

§ 572.31

hearing of a parole or mandatory release violator, when that hearing is conducted in an institution of the Bureau of Prisons.

[45 FR 33941, May 20, 1980]

§ 572.31 Procedures.

Staff shall prepare the Violator Report to include the following information:

- (a) The inmate's original offense, sentence imposed, date and district;
- (b) Description of release procedure;
- (c) Alleged violation(s) of parole or mandatory release;
- (d) Inmate's comments concerning the alleged violation(s);
- (e) An outline of the inmate's activities while under supervision on parole or mandatory release; and

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(f) At the option of the inmate, statement of current release plans and available community resources.

[45 FR 33941, May 20, 1980]

Subpart E—Compassionate Release (Procedures for the Implementation of 18 U.S.C. 4205(g))

§ 572.40 Compassionate release under 18 U.S.C. 4205(g).

18 U.S.C. 4205(g) was repealed effective November 1, 1987, but remains the controlling law for inmates whose offenses occurred prior to that date. For inmates whose offenses occurred on or after November 1, 1987, the applicable statute is 18 U.S.C. 3582(c)(1)(A). Procedures for compassionate release of an inmate under either provision are contained in 28 CFR part 571, subpart G.

[59 FR 1239, Jan. 7, 1994]

CHAPTER VI—OFFICES OF INDEPENDENT COUNSEL, DEPARTMENT OF JUSTICE

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PART 600—GENERAL POWERS OF INDEPENDENT COUNSEL

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AUTHORITY: 5 U.S.C. 301; 28 U.S.C. 509, 510, 515, 543; Article II of the U.S. Constitution.

SOURCE: 52 FR 7271, Mar. 10, 1987, unless otherwise noted.

§600.1 Authority and duties of an Independent Counsel.

(a) An Office of Independent Counsel shall be under the direction of an Independent Counsel appointed by the Attorney General. An Independent Counsel shall have, with respect to all matters in his prosecutorial jurisdiction established under this chapter, full power and independent authority to exercise all investigative and prosecutorial functions and powers of the Department of Justice, the Attorney General, and any other officer or employee of the Department of Justice, except that the Attorney General shall exercise direction or control as to those matters that specifically require the Attorney General's personal action under section 2516 of title 18 of the U.S. Code. Such investigative and prosecutorial functions and powers shall include—

(1) Conducting proceedings before grand juries and other investigations;

(2) Participating in court proceedings and engaging in any litigation, including civil and criminal matters, that such Independent Counsel deems necessary;

(3) Appealing any decision of a court in any case or proceeding in which such Independent Counsel participates in an official capacity;

(4) Reviewing all documentary evidence available from any source;

(5) Determining whether to contest the assertion of any testimonial privilege;

(6) Receiving appropriate national security clearances and, if necessary, contesting in court (including, where

appropriate, participating in *in camera* proceedings) any claim of privilege or attempt to withhold evidence on grounds of national security;

(7) Making applications to any Federal court for a grant of immunity to any witness, consistent with applicable statutory requirements, or for warrants, subpoenas, or other court orders, and, for purposes of sections 6003, 6004, and 6005 of title 18 of the U.S. Code, exercising the authority vested in a United States or the Attorney General;

(8) Inspecting, obtaining, or using the original or a copy of any tax return, in accordance with the applicable statutes and regulations, and, for purposes of section 6103 of the Internal Revenue Code of 1954, and the regulations issued thereunder, exercising the powers vested in a U.S. Attorney or the Attorney General; and

(9) Initiating and conducting prosecutions in any court of competent jurisdiction, framing and signing indictments, filing information, and handling all aspects of any case in the name of the United States; and

(10) Consulting with the U.S. Attorney for the district in which the violation was alleged to have occurred.

(b) An Independent Counsel appointed under this chapter shall receive compensation at a rate not to exceed the annual or per diem rate equal to the annual rate of basic pay for level IV of the Executive Schedule under section 5315 of title 5 of the U.S. Code. This paragraph shall not be construed to authorize the payment of any compensation in addition to that paid under subsection (b) of section 594 of title 28 of the U.S. Code.

(c) For the purposes of carrying out the duties of the Office of Independent Counsel, an Independent Counsel shall have the full power of the Attorney General to appoint (other than in the Senior Executive Service), fix the compensation and assign the duties of such employees as the Independent Counsel deems necessary. This paragraph shall not be construed to authorize the payment of any compensation in addition to that paid under subsection (c) of section 595 of title 28 of the U.S. Code.

(d) An Independent Counsel may request assistance from the Department

of Justice, and the Department of Justice shall provide that assistance, which may include access to any records, files, or other materials relevant to matters within the Independent Counsel's prosecutorial jurisdiction, and the use of the resources and personnel necessary to perform the Independent Counsel's duties.

