreed to pay a \$400,000 criminal fine. Simultaneously, and pursuant to the plea agreement, the Section referred the matter to the Federal Election Commission for civil disposition and the company agreed to pay an additional \$80,000 civil penalty for making illegal corporate contributions to federal campaigns.

During the year the Section also remained actively involved in the Department's investigation of alleged campaign-financing violations arising from 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 legal issues raised by the allegations and the review of proposed campaign-financing charges stemming from the task force investigation.

The third category of special cases handled by the Section, multi-district cases, are simply cases that involve allegations that cross judicial district lines, and hence fall under the jurisdiction of two or more United States Attorneys' Offices. In these cases the Section is often asked to coordinate the investigation among the various United States Attorneys' Offices, or, when appropriate, to assume operational responsibility for the entire case.

3. Federal Agency Referrals

In addition to recusals, cases that are sensitive, and cases that involve multiple districts, the Section is responsible for handling matters referred to it directly by 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. For example, a referral from the Drug Enforcement Administration led to the 1998 trial and conviction of a senior official in the DEA's San Francisco field office on multiple charges relating to his scheme to

embezzle over \$170,000 from the DEA's imprest fund. The official was found guilty on all charges, and was sentenced to prison for 37 months and ordered to pay restitution of \$177,000.

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 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 agency IG's Office, prompt prosecutive evaluation, and, when a referral warrants investigation, coordination of joint investigations among the FBI, the IG, and any other investigative office that may be involved.

During the year the Section also continued to focus particular attention on referrals from the intelligence agencies. Matters involving employees of these agencies may be unusually sensitive, requiring high-level security clearances and the application of specialized statutes. As a result of an intelligence agency referral, four former CIA polygraphers recently were convicted of travel voucher fraud.

4. Requests for Assistance; Shared Cases

The final category of cases in which the Section becomes involved are cases that are handled jointly by the Section and a United States Attorney's Office or other component of the Department. 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 insufficient to undertake sole responsibility for a significant corruption case. In these cases the local office may request the assistance of an experienced Section prosecutor to share responsibility for prosecuting the case. For example, a joint prosecution by the Section and the United States Attorney's Office for the District of New Jersey resulted in recent conviction of the President of the Camden City School Board of Education for embezzling substantial funds from the Board for almost a decade.

Another example of a shared prosecution involved a scheme to embezzle over \$200,000 from the Federal Highway Administration (FHWA). The broad-ranging investigation was handled jointly by the Section and the District of Columbia United States Attorney's Office, and ultimately resulted in the conviction of two FHWA employees and an FHWA contractor.

On occasion the Section may be asked to provide operational assistance or to assume supervisory responsibility for a case due to a partial recusal of the local office. For example, the Section was asked to supervise and assist the prosecution of the first case that arose out of an investigation into allegations of theft from the Defense Department's Defense Reutilization and Marketing Office (DRMO), due to the personal recusal of the United States Attorney for the District of Hawaii from allegations against the target. The case was supervised by the Section, prosecuted jointly 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. Two subsequent cases arising from the DRMO investigation were supervised by the United

States Attorney, jointly prosecuted, and resulted in the convictions of a federal court security officer and a reserve officer of the Honolulu Police Department.

Finally, the Public Integrity Section may be assigned to supervise and assist a case initially assigned to another Department component. An example of this type of assignment arose when the Department's House Bank Task Force was disbanded, and the Public Integrity Section worked with the Fraud Section in completing the investigation and prosecution of former Congresswoman Mary Rose Oakar for campaign-financing violations.

B. SPECIAL SECTION PRIORITIES

1. Independent Counsel Matters

During 1998, the Public Integrity Section continued to be 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 required the Attorney General to decide whether a criminal allegation involving a top 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 had to be made in a short period of time, and without the benefit of normal investigative tools, such as grand jury process and plea bargaining.

The purpose of this landmark legislation was to ensure both the appearance and the reality of impartial prosecutive decisions concerning the President and high-level government officials who serve the President. Its premise was that the Attorney General of the United States, who was appointed by and served under a sitting President, could not investigate criminal allegations involving the President or his senior staff with the impartial vigor that would be required of all prosecutors.

During 1998 independent counsel matters continued to be treated as the highest priority of the Section. These matters were always potentially serious as well as politically sensitive, because by definition they concern possible crimes by top government officials. In addition, they were often factually complex, and required resolution of complex or novel legal issues. The Act's constraints required 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.

The Independent Counsel Act was triggered if the Justice Department received 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 was required to request that a special panel of federal judges appoint an independent counsel, unless a brief preliminary investigation established that there were no reasonable grounds to believe that further investigation was warranted. This limited investigation had to be completed within 90 days and could not involve use of the powers of the federal grand jury or plea bargaining.

During 1998 the Public Integrity Section continued to be responsible for the initial analysis of all independent counsel matters and for conducting preliminary investigations when warranted. The Section also prepared recommendations to the Attorney General as to whether the independent counsel provisions were triggered in a particular case and whether further investigation was warranted. For example, in 1998 the Section concluded a preliminary investigation of allegations that Secretary of Labor Alexis Herman may have violated federal criminal law, and made recommendations to the Attorney General which resulted in her application to the Special Division of the Court for the appointment of an independent counsel. Over the past decade the number of independent counsel matters handled by the Section increased dramatically, to the point where these matters became a significant portion of the Section's workload.

In addition to handling preliminary investigations under the statute, in 1998 the Section also served as the principal liaison between the various independent counsels and the Department of Justice. Some of these independent counsel investigations absorbed substantial Section resources. The Section also handled 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. Headquarter's oversight of election matters 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. Its Director handles the majority of the Branch's responsibilities.

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.

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, 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).

The increased level of oversight for FECA matters is consistent with 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 established by Congress in 1976. The FEC has exclusive civil jurisdiction over all violations of FECA. Criminal prosecution by the Justice Department, on the other hand, is confined to FECA violations that are aggravated both in amount and in the degree of criminal intent present. Early consultation with the Section helps conserve investigative and prosecutive resources by ensuring that criminal FECA investigations are limited to those that fall within the Department's jurisdiction.

The Section's consultation responsibility for election matters includes providing advice to 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. It also 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. In addition, the Election Crimes Branch helps draft election crime charges and other pleadings when requested. During 1998, the Branch devoted significant resources to reviewing proposed campaign-financing charges that grew out of the Department's Campaign Financing Task Force investigation.

As noted above, vote fraud and campaign financing violations are the most common election crimes. During 1998 the Election Crimes Branch assisted United States Attorneys' Offices with both types of crimes:

* Vote frauds. The Branch assisted United States Attorneys' Offices in Alabama, Arkansas, California, Florida, Illinois, Indiana, Kentucky, Louisiana, Minnesota, Missouri, Montana, New York, North Dakota, Ohio, South Carolina, Texas, Utah, and West Virginia in investigating vote fraud matters that arose in their respective districts. Several of these investigations ultimately resulted in election fraud convictions.

* Campaign-financing crimes. The Branch continued its efforts to assist in the implementation of a nationwide enforcement strategy for aggravated violations of the Federal Election Campaign Act. As part of this effort, the Branch assisted United States Attorneys in Arkansas, California, the District of Columbia, Georgia, Illinois, Indiana, Massachusetts, Nevada, New York, Ohio, Pennsylvania, Texas, Virginia, and Washington in the implementation of this strategy for cases in their respective districts.

The Branch's role in this effort includes providing expertise on the campaign-financing laws, serving as liaison with the Federal Election Commission, and providing tactical assistance in negotiating plea agreements so as to achieve a consistent national system of criminal sanctions for violators. In addition, the Branch helps draft plea agreements, and often signs them in response to defendants' concerns regarding their possible exposure to charges brought by other districts for related conduct. The Department's sentencing approach to campaign violations follows the FECA by emphasizing criminal fines for most offenders. In factually aggravated cases, detention and community service is also sought.

In 1998 the Branch provided significant assistance to several successful FECA prosecutions brought by United States Attorneys' Offices. For example, the Branch assisted the Nevada United States Attorney's Office in prosecuting Las Vegas businessman Ray E. Norvell, manager of DeLuca Liquor and Wine, Ltd., for contributing \$10,000 in illegal corporate contributions through conduits in connection with the 1996 presidential campaign. Norvell pled guilty and agreed to pay a stipulated criminal fine of \$100,000. Pursuant to the criminal disposition, Norvell and the company also tendered civil penalties to the FEC to resolve civil FECA liability. The FEC accepted a \$10,000 civil penalty from Norvell and a \$50,000 civil penalty from the company to resolve the civil cases. The Branch also played a significant role in another 1998 FECA case in Nevada, which charged Ramon Desage and Cadeau Express, Incorporated, a Nevada corporation owned principally by Desage, with making illegal corporate contributions of \$5,000 through conduits in connection with the 1996 presidential campaign. Desage and the company pled guilty and agreed to pay substantial criminal fines: \$135,000 in the case of Desage and \$50,000 in the case of the company. In addition, each agreed to tender a \$10,000 civil penalty to the FEC to resolve their civil FECA liability. The Commission accepted these penalties to resolve the matters.

b. Litigation. On occasion Section attorneys prosecute selected election crimes, either by assuming entire operational responsibility for the case or by handling the case jointly with a United States Attorney's Office.

