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## Electronic Investigative Techniques II

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## Letter from the Editor-in-Chief

This is the second and final issue on Electronic Investigative Techniques. Our thanks go to AUSA Jim Walsh (Central District of California) who requested that we devote ourselves to this topic and, of course, to all of our contributing authors. Never before has your work generated so many positive comments and requests for additional copies. The articles in this issue are not only informative but so interesting that some of you may find it hard to pick up a novel after this. From Nelson Boxer's article about the Mafia don prosecution to Samantha Phillips' article about the coordinated multi-district prosecution of a Colombian cocaine ring, it is clear that our collective work is fascinating.

We have just finished the new *United States Attorneys' Manual (USAM)* and you should be receiving the USABook version in CD ROM shortly. Our goal is to make this *USAM* a total library of Department resources accessible at your desktops. Please give me your feedback on this new addition to the USABook library.

Many of you have told me that you would like to know more about the contents of USABook. In our January commendations issue, we will highlight each of our electronic publications.

There's still space in our February issue for your latest courtroom innovations and the most recent advocacy techniques you have developed in your trial work. Give me a call. We've got a new area code and a new Email address. You can reach me in St. Croix at (340) 773-3920 or on Email at AVIC01(DNISSMAN).

DAVID MARSHALL NISSMAN

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# Keeping Pace With The Mafia

*Assistant United States Attorney Nelson A. Boxer  
Southern District of New York*

In January 1994, the Government faced a dilemma in its attack on organized crime in New York City: it identified the street boss of the Genovese Organized Crime Family of La Cosa Nostra, and his crew. The predicament was that James Ida, a/k/a “Little Jimmy”—officially, the Consigliere of the Genovese Family—conducted business in such a way that made it virtually impossible to intercept his criminal conversations. Ida held his crew meetings at stylish diners and restaurants on Manhattan’s Upper East Side and in Greenwich Village, making interception of conversations by means of eavesdropping devices difficult. He also frequently changed the locale of the meetings, making it arduous for the Government to obtain Title III approval in time to record his conversations.

Working together, Assistant United States Attorneys from the United States Attorney’s office for the Southern District of New York and agents from the Federal Bureau of Investigation came up with a solution: apply for “roving” Title III authorization, in accordance with 18 U.S.C. § 2518(11)(a), to intercept conversations at Ida’s crew meetings, wherever they happen to take place.

Ida rose to the upper echelon of La Cosa Nostra in an orderly fashion. Formally “made” in the Genovese Family in the 1970s, Ida was assigned to the crew of Genovese Capo Matthew “The Horse” Ianiello, who Ida frequently drove to meetings with Genovese Family brass. Ida took over Ianiello’s crew after he was convicted of Federal racketeering charges in 1988. Later, Genovese Consigliere Bobby Manna was convicted of racketeering and, in 1991, Vincent “The Chin” Gigante anointed Ida the official Family Consigliere, the third-ranking position in the Family. Because Gigante was under Federal indictment, and because the Genovese Underboss, Venero “Benny Eggs” Mangano, was serving a lengthy prison term, Ida took over the daily responsibilities of overseeing Genovese Family business. These rackets included extortion, labor union corruption, loansharking, gambling, murder, and syphoning profits purportedly destined for charity from the annual 11-day Little Italy street festival, the Feast of San Gennaro.

When conducting business, Ida learned from past Genovese Family mistakes. Matthew Ianiello and acting Family Boss Anthony “Fat Tony” Salerno were convicted of Federal charges in large measure as a result of conversations intercepted over a bug installed inside the Palma Boy Social Club in East Harlem. A 1990 racketeering and loansharking case against Genovese capo James Massera was successful, in part, because of a bug installed inside the hallway just outside Massera’s Little Italy social club. Having moved from the social club to the hallway outside without success, Ida took a new tact. He met in public places; i.e., diners, where agents would be noticed and bugs would be difficult to install. He periodically changed the location of his meeting spots, making it hard to gather probable cause evidence in time to apply and obtain authorization to install a bug, and he went on “walk and talks”—walking on the sidewalk while talking to a confederate—to conduct one-on-one business, presumably out of the presence of listening devices.

Agents conducted numerous surveillances between 1992 and 1994, observing Ida and his crew following this pattern. Often the agents located the meeting sites through the use of tracking devices surreptitiously attached to Ida’s crew members’ vehicles, which then, from a distance,

could be unobtrusively followed to the meeting site. Ida's crew meetings typically took place after a weekend, on Monday evenings through early Tuesday mornings.

In order to keep pace with Ida, the Government used the roving bug provision of Title III [18 U.S.C. § 2518(11)(a)], which permits the Government to obtain authority to intercept conversations at a location without identifying the specified premises, where the application "contains a full and complete statement as to why such a specification is not practical and identifies the offense and whose communications are to be intercepted," and when a "judge finds that such specification is not practical."

The Government's Title III application explained Ida and his crew's efforts to deliberately frustrate eavesdropping by periodically changing the location of the meeting and that, because law enforcement was unable to determine in advance the location of meetings where criminal activities would be discussed, Section 2518(11)(a) permitted the interception of communications at the undetermined location. The application was limited to authorization to intercept and record roving oral communications of James Ida and at least one of eight other named confederates (who were observed routinely meeting with Ida). The application requested that the Government be permitted to intercept conversations that took place inside public establishments and on public streets Monday evenings and Tuesday mornings at various locations within the Southern District of New York, within a four-block radius of those public establishments. These meeting site conversations were defined as the "Monday Evening Location," and the Government informed the district court that it would apprise the court of the specific site of the meeting when it was known.

Minimization in accordance with 18 U.S.C. § 2518(5) was also innovative because, in some instances, an undercover agent would use a portable microphone to intercept the criminal subjects' conversations inside the diner. The agent making the interceptions could not minimize conversation without attracting attention to himself or herself. Accordingly, if the conversations were intercepted by way of a portable microphone, the Government sought and obtained approval for the undercover agent to possess both a recording device and a transmitting device, so that FBI agents stationed in the vicinity of the meeting location could minimize conversations they heard and recorded over the transmitting device. After the recording was complete, FBI agents who were not involved in the investigation would use the minimized, transmitted recording to minimize the conversation recorded by the agent inside the location, precisely as the transmitted recording had been minimized.

FBI agents located and attempted to intercept Ida and his crew members' criminal conversations at the Monday evening location on six occasions in January and March 1994, at five different Manhattan restaurants and diners. After determining the meeting site and, in some instances, while some of the criminal subjects were inside the restaurant, microphones were set up to attempt to intercept conversations inside the restaurant and outside on the sidewalk to capture the "walk and talk" conversations. Because of some technical factors and simple bad luck, only a few audible conversations were intercepted.

In conjunction with the roving Title III orders, other standard Title III orders obtained during the course of the investigation included a bug that was successfully installed inside a Genovese soldier's social club in Little Italy and a wiretap on a cellular telephone used by James Ida to, among other things, arrange his Monday evening crew meetings.

In June 1996, 19 members and associates of the Genovese Family were charged in a 60-count indictment with a variety of offenses, including RICO, murder, extortion, labor racketeering, loansharking, gambling, money laundering, obstruction of justice, mail fraud relating

to the Feast of San Gennaro, forfeiture, and tax offenses. In addition to Jimmy Ida, the defendants included the Acting Boss, Acting Underboss, and three soldiers in the Genovese Family. Fifteen of the defendants pled guilty and two defendants, including James Ida, were convicted after an eight-week jury trial. Among other crimes, Ida was convicted of participating in two homicides and a third murder conspiracy. One Genovese associate was acquitted at trial, and trial of the other defendant is scheduled to commence in December. As a result of this case, nearly \$5 million in assets have been forfeited to the Government.

While the roving Title III orders obtained in the investigation did not result in evidence that incriminated James Ida, it is apparent that using 18 U.S.C. § 2518(11)(a) to keep pace with criminal subjects' increasingly careful and sophisticated methods to evade law enforcement scrutiny can be very successful. A roving Title III order permits the Government to anticipate the existence of an important, criminal meeting, and to obtain court approval to intercept criminal conversations at that meeting, without knowing where the meeting will take place. In other words, a "pattern" of inconsistent meeting locations for conducting criminal business establishes probable cause to obtain court approval to intercept criminal conversations, even though probable cause does not exist for a particular location. ❖

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## **Operation "Shattered Shield": Investigative and Trial Techniques Used to Jail "Dirty Cops"**

*Assistant United States Attorney Albert J. Winters, Jr.*

*Senior Litigation Counsel*

*Eastern District of Louisiana*

*(Letters are used for names to protect the identity of the individuals.)*

In December 1993, I was contacted by a New Orleans attorney who said he represented "A," a mid-level drug dealer in the New Orleans area who had no pending state or Federal charges against him. The attorney said "A" wanted to cooperate because he was sick of being "ripped off" by New Orleans Police Officers. I ultimately directed "A" to the Federal Bureau of Investigation (FBI) and, during a debriefing, he stated that he was approached by Police Officer "B" and told that if he didn't pay \$10,000 he would go to jail over the Christmas holidays. The \$10,000 was later bargained down to \$6,000. Almost from its inception, Assistant United States Attorney (AUSA) Michael E. McMahon was brought into the investigation to work with me.

On December 24, 1993, in a consensually recorded conversation, "A" paid New Orleans Police Officer "B" \$3,000 of the \$6,000 he had demanded. Since it was Christmas Eve and the FBI could not get emergency authority to pay the money, the informant used his own \$3,000. He was never repaid. After an 11-month investigation, 11 former New Orleans Police Officers were convicted of drug trafficking offenses, and one of the officers and two other individuals were convicted of a civil rights murder in a related investigation.

In January, "A" paid Officer "B" the additional \$3,000. In a recorded conversation, "B" told "A" that he could protect his drug operation but that "B" would have to bring in his partner, Police Officer "C." On three occasions from January 21 through April 1994, Officers "B" and "C" followed informant "A" and protected his delivery of approximately seven and one-half kilograms

of cocaine to an undercover FBI agent. Each officer was paid \$500 per kilogram of cocaine for the protection.

During this entire time, "A" told both "C" and "B" that he was involved with a large-scale drug dealer from the New York area. On April 21, 1994, to show "B" and "C" that there was such a person, "A" was instructed to deliver a sports bag containing \$100,000 to a drug dealer/undercover agent (UCA) from out of town. After this was accomplished, "B" and "C" were paid \$1,000 each.

On May 4, 1994, "C," "B," "A" (the informant), and a "drug dealer"/UCA from New York called "JJ" had a meeting at a local hotel. The prosecutors and agents decided to develop a way to show that "C" and "B" had guilty knowledge. At the outset of the meeting, which was consensually audio- and videotaped, JJ made everyone strip to show they were not wired. "C" talked about how he did not like to use words like cocaine. At the meeting, it was agreed that "C" and "B" would hire New Orleans Police Officers, armed and in uniform, to protect a location. The undercover agent told "C" and "B" that he would bring large quantities of cocaine to that location for two or three days at a time before it was transported out of the area.

Although "C" and "B" originally agreed to allow the undercover agent to meet the other police officers, the other officers refused to meet him. In June 1994, the first warehouse operation began and it continued every month until November 1994. During this time, "C" hired police officers to sit two at a time usually in 12-hour shifts to protect the warehouse that contained both real and sham cocaine. The prosecutors insisted that real cocaine be used with sham cocaine so that at the trial, the defense could not accuse the Government of concocting everything, including the cocaine.

At the outset, the AUSAs agreed with the FBI that the officers would not be charged, unless they participated in recorded incriminating conversations. This was difficult in the beginning of the investigation because the officers hired to guard the warehouse kept refusing to meet with undercover operatives. In addition, FBI agents were cautioned to look for officers at the warehouse who had guns and to document in reports and videotape them with the guns so they could be charged with carrying a firearm in relation to a narcotics trafficking offense. The officers carrying weapons would be charged with Title 18 U.S.C., Section 924(c) offenses, even though they were authorized to carry guns. The decision was made because, according to the statute, no one is authorized to carry a gun during a drug offense.

Ultimately, 11 police officers, including "C" and "B," became involved in protecting the cocaine at the warehouse. The front for the cocaine business was an automobile supply business called Goodwood Auto. Couriers (other UCAs) came to the warehouse, picked up quantities of cocaine, and took it out of town. The defendants, "C" and "B," followed them on the interstates until they almost reached the state line, and they were paid approximately \$94,300. In turn, "C" and "B" paid the other officers an average of \$35 to \$40 an hour.

In order to develop additional incriminating information, the UCA gave "B" a cellular phone paid for by the Government. "B" was told that the phone was safe to use for illegal business and, from July to September 1994, the phone was wiretapped by the Government. After it became apparent that the real leader of these corrupt cops was "C," he also was given a cellular phone which was wiretapped from September to December 1994. Additionally, court-orders authorized the placement of closed circuit TVs and microphones in the warehouse. The officers guarded the warehouse in their personal vehicles or in New Orleans Police Department marked cars. In August, "C" requested special vans for the officers to avoid wear and tear on their



vehicles or on city vehicles. The first van with microphone intact was provided in September 1994, and the second was provided in October 1994.

It is important to note that without the extensive assistance of the Department's Office of Enforcement Operations' Electronic Surveillance Unit, this investigation may not have been possible. On some occasions, for strategy reasons, the prosecutors needed the authority for these wiretaps within 48 hours. During the entire investigation, we were able to capture incriminating conversations on every police officer that was indicted. Some of the recorded conversations documented such information as the number of "keys" in the warehouse and that if someone was listening to the police officers, they would only be charged with conspiracy because they had not personally seen or been around the drugs when they were delivered.

In October 1994, a local citizen filed a brutality complaint against "C." Within 24 hours, "C" devised a murder plot and had the woman killed. Many of "C's" conversations were intercepted over the wire; however, for a number of reasons, including the coded language used; the fact that the woman's name or location were not mentioned; and the fact that, at the same time, other police officers were talking about killing the dope traffickers/UCAs and stealing the drugs, the murder plot was not detected by the FBI. When we had evidence that a murder had taken place, we decided to continue the wiretap on "C's" cellular phone to try to develop enough information to obtain search warrants to find the murder weapons and to indict "C" and the murderers, "D" and "E." In two and a half weeks, sufficient probable cause was developed to obtain 18 search warrants, resulting in the seizure of, among other things, the murder weapons. During that same time frame, wiretaps indicated that "C" was assisting "D" in locating other drug dealers or their family members that he wanted to kill because they were his rivals in the drug trafficking business. The Government ultimately warned six targeted individuals and moved them to "safe houses" while the investigation continued.

Prior to indicting the police officers, the AUSAs and the agents discussed guarding against the possibility of these officers raising a public authority defense or the defense that they were conducting their own undercover operation. The day before the indictment was returned, we issued a subpoena duces tecum to all of the subjects to come to the grand jury and bring any reports, tapes, memoranda, etc., of investigations involving the undercover operation, and we listed the name of the informant, the undercover agent, the address of the warehouse, and the name of the undercover front company. They had none of these records.

We also issued 72 grand jury subpoenas to people from their office, from their immediate supervisor to the Superintendent of Police, and questioned them concerning the undercover operation. We subpoenaed the New Orleans Police Department property book to determine if any bribe money the subjects were paid was recorded. Subpoenas duces tecums were issued for the officers' captains for reports written by the corrupt officers for the two years prior to the start of the investigation, and for the Police Department's internal rules and regulations concerning undercover operations, including the necessary written authority. Finally, we asked the police chief to bring his records of all of the undercover operations he approved that were being conducted by New Orleans Police Officers. At the trial, "C's" only defense was that he was conducting his own undercover operation. The steps taken prior to the return of the indictment helped to defeat this defense.

At the time this investigation became overt, the AUSAs and agents decided to detain as many officers as they could. Six of the officers and the two murderers were detained; the other five officers went to a halfway house under 24-hour confinement with monitored telephone calls

and visitors. At the conclusion of the detention hearings, the two AUSAs began preparing this case for trial and trying to get people to cooperate.

In New Orleans, it is highly unusual for police officers to cooperate against each other. The AUSAs and agents were fortunate to get “B” to plead guilty as charged and to cooperate and testify at two trials. Two other police officers also cooperated. During trial preparation, we created a database and computerized the case.

Preparing for trial, the AUSAs hired a New Orleans company, Litigation Reprographics, to play the recorded conversations at trial. Company representatives reduced the taped conversations to a computer wave which they played during the trials. They also reduced the tape recorded conversations to five compact discs, including separate discs with highlighted words and phrases for cross-examination. The quality of the recorded conversations improved 40 to 50 percent and five banker boxes of tapes were reduced to the computer wave and five compact discs. This company also played the videotapes at trial and set up two large TV screens on each side of the jury box; one large TV screen for the witness, and three smaller TVs—one for the judge, one for the defense, and one for the prosecutors.

For trial, we enlarged quotes from the tapes, mounted them on exhibit boards, and used trial books for the jury. However, for the video tapes, we did not use transcripts because we did not want the jury to be distracted. The audio part of one of the videos was impossible to hear due to a malfunction in the machinery, so we used a backup NAGRA recording. Since the video and this audio tape did not run at the same speed, they were not always in sync, but the company we hired synchronized the tapes. To facilitate introducing the tapes, an agent was assigned to listen to all the tapes on one known defendant and to be present when he was arrested. (That agent listened to the defendant talk during the “book-in” procedure so that he/she could identify the defendant’s voice.) Voice identification was extremely important because the conversations recorded in vehicles were garbled due to background noise, music, television, etc.

