engaged in conduct described in section 591(a) of this title,'', inserted ''In determining whether grounds to investigate exist, the Attorney General shall consider—(A) the degree of specificity of the information received, and (B) the credibility of the source of the information.'', and added par. (2).

Subsec. (b)(1). Pub. L. 97–409, §§2(a)(1)(A), 4(c), substituted ''that there are no reasonable grounds to believe that further investigation or prosecution is warranted'' for ''that the matter is so unsubstantiated that no further investigation or prosecution is warranted'' and substituted ''independent counsel'' for ''special prosecutor''.

Subsec. (c)(1). Pub. L. 97–409, §§2(a)(1)(A), 4(d), substituted ''finds reasonable grounds to believe that further investigation or prosecution is warranted'' for ''finds the matter warrants further investigation or prosecution'' after ''preliminary investigation'', ''that there are no reasonable grounds to believe that further investigation or prosecution is warranted'' for ''that the matter is so unsubstantiated as not to warrant further investigation or prosecution'', and ''independent counsel'' for ''special prosecutor'', and inserted provision that in determining whether reasonable grounds exist to warrant further investigation or prosecution, the Attorney General shall comply with written or other established policies of the Department of Justice with respect to the enforcement of criminal laws.

Subsec. (c)(2). Pub. L. 97–409, §2(a)(1)(A), substituted ''independent counsel'' for ''special prosecutor'' in provisions following subpar. (B).

Subsec. (c)(2)(A). Pub. L. 97–409, §4(e)(1), substituted ''information sufficient to constitute grounds to investigate'' for ''specific information'' after ''receives additional''.

Subsec. (c)(2)(B). Pub. L. 97–409, §4(e)(2), substituted ''reasonable grounds exist to warrant'' for ''such information warrants'' after ''appropriate, that''.

Subsecs. (d)(1), (e), (f). Pub. L. 97–409, §2(a)(1), substituted ''independent counsel'' for ''special prosecutor'' and ''independent counsel's'' for ''special prosecutor's'' wherever appearing.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–270 applicable with respect to independent counsels appointed before, on, or after June 30, 1994, see section 7(a) of Pub. L. 103–270, set out as an Effective Date of 1994 Amendment; Transition Provisions note under section 591 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–191 effective Dec. 15, 1987, and applicable to proceedings initiated and independent counsels appointed on and after Dec. 15, 1987, see section 6 of Pub. L. 100–191, set out as a note under section 591 of this title.

§ 593. Duties of the division of the court

(a) REFERENCE TO DIVISION OF THE COURT.—The division of the court to which this chapter refers is the division established under section 49 of this title.

(b) APPOINTMENT AND JURISDICTION OF INDEPENDENT COUNSEL.—

(1) AUTHORITY.—Upon receipt of an application under section 592(c), the division of the court shall appoint an appropriate independent counsel and shall define that independent counsel's prosecutorial jurisdiction.

(2) QUALIFICATIONS OF INDEPENDENT COUNSEL.—The division of the court shall appoint as independent counsel an individual who has appropriate experience and who will conduct the investigation and any prosecution in a prompt, responsible, and cost-effective manner. The division of the court shall seek to appoint as independent counsel an individual who will serve to the extent necessary to complete the investigation and any prosecution without undue delay. The division of the court may not appoint as an independent counsel any person who holds any office of profit or trust under the United States.

(3) SCOPE OF PROSECUTORIAL JURISDICTION.—In defining the independent counsel's prosecutorial jurisdiction, the division of the court shall assure that the independent counsel has adequate authority to fully investigate and prosecute the subject matter with respect to which the Attorney General has requested the appointment of the independent counsel, and all matters related to that subject matter. Such jurisdiction shall also include the authority to investigate and prosecute Federal crimes, other than those classified as Class B or C misdemeanors or infractions, that may arise out of the investigation or prosecution of the matter with respect to which the Attorney General's request was made, including perjury, obstruction of justice, destruction of evidence, and intimidation of witnesses.

(4) DISCLOSURE OF IDENTITY AND PROSECUTORIAL JURISDICTION.—An independent counsel's identity and prosecutorial jurisdiction (including any expansion under subsection (c)) may not be made public except upon the request of the Attorney General or upon a determination of the division of the court that disclosure of the identity and prosecutorial jurisdiction of such independent counsel would be in the best interests of justice. In any event, the identity and prosecutorial jurisdiction of such independent counsel shall be made public when any indictment is returned, or any criminal information is filed, pursuant to the independent counsel's investigation.

(c) EXPANSION OF JURISDICTION.—

(1) IN GENERAL.—The division of the court, upon the request of the Attorney General, may expand the prosecutorial jurisdiction of an independent counsel, and such expansion may be in lieu of the appointment of another independent counsel.

(2) PROCEDURE FOR REQUEST BY INDEPENDENT COUNSEL.—(A) If the independent counsel discovers or receives information about possible violations of criminal law by persons as provided in section 591, which are not covered by the prosecutorial jurisdiction of the independent counsel, the independent counsel may submit such information to the Attorney General. The Attorney General shall then conduct a preliminary investigation of the information in accordance with the provisions of section 592, except that such preliminary investigation shall not exceed 30 days from the date such information is received. In making the determinations required by section 592, the Attorney General shall give great weight to any recommendations of the independent counsel.