(e) An Independent Counsel may ask the Attorney General to refer matters related to the Independent Counsel's prosecutorial jurisdiction. An Independent Counsel may accept referral of a matter by the Attorney General, if the matter relates to a matter within the Independent Counsel's prosecutorial jurisdiction as established by this chapter. If such a referral is accepted, an Independent Counsel shall notify the division of the U.S. Court of Appeals for the District of Columbia referred to in section 49 of title 28 of the U.S. Code, if such court exists at that time.

(f) An Independent Counsel shall, except where not possible, comply with the written or other established policies of the Department of Justice respecting enforcement of the criminal laws.

(g) An Independent Counsel shall have full authority to dismiss matters within his prosecutorial jurisdiction without conducting an investigation or at any subsequent time prior to prosecution if to do so would be consistent with the written or other established policies of the Department of Justice with respect to the enforcement of criminal laws.

[52 FR 7271, Mar. 10, 1987, as amended at 59 FR 5322, Feb. 4, 1994]

§600.2 Reporting and congressional oversight.

(a) An Independent Counsel appointed under this chapter may make public from time to time, and shall send to the Congress statements or reports on the activities of the Independent Counsel. These statements and reports shall contain such information as the Independent Counsel deems appropriate.

(b)(1) In addition to any reports made under paragraph (a) of this section, and before the termination of the Independent Counsel's office under this chapter,

such Independent Counsel shall submit to the division of the U.S. Court of Appeals for the District of Columbia referred to in section 49 of title 28 of the U.S. Code, if such court exists at that time, a report under this section.

(2) A report under this subsection shall set forth fully and completely a description of the work of the Independent Counsel, including the disposition of all cases brought, and the reasons for not prosecuting any matter within the prosecutorial jurisdiction of the Independent Counsel which was not prosecuted.

(3) Unless prohibited by applicable law, an Independent Counsel may release to the Congress, the public, or to any appropriate person, such portions of a report made under this subsection as he deems appropriate.

(c) An Independent Counsel shall advise the House of Representatives of any substantial and credible information which such Independent Counsel receives that may constitute grounds for an impeachment. Nothing in this chapter shall prevent the Congress or either House thereof from obtaining information in the course of an impeachment proceeding.

(d) Nothing in this chapter shall prevent the appropriate committees of the Congress from exercising oversight jurisdiction with respect to the official conduct of any Independent Counsel appointed under this chapter, and such Independent Counsel shall have the duty to cooperate with the exercise of such oversight jurisdiction.

§600.3 Removal of an Independent Counsel; termination of office.

(a)(1) An Independent Counsel appointed under this chapter may be removed from office, other than by impeachment and conviction, only by the personal action of the Attorney General and only for good cause, physical disability, mental incapacity, or any other condition that substantially impairs the performance of the Independent Counsel's duties.

(2) If an Independent Counsel is removed from office, the Attorney General shall promptly submit to the division of the U.S. Court of Appeals for the District of Columbia referred to in section 49 of title 28 of the U.S. Code, if

such court exists at that time, and to the Committees on the Judiciary of the Senate and the House of Representatives, a report specifying the facts found and the ultimate grounds for such removal. The Attorney General will not object to the making available of the report to the public by the Committees or the division of the Court.

(3) To the extent otherwise permitted by law, an Independent Counsel so removed may obtain judicial review of the removal in a civil action commenced before the division of the U.S. Court of Appeals for the District of Columbia referred to in section 49 of title 28 of the U.S. Code, if such court exists at that time, or any court of competent jurisdiction and, if such removal was based on error of law or fact, may obtain reinstatement or other appropriate relief; provided that an Independent Counsel originally appointed by court order shall have such rights of review as provided by said order and by section 596(a)(3) of title 28 of the U.S. Code.

(b) An office of Independent Counsel shall terminate when (1) the Independent Counsel notifies the Attorney General that the investigation of all matters within the prosecutorial jurisdiction of the Independent Counsel or accepted by such Independent Counsel under §600.1(e) of this chapter, and any resulting prosecutions, have been completed or so substantially completed that it would be appropriate for the Department of Justice to complete such investigations and prosecutions and (2) the Independent Counsel files a report in full compliance with §600.2(b) of this chapter.

§600.4 Relationship with components of the Department of Justice.

(a) Whenever a matter is in the prosecutorial jurisdiction of an Independent Counsel or has been accepted by an Independent Counsel under §600.1(e) of this chapter, the Department of Justice, the Attorney General, and all other officers and employees of the Department of Justice shall suspend all investigations and proceedings regarding such matter, except to the extent required by §600.1(d) of this chapter, and except insofar as such Independent Counsel agrees in writing that such in-

vestigation or proceedings may be continued by the Department of Justice.

(b) Nothing in this chapter shall prevent the Attorney General or the Solicitor General from making a presentation as *amicus curiae* to any court as to issues of law raised by any case or proceeding in which an Independent Counsel participates in an official capacity or any appeal of such a case or proceeding.