For example, during 1998 the Section was assigned sole operational responsibility for a referral to the Department from an independent counsel of alleged campaign-financing violations by Sun-Land Products of California. The case ultimately resulted in a guilty plea by the company and a \$400,000 criminal fine. In 1998 the Section also jointly prosecuted a significant campaign-financing case with the United States Attorney's Office in Washington. 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 (OSC). 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 and oversight responsibility. Moreover, the federal criminal conflicts of interest laws 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.

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 conflicts of interest matters, namely, those that involve possible criminal misconduct proscribed by one of the federal conflicts 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.

Conflicts 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, the FBI, or both, and prosecutes the case if warranted. The Section also handles recusals or special assignments involving conflicts matters. For example, the 1998 conviction of a senior official of the United States Customs Service was due to the recusal of the local office, and resulted in the official's subsequent guilty plea to a conflict of interest charge involving illegal supplementation of salary.

b. Civil Enforcement for Conflicts of Interest. During 1998 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 the federal criminal code, violations of the criminal conflicts of interest statutes may be addressed through civil sanctions as well as criminal prosecution. The tiered remedies for conflicts violations reflect congressional recognition that many conflicts violations do not warrant criminal prosecution, yet nevertheless raise serious public policy and law enforcement concerns. In addition, proof of the requisite criminal intent to support criminal 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 1998, the Section's conflicts cases included two conflicts of interest matters that were resolved under this enforcement strategy. One matter involved a senior official of the National Science Foundation; the other involved a former official of the Federal Communications Commission. 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 Administration's overall efforts in this area are both complementary and consistent. OGE has broad jurisdiction over noncriminal conduct by executive branch personnel, as well as the authority to provide guidance concerning the coverage of the federal criminal conflicts of interest statutes. The Section coordinates conflicts of interest issues with OGE so that consistent guidance is provided with respect to the overlapping criminal, civil, and administrative interests implicated by the statutory and regulatory restrictions.

C. LEGAL AND TECHNICAL ASSISTANCE

In addition to its litigation and oversight responsibilities, the Public Integrity Section provides legal and technical assistance as well as support services to the various law enforcement agencies and officials. In 1998 the Section's assistance fell into the following general areas:

1. Southwest Border Initiative

The 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 United States 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.

During 1998 the Section attended 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 assist 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 of the PCIE/ECIE 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 administrative investigations. In 1997, the Chairman of the Integrity Committee approved the "Policy and Procedures for Exercising the Authority of the Integrity Committee." The Procedures, drafted with the assistance of the Public Integrity Section, provide a framework for the investigative function of the Integrity Committee. Allegations of 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 United States corruption statutes, the Section has become increasingly involved in supporting United States efforts to assist the international community in its efforts to combat public corruption in foreign countries and at the international level.

To this end, during 1998 the Section continued to work in a number of areas that involve foreign and international corruption concerns. The Section's Principal Deputy Chief traveled to Strasbourg, France, to participate in the Council of Europe's Multidisciplinary Group On Corruption Conference, and during the year the Section was part of an interdepartmental working group evaluating the Council's Convention Against Corruption to determine whether it was appropriate for the United States to become a signatory. During 1998 the Section also continued working with the State Department to develop the United States 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 United States Office of Government Ethics, to assist foreign governments and institutions in implementing effective measures designed to deter public corruption. In 1998 the Section also played a significant role in developing the agenda and objectives of the Vice President's Global Forum on Fighting Corruption.

As noted above, Section experts also routinely address visiting foreign officials on the subject of United States corruption statutes and their enforcement. During 1998 the Section made presentations to public officials from the Republic of Croatia, the Republic of Gabon, Holland, Kenya, Romania, Senegal, and Turkey on public corruption issues. Also, during 1998 the Section's Chief and Principal Deputy Chief addressed officials of the International Monetary Fund on the role of IMF lawyers in dealing with corruption in member countries.

During 1998 the Section's Election Crimes Branch also continued its assistance 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 foreign election officials and lawmakers to share expertise on the investigation and prosecution of election crimes. These presentations were conducted under the auspices of the Federal Election Commission, the United States Information Agency, and the Justice Department's Office of International Affairs and Office of Professional Development and Training. In 1998 the Branch addressed visiting officials from Britain, China, the Province of Garoua, Kenya, Thailand, and the Ukraine on United States election crime statutes and their enforcement.

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. Training and Advice

The Public Integrity Section is staffed with specialists who have considerable experience investigating and prosecuting corruption cases. Section attorneys participate in a wide range of formal training events for federal prosecutors and investigators. They are also available to provide informal advice on investigative methods, charging decisions, and trial strategy in specific cases.

The Section helps design and staff the annual public corruption seminars sponsored by the Attorney General's Advocacy Institute. Speakers at these seminars typically include both the Section's senior prosecutors and Assistant United States Attorneys from the field who have handled significant corruption cases. The 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. In 1998, Public Integrity instructors lectured over 200 prosecutors at the Department's four-day Public Corruption Seminar in Phoenix, Arizona, on topics that included initiating corruption investigations, charging corruption offenses, sentencing issues, proactive investigative techniques, election crimes, and the Independent Counsel Act.

The Section also participates in training events sponsored by other federal departments or agencies. The Section designed and teaches a course at the Federal Law Enforcement Training Center for investigators in Offices of Inspectors General on conflict of interest crimes, provides instructors for the annual ethics training programs of the United States Office of Government Ethics, and makes periodic presentations to other federal agencies. Additionally, in 1998, the Section's Principal Deputy Chief addressed the annual meeting of the Assistant Inspectors General for Investigation Association sponsored by the President's Council on Integrity and Efficiency and the Executive Council on Integrity and Efficiency.

Finally, the Section's Election Crimes Branch lectures at training seminars for state and local election officials on the Department's enforcement responsibilities in the area of election crimes. In 1998, the Election Crimes Director addressed the Convention of the Tennessee County Election Officers Association, delivered the keynote address at the Maryland State Election Officers Conference, and joined officials from the Maryland State Attorney General's Office on a panel focusing on enforcement options for election crimes at the federal, state, and local levels of government. The Branch also periodically prepares an election crimes 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 often 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 Undercover 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. The Section has been successful in its use of undercover investigations to develop cases. For example, the 1998 bribery conviction of an FBI agent, described in more detail later in this report, was the result of an undercover investigation.

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 1998**

INTRODUCTION

As discussed in Part I, the Public Integrity Section's role 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 that was 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 1998. These cases are included in the statistics provided in Part III, which reflect the total number of public corruption cases nationwide in 1998 and over the previous two decades.

This portion 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 grouped separately. The prosecutions summarized below reflect the Section's casework during 1998 and the status of its cases as of December 31, 1998. Related cases are grouped together; unrelated cases are set off by double lines.

This portion also provides statistics for each category on the number of matters closed by the Section without prosecution during 1998 and the number of matters pending at the end of the year.

FEDERAL JUDICIAL BRANCH

<p>During 1998, the Public Integrity Section closed three matters involving allegations of corruption affecting the federal judicial branch. As of December 31, 1998, five such matters were pending in the Section. Also during 1998, the Section handled the following cases involving crimes affecting the judicial branch:</p>
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United States v. Ford, Western District of Kentucky

On January 20, 1998, former bingo operator Donald G. Ford was sentenced to 35 months of incarceration, three years of supervised release, and a \$141,748 fine. Ford had been convicted by a

federal jury of conspiracy to obstruct justice and obstruction of justice in connection with his attempt to influence and intimidate a juror in his 1996 federal gambling and money laundering prosecution.

United States v. Morris, Western District of Kentucky

On January 20, 1998, Charles Lawrence Morris, a former codefendant of Ford's, was sentenced to two years of probation. Morris had pled guilty to obstruction-related charges and had testified against Ford at trial. The Public Integrity Section assumed responsibility for Morris's sentencing in light of his assistance in the investigation and prosecution of Ford. The Section requested a downward departure under the sentencing guidelines based on Morris's assistance, which was granted.

FEDERAL LEGISLATIVE BRANCH

During 1998, the Public Integrity Section closed one matter involving allegations of corruption within the federal legislative branch. As of December 31, 1998, three such matters were pending in the Section. Also during 1998, the Section was involved in the prosecution of the following case involving legislative branch corruption:

United States v. Oakar, District of Columbia

On January 21, 1998, Mary Rose Oakar, a former Member of the United States House of Representatives, was sentenced to two years of probation, 200 hours of community service, and a \$32,000 fine. Oakar had pled guilty to a two-count 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.

Oakar was charged with conspiring to make \$16,000 in contributions to her 1992 reelection campaign in the names of others and to make false statements to the Federal Election Commission concerning the \$16,000, and making \$9,000 in illegal contributions in the names of others.

The case arose out of an investigation by the Department's House Bank Task Force and was handled jointly by the Section and an attorney from the Fraud Section on detail to the Task Force.

