

(c) Each United States district court shall record information as prescribed pursuant to subsection (b) of this section.

(Added Pub. L. 101-650, title I, §103(a), Dec. 1, 1990, 104 Stat. 5095.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 476 of this title.

**§ 482. Definitions**

As used in this chapter, the term “judicial officer” means a United States district court judge or a United States magistrate.

(Added Pub. L. 101-650, title I, §103(a), Dec. 1, 1990, 104 Stat. 5096.)

CHANGE OF NAME

Reference to United States magistrate or to magistrate deemed to refer to United States magistrate judge pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of this title.

**PART II—DEPARTMENT OF JUSTICE**

Chap.		Sec.
<b>31.</b>	<b>The Attorney General .....</b>	<b>501</b>
<b>33.</b>	<b>Federal Bureau of Investigation .....</b>	<b>531</b>
<b>35.</b>	<b>United States Attorneys .....</b>	<b>541</b>
<b>37.</b>	<b>United States Marshals<sup>1</sup> .....</b>	<b>561</b>
<b>39.</b>	<b>United States Trustees .....</b>	<b>581</b>
<b>40.</b>	<b>Independent Counsel .....</b>	<b>591</b>

AMENDMENTS

1986—Pub. L. 99-554, title I, §144(g)(2), Oct. 27, 1986, 100 Stat. 3097, substituted “40” for “39” in item relating to Independent Counsel.

1983—Pub. L. 97-409, §2(a)(2), Jan. 3, 1983, 96 Stat. 2039, substituted “Independent Counsel” for “Special Prosecutor” in item for second chapter 39.

1978—Pub. L. 95-598, title II, §224(b), Nov. 6, 1978, 92 Stat. 2664, added item for chapter 39, “United States Trustees”, effective Oct. 1, 1979.

Pub. L. 95-521, title VI, §601(b), Oct. 26, 1978, 92 Stat. 1873, added item for chapter 39 “Special Prosecutor”.

1966—Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 611, added items for chapters 31 and 33 and redesignated items for former chapters 31 and 33 as 35 and 37, respectively.

**CHAPTER 31—THE ATTORNEY GENERAL**

Sec.	
501.	Executive department.
502.	Seal.
503.	Attorney General.
504.	Deputy Attorney General.
504a.	Associate Attorney General.
505.	Solicitor General.
506.	Assistant Attorneys General.
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508.	Vacancies.
509.	Functions of the Attorney General.
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511.	Attorney General to advise the President.
512.	Attorney General to advise heads of executive departments.
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514.	Legal services on pending claims in departments and agencies.

<sup>1</sup>Chapter heading amended by Pub. L. 100-690 without corresponding amendment of analysis.

Sec.	
515.	Authority for legal proceedings; commission, oath, and salary for special attorneys.
516.	Conduct of litigation reserved to Department of Justice.
517.	Interests of United States in pending suits.
518.	Conduct and argument of cases.
519.	Supervision of litigation.
520.	Transmission of petitions in United States Court of Federal Claims or in United States Court of Appeals for the Federal Circuit; statement furnished by departments.
521.	Publication and distribution of opinions.
522.	Report of business and statistics.
523.	Requisitions.
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525.	Procurement of law books, reference books, and periodicals; sale and exchange.
526.	Authority of the Attorney General to investigate United States attorneys, marshals, and trustees, clerks of court, and others.
527.	Establishment of working capital fund.
528.	Disqualification of officers and employees of the Department of Justice.
529.	Annual report of Attorney General.
530.	Payment of travel and transportation expenses of newly appointed special agents.
530A.	Authorization of appropriations for travel and related expenses and for health care of personnel serving abroad.

AMENDMENTS

1992—Pub. L. 102-572, title IX, §902(b)(1), Oct. 29, 1992, 106 Stat. 4516, substituted “United States Court of Federal Claims” for “United States Claims Court” in item 520.

1988—Pub. L. 100-690, title VI, §6281(b), Nov. 18, 1988, 102 Stat. 4369, added item 530A.

1983—Pub. L. 98-86, §2, Aug. 26, 1983, 97 Stat. 492, added item 530.

1982—Pub. L. 97-258, §2(g)(1)(A), Sept. 13, 1982, 96 Stat. 1060, substituted “Availability of appropriations” for “Appropriations for administrative expenses; notarial fees; meals and lodging of bailiffs” in item 524.

Pub. L. 97-164, title I, §118(b), Apr. 2, 1982, 96 Stat. 33, substituted “United States Claims Court or in United States Court of Appeals for the Federal Circuit” for “Court of Claims” in item 520.

1978—Pub. L. 95-598, title II, §219(c), Nov. 6, 1978, 92 Stat. 2662, inserted reference to trustees in item 526.

Pub. L. 95-521, title VI, §603(b), Oct. 26, 1978, 92 Stat. 1875, added items 528 and 529.

1977—Pub. L. 95-139, §1(b), Oct. 19, 1977, 91 Stat. 1171, added item 504a.

1975—Pub. L. 93-613, §1(2), Jan. 2, 1975, 88 Stat. 1975, added item 527.

1966—Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 611, substituted “THE ATTORNEY GENERAL” for “UNITED STATES ATTORNEYS” in chapter heading, “Executive Department” for “Appointment of United States attorneys” in item 501, “Seal” for “Appointment of assistant United States attorneys” in item 502, “Attorney General” for “Appointment of attorneys” in item 503, “Deputy Attorney General” for “Tenure and oath of office; removal” in item 504, “Solicitor General” for “Residence” in item 505, “Assistant Attorney General” for “Vacancies” in item 506, “Assistant Attorney General for Administration” for “Duties; supervision by Attorney General” in item 507, “Vacancies” for “Salaries” in item 508, “Functions of the Attorney General” for “Expenses” in item 509, “Delegation of authority” for “Clerical assistants and messengers” in item 510, and added items 511 to 526.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 463 of this title; title 42 section 7192.

**§ 501. Executive department**

The Department of Justice is an executive department of the United States at the seat of Government.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 611.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 291 (less last 10 words).	R.S. §346 (less last 10 words).

The words “There shall be”, referring to the establishment of the Department, are omitted as executed.

PRIOR PROVISIONS

A prior section 501, acts June 25, 1948, ch. 646, 62 Stat. 909; Mar. 18, 1959, Pub. L. 86-3, §11(a), 73 Stat. 9, related to appointment of United States attorneys, prior to repeal by Pub. L. 89-554, §8(a), and reenactment in section 541 of this title by section 4(c) of Pub. L. 89-554.

SPECIFIC AUTHORIZATION OF APPROPRIATIONS REQUIRED FOR DEPARTMENT OF JUSTICE

Pub. L. 94-503, title II, §204, Oct. 15, 1976, 90 Stat. 2427, provided that: “No sums shall be deemed to be authorized to be appropriated for any fiscal year beginning on or after October 1, 1978, for the Department of Justice (including any bureau, agency, or other similar subdivision thereof) except as specifically authorized by Act of Congress with respect to such fiscal year. Neither the creation of a subdivision in the Department of Justice, nor the authorization of an activity of the Department, any subdivision, or officer thereof, shall be deemed in itself to be an authorization of appropriations for the Department of Justice, such subdivision, or activity, with respect to any fiscal year beginning on or after October 1, 1978.”

§ 502. Seal

The Attorney General shall have a seal for the Department of Justice. The design of the seal is subject to the approval of the President.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 611.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 292.	R.S. §353.

The section is rewritten to conform to other statutes authorizing departmental seals. The words “The seal heretofore provided for the office of the Attorney General shall be” are omitted as obsolete.

PRIOR PROVISIONS

A prior section 502, act June 25, 1948, ch. 646, 62 Stat. 909, related to appointment of assistant United States attorneys, prior to repeal by Pub. L. 89-554, §8(a), and reenactment in section 542 of this title by section 4(c) of Pub. L. 89-554.

§ 503. Attorney General

The President shall appoint, by and with the advice and consent of the Senate, an Attorney General of the United States. The Attorney General is the head of the Department of Justice.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 612.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 291 (last 10 words).	R.S. §346 (last 10 words).

The words “The President shall appoint, by and with the advice and consent of the Senate” have been added to conform the section with the Constitution. See article II, section 2, clause 2.

PRIOR PROVISIONS

A prior section 503, act June 25, 1948, ch. 646, 62 Stat. 909, related to appointment of attorneys to assist United States attorneys, prior to repeal by Pub. L. 89-554, §8(a), and reenactment in section 543 of this title by section 4(c) of Pub. L. 89-554.

ACTIONS CHALLENGING APPOINTMENT OF ATTORNEY GENERAL ON GROUNDS OF VIOLATION OF CONSTITUTIONAL PROVISIONS GOVERNING COMPENSATION AND OTHER EMOLUMENTS

Pub. L. 93-178, §2, Dec. 10, 1973, 87 Stat. 697, provided that:

“(a) Any person aggrieved by an action of the Attorney General may bring a civil action in the appropriate district court to contest the constitutionality of the appointment and continuance in office of the Attorney General on the ground that such appointment and continuance in office is in violation of article I, section 6, clause 2, of the Constitution. The United States district courts shall have exclusive jurisdiction, without regard to the sum or value of the matter in controversy, to determine the validity of such appointment and continuance in office.

“(b) Any action brought under this section shall be heard and determined by a panel of three judges in accordance with the provisions of section 2284 of title 28, United States Code. Any appeal from the action of a court convened pursuant to such section shall lie to the Supreme Court.

“(c) Any judge designated to hear any action brought under this section shall cause such action to be in every way expedited.”

CROSS REFERENCES

Compensation of Attorney General, see section 5312 of Title 5, Government Organization and Employees.

Office of Justice Programs, see section 3711 of Title 42, The Public Health and Welfare.

§ 504. Deputy Attorney General

The President may appoint, by and with the advice and consent of the Senate, a Deputy Attorney General.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 612.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 294.	Mar. 3, 1903, ch. 1006, §1 (so much of 2d par. under “Department of Justice” as provides for appointment, pay, and duties of an assistant to the Attorney General), 32 Stat. 1062.
.....	[Uncodified].	1950 Reorg. Plan No. 2, §3, eff. May 24, 1950, 64 Stat. 1261.

The words “may appoint” are substituted for “is authorized to appoint”. So much of the Act of Mar. 3, 1903, as relates to pay is omitted as superseded by §303(c) of the Act of Aug. 14, 1964, Pub. L. 88-426, 78 Stat. 416, which is codified in section 5314 of title 5, United States Code.

PRIOR PROVISIONS

A prior section 504, acts June 25, 1948, ch. 646, 62 Stat. 909; Mar. 18, 1959, Pub. L. 86-3, §11(b), 73 Stat. 9, related to tenure and oath of office of United States attorneys, prior to repeal by Pub. L. 89-554, §8(a), and reenactment in sections 541 and 544 of this title by section 4(c) of Pub. L. 89-554.

CROSS REFERENCES

Compensation of Deputy Attorney General, see section 5313 of Title 5, Government Organization and Employees.

§ 504a. Associate Attorney General

The President may appoint, by and with the advice and consent of the Senate, an Associate Attorney General.

(Added Pub. L. 95-139, §1(a), Oct. 19, 1977, 91 Stat. 1171.)

CROSS REFERENCES

Compensation of Associate Attorney General, see section 5314 of Title 5, Government Organization and Employees.

§ 505. Solicitor General

The President shall appoint in the Department of Justice, by and with the advice and consent of the Senate, a Solicitor General, learned in the law, to assist the Attorney General in the performance of his duties.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 612.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 293.	R.S. §347 (less last sentence).

So much of R.S. §347 as relates to the pay of the Solicitor General is omitted as superseded by §303(c) of the Act of Aug. 14, 1964, Pub. L. 88-426, 78 Stat. 416, which is codified in section 5314 of title 5, United States Code.

PRIOR PROVISIONS

A prior section 505, act June 25, 1948, ch. 646, 62 Stat. 909, related to residence of United States attorneys, prior to repeal by Pub. L. 89-554, §8(a), and reenactment in section 545 of this title by section 4(c) of Pub. L. 89-554.

CROSS REFERENCES

Compensation of Solicitor General, see section 5314 of Title 5, Government Organization and Employees.

§ 506. Assistant Attorneys General

The President shall appoint, by and with the advice and consent of the Senate, ten Assistant Attorneys General, who shall assist the Attorney General in the performance of his duties.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 612; amended Pub. L. 95-598, title II, §218, Nov. 6, 1978, 92 Stat. 2662.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 295.	R.S. §348. July 11, 1890, ch. 667, §1 (words between 3d and 4th semicolons under "Department of Justice"), 26 Stat. 265. Mar. 3, 1903, ch. 1006, §1 (so much of 2d par. under "Department of Justice" as provides for appointment, pay, and duties of an additional Assistant Attorney General), 32 Stat. 1062. July 16, 1914, ch. 141, §1 (words between 3d and 4th semicolons under "Department of Justice"), 38 Stat. 497.

HISTORICAL AND REVISION NOTES—CONTINUED

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	[Uncodified].	Mar. 4, 1915, ch. 141, §1 (words between 3d and 4th semicolons under "Department of Justice"), 38 Stat. 1038. June 16, 1933, ch. 101, §16(b), 48 Stat. 308. Mar. 2, 1943, ch. 7, 57 Stat. 4. 1950 Reorg. Plan No. 2, §4, eff. May 24, 1950, 64 Stat. 1261.
.....	[Uncodified].	1953 Reorg. Plan No. 4, §2, eff. June 20, 1953, 67 Stat. 636.
.....	5 U.S.C. 295-1.	Sept. 9, 1957, Pub. L. 85-315, §111, 71 Stat. 637.

The words "There shall be in the Department of Justice" are omitted as unnecessary as the title of the positions establishes their location in the Department of Justice.

The position of sixth Assistant Attorney General, referred to in the Acts of July 16, 1914, and Mar. 4, 1915, was made a permanent position by the Act of Mar. 4, 1915, ch. 141, §6, 38 Stat. 1049.

The number of Assistant Attorneys General referred to in the Act of Mar. 2, 1943, is changed from "six" to "nine" to reflect the three additional Assistant Attorneys General authorized by 1950 Reorg. Plan No. 2, 1953 Reorg. Plan No. 4, and the Act of Sept. 9, 1957.

The words "learned in the law" are omitted as unnecessary. Such a requirement is not made of the Attorney General, United States attorneys, or United States judges. (See reviser's note under 28 U.S.C. 501, 1964 ed.)

The reference in former section 295 of title 5 to the Assistant Attorneys General assisting the Solicitor General are omitted on authority of the transfer of functions made by 1950 Reorg. Plan No. 2 and 1953 Reorg. Plan No. 4.

Provisions of 1950 Reorg. Plan No. 2, §4, and 1953 Reorg. Plan No. 4, §2, abolishing positions and transferring incumbents are omitted as executed.

Provisions relating to pay of Assistant Attorneys General are omitted as superseded by §303(d) of the Act of August 14, 1964, Pub. L. 88-426, 78 Stat. 418, which is codified in section 5315 of title 5, United States Code.

PRIOR PROVISIONS

A prior section 506, act June 25, 1948, ch. 646, 62 Stat. 909, related to vacancies in the office of United States attorney, prior to repeal by Pub. L. 89-554, §8(a), and reenactment in section 546 of this title by section 4(c) of Pub. L. 89-554.

AMENDMENTS

1978—Pub. L. 95-598 substituted "ten" for "nine".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Nov. 6, 1978, see section 402(d) of Pub. L. 95-598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

CROSS REFERENCES

Compensation of Assistant Attorneys General, see section 5315 of Title 5, Government Organization and Employees.

§ 507. Assistant Attorney General for Administration

(a) The Attorney General shall appoint, with the approval of the President, an Assistant Attorney General for Administration, who shall perform such duties as the Attorney General may prescribe.

(b) The position of Assistant Attorney General for Administration is in the competitive service.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 612.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	[Uncodified].	1950 Reorg. Plan No. 2, § 5 eff. May 24, 1950, 64 Stat. 1261.

The title of the position was changed to "Assistant Attorney General for Administration" by §307 of the Act of Aug. 14, 1964, Pub. L. 88-426, 78 Stat. 432.

The words "competitive service" are substituted for "classified civil service" because the term "classified civil service" formerly used to designate the merit system established by the Civil Service Act of 1883 has become ambiguous due to the creation of the "classified" pay system. The term "competitive service" is now customarily used, and appears throughout title 5, United States Code, in place of "classified civil service".

The words "There shall be in the Department of Justice" are omitted as unnecessary as the title of the position and the fact of appointment by the Attorney General establish the location of the position in the Department of Justice.

The last 12 words of section 5 of the Reorganization Plan are omitted on authority of the Act of June 5, 1952, ch. 369, §1101 (3d proviso), 66 Stat. 121. The salary of the position is now fixed by §303(e) of the Act of Aug. 14, 1964, Pub. L. 88-426, 78 Stat. 420, which is codified in section 5316 of title 5, United States Code.

PRIOR PROVISIONS

A prior section 507, acts June 25, 1948, ch. 646, 62 Stat. 910; May 24, 1949, ch. 139, §71, 63 Stat. 100, related to duties of United States attorneys, and to supervision by the Attorney General, prior to repeal by Pub. L. 89-554, §8(a), and reenactment in sections 509 and 547 of this title by section 4(c) of Pub. L. 89-554.

CROSS REFERENCES

Compensation of Assistant Attorney General for Administration, see section 5316 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 26 section 7422; title 42 section 3211.

§ 508. Vacancies

(a) In case of a vacancy in the office of Attorney General, or of his absence or disability, the Deputy Attorney General may exercise all the duties of that office, and for the purpose of section 3345 of title 5 the Deputy Attorney General is the first assistant to the Attorney General.

(b) When by reason of absence, disability, or vacancy in office, neither the Attorney General nor the Deputy Attorney General is available to exercise the duties of the office of Attorney General, the Associate Attorney General shall act as Attorney General. The Attorney General may designate the Solicitor General and the Assistant Attorneys General, in further order of succession, to act as Attorney General.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 612; amended Pub. L. 95-139, §2, Oct. 19, 1977, 91 Stat. 1171.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	[Uncodified].	R.S. §347 (last sentence), 1953 Reorg. Plan No. 4, §1, eff. June 20, 1953, 67 Stat. 636.

The last sentence of R.S. §347 is cited as authority inasmuch as the function contained therein was the func-

tion transferred to the Deputy Attorney General by 1953 Reorg. Plan No. 4. The word "may" is substituted for "have the power". The words "During any period of time" are omitted as unnecessary.

PRIOR PROVISIONS

A prior section 508, acts June 25, 1948, ch. 646, 62 Stat. 910; Mar. 2, 1955, ch. 9, §2(a), 69 Stat. 10; Oct. 11, 1962, Pub. L. 87-793, §1003(a), 76 Stat. 865; Aug. 14, 1964, Pub. L. 88-426, title III, §306(a)(1), 78 Stat. 428; Oct. 6, 1964, Pub. L. 88-631, §3(b), 78 Stat. 1008, related to salaries of United States attorneys, assistant United States attorneys, and special attorneys, prior to repeal by Pub. L. 89-554, §8(a), and reenactment in section 548 of this title by section 4(c) of Pub. L. 89-554.

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-139 substituted "the Associate Attorney General shall act as Attorney General. The Attorney General may designate the Solicitor General and the Assistant Attorneys General, in further order of succession, to act as Attorney General" for "the Assistant Attorneys General and the Solicitor General, in such order of succession as the Attorney General may from time to time prescribe, shall act as Attorney General".

§ 509. Functions of the Attorney General

All functions of other officers of the Department of Justice and all functions of agencies and employees of the Department of Justice are vested in the Attorney General except the functions—

- (1) vested by subchapter II of chapter 5 of title 5 in administrative law judges employed by the Department of Justice;
- (2) of the Federal Prison Industries, Inc.; and
- (3) of the Board of Directors and officers of the Federal Prison Industries, Inc.<sup>1</sup>

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 612; amended Pub. L. 95-251, §2(a)(6), Mar. 27, 1978, 92 Stat. 183; Pub. L. 98-473, title II, §228(a), Oct. 12, 1984, 98 Stat. 2030.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	[Uncodified].	1950 Reorg. Plan No. 2, §1, eff. May 24, 1950, 64 Stat. 1261.

The section is restated to allow incorporation into this chapter.

[The Historical and Revision Notes for former section 507, from which this section is partially derived, is set out under section 547 of this title.]

PRIOR PROVISIONS

A prior section 509, act June 25, 1948, ch. 646, 62 Stat. 910, related to expenses of United States attorneys, prior to repeal by Pub. L. 89-554, §8(a), and reenactment in section 549 of this title by section 4(c) of Pub. L. 89-554.

AMENDMENTS

1984—Pub. L. 98-473 inserted "and" at end of cl. (2), substituted a period for "; and" at end of cl. (3), and struck out cl. (4) which related to functions of Board of Parole.

1978—Cl. (1). Pub. L. 95-251 substituted "administrative law judges" for "hearing examiners".

EFFECTIVE DATE OF 1984 AMENDMENT

Section 235(a)(1)(B)(ii)(IV) of Pub. L. 98-473 provided that the amendment made by Pub. L. 98-473 is effective Oct. 12, 1984.

<sup>1</sup> So in original.

## EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to the Attorney General, see Parts 1, 2, and 11 of Ex. Ord. No. 12656, Nov. 18, 1988, 53 F.R. 47491, set out as a note under section 5195 of Title 42, The Public Health and Welfare.

## REIMBURSEMENT OF EMPLOYEES TRAVELING ON BEHALF OF UNITED STATES IN TEMPORARY DUTY STATUS

Pub. L. 104-208, div. A, title I, §101(a) [title I, §115], Sept. 30, 1996, 110 Stat. 3009, 3009-22, provided that: "Effective with the enactment of this Act [Sept. 30, 1996] and in any fiscal year hereafter, under policies established by the Attorney General, the Department of Justice may reimburse employees who are paid by an appropriation account within the Department of Justice and are traveling on behalf of the United States in temporary duty status to investigate, prosecute, or litigate (including the provision of support therefor) a criminal or civil matter, or for other similar special circumstances, for Federal, State, and local taxes heretofore and hereafter resulting from any reimbursement of travel expenses from an appropriation account within the Department of Justice: *Provided*, That such reimbursement may include an amount equal to all income taxes for which the employee would be liable due to such reimbursement."

## OVERSEAS LAW ENFORCEMENT TRAINING ACTIVITIES

Pub. L. 104-132, title VIII, §801, Apr. 24, 1996, 110 Stat. 1304, provided that: "The Attorney General and the Secretary of the Treasury are authorized to support law enforcement training activities in foreign countries, in consultation with the Secretary of State, for the purpose of improving the effectiveness of the United States in investigating and prosecuting transnational offenses."

## REIMBURSEMENT BY OTHER GOVERNMENT AGENCIES OF DEPARTMENT OF JUSTICE SALARIES AND EXPENSES IN HIGH-COST LITIGATION

Pub. L. 103-317, title I, §109, Aug. 26, 1994, 108 Stat. 1735, provided that: "Notwithstanding 31 U.S.C. 3302 or any other law, in litigation involving unusually high costs, the Department of Justice may receive and retain reimbursement for salaries and expenses, for fiscal year 1995 and thereafter, from any other governmental component being represented in the litigation."

## NEIGHBORHOOD REVITALIZATION

Pub. L. 102-395, title I, Oct. 6, 1992, 106 Stat. 1830, provided in part: "That for fiscal year 1993 and thereafter the Attorney General shall (1) promote neighborhood revitalization by developing a plan for the use of Federal funds appropriated for selected activities in the Departments of Labor, Education, Health and Human Services, Transportation, Agriculture, and Housing and Urban Development; (2) the Attorney General shall solicit from State and local governments plans to revitalize neighborhoods using programs administered by such agencies; and (3) the Attorney General shall review and approve such plans in consultation with the Federal agency to which funds are appropriated".

