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## U.S. Department of Justice

Executive Office for United States Attorneys

Freedom of Information & Privacy Staff

600 E Street, N.W., Suite 7300, Bicentennial Building

Washington, DC 20530-0001

(202) 616-6757 FAX: 616-6478 (www.usdoj.gov/usao)

Requester: \_\_\_\_\_ Request Number: 02-4083

Subject of Request: Orientation Manual for United States Attorneys

AUG 13 2007

Dear Requester:

Your request for records under the Freedom of Information Act/Privacy Act has been processed. This letter constitutes a reply from the Executive Office for United States Attorneys, the official record-keeper for all records located in this office and the various United States Attorneys' Offices.

To provide you the greatest degree of access authorized by the Freedom of Information Act and the Privacy Act, we have considered your request in light of the provisions of both statutes.

The records you seek are located in a Privacy Act system of records that, in accordance with regulations promulgated by the Attorney General, is exempt from the access provisions of the Privacy Act. 28 CFR § 16.81. We have also processed your request under the Freedom of Information Act and are making all records required to be released, or considered appropriate for release as a matter of discretion, available to you. This letter is a [X] partial [ ] full denial.

Enclosed please find:

256 page(s) are being released in full (RIF);  
12 page(s) are being released in part (RIP);  
17 page(s) are withheld in full (WIF). **The redacted/withheld documents were reviewed to determine if any information could be segregated for release.**

The exemption(s) cited for withholding records or portions of records are marked below. An enclosure to this letter explains the exemptions in more detail.

### Section 552

[ ] (b)(1)	[ ] (b)(4)	[ ] (b)(7)(B)
[X] (b)(2)	[X] (b)(5)	[ ] (b)(7)(C)
[ ] (b)(3)	[ ] (b)(6)	[ ] (b)(7)(D)
_____	[ ] (b)(7)(A)	[X] (b)(7)(E)
_____		[ ] (b)(7)(F)

### Section 552a

[ ] (j)(2)
[ ] (k)(2)
[ ] (k)(5)
[ ] _____

[ ] In addition, this office is withholding grand jury material which is retained in the District.

☐ A review of the material revealed:

☐ \_\_\_\_\_ page(s) originated with another government component. **These records were found in the U.S. Attorney's Office files and may or may not be responsive to your request.** These records will be referred to the following component(s) listed for review and direct response to you: \_\_\_\_\_

☐ There are public records which may be obtained from the clerk of the court or this office, upon specific request. If you wish to obtain a copy of these records, you must submit a new request. These records will be provided to you subject to copying fees.

☐ Please note that your original letter was split into separate files ("requests"), for processing purposes, based on the nature of what you sought. Each file was given a separate Request Number (listed below), for which you will receive a separate response:

\_\_\_\_\_

☐ See additional information attached.

This is the final action on this above-numbered request. You may appeal this decision on this request by writing within 60 days from the date of this letter to the **Office of Information and Privacy, United States Department of Justice, 1425 New York Avenue, Suite 11050, Washington, D.C. 20530-0001**. Both the letter and envelope should be marked "FOIA Appeal." If you are dissatisfied with the results of any such administrative appeal, judicial review may thereafter be available in U.S. District Court, 28 C.F.R. § 16.9.

Sincerely,



William G. Stewart II  
Assistant Director

Enclosure(s)

## EXPLANATION OF EXEMPTIONS

### **FOIA: TITLE 5, UNITED STATES CODE, SECTION 552**

- (b)(1) (A) specifically authorized under criteria established by and Executive order to be kept secret in the in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive order;
- (b)(2) related solely to the internal personnel rules and practices of an agency;
- (b)(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;
- (b)(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;
- (b)(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;
- (b)(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
- (b)(7) records or information compiled for law enforcement purposes, but only the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual.
- (b)(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or
- (b)(9) geological and geophysical information and data, including maps, concerning wells.

### **PRIVACY ACT: TITLE 5, UNITED STATES CODE, SECTION 552a**

- (d)(5) information compiled in reasonable anticipation of a civil action proceeding;
- (j)(2) material reporting investigative efforts pertaining to the enforcement of criminal law including efforts to prevent, control, or reduce crime or apprehend criminals;
- (k)(1) information which is currently and properly classified pursuant to Executive Order 12356 in the interest of the national defense or foreign policy, for example, information involving intelligence sources or methods;
- (k)(2) investigatory material compiled for law enforcement purposes, other than criminal, which did not result in loss of a right, benefit or privilege under Federal programs, or which would identify a source who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(3) material maintained in connection with providing protective services to the President of the United States or any other individual pursuant to the authority of Title 18, United States Code, Section 3056;
- (k)(4) required by statute to be maintained and used solely as statistical records;
- (k)(5) investigatory material compiled solely for the purpose of determining suitability eligibility, or qualification for Federal civilian employment or for access to classified information, the disclosure of which would reveal the identity of the person who furnished information pursuant to a promise that his identity would be held in confidence;
- (k)(6) testing or examination material used to determine individual qualifications for appointment or promotion in Federal Government service the release of which would compromise the testing or examination process;
- (k)(7) material used to determine potential for promotion in the armed services, the disclosure of which would reveal the identity of the person who furnished the material pursuant to a promise that his identity would be held in confidence.



## **LAW ENFORCEMENT COORDINATING COMMITTEE -SPONSORED ACTIVITIES REGARDING WEED AND SEED**

### **ADMINISTRATION OF LECC AND VICTIM-WITNESS PROGRAMS**

#### **United States Attorneys' Weed and Seed Fund**

In recognition of the efforts of United States Attorneys' offices to further Weed and Seed strategies nationwide, the Executive Office for Weed and Seed (EOWS) made funds available for the use by the United States Attorneys. The Executive Office for United States Attorneys (EOUSA) administers this fund through a cost reimbursable agreement.

Allowable expenditures include items necessary to implement Weed and Seed activities in designated communities. Eligible communities may be at any level of the Weed and Seed Program, including those in the start-up stage of forming a steering committee, those that have applied for or received official recognition, or those that have core funding from the Department of Justice.

Although no actual dollar limit per office has been set, costs should be reasonable and necessary to the implementation of Weed and Seed program activities.

To apply for funding from the United States Attorneys' Weed and Seed Fund, contact the LECC/V-W Staff at EOUSA.

### **CONTACTS**

LECC Coordinator or  
Administrative Officer  
United States Attorney's office  
or  
LECC/V-W Staff, EOUSA  
(202) 616-6792

## **EMERGENCY WITNESS ASSISTANCE PROGRAM FUNDING**

The Emergency Witness Assistance Program (EWAP) is designed to give the United States Attorneys' offices (USAOs) the flexibility to address a critical need: assistance to witnesses on an emergency basis to ensure their well-being and that witnesses will be available for trial, other court proceedings, or activities related to an ongoing case. The program also addresses a witness's or prospective witness's physical, mental, or emotional reservations about participating in a specific matter before or after she or he agrees to cooperate with, testify, or be available for the government.

The EWAP does not provide physical protection for witnesses. It addresses a witness's fears about assisting the government. It seeks to promote the peace of mind of witnesses when they have relevant information to contribute, thereby enhancing their ability to testify. EWAP assistance does not include any protective services, custody arrangements, or a law enforcement presence and does not relieve a recipient of any responsibility with regard to debt, custody, child support, court, or other obligations. The program provides emergency financial and other assistance to witnesses. EWAP assistance cannot exceed one month or \$4,000 per witness, unless there are extenuating circumstances. Prior approval from the LECC/Victim-Witness Staff is required to exceed these limits. EWAP is considered a last resort as a source of funding for witness assistance and does not replace available case funds.

Each individual USAO has its own protocol outlining permissible uses of EWAP funds, and each USAO has its own allocation of EWAP funding. The decision as to how, when, and whether or not EWAP funds are used is entirely within the discretion of the United States Attorney. Generally, however, EWAP funds are used to provide the following services:

- 1) transportation to enable a witness to leave their neighborhood, town, city, or state temporarily;
- 2) temporary housing or moving expenses;
- 3) temporary subsistence (a reasonable portion of federal per diem standard);
- 4) emergency telephone service to assist the witness to keep in contact with the USAO;
- 5) child or elder care; and
- 6) other transportation costs, as reasonably necessary for school or immediate medical or counseling needs.

EWAP funds can help to ensure a witness's well-being and increase the likelihood that the witness will be available for court proceedings or other activities related to an ongoing case. Assistance is only available for witnesses with fears, reservations, or concerns about being a government witness. The assistance funds are limited to frightened or endangered witnesses only and cannot be used simply because the witness is indigent or requires services. The USAO discloses EWAP information to the defense as part of the discovery process. For further information on funding and allowable expenses, please contact the LECC/V-W Staff at EOUSA.

### **CONTACTS**

V-W Coordinator or Administrative Officer  
United States Attorney's office

or

LECC/V-W Staff, EOUSA (202) 616-6792

## UNUSUAL EXPENSES OF FACT WITNESSES

Prior to July 1, 1999, the Procurement Services Staff, Simplified Acquisitions Service (SAS), Justice Management Division (JMD) was responsible for approving Unusual Expenses of Fact Witnesses (UEFW), which were requested by using the OBD-47 form. On February 16, 1999, by Department of Justice Order OBD-2110.20A, each United States Attorney's office (USAO) received delegated authority to approve reimbursement of UEFW. The authority to approve reimbursement of UEFW is contained within 28 U.S.C. § 524.

The Internal Controls for Unusual Expenses of Fact Witnesses serve as guidance for the USAOs as they exercise this new authority. The Internal Controls serve as general guidance and do not replace nor take precedence over the *Guiding Principles For Obtaining Witness Services Under The Fees And Expenses Of Witnesses Appropriation* developed by JMD.

The payment of the usual fees and expenses of fact witnesses continue to be handled pursuant to existing policies and regulations. Existing policies and procedures which address other types of witnesses, including expert witnesses, military witnesses, foreign witnesses, and federal employees as witnesses, remain in effect and are not superseded by this guidance on UEFW.

For additional information on processing unusual expenditures of fact witnesses, refer to the Internal Controls for Unusual Expenses of Fact Witnesses and the *Guiding Principles For Obtaining Witness Services Under The Fees And Expenses Of Witnesses Appropriation*.

### CONTACTS

V-W Coordinator  
United States Attorney's office  
or  
LECC/V-W Staff, EOUSA  
(202) 616-6792

## LEGISLATION AFFECTING VICTIM AND WITNESS ASSISTANCE

Several federal laws affect the treatment of victims and witnesses in the criminal justice system. **The Victim and Witness Protection Act of 1982 (VWPA)** was the result of recommendations made by the President's Task Force on Victims of Crime to assist victims. **The Victims of Crime Act of 1984 (VOCA)** addressed the needs of victims for financial aid and assistance. **The Crime Control Act of 1990, Title V, Victims' Rights and Restitution Act (VRRRA)**, strengthened the victim provisions of the VWPA. **The Violent Crime Control and Law Enforcement Act of 1994** provides for allocution and mandatory restitution to victims of certain crimes. **The Antiterrorism and Effective Death Penalty Act of 1996** makes restitution mandatory for virtually all Title 18 offenses.

### THE VICTIM AND WITNESS PROTECTION ACT OF 1982 (VWPA)

The VWPA recognizes the important role of crime victims and witnesses in the criminal justice process. Its goals are to ensure that the Federal Government assists victims and witnesses "without infringing on the constitutional right of defendants" and to supply a model for state and local government legislation.

The Act also provides standards of treatment for victims of federal crimes, including:

- guidelines for fair treatment of victims and witnesses in the federal criminal justice system;
- victim-impact statements to be included in pre-sentence reports;
- criminal penalties protecting victims and witnesses from intimidation or retaliation, including provisions for civil restraining orders;
- restitution to victims, in addition to other penalties;
- consideration of victims' situations in bail determinations;
- routine notification of the availability of protective services to guard against intimidation and, when possible, notification of court appearances and scheduling changes related to the case;
- waiting areas for victims and other prosecution witnesses that are separate from all other witnesses;

- prompt return of property held as evidence;
- employer intervention services; and
- victim assistance education and training for persons at federal law enforcement training facilities and government attorneys “so that victims may be promptly, properly, and completely assisted.”

## THE VICTIMS OF CRIME ACT OF 1984 (VOCA)

VOCA established a Crime Victims’ Fund containing money from federal offenders (criminal fines, assessments) to help states’ victims assistance and compensation programs, and victims of federal crime.

## THE CRIME CONTROL ACT OF 1990, TITLE V (VCCA)

Title V of the Crime Control Act strengthened the victims’ provisions of the VAWA in two ways: by creating a "Crime Victims’ Bill of Rights" and by mandating that certain services be provided to victims. Because the law does not mention witnesses, the witness protection provisions of the VAWA are still in place.

## THE VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994

The Violent Crime Control and Law Enforcement Act of 1994 includes many important victim provisions, including the Violence Against Women Act of 1994 (VAWA). Among other things, VAWA mandates restitution in domestic violence, sexual abuse, and sexual assault cases. The Violent Crime Control and Law Enforcement Act also amends Federal Rule of Criminal Procedure 32 to allow victims of violent crimes and sexual assault to speak at the sentencing of their assailants (allocution).

## THE ANTITERRORISM AND EFFECTIVE DEATH PENALTY ACT OF 1996

Title II of the Antiterrorism and Effective Death Penalty Act is the Mandatory Victims Restitution Act, which expands the scope of mandatory restitution, provides consolidated procedures for the issuance of restitution orders, and provides enhanced post-conviction enforcement of restitution orders.

## ***ATTORNEY GENERAL GUIDELINES FOR VICTIM AND WITNESS ASSISTANCE***

Under the VWPA, the Attorney General developed *Guidelines for Victim and Witness Assistance* to ensure the fair treatment of victims and witnesses by the Department of Justice. The guidelines were first issued in 1983 and were updated in 1991 and 1995. The most recent version of the guidelines went into effect on January 31, 2000. The guidelines address victim services such as emergency social and medical services, information regarding crime victim compensation and community-based victim-treatment programs, and orientation to the criminal justice system and judicial proceedings. In addition to specific services outlined in the VWPA and the Crime Control Act, the guidelines include the following instructions:

- that Department officials disclose victims and witnesses' names and addresses only pursuant to proper discovery procedures;
- that creditors and employers of victims and witnesses be notified if cooperation affects the ability to make timely payments or attend work;
- that the appropriate U.S. Probation Officer is fully advised of the victim impact statement requirements of the *Federal Rules of Criminal Procedure*;
- that employees whose responsibilities include contact with crime victims and witnesses receive a copy of the *AG Guidelines* and attend a one hour training session on the *AG Guidelines*;
- That all litigating components of the Department provide an annual "Best Efforts" report to the Office for Victims of Crime.

Importantly, the guidelines identify the officials responsible for implementation of the instructions and guidelines, and direct all United States Attorneys' offices, litigating divisions, and investigative agencies to designate one or more persons to provide victim-witness assistance services.

### **CONTACTS**

V-W Coordinator  
United States Attorney's office  
or  
LECC/V-W Staff, EOUSA  
(202) 616-6792

DOJ's Office for Victims of Crime  
Office of Justice Programs  
(202) 514-6444

**EEO STAFF**

# **EQUAL EMPLOYMENT OPPORTUNITY STAFF**

**Juan Milanés**  
**Assistant Director**  
**(202) 514-3982**

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## **FUNCTIONS OF THE EQUAL EMPLOYMENT OPPORTUNITY STAFF**

The Equal Employment Opportunity (EEO) Staff provides centralized leadership, coordination, and evaluation of all equal employment efforts within the Executive Office for United States Attorneys (EOUSA) and the United States Attorneys' offices (USAOs). The EEO Staff is comprised of two major components—Affirmative Employment and Complaint Processing.

### **AFFIRMATIVE EMPLOYMENT**

Under Affirmative Employment, the EEO Staff plans, develops, and distributes to USAOs Affirmative Employment Program Plans, updates, and accomplishment reports designed to improve the status of minorities, women, and persons with disabilities, including disabled veterans, within the USAOs and EOUSA. The EEO Staff provides guidance and technical assistance to USAOs in all areas of affirmative employment, including the coordination of the Special Emphasis Programs—Federal Women's, Hispanic Employment, Black Affairs, Asian American/Pacific Islander, Native American, and Selective Placement (persons with disabilities). This staff implements the special recruitment project for Assistant United States Attorneys (AUSAs) and provides an applicant service to assist in promoting diversity in USAOs.

### **COMPLAINT PROCESSING**

Under complaint processing, the EEO Staff is responsible for the direction and coordination of the processing of complaints of discrimination. This function is accomplished with the assistance of collateral-duty EEO Counselors, Investigators, and Alternative Dispute Resolution Specialists located in various district offices and EOUSA.

When a complaint of discrimination is received, the EEO Staff assigns a counselor who conducts a telephone interview with the persons involved in or knowledgeable about the matter. The counselor gathers background information concerning the situation and attempts a quick resolution of the matter. Alternative Dispute Resolution Specialists are also available to mediate the matter should the parties desire. If resolution is not achieved, the matter may be investigated as a formal complaint. If so, official travel and per diem expenses for the investigator are paid by EOUSA. Other expenses resulting from the processing of a discrimination complaint are paid by the office in which the complaint arose.

Upon request, the EEO Staff provides assistance to USAOs concerning matters relating to EEO. This assistance may be provided by telephone, mail, or through an on-site visit.

### **CONTACT**

Juan Milanés  
Assistant Director  
Equal Employment Opportunity Staff, EOUSA  
(202) 514-3982

## **POLICY STATEMENTS**

### **POLICY STATEMENT ON EQUAL EMPLOYMENT OPPORTUNITY (EEO)**

It is the policy of the United States Attorneys' offices (USAOs) and the Executive Office for United States Attorneys (EOUSA) to provide equal opportunity in employment on the basis of merit and to prohibit discrimination because of race, color, religion, sex, sexual orientation, age, national origin, or disability (physical or mental).

Further, no person shall be subject to retaliation for opposing any practice prohibited by the above policy or for participating in any stage of administrative or judicial proceedings related to this policy.

EOUSA and the USAOs fully incorporate into this policy the Attorney General's key objectives in the area of equal employment by:

- fostering an environment in EOUSA and USAOs in which cultural diversity is valued and understood;
- achieving workforce diversity wherever under-representation of minorities, women, and persons with disabilities exists; and using innovative approaches to integrate more fully minorities, women, and persons with disabilities throughout EOUSA and USAOs;
- holding supervisors and managers strictly accountable for EEO implementation; and
- providing a work environment free of discrimination and harassment, and ensuring that the programs designed to address allegations of discrimination or harassment are responsive to employees' needs, and that employees who elect to use such programs are protected from retaliation or reprisal.

Our goal is to promote the full realization of EEO through a continuing affirmative employment program that will eliminate discrimination based on factors irrelevant to job performance. To achieve this goal, positive action will be taken by management at all levels to: (1) reexamine periodically our personnel policies and methods, recruiting efforts, training programs, and management practices, in order to implement necessary changes for the diversification of our workforce and (2) eradicate any internal practice or procedure which denies equality of opportunity to any group or individual on any basis other than merit and fitness. Through the affirmative employment program, opportunities will be provided for all persons to compete equally for employment and advancement to their highest levels of proficiency, where individual skills and training are fully used.

The continuing support of all staff members will be required for the achievement of the desired results.

## **POLICY STATEMENT ON SEXUAL HARASSMENT**

It is the policy of the USAOs and EOUSA to prohibit sexual harassment in their offices. Sexual harassment is unacceptable conduct in the workplace and will not be condoned. Personnel management within USAOs and EOUSA shall be free from prohibited personnel practices as outlined in the provisions of the Civil Service Reform Act of 1978. All employees shall avoid conduct which undermines these principles.

Sexual harassment is a complex and sensitive issue. It is a form of employee misconduct which undermines the integrity of the employment relationship. Harassment on the basis of sex is a violation of Section 703 of Title VII of the Civil Rights Act of 1964, as amended. In accordance with the Equal Employment Opportunity Commission Guidelines on Discrimination Because of Sex (29 C.F.R. 1604.2), unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

All employees must be allowed to work in an environment free from unsolicited and unwelcome sexual overtures. Sexual harassment debilitates morale and interferes with the work productivity of its victims and co-workers. Therefore, behavior of this nature will not be tolerated.

## **POLICY STATEMENT ON PERSONS WITH DISABILITIES**

The USAOs and EOUSA affirm their commitment to hire qualified persons with disabilities. The USAOs and EOUSA will continue to promote EEO by working to eradicate all non-merit factors of employment that adversely affect persons with disabilities.

To accomplish this goal, all levels of management must: (1) ensure that personnel and other internal practices and procedures are executed equitably, and not deny equal opportunity for any group of individuals based on non-merit and non-fitness factors; (2) provide opportunities that will allow persons with disabilities the chance to compete on an equal basis for advancement to their highest level of proficiency; and (3) ensure that all complaints of discrimination filed by persons with disabilities are handled in a manner that does not impose fear of reprisal.

## **POLICY STATEMENT ON DISABLED VETERANS**

The USAOs and EOUSA reaffirm their policy to recruit and hire qualified disabled veterans, especially veterans who are 30 percent or more disabled. The USAOs will continue to

promote EEO by working to eradicate all non-merit factors of employment that would adversely affect disabled veterans.

To accomplish this goal, all levels of management must: (1) ensure that personnel and other internal practices and procedures are executed equitably and do not deny opportunities to any group of individuals based on non-merit and non-fitness factors; (2) provide opportunities that will allow disabled veterans the chance to compete on an equal basis for advancement to their highest level of proficiency; and (3) ensure that all complaints of discrimination filed by disabled veterans are handled in a manner so as to eliminate fear of reprisal.

## CONTACT

Juan Milanés  
Assistant Director  
Equal Employment Opportunity Staff, EOUSA  
(202) 514-3982

## **CIVIL RIGHTS ACT OF 1991**

President George Bush signed the Civil Rights Act (CRA) of 1991 on November 21, 1991. It reverses eight Supreme Court rulings that narrowed the scope and effectiveness of federal employment discrimination laws, and expands their remedies.

The CRA of 1991 creates three new laws and amends five established laws. The three new laws are: Section 1981A of Title 42 of the U.S. Code, The Glass Ceiling Act of 1991, and the Government Employee Rights Act of 1991.

The CRA amends five civil rights statutes: Title VII of the CRA of 1964, the Americans with Disabilities Act (ADA) of 1990, Age Discrimination in Employment Act of 1967, CRA of 1866 (42 U.S.C., Section 1981), and the Civil Rights Attorney's Fees Awards Act of 1976.

### **MAJOR PROVISIONS OF THE CRA OF 1991**

The CRA creates a right of action for compensatory and punitive damages under new Section 1981A of Title 42 of the U.S. Code for victims of intentional employment discrimination in violation of Title VII or the ADA. It also creates a right of action under Section 1981A for compensatory damages for victims of intentional job bias on the basis of disability by federal agencies and departments in violation of the Rehabilitation Act of 1973.

Compensatory and punitive damages are available only for intentional discrimination and unlawful harassment. They cannot be awarded in cases where a job practice not intended to be discriminatory is shown to have an unlawful disparate impact on persons within a protected category.

Punitive damages are not available under Section 1981A against federal, state, or local government employers. Compensatory damages are available against government employers to the same extent that they are against private sector employers.

Awards of compensatory damages under Section 1981A are in addition to back pay, interest on back pay, front pay, or any other equitable relief authorized under Title VII.

The following limits are placed on the total amount of damages recoverable by each complaining party for each cause of action brought under Section 1981A.

- \$50,000 for employers with more than 14 and fewer than 101 employees,
- \$100,000 for employers with more than 100 and fewer than 201 employees,
- \$200,000 for employers with more than 200 and fewer than 501 employees, and
- \$300,000 for employers with more than 500 employees.

A jury trial may be requested by any party in a case in which compensatory or punitive damages may be awarded and courts are prohibited from informing the jury about the cap on damage awards.

## CONTACT

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Assistant Director  
Equal Employment Opportunity Staff, EOUSA  
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## **AMERICANS WITH DISABILITIES ACT**

The Americans with Disabilities Act (ADA) provides civil rights protection to individuals with disabilities like those provided to individuals on the basis of race, sex, national origin, and religion. It guarantees equal opportunity for individuals with disabilities in employment, public accommodations, transportation, state and local government services, and telecommunications. The ADA covers employers, employment agencies, commerce, industries affecting commerce, and states; however, it **does not** apply to the Federal Government. The Federal Government is covered by the Rehabilitation Act of 1973. The Rehabilitation Act provides federal employees and applicants for employment rights similar to those provided by the ADA.

### **CONTACT**

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Assistant Director  
Equal Employment Opportunity Staff, EOUSA  
(202) 514-3982

## **SPECIAL EMPHASIS PROGRAMS**

Special Emphasis Program Managers (SEPMs) are persons who have volunteered or been designated by district management officials to assist in implementing the United States Attorneys' offices (USAOs) equal employment opportunity (EEO) efforts. Their duties with the program are considered "collateral" to their primary responsibilities.

The appointment of a SEPM should be submitted in writing to the Executive Office for United States Attorneys (EOUSA), EEO Staff. An addendum to the SEPM's position description should be written, and the percentage of time allotted for the SEPM's collateral duties included. The time allotted should not be more than 20 percent.

The typical SEPM is a member of the group being represented, but being African-American, Hispanic, Asian, Native American, disabled, or female is not a prerequisite. SEPMs must possess the following qualifications:

- the ability to communicate effectively with management and line staff;
- knowledge of cultural experiences of minorities and women in our society;
- sufficient proficiency within their primary specialty so that performing the collateral duties would not minimize performance of primary responsibilities;
- an understanding of EEO laws and regulations in order to formulate and implement affirmative action programs;
- a good working relationship with managers, supervisors, and line staff, regardless of their occupations, sex, race, ethnic heritage, or socio-economic backgrounds; and
- a commitment to the principles of EEO/Affirmative Action and willingness to take an extra step when it can impact positively on the program.

EOUSA provides training materials for SEPMs that provide an overview of the EEO/Affirmative Action Programs and the essential knowledge and skills required to enable SEPMs to perform their responsibilities. If the district desires additional training for the SEPM, the EEO Staff can assist in determining the appropriate courses, and provide assistance for implementing an effective Affirmative Employment Program.

For in-house management and staff training, the EEO Staff has several videotapes available for loan, including tapes on the prevention of sexual harassment in the workplace, managing cultural diversity, and interviewing techniques.



## **SELECTIVE PLACEMENT PROGRAM**

The Selective Placement Program involves hiring, placing, and advancing persons with disabilities in the Federal Government. It also promotes retaining federal employees who become disabled for the positions they hold but may qualify for others, or who, with rehabilitation, may be able to develop the abilities they need to continue in the jobs they hold.

## **REASONABLE ACCOMMODATION**

A federal agency is required to make “reasonable accommodation” to the physical or mental limitations of a qualified employee or applicant. Reasonable accommodation means making adjustments or changes to the work schedule, job, or work environment to meet the needs of employees or applicants with disabilities. An agency must make a reasonable accommodation unless they can show that the accommodation would create an undue hardship on work operations.

## **CONTACT**

Juan Milanés  
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## **APPLICANT SERVICE/ASSISTANT UNITED STATES ATTORNEYS' RECRUITMENT PROJECT**

The Executive Office for United States Attorneys (EOUSA) is committed to the goal of promoting diversity in the United States Attorneys' offices (USAOs). EOUSA has developed a diversity plan for AUSAs to assist United States Attorneys in achieving this goal. The Equal Employment Opportunity (EEO) Staff administers the Applicant Service/AUSA Recruitment Project. This Project advertises in both general and minority bar publications, and then forwards the resumes they receive to the USAOs specified by the applicants. The EOUSA Personnel Staff also assists the USAOs by placing attorney vacancy announcements in the Department's Career Opportunities listing on the Internet. In addition, USAOs may request assistance from the EEO Staff in augmenting their applicant pools. In response to individual USAO requests, the EEO Staff forwards copies of the resumes of applicants who are interested in employment in the USAO's geographical area. The EEO Staff also attends various bar association conferences and law school job fairs to recruit and solicit resumes of prospective attorney and law student applicants for employment. The EEO Staff forwards to USAOs copies of the resumes received.

EOUSA and the United States Attorneys are dedicated to increasing the numbers of women and minorities throughout the USAOs so that the federal work force will reflect the diversity of the nation.

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## **SEXUAL HARASSMENT**

With respect to conduct between fellow employees, an employer is responsible for acts of sexual harassment in the workplace if the employer (or its agents or supervisory employees) knows or should have known of the conduct, unless it can show that it took immediate and appropriate corrective action.

An employer may also be responsible for the acts of non-employees, with respect to sexual harassment of employees in the workplace, if the employer (or its agents or supervisory employees) knows or should have known of the conduct and fails to take immediate and appropriate corrective action.

Other related practices: Where employment opportunities or benefits are granted because of an individual's submission to the employer's sexual advances or requests for sexual favors, the employer may be held liable for unlawful sex discrimination against other persons who were qualified for but denied that employment opportunity or benefit.

In April 1994, the Attorney General issued a management directive entitled, "Comprehensive Program for the Prevention of Sexual Harassment," which enhanced the Departments's efforts for addressing as well as preventing incidents of sexual harassment. A procedure requiring each USAO to designate a Prevention of Sexual Harassment Point of Contact (POC) ...(non-management employee) was established in addition to the existing EEO and grievance program. The Legal Counsel's office administers sexual harassment prevention POC procedures, provides guidance on the POC program, and monitors the annual training certification required by the POC program plan for EOUSA and the USAOs.

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## **FEDERAL SECTOR COMPLAINTS PROCESSING PROCEDURES (29 C.F.R., PART 1614)**

Effective November 9, 1999, the processing of discrimination complaints is governed by 29 C.F.R., Part 1614. This rule changed the way federal agencies and the Equal Employment Opportunity Commission (EEOC) process administrative complaints and appeals of employment discrimination filed by federal employees and applicants for employment.

Under Part 1614, aggrieved persons who believe they have been discriminated against on the basis of race, color, religion, sex, national origin, age, disability, or retaliation must consult an Equal Employment Opportunity (EEO) Counselor prior to filing a complaint, to try to informally resolve the matter. The individual must initiate this contact within **45 calendar days** of the date of the alleged discrimination or, in the case of a personnel action, within **45 days** of the effective date of the action.

If the EEO Counselor is unable to resolve the matter within **30 days**, a complainant has the right to file a formal complaint. The 30-day time period may be extended with the complainant's consent or may be extended up to 90 days if the individual selects Alternative Dispute Resolution (ADR). ADR is available to a complainant throughout the EEO process; in both the pre-complaint and formal phases of the complaint process. When the complainant requests ADR, the EEO Staff will evaluate this request to determine whether mediation would be appropriate. If the EEO Staff determines that the case is appropriate for ADR, then management officials must participate in "good faith" as required by DOJ Human Resources Order 1200.1. If the complaint cannot be resolved through the EEO counselor, the individual must file a formal complaint within 15 days of receiving the notice of the final interview with the EEO counselor.

Upon receipt of a formal EEO complaint, the EEO Staff determines whether the claims should be dismissed in whole, dismissed in part, or accepted for investigation. If a claim is to be investigated, the EEO Staff provides complainant and the appropriate district with a letter outlining the issues accepted for investigation. The United States Attorneys' office may contact the EOUSA Legal Counsel's Office for advice and assistance concerning this letter. Please note that investigations are conducted by persons officially designated and authorized by the EEO Staff to conduct inquiries into matters raised in EEO complaints, and with the authority to administer oaths and to require employees to furnish testimony under oath or affirmation, without a promise of confidentiality.

The agency is required to conduct an impartial and thorough investigation of the complaint and provide the complainant with a copy of the investigative file within **180 days** of the day of the complaint or the last amendment was filed or within 360 days of the date of the original complaint, whichever is earlier. The 180-day time period may be extended with the complainant's consent.

Within **30 days** of receipt of the investigative file, the complainant has the right to request a hearing before an Administrative Judge or may receive an immediate final decision. The complainant may also file an action in Federal District Court if more than 180 days have lapsed since the formal complaint was filed, and no final agency decision has been issued.

The final decision shall consist of findings by the agency on the merits of each issue in the complaint and, when discrimination is found, appropriate remedies and relief shall be provided.

The final decision also shall include the complainant's right to appeal to the EEOC.

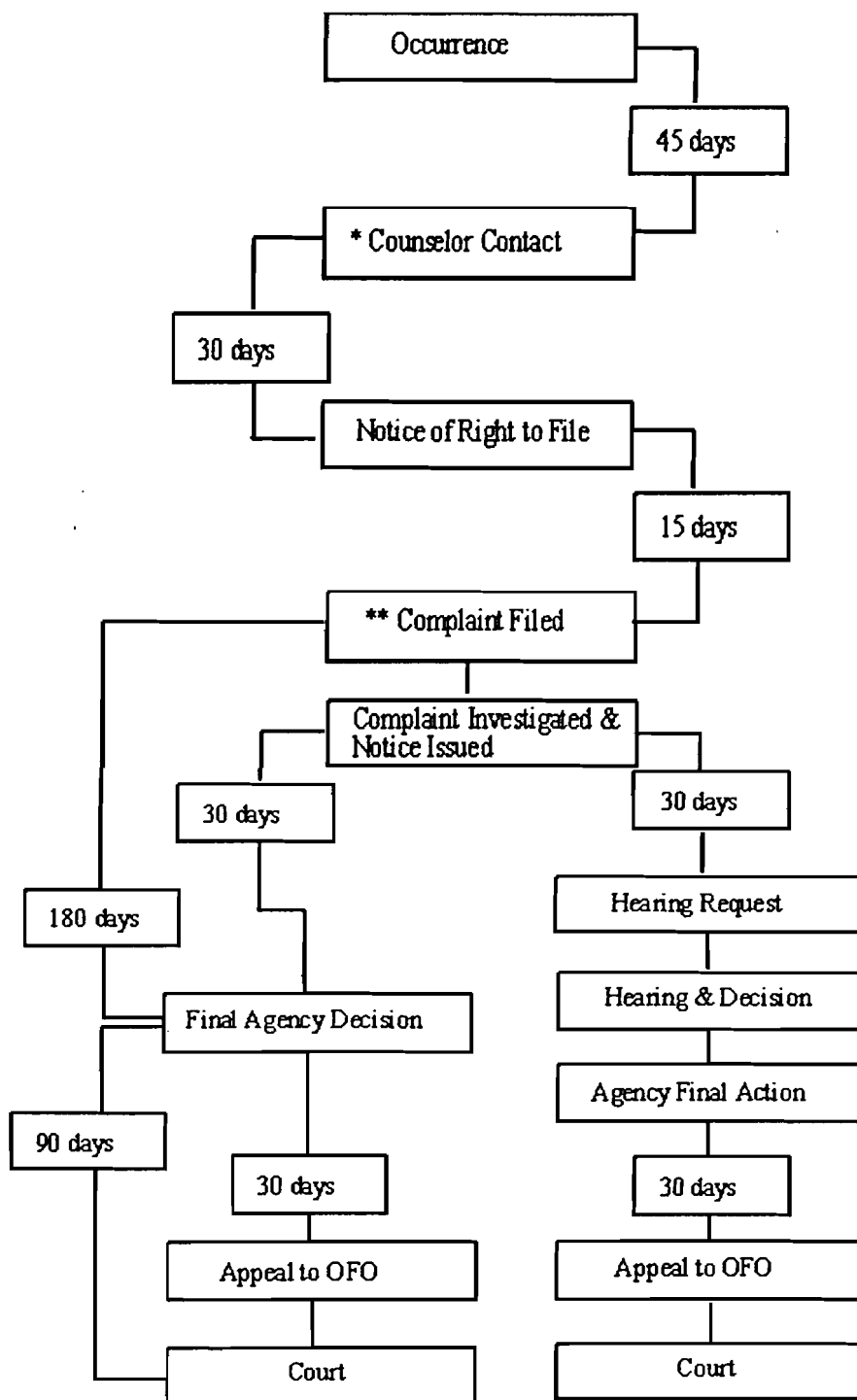
Appendix 7-1 is a flow chart outlining the steps in complaint processing.

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# OVERVIEW OF FEDERAL SECTOR COMPLAINT PROCESSING UNDER 29 C.F.R., PART 161.

APPENDIX  
7-1



A detailed description of the process can be found at  
<http://www.usdoj.gov/jmd/eeos/complaintprocess.htm>.

\* Complaint may be dismissed on procedural grounds; e.g., fails to state a claim, fails to comply with applicable time limits, that is moot, etc. (See 29 CFR 1614.107).

\*\* The ADR Program is available during both the pre-complaint process and the formal complaint process.

RTP  
3/2



**Department of Justice**  
**Human Resources Order**  
 DOJ 1200.1

Part 4, Equal Employment Opportunity  
 Chapter 1, Equal Employment Opportunity Program  
 Jul. 6, 2000

**A. References.**

<b>Statute</b>	<u>42 U.S.C. 2000e et seq.</u>
	<u>29 U.S.C. 621 et seq.</u>
	<u>29 U.S.C. 206(d)</u>
	<u>29 U.S.C. 791 et seq.</u>
	<u>38 U.S.C. 101(2)</u>
	<u>5 U.S.C. 7201 et seq.</u>
	<u>42 U.S.C. 1981a</u>
	<u>5 U.S.C. 571 et seq.</u>
<b>Code of Federal Regulations</b>	<u>29 CFR 1600-1691</u>
	<u>28 CFR 0.75(d)</u>
	<u>28 CFR Part 42</u>
<b>Executive Order</b>	E.O. 11478
<b>Guidance</b>	EEOC Management Directives <u>MD- 110, MD-713, MD-714</u>
<b>Key terms</b>	<u>Mixed-case complaint</u>
	<u>Mixed-case appeal</u>

**B. Policy.**

1. This chapter applies to every employee, manager, supervisor, and executive in the Department and to applicants for employment.

2. It is the policy of the Department to provide, ensure, and promote equal opportunity in employment for all persons on the basis of merit. Management within every organization and at all levels will take effective actions to eliminate any internal policy, practice, or procedure which results in discrimination on the basis of race, color, sex, religion, national origin, age, physical or mental disability, sexual orientation, or status as a parent. The Department is committed to assuring that questions or complaints of discrimination and sexual harassment are promptly and thoroughly investigated and resolved without reprisal or threat of reprisal.
3. **EEO Counselor Training Requirements.** All EEO counselors must receive a minimum of eight hours of continuing EEO counselor training every year. All new EEO counselors must receive a minimum of thirty-two (32) hours of EEO counselor training prior to assuming counseling duties. Bureaus may develop their own training courses and/or contract with other organizations to provide training. Any training provided must meet all standards established by the Equal Employment Opportunity Commission (EEOC).
4. **Administration.** All EEO programs within the Department will be administered in compliance with the provisions outlined in 29 CFR 1614.102.
5. **Delegated Authority and Responsibility.**
  - a. **Attorney General.** The Attorney General retains the ultimate responsibility for establishing the Department's EEO policy. The Attorney General has designated the Assistant Attorney General for Administration to serve as the Department's Director of EEO and has delegated to the Assistant Attorney General for Civil Rights the authority to appoint the Complaint Adjudication Officer for the Department.
  - b. **Department of Justice Director of EEO.** The Assistant Attorney General for Administration, as Director of EEO, is responsible for enforcing and administering Department EEO policy, for proposing and coordinating changes in Department policy, for intervening, when necessary, in the processing of bureau discrimination complaints and for guiding EEO programs throughout the Department. The Assistant Attorney General for Administration has delegated to a Deputy Assistant Attorney General, Justice Management Division, the general oversight responsibilities for the enforcement and administration of the Department's EEO program.
  - c. **Complaint Adjudication Officer.** The Complaint Adjudication Officer is responsible for rendering the Department's final decision or final order regarding complaints of discrimination filed by Department employees and applicants pursuant to 29 CFR 1614 and Departmental policy.
  - d. **Director of EEO Staff.** The Assistant Attorney General for Administration has delegated to the Director of the EEO Staff (EEOS) the responsibility for coordinating and monitoring the implementation of Departmental EEO policy and providing leadership and direction on EEO regulations and directives to bureau EEO officials. The Director of EEOS is also responsible for overseeing the discrimination complaints processing system. This responsibility includes final authority to dismiss, in whole or in part, all formal complaints of discrimination recommended for dismissal by any bureau. This authority includes, but is not limited to, the termination of complaints in accordance with EEO regulations (See paragraph C.14.)



e. **Bureau Heads.** For the purposes of this chapter, a "Bureau Head" is defined as the Director or Administrator of the following organizations:

- Executive Office for U.S. Attorneys
- Drug Enforcement Administration
- Federal Bureau of Investigation
- U.S. Marshals Service
- Immigration and Naturalization Service
- Office of Justice Programs
- Federal Bureau of Prisons
- Executive Office for Immigration Review

Bureau Heads are responsible for assuring equal opportunity in employment within their organizations, for allocating sufficient resources to meet EEO program objectives, and for appointing qualified EEO program officials to administer the bureau's EEO programs.

The Department's litigating divisions and additional organizations comprise what is referred to as the Offices, Boards and Divisions (OBDs). The OBDs are considered a bureau for administrative and reporting purposes with the Assistant Attorney General for Administration as "Bureau Head." The EEOS conducts all of the discrimination complaint and affirmative employment program activities described below for the OBDs. The Director of EEOS is directly responsible for managing, directing, and supervising these activities for the OBDs.

f. **Bureau EEO Officers.** Bureau EEO Officers are responsible for the development, implementation, and monitoring of EEO bureau policy, directives, and procedures to ensure full compliance with the provisions of EEO laws, regulations, and policies. This responsibility includes the authority to accept and assign for investigation formal complaints of discrimination filed within the bureau, or, if appropriate, recommend to the Director of EEOS dismissal of complaints in accordance with EEOC regulations. The EEO officers are directly responsible for managing, directing, and supervising the bureau's discrimination complaint and affirmative employment program activities. They are also responsible for recommending changes in bureau policy, personnel programs, and procedures to eliminate discriminatory practices.

g. **Special Emphasis Program Managers.** EEO Special Emphasis Programs include the Federal Women's Program, the Hispanic Employment Program, the Black Affairs Program, the American Indian Program, the Asian/Pacific American Program and the Selective Placement Program for Persons with Physical and Mental Disabilities. Bureaus will appoint Special Emphasis Program Managers to ensure that equal opportunity issues and concerns affecting these covered groups are adequately addressed. Particular attention will be given to ensure that collateral duty EEO Special Emphasis Program Managers are given adequate

time, resources, and training to accomplish program goals.

- h. **Affirmative Action Program Managers.** These individuals will be designated by their bureau to serve as the principal officials responsible for identifying, developing, and planning the affirmative action activities and programs aimed at enhancing the employment opportunities and representation of minorities, women, and persons with physical or mental disabilities.
- i. **Other EEO Officials.** Includes all individuals full-time, part-time, or collateral duty who are designated by their bureau or the Department to provide counseling for aggrieved individuals or to receive, process, investigate, or adjudicate individual and class complaints of discrimination. These EEO counselors, investigators, and other EEO officials will execute their duties and responsibilities in strict adherence to the regulations outlined in 29 CFR 1614 and Departmental guidelines.
- j. **Personnel Officers.** Personnel Officers are responsible for ensuring that all personnel management programs are free of discrimination and administered on the basis of merit. They are also responsible for providing timely assistance to EEO officials in carrying out their affirmative action or discrimination complaint processing responsibilities, including the collection of data regarding the race, national origin, and gender of new employees entering on duty. Personnel Officers are required to retain official personnel records relevant to a complaint of discrimination after they are notified of the complaint by EEO officials. Such records will be retained until the complaint is closed.
- k. **Managers and Supervisors.** These officials are responsible for implementing, within their organizational segment, the Department's equal opportunity policy in all areas of employment, ensuring a work environment which is free of discrimination and reprisal, and for cooperating with EEO officials in the performance of their duties.
- l. **Employees.** All employees are responsible for treating fellow employees with basic respect and dignity, and for neither engaging in, nor condoning in others, discriminatory behavior, including harassment, based on race, color, religion, sex, national origin, age, sexual orientation, or disabling condition.

**6. Affirmative Employment Programs.**

- a. **General.** Affirmative employment programs include the multi-year Affirmative Action Program Plan for minorities and women, the Federal Equal Employment Opportunity Recruitment Program (FEORP), Disabled Veterans Affirmative Action Plan, Affirmative Action Plan for Persons with Disabilities, and any other initiative or program which is aimed at providing equal opportunity in employment for the purpose of achieving a representative and diverse workforce.
- b. **Multi-Year Affirmative Action Program Plans.** The Multi-Year Affirmative Action Program Plan for Minorities and Women, and the Affirmative Action Plan for Hiring, Placement, and Advancement of Persons with Disabilities will be prepared in accordance with appropriate EEOC management directives, DOJ policy guidance and reporting requirements. The following procedures constitute Departmental supplements to EEOC management directives. Additional policy guidance on the development of annual plans and accomplishment reports is issued separately prior to the DOJ reporting dates.

1. Bureau-wide affirmative employment program plans are due to the Department's EEO Staff a month in advance of the EEOC's due date.
  2. Bureaus will ensure that the program plans are developed in accordance with EEOC and DOJ instructions.
  3. Bureaus will require applicable major operating divisions to submit affirmative action program plans which shall be incorporated into the bureau-wide plan.
  4. Management should participate in the development of all affirmative employment program plans.
  5. Every bureau plan shall be signed by the bureau head.
- c. **The Federal Equal Employment Opportunity Program (FEORP).** The FEORP Plan will be developed in accordance with Office of Personnel Management (OPM) and Department instructions. The development and implementation of the FEORP Plan will require the collaboration of personnel and EEO offices within every bureau of the Department. To maximize resources and effectiveness, the objectives and strategies for recruiting minorities and women developed for the FEORP Plans will complement the action items contained in the affirmative action plans developed pursuant to EEOC management Directives, and the Disabled Veterans Affirmative Action Plan. Bureau-wide FEORP Plans are due to the Department's EEO Staff a month in advance of OPM's due date.
- d. **Disabled Veterans Affirmative Action Program (DVAAP) Plan.** This Plan, which targets strategies for the recruitment, hiring, placement, and retention of disabled veterans, will be developed in accordance with OPM and Department instructions. This plan is an integral part of the Selective Placement Program for Persons with Disabilities. All bureau-wide DVAAP plans are due to the Department's EEO Staff a month in advance of OPM's due date.