FEDERAL EXECUTIVE BRANCH

During 1998, the Public Integrity Section closed 116 matters involving allegations of corruption within the federal executive branch. As of December 31, 1998, 153 such matters were pending in the Section. Also during 1998, the Section handled the following cases involving executive branch corruption:

United States v. Arnold, Western District of Kentucky

Vance E. Arnold, a former Postal Inspector with the United States Postal Inspection Service in Louisville, pled guilty on July 13, 1998, to one felony count of misappropriation of postal funds. On October 19, 1998, he was sentenced to four months of incarceration, four months of home confinement, and two years of probation.

Arnold had participated in the search of a residence that resulted in a cash seizure of \$31,398. Arnold was the case agent assigned to collect and manage the seized money. On 16 separate occasions he signed the evidence log to gain access to the money. An examination of the heat-sealed bag containing the money disclosed that the bag had been opened and stacks of \$100 bills had been tampered with: \$100 bills appeared on the top and bottom of the stacks while the inside currency had been replaced with \$1 bills. A total of \$18,213 was ultimately found to be missing from the seized money. Arnold confessed to embezzling the money to enable his gambling addiction. Prior to his guilty plea, Arnold made complete restitution to the Postal Service and submitted his resignation.

United States v. Avestro, Central District of California

On March 31, 1998, Immigration and Naturalization Service Special Agent Jesse A. Avestro pled guilty to perjury in connection with a 1996 bribery prosecution and resigned from the INS. He was sentenced on September 29, 1998, to four months in prison, four months of home confinement, and two years of supervised release.

The charge arose out of Avestro's false testimony regarding his receipt of allegations of immigration violations at Nationwide Distribution Services (NDS), a warehouse and freight-forwarding company in California. After receiving a complaint of immigration violations at NDS, Avestro completed an INS complaint form and conducted an investigation, during which he was offered a bribe by the owner of the company, Steve Moallem. He reported the bribe to the FBI, and Moallem and three coconspirators were subsequently indicted by the United States Attorney's Office on bribery charges. During pre-trial proceedings Avestro made false statements about the source of the allegations against NDS, and at trial repeatedly denied that he had prepared the INS complaint form against NDS. As a result of Avestro's false testimony, the bribery case against Moallem was dismissed.

United States v. Benton, District of Columbia

Joseph N. Benton, III, Executive Producer, National Aeronautics and Space Administration, NASA TV, pled guilty on November 25, 1998, to a one-count misdemeanor information charging him with theft from the government. Benton subsequently resigned from NASA.

The charge arose from false travel submissions by Benton. From July 1994 through February 1998, Benton submitted to NASA signed travel vouchers for reimbursement of expenses for official

travel. An audit of the vouchers disclosed false transportation receipts totaling approximately \$900. Benton was subsequently sentenced to two years of probation, 100 hours of community service, and a \$2,500 fine. Pursuant to the plea agreement, Benton made complete restitution prior to sentencing.

United States v. Council, Eastern District of Louisiana

Former FBI Special Agent Daron A. Council pled guilty on April 2, 1998, to two bribery charges. The charges related to Council's receipt of \$3,000 from a New Orleans cocaine dealer and his solicitation of another \$3,000 from the dealer in exchange for giving the dealer confidential information regarding pending FBI investigations and a fake FBI property receipt that the dealer had requested. Council had been arrested as a result of an FBI undercover operation and had been charged with two counts of bribery and one count of extortion.

Council was sentenced on August 19, 1998, to 16 months of imprisonment and three years of supervised release. At sentencing the government dismissed the extortion count.

United States v. Dubay-Fawley, Western District of Washington

Catherine Dubay-Fawley, a trial attorney with the National Labor Relations Board, pled guilty on April 16, 1998, to a one-count misdemeanor information charging her with violating a criminal conflict of interest law prohibiting official acts affecting a personal financial interest.

Dubay-Fawley was employed in the NLRB's headquarter's office in Washington, District of Columbia. She requested and received a 75-day detail in Seattle, Washington, for which she subsequently submitted a \$6,375 reimbursement claim for rent she paid to her Seattle landlord. The Seattle property she rented was owned by her mother-in-law and her husband. It is illegal under federal law to claim reimbursement for rent paid to close relatives without prior approval. Dubay-Fawley admitted that she knew and did not disclose when she submitted the claim that her spouse had a financial interest in the property.

Dubay-Fawley was sentenced on May 27, 1998, to three years of probation, \$6,375 in restitution, and a \$1,500 fine. At sentencing, the judge interpreted the financial loss as "harm to the government" which merited a four-level enhancement, as a specific offense characteristic, under the sentencing guidelines. According to the United States Office of Government Ethics, this is the first time a financial loss to the government has been used to merit the four-level enhancement.

United States v. Gervacio, Northern District of California

Former United States Customs Service Senior Special Agent Frank M. Gervacio pled guilty on September 9, 1998, to one count of illegal supplementation of salary in connection with his receipt of

a "kickback" from a government informant. The charge arose from Gervacio's supervision of a paid informant, Michael Woods, who assisted the Customs Service with investigations of marijuana smugglers. Gervacio recommended Woods for numerous cash awards and other compensation. Woods offered to share a portion of his earnings with Gervacio. Initially, Gervacio refused.

In 1992, Gervacio nominated Woods for a substantial cash award that ultimately totaled \$110,875. A few days prior to the presentation of the award, Gervacio called Woods and told him that he needed \$5,000. When Woods traveled to San Francisco to receive the award he brought \$4,000 in cash for Gervacio. Woods attempted to hand Gervacio the \$4,000, but Gervacio suggested that Woods "accidentally" lose the money in the back of Gervacio's government car. Woods complied and Gervacio later confirmed that he "found" and kept the money.

As part of his plea agreement, Gervacio admitted that his conduct rendered him unfit to serve as a law enforcement officer and agreed not to seek employment with any federal, state, or local law enforcement agency in the future. Gervacio was subsequently sentenced to three years of probation, 100 hours of community service, and a \$4,100 fine.

United States v. Giacobbe, Northern District of New York

On October 8, 1998, a federal jury in Syracuse acquitted Richard Giacobbe, a Group Supervisor in the DEA's task force office in Albany, of four counts of submitting false claims and one count of theft of government property.

Giacobbe had been charged with padding travel vouchers he submitted by falsely representing that his wife and two children were residing with him at his new duty station in temporary housing, when, in fact, the family continued to live in their permanent home. The alleged loss to the government was approximately \$7,000.

United States v. Karaitis, Eastern District of Virginia

Robert R. Karaitis, a fifteen-year veteran of the CIA, pled guilty on October 29, 1998, to one count of bank fraud. In addition, as part of his plea agreement Karaitis paid the CIA \$31,713 for time and attendance irregularities unrelated to the bank fraud. He also agreed to resign from the CIA. Karaitis was subsequently sentenced to 12 months and one day in prison and ordered to pay \$67,487 in restitution.

In 1996, Karaitis fraudulently obtained two car loans totaling over \$80,000 from a federal credit union. Karaitis submitted false information and fabricated documents to the credit union to obtain the loans and also used his special status at the CIA to facilitate his scheme. After receiving the \$80,000 car loans, Karaitis never purchased the cars. In 1998, Karaitis filed for personal bankruptcy and sought to discharge the unsecured debt of over \$67,000 outstanding on the two loans.

United States v. LePere, Western District of Tennessee

On February 17, 1998, Perry L. LePere, a former Executive Protection Coordinator with the United States Postal Inspection Service, was sentenced to a \$1,000 fine, two years' probation, and \$7,268 in restitution. LePere previously pled guilty to a one-count information charging him with making false statements on travel vouchers submitted to the Postal Service. Pursuant to his plea agreement, LePere agreed to pay restitution. LePere, in a negotiated civil settlement with the Postal Service, also paid a \$15,000 civil penalty.

As Executive Protection Coordinator, LePere was required to coordinate official trips and conferences attended by the Postmaster General. LePere traveled to the proposed location prior to the Postmaster General's arrival for advanced security logistics. On three occasions, LePere submitted travel vouchers for official travel, when in fact many of the expenses claimed on the vouchers were for unauthorized personal use. The loss to the Postal Service resulting from LePere's fraudulent claims was \$7,268, the amount he agreed to repay.

United States v. Lum, Northern District of Oklahoma

Democratic fund-raiser Gene K.H. Lum pled guilty on August 13, 1998, to violating federal tax laws. Lum falsely claimed more than \$7.1 million in tax deductions on income tax returns he prepared for himself and his wife, Nora T. Lum. Gene Lum pled guilty to two counts, one regarding his 1994 tax return and the other regarding his wife's 1994 tax return. As part of the plea agreement, Lum stipulated to a tax loss of \$2,920,173. Lum was subsequently sentenced to 24 months in prison.

The false deductions were created to offset the profit the Lums made from buying and selling an Oklahoma natural gas gathering company. Lum claimed more than \$5 million as a deduction for a payment of "commissions and fees" which he did not incur. Nora Lum's 1994 income tax return, which Gene Lum prepared, claimed a deduction for \$1.1 million in "commissions and fees" she did not incur and a deduction for a charitable contribution of \$797,798 she did not make. The charitable contribution was made to a shell company controlled by the Lums that never engaged in any charitable, educational or business activities.