Ten former police officers pled guilty to drug-related charges. “C” and “D” were tried on the civil rights murder and were the first two people convicted under that statute to receive the death penalty. “E” received life in prison. “C” then went to trial on narcotics conspiracy, was convicted of drug trafficking and related weapons offenses, and received life plus five years in prison for those charges. ❖

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## **The Story of “Operation Zorro II” and Some Practical Suggestions**

*Assistant United States Attorney Samantha Phillips  
Central District of California*

*(Letters are used for names to protect the identity of the individuals.)*

Operation Zorro II, an investigation that resulted in the seizure of thousands of kilograms of cocaine, the arrests of scores of defendants, and hundreds of wiretaps, began with a simple

controlled delivery.\* In September 1995, a confidential informant (CI) who was working with a Colombian cocaine cartel, made contact with a supplier in the Los Angeles (LA) area who wanted the informant to transport 200 kilograms of cocaine to New York. The informant did not know the supplier's name but did know his pager number. New York Police Department Detective Jerry Speziale, who was working with the informant, paged the supplier and received a return call at an undercover telephone number. During the monitored call, the informant and the unidentified supplier discussed when the informant would travel to LA to pick up the 200-kilogram shipment of cocaine.

After agreeing to pick up the cocaine, Detective Speziale and the informant flew to LA. At Los Angeles International Airport, they paged the unidentified supplier to a pay telephone at the airport. They received a return call and agreed to a location where the cocaine transaction would take place. The cocaine was to be left in a green Mazda pickup truck to be picked up that day.

The same day, Drug Enforcement Administration (DEA) agents went to the location and found the truck containing the cocaine. This was not the last time they would seize large amounts of cocaine from this truck. Detective Speziale and the informant then transported the cocaine to New York to customers of the CI's organization. The cocaine was later seized from the organization's New York customers.

Based on dial digit searches, LA HIDTA obtained the telephone number of the cellular telephone used by the source to contact the informant all three times regarding the 200-kilogram shipment of cocaine.\*\* The telephone was a Florida cellular telephone roaming in LA. On September 22, 1995, only a few days after the 200-kilogram shipment of cocaine was seized, LA HIDTA DEA received authorization to intercept the pager and the Florida cellular telephone given to the informant by the unidentified supplier.\*\*\*

## Colombian Cell—Los Angeles

As a result of this interception, the investigating agents determined that a Colombian called "A" was distributing cocaine in the LA area. The agents learned later that "A" was sent to LA from Cali, Colombia, to oversee the acquisition and distribution of cocaine in LA and throughout the United States on behalf of the Colombian cocaine cell.† "A" and his organization placed large amounts of cocaine in the possession of a Mexican transshipment organization and, for payment in both money and cocaine, the Mexican organization transported the cocaine from

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\* Los Angeles High-Intensity Drug Trafficking Area (HIDTA) conducted an investigation of Colombian cocaine traffickers in 1994. The lead target's alias was "Zorro." Due to similarities in the modus operandi, this investigation was entitled "Operation Zorro II."

\*\* A dial digit search is a search by telephone companies for all telephones calling a particular telephone at a certain time.

\*\*\* The Florida cellular telephone was intercepted in Los Angeles. *United States v. Rodriguez*, 968 F.2d 130 (2d Cir.), cert. denied, 113 S. Ct. 140 (1992), holds that a telephone may be intercepted where it is being used or where the wire communications are being monitored.

† A "cell" is an insulated group hired by drug traffickers to perform specific tasks in connection with the drug trafficking conspiracy. Each person within a cell has limited knowledge of the roles, whereabouts, and true identity of other co-conspirators, which is an attempt to protect the organization from infiltration by law enforcement.

Mexico to LA. Once the cocaine arrived in LA, the Mexican organization transferred the cocaine (less their payment) back to the Colombian organization cell in LA.

## **Spin-Offs to Other Colombian Organizations**

Based upon intercepted conversations, agents were able to alert other jurisdictions as to the organization's narcotics trafficking activities in their districts. During the first 30 days of the wire, the agents intercepted numerous narcotics-related telephone conversations between "A" and traffickers in other districts, including Seattle, New Jersey, and Miami. It appeared that "A" was sending cocaine to these traffickers. "A" gave instructions to subordinates in Miami regarding the shipment of cocaine from Miami to New York and the transport of narcotics proceeds from New York to Miami. As a result of these narcotics-related conversations, United States Attorneys' offices in Seattle, Miami, and New Jersey sought and received authorization to intercept cellular telephones and pagers in those districts. At the same time, the agents began to understand the reach, structure, and patterns of "A's" cocaine trafficking organization.

## **Spin-Offs to Other Colombian Telephones in Los Angeles**

Using information developed in LA and other participating jurisdictions, the investigating agents also developed probable cause to intercept additional pagers and telephones used by "A's" organization in the LA area, including his residential telephone and a cellular telephone that was eventually used by "B." Meanwhile, Miami HIDTA intercepted telephone conversations during which the targets of the investigation in Miami discussed the fact that "A" would soon be replaced by an individual referred to as "B."

This turn of events forced LA HIDTA agents and agents from other districts to make a tactical decision about whether to arrest "A." They decided not to based on the following factors: (1) "A" had been intercepted on each district's wires so the existence of the wiretaps would become known soon if "A" was indicted; (2) based on the intercepted telephone calls, the multi-jurisdictional nature of "A's" organization, and the amount of cocaine seized in the controlled delivery, the agents believed that it would be possible to seize much larger amounts of cocaine and narcotics proceeds; and (3) it seemed likely that further investigation would result in the arrest of the organization's supervisors and leaders, and the dismantling of this powerful Colombian cocaine organization. Consequently, "A" was allowed to return to Colombia, and "B" took over the LA operation.

## **Identification of Mexican Transshipment Organization**

"B" arrived in LA about October 12, 1995. On October 17, 1995, while "A" was still in LA, he called an individual identified by the code number "017" (later identified as "C") regarding the transfer of 118 kilograms of cocaine. "B" also spoke to "C." Using unusually straightforward language, "A," "B," and "C" set up a meeting at a McDonald's restaurant in Bellflower, California, the following day. "C" gave directions to McDonald's to "B" and "A" and even told them the color and model of cars that would be used, making surveillance of the transaction very easy. Like clockwork, a Colombian worker later identified as "D" arrived at the McDonald's, parked his pickup truck in the parking lot, left the keys inside the truck, and entered McDonald's.

Meanwhile, “B” watched from a location adjacent to the McDonald’s. A member of the organization supplying the cocaine then entered the pickup truck and drove it to a nearby stash house. The truck was loaded with cocaine and returned to “D” at McDonald’s.

“D” left the McDonald’s and eluded surveillance agents who tried to stop him. However, the value of the information obtained about the transshipment organization outweighed the significance of the cocaine loss. Not only did the agents identify the telephone number used by the organization that supplied the cocaine but they also identified the organization’s stash location. Furthermore, some of the individuals that the wire room personnel had listened to for nearly a month were identified visually, making future surveillance easier and more productive. Finally, “D’s” telephone and pager numbers were identified. Based on this wealth of information, agents sought and received authorization to intercept “C’s” telephone and “D’s” telephone and pager. As it happened, the interception of “C’s” telephone led to the seizure of over 2½ tons of cocaine in LA, and the involvement of 15 other districts in Operation Zorro II.

## **Identification of the Mexican Organization and Cocaine Seizures**

The conversations intercepted on “C’s” cellular telephone revealed that “C” was the leader of a Mexican cocaine transshipment organization based in LA. “C” used his cellular telephone and several other cellular telephones that were ultimately intercepted, to supervise the receipt and distribution of several tons of cocaine. As he had done in speaking with “A” and “B,” “C” discussed in considerable detail the dates, times, locations, cars to be used, and amounts of cocaine involved in his cocaine shipments. As a result, surveillance teams seized over two tons of cocaine in a four-day period in November 1995, including 500 kilograms of cocaine from the organization’s stash house.

Even after these seizures, the agents were not ready to end the investigation because all of their goals had not yet been achieved. Importantly, many of the target subjects, including “C,” had not yet been identified. Moreover, based on wire interceptions, it was clear that cocaine was being sent to even more cities, including San Diego, Chicago, and cities in Texas. Finally, if arrests were made in LA, ongoing investigations in other districts would be compromised.

Keeping these and other considerations in mind and striving to keep the nationwide investigation going, LA HIDTA employed a procedure known as “walling off” to seize the cocaine in LA and to arrest the defendants involved in the cocaine transactions without compromising the nationwide investigations. When agents in the wire room obtained information from the wiretap regarding a cocaine transaction, they contacted a supervisor of a local law enforcement agency. Then the wire room agents provided the supervisor with enough information for them to establish surveillance at a location or on a particular vehicle without divulging the wiretap. The wire room agents were careful to give local teams information about locations and vehicles that were not directly related to the “C” organization so that if a seizure was made or defendants arrested, “C” would believe that law enforcement had detected the customer rather than a member of his organization. Using information gained from surveillance, the local team would obtain search warrants or conduct vehicle stops and, upon making a seizure, arrest the individuals involved. Using this technique, the Los Angeles County District Attorney’s Office prosecuted over 25 defendants in connection with Operation Zorro II without revealing the existence of the wiretap. Apparently, “C” never suspected that his organization’s conversations

were being intercepted or that it was under surveillance and, as a result, he and his associates continued to use cellular telephones and pagers to discuss the distribution of cocaine.

“C,” an experienced narcotics trafficker, created problems for law enforcement by regularly changing out his cellular telephones, making the continued interception on a given line impossible. Fortunately, “C’s” workers did not change their cellular telephones with any regularity. Whenever “C” obtained a new cellular telephone, he would call his workers on their cellular telephones. Then the investigating agents performed a dial digit search<sup>††</sup> for all cellular telephones, dialing each worker’s telephone at a particular time in order to generate a record of the call.<sup>†††</sup> The agents then obtained the telephone number of “C’s” latest cellular telephone.<sup>‡</sup> In this fashion, the investigating agents obtained authorization to intercept nearly all of “C’s” telephones even though “C” discarded his cellular telephone every week to ten days.

## **Spin-Offs to Other Mexican Cocaine Organizations**

Information gathered from the interception of “C’s” telephones led other districts to initiate investigations. Using a trap and trace device, agents in San Diego were able to identify the telephones used by couriers bringing cocaine over the border into San Diego. In addition, the Northern District of Illinois began a successful wiretap investigation of “C’s” customers located in Chicago, which resulted in the seizure of hundreds of kilograms of cocaine and the arrest and prosecution of over 50 defendants. As a result of Chicago’s investigation, agents in Detroit and McAllen, Texas, initiated wiretap investigations. The Chicago investigation also provided LA agents with probable cause to intercept the conversations of two other Mexican cocaine trafficking organizations in the LA area. Spin-off wiretaps outside LA led to investigations in Philadelphia; Richmond, Virginia; and Raleigh, North Carolina.

## **Arrests of Colombian Targets**

The coordination of this nationwide investigation became more difficult as time went on. Different districts were at different stages in their investigations. Because Miami DEA was fearful that their targets were preparing to leave the United States, they arrested their targets in late January/early February 1996. Following these arrests, other districts prepared to arrest their targets before Miami had to disclose to defense counsel the wiretap affidavits that referred to the investigations in other districts. This was a blessing in disguise for LA HIDTA because “C” had

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<sup>††</sup>A dial digit search is a search by telephone companies for all telephones calling a particular telephone at a certain time.

<sup>†††</sup>The agents could have used a trap and trace device to obtain the telephone number of the telephones calling the workers’ telephones but trap and trace information is expensive to obtain and the information generally is not retained by the telephone companies for any length of time.

<sup>‡</sup>The agents determined that every cellular telephone that was used by “C’s” organization was obtained from an Airtouch re-seller called A-Tel, Inc. A-Tel, Inc., also provided “C’s” organization with pagers, money counters, scramblers, and walkie-talkies. Because these items were used exclusively to facilitate the distribution of cocaine, the fact that a cellular telephone was leased by A-Tel, Inc., became an important element of probable cause in many of the wiretap applications.

begun to use “Level II”<sup>‡‡</sup> scramblers on his telephones, which severely limited the effectiveness of the wiretap. The only problem was that LA HIDTA had not yet seized any cocaine from “B’s” organization. That issue, however, was soon resolved.

In mid-February 1996, “B” once again received a large shipment of cocaine from “C.” Because the targets had begun to use pay telephones and other telephones that were not being intercepted, the agents were unable to conduct surveillance of the transfer of the cocaine from “C” to “B’s” organization. However, after this February 1996 transaction, a “B” worker entered the number “240” in “B’s” intercepted pager. The agents determined that “240” was a code signal for the amount of cocaine that had been received from “C” and counted by that worker. Based on past experience, the agents knew that the Colombians would distribute the cocaine, so it was simply a matter of waiting, listening, and watching.

On February 20, 1997, “B” and a Dominican later identified as “E” were intercepted discussing the fact that “E” arrived in LA to obtain 240 kilograms of cocaine the following day. The next day, “E” paged “B” to the telephone number of a Ramada Hotel near the Los Angeles International Airport and later to a pay telephone in the parking lot of a Target store in Bellflower, California. Surveillance teams were stationed at both locations. While en route to the Target store, surveillance team members observed the same pickup truck used in the 200-kilogram controlled delivery in September 1995. They also saw a grey Ford Taurus following the pickup truck. The two vehicles traveled to the Ramada Hotel, parked in the garage, moved five boxes from the pickup to the Taurus, drove tandem to another hotel in Hollywood, parked, and entered a room. In an intercepted telephone conversation between “E” and “B,” “E” confirmed that he received the cocaine and told “B” that he would soon return the pickup truck. At the hotel in Hollywood, “E” and another defendant were arrested and the 240 kilograms of cocaine packaged in the five boxes were seized from the Taurus. Shortly thereafter, “B” and four of his associates, including “D,” were arrested.

## **Arrests of “C” and His Associates**

Once “B” and his associates were in custody, LA HIDTA made plans to arrest “C” and his associates. Two days later, “C” and an unidentified customer discussed in detail the delivery of 133 kilograms of cocaine, once again, at a McDonald’s restaurant. At the appointed time, an individual drove a pickup truck loaded with 133 kilograms of cocaine into the parking lot of the McDonald’s, left the keys in the car, and entered McDonald’s. A second individual entered the pickup truck and drove it away. The second driver and two associates were arrested shortly thereafter and the cocaine was seized. Meanwhile, the whereabouts of “C” and his brother, “F,” were unknown.

After “C’s” associates were arrested, he made many telephone calls on a cellular telephone that was being intercepted, attempting to locate them. Based on a prior telephone conversation, the agents thought “C” lived in Fontana or Rialto, California. Accordingly, agents went to those areas and located “C” by tracking signals from the cellular telephone he was using. Ultimately, “C” and “F” were arrested in a trailer in Fontana, California.

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<sup>‡‡</sup>Scrambling devices are designated by levels. Practically speaking, a telephone call made using a Level II scrambler is unlikely to be decoded by Federal law enforcement agencies.

## Prosecution in Los Angeles

Twelve defendants were indicted in the Central District of California: seven in *United States v. "B" et al.* and five in *United States v. "C" et al.* Two of the twelve defendants were tried separately and both were convicted. The 12 defendants received sentences ranging from 99 months to 265 months.<sup>†††</sup>

## Other Prosecutions

Although most of the districts involved ended their investigations in February 1996, Chicago continued its investigation until May 1996. LA HIDTA continued to investigate the two organizations identified by Chicago DEA until April 1996. In addition, LA HIDTA identified and investigated two more Mexican cocaine organizations. One led to a wiretap investigation in Denver, Colorado, and the other resulted in the seizure of nearly 500 kilograms of cocaine in LA. The wire interception in LA did not terminate until August 1996, and Miami HIDTA's investigation of narcotics trafficking groups related to Operation Zorro II still continues.

During the course of the nationwide investigation, Operation Zorro II, a total of 5,590 kilograms of powder cocaine, 730 grams of crack cocaine, and nearly \$20 million in drug proceeds and assets were seized, and an unprecedented number of wiretaps were conducted.

## Practical Suggestions

In one of the trials in LA, the main issue was voice identification, which can be very difficult to prove when agents or informants have never seen or talked with the speaker. There are various ways to prove the identity of a speaker under these circumstances. The first and probably most effective way is to have an agent who was present during the interception of the conversations and has heard the defendant's voice, testify that it is the same voice. In order to do this, the agent should be present when the defendant is arrested and when the booking information is obtained from the defendant. The booking process should be taped as well. If an agent is not available, contract a wiretap monitor to be present during the booking interview.

You can also show that a defendant is the speaker on a wiretap through circumstantial evidence; e.g., if you find an intercepted telephone on or near the defendant at the time of his arrest or if the observations of the surveillance agents match statements made on the wiretap. The following are six more suggestions for investigating and prosecuting wiretap cases:

- Make sure to have the necessary support. A wiretap is of limited use without surveillance teams that are ready 24 hours a day.
- In multi-district cases, constantly communicate with the other districts in an effort to make unified decisions so that all districts can conduct successful investigations and prosecutions. Take advantage of DOJ's Narcotics and Dangerous Drug Section's resources to coordinate and communicate with other districts.

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<sup>†††</sup>"C" has not yet been sentenced.



- Use local law enforcement agencies and district attorneys' offices that are familiar with the "walling off" procedure and who will do everything necessary to ensure the integrity and confidentiality of the wiretap.
  - When making strategic decisions, keep the Government's discovery obligations in mind; i.e., be willing to dismiss a subordinate worker if not doing so would lead to disclosure of the wiretap or limit the Government's ability to infiltrate an organization.
  - Keep in mind all investigative tools that are available; e.g., pen registers, trap and trace devices, electronic tracking devices, wiretaps, controlled deliveries, and dial digit searches.
  - When investigating members of an organization who change cellular telephones with some frequency, it is important to intercept multiple lines (e.g., the telephones of workers) to obtain new cellular telephones, even though this requires additional work. If your targets are changing telephones regularly, consider a "roving" wiretap. ❖
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## Was Cellular Telephone Cloning a Crime Before October 1994?

*Assistant United States Attorney Carlos Singh  
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Was cellular telephone cloning a crime before October 1994? Clinton Watson raised this question in his appeal before the Ninth Circuit Court of Appeals, which heard argument on May 9, 1997. Watson was indicted in September 1994 for violations of Title 18 U.S.C. § 1029, which prohibits fraud in connection with access devices. He was convicted of cellular telephone fraud in September 1995. On appeal, Watson claimed that his conduct did not constitute a Federal crime because it predated the October 25, 1994, amendments to the statute.

