

Department of Justice

§0.11

July 22, 1992; Order No. 1948-95, 60 FR 8933, Feb. 16, 1995]

Subpart B—Office of the Attorney General

§0.5 Attorney General.

The Attorney General shall:

(a) Supervise and direct the administration and operation of the Department of Justice, including the offices of U.S. Attorneys and U.S. Marshals, which are within the Department of Justice.

(b) Represent the United States in legal matters generally.

(c) Furnish advice and opinions, formal and informal, on legal matters to the President and the Cabinet and to the heads of the executive departments and agencies of the Government, as provided by law.

(d) Appear in person to represent the Government in the Supreme Court of the United States, or in any other court, in which he may deem it appropriate.

(e) Designate, pursuant to Executive Orders 9788 of October 4, 1946, and 10254 of June 15, 1951, officers and agencies of the Department of Justice to act as disbursing officers for the Office of Alien Property.

(f) Perform or supervise the performance of other duties required by statute or Executive order.

§0.10 Attorney General's Advisory Committee of U.S. Attorneys.

(a) The Attorney General's Advisory Committee of U.S. Attorneys shall consist of fifteen U.S. Attorneys, designated by the Attorney General. The membership shall be selected to represent the various geographic areas of the Nation and both large and small offices. Members shall serve at the pleasure of the Attorney General, but such service normally shall not exceed three years and shall be subject to adjustment by the Attorney General so as to assure the annual rotation of approximately one-third of the Committee's membership.

(b) The Committee shall make recommendations to the Attorney General, to the Deputy Attorney General and to the Associate Attorney General concerning any matters which the

Committee believes to be in the best interests of justice, including, but not limited to, the following:

(1) Establishing and modifying policies and procedures of the Department;

(2) Improving management, particularly with respect to the relationships between the Department and the U.S. Attorneys;

(3) Cooperating with State Attorneys General and other State and local officials for the purpose of improving the quality of justice in the United States;

(4) Promoting greater consistency in the application of legal standards throughout the Nation and at the various levels of government; and

(5) Aiding the Attorney General, the Deputy Attorney General and the Associate Attorney General in formulating new programs for improvement of the criminal justice system at all levels, including proposals relating to legislation and court rules.

(c) The Committee shall select from its membership a chairman, a vice-chairman and a secretary, and shall establish such subcommittees as it deems necessary to carry out its objectives. United States Attorneys who are not members of the Committee may be included in the membership of subcommittees.

(d) The Executive Office for U.S. Attorneys shall provide the Committee with such staff assistance and funds as are reasonably necessary to carry out the Committee's responsibilities.

[Order No. 640-76, 41 FR 7748, Feb. 20, 1976, as amended by Order No. 960-81, 46 FR 52340, Oct. 27, 1981]

§0.11 Incentive Awards Board.

The Incentive Awards Board shall consist of the Deputy Attorney General or a designee of the Deputy Attorney General, who shall be the chairperson, and four members designated by the Attorney General from among the Assistant Attorneys General, bureau heads or persons of equivalent rank in the Department. The duties of the Board shall be:

(a) Consider and make recommendations to the Attorney General concerning honorary awards and cash awards in excess of \$5,000 to be granted for suggestions, inventions, superior accomplishment, or other personal effort

§0.12

which contributes to the efficiency, economy, or other improvement of Government operations or achieves a significant reduction in paperwork.

(b) Consider and make recommendations to the Attorney General for transmittal to the Office of Personnel Management and the President for Presidential awards under 5 U.S.C. 4504 and 5403.

(c) Evaluate periodically the effectiveness of the employee recognition program and recommend needed improvements to the Attorney General.

[Order No. 960-81, 46 FR 52340, Oct. 27, 1981]

§0.12 Young American Medals Committee.

There shall be in the Office of the Attorney General a Young American Medals Committee, which shall be composed of four members, one of whom shall be the Director of Public Affairs who shall be the Executive Secretary of the Committee. The Chairman of the Committee shall be designated by the Attorney General. The Committee shall issue regulations relating to the establishment of the Young American Medal for Bravery and Young American Medal for Service provided for by the act of August 3, 1950, 64 Stat. 397, and governing the requirements and procedures for the award of such medals. The regulations of the Committee in effect on the effective date of this part shall continue in effect until amended, modified, or revoked by the Committee.