The facts underlying these charges were uncovered in the course of the Section's previous investigation of the Lums for campaign-financing violations. The Lums previously pled guilty to felony conspiracy charges in connection with making approximately \$50,000 in illegal campaign contributions in 1994. Both Gene and Nora Lum had been sentenced to serve 10-month split sentences for those violations. The tax case against Lum was handled jointly by the Public Integrity Section and an attorney from the Tax Division.

United States v. Morrison & Foerster LLP, District of Columbia

On September 4, 1998, Morrison & Foerster LLP, an international law firm, agreed to pay a \$12,500 civil settlement to resolve an investigation by the Section into whether Cheryl Tritt, a partner with the firm, violated the two-year bar of the federal post-employment conflict of interest statute. The settlement was made pursuant to the conflicts penalty provision, which authorizes civil as well as criminal remedies for conflict of interest violations.

In January of 1993, Morrison & Foerster LLP began employment negotiations with Tritt, who was then the Chief of the Common Carrier Bureau of the Federal Communications Commission. At that time, an application was pending with the Common Carrier Bureau that had been filed by a client of the firm. Tritt recused herself from all matters before the FCC involving clients of Morrison & Foerster during the negotiations, and after she joined the firm she did not appear before the FCC for one year. When the FCC ruled on the client's application, Tritt asked a partner who had experience regarding conflicts of interest laws whether she could sign pleadings in connection with the matter. The partner inaccurately advised that she could.

On four occasions in 1994, prior to the expiration of the two-year bar on communications by former government employees on matters that had been under their official responsibility, Tritt signed pleadings filed with the FCC on behalf of the firm's client. Once notified of the conflict of interest violation, Tritt submitted substitute pages, signed by another partner, to the FCC. The Section agreed to accept the settlement from the firm instead of Tritt due to the circumstances involved in this case.

United States v. Reece, Fourth Circuit Court of Appeals

On March 17, 1998, the United States Court of Appeals for the Fourth Circuit affirmed the sentence of former ATF official William Marshall Reece. In 1996, Reece pled guilty to a two-count information charging him with mail fraud and evading almost \$55,000 in federal income taxes. He was sentenced to 87 months in prison, receiving two upward departures under the sentencing guidelines, and was also ordered to pay \$195,723 in restitution. 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 the scheme by a woman with whom Reece had been living. Reece's appeal of his sentence focused on the two upward departures by the court.

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. 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.

In imposing the 87-month prison term, the trial judge determined that the total loss to the government of Reece's fraudulent schemes was \$1,457,000; 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 of 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. The Fourth Circuit affirmed the judge's application of the sentencing guidelines to the facts of this case.

United States v. Renaud, Eastern District of Virginia

Former CIA employee Jack R. Renaud pled guilty on January 22, 1998, to a misdemeanor information charging him with conversion of government funds. Renaud was an engineering specialist for the CIA whose duties included overseeing the installation of computer systems. Renaud falsely claimed he worked 70 hours overseeing a particular project, when he was not on the project site. He resigned from the CIA in 1997.

Renaud was sentenced on March 31, 1998, to one year of supervised probation and ordered to pay a fine of \$1,000. As part of the pre-indictment plea agreement, Renaud also paid \$2,051 in restitution to the CIA.

United States v. Roberts, District of Massachusetts

Charles R. Roberts, former Assistant Inspector in Charge of the Boston Division of United States Postal Inspection Service, pled guilty on January 21, 1998, to five misdemeanor counts charging him with misappropriation of postal funds and property. Roberts was sentenced to one year of probation plus restitution on May 29, 1998, and was terminated from his employment with the Postal Service.

While with the Postal Service, Roberts was responsible for the accounting and distribution of money from the Confidential Informant/Controlled Substance(CI/CS) Fund. The charges against Roberts stemmed from his cashing postal money orders totaling \$4,000 and then depositing the money into his personal checking account. Roberts also filed fraudulent accountings of the CI/CS Fund with the Postal Service's headquarters in Washington.

United States v. Robichaud, District of Columbia

Elanda Gay Robichaud, a former administrative secretary employed by the Federal Aviation Administration, pled guilty on May 11, 1998, to one felony count of theft of government property. Robichaud was sentenced on July 24, 1998, to three years of probation, four months of home detention, and \$11,420 in restitution.

Over a five-month period, Robichaud submitted seventy fraudulent requests to the FAA for official travel advances, totaling \$17,270, which she converted to her own use. In an effort to conceal her theft, she periodically paid back portions totaling \$7,050. The restitution ordered by the court included \$10,220, the amount outstanding from the travel advance scheme, and \$1,200, the amount of

Metro cards that Robichaud fraudulently obtained from the FAA for nearly two years after she was suspended.

United States v. Shibata, Northern District of California

After a three-week trial, on May 26, 1998, a jury returned guilty verdicts on all counts of an indictment charging Clifford T. Shibata, a Group Supervisor in the San Francisco Field Division of the Drug Enforcement Administration, with six counts of mail fraud, one count of theft of government property, and six counts of false statements in connection with his scheme to defraud the DEA.

At trial the government proved that Shibata used his position to steal \$178,425 from an imprest fund intended to be used for authorized purchases of narcotics and payments to informants. Shibata submitted forms bearing the forged signatures of agents under his supervision to conceal his scheme. The jury rejected Shibata's week-long defense, including testimony by a defense handwriting expert, that a local law enforcement agent working with the DEA had forged the signatures on the forms.

Shibata was sentenced on September 4, 1998, to 37 months of imprisonment, three years of supervised release, and \$177,000 in restitution. The judge imposed the maximum sentence after enhancing the defendant's offense level for abuse of his position of trust.

United States v. Stevens, Northern District of California

Roberta A. Stevens, the Imprest Fund Custodian at a federal agency, was sentenced to ten months of community confinement, three years of probation, and \$45,210 in restitution on January 14, 1998. Stevens had pled guilty to a one-count felony information charging her with theft of government funds. Pursuant to her plea agreement, Stevens resigned from her government employment and agreed to make full restitution.

Between 1995 and 1996, Stevens removed a total of \$45,210 in cash from the agency's imprest fund, depositing \$26,236 in bank accounts to which she had access. She used the money for various personal goods and services, including jewelry, a new car, and cosmetic surgery.

United States v. West, Fourth Circuit Court of Appeals

On December 21, 1998, the United States Court of Appeals for the Fourth Circuit dismissed the appeal of Gary E. West, who had sought habeas corpus relief in the Eastern District of Virginia. West, a former CIA mail-room clerk, had pled guilty to conspiring with two other clerks to steal over 100 CIA credit cards and to use them to obtain over \$193,000 in cash, goods, and services. The conspiracy also involved the theft of other CIA property, including computers and identification documents. West also

pled guilty to a bank-theft conspiracy charge relating to a fake robbery he and a bank manager in Washington, District of Columbia, staged to conceal their theft of \$61,000 from the bank.

West sought to set aside his sentence, alleging that the government improperly used information against him at his sentencing hearing and that the sentencing guidelines were improperly applied by the district court. West also challenged the court's restitution order, which held him jointly and severally liable for the conduct of his coconspirators. The government successfully responded that his arguments were an abuse of the writ because they came in a second and successive habeas corpus proceeding, and because they were time-barred and frivolous on the merits.

United States v. Whitehead, District of Minnesota and District of Nebraska

Former United States Probation Officer Linda P. Whitehead pled guilty on June 18, 1998, to engaging in a mail fraud scheme to deprive another of her honest services. Whitehead, an 18-year veteran of the United States Probation Office in St. Paul, Minnesota, admitted that for approximately three years she provided preferential treatment to a convicted felon under her supervision and accepted numerous gifts and gratuities in return.

As part of the scheme, Whitehead allowed Karen Pluff, a convicted drug felon, to avoid court-ordered drug testing by repeatedly sending someone else's urine to the laboratory for analysis in place of Pluff's. The urine substitutions concealed from the court Pluff's continued drug usage. Whitehead then falsely certified in official court records that the samples had been obtained from Pluff. In exchange, Whitehead accepted from Pluff clothing and other items, including at least 12 women's business suits, jeans, pajamas, perfume, and children's outfits, that Pluff had stolen from local stores. Whitehead admitted that she accepted the clothing knowing that it had been shoplifted by Pluff. Whitehead voluntarily resigned her position in March of 1998, after she became the subject of a criminal investigation.

Whitehead was sentenced on October 16, 1998, to 12 months in prison and three years of supervised release. To avoid an appearance of a conflict of interest, Whitehead and Pluff were sentenced in the District of Nebraska.

United States v. Pluff, District of Minnesota and District of Nebraska

On June 19, 1998, Karen Pluff pled guilty to one count of giving illegal gratuities to her federal probation officer, Linda P. Whitehead, in exchange for preferential treatment. Pluff was sentenced on October 16, 1998, to five years of probation, six months of home confinement, and 400 hours of community service.