Prior to the October 25, 1994, amendments, Section 1029 defined an "access device" as:

“. . . any card, plate, code, account number, or other means of account access that can be used alone or in conjunction with another access device to obtain money, goods, services, or any other thing of value, or that can be used to initiate a transfer of funds . . .”

Initially enacted to combat credit card fraud but intended to be broad enough to encompass technological advances and to deal with abuse of new technologies, Section 1029 criminalized using, producing, or trafficking in "counterfeit access devices," defined as fictitious, forged, or altered devices. It also criminalized possession of 15 or more "unauthorized access devices," defined as devices that are lost, stolen, expired, or obtained with intent to defraud.

Additionally, the statute criminalized custody and control of “access device-making equipment,” defined as any equipment, mechanism, or impression designed or used primarily for making access or counterfeit access devices.

In October 1994, Congress amended Section 1029, adding provisions that prohibited the use, production, trafficking, custody and control, or possession of telecommunications instruments. The amendments broadened the definition of an “access device” to include telecommunications service, equipment, or instrument identifiers.

Citing sparse legislative history, Watson argued that the October 25, 1994, amendments now specifically criminalize for the first time the fraudulent alteration of cellular telephones. Watson concluded, therefore, that it was not until October 1994 that his “alleged conduct, telephone cloning, was made criminal.” Thus, Watson, who is currently in custody, claimed he “committed no crime” and his convictions should be reversed.

## **The Watson Investigation**

In late 1992, the cellular telephone industry began experiencing heavy losses due to fraud. The Cellular Telephone Industry Association (CTIA) and the United States Secret Service, which has investigative jurisdiction over Section 1029, heard that a new cellular telephone cloning program had been developed, which the CTIA believed was causing millions of dollars of losses each month as a result of fraud. As part of an investigation in South Carolina, the Secret Service seized a cellular telephone that contained the new programming technology. Agents learned that the cellular telephone was programmed to allow for fraudulent calls to be made for the lifetime of the phone. Thus, this type of phone was dubbed the “Lifetime Phone.”

The “Lifetime Phone” perfected cellular telephone cloning in that it took the randomness out of “tumbling” and “roaming” forms of cellular telephone cloning; these forms of cloning were based, in effect, on trial and error.

However, at the time law enforcement officials obtained the first “Lifetime Phone,” they and industry investigators knew only that a person in California developed the new technology, but did not know the identity of the person. Through hard work (and with a little luck), investigators at Cellular One and GTE MobilNet in Northern California were able to develop information indicating that Watson of San Jose, California, may have something to do with cellular cloning. Industry investigators were able to obtain another “Lifetime Phone” and eventually traced dozens of fraudulent cellular telephone calls to Watson’s home.

In February 1994, industry investigators referred their investigation to the San Francisco Secret Service Station. After further investigation, including trash searches, the Secret Service obtained a warrant to search Watson’s home. On April 22, 1994, Secret Service agents executed that warrant and discovered a “cellular telephone factory” at Watson’s home. As they entered his home, Watson was in his computer room with another person, apparently in the process of altering a cellular telephone.

It took a full day to catalog and transport the evidence seized at Watson’s home, some of which included computers containing the software program to alter the memory of a cellular telephone, Erasable Programmable Read Only Memory (EPROM) chips, chip burners, chip erasers, a Curtis Electronic Serial Number (ESN) scanner, and records indicating over 1,000 sales of cloned cellular telephones and reprogrammed chips, and approximately 600 intercepted cellular telephone numbers.

In September 1994, a grand jury for the Northern District of California indicted Watson for three violations of 18 U.S.C. § 1029:

Count One charged possession of 15 or more devices which are counterfeit or unauthorized access devices in violation of Section 1029(a)(3);

Count Two charged producing, using, and trafficking in one or more counterfeit access devices in violation of Section 1029(a)(1); and,

Count Three charged producing, using, trafficking in, and having control and custody of and possessing access device-making equipment in violation of Section 1029(a)(4).

In September 1995, after a two-week trial in which we proved that Watson was the inventor of the “Lifetime Phone” cloning program, he was convicted by a jury of all cellular telephone fraud charges. On May 22, 1996, Watson was sentenced to 60 months incarceration.

## **How the “Lifetime Phone” Cloning Program Works**

Before explaining how cloning works, it is important to explain how a cellular telephone operates and how a person obtains service. When a person purchases a cellular telephone, a telephone number is assigned; that number is called a Mobile Identification Number (MIN). The cellular telephone contains an internal number, an ESN, which is similar to a car Vehicle Identification Number (VIN). Federal Communications Commission regulations mandate that each cellular telephone have a separate ESN. The altering of the ESN is a violation of law; thus, two persons cannot have the same ESN-MIN combination.

The combination of the MIN and ESN forms an account number that is programmed by the cellular telephone dealer into a memory chip in the phone when a person obtains cellular telephone service. The chip is called an EPROM chip. The account number is an access device, and use of a stolen account number or of an account number without permission of the legitimate subscriber, is unauthorized. The account number also is used by the cellular carrier to bill the legitimate cellular telephone subscriber.

When the customer wishes to make a cellular call, he/she simply presses the desired number on the cellular telephone. The desired number and the MIN-ESN are transmitted through the airwaves to the carrier’s cell site and computer. The carrier’s computer verifies that the MIN-ESN combination is legitimate or assigned to a customer, and then the call goes to the desired number.

## **“Lifetime Phone” and Cloning**

As indicated above, there are other methods to commit cellular telephone fraud. “Lifetime Phone” cloning occurs when a person or programmer, like Watson, removes the EPROM chip from within the internal mechanism of the cell phone. By inserting the chip into a chip eraser, the programmer erases the memory and ESN from the chip. Once the chip’s memory has been erased, the person inserts the chip into a chip programmer. The chip programmer is connected to a computer. By accessing a program file on the computer—Watson called his program

“EPROM”—the chip is reprogrammed to accept a variety of MIN-ESN combinations or account numbers. The chip altering process usually takes no more than a half-hour, and then the altered chip is reinserted into the cellular telephone.

Through the use of a device, such as a Curtis ESN reader,\* which scans the airwaves intercepting numbers, the programmer takes the stolen MIN-ESN combination and programs it into the altered phone.

Watson programmed the intercepted number into the altered phone by inserting a series of codes on the phone’s key pad to accept the intercepted MIN-ESN combination. The altered phone then could be used to make “free” calls which would be billed to unknown legitimate subscribers.

As the trial jury found, altered cellular telephones are counterfeit access devices, intercepted MIN-ESN account numbers are unauthorized access devices, and equipment used to make altered cellular telephones is access device-making equipment.

The “Lifetime Phone” was a significant advancement in cellular telephone cloning. Before its existence, a person using an altered phone had to go back to the programmer to have the chip reprogrammed and/or to have a new stolen MIN-ESN put in it once the cellular carrier shut off the number because of customer complaints of fraud.

With the “Lifetime Phone,” however, the EPROM chip was reprogrammed in a manner that permitted the illegal user to input a different stolen MIN-ESN into the cloned phone once the previous stolen MIN-ESN was shut off by the cellular carrier. At that point, the phone’s illegal user only had to insert a series of codes, designated by Watson, into the key pad and input a new stolen MIN-ESN obtained through the use of an ESN scanner. Then the illegal user could immediately continue making fraudulent calls without having to return to his supplier to have the phone reprogrammed.

The cloning technology now has advanced even further. For the past year or so, the Secret Service has encountered a device about the size of a calculator known as the “black box.” The device attaches to the back of a cellular telephone and, over the period of a few minutes, as in the case of “Lifetime Phone” programming, the black box alters the EPROM chip for the eventual use of making fraudulent calls.

## **How Do Legitimate Subscribers Know Their Cellular Telephones Have Been Cloned?**

Generally, there are three ways to ascertain whether your cellular phone has been cloned; i.e., whether your account number has been stolen and is being used illegitimately. The first common sense approach is to examine your cellular telephone bill closely to determine whether you are being billed for calls you didn’t make. Each cellular carrier has its own process of determining whether it will credit your account for calls you didn’t make, and carriers can track call usage patterns. For example, the carrier’s computers track usage patterns on a phone and, if the computer detects strange patterns, you may be contacted to see if you have used your cellular telephone at unusual times. If you haven’t, this may be an indication that your account number or MIN-ESN combination has been intercepted, causing the carrier to assign a new number.

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\* Possession of an ESN scanner is illegal. See 18 U.S.C. § 1029(8)(A).

Another way to determine if your cellular telephone number (MIN-ESN combination) has been intercepted is to check to see if, when you make a call, the call doesn't go through or you cannot access the carrier's system. A legitimate explanation for this might be that the carrier's system was overloaded.

A third obvious indication that your cellular telephone number has been intercepted is if you receive numerous calls asking for unfamiliar people. Aside from possible wrong numbers, it could be that the call was intended for the illegitimate user who gave the caller your number.

It is recommended that consumers contact their cellular carrier to learn about other fraud that occurs on cellular telephones.

## **Arguments on Appeal**

On appeal, Watson acknowledged that in *United States v. Bailey*, 41 F.3d 413 (9th Cir. 1994) the court interpreted the preamendment terms "account" and "other means of account access" as "access devices" within the pre-1994 statute. In *Bailey*, a case that arose out of the Central District of California, a jury found the defendant guilty of cellular telephone "tumbling" fraud in violation of Section 1029(a)(1), one of the violations charged against Watson. In November 1992, the district judge granted a Rule 29 motion for judgment of acquittal and the Government appealed. On October 20, 1994, about a month before Congress amended Section 1029, the Court of Appeals vacated the judgment of the district judge and remanded with instructions to reinstate the verdict.

Watson argued in this opening brief that the district court in *Bailey* and Tenth Circuit Court of Appeals in *United States v. Brady*, 13 F.3d 334 (10th Cir. 1993), found that telephone cloning did not violate former Section 1029. Watson noted that the Eleventh Circuit in *United States v. Morris*, 81 F.3d 131 (11th Cir. 1996), recently overturned a 1994 cellular telephone fraud conviction, indicating that Morris' conduct did not violate the pre-1994 statute.

In our brief, the Government argued that *Bailey* foreclosed Watson's argument. We relied on *United States v. Brewer*, 835 F.2d 550 (5th Cir. 1987), which upheld Brewer's conviction for cellular telephone "roaming" fraud in violation of Section 1029(a)(1); distinguished *Morris*; and also relied on *United States v. Ashe*, 47 F.3d (770 6th Cir.), *cert. denied*, 116 S. Ct. 166 (1995), *United States v. Clayton*, 108 F.3d 1114 (9th Cir. 1997), and other cases which held that cellular telephone tumbling violates Section 1029.

In the meantime, after filing the briefs in the *Watson* case and before oral argument, the defendant in *United States v. Bailey*, *supra*, appealed the reinstatement of the jury's verdict, claiming that his conduct was not a violation of the pre-October 1994 statute. That case was scheduled for oral argument on May 6, 1997; however, a few days before the scheduled argument, the Court of Appeals issued an order stating that the case would be submitted without oral argument.

Four days later, on May 9, 1997, a different Ninth Circuit panel heard argument in the *Watson* case. Watson relied on legislative history and the October 1994 amendments, claiming that his conduct did not violate the law. The Government relied on the plain language of the pre-October 1994 statute because the definition of access devices was broad enough to encompass Watson's criminal activities and a variety of cases interpreting the pre-amended statute upholding cellular telephone fraud convictions. We pointed out that the legislative history supporting the pre-amended statute stated that that statute was intended to be broad enough to encompass

technological advances and to deal with abuse of new technologies. We argued that reading the legislative history, as advocated by Watson, thwarted the purpose and intent of Congress when it enacted the broadly defined, pre-amended statute.

The panel took the case under consideration and stated it would issue a decision after the panel in the second *Bailey* appeal issued its decision.

In the second *Bailey* appeal, the defendant made the same argument as Watson. On June 11, 1997, the Ninth Circuit Court of Appeals rejected Bailey's second appeal. 116 F.3d 486 (9th Cir. 1997).

On July 7, 1997, following the decision in *Bailey* where the court held that modifying a cellular telephone to fraudulently gain access to cellular telephone service violated the pre-dated October version of Section 1029, the Ninth Circuit Court of Appeals issued a decision, rejecting all of Watson's claims. *United States v. Watson*, 118 F.3d 1315 (9th Cir. 1997). The court noted that it was "clear that Watson was not a good faith actor laboring under the misapprehension that his cellular phone cloning activities were legitimate." *Id.* at 1318.

Watson requested time to consider seeking rehearing en banc.

## **Use of "Lifetime Phone" Technology for Other Devices**

During the *Watson* trial, the defense claimed that Watson developed the technology for an interception device called a "Cellmate." Watson claimed the device was intended to be used only for law enforcement purposes. Coincidentally—and typical of cases in the Northern District of California, which includes Silicon Valley—the U.S. Customs Service was investigating individuals involved in the manufacture and distribution of surreptitious interception devices, such as the Cellmate, in violation of 18 U.S.C. § 2512.

Section 2512 makes it a Federal offense to manufacture, assemble, possess, sell, and send or carry in interstate commerce any electronic, mechanical, or other device, knowing or having reason to suspect that the design of the device renders it useful primarily for the purpose of surreptitious interception of oral, wire, and electronic communications. The statute contains two exceptions: if such person is either under contract with a wire or electronic communications domestic provider or under contract with the United States Government or a political subdivision of the Government, no violation occurs.

The "Cellmate" device is generally composed of a cloned or modified cellular telephone, a decoder, and a tape recorder. A San Jose grand jury has charged several individuals in five indictments, alleging that the "Cellmate" and a more advanced companion device, "Compu-cellmate," can secretly intercept and record cellular calls without the permission of the caller. There are other similar interception devices, such as a faxmate and pagemate, which can surreptitiously intercept fax transmissions and pages.

The trial of a defendant charged in March 1997 with conspiracy and sending and selling Cellmates in violation of 18 U.S.C. §§ 371 and 2512, respectively, began on October 20, 1997. As trial evidence has indicated, the "Cellmate" can be a dangerous device because it can secretly invade a person's private conversations; it is dangerous to business and industry because it can be used for industrial espionage; and it is dangerous to law enforcement because, among other instances, it can compromise the safety of undercover agents conducting criminal investigations. This trial is expected to conclude by the first week in November.

Hopefully the decisions in *Bailey* and *Watson* will help in defending cases in courts of appeals where defendants were convicted of cellular telephone fraud based upon the pre-amended version of Section 1029. However, in view of the Eleventh Circuit Court of Appeals decision in *United States v. Morris*, 81 F.3d 131 (11th Cir. 1996), there is now a conflict among the circuits and, if *Watson* seeks further review, perhaps these issues will be before the Supreme Court. ❖

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## Supervising and Litigating a Foreign Language Electronic Surveillance Interception

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Commencing in 1991, the Organized Crime Strike Force for the Northern District of California and the Federal Bureau of Investigation (FBI) targeted the operations of major Asian organized crime groups including the San Francisco and Portland, Oregon-based Hop Sing Tong; the Boston On Leong Tong; and the Hong Kong-based Wo Hop To Triad. To date, 27 individuals, including Raymond Chow (the head of the San Francisco Hop Sing Tong), Au Shek Kan (the head of the Portland Hop Sing Tong), and Wayne Kwong (the head of the Boston On Leong Tong) have been convicted and sentenced to incarceration of up to 24 years. (*United States v. Raymond Chow*, Cr. 92-0260-DLJ.)

Commencing in 1995, the Strike Force, in conjunction with the United States Customs Service and the Bureau of Alcohol, Tobacco and Firearms, investigated the smuggling of automatic weapons from the Peoples Republic of China (PRC) into the United States. In the Spring of 1996, 2,000 fully automatic AK-47s were seized by the United States (the largest such seizure in American history), followed by the indictment of 15 American-based and PRC-based individuals and corporations. (*United States v. Hammond Ku*, Cr. 96-0155-CAL.)

In both instances, the success of the criminal investigations was due, in large part, to extensive Chinese (Cantonese dialect) electronic surveillance operations undertaken pursuant to Title III of the Omnibus Crime Control and Safe Streets Act of 1968, 18 U.S.C. §§ 2510-2522 (1994).<sup>\*</sup> Indeed, in the *Chow* case, a five-month wiretap resulted in the interception of more than 10,000 conversations, while the seven-month *Ku* wire intercepted more than 2,000 pertinent telephone conversations and facsimile transmissions. Both wiretaps achieved results unobtainable through traditional investigative techniques.<sup>\*\*</sup>

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<sup>\*</sup>AUSA Elizabeth Lee of the Strike Force has supervised a number of Vietnamese language Title IIIs, which resulted in the successful prosecution of major Vietnamese criminal organizations in both San Francisco and San Jose, California. See *United States v. Murillo*, Cr. 93-20131-JW, and *United States v. Luong*, Cr. 96-0094-MHP. In addition, AUSA Stephen Jigger has supervised an Assyrian dialect Title III in which extensive post-minimization procedures were employed.

<sup>\*\*</sup>While both wires benefited from the hard work and devotion of innumerable agents in the case of the *Chow* wire, special recognition must be given to FBI Special Agents Anthony Lau, Kingman Wong, and Cynthia Booth. In the case of the *Ku* wire, United States Customs Special Agents Matt King, Kathleen Wright, and Gary Hipple; and Bureau of Alcohol, Tobacco and Firearms Special Agent Richard Stoltz made enormous contributions.

Nevertheless, prior to committing to a foreign language Title III, especially in an Asian language such as Cantonese or Vietnamese, the prosecuting attorney and the law enforcement agencies must realistically evaluate their capacity to meet the enormous resource and logistical demands attendant to a major wire. For example, the *Chow* wire intercepted five telephone lines over which Cantonese and Mandarin were spoken 24 hours per day for five months. So, too, the litigation over the admissibility of the electronic surveillance results can require the full-time attention of a prosecutor.