§600.5 Savings provision; severability.

(a) Nothing in this chapter is intended to modify or impair any of the provisions of the Ethics in Government Act relating to Independent Counsel (sections 591-598 of title 28 of the U.S. Code), or of any order issued thereunder.

(b) If any provision of the Ethics in Government Act relating to Independent Counsel (sections 591-598 of title 28 of the U.S. Code) or any provision of this chapter is held invalid for any reason, such invalidity shall not affect any other provision of this chapter, it being intended that each provision of this chapter shall be severable from the Act and from each other provision.

PART 601—JURISDICTION OF THE INDEPENDENT COUNSEL: IRAN/CONTRA

AUTHORITY: 28 U.S.C. 509, 510, and 515; 5 U.S.C. 301; Article II of the U.S. Constitution.

§601.1 Jurisdiction of the Independent Counsel: Iran/Contra.

(a) *The Independent Counsel.* Iran/Contra has jurisdiction to investigate to the maximum extent authorized by part 600 of this chapter whether any person or group of persons currently described in section 591 of title 28 of the U.S. Code, including Lieutenant Colonel Oliver L. North, other United States Government officials, or other individuals or organizations acting in concert with Lt. Col. North, or with other U.S. Government officials, has committed a violation of any federal criminal law, as referred to in section 591 of title 28 of the U.S. Code, relating in any way to:

(1) The direct or indirect sale, shipment, or transfer since in or about 1984

down to the present, of military arms, materiel, or funds to the Government of Iran, officials of that government, or persons, organizations or entities connected with or purporting to represent that government, or persons located in Iran;

(2) The direct or indirect sale, shipment, or transfer of military arms, materiel or funds to any government, entity, or persons acting, or purporting to act as an intermediary in any transaction above referred to in paragraph (a)(1) of this section;

(3) The financing or funding of any direct or indirect sale, shipment or transfer referred to in paragraph (a) (1) or (2) of this section;

(4) The diversion of the proceeds from any transaction described in paragraph (a) (1) or (2) of this section to or for any person, organization, foreign government, or any faction or body of insurgents in any foreign country, including, but not limited to Nicaragua;

(5) The provision or coordination of support for persons or entities engaged as military insurgents in armed conflict with the Government of Nicaragua since 1984.

(b) *The Independent Counsel.* Iran/Contra shall have jurisdiction and authority to investigate other allegations or evidence of violation of any federal criminal law by Oliver L. North, and any person or entity heretofore referred to, developed during the Independent Counsel's investigation referred to above, and connected with or arising out of that investigation, and to seek indictments and to prosecute any persons or entities involved in any of the foregoing events or transactions who are reasonably believed to have committed a violation of any federal criminal law (other than a violation constituting a Class B or C misdemeanor, or an infraction, or a petty offense) arising out of such events, including persons or entities who have engaged in an unlawful conspiracy or who have aided or abetted any criminal offense.

(c) *The Independent Counsel.* Iran/Contra shall have prosecutorial jurisdiction to initiate and conduct prosecutions in any court of competent jurisdiction for any violation of section 1826 of title 28 of the U.S. Code, or any

obstruction of the due administration of justice, or any material false testimony or statement in violation of the federal criminal laws, in connection with the investigation authorized by part 600 of this chapter.

[52 FR 7272, March 10, 1987; 52 FR 9241, Mar. 23, 1987]

PART 602—JURISDICTION OF THE INDEPENDENT COUNSEL: IN RE FRANKLYN C. NOFZIGER

AUTHORITY: 28 U.S.C. 509, 510, and 515; 5 U.S.C. 301.

§602.1 Independent Counsel: In re Franklyn C. Nofziger.

(a) The Independent Counsel: In re Franklyn C. Nofziger shall have jurisdiction to investigate to the maximum extent authorized by part 600 of this chapter whether Franklyn C. Nofziger committed a violation of any Federal criminal law, as referred to in 28 U.S.C. 591, and more specifically whether the aforesaid Franklyn C. Nofziger, who served as Assistant to the President from January 21, 1981 through January 22, 1982, and who was therefore prohibited by the provisions of 18 U.S.C. 207 from thereafter knowingly making certain types of oral or written communications, did violate any subsection of 18 U.S.C. 207 because of certain oral or written communications with departments or agencies of the U.S. Government (including but not limited to the White House or the Executive Office of the President) on behalf of Welbilt Electronic Die Corporation, Comet Rice, Inc., or any other person or entity, at any time during 1982 or 1983.