## **7. Discrimination Complaint Processing System..**

- a. **General.** All discrimination complaints based on race, color, religion, sex, national origin, age, mental and physical disabilities, and reprisal, will be processed and adjudicated in accordance with EEOC regulations and directives set forth at 29 CFR 1614 and Management Directive 110. Complaints based on an applicant's or employee's sexual orientation or parental status will be processed and adjudicated in accordance with paragraph B.7.j. below.
- b. **Where to File a Complaint.** All complaints shall be filed with and processed by the bureau where the complaint arose. Special procedures for handling complaints that pose a real or perceived conflict of interest are described in paragraph C. 13. of this chapter.
- c. **Costs.** The bureau where the complaint arose is responsible for all costs associated with processing the complaint.
- d. **Negotiated Grievance Procedures.** When an employee is employed by a bureau subject to 5 U.S.C. 7121(d) and the employee is covered by a collective bargaining agreement that

permits allegations of discrimination to be raised in a negotiated grievance procedure, the employee may choose to file either a complaint through the appropriate EEO office or a grievance through the negotiated grievance procedures, **but not both**. The employee is considered to have made this choice when he or she first files either a written complaint or a written grievance. EEO counseling does not constitute an election. Once made, the choice is binding, and may not be changed.

- c. **Mixed Cases.** In cases where the matter is appealable to the Merit Systems Protection Board (MSPB) and discrimination is alleged, the aggrieved person may elect to file either a "mixed-case appeal" to the MSPB, which must be filed within 30 days after the effective date of the action being appealed, or a "mixed-case complaint" through the administrative EEO complaint process, **but not both**. EEO counseling does not constitute an election. If the aggrieved person files an MSPB appeal and timely seeks counseling, counseling may continue pursuant to the applicable regulations, at the option of the parties. However, any formal complaint submitted by an aggrieved person who previously elected to file a mixed-case appeal on the same matter will not be accepted for processing.
- f. **Contact with EEO Counselor.** If an employee or applicant for employment believes that he or she has been discriminated against because of any of the aforementioned bases, he or she must first contact an equal employment opportunity counselor at the bureau where the alleged discrimination took place. If the alleged discrimination occurred within the OBDs, the employee or applicant shall contact the EEOS to obtain counseling. A bargaining unit employee may raise the issue through the negotiated grievance procedure.
- g. **Representation.** An aggrieved person has the right to be represented at all stages of the complaint process including the counseling stage. While an aggrieved person may generally select anyone to be his or her representative (provided that the selectee is willing), management may disallow the choice of representative if the representative is a Department of Justice employee who cannot be spared from his or her official duties or if the representation would present a conflict of interest (i.e., an incompatibility between the representation functions and an employee's official duties). An employee's right to choose a representative is not restricted by a collective bargaining agreement granting a union the right of exclusive representation.
- h. **Right to Anonymity.** The aggrieved person has the right to remain anonymous throughout the counseling stage. A bureau's processing of an anonymous, informal complaint does not preclude the presentation of the aggrieved's issues to management.
- i. **Allegations of Reprisal.** Retaliation or reprisal is prohibited against a person who participates in the EEO complaint process or opposes an employment practice which is not in concert with EEO laws and regulations or this order. A complaint of reprisal or retaliation is processed in the same manner as other complaints of discrimination.
- j. **Complaints on the Basis of Sexual Orientation or Parental Status.** Complaints on the bases of sexual orientation discrimination or discrimination based on parental status will be processed by utilizing the informal EEO counseling process and, as necessary, the EEO Alternative Dispute Resolution (ADR) Program. If the dispute is not resolved, the complainant is entitled to an investigation and a final Department decision. Back pay and non-monetary remedies are available when there is a finding of discrimination on either basis. Individual entitlement in this regard is derived from Department of Justice policy and

practice and not from EEOC regulations which govern other types of discrimination complaints in the Federal Sector. Although complaints based on sexual orientation and parental status are processed under the same administrative time frames, they cannot be the subject of a hearing before an EEOC administrative judge or an appeal to the EEOC.

- k. **Settlement Agreements.** A complainant and the Department may resolve the complaint at any step of the process. All parties to a settlement must reduce their agreement in writing. A complainant may withdraw his or her complaint, in writing, at any time.

### **C. Documentation and Reporting.**

1. **Pre-Complaint Counseling.** A complainant must first contact an EEO counselor in the bureau where the alleged discrimination took place within 45 calendar days of the alleged discriminatory act or, in the case of a personnel action, within 45 calendar days of the effective date of the action. Failure to contact an EEO counselor within the 45-day time limit may result in the dismissal of the complaint. Complainants from the OBDs are instructed to contact the EEOS to obtain counseling. The EEO counselor will inquire into the matter and attempt to resolve the complaint informally.

Generally, the pre-complaint counseling period will not exceed 30 days. However, prior to the end of the 30-day period, the complainant may agree in writing with the Department to postpone the final interview and extend the counseling period for an additional period of no more than 60 days. Further, when the complainant has agreed to participate in the Department's Alternative Dispute Resolution (ADR) process, the pre-complaint processing period will be 90 days. If the matter is not resolved through counseling or the ADR process, the counselor must give the complainant written notice of the right to file a formal complaint.

2. **Filing a Complaint.** The complainant has 15 calendar days from receiving a written notice of the right to file a complaint from the EEO counselor to file a formal complaint in writing. Failure to file within the 15-day time limit shall result in the dismissal of the complaint.

The complainant may file a formal complaint without having received the written notice of the right to file a formal complaint if the matter has not been resolved within 30 calendar days from first contacting an EEO counselor.

3. **Acknowledgment or Dismissal.** Receipt of a formal complaint shall be acknowledged in writing by the cognizant bureau's EEO office. If the Department dismisses the entire complaint, the EEOS shall notify the complainant in writing of his or her right to appeal to the EEOC's Office of Federal Operations within 30 days of receipt of the Department's dismissal. If the Department dismisses a portion of the complaint, the EEOS shall notify the complainant in writing that the Department's decision is reviewable by an EEOC administrative judge if a hearing is requested on the remainder of the complaint and that the Department's decision is not appealable until the Department takes final action on the remainder of the complaint. If accepted in part or in whole, the cognizant bureau's EEO office will then assign an investigator to the complaint.
4. **Investigation of the Complaint.** The investigation is to be completed within 180 days of the date on which the complaint was filed (120 days if it is a "mixed-case complaint"). The investigator shall take an affidavit from the complainant and other witnesses and gather

evidence about the complaint. Once the investigation is complete, the complainant will receive a copy of the investigative file. An additional copy shall be provided to a management official within the Bureau where the complaint arose (the bureaus will be responsible for designating an appropriate management official within their organization). Also, the cognizant bureau's EEO office will provide notice to the complainant of his or her right to a hearing before an EEOC administrative judge or a final Department decision without an EEOC hearing. The complainant shall be given 30 days to make the election. Where the complainant fails to make an election within 30 days, the cognizant bureau's EEO office will forward the file to the Department's Complaint Adjudication Officer (CAO) for a final Department decision.

In a mixed-case complaint, there is no entitlement to an EEOC hearing, but a complainant may request a hearing in connection with an appeal to the MSPB on the final Department decision.

5. **Hearing and Decision.** If the complainant requests a hearing, it is conducted by an EEOC administrative judge. Under his or her direction, the parties may conduct "discovery," a process of obtaining relevant information needed to prepare their cases. The administrative judge hears relevant testimony and considers documentary evidence of the alleged discrimination. Witnesses give testimony under oath or affirmation, and may be cross-examined.

Within 180 days of the administrative judge's receipt of the complaint file from the Department, the administrative judge shall submit his or her decision, along with a complete copy of the hearing record, to the complainant and the Department's CAO.

If the CAO determines that the judge's decision will be fully implemented the CAO must, within 40 days of receiving the hearing record and the decision of the administrative judge, issue a final order notifying the parties of its decision.

6. **Appeals to the EEOC.**

- a. **By the Department.** If the CAO determines that the judge's decision will not be fully implemented the CAO will, within 33 days of receiving the hearing record and the decision of the administrative judge, draft a final order notifying the complainant of its decision, as well as a memorandum setting out the relevant facts, essential findings, and rationale for its decision. The CAO will forward the Order and the accompanying memorandum to the bureau component responsible for representing the bureau before the EEOC within 33 days of the CAO's receipt of the hearing record and decision. The bureau component responsible for representing the bureau before the EEOC will be responsible for filing both the Order and any appeal within 40 days of the CAO's receipt of the hearing record and decision. Any statement or brief on behalf of the affected bureau in support of the appeal must be filed within 20 days of filing the notice of appeal. If the bureau component responsible for representing the bureau before the EEOC fails to issue the final order within 40 days of the CAO's receipt of the hearing record and the administrative judge's decision, the administrative judge's decision becomes the final action of the Department.
- b. **By the Complainant.** A complainant may file a notice of appeal of the Department's final action (i.e., final order regarding an administrative judge's decision), final agency

decision (i.e., agency decision issued without a hearing) or dismissal of his or her complaint with the EEOC's Office of Federal Operations. The complainant must file his or her notice of appeal within 30 days of receipt of the Department's final action, final agency decision or dismissal. Any statement or brief on behalf of the complainant in support of the appeal must be submitted within 30 days of filing the notice of appeal.

**7. Filing a Civil Action.** A private lawsuit under Title VII, the Rehabilitation Act of 1973, or the Age Discrimination in Employment Act (ADEA) may be filed in a U.S. District Court:

- a. Within 90 calendar days of receipt of the Department's final action on an individual complaint (30 days for mixed cases); or
- b. After 180 calendar days from the date of filing an individual complaint if no appeal has been filed and no final action has been issued; or
- c. Within 90 calendar days after receipt of the EEOC's final decision on appeal; or
- d. After 180 calendar days from the date of filing an appeal with the EEOC if there has been no final decision by the EEOC.

A flowchart illustrating the procedures described in sections C. 1. through C. 7. is included in the addendum to this chapter.

**8. Special Procedures for Age Discrimination in Employment Act (ADEA) and Equal Pay Act (EPA) Complaints.** An age discrimination complainant may choose between two different procedures:

- a. He or she may bypass the administrative complaint process and file a civil action directly in U.S. District Court provided that he or she first provides the EEOC with a written notice of intent to sue under the ADEA. The notice must be filed within 180 days of the date of the alleged discriminatory action. Once a timely notice of intent to sue is filed with the EEOC, the aggrieved person must wait at least thirty (30) days before filing a civil action; or
- b. He or she may file a complaint of age discrimination with the Department pursuant to 29 CFR Part 1614 completing all necessary administrative steps before filing a civil action.

Complainants are responsible for determining the applicable statute of limitations in the jurisdiction in which they reside.

A private lawsuit for violation of the Equal Pay Act (EPA) may be filed in any court of competent jurisdiction within two years of the date of the alleged violation (or within three years in cases of willful violation). An aggrieved person does not have to file an administrative complaint before filing an EPA lawsuit.

**9. DOJ and EEOC Responsibility When an Appeal Is Filed.** The affected bureau's EEO office is required to forward the complaint file to EEOC within 30 days of initial notification that the complainant has filed an appeal or within 30 days of submission of an

appeal by the bureau. The file should include all notices and forms, the EEO counselor's report, the investigative file, hearing records including the administrative judge's decision, the Department's final order, and proof of mailings (i.e., receipts of all transmittals).

EEOC's Office of Federal Operations will review the briefs submitted by the parties and the Department complaint files, and issue a decision which may also establish remedies, if appropriate. Copies of EEOC decisions on appeals are sent to the complainant and/or his or her designated representative and the EEOS by the EEOC. Decisions on appeals received by the EEOS will be immediately forwarded to the affected bureau's EEO office.

10. **Relief.** When the Department or the EEOC finds that discrimination existed, it is the Department's policy to make the victim of discrimination "whole." Remedies are tailored to the circumstances and may include:
  - a. Posting a notice to all affected employees advising them of their rights under the laws EEOC enforces and their right to be free from reprisal/retaliation;
  - b. Corrective or preventive actions taken to eradicate the source of the identified discrimination and minimize the chance of its recurrence;
  - c. Placement in the position, or in a substantially equivalent position, the victim would have occupied if the discrimination had not occurred;
  - d. Back pay (with interest where applicable) and/or lost benefits;
  - e. Recovery of reasonable attorney's fees and costs, except in age discrimination complaints; and
  - f. Compensatory damages for losses such as emotional pain, suffering, inconvenience, mental anguish, and loss of enjoyment of life. Compensatory damages are available in limited circumstances and may not exceed \$300,000 in total.
11. **Alternative Dispute Resolution (ADR).** Alternative Dispute Resolution (ADR) encompasses a range of problem solving processes whose basic purpose is to resolve disagreements without litigation. EEO complainants, as appropriate, will have, consistent with the Department's ADR policy and 29 CFR 1614, the option of utilizing the Department's EEO ADR process prior to and after the filing of a formal complaint of discrimination. Once a complainant accepts the option of entering into the ADR process, management is required to enter into good faith discussions to resolve the dispute. Procedures on the operation of this element of the EEO counseling program are available from the Department's EEO Staff.
12. **Official Time.** Meetings with a complainant will be scheduled during his or her normal duty hours to the extent possible. Bureaus are not obligated to change work schedules or pay overtime or travel expenses to facilitate the choice of a specific representative or to allow the complainant to confer with his or her representative. However, reasonable official time is to be granted for the complainant and his or her representative, if both are employees of the Department, to meet with an EEO counselor or ADR program official, to prepare responses to Department and EEOC requests for information, and to prepare for a hearing. A reasonable amount of official preparation time is defined in terms of hours (as opposed to



days, weeks, or months). Eight (8) hours is considered a reasonable amount of preparation time. However, additional official time may be granted by the supervisor when extraordinary circumstances exist. Management has the discretion to determine when the official time will be taken based on the needs of the work unit.

A complainant and his or her representative, if a Department employee, will be granted official time when their presence is requested by the Department during the counseling process (including ADR), the investigation, at settlement meetings, or when the EEOC requests their presence at a settlement conference, hearing, or other meeting. Whatever time is spent in such meetings or hearings is automatically deemed reasonable.

13. **Conflict of Interest Cases.** Bureaus will forward to the Director of EEO Staff for processing those complaints that pose a real or perceived conflict of interest. These include situations where the complaint is filed against members of the EEO Office, officials having supervisory authority over the EEO office, or the head of the bureau. Conflict of interest also exists where EEO officials have had prior substantive involvement in the matter giving rise to the complaint. The Director of EEOS will make a determination on the bureau's request for reassignment of such cases. All costs associated with processing of a reassigned complaint remain with the originating bureau.
14. **Dismissals.** Bureau EEO officers' requests for dismissals of complaints are to be made to the Director of EEOS. Requests will be adjudicated in accordance with 29 CFR 1614.107. All requests for dismissal of discrimination complaints should be accompanied by a copy of the signed Form DOJ-201A, Complaint of Discrimination, the counselor's report, and as appropriate the following documents: Merit Systems Protection Board (MSPB) appeal or decision, civil action file, or any other relevant documents submitted by the complainant and/or maintained by the bureau. In cases where there is a request for a dismissal on the grounds of untimeliness, bureau EEO officers are to include, whenever possible, a statement from the complainant explaining the rationale for not meeting the regulatory time frames.
15. **Retention of Personnel Files.** Relevant records and documents of official personnel actions are required to be retained until the complaint is closed, whether it is as a result of a Department decision or by decision on appeal to EEOC, MSPB, or a U.S. Court decision. EEO officers shall identify relevant records early in the complaint process and ensure such records are retained regardless of normal records disposal schedules.

**EVALUATION AND  
REVIEW STAFF**

## EVALUATION AND REVIEW STAFF

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## **EVALUATION AND REVIEW PROGRAM**

The Director of the Executive Office for United States Attorneys (EOUSA) is required under 28 C.F.R. Part 0.22 to evaluate the performance of the United States Attorneys' offices, to make appropriate reports, and to take corrective actions if necessary. An evaluation program enables EOUSA to fulfill this responsibility.

Through this program we are able to meet our responsibility for conducting reviews of internal management controls to prevent waste, loss, unauthorized use, or misappropriation in federal programs as required under the Federal Managers Financial Integrity Act.

Equally important to meeting these regulatory and statutory requirements, the evaluation program provides on-site management assistance to United States Attorneys, as well as a forum for evaluators and the office being evaluated to share information and innovative ideas. The feedback provided to EOUSA and the Department assists in future planning on possible improvements, and provides information about the work being performed in offices around the country.

The program serves as a resource for the Attorney General not only to determine how Department priorities are addressed but to report successes in areas such as streamlining, diversity, upward mobility, violent crime initiatives/task forces, affirmative civil enforcement (ACE), health care fraud, Law Enforcement Coordinating Committee (LECC), asset forfeiture, OCDETF, and Weed and Seed.

The Evaluation and Review Staff (EARS) of EOUSA coordinates the one-week evaluations. Evaluations are conducted by a team of experienced Assistant United States Attorneys and Administrative and Financial Litigation personnel from United States Attorneys' offices (USAOs) who participate in EOUSA's Evaluation Program. Each fiscal year, EARS usually conducts evaluations in approximately one-third of the USAOs or 31 evaluations.

The follow-up program includes follow-up visits by evaluators and EOUSA personnel to verify that relevant issues are addressed and to assist in corrective action. Other assistance is provided as needed to the office. The United States Attorney is invited to comment on the performance of the evaluation team as well as on EOUSA's responsiveness.

Only the most qualified and experienced USAO personnel are selected to participate in the program. EARS asks United States Attorneys to nominate evaluators and to support those nominations with information about the experience and strengths of the individual nominees. Evaluators attend an intensive EARS training program before being sent into the field, and their continued participation in the program is dependent upon attending periodic refresher training.

## OBJECTIVES OF THE EVALUATION PROGRAM

- Provide on-site management assistance to the United States Attorneys.
- Assure compliance with Department priorities, policies, and programs.
- Ascertain whether the USAOs' staffing levels are appropriate.
- Identify issues for further study by the USAO, EOUSA, or the Department, and for possible action and resolution.
- Meet internal control requirements imposed by the Federal Managers Financial Integrity Act.
- Serve as a mechanism by which both the district being evaluated and the evaluators can share ideas and innovations.
- Enhance and improve communication between EOUSA and the USAOs it serves.

As with most other EOUSA components, EARS maintains a website on EOUSA's USANet intranet where the latest changes and innovations within the Program are posted.

## CONTACTS

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Program Manager  
Administrative Evaluation Program  
Evaluation and Review Staff, EOUSA  
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## ADMINISTRATIVE OFFICER ASSISTANCE AND MENTORING PROGRAMS

The Evaluation and Review Staff (EARS) coordinates the provision of administrative assistance to the United States Attorneys' offices (USAOs) and the Administrative Officer (AO) Mentoring Program.

EARS provides administrative assistance for the evaluation of USAO administrative operations performed through the Executive Office for United States Attorneys' (EOUSA's) Evaluation Program. An experienced AO is provided to USAOs that do not have an AO, have an inexperienced AO, or have experienced administrative difficulties. Assistance is also available when the extended absence of an AO has significantly affected the operations of a district. Assistance from an AO with specific knowledge (e.g., procurement, space management, personnel) can also be arranged through EARS.

USAOs requiring administrative assistance should call the EARS Assistant Director or the Administrative Program Manager to discuss administrative needs, and then submit a written request for assistance, including the date(s) the assistance is required. Generally, the USAO receiving the assistance pays the travel and per diem costs associated with the assistance.

Periodically, a basic training course is offered by EOUSA in Washington, D.C., for AOs and other administrative employees. This course is an orientation to Department and EOUSA operations, and it reviews all aspects of administrative services and operations.

### CONTACTS

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Judy Hallford  
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Manager  
Evaluation and Review Staff, EOUSA  
(334) 277-1970

Rita Wehmeyer  
Administrative Officer  
AO Mentoring Coordinator  
Western District of Missouri  
(816) 426-4200

## **MANAGEMENT CONTROLS TO REDUCE OR ELIMINATE FRAUD, WASTE, AND ABUSE**

The Evaluation and Review Staff is the primary point of contact for United States Attorneys' offices (USAOs) for all matters relating to management controls. The Management Controls Program is mandated by the Federal Managers Financial Integrity Act (FMFIA) and Office of Management and Budget (OMB) Circular No. A-123. The statutory and regulatory guidance requires the Executive Office for United States Attorneys (EOUSA) and all USAOs to have sufficient management controls to significantly reduce or eliminate the risks of fraud, waste, and abuse in Federal Government programs. FMFIA and OMB Circular No. A-123 articulate a comprehensive requirement for such controls and a review process to ensure that controls are in place and effective.

The Director of EOUSA monitors the effectiveness of management controls in USAOs through on-site evaluations conducted periodically in the offices, and reports annually to the Attorney General and the Department on the status of the Management Controls Program. USAO evaluations address controls over the expenditures of funds (e.g., approval procedures for travel, litigation expenses, equipment, etc.); handling and processing of payments received in USAOs (e.g., cash or negotiable instruments received from debtor-defendants, travel reimbursement, salary and civil case settlement checks, etc.); and controls over the application of resources (e.g., effectively controlling the assignment and completion of the office's workload to ensure maximum productivity while addressing priorities of the Attorney General and the needs of the office).

A major component of the EARS on-site evaluations is the identification of "red flag" internal controls findings. A red flag is defined as "a finding that indicates a weakness in a process or internal control that is a critical element of management's ability to be reasonably assured of adequate controls against fraud, waste, or abuse". The finding of a red flag during an evaluation prompts an immediate referral to the Operations Staff, EOUSA, for corrective action. This may be accomplished by suspending the authority in the area of the red flag; referral to other components of EOUSA for a thorough audit and review of documents in affected area; or other appropriate documented corrective action. Some red flags will require self-certification of correction by the United States Attorney. The appropriate resolution of all red flags are tracked and monitored through a system developed by the Operations Staff. The Red Flag Matrix, containing all of the red flag areas reviewed by evaluation teams is contained in Appendix 8-1.

## CONTACTS

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## CONTACTS FOR INTERNAL CONTROLS RED FLAGS

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Gail C. Williamson  
Associate Director  
Operations Staff  
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## **THIRD-PARTY PAYMENT SELF-CERTIFICATION REVIEW**

The Evaluation and Review Staff (EARS) is responsible for the creation, coordination, and reporting of the Third-Party Payment (TPP) Self-Certification Review. The TPP program enables all districts to pay many bills locally and, through the use of the Accounts Payable (AP) Travel Module, allows the reimbursement of employees' official travel. The delegation of this "imprest fund authority" comes from the Treasury Department, and the program is managed by the Justice Management Division (JMD). To ensure proper management controls of the TPP system, JMD requires that an annual review of each payment site be conducted. To aid USAOs in meeting this requirement, EARS prepared and implemented the Self-Certification Review in Fiscal Year 1993.

Each year, approximately one-third of the USAO districts undergo an EARS evaluation, and another 10 to 20 districts undergo a JMD compliance review of the TPP system. These districts are exempt from completion of the Self-Certification Review for the Fiscal Year in which the other reviews were conducted.

The remaining districts receive the Self-Certification Review at the end of each fiscal year, with a November response deadline. Each response is reviewed and consolidated in a report submitted to JMD. The evaluations conducted by EARS, the JMD compliance reviews and the Self-Certification Review conducted each year encompass all districts and allow us to meet the requirement of an annual review of each payment site.

As stated previously, EARS is considering the use of the self-certification review process in other regulatory areas to ensure that appropriate controls are in place.

### **CONTACTS**

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EXECUTIVE OFFICE FOR UNITED STATES ATTORNEYS  
FOIA/PA  
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**LEGAL COUNSEL'S  
OFFICE**

# OVERVIEW OF THE LEGAL COUNSEL'S OFFICE

Lynne Zentner  
Legal Counsel  
(202) 514-4024

Suzanne Bell and Leslie McClendon  
Deputy Legal Counsels  
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## EXECUTIVE SUMMARY

The Legal Counsel's Office (LCO) serves as the "in-house counsel" for all 94 United States Attorneys' offices (USAOs) and the Executive Office for United States Attorneys (EOUSA). LCO also acts as liaison between the USAOs and many Department of Justice components, including the Office of Professional Responsibility (OPR) and the Office of the Inspector General (OIG).

Consisting of approximately 25 employees, including 14 attorneys and professional staff members, LCO provides guidance on a broad array of subjects, with particular emphasis on government ethics and employment law. Other specialty areas include recusals, claims adjudication, special attorney appointments, representation requests, responding to citizens' correspondence, and a myriad of special projects.

The Legal Counsel also serves as the Deputy Designated Agency Ethics Official (DDEAO) for all USAOs and EOUSA. As DDEAO, the Legal Counsel has authority to approve or deny most ethics requests.

Generally, United States Attorneys who are unsure where to turn for assistance regarding any of the subjects mentioned above should call the LCO duty person at (202) 514-4024. For urgent matters, ask for the Legal Counsel or the Deputy Legal Counsel directly.

## CONTACT INFORMATION

Any LCO Duty Person at (202) 514-4024

For **Urgent Matters**, ask for Lynn Zentner, Legal Counsel  
Suzanne Bell, Deputy Legal Counsel  
or Leslie McClendon, Deputy Legal Counsel

## **GOVERNMENT ETHICS**

LCO provides advice and guidance regarding a broad array of ethics topics, including: Standards of Conduct; Conflicts of Interest; Outside Activities and Employment; Political Activity; Financial Disclosure Reports; and Post-Employment Restrictions.

### **Standards of Conduct**

The ethics rules governing public service are complex. As a result, LCO is available to help you navigate this challenging territory. The LCO staff will assist you in interpreting and following these rules to ensure the propriety of your decisions and to safeguard the public's confidence and trust in the Department of Justice.

The specific ethics rules you and your entire staff must become familiar with include:

- 1) the conflict of interest statutes found at 28 U.S.C. §§ 202 to 209;
- 2) Executive Orders 12674 and 12731 on Principles of Ethical Conduct;
- 3) the uniform standards of conduct set forth at 5 C.F.R. Part 2635;
- 4) supplemental standards of conduct for DOJ employees at 5 C.F.R. Part 3801; and
- 5) employee responsibilities promulgated at 28 C.F.R. Part 45.

To help you establish the working atmosphere you desire, you may want to consider directing your Ethics Advisor to schedule an ethics briefing for your entire staff as soon as possible. Your Ethics Advisor is encouraged to contact LCO for further guidance and sample training materials.

### **Conflicts of Interest**

In general, you must avoid situations where your official actions affect or appear to affect your private interests, financial or non-financial.

For new DOJ employees, you may not be able to maintain a financial relationship with a former employer or accept a severance payment or moving expenses from a private source. Please consult LCO for guidance regarding any financial relationship you might seek to maintain with your former employer, including repayment of your capital contributions over time or retaining an interest in a contingent fee.

Recusal is the remedy for most conflicts of interest. You will have to request to be recused from any cases you handled before entering the government as well as any other matters involving your former law firm or clients. (Because the recusal process is important and frequently sensitive, this Overview provides a separate section dedicated exclusively to recusals beginning at page 9-9).

## **Outside Activities and Employment**

DOJ employees are prohibited from engaging in outside activities and employment that involve criminal matters, the paid practice of law, and matters in which DOJ is or represents a party. While DOJ employees are encouraged to participate in their respective communities, they must request authorization to participate in an outside activity if the activity will involve service as an officer, director, fiduciary or employee of an entity and the work of the entity is related to the work of DOJ. A typical entity is a local bar organization. Requests should be forwarded in writing to LCO.

United States Attorneys are subject to further restrictions and must consult LCO before agreeing to participate in an outside activity.

Occasionally, a DOJ employee will request to participate in an outside activity in an official capacity. Such requests receive a high level of scrutiny and require approval by the Deputy Attorney General. Any official capacity request first must be forwarded through LCO.

## **Political Activity**

The rules governing political activity by government employees are set forth in the Hatch Act, 5 U.S.C. §§ 7321 to 7326. Of particular note, DOJ employees may not:

- 1) solicit, accept, or receive political contributions;
- 2) engage in political activity while on duty or in any government office; or
- 3) be candidates for public office in partisan elections.

Amendments to the Hatch Act permit most government employees to take a more active role in political activities. The following is a list of both permissible and prohibited activities under the revised Hatch Act.

- May be a candidate for public office in non-partisan elections;
- May assist in voter registration drives;
- May express opinions about candidates and issues;
- May contribute money to political contributions;
- May attend and be active in political rallies and meetings;
- May join and be an active member of a political party or club;
- May sign nominating petitions;
- May campaign for or against referendums, questions, constitutional amendments, or municipal ordinances;
- May campaign for or against candidates in partisan elections;
- May make campaign speeches for candidates in partisan elections;
- May distribute campaign literature in partisan elections; and
- May hold office in political clubs or parties.

- May not** use their official authority or influence to interfere with an election;
- May not** collect political contributions unless both individuals are members of the same federal labor organization or employee organization and the one solicited is not a subordinate employee;
- May not** knowingly solicit or discourage the political activity of any person who has business before the agency;
- May not** engage in political activity while on duty;
- May not** engage in political activity while wearing an official uniform;
- May not** engage in political activity while using a government vehicle;
- May not** be candidates for public office in partisan elections. In certain communities, including Washington, D.C., and suburbs, an employee may run as an independent candidate in a local partisan election and may receive, but not solicit contributions; and
- May not** wear political buttons on duty.

Because there are other restrictions that may be applicable depending on the facts and circumstances, DOJ employees are encouraged to seek guidance from LCO before agreeing to participate in any political activity.

United States Attorneys once again are subject to further prohibitions and should consult LCO for assistance in interpreting and applying the Hatch Act as well as the two most recent memoranda from the Attorney General establishing additional "Restrictions on Political Activity." Copies of the Attorney General memoranda are provided in Appendix 9-1.

### **Financial Disclosure Reports**

#### **1) Public Financial Disclosure Report (SF-278)**

Title I of the Ethics of Government Act of 1978 requires all United States Attorneys, Assistant United States Attorneys (AUSAs) who receive supervisory pay, Senior Litigation Counsels, Special Government Employees, and Schedule C employees, to file a Public Financial Disclosure Report (Standard Form 278, Rev. 6/94) within 30 days after assuming their position.

Reports must be filed each May 15 for the preceding calendar year.

Additionally, reports must be filed within 30 days after leaving a covered position for the period between the last annual report and the date employment is terminated.

**LATE FILING FEE:** Anyone who files a Public Financial Disclosure Report more than 30 days after its due date, including any extensions which have been granted, must pay a **late filing fee of \$200.**



## 2) Confidential Financial Disclosure Report (OGE-450)

Employees occupying positions in which they exercise significant judgment on matters involving contracting, procurement, administering of grants, regulating or auditing any non-federal entity are required to file a Confidential Financial Disclosure Report (OGE 450).

Reports must be filed 30 days upon entering a new position and **annually by October 31**.

The Office of Government Ethics has authorized DOJ to use a conflict of interest certification for all line AUSAs as an alternative to filing the report. All other USAO employees must complete the OGE-450 which will be filed and maintained in a secure location in the USAO.

United States Attorneys act as DDEAO for the review and certification of all OGE-450s filed by individuals within their respective districts.

### **CONTACT INFORMATION**

Lee Cumberland  
Management Analyst  
Legal Counsel's Office, EOUSA  
(202) 514-4024

### **Post-Employment Restrictions**

Upon leaving EOUSA or a USAO, employees will encounter a number of post-employment restrictions. LCO serves as a guide through this demanding terrain. Prior to departure, United States Attorneys can expect to receive a comprehensive package from LCO containing relevant federal statutes and regulations as well as general discussion of the applicable American Bar Association Model Rules of Professional Responsibility. Other EOUSA and USAO employees will receive a copy of the post-employment restrictions package upon request.

## **EMPLOYMENT LAW**

New United States Attorneys soon will discover that employment law matters often require substantial time and effort. Successful and timely resolution of personnel issues helps foster a congenial and productive work atmosphere. Because this area of the law can be tremendously challenging, every United States Attorney is required to coordinate resolution of employment law matters with LCO. Routine management decisions, including counseling for minor infractions, do not require prior coordination with LCO.

The LCO staff works very closely with management in every USAO and in EOUSA to resolve and dispose of personnel issues, including employee misconduct, poor performance, and labor union concerns. LCO experts are available for assistance during every stage of a proceeding: from the time management discovers a problem, through any investigation, through any official action, to the appeals process. The employment law experts in LCO do more than provide legal advice and help draft official correspondence— they represent the Department of Justice before the Equal Employment Opportunity Commission (EEOC) and the Merit Systems Protection Board (MSPB).

Some of the employment law issues you may expect to encounter are mentioned below.

### **Employee Discipline and Adverse Actions**

A government employee is subject to discipline for any action that affects “the efficiency of the federal service.” While many such cases involve absenteeism, failure to follow directives, and various instances of professional misconduct in violation of local, state, and federal district court bar rules, many other cases involve egregious off-duty misconduct, including moral turpitude and failure to pay just debts. The LCO staff will assist you and your management team to identify misconduct that warrants discipline, make referrals to OPR and OIG as appropriate, draft formal charges and specifications, negotiate informal resolutions and settlement agreements, and provide consistency among the 94 separate USAOs. As noted previously, LCO also will defend such actions before both the EEOC and the MSPB, if necessary.

Discipline may cover a wide range of sanctions, including: verbal or written admonishment, written reprimand, short suspensions (14 days or less), long suspensions (15 days or more), demotion, and removal (e.g. termination). Other adverse actions may include denial of a within grade pay increase (a regularly scheduled pay raise that takes place periodically depending on the employee’s seniority and satisfactory performance), a reduction in force, or a furlough.

An employee facing a disciplinary or other adverse action that may result in a loss of compensation is afforded substantial due process of law. To summarize briefly, management must first issue a letter proposing the adverse action, the employee will have the opportunity to respond to the proposal (verbally, in writing, or both), and then management issues a decision. Depending on the nature of the decision, the employee may seek to challenge the decision through the DOJ grievance procedure, or through the EEOC or MSPB. If the matter ends up before the EEOC, the employee will be entitled to a comprehensive, impartial investigation followed by a formal hearing that involves live testimony under oath before an EEOC Administrative Judge. If the matter ends up before the MSPB, the employee will have access to comprehensive discovery on an accelerated timetable followed by a formal hearing. As a final matter, it must be noted that some employees elect to take their EEO complaints to federal court. In these circumstances, management normally is represented by the Federal Programs Branch, Civil Division, DOJ, and LCO serves as liaison for the specific office involved in the litigation. Similarly, Federal Programs represents USAO and EOUSA management whenever an employee appeals an MSPB decision to the United States Court of Appeals for the Federal Circuit.

The adverse action process emphasizes accuracy over speed. Although the process may at times prove cumbersome, LCO has established a very strong record defending management and the interests of DOJ.

### **Equal Employment Opportunity (EEO)**

The laws and regulations governing equal employment opportunity are exacting and rigorous. EOUSA presently maintains a 12-member EEO Staff, entirely separate from LCO, to review and process the complaints of individual employees. In those circumstances where an informal complaint is not amenable to informal resolution, an employee may elect Alternative Dispute Resolution (ADR) or pursue a formal complaint. LCO will represent the interests of management throughout both the ADR process and the formal complaint process.

In the event an employee pursues a formal complaint, LCO staff is available to visit the office involved in order to advise management and prepare for the forthcoming investigation and litigation. During the investigation stage, an investigator from a neutral office is assigned to take testimony and collect documentary evidence. The investigator will produce a report of investigation but must refrain from making recommendations or otherwise demonstrating partiality. New United States Attorneys should be aware that LCO staff is available upon request to accompany management witnesses when they testify during an investigation.

Following completion of an EEO investigation, LCO will continue to represent the interests of management during any settlement negotiation, EEOC hearing, or post-hearing appellate proceeding.

## **Grievances, Performance Improvement Plans, and Other Administrative Actions**

Government employees can file a grievance regarding almost any matter of concern or dissatisfaction relating to their work. Notable exceptions to this general rule include: non-selection for promotion; proposals (versus actual decisions) to implement any adverse action; termination where the employee is still in a probationary status; and failure to receive special recognition or a performance award.

Once an employee files a timely grievance, LCO will help management to draft an appropriate response. Under DOJ's grievance policy, the employee has no right to further appeal management's grievance decision.

Performance Improvement Plans (PIPs) normally are required whenever an employee fails to meet performance expectations. These expectations are set forth in writing as performance elements and are listed in an employee's performance work plan. A PIP affords employees the opportunity to learn their performance elements, their performance deficiencies, and their required improvements. In most cases, the PIP is in effect for 90 days after which management determines whether the employee has passed or failed. If the employee passes, he or she must maintain satisfactory performance for one year from the date the PIP was issued, and then the matter essentially is closed. If the employee fails, management may demote or remove the employee from federal service.

Drafting and implementing a PIP is an intricate process that requires substantial time and effort from all concerned. Personnel specialists in the affected USAO and in EOUSA produce a first draft of the PIP, which then is forwarded to EOUSA's Personnel Staff for review and revision. The Personnel Staff will coordinate closely with management and LCO to ensure the PIP is comprehensive, effective, and defensible. In the event the employee fails to improve her performance and thereby fails the PIP, LCO will work with management on any ensuing action.

LCO also assists management in the USAOs and EOUSA with a broad range of other administrative matters that fall under the general rubric of employment law. Examples of such matters include cases of leave abuse, medical concerns and disabilities, and assorted minor disciplinary infractions. As a rule of thumb, when in doubt, call LCO for guidance.

The preceding information is a very brief overview of a particularly complex subject. Because employment law issues at some time are likely to challenge you, LCO has provided a more detailed introduction to this topic at Appendix 9-2.

## **CONTACT INFORMATION**

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## RECUSALS

When faced with a conflict of interest, all United States Attorneys and AUSAs are required to take action to safeguard the interests of the United States. Depending on the nature of the conflict of interest, a United States Attorney may be required to seek recusal on behalf of himself, or on behalf of the entire USAO. **Please note: you do not have authority to recuse yourself or your office from a case. Only the Office of the Deputy Attorney General can approve recusals.** See *United States Attorneys' Manual* 3-2.170 (Recusals).

A recusal request should be forwarded to LCO under the following circumstances: 1) an **actual** conflict; 2) an **appearance** of a conflict of interest; and 3) DOJ policy reasons. This overview will address each of these circumstances in turn.

An actual conflict of interest may exist when a USAO employee has a close personal, financial, or business connection to a case or investigation. Typical examples include:

- A) a former client, law partner, or law firm of a United States Attorney is involved in a case;
- B) a spouse, close relative, or other acquaintance of the United States Attorney is the subject, target, victim, or witness in a case;
- C) a USAO employee is a subject, target, victim, or witness in a case;
- D) a spouse, close relative, or other acquaintance of the United States Attorney is representing (or whose law firm is representing) the subject, target, victim, or witness in a case; and
- E) an institution in which the United States Attorney or spouse has a financial interest is the subject, target, victim, or witness in a case.

An appearance of a conflict is measured by the standard of a reasonable person with knowledge of the relevant facts. Examples may include:

- A) a United States Attorney somehow is connected to a matter or the matter involves a person or an entity the United States Attorney knows or with whom he or she is associated, or that other USAO employees know or with whom they are associated; and
- B) a spouse, close relative, or other acquaintance of a USAO employee is the subject, target, victim, or witness in a matter or case.

Recusal may be required for DOJ policy reasons when a case involves intense public interest or an issue of momentous importance and DOJ wants to avoid any allegations of impropriety.

The first step in the recusal process is to consult LCO. The USAO seeking recusal should forward an e-mail setting forth the pertinent facts of the case as well as the circumstances of the conflict of interest. Where LCO concludes that recusal is appropriate, it will draft a recusal request on behalf of the USAO for determination by the designee in the Office of the Deputy Attorney General. If the designee approves the recusal request, LCO will notify the USAO and immediately seek to identify a replacement to handle the case.

Where only the United States Attorney is recused, the First Assistant United States Attorney or next in charge generally is appointed Acting United States Attorney for the limited purpose of that particular case. The Acting United States Attorney must establish a screening mechanism to ensure the United States Attorney is entirely removed from the case.

In other cases, the conflict of interest involving the United States Attorney or another USAO employee may require recusal of the entire USAO. In the event an entire USAO is recused from a criminal case, LCO must first consult a representative of the Criminal Division at Main Justice to determine whether a concerned Criminal Division Section wants the case. If so, that section will immediately assume responsibility for the prosecution of the case. If the Criminal Division declines the case, however, LCO is tasked with identifying a neighbor USAO with the time and resources to assume responsibility for the case.

An AUSA who assumes responsibility for a case following a recusal normally must obtain an appointment as a Special Attorney pursuant to 28 U.S.C. § 515. The procedure for obtaining this appointment is relatively simple: the AUSA obtains an appointment request form from the Administrative Officer in the district, completes the form, and forwards it to the EOUSA Personnel Staff which issues the official appointment letter.

As a final matter, it is important to keep in mind that the Deputy Attorney General or designee must appoint or otherwise select another USAO to assume responsibility for a case. You must consult LCO and the Deputy Attorney General's Office for assistance.

## **SPECIAL APPOINTMENTS**

Unique circumstances such as a recusal, an acute staff shortage, a need for particular expertise, or the promotion of good working relations with state and local government attorneys may require you to seek a special appointment for a member of your staff. The most common of these appointments are discussed below.

### **Special Attorneys and Special Assistant United States Attorneys**

As noted previously in the section discussing Recusals, a Special Attorney appointment is necessary where an entire USAO is recused from a case, and an AUSA from another district is assigned to take over the case. Once the AUSA receives the Special Attorney appointment letter from the EOUSA Personnel Staff, the AUSA will continue to report to his or her own United States Attorney or to another senior DOJ attorney identified by the DAG's Office.

A Special Assistant United States Attorney (SAUSA) appointment allows AUSAs from another district or an attorney from another federal agency to work under the direction of the United States Attorney in the district to which they have been appointed. Most SAUSA appointments expire after one year, but they are renewable. United States Attorneys have authority to make SAUSA appointments for the following individuals: 1) AUSAs from another district; 2) attorneys from another federal agency; and 3) military attorneys. All other SAUSA appointments are the responsibility of the EOUSA Personnel Staff. SAUSA and Special Attorney appointments are also subject to background investigations, especially those appointments involving classified, Strike Force, or OCDETF cases. The appointment and security requirements are coordinated between EOUSA's Personnel and Security Programs staffs. Additional information on the appointment and security process may be found in USAP 3-4.213.001(M). Before requesting such an appointment, you are strongly encouraged to contact LCO for guidance.

### **Cross Designation Program**

The Cross Designation Program is designed to promote cooperation between federal, state, and local prosecutors. Under the auspices of the Intergovernmental Personnel Act of 1970, 5 U.S.C. § 3371, *et seq.*, AUSAs may receive a detail to a state or local government office. Any request for this appointment must be forwarded to LCO and must contain an adequate justification, to include: the location of the state or local government office, the length of time required, the reason for the request, a review of potential conflicts of interest, and a detailed explanation of the federal interest involved. Cross-designation appointments may be requested in periods ranging from one month to two years, with possible extensions as appropriate.

## **MISCELLANEOUS LEGAL MATTERS**

As the “in-house counsel,” LCO addresses a broad array of legal issues. This section provides a brief preview of some recurring legal issues.

### **Claims Adjudication**

LCO is responsible for collecting information and providing a coordinated response to the Torts Branch, Civil Division, DOJ, regarding a variety of tort claims, including claims from federal prisoners. In the event your office receives a letter from LCO requesting background information regarding a tort claim, please provide sufficient facts to allow a proper response as well as your recommendation concerning the ultimate disposition of the claim.

LCO also retains authority to adjudicate personal property claims of USAO employees of **\$1000 or less**. The claim must be in writing and must be filed within two years from the time the claim arose.

### **Citizen Letters**

DOJ receives hundreds of letters each year in which citizens, members of Congress, and other public officials express appreciation, concern, or dissatisfaction with one or more USAOs. Many of these letters are forwarded to LCO for an appropriate response. Given the substantial time and effort required to answer citizen mail, LCO has dedicated one of its professional staff members to handle this responsibility. In the event your office receives a request for background information regarding a particular citizen letter, please expedite your response to allow LCO to respond in a timely manner.

### **Responding to Subpoenas**

If you or an employee in your office receives a subpoena to testify or to provide documents, you must comply with the Touhy regulations set forth at 28 C.F.R. §§ 16.21 through 16.29. A decision not to comply with a subpoena normally resides exclusively with the Deputy Attorney General. United States Attorneys contemplating a decision not to comply with a subpoena should coordinate with LCO prior to consulting the Office of the Deputy Attorney General.



## **Special Projects**

At any given time, LCO is participating in dozens of special projects. Typical examples consist of: researching and providing legal opinions; monitoring legal issues of particular concern to the Attorney General or the Director, EOUSA; responding to Congressional inquiries; conducting financial statement audits; and making presentations to the Attorney General's Advisory Committee. The LCO staff also teaches a host of classes to USAO and EOUSA employees, including the Adverse Action Conference, Ethics Officer training, and on occasion the Professional Responsibility Officers Conference. Attorneys on the LCO staff routinely travel to the National Advocacy Center in Columbia, South Carolina, to teach the ethics classes that have become a mandatory part of the curriculum for nearly every course of instruction.

## REQUESTS FOR REPRESENTATION

When USAO employees are sued in their individual capacity in an action brought under *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971), or is reported to a bar disciplinary committee, LCO coordinates any resulting request for representation by the employee. To expedite this process, LCO needs the following:

- 1) A letter signed by the person sued in the individual capacity (usually an AUSA or a United States Attorney) setting forth the facts, requesting representation, and stating that the employee was acting within the scope of employment at the time of the events described in the Complaint;
- 2) A copy of the Complaint and service form; and
- 3) A separate letter from the United States Attorney or the Director, EOUSA, endorsing the request for representation and affirming that the employee's actions were within the scope of employment.

Upon the receipt of a proper request and the supervisory endorsement, LCO will review the material and forward the package with a recommendation to the Director, Torts Branch, Constitutional and Specialized Tort Litigation, Civil Division, DOJ.



Office of the Attorney General  
Washington, D.C. 20530

APPENDIX  
9-1

August 8, 2000

MEMORANDUM FOR ALL DEPARTMENT OF JUSTICE NON-CAREER APPOINTEES

FROM:

THE ATTORNEY GENERAL *John Ashcroft*

SUBJECT:

Restrictions on Political Activities

As employees of the Department of Justice (Department), we have been entrusted with the authority to enforce the laws of the United States, and with the responsibility to do so in a neutral and impartial manner. For the public to retain its confidence that we are adhering to our responsibility, we must ensure that politics--both in fact and appearance--does not compromise the integrity of our work.

The purpose of this memorandum is to remind all non-career appointees about Department policy regarding the propriety of engaging in certain political activities, and to set forth the policy and statutory/regulatory rules applicable to non-career appointees. As a matter of Department policy, I previously determined that non-career appointees would be held to the restrictions of the pre-1994 Hatch Act, which prohibits employees from active participation in political management or partisan political campaigns. The specific statutory provisions are summarized at the end of this memorandum. I also imposed additional restrictions that are set forth below, which are more strict than required by statute or regulation, for I believe that the Department should be held to a higher standard to avoid activity that might be considered partisan in nature.