Pluff had been supervised by Probation Officer Whitehead while on supervised release following a federal drug conspiracy conviction. Pluff admitted that, over a three-year period, she gave Whitehead expensive women's business suits and other items she had stolen from local clothing stores. In return, Whitehead routinely submitted someone else's urine sample in place of Pluff's for court-ordered drug

testing. The urine substitution enabled Pluff to smoke marijuana without being sent to prison for violating the terms of her release.

United States v. Williams, Eastern District of Virginia

On June 17, 1998, Dr. Luther S. Williams, Assistant Director of Education and Human Resources of the National Science Foundation, agreed to pay \$24,000 in settlement of a civil complaint filed that day under Section 216 of the federal criminal code alleging that Williams illegally supplemented his federal salary. A civil complaint under Section 216 is one remedy available for such violations.

As the head of the NSF's Education and Human Resources component, Williams supervised NSF programs in support of science and engineering education, and served as a liaison with educational institutions. In this capacity, he was a frequent speaker at universities and educational conferences. The investigation revealed that Williams accepted approximately \$4,900 in honoraria for speaking at four engagements between 1993 and 1996 and that Williams did not report the payments on his financial disclosure reports he was required to file with the NSF. The speeches were related in part to his official duties at NSF. Federal employees are prohibited by law from augmenting their salary for services they perform in their official capacity.

United States v. Wincelowicz, District of Columbia

Vincent C. Wincelowicz, a former Supervisory Special Agent with the FBI, was sentenced on January 28, 1998, to one year of probation in connection with his guilty plea to a one-count misdemeanor information charging him with theft of government funds.

As Unit Chief of the FBI's Undercover and Sensitive Operations Unit, Wincelowicz traveled to New York in 1996 to attend an Undercover Certification School. He subsequently submitted a travel voucher claiming reimbursement for lodging and meals for days that were after he returned home from his trip. As part of his sentence, Wincelowicz agreed to pay \$1,887 in restitution. This included restitution from another false travel voucher in which he received reimbursement for personal travel he took during an authorized European trip. Wincelowicz also resigned from the FBI.

CIA Travel Voucher Prosecutions, Eastern District of Virginia

Three former CIA polygraphers were sentenced on February 24, 1998. Each had pled guilty to theft and had resigned from the CIA and made full restitution. 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. The cases are summarized below.

United States v. Condon

Former CIA polygrapher Patrick L. Condon was sentenced to one year of supervised probation and a fine of \$1,000. Condon had pled guilty to one misdemeanor count of converting government funds.

United States v. Dunleavy

Former CIA polygrapher James T. Dunleavy was sentenced to one year of supervised probation and a fine of \$1,000. He had pled guilty to one misdemeanor count of converting government funds.

United States v. Kirk

Former CIA polygrapher Oliver D. Kirk was sentenced to four months of community confinement at his own expense, two years of supervised probation, and a fine of \$2,000. Kirk had pled guilty plea to two misdemeanor counts of converting government funds. Initially, Kirk had lied when questioned by federal investigators about his lodging.

Defense Reutilization and Marketing Office Prosecutions, District of Hawaii

A joint investigation by the Public Integrity Section and the United States Attorney's Office into the theft of property from the Defense Department's Defense Reutilization and Marketing Office (DRMO) led to the convictions of three law enforcement officers. The DRMO is responsible for distributing surplus property, such as tools, computers and furniture, to other federal agencies and to eligible state and private organizations. Between 1995 and 1997, these officers stole federal property from DRMO with an acquisition cost of more than \$915,000 and a market value of approximately \$258,000. The three cases are summarized below.

United States v. Hirano

Chester H. Hirano, a federal court security officer and reserve police officer with the Honolulu Police Department, was sentenced on April 20, 1998, to three years of probation, 1,500 hours of community service, and a \$5,000 fine. Hirano had pled guilty to a one-count misdemeanor information charging him with converting federal property.

United States v. Tsubota

Clint T. Tsubota, a former special agent with the IRS's Criminal Investigations Division in Honolulu, was sentenced on March 16, 1998, to three months in a halfway house, three years of probation, and a fine of \$10,000 after previously pleading guilty to a felony charge of conspiring to convert federal property.

United States v. Yuen

Gary K. Yuen, a reserve officer of the Honolulu Police Department, pled guilty on January 12, 1998, to a one-count felony information charging him with conspiring to convert federal property. Yuen was sentenced on May 18, 1998, to 12 months in prison and fined \$10,000.

Federal Highway Administration Prosecutions, District of Columbia

The Public Integrity Section and the United States Attorney's Office jointly handled a series of prosecutions relating to a scheme to defraud the Federal Highway Administration (FHWA) of over \$200,000. Two FHWA employees and a FHWA contractor were convicted in connection with the scheme. The cases are summarized below.

United States v. Chen

Hobih Chen, a contractor with the FHWA, pled guilty on September 30, 1998, to conspiracy to pay more than \$150,000 in unlawful gratuities to a FHWA official, to commit money laundering, and to defraud the United States of more than \$200,000. Chen was sentenced on December 22, 1998, to 24 months in prison, two years of supervised release, and a \$5,000 fine.

Chen was the President and majority shareholder of Viggen Corporation, a traffic engineering company that performed services for the FHWA. From 1993 to 1997, Chen and others paid more than \$150,000 in cash and money orders to Alberto Santiago, the FHWA official in charge of overseeing Viggen's contracts. In turn, Chen and others submitted more than \$200,000 in fraudulent invoices to obtain government funds to reimburse themselves for their unlawful payments to Santiago.

A substantial portion of the fraudulent reimbursements were funneled through the Oak Ridge National Laboratory, a large, government-owned laboratory in Tennessee responsible for the expenditure of substantial government funds from federal agencies, including the FHWA. Under one of the fraudulent schemes, Santiago approved the expenditure of \$100,000 in FHWA funds by Oak Ridge. Chen agreed to submit fraudulent invoices to Oak Ridge in order to obtain the FHWA funds, and then wire those funds overseas. The funds would then be returned to the United States and converted to cash to pay off another contractor who had earlier paid Santiago. This scheme was the basis for the money-laundering conspiracy charge.

United States v. Rathi

On November 3, 1998, Ajay Rathi, a former employee of the Oak Ridge National Laboratory, pled guilty to conspiracy to pay more than \$70,000 in unlawful gratuities to a FHWA official and to submit \$100,000 in fraudulent claims to the government.

Rathi conspired with government contractors to make cash payments to Alberto Santiago, a FHWA official who was overseeing certain FHWA and Oak Ridge contracts. At Oak Ridge, Rathi set

aside FHWA funds to reimburse the contractors for payments made to Santiago. Under the arrangement, the contractors would submit fraudulent invoices to Oak Ridge to obtain their reimbursements. Rathi cooperated with the investigation, and was subsequently sentenced to one year of probation, 100 hours of community service, and a \$10,000 fine.

United States v. Santiago

Former FHWA official Alberto Santiago pled guilty on August 19, 1998, to a three-count information charging him with bribery, money laundering, and conspiracy to commit bribery and money laundering and to defraud the United States. As part of his plea agreement, Santiago resigned from the FHWA, and agreed to forfeit more than \$65,000 in retirement funds to the government, along with the proceeds from the sale of a \$15,000 jeep he had purchased with bribe proceeds. On November 12, 1998, Santiago was sentenced to 37 months in prison, three years of supervised release, and a \$5,000 fine.

Santiago was a Branch Chief at the FHWA's Highway Research Center and later held the position of Chief of the State Programs Division at the FHWA's National Highway Institute. In these positions, Santiago acted as the Contracting Officer's Technical Representative, overseeing contracts involving millions of dollars in FHWA funds. From 1993 through 1997, Santiago solicited and received over \$150,000 in cash and money orders from government contractors over whom he had official responsibility. In turn, Santiago ensured that the contractors received sufficient funding, and he permitted them to submit fraudulent invoices on their government contracts to obtain FHWA funds to reimburse themselves for their payments to him. Over the course of the scheme, the contractors submitted more than \$200,000 in fraudulent invoices to recoup their unlawful payments.

STATE AND LOCAL GOVERNMENT

In 1998, the Public Integrity Section closed nine investigations of alleged corruption involving state or local government. At the end of 1998, 16 such matters were open. Also during 1998, the Section prosecuted the following cases involving state or local corruption:
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United States v. Allyn, Castillo, Maldonado, Peavy, Reyes and Yarbrough, Southern District of Texas

After a three-month trial, on December 14, 1998, a federal jury found former Councilman Ben T. Reyes and lobbyist Elizabeth Maldonado guilty on all counts of an indictment charging conspiracy and bribery-related offenses concerning the receipt of federal funds. Reyes was convicted of conspiracy, a mail fraud scheme to defraud the citizens of Houston of his honest services, and four counts of bribery. Maldonado was convicted of two counts of bribery and one count of conspiracy.

Reyes and Maldonado had previously been tried on these charges, along with four codefendants, Houston City Councilmen John E. Castillo and Michael J. Yarbrough, former Houston City Councilman John W. Peavy Jr., and lobbyist Ross C. Allyn. At the conclusion of the government's case Allyn was

granted a judgment of acquittal, and, after the jury deadlocked on the remaining five defendants, a mistrial was declared on May 21, 1998. For purposes of retrial, the charges against Reyes and Maldonado were severed from the charges against the remaining three defendants.