## PROCUREMENT OF EXPERT WITNESSES WITHOUT REGARD TO COMPETITIVE PROCUREMENT PROCEDURES

Pub. L. 102-140, title VI, §611(a), Oct. 28, 1991, 105 Stat. 832, provided that, notwithstanding any other provision of law: "For fiscal year 1992 and thereafter, the Department of Justice may procure the services of expert witnesses for use in preparing or prosecuting a civil or criminal action, without regard to competitive procurement procedures, including the Commerce Business Daily publication requirements: *Provided*, That no witness shall be paid more than one attendance fee for any calendar day."

## STRUCTURAL REFORMS TO IMPROVE FEDERAL RESPONSE TO CRIMES AFFECTING FINANCIAL INSTITUTIONS

Pub. L. 101-647, title XXV, §§2536-2539, Nov. 29, 1990, 104 Stat. 4883, 4884, provided that:

## "SEC. 2536. ESTABLISHMENT OF FINANCIAL INSTITUTIONS CRIME UNIT AND OFFICE OF SPECIAL COUNSEL FOR FINANCIAL INSTITUTIONS CRIME UNIT.

"(a) ESTABLISHMENT.—There is established within the Office of the Deputy Attorney General in the Department of Justice a Financial Institutions Fraud Unit to be headed by a special counsel (hereafter in this title [probably means this subtitle which is subtitle D (§§2536-2540) of title XXV of Pub. L. 101-647, which amended section 1441a of Title 12, Banks and Banking, and enacted this note] referred to as the 'Special Counsel').

"(b) RESPONSIBILITY.—The Financial Institutions Fraud Unit and the Special Counsel shall be responsible to and shall report directly to the Deputy Attorney General.

"(c) SUNSET.—The provisions of this section shall cease to apply at the end of the 5-year period beginning on the date of the enactment of this Act [Nov. 29, 1990].

## "SEC. 2537. APPOINTMENT RESPONSIBILITIES AND COMPENSATION OF THE SPECIAL COUNSEL.

"(a) APPOINTMENT.—The Special Counsel shall be appointed by the President, by and with the advice and consent of the Senate.

"(b) RESPONSIBILITIES.—The Special Counsel shall—

"(1) supervise and coordinate investigations and prosecutions within the Department of Justice of fraud and other criminal activity in and against the financial services industry, including, to the extent consistent with the independent counsel provision of chapter 40 of title 28, United States Code, any such activity by any current or former elected official or high-level executive branch official or any member of the immediate family of any such official;

"(2) ensure that Federal law relating to civil enforcement, asset seizure and forfeiture, money laundering, and racketeering are used to the fullest extent authorized to recover the proceeds of unlawful activities from persons who have committed crimes in and against the financial services industry; and

"(3) ensure that adequate resources are made available for the investigation and prosecution of fraud and other criminal activity in and against the financial services industry.

"(c) COMPENSATION.—The Special Counsel shall be paid at the basic pay payable for level V of the Executive Schedule.

## "SEC. 2538. ASSIGNMENT OF PERSONNEL.

"There shall be assigned to the Financial Institutions Fraud Unit such personnel as the Attorney General deems necessary to provide an appropriate level of enforcement activity in the area of fraud and other criminal activity in and against the financial services industry.

## "SEC. 2539. FINANCIAL INSTITUTIONS FRAUD TASK FORCES.

"(a) ESTABLISHMENT.—The Attorney General shall establish such financial institutions fraud task forces as the Attorney General deems appropriate to ensure that adequate resources are made available to investigate and prosecute crimes in or against financial institutions and to recover the proceeds of unlawful activities from persons who have committed fraud or have engaged in other criminal activity in or against the financial services industry.

"(b) SUPERVISION.—The Attorney General shall determine how each task force shall be supervised and may provide for the supervision of any task force by the Special Counsel.

"(c) SENIOR INTERAGENCY GROUP.—

"(1) ESTABLISHMENT.—The Attorney General shall establish a senior interagency group to assist in iden-

tifying the most significant financial institution fraud cases and in allocating investigative and prosecutorial resources where they are most needed.

“(2) MEMBERSHIP.—The senior interagency group shall be chaired by the Special Counsel and shall include senior officials from—

“(A) the Department of Justice, including representatives of the Federal Bureau of Investigation, the Advisory Committee of United States Attorneys, and other relevant entities;

“(B) the Department of the Treasury;

“(C) the Office of Thrift Supervision;

“(D) the Resolution Trust Corporation;

“(E) the Federal Deposit Insurance Corporation;

“(F) the Office of the Comptroller of the Currency;

“(G) the Board of Governors of the Federal Reserve System; and

“(H) the National Credit Union Administration.

“(3) DUTIES.—This senior interagency group shall enhance interagency coordination and assist in accelerating the investigations and prosecution of financial institutions fraud.”

AUTHORIZATION OF APPROPRIATIONS FOR HUMANITARIAN EXPENSES INCURRED BY FEDERAL BUREAU OF INVESTIGATION AND DRUG ENFORCEMENT ADMINISTRATION

Pub. L. 101-647, title XXXII, §3201, Nov. 29, 1990, 104 Stat. 4916, provided that:

“(a) FEDERAL BUREAU OF INVESTIGATION.—For each fiscal year beginning after September 30, 1990, there is authorized to be appropriated for the Federal Bureau of Investigation \$25,000, to be expended in the discretion of the Director of the Federal Bureau of Investigation to pay humanitarian expenses incurred—

“(1) by an employee of the Bureau as a result of serious illness, serious injury, or death occurring while on official business; or

“(2) by any member of the immediate family of such employee, incident to the serious illness, serious injury, or death of such employee occurring while on official business.

“(b) DRUG ENFORCEMENT ADMINISTRATION.—For each fiscal year beginning after September 30, 1990, there is authorized to be appropriated for the Drug Enforcement Administration \$25,000, to be expended at the discretion of the Administrator of the Drug Enforcement Administration to pay humanitarian expenses incurred—

“(1) by an employee of the Administration as a result of serious illness, serious injury, or death occurring while on official business; or

“(2) by any member of the immediate family of such employee, incident to the serious illness, serious injury, or death of such employee occurring while on official business.”

INVESTIGATION OF FINANCIAL INSTITUTIONS; ASSISTANCE OF GOVERNMENT PERSONNEL

Pub. L. 101-509, title V, §528, Nov. 5, 1990, 104 Stat. 1427, as amended by Pub. L. 103-322, title XXXII, §320923, Sept. 13, 1994, 108 Stat. 2131, provided that:

“(a) Notwithstanding any other law and in any fiscal year—

“(1) The Attorney General shall accept, and Federal departments and agencies, including the United States Secret Service, the Internal Revenue Service, the Resolution Trust Corporation, and the appropriate Federal banking agency, may provide, without reimbursement, the services of attorneys, law enforcement personnel, and other employees of any other departments or agencies of the Federal Government to assist the Department of Justice, subject to the supervision of the Attorney General, in the investigation and prosecution of fraud or other criminal or unlawful activity in or against any federally insured financial institution or the Resolution Trust Corporation;

“(2) any attorney of a department or agency whose services are accepted pursuant to paragraph (1) may,

subject to the supervision of the Attorney General, conduct any kind of legal proceeding, civil or criminal, including grand jury proceedings and proceedings before committing magistrates, and perform any other investigative or prosecutorial function, which United States attorneys are authorized by law to conduct or perform whether or not the attorney is a resident of the district in which the proceeding is brought; and

“(3) law enforcement personnel of the United States Secret Service are authorized, subject to the supervision of the Attorney General, to conduct or perform any kind of investigation, civil or criminal, related to fraud or other criminal or unlawful activity in or against any federally insured financial institution or the Resolution Trust Corporation, which the Department of Justice law enforcement personnel are authorized by law to conduct or perform: *Provided*, That the Secret Service shall not initiate investigations pursuant to this section independent of the supervision of the Attorney General.

“(b) This section—

“(1) shall not, except as expressly provided herein, alter the authority of any Federal law enforcement agency; and

“(2) shall expire on December 31, 2004.

“(c) This section applies notwithstanding any other provision of law enacted by the 101st Congress after October 15, 1990, that by its terms would grant authority to, or otherwise affect the authority of, the Secret Service or other departments or agencies of the Federal Government to conduct or to assist the Department of Justice in conducting investigations or prosecutions of fraud or other criminal or unlawful activity in or against any federally insured financial institution or the Resolution Trust Corporation, and any other such provision shall not be effective in granting or otherwise affecting any such authority.”

PROCESSING OF NAME CHECKS AND BACKGROUND RECORDS FOR NONCRIMINAL EMPLOYMENT, LICENSING, AND HUMANITARIAN PURPOSES

Pub. L. 101-162, title II, Nov. 21, 1989, 103 Stat. 995, provided in part: “That for fiscal year 1990 and hereafter the Chief, United States National Central Bureau, INTERPOL, may establish and collect fees to process name checks and background records for noncriminal employment, licensing, and humanitarian purposes and, notwithstanding the provisions of 31 U.S.C. 3302, credit such fees to this appropriation to be used for salaries and other expenses incurred in providing these services”.

EXPENSES OF LEGAL DEFENSE FOR FEDERAL GOVERNMENT EMPLOYEES PERFORMING OFFICIAL DUTIES; FEES AND EXPENSES OF WITNESSES

Pub. L. 101-162, title II, Nov. 21, 1989, 103 Stat. 997, provided: “That for fiscal year 1990 and hereafter the Attorney General may enter into reimbursable agreements with other Federal Government agencies or components within the Department of Justice to pay expenses of private counsel to defend Federal Government employees sued for actions while performing their official duties: *Provided further*, That for fiscal year 1990 and hereafter the Attorney General, upon notification to the Committees on Appropriations of the House of Representatives and the Senate in compliance with provisions set forth in section 606 of this Act [Pub. L. 101-162, title VI, Nov. 21, 1989, 103 Stat. 1031], may authorize litigating components to reimburse this account for expert witness expenses when it appears current allocations will be exhausted for cases scheduled for trial in the current fiscal year.”

UNIFORMS AND ALLOWANCES

Pub. L. 101-162, title II, §203, Nov. 21, 1989, 103 Stat. 1002, provided that: “For fiscal year 1990 and hereafter, appropriations for ‘Salaries and expenses, General Administration’, ‘Salaries and expenses, United States

Marshals Service', 'Salaries and expenses, Federal Bureau of Investigation', 'Salaries and expenses, Drug Enforcement Administration', 'Salaries and expenses, Immigration and Naturalization Service', and 'Salaries and expenses, Federal Prison System', shall be available for uniforms and allowances therefor as authorized by law (5 U.S.C. 5901-5902)."

JUSTICE DEPARTMENT ORGANIZED CRIME AND DRUG ENFORCEMENT ENHANCEMENT

Pub. L. 100-690, title I, subtitle B, Nov. 18, 1988, 102 Stat. 4189, provided that:

"SEC. 1051. SHORT TITLE.

"This subtitle may be cited as the 'Justice Department Organized Crime and Drug Enforcement Enhancement Act of 1988'.

"SEC. 1052. FINDINGS.

"The Congress finds that—

"(1) organized criminal activity contributes significantly to the importation, distribution, and sale of illegal and dangerous drugs;

"(2) trends in drug trafficking patterns necessitate a response that gives appropriate weight to—

"(A) the prosecution of drug-related crimes; and

"(B) the forfeiture and seizure of assets and other civil remedies used to strike at the inherent strength of the drug networks and organized crime groups;

"(3) law enforcement components of the Department of Justice should give high priority to the enforcement of civil sanctions against drug networks and organized crime groups; and

"(4) the structure of the Department of Justice Criminal Division needs to be reviewed in order to determine the most effective structure to address such drug-related problems.

"SEC. 1053. CIVIL ENFORCEMENT REPORT.

"(a) REPORT.—Not later than 1 year after the date of the enactment of this title [Nov. 18, 1988], the Director of National Drug Control Policy (the Director) in consultation with the Attorney General, shall report to the Congress on the necessity to establish a new division or make other organizational changes within the Department of Justice in order to promote better civil and criminal law enforcement. In preparing such report, the Director shall consider restructuring and consolidating one or more of the following divisions and programs—

"(1) the Organized Crime and Racketeering Section of the Criminal Division and all subordinate strike forces therein;

"(2) the Narcotic and Dangerous Drug Section of the Criminal Division;

"(3) the Asset Forfeiture Office of the Criminal Division; and

"(4) the Organized Crime Drug Enforcement Task Force Program;[.]

"(b) LEGISLATIVE RECOMMENDATIONS.—The report submitted under subsection (a) shall include appropriate legislative recommendations for the Congress.

"SEC. 1054. CIVIL ENFORCEMENT ENHANCEMENT.

"(a) DUTY OF ATTORNEY GENERAL.—The Attorney General shall insure that each component of the Department of Justice having criminal law enforcement responsibilities with respect to the prosecution of organized crime and controlled substances violations, including each United States Attorney's Office, attaches a high priority to the enforcement of civil statutes creating ancillary sanctions and remedies for such violations, such as civil penalties and actions, forfeitures, injunctions and restraining orders, and collection of fines.

"(b) DUTY OF ASSOCIATE ATTORNEY GENERAL.—The Associate Attorney General shall be responsible for implementing the policy set forth in this subsection.

"(c) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated \$3,000,000 for salaries

and expenses to the Department of Justice General Legal Activities Account and \$3,000,000 for salaries and expenses for United States Attorneys for fiscal year 1989.

"(2) Any appropriation of funds authorized under paragraph (1) shall be—

"(A) in addition to any appropriations requested by the President in the 1989 fiscal year budget submitted by the President to the Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989; and

"(B) used to increase the number of field attorneys and related support staff over such personnel levels employed at the Department of Justice on September 30, 1988.

"(3) Any increase in full-time equivalent positions described under paragraph (2)(B) shall be exclusively used for asset forfeiture and civil enforcement and be assigned to appropriate field offices of the Organized Crime and Racketeering Section and the Organized Crime Drug Enforcement Task Forces.

"(d) REPORTING REQUIREMENT.—The Attorney General, at the end of each such fiscal year, shall file a report with the Congress setting forth the extent of such enforcement efforts, as well as the need for any enhancements in resources necessary to carry out this policy.

"SEC. 1055. EXPENSES OF TASK FORCES.

"(a) APPROPRIATIONS AND REIMBURSEMENTS PROCEDURE.—Beginning in fiscal year 1990, the Attorney General in his budget shall submit a separate appropriations request for expenses relating to all Federal agencies participating in the Organized Crime Drug Enforcement Task Forces. Such appropriations shall be made to the Department of Justice's Interagency Law Enforcement Appropriation Account for the Attorney General to make reimbursements to the involved agencies as necessary.

"(b) ENHANCEMENT OF FIELD ACTIVITIES.—The appropriations and reimbursements procedure described under subsection (a) shall—

"(1) provide for the flexibility of the Task Forces which is vital to success;

"(2) permit Federal law enforcement resources to be shifted in response to changing patterns of organized criminal drug activities;

"(3) permit the Attorney General to reallocate resources among the organizational components of the Task Forces and between regions without undue delay; and

"(4) ensure that the Task Forces function as a unit, without the competition for resources among the participating agencies that would undermine the overall effort."

IMPACT ANALYSIS OF ADDITIONAL RESOURCES TO CERTAIN COMPONENTS OF FEDERAL CRIMINAL JUSTICE SYSTEM; STUDY BY COMPTROLLER GENERAL AND REPORT TO CONGRESS

Pub. L. 100-690, title IX, §9201, Nov. 18, 1988, 102 Stat. 4535, provided that:

"(a) STUDY.—The Comptroller General of the United States shall conduct a study—

"(1) to determine the impact of additional resources to certain components of the Federal criminal justice system on other components of the system and of enhanced or new Federal criminal penalties or laws on the agencies and offices of the Department of Justice, the Federal courts, and other components of the Federal criminal justice system; and

"(2) use the data derived from the impact analysis to develop a model that can be applied by Congress and Federal agencies and departments to help determine appropriate staff and budget responses in order to maintain balance in the Federal criminal justice system and effectively implement changes in resources, laws, or penalties.

"(b) REPORT TO CONGRESS.—The Comptroller General shall report the results and recommendations derived

from the study required by subsection (a) no later than 1 year after the date of enactment of this Act [Nov. 18, 1988].”

FEDERAL ENVIRONMENTAL OR NATURAL RESOURCE LAWS; INVESTIGATIONS RESPECTING, ETC.

Pub. L. 96-132, §12, Nov. 30, 1979, 93 Stat. 1048, provided that: “The Attorney General may, with the concurrence of any agency or Department with primary enforcement responsibility for an environmental or natural resource law, investigate any violation, of an environmental or natural resource law of the United States, and bring such actions as are necessary to enforce such laws. This section does not affect the criminal law enforcement authority of the Attorney General.”

POSITIONS IN DRUG ENFORCEMENT ADMINISTRATION; GRADES EXCEPTED FROM COMPETITIVE SERVICE; VACANCIES; REMOVAL, SUSPENSION, OR REDUCTION IN RANK OR PAY; RATE OF PAY

Pub. L. 94-503, title II, §201, Oct. 15, 1976, 90 Stat. 2425, provided that:

“(a) Effective beginning one year after date of the enactment of this Act [Oct. 15, 1976], the following positions in the Drug Enforcement Administration (and individuals holding such positions) are hereby excepted from the competitive service:

“(1) positions at GS-16, 17, and 18 of the General Schedule under section 5332(a) of title 5, United States Code, and

“(2) positions at GS-15 of the General Schedule which are designated as—

“(A) regional directors,

“(B) office heads, or

“(C) executive assistants (or equivalent positions) under the immediate supervision of the Administrator (or the Deputy Administrator) of the Drug Enforcement Administration.

“(b) Effective during the one year period beginning on the date of the enactment of this Act [Oct. 15, 1976], vacancies in positions in the Drug Enforcement Administration (other than positions described in subsection (a)) at a grade not lower than GS-14 shall be filled—

“(1) first, from applicants who have continuously held positions described in subsection (a) since the date of the enactment of this Act and who have applied for, and are qualified to fill, such vacancies, and

“(2) then, from other applicants in the order which would have occurred in the absence of this subsection.

Any individual placed in a position under paragraph (1) shall be paid in accordance with subsection (d).

“(c)(1) Effective beginning one year after the date of the enactment of this Act [Oct. 15, 1976], an individual in a position described in subsection (a) may be removed, suspended for more than 30 days, furloughed without pay, or reduced in rank or pay by the Administrator of the Drug Enforcement Administration if—

“(A) such individual has been employed in the Drug Enforcement Administration for less than the one-year period immediately preceding the date of such action, and

“(B) the Administrator determines, in his discretion, that such action would promote the efficiency of the service.

“(2) Effective beginning one year after the date of the enactment of this Act [Oct. 15, 1976], an individual in a position described in subsection (a) may be reduced in rank or pay by the Administrator within the Drug Enforcement Administration if—

“(A) such individual has been continuously employed in such position since the date of the enactment of this Act, and

“(B) the Administrator determines, in his discretion, that such action would promote the efficiency of the service.

Any individual reduced in rank or pay under this paragraph shall be paid in accordance with subsection (d).

“(3) The provisions of sections 7512 and 7701 of title 5, United States Code, and otherwise applicable Executive orders, shall not apply with respect to actions taken by the Administrator under paragraph (1) or any reduction in rank or pay (under paragraph (2) or otherwise) of any individual in a position described in subsection (a).

“(d) Any individual whose pay is to be determined in accordance with this subsection shall be paid basic pay at the rate of basic pay he was receiving immediately before he was placed in a position under subsection (b)(1) or reduced in rank or pay under subsection (c)(2), as the case may be, until such time as the rate of basic pay he would receive in the absence of this subsection exceeds such rate of basic pay. The provisions of section 5337 of title 5, United States Code, shall not apply in any case in which this subsection applies.”

[References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.]

REORGANIZATION PLAN NO. 1 OF 1968

Eff. Apr. 8, 1968, 33 F.R. 5611, 82 Stat. 1367, as amended Reorg. Plan No. 2 of 1973, §3, eff. July 1, 1973, 38 F.R. 15932, 87 Stat. 1091

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, February 7, 1968, pursuant to the provisions of chapter 9 of title 5 of the United States Code.

NARCOTICS; DRUG ABUSE CONTROL

SECTION 1. TRANSFER OF FUNCTIONS FROM TREASURY DEPARTMENT

There are hereby transferred to the Attorney General:

(a) Those functions of the Secretary of the Treasury which are administered through or with respect to the Bureau of Narcotics.

(b) All functions of the Bureau of Narcotics, of the Commissioner of Narcotics, and of all other officers, employees and agencies of the Bureau of Narcotics.

(c) So much of other functions or parts of functions of the Secretary of the Treasury and the Department of the Treasury as is incidental to or necessary for the performance of the functions transferred by paragraphs (a) and (b) of this section.

SEC. 2. TRANSFER OF FUNCTIONS FROM THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

There are hereby transferred to the Attorney General:

(a) The functions of the Secretary of Health, Education, and Welfare under the Drug Abuse Control Amendments of 1965 (Public Law 89-74; 79 Stat. 226) [see Short Title note under 21 U.S.C. 301], except the function of regulating the counterfeiting of those drugs which are not controlled “depressant or stimulant” drugs.

(b) So much of other functions or parts of functions of the Secretary of Health, Education, and Welfare, and of the Department of Health, Education, and Welfare, as is incidental to or necessary for the performance of the functions transferred by paragraph (a) of this section.

SEC. 3. BUREAU OF NARCOTICS AND DANGEROUS DRUGS

(a) [Repealed. Reorg. Plan No. 2 of 1973, §3, 38 F.R. 15932, 87 Stat. 1091, eff. July 1, 1973. Subsection established the Bureau of Narcotics and Dangerous Drugs in the Department of Justice and provided that it be headed by a Director appointed by the Attorney General.]

(b) There are hereby established in the Department of Justice, in addition to the positions transferred to that Department by this Plan, four new positions, appointment to which shall be made by the Attorney General

in the competitive service. Two of those positions shall have compensation at the rate now or hereafter provided for GS-18 positions of the General Schedule and the other two shall have compensation at the rate now or hereafter provided for GS-16 positions of the General Schedule (5 U.S.C. 5332). Each such position shall have such title and duties as the Attorney General shall prescribe.

[References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.]

#### SEC. 4. ABOLITION

The Bureau of Narcotics in the Department of the Treasury, including the office of Commissioner of Narcotics (21 U.S.C. 161), is hereby abolished. The Secretary of the Treasury shall make such provision as he may deem necessary with respect to terminating those affairs of the Bureau of Narcotics not otherwise provided for in this reorganization plan.

#### SEC. 5. PERFORMANCE OF TRANSFERRED FUNCTIONS

The Attorney General may from time to time make such provisions as he shall deem appropriate authorizing the performance of any of the functions transferred to him by the provisions of this reorganization plan by any officer, employee, or organizational entity of the Department of Justice.

#### SEC. 6. INCIDENTAL TRANSFERS

(a) There are hereby transferred to the Department of Justice all of the positions, personnel, property, records, and unexpended balances of appropriations, allocations, and other funds, available or to be made available, (1) of the Bureau of Narcotics, and (2) of the Bureau of Drug Abuse Control of the Department of Health, Education, and Welfare.

(b) There shall be transferred to the Department of Justice, at such time or times as the Director of the Bureau of the Budget shall direct, so much as the Director shall determine of other positions, personnel, property, records and unexpended balances of appropriations, allocations, and other funds of the Department of the Treasury and of the Department of Health, Education, and Welfare employed, used, held, available or to be made available in connection with functions transferred by the provisions of this reorganization plan.

(c) Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate the transfers provided in this section shall be carried out in such manner as he may direct and by such agencies as he shall designate.

#### MESSAGE OF THE PRESIDENT

To the Congress of the United States:

In my first Reorganization Plan of 1968, I call for the creation of a new and powerful Bureau of Narcotics and Dangerous Drugs.

With this action, America will serve notice to the pusher and the peddler that their criminal acts must stop.

No matter how well organized they are, we will be better organized. No matter how well they have concealed their activities, we will root them out.