These policy restrictions, as well as an outline of statutory requirements, are set out below.

Policy Restrictions

Events that may be construed as partisan in nature may be divided into two categories.

1. Political Events

The first category encompasses those functions that are clearly political such as campaign events, political fund-raisers, and conventions, which would never be attended in

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Subject: Restrictions on Political Activities

an official capacity. As a matter of Department policy; all Senate-confirmed Presidential appointees, non-career members of the Senior Executive Service (SES) and Schedule C appointees must obtain approval prior to attending any political event, including a fund-raising or campaign event, or a convention, or to accept a gift of free or discounted attendance at a political event.

As a matter of Department policy, active participation in these events is prohibited for all non-career appointees. Active participation includes making a speech at a party function, appearing on the program, on the dais or in the receiving line of a political event, or allowing your name to be used in connection with the promotion of the event.

Although passive participation is not prohibited, it is subject to a prior approval policy. Passive participation includes merely attending a fund-raising or a campaign event. Acceptance of a gift of free or discounted attendance may be approved if it meets one of the exceptions to the gift rules, including gifts based on a personal relationship or outside business relationship unrelated to official status. If you seek approval to attend an event or accept a gift in connection with an event, you must contact the Principal Associate Deputy Attorney General, the Chief of Staff to the Deputy Attorney General, or the Principal Deputy Associate Attorney General (these three officials are hereafter referred to as the "Leadership Designees").

Of course, any employee may always make an otherwise appropriate donation to the candidate of their choice so long as the fact of the donation is not used in a promotional manner.

## 2. Official Events

The second category includes official events such as a speech or grant announcement made in a state shortly before a general election, primary or caucus, or an event that may involve an appearance with a candidate for partisan office. We must be especially vigilant to prevent even the appearance that any of our official duties are motivated by improper partisan electoral politics. In determining whether your appearance could be construed as inappropriately partisan, you should consider, among other factors, the identity of the sponsor of the event, the

Memorandum for All Department of Justice  
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group being addressed, the other participants, the timing of the event, and the subject of any speech to be given. If you have any doubt about whether an appearance may be inappropriate, you should seek approval before agreeing to appear by contacting one of the three Leadership Designees.

Generally, I do not travel to any state within 30 days of a primary or general election within that state. I urge all Senate-confirmed officials to adopt a similar practice to the greatest extent practicable.

If asked by a current or former member of the Administration to participate in an official capacity in an event that you believe could be construed as inappropriately partisan, please contact one of the three Leadership Designees for consultation regarding how to proceed.

Statutory Restrictions

The statutory restrictions are set forth in the regulations at 5 CFR 734, which are summarized below. Under the regulations, non-career appointees may not:

- A. use their official authority or influence to interfere with or affect the result of an election;
- B. solicit, accept or receive a political contribution;<sup>1</sup> solicit, accept, or receive uncompensated volunteer services from an individual who is a subordinate; or allow their official titles to be used in connection with fund-raising activities;
- C. run for nomination or election to public office in a partisan election;<sup>2</sup>

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<sup>1</sup> The only statutory exception is for soliciting, accepting or receiving a political contribution to a multi-candidate political committee from a fellow member of a federal labor organization or certain other employee organizations, as long as the solicited employee is not a subordinate and the activity does not violate E below.

<sup>2</sup> In certain designated communities, including the Washington, DC suburbs, an employee may run for office in a local partisan election but only as an independent candidate and may receive, but not solicit, contributions. 5 U.S.C. 7325.

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- D. solicit or discourage the political activity of any person who is a participant in any matter before the Department;

Policy Restrictions

In addition, under Department policy, non-career appointees may not:

- E. engage in political activity (to include wearing political buttons), while on duty, while in a government occupied office or building, while wearing an official uniform or insignia, or while using a government vehicle; however, an employee may put a bumper sticker on a personal vehicle and park it in a government-owned or subsidized parking lot, but may not use the vehicle in the course of official business; and employees may display signs on their lawns and in their residences, and in similar personal circumstances.
- F. distribute fliers printed by a candidate's campaign committee, a political party or partisan political group;
- G. serve as an officer of a political party, a member of a national, state, or local committee of a political party, an officer or member of a committee of a partisan political group, or be a candidate for any of these positions;
- H. organize or reorganize a political party organization or partisan political group;
- I. serve as a delegate, alternate, or proxy to a political party convention;
- J. address a convention, caucus, rally, or similar gathering of a political party or partisan political group in support of or in opposition to a candidate for partisan political office or political party office, if such address is done in concert with such a candidate, political party, or partisan political group;
- K. organize, sell tickets to, promote, or actively participate in fund-raising activity of a candidate for partisan political office or of a political party or partisan political group; active participation includes making a speech at an event, appearing on the program, on the dais or in the receiving line of an event, or allowing your name to be used in connection with the

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promotion of the event; passive participation, which is allowed, means merely attending a fund-raising or campaign event;

- L. canvass for votes in support of or in opposition to a candidate for partisan political office or a candidate for political party office, if such canvassing is done in concert with such a candidate, political party, or partisan political group;
- M. endorse or oppose a candidate for partisan political office or a candidate for political party office in a political advertisement, broadcast, campaign literature, or similar material if such endorsement or opposition is done in concert with such a candidate, political party, or partisan political group;
- N. initiate or circulate a partisan nominating petition;
- O. act as recorder, watcher, challenger, or similar officer at polling places in consultation or coordination with a political party, partisan political group, or a candidate for partisan political office;
- P. drive voters to polling places in consultation or coordination with a political party, partisan political group, or a candidate for partisan political office.



Office of the Attorney General  
Washington, DC 20530

August 8, 2000

MEMORANDUM FOR ALL DEPARTMENT OF JUSTICE CAREER EMPLOYEES

FROM: THE ATTORNEY GENERAL

SUBJECT: Restrictions on Political Activities

As employees of the Department of Justice (Department), we have been entrusted with the authority to enforce the laws of the United States, and with the responsibility to do so in a neutral and impartial manner. For the public to retain its confidence that we are adhering to our responsibility, we must ensure that politics--both in fact and appearance--does not compromise the integrity of our work.

In 1994 Congress amended the Hatch Act, 5 U.S.C. 7321-7326, to remove certain restrictions on political participation by most government employees. All Department employees, however, must continue to take care that their activities do not compromise the integrity of the Department in enforcing the law, or create conflict or apparent conflict of interest with the neutral and impartial administration of justice.

Specific statutory restrictions on political participation applicable to all employees are set forth in Part I of this memorandum.

In addition, under the amended law, certain Department employees continue to be subject to greater statutory restrictions, similar to those imposed by the pre-1994 law. These employees include career members of the Senior Executive Service (SES), employees of the Criminal Division (CRM) and the Federal Bureau of Investigation (FBI), and Administrative Law Judges. <sup>1</sup> The additional restrictions applicable to these employees are set forth in Part II of this memorandum. See 5 CFR 734.402-412.

Part I. Restrictions Applicable to All Department Employees

Department employees may not:

- A. use their official authority or influence to interfere with or affect the result of an election;
- B. solicit, accept or receive a political contribution; <sup>2</sup> solicit, accept, or receive uncompensated volunteer services from an individual who is a subordinate; or allow their official titles to be used in connection with fund-raising activities;
- C. run for nomination or election to public office in a partisan election <sup>3</sup>;
- D. solicit or discourage the political activity of any person who is a participant in any matter before the Department;
- E. engage in political activity (to include wearing political buttons), while on duty, while in a government occupied office or building, while wearing an official uniform or insignia, or while using a government vehicle; however, an employee may put a bumper sticker on a personal vehicle and park the vehicle in a government-owned or subsidized parking lot, but may not use the vehicle in the course of official business; and employees may display signs on their lawns and in their residences, and in similar personal circumstances.

Part II. Additional Restrictions Applicable to All Career SES, CRM and FBI Employees, and Administrative Law Judges



In addition to the restrictions set forth in Part I above, these individuals may not do such things as:

- F. distribute fliers printed by a candidate's campaign committee, a political party or partisan political group;
- G. serve as an officer of a political party, a member of a national, state, or local committee of a political party, an officer or member of a committee of a partisan political group, or be a candidate for any of these positions;
- H. organize or reorganize a political party organization or partisan political group;
- I. serve as a delegate, alternate, or proxy to a political party convention;
- J. address a convention, caucus, rally, or similar gathering of a political party or partisan political group in support of or in opposition to a candidate for partisan political office or political party office, if such address is done in concert with such a candidate, political party, or partisan political group;
- K. organize, sell tickets to, promote, or actively participate in fund-raising activity of a candidate for partisan political office or of a political party or partisan political group; active participation includes making a speech at a party function, appearing on the program, on the dais or in the receiving line of an event, or allowing your name to be used in connection with the promotion of the event; passive participation, which is allowed, means merely attending a fund-raising or campaign event;
- L. canvass for votes in support of or in opposition to a candidate for partisan political office or a candidate for political party office, if such canvassing is done in concert with such a candidate, political party, or partisan political group;
- M. endorse or oppose a candidate for partisan political office or a candidate for political party office in a political advertisement, broadcast, campaign literature, or similar material if such endorsement or opposition is done in concert with such a candidate, political party, or partisan political group; initiate or circulate a partisan nominating petition;
- N. act as recorder, watcher, challenger, or similar officer at polling places in consultation or coordination with a political party, partisan political group, or a candidate for partisan political office;
- O. drive voters to polling places in consultation or coordination with a political party, partisan political group, or a candidate for partisan political office.

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<sup>1</sup>Under Department policy all political appointees are subject to the restrictions of the pre-1994 Hatch Act as well as additional restrictions. I have issued separate guidance for political appointees.

<sup>2</sup>The only statutory exception is for soliciting, accepting or receiving a political contribution to a multi-candidate political committee from a fellow member of a federal labor organization or certain other employee organizations, as long as the solicited employee is not a subordinate and the activity does not violate E above.

<sup>3</sup>In certain designated communities, including the Washington, DC suburbs, an employee may run for office in a local partisan election but only as an independent candidate and may receive, but not solicit, contributions. 5 U.S.C. 7325.

## **A BRIEF INTRODUCTION TO EMPLOYMENT LAW**

**PLEASE NOTE:** This briefing outline is intended to give a general overview of employee relations principles applicable to employees of the United States Attorneys' offices (USAOs) and Executive Office for United States Attorneys (EOUSA). It should not be relied upon to determine actions to be taken in individual cases. Please consult with the Legal Counsel's Office for information on the application of the principles outlined below, exceptions to these procedures, and current case law and interpretations.

### **I. Role of the Legal Counsel's Office**

The Legal Counsel's Office is responsible for the employee relations programs of EOUSA and the USAOs. At times, this responsibility requires that Legal Counsel coordinate personnel matters with the Federal Programs Branch, the Office of Professional Responsibility, or the Office of the Inspector General as appropriate. Legal Counsel also advises districts regarding labor relations issues.

### **II. Introduction to Federal Employment Law**

#### **A. Federal Employees.**

1. DOJ employees, similar to other federal employees, are appointed to their federal positions. The appointee takes an oath of office which is documented by Standard Form 50B (SF 50B), "Notification of Personnel Action."
2. Federal employees' rights and benefits are governed by statute and regulation, not by contractual principles.

#### **B. Federal Attorney Personnel.**

1. Assistant United States Attorneys (AUSAs) are excepted service employees who are "excepted" from competitive hiring principles applicable to other civil service employees.

2. The Director, Office of Attorney Recruitment and Management (OARM), a component within the Deputy Attorney General's (DAG) office, appoints AUSAs. The EOUSA Personnel Staff processes AUSA appointments.
3. AUSAs occupy "critical-sensitive" positions, and DOJ security regulations require that a full-field background investigation (BI) be conducted by the Federal Bureau of Investigation (FBI) on AUSA candidates before permanent appointment.
4. Normally, AUSAs begin employment under a 14-month temporary appointment authorized by OARM. Expiration of this temporary AUSA appointment without extending or converting to a permanent appointment is not an adverse action. The termination of a temporary appointment is also not an adverse action. The Director, EOUSA, or his/her designee, must concur in allowing a temporary appointment to expire or in terminating a temporary appointment.
5. Due to the establishment of special litigation projects, i.e, Health Care Fraud, ACE, Southwest Border Initiatives, OARM has authorized a 24-month temporary appointment for AUSAs hired for these projects. These appointments must be closely monitored to ensure that the AUSA does not exceed the 24-month time limitation. Because these appointments are of a definite time limitation, the appointment can expire and the Director, EOUSA, does not have to concur with the expiration of the appointment. However, if the appointment is to be terminated prior to the expiration date, the Director, EOUSA, or his/her designee, must concur with the termination.

C. Non-Attorney Personnel.

1. Generally, EOUSA and USAO non-attorney employees are competitive service employees. Districts with servicing personnel office (SPO) authority process non-attorney personnel appointments. The EOUSA Personnel Staff processes the non-attorney appointments in Districts with non-SPO authority.
2. Non-attorney EOUSA and USAO personnel occupy "critical-sensitive" positions that require the employees undergo an Office of Personnel Management (OPM)-conducted background investigation (BI). Upon completion of the BI, the Director, EOUSA, makes a suitability determination. The BI is then forwarded to the Department's Justice Management Division, Security Programs Staff, for final adjudication.

D. Veteran Status.

1. Federal law provides special status to some employees who served on active military duty and who are separated from the service under honorable conditions.
  - a. "Preference-eligible" status is conferred on some veterans in competitive service hiring.
  - b. Veterans are given certain retention preferences in the event of a reduction in force.
  - c. Veteran attorneys achieve permanent status earlier in their careers than non-veteran attorneys. Veterans obtain appeal rights after one year of continuous employment instead of two, and may accumulate time-in-service credit in temporary positions as well as in permanent positions.

E. Probationary and Trial Period Employees.

1. Most new EOUSA and USAO non-attorney personnel are considered "probationary" until they successfully complete one year of uninterrupted federal service in a non-temporary position.
2. Most attorney personnel serve a "trial period" of two years of continuous DOJ service in a permanent position. Veteran AUSAs, whether temporary or permanent, serve a one year "trial period."
3. At any time during the "probationary" or "trial period," DOJ may remove an employee without cause. Such a termination may be appealed as follows:
  - a. A non-attorney employee may appeal the termination based on a claim of discrimination due to partisan political affiliation or marital status. The appeal is adjudicated by the Merit Systems Protection Board (MSPB);
  - b. A non-attorney employee may claim the termination was based on pre-appointment reasons, and the employee was not given notice and a right to reply; or
  - c. The employee, whether attorney or non-attorney, may claim the termination was based on race, color, sex, national origin, religion, age, or disability. The Equal Employment Opportunity (EEO) considers the EEO complaint.
4. The Director, EOUSA, or his/her designee, has the authority to remove an attorney during either a trial period or a temporary appointment.

### **III. Prohibited Personnel Practices**

- A. The Civil Service Reform Act prohibits Federal officials from taking, recommending, or approving a personnel action based on factors inconsistent with merit employment principles. Some examples of prohibited personnel practices are discriminating for or against any employee or applicant for employment on the basis of race, color, religion, sex, national origin, age, disability, marital status, or political affiliation; deceiving or willfully obstructing any person with respect to his or her right to compete for employment; and appointing, employing, promoting, or advancing a relative to a position over which the employee has jurisdiction or control. The remainder of the prohibitions are listed in 5 U.S.C. Chapter 23.
- B. Personnel Actions Covered: These prohibitions apply to the full range of federal personnel management decisions, to include, but not limited to, appointments; promotions; removals; suspensions; reductions in grade or pay; reprimands; and reassignments.
- D. The Office of Special Counsel (OSC) investigates allegations of prohibited personnel practices and may prosecute a meritorious complaint before the MSPB. Contact the EOUSA Legal Counsel's Office immediately upon an employee's raising such a complaint or if contacted by OSC.

### **IV. Disciplinary Actions**

- A. Authority for imposition of disciplinary actions is found in 5 U.S.C. Chapter 75, 5 C.F.R. Part 752, and DOJ Order 1200.1 (Human Resources), Part 3, Chapter 1.
- B. Disciplinary actions should be constructive and generally progressive in nature (*i.e.*, management should strive to impose discipline at the lowest level warranted by the nature of the misconduct, while repeated incidents of the same misconduct should receive increasingly higher levels of discipline). In rare circumstances, a first time offense of serious misconduct may warrant removal from federal service.
- C. Types of Discipline.
  - 1. Informal discipline is imposed for minor infractions.
    - a. Examples are oral/ written admonishments or counseling.
    - b. Actions are not filed in an employee's Official Personnel Folder (OPF).
    - c. May be used as notice of inappropriate conduct. Such notice may impact future disciplinary actions involving similar misconduct.

2. Formal discipline is imposed for more serious misconduct.
    - a. Written reprimands are formal disciplinary actions that are filed in an employee's OPF for a period not to exceed three years. Management retains discretion to remove a reprimand from an employee's OPF at any time. An employee may grieve a written reprimand within DOJ.
    - b. Suspensions of 14 days or less. Such suspensions may be grieved within DOJ.
    - c. Suspensions of 15 days or more, removals, demotions, and formal denials of within grade increases. These are considered adverse actions and may be appealed to the MSPB.
  3. An employee covered by a collective bargaining agreement must use the agreement's grievance procedure in challenging disciplinary actions, unless the action is also appealable to the MSPB. In that case, the employee must choose whether to grieve or appeal, and may not do both.
- D. Basis. Actions may be taken only for "such cause as will promote the efficiency of the service." The law requires "nexus" between the misconduct and the duties of the employee.
- E. Penalty. The Agency must consider numerous factors in determining the appropriateness of a penalty (referred to as Douglas factors). The factors include but are not limited to the following: seriousness of the offense; employee's prior disciplinary history, the adequacy of alternative sanctions, the employee's potential for rehabilitation, and other mitigating circumstances.
- F. Disciplinary Process.
1. Subject to the limitations of delegations of authority to subordinate supervisors, discipline should be imposed beginning at the first line supervisor level.
    - a. Processing of discipline for non-attorney personnel:
      - 1) Letter of Reprimand - issued by United States Attorney who may delegate this authority to a first line supervisor.
      - 2) Suspension, removal, demotion - decided by United States Attorney who may delegate this authority to second line supervisor following the requisite proposal from a first line supervisor.

b. Processing of discipline for AUSAs:

- 1) Letter of reprimand - issued by First Assistant United States Attorney (FAUSA) or U.S. Attorney.
  - 2) Suspensions of 14 days or less - proposed by FAUSA; decided by U.S. Attorney.
  - 3) Suspensions of 15 days or more; removals - proposed by U.S. Attorney; decided by Director, EOUSA, or designee.
  - 4) Any of the preceding disciplinary actions may be taken by the Director, EOUSA, or designee.
2. EOUSA Legal Counsel's Office reviews all disciplinary action before imposition of the action.

G. Due Process Considerations.

1. Written reprimands are not subject to the notice and reply requirements but providing the employee with supporting documents will expedite any grievance that the employee may file.
  2. For discipline more serious than a reprimand, the employee is entitled to notification of the proposed discipline that sets forth the charge(s) with specificity.
  3. The employee is given a reasonable time to respond to the charges, in writing, orally, or almost always, through both means. The employee is entitled to access to all documents relied upon by the proposing official used to support the charge(s).
  4. The employee has the right to a representative and the right to use a reasonable amount of official time to prepare the response (usually 8 hours). Management may disapprove a particular representative in the event of a conflict of interest or position.
  5. The deciding official must issue a written final decision and advise the employee of any applicable appeal or grievance rights.
- H. Duty Status During Notice Period: The employee ordinarily is required to remain in a duty status during the notice period. If you believe that circumstances warrant a different status, contact Legal Counsel immediately. **A United States Attorney does not have authority to place an employee on administrative leave in excess of 8**

**hours. Approval of administrative leave in excess of 8 hours must be obtained from the Director, EOUSA, or his/her designee.**

**I. Disciplinary and Adverse Actions for Misconduct.**

1. Misconduct for which employees may be disciplined include, but are not limited to the following: unexcused or unauthorized absences; refusal or delay in carrying out a supervisor's order; disrespectful conduct; use of insulting, abusive, or obscene language to or about others; misuse of Government property; and failure to complete duties, such as failing to appear at a scheduled court hearing.
2. Under the DOJ principle of progressive discipline, managers should impose the least serious penalty that can be expected to correct the unwanted behavior.
3. On occasion, adverse actions, not disciplinary in nature, are also taken under 5 C.F.R. Part 752. One type of such action may be a medical inability to report for duty.

**V. Performance-Based Actions**

- A. Authority for performance-based actions is found in 5 U.S.C. Chapter 43, 5 C.F.R. Part 432, and DOJ Order 1200.1 (Human Resources), Part 3, Chapter 1.
- B. Procedures.
  1. Ordinarily, employees may be removed or demoted for unacceptable performance only after the supervisor takes the following steps:
    - a. Notifies the employee of unacceptable performance in at least one critical element.
    - b. Places the employee on a "Performance Improvement Plan" (PIP) designed to address and correct specific performance deficiencies for an opportunity period of at least 30 days. The plan must specify how the employee will be monitored and assisted to improve performance.
    - c. The PIP advises the employee that appropriate action will be imposed if performance does not improve to an acceptable level.
    - d. An action to remove or demote the employee may be initiated after coordination with Legal Counsel's Office.



2. The EOUSA Personnel Staff initially reviews the proposed PIP and the employee's Performance Work Plan. Legal Counsel's Office conducts a legal review of the proposed PIP.
3. Actions based on poor performance may be taken using the above procedures or the procedures described in part VI. Legal Counsel's Office must advise you on the procedures to use based on the circumstances.

**VI. Removal of an Assistant United States Attorney**

- A. A contemplated removal of an AUSA must be coordinated with Legal Counsel.
- B. The Director, EOUSA, or his/her designee, determines whether an AUSA will be removed from permanent status or terminated during a temporary or trial period appointment.
- C. The United States Attorneys and the Director, EOUSA or his/her designee may propose the removal of an AUSA. This authority may not be otherwise delegated.
  1. AUSAs have the due process rights of notification and an opportunity to respond as discussed above. Proposal letters should advise AUSAs of procedural rights.
  2. Generally, an AUSA will have 30 days in which to respond to the charges and review the evidence on which the charges are based.
  3. The Director, EOUSA, or his/her designee, issues a final decision after the AUSA exercises the right to respond. The written decision will be forwarded to the United States Attorney for personal delivery to the AUSA.
- D. If the Director, EOUSA, or his/her designee, sustains the proposed removal, the action may be effective immediately upon receipt of the removal letter by the AUSA or any specified date thereafter, as long as it has been at least 30 days since the proposal was issued.
- E. The AUSA will be advised in the letter of any right to file an appeal with the MSPB. This appeal provides a de novo review of the action, including discovery and examination of witnesses.
- F. The AUSA may claim that the removal was based in part upon discrimination or retaliation for "whistleblowing," or that the removal was the result of some other prohibited personnel practice.
- G. Alternatively, the AUSA may file an EEO complaint based on the removal.

## **VII. Resignations**

- A. Coerced resignations are considered adverse actions by the MSPB and could be overturned resulting in the employee's reinstatement with back pay and attorney's fees. MSPB will find a resignation to be coerced if it was obtained through deceit or misrepresentation, duress, including unreasonable time pressure, or unwarranted threat of adverse action.
- B. When the agency has reasonable grounds on which to remove the employee, and the employee resigns, but later claims coercion, the resulting resignation has been held to be voluntary. As a result, it is prudent to advise such an employee of the right to appeal to the MSPB. Upon receipt of his appeal rights, the employee has 30 days to file his appeal. The employee may request the agency to engage in mediation to resolve the action. If the agency agrees to engage in mediation, the employee's right to file an appeal is extended by an additional 30 days. However, if the agency does not agree to engage in mediation, the time frame to file an appeal is limited to 30 days.

## **VIII. Employee Grievances**

- A. EOUSA and USAO employees, except those employees covered by a negotiated grievance procedure, are covered by DOJ Order 1200.1 ( Human Resources), Part 3, Chapter 2.
  - 1. Government employees can file a grievance regarding any matter of concern or dissatisfaction relating to their employment. The most notable exceptions are: nonselection for promotion; proposals (versus actual decisions) to implement any adverse action; termination where the employee is still in a probationary status; and failure to receive special recognition or a performance award.
  - 2. Any employee is entitled to present a grievance, and management may not interfere with, restrain, coerce, discriminate, or take reprisal against the employee for exercising this right.
  - 3. The employee has a right to a representative of choice except if the choice conflicts with the priority needs of the Government, would be unreasonably expensive to the Government, or would give rise to a real or apparent conflict of interest or position.
  - 4. An employee is entitled to use a reasonable amount of official time to present his or her grievance. The employee's representative should be afforded the same opportunity.
- B. An employee may grieve the matter affecting a condition of employment in writing to the employee's second line supervisor.

**FOIA AND  
PRIVACY ACT**

## **FREEDOM OF INFORMATION AND PRIVACY STAFF**

**Marie O'Rourke**  
**Assistant Director**  
**(202) 616-6757**

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## **FREEDOM OF INFORMATION AND PRIVACY STAFF**

The Freedom of Information and Privacy Staff (FOIA/PA Staff) of the Executive Office for United States Attorneys (EOUSA) processes all FOIA and PA requests for records located in the 94 United States Attorneys' offices (USAOs) and EOUSA. The FOIA/PA Staff determines whether to release requested information or to apply FOIA/PA withholding exemptions, and represents USAOs and EOUSA in administrative appeals. The Staff also provides advice to USAOs and EOUSA on FOIA/PA matters and assists Assistant United States Attorneys (AUSAs) and Department attorneys in litigation pertaining to USAO and EOUSA records.

To ensure compliance with the FOIA policy as set forth by Attorney General Ashcroft on October 12, 2001, (Appendix 10-1) the Freedom of Information and Privacy Staff offers the following principles and guidelines for all EOUSA and USAO employees:

1. It is imperative that each person (including AUSAs) who receives a FOIA request for records under their control respond to the FOIA/PA representative in their district within five days. Remember that under the statute, the agency has only 20 days within which to respond to the request.
2. All FOIA and PA requests received by an EOUSA or USAO employee should be forwarded immediately through the USAO FOIA district representative to EOUSA's FOIA/PA Staff.
3. When served with a complaint relating to FOIA records maintained by the USAOs or EOUSA, fax the complaint to (202)616-6478. Complaints relating to FOIA records maintained by any other agency or component should be forwarded immediately to the entity responsible for the records. The FOIA statute provides only 30 days for the government to respond (instead of the usual 60 days), and data from the FOIA/PA files must be obtained in order to file an answer to the complaint. Questions or concerns relating to a complaint should be directed to the FOIA/PA Staff.
4. All records and documents must be preserved during the pendency of a FOIA request. Proper adherence to Department records management procedures regarding retention of records; e.g., purging files, closing files, return of documents to agencies and entities that provided them, and identification of grand jury records, will facilitate timely and accurate response to requesters.
5. Methods of record maintenance and searches conducted for records by the district offices or EOUSA should be carefully documented. Sworn statements may be required later to establish the adequacy of a search conducted pursuant to a FOIA/PA request.
6. Prompt and accurate data entry regarding the status of cases is necessary for accurate responses to FOIA requests. Any special considerations regarding the response (e.g., confidential

informants to be protected, attorney work product), should be provided in writing to the district FOIA representative and forwarded to EOUSA's FOIA/PA Staff so analysts reviewing the records may make proper disclosure determinations. The FOIA/PA staff is encouraged to contact the district and discuss potential disclosure issues.

7. All public information should be promptly dispatched to the requester. Categories of publicly available information should be accessible in public reading rooms, public libraries, the Government Printing Office, or the National Bureau of Standards. If in doubt whether a document is publicly releasable, please call the FOIA/PA Staff. Often, publicly filed information is not considered public under the PA, and it may not be available except through the FOIA process. The *United States Attorneys' Manual* is available to the public on the Internet at: [http://www.usdoj.gov/usao/eousa/foia\\_reading\\_room/usam/](http://www.usdoj.gov/usao/eousa/foia_reading_room/usam/).

8. A first-in, first-out treatment of FOIA requests is required unless the requester has shown that at least one of the requirements for expedited treatment has been met.

9. FOIA provides for an Office of Special Counsel review and possible disciplinary action if a Federal Government employee treats a FOIA request in an arbitrary or capricious manner.

The FOIA/PA Unit receives requests from many sources, including referrals from USAOs who receive requests. Appendix 10-2 shows the procedure for processing USAO and EOUSA records in response to FOIA requests. FOIA/PA requests received by USAOs should be forwarded immediately to the FOIA/PA Staff at the following address:

Marie O'Rourke, Assistant Director  
FOIA/PA Staff, EOUSA  
Bicentennial Building, Room 7300  
600 E Street, N.W.  
Washington, D.C. 20530-0001  
Tel: (202) 616-6757, Fax: (202) 616-6478

The FOIA/PA Unit receives approximately 350 requests a month. The cooperation of the USAOs in processing FOIA/PA requests is essential to keep the request backlog manageable and to comply with statutory requirements. Federal agencies must respond to requests in 20 days, although a 10-day extension is possible under certain circumstances [5 U.S.C. § 552(a)(6)(A)(I) and (B)].

The requester has a right to file an appeal with the Attorney General through the Office of Information and Privacy (OIP) within 60 days of receipt of a notice denying the request. The OIP then has 20 days to make a determination with respect to the appeal.

A requester may go directly to district court if either the response is late or the determination made is unsatisfactory; e.g., a determination to withhold records, a denial of a

request to waive fees or expedite requests. The FOIA/PA Staff also plays an active role in the litigation of disputes in which the requester alleges that USAO or EOUSA documents have been wrongfully withheld. In addition, the Staff (1) coordinates all FOIA/PA litigation challenging the determinations on records from the 94 USAOs and from EOUSA and (2) assists the AUSA or Department's trial attorney with the litigation by preparing declarations and proposed pleadings. There is an average pending caseload of 90 to 100 cases in United States District Courts and 5 to 10 cases in United States Courts of Appeals.

## CONTACTS

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## THE FREEDOM OF INFORMATION ACT

The Freedom of Information Act (FOIA), codified at 5 U.S.C. § 552, provides, with nine specific exceptions, for public disclosure of records requested from Federal agencies and departments in the Executive Branch. Department of Justice FOIA regulations may be found at 28 C.F.R. § 16.1.

The exemptions most frequently cited for withholding United States Attorneys' offices records are:

5 U.S.C. § 552—

- (b)(2) information relating solely to internal personnel rules and practices of the agency (e.g., enforcement guidelines, floor plans, security procedures, administrative codes, and other administrative records, etc.);
- (b)(5) intra- and inter-agency communications which would not be available by law to a party other than a person in litigation with the agency (e.g., pre-decisional advice pertaining to the deliberative process and attorney work product prepared in reasonable anticipation of litigation providing foreseeable harm can be articulated if information were to be disclosed);
- (b)(6) personnel, medical, and similar files the disclosure of which would constitute a "clearly unwarranted invasion of personal privacy" (basically, any personal information, such as home addresses); and
- (b)(7) investigatory records compiled for law enforcement purposes to the extent that one or more of six specified harms would result; i.e., release
  - (A) would interfere with ongoing enforcement proceedings;
  - (B) would deprive a person of a right to a fair trial;
  - (C) would constitute an unwarranted invasion of personal privacy (note: this exemption is often used to withhold Government agents' names or the names of potential witnesses, etc., which if released could lead to harassment or the compromise of personal safety);
  - (D) would disclose the identity of a confidential source (including a state, local, or foreign agency or authority, or any private institution which furnished information on a confidential basis);
  - (E) would disclose enforcement/prosecution techniques or procedures not generally known to the public, or which might allow circumvention of the law;
  - (F) could endanger the life or physical safety of any individual.

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## THE PRIVACY ACT

The Privacy Act (PA) of 1974, codified at 5 U.S.C. § 552a, balances the governments need to maintain information on individuals with the individuals right to be protected from an unwarranted invasion of privacy. The basic policy objectives of the PA are: (1) restrict disclosure of personal information; (2) grant individuals access to agency records maintained on themselves; (3) grant individuals the right to make corrections or amendments to their records; and (4) establish fair collection, maintenance and dissemination practices in the agency. Wrongful disclosure of privacy protected information can result in both civil judgments and criminal charges.

Information, files, or records maintained by an agency that are retrieved by the individuals' names or personal identifiers must be maintained in a PA System of Records (e.g., United States Attorney files indexed under defendants' names). All PA systems of records must be published in the Federal Register and must contain the name, location, categories of records, authority for maintenance, purpose(s), routine use of the records, storage, retrievability, safeguards, retention and disposal, identification of the system manager, notification procedure, and access procedures. The United States Attorneys and EOUSA currently have 18 published systems of records. Records maintained by a United States Attorneys office may also be covered by a department wide system of records or other agency system of records such as OPM or EEOC system of records. The system of records for criminal case files is published at 53 Fed. Reg. 1861 (January 22, 1988) and the civil case files at 63 Fed. Reg. 8659 (February 20, 1998).

The FOIA/PA staff reviews all requests for amendment of records pursuant to the PA. The Assistant Director is delegated the authority to make a final determination with respect to a request to amend records. Regulations have been codified exempting certain records, such as criminal records, from the amendment provisions of the PA. 28 C.F.R. §16.81.

Questions regarding the wrongful disclosure of information and other violations of the PA should be directed to the Assistant Director of the FOIA/PA unit.

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Office of the Attorney General

Washington, D. C. 20530

October 12, 2001

MEMORANDUM FOR HEADS OF ALL FEDERAL DEPARTMENTS AND AGENCIES

FROM: John Ashcroft  
Attorney General

A handwritten signature of John Ashcroft in black ink, written over the printed name and title.

SUBJECT: The Freedom of Information Act

As you know, the Department of Justice and this Administration are committed to full compliance with the Freedom of Information Act (FOIA), 5 U.S.C. § 552 (2000). It is only through a well-informed citizenry that the leaders of our nation remain accountable to the governed and the American people can be assured that neither fraud nor government waste is concealed.

The Department of Justice and this Administration are equally committed to protecting other fundamental values that are held by our society. Among them are safeguarding our national security, enhancing the effectiveness of our law enforcement agencies, protecting sensitive business information and, not least, preserving personal privacy.

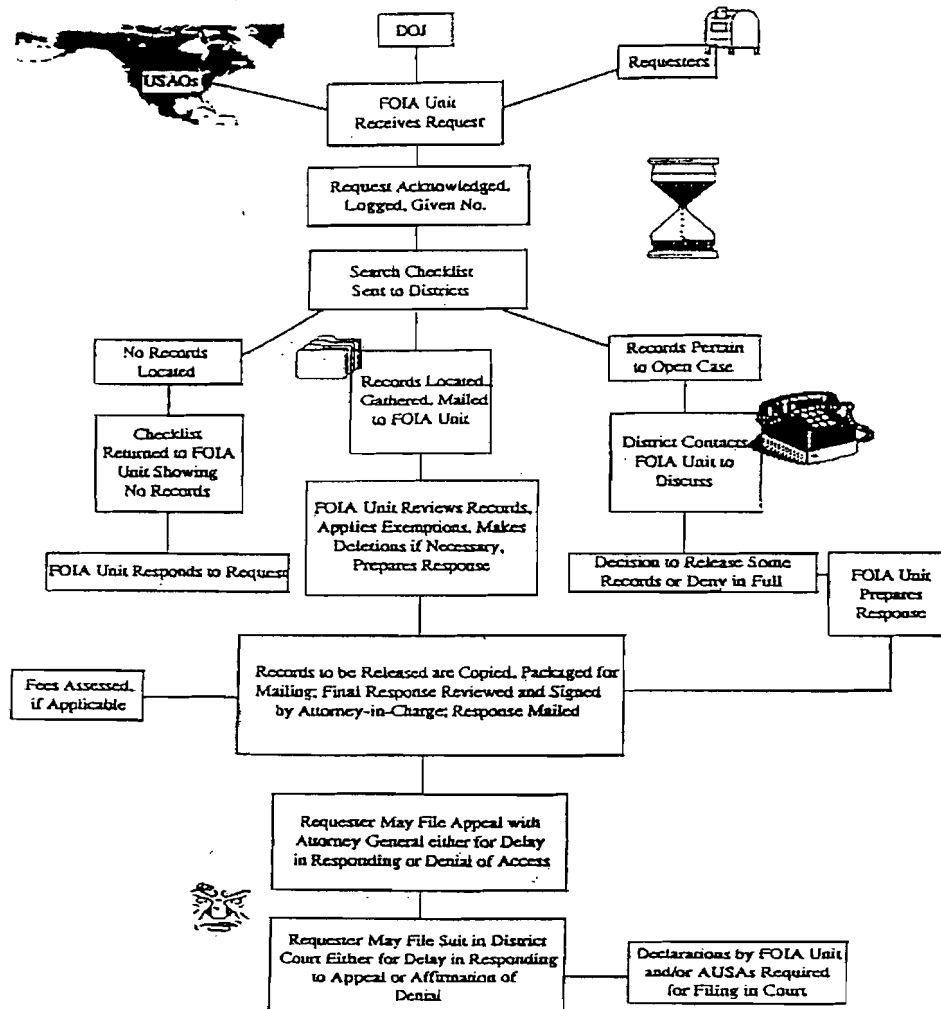
Our citizens have a strong interest as well in a government that is fully functional and efficient. Congress and the courts have long recognized that certain legal privileges ensure candid and complete agency deliberations without fear that they will be made public. Other privileges ensure that lawyers' deliberations and communications are kept private. No leader can operate effectively without confidential advice and counsel. Exemption 5 of the FOIA, 5 U.S.C. § 552(b)(5), incorporates these privileges and the sound policies underlying them.

I encourage your agency to carefully consider the protection of all such values and interests when making disclosure determinations under the FOIA. Any discretionary decision by your agency to disclose information protected under the FOIA should be made only after full and deliberate consideration of the institutional, commercial, and personal privacy interests that could be implicated by disclosure of the information.

In making these decisions, you should consult with the Department of Justice's Office of Information and Privacy when significant FOIA issues arise, as well as with our Civil Division on FOIA litigation matters. When you carefully consider FOIA requests and decide to withhold records, in whole or in part, you can be assured that the Department of Justice will defend your decisions unless they lack a sound legal basis or present an unwarranted risk of adverse impact on the ability of other agencies to protect other important records.

This memorandum supersedes the Department of Justice's FOIA Memorandum of October 4, 1993, and it likewise creates no substantive or procedural right enforceable at law.

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## LEGAL PROGRAMS

## LEGAL PROGRAMS

**Robert Troester**  
**Deputy Director**  
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## **LEGAL PROGRAMS MISSION STATEMENT**

The Legal Programs Staff, Executive Office for United States Attorneys (EOUSA), is committed to providing the United States Attorneys' offices (USAOs) with the necessary support to allow them to carry out their mission in the areas of Affirmative Civil Enforcement, Asset Forfeiture, Bankruptcy, civil defensive issues, Financial Litigation, and Health Care Fraud most effectively.

To carry out this mission, Legal Programs:

- Assists in the articulation, development, and promulgation of policy which comports with the overall goals of the USAOs, EOUSA and other components of the Department of Justice.
- Initiates, develops, and implements efficient and effective procedures for our program areas.
- Provides feedback to the USAOs concerning the effectiveness of their programs through "State of the District" reports and allocations reviews.
- Serves as a liaison between other components of the Department and the USAOs, and between the headquarters of other members of the criminal justice system (e.g. Administrative Office of the United States Courts, Bureau of Prisons) and the USAOs concerning issues related to the Legal Programs areas.

In service to the United States, Legal Programs strives for the highest professional standards and reaches its goals through initiative, planning, adaptability, decisiveness, and integrity.

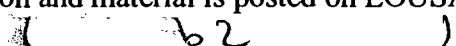
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## AFFIRMATIVE CIVIL ENFORCEMENT PROGRAM AND WORKING GROUP

The Affirmative Civil Enforcement (ACE) Program began in Fiscal Year (FY) 1992 when Legal Programs of the Executive Office for United States Attorneys (EOUSA) began to support and monitor a concentrated effort in certain United States Attorneys' offices (USAOs) to use ACE to fight economic crime and fraud against the government. A major goal of the project was to assess the impact of allocating new resources to the USAOs for federal law enforcement efforts using civil statutes, chief among them, the civil False Claims Act. 31 U.S.C. §§ 3729-3733.

The ACE pilot project was a success, with over \$17.50 being recovered for every dollar spent on the program. Because ACE had proven to be an effective tool, the Three Percent Fund provided funding in FY 1995 for the expansion of the program by 110 dedicated ACE positions in 37 USAOs. The positions included attorneys, paralegals, auditors, investigators and secretaries. While the ACE staff in some USAOs consists only of an Assistant United States Attorney (AUSA), in others an ACE team supports the AUSA and ACE recoveries. Based on the success of the expanded ACE program, in FY 1996 the Three Percent Fund agreed to provide funding for an additional 43 ACE term positions, which because of the program's continued success, were converted to permanent positions in FY 2000.

EOUSA coordinates training and reporting requirements for these ACE teams. An ACE Coordinator at EOUSA is dedicated to providing assistance and coordination to all USAOs and client agencies in the areas of training, outreach, reporting requirements, and recoveries. A variety of information and material is posted on EOUSA Legal Programs' joint ACE/Health Care Fraud web site at: 

In addition to the ACE teams and EOUSA, an ACE Working Group advises various subcommittees of the Attorney General's Advisory Committee on ACE matters. The Working Group includes Assistant United States Attorneys (AUSAs) and Department of Justice attorneys from the Commercial Litigation Branch of the Civil Division who have continuously worked to promote ACE efforts by the USAOs by conducting training, compiling and distributing ACE materials, and keeping USAOs apprised of ACE developments through the Department's E-mail network.

### CONTACTS

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ACE Coordinator  
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## **HEALTH CARE FRAUD**

The Health Insurance Portability and Accountability Act (HIPAA) of 1996 established and funds a program to combat fraud committed against health plans. The legislation required the Departments of Justice and Health and Human Services to establish a Health Care Fraud and Abuse Control Program to achieve the following goals:

- Coordinate federal, state, and local law enforcement programs to control fraud and abuse with respect to health plans;
- Conduct investigations, audits, evaluations, and inspections relating to the delivery of and payment for health care in the United States;
- Facilitate the enforcement of civil, criminal, and administrative statutes applicable to health care;
- Provide industry guidance, including advisory opinions, safe harbors, and special fraud alerts relating to fraudulent health care practices; and
- Establish a national data bank to receive and report final adverse actions against health care providers.

In Medicare health care fraud cases brought under the False Claims Act, actual damages paid in civil judgments and settlements are sent directly to the Health Care Financing Administration (HCFA) for deposit into the Federal Hospital Insurance Trust Fund, otherwise known as Medicare. HIPAA requires that an amount equal to penalties and damages (excluding relators' awards and restitution), shall be deposited in the Trust Fund. Through the Trust Fund, in Fiscal Year 1997 the United States Attorneys' offices (USAOs) received funding for 166 positions, including both civil and criminal Assistant United States Attorneys, investigators, auditors, paralegals, and secretaries.

The Executive Office for United States Attorneys also received one position for a Health Care Fraud Coordinator. This person provides assistance and coordination to all USAOs and client agencies in the areas of training, outreach, reporting requirements, and recoveries.

### **CONTACTS**

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## **ASSET FORFEITURE PROGRAM**

Legal Programs of the Executive Office for United States Attorneys (EOUSA) coordinates asset forfeiture programs in United States Attorneys' offices (USAOs), and works closely with the Asset Forfeiture/Money Laundering Section (AFMLS), Criminal Division; the Asset Forfeiture Management Staff (AFMS), Justice Management Division; and the Attorney General's Advisory Committee's Asset Forfeiture Subcommittee to develop national policies and initiatives.

The AFMLS provides litigation support and counsel on asset forfeiture policy issues to USAOs. The Asset Forfeiture on-line web page, maintained by AFMLS, is available to USAOs and provides online case law and policy updates, civil and criminal forms and pleadings, and agency information. The page can be reached through EOUSA's Intranet site, USANet.

Legal Programs provides coordination with the AFMS and oversight for the DynCorp contract that employs workers in USAOs and the development and implementation of the Consolidated Asset Tracking System (CATS) that links federal asset forfeiture agencies and tracks seized assets. Additionally, Legal Programs provides feedback to the USAOs concerning the status of their asset forfeiture program through the "State of the District" report, which is based on information from the USAO's case tracking system.

### **CONTACT**

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## **FINANCIAL LITIGATION PROGRAM MANAGER PROGRAM**

The Executive Office for United States Attorneys (EOUSA) established the Financial Litigation Program Manager program (formerly the Regional Financial Litigation Specialist program) in 1983. The program managers work one-half time as senior financial litigation paralegals in their United States Attorneys' offices (USAOs) and the remainder for EOUSA's Financial Litigation Staff to provide on-site training and technical assistance to financial litigation personnel in the districts assigned to them. Ten program managers currently have responsibility for 7-10 offices each, and they visit the districts assigned to them regularly. The program managers occasionally visit offices to assist in preparing for evaluations by ensuring policies and procedures followed by the staff conform to current law and regulations. They also visit districts after an evaluation to help them implement the recommendations made by the evaluation teams. Financial Litigation Program Managers also assist at training conferences for Financial Litigation Unit support staff and other EOUSA-sponsored training conferences.

### **CONTACTS**

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Financial Litigation Staff, EOUSA  
(202) 616-6444

Judy Johnson  
Management Analyst  
Financial Litigation Staff, EOUSA  
(202) 616-6783

## **FINANCIAL LITIGATION ASSISTANCE PROGRAM**

The Financial Litigation Assistance Program is a cooperative program established in 1987 by the Executive Office for United States Attorneys' Financial Litigation Staff. When a United States Attorney's office (USAO) faces a serious debt collection situation in their Financial Litigation Unit, it may request assistance from an experienced collector, paralegal, or attorney from another district. EOUSA's Financial Litigation Staff maintains a list of volunteers and works with the USAO requesting assistance in selecting an appropriate individual to provide assistance. A list of names is also maintained to assist Civil Division personnel with mortgage foreclosure backlogs.

Typical situations in which assistance has been requested and provided to USAO Financial Litigation Unit personnel include emergency illness of staff members; sudden departure of key financial litigation staff; special projects assigned by senior management in EOUSA, the Department, Congress, etc.; and permitting the staff of Financial Litigation Units in small offices to attend training outside the district.

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## LEGAL PROGRAMS' PUBLICATIONS

### *DEBTBEAT*

Legal Programs publishes a monthly newsletter, *DebtBeat*, which serves as their vehicle in communicating with United States Attorneys' offices (USAOs) on financial litigation issues. It contains updates on civil debt collection, bankruptcy, foreclosure and criminal fine law enforcement, and policies and procedures. The newsletter informs and motivates personnel involved in financial litigation, and is a critical tool in maintaining and strengthening Legal Programs' communication with the USAOs. The newsletter is distributed to Financial Litigation Units (FLUs) in the USAOs and published primarily for non-attorney personnel.