## **Staffing Issues**

Long-term Asian language Title IIIs underscore the serious lack of special agents in Federal law enforcement who speak those languages. Even with Federal agencies drawing from their offices throughout the nation (and securing from their headquarters, finances for travel, housing, and overtime costs for out of district agents), additional sources of foreign language speakers still must be developed. To that end, Title 18 U.S.C. §§ 2510(7) and 2518(5) authorize the following individuals to serve as monitors and translators: (1) state and local government personnel (who must be deputized according to DOJ policy), (2) members of the military (but not National Guard unless under a contract), and (3) contracted private sector personnel operating under the supervision of an authorized law enforcement officer.

In Northern California, for example, the San Francisco, Oakland, and San Jose Police Departments and the California Department of Justice provide officers with native language proficiency in our major Title III operations. Unfortunately, with the exception of long-term arrangements established by the Organized Crime Drug Enforcement Task Force, the Federal Government does not finance state and local law enforcement officers to participate in protracted wiretaps. Honoring commitments to support local spinoff prosecutions, recognizing the role of state and local entities at key stages of the prosecution, and sharing forfeited assets encourages state and local participation.

## **Operation of the Wire Room**

The wire room operation in a foreign language wire differs from a normal Title III in four primary ways: (1) the need to provide more thorough briefings prior to interceptions, (2) the extensive use of “after-the-fact” minimization, (3) the increased importance of and reliance on monitoring logs, and (4) the need to devote considerable resources to translating pertinent conversations and generating transcripts. In addition to the case agent in charge of the criminal investigation, a special agent serves as the wire room supervisor. In the *Chow* and *Ku* cases, the wire room supervisors achieved remarkable results even though neither of them spoke Chinese.

## **Briefing of the Case**

As mentioned above, the personnel demands of a foreign language Title III often result in a disparate group of law enforcement and private individuals, many having limited or no knowledge of the background and subjects of the case. In addition, many of these individuals have little or no experience in electronic surveillance operations. While the prosecutor provides an overview of the case during the mandatory minimization lecture, prudence suggests that the case



agent also prepare a detailed briefing (drawn from Title III affidavits and additional intelligence) to orient wire room participants. The briefing should include a review of foreign language code words, street language, slang, and linguistic idiosyncracies that may be intercepted during the Title III.

## **Post Minimization Procedures**

Title 18 U.S.C. § 2518(5) envisions real-time monitoring and conversation minimization to reduce the interception of “innocent” communications. However, in instances where a foreign language speaking monitor is not reasonably available, the statute provides for the entire conversation to be recorded (by English speaking monitors), with minimization accomplished as soon as practicable after interception. While beleaguered agencies lobby for this procedure as a way to stretch limited speaker resources, there are at least two reasons why it should not be used: (1) there is judicial skepticism of Federal law enforcement commitment when there is extensive after-the-fact minimization and (2) there is a risk that critical, time-sensitive conversations will not be discovered (and acted upon) for hours or days after the interception takes place.

When an English speaking monitor is on duty, he/she is still responsible for recording the date, time, number of speakers, duration of call, telephone numbers, and relevant overhears in a monitoring log. The first priority of a foreign language speaker is to review and minimize the telephone calls and generate the revised monitoring logs. In the two wires discussed above, post-minimization was accomplished within approximately 12 hours of the original interception.

## **Monitoring Agents and Logs**

As with all wiretaps, monitoring agents in foreign language operations are required to maintain a contemporaneous monitoring log including, among other things, a summary of the intercepted conversation.<sup>\*\*\*</sup> Because the foreign language tape is of little use to English-speaking agents, the monitoring log is the primary source of information for investigative leads and law enforcement actions. Thus, monitors are encouraged to explain clearly their assessment of the significance of statements which, when viewed in a vacuum, might appear to be of little importance. Agents should provide well reasoned interpretations of the significance of the intercepted conversations. The monitoring logs (and transcripts as they become available) are the primary information relied on by the prosecutor when considering whether to submit extension and spinoff applications.<sup>†</sup>

The monitoring logs of pertinent conversations should be reviewed and revised by a few native level foreign language speaking special agents as soon as possible after the original interception. The review process serves three purposes: (1) to evaluate the competency of the

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<sup>\*\*\*</sup> Both within the Northern District of California and across the country, there exists ongoing litigation concerning whether the original monitoring logs, the reviewed monitoring logs, and other documents are discoverable. Defense counsel will often also seek to secure the electronically stored databases developed by the agents.

<sup>†</sup> Monitoring agents should be instructed not to include gratuitous or otherwise inappropriate comments on the monitoring logs or they may find themselves defending those remarks to defense counsel and the judge. Careful attention should be paid to completing the administrative logs that document the normal (hopefully) operations of the wire room as well as the (hopefully infrequent) logistical and technical difficulties that inevitably occur.

larger number of monitoring agents in terms of translating and summarizing foreign language conversations; (2) to provide a standardized, independent summary of the contents of the conversation; and (3) to integrate information from other interceptions and investigative pursuits. The reviewed monitoring logs (which we successfully argued constitute work product that is not subject to discovery) should be available to all special agents involved in the criminal investigation. The monitoring logs can be supplemented with the extensive use of briefing boards in which critical intelligence gathered during the course of the Title III can be posted.

## **Voice Identification**

Foreign language Title IIIs can exacerbate the difficulty of voice identification of intercepts. Nevertheless, a number of practices can assist the monitoring agents in identifying speakers: (1) using the same group of agents, to the degree feasible, to build familiarity; (2) creating voice identification tapes for review by monitoring agents; (3) posting in the wire room known nicknames, peculiar language patterns, and other information to identify the speaker; (4) posting usage patterns of certain phones (at certain times, under certain conditions, to certain phones) by intercepts; and (5) correlating surveillance and other investigative results with interceptions of conversations.<sup>††</sup>

## **Translations**

We have experienced extreme judicial displeasure when the Government translated intercepted conversations only after the Title III was terminated. To eliminate some of the resource strains on the agencies, the translation process should begin during the wiretap operation. Draft copies of the transcripts can be provided early in the discovery process, but only after stipulating that the defense cannot use the drafts to impeach the final transcripts used at trial. Transcript drafts produced early are indispensable for use in securing search and seizure warrants, litigating Title III motions, facilitating early plea negotiations, and providing a jump start in trial preparation. Perhaps more importantly, early production of the translations will likely result in a valuable judicial presumption in favor of the Government when there are inevitable difficulties in the discovery production process.<sup>†††</sup>

A small number of translators (agency certified as native speaker level proficient) who will likely be available for the duration of the prosecution should be delegated the task of translating the conversations and producing the transcripts. If the defense refuses to stipulate that the translations are accurate, the Government can introduce its translated transcripts through a limited number of witnesses while minimizing the inevitable minor variances which arise in translating foreign language conversations.

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<sup>††</sup> Obviously, there will be a large number of unknown interceptees, especially during the early stages of the wire. The monitoring agent will note these as "UM" or "UF" (unknown male or female). The agents should be encouraged to cross-reference the unknown interceptees. Thus, if the UM intercepted in one call sounds exactly like the UM intercepted in another call, that information should be noted.

<sup>†††</sup> Consideration should be given to submitting disks with the hard copy of the transcripts. This simple practice will save money and aid the court. Providing the disks will also blunt defense demands for databases since, with the transcripts on disks, the defense can do their own word, name, or telephone searches.

Given the difficulties associated with translating Chinese and Vietnamese conversations into English, it is probably wise to avoid characterizing the end product as “verbatim” translations. Rather, after the translators establish their expertise in their testimony, they should concede that legitimate (but ultimately insignificant) variances in translations are possible. Transcripts that include inflammatory or allegedly prejudicial translations are of great concern. Unlike in monitoring logs, there should be no parentheticals or other editorial comments in the final transcripts. It is also useful to designate (by underlining) the English portions of foreign language transcripts.

## **Trying Cases with Foreign Language Interceptions**

In marked contrast to English language Title III cases where the jury listens to the intercepted conversation (often with the assistance of transcripts which are not admitted into evidence), the only evidence in a foreign language Title III is an English language transcript of the conversation. However, a number of strategies can be employed to maximize the effectiveness of this dry presentation of evidence.

First, agencies should be encouraged to put the contents of all monitoring logs and transcripts (including key foreign language phrases) into databases for the analysts and prosecutor to use during trial preparation.

Second, should the defense decline to stipulate the accuracy of the transcripts, the prosecutor should submit final draft transcripts to the defense and court in anticipation of a pretrial evidentiary hearing to resolve translation disagreements. Case law encourages these hearings. In rare situations where there are irreconcilable and legitimate differences in translations, the prosecutor should consider using two transcripts.

Third, agents or other personnel should read the English translations as the jury reads the transcripts in the jury binders produced by the Government. This practice ensures that the jury will both read and hear the critical conversations (at a pace dictated by the agents). While the court will not insist that the conversations be read in monotone, it is inappropriate for agents to practice acting skills.

Fourth, following the complete reading of the transcript, witnesses (either one of the participants in the conversation or the case agent) should, as part of their testimony, be directed to and examined on specific excerpts of the transcript (to stress key points in the conversation to the jury).

Fifth, consider using a linguistic/law enforcement expert to testify not only to the translation of unique foreign language phrases but to explain their coded meaning. Numerous circuits have affirmed the use of such testimony when intercepted conversations include references that the average juror may not understand.

As a devoted Luddite, I use jury binders with copies of the transcripts to present the evidence to the jury. As the August 1996 issue of this *Bulletin* detailed, there is new technology that is well suited for presenting Title III evidence. At a minimum, visual presenters can be used to project transcripts onto the screen. For large numbers of recorded conversations, the Transcript Presentation Manager permits the synchronization of the text of a transcribed conversation with the recording. However, in the case of foreign language conversations, the “recording” would have to be produced in English (by agents or hired actors reading the translations prior to trial) to permit the synchronization.

## **Conclusion**

The utility of Title III electronic surveillances is well established and, while foreign language interceptions present unique obstacles, the rewards justify the efforts required! ❖

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# **Community Prosecution in Washington, D.C.**

*Captain Ross E. Swope\**

## **Introduction**

On June 3, 1996, then United States Attorney for the District of Columbia, Eric H. Holder, Jr., publicly announced the kick off of the Fifth District Community Prosecution Pilot Program. I heard the speeches, saw the gathering of executives from many Government agencies, and even participated in the hand shaking. Being a 24-year line cop in D.C., I had experienced similar events in the past, only to see them die on the vine or to find them of no substance later. In short, I had my doubts about the utility of this initiative. More than a year has passed since this initiative began and, I say without reservation, it has worked.

## **Background**

The Fifth Police District, located in northeast Washington, D.C., serves approximately 100,000 residents, and the nearly 400 officers answer over 125,000 calls a year for service. The area experiences a high level of violence and drug trafficking. The officers have made over 4,000 arrests since June 1996, and virtually all of them are processed through the Community Prosecution Section.

## **The Plan**

The Fifth District Community Prosecution Section consists of 19 Assistant United States Attorneys (AUSAs) and accompanying support personnel. The AUSAs handle the majority of the serious criminal cases generated in the Fifth District, from robberies and homicides to drug cases and other Federal matters. They follow cases from papering to final disposition, and handle no cases from other police districts. Two of the community prosecutors are located within the station. They are not assigned cases but interact daily with the community, the police officers, and other Government agencies.

## **The People**

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\* Captain Ross E. Swope is a Patrol Sector Commander in the Fifth Police District, Metropolitan Police Department, where he has served in field assignments for 24 years.

One of the primary factors in the success of this program was the selection of the personnel for the prosecution team. Former United States Attorney Holder reached out to former Metropolitan Police Officer, AUSA Clifford Keenan, to head the project. He brought considerable credibility to the project from a law enforcement standpoint since, at one time, he was “one of us,” and had a direct working knowledge of the community. AUSA Keenan’s background and experience served as the catalyst that brought the police, the community, and the other prosecutors together. AUSA Brenda Johnson, an experienced assistant, was selected as the deputy chief of the project, and the two high energy, dedicated, and committed prosecutors assigned to the police station were AUSAs Stephanie Miller and Denise Abrahams. The other assistants prosecuting our cases proved to be exceptional individuals. Former United States Attorney Holder made his selections carefully.

## **The Story**

As captain at the Fifth District, I had considerable interest in what the prosecutors and the officers under my command were going to do for the community, and in seeing if what Former United States Attorney Holder said would take place, did. When the AUSAs moved into an office next to mine, I could see what was going on. Shortly after the AUSAs were on site, I stopped by their office and invited AUSA Stephanie Miller to go on patrol with me. I intentionally took her to the worst locations in the District. At one point, I stopped at an open air drug market and left the car to have a talk with the crowd. I was shocked when AUSA Miller followed me to the crowd. Later that same day I found the dirtiest, filthiest, foulest smelling shooting gallery (house where heroin addicts inject their drugs). We walked in and found several addicts scrambling to clean up. Good first impressions. My experience with AUSA Denise Abrahams was much the same. Early on, we popped into an old garage to find 20 heroin addicts, one with a spike (needle) in his neck and another with one sticking in his arm. It was only the two of us but she was right there with me and took it all in stride, as if she had seen it countless times. The AUSA’s active interest in the problems the police and the community face daily was impressive. Their response to these deplorable conditions was, “What can we do to help?”

When I attended community meetings, I was joined by AUSAs Miller, Abrahams, Keenan, and Johnson, or other members of the program team. They were hearing firsthand, and perhaps for the first time, the residents’ real concerns. While crime is a concern to everyone, residents often brought up the physical and social disorder problems that caused fear and adversely affected the quality of life in their neighborhoods. During the meetings, residents were given the community prosecutors’ office telephone number and invited to call the office concerning their problems. It wasn’t long before the telephone started ringing, and residents began conveying their concerns about the drug dealing and problem properties in their neighborhoods. AUSAs Miller and Abrahams, with the help of their administrative assistant, Gena Shuler, set up a system to track the complaints. They worked with the Fifth District patrol officers, vice investigators, and a D.C. Housing Inspector to resolve community complaints. This was not a paper shuffling exercise, the AUSAs rode with police officers to these locations for personal inspections. Literally hundreds of complaints have come in and been resolved in the past year. I can say with confidence that these efforts have improved conditions in many Washington, D.C., neighborhoods. AUSAs Miller and Abrahams were not the only two on the streets with the officers; AUSA Johnson was there during the service of many drug search warrants.

I remember seeing AUSAs Keenan and Johnson at the station at all hours of the day and night. Early in the project, AUSA Keenan asked me what the AUSAs could do. I recommended that the community prosecutors provide in-service training on search and seizure issues, traffic stops, and probable cause, and AUSAs Keenan and Johnson began the training. Not only did AUSA Keenan cover issues I raised but he took them a step further. From the prosecutorial standpoint, he proposed ways that the officers could make stronger cases and discussed additional information on the paperwork that would enhance the case. His experience and the feedback from other community prosecutors provided the line officers with insight and an opportunity to improve their performance. These AUSAs didn't just provide training during hours that were convenient to them—the 2:00 p.m. roll call—but they were at the 6:00 a.m. and 11:00 p.m. roll calls as well. This was not what I expected.

They attended community meetings at night, where they also provided training and responded to complaints. They published a list of their pager numbers for the police officers. There were several occasions that I had to contact AUSA Keenan after midnight or at 6:00 a.m. concerning problems that couldn't wait. He always ended the conversation with “Call me any time; it's not a problem.” Others were also paged at strange hours and on weekends.

Arrest warrants that usually require a trip downtown for approval are now reviewed at the station. The police officers and AUSAs at the station interact daily, discussing investigations and problems in the community, and brainstorming possible interventions. As the weeks passed, the community prosecutors became an integral part of the Fifth District's operations. The officers place trust and confidence in the prosecutors, and seek their advice and counsel daily.

One point of considerable friction between the United States Attorney's office and the police prior to this program was the standard procedure of papering an Assault On a Police Officer case as Simple Assault if the injury to the officer was considered “minor.” Line officers took exception to this rule because they couldn't understand why, when they were punched in the mouth while on duty in uniform (which is a felony in the D.C. Code), the case was automatically a misdemeanor at papering. The officers felt that the AUSAs did not understand the work and, therefore, did not support them. Because of the community prosecution program, this issue has been resolved. The prosecutors now understand how this change affected the officers, and they agree that these assaults should not be taken lightly. Cases that, in the past, would have been papered as minor offenses are now vigorously prosecuted as felonies.

It is not just the mutual understanding between the police and the AUSAs that improved. Communications and understanding between the community and the AUSAs were created, where, prior to this program, they were virtually absent. Because of the program, the prosecutors hear firsthand how seemingly minor crimes or problems have a significant impact on the level of fear and quality of life in the community. Crimes and problems that would have been ignored in the past now receive considerable attention. AUSAs handling the Fifth District's cases in court saw many of the same individuals pass through, knew the areas where the crimes occurred, and personally knew many of the residents in the area. I believe this has brought a feeling of attachment to the area and, certainly, a higher level of understanding. Traditionally, AUSAs receive cases from all over the city, with little opportunity to develop ties and knowledge.

The efforts of this program involve a wide variety of activities that, traditionally, are not part of the United States Attorney's office. For example, in a Problem Oriented Policing project involving a drug infested area of the Fifth District, the community prosecutors obtained grant funds to purchase t-shirts for the children in the neighborhood and to produce warning signs

directed at drug addicts. In this particular project, AUSA Kathleen O'Connor took the lead in directing the investigation to destroy the gang that controlled the drug trafficking.

## **Closing**

Perhaps the most important accomplishment of this program is the level of understanding about the world of a prosecutor, a Fifth District officer, and a Fifth District resident. Each team member was able to see the other in their own environment. In doing so, bonds were built, trust developed, and empathy created. There is a level of commitment and cooperation that was never there in the past. Instead of the three participants—the community, the police, and the prosecutors—working more or less independently on the same or similar problems, they have come together to operate as an effective, powerful team. Without the community prosecutors program, these relationships rarely develop.

Because all of the names of the AUSAs assigned to this program are not mentioned in this article, the team of AUSAs appears below. All of the AUSAs assigned to the program were critical to its success; without their dedication, the program would have been a failure.