[Order No. 423-69, 34 FR 20388, Dec. 31, 1969, as amended by Order No. 445-70, 35 FR 19397, Dec. 23, 1970. Redesignated by Order No. 543-73, 38 FR 29583, Oct. 26, 1973, as amended by Order No. 960-81, 46 FR 52340, Oct. 27, 1981]

§0.13 Legal proceedings.

(a) Each Assistant Attorney General and Deputy Assistant Attorney General is authorized to exercise the authority of the Attorney General under 28 U.S.C. 515(a), in cases assigned to, conducted, handled, or supervised by such official, to designate Department attorneys to conduct any legal proceeding, civil or criminal, including grand jury proceedings and proceedings before committing magistrates, which United States attorneys are authorized by law to conduct, whether or not the

28 CFR Ch. I (7-1-98 Edition)

designated attorney is a resident of the district in which the proceedings is brought.

(b) Each Assistant Attorney General is authorized to redelegate to Section Chiefs the authority delegated by paragraph (a) of this section, except that such re delegation shall not apply to the designation of attorneys to conduct grand jury proceedings.

[Order No. 725-77, 42 FR 26205, May 23, 1977]

§0.14 Special independent counsel for Members of Congress.

(a) *Initial investigation.* Whenever the Attorney General receives information from any source indicating that either a United States Senator or Member of the House of Representatives has violated any federal criminal law other than a violation classified as a Class B or C misdemeanor, he shall determine within 15 days whether there are sufficient grounds to initiate a preliminary investigation. If within that 15-day period the Attorney General determines that the information is not specific or is not from a credible source, then the Attorney General shall close the matter. If within that 15-day period the Attorney General determines that the information is specific and from a credible source, or is unable to so determine, the Attorney General shall, in either case, commence a preliminary investigation with respect to that information, except as provided in paragraph (j) of this section.

(b) *Preliminary investigation.* If a preliminary investigation is undertaken as specified in paragraph (a) of this section, the Attorney General shall conduct such preliminary investigation within 90 days to determine whether there are reasonable grounds to believe that further investigation is warranted. In conducting this investigation, the Attorney General shall not convene grand juries, enter into plea bargains, grant immunity, or issue subpoenas. If it is determined that there is no reasonable grounds to believe that further investigation is warranted, the matter shall be closed and the Attorney General shall so notify the subject of the preliminary investigation. If it cannot be determined within 90 days whether a preliminary investigation

should be undertaken or if it is determined that one should be undertaken, the matter shall be referred to a special independent counsel under paragraph (c) of this section.

(c) *Appointment of a special independent counsel.* The Attorney General shall appoint a special independent counsel to investigate any Member of Congress where under paragraph (b) of this section that appointment is required. The Attorney General shall define the special independent counsel's jurisdiction and may expand it whenever he deems necessary. The initial grant of jurisdiction shall be deemed to include the authority to investigate and prosecute federal crimes, other than those classified as Class B or C misdemeanors, that may arise out of the matter initially referred to the special independent counsel by the Attorney General, including perjury, obstruction of justice, destruction of evidence, and intimidation of witnesses. The special independent counsel shall be an individual with appropriate experience to conduct a prompt, thorough, and efficient investigation. The Attorney General shall not appoint as a special independent counsel any person who holds any office or profit or trust in any branch of the government of the United States. The Attorney General may disclose the identity of the special independent counsel and the scope of his jurisdiction at any point after the appointment if it would be in the best interest of justice. If the special independent counsel resigns, dies, or is removed, the Attorney General may appoint a replacement to complete the investigation.