### *IN BANKRUPTCY*

Legal Programs also publishes *In Bankruptcy*, a quarterly newsletter for Assistant United States Attorneys (AUSAs) and agency attorneys involved in bankruptcy litigation. It is supported by the Bankruptcy Working Group of the Attorney General's Advisory Committee. It includes an annual case law supplement (*Briefcase*); an annual bankruptcy practitioners' directory including bankruptcy fraud contacts; and articles on bankruptcy legislation, rules, cases, and other issues of interest to government bankruptcy practitioners.

## CONTACTS

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Financial Litigation Staff, EOUSA  
(801) 325-3215

For *In Bankruptcy*:  
Judith K. Benderson  
Assistant Director  
Legal Programs, EOUSA  
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## **TRAINING**

In conjunction with the Office of Legal Education, Legal Programs develops and presents training conferences and materials for all aspects of financial litigation: civil and criminal debt collection, bankruptcy, and foreclosure. These basic- and advanced-level training programs, offered to attorneys and non-attorneys, include subjects such as:

Mandatory Victims Restitution Act and Other Criminal Debt Collection Issues  
Document Generation and TALON Coding Issues for FLU Personnel  
Financial Litigation for Paralegals  
Financial Litigation: Selected Topics for Financial Litigation Agents  
Affirmative Civil Enforcement  
Affirmative Civil Enforcement for Auditors and Investigators  
Civil Health Care Fraud  
Bankruptcy for Support Staff  
Advanced Bankruptcy  
Basic Bankruptcy

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## **BANKRUPTCY WORKING GROUP**

Legal Programs provides support and assistance to the Bankruptcy Working Group (BWG) established by the Financial Litigation Subcommittee of the Attorney General's Advisory Committee in 1989. The BWG is comprised of Assistant United States Attorneys who practice bankruptcy, staff from Legal Programs, and the Director of the Commercial Litigation Branch of the Civil Division. The BWG meets periodically to address bankruptcy issues such as legislation, bankruptcy rules, case management, and training. Between meetings, members frequently contact Legal Programs to address particular issues that merit immediate attention. Many members also teach at Department of Justice bankruptcy training seminars sponsored by the Executive Office for United States Attorneys, the Executive Office of United States Trustees, and the FBI.

In 1999, Legal Programs, in conjunction with the Criminal Division and the Executive Office for U.S. Trustees (EOUST), established the National Bankruptcy Fraud Working Group (NBFWG) to serve as a forum for addressing enforcement problems and facilitating interagency cooperation and coordination in the setting of investigative priorities. The group currently consists of representatives from the Executive Office for United States Attorneys and the United States Attorneys' offices, the EOUST, and individuals from the United States trustees' offices, the Criminal Division's Fraud Section, the Tax Division, the Federal Bureau of Investigation, the Internal Revenue Service and the Postal Inspection Service. The group meets periodically. At this group's suggestion, a list of bankruptcy fraud contacts was added to the Bankruptcy Practitioners Directory that Legal Programs compiles.

### **CONTACT**

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## **TREASURY OFFSET PROGRAM**

On April 26, 1996, the Debt Collection Improvement Act (DCIA) went into effect. One of the provision of the DCIA was the establishment of the Treasury Offset Program (TOP) within the United States Department of the Treasury ("the Treasury"). The Treasury disburses payments from various government programs and agencies to millions of individuals every month. Under the TOP, Federal agencies submit delinquent debts to Treasury. The Treasury compares the payment account information with the referring agency information looking for matches. When a match is found, Treasury offsets the payment and forwards it through the Online Payment and Collection (OPAC) system to the referring agency.

Each Financial Litigation Unit (FLU) has civil debts included in the TOP. In March 2000, the Financial Litigation Staff implemented a new automated system for updating and adding debts to TOP. This automated system has allowed the FLUs to easily monitor debts on TOP. The Financial Litigation Staff at EOUSA coordinates this program for United States Attorneys' offices.

### **CONTACTS**

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Darrell Curtis  
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## INMATE FINANCIAL RESPONSIBILITY PROGRAM

Through the Bureau of Prisons' (BOP) Inmate Financial Responsibility Program (IFRP), federal inmates are encouraged to pay voluntarily their criminal fines, restitution, and other court-ordered obligations such as child support, from the money they earn while in prison.

Good faith efforts to pay are seen as progress toward rehabilitation and financial responsibility. Participation in this program is tied to institutional privileges, such as preferred work assignments, single cells, furloughs, etc.

This program has been an outstanding success since it was implemented on a nationwide basis on April 1, 1987. Collections for this program continue to grow from year to year.

In 1994, the United States Attorneys' offices gained access to the BOP SENTRY system, a secure system for Federal Prisoner Tracking Information. In October 1995, the BOP added a new IFRP module to SENTRY thus allowing the institution to monitor payments made by inmates through the IFRP.

### CONTACTS

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## **JOINT ASSISTANT UNITED STATES ATTORNEY/PROBATION OFFICER TRAINING TO IMPROVE CRIMINAL DEBT COLLECTION**

United States Attorneys are encouraged to hold annual joint training sessions with their offices criminal prosecutors, victim-witness officers, and financial litigation personnel and probation officers and clerk's office to improve criminal debt collection. The joint sessions help establish better communication within the USAO, as well as among the USAO, the Probation Office, and the Courts. These training sessions seek to improve recommendations to the court on the imposition of fines and restitution, and to improve collection of those debts.

Annual joint training has become an established program in USAOs and part of each office's Financial Litigation Plan. Agenda and training materials to assist districts in developing joint training programs are available from the Executive Office for United States Attorneys' Financial Litigation Staff.

### **CONTACTS**

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## FINANCIAL LITIGATION PLANS—HISTORY AND STATUS

In July 1991, a Department-wide Financial Litigation Master Plan was developed to delineate formally financial litigation goals and objectives. The plan required all components [litigating divisions and all United States Attorneys' offices (USAOs)] involved in debt collection in the Department to issue a component Financial Litigation Plan that conformed with the Departmental Plan. This procedure has continued on an annual basis, and as a result, each USAO prepares an annual updated Financial Litigation Plan based on a model plan developed by the Executive Office for United States Attorneys' Financial Litigation Staff (EOUSA/FLS). These updated plans are reviewed annually by EOUSA/FLS.

FLS encourages all USAOs to implement a Financial Litigation Plan that will be used by the FLU not only as a guide to the proper handling of financial litigation cases assigned to them, but also as a means of setting goals and objectives designed to ensure the optimum performance of FLU staff. Provisions that Financial Litigation Plans should ensure include but are not limited to:

- An optimum working relationship with client agencies, Probation, and the Clerk's office by conducting annual meetings;
- The establishment of a Memorandum of Understanding between the USAO, Probation, and the Clerk's office on the collection of criminal impositions;
- Training of FLU staff to ensure optimum performance;
- Training on the use of on-line services for skip tracing and asset tracking of debtors; and;
- The use of automation to optimize the limited resources of FLU.

The necessity of addressing financial litigation through the Department's Financial Litigation Plan became apparent following several years of inquiries from such entities as members of Congress, Congressional committees, Office of the Inspector General reports, the Office of Management and Budget, and the Government Accounting Office. Thus, a greater emphasis on record keeping and efficiency in financial litigation has taken place in order to respond to these inquiries.

### CONTACTS

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## **DEBTOR STATEMENT—DIRECT DEPOSIT PROGRAM**

The Executive Office for United States Attorneys' (EOUSA) Financial Litigation Staff (FLS) has implemented new procedures to process monthly debtor payments. This initiative reduces many responsibilities for Financial Litigation Unit (FLU) personnel required by the internal controls.

FLUs process payments from the debtor by entering payment amounts, generating the daily deposit ticket, and mailing the ticket along with the checks to the Department of Justice (DOJ) Lockbox account. In this program, the debtor statement includes a payment coupon the debtor must detach and return with his/her payment. The debtor is sent an envelope to send the payment directly to the Lockbox account in Atlanta. The Lockbox account personnel process the payment and transfer the data to the Debt Accounting Operations Group (DAOG) daily. The DAOG provides reports of payments received at the Lockbox account to the FLUs every three working days. The FLUs then update debtors' accounts based on information provided in these reports. For criminal debts, the return address on the payment coupon is that of the Clerk of Court, who is responsible for receipting all criminal fines and assessments.

This program was implemented in Fiscal Year 1993. Since that time, hundreds of thousands of statements have been mailed. The return rate for those debts on the Direct Deposit Program has been high - as much as 80 to 90 percent in some districts. According to some estimates, it takes approximately 10 minutes to process one check through the United States Attorney's office. Thus each payment that is processed through the direct Deposit Program allows the FLU to dedicate more time to other debts.

### **CONTACTS**

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## **THREE PERCENT WORKING CAPITAL FUND**

### **AUTHORITY FOR ADDITIONAL CIVIL DEBT COLLECTION FUNDING**

In 1994, Congress granted the Attorney General authority to deposit up to three percent of the Department's civil cash collections into the Working Capital Fund (Fund). The Fund is used enhances the resources available to the Department's components engaged in civil debt collection litigation activities.

### **ADMINISTRATION OF THE FUND**

To administer and manage the Fund, the Attorney General created the Collection Resources Allocation Board (CRAB), comprised of upper-level career personnel in the Department. The Board has the authority to receive, analyze, and approve requests for resources.

### **USE OF THE FUND**

The Fund is used for the processing and tracking of civil debt collection litigation, including the functions of the Debt Collection Management Unit, the Nationwide Central Intake Facility, the Private Counsel Program, and the Debt Accounting Operations Group. Other activities such as electronic property locator services, training, outreach, and costs connected with sales of property to satisfy a United States Government debt, can also be funded through the Three Percent Fund. Budgeted funds for civil debt collection, which are supplanted by payments from the Fund, must be used to expand civil debt collection litigation activities. Uses related to affirmative civil enforcement, for example, have been payable from Three Percent Funds.

### **PROCEDURE FOR REQUESTING FINANCING FROM THE FUND**

On an annual basis, EOUSA, submits a request on behalf of United States Attorneys' offices (USAOs) to the CRAB for these program expenses. USAOs may request funds for these types of services by contacting Legal Programs.

### **CONTACTS**

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## **ELECTRONIC CASE FILING PROJECT**

As a result of several years experience with an Electronic Case Files (ECF) prototype in several district and bankruptcy courts, the Administrative Office of the United States Courts (AOUSC) will expand implementation of its ECF system in federal courts over the next three years. The ECF allows attorneys and parties of record to file all documents and pleadings electronically with the court. While the electronic filing takes place over the Internet, it is not an E-mail exchange. Rather, the system (with appropriate security) essentially allows a file transfer protocol, or FTP, to occur between filer and court website. The system also allows real time access to all file information at the court website, notices to attorneys of record through electronic mail communication and service of pleadings and other documents on counsel of record through electronic mail notice.

The ECF prototype is currently available in four United States District Courts in selected civil matters and five United States Bankruptcy Courts. The AOUSC expects to expand to an additional 14 courts within the next six months and then will begin more rapid expansion over the next three years with the target ECF availability in all federal courts by 2004. Implementation will also include the addition of appellate courts and ultimately criminal case matters.

The Executive Office for United States Attorneys has been actively involved with AOUSC throughout the rollout of this project and will provide United States Attorneys' offices with implementation information it develops.

### **CONTACT**

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**OFFICE OF LEGAL  
EDUCATION**

# OFFICE OF LEGAL EDUCATION

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## INTRODUCTION

The Office of Legal Education (OLE) provides continuing legal education to Federal, state, and local prosecutors and litigators in advocacy skills and the management of legal operations. OLE also trains Department attorneys, other Federal agencies, and the support staff of the United States Attorneys' offices (USAOs). Training courses and seminars sponsored by OLE are certified for Continuing Legal Education (CLE) credit. The training programs are funded by OLE and accredited in all states with mandatory CLE requirements. In addition, OLE maintains a videotape library for formal videotape courses and a videotape lending library.

## NATIONAL ADVOCACY CENTER

### COURSE NOTIFICATION

OLE is located in Columbia, South Carolina, at the National Advocacy Center (NAC). NAC is the primary training site where OLE courses are conducted. NAC provides training to Assistant United States Attorneys (AUSAs), Department of Justice attorneys, agency attorneys, and support staff of the United States Attorneys' offices (USAOs). NAC notifies USAOs and the Department of Justice components of upcoming courses, requests nominations, and notifies USAOs of accepted students via E-mail. NAC reimburses AUSAs for travel-related expenses for sponsored OLE courses. Course calendars are published and information concerning course offerings is advertised in the *United States Attorneys' Bulletin* and via the Internet on OLE's web site: <http://www.usdoj.gov/usao/eousa/ole.html>

### TRAINING FOR NEW ATTORNEYS

Training for recently hired attorneys includes basic criminal, civil, appellate advocacy courses, and Federal practice seminars.

### BASIC ADVOCACY

Basic advocacy skills programs are available to trial attorneys with little or no litigation experience. OLE uses experienced Federal trial attorneys to present lectures, lead discussion groups, and direct evidentiary exercises. Federal judges also participate in OLE courses, presiding over mock trials and mock appellate arguments. The caliber of the OLE faculty, the atmosphere of the courtrooms, and the use of the sophisticated videotaping facilities provide students with unique training experience in trial and appellate advocacy. A significant feature of this training is the "learn-by-doing" exercises that focus on courtroom skills. These exercises simulate courtroom activities that provide students with effective critiques and individual video replay analysis.

### FEDERAL PRACTICE

Federal practice seminars are designed for attorneys with litigation experience who are new to the Federal system (e.g., former state prosecutors). The one-week criminal course provides an introduction to grand jury practice, sentencing guidelines, discovery and motion practice, Federal rules of evidence, and substantive Federal criminal law. The one-week civil course covers Federal practice under Title VII, Bivens actions, Federal Tort Claims Act, bankruptcy, Freedom of Information Act, emergency matters, and motion and discovery practice.

## **OTHER TRAINING**

For the more experienced attorney, NAC offers two advanced advocacy courses: Advanced Criminal Trial Advocacy and Advanced Civil Trial Advocacy. These one-week intensive courses offer AUSAs the opportunity to enhance their courtroom skills through exercises and drills. Evidence courses train Federal litigators in the collection and presentation of complex evidence. A course in Pretrial Civil Practice has been added also.

## **SPECIALIZED COURSES**

OLE also offers specialized criminal and civil courses for beginning and experienced AUSAs in the areas of violent crime, health care fraud, environmental law, civil rights, narcotics, evidence, tax, financial litigation, economic crime, medical malpractice, alternative dispute resolution, affirmative civil litigation, and other priority areas of prosecution or civil practice. OLE also provides management training programs for USAO supervisors and conducts Federal debt collection seminars.

## **ASSET FORFEITURE TRAINING**

In conjunction with the Asset Forfeiture Office of the Criminal Division, OLE sponsors asset forfeiture training. These seminars include basic and advanced training for AUSAs and support staff personnel. Lectures are presented both nationwide and in-house, and consist of an introduction to civil and criminal forfeiture; FIRREA; money laundering; interlocutory sales; international forfeitures; and practical management issues such as docketing and tracking, pre-seizure planning, and coordinating with law enforcement agencies.

OLE also directs programs on Federal civil and agency law and practice to United States Attorneys and other attorneys in the Executive Branch. These course announcements are mailed to USAOs and announced through the OLE Web Site.

Training includes:

- civil discovery and trial techniques;
- basic and advanced negotiation techniques;
- administrative advocacy;
- legal writing; and
- a wide variety of substantive law areas such as bankruptcy, ethics, environmental law, Federal employment, regulatory processes, Government contracts, management of attorneys, Freedom of Information Act, and computer law.

Administrative and courtroom advocacy skills for agency attorneys are patterned on the National Institute of Trial Advocacy (NITA) "learn-by-doing" method. Teaching emphasis is on the practicalities of Federal practice. Federal attorneys from every agency, particularly the

Department of Justice, can participate as can advisors, curriculum developers, lecturers, and instructors.

### **SUPPORT/PARALEGAL TRAINING**

OLE provides training for the legal support staff of USAOs. OLE reimburses travel-related expenses for approved OLE training for paralegals and support staff. OLE also supports training courses provided by the Executive Office for United States Attorneys' components on an "as needed" basis.

### **IN-HOUSE TRAINING - AUDIOTAPE/VIDEOTAPE LIBRARIES**

OLE maintains and assists USAOs in developing and offering in-house legal training by providing training videos or audiotapes on topics such as: evidence, negotiations, trial techniques, and ethics. OLE also provides information on experienced lecturers, continuing legal education approval, and funding sources.

In addition, OLE maintains a videotape lending library containing audiotapes and videotapes of OLE lectures and demonstrations, and commercially prepared instruction tapes. Questions and requests for materials should be directed to Sheila Cook, (803) 544-5100. Because of increasing demand, borrowed tapes should be returned to OLE by the specified due date.

Questions concerning in-house training should be directed to the Director of OLE or the Assistant Director in charge of the program.

### **JUSTICE TELEVISION NETWORK (JTN)**

The Office of Legal Education has contracted for satellite services in order to broadcast legal programming to the United States Attorneys' offices (USAO) and the Department of Justice. Regularly JTN programming is broadcast from 9:00 a.m. until 5:00 p.m. Eastern Time, Monday through Friday. JTN West broadcast programming to reach the west coast from 5:00 p.m. Eastern Time until 8:00 p.m. Each of 220 staffed USAOs has or will have access to a satellite dish, TV and VCR to receive the broadcasts. The broadcasts originate at the NAC and consist of live and taped programming on a variety of topics including legal, administrative, management, and other topics. Identified programs will be available for Continuing Legal Education Credit (CLE). *h* ( *b2* - )

## OFFICE OF LEGAL EDUCATION'S RESEARCH AND PUBLICATIONS BRANCH

Attorneys and prosecutors from the field who are experienced writers and editors trained in the use of computer technology staff the OLE Publications Branch. The branch provides high-quality legal publications for United States Attorneys' offices through the use of current publishing technology. Through these publications, OLE can provide substantive educational information not only to students attending its courses, but to Assistant United States Attorneys, Department attorneys, and government lawyers who need assistance in litigating Federal cases.

### **USABook**

The USABook Desktop Library is a series of books, monographs, form books, and case notes designed to help Federal prosecutors research and prepare cases. The OLE Publications Branch publishes both original Department work as well as other government agencies' materials. USABook is a computer program that allows users to locate useful legal documents instantly. The documents can be browsed on the screen and marked and saved as text files that can later be edited and printed using WordPerfect.

### ***UNITED STATES ATTORNEYS' BULLETIN***

The *United States Attorneys' Bulletin (USABulletin)* is a magazine distributed bi-monthly to United States Attorneys, Assistant United States Attorneys, and Department of Justice (DOJ) components. Each *USABulletin* is based on a theme, featuring articles, interviews of top DOJ officials, and case summaries and stories. Also included in each issue are highlights involving the Attorney General, significant issues and events of or for United States Attorneys' offices and the Executive Office for United States Attorneys (EOUSA), and significant issues and events from other components of the Department related to the work of Assistant United States Attorneys.

Articles, stories, and significant issues and events are contributed by United States Attorneys' offices; other DOJ components, bureaus, and offices; other Federal agencies; and some private agencies. Attorney General initiatives, significant issues and events, DOJ press releases, and other news also supply information for the *USABulletin*.

### **SCHEDULE OF SUBMISSIONS**

Information for consideration for publication in the *USABulletin* should be submitted two months before publication and must relate to the theme of the issue. Districts are encouraged to submit articles/stories at any time for consideration for publication in future issues. If you have suggestions for issue themes, comments, questions, submissions, or to change an address or request additional copies, please contact James Donovan, (803) 544-5100, Fax (803) 544-5110, or by E-mail.

**CHIEF INFORMATION  
OFFICER**

## **Information Technology Staffs**

**Zalmai (Zal) Azmi  
Chief Information Officer  
(202) 616-6973**

The Chief Information Officer (CIO) serves as the primary advisor to the Director, Executive Office for United States Attorneys (EOUSA) and the Attorney General's Advisory Committee (AGAC) on nationwide issues related to improving practices in the design, modernization, use, sharing, and performance of information resources of the United States Attorneys' offices (USAOs). The CIO's role includes developing recommendations for information technology management policies, procedures, and standards; identifying opportunities to share information resources; and assessing and addressing the needs of the USAO's IT workforce.

The CIO manages, directs, and supervises the offices described below. Each office is further detailed in the following three, tabbed sections.

### **CASE MANAGEMENT STAFF**

The Case Management Staff provides user and technical support to the USAOs for their caseload and collections systems (LIONS, TALON, and USA-5) as well as operational support of the central caseload and collections systems.

### **OFFICE AUTOMATION STAFF**

The Office Automation Staff provides administrative and technical office automation support to all United States Attorneys' offices. This support includes the selection and installation of LAN/WAN systems, automated litigation support software and hardware, IT-related training and on-line legal research. Additional areas of responsibilities include representing United States Attorneys' offices in Department of Justice-wide office automation efforts and managing operations that effect United States Attorneys' offices on a nationwide level (e.g., media disposal).

### **TELECOMMUNICATIONS AND TECHNOLOGY DEVELOPMENT STAFF**

The Telecommunications and Technology Development Staff provides support to United States Attorneys' offices and to the Executive Office for United States Attorneys for telecommunications and identifies and evaluates new and emerging technologies that can enhance their operations. Telecommunications services include voice telephony (including telephone systems), data transport, connectivity to remote host applications and video teleconferencing.





## **CASE MANAGEMENT**

**Siobhan Sperin**  
**Assistant Director**  
**(202) 616-6919**

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## CASE MANAGEMENT

### LOCAL CASELOAD AND COLLECTION SYSTEMS

Each United States Attorney's office (USAO) has a caseload management system, LIONS, and a collections system, TALON, that are operated locally. Information from the local systems is submitted automatically to the Executive Office for United States Attorneys (EOUSA) for inclusion in the central caseload and collection management system. A Systems Manager in each district is responsible for the day-to-day operation of the computers and for assisting docket and collection personnel.

The system can generate local reports for a variety of management purposes including monitoring the office's workload, making case assignments, and responding to ad hoc inquiries concerning the office's activities. In addition, the system can also produce a variety of documents and local calendars.

With the System Manager's assistance, supervisors should establish procedures to ensure that docket personnel receive timely, accurate information for entry into the office's systems and to ensure that errors are corrected.

### LIONS

EOUSA installed LIONS, the criminal and civil caseload management system, in all United States Attorneys' offices. Users work at their personal computer and use their network printers. LIONS runs under Windows NT using ORACLE. It is menu driven with validation tables and extensive edits. "Point and Click" performs functions such as opening a record, updating information, paging forward/backward through the data screens, and running reports. Standard Reports are available to all end-users without Systems Manager intervention. A series of courses and conferences provided training for district management, systems managers, and data entry personnel.

### TALON FOR COLLECTIONS

EOUSA converted all PROMIS and USACTS-II collections systems to TALON during calendar year 1997 because of continued delays in the installation of new civil and criminal debt collection systems. This was an interim measure because of the age of the PROMIS equipment and the lack of year 2000 compatibility. Users work at their personal computer and use their network printers. TALON runs under Windows NT using ORACLE and has the same conveniences as LIONS. A Document Generation program is available to all end-users and does not require Systems Manager intervention. Deposit tickets and debtor statements can be generated by the Financial Litigation Unit without Systems Manager intervention. The Deposit Ticket takes less than five minutes to generate and print. Direct Deposit debtor information is E-mailed to Washington, D.C., where it is printed and mailed. Standard Reports are available to all end-users without Systems Manager intervention.

## CENTRAL CASELOAD AND COLLECTION SYSTEM

The United States Attorneys are responsible for reporting certain activities to the Attorney General. For that purpose, EOUSA maintains a central caseload and collection management system. This system is used to respond to numerous requests for statistical information from Congress, the Office of Management and Budget (OMB), etc., and to produce management reports for use within the Department of Justice. This system assists in formulating budget estimates, justifying budget requests submitted to OMB and Congress, providing information necessary for allocating resources to the districts, produce the United States Attorneys' Annual Statistical Report, and meeting the accounting requirements for debts collected by USAOs.

At the beginning of each month data is automatically submitted to the Case Management Staff of EOUSA. Timely submission is critical because reports cannot be produced until information from all districts is received.

The Case Management Staff provides monthly summary reports detailing each USAO's year-to-date caseload, collections, and asset-forfeiture activities to the United States Attorneys. The United States Attorneys' offices should review these reports and others sent on an ad hoc basis to ensure that timely and accurate information is entered into the local systems.

## CONTACTS

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## CASE MANAGEMENT QUALITY CONTROL

Quality control with regard to docketing appears to be a simple process; however, it is not. No single document or procedure provides all the information needed to evaluate the information being reported. Information produced by the Executive Office for United States Attorneys (EOUSA) and reports produced by the local System Manager can assist in this area.

### INFORMATION AVAILABLE IN-HOUSE

#### Full Printout/Case History

A full printout is a listing of all the information in the data base regarding a particular case or record. A supervisory attorney or the legal clerks who provide information to the docket technician can review these printouts to ensure that cases are being reported correctly.

#### Local Reports

The district systems manager produces these reports from the district's data base using "canned programs" or ad hoc reports. They are used to monitor workload, supervise attorney caseloads, respond to ad hoc inquiries, etc. Examples of available reports are Workload Reports by Attorney, Pending Cases by Agency, and Listings by Program Category or Cause of Action. USAOs should review these reports to determine the status of the data base and to ensure correctness of information.

### LOCAL REVIEW OF THE DATA

The United States Attorneys should certify the accuracy of their data as of March 31 and September 30 of each year. They may forward certification statements from each Division Chief within the district for their portion of the data. Additionally, knowledgeable personnel (such as supervisory attorneys or lead legal clerks) should review the documents described above to ensure that the district's data is correct, and that the office is receiving appropriate credit for their work.

## SYSTEM MANAGER AND DOCKET TECHNICIAN RESPONSIBILITIES

The systems manager and docket technicians within the district play a key role in ensuring the quality of data in your system. Answers to the following questions are helpful in determining if your systems manager and/or docket technicians need additional assistance or training:

### Systems Managers

- Are backups of the case management data performed regularly (daily, weekly, and monthly)?
- Are backups secured off-site on a regular basis (weekly, monthly)?
- Are management and quality control reports produced on a regular basis?
- Does the systems manager work with Assistant United States Attorneys to provide them with meaningful reports?
- Does the systems manager understand how the case management system works; e.g., what it can do for the office?
- Are passwords and IDs changed on a routine basis?
- Does the systems manager notify all docketing personnel of policy changes issued by EOUSA, and ensure that users' manuals are updated and distributed?

### Docket Technicians

- Does everyone responsible for docketing have a current Users' Manual?
- Does everyone responsible for docketing know whom to call when they have a problem; e.g., missing information from an initiation form, locked-up PC, etc.?
- Are reports run and reviewed to check data entry?
- Do docket personnel have access to the Federal Rules of Civil and Criminal Procedures?
- Do docket personnel understand how the case management system works?
- Do docket personnel get a copy of the error list? Do they correct the errors?

Case Management personnel are always available to assist you with any inquiries about the districts' caseloads.

## CONTACT

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## **USA-5, MONTHLY RESOURCE SUMMARY REPORT**

The USA-5, United States Attorneys' Monthly Resource Summary Report, and the USA-5A Supplement, provide a means for reporting the use of personnel resources allocated to United States Attorneys' offices (USAOs). The information collected from these reports assists in budget formulation and justification, responding to ad hoc inquiries concerning the allocation of United States Attorney resources to specific programs, and monitoring the allocation of congressionally appropriated resources.

### **OVERVIEW OF THE USA-5/5A**

The USA-5 records information on work performed by attorneys, paralegals, and support personnel. It also records work performed by attorneys beyond the basic 40-hour work week, attorney work hours for court related activities, and work performed by Special Assistant United States Attorneys.

The USA-5 form has two major sections which include overlapping information. The top portion of the form shows personnel resources used by program category, and the bottom portion shows attorney time in court and related activities.

The USA-5A contains information on work performed on procurement, financial institution fraud cases, and other priority categories.

### **REPORTING PROCEDURES**

Procedures within each USAO should be established to ensure that accurate information is collected.

The Case Management Staff has developed an ORACLE-based version of the USA-5/5A, which simplifies the data gathering process and provides local management reports.

USAO reports must be submitted by the 15th of the month following the reporting period. Timely submission is critical because reports cannot be produced until all district information is received.

### **CONTACTS**

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OFFICE  
AUTOMATION

## **OFFICE AUTOMATION**

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### **COMPUTER SYSTEMS**

United States Attorneys' offices (USAOs) received computer networks from 1990 through 1992. Starting in the first half of 1998, districts received upgraded Windows NT desktop personal computers and network topology. Functions offered through the networks include word processing, electronic mail and file transfer, access to on-line legal research (Westlaw, LEXIS/NEXIS, CDB Infotek), the Justice Data Center, Government Bulletin Board Systems (BBS), outside databases, the Internet, an Intranet (USANet), text retrieval (ISYS), forms design and filler (Informs), and database (ORACLE). Currently, OAS is upgrading the nationwide E-mail system from Groupwise to Exchange and Outlook. Access to the network from remote computers (i.e., laptop computers) is available through an 800 number. The original network system and effort was named EAGLE. The most recent upgrades in technology are our preliminary efforts to move to JCON-II, the Department's standard network architecture.

The Executive Office for United States Attorneys (EOUSA) is part of a Department-wide effort to standardize its hardware and software and to work toward the ability to interchange mail and files with other government and non-government parties. This long-term, Department-wide project is called the Justice Consolidated Office Network (JCON II). The standards of JCON II include Windows NT as the server operating system, Microsoft Exchange/Outlook for mail, and Windows 95 moving to NT as the workstation operation system. Subsequent steps, and the order of implementation, will depend on significant testing efforts and recommendations from the integration contractor and from our on-board security contractor (see below for more about the latter).

### **SYSTEMS MANAGERS**

The role of the Systems Manager has changed dramatically over the past 10 years. When the contract with Tisoft, Incorporated, was awarded in mid-1989, USAOs had approximately 300 personal computers (PCs) in their entire inventory. Today, there are approximately 15,000 PCs, and another 2,000-2,500 laptops. In 1986, a COBOL-based case management system was used in the larger USAOs, while case management systems in other offices ran on word processors. With the advent of the networks, an ORACLE-based case management system, TALON, replaced the word processor version used in about half of the districts. In FY1997, LIONS, a new client-server ORACLE-based application, replaced all existing case management systems for Criminal and Civil cases. Department-wide efforts to manage cases in the Collections area are underway. In the interim, United States Attorneys use TALON.



Installation of the computer networks brought many additional responsibilities to the Systems Managers. In the past two or three years, development of technology to enhance trial preparation and courtroom presentation has added yet another dimension to the role of the Systems Manager. Basic Systems Manager responsibilities include:

- providing user assistance;
- ensuring that the system is backed up regularly;
- ensuring that all security requirements are met, including the changing of passwords at regular intervals, virus scans are run daily;
- reporting security problems (e.g., viruses, lost or stolen equipment);
- troubleshooting and obtaining maintenance services when appropriate; loading new software and software upgrades;
- providing, coordinating, or procuring end-user training;
- supporting case management and other computer applications that operate on the Phoenix network;
- providing support in trial preparation and courtroom presentation using the automated tools available today

Other responsibilities include support of all non-network office automation equipment such as standalone and notebook PCs. Many Systems Managers develop local applications to meet specific requirements or facilitate various tasks, including applications to monitor budgets, staff, inventory, or other information; and design of district-specific forms and associated macros which allow for automatic fill-in. Many Systems Managers also provide support for litigation activities in the office. Office Automation expects this to be a very important initiative within the next couple of years. Examples are development of graphical exhibits, charts for use in the courtroom, and design and operation of courtroom display systems or equipment. The Office Automation Staff maintains a close working relationship with all Systems Managers and is available to provide assistance to them.

## COMPUTER EQUIPMENT MAINTENANCE

Compaq assumed responsibility for the maintenance of all EOUSA-supplied PHOENIX hardware and software and some additional equipment beginning FY2000. This will provide a single point of contact for systems staff.

## LITIGATION SUPPORT

EOUSA procured a site license agreement for the installation of Verdict Systems Sanctions Trial Presentation software on any U. S. Attorneys' computers. Sanctions software was distributed in February, 2001. Office Automation, in cooperation with EOUSA's National Advocacy Center, is also developing a 'hands-on' Automated Litigation Support class for presentation in 2001. This class will include instruction in electronic data capture, preparation of large format exhibits, overview of Sanction and imaging database software, Corel Presentations, electronic courtroom equipment and courtroom presentation of a work product.

EOUSA has three Atticus ruggedized portable courtroom systems available to U. S. Attorney offices for use in trial presentations. The courtroom system components are modularized which include a VCR, video printer, Infocus projector, cassette player and connectors for all digital and analog signals as well as electrical power outlets for monitors and computers. Arrangements can be made through Office Automation for use of this equipment.

Because of the dramatic advances in technology, individual districts are beginning to bring investigative, trial preparation, and courtroom presentation technology into their offices. EOUSA has continued to request funding for these efforts with minimal success. A project is underway to assist in justifying this need. This effort includes a detailed survey of all United States Attorneys' requirements, a detailed needs analysis and a cost-benefit analysis to support performing these tasks in-house. Members of the Office Automation Staff are available to assist in determining the appropriate contract services and products to meet specific requirements, as well as to recommend and assist in seeking alternative solutions.

## ON-LINE LEGAL RESEARCH

EOUSA supports access to a variety of on-line legal research services, including Westlaw, LEXIS/NEXIS, Information America, and CDB Infotek. The primary resource is Westlaw, which is obtained via a five-year negotiated contract with West. This contract provides for full access to Westlaw for a flat monthly fee. Also included are training, hotline support, and home versions of Westlaw and WestCheck. This contract was renewed in 2000, and efforts are underway to develop requirements and begin negotiations for a follow-on contract. LEXIS/NEXIS is available to a limited number of users at various hourly rates, depending on the library accessed. Additional LEXIS/NEXIS access is available for Health Care Fraud users and is funded from other sources. Flat rates have been negotiated for some Information America databases and all CDB Infotek databases.

EOUSA monitors use of these services, adding capabilities as they become necessary and available, and investigates the value of additional services. USAOS may obtain additional services locally, using allocated budgets but should contact the Office Automation staff before doing so in case negotiations on a national level might be either underway or appropriate. In addition, access to the Internet and EOUSA Intranet (USANet), as well as Internet mail, provide additional resources for legal research.

## CUSTOMER SERVICE

The Office Automation Staff distributes information about office automation activities to all United States Attorneys through the Office Automation Update. It is distributed to all United States Attorneys, First AUSAs, Administrative Offices, and Systems Managers. The update also appears on USANet. Separate technical publications are distributed to Systems Management staff as required.

As part of the customer service effort underway in EOUSA, authorization for purchase of computer hardware and software has been delegated to USAOS with minimal restrictions on sources of networked components. Purchases made from established contracts through EOUSA, however, will ensure that the integration contractor can provide on-going maintenance and user support for these products. No guarantees of service are available for non-standard items purchased elsewhere.

#### FUTURE ACTIVITIES

1. Participation in the effort to standardize the Department's hardware and software.
2. Response to the Attorney General's mandate to develop and maintain, through the Justice Management Division's Internet support staff, individual Internet WEB pages, and to post press releases through these pages. The Office Automation Staff is available to provide assistance in this effort.
3. Under the auspices of the Attorney General's Advisory Committee, an Office Automation Working Group provides a resource to EOUSA in determining USAO requirements, developing budget requests, and setting priorities. This group consists of United States Attorneys, Assistant United States Attorneys, Administrative Officers, and System Managers.
4. The Office Automation Staff, EOUSA, continues to find and evaluate new hardware, software, and services that will assist United States Attorneys in meeting their litigation goals.

TELECOMM. &  
TECH. DEV.

# TELECOMMUNICATIONS AND TECHNOLOGY DEVELOPMENT

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## **TELECOMMUNICATIONS SERVICES**

### **INTRODUCTION**

The Executive Office for U.S. Attorneys' Telecommunications and Technology Development Staff's (TTD) primary mission is to assist U.S. Attorneys' offices (USAO) in the management of their telecommunications needs. Additionally, TTD, is involved in the research and investigation of emerging technologies which could be employed by USAOs to enhance their ability to perform their mission better, including the deployment of the Departments' largest video network and the installation of a large ATM data network in all USAOs.

### **TELECOMMUNICATION SERVICES**

#### **Data Communications**

Data communications are the transport of computer data for a variety of applications, the most common being internet connectivity and Email. TTD, in consort with local system managers, manages data communications for all USAOs. All USAOs and the EOUSA are part of a large ATM data network known as the Justice Consolidated Network (JCN). The JCN provides economies of scale as all bureaus, agencies, and divisions of DOJ share this dedicated network managed by Sprint, the FTS2001 provider. JCN provides for greater bandwidth, minimizing the amount of time an employee must wait for email or internet response. Additionally, because it is a shared network, the cost savings to the Department are potentially significant.

Other types of data communications are used to provide connectivity between office locations when U.S. Attorneys' offices are located in separate buildings within a city. Examples include fiber ethernet connections and building to building radio. Additionally, PRI ISDN service is provided in each USAO for dial-up access to the JCON computer network for staff not physically working in USAO office space or on travel status.

The costs of data communications services are paid for directly by EOUSA and are not part of a district's budget.

#### **Voice Communications**

Voice communications encompass local and long distance dial tone, calling cards, toll-free service, office telephone and voice mail systems, and cellular service.

## Local Telephone Services

USAOs receive local telephone services from several sources and at one or two technology levels. Because several new forms of telecommunications technologies are emerging in commercial markets throughout the nation, many existing telephone systems in offices are becoming obsolete. The regional and local telephone companies are attempting to modernize their central office equipment (the switches which provide the dial tone at your telephone) in order to keep pace with the new services required by industry, governments, and the individual customer. The primary sources of local telephone services are:

1. The General Services Administration (GSA) provides local telephone services to most federal office buildings throughout the country. In most cases, GSA contracts for the services through consolidated services contracts with the local telephone company. In some instances, they lease or purchase the central office equipment and in others they operate the equipment on the premises of the building(s) serviced. Generally, the only service provided under these contracts is dial tone; the customer must obtain their own telephones, wiring, and any other required equipment.
2. Local telephone companies provide the dial tone and associated services to offices in non-GSA consolidated service areas. Generally, the services are identical to those provided by GSA in consolidated areas.

## Long Distance Telephone Services

Several nationwide carriers such as AT&T, MCI, and Sprint provide commercial long distance services. Sprint is the designated FTS2001 vendor for the Department of Justice. FTS2001 services are either directly connected to the local GSA dial tone in GSA consolidated service locations (on-net service), connected directly from Sprint to the office's dedicated phone system, or connected by a "virtual" connection (VON) for non-GSA service locations. MCI-WorldCom is also a FTS2001 vendor and is used by DOJ primarily for calling cards and long distance for video calls. The FTS2001 network provides services within the United States and its territories and now provides international telephone service. FTS services consist of the following:

- Long distance, direct dialing service to all United States locations including Guam, Hawaii, Puerto Rico, and the Virgin Islands;
- Long Distance Service Calling Cards for use during travel;
- Toll free 800/888 services; and,
- Multiple Call, Call Conferencing Service using a centralized operator to coordinate all parties to the call.

## International Telephone Service

Direct dial international telephone service is provided to the USAOs under a department-wide contract in place with Sprint as part of the FTS2001. MCI-WorldCom calling cards provide for both international and domestic service. These cards may be used while in travel status or from the home office to place an international call.

## Telephone Systems

Over the past few years, USAOs have grown dramatically, and the nation's telecommunications infrastructure has shifted to a digital backbone. As a result of these and other influences, many USAOs have been forced to replace their existing telephone systems. Designing the best system can be extremely difficult, because there are literally thousands of choices to consider. Only four basic types of systems can provide all of the features required by USAOs, however, those four types involve hundreds of brands or combinations of equipment, which can cause a significant amount of confusion. The four types of systems used by USAOs are private branch exchange (pbx), centrex, electronic key systems, and hybrid key systems.

Currently, TTD, EOUSA, is investigating a long-term project to combine voice with data on the ATM network. Under this program, all USAOs will eventually have uniform telephone instruments on all employees' desks throughout the country.

## Ordering a New Telephone System

Whenever a USAO determines they need a new telephone system or need to expand or modify an existing one, they should immediately contact TTD, EOUSA, with as many details as possible. A request for a new phone system must be submitted to Resource Management and Planning as part of the annual budget request. **TTD does not have discretionary money to fund districts' phone purchases. TTD works from a budget provided by Resource Management and Planning based on districts' telecommunications requests.**

The initial request will be evaluated and, in most cases, the district will need to complete a survey of technical information provided by EOUSA. The request and survey will be evaluated along with information obtained through contacts with the local GSA telecommunications' representative, local telephone companies, Regional Bell Operating Company, equipment manufacturers and, most importantly, the office. Once the types of available dial tone services and the equipment that is best suited for the office are determined, the office will be advised to contact specific vendors to obtain demonstrations and initial cost estimates for the equipment and installation. The vendor list will include GSA Schedule 58 contractors as well as vendors with which TTD, EOUSA, has contacts. The results of the demonstrations and the cost estimates will be evaluated to select the best value system for the office. Once a system is chosen, the office will prepare the necessary procurement documents and forward them to TTD, EOUSA. TTD will coordinate the funding with the EOUSA Financial Management Staff and return the approved and funded procurement documentation to the district to procure under their delegated procurement authority.



## Cellular Telephones

Cellular telephones are authorized for the United States Attorneys and may be assigned to USAO personnel at the discretion of the United States Attorney. Cellular telephones may be assigned to the district's duty officer to ensure immediate availability during non-duty hours and to staff members who are required to travel between remote branch offices if there is limited pay phone accessibility. Cellular phones also may be assigned to any staff member upon recommendation of the EOUSA Security Programs Officer.

As cellular costs continue on a downward trend, they should be evaluated as an alternative to pay phones or pagers. They should not be used for personal calls unless less costly forms of communications exist. If long distance cellular calls are necessary, the FTS2001 (MCI) Calling Card must be used. No commercial long distance calls should ever be necessary. Because of provisions in 31 U.S.C. 1348, cellular telephones should not be installed in privately owned vehicles. It should be recognized that analog cellular phones calls are NOT secure and that conversations can be monitored. Lastly, cellular phone numbers should not be published.

Digital cellular phones provide a level of security, because they are digital and encrypted at the handset, however, these phones do not provide the same level of security as a STU-III phone, and as such should not be considered secure.

A district may purchase cellular telephone equipment using its delegated procurement authority (dependent upon the availability of funds). These purchases **no longer must be approved** by TTD. Once a cellular phone is purchased, however, TTD must be notified of the phone purchased and service activated, because these phones are accountable property and must be inventoried.

## Video Telecommunications Services

Video Teleconferencing (VTC) has for several years expanded the size of training program audiences, to allow attendance at important meetings when travel is not possible because of other commitments, and to allow the advantages of a face-to-face meeting when otherwise not possible.

Video Teleconferencing equipment has been installed in all staffed USAO locations. Video conferencing equipment also has been installed in the six litigating divisions' headquarter offices in Washington, D.C., to facilitate meetings between United States Attorney personnel and Department personnel. The video teleconferencing is "dial up," which means that USAOs can connect to most other video systems, whether government or private industry, worldwide. Billing for video services are paid centrally by EOUSA. **Offices are encouraged to use the video teleconferencing for whatever purposes they deem appropriate.**

Video Teleconferencing can take place in a “point-to-point” mode in which one office dials another office for a two-way video teleconference, or it may involve three or more offices, known as a “multipoint call,” which is accomplished using a multipoint bridge operated by the TTD Staff. Because multi-point bridge capacity is limited, TTD requests 48-hour notice for conferences. Last minute emergency requests are accommodated whenever possible, however.

## CONTACTS

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**DEPUTY DIRECTOR  
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## **DEPUTY DIRECTOR FOR OPERATIONS**

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The Deputy Director, Operations, is the primary advisor to the Director, Executive Office for United States Attorneys (EOUSA) and the Attorney General's Advisory Committee (AGAC) on nationwide issues related to the operations of the United States Attorneys' offices (USAOs). The Deputy Director manages, directs, and supervises the programs and offices described below. Each office is further detailed in the following tabbed sections.

### **EMPLOYEE ASSISTANCE PROGRAM**

The Employee Assistance Program (EAP) provides free confidential assessment, short-term counseling, and community referrals for EOUSA employees and their families experiencing stress or difficulties in their professional and personal lives. EAP staff are available to managers and supervisors for consultation about problem employees, and to provide extensive staff training for districts (stress management, communication, conflict resolution, team building) as well as crisis response. Managers and supervisors are encouraged to become familiar with EAP and to encourage their employees to take advantage of these services. The EAP is organizationally supported by the Operations staff of EOUSA. The EAP section of this manual located under the Employee Assistance tab.

### **FACILITIES MANAGEMENT AND SUPPORT SERVICES STAFF**

The Facilities Management and Support Services Staff provides the following logistical support to all USAOs (217 staffed offices and 92 unstaffed): acquisition, renovation/repair, and relocation of real property/space; procurement and small purchases, including motor vehicle requirements; and records management, including forms management and audiovisual/printing coordination.

## PERSONNEL STAFF

The EOUSA Personnel Staff provides a wide variety of operating personnel, payroll, pre-employment security/suitability administrative services for attorneys, support, and special attorneys in the 94 nationwide United States Attorneys' offices. For districts that do not have an on-site personnel office, these services include personnel management advice and guidance in all employment areas (e.g., staffing, position classification and pay, performance-based employee relations actions, etc.). For those districts with their own personnel staffs, the EOUSA Personnel Staff provides assistance as requested, and is responsible for overall program evaluation through the Personnel Management Evaluation Program. The EOUSA Personnel Staff also serves the AGAC in recommending personnel policies, including the development and implementation of an administratively determined pay plan for attorneys.

## SECURITY PROGRAMS STAFF

The Security Programs Staff provides protection for personnel, facilities, and sensitive information throughout the United States Attorneys' offices. It is comprised of three distinct components: the Executive Office for United States Attorneys, the District Office Security Manager, and the Security Working Group of the Office of Management and Budget Subcommittee of the Attorney General's Advisory Committee.

## INTERNAL CONTROLS

The Operations Staff oversees the Internal Controls functions of the Executive Office for United States Attorneys in close coordination with the Evaluation and Review Staff (EARS) as they pertain to the conduct of business in the United States Attorneys' offices. If an EARS team discovers a problem with internal controls during one of its site visits, it refers the matter to Internal Controls, which works with the district, other EOUSA staffs, and the Department, if needed, to resolve the situation and increase the efficiency of the district office.