The charges stemmed from an FBI undercover investigation triggered by information that Reyes regularly demanded payoffs from city contractors. Shortly after the investigation began, Reyes, while still a member of the City Council, instructed 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 Councilmen Castillo, Yarbrough, and Peavy. Maldonado assisted Reyes in the conspiracy.

Reyes was subsequently sentenced to 108 months in prison and a \$51,000 fine and was immediately remanded to the custody of the United States Marshals. Maldonado was subsequently sentenced to 51 months in jail. Castillo, Yarbrough and Peavy were subsequently retried, but this jury also deadlocked. The government determined that another retrial was unwarranted, and dismissed the charges.

United States v. Askew, District of Columbia

Roosevelt Askew, a retired detective of the District of Columbia Metropolitan Police Department (MPD), was sentenced on January 5, 1998, to two years of probation and a \$5,000 fine. Askew had pled guilty to submitting false information to the United States Attorney's Office in connection with a fatal police shooting in 1994.

At an early morning traffic stop in 1994 by Askew and then-Sergeant William Middleton, Askew accidentally fired his weapon, killing the driver of the car. The shooting was unintentional, but in statements after the shooting, Askew and Middleton falsely claimed that Askew intentionally shot the driver in order to save Middleton's life. As a result the MPD Homicide Branch concluded that the shooting was a "justified homicide," a conclusion which would have avoided disciplinary action and potential civil liability. When the United States Attorney's Office reviewed the matter in 1995, Askew at first continued to conceal the truth, but ultimately admitted his story was false and acknowledged that the shooting was an accident. The United States Attorney's Office determined that the shooting was an accident and referred the matter to the Public Integrity Section for an investigation of the false statements.

Middleton had pled guilty to a misdemeanor charge of submitting a false statement to the Police Department regarding the shooting and had resigned. He had been sentenced to six months imprisonment with all but 15 days suspended.

United States v. Bey, District of New Jersey

Elaine A. Bey, former President and Member of the Camden City School Board of Education, was sentenced on January 15, 1998, to five months' imprisonment, five months' home detention with an electronic device, \$23,700 in restitution, and three years' probation. Bey had pled guilty to theft of government funds, one of eleven counts pending against her charging theft and mail and wire fraud offenses.

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 that she falsely represented were for official Board business.

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

United States v. Carmichael, Eastern District of Kentucky

On October 9, 1998, a federal jury in Lexington convicted Lawrence Ray Carmichael, Commonwealth's Attorney for the 28th Judicial Circuit, of attempted extortion in violation of the Hobbs Act. The jury found that from March 19 to March 26, 1998, Carmichael attempted to extort between \$50,000 and \$100,000 from Rodney Adams, the owner of a local pawnshop and operator of an illegal bookmaking operation.

Carmichael was subsequently sentenced to 27 months of imprisonment and two years of supervised release. The prosecution was handled jointly by the Public Integrity Section and the United States Attorney's Office.

United States v. Johnson, Northern District of Ohio

Ohio State Senator Jeffrey D. Johnson was convicted on November 20, 1998, by a federal jury of three counts of extortion. The jury acquitted Johnson on a fourth extortion count. Johnson had been indicted on March 4, 1998, on these charges. The charges resulted from an FBI investigation which made use of a cooperating witness to record conversations with Johnson.

Johnson demanded personal "loans" and campaign contributions from Cleveland-area grocery store owners, in exchange for which Johnson helped the store owners obtain various state and county licenses. Johnson was paid a total of \$7,000 in purported "loans" and \$10,000 in campaign contributions. Johnson was convicted of accepting money for his official acts on behalf of the store owners' efforts to obtain state contracts and permits regarding the Federal Women, Infants and Children Program, the sale of beer and wine, and the sale of lottery tickets.

The judge denied post-trial defense motions for a new trial and for a judgment of acquittal notwithstanding the verdict, in which Johnson contended, among other things, that he had been unlawfully entrapped. Johnson has since been sentenced to 15 months' imprisonment, one year of supervised release, and 250 hours of community service.

United States v. Mack, Sixth Circuit Court of Appeals

A unanimous panel of the United States Court of Appeals for the Sixth Circuit upheld the conviction and sentence of William T. Mack on October 15, 1998. Mack, the former Chief of Security of the Mansfield Correctional Institution (MANCI) in Mansfield, Ohio, had been convicted by a jury of three counts charging wire and mail fraud schemes to deprive another of his honest services. He had been sentenced to 18 months in prison.

Mack, the top-ranking uniformed officer at MANCI, was convicted of taking gifts from a prison inmate and providing a range of preferential treatment to the inmate. Mack was the eighth defendant to be convicted as a result of a joint federal-state task force investigation that focused on corruption and other misconduct at MANCI. Also convicted were a prison guard, a Mansfield private investigator, two Cleveland-area podiatrists, two inmates, and a Mansfield woman on charges that included RICO offenses, drug distribution, mail and wire fraud, firearms offenses, and bank fraud.

United States v. McCue, Eastern District of Pennsylvania

Michael J. McCue, a former Philadelphia police officer, was sentenced to prison for one year and a day, a fine of \$5,000, and three years of supervised release on September 10, 1998. McCue had pled guilty to distributing and aiding and abetting the distribution of marijuana. He had been charged with distributing approximately 70 pounds of marijuana while on detail to the DEA.

McCue was a member of the Philadelphia police force from 1977 through 1994. He 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 the DEA. Instead of destroying all the marijuana, McCue took a portion and distributed it to another person, who agreed to sell it and share the proceeds with him.

United States v. Richardson, Northern District of Indiana

On July 14, 1998, Alex H. Richardson, a former Deputy Sheriff for Lake County, Indiana, pled guilty to a one-count information charging him with extortion under color of official right in violation of the Hobbs Act. Richardson was subsequently sentenced to 64 months in prison, a \$10,000 fine, and two years of supervised release.

In 1997, Richardson was involved in the arrest of a subject who was charged with attempted dealing in cocaine, conspiracy to deal in cocaine, and resisting arrest. In January and February of 1998, Richardson solicited and agreed to accept \$30,000 from the subject in exchange for convincing the prosecutor to drop the charges. The subject informed the FBI of Richardson's solicitation and agreed to cooperate in the investigation. Richardson was then captured on tape soliciting the payments and accepting \$10,000 in cash.

United States v. Stewart, Northern District of Ohio

Mitchell Stewart, a special police officer with the Cuyahoga Metropolitan Housing Authority Police Department in Cleveland, pled guilty on June 25, 1998, to a one-count information charging him with extortion. Stewart was sentenced on October 16, 1998, to two years of probation and ordered to pay a \$500 fine.

In 1994, Stewart introduced himself to Aly Hamed, the owner and operator of a grocery store in Cleveland, as a Housing Authority Police Officer assigned to a Cleveland Police Department Strike Force. Stewart claimed that the Strike Force was investigating Hamed and his store for illegal sales and purchases involving food stamps. Further, Stewart stated he could make Hamed's problems and the paperwork regarding the investigation disappear in return for a payment of \$500. Thereafter, over a period of weeks, Stewart repeated his demand for money from Hamed. Eventually Hamed gave Stewart \$500 in return for Stewart's promised protection from the Police Department investigation.

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

United States v. Derrick, et al.

On June 1, 1998, the United States Court of Appeals for the Fourth Circuit modified a district court order that allowed a South Carolina Senate Subcommittee to publish a report containing information from internal government documents. The information in question related to an investigation called "Operation Lost Trust," a public corruption investigation originally handled by the United States Attorney's Office in the early 1990's. The investigation resulted in indictments, primarily involving extortion and drug violations, against 28 individuals. Twenty defendants pled guilty; eight defendants went to trial; seven defendants were convicted and one was acquitted. On appeal, the convictions of two of the defendants were affirmed; the remaining five defendants had their convictions reversed and were granted new trials. Subsequent allegations of misconduct against the United States Attorney's Office were investigated by the Department's Office of Professional Responsibility, which ultimately determined there had been no intentional misconduct by any government personnel.

Following remand, and because of the pending OPR investigation, the United States Attorney's Office recused itself from further responsibility for the five remaining cases and referred them to the Public Integrity Section. Two of these defendants, Benjamin J. Gordon and Luther L. Taylor, subsequently died and the remaining three defendants, Paul Derrick, Larry Blanding, and Jefferson Marion Long, have subsequently been convicted.

An investigation by a South Carolina Senate Subcommittee into alleged corruption involving the passage of a tax bill overlapped with the Lost Trust prosecutions. The Subcommittee petitioned the district court for access to voluminous discovery materials in the criminal cases. The district court granted the Subcommittee that access, but under protective orders limiting the use of the materials. Upon completion of its investigation, the Subcommittee produced a draft report to the Senate, which sought to publish internal government documents, including grand jury materials and OPR interviews. Over the government's objection, the district court entered an order allowing the Subcommittee to cite and quote from these documents in its report.

On appeal, the Fourth Circuit reversed this order and precluded the Subcommittee from quoting or citing non-public OPR interview notes, testimony in the grand jury, and an undercover proposal. The appeal was handled by the Public Integrity Section and the Criminal Division's Appellate Section.