I have seen many programs and projects from outside the Metropolitan Police Department come and go. This effort has produced substantive results and is a great success.

### **AUSAs in D.C.**

Clifford T. Keenan  
Brenda Johnson  
Denise M. Abrahams  
Jennifer Anderson  
Kevin Byrnes  
Mark Carroll  
M. Evan Corcoran  
Halsey Frank  
Timothy Heaphy  
Albert Herring  
Kenneth Kohl  
Stephanie Miller  
Kathleen O'Connor  
John Pierce  
Catherine Pisaturo  
Deborah Sines  
DeMaurice Smith  
Robert Spelke  
Peter White ❖

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## **Attorney General Highlights**

## **Appointments**

### **Trustees Appointed**

On October 1, 1997, United States Trustee Patricia A. Staiano announced that Isabel Balboa, Esq., has been appointed Chapter 13 Standing Trustee for the District of New Jersey, Camden Vicinage. Balboa will administer funds paid by Chapter 13 bankruptcy trustees to their creditors to discharge their debts. This position was created to address the increasing volume of bankruptcy filings in New Jersey.

On September 26, 1997, Attorney General Janet Reno announced the appointment of two trustees to oversee the transition of part of the District of Columbia's (D.C.) criminal justice system to the Federal Government. John L. Clark will serve as D.C. Corrections Trustee, and John A. "Jay" Carver will serve as D.C. Pretrial Services, Parole, and Offender Supervision Trustee. The D.C. Revitalization Act requires the Attorney General to appoint a Corrections Trustee to oversee financial operations of the D.C. Department of Corrections until the Bureau of Prisons assumes responsibility for felony offenders sentenced to prison under the D.C. code. The Offender Supervision Trustee will organize the transition of pretrial services, parole, adult probation, and offender supervision. ❖

### **Federal Aviation Administration's Screening Program Ready for Takeoff**

On October 1, 1997, Attorney General Janet Reno announced that the Department's Civil Rights Division completed a review of the Federal Aviation Administration's (FAA) proposed Computer Assisted Passenger Screening system (CAPS), designed to provide additional passenger security at airports in the United States. The Division concluded that CAPS would not illegally discriminate against any travelers, does not violate the Fourth Amendment prohibition against unreasonable searches and seizures, and does not involve any invasion of passengers' personal privacy. The Division also recommended five additional steps to help ensure against discrimination in the future. FAA's target date to begin implementation of CAPS is December 31, 1997. ❖

### **Reports Put New Focus on Safe Learning Environment**

On September 12, 1997, in an effort to ensure a safe and disciplined learning environment for America's children, the Department highlighted new reports on hate crimes, information sharing, and after school programs. The Bureau of Justice Assistance's *A Policy Maker's Guide to Hate Crimes*, provides information on preventing, prosecuting, and investigating hate crimes. *Healing the Hate*, an Office of Juvenile Justice and Delinquency Prevention (OJJDP) guide, offers a curriculum that combines prejudice reduction with violence prevention. The Department is holding regional training sessions to assist schools in implementing the curriculum for middle and early high school students. OJJDP's *Sharing Information* will assist law enforcement, educators, and juvenile justice professionals in sharing critical information about children while still



complying with Federal law that limits disclosure of student records. Finally, the National Institute of Justice released *Youth After School Programs and Law Enforcement*, a study that highlights the critical role that local police can play in building a successful after school program. ❖

## **Third Anniversary of the Crime Act**

On September 11, 1997, Attorney General Janet Reno issued a statement on the third anniversary of the signing of the Crime Act. Attached to this statement are fact sheets on selected portions of the Crime Act. For personnel in USAOs, your office should have a copy of this statement and the attached fact sheets. If not, you may call (202) 616-1681. ❖

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## **United States Attorneys' Offices/Executive Office for United States Attorneys**

### **Honors and Awards**

#### **United States Attorney Receives "Heart of Phillips" Award**

United States Attorney David L. Lillehaug, District of Minnesota, is the inaugural recipient of the "Heart of Phillips" Award presented by the Phillips Neighborhood Block Club for his office's prosecution of firearms and drug cases, for his solicitation of neighborhood victim impact statements in a major narcotics case, and for his efforts in spearheading the development of Weed and Seed sites in the area. ❖

#### **AUSAs Receive Federal Law Enforcement Officers Association Award**

Assistant United States Attorney Geoffrey Brigham, Southern District of Florida, received the award for his investigation and prosecution of numerous cases relating to the aircraft parts industry. Assistant United States Attorneys Arthur Hui, Mark Lerner, and Lisa Fleischman, Eastern District of New York, received the award for their investigation and prosecution of one of the largest forfeitures of narcotics proceeds in the history of U.S. law enforcement. Assistant United States Attorneys Richard M. Strassberg and Patrick J. Smith, Southern District of New York, received the award for their outstanding work in connection with the convictions of Rafael Gonzales, Abenamar Arrillaga, and Lawrence Shumel on 133 counts of conspiring to commit Medicare fraud. Assistant United States Attorney Robert K. Reed, Eastern District of Pennsylvania, received the award for his outstanding work in connection with the investigation and successful prosecution of four defendants for their involvement in seven violent carjackings during a two-week period. ❖

### **Resignations/Appointments**

## **Western District of New York**

On September 26, 1997, United States Attorney Pat NeMoyer, Western District of New York, resigned after serving as United States Attorney since September 1993.

On September 26, 1997, the Attorney General appointed Denise O'Donnell as the interim United States Attorney for the Western District of New York. O'Donnell has been with the office for a number of years and served most recently as the First Assistant United States Attorney. ❖

## **Southern District of Texas**

On October 10, 1997, United States Attorney Gaynelle Griffin Jones, Southern District of Texas, resigned after serving as United States Attorney since September 1993. She is pursuing a career as counsel to Compaq Computer Corporation in Houston, Texas.

On October 11, 1997, the Attorney General appointed Jim DeAtley as the interim United States Attorney for the Southern District of Texas. He served as interim United States Attorney for the Western District of Texas from 1993 to 1996. Since 1996, he has been a Senior Litigation Counsel in the Western District of Texas. ❖

## **Significant Issues/Events**

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

The Attorney General's Advisory Committee (AGAC) met in Washington, D.C., on September 16-17, 1997. Items discussed included the National Advocacy Center, preparation of a law enforcement plan for each district, Government Performance Results Act, policy regarding subpoenaing news media, cruise ship gambling, abortion violence, proposed hate crimes legislation, environmental initiatives, and legislative updates.

A meeting was also held on October 15-16, 1997. The main issues discussed were the impact of the Hyde Amendment on prosecutive efforts, the importance of United States Attorneys doing *Brady* prosecutions, and the need for United States Attorneys to continue to focus on anti-violent crime initiatives in their districts. The AGAC also met with Karla Corcoran, Head of the newly created Office of the Inspector General for the Postal Service.

Another meeting is scheduled for November 18-19, 1997, in Washington, D.C. ❖

## **Criminal and Civil**

### **Coordination of Employment Discrimination Cases**

On July 2, 1997, EOUSA Director Carol DiBattiste forwarded a memo to United States Attorneys, First Assistant United States Attorneys, and Civil Chiefs from Assistant Attorney

General Frank Hunger, Civil Division, concerning the ongoing efforts of the Civil Chiefs in the United States Attorneys' offices, EOUSA, and the Civil Division to better coordinate the defense of employment discrimination cases. AAG Hunger's memo contains a brief summary of the major projects under discussion, where each project stands, and who will take the lead. The seven projects discussed are: (1) Draft Employment Discrimination Monograph, (2) Maintain nationwide data on settlements and trial results, (3) Maintain a Title VII brief/form bank, (4) Begin an informal, Email newsletter on Title VII issues, (5) Coordinate with OLE on civil defensive training, (6) Expand the "Expertise in the Civil Division" publication (or create a new publication) to include both Department of Justice and USAO attorneys, and (7) Develop employment discrimination working group. For personnel in USAOs, your office should have a copy of this memo. If not, you may call (202) 616-1681. ❖

### **Justice and Interior Departments to Work with Tribal Leaders**

The Office of Tribal Justice announced that the Justice and Interior Departments have joined forces to improve safety in Indian Country. Attorney General Reno and Interior Secretary Babbitt sent letters to tribal leaders in 33 states inviting tribal representatives to participate in consultations that will increase public safety on tribal lands. These consultations will be conducted under the auspices of local United States Attorneys. The Attorney General and Secretary Babbitt announced the formation of an Executive Committee to analyze the nature of the problem and to present options for meaningful improvement. The Committee, co-chaired by Deputy Assistant Attorney General Kevin DiGregory, Justice Department, and Deputy Commissioner of Indian Affairs Hilda Manuel, Interior Department, will consider the ideas generated during the consultations between United States Attorneys and tribal leaders and report to the Attorney General and Interior Secretary. Tribal leaders will join Federal law enforcement officials as members of the committee. For additional information, please contact Mark VanNorman, DOJ's Office of Tribal Justice, (202) 514-8812. ❖

### **Reporting Cases Involving Methamphetamine**

On October 10, 1997, EOUSA Director Carol DiBattiste sent a memo via Email to United States Attorneys, First Assistant United States Attorneys, Criminal Chiefs, Administrative Officers, and System Managers emphasizing the importance of reporting methamphetamine cases in the case management system. As of July 1997, the Central System shows 759 cases against 1,524 defendants have been filed in District Courts nationwide. Only 59 districts reported any methamphetamine filings through July. A summary of the cases reported thus far is attached to the memo. For personnel in USAOs, your office should have a copy of this memo. If not, you may call (202) 616-1681. ❖

### **Office of Inspector General for the United States Postal Service**

In 1996, Congress amended the Inspector General Act and created an Office of Inspector General (OIG) within the United States Postal Service (USPS). On January 6, 1997, Karla W. Corcoran was sworn in as the Inspector General of USPS for a seven-year term. OIG plans to employ more than 500 criminal investigators, evaluators, attorneys, and support staff, and plans call for large

offices in Washington, D.C., and Dallas, and smaller offices in San Francisco, Minneapolis, and St. Louis. The OIG will investigate and audit programs and operations of the USPS to ensure the efficiency and integrity of the postal system, and to prevent and detect fraud, waste, and abuse. The OIG now has primary responsibility for investigating bribery, kickback, conflict of interest, embezzlement, systemic fraud, and allegations against senior managers. OIG investigators will work closely with prosecutors and law enforcement agencies in these areas. ❖

### **New FOIA Pamphlet**

The Justice Management Division published, “Responding to Requests Under the Freedom of Information Act or The Privacy Act.” The pamphlet defines the Freedom of Information Act and the Privacy Act of 1974; answers the questions, “How does the Department respond to requests for access to records?” and “What is your role in the Department’s response?”; and lists the DOJ Components’ FOIA contacts. For a copy of the pamphlet, contact EOUSA’s FOIA Staff, (202) 616-6757. ❖

### **Juvenile Crime Resource Manual**

On August 26, 1997, EOUSA Director Carol DiBattiste forwarded to United States Attorneys, First Assistant United States Attorneys, and Criminal Chiefs, the National District Attorneys Association’s (NDAA) new *Resource Manual and Policy Positions on Juvenile Crime Issues*. The manual is provided as a resource but it is not a Department publication. For personnel in USAOs, your office should have a copy of this memo. If not, you may call (202) 616-1681. ❖

## **Administration and Office Operations**

### **Affirmative Employment Program Plan and Accomplishment Report for Minorities and Women**

On August 28, 1997, EOUSA Director Carol DiBattiste sent a memo to United States Attorneys, Administrative Officers, and EOUSA Senior Staff forwarding the Fiscal Year 1997 Affirmative Employment Program Plan Update for Minorities and Women, and the Fiscal Year 1996 Accomplishment Report. The Update reviews actions taken in Fiscal Year 1996 and outlines actions to be taken in Fiscal Year 1997 by EOUSA and the United States Attorneys’ offices (USAOs). The Accomplishment Report summarizes the results of efforts by EOUSA and the USAOs during Fiscal Year 1996. For further information, please contact Assistant Director Michael P. Moran, EOUSA’s EEO Staff, (202) 514-3982. For personnel in USAOs, your office should have a copy of this memo. If not, you may call (202) 616-1681. ❖

### **Recruitment and Relocation Bonuses and Retention Allowances**

On October 8, 1997, EOUSA Director Carol DiBattiste sent a memo to United States Attorneys, First Assistant United States Attorneys, Administrative Officers, and Personnel Officers outlining the process for obtaining approval of recruitment and relocation bonuses and retention allowances

for attorneys and support staff. Districts interested in using these staffing incentives should prepare a request for approval. Questions concerning these incentives should be directed to Acting Assistant Director Linda Schwartz, EOUSA's Human Resources Management Staff, (202) 616-6830. For personnel in USAOs, your office should have a copy of this memo. If not, you may call (202) 616-1681. ❖

### **Self-Certification of Third Party Payment Processing**

On October 9, 1997, EOUSA Director Carol DiBattiste sent a memo via Email to United States Attorneys and Administrative Officers explaining the requirements and instructions for the annual Third Party Payment/Accounts Payable Travel Self-certification review. District reports should be mailed no later than November 7, 1997. Questions should be directed to Judy Hallford, Assistant Administrative Evaluation Program Manager, Evaluation and Review Staff, (334) 277-1970. For personnel in USAOs, your office should have a copy of this memo. If not, you may call (202) 616-1681. ❖

### **Religious Exercise and Religious Expression in the Federal Workplace**

On October 10, 1997, EOUSA Director Carol DiBattiste forwarded to United States Attorneys, for dissemination to all employees, Guidelines on Religious Exercise and Religious Expression in the Federal Workplace released by the White House on August 14, 1997. For personnel in USAOs, your office should have a copy of this memo. If not, you may call (202) 616-1681. ❖

### **Standards for Employee Newsletters**

On September 29, 1997, EOUSA Director Carol DiBattiste forwarded to United States Attorneys, First Assistant United States Attorneys, and Administrative Officers, a memo from John C. Vail, Chair, Publications Review Committee, providing new general standards for employee newsletters and a new policy for the justification of multi-color printing for all publications. The new standards and policy become effective on December 1, 1997. For personnel in USAOs, your office should have a copy of this memo. If not, you may call (202) 616-1681. ❖

### **New Area Code for Southern District of Mississippi**

The new area code for the Biloxi branch office is 228. ❖

### **Use of State License Plates on Official Government Vehicles**

On September 24, 1997, EOUSA Director Carol DiBattiste sent a memo via Email to United States Attorneys, First Assistant United States Attorneys, Administrative Officers, and District Office Security Managers concerning the use of state license plates in lieu of Government license plates. The memo defines the regulations and lists procedures to be followed for requesting a change to some or all license plates for official Government vehicles to state license plates. For personnel in USAOs, your office should have a copy of this memo. If not, you may call (202) 616-1681. ❖

## **Electronic File Security and Computer Dial-In/Dial-Out Security**

On September 9, 1997, EOUSA Director Carol DiBattiste sent a memo via Email to United States Attorneys, First Assistant United States Attorneys, Administrative Officers, and System Managers emphasizing the need to improve computer security. EOUSA's Security Staff is working on both dial-in/dial-out remote access to networks and electronic file security within components' local area networks. The memo outlines steps to ensure network security in these areas. For personnel in USAOs, your office should have a copy of this memo. If not, you may call (202) 616-1681. ❖

## **Traumatic Events Handbook Available**

The Office of Personnel Management published a manager's handbook entitled, "Handling Traumatic Events," HRSS-OERWP-15. The handbook provides information on dealing with events such as suicides, assaults, threats, and natural disasters, and is available through the Office of Personnel Management, Human Resources Systems Service, Office of Employee Relations and Workforce Performance, Theodore Roosevelt Building, 1900 E Street, NW, Washington, D.C. 20415-0001. ❖

## **PHOENIX Project Complete**

EOUSA's Office Automation Staff, with assistance from the Telecommunications and Technology Development Staff, completed PHOENIX upgrades in all USAOs and in the OKBOMB and UNABOMB task force offices. ❖

## **Telecommunication Devices Available**

On October 8, 1997, EOUSA Director Carol DiBattiste sent a memo to United States Attorneys concerning the availability of telecommunication devices for the deaf (TDD) for each USAO. The TDDs were shipped to each USAO. If you did not receive your TDD or if there are problems, contact Assistant Director Michael Moran, EOUSA's Equal Employment Opportunity staff, (202) 514-3982. For personnel in USAOs, your office should have a copy of this memo. If not, you may call (202) 616-1681. ❖

## **Office of Legal Education**

### **USABook Corner**

This month's featured USABook publication is the new *United States Attorneys' Manual (USAM)*. The new *USAM* has been reduced in size to one volume, and hard copies of this work will be mailed to the districts and DOJ Components by the end of the year. The USABook version of the new *USAM*, which includes the complete text of the *USAM*, along with electronic links to thousands of related memoranda, documents, and forms, is being published as part of a CD ROM edition of the USABook library. The USABook CD ROM will be mailed to system managers on November 3, 1997. ❖

## OLE Projected Courses

OLE Director Michael W. Bailie is pleased to announce projected course offerings for November 1997 through April 1998 for the Attorney General's Advocacy Institute (AGAI) and the Legal Education Institute (LEI).

### AGAI

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

### LEI

LEI provides legal education programs to Executive Branch attorneys (except AUSAs), paralegals, and support personnel. LEI also offers courses designed specifically for paralegal and support personnel from USAOs. OLE funds all costs for paralegals and support staff personnel from USAOs who attend LEI courses. Please note that OLE does not fund travel or per diem costs for students who attend LEI courses. Approximately eight weeks prior to each course, OLE Emails course announcements to all USAOs and DOJ Divisions requesting nominations. Nominations are to be returned to OLE via Fax, and then student selections are made.

Other LEI courses offered for Executive Branch attorneys (except AUSAs), paralegals, and support personnel are officially announced via quarterly mailings to Federal departments, agencies, and USAOs. Nomination forms are available in your Administrative Office or attached as **Appendix A**. They must be received by OLE at least 30 days prior to the commencement of each course. Notice of acceptance or non-selection will be mailed to the address typed in the address box on the nomination form approximately three weeks prior to the course.