Today, Federal investigation and enforcement of our narcotics laws are fragmented. One major element—the Bureau of Narcotics—is in the Treasury Department and responsible for the control of marihuana and narcotics such as heroin. Another—the Bureau of Drug Abuse Control—is in the Department of Health, Education, and Welfare, and is responsible for the control of dangerous drugs including depressants, stimulants, and hallucinogens such as LSD.

Neither is located in the agency which is primarily concerned with Federal law enforcement—the Department of Justice.

This separation of responsibilities—despite the relentless and dedicated efforts of the agents of each Bureau—has complicated and hindered our response to a national menace.

For example, more than nine out of ten seizures of LSD made by the Bureau of Drug Abuse Control have also turned up marihuana—but that Bureau has no jurisdiction over marihuana.

In many instances, we are confronted by well organized disciplined and resourceful criminals who reap huge profits at the expense of their unfortunate victims.

The response of the Federal Government must be unified. And it must be total.

Today, in my Message on Crime, I recommended strong new laws to control dangerous drugs. I also recommended an increase of more than thirty percent in the number of Federal agents enforcing the narcotic and dangerous drug laws.

I now propose that a single Bureau of Narcotics and Dangerous Drugs be established in the Department of Justice to administer those laws and to bring to the American people the most efficient and effective Federal enforcement machinery we can devise.

Under this Reorganization Plan the Attorney General will have full authority and responsibility for enforcing the Federal laws relating to narcotics and dangerous drugs. The new Bureau of Narcotics and Dangerous Drugs, to be headed by a Director appointed by the Attorney General, will:

- consolidate the authority and preserve the experience and manpower of the Bureau of Narcotics and the Bureau of Drug Abuse Control.

- work with states and local governments in their crackdown on illegal trade in drugs and narcotics, and help to train local agents and investigators.

- maintain worldwide operations, working closely with other nations, to suppress the trade in illicit narcotics and marihuana.

- conduct an extensive campaign of research and a nationwide public education program on drug abuse and its tragic effects.

The Plan I forward today moves in the direction recommended by two distinguished groups:

- 1949 Hoover Commission.

- the 1963 Presidential Advisory Commission on Narcotic and Drug Abuse.

This Administration and this Congress have the will and the determination to stop the illicit traffic in drugs.

But we need more than the will and the determination. We need a modern and efficient instrument of Government to transform our plans into action. That is what this Reorganization Plan calls for.

The Plan has been prepared in accordance with chapter 9 of title 5 of the United States Code.

I have found, after investigation, that each reorganization included in the plan is necessary to accomplish one or more of the purposes set forth in section 901(a) of title 5 of the United States Code.

I have also found that, by reason of these reorganizations, it is necessary to include in the accompanying plan provisions for the appointment and compensation of the five new positions as specified in section 3 of the plan. The rates of compensation fixed for these new positions are those which I have found to prevail in respect of comparable positions in the Executive Branch of the Government.

Should the reorganization I propose take effect, they will make possible more effective and efficient administration of Federal law enforcement functions. It is not practicable at this time, however, to itemize the reduction in expenditures which may result.

I recommend that the Congress allow this urgently needed and important Reorganization Plan to become effective.

LYNDON B. JOHNSON.

THE WHITE HOUSE, February 7, 1968

### REORGANIZATION PLAN NO. 2 OF 1973

Effective July 1, 1973, 38 F.R. 15932, 87 Stat. 1091, as amended Pub. L. 93-253, §1, Mar. 16, 1974, 88 Stat. 50 Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 28, 1973, pursuant to the provisions of Chapter 9 of Title 5 of the United States Code.

#### LAW ENFORCEMENT IN ILLICIT DRUG ACTIVITIES

##### SECTION 1. TRANSFERS TO THE ATTORNEY GENERAL

There are hereby transferred from the Secretary of the Treasury, the Department of the Treasury, and any other officer or any agency of the Department of the Treasury, to the Attorney General all intelligence, investigative, and law enforcement functions, vested by law in the Secretary, the Department, officers, or agencies which relate to the suppression of illicit traffic in narcotics, dangerous drugs, or marihuana, except that the Secretary shall retain, and continue to perform, those functions, to the extent that they relate to searches and seizures of illicit narcotics, dangerous drugs, or marihuana or to the apprehension or detention of persons in connection therewith, at regular inspection locations at ports of entry or anywhere along the land or water borders of the United States: *Provided*, that any illicit narcotics, dangerous drugs, marihuana, or related evidence seized, and any person apprehended or detained by the Secretary or any officer of the Department of the Treasury, pursuant to the authority retained in them by virtue of this section, shall be turned over forthwith to the jurisdiction of the Attorney General: *Provided further*, that nothing in this section shall be construed as limiting in any way any authority vested by law in the Secretary of the Treasury, the Department of the Treasury, or any other officer or any agency of that Department on the effective date of this Plan with respect to contraband other than illicit narcotics, dangerous drugs, and marihuana: and *Provided further*, that nothing in this section shall be construed as limiting in any way any authority the Attorney General, the Department of Justice, or any other officer or any agency of that Department may otherwise have to make investigations or engage in law enforcement activities, including activities relating to the suppression of illicit traffic in narcotics, dangerous drugs, and marihuana, at ports of entry or along the land and water borders of the United States.

##### SEC. 2. TRANSFERS TO THE SECRETARY OF THE TREASURY

[Repealed. Pub. L. 93-253, §1(a)(1), (b), Mar. 16, 1974, 88 Stat. 50, eff. July 1, 1973. Section provided for transfer to Secretary of the Treasury of functions vested in Attorney General, Department of Justice, or any other officer of such Department respecting inspection at ports of entry of persons, and documents of persons, entering or leaving the United States.]

##### SEC. 3. ABOLITION

The Bureau of Narcotics and Dangerous Drugs, including the Office of Director thereof, is hereby abolished, and section 3(a) of Reorganization Plan No. 1 of 1968 is hereby repealed. The Attorney General shall make such provision as he may deem necessary with respect to terminating those affairs of the Bureau of Narcotics and Dangerous Drugs not otherwise provided for in this Reorganization Plan.

##### SEC. 4. DRUG ENFORCEMENT ADMINISTRATION

There is established in the Department of Justice an agency which shall be known as the Drug Enforcement Administration, hereinafter referred to as "the Administration."

##### SEC. 5. OFFICERS OF THE ADMINISTRATION

(a) There shall be at the head of the Administration the Administrator of Drug Enforcement, hereinafter re-

ferred to as "the Administrator." The Administrator shall be appointed by the President by and with the advice and consent of the Senate, and shall receive compensation at the rate now or hereafter prescribed by law for positions of level III of the Executive Schedule Pay Rates (5 U.S.C. 5314). He shall perform such functions as the Attorney General shall from time to time direct.

(b) There shall be in the Administration a Deputy Administrator of the Drug Enforcement Administration, hereinafter referred to as "the Deputy Administrator," who shall be appointed by the President by and with the advice and consent of the Senate, shall perform such functions as the Attorney General may from time to time direct, and shall receive compensation at the rate now or hereafter prescribed by law for positions of level V of the Executive Schedule Pay Rates (5 U.S.C. 5316).

(c) The Deputy Administrator or such other official of the Department of Justice as the Attorney General shall from time to time designate shall act as Administrator during the absence or disability of the Administrator or in the event of a vacancy in the office of Administrator.

##### SEC. 6. PERFORMANCE OF TRANSFERRED FUNCTIONS

The Attorney General may from time to time make such provisions as he shall deem appropriate authorizing the performance of any of the functions transferred to him by the provisions of this Reorganization Plan by any officer, employee, or agency of the Department of Justice.

[Section, former subsec. (a) designation, and subsec. (b) providing for performance of functions transferred to Secretary of Treasury by any officer, employee, or agency of Treasury Department, repealed by Pub. L. 93-253, §1(a)(2), (b), Mar. 16, 1974, 88 Stat. 50, eff. July 1, 1973.]

##### SEC. 7. COORDINATION

The Attorney General, acting through the Administrator and such other officials of the Department of Justice as he may designate, shall provide for the coordination of all drug law enforcement functions vested in the Attorney General so as to assure maximum cooperation between and among the Administration, the Federal Bureau of Investigation, and other units of the Department involved in the performance of these and related functions.

##### SEC. 8. INCIDENTAL TRANSFERS

(a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available or to be made available in connection with the functions transferred to the Attorney General and to the Secretary of the Treasury by this Reorganization Plan as the Director of the Office of Management and Budget shall determine shall be transferred to the Department of Justice and to the Department of the Treasury, respectively, at such time or times as the Director shall direct.

(b) Such further measures and dispositions as the Director of the Office of Management and Budget shall deem to be necessary in order to effectuate transfers referred to in subsection (a) of this section shall be carried out in such manner as he shall direct and by such Federal agencies as he shall designate.

##### SEC. 9. INTERIM OFFICERS

(a) The President may authorize any person who, immediately prior to the effective date of this Reorganization Plan, held a position in the Executive Branch of the Government to act as Administrator until the office of Administrator is for the first time filled pursuant to the provisions of this Reorganization Plan or by recess appointment as the case may be.

(b) The President may similarly authorize any such person to act as Deputy Administrator.

(c) The President may authorize any person who serves in an acting capacity under the foregoing provisions of this section to receive the compensation attached to the office in respect to which he so serves. Such compensation, if authorized, shall be in lieu of, but not in addition to, other compensation from the United States to which such person may be entitled.

#### SEC. 10. EFFECTIVE DATE

The provisions of this Reorganization Plan shall take effect as provided by section 906(a) of title 5 of the United States Code or on July 1, 1973, whichever is later.

#### MESSAGE OF THE PRESIDENT

To the Congress of the United States:

Drug abuse is one of the most vicious and corrosive forces attacking the foundations of American society today. It is a major cause of crime and a merciless destroyer of human lives. We must fight it with all of the resources at our command.

This Administration has declared all-out, global war on the drug menace. As I reported to the Congress earlier this month in my State of the Union message, there is evidence of significant progress on a number of fronts in that war.

Both the rate of new addiction to heroin and the number of narcotic-related deaths showed an encouraging downturn last year. More drug addicts and abusers are in treatment and rehabilitation programs than ever before.

Progress in pinching off the supply of illicit drugs was evident in last year's stepped-up volume of drug seizures worldwide—which more than doubled in 1972 over the 1971 level.

Arrests of traffickers have risen by more than one-third since 1971. Prompt Congressional action on my proposal for mandatory minimum sentences for pushers of hard drugs will help ensure that convictions stemming from such arrests lead to actual imprisonment of the guilty.

Notwithstanding these gains, much more must be done. The resilience of the international drug trade remains grimly impressive—current estimates suggest that we still intercept only a small fraction of all the heroin and cocaine entering this country. Local police still find that more than one of every three suspects arrested for street crimes is a narcotic abuser or addict. And the total number of Americans addicted to narcotics, suffering terribly themselves and inflicting their suffering in countless others, still stands in the hundreds of thousands.

#### A UNIFIED COMMAND FOR DRUG ENFORCEMENT

Seeking ways to intensify our counter-offensive against this menace, I am asking the Congress today to join with this Administration in strengthening and streamlining the Federal drug law enforcement effort.

Funding for this effort has increased sevenfold during the past five years, from \$36 million in fiscal year 1969 to \$257 million in fiscal year 1974—more money is not the most pressing enforcement need at present. Nor is there a primary need for more manpower working on the problem, over 2100 new agents having already been added to the Federal drug enforcement agencies under this Administration, an increase of more than 250 percent over the 1969 level.

The enforcement work could benefit significantly, however, from consolidation of our anti-drug forces under a single unified command. Right now the Federal Government is fighting the war on drug abuse under a distinct handicap, for its efforts are those of a loosely confederated alliance facing a resourceful, elusive, worldwide enemy. Admiral Mahan, the master naval strategist, described this handicap precisely when he wrote that "Granting the same aggregate of force, it is never as great in two hands as in one, because it is not perfectly concentrated."

More specifically, the drug law enforcement activities of the United States now are not merely in two

hands but in half a dozen. Within the Department of Justice, with no overall direction below the level of the Attorney General, these fragmented forces include the Bureau of Narcotics and Dangerous Drugs, the Office for Drug Abuse Law Enforcement, the Office of National Narcotics Intelligence, and certain activities of the Law Enforcement Assistance Administration. The Treasury Department is also heavily engaged in enforcement work through the Bureau of Customs.

This aggregation of Federal activities has grown up rapidly over the past few years in response to the urgent need for stronger anti-drug measures. It has enabled us to make a very encouraging beginning in the accelerated drug enforcement drive of this Administration.

But it also has serious operational and organizational shortcomings. Certainly the cold-blooded underworld networks that funnel narcotics from suppliers all over the world into the veins of American drug victims are no respecters of the bureaucratic dividing lines that now complicate our anti-drug efforts. On the contrary, these modern-day slave traders can derive only advantage from the limitations of the existing organizational patchwork. Experience has now given us a good basis for correcting those limitations, and it is time to do so.

I therefore propose creation of a single, comprehensive Federal agency within the Department of Justice to lead the war against illicit drug traffic.

Reorganization Plan No. 2 of 1973, which I am transmitting to the Congress with this message, would establish such an agency, to be called the Drug Enforcement Administration. It would be headed by an Administrator reporting directly to the Attorney General.

The Drug Enforcement Administration would carry out the following anti-drug functions, and would absorb the associated manpower and budgets:

- All functions of the Bureau of Narcotics and Dangerous Drugs (which would be abolished as a separate entity by the reorganization plan);
- Those functions of the Bureau of Customs pertaining to drug investigations and intelligence (to be transferred from the Treasury Department to the Attorney General by the reorganization plan).
- All functions of the Office of Drug Abuse Law Enforcement; and
- All functions of the Office of National Narcotics Intelligence.

Merger of the latter two organizations into the new agency would be effected by an executive order dissolving them and transferring their functions, to take effect upon approval of Reorganization Plan No. 2 by the Congress. Drug law enforcement research currently funded by the Law Enforcement Assistance Administration and other agencies would also be transferred to the new agency by executive action.

The major responsibility of the Drug Enforcement Administration would thus include:

- development of overall Federal drug law enforcement strategy, programs, planning, and evaluation;
- full investigation and preparation for prosecution of suspects for violations under all Federal drug trafficking laws;
- full investigation and preparation for prosecution of suspects connected with illicit drugs seized at U.S. ports-of-entry and international borders;
- conduct of all relations with drug law enforcement officials of foreign governments, under the policy guidance of the Cabinet Committee on International Narcotics Control;
- full coordination and cooperation with State and local law enforcement officials on joint drug enforcement efforts; and
- regulation of the legal manufacture of drugs and other controlled substances under Federal regulations.

The Attorney General, working closely with the Administrator of this new agency, would have authority to make needed program adjustments. He would take steps within the Department of Justice to ensure that high priority emphasis is placed on the prosecution and

sentencing of drug traffickers following their apprehension by the enforcement organization. He would also have the authority and responsibility for securing the fullest possible cooperation—particularly with respect to collection of drug intelligence—from all Federal departments and agencies which can contribute to the anti-drug work, including the Internal Revenue Service and the Federal Bureau of Investigation.

My proposals would make possible a more effective antidrug role for the FBI, especially in dealing with the relationship between drug trafficking and organized crime. I intend to see that the resources of the FBI are fully committed to assist in supporting the new Drug Enforcement Administration.

The consolidation effected under Reorganization Plan No. 2 would reinforce the basic law enforcement and criminal justice mission of the Department of Justice. With worldwide drug law enforcement responsibilities no longer divided among several organizations in two different Cabinet departments, more complete and cumulative drug law enforcement intelligence could be compiled. Patterns of international and domestic illicit drug production, distribution, and sale could be more directly compared and interpreted. Case-by-case drug law enforcement activities could be more comprehensively linked, cross-referenced, and coordinated into a single, organic enforcement operation. In short, drug law enforcement officers would be able to spend more time going after the traffickers and less time coordinating with one another.

Such progress could be especially helpful on the international front. Narcotics control action plans, developed under the leadership of the Cabinet Committee on International Narcotics Control, are now being carried out by U.S. officials in cooperation with host governments in 59 countries around the world. This wide-ranging effort to cut off drug supplies before they ever reach U.S. borders or streets is just now beginning to bear fruit. We can enhance its effectiveness, with little disruption of ongoing enforcement activities, by merging both the highly effective narcotics force of overseas Customs agents and the rapidly developing international activities of the Bureau of Narcotics and Dangerous Drugs into the Drug Enforcement Administration. The new agency would work closely with the Cabinet Committee under the active leadership of the U.S. Ambassador in each country where anti-drug programs are underway.

Two years ago, when I established the Special Action Office for Drug Abuse Prevention within the Executive Office of the President, we gained an organization with the necessary resources, breadth, and leadership capacity to begin dealing decisively with the "demand" side of the drug abuse problem—treatment and rehabilitation for those who have been drug victims, and preventive programs for potential drug abusers. This year, by permitting my reorganization proposals to take effect, the Congress can help provide a similar capability on the "supply" side. The proposed Drug Enforcement Administration, working as a team with the Special Action Office, would arm Americans with a potent one-two punch to help us fight back against the deadly menace of drug abuse. I ask full Congressional cooperation in its establishment.

#### IMPROVING PORT-OF-ENTRY INSPECTIONS

No heroin or cocaine is produced within the United States; domestic availability of these substances results solely from their illegal importation. The careful and complete inspection of all persons and goods coming into the United States is therefore an integral part of effective Federal drug law enforcement.

At the present time, however, Federal responsibility for conducting port-of-entry inspections is awkwardly divided among several Cabinet departments. The principal agencies involved are the Treasury Department's Bureau of Customs, which inspects goods, and the Justice Department's Immigration and Naturalization Service, which inspects persons and their papers. The two utilize separate inspection procedures, hold differ-

ing views of inspection priorities, and employ dissimilar personnel management practices.

To reduce the possibility that illicit drugs will escape detection at ports-of-entry because of divided responsibility, and to enhance the effectiveness of the Drug Enforcement Administration, the reorganization plan which I am proposing today would transfer to the Secretary of the Treasury all functions currently vested in Justice Department officials to inspect persons, or the documents of persons.

When the plan takes effect, it is my intention to direct the Secretary of the Treasury to use the resources so transferred—including some 1,000 employees of the Immigration and Naturalization Service—to augment the staff and budget of the Bureau of Customs. The Bureau's primary responsibilities would then include:

- inspection of all persons and goods entering the United States;
- valuation of goods being imported, and assessment of appropriate tariff duties;
- interception of contraband being smuggled into the United States;
- enforcement of U.S. laws governing the international movement of goods, except the investigation of contraband drugs and narcotics; and
- turning over the investigation responsibility for all drug law enforcement cases to the Department of Justice.

The reorganization would thus group most port-of-entry inspection functions in a single Cabinet department. It would reduce the need for much day-to-day interdepartmental coordination, allow more efficient staffing at some field locations, and remove the basis for damaging interagency rivalries. It would also give the Secretary of the Treasury the authority and flexibility to meet changing requirements in inspecting the international flow of people and goods. An important by-product of the change would be more convenient service for travellers entering and leaving the country.

For these reasons, I am convinced that inspection activities at U.S. ports-of-entry can more effectively support our drug law enforcement efforts if concentrated in a single agency. The processing of persons at ports-of-entry is too closely interrelated with the inspection of goods to remain organizationally separated from it any longer. Both types of inspections have numerous objectives besides drug law enforcement, so it is logical to vest them in the Treasury Department, which has long had the principal responsibility for port-of-entry inspection of goods, including goods being transported in connection with persons. As long as the inspections are conducted with full awareness of related drug concerns it is neither necessary nor desirable that they be made a responsibility of the primary drug enforcement organization.

#### DECLARATIONS

After investigation, I have found that each action included in Reorganization Plan No. 2 of 1973 is necessary to accomplish one or more of the purposes set forth in Section 901(a) of Title 5 of the United States Code. In particular, the plan is responsive of the intention of the Congress as expressed in Section 901(a)(1): "to promote better execution of the laws, more effective management of the executive branch and of its agencies and functions, and expeditious administration of the public business;" Section 901(a)(3): "to increase the efficiency of the operations of the Government to the fullest extent practicable;" Section 901(a)(5) "to reduce the number of agencies by consolidating those having similar functions under a single head, and to abolish such agencies or functions as may not be necessary for the efficient conduct of the Government;" and Section 901(a)(6): "to eliminate overlapping and duplication of effort."

As required by law, the plan has one logically consistent subject matter: consolidation of Federal drug law enforcement activities in a manner designed to increase their effectiveness.

The plan would establish in the Department of Justice a new Administration designated as the Drug En-

forcement Administration. The reorganizations provided for in the plan make necessary the appointment and compensation of new officers as specified in Section 5 of the plan. The rates of compensation fixed for these officers would be comparable to those fixed for officers in the executive branch who have similar responsibilities.

While it is not practicable to specify all of the expenditure reductions and other economies which may result from the actions proposed, some savings may be anticipated in administrative costs now associated with the functions being transferred and consolidated.

The proposed reorganization is a necessary step in upgrading the effectiveness of our Nation's drug law enforcement effort. Both of the proposed changes would build on the strengths of established agencies, yielding maximum gains in the battle against drug abuse with minimum loss of time and momentum in the transition.

I am confident that this reorganization plan would significantly increase the overall efficiency and effectiveness of the Federal Government. I urge the Congress to allow it to become effective.

RICHARD NIXON.

THE WHITE HOUSE, March 28, 1973

EX. ORD. NO. 12146. MANAGEMENT OF FEDERAL LEGAL RESOURCES

Ex. Ord. No. 12146, July 18, 1979, 44 F.R. 42657, as amended by Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, provided:

By the authority vested in me as President by the Constitution and statutes of the United States of America, it is hereby ordered as follows:

1-1. ESTABLISHMENT OF THE FEDERAL LEGAL COUNCIL

1-101. There is hereby established the Federal Legal Council, which shall be composed of the Attorney General and the representatives of not more than 15 other agencies. The agency representative shall be designated by the head of the agency.

1-102. The initial membership of the Council, in addition to the Attorney General, shall consist of representatives designated by the heads of the following agencies:

- (a) The Department of Commerce.
- (b) The Department of Defense.
- (c) The Department of Energy.
- (d) The Environmental Protection Agency.
- (e) The Equal Employment Opportunity Commission.
- (f) The Federal Trade Commission.
- (g) The Department of Health and Human Services.
- (h) The Interstate Commerce Commission.
- (i) The Department of Labor.
- (j) The National Labor Relations Board.
- (k) The Securities and Exchange Commission.
- (l) The Department of State.
- (m) The Department of the Treasury.
- (n) The United States Postal Service and
- (o) the Veterans Administration.

1-103. The initial members of the Council shall serve for a term of two years. Thereafter, the agencies which compose the membership shall be designated annually by the Council and at least five positions on the Council, other than that held by the Attorney General, shall rotate annually.

1-104. In addition to the above members, the Directors of the Office of Management and Budget and the Office of Personnel Management, or their designees, shall be advisory members of the Council.

1-105. The Attorney General shall chair the Council and provide staff for its operation. Representatives of agencies that are not members of the Council may serve on or chair subcommittees of the Council.

1-2. FUNCTIONS OF THE COUNCIL

1-201. The Council shall promote:

(a) coordination and communication among Federal legal offices;

(b) improved management of Federal lawyers, associated support personnel, and information systems;

(c) improvements in the training provided to Federal lawyers;

(d) the facilitation of the personal donation of pro bono legal services by Federal attorneys;

(e) the use of joint or shared legal facilities in field offices; and

(f) the delegation of legal work to field offices.

1-202. The Council shall study and seek to resolve problems in the efficient and effective management of Federal legal resources that are beyond the capacity or authority of individual agencies to resolve.

1-203. The Council shall develop recommendations for legislation and other actions: (a) to increase the efficient and effective operation and management of Federal legal resources, including those matters specified in Section 1-201, and (b) to avoid inconsistent or unnecessary litigation by agencies.