(b) The Independent Counsel shall have jurisdiction and authority to investigate other allegations and evidence of violation of any Federal criminal law by Franklyn C. Nofziger, and/or any of his business associates who may have acted in concert with or aided or abetted Franklyn C. Nofziger, developed during the Independent Counsel's investigation referred to in paragraph (a) of this section or connected with or arising out of that investigation, and to seek indictments and to prosecute any such persons or

entities involved in any of the foregoing events or transactions that Independent Counsel believes constitute a Federal offense and that there is reasonable cause to believe that the admissible evidence probably will be sufficient to obtain and sustain a conviction (28 U.S.C. 594(f)) of any Federal criminal law (other than a violation constituting a Class B or C misdemeanor, or an infraction, or a petty offense) arising out of such events, including such persons or entities who have engaged in an unlawful conspiracy or who have aided or abetted any criminal offense related to the prosecutorial jurisdiction of the Independent Counsel as herein established.

(c) The Independent Counsel: In re Franklyn C. Nofziger shall have jurisdiction to investigate to the maximum extent authorized by title 28 U.S.C. 594, whether the conduct of Edwin Meese III specified in this section constituted a violation of any federal criminal law, as referred to in 28 U.S.C. 591, and more specifically whether the federal conflict of interest laws, 18 U.S.C. 201-211, or any other provision of the federal criminal law, was violated by Mr. Meese's relationship or dealings at any time from 1981 to the present with any of the following: Welbilt Electronic Die Corporation/Wedtech Corporation (including any of its contracts with the U.S. Government, or efforts to obtain same); Franklyn C. Nofziger; E. Robert Wallach; W. Franklyn Chinn; and/or Financial Management International, Inc.

(d) The Independent Counsel: In re Franklyn C. Nofziger shall have jurisdiction and authority to investigate other allegations and evidence of violation of any federal criminal law by Edwin Meese III developed during the Independent Counsel's investigation referred to in paragraph (c) of this section, and connected with or arising out of that investigation, and to seek indictments and to prosecute any persons or entities involved in any of the foregoing events or transactions that Independent Counsel believes constitute a federal offense and that there is reasonable cause to believe that the admissible evidence probably will be sufficient to obtain and sustain a conviction (28 U.S.C. 594(f)) of any federal

criminal law (other than a violation constituting a Class B or C misdemeanor, or an infraction, or a petty offense) arising out of such events, including persons or entities who have engaged in an unlawful conspiracy or who have aided or abetted any criminal offense related to the prosecutorial jurisdiction of the Independent Counsel as herein established.

(e) The Independent Counsel shall have prosecutorial jurisdiction to initiate and conduct prosecutions in any court of competent jurisdiction for any violation of 28 U.S.C. 1826, or any obstruction of the due administration of justice, or any material false testimony or statement in violation of the Federal criminal laws, in connection with the investigation authorized by this regulation, and shall have all the powers and authority provided by the Ethics in Government Act of 1978, as amended, and specifically by 28 U.S.C. 594.

[52 FR 22439, June 12, 1987, as amended at 52 FR 22439, June 12, 1987; 52 FR 35544, Sept. 22, 1987]

PART 603—JURISDICTION OF THE INDEPENDENT COUNSEL: IN RE MADISON GUARANTY SAVINGS & LOAN ASSOCIATION

AUTHORITY: 5 U.S.C. 301; 28 U.S.C. 509, 510, 543, unless otherwise noted.

§ 603.1 Jurisdiction of the Independent Counsel

(a) The Independent Counsel: In re Madison Guaranty Savings & Loan Association shall have jurisdiction and authority to investigate to the maximum extent authorized by part 600 of this chapter whether any individuals or entities have committed a violation of any federal criminal or civil law relating in any way to President William Jefferson Clinton's or Mrs. Hillary Rodham Clinton's relationships with:

- (1) Madison Guaranty Savings & Loan Association;
- (2) Whitewater Development Corporation; or
- (3) Capital Management Services.

(b) The Independent Counsel: In re Madison Guaranty Savings & Loan Association shall have jurisdiction and

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authority to investigate other allegations or evidence of violation of any federal criminal or civil law by any person or entity developed during the Independent Counsel's investigation referred to above, and connected with or arising out of that investigation.

(c) The Independent Counsel: In re Madison Guaranty Savings & Loan Association shall have jurisdiction and authority to investigate any violation of section 1826 of title 28 of the U.S. Code, or any obstruction of the due administration of justice, or any material false testimony or statement in violation of federal law, in connection with any investigation of the matters de-

scribed in paragraph (a) or (b) of this section.

(d) The Independent Counsel: In re Madison Guaranty Savings & Loan Association shall have jurisdiction and authority to seek indictments and to prosecute, or to bring civil actions against, any persons or entities involved in any of the matters referred to in paragraph (a), (b), or (c) of this section who are reasonably believed to have committed a violation of any federal criminal or civil law arising out of such matters, including persons or entities who have engaged in an unlawful conspiracy or who have aided or abetted any federal offense.

[59 FR 5322, Feb. 4, 1994]