**FACILITIES &  
SUPPORT SVCS.**

**FACILITIES MANAGEMENT AND SUPPORT SERVICES**

**Trisha M. Bursey**  
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## FACILITIES MANAGEMENT

The Executive Office for United States Attorneys (EOUSA), Facilities Management and Support Services (FMSS), has delegated authority to acquire and/or release all space (office, storage, and parking) for United States Attorneys' offices (USAOs). USAOs do not have authority to acquire and release space.

United States Attorneys should submit requests for space to the Assistant Director, FMSS/EOUSA, for approval and coordination with the General Services Administration (GSA).

FMSS provides funding for the rental of space for USAOs, and for construction, alteration, and overtime utility needs.

Space Allocation Standards (SAS) dated October 8, 1998, identify space allowances established for USAOs as addressed in Title 3.14, *United States Attorneys' Manual (USAM)*. Requests for space should be submitted to FMSS in accordance with the SAS. In addition, an Office Move Manual, found on the FMSS Web site (                     b2                     ), can be used as a guide to assist in planning and executing an office move.

Parking spaces are provided in accordance with the established parking policy as addressed in Title 3.14, *USAM*. Requests for additional parking are reviewed against the existing allocation. If the parking allocated exceeds the number authorized, no additional parking will be authorized and the office should fill the new requirement by reassignment of the parking spaces in accordance with the policy. Official paid parking spaces are allocated as follows: Official government vehicle, handicapped employee, United States Attorney (USA), discretionary space for the USA, paid supervisory Assistant United States Attorney, Senior Litigative Counsel Attorney, Administrative Officer, and operational space. In certain high rate geographic areas, employer provided parking spaces will incur a non-cash taxable benefit.

In developing space requirements, the analysis will center on two components of general purpose office space: (1) the primary or personnel-occupied areas; and, (2) the office support area or conference, file, storage, etc. The requirements development process defines the function of the space, special requirements, and the relationship and adjacency requirements. The SAS is beneficial in identifying space needs.

No funds may be expended in excess of \$5,000 to furnish or redecorate the office of a Presidential appointee, unless advance notice of such furnishing or redecoration is approved by the Committees on Appropriations. The word "office" shall include the entire suite of offices assigned to the individual, as well as any other space used primarily by the individual or the use of which is directly controlled by the individual.



For a fee, GSA provides an Integrated Occupancy Service (IOS), which is a complete package of GSA space-related services, to be used at your discretion for: real estate planning, space design, furniture, telephone, computer, security, moving and special consulting.

FMSS provides technical assistance to USAOs in the planning and design phase, approves the final layout, coordinates final layouts with EOUSA Security Programs Staff and other EOUSA components, and forwards the final layouts to GSA for action. All changes or modifications to the final layouts must be coordinated and approved by FMSS, due to associated costs. Only FMSS has the authority to approve change orders with GSA.

FMSS makes the final acceptance of new space assignments. Upon completion of a construction or alterations project, FMSS meets with GSA and the USAO for the final walk through and acceptance of the office space prior to USAO occupancy. The USAO does NOT have authority to accept a space assignment or take occupancy of a space without approval from FMSS.

New office openings, closing, or relocations from a congressional district must be reported to the Congressional Appropriations Subcommittee for approval. Space requirements that fall in these categories must be submitted to FMSS as soon as possible to ensure that Congress has sufficient time to approve them.

## CONTACT

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## **SUPPORT SERVICES**

### **DELEGATIONS OF PROCUREMENT AUTHORITY(DPA)**

#### **DPA: Contracting Officers**

Each United States Attorney's office (USAO) has person(s) designated by the United States Attorney who are trained in federal acquisition procedures and appointed as contracting officer(s) by the Justice Management Division, Simplified Acquisitions Service (JMD/SAS). This appointment is a re-delegation of JMD's procurement authority (DPA) to USAO personnel. These individuals receive a formal "Certificate of Appointment as Contracting Officer" (SF-1402) from JMD/SAS, after completing a 40 hour course in Simplified Acquisition Procedures. To maintain the delegation, each contracting officer must receive 40 hours of additional training every two years.. In accordance with the Federal Acquisition Regulation (FAR), Justice Acquisition Regulation (JAR), and Department of Justice (DOJ) Orders, contracting officers may purchase for the government within the limitations of their DPA. An automated quarterly procurement activity report of the previous three months' transactions is required by JMD/SAS by the 7th of January, April, July, and October.

The Certificate of Appointment provides for open market purchases up to \$25,000, (Districts may request up to \$100,000 from JMD/SAS) and orders up to \$500,000 against Federal Supply Schedules and DOJ contracts. Purchases from UNICOR, NIB/NISH or FEDSTRIP have no dollar limitation. The contracting officer has authority to acquire directly from GSA, miscellaneous repairs, and alterations up to \$2,000. The Certificate of Appointment also allows the acquisition of litigative consultants, expert witnesses, and ADR neutrals up to \$100,000.

Acquisition requirements for goods or services in excess of the authorized purchase limits must be submitted directly to the JMD/SAS at: Assistant Director, Simplified Acquisitions Services, Procurement Services Staff, Justice Management Division, National Place Building, Suite 1040, 1331 Pennsylvania Avenue, NW, Washington, DC 20530. The telephone number of JMD/SAS is (202) 307-1992.

NOTE: Executive Office for United States Attorneys (EOUSA) restrictions and limitations for procurement authority are as follows:

1. The acquisition of gymnasium/athletic equipment and/or accessories may not be made unless specifically approved by the Director, EOUSA, in advance of the purchase. All requests for this equipment/accessories must be addressed in writing to the Director, EOUSA, regardless of the cost or whether it is available on an FSS or GSA schedule, or a simplified acquisition.

2. Acquisitions of Automated Data Processing (ADP) equipment and software is authorized provided that: (1) Purchases of PCs for new Full Time Equivalents (FTE) are authorized. Funding will be provided automatically when the FTE is allocated. This funding covers the cost of a PC, portion of a printer, network components, and software; (2) Purchase of any hardware and software, except those items that would constitute modifications to standard network architecture or functionality (e.g., Compaq servers, SCO Unix, WordPerfect, Windows NT); (3) Purchase of non-standard network components is authorized as long as the basic network architecture is not affected.

3. Acquisition of vehicle parking spaces requires prior approval of the Assistant Director, FMSS, EOUSA.

4. Acquisition of telephone services for USAOs outside of Washington, DC, to include local telephone lines, any instruments, and any supplemental equipment and features of quantities in excess of nine (9) must be acquired by the Assistant Director, Telecommunications and Technology Development Staff (TTD), EOUSA.

5. Acquisition approvals of office security systems, related security hardware, miscellaneous security equipment and/or services must be obtained from the Assistant Director, Security Programs Staff, EOUSA.

#### DPA: Government Purchase Card (MasterCard)

In addition to the procurement authority discussed above, United States Attorneys' offices may acquire a government purchase card (MasterCard). DOJ and EOUSA encourage the districts to apply for MasterCards and to utilize the program to the fullest extent feasible. The purchase card program simplifies and streamlines the acquisition process, and is strongly encouraged for all purchases under \$2,500.

United States Attorney's office personnel need not be contracting officers for assignment of a purchase card. FMSS coordinates training for new cardholders for the district with JMD, Simplified Acquisition Staff. Minimal training for non-contracting officers, consisting of purchase card procedures and ethics, is required. Information on acquiring and using the purchase card may be obtained from EOUSA/FMSS.

Contracting officers may have purchase cards with a single purchase limit of \$25,000. Non-contracting officers may receive purchase cards with a limit of \$2,500.

### DPA: Certified Invoice Procedure (for Litigation Expenses)

Each United States Attorney is delegated authority to utilize the Certified Invoice Procedure to acquire and pay for litigation-related goods and services, up to \$2,500. The United States Attorney may redelegate this authority to Assistant United States Attorneys and other district personnel.

### Procurement of Court Reporting Services

Districts may procure court reporting and deposition services in several ways: (1) annual purchase orders, (2) blanket purchase agreements (BPAs), or (3) formal contracts. Contracting officer(s) may procure these services, up to \$25,000 per year, using BPAs issued by the district or annual purchase orders. Annual requirements over \$25,000 per year require submission to the JMD/SAS through EOUSA/FMSS for action. BPAs and contracts are normally awarded for a five-year period, which includes the base year and four option years.

### Acquisition of Government Vehicles

The acquisition of Government vehicles are obtained through the General Services Administration (GSA) Interagency Fleet Management Center, or the Justice Management Division (JMD) Fleet Management Staff. Only small, subcompact, or compact passenger vehicles, light trucks (or minivans or utility) are authorized. 41 C.F.R. 101-38.101. The Department of Justice appropriation language does not authorize the United States Attorneys' offices to own vehicles.

In order to request the assignment of a government vehicle, the district should first inquire to the regional General Services Administration (GSA) Interagency Fleet Management Center. If GSA can supply the vehicle, USAOs have authorization to acquire the vehicle. Justifications and GSA information should be noted in the district's file and a copy forwarded to EOUSA/FMSS.

If GSA is unable to supply the vehicle, GSA must provide written notification that no GSA fleet vehicles are available. This notification will serve as justification to procure a commercially leased vehicle from the JMD Fleet Management. USAOs must submit this documentation to EOUSA/FMSS along with their justification to EOUSA/FMSS for approval, funding, and coordination with the JMD Fleet Management Staff.

Justification for the need of a government vehicle should show analysis and cost comparison of the mileage in privately owned vehicles, mileage in existing government-owned vehicles, parking costs, travel reimbursements, the opening of new branch offices, and other circumstances.

All government vehicles are required to display official government license plates unless an exemption applies. If the district feels this represents a security risk, it should forward a written justification citing the specific security risks, consisting of more than generalized perceptions of vulnerability, to EOUSA/FMSS which will forward for review/approval to the Security Programs Staff, EOUSA. If approved, FMSS will forward the approved request to JMD for transmittal to and coordination with GSA, or the leasing companies. GSA will contact the state motor vehicle agency for vehicles leased through GSA and either acquire the state license plates and forward them to the USAO, or they will advise the USAO to contact the state agency directly to acquire the license plates. JMD will coordinate the acquisition of license plates for all commercially leased vehicles through the leasing companies.

A usage log must be maintained for government vehicles. In addition, it is the policy of the Department of Justice and EOUSA that employees occupying any seating position in a motor vehicle on official business, must have the seat belt properly fastened at all times when the vehicle is in motion.

#### Official Use of Government Vehicles Between Residence and Place of Employment

Employees of the United States Attorneys' offices and the Executive Office for United States Attorneys are not authorized under government regulations to use government vehicles for travel between residence and place of work. Commuting to and from work is considered a personal matter and not an official act. Except for a few narrow exceptions, government vehicles cannot be used for personal purposes.

All requests for home-to-work usage must be coordinated through EOUSA/FMSS and will require approval by the Attorney General.

#### Property Management

Property Management includes reporting the acquisition of property, physical inventory, disposal, and excess of property.

The acquisition of capitalized, accountable, and sensitive property must be inventoried and reported to the Justice Management Division, Property Management Services (JMD/PMS) either annually, bi-annually, or whenever the Accountable Officer or Property Custodian enters or leaves duty, as follows: Capitalized property (cost of \$25,000 or more) must be physically inventoried each year. Accountable property (cost of \$1,000 or more, or considered "sensitive," such as weapons, TVS/VCRs, cellular telephones, any equipment with memory) must be physically inventoried biannually.

The United States Attorney is the Accountable Officer for all property assigned to the United States Attorney's office (USAO) and the Violent Crime Task Force (VCTF). The Administrative Officer is the Property Custodian for the USAO; and, the Managing Assistant United States Attorney of the Violent Crime Task Force serves as the Property Custodian for the VCTF property. Physical inventories must be certified by the United States Attorney and submitted to JMD/PMS, through EOUSA/FMSS.

The district's official accountable property electronic inventory database, ARGIS, which is supported and maintained by JMD/PMS, should contain all serial numbers and Department of Justice bar code numbers, along with other pertinent information.

Missing or stolen property must be reported to EOUSA/FMSS on a Report of Survey (OBD-216) documenting the incident. A completed police report is required. EOUSA/FMSS will transmit the report to other interested staffs such as JMD/PMS and EOUSA/Security Programs Staff.

### Records Management

Each district maintains case files. Each case file must contain a "Conflict of Interest" form verifying that each AUSA involved in the case does not have a conflict of interest. Closed case files must contain the form USA-207, Record of Close Case File, signed by an AUSA, to close the case officially. At least annually, closed case files should be transferred to your local Federal Records Center. Specific guidance regarding United States Attorneys' offices' records is available in the *United States Attorneys Manual*. More general guidance appears in the General Records Schedules (revised December 1998).

### Forms Management

EOUSA/FMSS manages reprints and changes to standard USA forms and some DOJ forms. Direct all suggested revisions to standard forms to EOUSA/FMSS for review and incorporation.

### Printing and Duplicating

The Federal Acquisition Regulation (FAR) and other laws mandate that printing and duplicating be accomplished through the Government Printing Office (GPO). The Department's liaison with the GPO is the Justice Management Division, Printing Procurement Unit (JMD/PPU), telephone number (202) 514-3151. The JMD/PPU will coordinate districts' printing and duplicating requirements with the pertinent regional GPO branch. Routine printing requests,

such as official envelopes, should be requisitioned on a funded DOJ-2 form, and mailed to: Printing Procurement Unit/JMD, Department of Justice, 950 Pennsylvania Avenue NW, Room B-254 MAIN, Washington, DC 20530.

### Copiers

Approval to acquire copiers with an output speed up to and including 60 copies per minute has been delegated to the USAOs. USAOs must to submit their inventory and volume usage quarterly to FMSS, EOUSA, via Form DOJ-369.

Requests for copiers with an output above 60 copies per minute require pre-approval. Districts should send form DOJ-450 directly to Justice Management Division, Mail, Audiovisual, and Publications Services, (JMD/MAPS), Room B-244, 950 Pennsylvania Avenue NW, Washington, DC 20530, for approval. Once approved, district personnel may purchase the equipment if the dollar amount is within their Delegation of Procurement Authority. If the cost of the requirement exceeds the DPA, the procurement request must be sent directly to JMD/SAS (see above).

### Audiovisual, Photography, and Document Design (Graphics)

Audiovisual, videography, and photography services are available as needed from the Justice Management Division, Audiovisual Media Services (JMD/AVMS) at (202) 616-3883. Services of AVMS should be requested using the DOJ-430 form, and mailed to: Audiovisual Media Services/JMD, Room 1311 MAIN, 950 Pennsylvania Avenue NW, Washington, DC 20530.

Document design (graphics) services may be acquired through Justice Management Division, Document Design Unit (JMD/DDU). The DDU publishes the Department of Justice Graphics standards to which all United States Attorneys' offices' publications must adhere. Services of DDU should be requested using the DOJ-430 form, and mailed to: Document Design Unit/JMD, Room B-241 MAIN, 950 Pennsylvania Avenue NW, Washington, DC 20530. The DDU may be contacted at (202) 514-4567.

### Litigation Support

FMSS personnel serve as Contracting Officer's Technical Representatives on JMD-issued litigation support contracts. These contracts assist USAOs in special litigation support needs on specific identified cases. USAOs determine a need for these litigation requirements and obtain the funding either from in-house budgets or requests to EOUSA's Resource Management and Planning Staff for a one-time increase to their allocations.

Statements of work and funding documentation are forwarded to FMSS for processing as task orders against the established contracts. These contracts are not designed or available to circumvent established FTE levels or regular procurement actions.

MEGA I is a contract arrangement negotiated for Department-wide use for automated litigation support (ALS) services through three contract vendors - Aspen Systems Corporation; CACI, Inc. - Commercial; and Labat-Anderson (formerly Rust Federal Systems). These contractors provide labor support services as well as products. Examples of labor support include paralegal services, data entry clerks, accountants, interpreters, industry experts, and technical writers. Examples of products and related services include photocopying, microfilming, scanning, database design and creation, imaging, graphical reproduction of crime or event scenes, and general graphics services. All personnel assigned to perform work for the USAOs have successfully passed name and fingerprint and NACI clearances. Higher clearances are sought as needed. Services can be performed on-site or at a vendor-secured facility. The MEGA I contract is due to expire at the end of FY01 which may be extended until the new MEGA II contract is awarded in early FY02. Administration of the MEGA I contract is handled by EOUSA's Facilities Management and Support Services Staff.

#### Other Support Service Responsibilities

FMSS coordinates metered mailing and administers the Pitney Bowes Contract for mail equipment for JMD Contract Services with USAOs.

#### CONTACT

Trisha M. Bursey  
Assistant Director  
Facilities Management and Support Services, EOUSA  
(202) 616-6425

Harry E. Tice  
Chief, Support Services  
Facilities Management and Support Services, EOUSA  
(202) 616-6425



**PERSONNEL  
STAFF**

## PERSONNEL STAFF

Linda M. Schwartz  
Assistant Director  
Personnel Staff  
(202) 616-6830

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## **ROLE OF THE PERSONNEL STAFF**

The Personnel Staff provides policy and operational support to the Offices of the United States Attorneys and the Executive Office for United States Attorneys. This office insures an effective human resources management program for the agency, develops guidance for districts, and coordinates issues with the Department of Justice and the Office of Personnel Management. Appendix 1 describes the mission of the Personnel Staff. Appendix 2 defines the organizational assignments in the Personnel Staff for each United States Attorney's office.

## **HIRING AND EMPLOYMENT/COMPETITIVE AND EXCEPTED SERVICES**

Personnel of the United States Attorneys' offices (USAOs) are employed either in the excepted service or the competitive service. Excepted service employees are exempt from the competitive examining process, which applies to competitive service employees. The competitive service consists of all civilian positions in the Federal Government not specifically excepted from the civil service laws by or under statute, by the President, or by the Executive Branch of the Federal Government.

Attorneys, and some support employees such as those hired on student appointments, are in the excepted service. Most support personnel are employed in the competitive service. USAOs have limited flexibility in most support staff hiring and pay-setting due to statutory and Office of Personnel Management regulations and restrictions. Appendix 3 illustrates the major differences between attorney and support hiring and pay practices.

Secretaries to United States Attorneys are usually given time-limited appointments to the position to allow each new United States Attorney flexibility to select his/her own secretary.

### **SALARIES**

The salaries of United States Attorneys, Assistant United States Attorneys (AUSAs), and Special Assistant United States Attorneys (SAUSAs) are administratively determined.

The United States Attorney's salary is set at the rate of pay for Executive Level IV. Salary increases are contingent upon increases in the rate of pay for Executive Level IV.

AUSAs are compensated under the provisions of an Administratively Determined (AD) pay plan approved by the Attorney General (AG). Annual increases to the pay plan are also subject to AG approval. Separate plans cover non-supervisory (line) AUSAs and those attorneys temporarily promoted to supervisory or Senior Litigation Counsel positions in USAOs. Line AUSAs are paid on the basis of "full years of professional attorney experience," and most AUSAs rated "Meets to Exceeds Expectations" or higher will have their pay reviewed for performance-based pay increases each year until they are paid the maximum salary authorized for line attorneys. Line AUSAs paid the maximum salary are eligible to earn cash bonuses of up to \$5,000 based on job performance.

SAUSAs are appointed either with compensation or without compensation (other than that which they receive from another employer). Compensated SAUSAs are paid either on a per annum or a per diem basis.

Support staff in the districts are compensated under the provisions of the statutory, position-based General Schedule (GS) pay plan. The GS system has 15 grades, GS-1 through GS-15, and links pay to the grade of the position occupied. Grades in the GS system are determined by government-wide position classification standards published by the Office of Personnel Management.

Both AD and GS employees working in the 48 contiguous United States receive a locality adjustment, a percentage increase that augments basic pay, bringing the total pay into closer alignment with local labor market rates for similar jobs. Locality rates vary throughout the country. See Appendix 4 for approved rates and specific locations.

In some instances where USAOs are not competitive with private sector salaries for certain support occupations, special salary rates for GS positions may be available to compensate for the recruitment and retention of well-qualified individuals. For more information, please refer to the “Pay for Support Personnel” section.

## PROMOTIONS

Pursuant to regulation, permanent support employees at the GS-5 and higher level generally cannot be promoted to the next, appropriate, higher grade level unless they have served at least one year at the next, appropriate, lower grade level. Employees in a one-grade interval series--e.g., Legal Secretary, GS-986; Docket Technician, GS-986; or, Secretary, GS-318--generally have a career path from GS-5 to 6 to 7 and so on. Employees in a two-grade interval series--e.g., Paralegal Specialist, GS-950; or, Administrative Officer, GS-341--typically have a career path from GS-5 to 7 to 9 to 11.

## CONTACTS

Administrative Officer or Personnel Management Specialist  
United States Attorney's office

or

Policy and Special Programs Division (questions concerning Special AUSAs and Hiring AUSAs)

Personnel Staff, EOUSA  
(202) 616-6800

or

Servicing Personnel Management Specialist (all other questions)  
Personnel Staff, EOUSA  
(202) 616-6812

## **HOW TO HIRE AN ASSISTANT UNITED STATES ATTORNEY**

United States Attorneys' offices (USAOs) recruit and screen applicants for Assistant United States Attorney (AUSA) positions, and submit applications to the Executive Office for United States Attorneys (EOUSA) which coordinates approval by the Office of Attorney Personnel Management.

AUSAs are required to reside within 25 miles of the district in which they are employed.

AUSA applicants must be law school graduates and active members of a State Bar. (Bar requirements are subject to local judicial rules.) Attorney Bar affidavits must be submitted.

Because AUSA positions are classified as Critical-Sensitive, applicants for AUSA positions ordinarily must satisfactorily complete a background investigation (BI) prior to beginning work. This BI must be favorably adjudicated by the Office of Attorney Personnel Management and the Justice Management Division before a permanent appointment can be effected. In some instances, however, EOUSA can request a waiver of completion of the BI to allow the attorney to begin work on non-sensitive cases under a 14-month temporary appointment while the BI is being conducted. Before granting the waiver, however, the Department requires completion of all security forms and review of the applicant's personal and financial history. Waivers cannot be granted if this review reveals potentially derogatory information such as:

1. Taxes—Late filing, failure to file tax returns, or failure to pay taxes in a timely manner must be addressed with justification and documentation and in most cases will require the IRS report BEFORE a waiver will be granted.
2. Debts—Debts that have not been paid as agreed or have been turned over to collection agencies must be documented and explained.
3. Drugs—A history of illegal drug use must be carefully evaluated. While the Department of Justice (DOJ) currently has no written policy on prior use of drugs, attorneys who have used drugs within a year of applying for a job will not be hired. If an applicant indicates prior drug use, possession, or distribution of drugs, EOUSA should be contacted prior to continuing with the screening process.
4. Bar Complaints—Any complaints to the Bar must be explained and documented.
5. Vouchering—A minimum of three vouchers are necessary, including the applicant's current and former employers for the past five years.

When reassigning an AUSA from one district to another or appointing an attorney who currently works for one of the Divisions in DOJ, the following forms must be completed:

1. USA-191, Memorandum for the Deputy Attorney General;
2. SF-52, Request for Personnel Action (which must be signed by the United States Attorney);
3. Last SF-50;
4. Résumé;
5. SF-181 Race and National Origin Identification;
6. And the following statement must be attached if the applicant is accepting less basic pay than what he/she is currently making or leaving a supervisory position:

“I voluntarily accept this position with a base salary of \_\_\_\_\_ which is less than what I’m currently earning.”

Signed and dated by the employee.

#### CONTACTS

Administrative Officer or Personnel Management Specialist  
United States Attorney’s office

or

Policy and Special Programs Division (questions concerning Special AUSAs and Hiring AUSAs)

Personnel Staff, EOUSA  
(202) 616-6800

or

Servicing Personnel Management Specialist (all other questions)  
Personnel Staff, EOUSA  
(202) 616-6812

## **PAY FOR SUPPORT PERSONNEL**

### **POSITION DESCRIPTIONS—GENERAL SCHEDULE PAY PLAN**

Under the General Schedule (GS) pay plan, an employee is compensated based on the grade level of his or her position. Position Descriptions (PDs) are the official written record of the major duties and responsibilities assigned to an employee by management which forms the basis for determining the GS grade level. PDs also are used to establish qualification requirements for filling jobs and promoting employees. Finally, PDs are used to develop performance work plans and to determine appropriate training courses.

### **CLASSIFYING POSITION DESCRIPTIONS**

Once the major duties of a position are described in writing, the position is assigned a title, occupational series code, and GS grade level using position classification standards published by the Office of Personnel Management. Distinctions between GS grades are based on such factors as the knowledge required to do the work, the nature of supervisory controls, the guidelines used, and the relative complexity of the job. The title and occupational series of a job are used for administrative purposes to group positions performing related work. For example, jobs classified in the GS-300 group (GS-301 to GS-399) perform general administration, clerical, and office services work, and those in the GS-900 group perform legal work. There are 15 grade levels in the GS, each with a 10-step pay range.

### **AVAILABILITY OF MODEL (STANDARDIZED) PDs**

The Executive Office for United States Attorneys (EOUSA) has developed model PDs which cover commonly-occurring positions in USAOs. (Appendix 5 is a list of existing models.) Model PDs are transmitted to USAOs electronically and are also on the EOUSA Home Page, <http://www.usa.doj.gov/staffs/ps/>, and may be used as is or modified as appropriate. United States Attorneys' offices also may create their own unique PDs.

### **CONTACTS**

Administrative Officer or Personnel Management Specialist  
United States Attorney's office  
or  
Servicing Personnel Management Specialist  
Personnel Staff, EOUSA  
(202) 616-6812



## **LOCALITY-BASED COMPARABILITY PAY**

Employees paid under the General Schedule (GS) pay plan and attorneys paid under the Administratively Determined (AD) pay plan receive a local comparability adjustment (locality pay) when assigned to any of the 48 contiguous United States. By law, GS employees are entitled to the locality pay, while AD attorneys receive locality pay through an administrative decision of the Attorney General or Deputy Attorney General.

Locality pay bridges the gap between Federal and non-Federal pay and helps the Federal Government compete in local labor markets for its share of talent. The Department of Labor's Bureau of Labor Statistics (BLS) measures local pay disparities and reports them to the Office of Personnel Management, which is responsible for calculating the actual locality rates for the various cities that BLS surveys. Appendix 4 lists the metropolitan areas that receive a locality-based comparability payment and the rates for 2000.

GS and AD pay plan employees assigned to Alaska, Hawaii, Puerto Rico, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands do not receive locality pay of any kind. Rather, these employees receive a "nonforeign area cost-of-living allowance."

### **CONTACTS**

Administrative Officer or Personnel Management Specialist  
United States Attorney's office  
or  
Servicing Personnel Management Specialist  
Personnel Staff, EOUSA  
(202) 616-6812

## **PRIVATE SECTOR TEMPORARIES**

Districts may use a private sector temporary employment service to fill a position for a brief or intermittent period when an employee is absent temporarily or when the United States Attorney's office must carry out work which cannot be delayed, because it is critical.

As no employer-employee relationship is created when using these private sector temporaries, they are not eligible for civil service benefits. It may be necessary to provide private sector temporaries technical, task-related instruction, including orientation, assignment of tasks, and review of work products.

For more detailed information see the Administrative Procedures Handbook Issuance/Personnel/Chapter 300 #1A, entitled "Use of Private Sector Temporary Employees."

### **CONTACTS**

Administrative Officer or Personnel Management Specialist  
United States Attorney's office

or

For Security/Policy Issues:  
Chief, Operations Division and/or Security Specialist  
Personnel Staff, EOUSA  
(202) 616-6812

or

For Contracting/Procurement Issues:  
Assistant Director  
Facilities Management and Support Services, EOUSA  
(202) 616-6425

or

For Budget Issues:  
Deputy Director  
Resource Management and Planning, EOUSA  
(202) 616-6886

## **DELEGATION OF PERSONNEL AUTHORITY**

The Director, Executive Office for United States Attorneys (EOUSA), has delegated broad personnel authority to selected United States Attorneys' offices (USAOs) in an effort to streamline personnel activities and foster administrative autonomy. Currently, over 50 USAOs have received such delegations.

Delegees are systematically moved through three increasingly greater levels of authority to approve personnel actions--"Basic," "Expanded," and Servicing Personnel Office (SPO) authority. These phases are summarized in Appendix 6, and are spelled out in detail in written delegation agreements between EOUSA and the delegees.

### **CONTACTS**

Administrative Officer or Personnel Management Specialist  
United States Attorney's office  
or  
Policy and Special Programs Division  
Personnel Staff, EOUSA  
(202) 616-6800

## **ROLE OF THE ADMINISTRATIVE OFFICER**

Administrative Officer positions are responsible for a wide variety of administrative support services to district personnel in such areas as budget administration, office automation, space management, purchasing, information resource management, security, internal controls, mail, records, reproduction services, forms management, communication services, and supplies. In addition, Administrative Officers in selected districts also provide personnel administration services under a specific delegation of personnel authority from the Executive Office for United States Attorneys. These districts are known as Servicing Personnel Office (SPO) districts.

As one of the principal advisors to the United States Attorney on administration, Administrative Officers provide guidance on the management and use of the district's financial, human and physical resources, and on administrative policies, practices, and procedures.

The Personnel Staff of the Executive Office for United States Attorneys classifies Administrative Officer positions in United States Attorneys' offices. Administrative Officer positions are classified at grades GS-9 through GS-15. Positions at GS-9 through GS-12 are usually non-supervisory positions located in smaller districts. Administrative Officer positions GS-13 through GS-15 are supervisory positions located in larger districts. Supervisory Administrative Officer grade levels are based on the size and grade levels of the staff directly supervised, the number of subordinate supervisors, and the authority delegated by the United States Attorney.

### **CONTACTS**

Servicing Personnel Management Specialist  
Personnel Staff, EOUSA  
(202) 616-6812

## **BENEFITS OF EMPLOYEES OF UNITED STATES ATTORNEYS' OFFICES**

### **LIFE INSURANCE**

Permanent employees and those on appointments exceeding 12 months are eligible to participate in the Federal Employees' Group Life Insurance (FEGLI) Program. Basic coverage is annual salary (rounded to the next \$1,000) plus \$2,000. Basic benefits are double until age 36, then decrease at 10 percent per year until age 45, at which time the extra coverage ends. Additional optional coverage is available as follows: Option A—\$10,000; Option B—coverage equal to one to five times the rate of annual salary; and Option C—family coverage of one to five multiples equal to \$5,000 per multiple up to \$25,000 for spouse and \$2,500 for each eligible child up to five multiples or \$12,500. The Government pays one-third of the cost of basic FEGLI. Employees pay the full cost of elected optional FEGLI coverage. FEGLI coverage may be continued into retirement if the employee has been covered for the five years of service immediately preceding retirement, or since the first opportunity to enroll.

FEGLI elections/waivers should be submitted by completing a Life Insurance Election Form, SF-2817. Basic FEGLI coverage begins automatically upon eligible appointment and continues unless declined. New employees have a 31-day election period from the date of their appointment to elect additional coverage. Employees should also complete a Designation of Beneficiary Form, SF-2823.

Further details on FEGLI are available in the FEGLI Brochure, RI 76-21.

### **HEALTH BENEFITS**

Permanent employees and those on appointments exceeding 12 months are eligible to participate in the Federal Employees' Health Benefits (FEHB) Program. For permanent employees, approximately 60 percent of the cost of coverage is paid by the government. Temporary, eligible employees must pay the full premium for coverage. New permanent employees have a 31-day election period from the date of their appointment to elect coverage. Temporary employees may elect coverage during a 31-day election period, upon completion of 12 months of service. Many health plans are available including fee for service and health maintenance plans. All plans offer self-only and self-and-family enrollment.

Employees covered by FEHB at separation, as well as certain family members and former spouses, are eligible to elect temporary continuation of coverage for between 18 and 36 months. Premiums for this coverage are 100 percent of the cost plus a 2 percent administrative processing fee.

To elect an FEHB, submit a Health Benefits Registration Form, SF-2809. Further details on FEHB are in the FEHB Program Brochure, SF-2809A.

## BENEFITS FOR UNITED STATES ATTORNEYS

All United States Attorneys are eligible for FEGLI, FEHB, retirement coverage, Thrift Savings Plan (TSP), and workers' compensation benefits.

### WORKERS' COMPENSATION

The Federal Employees' Compensation System provides medical care needed as a result of an injury on the job or because of an illness or disease arising from work. It also provides money in lieu of regular compensation for most of the time when an employee is absent as the result of such an injury or disease, and it provides for the payment of benefits to dependents if the injury or disease results in death. It is important that every injury, regardless of how minor it may seem, be reported to the Administrative Officer of the United States Attorney's office (USAO).

### LEAVE

Presidentially-appointed United States Attorneys do not earn leave. Those converted to a presidentially-appointed position have their annual and sick leave frozen until their departure.

Other USAO attorneys and support staff employees earn annual leave at the following rates:

<b>Length of Federal Service</b>	<b>Annual Leave Earned</b>
Less than 3 years	4 hours per pay period
3 to less than 15 years	6 hours per pay period
15 years or more	8 hours per pay period

The maximum annual leave that can be carried over from one year to the next is 240 hours. In special cases, forfeited leave may be restored. The amount of annual leave that would be earned in a leave year may be advanced to an employee in certain circumstances.

Sick leave is earned at the rate of 4 hours per pay period with no limit on accrual. Up to 240 hours of sick leave may be advanced to an employee in certain circumstances.

Leave without pay may be requested and used for extended absences such as for maternity purposes. The Family and Medical Leave Act of 1993 requires the provision of up to 12 weeks of unpaid, job-protected leave to employees for certain family and medical reasons (i.e., to care for a child after birth; for adoption or foster care purposes; to care for a spouse, son, daughter, or parent who has a serious health condition; or for a serious health condition that keeps the employee from performing his/her job).

Absence Without Official Leave may be charged when an employee does not comply with leave procedures, and it may result in disciplinary action.

## CONTACTS

Administrative Officer or Personnel Management Specialist  
United States Attorney's office

or

Policy and Special Programs Branch (questions concerning  
Workers' Compensation)  
Personnel Staff, EOUSA  
(202) 616-6800

or

Servicing Personnel Management Specialist (all other questions)  
Personnel Staff, EOUSA  
(202) 616-6812

## THRIFT SAVINGS PLAN

The Thrift Savings Plan (TSP) Program is a retirement and investment plan for Federal employees. Employees covered by the Federal Employees' Retirement System (FERS), the Civil Service Retirement System (CSRS), or the CSRS-Offset are eligible to join the TSP Program. Generally, FERS employees are those hired on or after January 1, 1984, and CSRS and CSRS-Offset employees are those hired before January 1, 1984, who did not convert to FERS. The TSP Program provides a number of benefits:

1. Before-tax savings and tax-deferred investment earnings;
2. Earnings in a choice of three funds;
3. Choice of withdrawal options upon retirement or separation;
4. Portability if the employee leaves Government service;
5. A loan program; and
6. For FERS employees only, an automatic one-percent agency contribution as well as agency-matching contributions of up to an additional four percent.

The TSP Program holds two open seasons each year (in May and November) for eligible employees to start contributing, change the amount of contributions to the plan, or change investment choices.

Employees may invest in one of five TSP funds. Investments in the G Fund earn interest at a rate that is equal, by law, to the average market rates of return on U.S. Treasury marketable securities outstanding with four or more years to maturity. The C Fund is invested in the Barclay's Equity Index Fund, which tracks the S&P 500 stock index. The F Fund is a bond index fund invested primarily in the Barclay's U.S. Debt Index Fund, which tracks the Lehman Hutton Government/Corporate bond index fund. The S Fund is a small capitalization stock index investment fund invested in the Barclay's Extended Market Index Fund, which tracks the Wilshire 4500 stock index. The I Fund is the TSP's international stock index fund invested in Barclay's EAFE Index Fund, which tracks the returns of the Morgan Stanley Capital International EAFE (Europe, Australasia, and Far East) stock index.

The Loan Program is a benefit of the TSP Program. All TSP Program participants who are currently employed by Federal agencies and who have at least \$1,000 of their own contributions and associated earnings invested in their TSP accounts may apply for general purpose and residential loans.

**General purpose loans** can be obtained for any purpose. The repayment period for general purpose loans is from one to four years. Documentation to support requests for general purpose loans is not required.

**Residential loans** can be obtained for the purpose of purchasing a primary residence. The repayment period for residential loans is from 1 to 15 years. Documentation to support requests for residential loans is required.



All loans must be paid back with interest, which will be included in the loan payments. The interest rate is the same as for the G Fund, which is shown on the Loan Agreement produced by the TSP Service Office when an application is received. The United States Treasury Department sets a new G Fund rate at the beginning of each month and, once the Loan Agreement is authorized, the interest rate is guaranteed for 45 days. The interest rate on the loan is fixed for the life of the loan.

To be eligible to obtain a TSP loan, participants must be currently employed by the government (separated participants cannot borrow from their TSP accounts), and they must have at least \$1,000 of employee contributions and associated earnings in their TSP accounts. The maximum amount that can be borrowed is not more than the higher of the amount of your own contributions and earnings or \$50,000.

## CONTACTS

Administrative Officer or Personnel Management Specialist  
United States Attorney's office  
or  
Servicing Personnel Management Specialist  
Personnel Staff, EOUSA  
(202) 616-6812

## PERFORMANCE WORK PLANS

The Performance Work Plan and Appraisal Record (PWPAR), Form USA-265, records performance elements and performance standards against which an employee's performance is evaluated. Each employee should receive a PWPAR at the beginning of the rating period or no later than 30 days after entering a new position.

Once a PWPAR is developed, it must be discussed with the employee. This discussion is critical to ensure the employee fully understands what is expected by management. Specifically, at the end of the discussion, the employee should: (1) know what is expected, (2) understand the organizational goals to be achieved, (3) have a clear understanding of job methodologies, (4) understand the supervisor's role as a contributor to successful performance, and (5) be motivated to do the best job possible. The Rating Official, Reviewing Official and Employee sign and date in Part B of the USA-265 to indicate that they discussed the PWPAR.

Employees are rated annually based on the following schedules:

Non-Attorney	April 1 to March 31
Nonsupervisory/Non-Senior Litigation Counsel (SLC) Assistant United States Attorneys (AUSAs)	January 1 to December 31
Supervisory AUSAs and SLCs	November 1 to October 31

A documented progress review is required during the rating cycle. At the conclusion of the rating period, the rating official rates each element on a three-tiered rating scale: Fails to Meet Expectations, Meets to Exceeds Expectations, and Substantially Exceeds Expectations. Based on the individual elements, a summary rating is assigned as Unacceptable, Meets to Exceeds Expectations or Substantially Exceeds Expectations. The reviewing official reviews the rating and then the rater discusses the appraisal with the employee.

Performance appraisals are critical in dealing with employees whose performance is unsatisfactory and rewarding employees with commendable performance.

## CONTACTS

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## **ASSISTANT UNITED STATES ATTORNEY ADMINISTRATIVELY DETERMINED (AD) PAY STRUCTURE AND PAY POLICIES**

The following explains the Administratively Determined (AD) pay system for compensating attorneys appointed and paid under Title 28, United States Code, as Assistant United States Attorneys (AUSAs) or special attorneys assisting the United States Attorney [commonly referred to as Special Assistant United States Attorneys (SAUSAs)]. Supervisory AUSAs and attorneys assigned to Senior Litigation Counsel positions are paid under the management component of the AD pay system. Guidance on both components follows:

### **AD Pay System Overview** (See also appendix 7.)

The AD pay structure, titled “AD Pay Plan,” includes the year the plan is in effect, in this case 2001. The 2001 plan year began on January 14, 2001, with a 2.7% increase to the rates of pay from 2000. This January increase percentage is recorded on the chart, for historical purposes, and is called the “structure increase.” Structure increases are subject to the approval of the Attorney General. The chart shows a bordered row of column headings for “AD Grade,” “Years Experience,” and labels for the rate ranges named “Minimum,” “Q-2 or 25th Percentile,” “Midpoint,” “Q-4 or 75th Percentile,” and “Maximum.” These terms are part of the compensation system vocabulary, and represent standard practices in organizing and communicating information about the compensation system to managers and employees. The column headings designate different percentages of the full rate ranges. Pay can be set at \$50 increments anywhere within the ranges from minimum to maximum.

### **Grades Used in AD Pay**

Grades are assigned to the various pay ranges under the AD compensation system for several reasons: to facilitate communicating to AUSAs the pay ranges from which attorneys are paid; to aid in conducting personnel, payroll, and statistical studies; and to serve as data elements in automated personnel and financial audits. The two-digit grade code is formed by adding the number “2” to the first digit of the “years experience” column for 4 or more years experience. AD Grade 21 is assigned to the first pay range and represents professional attorney experience of three or fewer years. An AUSA graded AD-27 is paid from the “7 years” pay range. The “2” added to the first digit of the “years experience” was selected to distinguish further the AD plan attorneys from the General Schedule (GS) employees in the district, whose graded system covers pay ranges from 1 to 15.

### **Structure Policies**

Just beneath the bordered column headings appear the words “Recruiting Ranges,” “Meets to Exceeds Expectations,” and “Substantially Exceeds Expectations.” These three lines represent pay policies and are included on the chart as guidance.

### –Recruiting Ranges

AD compensation policy limits initial salaries for newly-appointed AUSAs to a rate of basic pay (before the addition of locality pay) that falls between the Minimum and the Q-4 rates of the range. A box appears around the several rates of pay in each pay range as a visual reminder of this initial salary limitation.

### –Performance Increases

United States Attorneys can review and adjust the grade and pay of AUSAs each year in April until the attorney is paid AD grade 29. After promotion to AD-29, pay can be increased until the attorney reaches the salary cap, or the maximum rate, paid to an AD-29.

Under the AD system, an attorney rated “Meets to Exceeds Expectations” should receive a rate of pay that falls between the “Minimum” and “Q-4” rates. Likewise, an attorney rated “Substantially Exceeds Expectations” should receive a rate of pay that falls between the “Q-2” rate and “Maximum.”

Cases will occur where an attorney rated “Meets Expectations” is already paid above the Q-4 rate. In such cases, the attorney’s pay will be held constant for the remainder of the year but will be reviewed the next year. In most cases, attorneys with more than three full years but less than nine years of professional experience will have pay and performance ratings reviewed against the next higher pay range each April until the attorney is paid from the nine or more years pay range. Since the “9+” years pay range is the highest rate range, movement across that rate range is strictly a function of an attorney’s summary performance rating each year.

This process of reviewing salaries, years of experience, and performance ratings when determining a pay increase is called the Annual Pay Review, or APR. Districts receive a budget for salary increases during the annual pay review process. Salary increases can range from holding pay constant to awarding pay increases as great as 20% in an attorney’s rate of basic pay. While these examples illustrate the range of pay increases, supervisors must manage all increases within budget resources allotted to the districts.

### Green- and Red-Circled Rates

The AD pay structure defines “Green-” and “Red-circled” as rates of pay that fall outside the rate ranges. Green-circled pay is less than the minimum, and red-circled pay is more than the maximum for a rate range. Whether green or red, such rates receive special treatment. One of the desired goals of the pay system is that salaries fall within the rate ranges. Quick advancement of green-circled rates to the minimum is therefore encouraged. In contrast, red-circled rates will be held constant until the range maximums reach or overtake the red-circled rates (rate ranges are adjusted each January when the structure is recalculated to reflect the approved increases authorized by the Attorney General).

An employee is rarely paid a green-circled rate of pay, but it is possible. For example, an attorney paid the range minimum and placed on a performance improvement plan (PIP) will receive a salary that is frozen--i.e., not subject to any automatic increases like the January increase. When a January increase takes effect while the employee is on a PIP, the frozen salary would fall below the new range minimum. Once the PIP is successfully completed, pay is advanced to the new range minimum retroactive to the date of the January increase.

Red-circled rates represent pay that falls beyond the range maximum. Red-circled rates of pay do not increase as long as the attorney's pay falls above the maximum. Attorneys paid "red-circled" rates will not receive the structure increase but will benefit from any January changes to the locality rate. For most red-circled rate attorneys, the January structure increase will lead to new, higher, maximum rates that will overtake their red-circled pay. When this happens, the red-circled rate ceases to apply and the attorney will receive the January increase up to the range maximum. A few red-circled rates, however, will remain outside the range maximum after the January increase, and attorneys receiving such rates are considered bonus-eligible employees as explained below.

## BONUSES

All attorneys paid the salary cap (the maximum rate paid to an AUSA in AD grade 29) and those attorneys paid a red-circled rate of pay are eligible to receive a lump-sum cash performance incentive; e.g., a bonus. In keeping with the policy to have all salaries fall within the rate ranges, capped or red-circled salaries will not receive further increases in rates of basic pay during the APR process involving a summary performance rating.

Bonuses of up to \$5,000 are paid in April, subject to district budget constraints, during the APR process. They represent a way for district managers to recognize and reward performance with something other than Special Achievement Awards (SSA), the Sustained Superior Performance Awards or the Special Act or Service Awards. Bonuses do not replace these SSAs but supplement them as an additional compensation tool for district managers to motivate performance and acknowledge professional achievements. Bonuses and other cash incentives for AD plan attorneys are budgeted separately from cash incentives and awards for GS plan employees.

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## ESTABLISHMENT OF SUPERVISORY AUSA POSITIONS AND CAP LEVELS

The following rules govern the establishment of paid, supervisory AUSA positions and their cap levels: (See also appendix 8 and appendix 9)

### ESTABLISHMENT OF SUPERVISORY AUSA POSITIONS

#### RULE #1

No more than 14 percent of a district's total AUSA allocation may be designated as paid supervisors (the number of positions so calculated will be rounded down to the nearest whole number).

#### EXCEPTIONS

#1 - Districts with fewer than 15 AUSA positions may have a total of two paid supervisors even though that number does not comply with the 14-percent criterion.

#2 - Branch Office Chief and Organized Crime Drug Enforcement Task Force (OCDETF) Core City Coordinator positions are EXEMPT from the 14-percent criterion. They are additional positions.

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#### RULE #2

Each paid supervisor must supervise at least six AUSAs.

#### Exceptions

The following positions are exempt from the supervise-six requirement: Branch Office Chiefs; OCDETF Core City Coordinators; First Assistants; Strike Force Chiefs; Executive Assistants (AUSAs who have district-wide management/administrative responsibility); Criminal Division Chiefs; and Civil Division Chiefs.