Water and Sewer Authority Prosecutions, District of Columbia

Eight employees of the District of Columbia Water and Sewer Authority (WASA), ranging from laborers to mid-level supervisors, and one private contractor were indicted on March 31, 1998, for their involvement in a scheme to accept money in exchange for using their official positions to replace water pipes connecting private homes with city water mains, during regular business hours, while on duty, using city owned supplies and equipment. Four of the defendants were prosecuted by the United States Attorney's Office in the Superior Court of the District of Columbia. Five additional defendants were prosecuted jointly by the Public Integrity Section and the United States Attorney's Office, all of whom subsequently pled guilty in United States District Court. These cases are summarized below.

United States v. Lawson

Porter L. Lawson, Jr., a former plumber's assistant with WASA, pled guilty on August 6, 1998, to misdemeanor first degree fraud. In entering his guilty plea, Lawson admitted to defrauding the District of Columbia Government of property by engaging in a scheme in which he accepted a cash payment for assisting in replacing a private residence's lead water service while abandoning his regular duty assignment.

United States v. Roach

Harvey F. Roach, a former supervisor with WASA, pled guilty on August 6, 1998, to conspiracy to commit bribery. Roach was sentenced on November 9, 1998, to 21 months' imprisonment and two years' supervised release. Roach admitted that as part of the conspiracy, he and another WASA

supervisor exercised their supervisory authority over work assignments to enable themselves and their co-defendants to perform this illegal work, rather than completing their daily work assignments. Roach admitted that he and the other WASA supervisor performed these illegal "side jobs" knowing that the required permits, authorizations, and inspections had not been obtained, and that the required fees had not been paid. To conceal their illegal activities, the defendants prepared phony work orders and fraudulently obtained inspection "approved" stickers and public space permits to make it appear that the work performed had been authorized and inspected as required by law.

United States v. Rodriguez

Mario G. Rodriguez, a former plumbing worker with WASA, pled guilty on July 6, 1998, to misdemeanor first degree fraud. In entering his guilty plea, Rodriguez admitted he defrauded the District of Columbia Government of property by engaging in a scheme in which he accepted a cash payment for assisting in replacing a private residence's lead water service while abandoning his regular duty assignment.

United States v. Thames

Keith B. Thames, a former plumber and crew chief with WASA, pled guilty on June 19, 1998, to conspiracy to commit bribery. Thames was subsequently sentenced to 27 months' imprisonment and two years' supervised release. Thames admitted that as part of the conspiracy, he and Harvey Roach, another WASA supervisor, manipulated work assignments to enable themselves and their codefendants to perform illegal side-jobs instead of their official work. Thames admitted that he and Roach performed these illegal jobs knowing that the required permits, authorizations, and inspections had not been obtained and that the required fees had not been paid.

United States v. Whittle

William Whittle, a former plumbing worker with the WASA, pled guilty on September 10, 1998, to misdemeanor first degree fraud. Whittle was subsequently sentenced to three years of probation. In entering his guilty plea, Whittle admitted he defrauded the District of Columbia Government of property by engaging in a scheme in which he accepted a cash payment for assisting in replacing a private residence's lead water service while abandoning his regular duty assignment.

ELECTION CRIMES

The Public Integrity Section closed one matter involving allegations of election crimes during 1998. As of December 31, 1998, three such matters were pending in the Section. A campaign financing case involving former Congresswoman Mary Rose Oakar is described above on page 15. Also during 1998, the Section was involved in the prosecution of the following additional cases involving election crimes:

United States v. Food Services of America, Inc., Specht, and Stewart, Western District of Washington

On March 18, 1998, Food Services of America (FSA) pled guilty to 24 criminal violations of the FECA involving the making of corporate and conduit contributions. On the same day, FSA's Chief Executive Officer, Thomas Stewart, and its Chief Financial Officer, Dennis J. Specht, each pled guilty to one count of laundering corporate contributions to federal campaigns. In the plea agreement, the defendants and the government agreed to stipulated sentences. The FSA was sentenced to pay a stipulated fine of \$4.8 million. Stewart and Specht were each sentenced to pay a stipulated fine of \$100,000, and to serve 60 days of home confinement and 160 hours of community service working as monitors and servers in Seattle-area homeless shelters.

The violations arose out of a scheme by the defendants to contribute over \$100,000 in FSA corporate funds to federal candidates between 1990 and 1996. Stewart and Specht added sums to the annual performance bonuses of dozens of FSA employees, who were then required to contribute to federal candidates. The principal recipients of these illegal contributions were SGA-PAC, a federal political action committee affiliated with FSA's parent company, and the unsuccessful 1992 campaign of Peter von Reichbauer for Congress from the 9th Congressional District of Washington.

Simultaneously, and as a part of a global settlement, Stewart and Specht agreed to pay a state fine of \$570,000 for violating Washington election law in connection with \$60,000 in contributions that they had laundered to a 1995 Seattle municipal referendum in the same manner as the federal contributions. When paid, the state fine was to be credited against the federal fine.

This disposition represents the first time that a pattern of conduct involving both federal and state campaign-financing violations was handled on a global basis by federal and state authorities working together. This case was handled jointly by the Public Integrity Section and the United States Attorney's Office.

United States v. Sun-Land Products of California, Northern District of California

Sun-Land Products of California pled guilty on August 26, 1998, to a two-count information filed on August 6, 1998, charging the company with making illegal conduit contributions in violation of the FECA. The information alleged that Sun-Land, a subsidiary of Sun-Diamond Growers of California, made illegal conduit contributions of \$16,000 to the Bush-Quayle 1992 Primary Committee Inc., and illegal conduit contributions of \$21,000 to Campaign America in 1993.

In 1992 and 1993 Sun-Land's 16 nonmanagement Directors each received \$2,500 stipends from the company for the suggested purpose of making certain federal campaign contributions. As a result, "stipend" contributions were made by various Directors, and in some cases by their family members. A number of individual contributions were received by Sun-Land, which sent them collectively to the federal campaigns; other contributions were sent directly by stipend recipients to the campaigns.

Under the plea agreement, the government and Sun-Land agreed to recommend to the court that the company pay a fine of \$400,000, which is the maximum possible criminal fine. The court accepted this recommendation. In addition, prior to filing the information and pursuant to the plea agreement, the Public Integrity Section referred this matter to the FEC, and on August 3, 1998, the FEC and Sun-Land entered into a Conciliation Agreement, under which Sun-Land paid an \$80,000 civil penalty for violating the FECA.

This case was handled by the Public Integrity Section as the result of a referral to the Department from the Office of Independent Counsel.

PART III

NATIONWIDE FEDERAL PROSECUTIONS OF CORRUPT PUBLIC OFFICIALS

INTRODUCTION

The tables in this section of the Report reflect data that is compiled from 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 in 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 within each district. These prosecutions were either handled solely by the local United States Attorney's Office, jointly by the local office and the Public Integrity Section or another component of the Justice Department in Washington, District of Columbia, or solely by prosecutors outside the local office. The term "indicted" as used in the tables includes charges that were brought either by grand jury indictment or by a criminal information.

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Nationwide Federal Prosecutions of Corrupt Public Officials

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Over the Past Decade

TABLE I

NATIONWIDE FEDERAL PROSECUTIONS OF CORRUPT PUBLIC OFFICIALS IN 1998

Federal Officials

Indicted	442
Convicted	414
Awaiting Trial	85

State Officials

Indicted	91
Convicted	58
Awaiting Trial	37

Local Officials

Indicted	277
Convicted	264
Awaiting Trial	90

Others Involved

Indicted	364
Convicted	278
Awaiting Trial	128

Totals *

Indicted	1,174
Convicted	1,014
Awaiting Trial	340

* 1 District Did Not Provide Data

TABLE II

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

	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988
FEDERAL OFFICIALS										
Indicted	114	123	198	158	460	408	563	596	651	629
Convicted	102	131	159	147	424	429	470	523	545	529
Awaiting Trial as of 12/31	21	16	23	38	58	77	90	83	118	86
STATE OFFICIALS										
Indicted	56	72	87	49	81	58	79	88	102	66
Convicted	31	51	66	43	65	52	66	71	76	69
Awaiting Trial as of 12/31	29	28	36	18	26	21	20	24	26	14
LOCAL OFFICIALS										
Indicted	211	247	244	257	270	203	248	232	246	276
Convicted	151	168	211	232	226	196	221	207	204	229
Awaiting Trial as of 12/31	63	82	102	58	61	74	49	55	89	79
PRIVATE CITIZENS INVOLVED IN PUBLIC CORRUPTION OFFENSES										
Indicted	198	285	279	349	265	262	267	292	277	303
Convicted	135	252	294	249	257	257	240	225	256	240
Awaiting Trial as of 12/31	65	87	70	72	77	97	97	84	135	109
TOTALS										
Indicted	579	727	808	813	1,076	931	1,157	1,208	1,276	1,274
Convicted	419	602	730	671	972	934	997	1,026	1,081	1,067
Awaiting Trial as of 12/31	178	213	231	186	222	269	256	246	368	288