1-3. LITIGATION NOTICE SYSTEM

1-301. The Attorney General shall establish and maintain a litigation notice system that provides timely information about all civil litigation pending in the courts in which the Federal Government is a party or has a significant interest.

1-302. The Attorney General shall issue rules to govern operation of the notice system. The rules shall include the following requirement:

(a) All agencies with authority to litigate cases in court shall promptly notify the Attorney General about those cases that fall in classes or categories designated from time to time by the Attorney General.

(b) The Attorney General shall provide all agencies reasonable access to the information collected in the litigation notice system.

1-4. RESOLUTION OF INTERAGENCY LEGAL DISPUTES

1-401. Whenever two or more Executive agencies are unable to resolve a legal dispute between them, including the question of which has jurisdiction to administer a particular program or to regulate a particular activity, each agency is encouraged to submit the dispute to the Attorney General.

1-402. Whenever two or more Executive agencies whose heads serve at the pleasure of the President are unable to resolve such a legal dispute, the agencies shall submit the dispute to the Attorney General prior to proceeding in any court, except where there is specific statutory vesting of responsibility for a resolution elsewhere.

1-5. ACCESS TO LEGAL OPINIONS

1-501. In addition to the disclosure now required by law, all agencies are encouraged to make available for public inspection and copying other opinions of their legal officers that are statements of policy or interpretation that have been adopted by the agency, unless the agency determines that disclosure would result in demonstrable harm.

1-502. All agencies are encouraged to make available on request other legal opinions, when the agency determines that disclosure would not be harmful.

1-6. AUTOMATED LEGAL RESEARCH AND INFORMATION SYSTEMS

1-601. The Attorney General, in coordination with the Secretary of Defense and other agency heads, shall provide for a computerized legal research system that will be available to all Federal law offices on a reimbursable basis. The system may include in its data base such Federal regulations, case briefs, and legal opinions, as the Attorney General deems appropriate.

1-602. The Federal Legal Council shall provide leadership for all Federal legal offices in establishing appropriate word processing and management information systems.

1-7. RESPONSIBILITIES OF THE AGENCIES

1-701. Each agency shall (a) review the management and operation of its legal activities and report in one

year to the Federal Legal Council all steps being taken to improve those operations, and (b) cooperate with the Federal Legal Council and the Attorney General in the performance of the functions provided by this Order.

1-702. To the extent permitted by law, each agency shall furnish the Federal Legal Council and the Attorney General with reports, information and assistance as requested to carry out the provisions of this Order.

CROSS REFERENCES

Bureau of Justice Assistance within Department of Justice, see section 3741 et seq. of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 20 section 1082; title 42 section 12651d.

§ 510. Delegation of authority

The Attorney General may from time to time make such provisions as he considers appropriate authorizing the performance by any other officer, employee, or agency of the Department of Justice of any function of the Attorney General.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 612.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row 1: [Uncodified], 1950 Reorg. Plan No. 2, §2, eff. May 24, 1950, 64 Stat. 1261.

The words "including any function transferred to the Attorney General by the provisions of this reorganization plan" are omitted as executed and unnecessary as the words "any function of the Attorney General" include the functions transferred to the Attorney General by 1950 Reorg. Plan. No. 2.

PRIOR PROVISIONS

A prior section 510, act June 25, 1948, ch. 646, 62 Stat. 910, related to clerical assistants and messengers for United States attorneys, prior to repeal by Pub. L. 89-554, §8(a), and reenactment in section 550 of this title by section 4(c) of Pub. L. 89-554.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 26 section 6103; title 31 section 3733.

§ 511. Attorney General to advise the President

The Attorney General shall give his advice and opinion on questions of law when required by the President.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 612.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row 1: 5 U.S.C. 303, R.S. §354, Feb. 27, 1877, ch. 69, §1 (8th full par. on p. 241), 19 Stat. 241.

§ 512. Attorney General to advise heads of executive departments

The head of an executive department may require the opinion of the Attorney General on questions of law arising in the administration of his department.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 613.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row 1: 5 U.S.C. 304, R.S. §356.

§ 513. Attorney General to advise Secretaries of military departments

When a question of law arises in the administration of the Department of the Army, the Department of the Navy, or the Department of the Air Force, the cognizance of which is not given by statute to some other officer from whom the Secretary of the military department concerned may require advice, the Secretary of the military department shall send it to the Attorney General for disposition.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 613.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row 1: 5 U.S.C. 307, R.S. §357.

The Department of War was designated the Department of the Army by the Act of July 26, 1947, ch. 343, §205, 61 Stat. 501. "Department of the Air Force" is added on authority of the Act of July 26, 1947, ch. 343, §207(a), (f), 61 Stat. 502. The word "Secretary" is substituted for "head." The words "military department" are substituted for "department" to conform to section 102 of title 5, United States Code, and section 101 of title 10, United States Code. The words "for disposition" are substituted for "to be by him referred to the proper officer in his department, or otherwise disposed of as he may deem proper."

§ 514. Legal services on pending claims in departments and agencies

When the head of an executive department or agency is of the opinion that the interests of the United States require the service of counsel on the examination of any witness concerning any claim, or on the legal investigation of any claim, pending in the department or agency, he shall notify the Attorney General, giving all facts necessary to enable him to furnish proper professional service in attending the examination or making the investigation, and the Attorney General shall provide for the service.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 613.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row 1: 5 U.S.C. 48, 5 U.S.C. 313, R.S. §187, R.S. §364.

Sections 187 and 364 of the Revised Statutes are combined into one section since they both deal with the same subject matter and are derived from the Act of Feb. 14, 1871, ch. 51, §3, 16 Stat. 412.

The words "executive department" are substituted for "Department" because "Department", as used in R.S. §§187 and 364, meant "executive department". (See R.S. §159.) The word "agency" is substituted for "bureau" as it has a more common current acceptance.

The word "concerning" is substituted for "touching". Reference to application for a subpoena is omitted as R.S. §364 gives the department head the same authority to request aid from the Attorney General whether or not application has been made for a subpoena.

Section 187 of the Revised Statutes was part of title IV of the Revised Statutes. The Act of July 26, 1947, ch. 343, §201(d), as added Aug. 10, 1949, ch. 412, §4, 63 Stat. 579 (former 5 U.S.C. 171-1), which provides "Except to the extent inconsistent with the provisions of this Act [National Security Act of 1947], the provisions of title IV of the Revised Statutes as now or hereafter amended shall be applicable to the Department of Defense" is omitted from this title but is not repealed.

Minor changes are made in phraseology to allow for the combining of the two sections.

§ 515. Authority for legal proceedings; commission, oath, and salary for special attorneys

(a) The Attorney General or any other officer of the Department of Justice, or any attorney specially appointed by the Attorney General under law, may, when specifically directed by the Attorney General, conduct any kind of 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 he is a resident of the district in which the proceeding is brought.

(b) Each attorney specially retained under authority of the Department of Justice shall be commissioned as special assistant to the Attorney General or special attorney, and shall take the oath required by law. Foreign counsel employed in special cases are not required to take the oath. The Attorney General shall fix the annual salary of a special assistant or special attorney at not more than \$12,000.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 613.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Rows include (a) 5 U.S.C. 310, (b) 5 U.S.C. 315, and [Uncodified] entries with various dates and statute references.

In subsection (a), the words "or counselor" are omitted as redundant. The words "United States attorneys" are substituted for "district attorneys" on authority of the Act of June 25, 1948, ch. 646, §1, 62 Stat. 909. The words "any provision of" are omitted as unnecessary.

CHANGE OF NAME

Reference to United States magistrate or to magistrate deemed to refer to United States magistrate judge pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of this title.

§ 516. Conduct of litigation reserved to Department of Justice

Except as otherwise authorized by law, the conduct of litigation in which the United States,

an agency, or officer thereof is a party, or is interested, and securing evidence therefor, is reserved to officers of the Department of Justice, under the direction of the Attorney General.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 613.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row includes 5 U.S.C. 306 and R.S. §361, Sept. 3, 1954, ch. 1263, §11, 68 Stat. 1229.

The section is revised to express the effect of the law. As agency heads have long employed, with the approval of Congress, attorneys to advise them in the conduct of their official duties, the first 56 words of R.S. §361 and of former section 306 of title 5 are omitted as obsolete.

The section concentrates the authority for the conduct of litigation in the Department of Justice. The words "Except as otherwise authorized by law," are added to provide for existing and future exceptions (e.g., section 1037 of title 10). The words "an agency" are added for clarity and to align this section with section 519 which is of similar import. The words "as such officer" are omitted as unnecessary since it is implied that the officer is a party in his official capacity as an officer.

So much as prohibits the employment of counsel, other than in the Department of Justice, to conduct litigation is omitted as covered by R.S. §365, which is codified in section 3106 of title 5, United States Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 7 section 7516; title 12 section 4243; title 19 section 2350; title 31 section 3718; title 38 sections 3730, 5316; title 42 section 1785.

§ 517. Interests of United States in pending suits

The Solicitor General, or any officer of the Department of Justice, may be sent by the Attorney General to any State or district in the United States to attend to the interests of the United States in a suit pending in a court of the United States, or in a court of a State, or to attend to any other interest of the United States.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 613.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row includes 5 U.S.C. 316 and R.S. §367.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 7 section 943; title 19 section 1920; title 20 section 1082; title 42 sections 292j, 3211, 12651d.

§ 518. Conduct and argument of cases

(a) Except when the Attorney General in a particular case directs otherwise, the Attorney General and the Solicitor General shall conduct and argue suits and appeals in the Supreme Court and suits in the United States Court of Federal Claims or in the United States Court of Appeals for the Federal Circuit and in the Court of International Trade in which the United States is interested.

(b) When the Attorney General considers it in the interests of the United States, he may per-

sonally conduct and argue any case in a court of the United States in which the United States is interested, or he may direct the Solicitor General or any officer of the Department of Justice to do so.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 613; amended Pub. L. 96-417, title V, §503, Oct. 10, 1980, 94 Stat. 1743; Pub. L. 97-164, title I, §117, Apr. 2, 1982, 96 Stat. 32; Pub. L. 102-572, title IX, §902(b)(1), Oct. 29, 1992, 106 Stat. 4516.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 309.	R.S. §359.

The words "and writs of error" are omitted on authority of the Act of Jan. 31, 1928, ch. 14, §1, 45 Stat. 54. The word "considers" is substituted for "deems".

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-572 substituted "United States Court of Federal Claims" for "United States Claims Court".

1982—Subsec. (a). Pub. L. 97-164 substituted "United States Claims Court or in the United States Court of Appeals for the Federal Circuit" for "Court of Claims".

1980—Subsec. (a). Pub. L. 96-417 required the Attorney General and the Solicitor General to conduct and argue suits in the Court of International Trade.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-417 effective Nov. 1, 1980, and applicable with respect to civil actions pending on or commenced on or after such date, see section 701(a) of Pub. L. 96-417, set out as a note under section 251 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 sections 1204, 7105, 8477; title 12 sections 2244, 4243; title 29 sections 663, 792, 1132, 1852; title 30 section 822; title 31 section 3718; title 42 sections 300aa-12, 7171.

§ 519. Supervision of litigation

Except as otherwise authorized by law, the Attorney General shall supervise all litigation to which the United States, an agency, or officer thereof is a party, and shall direct all United States attorneys, assistant United States attorneys, and special attorneys appointed under section 543 of this title in the discharge of their respective duties.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 614.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	28 U.S.C. 507(b).	[None].

The words "Except as otherwise authorized by law," are added to provide for existing and future exceptions (e.g., section 1037 of title 10).

The words "or officer" are added for clarity and to align this section with section 516 which is of similar import.

The words "special attorneys appointed under section 543" are substituted for "attorneys appointed under section 543" to reflect the revision of this title.

CASE MANAGEMENT INFORMATION AND TRACKING SYSTEMS FOR FEDERAL JUDICIAL DISTRICTS AND DIVISIONS OF DEPARTMENT; PREPARATION, SUBMISSION, ETC., OF PLAN

Pub. L. 96-132, §11, Nov. 30, 1979, 93 Stat. 1047, required the Attorney General, not later than Apr. 15, 1980, after consultation with the Director of the Executive Office of United States Attorneys and such Assistant Attorneys as appropriate, to prepare and submit to the Committees on the Judiciary of the Senate and the House of Representatives a plan for the activation and coordination, within the Department of Justice, of compatible, comprehensive case management information and tracking systems for each of the judicial districts of the United States and for each of the divisions of the Department.

REPORT TO CONGRESS REGARDING PROVISIONS OF LAW CONSIDERED UNCONSTITUTIONAL BY THE DEPARTMENT OF JUSTICE; DECLARATION OF SUCH POSITION

Pub. L. 96-132, §21, Nov. 30, 1979, 93 Stat. 1049, required the Attorney General, during the fiscal year ending Sept. 30, 1980, to transmit a report to each House of Congress in any case in which the Attorney General considered the provisions of law enacted by the Congress and at issue to be unconstitutional and in such cases required a representative of the Department of Justice participating in such case to make a declaration that such opinion of the Attorney General regarding the constitutionality of those provisions of law involved constitutes the opinion of the executive branch of the government with respect to such matter.

Similar provisions were contained in Pub. L. 95-624, §13, Nov. 9, 1978, 92 Stat. 3464.

STUDY AND REPORT TO CONGRESS ON EXTENT TO WHICH VIOLATIONS OF FEDERAL CRIMINAL LAWS ARE NOT PROSECUTED

Pub. L. 95-624, §17, Nov. 9, 1978, 92 Stat. 3465, provided that the Attorney General undertake a study and make recommendations concerning violations of Federal criminal laws which have not been prosecuted and present such study and recommendations to the Committee on the Judiciary of the Senate and the House of Representatives not later than Oct. 1, 1979.

EXECUTIVE ORDER NO. 12778

Ex. Ord. No. 12778, Oct. 23, 1991, 56 F.R. 55195, which prescribed guidelines for promotion of just and efficient Government civil litigation and set forth principles for enactment of legislation and promulgation of regulations which did not unduly burden the Federal court system and for promotion of just and efficient administrative adjudications, was revoked by Ex. Ord. No. 12988, §12, Feb. 5, 1996, 61 F.R. 4734, set out below.

EX. ORD. NO. 12988. CIVIL JUSTICE REFORM

Ex. Ord. No. 12988, Feb. 5, 1996, 61 F.R. 4729, provided: By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, and in order to improve access to justice for all persons who wish to avail themselves of court and administrative adjudicatory tribunals to resolve disputes, to facilitate the just and efficient resolution of civil claims involving the United States Government, to encourage the filing of only meritorious civil claims, to improve legislative and regulatory drafting to reduce needless litigation, to promote fair and prompt adjudication before administrative tribunals, and to provide a model for similar reforms of litigation practices in the private sector and in various states, it is hereby ordered as follows:

SECTION 1. *Guidelines to Promote Just and Efficient Government Civil Litigation.* To promote the just and efficient resolution of civil claims, those Federal agencies and litigation counsel that conduct or otherwise participate in civil litigation on behalf of the United States Government in Federal court shall respect and adhere to the following guidelines during the conduct of such litigation:

(a) *Pre-filing Notice of a Complaint.* No litigation counsel shall file a complaint initiating civil litigation without first making a reasonable effort to notify all disputants about the nature of the dispute and to attempt to achieve a settlement, or confirming that the referring agency that previously handled the dispute has made a reasonable effort to notify the disputants and to achieve a settlement or has used its conciliation processes.

(b) *Settlement Conferences.* As soon as practicable after ascertaining the nature of a dispute in litigation, and throughout the litigation, litigation counsel shall evaluate settlement possibilities and make reasonable efforts to settle the litigation. Such efforts shall include offering to participate in a settlement conference or moving the court for a conference pursuant to Rule 16 of the Federal Rules of Civil Procedure [28 App. U.S.C.] in an attempt to resolve the dispute without additional civil litigation.

(c) *Alternative Methods of Resolving the Dispute in Litigation.* Litigation counsel shall make reasonable attempts to resolve a dispute expeditiously and properly before proceeding to trial.

(1) Whenever feasible, claims should be resolved through informal discussions, negotiations, and settlements rather than through utilization of any formal court proceeding. Where the benefits of Alternative Dispute Resolution (“ADR”) may be derived, and after consultation with the agency referring the matter, litigation counsel should suggest the use of an appropriate ADR technique to the parties.

(2) It is appropriate to use ADR techniques or processes to resolve claims of or against the United States or its agencies, after litigation counsel determines that the use of a particular technique is warranted in the context of a particular claim or claims, and that such use will materially contribute to the prompt, fair, and efficient resolution of the claims.

(3) To facilitate broader and effective use of informal and formal ADR methods, litigation counsel should be trained in ADR techniques.

(d) *Discovery.* To the extent practical, litigation counsel shall make every reasonable effort to streamline and expedite discovery in cases under counsel’s supervision and control.

(1) *Review of Proposed Document Requests.* Each agency within the executive branch shall establish a coordinated procedure for the conduct and review of document discovery undertaken in litigation directly by that agency when that agency is litigation counsel. The procedure shall include, but is not necessarily limited to, review by a senior lawyer prior to service or filing of the request in litigation to determine that the request is not cumulative or duplicative, unreasonable, oppressive, unduly burdensome or expensive, taking into account the requirements of the litigation, the amount in controversy, the importance of the issues at stake in the litigation, and whether the documents can be obtained from some other source that is more convenient, less burdensome, or less expensive.

(2) *Discovery Motions.* Before petitioning a court to resolve a discovery motion or petitioning a court to impose sanctions for discovery abuses, litigation counsel shall attempt to resolve the dispute with opposing counsel. If litigation counsel makes a discovery motion concerning the dispute, he or she shall represent in that motion that any attempt at resolution was unsuccessful or impracticable under the circumstances.

(e) *Sanctions.* Litigation counsel shall take steps to seek sanctions against opposing counsel and opposing parties where appropriate.

(1) Litigation counsel shall evaluate filings made by opposing parties and, where appropriate, shall petition

the court to impose sanctions against those responsible for abusive practices.

(2) Prior to filing a motion for sanctions, litigation counsel shall submit the motion for review to the sanctions officer, or his or her designee, within the litigation counsel’s agency. Such officer or designee shall be a senior supervising attorney within the agency, and shall be licensed to practice law before a State court, courts of the District of Columbia, or courts of any territory or Commonwealth of the United States. The sanctions officer or designee shall also review motions for sanctions that are filed against litigation counsel, the United States, its agencies, or its officers.

(f) *Improved Use of Litigation Resources.* Litigation counsel shall employ efficient case management techniques and shall make reasonable efforts to expedite civil litigation in cases under that counsel’s supervision and control. This includes but is not limited to:

(1) making reasonable efforts to negotiate with other parties about, and stipulate to, facts that are not in dispute;

(2) reviewing and revising pleadings and other filings to ensure that they are accurate and that they reflect a narrowing of issues, if any, that has resulted from discovery;

(3) requesting early trial dates where practicable;

(4) moving for summary judgment in every case where the movant would be likely to prevail, or where the motion is likely to narrow the issues to be tried; and

(5) reviewing and revising pleadings and other filings to ensure that unmeritorious threshold defenses and jurisdictional arguments, resulting in unnecessary delay, are not raised.

SEC. 2. *Government Pro Bono and Volunteer Service.* All Federal agencies should develop appropriate programs to encourage and facilitate pro bono legal and other volunteer service by government employees to be performed on their own time, including attorneys, as permitted by statute, regulation, or other rule or guideline.

SEC. 3. *Principles to Enact Legislation and Promulgate Regulations Which Do Not Unduly Burden the Federal Court System.*

(a) *General Duty to Review Legislation and Regulations.* Within current budgetary constraints and existing executive branch coordination mechanisms and procedures established in OMB Circular A-19 and Executive Order No. 12866 [5 U.S.C. 601 note], each agency promulgating new regulations, reviewing existing regulations, developing legislative proposals concerning regulations, and developing new legislation shall adhere to the following requirements:

(1) The agency’s proposed legislation and regulations shall be reviewed by the agency to eliminate drafting errors and ambiguity;

(2) The agency’s proposed legislation and regulations shall be written to minimize litigation; and

(3) The agency’s proposed legislation and regulations shall provide a clear legal standard for affected conduct rather than a general standard, and shall promote simplification and burden reduction.

(b) *Specific Issues for Review.* In conducting the reviews required by subsection (a), each agency formulating proposed legislation and regulations shall make every reasonable effort to ensure:

(1) that the legislation, as appropriate—

(A) specifies whether all causes of action arising under the law are subject to statutes of limitations;

(B) specifies in clear language the preemptive effect, if any, to be given to the law;

(C) specifies in clear language the effect on existing Federal law, if any, including all provisions repealed, circumscribed, displaced, impaired, or modified;

(D) provides a clear legal standard for affected conduct;

(E) specifies whether private arbitration and other forms of private dispute resolution are appropriate under enforcement and relief provisions; subject to constitutional requirements;

(F) specifies whether the provisions of the law are severable if one or more of them is found to be unconstitutional;

(G) specifies in clear language the retroactive effect, if any, to be given to the law;

(H) specifies in clear language the applicable burdens of proof;

(I) specifies in clear language whether it grants private parties a right to sue and, if so, the relief available and the conditions and terms for authorized awards of attorney's fees, if any;

(J) specifies whether State courts have jurisdiction under the law and, if so, whether and under what conditions an action would be removable to Federal court;

(K) specifies whether administrative proceedings are to be required before parties may file suit in court and, if so, describes those proceedings and requires the exhaustion of administrative remedies;

(L) sets forth the standards governing the assertion of personal jurisdiction, if any;

(M) defines key statutory terms, either explicitly or by reference to other statutes that explicitly define those terms;

(N) specifies whether the legislation applies to the Federal Government or its agencies;

(O) specifies whether the legislation applies to States, territories, the District of Columbia, and the Commonwealths of Puerto Rico and of the Northern Mariana Islands;

(P) specifies what remedies are available such as money damages, civil penalties, injunctive relief, and attorney's fees; and

(Q) addresses other important issues affecting clarity and general draftsmanship of legislation set forth by the Attorney General, with the concurrence of the Director of the Office of Management and Budget ("OMB") and after consultation with affected agencies, that are determined to be in accordance with the purposes of this order.

(2) that the regulation, as appropriate—

(A) specifies in clear language the preemptive effect, if any, to be given to the regulation;

(B) specifies in clear language the effect on existing Federal law or regulation, if any, including all provisions repealed, circumscribed, displaced, impaired, or modified;

(C) provides a clear legal standard for affected conduct rather than a general standard, while promoting simplification and burden reduction;

(D) specifies in clear language the retroactive effect, if any, to be given to the regulation;

(E) specifies whether administrative proceedings are to be required before parties may file suit in court and, if so, describes those proceedings and requires the exhaustion of administrative remedies;

(F) defines key terms, either explicitly or by reference to other regulations or statutes that explicitly define those items; and

(G) addresses other important issues affecting clarity and general draftsmanship of regulations set forth by the Attorney General, with the concurrence of the Director of OMB and after consultation with affected agencies, that are determined to be in accordance with the purposes of this order.

(c) *Agency Review.* The agencies shall review such draft legislation or regulation to determine that either the draft legislation or regulation meets the applicable standards provided in subsections (a) and (b) of this section, or it is unreasonable to require the particular piece of draft legislation or regulation to meet one or more of those standards.

SEC. 4. *Principles to Promote Just and Efficient Administrative Adjudications.*

(a) *Implementation of Administrative Conference Recommendations.* In order to promote just and efficient resolution of disputes, an agency that adjudicates administrative claims shall, to the extent reasonable and practicable, and when not in conflict with other sections of this order, implement the recommendations of the Administrative Conference of the United States, entitled

"Case Management as a Tool for Improving Agency Adjudication," as contained in 1 C.F.R. 305.86-7 (1991).

(b) *Improvements in Administrative Adjudication.* All Federal agencies should review their administrative adjudicatory processes and develop specific procedures to reduce delay in decision-making, to facilitate self-representation where appropriate, to expand non-lawyer counseling and representation where appropriate, and to invest maximum discretion in fact-finding officers to encourage appropriate settlement of claims as early as possible.