## Videotape Lending Library

A list of videotapes offered through OLE and instructions for obtaining them are attached as **Appendix B**. ❖

### Office of Legal Education Contact Information

Address: Bicentennial Building, Room 7600  
600 E Street, NW  
Washington, DC 20530-0001

Telephone: (202) 616-6700  
FAX: (202) 616-6476

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Deputy Director ..... Kent Cassibry, FAUSA, SDTX

Assistant Director (AGAI-Criminal) . . . . .	Carolyn Adams, AUSA, NDGA
Assistant Director (AGAI-Criminal) . . . . .	Stewart Robinson, AUSA, NDTX
Assistant Director (AGAI-Civil and Appellate) . . . . .	Patricia Kerwin, AUSA, MDFL
Assistant Director (AGAI-Asset Forfeiture and Financial Litigation) . . . . .	Johnny Griffin, AUSA, EDCA
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Assistant Director (LEI) . . . . .	Elizabeth Woodcock, AUSA, Maine
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Assistant Director (Victim-Witness) . . . . .	Michelle Tapken, AUSA, South Dakota
Assistant Director (Publications) . . . . .	David Marshall Nissman, AUSA, Virgin Islands



## AGAI Courses

Date	Course	Participants
<b>December</b>		
1-4	United States Attorneys' Office Management	USAO Management Teams
2-4	Financial Investigations for AUSA/Agents	AUSAs, DOJ Attorneys, Agents
2-5	Advanced Civil Practice	AUSAs, DOJ Attorneys
2-12	Criminal Trial Advocacy	AUSAs, DOJ Attorneys
8-11	Information Technology in Litigation and Investigation	AUSAs, DOJ Attorneys
9-11	Affirmative Civil Enforcement/Health Care Fraud Investigators	ACE/HCF Investigators
16-18	Enhanced Negotiation/Mediation	AUSAs, DOJ Attorneys
<b>January 1998</b>		
5-9	Advanced Criminal Trial	AUSAs, DOJ Attorneys
6-8	Selected Topics—FLU Agents	Financial Litigation Staff
12-15	Economic Crimes	AUSAs, DOJ Attorneys
13-15	Basic Bankruptcy	AUSAs, DOJ Attorneys
13-16	Narcotics/Electronic Surveillance	AUSAs, DOJ Attorneys
13-16	International/National Security Coordinators	Inter./Nat. Security Coordinators
20-22	Asset Forfeiture for Support Staff	USAO, DOJ Support Staff
22-23	Enhanced Negotiation/Mediation	AUSAs
26-29	Native American Issues	AUSAs, DOJ Attorneys
26-30	Appellate Advocacy	AUSAs, DOJ Attorneys
27-30	United States Attorney's Office Management	USAO Management Teams
<b>February</b>		
2-5	Health Care Fraud	AUSAs, DOJ Attorneys
2-11	Criminal Trial Advocacy	AUSAs, DOJ Attorneys
3-5	Financial Litigation Team Training	USAO Fin. Lit. Personnel
10-13	Employment Discrimination	AUSAs, DOJ Attorneys
17-19	Asset Forfeiture/Advanced Money Laundering	AUSAs, DOJ Attorneys
17-20	Computer Crimes	AUSAs, DOJ Attorneys
18-19	Enhanced Negotiations/Mediation	AUSAs, DOJ Attorneys
23-27	Criminal FPS	AUSAs, DOJ Attorneys
23-3/6	Civil Trial Advocacy	AUSAs, DOJ Attorneys
<b>March</b>		
2-6	Professional Responsibility Officers Conference	Professional Responsibility Officers
10-12	Asset Forfeiture for Criminal Prosecutors	AUSAs, DOJ Attorneys
10-13	Advanced Criminal Practice	AUSAs, DOJ Attorneys
16-18	Advanced Bankruptcy	AUSAs, DOJ Attorneys
17-20	United States Attorneys' Office Management	USAO Management Teams
24-25	Enhanced Negotiations/Mediation	AUSAs
24-26	Financial Litigation Team Training	USAO Fin. Lit. Personnel
<b>April</b>		
6-10	Civil Federal Practice	AUSAs, DOJ Attorneys
7-9	Basic ACE	AUSAs, DOJ Attorneys
13-16	Public Corruption Symposium	AUSAs, DOJ Attorneys
14-17	Health Care Fraud	AUSAs, DOJ Attorneys
20-24	White Collar Crime	AUSAs, DOJ Attorneys
21-22	Enhanced Negotiations/Mediation	AUSAs
23-24	FAUSA NAC Orientation	FAUSAs
28-5/1	Appellate Chiefs Conference	USAO Appellate Chiefs

## LEI Courses

Date	Course	Participants
<b>December</b>		
3	Advanced Freedom of Information Act	Agency Attorneys
4	Administrative Forum	Agency Attorneys
8-12	Experienced Legal Secretary	USAO, DOJ Secretaries
9-11	Public Lands and Natural Resources	Agency Attorneys
17-18	Agency Civil Practice	Agency Attorneys
<b>January 1998</b>		
5-9	Support Staff Supervisors	USAO Support Staff Management
6-9	Examination Techniques	Agency Attorneys
16	Legal Writing	Agency Attorneys, Paralegals
21-22	FOIA for Attorneys and Access Professionals	Agency Attorneys and Support Staff
26-30	Basic Paralegal-DOJ	USAO and DOJ Paralegals
<b>February</b>		
3-5	Federal Tort Claims Act for Agency Counsel	Agency Attorneys
9-13	Civil Paralegal	USAO and DOJ Paralegals
10-12	Attorney Supervisors	Agency Supervisors
18	Introduction to FOIA	Agency Attorneys and Support Staff
19	Ethics for Litigators	Agency Attorneys
23-27	Legal Support Staff-DOJ	USAO and DOJ Support Staff
<b>March</b>		
10-11	Evidence	Agency Attorneys
16-20	Legal Research and Writing-DOJ	USAO and DOJ Support Staff
24-25	FOIA for Attorneys and Access Professionals	Agency Attorneys and Support Staff
26	Privacy Act	Agency Attorneys and Support Staff
27	Legal Writing	Agency Attorneys, Paralegals
30-4/3	Support Staff Supervisors	USAO Support Staff Management
31-4/2	National Environmental Policy Act	Agency Attorneys
<b>April</b>		
6-10	Experienced Legal Secretaries	USAO, DOJ Secretaries
8-10	Law of Federal Employment	Agency Attorneys
21-23	Negotiation Skills	Agency Attorneys
22	Ethics for Litigators	Agency Attorneys
27-5/1	Basic Paralegal	USAO, DOJ Paralegals

## Computer Tips

With the move to PHOENIX and WordPerfect 6.1, our Computer Tips column will now focus on WP 6.1 tips. If you have tips to share with the AUSA community, please send them to Barbara Jackson, AEX12(BJACKSON), or write: Executive Office for United States Attorneys, 600 E Street, N.W., Suite 6011, Washington, D.C. 20530-0001.

### WordPerfect 6.1 Tips and Techniques

*Judy Johnson*

*EOUSA's Financial Litigation Staff*

In the September 1997 *United States Attorneys' Bulletin (USAB)*, there were two articles that provide you with some layman's guidance to WordPerfect 6.1 for Windows. This is the third article in a continuing series. I make every effort to ensure accuracy in what I write, but sometimes bloopers slip through (WP isn't THAT good yet). **If you encounter something that doesn't work as I describe it, give me a call (202) 616-6783.**

**Right Clicking with the Mouse.** This is for right-handers only. Actually, you lefties can just use the left mouse button. Most of us righties use the left mouse button almost exclusively but you should explore using the right button, because you will find a wealth of editing help. For example, move your mouse pointer up to the Toolbar (the Toolbar is the one with the pictures: blank piece of paper, file folder, diskette, printer, scissors, jar of paste, etc.) and right click with your mouse. This brings up a menu that allows you to change the Toolbar you are using. I use Macro Tools because it allows me instant access to playing, recording, and editing macros. I can also store macros on the Toolbar. Check out the other Toolbars available and you might find one that particularly suits your needs.

You can also use the right click on the Toolbar to add or modify existing buttons on your Toolbar (**E**dit). You can access **P**references to make changes or you can **H**ide the Toolbar. You can do the same thing on the Power Bar (the one that identifies your font and font size, and allows you to change the style or justification and spacing, etc.) or the Menu (the first line at the top of your screen that allows you to access **F**ile, **E**dit, **V**iew, **I**nsert, **F**ormat, etc.).

If you don't see the Toolbar or Power Bar, they are probably hidden. Access them through **V**iew, and click on the bar you want to see. The ones with the ✓ next to them are open. Did you know that you can choose to display them in text or pictures? Check it out!

Right click while you're typing and you access a formatting menu that allows you to change the **F**ont, do a **Q**uick **F**ormat, **S**pell check your document, enter **R**eveal **C**odes, enter a **B**ullet, **C**enter text, **F**lush **R**ight text, or **I**ndent.

Right click in the left margin (when text is present) and get another menu that allows you to do the following: **S**elect **S**entence, **S**elect **P**aragraph, **S**elect **P**age, **S**elect **A**ll, change the **M**argins, define an **O**utline, enter a **C**omment, add a **S**ound Clip (not available to us), or add **S**ubdocument to your main document (used for VERY large documents, like books).

Right click when you are viewing a document (**File, Open, View; or **Ctrl-O, View**) and you are presented with a menu that allows you, among other things, to do a word search without opening the document. You can even print the document from here if you desire.**

And check out the right mouse button while you're working in tables! (I think tables will be a whole article all by itself.) Before you move the mouse up to the menu to select an option, see if it's available by right clicking first.

**Built-in Macros.** Being a BIG macro user in WP 5.1, I was delighted to find out that WP 6.1 for Windows read my mind and created a bunch of macros for everyday use. The attached list contains some of the WP 6.1 built-in macros.\*

In the February 1998 *USAB* . . . **TABLES!!!** ❖

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\*List provided by Vernon Grimes, EOUSA's Office Automation Staff.

## Built-in Macros\*\*

Speed Key	Results	Speed Key	Results
<b>Ctrl+A</b>	Expand an abbreviation	<b>Ctrl+Shift+A</b>	<None>
<b>Ctrl+B</b>	Bold text	<b>Ctrl+Shift+B</b>	Insert bullet
<b>Ctrl+C</b>	Copy text	<b>Ctrl+Shift+C</b>	<None>
<b>Ctrl+D</b>	Enter today's date	<b>Ctrl+Shift+D</b>	Date code
<b>Ctrl+E</b>	Center justification	<b>Ctrl+Shift+E</b>	<None>
<b>Ctrl+F</b>	Enter the Font menu	<b>Ctrl+Shift+F</b>	<None>
<b>Ctrl+G</b>	Enter the Go To menu	<b>Ctrl+Shift+G</b>	<None>
<b>Ctrl+H</b>	Outline body text	<b>Ctrl+Shift+H</b>	<None>
<b>Ctrl+I</b>	Italics	<b>Ctrl+Shift+I</b>	<None>
<b>Ctrl+J</b>	Full justification	<b>Ctrl+Shift+J</b>	<None>
<b>Ctrl+K</b>	Case toggle	<b>Ctrl+Shift+K</b>	<None>
<b>Ctrl+L</b>	Left justification	<b>Ctrl+Shift+L</b>	<None>
<b>Ctrl+M</b>	<None>	<b>Ctrl+Shift+M</b>	<None>
<b>Ctrl+N</b>	New document	<b>Ctrl+Shift+N</b>	<None>
<b>Ctrl+O</b>	Open a document	<b>Ctrl+Shift+O</b>	Outline define
<b>Ctrl+P</b>	Print a document	<b>Ctrl+Shift+P</b>	Page number
<b>Ctrl+Q</b>	Find QuickMark	<b>Ctrl+Shift+Q</b>	Set QuickMark
<b>Ctrl+R</b>	Right justification	<b>Ctrl+Shift+R</b>	<None>
<b>Ctrl+S</b>	Save a document	<b>Ctrl+Shift+S</b>	Save all
<b>Ctrl+T</b>	Template	<b>Ctrl+Shift+T</b>	<None>
<b>Ctrl+U</b>	Underline	<b>Ctrl+Shift+U</b>	<None>
<b>Ctrl+V</b>	Paste	<b>Ctrl+Shift+V</b>	Paste simple
<b>Ctrl+W</b>	WP Characters	<b>Ctrl+Shift+W</b>	<None>
<b>Ctrl+X</b>	Cut	<b>Ctrl+Shift+X</b>	<None>
<b>Ctrl+Y</b>	<None>	<b>Ctrl+Shift+Y</b>	<None>
<b>Ctrl+Z</b>	Undo	<b>Ctrl+Shift+Z</b>	Undelete

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\*\* Using WordPerfect 6.1 for Windows, Que book, Table 12.1, pages 430-431.

# **DOJ Highlights**

## **Appointments**

### **Trasvina Named Special Counsel for Immigration-Related Unfair Employment Practices**

The week of September 19, 1997, the Senate voted unanimously to confirm John D. Trasvina as the Department's Special Counsel for Immigration-Related Unfair Employment Practices. As Special Counsel, Trasvina will work to protect United States citizens and other legal immigrants from discriminatory employment practices. ❖

## **Antitrust Division**

### **New Deputy Assistant Attorney General and Special Counsel**

On September 18, 1997, the Department announced the appointments of Daniel L. Rubinfeld as Deputy Assistant Attorney General for Economic Analysis and Thomas G. Krattenmaker as Special Counsel for Policy and Regulatory Affairs. Rubinfeld replaces Andrew S. Joskow who will join the National Economic Research Associates (NERA) as Vice President and Associate Director of the Washington, D.C., office. Rubinfeld will be responsible for supervising all economic analysis within the Division and for directing its Economic Analysis Group. Krattenmaker will provide advice to Assistant Attorney General Joel I. Klein on both merger and civil non-merger investigations and serve as Special Counsel for Policy and Regulatory Affairs with a concentration on telecommunications policy. ❖

## **Federal Bureau of Investigation**

### **Declining Crime Rates Parallel Crime Victim Reports**

On October 4, 1997, the Federal Bureau of Investigation (FBI) announced that serious reported crime in the United States declined three percent in 1996, the fifth consecutive annual reduction. The FBI's final Uniform Crime Reporting (UCR) Program statistics for last year reported that violent crime dropped six percent and property crime was down two percent from 1995. For violent crimes, the reductions in 1996 from 1995 totals were murder, nine percent; forcible rape, two percent; robbery, seven percent; and aggravated assault, six percent. For property crimes, the reductions were burglary, four percent; larceny-theft, one percent; motor vehicle theft, five percent; and arson, three percent. The UCR is based on reports submitted by more than 16,000 city, county, and state law enforcement agencies. The 1996 data are published in *Crime in the United States*, the FBI's annual report released October 4, 1997.

Also on October 4, 1997, the Department's Bureau of Justice Statistics (BJS) announced that its surveys of crime victims, which tell about crimes not reported to the police as well as those that are included in the FBI's UCR Program, generally agree with the decreases the FBI

reported in both violent and property crime. BJS also stated that, according to the most recent National Crime Victimization Survey data, about four in ten violent crimes are reported to the police, as are three in ten property crimes.

For personnel in USAOs, your office should have copies of the FBI's announcement, graph, and table, as well as BJS's survey. If not, you may call (202) 616-1681. ❖

## **Office of Justice Programs**

### **High Intensity Drug Trafficking Areas as Models for Collaboration**

*Laurie Robinson*

*Assistant Attorney General*

*Office of Justice Programs*

In September, I had the opportunity to meet with a number of you at the High Intensity Drug Trafficking Area (HIDTA) Conference in Mobile, Alabama, hosted by J. Don Foster, United States Attorney (Southern District of Alabama), and cosponsored by the Attorney General's Advisory Committee (AGAC) Subcommittee on Drugs, chaired by Tom Monaghan, United States Attorney (District of Nebraska), and the AGAC Subcommittee on Justice Programs, chaired by Mike Dettmer, United States Attorney (Western District of Michigan). The conference brought together United States Attorneys from already established HIDTAs and those interested in establishing HIDTAs in their districts. In addition to detailing with ways to establish HIDTA designation, participants discussed ways of coordinating other Federal programs—namely Office of Justice Programs (OJP) and the Organized Crime and Drug Enforcement Task Forces (OCDETF) program—with HIDTA programs. No less important, the conference afforded United States Attorneys the opportunity to talk about their local crime problems, the needs of local law enforcement, promising and successful approaches in their districts, and the many resources available to assist in dealing with drug and crime problems as they occur in diverse communities across the country.

The Office of National Drug Control Policy (ONDCP) designated 17 regions as HIDTAs, providing an infrastructure for multiagency task forces to address drug-related crime. Funding from OJP and OCDETF is independent of HIDTA designation and supports different, critical aspects of complex drug cases. Districts can turn to OJP and OCDETF for assistance in funding law enforcement task forces; coordinating efforts among different law enforcement agencies; and paying salaries, overtime, and litigation expenses for agents and attorneys. Primarily through Byrne formula subgrants, but also through the Weed and Seed program and other discretionary grant programs, OJP funds a number of law enforcement-related initiatives. OCDETF funds 887 AUSA and support positions and its multi-agency approach to attacking narcotics trafficking and money laundering operations ensures that all agencies are properly represented, and that efforts are not duplicated among agencies.

I think the lessons learned at the conference—the importance of coordinating enforcement and leveraging funding resources to maximize results—are relevant for all districts facing drug and violent crime problems. OJP, ONDCP, and OCDETF co-sponsored this conference, with leadership from the Controlled Substance and Justice Programs' Subcommittees of the AGAC as a way of demonstrating the possibilities for collaboration among our programs. I've had the

opportunity to see similar examples of coordinated efforts to confront violent drug-related crime in communities across the country.