TABLE II (continued)

	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	Totals
FEDERAL OFFICIALS											
Indicted	695	615	803	624	627	571	527	456	459	442	9,719
Convicted	610	583	665	532	595	488	438	459	392	414	8,635
Awaiting Trial as of 12/31	126	103	149	139	133	124	120	64	83	85	1,736
STATE OFFICIALS											
Indicted	71	96	115	81	113	99	61	109	51	91	1,625
Convicted	54	79	77	92	133	97	61	83	49	58	1,373
Awaiting Trial as of 12/31	18	28	42	24	39	17	23	40	20	37	530
LOCAL OFFICIALS											
Indicted	269	257	242	232	309	248	236	219	255	277	4,978
Convicted	201	225	180	211	272	202	191	190	169	264	4,150
Awaiting Trial as of 12/31	122	98	88	91	132	96	89	60	118	90	1,696
PRIVATE CITIZENS INVOLVED IN PUBLIC CORRUPTION OFFENSES											
Indicted	313	208	292	252	322	247	227	200	292	364	5,494
Convicted	284	197	272	246	362	182	188	170	243	278	4,827
Awaiting Trial as of 12/31	109	71	67	126	99	95	91	80	106	128	1,865
TOTALS											
Indicted	1,348	1,176	1,452	1,189	1,371	1,165	1,051	984	1,057	1,174	21,816
Convicted	1,149	1,084	1,194	1,081	1,362	969	878	902	853	1,014	18,985
Awaiting Trial as of 12/31	375	300	346	380	403	332	323	244	327	340	5,827

TABLE III

**FEDERAL PUBLIC CORRUPTION CONVICTIONS BY DISTRICT
OVER THE PAST DECADE**

U.S. Attorney's Office	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	Totals
Alabama, Middle	9	0	0	4	4	0	1	4	6	4	32
Alabama, Northern	8	1	0	3	4	12	2	4	4	1	39
Alabama, Southern	8	3	2	0	4	11	3	1	9	0	41
Alaska	6	1	0	1	0	0	2	2	3	1	16
Arizona	27	4	8	8	16	10	2	6	8	5	94
Arkansas, Eastern	3	0	6	2	4	2	0	1	4	4	26
Arkansas, Western	0	3	1	2	2	1	0	0	1	1	11
California, Central	52	57	34	35	92	62	94	66	58	39	589
California, Eastern	30	23	22	20	23	19	18	26	17	18	216
California, Northern	9	2	6	13	22	7	25	16	7	14	121
California, Southern	13	6	6	5	0	4	7	16	2	4	63
Colorado	14	10	13	Not Reported	0	Not Reported	0	0	0	2	39
Connecticut	12	8	4	10	3	16	8	5	4	6	76
Delaware	1	0	0	0	8	1	0	0	1	4	15
District of Columbia	25	50	23	Not Reported	39	80	Not Reported	37	32	72	358
Florida, Middle	40	19	28	23	11	Not Reported	22	24	15	12	194

TABLE III (continued)

U.S. Attorney's Office	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	Totals
Florida, Northern	5	9	6	4	10	5	5	7	8	5	64
Florida, Southern	36	42	14	21	22	51	42	29	31	79	367
Georgia, Middle	16	10	19	4	4	17	6	5	6	3	90
Georgia, Northern	27	19	21	17	13	19	19	11	Not Reported	11	157
Georgia, Southern	8	5	1	Not Reported	10	0	7	1	38	6	76
Guam	9	2	0	3	10	9	1	3	7	6	50
Hawaii	0	6	2	1	7	9	6	4	4	6	45
Idaho	1	1	0	2	3	0	7	4	3	7	28
Illinois, Central	5	1	1	1	4	4	10	10	7	8	51
Illinois, Northern	96	80	18	53	84	74	67	71	55	55	653
Illinois, Southern	1	3	0	1	1	2	24	2	2	4	40
Indiana, Northern	16	9	2	2	6	6	7	12	14	4	78
Indiana, Southern	14	6	6	2	5	8	5	5	4	4	59
Iowa, Northern	2	6	3	2	5	3	4	2	1	2	30
Iowa, Southern	7	4	2	2	4	0	0	0	0	1	20
Kansas	6	0	1	0	5	11	3	1	3	3	33
Kentucky, Eastern	6	12	5	1	9	13	9	8	11	8	82
Kentucky, Western	4	12	7	0	5	5	5	11	4	6	59
Louisiana, Eastern	15	36	6	2	13	20	6	30	24	17	169

TABLE III (continued)

U.S. Attorney's Office	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	Totals
Louisiana, Middle	9	14	0	0	5	4	6	7	4	13	62
Louisiana, Western	6	8	4	3	8	11	8	11	11	9	79
Maine	4	3	8	7	10	3	1	6	4	0	46
Maryland	27	2	14	15	21	17	0	11	3	5	115
Massachusetts	15	15	1	Not Reported	9	12	27	35	12	27	153
Michigan, Eastern	14	27	8	13	11	6	1	4	10	14	108
Michigan, Western	0	12	8	3	9	10	11	14	3	0	70
Minnesota	21	9	3	Not Reported	4	5	5	7	1	14	69
Mississippi, Northern	14	3	0	2	13	13	12	6	3	0	66
Mississippi, Southern	10	9	7	13	12	6	3	9	4	8	81
Missouri, Eastern	16	1	8	2	7	17	19	5	7	15	97
Missouri, Western	6	13	9	5	6	9	6	16	18	1	89
Montana	4	17	0	1	0	3	0	0	1	4	30
Nebraska	4	0	3	1	1	1	4	1	1	0	16
Nevada	2	0	5	0	0	1	0	6	1	7	22
New Hampshire	1	1	2	1	1	1	0	0	0	1	8
New Jersey	34	20	8	13	21	23	16	41	21	58	255
New Mexico	Not Reported	6	0	6	6	6	0	5	Not Reported	0	29
New York, Eastern	28	24	16	7	62	20	23	11	39	17	247

TABLE III (continued)

U.S. Attorney's Office	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	Totals
New York, Northern	Not Reported	17	13	12	14	8	11	22	9	9	115
New York, Southern	65	29	68	Not Reported	29	58	39	38	43	61	430
New York, Western	7	19	11	5	11	21	6	11	11	3	105
North Carolina, Eastern	7	3	16	0	3	2	2	5	9	5	52
North Carolina, Middle	9	4	6	3	4	3	1	0	4	8	42
North Carolina, Western	5	2	1	1	1	2	10	1	8	3	34
North Dakota	6	4	2	2	3	8	10	4	5	6	50
Ohio, Northern	23	36	21	15	35	19	19	25	29	90	312
Ohio, Southern	28	26	13	21	26	21	12	13	11	10	181
Oklahoma, Eastern	4	0	0	0	0	1	1	4	3	7	20
Oklahoma, Northern	3	0	1	7	10	0	2	2	4	4	33
Oklahoma, Western	2	3	0	0	6	6	6	1	1	0	25
Oregon	6	5	0	5	1	2	6	0	0	1	26
Pennsylvania, Eastern	24	27	34	14	29	10	24	11	35	25	233
Pennsylvania, Middle	13	4	6	4	9	9	8	8	14	7	82
Pennsylvania, Western	16	4	8	8	9	1	11	10	2	4	73
Puerto Rico	3	7	3	12	13	4	1	4	2	0	49
Rhode Island	1	6	4	0	2	6	6	0	2	1	28
South Carolina	8	7	0	20	26	22	5	4	6	13	111
South Dakota	2	9	0	2	1	1	6	6	7	7	41

TABLE III (continued)

U.S. Attorney's Office	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	Totals
Tennessee, Eastern	6	21	4	0	8	5	7	5	6	Not Reported	62
Tennessee, Middle	3	23	1	1	6	6	1	4	1	0	46
Tennessee, Western	30	33	6	4	12	16	12	10	13	7	143
Texas, Eastern	3	1	3	0	5	Not Reported	31	5	2	9	59
Texas, Northern	10	0	0	1	11	2	4	5	26	7	66
Texas, Southern	21	9	3	6	15	33	26	26	34	22	195
Texas, Western	11	11	2	9	16	7	7	9	2	15	89
Utah	6	6	0	0	0	0	0	0	5	2	19
Vermont	1	0	3	0	1	1	2	0	0	1	9
Virgin Islands	0	10	0	0	3	1	0	Not Reported	5	8	27
Virginia, Eastern	55	32	51	26	15	11	13	7	9	32	251
Virginia, Western	0	2	5	7	4	3	1	1	2	2	27
Washington, Eastern	1	5	0	Not Reported	Not Reported	2	0	0	1	0	9
Washington, Western	1	12	7	1	1	2	17	8	6	10	65
West Virginia, Northern	0	2	2	1	0	0	2	0	1	1	9
West Virginia, Southern	12	13	3	1	5	0	3	3	2	8	50
Wisconsin, Eastern	7	7	4	7	7	1	7	8	6	11	65
Wisconsin, Western	3	0	0	0	0	0	0	1	0	0	4
Wyoming	3	5	1	1	1	4	0	3	3	0	21