(d) *Authority of the special independent counsel.* Any special independent counsel appointed under this section shall exercise, within the scope of his jurisdiction, the full power and independent authority to exercise all investigative and prosecutorial functions of the Attorney General, except for those matters that specifically require the Attorney General's personal action under 18 U.S.C. 2516. Neither the Attorney General nor any other officer or employee of the Department will countermand or interfere with any decision or action of the special independent counsel regarding the matter under investigation. Ex-

cept as provided herein, the special independent counsel shall determine whether and to what extent he will inform or consult with the Attorney General or others within the Department about the conduct of his duties and responsibilities. The special independent counsel's authority includes:

(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 the special independent counsel deems necessary;

(3) Appealing any decision of a court in any proceeding in which the special independent counsel participates in an official capacity;

(4) Reviewing all available documentary evidence;

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

(6) Receiving appropriate national security clearances;

(7) Making an application to any federal court for a grant of immunity to any witness, or for warrants, subpoenas, or other court orders, and for purposes of sections 6003, 6004, and 6005 of title 18, exercising the authority vested in a United States Attorney or the Attorney General;

(8) Inspecting, obtaining, or using the original or a copy of any tax return, in accordance with applicable statutes and regulations, and, for purposes of section 6103 of the Internal Revenue Code of 1986 and the regulations issued thereunder, exercising the powers vested in a United States Attorney or the Attorney General;

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

(10) Consulting with the United States Attorney for the district in which any violation of law with respect to which the special independent counsel is appointed was alleged to have occurred.

(e) *Personnel and budget.* Any special independent counsel appointed under

§0.15

28 CFR Ch. I (7–1–98 Edition)

this section shall be authorized to request the assignment of any Department employee to assist the special independent counsel. The special independent counsel shall assign the duties of such employees while they are assigned to the special independent counsel. If necessary, the special independent counsel may request that the Attorney General hire additional personnel from outside the Department. All personnel in the Department, including United States Attorneys, shall cooperate to the fullest extent possible with the special independent counsel. The Attorney General shall determine the budget for the special independent counsel and may approve any increases that may be necessary.

(f) *Responsibilities of the special independent counsel.* When the special independent counsel has completed the investigation the special independent counsel shall either:

(1) Initiate and complete a criminal prosecution of the subject Member of Congress or

(2) Issue a final statement to the Attorney General and the subject Member of Congress reporting solely that his investigation is complete and that no criminal charge will be brought.

In addition, a special independent counsel may advise the House of Representatives or the Senate, as the case may be, of any substantial and credible information permitted by law to be disclosed which such special independent counsel receives in carrying out the responsibilities under this section, that may constitute grounds for expulsion or other disciplinary action.

(g) *Removal.* The special independent counsel will not be removed from office except for extraordinary improprieties.

(h) *Department regulations.* The Department's regulations, including those governing recusal, disclosure of information, and policies, including those pertaining to the conduct of criminal investigations, shall apply to all matters arising under this section, and to the special independent counsel, all existing personnel assigned to him and all new personnel hired with the approval of the Attorney General at the special independent counsel's request.

(i) *Assistance of Assistant Attorney General for the Criminal Division.* In all

matters under this section either the Attorney General or the special independent counsel may request the assistance of the Assistant Attorney General for the Criminal Division; provided however, that notwithstanding any such assistance, the Attorney General must personally determine whether a preliminary investigation is required under paragraphs (a) and (b) of this section; appoint and define the jurisdiction of the special independent counsel under paragraph (c) of this section; determine the special independent counsel's budget under paragraph (e) of this section; and when appropriate remove the special independent counsel under paragraph (g) of this section. The special independent counsel may not delegate his function under paragraph (f) of this section.

(j) *Exception for investigation not initially involving Member of Congress.* When allegations involving criminality against a Member of Congress arise out of a criminal investigation being conducted by the Attorney General, the Attorney General may allow that ongoing investigation to continue and include said Member of Congress instead of invoking the procedures set forth in this section.

(k) The Attorney General may, upon the recommendation of the Assistant Attorney General for the Criminal Division, grant a single extension, for a period of not more than 60 days, of the 90-day period referred to in paragraph (b) above.

[Order No. 1297-88, 53 FR 31323, Aug. 18, 1988, as amended by Order No. 1331-89, 54 FR 11524, Mar. 21, 1989]

EFFECTIVE DATE NOTE: At 54 FR 15752, Apr. 19, 1989, §0.14 was suspended.

Subpart C—Office of the Deputy Attorney General

§0.15 Deputy Attorney General.

(a) The Deputy Attorney General is authorized to exercise all the power and authority of the Attorney General, unless any such power or authority is required by law to be exercised by the Attorney General personally.

(b) The Deputy Attorney General shall advise and assist the Attorney