One excellent example of the type of collaboration we are fostering is taking place in Benton Harbor, Michigan. United States Attorney Michael Dettmer, Western District of Michigan, spoke at the conference about the comprehensive initiative underway in Benton Harbor to combat the city's overwhelming drug-related, violent crime. Benton Harbor topped a recent listing of the most dangerous places to live in Michigan and neighboring Benton Township ranked third. The city suffers from an unemployment rate five times the national and state average, the nation's highest percentage of single-parent families, and the nation's highest per-capita homicide rate of any city with a population of 10,000 or more. In response to such daunting problems, the Safe Street Task Force (SSTF) was established through the combined efforts of the local Congressman and the city's public safety director. The Task Force membership includes state and local law enforcement, probation and parole authorities, the ATF, DEA, FBI, United States Attorney's office, and United States Marshals Service.

I was particularly impressed by the way the task force has effectively leveraged funding resources. For our part, OJP helps support task force operations through Byrne subgrants and the Weed and Seed program. Our Local Law Enforcement Block Grants program provides funding to the City of Benton Harbor and Benton Township to fund hiring, overtime, and the purchase of law enforcement equipment. OJP's funding is working in tandem with funding from the FBI and the Office of Community Oriented Policing Services (COPS), as well as state and local resources.

The collaboration in Benton Harbor mirrors the kind of collaboration we encourage. I urge each of you to look for ways you can use the lessons learned at the HIDTA conference as models for addressing problems in your district. I have made it a top priority to improve OJP's communications with United States Attorneys, and I look forward to helping more United States Attorneys take an active role in coordinating funding sources, working with state officials to determine funding priorities, and making Federal dollars work harder and go further in our communities' fight against drugs and violent crime. ❖

## **Hammer Award**

On September 16, 1997, the Office of Justice Programs (OJP) announced that its Block Grants Automation Team—comprised of staff from the Bureau of Justice Assistance (BJA) and OJP's Information Systems Division—earned the prestigious Hammer Award for its success in reinventing a cumbersome, paper-intensive grant application and award process. The award will be presented at OJP's Assistant Attorney General Awards Ceremony in December 1997. The Hammer Award recognizes teams of Federal employees who have made significant contributions toward reinventing Government operations. The Block Grants Automation Team developed a new system capable of handling more than 3,000 applications that BJA expects under the new Local Law Enforcement Block Grants Program. Facing a short deadline for fund distribution, the team simultaneously developed the new program and application kit; hired and trained new staff; assessed the needs of state and local applicants and grantees; and developed a new, user-friendly, automated system for application and award processing. The new system allowed 18 staff to accomplish in just six months a task that, under the old system, would have taken a year's work from nearly 100 employees.



Under the new system, BJA's customers submit their applications the way they choose—by disk, on-line, by fax, or in hard copy. The team redesigned and shortened the application form into a one-page, scannable format. The process reduced the time to apply for Federal funds and increased BJA's efficiency in processing applications and awarding funds.

For additional information regarding OJP and its programs, visit the OJP World Wide Web site at: <http://www.ojp.usdoj.gov>. ❖

## **Bureau of Justice Assistance**

### **Grants to Test Innovative Solutions for Local Problems**

On October 3, 1997, the Department's Bureau of Justice Assistance (BJA) announced it has awarded grants totaling \$3.7 million to test approaches to reduce crime and encourage collaboration in the criminal justice system. BJA made grants to 37 local communities under its first-ever open solicitation for innovative concepts to respond to problems BJA identified in four key areas: law enforcement, the adjudication process, rural communities, and American Indian and Alaska Native communities. To ensure objective evaluation of the proposals, BJA enlisted the help of almost 200 criminal justice practitioners from across the country, who reviewed the proposals and made funding recommendations to BJA officials.

Attached to this announcement is a list of the BJA Open Solicitation Awardees. For information about the Open Solicitation or BJA, visit its web site at: <http://www.ojp.usdoj.gov/bja>. For additional information about OJP or its other bureaus and programs, visit the OJP web site at: <http://www.ojp.usdoj.gov>. To obtain project summaries for each grant award, please contact Doug Johnson or James Phillips at (202) 307-0703. For personnel in USAOs, your office should have a copy of this announcement. If not, you may call (202) 616-1681. ❖

### **Monograph**

The Bureau of Justice Assistance (BJA) monograph, "Stalking: Prosecutors Convict and Restrict," is available. For a copy, contact the BJA Clearinghouse, (800) 688-4252, or write, P.O. Box 6000, Rockville, MD 20849-6000. ❖

## **Bureau of Justice Statistics**

### **Publications**

The following Bureau of Justice Statistics (BJS) publications are available: "Sex Differences in Violent Victimization, 1994"; "Age Patterns of Victims of Serious Violent Crimes"; and "Felony Defendants in Large Urban Counties, 1994." For copies, contact the BJS Clearinghouse, (800) 732-3277, or write, P.O. Box 6000, Rockville, MD 20849-6000. ❖

### **Bulletin**

The BJS Bulletin: "Presale Handgun Checks, 1996," is available. For a copy, contact the BJS Clearinghouse, (800) 732-3277, or write, P.O. Box 6000, Rockville, MD 20849-6000. ❖

## **National Institute of Justice**

### **Publications**

The following National Institute of Justice publications are available: "National Institute of Justice 1996 Annual Report to Congress," "Criminal Justice Research under the Crime Act—1995 to 1996," and "Community Mediation Programs: Developments and Challenges." For copies, contact the National Criminal Justice Reference Service (NCJRS), (800) 851-3420, or write, Box 6000, Rockville, MD 20849-6000. ❖

## **Office of Juvenile Justice and Delinquency Prevention**

### **Guide to Combat Juvenile Crime**

On September 12, 1997, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) released *Sharing Information: A Guide to the Family Educational Rights and Privacy Act and Participation in Juvenile Justice Programs*. Developed jointly by the Departments of Justice and Education, it is designed to assist educators, law enforcement officials, juvenile justice professionals, and community leaders in sharing critical information about children while still complying with the Family Educational Rights and Privacy Act (FERPA), a Federal law limiting the disclosure of information from a student's education records. The guide provides an overview of FERPA and case studies that demonstrate how information could be legally shared; describes recent changes in FERPA regulations that allow for increased information sharing between schools and the local juvenile justice system when established under state law; shows how communities can implement multi-agency agreements among schools, law enforcement, and the local juvenile justice and child welfare systems and how to tailor agreements to fit a state's confidentiality laws; and includes a copy of the FERPA regulations, a directory of technical assistance resources, sample court orders, and model multi-agency agreements. Copies of the guide are available from OJJDP's web site at <http://www.ncjrs.org/ojjhome.htm>, and from the Juvenile Justice Clearinghouse, (800) 638-8736, or write, Box 6000, Rockville, MD 20857. ❖

### **Publications**

The following Office of Juvenile Justice and Delinquency Prevention publications are available: "Juvenile Justice," "1995 National Youth Gang Survey," and "Boot Camps for Juvenile Offenders." For copies, contact the Juvenile Justice Clearinghouse, (800) 638-8736, or write, Box 6000, Rockville, MD 20849-6000. ❖

# **Immigration and Naturalization Service**

## **Naturalization Improvements**

On September 18, 1997, the Immigration and Naturalization Service (INS) released a progress report announcing that as of July 31, 1997, they received 1,405,000 naturalization applications during Fiscal Year 1997, a 51 percent increase over the same period in Fiscal Year 1996, and a 75 percent increase over the 1,058,000 applications received in all of Fiscal Year 1995. In April, Commissioner Doris Meissner directed that, until an audit is completed to ensure that new quality assurance procedures are implemented effectively at offices throughout the country, applications will be verified for eligibility by a supervisor before final approval.

The new INS Office of Naturalization Operations, created in Spring 1997, and designed to strengthen the integrity of the naturalization system and improve customer service, is making considerable progress on its plan to automate and standardize naturalization procedures across the country by the summer of 1998. Once automation and standardization are complete at 80 offices around the country, INS will start working toward a goal of processing applications within a six-month time frame, while ensuring that the fingerprint check process and other procedures that guarantee quality assurance are complete.

Included in this progress report is information concerning program goals for reducing backlog, automating and standardizing the processing of naturalization applications, improving applicants' access to information, reevaluating naturalization fees, implementing quality assurance procedures, and tasking Coopers & Lybrand LLP with monitoring this long-term re-engineering project. For personnel in USAOs, your office should have a copy of this progress report. If not, you may call (202) 616-1681. ❖

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## **Ethics and Professional Responsibility**

### **Perjured Testimony and Relationships with Witnesses, Subjects, and Targets**

On July 30, 1997, EOUSA Director Carol DiBattiste sent a memo via Email to United States Attorneys and Professional Responsibility Officers describing two areas of concern that the Office of Professional Responsibility has and suggestions for those confronted with these situations. The first is perjured testimony. Every attorney owes the court a duty of candor. This has been expressed in both the code and rules of ethics, and case law. Aside from the issue that all Federal attorneys should disclose even non-material perjury to the court, and the issue of whether the conviction itself will be reversed, a prosecutor who condones false or misleading testimony and fails to affirmatively correct it is also subject to disciplinary action for such misconduct. There are many cases where a defendant's conviction was overturned because the prosecutor used a witness's perjured testimony. If the prosecution knowingly permitted the false testimony to be heard, reversal is virtually automatic. Because Assistant United States Attorneys' actions will be examined with hindsight by the courts, it is imperative that Assistants discuss specific issues and

courses of action with their supervisors when there is doubt about a witness's testimony. Prosecutors should generally err on the side of disclosure to the court if the testimony has already been given, and should certainly refrain from calling a witness if perjury or misleading testimony is anticipated. The other important concern involves a prosecutor's ethical duty to remain impartial in executing his or her official duties and not to appear to use his or her official position for private gain. Whenever the Assistant has a conflict of interest in handling a matter or there is reasonable appearance of a loss of impartiality or self-dealing, the Assistant should consider recusing him- or herself from the matter. If an Assistant has a personal or business relationship with a witness, subject, or target in a case, that information should be disclosed to a supervisor whether or not the Assistant is involved with the case. It is possible that after reflection and consultation with EOUSA's Legal Counsel, the Assistant may be left in the case or matter, or that the entire office must be recused from it because of an Assistant's relationship with a target. It is therefore imperative that Assistants notify their supervisors of such relationships for proper determinations of personal and/or office-wide disqualifications or waivers. For personnel in USAOs, your office should have a copy of this memo. If not, you may call (202) 616-1681. ❖

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## **Career Opportunities**

**The U.S. Department of Justice is an Equal Opportunity/Reasonable Accommodation Employer. It is the policy of the Department of Justice to achieve a drug-free workplace and persons selected for the following positions will be required to pass a drug test to screen for illegal drug use prior to final appointment. Employment is also contingent upon the satisfactory completion of a background investigation adjudicated by the Department of Justice.**

**The following announcements can be found on the Internet at <http://www.usdoj.gov/careers/oapm/jobs>.**

### **GS-12 to GS-15 Experienced Attorneys Civil Division Commercial Litigation Branch**

DOJ's Office of Attorney Personnel Management is recruiting for experienced trial attorneys for the Court of Federal Claims/Court of International Trade/Court of Appeals for the Federal Circuit section of the Commercial Litigation Branch, Civil Division. The Commercial Litigation Branch, the largest branch in the Civil Division, represents the Government in a wide range of offensive and defensive litigation involving high-stakes monetary claims before trial and appellate courts. The Branch safeguards the Government's interests in contract disputes, defends the Government's procurement and personnel decisions, prosecutes claims for the recovery of monies fraudulently secured or improperly diverted from the United States Treasury, and defends the country's international trade policies and decisions. In addition, the Branch protects the Government's financial and commercial interests under foreign treaties, the Constitution, and Federal statutes and regulations.

Applicants must possess a J.D. degree; be duly licensed and authorized to practice as an attorney under the laws of a State, territory, or the District of Columbia; and have at least one year of post J.D. experience. Applicants should have a strong interest in trial and appellate work and an exceptional academic background. A judicial clerkship or comparable experience is highly desirable. Applicants must submit a current OF-612 (Optional Application for Federal Employment) or resume and writing sample to:

US Department of Justice  
Civil Division  
Personnel Management Branch  
Attn Mary S. Moore  
PO Box 14660  
Ben Franklin Station  
Washington D C 20044-4660

Current salary and years of experience will determine the appropriate grade and salary levels. The possible range is GS-12 (\$45,939-\$59,725) to GS-15 (\$75,935-\$98,714). No telephone calls please. Applications must be postmarked by December 5, 1997. ❖

**GS-12 Experienced Attorney  
Office of Information and Privacy**

DOJ's Office of Attorney Personnel Management is seeking an experienced attorney for the Department's Office of Information and Privacy in Washington, D.C. Responsibilities include the adjudication of administrative appeals under the Freedom of Information Act and the Privacy Act of 1974, the defense of litigation under both statutes at the district court and court of appeals levels, and the development of Government-wide FOIA policy.

Applicants must possess a J.D. degree; be duly licensed and authorized to practice as an attorney under the laws of a state, territory, or the District of Columbia; and have at least one year of post-J.D. experience. Civil litigation or administrative law experience is preferred. Applicants must submit a resume or OF-612 (Optional Application for Federal Employment) to:

US Department of Justice  
Office of Information and Privacy  
Attn Margaret A. Irving, Deputy Director  
Suite 570, Flag Building  
950 Pennsylvania Avenue NW  
Washington DC 20530-0001

Current salary and years of experience will determine the appropriate salary level. The position is GS-12 (\$45,939-\$59,725). No telephone calls please. This position is open until December 5, 1997. ❖

**GS-12 to GS-15 Experienced Attorney  
Civil Rights Division  
Housing and Civil Enforcement Section**

DOJ's Office of Attorney Personnel Management is seeking at least one experienced attorney to serve in the Housing and Civil Enforcement Section located in the Civil Rights Division, Washington, D.C. The Housing Section enforces the Federal statutes prohibiting discrimination in housing, credit, and public accommodations. The Section has sought to create an enforcement presence in all areas of the country and has pursued discrimination cases against a wide variety of defendants. The Fair Housing Amendments Act of 1988 prohibits discrimination on the basis of race, color, religion, sex, national origin, familial status, and disability. Among other things, the Act gives the Section authority to seek damages and civil penalties, in addition to injunctive relief, and to seek relief for individual victims of discrimination, as well as against the "pattern or practice" of discrimination. In recent years, the Section has implemented a nationwide fair housing testing program aimed at uncovering discrimination which has resulted in numerous Federal court cases, and has embarked on an ambitious program of investigation of and litigation against lending institutions for violations of the Fair Housing Act through racial discrimination in mortgage and business lending.

Applicants must possess a J.D. degree; be duly licensed and authorized to practice as an attorney under the laws of a State, territory, or the District of Columbia; and have at least one year of post-J.D. experience. Applicants must submit a resume and writing sample to:

US Department of Justice  
Civil Rights Division  
Attn Attorney Vacancy  
PO Box 65998  
Washington DC 20035-5998

Current salary and years of experience determine the appropriate salary level from GS-12 (\$45,939-\$59,725) to GS-15 (\$75,935-\$98,714). No telephone calls please. These positions are open until November 28, 1997. ❖

**GS-15 Experienced Attorney  
Criminal Division  
Asset Forfeiture and Money Laundering Section**

DOJ's Office of Attorney Personnel Management is seeking an experienced attorney to work in the Asset Forfeiture and Money Laundering Section (AFMLS) of the Criminal Division, Washington, D.C.

The AFMLS provides a multitude of forfeiture and money laundering support to each of the 93 United States Attorneys' offices and the component agencies, as well as managing the training for the forfeiture and money laundering community in these areas of the law at the national, international, and local levels. The incumbent of this position will: (1) be responsible for providing case-related support to United States Attorneys' offices in the area of international

criminal law when seeking the forfeiture of properties outside the United States; (2) provide domestic and international training to prosecutors, judges, and other law enforcement personnel on forfeiture practice and international asset forfeiture cooperation; (3) participate in negotiations of international forfeiture cooperation and asset sharing agreements with other countries; (4) administer and coordinate international asset forfeiture sharing program to distribute forfeited proceeds from international criminal cases to foreign countries; and (5) provide technical assistance, including legislative review, to high level law enforcement officials in other countries to enhance their enforcement capabilities in asset forfeiture.

Applicants must possess a J.D. degree; be duly licensed and authorized to practice as an attorney under the laws of a state, territory, or the District of Columbia; and have at least five years of post-J.D. experience. Applicants must also possess experience in asset forfeiture and money laundering areas and familiarity with international criminal law. This position requires the applicant to be highly fluent in writing and speaking Spanish. This position also has frequent domestic and international travel.

Applicants must submit a written resume and/or OF-612 (Optional Application for Federal Employment), a writing sample, and current performance appraisal, if applicable, to:

US Department of Justice  
Criminal Division  
Asset Forfeiture and Money Laundering Section  
Attn Lorna Grenadier  
1400 New York Avenue NW Room 8414  
Washington DC 20005

Current salary and years of experience will determine the appropriate salary level in the GS-15 (\$75,935-\$98,714) range. No telephone calls please. Applications must be postmarked by December 1, 1997. ❖

**GS-13 to GS-15 Experienced Attorney**  
**Criminal Division**  
**Narcotic and Dangerous Drug Section**  
**Hato Rey, Puerto Rico**

DOJ's Office of Attorney Personnel Management is seeking an experienced attorney for the Narcotic and Dangerous Drug Section of the Criminal Division, with duty station in the Branch Office of the Narcotic and Dangerous Drug Section, located in Hato Rey, Puerto Rico.

The Narcotic and Dangerous Drug Section supervises and enforces statutes pertaining to narcotics and drugs such as stimulants and depressants that have been classified as dangerous drugs. The Section is responsible for advising the Assistant Attorney General, Criminal Division, and other Federal officials involved in drug enforcement on matters dealing with Federal narcotics-related legislation and litigation, both criminal and civil. The Section also supervises the implementation of Departmental policies in the areas of drug prosecution. In addition to maintaining a litigation support capability to assist United States Attorneys' offices, the Section assumes direct litigation responsibilities in major multi-district and international conspiracy cases,

reviews electronic surveillance requests, secures witnesses from foreign jurisdictions, and performs other tasks as assigned. The Section reviews all adverse decisions to the Government in the drug area, makes recommendations on whether cases should be reviewed by higher courts, and reviews proposed legislation regarding drug control.