(c) *Bias.* All Federal agencies should review their administrative adjudicatory processes to identify any type of bias on the part of the decision-makers that results in an injustice to persons who appear before administrative adjudicatory tribunals; regularly train all fact-finders, administrative law judges, and other decision-makers to eliminate such bias; and establish appropriate mechanisms to receive and resolve complaints of such bias from persons who appear before administrative adjudicatory tribunals.

(d) *Public Education.* All Federal agencies should develop effective and simple methods, including the use of electronic technology, to educate the public about its claims/benefits policies and procedures.

SEC. 5. *Coordination by the Department of Justice.*

(a) The Attorney General shall coordinate efforts by Federal agencies to implement sections 1, 2 and 4 of this order.

(b) To implement the principles and purposes announced by this order, the Attorney General is authorized to issue guidelines implementing sections 1 and 4 of this order for the Department of Justice. Such guidelines shall serve as models for internal guidelines that may be issued by other agencies pursuant to this order.

SEC. 6. *Definitions.* For purposes of this order:

(a) The term "agency" shall be defined as that term is defined in section 105 of title 5, United States Code.

(b) The term "litigation counsel" shall be defined as the trial counsel or the office in which such trial counsel is employed, such as the United States Attorney's Office for the district in which the litigation is pending or a litigating division of the Department of Justice. Special Assistant United States Attorneys are included within this definition. Those agencies authorized by law to represent themselves in court without assistance from the Department of Justice are also included in this definition, as are private counsel hired by any Federal agency to conduct litigation on behalf of the agency or the United States.

SEC. 7. *No Private Rights Created.* This order is intended only to improve the internal management of the executive branch in resolving disputes, conducting litigation in a reasonable and just manner, and reviewing legislation and regulations. This order shall not be construed as creating any right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its agencies, its officers, or any other person. This order shall not be construed to create any right to judicial review involving the compliance or noncompliance of the United States, its agencies, its officers, or any other person with this order. Nothing in this order shall be construed to obligate the United States to accept a particular settlement or resolution of a dispute, to alter its standards for accepting settlements, to forego seeking a consent decree or other relief, or to alter any existing delegation of settlement or litigating authority.

SEC. 8. *Scope.*

(a) *No Applicability to Criminal Matters or Proceedings in Foreign Courts.* This order is applicable to civil matters only. It is not intended to affect criminal matters, including enforcement of criminal fines or judgments of criminal forfeiture. This order does not apply to litigation brought by or against the United States in foreign courts or tribunals.

(b) *Application of Notice Provision.* Notice pursuant to subsection (a) of section 1 is not required (1) in any action to seize or forfeit assets subject to forfeiture or in any action to seize property; (2) in any bankruptcy, in-

solvency, conservatorship, receivership, or liquidation proceeding; (3) when the assets that are the subject of the action or that would satisfy the judgment are subject to flight, dissipation, or destruction; (4) when the defendant is subject to flight; (5) when, as determined by litigation counsel, exigent circumstances make providing such notice impracticable or such notice would otherwise defeat the purpose of the litigation, such as in actions seeking temporary restraining orders or preliminary injunctive relief; or (6) in those limited classes of cases where the Attorney General determines that providing such notice would defeat the purpose of the litigation.

(c) *Additional Guidance as to Scope.* The Attorney General shall have the authority to issue further guidance as to the scope of this order, except section 3, consistent with the purposes of this order.

SEC. 9. *Conflicts with Other Rules.* Nothing in this order shall be construed to require litigation counsel or any agency to act in a manner contrary to the Federal Rules of Civil Procedure [28 App. U.S.C.], Tax Court Rules of Practice and Procedure [26 App. U.S.C.], State or Federal law, other applicable rules of practice or procedure, or court order.

SEC. 10. *Privileged Information.* Nothing in this order shall compel or authorize the disclosure of privileged information, sensitive law enforcement information, information affecting national security, or information the disclosure of which is prohibited by law.

SEC. 11. *Effective Date.* This order shall become effective 90 days after the date of signature. This order shall not apply to litigation commenced prior to the effective date.

SEC. 12. *Revocation.* Executive Order No. 12778 is hereby revoked.

WILLIAM J. CLINTON.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 7 section 943; title 12 section 4243; title 19 section 1920; title 31 section 3718; title 38 sections 3730, 5316; title 42 section 8412.

§ 520. **Transmission of petitions in United States Court of Federal Claims or in United States Court of Appeals for the Federal Circuit; statement furnished by departments**

(a) In suits against the United States in the United States Court of Federal Claims or in the United States Court of Appeals for the Federal Circuit founded on a contract, agreement, or transaction with an executive department or military department, or a bureau, officer, or agent thereof, or when the matter or thing on which the claim is based has been passed on and decided by an executive department, military department, bureau, or officer authorized to adjust it, the Attorney General shall send to the department, bureau, or officer a printed copy of the petition filed by the claimant, with a request that the department, bureau, or officer furnish to the Attorney General all facts, circumstances, and evidence concerning the claim in the possession or knowledge of the department, bureau, or officer.

(b) Within a reasonable time after receipt of the request from the Attorney General, the executive department, military department, bureau, or officer shall furnish the Attorney General with a written statement of all facts, information, and proofs. The statement shall contain a reference to or description of all official documents and papers, if any, as may furnish proof of facts referred to in it, or may be necessary and proper for the defense of the United States against the claim, mentioning the department,

office, or place where the same is kept or may be secured. If the claim has been passed on and decided by the department, bureau, or officer, the statement shall briefly state the reasons and principles on which the decision was based. When the decision was founded on an Act of Congress it shall be cited specifically, and if any previous interpretation or construction has been given to the Act, section, or clause by the department, bureau, or officer, it shall be set forth briefly in the statement and a copy of the opinion filed, if any, attached to it. When a decision in the case has been based on a regulation of a department or when a regulation has, in the opinion of the department, bureau, or officer sending the statement, any bearing on the claim, it shall be distinctly quoted at length in the statement. When more than one case or class of cases is pending, the defense of which rests on the same facts, circumstances, and proofs, the department, bureau, or officer may certify and send one statement and it shall be held to apply to all cases as if made out, certified, and sent in each case respectively.

(Added Pub. L. 89-554, § 4(c), Sept. 6, 1966, 80 Stat. 614; amended Pub. L. 97-164, title I, § 118(a), Apr. 2, 1982, 96 Stat. 32; Pub. L. 102-572, title IX, § 902(b)(1), Oct. 29, 1992, 106 Stat. 4516.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 91.	R.S. §188.

The section is reorganized and restated for clarity. In subsection (a), the word "concerning" is substituted for "touching".

In subsection (b), the words "without delay" are omitted as unnecessary in view of the requirement that the statement be furnished "Within a reasonable time". The word "briefly" is substituted for "succinctly". The words "in suit" are omitted as unnecessary.

The words "executive department" are substituted for "department" because "department" as used in R.S. §188 meant "executive department". (See R.S. §159.) The words "military department" are inserted to preserve the application of the source law. Before enactment of the National Security Act Amendments of 1949 (63 Stat. 578), the Department of the Army, the Department of the Navy, and the Department of the Air Force were Executive departments. The National Security Act Amendments of 1949 established the Department of Defense as an Executive Department including the Department of the Army, the Department of the Navy, and the Department of the Air Force as military departments, not as Executive departments. However, the source law for this section, which was in effect in 1949, remained applicable to the Secretaries of the military departments by virtue of section 12(g) of the National Security Act Amendments of 1949 (63 Stat. 591), which is set out in the reviser's note for section 301 of title 5, United States Code.

AMENDMENTS

1992—Pub. L. 102-572 substituted "United States Court of Federal Claims" for "United States Claims Court" in section catchline and subsec. (a).

1982—Pub. L. 97-164, §118(a)(2), substituted "United States Claims Court or in United States Court of Appeals for the Federal Circuit" for "Court of Claims" in section catchline.

Subsec. (a). Pub. L. 97-164, §118(a)(1), substituted "United States Claims Court or in the United States Court of Appeals for the Federal Circuit" for "Court of Claims".

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of this title.

§ 521. Publication and distribution of opinions

The Attorney General, from time to time—

(1) shall cause to be edited, and printed in the Government Printing Office, such of his opinions as he considers valuable for preservation in volumes; and

(2) may prescribe the manner for the distribution of the volumes.

Each volume shall contain headnotes, an index, and such footnotes as the Attorney General may approve.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 614.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row 1: 5 U.S.C. 305 (1st sentence, as applicable to the Attorney General; 2d and 3d sentences).

Section 188 of the Revised Statutes was part of title IV of the Revised Statutes. The Act of July 26, 1947, ch. 343, §201(d), as added Aug. 10, 1949, ch. 412, §4, 63 Stat. 579 (former 5 U.S.C. 171-1), which provides "Except to the extent inconsistent with the provisions of this Act [National Security Act of 1947], the provisions of title IV of the Revised Statutes as now or hereafter amended shall be applicable to the Department of Defense" is omitted from this title but is not repealed.

The words "his opinions" are substituted for "the opinions of the law officers herein authorized to be given" as the opinions of the Attorney General are his and only his and the reference to other "law officers" is misleading. All functions of all other officers of the Department of Justice were transferred to the Attorney General by 1950 Reorg. Plan No. 2, §1, eff. May 14, 1950, 64 Stat. 1261. The word "considers" is substituted for "may deem".

In the last sentence, the words "proper" and "complete and full" are omitted as unnecessary.

§ 522. Report of business and statistics

The Attorney General, by April 1 of each year, shall report to Congress on the business of the Department of Justice for the last preceding fiscal year, and on any other matters pertaining to the Department that he considers proper, including—

(1) a statement of the several appropriations which are placed under the control of the Department and the amount appropriated;

(2) the statistics of crime under the laws of the United States; and

(3) a statement of the number of causes involving the United States, civil and criminal, pending during the preceding year in each of the several courts of the United States.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 615; amended Pub. L. 94-273, §19, Apr. 21, 1976, 90 Stat. 379.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row 1: 5 U.S.C. 333, R.S. §384.

The words "The Attorney General . . . shall report" are substituted for "It shall be the duty of the Attorney General to make . . . a report". The word "beginning" is substituted for "commencement". The words "pertaining to the Department that he considers proper" are substituted for "appertaining thereto that he may deem proper".

The words "and a detailed statement of the amounts used for defraying the expenses of the United States courts in each judicial district" are omitted as obsolete in view of the creation of the Administrative Office of the United States Courts by the Act of Aug. 7, 1939, ch. 501, §1, 53 Stat. 1223 (Chapter 41 of this title).

In paragraph (3), the words "involving the United States" are inserted for clarity. The function of reporting on all cases pending in the United States courts is now vested in the Administrative Office of the United States Courts, see 28 U.S.C. 604.

AMENDMENTS

1976—Pub. L. 94-273 substituted "by April 1 of each year" for "at the beginning of each regular session of Congress".

REPORT TO CONGRESS ON BANKING LAW OFFENSES

Pub. L. 101-647, title XXV, §2546, Nov. 29, 1990, 104 Stat. 4885, provided that:

"(a) IN GENERAL.—

"(1) DATA COLLECTION.—The Attorney General shall compile and collect data concerning—

"(A) the nature and number of civil and criminal investigations, prosecutions, and related proceedings, and civil enforcement and recovery proceedings, in progress with respect to banking law offenses under sections 981, 1008, 1032, and 3322(d) of title 18, United States Code, and section 951 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 [12 U.S.C. 1833a] and conspiracies to commit any such offense, including inactive investigations of such offenses;

"(B) the number of—

"(i) investigations, prosecutions, and related proceedings described in subparagraph (A) which are inactive as of the close of the reporting period but have not been closed or declined; and

"(ii) unaddressed referrals which allege criminal misconduct involving offenses described in subparagraph (A), and the reasons such matters are inactive and the referrals unaddressed;

"(C) the nature and number of such matters closed, settled, or litigated to conclusion; and

"(D) the results achieved, including convictions and pretrial diversions, fines and penalties levied, restitution assessed and collected, and damages recovered, in such matters.

"(2) ANALYSIS AND REPORT.—The Attorney General shall analyze and report to the Congress on the data described in paragraph (1) and its coordination and other related activities named in section 2539(c)(2) [probably means section 2539(c)(3) of Pub. L. 101-647, set out as a note under section 509 of this title] and shall provide such report on the data monthly through December 31, 1991, and quarterly after such date.

"(b) SPECIFICS OF REPORT.—The report required by subsection (a) shall—

"(1) categorize data as to various types of financial institutions and appropriate dollar loss categories;

"(2) disclose data for each Federal judicial district;

"(3) describe the activities of the Financial Institution Fraud Unit; and

"(4) list—

“(A) the number of institutions, categorized by failed and open institutions, in which evidence of significant fraud, unlawful activity, insider abuse or serious misconduct has been alleged or detected;“(B) civil, criminal, and administrative enforcement actions, including those of the Federal financial institutions regulatory agencies, brought against offenders;“(C) any settlements or judgments obtained against offenders;“(D) indictments, guilty pleas, or verdicts obtained against offenders; and“(E) the resources allocated in pursuit of investigations, prosecutions, and sentencings (including indictments, guilty pleas, or verdicts obtained against offenders) and related proceedings.”

CONGRESSIONAL OVERSIGHT

Pub. L. 100-700, § 6, Nov. 19, 1988, 102 Stat. 4634, provided that: “Commencing with the first year after the date of enactment of this section [Nov. 19, 1988], the Attorney General shall annually report to the Congress with respect to—

- “(1) the number of referrals of fraud cases by the Department of Defense of defense contractors (with specific statistics with respect to the one hundred largest contractors), the number of open investigation of such contractors, and a breakdown of to which United States Attorney’s Office or other component of the Department of Justice each such case was referred;
- “(2) the number of referrals of fraud cases from other agencies or sources;
- “(3) the number of attorneys and support staff assigned pursuant to this Act [see Tables for classification];
- “(4) the number of investigative agents assigned to each investigation and the period of time each investigation has been opened;
- “(5) the number of convictions and acquittals achieved by individuals assigned to positions established by the Act; and
- “(6) the sentences, recoveries, and penalties achieved by individuals assigned to positions established by this Act.”

REPORT TO CONGRESS ON ROBBERIES AND BURGLARIES INVOLVING CONTROLLED SUBSTANCES

Pub. L. 98-305, § 4, May 31, 1984, 98 Stat. 222, provided that: “For each of the first three years after the date of enactment of this Act [May 31, 1984], the Attorney General of the United States shall submit an annual report to the Congress with respect to the enforcement activities of the Attorney General relating to the offenses created by the amendment made by section 2 of this Act [enacting section 2118 of Title 18, Crimes and Criminal Procedure].”

REPORT TO CONGRESS ON SEXUAL EXPLOITATION OF CHILDREN

Pub. L. 98-292, § 9, May 21, 1984, 98 Stat. 206, provided that: “Beginning one hundred and twenty days after the date of enactment of this Act [May 21, 1984], and every year thereafter, the Attorney General shall report to the Congress on prosecutions, convictions, and forfeitures under chapter 110 of title 18 of the United States Code.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 18 section 2320; title 42 section 1997f.

§ 523. Requisitions

The Attorney General shall sign all requisitions for the advance or payment of moneys appropriated for the Department of Justice, out of the Treasury, subject to the same control as is exercised on like estimates or accounts by the General Accounting Office.

(Added Pub. L. 89-554, § 4(c), Sept. 6, 1966, 80 Stat. 615.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 319.	R.S. § 369.

The words “General Accounting Office” are substituted for “First Auditor or First Comptroller of the Treasury” on authority of the Act of June 10, 1921, ch. 18, § 304, 42 Stat. 24.

§ 524. Availability of appropriations

(a) Appropriations for the Department of Justice are available for payment of—

(1) notarial fees, including such additional stenographic services as are required in connection therewith in the taking of depositions, and compensation and expenses of witnesses and informants, all at the rates authorized or approved by the Attorney General or the Assistant Attorney General for Administration; and

(2) when ordered by the court, actual expenses of meals and lodging for marshals, deputy marshals, or criers when acting as bailiffs in attendance on juries.

(b) Except as provided in subsection (a) of this section, a claim of not more than \$500 for expenses related to litigation that is beyond the control of the Department may be paid out of appropriations currently available to the Department for expenses related to litigation when the Comptroller General settles the payment.

(c)(1) There is established in the United States Treasury a special fund to be known as the Department of Justice Assets Forfeiture Fund (hereafter in this subsection referred to as the “Fund”) which shall be available to the Attorney General without fiscal year limitation for the following law enforcement purposes—

(A) the payment, at the discretion of the Attorney General, of any expenses necessary to seize, detain, inventory, safeguard, maintain, advertise, sell, or dispose of property under seizure, detention, or forfeited pursuant to any law enforced or administered by the Department of Justice, or of any other necessary expense incident to the seizure, detention, forfeiture, or disposal of such property including—

(i) payments for—

(I) contract services;

(II) the employment of outside contractors to operate and manage properties or provide other specialized services necessary to dispose of such properties in an effort to maximize the return from such properties; and

(III) reimbursement of any Federal, State, or local agency for any expenditures made to perform the functions described in this clause;

(ii) payments to reimburse any Federal agency participating in the Fund for investigative costs leading to seizures;

(iii) payments for contracting for the services of experts and consultants needed by the Department of Justice to assist in carrying

out duties related to asset seizure and forfeiture; and

(iv) payments made pursuant to guidelines promulgated by the Attorney General if such payments are necessary and directly related to seizure and forfeiture program expenses for—

(I) the purchase or lease of automatic data processing systems (not less than a majority of which use will be related to such program);

(II) training;

(III) printing;

(IV) the storage, protection, and destruction of controlled substances; and

(V) contracting for services directly related to the identification of forfeitable assets, and the processing of and accounting for forfeitures;

(B) the payment of awards for information or assistance directly relating to violations of the criminal drug laws of the United States or of sections 1956 and 1957 of title 18, sections 5313 and 5324 of title 31, and section 6050I of the Internal Revenue Code of 1986;

(C) at the discretion of the Attorney General, the payment of awards for information or assistance leading to a civil or criminal forfeiture involving any Federal agency participating in the Fund;

(D) the compromise and payment of valid liens and mortgages against property that has been forfeited pursuant to any law enforced or administered by the Department of Justice, subject to the discretion of the Attorney General to determine the validity of any such lien or mortgage and the amount of payment to be made, and the employment of attorneys and other personnel skilled in State real estate law as necessary;

(E) disbursements authorized in connection with remission or mitigation procedures relating to property forfeited under any law enforced or administered by the Department of Justice;

(F)(i) for equipping for law enforcement functions of any Government-owned or leased vessel, vehicle, or aircraft available for official use by any Federal agency participating in the Fund;

(ii) for equipping any vessel, vehicle, or aircraft available for official use by a State or local law enforcement agency to enable the vessel, vehicle, or aircraft to assist law enforcement functions if the vessel, vehicle, or aircraft will be used in a joint law enforcement operation with a Federal agency participating in the Fund; and

(iii) payments for other equipment directly related to seizure or forfeiture, including laboratory equipment, protective equipment, communications equipment, and the operation and maintenance costs of such equipment;

(G) for purchase of evidence of any violation of the Controlled Substances Act, the Controlled Substances Import and Export Act, chapter 96 of title 18, or sections 1956 and 1957 of title 18;

(H) the payment of State and local property taxes on forfeited real property that accrued between the date of the violation giving rise

to the forfeiture and the date of the forfeiture order; and<sup>1</sup>

(I) payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State or local law enforcement officers that are incurred in a joint law enforcement operation with a Federal law enforcement agency participating in the Fund;<sup>2</sup>

(I)<sup>3</sup> after all reimbursements and program-related expenses have been met at the end of fiscal year 1989, the Attorney General may transfer deposits from the Fund to the building and facilities account of the Federal prison system for the construction of correctional institutions.

Amounts for paying the expenses authorized by subparagraphs (A)(iv), (B), (F), (G), and (H)<sup>4</sup> shall be specified in appropriations Acts and may be used under authorities available to the organization receiving the funds. Amounts for other authorized expenditures and payments from the Fund, including equitable sharing payments, are not required to be specified in appropriations acts. The Attorney General may exempt the procurement of contract services under subparagraph (A) under the fund<sup>5</sup> from section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 and following), and other provisions of law as may be necessary to maintain the security and confidentiality of related criminal investigations.

(2) Any award paid from the Fund for information, as provided in paragraph (1)(B) or (C), shall be paid at the discretion of the Attorney General or his delegate, under existing departmental delegation policies for the payment of awards, except that the authority to pay an award of \$250,000 or more shall not be delegated to any person other than the Deputy Attorney General, the Associate Attorney General, the Director of the Federal Bureau of Investigation, or the Administrator of the Drug Enforcement Administration. Any award for information pursuant to paragraph (1)(B) shall not exceed \$250,000. Any award for information pursuant to paragraph (1)(C) shall not exceed the lesser of \$250,000 or one-fourth of the amount realized by the United States from the property forfeited.

(3) Any amount under subparagraph (F) of paragraph (1) shall be paid at the discretion of the Attorney General or his delegate, except that the authority to pay \$100,000 or more may be delegated only to the respective head of the agency involved.

(4) There shall be deposited in the Fund—

(A) all amounts from the forfeiture of property under any law enforced or administered by the Department of Justice, except all proceeds of forfeitures available for use by the Secretary of the Treasury or the Secretary of the Interior pursuant to section 11(d) of the Endangered Species Act (16 U.S.C. 1540(d)) or section 6(d) of the Lacey Act Amendments of

<sup>1</sup> So in original. The word "and" probably should not appear.

<sup>2</sup> So in original. Probably should be followed by "and".

<sup>3</sup> So in original. Probably should be "(J)".

<sup>4</sup> See References in Text note below.

<sup>5</sup> So in original. Probably should be capitalized.

1981 (16 U.S.C. 3375(d)), or the Postmaster General of the United States pursuant to 39 U.S.C. 2003(b)(7);

(B) all amounts representing the Federal equitable share from the forfeiture of property under any Federal, State, local or foreign law, for any Federal agency participating in the Fund; and

(C) all amounts transferred by the Secretary of the Treasury pursuant to section 9703(g)(4)(A)(ii)<sup>4</sup> of title 31.

(5) Amounts in the Fund, and in any holding accounts associated with the Fund<sup>6</sup> which are not currently needed for the purpose of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States and all earnings on such investments shall be deposited in the Fund.

(6) The Attorney General shall transmit to the Congress, not later than 4 months after the end of each fiscal year, detailed reports as follows:

(A) a report on—

(i) the estimated total value of property forfeited under any law enforced or administered by the Department of Justice with respect to which funds were not deposited in the Fund; and

(ii) the estimated total value of all such property transferred to any State or local law enforcement agency;

(B) a report on—

(i) the Fund's beginning balance;

(ii) sources of receipts (seized cash, conveyances, and others);

(iii) liens and mortgages paid and amount of money shared with State and local law enforcement agencies;

(iv) the net amount realized from the year's operations, amount of seized cash being held as evidence, and the amount of money legally allowed to be carried over to next year;

(v) any defendant's property, not forfeited at the end of the preceding fiscal year, if the equity in such property is valued at \$1,000,000 or more; and

(vi) year-end Fund balance;

(C) a report for such fiscal year, containing audited financial statements, in the form prescribed by the Attorney General, in consultation with the Comptroller General, including profit and loss information with respect to forfeited property (by category), and financial information on forfeited property transactions (by type of disposition).

The report should also contain all annual audit reports from State and local law enforcement agencies required to be reported to the Attorney General under subparagraph (B) of paragraph (7);<sup>7</sup> and

(D) a report for such fiscal year containing a description of the administrative and contracting expenses paid from the Fund under paragraph (1)(A).

(7) The provisions of this subsection relating to deposits in the Fund shall apply to all prop-

erty in the custody of the Department of Justice on or after the effective date of the Comprehensive Forfeiture Act of 1983.