### SUPERVISORY AUSA CAP LEVELS

#### Cap Level 1

- Each district is authorized one First Assistant position, capped at Level 1 (the position must comply with the 14-percent criterion but not with the supervise-six criterion).
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## Cap Level 2

- Each district is authorized two positions capped at Level 2 (the positions must comply with the 14-percent criterion, but not with the supervise-six criterion). Ordinarily, these slots will be used for the Chief of the Criminal Division position and the Chief of the Civil Division position.
  - OCDETF Core City Districts are permitted to cap the OCDETF Core City Coordinator position at Level 2 (the position is exempt from both the 14-percent and the supervise-six criteria).
  - Districts allocated 50 or more AUSA positions may have one "Executive" AUSA capped at Level 2 for each full multiple of 50 AUSA positions allocated (these positions must comply with the 14-percent criterion, but not with the supervise-six criterion). For example, a district with 50 to 99 AUSA positions may have one Executive AUSA, while a district with 100 to 149 AUSA positions may have two Executive AUSAs.
  - Branch Office Chiefs who supervise 30 or more AUSAs are capped at Level 2 (these positions are exempt from the 14-percent criterion).
- 

## Cap Level 3

- Districts allocated 25 or more AUSA positions may have one paid supervisor capped at Level 3 for each full multiple of 25 AUSA positions allocated (these positions must comply with the 14-percent and supervise-six criteria). For example, a district with 25 to 49 AUSA positions may have one Level 3 position, while a district with 50 to 74 AUSA positions may have two Level 3's. If there are not enough Level 3 slots to accommodate all of the district's supervisory positions below Level 2, the USA will decide which should be included at Level 3.
- Branch Office Chiefs who supervise 20 to 29 AUSAs are capped at Level 3 (these positions are exempt from the 14-percent criterion).

## Cap Levels 4, 5 and 6<sup>1</sup>

- Branch Office Chiefs who supervise 10 to 19 AUSAs are capped at Level 4 (these positions are exempt from the 14-percent criterion).

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<sup>1</sup>A special Level 4 basic pay cap has been developed in the Eastern District of New York, Southern District of New York, Central District of California, District of Connecticut at Bridgeport and New Haven, the District of New Jersey at Newark and Trenton, and the Northern District of California. There is no Level 5 or 6 cap rate in these locations.

- Branch Office Chiefs who supervise six to nine AUSAs are capped at Level 5 (these positions are exempt from the 14-percent criterion).
- Branch Office Chiefs who supervise three to five AUSAs are capped at Level 6 (these positions are exempt from both the 14-percent and supervise-six criteria).
- Cap Levels 4, 5 and 6 also are established for supervisory positions that do not meet the Level 1, 2 or 3 criteria, but which do meet the 14-percent and supervise-six criteria.

#### ADDITIONAL GUIDANCE CONCERNING SUPERVISORY AUSA POSITIONS, CAP LEVELS AND PROMOTIONS

- In recognition of the fact that not all USAOs have the same organizational needs, position levels can be traded downward. For example, instead of establishing one Level 1 position and two Level 2 positions, a USA can establish three Level 2 positions.
- AUSAs who have held their paid supervisory position since May 21, 1992, are "grandfathered" at their cap level as of that date. When a supervisory position becomes vacant, however, its refill will be subject to the criteria contained in this document.
- It is strongly recommended, but not mandatory, that supervisors below Level 2 enter the supervisory pay system at the lowest possible level. These AUSAs could then be promoted to the subsequent level at the time of the next pay comparability increase (usually in January), contingent on a "Meets to Exceeds Expectations" or higher annual performance rating.

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## ESTABLISHMENT OF SLC AUSA POSITIONS AND CAP LEVELS

The following criteria govern the establishment of SLC AUSA positions and cap levels:  
(See also appendix 8 and appendix 9).

- Within current allocations, each district is allowed one SLC position. The SLC employee must meet current qualification criteria published in the United States Attorneys' Manual Title 3-4 or the EOUSA Resource Manual.
- Districts with 100 or more AUSA positions allocated are allowed additional SLC positions as follows:

<u>Total AUSA Allocation</u>	<u>Total # of SLC Positions Allowed</u>
100 to 149	2
150 to 199	3
200 to 249	4
250 to 299	5
300 and above	6

- Each year around the time of the pay comparability or locality increases, USAs are asked to certify those AUSAs they wish to occupy SLC positions for the following year.
- Any SLC who is not recertified is reassigned out of the SLC position. Those who reassigned to nonsupervisory/non-SLC positions are paid the salary they would have been paid had they never been a SLC (detailed paysetting guidance may be found at Attachment 6, paysetting rule #3).
- Recertified SLC who have held their positions since May 21, 1992, are "grandfathered" at cap Level 3.
- A vacant SLC position may be filled, at the Level 4 cap, at any time during the year as long as the total number of SLC positions in the district will not exceed the amount authorized by this document.

## ADDITIONAL SUPERVISORY/SLC AUSA PAYSETTING RULES

The following are additional supervisory/SLC AUSA paysetting rules:

1) "Appointment" to a paid supervisory/SLC position of an individual from outside of the USAO (this guidance applies to all such appointees, e.g., when the appointee is a first-time government employee or when the appointee is an AUSA working in another USAO) - Except when the individual is assigned to the supervisory/SLC position via a temporary appointment not-to-exceed fourteen months, the USA will:

A. first recommend a line AUSA basic pay rate based on the employee's amount of legal experience; and,

B. then using the supervisory/SLC pay chart recommend a temporary promotion not-to-exceed four years or less to any basic pay rate at a \$50 or \$100 increment up to the applicable supervisory/SLC basic pay cap. The temporary promotion will be effective the same date as the appointment.

When the individual is assigned to the supervisory/SLC position via temporary appointment not-to-exceed fourteen months, step "A." above is skipped. The individual's pay is simply set at a basic pay rate, at a \$50 or \$100 increment, up to the applicable supervisory/SLC basic pay cap.

2) Promotion of a paid supervisory/SLC AUSA to a supervisory/SLC AUSA position that has a higher pay cap (e.g., promotion of a Level 3 supervisor to a Level 2 position) -

Using the supervisory/SLC pay chart, the USA will recommend a temporary promotion not-to-exceed four years or less to a basic pay rate at a \$50 or \$100 increment up to the applicable, higher basic pay cap.

3) Reassignment of a paid supervisor/SLC to a line AUSA position - The AUSA's salary will be reduced to the basic pay rate he/she was paid prior to the first temporary promotion he/she received under the supervisory/SLC pay system plus administrative pay increases (APIs) and administrative pay review (APR) increases that would have been paid had the employee been a line AUSA with the same performance ratings as he/she received in the supervisory/SLC position plus comparability increases and locality increases that would have been paid had the employee been a line AUSA.

4) Reassignment of a paid supervisor/SLC to a supervisory/SLC position that has a lower basic pay cap (e.g., reassignment of a Level 1 supervisor to a Level 2 supervisory position) - The USA will recommend a basic pay rate as high as the lower-level supervisory/SLC basic pay cap but no lower than the rate derived following rule #3 above [i.e., the basic pay rate the AUSA was paid prior to the first temporary promotion he/she received under the supervisory/SLC pay system plus APIs and APR increases that would have been paid had the employee been a line AUSA with the same performance ratings as he/she received in the supervisory/SLC position plus comparability increases and locality increases that would have been paid had the employee been a line AUSA.

5) Nonpay status - USAs may (but are not required to) deny or delay a supervisory/SLC temporary promotion on the basis of excessive nonpay. Excessive nonpay does not automatically affect a supervisory/SLC temporary promotion.

6) General information regarding supervisory/SLC temporary promotions:

A. All temporary promotions, regardless of effective date, will be processed not-to-exceed four years or less from the effective date; and,

B. A supervisory/SLC AUSA whose basic pay is set below his/her basic pay cap at the recommendation of the USA, and who is performing at the "Meets to Exceeds Expectations" or higher level, can receive any number of temporary promotions throughout the year up to his/her pay cap.

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## MONETARY AND HONORARY AWARDS

### INCENTIVE AWARDS

Appendix 10 lists incentive awards for Assistant United States Attorneys (AUSAs) and support employees.

**The Department of Justice's Policy on Awards for Political Appointees (i.e., U.S. Attorneys, Schedule Cs) prohibits cash awards, Quality Step Increases, and time-off awards at any time.** Non-monetary awards may be granted as long as the award does not have or appear to have a monetary value.

#### Special Achievement Awards

Each United States Attorney's office (USAO) receives annual cash award allowances, which may be used for Special Achievement Awards for Sustained Superior Performance (SSP) and for Special Act or Service (SA). The total allowance for each USAO is based on the number of full-time permanent employees in that office. This funding is issued each fiscal year and may be used at the discretion of the United States Attorney for both attorney and non-attorney personnel who meet the qualifications of existing regulations and Department of Justice (DOJ) Orders.

All United States Attorneys have been delegated the authority to approve SSPs and SAs for up to \$5000 for their support staff employees and **nonsupervisory/non-Senior Litigation Counsel (SLC) AUSAs**. United States Attorneys are authorized to approve SSP and SAs for up to \$1000 for Supervisory AUSAs and SLC. This authority is not redelegable. Recommendations for SSP/SAs in amounts over \$1,000 for Supervisory AUSAs and SLCs should be submitted to the Executive Office for United States Attorneys for the Director's approval. Upon approval of these awards, funds are obligated against the USAO's budget.

Eligibility for SSPs require that an employee be in his/her current position for at least six months, and have performed at the "Substantially Exceeds Expectations" level on one or more job elements; or must have performed at the "Meets to Exceed Expectations" level on all job elements, with additional justification by management on award nomination form.

The SA is based on a special act or service that an employee or a group of employees has completed. The award amount is based on the value and extent of application of the contribution.

### On-The-Spot Awards

On-The-Spot (OTS) Awards are SAs that promptly recognize one-time or short-term outstanding efforts by employees that may otherwise go unrecognized. An employee may be granted this award regardless of his/her length of service with the Department or other incentive awards, although, no more than **three** OTS awards may be granted to the same employee within a calendar year. United States Attorneys may redelegate approving authority to the lowest practical level of management within each office. Award amounts may be approved only in increments of \$50 and must be in amounts between \$50 and \$250. Spot cash awards are disbursed through the use of the Financial Management Information System (FMIS) third party draft module. OTS payments are net payments exclusive of Federal Income Tax and FICA Withholding. Therefore, the gross amount of the award charged to the organization will be higher.

### Time-Off Awards

The Time-Off award program permits the granting of time off from duty, without loss of pay or charge to leave, as an incentive award.

The United States Attorney has authority to review and approve time-off award nominations up to five workdays for his/her employees. The United States Attorney also has the authority to redelegate as follows:

- (1) For awards that do not exceed one workday, approval authority may be redelegated to a lower supervisory or managerial level; and
- (2) For awards that exceed one workday, approval authority may be redelegated as long as the approving official is at a higher level in the organization than those recommending the awards. (**Note:** United States Attorneys can serve as recommending and approving officials.) Time-off award nominations must be supported by a brief, written justification that indicates how the employee's contribution meets the criteria.

A full-time employee may be granted a maximum of 40 hours for any single contribution. The maximum amount of time off awards given to an employee is 80 hours during a leave year. Awards are forfeited if not used within one year.

### Quality Step Increases

Quality Step Increases (QSIs) provide incentives and recognition for excellence in performance by granting **faster than normal** step increases for General Schedule (GS) employees. GS employees on Schedule C appointments or students hired under the Student Temporary Employment Program (SEP) are not eligible for QSIs. USAOs should use discretion

when giving QSI, since these incentives must be funded from a district's budget. An employee who receives a QSI **must** have received a "Substantially Exceeds Expectations" rating for the current performance cycle. The performance being evaluated must have been sustained for a minimum of 120 days in the same position. The employee must not have received a QSI within the preceding 52 calendar weeks nor a SSP within the last 6 months. If a SSP was received within the past 6 to 12 months, the QSI recommendation must be based on a different performance rating period. The employee is expected to remain in the same position and at the same grade level for at least 60 days after the QSI is effective.

#### EOUSA Director's Awards

EOUSA solicits nominations for the Director's Awards annually for a variety of categories. These awards are monetary, and plaques are presented at the annual EOUSA Director's Awards Ceremony held in Washington, D.C.

#### Attorney General's Awards

The Department solicits nominations for the Attorney General's awards annually for a number of categories, including the John Marshall Awards. These awards are monetary, and awards are presented at the annual Attorney General's Awards Ceremony held in Washington, D.C. Nominations are submitted to the Director, EOUSA, for review and endorsement prior to submission to the Attorney General.

#### Non-Departmental of Justice Awards

In addition to the awards listed above, a large number of awards sponsored by organizations outside of DOJ and outside the Federal Government exist. These awards, which are designed to improve Federal Government operations and services by motivating and rewarding employees, fall into the categories of Presidential Awards, public service awards, and occupationally oriented awards. Administrative Procedures Handbook Issuance (451 #1C) lists these awards by the date the nominations are usually solicited.

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## **RETIREMENT PLANS**

Civilian employees of the Federal Government are covered by either the Civil Service Retirement System (CSRS), the Federal Employees Retirement System (FERS), or the CSRS-Offset Plan. CSRS covers employees hired before 1984 who did not transfer to FERS during one of two open seasons—either July 1, 1987, through December 31, 1987; or July 1, 1998 through December 31, 1998. Effective on January 1, 1987, all employees hired in the Federal Government for the first time since 1984 are covered by FERS. Additionally, those employees rehired into the Government after 1983, with less than five years of civilian service, and who are covered by Social Security, are covered by FERS. The CSRS-Offset Plan is essentially the CSRS, modified for employees who are mandatorily covered by Social Security but who chose to remain in CSRS. Employees covered by the CSRS-Offset Plan are those rehired into the Civil Service on or after January 1, 1984, who have a break in service exceeding one year but as of January 1, 1987, had at least five years of federal civilian service.

CSRS employees who leave government service and return within one year will be covered by CSRS and are eligible to transfer to FERS within six months of reemployment. Employees who leave government service and return after more than one year will be covered by the CSRS-Offset Plan. These employees also may elect to transfer to FERS within six months of reemployment.

CSRS is basically a single benefit retirement plan. Normally, employees have one regular payroll deduction for the plan (7.00 percent of their salary) and after retirement receive an annuity check each month for the rest of their lives. The annuity is determined by the three highest consecutive years of basic pay and the length of service. FERS provides benefits from three sources: A Basic Benefit Plan, Social Security, and the Thrift Savings Plan (TSP). The Basic Benefit Plan guarantees a specific monthly payment at specific ages determined by the three highest consecutive years of basic pay and the length of service. FERS employees pay the same Social Security taxes as others covered by Social Security and receive the same benefits. The CSRS benefit and the FERS Basic Benefit plus Social Security both cost the same amount—usually 7.00 percent of an employee's salary. Under the TSP, FERS employees are able to shelter portions of their salaries from taxes, and the government matches part of their contributions. The TSP is available to CSRS employees, but the government does not match part of their contributions.

CSRS and FERS have almost the same rules for full benefits eligibility if the employee stays with the government until retirement. The primary difference is that FERS has a Minimum Retirement Age (MRA) which varies by year of birth, while CSRS specifies age 55. FERS lets employees retire at the MRA with only 10 years of service and take a reduced benefit. Under CSRS, the employee who has only 10 years of service would have to be at least 62 to receive any benefits.

Both CSRS and FERS allow employees to withdraw their contributions when they resign from the government. CSRS lets them withdraw their seven percent of pay but it is returned without interest. FERS allows employees to withdraw what they contributed for the Basic Benefit, and that money is returned with a market rate of interest. Unlike CSRS, FERS does not allow redeposit of withdrawn contributions.

CSRS and FERS both provide disability benefits. CSRS requires 5 years and FERS 18 months of creditable civilian service in order to qualify for disability benefits. Employees who apply for disability benefits under FERS must also apply for Social Security disability benefits. The amount of disability benefits received by a FERS employee depends on their Social Security eligibility.

CSRS and FERS both provide survivor benefits. As a general rule, surviving spouses who will receive a substantial spousal Social Security benefit will be better protected by FERS. Surviving spouses who are employed and/or earn a Social Security benefit on their own will receive greater benefit from CSRS.

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## **BENEFITS FOR EMPLOYEES SEPARATING FROM FEDERAL EMPLOYMENT**

Employees leaving government service need information on what will happen to their benefits. Information on retirement systems, Thrift Savings Plan, life and health insurance, and leave for these employees is covered below.

### **CIVIL SERVICE RETIREMENT SYSTEM (CSRS)**

Employees are eligible for a lump-sum refund of their contributions to the CSRS if:

1. their employment during which they are subject to the CSRS is terminated for any reason;
2. they are not reemployed in a position where they are again subject to the CSRS and do not become so employed within 31 days from the date of separation;
3. their separation occurs and their application for refund is filed with the Office of Personnel Management (OPM) at least 31 days before attaining eligibility for an annuity;
4. they are not prohibited from receiving a refund because of a court order; and,
5. they comply with the requirements for notification of current and former spouse(s).

If employees desire a refund, they must complete an SF-2802, Application for Refund of Retirement Deductions, and forward it to their employing office, if separated for 30 days or less. If separated for longer than 30 days, employees must send the application directly to OPM. Interest on the refund is not payable by OPM to employees who have more than five years or less than one year of service. OPM's address and additional information appear on the back of the SF-2802.

Please note that prior to filing for a refund, employees must have their current/former spouse complete an SF-2802B, Current/Former Spouse's Notification of Application for Refund of Retirement Deductions Under the Civil Service Retirement System, if they (1) have 18 months of service subject to retirement deductions (including previously refunded service) and were married to the former spouse for at least nine months and divorced after May 6, 1985, or (2) are currently married with or without living former spouse(s) and they have any service subject to retirement deductions. This is required by the Spouse Equity Act, Public Law 96-391.

If former employees are reemployed later, they may redeposit monies refunded earlier. Interest is charged on redeposits, except for periods of separations that began before October 1, 1956. The interest rate for redeposit service is three percent compounded annually if the application for refund was submitted prior to October 1, 1982, or variable, if the application for

refund was submitted after October 1, 1982. Note that prior Federal (CSRS) service is creditable upon reemployment but if a redeposit is not made and the employee retires on a nondisability retirement under CSRS, the monthly annuity is actuarially reduced by an amount equal to the redeposit owed divided by an age reduction. If the refunded service is after September 30, 1990, no credit is granted for the service in the computation of the annuity benefit. To make a redeposit, employees must complete an SF-2803, Application to Make Deposit or Redeposit.

If employees have at least five years of creditable service and they leave the money in the retirement fund, they are eligible for a deferred annuity at 62, based on their high-three earnings and length of service.

## FEDERAL EMPLOYEES' RETIREMENT SYSTEM (FERS)

Employees who leave federal service may withdraw their contributions. To qualify for a refund, the employees must:

1. be separated from the service for at least 31 days or transfer to a position in which they are not covered by FERS and remain in that position for at least 31 days;
2. not be reemployed in a FERS position at the time the application is filed;
3. not be eligible for an annuity within 31 days after filing the application;
4. not be prohibited from receiving a refund because of a court order; and
5. notify the current and/or former spouse of the refund;

Refunds are not payable until at least 31 days after the separation of an employee. Once a refund is received, it permanently extinguishes all credit for the service covered by the refund. Under FERS regulations, redeposits may not be made. Interest will be paid on the refund at the same rate earned by government securities if the period(s) of service which the refund covers totals more than one year.

Employees must complete an SF-3106, Application of Refund Deduction (FERS), to receive a refund. An SF-3106A, Current/Former Spouse's Notification of Application for Refund of Retirement Deductions (FERS), must accompany the application for a refund if: (1) the employee has 18 months of creditable service and was married to the former spouse for at least nine months or (2) the employee is currently married with or without living former spouse(s) and has any service subject to retirement deductions. This is required by the Spouse Equity Act, Public Law 96-391.

Employees may also elect to receive a deferred annuity at age 62 as long as they have at least five years of creditable service. A deferred annuity will be based on their high-three earnings and length of service.

## CSRS-OFFSET

Employees are covered under this system if they worked five or more years for the Federal Government and were vested in the CSRS, then separated for more than one year and returned to government service in a covered position after December 31, 1983. Such employees will be subject to what is known as the CSRS-Offset. In this system, employees pay Social Security and also contribute an amount to the CSRS. When separating, employees may request a refund of their retirement contributions to the CSRS. If employees have less than five years of service (i.e., are not vested), refunds are paid with interest. Refunded contributions may be repaid if employees return to government service. If employees have five or more years of government service upon separating, interest is not paid. As in FERS, employees must be separated 31 days before they are eligible for a refund. Also, refunds will not be paid to employees eligible for optional retirement benefits.

If employees have at least five years of creditable service and they leave their money in the retirement fund, they are eligible for a deferred annuity at age 62. The annuity is based on their high-three earnings and length of service.

## THRIFT SAVINGS PLAN (TSP)

Employees have the option of withdrawing vested money from their accounts. The following are employees' options for making withdrawals:

1. All separated participants will be able to withdraw their vested TSP account balances in one of the following ways, either immediately or at a later date:

**Withdraw the entire account balance in a single payment.** Participants can have the TSP transfer all or part of the payment to an Individual Retirement Account (IRA) or other eligible retirement plan.

**Withdraw the account in a series of equal monthly payments.** The participant can choose to (1) be paid monthly payments for a specific number of months, (2) be paid monthly payments in a specific dollar amount, or (3) have the monthly payments calculated according to Internal Revenue Service (IRS) life expectancy Table V (single life). If the series of payments is expected to last less than 10 years and is not calculated based on the participant's life expectancy, participants can have all or part of each monthly TSP payment transferred to an IRA or other eligible retirement plan.

**Receive a life annuity.** To purchase an annuity, the TSP account balance must be at least \$3,500.

2. All separated participants will be able to keep their TSP accounts. If they do, they must make a withdrawal election (either immediately or with a future date) by February 1 of the year after the year in which the later of these events occur:

- becoming age 65.
- having been eligible to participate in TSP for 10 years.

Separated participants age 70-½ or older, however, cannot leave **all** of their money in the TSP. The IRS requires that each year these participants receive an amount that meets certain minimum distribution requirements. The TSP makes these minimum distributions automatically.

### Spouse Notice or Waiver Requirements

1. To withdraw TSP account balances, married participants must meet the spouse waiver or notification requirements described below.\*\*

**FERS participants.** To make a withdrawal election other than a joint life annuity (with level payments, a 50 percent survivor annuity, and no cash refund feature), both the participant and his/her spouse must sign a joint waiver of this annuity right.

**CSRS participants.** A participant's withdrawal election will be effective after his or her spouse has been notified of the election.

### Vesting Requirement

To be entitled to, or vested in, the Agency Automatic (1 percent) Contributions in their accounts, participants must have had three years of Federal civilian service when they separate.

### Automatic Cashout

Participants whose vested account balances are \$3,500 or less automatically receive their accounts as a single payment (i.e., a cashout) **unless** they elect another TSP withdrawal option or elect to keep their money in the TSP.

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\*\*The spouse notice or waiver of annuity rights described above is not required for disbursement of TSP accounts of \$3,500 or less.

## FEDERAL EMPLOYEES' GROUP LIFE INSURANCE (FEGLI)

Employees may apply for conversion to an individual (direct-pay) insurance policy in an amount up to the total of the Basic and Options A and B for which they are insured when group coverage stops, because they are separated from federal service. Note that both the employee and government shares of the cost of the insurance are paid by the employee. Definitions of Basic and the Options A and B are provided below.

- |                      |   |
|----------------------|---|
| Basic Life—          | <ul style="list-style-type: none"><li>• Life Insurance coverage is equal to actual rate of annual basic pay (rounded to the next \$1,000) plus \$2,000, OR a flat \$10,000, whichever is greater;</li><li>• Double life insurance benefits until age 36, decreasing at 10 percent per year until age 45, at which time the extra coverage ends;</li><li>• Accidental Death and Dismemberment (AD&amp;D) coverage. The extra benefit shown above does not apply to AD&amp;D.</li></ul> |
| Option A—Standard—   | <ul style="list-style-type: none"><li>• Additional \$10,000 life insurance coverage;</li><li>• Additional \$10,000 AD&amp;D coverage.</li></ul>   |
| Option B—Additional— | <ul style="list-style-type: none"><li>• Choose additional life insurance coverage equal to one, two, three, four, or five times a rate of annual basic pay (after basic pay is rounded to the next \$1,000).</li></ul>  |
| Option C—Family—     | <ul style="list-style-type: none"><li>• 1-5 multiples of coverage, each multiple is equal to \$5,000 for the spouse and \$2,500 for each eligible dependent child.</li></ul>  |

When employees terminate employment from the Federal Government, they are allowed a 31-day extension period to convert to an individual (direct-pay) policy. The employing agency will supply the employee with an SF-2821, Agency Certification of Insurance Status and an SF-2819, Notice of Conversion Privilege. The employee completes the SF-2819 if he/she desires conversion.

Employees may not convert their life insurance if within three calendar days after the date their insurance stops they return to government service in the same or another position in which they are eligible to reacquire FEGLI.

Family members insured under Option C—Family can convert their own coverage to individual policies during the 31-day extension of coverage if the employee does not convert the coverage during the same 31-day extension period.

## Other Options Under FEGLI

The Viatical Settlement Agreement allows terminally ill employees and annuitants, with a life expectancy of 24 months or less, to sell or assign their life insurance coverage (except for Option C) to a third party, known as a Viatical Settlement firm, in exchange for cash.

The Living Benefit Act allows terminally ill employees and annuitants, with a life expectancy of nine months or less to assign their basic life insurance coverage to another person(s), firm(s), or trust(s). Their optional insurance, if any, is unaffected and available for payment to their beneficiary(ies) upon their death.

## Portability

Under certain circumstances, employees can choose to keep Option B insurance even if it would normally stop. Portability allows employees to continue Option B enrollment and pay the same premiums that employees pay for Option B, based on the employee's age plus \$1.75 per month administrative fee. This option is available to only employees who separate from service or who complete 12 months in a nonpay status on or after April 24, 1999. This portability provision is a three-year demonstration project.

Employees can only port Option B coverage. Employees cannot port basic insurance, Option A or Option C coverage.

## FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

The employee's enrollment terminates on the last day of the pay period in which the employee separates. There is an extension period of 31 days from the effective date of the termination (shown on the SF-2810, Notice of Change in Health Benefits Enrollment) to allow the employee to convert to an individual (direct-pay) policy. To convert the policy and elect temporary coverage, the employee must complete an SF-2809 and forward it to the Administrative Officer/Personnel Officer. The election must be submitted within 60 days after the latter of either the date of separation or the date the employee receives the notice to elect continued coverage. Note that both the employee and government shares, as well as a two percent administrative fee for the cost of the health plan, are paid by the employee.

## ANNUAL LEAVE

Employees leaving the Federal Government will receive a lump-sum payment for their annual leave balance. For Presidentially-appointed United States Attorneys, any previously-earned annual leave was frozen until the employee returns to a position covered by the leave system, resigns, or retires. Upon departure by resignation or retirement, a lump-sum payment is made for all leave in the employee's account. Taxes are withheld but there is no contribution for retirement or TSP. If an employee is reemployed during the period covered by the lump-sum payment, the new agency recovers the amount of overpayment and recredits the leave to preclude dual compensation.

## SICK LEAVE

Employees leaving the Federal Government do **NOT** receive a lump-sum payment of their sick leave balance. Instead, the balance will be reccredited if the employee is reemployed in a leave-covered position. Sick leave is creditable for Civil Service Retirement only if the employee is eligible for an immediate annuity. Sick leave is not creditable for any type of FERS annuity computation.

## UNEMPLOYMENT INSURANCE

Employees who are separated may be entitled to Unemployment Insurance (UI). Each state's eligibility requirements differ except the following requirements that apply in all states:

1. employees must be unemployed, able to work, and available for suitable work;
2. employees must register for work, file a claim at a local public employment service/UI claim office, and continue to report to the office as directed; and
3. employees must have had a certain amount of employment/wages within a base period of one year specified by state law.

Benefits in all states will be denied if:

1. employees resign from their job voluntarily without good cause or are discharged for misconduct connected with their work or
2. employees refuse an offer for a suitable job without good cause.

Note that an employee's eligibility cannot be determined until an application is filed and that requirements vary from state to state. Form SF-8, Notice to Federal Employee about Unemployment Insurance, is available and provides additional information concerning UI.

## CONTACTS

Administrative Officer  
United States Attorney's office  
or  
Servicing Personnel Management Specialist  
Personnel Staff, EOUSA  
(202) 616-6800

## DEATH-IN-SERVICE CLAIMS

The Personnel Staff of the Executive Office for United States Attorneys (EOUSA) or the district's Servicing Personnel Office (SPO) must be notified immediately of an employee's death to prevent inadvertent payment to the deceased employee and to process claims. SPOs may develop their own procedures for processing death-in-service claims and deal with the National Finance Center and the Office of Personnel Management directly for all employees except United States Attorneys. The *Administrative Procedures Handbook Issuance (APHI)* referred to below should be used for guidance in processing death cases.

The APHI also includes specific instructions regarding the Public Safety Officers' Benefit Act which may apply if the employee's death was in the line of duty. This Act, which is coordinated through the Bureau of Justice Assistance, provides a death benefit to eligible survivors of an employee killed in the line of duty. Cases in which an employee's death is sustained in the line of duty **must** be referred to EOUSA or the SPO as soon as possible.

Because this is a difficult time for the survivor(s), the United States Attorney's office (USAO) should contact the beneficiary(ies) for a consultation, offering condolences and assistance in any way possible. In addition, the USAO should send a letter of condolence to the survivor(s).

Once the completed forms are received from the beneficiary(ies), the EOUSA Personnel Staff or SPO will review the forms for accuracy and completeness and forward them to the appropriate agent.

Public Law (PL) 104-208 gives Department heads the authority to pay up to \$10,000 as a death gratuity to the personal representative of an employee who dies from an injury sustained in the line of duty. The payment may be statutorily offset only by:

- 5 U.S.C. 8133(f), (\$200), for reimbursement of the costs of termination of the descendent's status as an employee of the United States;
- 5 U.S.C. 8134(a), (\$800), for funeral and burial expenses in cases of employees who died as a result of an injury sustained in the performance of duty; and
- any amount paid under Section 312 of PL 103-332, the Department of the Interior and Related Agencies Appropriations Act, 1995.

The amount paid under these three authorities, plus the gratuity paid under the new authority, may not total more than \$10,000.



## REFERENCES

*Administrative Procedures Handbook Issuances (APHI)*, Chapter 831 #1 Death-in-Service Claims (current version) and APHI, Chapter 831 #3 (current version) Requesting Death Gratuity Payments.  
*CSRS and FERS Handbook* for Personnel and Payroll Offices

## CONTACTS

Administrative Officer  
United States Attorney's office  
or  
Servicing Personnel Management Specialist  
Personnel Staff, EOUSA  
(202) 616-6800

**Executive Office for United States Attorneys  
Personnel Staff  
Mission and Function Statement**

APPENDIX  
14-1

**Mission**

The Executive Office for United States Attorneys (EOUSA) Personnel Staff (PS) provides bureau-level operating personnel, payroll and personnel security services to the 94 United States Attorneys' offices (USAOs) located nationwide, the Executive Office for United States Attorneys (EOUSA), and such other Departmental components as the Community Relations Service. In addition, the PS develops bureau-level policy and procedural guidance to include the development and administration of the Administratively Determined (AD) pay system for Assistant United States Attorneys which is unique to the bureau. The PS is responsible for evaluating and assisting USAOs delegated independent personnel authority, to promote effective personnel practices as well as legal, regulatory, and policy compliance.

**Function Statements**

**Immediate Office of the Assistant Director**

Provides overall management, planning, organizing, staffing, coordinating, quality control, and budgeting for the PS, EOUSA. Develops and coordinates training programs to support USAO and EOUSA personnel and payroll operations involving non-legal subject matter. Provides bureau-level expertise on personnel management initiatives and represents the component on Departmental and interagency personnel management activities.

**Policy and Special Programs Division**

Develops and issues bureau-wide personnel management policies and guidelines that are consistent with Departmental policies and which also result in an effective balance between insuring effective centralized management control systems are in place; and promoting decentralized personnel authority to United States Attorneys, managers, and supervisors to the maximum extent practicable. Also, develops and administers a variety of special initiatives and programs of particular sensitivity or importance. Under the direction of the Assistant Director, Personnel Staff and Deputy Director, Operations, the Division supports the Director, Deputy Directors, Assistant Directors and members of the Director's immediate office, EOUSA, in the formulation and execution of such special projects, initiatives, analyses, and related activities to meet immediate management needs. Policy-related functions include:

- Develops and issues attorney and support portions of the United States Attorneys' Manual;
- In conjunction with senior Operations Division staff and other subject-matter specialists, approves and issues Administrative Procedures Handbook Issuances (APHI)-Personnel;

- Develops pay guidance to include AD pay, cost-of-living adjustments, and similar special salary situations. Provides advisory and analytical services regarding such guidance to other affected organizations;
- Controls delegation of personnel authority to USAOs;
- Provides review and comment on bureau-wide HRM issues to include laws, regulations, and procedures;
- Establishes personnel management programs, policies and standards for monitoring the effectiveness of USAO personnel administration throughout all serviced areas to include such areas as the delegation of personnel authorities to USAOs, performance evaluation and management, staffing, compensation, position classification;

**Programs-related functions include:**

- Administering personnel security actions for attorney personnel hiring by advising USAOs of operational requirements, insuring adequate management controls of attorney personnel actions, and insuring approval from appropriate organizations prior to appointment. Attorney personnel actions include Assistant United States Attorneys, Special Attorneys, and Special Assistant United States Attorneys; and
- Planning, directing and administering the implementation of one or more high-priority initiatives of particular importance, sensitivity, or visibility affecting multiple, or all, USAOs. Representative programs may include annual awards programs, leave or employee worklife programs, or other such programs of similar significance.
- Planning, developing and implementing the spectrum of payroll/personnel automated information support systems. Included are centralized personnel management systems support, management information systems support, and development of new technologies and applications for automated personnel management systems.

**Other functions include:**

- Development and implementation of policies, programs and implementation of specialized pay and compensation programs, e.g., attorney pay;
- Providing bureau-level determinations on position classification appeals;
- Coordination of comments on legislative proposals, draft regulations, draft Departmental orders, and other personnel management tools issued in draft for comment;
- Implementation of new legislation affecting USAO and EOUSA employees;
- Administration of special programs effecting all USAOs and EOUSA, e.g., Special Salary Rate Program development and management; Awards and recognition programs to include handling of all manual processing of cash awards that otherwise require special, non-systemic, processing;

- Administration of activities relating to Presidential initiatives, the Senior Executive Service, multiple agency issues, special employee situations, EEO settlements, and other matters requiring special handling;
- Administration of the employee suggestion program; Employee Assistance Program; Voluntary Leave Transfer Program; and Personnel Management Evaluations; and
- Attorney hiring programs affecting Assistant United States Attorneys. Develops attorney compensation policies for approval by the AGAC and the Attorney General; develops and publishes pay guidance memoranda; provides operational advice and guidance on legal, regulatory, and procedural requirements impacting hiring and pay setting; initiates name, fingerprint, tax check waivers and background investigations; performs pre-appointment/employment review of application and security documents submitted by all 94 USAOs for the purpose of requesting waiver of the completion of background investigations necessitated by business exigencies; serves as the primary liaison for EOUSA and USAOs with the Office of Attorney Personnel management, Federal Bureau of Investigation and others with regard to attorney hiring issues; and monitors the attorney hiring program, including Special Assistant United States Attorneys, to insure that management objectives are met.

### **Operations Division**

Provides day-to-day HRM operational support to USAOs and EOUSA, in such program areas as recruitment, merit promotion, delegated examining, position classification, employee relations and benefits, personnel security administration, and payroll/personnel systems administration. Provides comprehensive services directly to USAOs not delegated authority in these areas; and provides technical advice and assistance to USAO personnel officers and staff in addressing and resolving especially difficult, precedent-setting, and unusually complex personnel operational issues.

Provides, for assigned USAOs, EOUSA, or other specialized segment of the bureau staff; e.g., attorney personnel, direct technical support and advisory HRM services. Also provides USAO Personnel Officers technical advice and guidance in Services in the same functional areas. Approves individual personnel actions by insuring each is fully consistent with applicable laws, regulations and other HRM guidelines, and provides HRM service oversight to insure personnel actions effectively promote management goals and objectives. Division activities include:

- Performing bureau-wide HRM operational programs; e.g., annual pay adjustments, and other operational activities common to all USAOs and EOUSA;
- Providing technical oversight of USAO utilization of the National Finance Center (NFC) Payroll/Personnel System (PPS);
- Performing specialized technical PPS functions to include information management, data format and retrieval, NFC PPS training, new system and sub-system test and implementation, as well as individual specialized payroll actions such as commercial garnishments, payroll adjustments, quick-service requests, and loan repayments;

- Determining proper position classification of individual positions, and providing position management advisory services;
- Developing staffing strategies, primarily for non-attorney positions, develops rating plans and performs qualification analyses;
- Advising and approving pay levels and addressing and resolving specialized pay-setting issues in individual cases;
- Initiating, monitoring, reviewing and technically approving technical adequacy and sufficiency of personnel security actions. Recommending waiver of requisite security clearances when necessitated by business emergencies;
- Processing and advising USAOs on NFC functionality to include resolution of operational problems, keying actions, resolution of edit or error conditions, monitoring output and system status reports, and otherwise insuring approved personnel actions are accurately and timely recorded and processed by the PPS;
- Providing expert advisory services on operational matters to policy, procedure, or other program initiatives affecting multiple USAOs, and participating in the drafting of appropriate guidance;
- Administering non-Servicing Personnel Office District coding, keying and other processing of all position, personnel, and pay actions for both attorney and support positions. Included, but not limited to, are such functions as accessions, separations, terminations, reassignments, details, within-grade increases, pay adjustments, awards, health and other insurance benefits, restoration of annual leave requests, retirement elections and actions, Combined Federal Campaign deductions, bonds, Electronic Funds Transfer/Direct Deposition elections, and allotments;
- Administering programs relevant to personnel/payroll administration by the National Finance Center (NFC). Tasks include: development of automated and non-automated systems-based methods to assess the quality of personnel processing performed by the personnel offices for which EOUSA is responsible; serves as the central liaison between the NFC and EOUSA/USAOs to include responsibility for identifying and resolving automated systems issues which arise; assures that regular suspense, ticklers and other production reports are run and delivered on schedule and assures that systemic audit trails and hard copy reports reflecting system activity are maintained;
- Administering a wide variety of cyclical and special pay, benefit and other miscellaneous programs. Tasks include: administration of all garnishments, delinquent educational loans or repayment of indebtedness to the United States, bankruptcy, alimony and child support payments; processing all Quick Service Requests for non-SPO districts; administers returned bonds for non-SPO districts; processes benefits under COBRA provisions for non-SPO districts; effecting leave adjustments via TINQ for USAOs without such authority; maintains NFC processing documentation; assures NFC system instructions are distributed to all servicing personnel offices; fulfills role as NFC systems security officer, and Electronic Time and Attendance Coordinator; and produces or oversees the production of Assistant United States Attorney Certificates;

- Conducting classification consistency studies, as required;
- Serving as an advocate for USAOs to assist in resolving employee pay and benefit problems;
- Assisting USAOs with performance management problems, to include development of performance improvement plans;
- Advising staff, approving and overseeing the administration of benefit-related actions in such areas as life and health insurance, and retirement programs; and
- Providing, as required, a variety of on-site services to assist USAO in the spectrum of HRM functional areas.

EOUSA Personnel Staff May 28, 2000					
Name		Title		Telephone (202)	
Linda Schwartz Betty Coleman		Assistant Director AD-Secretary		616-6830	
Peter McSwain Joan Winston		Chief, Policy and Special Programs Division Secretary		616-6800	
Gloria Harbin Jane Clancy		Chief, Operations Division Secretary		616-6812	
FAX 305-1430 or 616-2867					
Operations Division - (202) 616-6812					
Org. Code	DISTRICT	Staff	SPECIALIST	ASSISTANT	SECURITY
02	Alabama - Middle	41	Ester Lough	Paula Burton	Ginger Kornegay
01 <sup>1</sup>	Alabama - North	87	Ester Lough	Paula Burton	Ginger Kornegay
03	Alabama - South	49	Robert Zehmer	Janet Allen	Ginger Kornegay
06	Alaska	42	Valarie Mulcahy	Sharlene Carpenter	Ginger Kornegay
08 <sup>1</sup>	Arizona	214	Valarie Mulcahy	Sharlene Carpenter	Jane Koch
09	Arkansas - East	51	Ester Lough	Paula Burton	Jane Koch
10	Arkansas - West	26	Valarie Mulcahy	Sharlene Carpenter	Jane Koch
12 <sup>1</sup>	California - Central	448	Robert Zehmer	Janet Allen	Jane Koch
97 <sup>1</sup>	California - East	134	Robert Zehmer	Janet Allen	Jane Koch
11 <sup>1</sup>	California - North	186	Robert Zehmer	Janet Allen	Jane Koch
98 <sup>1</sup>	California - South	220	Stacey Preston	Camela Green	Jane Koch
13 <sup>1</sup>	Colorado	121	Shelly Adams	Siah Johnson	Ginger Kornegay
14 <sup>1</sup>	Connecticut	98	Valarie Mulcahy	Sharlene Carpenter	Jane Koch
	CRS	45	Joyce Bryant	Paula Burton	Ginger Kornegay
15	Delaware	35	Shelly Adams	Therisa Govan	Jane Koch
16 <sup>1</sup>	District of Columbia	676	Stacey Preston	Camela Green	Ginger Kornegay
18 <sup>1</sup>	Florida - Middle	238	Valarie Mulcahy	Sharlene Carpenter	Ginger Kornegay

<sup>1</sup> SPO

<sup>2</sup> Pending SPO Delegation

RIF

**Operations Division - (202) 616-6812**

Off. Code	DISTRICT	Staff	SPECIALIST	ASSISTANT	SECURITY
17 <sup>1</sup>	Florida - North	74	Shelly Adams	Therisa Govan	Ginger Kornegay
04 <sup>1</sup>	Florida - South	420	Stephanie Michie	Siah Johnson	Jane Koch
20	Georgia - Middle	59	Stacey Preston	Camela Green	Ginger Kornegay
19 <sup>1</sup>	Georgia - North	131	Stephanie Michie	Siah Johnson	Ginger Kornegay
21	Georgia - South	58	Stacey Preston	Siah Johnson	Ginger Kornegay
93	Guam/ Marianas	25	Ester Lough	Siah Johnson	Ginger Kornegay
22 <sup>1</sup>	Hawaii	64	Michelle Martin	Siah Johnson	Ginger Kornegay
23	Idaho	47	Ester Lough	Paula Burton	Jane Koch
26	Illinois-Central	65	Valarie Mulcahy	Sharlene Carpenter	Ginger Kornegay
24 <sup>1</sup>	Illinois-North	256	Ester Lough	Siah Johnson	Ginger Kornegay
25	Illinois-South	65	Stacey Preston	Camela Green	Ginger Kornegay
27 <sup>1</sup>	Indiana - North	70	Robert Zehmer	Janet Allen	Ginger Kornegay
28 <sup>1</sup>	Indiana - South	64	Robert Zehmer	Janet Allen	Jane Koch
29	Iowa - North	51	Robert Zehmer	Siah Johnson	Jane Koch
30	Iowa - South	50	Valarie Mulcahy	Siah Johnson	Ginger Kornegay
31 <sup>1</sup>	Kansas	82	Robert Zehmer	Janet Allen	Ginger Kornegay
32 <sup>1</sup>	Kentucky - East	80	Michelle Martin	Janet Allen	Ginger Kornegay
33 <sup>1</sup>	Kentucky - West	68	Valarie Mulcahy	Sharlene Carpenter	Ginger Kornegay
34 <sup>1</sup>	Louisiana - East	97	Valarie Mulcahy	Sharlene Carpenter	Ginger Kornegay
95	Louisiana - Middle	42	Robert Zehmer	Janet Allen	Ginger Kornegay
35 <sup>1</sup>	Louisiana - West	69	Ester Lough	Paula Burton	Ginger Kornegay
36	Maine	48	Shelly Adams	Therisa Govan	Jane Koch
37 <sup>1</sup>	Maryland	136	Stacey Preston	Camela Green	Jane Koch
38 <sup>1</sup>	Massachusetts	193	Robert Zehmer	Siah Johnson	Ginger Kornegay
39 <sup>1</sup>	Michigan - East	182	Stephanie Michie	Siah Johnson	Jane Koch
40 <sup>1</sup>	Michigan - West	71	Robert Zehmer	Janet Allen	Ginger Kornegay
41 <sup>1</sup>	Minnesota	102	Shelly Adams	Therisa Govan	Ginger Kornegay
42	Mississippi - North	42	Michelle Martin	Janet Allen	Ginger Kornegay

<sup>1</sup> SPO

<sup>2</sup> Pending SPO Delegation



Operations Division - (202) 616-6812					
Port Code	DISTRICT	Staff	SPECIALIST	ASSISTANT	SECURITY
43 <sup>1</sup>	Mississippi - South	63	Shelly Adams	Therisa Govan	Ginger Kornegay
44 <sup>1</sup>	Missouri - East	85	Valarie Mulcahy	Sharlene Carpenter	Ginger Kornegay
45 <sup>1</sup>	Missouri - West	103	Valarie Mulcahy	Sharlene Carpenter	Ginger Kornegay
46	Montana	45	Valarie Mulcahy	Sharlene Carpenter	Jane Koch
47	Nebraska	59	Shelly Adams	Therisa Govan	Jane Koch
48 <sup>1</sup>	Nevada	71	Stacey Preston	Camela Green	Ginger Kornegay
49	New Hampshire	50	Michelle Martin	Janet Allen	Ginger Kornegay
50 <sup>1</sup>	New Jersey	240	Ester Lough	Paula Burton	Jane Koch
51 <sup>1</sup>	New Mexico	113	Valarie Mulcahy	Siah Johnson	Ginger Kornegay
53 <sup>1</sup>	New York - East	301	Carol Parnell	Michelle Martin	Jane Koch
52 <sup>1</sup>	New York - North	82	Shelly Adams	Therisa Govan	Jane Koch
54 <sup>1</sup>	New York - South	443	Robert Zehmer	Janet Allen	Ginger Kornegay
55 <sup>2</sup>	New York - West	102	Michelle Martin	Janet Allen	Jane Koch
57	North Carolina - Middle	47	Shelly Adams	Therisa Govan	Jane Koch
56 <sup>1</sup>	North Carolina- East	66	Valarie Mulcahy	Sharlene Carpenter	Jane Koch
58	North Carolina- West	54	Robert Zehmer	Janet Allen	Jane Koch
59	North Dakota	38	Robert Zehmer	Janet Allen	Jane Koch
60 <sup>1</sup>	Ohio - North	155	Carol Parnell	Michelle Martin	Jane Koch
61 <sup>1</sup>	Ohio - South	97	Shelly Adams	Therisa Govan	Jane Koch
63	Oklahoma - East	23	Ester Lough	Paula Burton	Jane Koch
62	Oklahoma - North	49	Robert Zehmer	Janet Allen	Ginger Kornegay
64 <sup>1</sup>	Oklahoma - West	85	Shelly Adams	Therisa Govan	Ginger Kornegay
65 <sup>1</sup>	Oregon	89	Carol Parnell	Michelle Martin	Ginger Kornegay
66 <sup>1</sup>	Pennsylvania - East	239	Ester Lough	Paula Burton	Ginger Kornegay
67	Pennsylvania - Middle	63	Robert Zehmer	Janet Allen	Jane Koch
68 <sup>1</sup>	Pennsylvania - West	95	Stephanie Michie	Siah Johnson	Jane Koch
69 <sup>1</sup>	Puerto Rico	84	Valarie Mulcahy	Sharlene Carpenter	Jane Koch
70	Rhode Island	35	Robert Zehmer	Janet Allen	Jane Koch