This position is in the Litigation Unit of the Section. The incumbent is assigned cases of the highest importance because of the legal principle to be established or maintained, and the technical or unusual character of the subject matter and legal issues involved. The incumbent prepares and directs others in the preparation of work before presentation of these cases. In cases approved for presentation to grand juries, the incumbent selects and interviews witnesses, conducts hearings, and prepares indictments. In addition, the incumbent: (1) advises and renders assistance to United States Attorneys and high-level special counsel in the preparation, critical examination, and review of indictments and other pleadings and in the preparation of trial briefs; (2) examines and evaluates reports of investigations to determine if prosecution is warranted and prepares instructions for further investigation and opinions of law; (3) actively and directly participates in the preparation of memoranda of the most difficult nature relating to the trial of cases, as well as instructions to United States Attorneys on complicated questions of law, statutory interpretations, and Federal and state jurisdiction; (4) analyzes proposed legislative measures, commenting on the legal sufficiency of the proposed bill, the need or lack of need for such legislation, and interpreting its probable ultimate effect on the operations of the Criminal Division; (5) reviews decisions of Federal courts to determine the advisability of appeal or certiorari and prepares recommendations to the Solicitor General; (6) prepares correspondence to members of Congress, the heads of Government departments, agencies, and others; and (7) actively participates in conferences with officials of the Department of Justice and other Departments and agencies of the Government and, when specifically assigned, serves as representative at interdepartmental conferences relating to proposed legislation, statutory interpretation, and questions of policy and procedure. The position requires some travel, familiarity with computers, and much interpersonal contact.

Applicants must possess a J.D. degree; be duly licensed and authorized to practice as an attorney under the laws of a state, territory, or the District of Columbia; and have at least three years of post J.D. experience. This position is for a bi-lingual attorney who must be able to understand, write, and speak Spanish fluently. Applicants must submit a resume and/or OF 612 (Optional Application for Federal Employment), writing sample, and current performance appraisal, if applicable, to:

US Department of Justice  
Narcotic and Dangerous Drug Section  
Attn Carlo Roquemore, Administrative Officer  
1400 New York Avenue NW  
Washington DC 20005

Current salary and years of experience will determine the appropriate salary level from the GS-13 (\$54,629-\$71,017) to GS-15 (\$70,894-\$92,161) range. No telephone calls please. This position is open until filled but applications received after November 17, 1997, will not be considered. ❖



**GS-13 to GS-15 Experienced Attorney  
Environment and Natural Resources Division  
Wildlife and Marine Resources Section**

DOJ's Office of Attorney Personnel Management is seeking an experienced litigator to handle complex criminal cases in Federal courts under numerous Federal fish and wildlife laws for the Environment and Natural Resources Division's Wildlife and Marine Resources Section, Washington, D.C.

The Wildlife and Marine Resources Section has an opening on its criminal litigation staff.

Applicants must possess a J.D. degree; be duly licensed and authorized to practice as an attorney under the laws of a state, territory, or the District of Columbia; and have at least three years of post-J.D. litigation experience.

Applicants must submit a current OF-612 (Optional Application for Federal Employment) or resume to:

US Department of Justice  
Environment and Natural Resources Division  
Attn Executive Officer  
PO Box 7754  
Washington DC 20044-7754

Current salary and years of experience will determine the appropriate salary level. Possible salary range is GS-13 (\$54,629-\$71,017) to GS-15 (\$75,935-\$98,714). No telephone calls please. This position is open until November 28, 1997. ❖

**GS-11 to GS-13 Experienced Attorneys  
Tax Division  
Civil Trial Section, Criminal Enforcement Section, and Appellate Section**

DOJ's Office of Attorney Personnel Management is seeking experienced litigators to work in the civil trial, criminal enforcement, and appellate sections of the Tax Division in Washington, D.C. Frequent travel is required for the civil trial and criminal enforcement positions. Less travel is required for the civil appellate positions.

The Tax Division handles virtually all civil litigation arising under the internal revenue laws, except that in the United States Tax Court. These cases present a variety of legal issues involving Federal tax law, bankruptcy law, constitutional law, commercial law, and state property law. Civil trial attorneys handle all aspects of this litigation in Federal courts, from inception through discovery, to trial or settlement. Civil appellate attorneys prepare appeal recommendations, briefs and argue cases in Federal circuit courts throughout the United States, and assist the Office of the Solicitor General in cases before the United States Supreme Court.

The criminal prosecutions handled or supervised by the Division include not only those involving the more traditional violations of the criminal tax laws by taxpayers having legal sources of income, but also cases involving financial institution fraud, health care fraud, organized crime activities, and narcotics trafficking. Attorneys handling these cases review Internal Revenue

Service referrals for possible criminal prosecutions, conduct grand juries, and try Federal tax and related prosecutions.

Applicants must have been awarded the J.D. degree for at least one year (or have an LL.M. degree or other graduate law degree in addition to a J.D.), and be duly licensed and authorized to practice as an attorney under the laws of a State, territory, or the District of Columbia. General litigation experience is desirable; any tax or business legal experience is a plus. Applicants must submit a resume, law school transcript (from all law schools attended), and writing sample. Applications should be sent to:

US Department of Justice  
Tax Division  
Post Office Box 813  
Ben Franklin Station  
Washington DC 20044

Current salary and years of experience will determine the appropriate salary level. The possible range is GS-11 (\$38,330-\$49,831) to GS-13 (\$54,629-\$71,017). No telephone calls please. These positions are open until November 14, 1997. ❖

## Procedures for Requesting Formal Videotape Showings

Departments and agencies requesting Continuing Legal Education (CLE) credit for videotape showings should follow these procedures:

1. Submit your requests for videotape showings in writing to:

Tawana Fobbs  
Department of Justice  
Legal Education Institute, Room 7600  
600 E Street, N.W.  
Washington, D.C. 20530-0001

**Please include a telephone number. Responses will be via telephone only.**

2. Reserve a room that will accommodate at least 30 attorneys.
3. Open the course to Federal attorneys from outside your agency, and be sure that the room will accommodate at least 10 outside attorneys in addition to your agency's attorneys.
4. Arrange for an attorney commentator to be present during the showing to answer questions regarding the videotape lecture. In order for attendees to be able to receive CLE credit, provide the attorney's name to the Legal Education Institute (LEI).
5. Use a VCR-VHS tape machine and a TV monitor.

**Site selections for videotape showings will be based on the room capacity and the number of attorneys from your agency who are planning to attend; i.e., if you should reserve a room that accommodates 50 attorneys and 25 from your agency are planning to attend, OLE will select no more than 25 attorneys from other agencies. Videotape lectures are announced every four months. Please submit your request by December 1, 1997, if you would like it to be included in the next course schedule.**

There is no charge for formal videotape showings. LEI includes with the videotapes an express mail label for mailing the tapes back to OLE, and CLE forms to be completed by the attendees.

## Videotapes Available for Formal Showings

The following videotape programs are available on loan to Executive Branch agencies and to United States Attorneys' offices for formal showings.

**The Art of Advocacy: Selecting and Persuading the Jury**—This two-day series of tapes brings together experienced trial lawyers, communications experts, and social scientists to explore basic advocacy techniques for the jury trial. It will help litigators evaluate potential jurors; develop effective themes for their cases; and present their cases in a persuasive way. The series consists of nine programs. The program commences with trial lawyers sharing their insights on jury selection and persuasion techniques followed by demonstrations, interviews, and discussions to allow viewers to examine in detail effective strategies for jury selection and persuasive advocacy in both civil and criminal cases. In addition, the program also looks at how focus groups can be used to enhance the trial lawyer's understanding of how lay persons will react to a case. The series concludes with a program developed with the assistance of a jury research organization which explains how they identify important issues in the case; analyze the impact of group dynamics on verdict discussions; prepare effective demonstrative exhibits; evaluate witnesses; and develop voir dire questions.

**Discovery Techniques**—This half-day videotape lecture series by Irving Younger focuses on discovery strategies and devices. Topics include: discovery as a litigation technique; purposes of discovery; strategy and priority; informal discovery; discovery limitations; use of discovery at trial; and proposed remedies for the abuse of discovery.

**Effective Appellate Advocacy**—In this half-day videotape lecture, Judge Myron Bright explains, as experienced lawyers demonstrate, how to prepare and argue a case on appeal. Topics include: when to appeal a case; how to write briefs in presenting the best case; how to avoid pitfalls that commonly defeat appeals; using parts of your brief to your advantage; 10 commandments of oral argument; effective oral argument demonstration; and how an appellate judge views a brief.

**Effective Negotiation Techniques**—In this half-day videotape showing, Professor Norbert S. Jacker explains the benefits of getting background information, holding practice negotiation sessions, and creating the proper atmosphere for negotiation participants. Topics include: preparing for negotiations; strategy and tactics in negotiations; and psychological factors in negotiations.

**Introduction to the Freedom of Information Act (FOIA)**—This videotape of a one-day course provides a basic overview of FOIA for individuals who do not specialize in access law. It is designed for those who require a working familiarity with the law and current issues in order to recognize and handle FOIA-related problems that may arise in other aspects of agency practice. Topics include resource materials, background and legislative history, disclosure mandates, exemptions to mandatory disclosure, administrative considerations, and the relationship of FOIA to the Privacy Act of 1974.

**Jury Trials for Employment Discrimination Lawyers**—Moderated by the Honorable Marion E. Aspen, an experienced Federal judge who served on an ABA special committee examining jury comprehension in complex cases, this half-day series teaches employment litigators the techniques and strategies of jury trials. The faculty includes skilled trial lawyers and employment litigators. The topics covered include: legislative changes increasing the availability of jury trials; shaping the case for trial to a jury; jury selection and jury comprehension; motion practice in jury trials; jury instructions; and proving compensatory and punitive damages.

**The Law of Evidence**—This two-day videotape course by Irving Younger is a comprehensive discussion of the critical areas of evidence law. This is professor Younger's latest program and supersedes all previous editions. Topics include: judicial notice, types of evidence, competence, relevance and materiality, and hearsay.

**Legal Ethics in an Unethical World**—This two-volume, half-day series provides a thought-provoking and engaging discussion of a dilemma all practitioners face: how to make ethical decisions. Thomas V. Morris, a popular professor at the University of Notre Dame known for his energetic lecture style, begins by acknowledging the current ailing public perception of lawyers. After identifying four common pressures against ethical decision making, he argues convincingly for a shift from the constraining vision these pressures engender to a broader way of thinking that recognizes that the good life is not always a good life. Morris discusses the role that rules can play in making ethical decisions and issues a call to move beyond the rules to a more promising, if sometimes more elusive, basis for making decisions.

**Medical Malpractice Litigation: New Strategies for a New Era**—This one-day videotape series brings together an experienced faculty to discuss and demonstrate innovative litigation strategies and techniques. The seven programs include demonstrations by skilled trial lawyers, probing interviews of those conducting the demonstrations, and lively panel discussions.

**The Strategy and Art of Negotiating**—This one-day program is presented by expert panelists who give practical information and new insights on effective negotiating approaches, strategies, and methods. They analyze various dramatized negotiating styles and present proven techniques. They discuss how to establish a positive climate and philosophy for negotiating, how to distinguish between positions and interests, when to take control, and how to avoid misrepresentation.

**Taking Depositions**—This half-day series is intended to teach the fundamental skills involved in preparing for, taking, and defending depositions. The series includes demonstrations of preparing and deposing both lay and expert witnesses.

**Training the Advocate: Pretrial Stage**—This unique two-day series can be used to provide basic training for newly qualified lawyers and to help more experienced lawyers refine their skills in the area of pretrial practice. It includes demonstrations by skilled litigators and probing interviews of those conducting the demonstrations. Critique panels, moderated by Professor James McElhaney, analyze performances and suggest alternative approaches to specific problems.

**Trial Evidence: Making and Meeting Objections**—This one-day series consists of 62 direct and cross examination vignettes, each providing at least one opportunity for the viewer to raise an evidentiary objection. The vignettes cover subsequent remedial measures, character, the original document rule, illustrative evidence, demonstrative evidence, authentication, forms of questions, refreshing recollection, lay opinions, expert opinions, relevance, impeachment, and hearsay.

**Trial Techniques**—This one-day videotape lecture by Irving Younger presents every important element, technique, and strategy for winning trial conduct. Topics include: jury selection; opening statements; witness preparation; planning the trial; direct examination; objections and motions to strike; cross examination; expert witnesses; the ethics of trial advocacy; and closing arguments.

**Trying Cases to Win: Advanced Course and Trying the Civil Case**—This one and one-half day videotape lecture series by Herbert J. Stern examines, in detail, the theory and strategy of successful trial lawyering. Topics include: principals of opening statements; four ways to construct an opening statement; demonstrations of openings for the prosecution and the defense; direct examination and demonstration; cross examination and demonstration; and trying the civil case.

**Trying Cases to Win: the Basic Building Blocks**—This one and one-half day videotape lecture series by Herbert J. Stern presents an introduction to the theory and strategy of successful trial lawyering. This program analyzes the basic components of trying cases, including the opening statement, direct examination, cross-examination, and summation. Topics also include rules and laws; methodologies; techniques; demonstration; order, preparation, and questioning of witnesses; proving conversations; exhibits as evidence; and voir dire of witnesses.

**Trying Cases to Win: Evidence at Trial I and II**—This half-day lecture series by Herbert J. Stern examines evidence problems. Judge Stern discusses how an effective advocate uses the rules of evidence. Topics include: laying a foundation for exhibits; photographs; charts, diagrams, and conversations; Federal Rules of Evidence - Rules 104, 403, 602, 613, 803, and 901; motions in limine; and voir dire of witnesses.

**What Every Litigator Should Know about Mediation**—This half-day program is a practical guide for litigators. It includes discussions and demonstrations addressing: what mediation is and when you should use it; how to prepare your client and yourself for mediation; and how to represent your client during mediation.

**Winning Your Case with Computers**—This one-day videotape series shows those with or without the big resources, how to take advantage of advances in technology. It will show you how to use computers to do the litigation tasks typically associated with automation, to organize, manage, and access documents and depositions. It will also demonstrate how to automate your practice from start to finish, from the moment your client walks in the door to a convincing presentation of your evidence in court. It is a program with a very practical emphasis explaining how this technology can make you a more effective litigator without requiring an encyclopedic knowledge of the technology itself.

## **Procedures for Requesting Informal Videotape Showings**

LEI schedules informal videotape showings in advance to make the tapes available to as many Federal employees as possible. **LEI does not provide CLE credit for informal showings.** If you are interested in arranging an informal videotape program please write to:

Tawana Fobbs  
Department of Justice, Room 7600  
Legal Education Institute  
600 E Street, N.W.  
Washington, D.C. 20530-0001

**Please include your telephone number on your request.**



## Videotapes Available for Informal Showings

**Effective Discovery Techniques**—This half-day series provides a basic understanding of all aspects of discovery prior to depositions. It is designed to provide practical information for the attorney with minimal litigation experience.

**Legal Ethics: Applying the Model Rules**—This five-part series brings together some of the country's foremost authorities on legal ethics and the Model Rules. Each of the five programs begins with a dramatic vignette, depicting an attorney making ethical—and sometimes not-so-ethical choices. (Running Time: 3 hours 4 minutes)

**Litigation Management and Organization: The Winning Edge**—This videotape lecture by Mark Dombroff offers a lively discussion of a series of organization and management techniques that have proven effective. Topics include Litidex (a computer-compatible manual litigation organization system); the effective transition of litigation; the effective use of videotaped depositions in litigation; the effective use of summaries in litigation; using computers as a courtroom tool; the trial lawyer as a manager of litigation; the judicial panel for multi-district litigation; trial notebooks; the discovery, pleading, and practice memorandum; techniques for streamlining trial presentation; and contingency planning for large case management. (Running Time: 7 hours)

**McElhaney's Introduction and Use of Demonstrative Evidence**—This is a lecture on the introduction and use of demonstrative evidence. Among the materials discussed are charts, graphs, and radiation detection devices. (Running Time: 56 minutes)

**McElhaney's Laying Foundation for Exhibits and Witnesses at Trial**—Professor James McElhaney establishes a basic checklist for the advocate to follow in laying foundations. The list includes: witness qualification, authentication, relevance, the best evidence rule, the hearsay rule, procedural prerequisites and “magic words.” (Running Time: 49 minutes)

**Negotiation Demonstrations**—This videotape lecture by professors Roger Haydock and John Sonsteng was developed by the National Institute of Trial Advocacy so that knowledgeable attorneys could share their insights about this difficult area of practice. Topics include basic negotiation with comparative techniques. (Running Time: 2 hours, 8 minutes)

**Opening Statements: A Modern Approach**—This program gives viewers advice on how to make effective and persuasive opening statements which will make a lasting impression on jurors. It also addresses common mistakes made during openings and how to remedy them. (Running Time: 1 hour, 9 minutes)

**Understanding Modern Ethical Standards**—This National Institute of Trial Advocacy (NITA) series analyzes the ABA model rules of professional conduct. The set consists of two volumes and three videotapes. Volume I provides an overview of what the Rules of Evidence require, while Volume II applies to the work of lawyers and paralegals. (Running Time: 1 hour, 28 minutes)

**The  
USABulletin  
Wants You**

Below is our revised schedule for the next three issues. In order for us to continue to bring you the latest, most interesting, and useful information, please contact us with your ideas or suggestions for future issues. If there is specific information you would like us to include in the *USABs*, please contact David Nissman at AVISC01(DNISSMAN) or (809) 773-3920. Articles, stories, or other significant issues and events should be Emailed to Wanda Morat at AEX12(BULLETIN).

**January 1998**  
**February 1998**  
**April 1998**

**Special Commendations Issue**  
**Trial Techniques**  
**Tax Prosecutions**

Articles for the February issue on Trial Techniques are due December 19.