(8)(A) There are authorized to be appropriated such sums as necessary for the purposes described in subparagraphs (A)(iv), (B), (F), (G), and (H)<sup>8</sup> of paragraph (1).

(B) Subject to subparagraphs (C) and (D), at the end of each of fiscal years 1994, 1995, and 1996, the Attorney General shall transfer from the Fund not more than \$100,000,000 to the Special Forfeiture Fund established by section 6073 of the Anti-Drug Abuse Act of 1988.

(C) Transfers under subparagraph (B) may be made only from the excess unobligated balance and may not exceed one-half of the excess unobligated balance for any year. In addition, transfers under subparagraph (B) may be made only to the extent that the sum of the transfers in a fiscal year and one-half of the unobligated balance at the beginning of that fiscal year for the Special Forfeiture Fund does not exceed \$100,000,000.

(D) For the purpose of determining amounts available for distribution at year end for any fiscal year, "excess unobligated balance" means the unobligated balance of the Fund generated by that fiscal year's operations, less any amounts that are required to be retained in the Fund to ensure the availability of amounts in the subsequent fiscal year for purposes authorized under paragraph (1).

(E) Subject to the notification procedures contained in section 605 of Public Law 103-121, and after satisfying the transfer requirement in subparagraph (B) of this paragraph, any excess unobligated balance remaining in the Fund on September 30, 1997 and thereafter shall be available to the Attorney General, without fiscal year limitation, for any Federal law enforcement, litigative/prosecutive, and correctional activities, or any other authorized purpose of the Department of Justice. Any amounts provided pursuant to this subparagraph may be used under authorities available to the organization receiving the funds.

(9)(A) Following the completion of procedures for the forfeiture of property pursuant to any law enforced or administered by the Department, the Attorney General is authorized, in her discretion, to warrant clear title to any subsequent purchaser or transferee of such property.

(B) For fiscal year 1997, the Attorney General is authorized to transfer, under such terms and conditions as the Attorney General shall specify, real or personal property of limited or marginal value, to a State or local government agency, or its designated contractor or transferee, for use to support drug abuse treatment, drug and crime prevention and education, housing, job skills, and other community-based public health and safety programs. Such transfer shall not create or confer any private right of action in any person against the United States.

(10) The Attorney General shall transfer from the Fund to the Secretary of the Treasury for deposit in the Department of the Treasury Forfeiture Fund amounts appropriate to reflect the degree of participation of the Department of the

<sup>6</sup> So in original. Probably should be followed by a comma.

<sup>7</sup> See References in Text note below.

<sup>8</sup> See References in Text note below.

Treasury law enforcement organizations (described in section 9703(p)<sup>8</sup> of title 31) in the law enforcement effort resulting in the forfeiture pursuant to laws enforced or administered by the Department of Justice.

(1) For purposes of this subsection and notwithstanding section 9703<sup>8</sup> of title 31 or any other law, property is forfeited pursuant to a law enforced or administered by the Department of Justice if it is forfeited pursuant to—

(A) a judicial forfeiture proceeding when the underlying seizure was made by an officer of a Federal law enforcement agency participating in the Department of Justice Assets Forfeiture Fund or the property was maintained by the United States Marshals Service; or

(B) a civil administrative forfeiture proceeding conducted by a Department of Justice law enforcement component or pursuant to the authority of the Secretary of Commerce.

(d)(1) The Attorney General may accept, hold, administer, and use gifts, devises, and bequests of any property for the purpose of aiding or facilitating the work of the Department of Justice.

(2) Gifts, devises, and bequests of money, the proceeds of sale or liquidation of any other property accepted hereunder, and any income accruing from any property accepted hereunder—

(A) shall be deposited in the Treasury in a separate fund and held in trust by the Secretary of the Treasury for the benefit of the Department of Justice; and

(B) are hereby appropriated, without fiscal year limitation, and shall be disbursed on order of the Attorney General.

(3) Upon request of the Attorney General, the Secretary of the Treasury may invest and reinvest the fund described herein in public debt securities with maturities suitable for the needs of the fund and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States or comparable maturities.

(4) Evidences of any intangible personal property (other than money) accepted hereunder shall be deposited with the Secretary of the Treasury, who may hold or liquidate them, except that they shall be liquidated upon the request of the Attorney General.

(5) For purposes of federal<sup>9</sup> income, estate, and gift taxes, property accepted hereunder shall be considered a gift, devise, or bequest to, or for the use of, the United States.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 615; amended Pub. L. 97-258, §2(g)(1)(B)-(D), Sept. 13, 1982, 96 Stat. 1060; Pub. L. 98-473, title II, §§310, 2303, Oct. 12, 1984, 98 Stat. 2052, 2193; Pub. L. 99-570, title I, §1152(a), Oct. 27, 1986, 100 Stat. 3207-12; Pub. L. 99-646, §27, Nov. 10, 1986, 100 Stat. 3597; Pub. L. 100-202, §101(a) [title II, §210(a)], Dec. 22, 1987, 101 Stat. 1329, 1329-18; Pub. L. 100-690, title VI, §6072, Nov. 18, 1988, 102 Stat. 4320; Pub. L. 101-509, title III, §1, Nov. 5, 1990, 104 Stat. 1403; Pub. L. 101-647, title XVI, §1601, title XX, §§2001(a), 2002, 2005, 2006, Nov. 29, 1990, 104 Stat. 4842, 4854, 4855; Pub. L. 102-27, title II, §101,

Apr. 10, 1991, 105 Stat. 135; Pub. L. 102-140, title I, §112, Oct. 28, 1991, 105 Stat. 795; Pub. L. 102-393, title VI, §638(f), Oct. 6, 1992, 106 Stat. 1788; Pub. L. 102-395, title I, §114(b), (c), Oct. 6, 1992, 106 Stat. 1845; Pub. L. 102-550, title XV, §1529, Oct. 28, 1992, 106 Stat. 4065; Pub. L. 103-121, title I, §109, Oct. 27, 1993, 107 Stat. 1164; Pub. L. 103-317, title I, §110, Aug. 26, 1994, 108 Stat. 1735; Pub. L. 103-322, title IX, §90205(b), title XXXII, §§320301, 320302, 320913(a), Sept. 13, 1994, 108 Stat. 1994, 2114, 2128; Pub. L. 104-66, title I, §1091(h), Dec. 21, 1995, 109 Stat. 722; Pub. L. 104-91, title I, §101(a), Jan. 6, 1996, 110 Stat. 11, amended Pub. L. 104-99, title II, §211, Jan. 26, 1996, 110 Stat. 37; Pub. L. 104-134, title I, §101[(a)] [title I, §122], Apr. 26, 1996, 110 Stat. 1321, 1321-22; renumbered title I, Pub. L. 104-140, §1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 104-208, div. A, title I, §101(a) [title I, §§108, 114, 116, 117], Sept. 30, 1996, 110 Stat. 3009, 3009-18, 3009-22, 3009-23; Pub. L. 105-119, title I, §§108, 124, title II, §211(b), Nov. 26, 1997, 111 Stat. 2457, 2471, 2487.)

HISTORICAL AND REVISION NOTES  
1966 ACT

Derivation	U.S. Code	Revised Statutes and Statutes at Large
.....	5 U.S.C. 341.	July 28, 1950, ch. 503, §1, 64 Stat. 380.

The words “now or hereafter” are omitted as unnecessary. The words “Assistant Attorney General for Administration” are substituted for “his administrative assistant” to make the statute more specific and to reflect the current title of the position, see §307 of the Act of Aug. 14, 1964, Pub. L. 88-426, 78 Stat. 432.

1982 ACT

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
28-524(b) ..	31:693a.	Oct. 10, 1949, ch. 662, §101 (par. under heading “General Provision—Department of Justice”), 63 Stat. 746.

The words “After October 10, 1949” are omitted as executed. The words “Except as provided in subsection (a) of this section” are added for clarity. The words “fees, storage, or other items of” are omitted as surplus. The words “to the Department” are added for clarity.

REFERENCES IN TEXT

Subparagraph (H), referred to in subsec. (c)(1), (8)(A), was redesignated subpar. (I) relating to payment of overtime salaries, travel, etc., and a new subpar. (H) was added by Pub. L. 103-322, title XXXII, §320913(a), Sept. 13, 1994, 108 Stat. 2128.

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (c)(1), is act June 30, 1949, ch. 288, 63 Stat. 393, as amended. Title III of the Federal Property and Administrative Services Act of 1949 is classified generally to subchapter IV (§251 et seq.) of chapter 4 of Title 41, Public Contracts. For complete classification of this Act to the Code, see Short Title note set out under section 471 of Title 40, Public Buildings, Property, and Works, and Tables.

Section 6050I of the Internal Revenue Code of 1986, referred to in subsec. (c)(1)(B), is classified to section 6050I of Title 26, Internal Revenue Code.

The Controlled Substances Act, referred to in subsec. (c)(1)(G), is title II of Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1242, as amended, which is classified principally to subchapter I (§801 et seq.) of chapter 13 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 21 and Tables.

<sup>9</sup> So in original. Probably should be capitalized.

The Controlled Substances Import and Export Act, referred to in subsec. (c)(1)(G), is title III of Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1285, as amended, which is classified principally to subchapter II (§951 et seq.) of chapter 13 of Title 21. For complete classification of this Act to the Code, see Short Title note set out under section 951 of Title 21 and Tables.

Section 9703 of title 31, referred to in subsec. (c)(4)(C), (10), (11), probably means the section 9703 of Title 31, Money and Finance, added by Pub. L. 102-393, title VI, §638(b)(1), Oct. 6, 1992, 106 Stat. 1779. Clause (ii) of subsec. (g)(4)(A) of that section was repealed by Pub. L. 103-322, title IX, §90205(c)(2)(B), Sept. 13, 1994, 108 Stat. 1995.

Paragraph (7), referred to in subsec. (c)(6)(C), was struck out by Pub. L. 104-66 and par. (8) was redesignated as par. (7).

The effective date of the Comprehensive Forfeiture Act of 1983, referred to in subsec. (c)(7), probably means the date of enactment of the Comprehensive Forfeiture Act of 1984, chapter III (§§301 to 323) of title II of Pub. L. 98-473, which was approved Oct. 12, 1984.

Section 6073 of the Anti-Drug Abuse Act of 1988, referred to in subsec. (c)(8)(B), is classified to section 1509 of Title 21, Food and Drugs.

Section 605 of Public Law 103-121, referred to in subsec. (c)(8)(E), is section 605 of Pub. L. 103-121, title VI, Oct. 27, 1993, 107 Stat. 1194, which is not classified to the Code.

#### CODIFICATION

Amendment by Pub. L. 104-91 is based on section 109 of H.R. 2076, One Hundred Fourth Congress, as passed by the House of Representatives on Dec. 6, 1995, which was enacted into law by Pub. L. 104-91.

#### AMENDMENTS

1997—Subsec. (c)(8)(B). Pub. L. 105-119, §124, substituted “and 1996,” for “1996, and 1997.”

Subsec. (c)(8)(E). Pub. L. 105-119, §108, substituted “1997 and thereafter” for “1996”.

Subsec. (c)(11)(B). Pub. L. 105-119, §211(b), which directed the amendment of subpar. (B) by inserting at end thereof “or pursuant to the authority of the Secretary of Commerce”, was executed by inserting the material before the period to reflect the probable intent of Congress.

1996—Subsec. (c)(1). Pub. L. 104-208, §101(a) [title I, §114(a)], struck out “(C),” after “(B),” in concluding provisions.

Subsec. (c)(8)(A). Pub. L. 104-208, §101(a) [title I, §114(b)], struck out “(C),” after “(B).”

Subsec. (c)(8)(E). Pub. L. 104-208, §101(a) [title I, §108], substituted “September 30, 1996” for “September 30, 1995”.

Pub. L. 104-134 struck out subpar. (E), as added by Pub. L. 103-317, which read as follows: “Subject to the notification procedures contained in section 605 of Public Law 103-121, and after satisfying the transfer requirement in subparagraph (B) above, any excess unobligated balance remaining in the Fund on September 30, 1994 shall be available to the Attorney General, without fiscal year limitation, for any Federal law enforcement, litigative/prosecutive, and correctional activities, or any other authorized purpose of the Department of Justice. Any amounts provided pursuant to this section may be used under authorities available to the organization receiving the funds.”

Pub. L. 104-91, as amended by Pub. L. 104-99, which directed amendment of subsec. (c)(9) of this section by adding subpar. (E) relating to excess unobligated balance remaining in the Fund on Sept. 30, 1995, was executed by adding subpar. (E) at the end of subsec. (c)(8), to reflect the redesignation of subsec. (c)(9) as (c)(8) by Pub. L. 104-66. See below.

Subsec. (c)(9). Pub. L. 104-208, §101(a) [title I, §117], amended par. (9) generally. Prior to amendment, par. (9) read as follows: “Following the completion of procedures for the forfeiture of property pursuant to any law

enforced or administered by the Department, the Attorney General is authorized, at his discretion, to warrant clear title to any subsequent purchaser or transferee of such forfeited property.”

Subsec. (d). Pub. L. 104-208, §101(a) [title I, §116], added subsec. (d).

1995—Subsec. (c)(7) to (12). Pub. L. 104-66 redesignated pars. (8) to (12) as (7) to (11), respectively, and struck out former par. (7) which read as follows:

“(7)(A) The Fund shall be subject to annual audit by the Comptroller General.

“(B) The Attorney General shall require that any State or local law enforcement agency receiving funds conduct an annual audit detailing the uses and expenses to which the funds were dedicated and the amount used for each use or expense and report the results of the audit to the Attorney General.”

1994—Subsec. (c)(1)(H), (I). Pub. L. 103-322, §320913(a), added subpar. (H) and redesignated former subpar. (H) relating to payment of overtime salaries, travel, etc. as (I).

Subsec. (c)(6)(B). Pub. L. 103-322, §320302(1), struck out “and” at end.

Subsec. (c)(6)(C). Pub. L. 103-322, §320302(2), substituted “; and” for period at end.

Pub. L. 103-322, §320301(b), inserted as flush sentence at end “The report should also contain all annual audit reports from State and local law enforcement agencies required to be reported to the Attorney General under subparagraph (B) of paragraph (7).”

Subsec. (c)(6)(D). Pub. L. 103-322, §320302(3), added subpar. (D).

Subsec. (c)(7). Pub. L. 103-322, §320301(a), amended par. (7) generally, designating existing provisions as subpar. (A) and adding subpar. (B).

Subsec. (c)(9)(B) to (D). Pub. L. 103-322, §90205(b), amended subpars. (B) to (D) generally. Prior to amendment, subpars. (B) to (D) read as follows:

“(B) Subject to subparagraph (C), in each of fiscal years 1990, 1991, 1992, and 1993, the Attorney General may transfer from the Fund not more than \$150,000,000 to the Special Forfeiture Fund established by section 6073 of the Anti-Drug Abuse Act of 1988. Such transfers shall be made at the end of each quarter of the fiscal year involved and on a quarterly pro rata basis.

“(C) Transfers under subparagraph (B) may be made only from excess unobligated amounts and only to the extent that, as determined by the Attorney General, such transfers will not impair the future availability of amounts for the purposes under paragraph (1). Further, transfers under subsection (B) may be made only to the extent that the sum of the transfers for the current fiscal year and the unobligated balance at the beginning of the current fiscal year for the Special Forfeiture Fund do not exceed \$150,000,000.

“(D) At the end of each of fiscal years 1990, 1991, 1992, and 1993, the Attorney General may retain in the Fund not more than \$15,000,000, or, if determined by the Attorney General to be necessary for asset-specific expenses, a greater amount equal to not more than one-tenth of the total of obligations from the Fund in preceding fiscal year.”

Subsec. (c)(9)(E). Pub. L. 103-317 added subpar. (E).

1993—Subsec. (c)(9)(E). Pub. L. 103-121, which directed the striking of “subsection (E)”, was executed by striking subpar. (E) which read as follows: “Subject to the notification procedures contained in section 606 of Public Law 101-515, and after reserving the amounts authorized in subparagraph (D) above, any unobligated balances remaining in the Fund on September 30, 1991, and on September 30 of each fiscal year thereafter, shall be available to the Attorney General, without fiscal year limitation, for law enforcement, prosecution and correctional activities, and related training requirements of Federal agencies. Any amounts provided pursuant to this section may be used under authorities available to the organization receiving the funds.”

1992—Subsec. (c)(1). Pub. L. 102-393, §638(f)(1)(C)-(F), which directed amendment of par. (1) by adding subpar. (H), redesignating former subpar. (H) as (I), and sub-

stituting “(A)(iv)” for “(A)(ii)” and “(G), and (H)” for “and (G)” in the first sentence of par. following subpar. (I), was executed to par. (I) as amended by Pub. L. 102-395, §114(c), to reflect the probable intent of Congress and the approval of Pub. L. 102-393 and Pub. L. 102-395 on the same day.

Pub. L. 102-395, §114(c), amended generally the first sentence of par. following subpar. (H). Prior to amendment, that sentence read as follows: “Amounts for paying the expenses authorized by subparagraphs (A)(ii), (B), (C), (F), and (G) shall be specified in appropriations acts.”

Subsec. (c)(1)(A). Pub. L. 102-393, §638(f)(1)(A), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “the payment, at the discretion of the Attorney General, of any expenses necessary to seize, detain, inventory, safeguard, maintain, advertise, or sell property under seizure, detention, or forfeited pursuant to any law enforced or administered by the Department of Justice, or of any other necessary expenses incident to the seizure, detention, or forfeiture of such property; such payments may include—

“(i) payments for contract services, the employment of outside contractors to operate and manage properties or provide other specialized services as necessary to dispose of such properties in an effort to maximize the return from such properties, and payments to reimburse any Federal, State, or local agency for any expenditures made to perform the foregoing functions; and

“(ii) payments made pursuant to regulations promulgated by the Attorney General, that are necessary and direct program-related expenses for the purchase or lease of automatic data processing equipment (not less than a majority of which use will be program related), training, printing, contracting for services directly related to the identification of forfeitable assets processing of and accounting for forfeitures, and the storage, protection, and destruction of controlled substances;”.

Subsec. (c)(1)(B). Pub. L. 102-550 inserted “or of sections 1956 and 1957 of title 18, sections 5313 and 5324 of title 31, and section 6050I of the Internal Revenue Code of 1986” after “United States”.

Subsec. (c)(1)(F). Pub. L. 102-393, §638(f)(1)(B), amended subpar. (F) generally. Prior to amendment, subpar. (F) read as follows: “for equipping for law enforcement functions any government-owned or leased vessels, vehicles, and aircraft available for official use by any federal agency participating in the Fund;”.

Subsec. (c)(1)(H), (I). Pub. L. 102-393, §638(f)(1)(C)–(E), added subpar. (H) and redesignated former subpar. (H) as (I).

Subsec. (c)(4). Pub. L. 102-393, §638(f)(2), inserted “Federal,” before “State” in subpar. (B) and added subpar. (C).

Subsec. (c)(6)(B)(v). Pub. L. 102-393, §638(f)(3), amended cl. (v) generally. Prior to amendment, cl. (v) read as follows: “any defendant’s equity in property valued at \$1,000,000 or more; and”.

Subsec. (c)(9)(A). Pub. L. 102-393, §638(f)(4), substituted “(A)(iv)” for “(A)(ii)” and “(G), and (H)” for “and (G)”.

Subsec. (c)(9)(E). Pub. L. 102-395, §114(b), struck out “to be transferred to any Federal agency” after “without fiscal year limitation,” and substituted for period at end “of Federal agencies. Any amounts provided pursuant to this section may be used under authorities available to the organization receiving the funds.”

Pub. L. 102-393, §638(f)(5), struck out “to procure vehicles, equipment, and other capital investment items” before “for law enforcement”.

Subsec. (c)(11), (12). Pub. L. 102-393, §638(f)(6), added pars. (11) and (12) and struck out former par. (11) which read as follows: “For the purposes of this subsection, property is forfeited pursuant to a law enforced or administered by the Department of Justice if it is forfeited pursuant to—

“(A) any criminal forfeiture proceeding;

“(B) any civil judicial forfeiture proceeding; or

“(C) any civil administrative forfeiture proceeding conducted by the Department of Justice,

except to the extent that the seizure was effected by a Customs officer or that custody was maintained by the United States Customs Service in which case the provisions of section 613A of the Tariff Act of 1930 (19 U.S.C. 1613a) shall apply.”

1991—Subsec. (c)(1). Pub. L. 102-140, §112(1), substituted “law enforcement purposes” for “purposes of the Department of Justice” in introductory provisions.

Subsec. (c)(1)(C). Pub. L. 102-140, §112(2), added subpar. (C) and struck out former subpar. (C) which read as follows: “at the discretion of the Attorney General, the payment of awards for information or assistance leading to—

“(i) a civil or criminal forfeiture under the Controlled Substances Act or the Controlled Substances Import and Export Act;

“(ii) a criminal forfeiture under chapter 96 of title 18;

“(iii) a civil forfeiture under section 981 of title 18;

or

“(iv) a criminal forfeiture under section 982 of title 18.”

Subsec. (c)(1)(F). Pub. L. 102-140, §112(3), (4), struck out “drug” before “law enforcement functions” and substituted “any federal agency participating in the Fund” for “the Drug Enforcement Administration, the Federal Bureau of Investigation, the Immigration and Naturalization Service, or the United States Marshals Service”.

Subsec. (c)(4). Pub. L. 102-140, §112(5), added par. (4) and struck out former par. (4) which read as follows: “There shall be deposited in the Fund all amounts from the forfeiture of property under any law enforced or administered by the Department of Justice, except all proceeds of forfeitures available for use by the Secretary of the Treasury or the Secretary of the Interior pursuant to section 11(d) of the Endangered Species Act (16 U.S.C. 1540(d)) or section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d)) or the Postmaster General of the United States pursuant to section 2003(b)(7) of title 39.”

Subsec. (c)(5). Pub. L. 102-140, §112(6), inserted “, and in any holding accounts associated with the Fund” after first reference to “Fund”.

Subsec. (c)(9)(C). Pub. L. 102-140, §112(7), inserted at end “Further, transfers under subsection (B) may be made only to the extent that the sum of the transfers for the current fiscal year and the unobligated balance at the beginning of the current fiscal year for the Special Forfeiture Fund do not exceed \$150,000,000.”

Subsec. (c)(9)(E). Pub. L. 102-140, §112(8)(B), which directed the substitution of “to be transferred to any Federal agency to procure vehicles, equipment, and other capital investment items for law enforcement, prosecution and correctional activities, and related training requirements” for “to procure vehicles, equipment, and other capital investment items for the law enforcement, prosecution and correctional activities of the Department of Justice” was executed by making the substitution for the quoted words which in the original contained a comma after “prosecution”, to reflect the probable intent of Congress.

Pub. L. 102-140, §112(8)(A), substituted “of each fiscal year thereafter” for “, 1992”.

Pub. L. 102-27 added subpar. (E).

1990—Subsec. (c)(1)(C). Pub. L. 101-647, §2005, amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: “the payment of awards for information or assistance leading to a civil or criminal forfeiture under any law enforced or administered by the Department of Justice., at the discretion of the Attorney General;”.

Pub. L. 101-647, §1601, which directed substitution of “the payment of awards for information or assistance leading to a civil or criminal forfeiture under any law enforced or administered by the Department of Justice.” for “the payment of awards for information or assistance leading to civil or criminal forfeiture under

the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 800 et seq.) or a criminal forfeiture under the Racketeer Influenced and Corrupt Organizations statute (18 U.S.C. 1961 et seq.)”, was executed by making the substitution for “the payment of awards for information or assistance leading to a civil or criminal forfeiture under the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 800 et seq.) or a criminal forfeiture under the Racketeer Influenced and Corrupt Organizations statute (18 U.S.C. 1961 et seq.)” to reflect the probable intent of Congress.

Subsec. (c)(6), Pub. L. 101-647, §2006, struck out “two” after “fiscal year,” in introductory provisions and added subpar. (C).