<sup>1</sup> SPO

<sup>2</sup> Pending SPO Delegation

Operations Division - (202) 616-6812					
Job Code	DISTRICT	Staff	SPECIALIST	ASSISTANT	SECURITY
71 <sup>1</sup>	South Carolina	105	Valarie Mulcahy	Sharlene Carpenter	Ginger Kornegay
73	South Dakota	52	Stacey Preston	Camela Green	Jane Koch
74 <sup>1</sup>	Tennessee - East	77	Stacey Preston	Camela Green	Ginger Kornegay
75 <sup>2</sup>	Tennessee - Middle	49	Shelly Adams	Therisa Govan	Jane Koch
76 <sup>1</sup>	Tennessee - West	70	Shelly Adams	Therisa Govan	Ginger Kornegay
78 <sup>1</sup>	Texas - East	103	Valarie Mulcahy	Sharlene Carpenter	Ginger Kornegay
77 <sup>1</sup>	Texas - North	179	Michelle Martin	Janet Allen	Ginger Kornegay
79 <sup>1</sup>	Texas - South	278	Stacey Preston	Siah Johnson	Jane Koch
80 <sup>1</sup>	Texas - West	213	Shelly Adams	Therisa Govan	Ginger Kornegay
81	Utah	68	Stacey Preston	Camela Green	Jane Koch
82	Vermont	34	Michelle Martin	Janet Allen	Ginger Kornegay
94	Virgin Islands	41	Shelly Adams	Siah Johnson	Jane Koch
83 <sup>1</sup>	Virginia - East	184	Robert Zehmer	Siah Johnson	Jane Koch
84	Virginia - West	54	Michelle Martin	Siah Johnson	Jane Koch
85	Washington - East	46	Shelly Adams	Therisa Govan	Jane Koch
86 <sup>1</sup>	Washington - West	111	Ester Lough	Paula Burton	Jane Koch
87	West Virginia - North	38	Valarie Mulcahy	Sharlene Carpenter	Jane Koch
88	West Virginia - South	62	Valarie Mulcahy	Sharlene Carpenter	Jane Koch
89 <sup>1</sup>	Wisconsin - East	72	Robert Zehmer	Janet Allen	Ginger Kornegay
90	Wisconsin - West	40	Stacey Preston	Camela Green	Ginger Kornegay
91	Wyoming	38	Valarie Mulcahy	Sharlene Carpenter	Jane Koch

Policy and Special Programs Division - (202) 616-6800	
Name	Assignment Area(s)
Robin Barnes	Award Administration
Vacancy	Special Assistant United States Attorney Program
Debi Cleary	Attorney Hiring
Larry Davidson	Delegation of Authority, Legislative Issues, Staffing, Merit Promotion
Robert Gatewood	Attorney Pay, Attendance and Leave, Allowance Bonuses, Compensation

<sup>1</sup> SPO

<sup>2</sup> Pending SPO Delegation

Policy and Special Programs Division -- (202) 616-6800	
Name	Assignment Area(s)
Roger Good	FOCUS Programming, Systems Analysis and Design
Virginia Ivin	Leave Bank, Performance Management, Voluntary Leave Transfer Program, Worklife
Mettah Kollmann	Automation Initiatives, NFC Payroll/Personnel System Administration
Leslie Thompson	Award Programs, Training, Workers' Compensation
Denise Kaufman	Benefits Programs, Position Classification, Personnel Management Evaluation, Retirement

**MATRIX SUMMARIZING MAJOR DIFFERENCES IN PAY PRACTICES  
BETWEEN ATTORNEY AND SUPPORT HIRING\***

**APPENDIX  
14-3**

	<b>ASSISTANT UNITED STATES ATTORNEY</b>	<b>SPECIAL ASSISTANT UNITED STATES ATTORNEY</b>	<b>COMPETITIVE SERVICE SUPPORT STAFF</b>
<b>LAWS, RULES, AND REGULATIONS GOVERNING HIRING</b>	<ol style="list-style-type: none"> <li>1. 28 USC 542</li> <li>2. Executive Order</li> <li>3. Internal DOJ rules</li> </ol>	<ol style="list-style-type: none"> <li>1. 28 USC § 543</li> <li>2. 28 USC § 515a</li> <li>3. Executive Orders</li> <li>4. Internal DOJ rules</li> </ol>	<ol style="list-style-type: none"> <li>1. 5 USC (numerous sections)</li> <li>2. Executive Orders</li> <li>3. 5 CFR (numerous sections)</li> <li>4. OPM restrictions</li> <li>5. Internal DOJ rules</li> </ol>
<b>HIRING METHODS</b>	<ol style="list-style-type: none"> <li>1. Appointment</li> </ol>	<ol style="list-style-type: none"> <li>1. Appointment</li> </ol>	<ol style="list-style-type: none"> <li>1. Appointment</li> <li>2. Transfer</li> <li>3. Promotion</li> <li>4. Reassignment</li> <li>5. Change to Lower Grade</li> <li>6. Detail</li> </ol>
<b>PAYSETTING</b>	<ol style="list-style-type: none"> <li>1. Administratively determined within DOJ guidelines</li> <li>2. Range of starting salaries</li> <li>3. Eligible for promotion to supervisory position and eligible for APR</li> <li>4. Annual pay comparability increase authorized by DAG</li> </ol>	<ol style="list-style-type: none"> <li>1. Administratively determined within DOJ guidelines</li> <li>2. Compensated on per annum, or per diem OR uncompensated</li> </ol>	<ol style="list-style-type: none"> <li>1. GS statutory pay system based on classification of position</li> <li>2. Range of starting salaries</li> <li>3. GS eligible for promotion, within-grade (step) increase;</li> <li>4. GS entitled to annual pay comparability increase approved by the President</li> </ol>
<b>AWARDS</b>	<ol style="list-style-type: none"> <li>1. Eligible</li> </ol>	<ol style="list-style-type: none"> <li>1. Eligible. Uncompensated attorneys appointed under §§ 515a or 543 are not eligible for awards.</li> </ol>	<ol style="list-style-type: none"> <li>1. Eligible</li> </ol>
<b>REMOVALS FOR CAUSE</b>	<ol style="list-style-type: none"> <li>1. Performance and/or conduct</li> <li>2. Action proposed by United States Attorney or EOUSA management, and decided by Director, EOUSA</li> <li>3. Appeal rights to MSPB</li> <li>4. EEO appeal rights</li> </ol>	<ol style="list-style-type: none"> <li>1. Performance and/or conduct</li> <li>2. Action proposed by United States Attorney or EOUSA management, and decided by Director, EOUSA</li> <li>3. Appeal to MSPB</li> <li>4. EEO appeal rights</li> </ol>	<ol style="list-style-type: none"> <li>1. Performance and/or conduct</li> <li>2. Action proposed by immediate supervisor, and decided by second level or higher supervisor</li> <li>3. Appeal rights to MSPB</li> <li>4. EEO appeal rights</li> <li>5. Grievance rights under negotiated bargaining agreements if applicable.</li> </ol>

**LOCALITY PAY CHART-2001**

LOCALITY	PERCENTAGE	LOCALITY	PERCENTAGE
Atlanta	8.66	Miami	11.09
Boston	12.13	Milwaukee	8.91
Chicago	13.00	Minneapolis	10.30
Cincinnati	10.76	New York	13.62
Cleveland	9.17	Orlando	7.71
Columbus, OH	9.61	Philadelphia	10.80
Dallas	9.71	Pittsburgh	8.54
Dayton	8.60	Portland	10.32
Denver	11.90	Richmond	8.60
Detroit	13.14	Rest of U. S.	7.68
Hartford	12.65	Sacramento	10.73
Houston	16.66	St. Louis	8.00
Huntsville	8.12	San Diego	11.31
Indianapolis	7.89	San Francisco	16.98
Kansas City	8.32	Seattle	10.45
Los Angeles	14.37	Washington	10.23

<u>Position Title</u>	<u>GS Series and Grade</u>
<b>GS-200 Personnel Management Group</b>	
Personnel Management Specialist	GS-201-9
Personnel Management Specialist	GS-201-12
Personnel Assistant (OA)	GS-203-7
<b>GS-300 General Administration, Clerical, and Office Services Group</b>	
Administrative Services Specialist	GS-301-9
Victim-Witness Specialist/LEC Specialist	GS-301-9
Victim-Witness Specialist	GS-301-9
Administrative Services Specialist	GS-301-11
Victim-Witness Specialist/LEC Specialist	GS-301-11
Forfeiture Program Manager	GS-301-12
Executive Assistant (OCDETF)	GS-301-12
Litigation Support Specialist	GS-301-12
Law Enforcement Coordination Specialist	GS-301-12
Victim-Witness Specialist	GS-301-12
Victim-Witness Specialist/LEC Specialist	GS-301-12
Clerk or Student Trainee	GS-303-1
Clerk or Student Trainee	GS-303-2
Clerk or Student Trainee	GS-303-3
Clerk (OA)	GS-303-4
Information Receptionist (OA)	GS-304-4
Information Receptionist (OA)	GS-304-5
Secretary (OA)	GS-318-6
Secretary (OA)	GS-318-8
Secretary (OA)	GS-318-9
Secretary (OA)	GS-318-10
Office Automation Clerk	GS-326-3
Office Automation Clerk	GS-326-4
Office Automation Assistant	GS-326-5
Office Automation Assistant	GS-326-6
Office Automation Assistant	GS-326-7
Computer Specialist	GS-334-9
Computer Specialist	GS-334-11
Computer Specialist	GS-334-12
Administrative Officer	GS-341-11
Administrative Officer	GS-341-12

<u>Position Title</u>	<u>Series and Grade</u>
<b>GS-500 Accounting and Budget Group</b>	
Budget Analyst	GS-560-5
Budget Analyst	GS-560-7
Budget Analyst	GS-560-9
Budget Analyst	GS-560-11
Budget Officer	GS-560-12
Financial Management Student Trainee	GS-599-3
<b>GS-900 Legal and Kindred Group</b>	
Law Clerk	GS-904-9
Law Clerk	GS-904-11
Paralegal Specialist	GS-950-5
Paralegal Specialist	GS-950-7
Paralegal Specialist	GS-950-9
Paralegal Specialist (Debt Collection)	GS-950-9
Paralegal Specialist (Asset Forfeiture)	GS-950-9
Paralegal Specialist (Asset Forfeiture)	GS-950-11
Paralegal Specialist (Asset Forfeiture)	GS-950-12
Legal Secretary (OA)	GS-986-5
Legal Secretary (OA)	GS-986-6
Docket Technician (OA)	GS-986-6
Legal Secretary (OA)	GS-986-7
Paralegal Assistant (OA)	GS-986-7
Docket Technician (OA)	GS-986-7
Paralegal Assistant (OA)	GS-986-8
Debt Collection Agent (OA)	GS-986-8
Paralegal Assistant (OA) (Asset Forfeiture)	GS-986-8
<b>GS-1400 Library and Archives Group</b>	
Librarian (Law)	GS-1410-12

# COMPARISON PART OF DELEGATION PHASES

APPENDIX  
14-6

FUNCTION	NO FORMAL DELEGATION	FORMAL DELEGATION		
		BASIC	EXPANDED	SPO
<b>GENERAL</b>	No on-site personnelist.	Limited authority in classification & approving personnel actions. Review by EOUSA before approved actions are processed in NFC PPS.	Expanded authority with review by same review as Basic.	Same as Expanded plus authority to independently process personnel actions in NFC PPS and to maintain personnel files locally. Also, no prior EOUSA review of personnel actions.
<b>POSITION CLASSIFICATION</b>	Author PDs and initiate personnel actions.	Author PDs. Determine PD numbers and NFC position management data. Some series limitations. Limited classification authority.	Same as Basic with expanded classification authority.	Same as Expanded.
<b>RECRUITMENT, STAFFING, AND PAY ADMIN.</b>	Initiate personnel actions; determine positions to be filled, recruitment grade levels.	Recruit and establish starting salaries. Some limitations on recruitment, e.g., Administrative Officers.	Same as Basic plus computes service dates, maintains merit staffing files.	Same as Expanded.



## COMPARISON CHART OF DELEGATION PHASES

FUNCTION	NO FORMAL DELEGATION	FORMAL DELEGATION		
		BASIC	EXPANDED	SPO
<b>EMPLOYEE MANAGEMENT RELATIONS</b>	Effect certain disciplinary and adverse actions with EOUSA consultation.	Same as No Formal Authority.	Same as No Formal Authority.	Same as No Formal Authority.
<b>AWARDS</b>	Approve cash awards and QSIs. Some limitations on award category, amount, or position.	Same as No Delegation.	Same as No Delegation.	Same as No Delegation.

# Administratively Determined (AD) Pay Plan

APPENDIX  
14-7

## Administratively Determined (AD) Pay Plan

2001 Pay Structure

Effective: January 14, 2001

Structure Increase of 2.7 percent.

AD Grade	Years Experience	Minimum	Q-2 25th Perc't	Midpoint	Q-4 75th Perc't	Maximum
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### Recruiting Ranges

Meets to Exceeds Expectations

Substantially Exceeds Expectations

GREEN CIRCLED RATES	AD-21	0-3	\$40,400	\$45,500	\$50,550	\$55,600	\$60,650	RED CIRCLED RATES
	AD-24	4	44,300	49,850	55,400	60,950	66,450	
	AD-25	5	48,600	54,650	60,700	66,800	72,850	
	AD-26	6	53,250	59,900	66,550	73,200	79,900	
	AD-27	7	58,400	65,700	72,950	80,250	87,550	
	AD-28	8	64,000	72,000	80,000	88,000	96,000	
	AD-29	9+	70,150	78,950	87,700	96,450	105,250	Bonus Up to \$5000

**2001 PAY CAPS - EFFECTIVE JANUARY 14, 2001**  
**UNITED STATES ATTORNEYS \$125,700**

APPENDIX  
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Maximum Payable Total Salary \$125,600

SUPERVISORY/SLC AUSA

Pay Plan A Locations

- CAC; DC; FLS; NYS; NYE; ILN; TXS; PAE; NJ

Level 1 cap - \$125,300
Level 2 cap - \$120,250
Level 3 cap - \$115,450
Level 4 cap - \$109,850 (\$115,450 in NYE; NYS; CAC; and, NJ @ Newark & Trenton)
Level 5 cap - \$107,750 (no such level in NYE; NYS; CAC; and, NJ @ Newark & Trenton)
Level 6 cap - \$105,450 (no such level in NYE; NYS; CAC; and, NJ @ Newark & Trenton)

Pay Plan B Locations - All locations other than those in Pay Plan A

Level 1 cap - \$117,900
Level 2 cap - \$113,050
Level 3 cap - \$108,700 (\$113,050 in CAN, and CT @ New Haven & Bridgeport)
Level 4 cap - \$109,850 (\$114,900 in CAN, and CT @ New Haven & Bridgeport)
Level 5 cap - \$107,750 (no such level in CAN, and CT @ New Haven & Bridgeport)
Level 6 cap - \$105,450 (no such level in CAN, and CT @ New Haven & Bridgeport)

The maximum payable salary of \$125,600 includes locality pay which may be truncated because of this internal salary ceiling or to avoid pay inversion between certain level 3 and level 4 attorney supervisors and Senior Litigation Counsel.

**SUPERVISORY/SENIOR LITIGATION COUNSEL  
ASSISTANT UNITED STATES ATTORNEY STATEMENT**

I, \_\_\_\_\_, acknowledge and concur with my temporary assignment to a supervisor or Senior Litigation Counsel position with the United States Attorney's Office for the \_\_\_\_\_.

(District)

Further, I recognize that any rights to a supervisor/Senior Litigation Counsel salary increase accrue only so long as I encumber the supervisory/Senior Litigation Counsel position. In the event of my reassignment either to a nonsupervisory/non-Senior Litigation Counsel position or to a supervisory/Senior Litigation Counsel position that has a lower pay cap, said right expires.

Further, I understand that I am subject to the financial disclosure provisions of the Ethics in Government Act of 1978 and am required to file an "Executive Branch Personnel PUBLIC FINANCIAL DISCLOSURE REPORT" (SF 278) within 30 days of entering into this position, each succeeding year (by May 15), and upon termination. I understand that there is a late filing fee of \$200.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

NOTE: The report should be mailed to the Executive Office for United States Attorneys, Attention: N. Lee Cumberland, Bicentennial Building, Room 2200, 600 E Street, N.W., Washington, D.C. 20530-0001.

APPENDIX  
14-10

+ GS-12 and below

## PERSONNEL STAFF HOME PAGE

APPENDIX  
14-11

( b2 ) The Personnel Staff Home Page on the EOUSA Intranet, provides a variety of personnel information for supervisors, managers, employees, and personnel specialists. The Home Page literally changes daily to provide visitors the most current information in such areas as Administrative Procedures Handbook Issuances, model performance work plans, model position descriptions, and Personnel Updates. Personnel Updates, published approximately bi-monthly, contain current information on a variety of personnel topics. On the Home Page, Updates are indexed by subject and year, and the frequent references to World Wide Web addresses are set up as links to facilitate quick and easy research.

Also included are links to other useful web sites to include the Thrift Savings Plan, National Finance Center, Office of Personnel Management, and Department of Justice. The Personnel Staff Home Page is designed to be both a resource for United States Attorneys' office personnel matters, and a gateway to other federal personnel information resources to keep our staff conveniently informed of all areas of federal personnel administration.

### CONTACT

Peter McSwain  
Chief, Policy and Special Programs Division  
Personnel Staff, EOUSA  
(202) 616-6800

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**SECURITY  
PROGRAMS**

## SECURITY PROGRAMS STAFF

**Tommie Barnes**  
**Assistant Director**  
**(202) 616-6878**

<b><u>Topic</u></b>	<b><u>Page</u></b>
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Computer and Telecommunications Security .....	14-76
Justice Command Center .....	14-78
Physical Security for United States Attorneys' Offices .....	14-79
Reporting Security Incidents and Emergency Security Support .....	14-80
Firearms Policy .....	14-82
Credentials and Identification Cards .....	14-83
Personal Foreign Travel .....	14-85

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## SECURITY PROGRAMS MANAGEMENT

Security programs which effectively protect personnel, facilities, and sensitive information enable the United States Attorneys' offices (USAOs) to accomplish their mission and goals. The active participation of senior management is critical to the success of these security programs. Security programs management consists of three distinct components: the Executive Office for United States Attorneys (EOUSA), the District Office Security Manager (DOSM), and the Security Working Group of the Management and Budget Subcommittee of the Attorney General's Advisory Committee.

EOUSA provides:

- Policy and procedural assistance to USAOs for the implementation of all security programs in accordance with applicable statutes and Executive and Departmental Orders.
- A Threat Management Program to assist USAOs during threat situations.
- General and specialized security training for all personnel.
- The design, procurement, and installation of all security-related equipment, and services.
- Oversight to identify weaknesses, provide assistance and advice, ensure compliance with all national and Departmental security policies and regulations, and formulate constructive recommendations to improve the overall quality of security programs.

The DOSM:

- Is appointed by the United States Attorney to manage all district security programs. As the principal security official for the district, the DOSM advises the United States Attorney on all security matters and is assisted by other assigned individuals as required.
- Analyzes the overall security posture of the district and recommends necessary security systems, equipment, and services to reduce vulnerabilities and risks.
- Implements and oversees the physical, information, personnel, computer, and communications security programs, as well as the security education and awareness, and loss prevention programs in accordance with current policy.
- Develops the District Office Security Plan and all contingency and emergency plans.

- Prepares budget estimates for implementing office security programs and coordinates these and other security requirements with SPS.

The Security Working Group (SWG) of the Management and Budget Subcommittee of the Attorney General's Advisory Committee is comprised of a United States Attorney and several Assistant United States Attorneys and Administrative Officers. The SWG works closely with SPS to develop and implement security programs initiatives and educational efforts.

## CONTACTS

District Office Security Manager  
United States Attorney's office  
or  
Tommie Barnes  
Assistant Director  
Security Programs Staff, EOUSA  
(202) 616-6878

## **BACKGROUND INVESTIGATIONS**

Employees of United States Attorneys' offices require a favorably completed background investigation (BI) prior to entering on duty. Completed BIs are received and initially reviewed by the Security Programs Staff, Executive Office for United States Attorneys (EOUSA). While the Department of Justice Security Officer, Justice Management Division, has final adjudication authority, attorney and law clerk investigations must also be approved by the Office of Attorney Recruitment and Management (OARM).

Contractors in USAO facilities or with access to sensitive information should also receive an appropriate investigation consistent with the risk level of the position.

Favorable adjudication may not be granted if the BI reveals questionable or potentially derogatory information. The most common problems encountered are those relating to drug use, financial irresponsibility, and tax issues. If questionable information is developed during the BI, EOUSA may request additional information from the district. The individual is normally given a chance to explain the situation and provide pertinent facts before a final determination is made.

In unusual or emergency circumstances, districts may request a waiver for completing the BI prior to entrance on duty by submitting the following to EOUSA: a justification, results of vouchering inquiries, and security forms completed by the individual. Waiver requests for attorneys and law clerks are forwarded to the OARM for approval and those for non-attorneys to the Department Security Officer. Waiver requests for contractors are forwarded to the SPS.

Reinvestigations are conducted on employees every five years. A BI is not the same as a security clearance. A National Security Clearance can only be requested after a BI has been favorably completed.

## **CONTACTS**

District Office Security Manager  
United States Attorney's office

or

Tommie Barnes  
Assistant Director  
Security Programs Staff, EOUSA  
(202) 616-6878

## INFORMATION SECURITY

Information security involves the control and safeguarding of Limited Official Use (LOU) information and National Security Information (NSI). This information must be protected to prevent disclosure to individuals not authorized access.

Departmental policy defines LOU information (also referred to as “sensitive”) and establishes procedures for its protection. LOU information includes, but is not limited to, grand jury information, informant and witness information, investigative material, federal tax information, Privacy Act information, and information which can cause risk to individuals or could be sold for profit. The information should be labeled or identified to ensure that recipients are aware that the information requires protection. Improper disclosure of LOU information could result in damage to the mission of the Department or its programs.

Executive orders prescribe procedures for safeguarding NSI, which is also referred to as “classified information.” There are three classification levels which denote the sensitivity of the information and the potential damage to United States national security if disclosed to unauthorized individuals:

- |                |   |
|----------------|---|
| • TOP SECRET   | could cause “exceptionally grave damage,” |
| • SECRET       | could cause “serious damage,” and         |
| • CONFIDENTIAL | could cause “damage.”                     |

If an individual requires access to NSI, a national security clearance must be granted, and the person must have a “need-to-know” the information. NSI documents must show the classification level and, when not in use, be locked in security containers (safes). NSI must be processed and stored on stand-alone computers following special procedures, and cannot be processed on network computers. TOP SECRET material must always be hand-carried by a cleared courier. SECRET and CONFIDENTIAL material may be sent by United States Postal Service registered or express mail with return receipt requested. NSI must be receipted for; logged in; and, when no longer required, destroyed by using a “cross-cut” shredder.

When cases involve NSI, additional guidance and assistance are available from the Security Programs Staff, Executive Office for United States Attorneys (EOUSA). In certain circumstances, the Classified Information Procedures Act (CIPA) (P.L. 96-456, 94 Stat. 2025) is invoked and a special Court Security Officer nominated by the Department of Justice Security Officer, Justice Management Division. The Court Security Officer provides security assistance to the Federal Judiciary, the defense, and the USAO. EOUSA may provide additional funding for security equipment needed in such cases.

## CONTACTS

District Office Security Manager  
United States Attorney's office  
or  
Tommie Barnes  
Assistant Director  
Security Programs Staff, EOUSA  
(202) 616-6878

## **COMPUTER AND TELECOMMUNICATIONS SECURITY**

### **COMPUTER SECURITY**

Computer security involves the safeguarding of information in electronic or magnetic media form and the systems used to process that information electronically. The computer security program of the United States Attorneys' offices (USAOs) is mandated by the Computer Security Act of 1987 and focuses on the security of network systems and the information these systems store and process. This information is primarily case-related, although some administrative records relate to personnel and budgetary functions. These systems also access a number of Departmental systems, including telecommunications facilities in the Justice Data Centers in Dallas, Texas, and Washington, D.C.

Computer systems which process sensitive and National Security Information (NSI) must be certified and accredited. Risk analyses must be conducted; computer security and contingency plans prepared; and computer security software which encrypts data, protects communications, and detects viruses must be installed. The System Manager, or other responsible party, certifies that these plans are complete and the safeguards are in place, and the United States Attorney or senior designee accredits the systems by acknowledging and accepting any residual risk associated with operating the systems as configured.

### **TELECOMMUNICATIONS SECURITY**

Telecommunications security concerns the protection of voice, data, and facsimile (FAX) signals during transmission. Rapidly advancing technology and the ease with which communications systems can be monitored and exploited present a serious challenge to the legal and law enforcement community. To provide the capability for exchanging sensitive information and NSI concerning ongoing cases with other USAOs, Department components, and law enforcement entities without fear of interception by hostile intelligence or criminal elements, all USAOs have been equipped with secure telephones (commonly called STU-IIIs) and secure FAX machines. Each secure system can be used to transmit sensitive and classified information in a secure manner to other Department or law enforcement organizations.

Secure telephone and/or secure FAX equipment must be used to discuss or transmit NSI and Title III information and should also be used whenever possible to protect sensitive information, particularly tax information, investigative, informant, and witness information. The Justice Command Center (JCC), (202) 514-5000, can provide secure telephone communications and the sending or receiving of secure FAXes during non-duty hours. The following JCC section provides further information.

## CONTACTS

District Office Security Manager, Communications Security Representatives,  
or System Manager  
United States Attorney's office  
or  
Tommie Barnes  
Assistant Director  
Security Programs Staff, EOUSA  
(202) 616-6878

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**JUSTICE COMMAND CENTER**

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## PHYSICAL SECURITY FOR UNITED STATES ATTORNEYS' OFFICES

The following minimum physical security safeguards have been established for United States Attorneys' offices (USAOs).

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OK [signature]

### CONTACTS

District Office Security Manager  
United States Attorney's office  
or  
Tommie Barnes  
Assistant Director  
Security Programs Staff, EOUSA  
(202) 616-6878

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## **REPORTING SECURITY INCIDENTS AND EMERGENCY SECURITY SUPPORT**

The District Office Security Manager is responsible for immediately reporting to the Executive Office for United States Attorneys (EOUSA) any situation which: (1) involves possible or actual injury to employees; (2) results in loss of, or damage to, Government assets; or (3) affects or threatens the ability of a United States Attorney's office (USAO) to operate. Examples of reportable incidents include: threats to a USAO or its employees, office break-ins, theft or loss of government property, and discovery of computer viruses.

Urgent Reports are submitted to report significant events of interest or concern to the Attorney General and Deputy Attorney General. Such events include bomb threats which directly involve a USAO, threats against USAO personnel, and any natural or man-made emergency which affects the continued operation of an office.

Security Incident Reports are submitted to report all other types of security-related incidents (e.g., bomb threats which do not directly involve a USAO, thefts of personal or Government property, disclosure of sensitive or classified information to unauthorized individuals, and discovery of computer viruses).

Submission of an Urgent or Security Incident Report initiates a variety of corrective or protective measures and should not be delayed pending the development of more detailed information. Follow-up reports may be submitted to provide additional data.

When threats to an individual or an office develop, EOUSA provides emergency security support to the USAO. When it is first learned that a threat has been made or might exist against a USAO or an employee of a USAO, three things must be done immediately:

### **1. Notify the local United States Marshal.**

When threats warrant such action, the United States Marshals Service (USMS) provides assistance to threatened individuals in the form of personal security briefings, residential security surveys, and armed protective details. The local United States Marshal reports the threat to USMS Headquarters, which compiles all threat-related data and rates the threat to determine if protective services are warranted. The local United States Marshal has the authority to assign a protective detail for 72 hours. Extensions must be approved by USMS Headquarters.

### **2. Notify the local Federal Bureau of Investigation (FBI) office.**

The FBI investigates all threats made against employees of the Department of Justice. As soon as notification is received, the FBI initiates an investigation and shares investigative results with the USMS, the USAO, and EOUSA.

**3. Submit an Urgent or Security Incident Report to EOUSA, by facsimile, electronic mail, or telephone, if the threat is considered urgent.**

The Security Programs Staff compiles and coordinates threat-related information with the USMS, the FBI, and other sources to determine the nature of emergency security support required by the USAO or individual to adequately counter the threat. This support may consist of one or more of the following:

- Providing:
  - immediate on-site surveys and assistance to the affected district,
  - advice and assistance to threatened individuals on dealing with the threat locally,
- Authorizing, funding, and coordinating:
  - the relocation of the threatened individual and/or immediate family members,
  - the immediate installation of temporary residential or automobile security systems.

#### CONTACTS

District Office Security Manager  
United States Attorney's Office

or

Tommie Barnes  
Assistant Director  
Security Programs Staff, EOUSA  
(202) 616-6878

## **FIREARMS POLICY**

The possession of firearms and other dangerous weapons in a federal facility by persons not authorized by law to carry a weapon in the lawful performance of official duties is prohibited by 18 U.S.C. § 930. Violators are subject to a fine and/or imprisonment not to exceed two years. Any person entering a federal facility is subject to this prohibition, unless the individual falls within one of the following three exceptions listed in 18 U.S.C. § 930(d):

- (1) the lawful performance of official duties by an officer, agent, or employee of the United States, a state, or political subdivision thereof, who is authorized by law to engage in or supervise the prevention, detection, investigation, or **prosecution** of any violation of law;
- (2) the possession of a firearm or other dangerous weapons by a federal official or member of the Armed Forces if such possession is authorized by law; or
- (3) the lawful carrying of firearms or other dangerous weapons in a federal facility incident to hunting or other lawful purposes.

USAs and AUSAs do not meet the (d)(1) exception, as they are not authorized by a specific Federal statute to carry firearms as part of their official duties. The Office of the Deputy Attorney General (DAG) issued an opinion on June 7, 1995, stating it is the Department's policy that USAs and AUSAs who are not deputized may not carry firearms at any location while performing official duties at any time, even if not precluded from doing so or if authorized to do so (such as by possession of a license or permit) under state law.

Please contact Tommie Barnes, Assistant Director, for more information regarding the procedures for requesting deputation.

### **CONTACTS**

Administrative Officer, District Office Security Manager  
United States Attorney's office  
or  
Tommie Barnes  
Assistant Director  
Security Programs Staff, EOUSA  
(202) 616-6878

## CREDENTIALS AND IDENTIFICATION CARDS

### REQUEST FOR CREDENTIALS

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If an employee departing the DOJ wants to keep their credential as a memento, a memorandum with the credential enclosed, signed by the United States Attorney, may be sent to Tommie Barnes, Assistant Director, SPS, requesting the credential be "voided." SPS will coordinate the request with JMD. The district may keep the credential case.

#### IDENTIFICATION CARDS

USAOs may issue permanent identification cards by ordering blank identification cards from the General Services Administration (GSA) by submitting GSA Optional Form 55, purchasing and operating an Identification Card production system, or by contracting out this service.

#### CONTACTS

District Office Security Manager  
United States Attorney's office  
or  
Tommie Barnes  
Assistant Director  
Security Programs Staff, EOUSA  
(202) 616-6878

#### REQUESTS FOR CREDENTIALS SHOULD BE MAILED TO:

D. Jerry Rubino, Director  
Security and Emergency Planning Staff  
Justice Management Division  
Physical Security Group, Room 6532  
Attention: Diane Alison  
Department of Justice  
950 Pennsylvania Ave., N.W.  
Washington, D.C. 20530-0001

JMD CONTACT:  
Diane Alison or Tina Johnson  
Justice Management Division  
(202) 514-2314 or (202) 514-4667

## **PERSONAL FOREIGN TRAVEL**

Persons currently approved for Sensitive Compartmented Information (SCI) access who plan unofficial travel to or through, or who are being assigned to duty in, foreign countries must provide the Department Security Officer through the Component Security Programs Manager, advance written notice of the travel. Form DOJ 504 "Notification of Foreign Travel" may be used for this purpose. All other employees, including those with NSI clearances, are no longer required to report foreign travel.





## **RESOURCE MANAGEMENT AND PLANNING**

**Steve Parent**  
**Deputy Director**  
**(202) 616-6886**

**Alison Miner**  
**Assistant Director**  
**Formulation Staff**  
**(202) 616-6892**

**Mary Ellen Wagner**  
**Assistant Director**  
**Execution Staff**  
**(202) 616-6886**

The Deputy Director, Resource Management and Planning (RMP), manages staffs responsible for the areas of budget formulation, financial management, and long-range planning. All accomplishments of the United States Attorneys' offices (USAOs) are driven by the availability of funds, managed by the Deputy Director for RMP. The RMP staff manages FTE allocations and a budget in excess of \$1.3 billion on behalf of the United States Attorneys. From the time the staff consolidates resource needs and formulates an annual budget submission for presentation to the Department, Office of Management and Budget, and Congress, to the accountability reports at the end of a fiscal year, the RMP staff support is central to the functioning of the USAOs. The staff also develops and reports on performance measures for the United States Attorneys by the Government Performance and Results Act.

### **BUDGET FORMULATION STAFF**

This staff prepares formal budget requests to the Attorney General, the Office of Management and Budget, the Office of National Drug Control Policy, and the Congress for funding in support of direct programs, Organized Crime Drug Enforcement Task Forces, the Asset Forfeiture Fund, and the National Drug Control Budget. These budget requests are developed after review and analysis of formal submissions from the USAOs. The budget formulation staff develops new initiatives for submission during the alternate years with input from the USAOs and others within the Department.

It prepares briefing materials for Department policy officials for use in Departmental, Office of Management and Budget (OMB), Congressional hearings, and responds to Departmental, OMB and Congressional inquiries concerning budget requests.

It provides staff support to a working group of U.S. Attorneys and the Chairs of the Civil and Criminal Working Groups to develop and update the U.S. Attorneys' portion of the Department's five year Strategic Plan. The Strategic Plan is then used as the foundation for the development and refinement of performance indicators, outputs, and outcomes in order to meet the requirements of the Government Performance and Results Act.

It provides staff support to a working group of U.S. Attorneys who recommend to the Attorney General an allocation of new attorney, paralegal, and support positions based on the enacted budget.

#### **BUDGET EXECUTION STAFF**

This staff develops an operating plan for the annual and no-year (money that does not have to be spent by the end of the fiscal year) appropriations. It manages Reimbursable Authority for over 300 active agreements totaling in excess of \$157 million.

It develops budget operating plans for each of the 94 USAOs to include payroll, litigation, supplies, equipment, overtime, training, and other categories of expenses.

It analyzes expenditures against the direct appropriation and other sources of funding, and continually monitors the Department's Financial Management Information System to ensure that all data is accurately reflected for every source of funding.

It develops and maintains payroll and accounting systems to assist USAOs and EOUSA in tracking FTE and costs.

It coordinates with the Criminal Division, Office of International Affairs, and the Department of State the approval of all foreign travel.

It approves all employee relocations and prepares the necessary paperwork to effect the transfer.

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## **FEDERAL BUDGET PROCESS**

The Federal budget process follows a predictable annual cycle, and United States Attorneys are involved in (1) identifying resource needs and providing supporting data for the “Spring Call” request, (2) formulating an annual district budget request, and (3) executing an approved budget (funds control).

### **BUDGET FORMULATION CYCLE**

During the spring of each year, Resource Management and Planning (RMP) of the Executive Office for United States Attorneys (EOUSA), in conjunction with the Attorney General’s Advisory Committee’s (AGAC) Office Management and Budget Subcommittee, identifies resource needs and provides data to support those needs for the upcoming budget year (i.e., two years from the current fiscal year) for direct programs and Organized Crime Drug Enforcement Task Forces. This is commonly known as the “Spring Call” but is actually the United States Attorneys’ budget request to the Attorney General. RMP, in conjunction with the AGAC, formulates one budget submission to the Department. After hearings with the Attorney General and officials of the Justice Management Division, the Attorney General provides EOUSA with a supported funding level, and the submission to the Office of Management and Budget (OMB) is prepared. From the decisions provided by OMB, EOUSA submits the proposed United States Attorneys’ budget to Congress and begins the process of responding to the Congress, preparing and attending Congressional hearings.

### **BUDGET EXECUTION CYCLE**

The United States Attorneys’ primary appropriation (salaries and expenses) is a one-year budget which expires at the end of the fiscal year. Funding cannot be carried over from one fiscal year to the next. The Federal Government’s fiscal year begins on October 1 and ends on September 30.

If the appropriation is not enacted by October 1, a continuing resolution (CR) is enacted, allowing the United States Attorneys to continue essential services. Due to the reduced level of funding provided by a CR, however, EOUSA might have to ask offices to curtail all non-litigation related expenditures and hiring. The cooperation of United States Attorneys’ offices (USAOs) is crucial during a CR.

RMP will provide USAOs with base operating budgets at the beginning of the fiscal year. Enhanced funding requests will be reviewed once an appropriation has been enacted. This delay in providing enhanced funding is necessary so that EOUSA can compare the enacted funding level with mandatory expenses such as payroll, unfunded pay increases, and General Services Administration (GSA) rent. Once these mandatory expenses are covered, RMP considers requests from USAOs for enhanced funding levels.

## DISTRICT BUDGETS

Each USAO has an assigned budget analyst on the RMP. The RMP analysts' duties include, among other tasks, reviewing their assigned USAOs' funding requests, providing guidance in the management of their budgets, and assistance with automated systems. The RMP analysts are available to provide on-sight assistance if necessary, and they participate as members of administrative evaluations conducted by the EARS. RMP analyst assignments to USAOs may be found on the RMP website.

Each USAO receives a budget which supports a variety of expenses necessary to conduct daily business. This base budget is formulated on the historical expenditures in each category. USAO administrative offices identify and justify factors that will necessitate an increase to this base level. Generally, if a request for an increase to base funding levels cannot be supported by a demonstration of an increase in expenditures for a period of two to three years, a one-time increase will be provided. This one-time increase will assist the USAO with meeting the anticipated increase in expenditures.

One time increases are provided to supplement the USAOs budgets in the event a large expenditure of funds is anticipated that cannot be absorbed through existing funds. The administrative staff of the USAO is responsible for identifying and justifying the need for the increase.

The Office of Management and Budget disburse appropriated funds in quarterly apportionments. Therefore, the budgets provided to the USAOs are also apportioned quarterly. USAOs must monitor and track expenses to ensure funding levels are not exceeded. Several automated systems are available to the administrative offices to assist them with this responsibility. In addition, RMP has established and disseminated the necessary funding controls and procedures to all USAOs.

## CONTACTS

Steve Parent  
Deputy Director  
Resource Management and Planning, EOUSA  
(202) 616-6886

or

Administrative Officer or Budget Officer  
United States Attorney's office

## RESOURCE MANAGEMENT

### PERSONNEL

Each United States Attorney's office (USAO) receives an annual allocation of work years [full-time equivalents (FTE)] divided into employment categories: United States Attorneys, Assistant United States Attorneys, Paralegals, Support, and Students (Appendix 15-1), and also an allocation of funding for payroll and operating expenses. Payroll budgets are allocated at the prior year's level and then adjusted in the current year to include locality and comparability pay raises, attorney pay reviews, and within-grade increases, if the appropriation is enacted at a level that will support these increases. If additional positions are authorized by Congress, half-year payroll funding is generally allocated once decisions are made.

FTE can be monitored using reports from the USAPAY system. The program used to generate data on FTE allocations and spending is called the FTEBOTH (Appendix 15-2). It is each United States Attorney's responsibility to remain within the allocated level and to refrain from initiating personnel actions which will result in exceeding that level.

Appendices 15-3 and 15-4 provide examples of allowance and operating plan budgets, respectively. The example allowance plan budget is separated into three programs: Direct, Health Care Fraud, and Organized Crime Drug Enforcement Task Force (OCDETF). Currently, allowance districts receive funding for eleven categories of expenses (payroll, overtime, awards, travel, training, litigation, supplies, library, furniture and equipment, miscellaneous alterations, and Law Enforcement Coordinating Committee/Victim-Witness). The sample operating plan budget is also separated into the same three programs. Operating plan districts are responsible, however, for managing five additional funding categories: transportation, telecommunications, copy machines and other rentals, miscellaneous services, and printing.

Because the United States Treasury needs to borrow funds/cash to pay federal bills, and interest must be paid on the actual amount borrowed, federal agencies are required to operate on a quarterly spending plan. Accordingly, dollar allowances are further subdivided in quarterly and cumulative amounts.

### MONITORING

USAOs are required to track expenses/obligations against each of the funding categories and submit a Quarterly Report of Obligations Incurred at the end of the second quarter ending March 31 and the third quarter ending June 30, providing actual expenditures and year-end projections for each funding category.

Resource Management and Planning (RMP) uses these quarterly reports as an integral tool in preparing Status of Funds reports for Department of Justice policy level officials. The reports are very important as they represent an accurate portrayal of actual obligations.

At mid-year in the fiscal year (reports for the six months ending March 31), the Executive Office for United States Attorneys (EOUSA) reviews all USAO spending. These reviews usually result in notification/recommendations to the USAO that (1) its overall spending trend is excessive and actions need to be taken to curtail expenditures, (2) transfers between categories must be considered, (3) a potential surplus is evident, and it could be reserved for emergency purposes or allocated to the United States Attorneys in support of office operations, or (4) a potential deficit is evident.

## **DISTRIBUTED BUDGET MODULE**

The Distributed Budget Module (DBM) is an automated system within the Financial Management Information System used by the RMP to distribute and adjust district budgets. The DBM provides a mechanism for the districts to review expenditures, transfer funds (within guidelines), monitor expenditures, review historical data, and submit the quarterly reports.

## **CONTACTS**

Administrative Officer or Financial Manager  
United States Attorney's office

or

District Budget Analyst  
Resource Management and Planning, EOUSA  
(202) 616-6886

## **THIRD-PARTY CHECK PROGRAM**

The United States Attorneys' offices (USAOs) pay most of their operational expenses locally through the Third-Party Check Program. The check issued by the USAO is drawn against a contractor (currently Mellon Bank) who ultimately presents the check through the banking system to the Department of Justice for Treasury reimbursement.

Third-party checks are used to pay many operational expenses incurred by USAOs, most importantly, litigation requirements and travel reimbursements. These checks also can be used to pay On-the-Spot Awards for USAO employees (based on availability of the district's awards funding) upon United States Attorney approval. These checks cannot be used for payroll disbursement or salary advances. Administrative Officers are knowledgeable of other uses and restrictions of the third-party check program. Currently there is a \$10,000 limit on each non-travel payment and travel reimbursement. Travel reimbursements and non-travel payments exceeding \$10,000 are made by Treasury.

With the advantage and flexibility of having a negotiable instrument on-site to pay vendors and employees also comes the responsibility of ensuring that the program is not abused. This is accomplished through the self-certification program, the evaluations performed by the Evaluation and Review Staff of EOUSA, and Compliance Reviews by the Justice Management Division.

### **CONTACTS**

Third-Party Payment Clerk  
United States Attorney's office  
or  
Michelle Evelyn  
Travel Payment Module  
Resource Management and Planning, EOUSA  
(202) 616-6895  
or  
District's Budget Analyst  
Miscellaneous Payment Module  
Resource Management and Planning, EOUSA  
(202) 616-6886



## **FINANCIAL DELEGATIONS**

United States Attorneys are responsible for managing three funding sources through the DBM. (NOTE: There are miscellaneous funding allocations which the United States Attorneys are also responsible for managing. See "Special Funds and Accountability," p. 15-11.) In the 39 **allowance plan** districts, United States Attorneys receive quarterly allocations of funding for 11 categories of expenses (including payroll) for direct, Violent Crime Reduction Program, Health Care Fraud, and Organized Crime Drug Enforcement Task Force (OCDETF) operations. In the 54 **operating plan** districts, the United States Attorneys have an expanded number of categories to manage. Both allowance and operating plan districts create obligations and issue third-party checks from the Financial Management Information System (FMIS), the Department's automated accounting system. Through the data in FMIS, expenditures against the United States Attorneys' appropriation are reported to Treasury.

## **CONTACTS**

Administrative Officer or Financial Manager  
United States Attorney's office  
or  
District Budget Analyst  
Resource Management and Planning, EOUSA, (202) 616-6886

## **SPECIAL FUNDS AND ACCOUNTABILITY**

In addition to the “Salaries and Expenses of the United States Attorneys” appropriation, others fund the operations of the United States Attorneys’ offices (USAOs) on a reimbursable basis (i.e., the United States Attorneys’ appropriation is provided funds beyond those appropriated by Congress by entering into agreements with other agencies or departments). These reimbursement agreements, whether the district is performing or requesting the service of the other agency, must be executed through the Deputy Director, Resource Management and Planning, Executive Office for United States Attorneys (EOUSA), unless the United States Attorney has been delegated the authority to sign reimbursement agreements which is the case for the following programs: High Intensity Drug Trafficking Areas (HIDTAs), Weed and Seed activities, and Southwest Border Local Initiatives.

### **HEALTH CARE FRAUD INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPPA)**

The HIPPA provided funding for 167 positions dedicated to combating health care fraud. These positions were allocated by the Director of EOUSA on January 13, 1997, and must be used to supplement and not supplant existing health care fraud resources. For example, if a USAO expended one criminal attorney FTE in 1996 on health care fraud and was allocated one health care fraud attorney as a result of HIPPA, the office must show a minimum of two criminal attorney FTEs in future years.

Positions allocated as a result of HIPPA are clearly identified as such on the work year allocation chart issued to each office, under the “reimbursable work years” section. In addition, the funding is provided via the Distributed Budget Module and must be expended in support of health care fraud. There are no exceptions to this requirement.

### **ORGANIZED CRIME DRUG ENFORCEMENT TASK FORCE (OCDETF) OPERATIONS**

The United States Attorneys’ OCDETF operations are funded by a separate appropriation—the Interagency Law Enforcement Appropriation. In an effort to coordinate better the efforts of multiagencies in the war against major drug traffickers, the funding resources for all OCDETF participating agencies are consolidated into one appropriation. Funding for the districts’ OCDETFs is provided in a separate budget with specific accounting information to monitor the expenses of this program.