(B) If the Attorney General determines, after according great weight to the recommendations of the independent counsel, that there are no reasonable grounds to believe that further investigation is warranted, the Attorney General shall promptly so notify the

division of the court and the division of the court shall have no power to expand the jurisdiction of the independent counsel or to appoint another independent counsel with respect to the matters involved.

(C) If—

(i) the Attorney General determines that there are reasonable grounds to believe that further investigation is warranted; or

(ii) the 30-day period referred to in subparagraph (A) elapses without a notification to the division of the court that no further investigation is warranted,

the division of the court shall expand the jurisdiction of the appropriate independent counsel to include the matters involved or shall appoint another independent counsel to investigate such matters.

(d) RETURN FOR FURTHER EXPLANATION.—Upon receipt of a notification under section 592 or subsection (c)(2)(B) of this section from the Attorney General that there are no reasonable grounds to believe that further investigation is warranted with respect to information received under this chapter, the division of the court shall have no authority to overrule this determination but may return the matter to the Attorney General for further explanation of the reasons for such determination.

(e) VACANCIES.—If a vacancy in office arises by reason of the resignation, death, or removal of an independent counsel, the division of the court shall appoint an independent counsel to complete the work of the independent counsel whose resignation, death, or removal caused the vacancy, except that in the case of a vacancy arising by reason of the removal of an independent counsel, the division of the court may appoint an acting independent counsel to serve until any judicial review of such removal is completed.

(f) ATTORNEYS' FEES.—

(1) AWARD OF FEES.—Upon the request of an individual who is the subject of an investigation conducted by an independent counsel pursuant to this chapter, the division of the court may, if no indictment is brought against such individual pursuant to that investigation, award reimbursement for those reasonable attorneys' fees incurred by that individual during that investigation which would not have been incurred but for the requirements of this chapter. The division of the court shall notify the the[1] independent counsel who conducted the investigation and Attorney[2] General of any request for attorneys' fees under this subsection.

(2) EVALUATION OF FEES.—The division of the court shall direct such independent counsel and the Attorney General to file a written evaluation of any request for attorneys' fees under this subsection, addressing—

(A) the sufficiency of the documentation;

(B) the need or justification for the underlying item;

(C) whether the underlying item would have been incurred but for the requirements of this chapter; and

(D) the reasonableness of the amount of money requested.

(g) DISCLOSURE OF INFORMATION.—The division of the court may, subject to section 594(h)(2), allow the disclosure of any notification, application, or any other document, material, or memorandum supplied to the division of the court under this chapter.

(h) AMICUS CURIAE BRIEFS.—When presented with significant legal issues, the division of the court may disclose sufficient information about the issues to permit the filing of timely amicus curiae briefs.

(Added Pub. L. 95–521, title VI, § 601(a), Oct. 26, 1978, 92 Stat. 1869; amended Pub. L. 97–409, §§ 2(a)(1), 5, Jan. 3, 1983, 96 Stat. 2039, 2041; Pub. L. 100–191, § 2, Dec. 15, 1987, 101 Stat. 1297; Pub. L. 103–270, § 3(n), June 30, 1994, 108 Stat. 736.)

AMENDMENTS

1994—Subsec. (f)(1). Pub. L. 103–270, § 3(n)(1), inserted ''the independent counsel who conducted the investigation and'' before ''Attorney General'' in last sentence.

Subsec. (f)(2). Pub. L. 103–270, § 3(n)(2), in introductory provisions substituted ''shall direct such independent counsel and'' for ''may direct'' and ''subsection, addressing—'' for ''subsection, analyzing for each expense—'', added subpars. (A) to (D) and struck out former subpars. (A) to (C) which read as follows:

''(A) the sufficiency of the documentation;

''(B) the need or justification for the underlying item; and

''(C) the reasonableness of the amount of money requested.''

1987—Pub. L. 100–191 amended section generally, substituting subsecs. (a) to (h) for former subsecs. (a) to (g) which related to similar subject matter.

1983—Subsec. (b). Pub. L. 97–409, § 2(a)(1), substituted ''independent counsel'' for ''special prosecutor'' and ''independent counsel's'' for ''special prosecutor's'' wherever appearing.

Subsecs. (c) to (e). Pub. L. 97–409, § 2(a)(1)(A), substituted ''independent counsel'' for ''special prosecutor'' wherever appearing.

Subsecs. (f), (g). Pub. L. 97–409, § 5, added subsecs. (f) and (g).

EFFECTIVE DATE OF 1994 AMENDMENT; TRANSITION PROVISIONS

Amendment by Pub. L. 103–270 applicable with respect to independent counsels appointed before, on, or after June 30, 1994, and, notwithstanding restriction in subsec. (b)(2) of this section, the division of the court described in section 49 of this title is authorized to appoint as an independent counsel any individual who, on June 30, 1994, is serving as a regulatory independent counsel under parts 600 and 603 of title 28, Code of Federal Regulations, see section 7(a), (h) of Pub. L. 103–270, set out as a note under section 591 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–191 effective Dec. 15, 1987, and applicable to proceedings initiated and independent counsels appointed on and after Dec. 15, 1987, but with subsec. (f) applicable to previously initiated proceedings pending on Dec. 15, 1987, see section 6 of Pub. L. 100–191, set out as a note under section 591 of this title.

§ 594. Authority and duties of an independent counsel

(a) AUTHORITIES.—Notwithstanding any other provision of law, an independent counsel appointed under this chapter shall have, with respect to all matters in such independent counsel's prosecutorial jurisdiction established under

[1] So in original.

[2] So in original. Probably should be preceded by ''the''.