Subsec. (c)(9), Pub. L. 101-647, §2001(a), inserted “(A)” before “There” and substituted subpars. (B) to (D) for “For each of fiscal years 1991, 1992, and 1993, the Attorney General shall transfer not to exceed \$150,000,000 in unobligated amounts available in the Fund to the Special Forfeiture Fund: *Provided*, That such amounts will be transferred on a quarterly basis: *Provided further*, That, upon each transfer, not to exceed \$15,000,000, or, if determined by the Attorney General to be necessary to meet forfeiture program expenses, an amount not to exceed one-tenth of the previous year’s obligations shall be retained in the Fund and remain available for payment of authorized expenses: *Provided further*, That, any unobligated amounts in excess of \$150,000,000 shall remain on deposit in the Fund.”

Pub. L. 101-509 amended second sentence generally, substituting sentence providing for transfers to Special Forfeiture Fund in fiscal years 1991, 1992, and 1993 for sentence that read as follows: “At the end of each of fiscal years 1990, 1991, and 1992, unobligated amounts not to exceed \$150,000,000 remaining in the Fund shall be deposited in the Special Forfeiture Fund, except that an amount not to exceed \$15,000,000 or, if determined necessary by the Attorney General to meet asset specific expenses, an amount equal to one-twelfth of the previous year’s expenditures may be carried forward and remain available for appropriation in the next fiscal year.”

Subsec. (c)(10), (11), Pub. L. 101-647, §2002, added par. (10) and redesignated former par. (10) as (11).

1988—Subsec. (c), Pub. L. 100-690 amended subsec. (c) generally, revising and restating as pars. (1) to (10) provisions of former pars. (1) to (8).

1987—Subsec. (c)(1)(H), Pub. L. 100-202 added subpar. (H).

1986—Subsec. (c)(1)(A), Pub. L. 99-570, §1152(a)(1)(2), inserted provisions allowing payments that are necessary and direct program-related expenses for the purchase or lease of automatic data processing equipment, training, printing, contracting for services directly related to the processing of and accounting for forfeitures, and the storage, protection, and destruction of controlled substances.

Subsec. (c)(1)(B) to (E), Pub. L. 99-570, §1152(a)(1)(3), added subpar. (B) and redesignated former subpars. (B) to (E) as (C) to (F), respectively.

Subsec. (c)(1)(F), Pub. L. 99-646, §27(a), which directed the amendment of subpar. (E) by inserting “the Federal Bureau of Investigation, the United States Marshals Service,” after “for official use by” and a comma before “or” was not executed in view of prior redesignation of subpar. (E) as (F) and substantively similar amendment by section 1152(a) of Pub. L. 99-570.

Pub. L. 99-570, §1152(a)(1)(3), (4), redesignated former subpar. (E) as (F) and amended it generally. Prior to amendment, subpar. (E) read as follows: “for equipping for law enforcement functions of forfeited vessels, vehicles, and aircraft retained as provided by law for official use by the Drug Enforcement Administration or the Immigration and Naturalization Service; and”. Former subpar. (F) redesignated (G).

Subsec. (c)(1)(G), Pub. L. 99-570, §1152(a)(1)(3), redesignated former subpar. (F) as (G).

Subsec. (c)(4), Pub. L. 99-570, §1152(a)(1)(5), and Pub. L. 99-646, §27(b), made substantially identical amendments substituting “, except all proceeds of forfeitures

available for use by the Secretary of the Treasury or the Secretary of the Interior pursuant to section 11(d) of the Endangered Species Act (16 U.S.C. 1540(d)) or section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d))” for “remaining after the payment of expenses for forfeiture and sale authorized by law”.

Subsec. (c)(8), (9), Pub. L. 99-570, §1152(a)(1)(6), redesignated par. (9) as (8), and struck out former par. (8) which provided for an authorization of appropriations for fiscal years 1984 to 1987 and deposit of excess amounts in the general fund of the Treasury of the United States.

1984—Subsec. (c), Pub. L. 98-473, §310, added subsec. (c).

Subsec. (c)(1)(E), (F), Pub. L. 98-473, §2303(a), added subpars. (E) and (F).

Subsec. (c)(3) to (9), Pub. L. 98-473, §2303(b), added par. (3) and redesignated existing pars. (3) to (8) as (4) to (9), respectively.

1982—Pub. L. 97-258, §2(g)(1)(B), substituted “Availability of appropriations” for “Appropriations for administrative expenses; notarial fees; meals and lodging of bailiffs” in section catchline.

Subsecs. (a), (b), Pub. L. 97-258, §2(g)(1)(C), (D), designated existing provisions as subsec. (a) and added subsec. (b).

#### EFFECTIVE DATE OF 1994 AMENDMENT

Section 320913(b) of Pub. L. 103-322 provided that: “The amendment made by subsection (a) [amending this section] shall apply to all claims pending at the time of or commenced subsequent to the date of enactment of this Act [Sept. 13, 1994].”

#### COUNTERTERRORISM FUND

Pub. L. 104-19, title III, July 27, 1995, 109 Stat. 249, provided that: “There is hereby established the Counterterrorism Fund which shall remain available without fiscal year limitation. For necessary expenses, as determined by the Attorney General, \$34,220,000, to remain available until expended, is appropriated to the Counterterrorism Fund to reimburse any Department of Justice organization for the costs incurred in reestablishing the operational capability of an office or facility which has been damaged or destroyed as the result of the bombing of the Alfred P. Murrah Federal Building in Oklahoma City or any domestic or international terrorism event: *Provided*, That funds from this appropriation also may be used to reimburse the appropriation account of any Department of Justice agency engaged in, or providing support to, countering, investigating or prosecuting domestic or international terrorism, including payment of rewards in connection with these activities, and to conduct a terrorism threat assessment of Federal agencies and their facilities: *Provided further*, That any amount obligated from appropriations under this heading may be used under the authorities available to the organization reimbursed from this appropriation: *Provided further*, That amounts in excess of the \$10,555,000 made available for extraordinary expenses incurred in the Oklahoma City bombing for fiscal year 1995, shall be available only after the Attorney General notifies the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 605 of Public Law 103-317 [108 Stat. 1773]: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 [2 U.S.C. 901(b)(2)(D)(i)], as amended: *Provided further*, That the amount not previously designated by the President as an emergency requirement shall be available only to the extent an official budget request, for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement, as defined in the Balanced Budget and Emergency Deficit Control Act of 1985 [see Short Title

note set out under 2 U.S.C. 900], as amended, is transmitted to Congress.”

**UNAUTHORIZED TRANSFERS FROM DEPARTMENT OF JUSTICE ACCOUNTS; CONTROL OF ALLOCATION OF FUNDS BY AUTHORITY OTHER THAN OFFICE OF MANAGEMENT AND BUDGET OR DEPARTMENT OF JUSTICE**

Section 110 of H.R. 2076, One Hundred Fourth Congress, as passed by the House of Representatives on Dec. 6, 1995, and as enacted into law by Pub. L. 104-91, title I, §101(a), Jan. 6, 1996, 110 Stat. 11, as amended by Pub. L. 104-99, title II, §211, Jan. 26, 1996, 110 Stat. 37, provided that: “Hereafter, notwithstanding any other provision of law—

“(1) No transfers may be made from Department of Justice accounts other than those authorized in this Act [probably means H.R. 2076, One Hundred Fourth Congress, which was vetoed], or in previous or subsequent appropriations Acts for the Department of Justice, or in part II of title 28 of the United States Code, or in section 10601 of title 42 of the United States Code; and

“(2) No appropriation account within the Department of Justice shall have its allocation of funds controlled by other than an apportionment issued by the Office of Management and Budget or an allotment advice issued by the Department of Justice.”

Similar provisions were contained in the following prior appropriation act:

Pub. L. 103-317, title I, §113, Aug. 26, 1994, 108 Stat. 1736.

**USE OF DEPOSITS TRANSFERRED FROM ASSETS FORFEITURE FUND TO BUILDINGS AND FACILITIES ACCOUNT OF FEDERAL PRISON SYSTEM**

Section 106 of Pub. L. 103-121 provided that: “For fiscal year 1994 and thereafter, deposits transferred from the Assets Forfeiture Fund to the Buildings and Facilities account of the Federal Prison System may be used for the construction of correctional institutions, and the construction and renovation of Immigration and Naturalization Service and United States Marshals Service detention facilities, and for the authorized purposes of the Cooperative Agreement Program.”

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 102-395, title I, §107, Oct. 6, 1992, 106 Stat. 1841.

Pub. L. 102-140, title I, §107, Oct. 28, 1991, 105 Stat. 794.

Pub. L. 101-515, title II, §208, Nov. 5, 1990, 104 Stat. 2119.

Pub. L. 101-162, title II, as added Pub. L. 101-302, title II, May 25, 1990, 104 Stat. 216.

**NOTICE AND APPROVAL OF TRANSFER OF SUBSECTION (c)(1)(H) DEPOSITS**

Section 101(a) [title II, §210(b)] of Pub. L. 100-202 provided that: “Amounts proposed for transfer pursuant to subsection (a) [amending this section] shall be transferred only upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate and approval under said Committees’ policies concerning the reprogramming of funds.”

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in title 18 sections 793, 794, 798, 2254; title 21 sections 881, 1509; title 31 section 9703; title 50 section 783.

**§ 525. Procurement of law books, reference books, and periodicals; sale and exchange**

In the procurement of law books, reference books, and periodicals, the Attorney General may exchange or sell similar items and apply the exchange allowances or proceeds of such sales in whole or in part payment therefor.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 615.)

**HISTORICAL AND REVISION NOTES**

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 341e.	July 28, 1950, ch. 503, §3, 64 Stat. 380.

The words “Attorney General” are substituted for “Department of Justice”.

**§ 526. Authority of Attorney General to investigate United States attorneys, marshals, and trustees, clerks of court, and others**

(a) The Attorney General may investigate the official acts, records, and accounts of—

(1) the United States attorneys, marshals,<sup>1</sup> trustees, including trustees in cases under title 11; and

(2) at the request and on behalf of the Director of the Administrative Office of the United States Courts, the clerks of the United States courts and of the district court of the Virgin Islands, probation officers, United States magistrates, and court reporters;

for which purpose all the official papers, records, dockets, and accounts of these officers, without exception, may be examined by agents of the Attorney General at any time.

(b) Appropriations for the examination of judicial officers are available for carrying out this section.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 615; amended Pub. L. 95-598, title II, §§219(a), (b), 220, Nov. 6, 1978, 92 Stat. 2662; Pub. L. 99-554, title I, §144(c), Oct. 27, 1986, 100 Stat. 3096.)

**HISTORICAL AND REVISION NOTES**

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 341b.	July 28, 1950, ch. 503, §4, 64 Stat. 380. July 7, 1958, Pub. L. 85-508, §12(q), 72 Stat. 349.

In subsection (b), the words “now or hereafter” and “the provisions of” are omitted as unnecessary.

**CODIFICATION**

Pub. L. 95-598, title IV, §408(c), Nov. 6, 1978, 92 Stat. 2687, as amended by Pub. L. 98-166, title II, §200, Nov. 28, 1983, 97 Stat. 1081; Pub. L. 98-353, title III, §323, July 10, 1984, 98 Stat. 358; Pub. L. 99-429, Sept. 30, 1986, 100 Stat. 985; Pub. L. 99-500, §101(b) [title II, §200], Oct. 18, 1986, 100 Stat. 1783-39, 1783-45, and Pub. L. 99-591, §101(b) [title II, §200], Oct. 30, 1986, 100 Stat. 3341-39, 3341-45; Pub. L. 99-554, title III, §307(a), Oct. 27, 1986, 100 Stat. 3125, provided for the deletion of any references to United States Trustees in this title at a prospective date, prior to repeal by Pub. L. 99-554, title III, §307(b), Oct. 27, 1986, 100 Stat. 3125.

**AMENDMENTS**

1986—Pub. L. 99-554, §144(c)(1), substituted “trustees” for “trustee” in section catchline.

Subsec. (a)(1). Pub. L. 99-554, §144(c)(2)(A), inserted reference to trustees in cases under title 11.

Subsec. (a)(2). Pub. L. 99-554, §144(c)(2)(B), struck out references to courts of the Canal Zone and trustees in cases under title 11.

1978—Pub. L. 95-598, §219(b), substituted “marshals, and trustee” for “and marshals” in section catchline.

Subsec. (a)(1). Pub. L. 95-518, §219(a), substituted “marshals, and trustees” for “and marshals”.

<sup>1</sup> So in original.

Subsec. (a)(2). Pub. L. 95-598, §220, substituted "officers, trustees in cases under title 11" for "officers, referees, trustees and receivers in bankruptcy" and "magistrates" for "commissioners".

#### CHANGE OF NAME

Reference to United States magistrate or to magistrate deemed to refer to United States magistrate judge pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of this title.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-554 effective 30 days after Oct. 27, 1986, see section 302(a) of Pub. L. 99-554, set out as a note under section 581 of this title.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Oct. 1, 1979, see section 402(c) of Pub. L. 95-598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

### § 527. Establishment of working capital fund

There is hereby authorized to be established a working capital fund for the Department of Justice, which shall be available, without fiscal year limitation, for expenses and equipment necessary for maintenance and operations of such administrative services as the Attorney General, with the approval of the Office of Management and Budget, determines may be performed more advantageously as central services. The capital of the fund shall consist of the amount of the fair and reasonable value of such inventories, equipment, and other assets and inventories on order pertaining to the services to be carried on by the fund as the Attorney General may transfer to the fund less related liabilities and unpaid obligations together with any appropriations made for the purpose of providing capital. The fund shall be reimbursed or credited with advance payments from applicable appropriations and funds of the Department of Justice, other Federal agencies, and other sources authorized by law for supplies, materials, and services at rates which will recover the expenses of operations including accrual of annual leave and depreciation of plant and equipment of the fund. The fund shall also be credited with other receipts from sale or exchange of property or in payment for loss or damage to property held by the fund. There shall be transferred into the Treasury as miscellaneous receipts, as of the close of each fiscal year, any net income after making provisions for prior year losses, if any.

(Added Pub. L. 93-613, §1(1), Jan. 2, 1975, 88 Stat. 1975.)

#### CREDITING TO WORKING CAPITAL FUND OF AMOUNTS COLLECTED PURSUANT TO CIVIL DEBT COLLECTION LITIGATION ACTIVITIES

Pub. L. 103-121, title I, §108, Oct. 27, 1993, 107 Stat. 1164, provided that: "Notwithstanding 31 U.S.C. 3302 or any other statute affecting the crediting of collections, the Attorney General may credit, as an offsetting collection, to the Department of Justice Working Capital Fund, for fiscal year 1994 and thereafter, up to three percent of all amounts collected pursuant to civil debt collection litigation activities of the Department of Justice. Such amounts in the Working Capital Fund shall remain available until expended and shall be subject to the terms and conditions of that fund, and shall

be used only for paying the costs of processing and tracking such litigation."

#### CAPITAL EQUIPMENT ACQUISITION, ETC., BY INCOME RETAINED FROM OR TRANSFERRED TO WORKING CAPITAL FUND; AMOUNTS AND LIMITATIONS

Pub. L. 102-140, title I, Oct. 28, 1991, 105 Stat. 784, provided that:

"Of the total income of the Working Capital Fund in fiscal year 1992 and each fiscal year thereafter, not to exceed 4 percent of the total income may be retained, to remain available until expended, for the acquisition of capital equipment and for the improvement and implementation of the Department's financial management and payroll/personnel systems: *Provided*, That in fiscal year 1992, not to exceed \$4,000,000 of the total income retained shall be used for improvements to the Department's data processing operation: *Provided further*, That any proposed use of the retained income in fiscal year 1992 and thereafter, except for the \$4,000,000 specified above, shall only be made after notification to the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 606 of this Act [105 Stat. 824].

"In addition, for fiscal year 1992 and thereafter, at no later than the end of the fifth fiscal year after the fiscal year for which funds are appropriated or otherwise made available, unobligated balances of appropriations available to the Department of Justice during such fiscal year may be transferred into the capital account of the Working Capital Fund to be available for the departmentwide acquisition of capital equipment, development and implementation of law enforcement or litigation related automated data processing systems, and for the improvement and implementation of the Department's financial management and payroll/personnel systems: *Provided*, That any proposed use of these transferred funds in fiscal year 1992 and thereafter shall only be made after notification to the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 606 of this Act."

### § 528. Disqualification of officers and employees of the Department of Justice

The Attorney General shall promulgate rules and regulations which require the disqualification of any officer or employee of the Department of Justice, including a United States attorney or a member of such attorney's staff, from participation in a particular investigation or prosecution if such participation may result in a personal, financial, or political conflict of interest, or the appearance thereof. Such rules and regulations may provide that a willful violation of any provision thereof shall result in removal from office.

(Added Pub. L. 95-521, title VI, §603(a), Oct. 26, 1978, 92 Stat. 1874.)

#### EFFECTIVE DATE

Section effective Oct. 26, 1978, see section 604 of Pub. L. 95-521, set out as a note under section 591 of this title.

### § 529. Annual report of Attorney General

Beginning on June 1, 1979, and at the beginning of each regular session of Congress thereafter, the Attorney General shall report to Congress on the activities and operations of the Public Integrity Section or any other unit of the Department of Justice designated to supervise the investigation and prosecution of—

- (1) any violation of Federal criminal law by any individual who holds or who at the time of such violation held a position, whether or not

elective, as a Federal Government officer, employee, or special employee, if such violation relates directly or indirectly to such individual's Federal Government position, employment, or compensation;

(2) any violation of any Federal criminal law relating to lobbying, conflict of interest, campaigns, and election to public office committed by any person, except insofar as such violation relates to a matter involving discrimination or intimidation on grounds of race, color, religion, or national origin;

(3) any violation of Federal criminal law by any individual who holds or who at the time of such violation held a position, whether or not elective, as a State or local government officer or employee, if such violation relates directly or indirectly to such individual's State or local government position, employment, or compensation; and

(4) such other matters as the Attorney General may deem appropriate.

Such report shall include the number, type, and disposition of all investigations and prosecutions supervised by such Section or such unit, except that such report shall not disclose information which would interfere with any pending investigation or prosecution or which would improperly infringe upon the privacy rights of any individuals.

(Added Pub. L. 95-521, title VI, §603(a), Oct. 26, 1978, 92 Stat. 1874.)

#### EFFECTIVE DATE

Section effective Oct. 26, 1978, see section 604 of Pub. L. 95-521, set out as a note under section 591 of this title.

#### § 530. Payment of travel and transportation expenses of newly appointed special agents

The Attorney General or the Attorney General's designee is authorized to pay the travel expenses of newly appointed special agents and the transportation expenses of their families and household goods and personal effects from place of residence at time of selection to the first duty station, to the extent such payments are authorized by section 5723 of title 5 for new appointees who may receive payments under that section.

(Added Pub. L. 98-86, §1, Aug. 26, 1983, 97 Stat. 492.)

#### § 530A. Authorization of appropriations for travel and related expenses and for health care of personnel serving abroad

There are authorized to be appropriated, for any fiscal year, for the Department of Justice, such sums as may be necessary—

(1) for travel and related expenses of employees of the Department of Justice serving abroad and their families, to be payable in the same manner as applicable with respect to the Foreign Service under paragraphs (3), (5), (6), (8), (9), (11), and (15) of section 901 of the Foreign Service Act of 1980, and under the regulations issued by the Secretary of State; and

(2) for health care for such employees and families, to be provided under section 904 of that Act.

(Added Pub. L. 100-690, title VI, §6281(a), Nov. 18, 1988, 102 Stat. 4368.)

#### REFERENCES IN TEXT

Sections 901 and 904 of the Foreign Service Act of 1980, referred to in pars. (1) and (2), are classified to sections 4081 and 4084, respectively, of Title 22, Foreign Relations and Intercourse.

### CHAPTER 33—FEDERAL BUREAU OF INVESTIGATION

Sec. 531.	Federal Bureau of Investigation.
532.	Director of Federal Bureau of Investigation. <sup>1</sup>
533.	Investigative and other officials; appointment.
534.	Acquisition, preservation, and exchange of identification records and information; appointment of officials.
535.	Investigation of crimes involving Government officers and employees; limitations.
536.	Positions in excepted service.
537.	Expenses of unforeseen emergencies of a confidential nature. <sup>1</sup>
538.	Investigation of aircraft piracy and related violations.
539.	Counterintelligence official reception and representation expenses.
540.	Investigation of felonious killings of State or local law enforcement officers.
540A.	Investigation of violent crimes against travelers.

#### AMENDMENTS

1994—Pub. L. 103-322, title XXXII, §320916(b), Sept. 13, 1994, 108 Stat. 2129, added item 540A.

Pub. L. 103-272, §4(e)(2), July 5, 1994, 108 Stat. 1361, added item 538.

1988—Pub. L. 100-690, title VII, §7331(b), Nov. 18, 1988, 102 Stat. 4468, added item 540.

1986—Pub. L. 99-569, title IV, §401(b), Oct. 27, 1986, 100 Stat. 3195, added item 539.

1982—Pub. L. 97-292, §3(b), Oct. 12, 1982, 96 Stat. 1260, inserted "and information" after "identification records" in item 534.

1966—Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 616, substituted "FEDERAL BUREAU OF INVESTIGATION" for "UNITED STATES MARSHALS" in chapter heading, added items 531 to 537, and struck out items 541 to 556.

#### CROSS REFERENCES

Powers of Federal Bureau of Investigation, see section 3052 of Title 18, Crimes and Criminal Procedure.

#### § 531. Federal Bureau of Investigation

The Federal Bureau of Investigation is in the Department of Justice.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 616.)

#### HISTORICAL AND REVISION NOTES

The section is supplied for convenience and clarification. The Bureau of Investigation in the Department of Justice, the earliest predecessor agency of the Federal Bureau of Investigation, was created administratively in 1908. It appears that funds used for the Bureau of Investigation were first obtained through the Department of Justice Appropriation Act of May 22, 1908, ch. 186, §1 (par. beginning "From the appropriations for the prosecution of crimes"), 35 Stat. 236, although that statutory provision makes no express mention of the Bureau or of the investigative function.

Section 3 of Executive Order No. 6166 of June 10, 1933, specifically recognized the Bureau of Investigation in

<sup>1</sup> So in original. Does not conform to section catchline.

the Department of Justice and provided that all that Bureau's functions together with the investigative functions of the Bureau of Prohibition were "transferred to and consolidated in a Division of Investigation in the Department of Justice, at the head of which shall be a Director of Investigation."

The Division of Investigation was first designated as the "Federal Bureau of Investigation" by the Act of Mar. 22, 1935, ch. 39, title II, 49 Stat. 77, and has been so designated in statutes since that date.

FEDERAL BUREAU OF INVESTIGATION FUNDING  
AUTHORIZATIONS

Pub. L. 104-132, title VIII, §811, Apr. 24, 1996, 110 Stat. 1312, provided that:

"(a) IN GENERAL.—With funds made available pursuant to subsection (c)—

"(1) the Attorney General shall—

"(A) provide support and enhance the technical support center and tactical operations of the Federal Bureau of Investigation;

"(B) create a Federal Bureau of Investigation counterterrorism and counterintelligence fund for costs associated with the investigation of cases involving cases of terrorism;

"(C) expand and improve the instructional, operational support, and construction of the Federal Bureau of Investigation Academy;

"(D) construct a Federal Bureau of Investigation laboratory, provide laboratory examination support, and provide for a command center;

"(E) make grants to States to carry out the activities described in subsection (b); and

"(F) increase personnel to support counterterrorism activities; and

"(2) the Director of the Federal Bureau of Investigation may expand the combined DNA Identification System (CODIS) to include Federal crimes and crimes committed in the District of Columbia.