## HIGH-INTENSITY DRUG TRAFFICKING AREAS (HIDTAs)

Districts in designated HIDTA regions receive funding transferred to the United States Attorneys' appropriation by the Office of National Drug Control Policy (ONDCP). In addition to the resources received from ONDCP, funds in support of the newly-designated Appalachia HIDTA were appropriated directly to the United States Attorneys beginning in the Fiscal Year 1998 appropriation. Detailed accounting information and funding authorized by initiative is provided under separate cover to each of the affected offices. The 26 designated HIDTA regions contain 62 USAOs.

## FEES AND EXPENSES OF WITNESSES (FEW) APPROPRIATION

The Director of EOUSA receives an allotted share of the total expert witness funding from the FEW Appropriation. Resource Management and Planning monitors the Expert Witness and Mental Competency Examination programs of the FEW account. The FEW Appropriation is comprised of five specific activities: (1) Fact and Expert Witnesses, including mental competency exams and Emergency Witness Assistance Program (EWAP); (2) Protection of Witnesses; (3) Superior Court Informants Program; (4) Victim Compensation Fund; and (5) Private Counsel (for legal services for government employees who are sued for actions committed in their official capacity).

## OFFICE FOR VICTIMS OF CRIME, OFFICE OF JUSTICE PROGRAMS

The Office for Victims of Crime (OVC) operates four programs that directly assist United States Attorneys and their staffs in providing and improving services for federal crime victims. United States Attorneys can access the following programs:

**The Federal Crime Victim Assistance Fund** provides direct services to victims of federal crimes when necessary services are not available locally, including crisis intervention counseling, emergency shelter associated with a crime victimization, and transportation for the victim to participate in criminal justice proceedings.

**The District Specific Training Program** provides funding for federal districts to provide victim assistance training to federal criminal justice officials.

**The Training and Technical Assistance Fund** provides financial assistance to cover travel and miscellaneous expenses for Victim-Witness Coordinators and Assistant United States Attorneys to attend training conferences on victim-witness issues.

**The Model Pilot Program** provides OVD funding to selected districts for specific training and technical assistance in support of victims of domestic violence, white collar crime, violent crime, etc.

**The Trainers' Bureau Program** provides expert victim assistance trainers for local training events.

**The Immediate Response to Emerging Issues Program** provides consultants, trainers, or other professionals to assist districts experiencing mass crime victimizations such as multiple homicides, drive-by shootings, gang violence, etc.

In addition, in 1998, OVC provided United States Attorneys \$12 million to support 94 Victim Witness Coordinators and Advocates. In FY 1999, OVC provided resources to annualize these positions. FTE for the positions are included on the work year allocation chart in the reimbursable section. The positions and funding are tracked separately via the FMIS accounting system and are earmarked to support improved services to victims and witnesses in the Federal criminal justice system.

#### ASSET FORFEITURE FUND

The Anti-Drug Abuse Act of 1986 authorized the use of the United States Marshals Service Asset Forfeiture Fund to pay certain asset-specific and program-related expenses. Beginning in Fiscal Year 1989, however, United States Attorneys were authorized funding resources specifically for asset forfeiture-related activities. The United States Attorneys receive suballotted funding for extraordinary litigation expenses, special contract services (i.e., Dyncorp contract employees), ADP equipment and software for Dyncorp contract employees, Attorney General Advocacy Institute-sponsored training conferences, district-sponsored Law Enforcement Coordinating Committee (LECC) asset forfeiture training conferences, costs associated with the implementation of the Consolidated Asset Tracking System (CATS), and criminal asset forfeiture training which takes place in the district and is coordinated by EOUSA.

#### VIOLENT CRIME TASK FORCES

Congress "earmarked" \$15 million of no-year funds in the United States Attorneys' Fiscal Year 1995 appropriation to combat violent crime. The funding supported the efforts of the United States Attorneys' Violent Crime Task Forces by supplementing funds already available to the task forces and to initiate new task forces. Seventy-four districts received funds in support of 146 task forces. The funding obtained needed equipment, hired support staff for the task forces, and to reimbursed participating state and local agencies for overtime for task force officers.

### THREE-PERCENT FUND

In accordance with the Department's 1994 Appropriations Act, the Attorney General is authorized to deposit (as offsetting collections) up to three percent of the Department's civil cash collections into the Department's Working Capital Fund. Money deposited into the Three-Percent Fund is used, following Congressional notification, to enhance the resources available to the Department's components engaged in civil debt collection litigation.

### OFFICE OF COMMUNITY ORIENTED POLICING SERVICES (COPS)

The Office of COPS transfers funds to the United States Attorneys' Appropriation to support Law Enforcement Coordinating Committee training and technical assistance to state, local, and tribal police agencies. These funds are available until they are expended. Currently, 62 districts receive COPS funding to provide community policing training.

### WEED AND SEED

Weed and Seed funding provides assistance to communities, including assistance for investigating and prosecuting violent crimes and drug offenses in Weed and Seed designated communities. To maximize available resources, Weed and Seed grants are often integrated with other federal, state, local, and private sector funds. In a spirit of cooperation, agencies set out to accomplish the long-range goal of revitalizing neighborhoods so citizens may live, pursue opportunities, and raise their families in a crime-free environment.

In recognition of the dedicated efforts of the USAOs and to aid further implementation of Weed and Seed programs, the Office of Justice Programs has made available \$2,850,000. Weed and Seed funding for specific initiatives and purposes is requested and approved by the Assistant Director, LECC/VW Staff.

## OTHER AREAS OF ACCOUNTABILITY

Congressional interest regarding recent initiatives compels USAOs to account for certain expenses separately, to enable them to respond accurately to Congressional representatives and Department policy officials. One such area is the **Organized Crime and Racketeering Strike Forces**, which were transferred to the United States Attorneys from the Criminal Division. Services or goods purchased by the USAOs in support of an Organized Crime Strike Force are identified separately in the payroll system. Twenty-three districts have Organized Crime and Racketeering Strike Forces: Central and Northern California, Connecticut, Middle and Southern Florida, Northern Georgia, Hawaii, Northern Illinois, Eastern Louisiana, Massachusetts, Eastern Michigan, Western Missouri, Nevada, New Jersey, Eastern, Northern, and Western New York, Northern Ohio, Eastern Pennsylvania, Rhode Island, Southern Texas, Western Washington, and Oregon.

The Law Enforcement Coordinating Committee/Victim-Witness (LECC/VW) program also requires separate accountability. Districts receive a special allowance for expenses in support of LECC/VW activities. These expenses are identified as "LECC" in the accounting system.

A third area of interest requiring separate accountability is the Alternative Dispute Resolution (ADR) program. The ADR program is designed to enhance the public's access to justice by reducing delays and costs associated with litigation. These expenses are identified as "ADR" in the accounting system.

## CONTACTS

Administrative Officer or Financial Manager  
United States Attorney's office  
or  
District Budget Analyst  
Resource Management and Planning, EOUSA  
(202) 616-6886

## TRAVEL

### AUTHORITY

United States Attorneys may authorize their own travel (except foreign and first class) as well as that of their subordinates anywhere within the United States by common carrier; personal vehicle (auto or airplane); or car rental, either commercial or through the General Services Administration. In accordance with DOJ Order 2200.4(g), this authority is extended only to field component heads who report directly to senior component officials in Washington, D.C.

United States Attorneys may redelegate their authority to approve travel to a position that is a higher level than the traveler. In addition, the United States Attorney may authorize non-federal travel to be reimbursed by a non-federal entity only after the Legal Counsel, Executive Office for United States Attorneys, considers ethics issues and/or travel reimbursement and approves the reimbursement from the non-federal entity.

### PER DIEM AND ACTUAL SUBSISTENCE

United States Attorneys may also authorize per diem and actual subsistence to designated and non-designated high-rate areas, and other official miscellaneous expenses such as official telephone calls charged by hotel or commercial communication services. The United States Attorneys are delegated authority to authorize, in cases of emergency, local travel expenses and the use of cash in excess of \$100 for commercial transportation, i.e., bus, subway, and taxi fares.

Effective May 1, 1997, the General Services Administration, the Department of State, and the Per Diem, Travel and Transportation Allowances Committee of the Department of Defense, have amended the travel regulations to permit agencies to authorize actual subsistence reimbursement up to 300 percent of per diem for travel within or outside the Continental U.S. and in foreign countries. This authority may be exercised for travel circumstances in which actual subsistence up to 150 percent of per diem was formerly authorized. (See pp. 24,431 through 24,437 of the May 5, 1997, Federal Register; and pp. 30,280 through 30,297 of the June 3, 1997, Federal Register.)

In accordance with the Federal Travel Regulations, Part 301-8.1(b), the United States Attorneys may redelegate their authority to approve actual subsistence two levels below their position.

## TRAVEL OBLIGATION AND PAYMENT

Each district receives a travel allowance for the district's direct (including asset forfeiture), Health Care Fraud, Violent Crime Reduction Program, and Organized Crime Drug Enforcement Task Force (OCDETF) programs. This allowance funds necessary travel resulting from litigation or training-related travel.

All districts are responsible for completing travel authorizations and entering travel obligations in the Financial Management Information System (FMIS) before the travel takes place. If this does not happen, the automated FMIS travel module will reject submitted travel vouchers. Each district has a travel training booklet as well as the Department of Justice Travel Regulations describing proper procedures. Through the use of the third-party check module, districts can reimburse employees for travel expenses after the travel voucher is completed. Through the travel payment system, advances issued by third-party checks can be automatically liquidated upon payment of the voucher.

## CONTACTS

Administrative Officer  
United States Attorney's office  
or  
District Budget Analyst  
Resource Management and Planning, EOUSA  
(202) 616-6886



## FOREIGN TRAVEL

### POLICY

#### Executive Office for United States Attorneys (EOUSA)

Foreign travel must be approved when it is for official business. **The Deputy Attorney General approves official foreign travel for United States Attorneys and the Deputy Director, Resource Management and Planning, approves foreign travel for other United States Attorney's office (USAO) personnel.** These approvals are authorized in conjunction with the required Department of State and Office of International Affairs (OIA) efforts outlined below. (For personal foreign travel, please refer to the Security section of this manual for notification requirements.)

#### Department of State

The Department of State obtains host-country clearance for the traveler visiting abroad. The American embassy in the country to be visited is notified to assure that the travel is consistent with national security objectives.

#### Office of International Affairs

OIA aids attorneys in meeting the objectives of foreign travel and assures that efforts in connection with the contemplated travel do not conflict with ongoing law enforcement initiatives and/or treaty requirements.

### REQUIREMENTS

EOUSA and OIA should be notified of foreign travel plans at least three weeks before the date of departure, or as soon as the attorney knows he will travel abroad. Additional justification is required when more than one Assistant United States Attorney will be traveling on a case. Multiple foreign travel authorizations for defendants, counsel, technicians, etc., must be accompanied by a court order mandating the travel. The process for foreign travel usually takes 10 to 12 days, and attorneys are asked not to travel until they are authorized to do so.

### PASSPORTS AND VISAS

A valid passport is necessary for foreign travel (including Canada). A tourist or official passport may be used for travel. Passport applications can be submitted through a post office, courthouse, or passport office. Official passport applications will be mailed to Washington, D.C., for processing. If time restricts obtaining an official passport, a tourist passport can be

issued at the nearest passport office. Visas may also be required for certain countries and may be obtained from a consulate near you or the country's embassy in Washington, D.C.

## CONTACT

Michelle Evelyn  
Budget Analyst  
Resource Management and Planning, EOUSA  
(202) 616-6895

## RELOCATION

The Department provides relocation services and expenses for employees who are being transferred when the transfer is in the best interest of the government.

The Deputy Director of Resource Management and Planning, Executive Office for United States Attorneys (EOUSA), has authority to approve relocation expenses. Expenses may not be incurred before relocation is approved. Requests for relocation expenses must be accompanied by a justification which conclusively demonstrates consistency with DOJ's relocation policy, an estimate of relocation expenses, and the budget categories or full-time equivalent (FTE) levels that will be used to offset the costs.

Under General Accounting Office rulings, relocation expenses will be paid only if the relocation is certifiably in the best interest of the government. Previous policy limited this standard to the following circumstances:

- a managerially directed relocation,
- a relocation for the health and/or safety of the employee, or
- a relocation necessitated by the inability to staff a position with a qualified applicant from within the local commuting area.

No separate fund exists for the payment of relocation expenses. They are paid from the district's budget allocation. Therefore, the expenses are paid through a combination of reduced financial allowances and work force levels.

### WHO MAY BE REIMBURSED

Employees transferred to DOJ from another government agency, in the best interest of the government, are eligible for reimbursement regardless of the type of appointment from which they are transferred or to which they are being transferred. Appointees to the Senior Executive Service, to Presidentially appointed positions for which the pay is equal to or greater than the minimum pay of GS-16, appointees to positions designated as within a manpower shortage category, and special agents are eligible for **limited** relocation reimbursement. Dependents of the employee; i.e., spouse, children, dependent parents, and dependent brothers and sisters, are eligible for reimbursement. Newly hired, non-government employees are eligible for limited relocation expenses.

## **REQUIREMENTS FOR REIMBURSEMENT**

To be eligible for reimbursement of relocation expenses, the new duty station must be at least 10 miles farther from the employee's residence than the old duty station, and (in the case of a short distance transfer) must require a longer commuting time from the old residence than from the new. The relocation must be incident to the transfer.

## **CONTACT**

**Michelle Evely  
Budget Analyst  
Resource Management and Planning, EOUSA  
(202) 616-6895**

## **OFFICE CONFERENCE GUIDELINES**

### **POLICY STATEMENTS**

District conferences shall be conducted and reasonably funded in a consistent manner nationwide. Agendas shall be directly related to the mission of United States Attorneys' offices, and attendance shall be limited to district employees and individuals with expertise in the agenda subjects.

### **SCHEDULING**

Office conferences should be held January through September. This avoids Continuing Resolution problems in the first quarter and allows time for an assessment of available funds following Congressional approval of fiscal year funding.

### **DURATION**

Office conferences should be limited to one and a half days, with lodging provided for the evening of the first day, if necessary.

### **ATTENDEES**

Attendance at conferences should be closely scrutinized and care should be taken to invite only those employees from outside of the district who have specific expertise and who will participate directly in the agenda.

### **AGENDA**

Care should be taken to ensure that conferences cannot be misconstrued as social events at public expense. Each United States Attorney should examine the agenda to assure that topics are directly related to the mission of their office (e.g., new legislation, office policy and procedure, etc.). Conference proceedings should encompass at least eight hours if scheduled on a normal work day and at least six hours if scheduled on a Saturday, Sunday, or holiday for which travel or meal expenses are being paid by the government.

## SITE SELECTION

A conference site that minimizes common carrier transportation expenses and that is most economical for the government (if such expenses are being reimbursed to employees) should be selected. For districts with branch offices, it is best if the conference is held near the largest office.

Price quotations should be obtained from at least three hotels/motels in the selected location.

## FUNDING

Office conferences are funded through savings from other allowance/financial areas. For expenses incurred through the purchase requisition/order route (not normally charged to an allowance category), it will be necessary to offset the expenses through a reduction to the district's allowances for travel, training, supplies, etc. Accordingly, all offices must notify EOUSA, RMP, of all planned office conferences and the estimated cost, so that a budget adjustment can be affected to offset the cost.

## EXPENSES

Travel and subsistence expenses associated with conference attendees will be charged to the sponsoring district's budget.

Working meals must be approved in advance by EOUSA if the office conference will be held at the official duty station. They should be submitted to EOUSA (Deputy Director, Resource Management and Planning) at least two weeks before the conference. The maximum amount payable by the government is equivalent to the Meals and Incidental Expenses (M&IE) rate for that location.

The maximum lodging amount is the **normal** amount specified for the site. While the United States Attorney has the authority to approve actual subsistence when justified, office conferences should not be held in a high-cost area.

## DEVIATIONS

Departures from these guidelines require the prior written approval of the Director of EOUSA.

## CONTACTS

Administrative Office  
United States Attorney's office  
or  
District Budget Analyst  
Resource Management and Planning, EOUSA  
(202) 616-6886

## **FUNDING SOURCES FOR TRAINING**

### **TRAINING FROM A PRIVATE SOURCE**

In addition to courses sponsored by the Office of Legal Education, district personnel may also take advantage of training from other sources, including Office of Personnel Management; General Services Administration; Department of Justice Training Center; and private vendors including colleges, universities, and bar associations.

Each United States Attorney's office receives a training allowance for Direct, health care fraud, and Organized Crime Drug Enforcement Task Force personnel. This allowance covers tuition for private courses only. Travel expenses to attend the course are funded through the district's travel allowance.

### **LAW ENFORCEMENT COORDINATING COMMITTEE (LECC) TRAINING**

LECC/Victim-Witness (VW) training and travel is charged to the district's LECC/VW allowance.

### **DISTRICT SPONSORED TRAINING**

Resource Management and Planning should be consulted if several districts will co-sponsor an event and expenses will be shared proportionately.

### **ASSET FORFEITURE TRAINING**

The Executive Office for United States Attorneys is provided a sub-allotment from the Asset Forfeiture Fund to sponsor Attorney General's Advocacy Institute asset forfeiture training seminars, district on-site asset forfeiture training, and district sponsored LECC asset forfeiture training.

### **CONTACTS**

Administrative Officer  
United States Attorney's office  
or  
District Budget Analyst  
Resource Management and Planning,  
EOUSA  
(202) 616-6886

For LECC/VW Asset Forfeiture  
Conferences:  
Barbara Walker  
Assistant Director  
LECC/VW Staff, EOUSA  
(202) 616-6792

For In-House Asset Forfeiture Training:  
Larry Wszalek  
Legal Programs Staff, EOUSA  
(202) 616-6444



## District of America

### FY 2001 WORK YEAR ALLOCATIONS

	<u>AUSA</u>	<u>PARALEGAL</u>	<u>SIS</u>	<u>SUPPORT</u>	<u>TOTAL</u>
U.S. ATTORNEY DIRECT	40.48	8.18		32.15	1.00 80.81
OTHER WORKYEARS ALLOCATED	2.88	1.88		3.41	3.17
DETAILS (listed below)	1.00	0.00		0.00	1.00
SUBTOTAL DIRECT	44.36	10.06		35.56	90.98
STAY-IN-SCHOOLS (SIS)*			8	4.80	4.80
TOTAL DIRECT	44.36	10.06		40.36	95.78
REIMBURSABLE WORKYEARS					
OCDETF	9.40	0.94		6.58	16.92
DETAILS (listed below)	0.00	0.00		0.00	0.00
ACE**	1.00	1.00		2.00	4.00
HEALTH CARE FRAUD**	2.00	1.00		1.00	4.00
OVC****				2.00	2.00
FIREARM	2.00				2.00
	58.76	13.00		51.94	124.70
DETAILS:					
MARK BARRETT (1.0 AUSA TO BE RESCINDED)					
LYNNE KUBIK/OK BOMB THRU 2000 (NO FTE)					

  
 Office of the Principal Associate Director

\*.6 FTE per number of SIS provided.

\*\*If a vacancy exists in your ACE and HCF positions, you may fill that position even if you are over your Direct, VCRP and/or OCDETF allocation levels.

\*\*\* OVC Funded Victim/Witness Coordinator Positions are shown as Paralegal, and Advocate Positions are shown as Support. If a vacancy exists in your OVC positions, you may fill that position even if you are over your Direct or OCDETF allocation levels.

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\*\*\*\*\*  
To: Administrative Officer From: Charlotte A. Saunders  
District of America Assistant Director, Execution  
Resource Management & Planning

Direct data includes personnel assigned to Asset Forfeiture Account.

VCRTF data includes Immigration, VAMA and SU Border positions.

Subject: FY 2001 FTE Status Report

Date: 02/26/01 - Report run at 08.32.32 Source: USAPAY

Your FTE allocations and availability by job classification through pay period 22, ending 11/04/00, are as follows:

FTE (FTP and OTFTP)			Other FTE (Next to vacancy/backfill)	
ALLOCATION	FTE USED	AVAILABILITY		ALLOCATION
ATTORNEYS 24.00	3.46	20.54	ATTORNEYS	.00
PARALEGALS 6.00	.67	5.33	PARALEGALS	.00
SUPPORT 222.50	22.51	199.99	SUPPORT	.00
STUDENTS 8.40	.55	7.85	STUDENTS	.00
260.90				.00

A further breakdown appears below. If you have questions regarding your FTE status, contact your Budget Analyst on (202) 616-6886.

POSITION	Workyears used			PP22 Onboard			Projected use based on PP22 Employees onboard				OVER(-) UNDER(+) CEILING
	FTE USE	OTHER USE	TOTAL USE	CURR FTP ONB	CURR OTN ONB	CURR ONB TOTAL	PROJ E-O-Y FTP FTE	PROJ E-O-Y OTN FTE	PROJ E-O-Y TOTAL		
ATTORNEYS	3.19	.27	3.46	34	4	38	33.47	2.62	36.09	-12.09	
PARALEGALS	.67	.00	.67	7	0	7	6.99	.00	6.99	-.99	
SUPPORT	21.87	.64	22.51	226	9	235	225.96	6.77	232.73	-10.23	
STUDENTS	.01	.54	.55	0	11	11	.01	5.67	5.68	2.72	
*Total EOUSA	25.74	1.45	27.19	267	24	291	266.44	15.06	281.50	-20.60	

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U.S. ATTORNEY'S DBM REPORT (\$HABDGT)  
 FOR 0103 FY: 01  
 District of America  
 11.16.56  
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ACCOUNT -----	QTR1 ----	QTR2 ----	QTR3 ----	QTR4 ----	TOTAL -----	ONE TIME	CUM. 1 TIME MOVED
DIRECT							
PAYROLL	806.0	805.0	806.0	806.0	3223.0	.0	.0
OVERTIME	.4	.4	.4	.3	1.5	.0	.0
AWARDS	.4	.2	.2	.2	1.0	.0	.0
*TOTAL	806.8	805.6	806.6	806.5	3225.5	.0	.0
TRAVEL	7.5	7.4	7.4	7.4	29.7	.0	.0
TRAINING	.5	.5	.4	.5	1.9	.0	.0
LITIG	27.6	27.6	27.5	27.5	110.2	.0	.0
MISC ALT	.3	.3	.3	.3	1.2	.0	.0
SUPPLIES	7.5	7.5	7.5	7.5	30.0	.0	.0
LIBRARY	35.0	5.0	.0	.0	40.0	.0	.0
FURN/EQU	.8	.8	.8	.8	3.2	.0	.0
LECC/VW	1.4	1.4	1.4	1.4	5.6	.0	.0
NON-PERS	.0	.0	.0	.0	.0	.0	.0
*TOTAL DIRECT	887.4	856.1	851.9	851.9	3447.3	.0	.0
**TOTAL	.0	.0	.0	.0	.0	.0	.0

The above chart is an example of a budget transmitted through the Distributed Budget Module to an Allowance Plan District. Also included is a chart for OCDETF and Health Fraud. Funding categories are listed in the first column, and quarterly allocations follow in the next four columns. The TOTAL funding sums the quarterly allocations. The ONE TIME column contains the portion of the total funding which is considered one-time in nature and not recurring as necessary for day-to-day operations.

The dollar amounts listed in each column are in thousands; i.e., 13.7 is \$13,700.

Transfer limitations:

1. Allowance Plan offices have no restrictions on the amounts they transfer between non-personnel categories as long as they stay within their quarterly allocations. However, there are restrictions on transfers out of the payroll and litigation allowance categories.
2. Transfers out of payroll to overtime and awards can be effected prior to mid-year or March 31. Depending on the status of the appropriations, RMP may identify a percentage of the projected payroll surplus to be transferred out of payroll into other non-personnel categories after the mid-year review, the remaining payroll surplus is withdrawn from the district's payroll budget after the mid-year review.
3. Districts may transfer base litigation funds into other non-personnel budget categories. However, districts cannot transfer one-time litigation funds to other non-personnel budgets categories.
4. Transfers from the Direct Allowances to OCDETF must be authorized by the Resource Management and Planning Staff. Transfers from OCDETF to Direct cannot be considered.

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U.S. ATTORNEY'S BOM REPORT (SHOWBOM)  
FOR 0103 FY: 01  
District of America  
11.17.25

ACCOUNT	Q1R1	Q1R2	Q1R3	Q1R4	TOTAL	ONE TIME	CUR. TIME MOVED
DIRECT							
PATROLL	1960.6	1960.6	1960.6	1960.5	7842.3	.0	.0
OVERTIME	.0	.0	.0	.0	.0	.0	.0
AWARDS	.0	.0	.0	.0	.0	.0	.0
*TOTAL	1960.6	1960.6	1960.6	1960.5	7842.3	.0	.0
TRAVEL	35.3	21.8	20.8	20.8	98.7	5.9	1.7
TRANSP	6.3	57.3	6.3	6.3	76.2	112.5	51.0
*RENT/CO	46.2	46.2	46.0	46.0	184.4	.0	.0
COPYING	10.1	10.1	10.0	10.0	40.2	.0	.0
TELECOM	36.1	36.1	36.0	36.0	144.2	.0	.0
PRINTING	.0	.0	.0	.0	.0	.0	.0
*LITIGAT	71.0	71.0	71.0	71.0	284.0	54.0	.0
SPC PERS	.0	.0	.0	.0	.0	.0	.0
LIT PRT	.0	.0	.0	.0	.0	.0	.0
LIT SERV	71.0	71.0	71.0	71.0	284.0	54.0	.0
*OTH SER	23.1	23.7	24.7	24.7	96.2	11.5	.0
NON-PERS	.0	.0	.0	.0	.0	.0	.0
TRAIN	.3	1.0	2.0	2.0	5.3	.0	.0
MISC	22.8	22.7	22.7	22.7	90.9	11.5	.0
MISC ALT	.0	.0	.0	.0	.0	.0	.0
SUPPLIES	7.0	19.0	17.2	17.2	60.4	.0	.0
LIBRARY	36.3	12.1	.0	.0	48.4	.0	.0
FURN/EQU	5.0	21.4	.5	.5	27.4	20.9	20.9
LECC/VV	13.0	.0	.0	.0	13.0	.0	.0
*TOTAL DIRECT	2203.0	2233.1	2147.1	2147.0	8731.0	206.6	73.4
**TOTAL	.0	.0	.0	.0	.0	.0	.0

The above charts shows a budget transmitted through the Distributed Budget Module to an Operating Plan District. Other charts would also be included for OCDETF operations and Health Care Fraud. Funding categories are listed in the first column, and quarterly allocations follow in the next four columns. The TOTAL columns sums the quarterly allocations. The ONE TIME column contains the portion of the total funding which is considered to be one time in nature and not recurring as necessary for day-to-day operations. Currently, there are 53 Operating Plan districts.

The dollar amounts listed in each column are in hundreds; i.e., 1.8 is \$1,800.

Transfer limitations:

1. Operating Plans offices have no restrictions on the amounts that can be transferred between non-personnel categories as long as they stay within their quarterly allocations. However, there are restrictions on transfers out of the payroll and litigation.
2. Transfers out of payroll to overtime and awards are authorized until mid-year. Depending on the status of the appropriation, RMP may identify a percentage of the projected payroll surplus to be transferred out of payroll into other non-personnel categories after the mid-year review; the remaining payroll surplus is withdrawn from the district's payroll budget after the mid-year review.
3. Districts may transfer base litigation funds into other non-personnel budget categories. However, districts cannot transfer one-time litigation funds to other non-personnel budgets categories.
4. Transfers from the District Allowances to OCDETF must be authorized by RMP. Transfers from OCDETF Allowances to Direct cannot be considered.

**JUSTICE  
MANAGEMENT**

## **JUSTICE MANAGEMENT DIVISION SERVICE FUNCTIONS**

The Justice Management Division (JMD) of the Department of Justice (DOJ) provides a number of support services to United States Attorneys' offices (USAOs), usually on a reimbursable basis. These services include:

- Payroll processing for USAO employees,
- Issuance of purchase orders for goods and services,
- Payment of invoices,
- Authorizations for fact and expert witnesses,
- Computer and message communication services, and
- Processing of travel vouchers.

Although JMD is a separate organization from the Executive Office for United States Attorneys (EOUSA) within DOJ, EOUSA personnel provide liaison services to USAO personnel in their dealings with JMD.

### **CONTACTS**

Administrative Officer  
United States Attorney's office

### **EOUSA CONTACTS**

Finance—Steve Parent  
(202) 616-6886

Gloria Harbin  
Chief, Operations Division  
EOUSA Personnel Staff  
(202) 616-6812

Peter McSwain  
Chief, Policy and Special Programs  
Division  
EOUSA Personnel Staff  
(202) 616-6800

## GLOSSARY

## **GLOSSARY / LIST OF ACRONYMS**

### **A**

AAG	Assistant Attorney General
AAG/A	Assistant Attorney General for Administration
ABA	American Bar Association
ACC	Accounting Classification Code
ACE	Affirmative Civil Enforcement
ACIRG	Attorney Critical Incident Response Group
ACOTR	Assistant Contracting Officer's Technical Representative
AD	Administratively Determined
AD&D	Accidental Death and Dismemberment
ADA	Americans with Disabilities Act
ADEA	Age Discrimination in Employment Act
ADP	Automated Data Processing
ADR	Alternative Dispute Resolution
AF	Asset Forfeiture
AFF	Asset Forfeiture Fund
AFMLS	Asset Forfeiture and Money Laundering Section
AFMS	Asset Forfeiture Management Staff
AG	Attorney General
AGAC	Attorney General's Advisory Committee
AGAI	Attorney General's Advocacy Institute
AL	Annual Leave
ALR	Automated Legal Research
ALS	Automated Litigation Support
AO	Accountable Officer
AO	Administrative Officer
AOUSC	Administrative Office of the U.S. Courts
AOWG	Administrative Officers' Working Group
AP	Accounts Payable
AP TRAV	Accounts Payable Travel Module
APHI	Administrative Procedures Handbook Issuance
API	Administrative Pay Increase
APP	Appellate Section
APR	Attorney Pay Review
ARGIS	Automated Property Management System
AssocAG	Associate Attorney General
ATF	Alcohol, Tobacco, & Firearms
ATM	Asynchronous Transfer Mode



ATR	Antitrust Division
AUSA	Assistant United States Attorney
AVMS	Audiovisual Media Services/JMD
AWOL	Absent Without Leave
AWS	Alternative Work Schedule
BATF	Bureau of Alcohol, Tobacco and Firearms

## B

BEAR	Biweekly Examination Analysis and Reporting
BIA	Board of Immigration Appeals
BIA	Bureau of Indian Affairs
BIs	Background Investigations
BJA	Bureau of Justice Assistance
BJS	Bureau of Justice Statistics
BLS	Bureau of Labor Statistics
BO	Budget Officer
BOP	Bureau of Prisons
BPA	Blanket Purchase Agreement
BWG	Bankruptcy Working Group

## C

CAO	Complaint Adjudication Officer
CATEPS	Criminal Appeals and Tax Enforcement Policy Section
CATS	Consolidated Asset Tracking System
CCIP	Computer Crime and Intellectual Property Section
CCLR	Claims Collection Litigation Reports
CE	Civil Enforcement
CEOS	Child Exploitation and Obscenity Section
CFC	Combined Federal Campaign
CFR	Code of Federal Regulations
CIO	Chief Information Officer
CIPA	Classified Information Procedures Act
CIV	Civil Division
CJA	Criminal Justice Act
CLE	Continuing Legal Education
CMS	Case Management Staff (EOUSA)
CO	Contracting Officer
COB	Close of Business
COLA	Cost of Living Adjustment

COMSEC	Communications Security
COPS	Community Oriented Policing Services
COTR	Contracting Officer's Technical Representative
COTS	Commercial Off the Shelf
CR	Continuing Resolution
CRA	Civil Rights Act
CRAB	Collection Resources Allocation Board
CRM	Criminal Division
CRR	Congressional Relocation Report
CRS	Community Relations Service
CRT	Civil Rights Division
CSC	Customer Supply Center
CSRA	Child Support Recovery Act
CSRS	Civil Service Retirement System
CT	Court
CTC	Computer/Telecommunications Coordinator
CTD	Counsel to the Director
CTF	Civil Task Force

## D

DAAG	Deputy Assistant Attorney General
DAG	Deputy Attorney General
DAO	Deputy Administrative Officer
DAS	Data Analysis Staff (EOUSA)
DBM	Distributed Budget Module
DCA	Debt Collection Act
DCN	Document Control Number
DD/EFT	Direct Deposit - Electronic Funds Transfer
DDU	Document Design Unit/JMD
DEA	Drug Enforcement Administration
DEDC	Drug Evidence Destruction Coordinator
DEFY	Drug Education for Youth
DEU	Delegated Examining Unit
DIC	Dependency and Indemnity Compensation
DLA	Defense Logistics Agency
DMC	Debt Management Center
DOA	Department of Agriculture
DOB	Date of Birth
DOD	Department of Defense
DOJ	Department of Justice
DOL	Department of Labor

DOSM	District Office Security Manager
DOT	Department of Transportation
DOTSE	Document Tracking System
DPA	Delegation of Procurement Authority
DSES	District Self Evaluation Survey
DSG	Deputy Solicitor General
DTF	Drug Task Force
DUSA	Deputy United States Attorney
DVAAP	Disabled Veterans Affirmative Action Program

## E

EAJA	Equal Access to Justice Act
EAP	Employee Assistance Program
EARN	Statement of Earnings and Leave System
EARS	Evaluation & Review Staff (EOUSA)
ECS	Environmental Crimes Section
EEA	Economic Espionage Act
EEO	Equal Employment Opportunity
EEOC	Equal Employment Opportunity Commission
EEOS	Equal Employment Opportunity Staff (EOUSA)
ELS	Earnings and Leave Statement
Email	Electronic Mail
ENRD	Environmental and Natural Resources Division
EOD	Entrance on Duty
EOIR	Executive Office for Immigration Review
EOUSA	Executive Office for United States Attorneys
EOUST	Executive Office for United States Trustees
EOWS	Executive Office for Weed and Seed
EPA	Environmental Protection Agency
EPIC	Entry, Processing, Inquiry, and Corrections System
ERB	Executive Review Board
ERISA	Employee Retirement Income Security Act
ET	Environmental Torts
EWAP	Emergency Witness Assistance Program

## F

FAA	Federal Aviation Act
FAA	Federal Aviation Administration
FACE	Freedom of Access to Clinic Entrances

FAR	Federal Acquisition Regulations
FARA	Foreign Agent Registration Act
FAUSA	First Assistant United States Attorney
FBI	Federal Bureau of Investigation
FBIHQ	Federal Bureau of Investigation Headquarters
FCA	False Claims Act
FCPA	Foreign Corrupt Practices Act
FCSC	Foreign Claims Settlement Commission
FDCA	Federal Food, Drug, and Cosmetic Act
FDCPA	Federal Debt Collection Procedures Act
FDIC	Federal Deposit Insurance Corporation
FECA	Federal Employees' Contribution Act
FEFFLA	Federal Employees Family Friendly Leave Act
Fegli	Federal Employees' Group Life Insurance
FEHBP	Federal Employees' Health Benefits Program
FEPA	Federal Employees' Pay Act
FERS	Federal Employee Retirement System
FEW	Fees and Expenses of Witnesses
FFL	Federal Firearms Licensee
FFLA	Family-Friendly Leave Act
FFP	Frequent Flier Program
FICA	Federal Insurance Contribution Act
FIF	Financial Institution Fraud
FINQ	Future Inquiry System
FIRM	Foundation Information for Real Property Management
FISA	Foreign Intelligence Surveillance Act
FIST	Firearm Inquiry Statistics Program
FLRA	Federal Labor Relations Authority
FLS	Financial Litigation Staff
FLSA	Fair Labor Standards Act
FLU	Financial Litigation Unit
FMFIA	Federal Managers Financial Integrity Act
FMIS	Financial Management Information System
FMLA	Family and Medical Leave Act
FMSS	Facilities Management & Support Services (EOUSA)
FOIA	Freedom of Information Act
FOS	Financial Operations Services
FPMR	Federal Property Management Regulations
FPS	Federal Protective Service
FRA	Federal Railroad Administration
FRAUD	Fraud Section
FRC	Federal Records Center
FSA	Farm Service Agency

FSS	Federal Supply Schedule
FTCA	Federal Tort Claims Act
FTE	Full-time Equivalent
FTR	Federal Travel Regulations
FTS	Federal Telephone System
FY	Fiscal Year

## G

GAO	General Accounting Office
GIS	Geographic Information System
GJ	Grand Jury
GNMA	Government National Mortgage Association
GOV	Government Owned Vehicle
GPEA	Government Paperwork Elimination Act
GPO	Government Printing Office
GPRA	Government Performance and Results Act
GRS	General Records Schedule
GS	General Schedule
GSA	General Services Administration
GTA	Government Travel Account

## H

HCF	Health Care Fraud
HCUP	History Correction Update Processing System
HHS	Health & Human Services
HIDTA	High Intensity Drug Trafficking Areas
HIPAA	Health Care Fraud Insurance Portability and Accountability Act
HPSCI	House Permanent Select Committee On Intelligence
HTML	Hypertext Markup Language
HUD	Housing and Urban Development

## I

IAU	Intelligence Analytic Unit
IC	Intelligence Community
ICAR	Individual Contract Action Report
ICTS	INTERPOL Case Tracking System
IFRP	Inmate Financial Responsibility Program

IGA	Office of Intergovernmental Affairs
IIRIRA	Illegal Immigration Reform and Immigrant Responsibility Act
IMMACT	Immigration Act of 1990
INA	Immigration and Nationality Act
INS	Immigration & Naturalization Service
INTERPOL	International Criminal Police Organization
IOS	Integrated Occupancy Service
IPPs	Internationally Protected Persons
IRC	Internal Revenue Code
IRCA	Immigration Reform and Control Act
IRIS	Information/Research Inquiry System
IRS	Internal Revenue Service
ISS	Internal Security Section
IT	Information Technology

## J

JABS	Joint Automated Booking System
JAR	Justice Acquisition Regulations
JCC	Justice Command Center
JCN	Justice Communications Network
JCON	Justice Consolidated Office Network
JDC	Justice Data Center
JETS	Justice Employee Transit Savings (Transit Subsidy Program)
JFCU	Justice Federal Credit Union
JMD	Justice Management Division
JOHO	Justice Occupational Health Organization
JOIN	Justice Online Information Network
JPMR	Justice Federal Property Management Regulations
JREC	Justice Regional Emergency Coordinator

## L

LAN	Local Area Network
LAPO	Limited Authority Personnel Office
LCO	Legal Counsel's Office (EOUSA)
LEC	Law Enforcement Coordinator
LECC	Law Enforcement Coordinating Committee
LEI	Legal Education Institute
LIONS	Legal Information Office Network System
LIST	Locator Information System

LMRDA	Labor-Management Reporting and Disclosure Act
LOU	Limited Official Use
LP	Legal Programs
LWOP	Leave Without Pay

## M

MAPS	Mail, Audiovisual and Publications Service/JMD
MCC	Merchant Category Code
MFCMA	Magnuson Fisheries Conservation and Management Act
ML	Military Leave
MOU	Memorandum of Understanding
MRA	Minimum Retirement Age
MRN	Master Record Number
MSPB	Merit Systems Protection Board
MTF	Merger Task Force

## N

NAC	National Advocacy Center
NALP	National Association for Law Placement
NARA	National Archives and Records Administration
NASAF	National Asset Seizure and Forfeiture Program
NCHIP	National Criminal History Improvement Program
NCIC	National Crime Information Center
NDDS	Narcotics and Dangerous Drugs Section
NDIC	National Drug Intelligence Center
NFA	National Firearms Act
NFC	National Finance Center
NICS	National Instant Criminal Background Check System
NIJ	National Institute of Justice
NITA	National Institute of Trial Advocacy
NOAA	National Oceanic and Atmospheric Administration
NPS	National Park Service
NSI	National Security Information
NTE	Not to Exceed

## O

OA	Office Automation
OAG	Office of the Attorney General
OARM	Office of Attorney Recruitment and Management
OAS	Office Automation Staff (EOUSA)
OASG	Office of the Associate Attorney General
OBDs	Offices, Boards, Divisions
OBE	Overtaken by Events
OCAHO	Office of Chief Administrative Hearing Officer
OCDETF	Organized Crime Drug Enforcement Task Force
OCIJ	Office of Chief Immigration Judge
OCL	Office of Consumer Litigation
OCRS	Organized Crime and Racketeering Section
OCRS(L)	Organized Crime and Racketeering Section (Labor Unit)
OCSF	Organized Crime Strike Force
ODAG	Office of the Deputy Attorney General
ODR	Office of Dispute Resolution
OEO	Office of Enforcement Operations
OEP	Occupant Emergency Plan
OF	Optional Form
OGC	Office of General Counsel
OGE	Office of Government Ethics
OIA	Office of International Affairs
OIAP	Office of Investigative Agency Policies
OIG	Office of the Inspector General
OIP	Office of Information and Privacy
OIPR	Office of Intelligence Policy and Review
OJJDP	Office of Juvenile Justice and Delinquency Prevention
OJP	Office of Justice Programs
OLA	Office of Legislative Affairs
OLC	Office of Legal Counsel
OLE	Office of Legal Education
OMB	Office of Management & Budget
ONDCP	Office of National Drug Control Policy
OPA	Pardon Attorney
OPD	Office of Policy Development
OPF	Official Personnel File
OPL	Office of Policy and Legislation
OPM	Office of Personnel Management
OPR	Office of Professional Responsibility
OS	Outstanding Scholar Appointment Authority
OSC	Office of Special Counsel



OSG	Office of the Solicitor General
OSHA	Occupational Safety and Health Administration
OSI	Office of Special Investigations
OT	Overtime
OTJ	Office of Tribal Justice
OTS	On-the-Spot Award
OVC	Office for Victims of Crime
OWCP	Office of Workers' Compensation Program

## P

PA	Privacy Act
PACT	Personnel Action Processing System
PAO	Office of Public Affairs
PBX	Private Branch Exchange
PC	Personal Computer
PC	Property Custodian
PCS	Permanent Change of Station
PD	Position Description
PDMA	Prescription Drug Marketing Act
PEP51	Pullers for Payroll/Personnel Documents
PIN	Personal Identification Number
PINE	Personnel Edit Subsystem
PINQ	Payroll/Personnel Inquiry System
PIP	Performance Improvement Plan
PIS	Public Integrity Section
PL	Public Law
PME	Personnel Management Evaluations
PMI	Presidential Management Intern
PMS	Personnel Management Specialist
PMS	Property Management Services/JMD
PMSO	Position Management System Online
PO	Purchase Order
PO	Personnel Officer
POC	Point of Contact
POV	Privately Owned Vehicle
PP	Pay Period
PPS	Payroll/Personnel System
PPU	Printing Procurement Unit/JMD
PRES	Payroll/Personnel Remote Entry (PRES) Menu
PRAO	Professional Responsibility Advisory Office
PSS	Procurement Services Staff

PWP	Performance Work Plan
PWPAR	Performance Work Plan and Appraisal Record

## Q

QSI	Quality Step Increase
QSR	Quick Service Request

## R

RAC	Resident Agent in Charge
REGIS	Regional Justice Information Service
RETM	Retirement Processing System
RFP	Request for Proposals
RFPA	Right to Financial Privacy Act
RFQ	Request for Quotes
RHS	Rural Housing Service
RIBITS	Reinvestigation/Background Investigations Tracking System
RICO	Racketeer Influenced and Corrupt Organizations
RIF	Reduction in Force
RLA	Railroad Labor Act
RMP	Resource Management & Planning
RTD	Return to Duty
RWA	Reimbursable Work Agreement

## S

SA	Special Attorney
SAA	Special Achievement Award
SAC	Special Agent-In-Charge
SACSI	Strategic Approaches to Community Safety Initiative
SADR	Simplified Acquisition Desk Reference
SAS	Space Allocation Standards
SAS	Simplified Acquisitions Services/JMD
SAU	Special Authorizations Unit
SAUSA	Special Assistant United States Attorney
SBA	Small Business Administration
SCD	Service Computation Date
SCI	Sensitive Compartmented Information
SEC	Security and Exchange Commission

SEEP	Student Educational Employment Program
SEPM	Special Emphasis Program Manager
SEPS	Security and Emergency Planning Staff
SES	Senior Executive Service
SF	Standard Form
SF	Strike Force
SFO	Solicitation for Offers
SF-52	Standard Form 52, Request for Personnel Action
SG	Solicitor General
SINQ	Suspense Inquiry and Correction System
SL	Sick Leave
SLC	Senior Litigation Counsel
SM	Systems Manager
SOC	Sub-object Code
SOP	Standard Operating Procedure
SPO	Servicing Personnel Office
SPPS	Special Payroll Processing System
SPS	Security Programs Staff (EOUSA)
SSA	Social Security Administration
SSN	Social Security Number
SSP	Sustained Superior Performance
STAR	System for Time and Attendance Reporting
STU	Secure Telephone Unit
SUSA	Secretary to United States Attorney

## T

T&A	Time and Attendance
TALON	Tracking Assistance for the Legal Office Network
TAX	Tax Division
TDD	Telecommunication Devices for Deaf Persons
TDY	Temporary Duty
TECS	Treasury Enforcement Communications Systems
TIN	Taxpayer Identification Number
TINQ	Time Inquiry - Leave Update System
TOA	Time off Award
TPP	Third Party Payment
TRAI	Training Information Systems
TRO	Temporary Restraining Order
TSP	Thrift Savings Plan
TTD	Telecommunications & Technology Development
TVCS	Terrorism and Violent Crime Section

## U

UCFE	Unemployment Compensation for Federal Employees
UCMJ	Uniform Code of Military Justice
UNICOR	Federal Prison Industries
USA	United States Attorney
USA-5	United States Attorneys' Monthly Resource Summary Report System
USAB	United States Attorneys' Bulletin
USAM	United States Attorneys' Manual
USAOs	United States Attorneys' Offices
USAPAY	Automated Payroll Tracking System
USBC	United States Bankruptcy Court
USC	United States Code
USCAN	United States Code and Administrative News
USCS	United States Customs Service
USDA	United States Department of Agriculture
USDC	United States District Court
USMS	United States Marshals Service
USNCB	United States National Central Bureau
USPC	United States Parole Commission
USSG	United States Sentencing Guidelines
USSS	United States Secret Service

## V

VA	Veterans Affairs
VAWA	Violence Against Women Act
VC	Violent Crime
VCRP	Violent Crime Reduction Program
VCTF	Violent Crime Task Forces
VEAP	Veteran's Educational Assistance Program
VERA	Voluntary Early Retirement Authority
VLB	Voluntary Leave Bank
VLTP	Voluntary Leave Transfer Program
VTC	Video Teleconferencing
VW	Victim Witness
VWA	Victim-Witness Assistant/Advocate
VWC	Victim-Witness Coordinator

## W

WAN	Wide Area Network
WCC	White Collar Crime
WIGI	Within-Grade Increase
WSP	Witness Security Program