"(b) STATE GRANTS.—

"(1) AUTHORIZATION.—The Attorney General, in consultation with the Director of the Federal Bureau of Investigation, may make grants to each State eligible under paragraph (2) to be used by the chief executive officer of the State, in conjunction with units of local government, other States, or any combination thereof, to carry out all or part of a program to establish, develop, update, or upgrade—

"(A) computerized identification systems that are compatible and integrated with the databases of the National Crime Information Center of the Federal Bureau of Investigation;

"(B) the capability to analyze deoxyribonucleic acid (DNA) in a forensic laboratory in ways that are compatible and integrated with the combined DNA Identification System (CODIS) of the Federal Bureau of Investigation; and

"(C) automated fingerprint identification systems that are compatible and integrated with the Integrated Automated Fingerprint Identification System (IAFIS) of the Federal Bureau of Investigation.

"(2) ELIGIBILITY.—To be eligible to receive a grant under this subsection, a State shall require that each person convicted of a felony of a sexual nature shall provide to appropriate State law enforcement officials, as designated by the chief executive officer of the State, a sample of blood, saliva, or other specimen necessary to conduct a DNA analysis consistent with the standards established for DNA testing by the Director of the Federal Bureau of Investigation.

"(3) INTERSTATE COMPACTS.—A State may enter into a compact or compacts with another State or States to carry out this subsection.

"(c) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated for the activities of the Federal Bureau of Investigation, to help meet the increased demands for activities to combat terrorism—

"(A) \$114,000,000 for fiscal year 1997;

"(B) \$166,000,000 for fiscal year 1998;

"(C) \$96,000,000 for fiscal year 1999; and

"(D) \$92,000,000 for fiscal year 2000.

"(2) AVAILABILITY OF FUNDS.—Funds made available pursuant to paragraph (1), in any fiscal year, shall remain available until expended.

"(3) ALLOCATION.—

"(A) IN GENERAL.—Of the total amount appropriated to carry out subsection (b) in a fiscal year—

"(i) the greater of 0.25 percent of such amount or \$500,000 shall be allocated to each eligible State; and

"(ii) of the total funds remaining after the allocation under clause (i), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described in this subparagraph as the population of such State bears to the population of all States.

"(B) DEFINITION.—For purposes of this paragraph, the term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands, except that for purposes of the allocation under this subparagraph, American Samoa and the Commonwealth of the Northern Mariana Islands shall be considered as one State and that for these purposes, 67 percent of the amounts allocated shall be allocated to American Samoa, and 33 percent to the Commonwealth of the Northern Mariana Islands."

**§532. Director of the Federal Bureau of Investigation**

The Attorney General may appoint a Director of the Federal Bureau of Investigation. The Director of the Federal Bureau of Investigation is the head of the Federal Bureau of Investigation.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 616.)

HISTORICAL AND REVISION NOTES

The section is supplied for convenience and clarification and is based on section 3 of Executive Order No. 6166 of June 10, 1933, which provided for the transfer of the functions of the Bureau of Investigation together with the investigative functions of the Bureau of Prohibition to a "Division of Investigation in the Department of Justice, at the head of which shall be a Director of Investigation". The Division of Investigation was first designated as the "Federal Bureau of Investigation" by the Act of Mar. 22, 1935, ch. 39, title II, 49 Stat. 77, and has been so designated in statutes since that date. The title of "Director of the Federal Bureau of Investigation" was recognized by statute in the Act of June 5, 1936, ch. 529, 49 Stat. 1484, and has been used in statutes since that date.

FBI CRITICAL SKILLS SCHOLARSHIP PROGRAM

Pub. L. 102-183, title V, §501, Dec. 4, 1991, 105 Stat. 1268, provided that:

"(a) STUDY.—The Director of the Federal Bureau of Investigation shall conduct a study relative to the establishment of an undergraduate training program with respect to employees of the Federal Bureau of Investigation that is similar in purpose, conditions, content, and administration to undergraduate training programs administered by the Central Intelligence Agency (under section 8 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403j)), the National Security Agency (under section 16 of the National Security Agency Act of 1959 (50 U.S.C. 402 (note)))], and the Defense Intelligence Agency (under section 1608 [now 1623] of title 10, United States Code).

"(b) IMPLEMENTATION.—Any program proposed under subsection (a) may be implemented only after the Department of Justice and the Office of Management and Budget review and approve the implementation of such program.

“(c) AVAILABILITY OF FUNDS.—Any payment made by the Director of the Federal Bureau of Investigation to carry out any program proposed to be established under subsection (a) may be made in any fiscal year only to the extent that appropriated funds are available for that purpose.”

CONFIRMATION AND COMPENSATION OF DIRECTOR; TERM OF SERVICE

Pub. L. 90-351, title VI, §1101, June 19, 1968, 82 Stat. 236, as amended by Pub. L. 94-503, title II, §203, Oct. 15, 1976, 90 Stat. 2427, provided that:

“(a) Effective as of the day following the date on which the present incumbent in the office of Director ceases to serve as such, the Director of the Federal Bureau of Investigation shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive compensation at the rate prescribed for level II of the Federal Executive Salary Schedule [section 5313 of Title 5, Government Organization and Employees].

“(b) Effective with respect to any individual appointment by the President, by and with the advice and consent of the Senate, after June 1, 1973, the term of service of the Director of the Federal Bureau of Investigation shall be ten years. A Director may not serve more than one ten-year term. The provisions of subsections (a) through (c) of section 8335 of title 5, United States Code, shall apply to any individual appointed under this section.”

**§ 533. Investigative and other officials; appointment**

The Attorney General may appoint officials—

- (1) to detect and prosecute crimes against the United States;
- (2) to assist in the protection of the person of the President; and
- (3) to conduct such other investigations regarding official matters under the control of the Department of Justice and the Department of State as may be directed by the Attorney General.

This section does not limit the authority of departments and agencies to investigate crimes against the United States when investigative jurisdiction has been assigned by law to such departments and agencies.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 616.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 299, 300 (less applicability to acquisition etc. of identification and other records).	Aug. 31, 1964, Pub. L. 88-527, §201 (1st 105 words of 1st par. under “Federal Bureau of Investigation”, less applicability to acquisition etc. of identification and other records), 78 Stat. 717.

The section is from the Department of Justice Appropriation Act, 1965. Similar provisions were contained in each appropriation Act for the Department running back to 1921, which Acts are identified in a note under sections 299 and 300 of title 5, U.S.C. 1964 ed.

The section is reorganized for clarity. The authority to appoint officials for the cited purposes is implied. The word “may” is substituted for “is authorized to”. The words “who shall be vested with the authority necessary for the execution of such duties” are omitted as unnecessary as the appointment of the officials for the purposes indicated carries with it the authority necessary to perform their duties.

In paragraph (2), the words “to assist in” are added for clarity and in recognition of the provisions of 18

U.S.C. 3056 which vest in the United States Secret Service the responsibility for the protection of the person of the President. As so revised, this paragraph will assure that the Secret Service will continue to have primary responsibility for the protection of the President but at the same time will permit the Federal Bureau of Investigation to render assistance in such protection.

The last sentence is added because in various areas the authority to investigate certain criminal offenses has been specifically assigned by statute to departments and agencies other than the Federal Bureau of Investigation. For example, the enforcement of the internal revenue laws is specifically a function of the Secretary of the Treasury and he is authorized to employ such number of persons as he deems proper for the enforcement of such laws (26 U.S.C. 7801, 7803). The Secretary of the Treasury is specifically authorized to direct the collection of duties on imports and to appoint such employees for that purpose as he deems necessary (19 U.S.C. 3, 6). The U.S. Coast Guard is specifically authorized to enforce or assist in enforcing the Federal laws upon the high seas and waters subject to the jurisdiction of the United States (14 U.S.C. 2). Subject to the direction of the Secretary of the Treasury, the Secret Service is specifically authorized to detect and arrest persons committing offenses against the laws of the United States relating to coins and obligations and securities of the United States and foreign governments (18 U.S.C. 3056).

DEPARTMENT OF JUSTICE EXEMPTION AUTHORITY

Pub. L. 104-132, title VIII, §815(d), Apr. 24, 1996, 110 Stat. 1315, provided that: “Notwithstanding any other provision of law, section 102(b) of the Department of Justice and Related Agencies Appropriations Act, 1993 (Public Law 102-395) [section 102(b)(5)-(6) of Pub. L. 102-395 is set out as a note below], shall remain in effect until specifically repealed, subject to any limitation on appropriations contained in any Department of Justice Appropriation Authorization Act.”

FBI INVESTIGATIONS OF ESPIONAGE BY PERSONS EMPLOYED BY OR ASSIGNED TO UNITED STATES DIPLOMATIC MISSIONS ABROAD

Pub. L. 101-193, title VI, §603, Nov. 30, 1989, 103 Stat. 1710, provided that: “Subject to the authority of the Attorney General, the FBI shall supervise the conduct of all investigations of violations of the espionage laws of the United States by persons employed by or assigned to United States diplomatic missions abroad. All departments and agencies shall report immediately to the FBI any information concerning such a violation. All departments and agencies shall provide appropriate assistance to the FBI in the conduct of such investigations. Nothing in this provision shall be construed as establishing a defense to any criminal, civil, or administrative action.”

UNDERCOVER INVESTIGATIVE OPERATIONS CONDUCTED BY FEDERAL BUREAU OF INVESTIGATION OR DRUG ENFORCEMENT ADMINISTRATION; ANNUAL REPORT TO CONGRESS; FINANCIAL AUDIT

Pub. L. 102-395, title I, §102(b)(5), (6), Oct. 6, 1992, 106 Stat. 1840, as amended by section 112(3) of H.R. 2076, One Hundred Fourth Congress, as passed by the House of Representatives on Dec. 6, 1995, and as enacted into law by Pub. L. 104-91, title I, §101(a), Jan. 6, 1996, 110 Stat. 11, as amended by Pub. L. 104-99, title II, §211, Jan. 26, 1996, 110 Stat. 37, provided that:

“(5)(A) The Federal Bureau of Investigation or the Drug Enforcement Administration, as the case may be, shall conduct a detailed financial audit of each undercover investigative operation which is closed in fiscal year 1996—

“(i) submit the results of such audit in writing to the Attorney General, and

“(ii) not later than 180 days after such undercover operation is closed, submit a report to the Congress concerning such audit.

“(B) The Federal Bureau of Investigation and the Drug Enforcement Administration shall each also submit a report annually to the Congress specifying as to their respective undercover investigative operations—

“(i) the number, by programs, of undercover investigative operations pending as of the end of the one-year period for which such report is submitted,

“(ii) the number, by programs, of undercover investigative operations commenced in the one-year period preceding the period for which such report is submitted, and

“(iii) the number, by programs, of undercover investigative operations closed in the one-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operation, the results obtained. With respect to each such closed undercover operation which involves any of the sensitive circumstances specified in the Attorney General’s Guidelines on Federal Bureau of Investigation Undercover Operations, such report shall contain a detailed description of the operation and related matters, including information pertaining to—

“(I) the results,

“(II) any civil claims, and

“(III) identification of such sensitive circumstances involved, that arose at any time during the course of such undercover operation.

“(6) For purposes of paragraph (5)—

“(A) the term ‘closed’ refers to the earliest point in time at which—

“(i) all criminal proceedings (other than appeals) are concluded, or

“(ii) covert activities are concluded, whichever occurs later,

“(B) the term ‘employees’ means employees, as defined in section 2105 of title 5 of the United States Code, of the Federal Bureau of Investigation, and

“(C) the terms ‘undercover investigative operations’ and ‘undercover operation’ mean any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration (other than a foreign counterintelligence undercover investigative operation)—

“(i) in which—

“(I) the gross receipts (excluding interest earned) exceed \$50,000, or

“(II) expenditures (other than expenditures for salaries of employees) exceed \$150,000, and

“(ii) which is exempt from section 3302 or 9102 of title 31 of the United States Code,

except that clauses (i) and (ii) shall not apply with respect to the report required under subparagraph (B) of such paragraph.”

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 102-140, title I, §102(b)(4), (5), Oct. 28, 1991, 105 Stat. 793.

Pub. L. 101-515, title II, §202(b)(4), (5), Nov. 5, 1990, 104 Stat. 2118.

Pub. L. 101-162, title II, §204(b)(4), (5), Nov. 21, 1989, 103 Stat. 1004.

Pub. L. 100-459, title II, §204(b)(4), (5), Oct. 1, 1988, 102 Stat. 2200, 2201, as amended by Pub. L. 101-650, title III, §325(c)(2), Dec. 1, 1990, 104 Stat. 5121.

Pub. L. 100-202, §101(a) [title II, §204(b)(4), (5)], Dec. 22, 1987, 101 Stat. 1329, 1329-16.

Pub. L. 99-500, §101(b) [title II, §204(b)(4), (5)], Oct. 18, 1986, 100 Stat. 1783-39, 1783-52, 1783-53, and Pub. L. 99-591, §101(b) [title II, §204(b)(4), (5)], Oct. 30, 1986, 100 Stat. 3341-39, 3341-52, 3341-53.

Pub. L. 99-180, title II, §204(b)(4), (5), Dec. 13, 1985, 99 Stat. 1148.

Pub. L. 98-411, title II, §203(b)(4), (5), Aug. 30, 1984, 98 Stat. 1560.

Pub. L. 98-166, title II, §205(b)(4), (5), Nov. 28, 1983, 97 Stat. 1087.

Pub. L. 96-132, §7(d), Nov. 30, 1979, 93 Stat. 1046, provided that:

“(1) The Federal Bureau of Investigation shall conduct detailed financial audits of undercover operations closed on or after October 1, 1979, and—

“(A) report the results of each audit in writing to the Department of Justice, and

“(B) report annually to the Congress concerning these audits.

“(2) For the purposes of paragraph (1), ‘undercover operation’ means any undercover operation of the Federal Bureau of Investigation, other than a foreign counterintelligence undercover operation—

“(A) in which the gross receipts exceed \$50,000, and

“(B) which is exempt from section 3617 of the Revised Statutes (31 U.S.C. 484) [31 U.S.C. 3302(b)] or section 304(a) of the Government Corporation Control Act (31 U.S.C. 869(a)) [31 U.S.C. 9102].”

### § 534. Acquisition, preservation, and exchange of identification records and information; appointment of officials

(a) The Attorney General shall—

(1) acquire, collect, classify, and preserve identification, criminal identification, crime, and other records;

(2) acquire, collect, classify, and preserve any information which would assist in the identification of any deceased individual who has not been identified after the discovery of such deceased individual;

(3) acquire, collect, classify, and preserve any information which would assist in the location of any missing person (including an emancipated person as defined by the laws of the place of residence of such person) and provide confirmation as to any entry for such a person to the parent, legal guardian, or next of kin of that person (and the Attorney General may acquire, collect, classify, and preserve such information from such parent, guardian, or next of kin);<sup>1</sup>

(4) exchange such records and information with, and for the official use of, authorized officials of the Federal Government, the States, cities, and penal and other institutions.

(b) The exchange of records and information authorized by subsection (a)(4) of this section is subject to cancellation if dissemination is made outside the receiving departments or related agencies.

(c) The Attorney General may appoint officials to perform the functions authorized by this section.

(d) For purposes of this section, the term “other institutions” includes—

(1) railroad police departments which perform the administration of criminal justice and have arrest powers pursuant to a State statute, which allocate a substantial part of their annual budget to the administration of criminal justice, and which meet training requirements established by law or ordinance for law enforcement officers; and

(2) police departments of private colleges or universities which perform the administration of criminal justice and have arrest powers pursuant to a State statute, which allocate a substantial part of their annual budget to the administration of criminal justice, and which meet training requirements established by law or ordinance for law enforcement officers.

<sup>1</sup> So in original. Probably should be followed by “and”.

(e)(1) Information from national crime information databases consisting of identification records, criminal history records, protection orders, and wanted person records may be disseminated to civil or criminal courts for use in domestic violence or stalking cases. Nothing in this subsection shall be construed to permit access to such records for any other purpose.

(2) Federal and State criminal justice agencies authorized to enter information into criminal information databases may include—

(A) arrests, convictions, and arrest warrants for stalking or domestic violence or for violations of protection orders for the protection of parties from stalking or domestic violence; and

(B) protection orders for the protection of persons from stalking or domestic violence, provided such orders are subject to periodic verification.

(3) As used in this subsection—

(A) the term “national crime information databases” means the National Crime Information Center and its incorporated criminal history databases, including the Interstate Identification Index; and

(B) the term “protection order” includes an injunction or any other order issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person, including temporary and final orders issued by civil or criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 616; amended Pub. L. 97-292, §§2, 3(a), Oct. 12, 1982, 96 Stat. 1259; Pub. L. 100-690, title VII, §7333, Nov. 18, 1988, 102 Stat. 4469; Pub. L. 103-322, title IV, §40601(a), Sept. 13, 1994, 108 Stat. 1950.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 300 (as applicable to acquisition etc. of identification and other records).	Aug. 31, 1964, Pub. L. 88-527, §201 (1st 105 words of 1st par. under “Federal Bureau of Investigation”, as applicable to acquisition etc. of identification and other records), 78 Stat. 717.
.....	5 U.S.C. 340.	June 11, 1930, ch. 455, 46 Stat. 554.

The sections are combined and reorganized for clarity. Former section 300 of title 5 was from the Department of Justice Appropriation Act, 1965. Similar provisions were contained in each appropriation Act for the Department of Justice running back to 1921, which Acts are identified in a note under former section 300 of title 5, U.S.C. 1964 ed.

In subsection (a), the word “shall” is substituted for “has the duty” as a more direct expression. The function of acquiring, collecting, classifying, etc., referred to in former section 340 of title 5 was transferred to the Attorney General by 1950 Reorg., Plan No. 2, §1, eff. May 24, 1950, 64 Stat. 1261, which is codified in section 509 of this title. Accordingly, the first 29 words and last 30 words of former section 340 are omitted as unnecessary.

In subsection (c), the authority to appoint officials for the cited purposes is implied.

AMENDMENTS

- 1994—Subsec. (e). Pub. L. 103-322 added subsec. (e).
- 1988—Subsec. (d). Pub. L. 100-690 added subsec. (d).
- 1982—Pub. L. 97-292, §3(a), inserted “and information” after “identification records” in section catchline.
- Subsec. (a). Pub. L. 97-292, §2(a), added pars. (2) and (3), redesignated former par. (2) as (4), and substituted “exchange such records and information” for “exchange these records” in par. (4).
- Subsec. (b). Pub. L. 97-292, §2(b), substituted “exchange of records and information authorized by subsection (a)(4)” for “exchange of records authorized by subsection (a)(2)”.

COMPILATION OF STATISTICS RELATING TO INTIMIDATION OF GOVERNMENT EMPLOYEES

Pub. L. 104-132, title VIII, §808, Apr. 24, 1996, 110 Stat. 1310, provided that:

- “(a) FINDINGS.—The Congress finds that—
  - “(1) threats of violence and acts of violence against Federal, State, and local government employees and their families are increasing as the result of attempts to stop public servants from performing their lawful duties;
  - “(2) these acts are a danger to the constitutional form of government of the United States; and
  - “(3) more information is needed relating to the extent and nature of the danger to these employees and their families so that actions can be taken to protect public servants at all levels of government in the performance of their duties.
- “(b) STATISTICS.—The Attorney General shall collect data, for the calendar year 1990 and each succeeding calendar year thereafter, relating to crimes and incidents of threats of violence and acts of violence against Federal, State, and local government employees and their families in the performance of their lawful duties. Such data shall include—
  - “(1) in the case of crimes against such employees and their families, the nature of the crime; and
  - “(2) in the case of incidents of threats of violence and acts of violence, including verbal and implicit threats against such employees and their families, the deterrent effect on the performance of their jobs.
- “(c) GUIDELINES.—The Attorney General shall establish guidelines for the collection of the data under subsection (b), including a definition of the sufficiency of evidence of noncriminal incidents required to be reported.
- “(d) USE OF DATA.—
  - “(1) ANNUAL PUBLISHING.—The Attorney General shall publish an annual summary of the data collected under this section.
  - “(2) USE OF DATA.—Except with respect to the summary published under paragraph (1), data collected under this section shall be used only for research and statistical purposes.
- “(e) EXEMPTION.—The Attorney General, the Secretary of State, and the United States Secret Service is not required to participate in any statistical reporting activity under this section with respect to any direct or indirect threat made against any individual for whom that official or Service is authorized to provide protection.”

RULEMAKING RELATING TO ACCESS TO FEDERAL CRIMINAL INFORMATION DATABASES

Section 40601(b) of Pub. L. 103-322 provided that: “The Attorney General may make rules to carry out the subsection added to section 534 of title 28, United States Code, by subsection (a), after consultation with the officials charged with managing the National Crime Information Center and the Criminal Justice Information Services Advisory Policy Board.”

NATIONAL CRIME INFORMATION CENTER PROJECT 2000

Pub. L. 101-647, title VI, subtitle B, Nov. 29, 1990, 104 Stat. 4823, provided that:

- “SEC. 611. SHORT TITLE.
- “This section [subtitle] may be cited as the ‘National Law Enforcement Cooperation Act of 1990’.

## “SEC. 612. FINDINGS.

“The Congress finds that—

“(1) cooperation among Federal, State and local law enforcement agencies is critical to an effective national response to the problems of violent crime and drug trafficking in the United States;

“(2) the National Crime Information Center, which links more than 16,000 Federal, State and local law enforcement agencies, is the single most important avenue of cooperation among law enforcement agencies;

“(3) major improvements to the National Crime Information Center are needed because the current system is more than twenty years old; carries much greater volumes of enforcement information; and at this time is unable to incorporate technological advances that would significantly improve its performance; and

“(4) the Federal Bureau of Investigation, working with State and local law enforcement agencies and private organizations, has developed a promising plan, ‘NCIC 2000’, to make the necessary upgrades to the National Crime Information Center that should meet the needs of United States law enforcement agencies into the next century.

## “SEC. 613. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated the following sums to implement the ‘NCIC 2000’ project:

“(1) \$17,000,000 for fiscal year 1991;

“(2) \$25,000,000 for fiscal year 1992;

“(3) \$22,000,000 for fiscal year 1993;

“(4) \$9,000,000 for fiscal year 1994; and

“(5) such sums as may be necessary for fiscal year 1995.

## “SEC. 614. REPORT.

“By February 1 of each fiscal year for which funds for NCIC 2000 are requested, the Director of the Federal Bureau of Investigation shall submit a report to the Committees on the Judiciary of the Senate and House of Representatives that details the progress that has been made in implementing NCIC 2000 and a complete justification for the funds requested in the following fiscal year for NCIC 2000.”

## FBI FEES TO PROCESS FINGERPRINT IDENTIFICATION RECORDS AND NAME CHECKS

Pub. L. 101-515, title II, Nov. 5, 1990, 104 Stat. 2112, as amended by section 113 of H.R. 2076, One Hundred Fourth Congress, as passed by the House of Representatives on Dec. 6, 1995, and as enacted into law by Pub. L. 104-91, title I, §101(a), Jan. 6, 1996, 110 Stat. 11, as amended by Pub. L. 104-99, title II, §211, Jan. 26, 1996, 110 Stat. 37, provided in part that: “for fiscal year 1991 and hereafter the Director of the Federal Bureau of Investigation may establish and collect fees to process fingerprint identification records and name checks for non-criminal justice, non-law enforcement employment and licensing purposes and for certain employees of private sector contractors with classified Government contracts, and notwithstanding the provisions of 31 U.S.C. 3302, credit such fees to this appropriation to be used for salaries and other expenses incurred in providing these services, and that the Director of the Federal Bureau of Investigation may establish such fees at a level to include an additional amount to establish a fund to remain available until expended to defray expenses for the automation of fingerprint identification and criminal justice information services and associated costs”.

## HATE CRIME STATISTICS

Pub. L. 101-275, Apr. 23, 1990, 104 Stat. 140, as amended by Pub. L. 103-322, title XXXII, §320926, Sept. 13, 1994, 108 Stat. 2131; Pub. L. 104-155, §7, July 3, 1996, 110 Stat. 1394, provided: “That (a) this Act may be cited as the ‘Hate Crime Statistics Act’.

“(b)(1) Under the authority of section 534 of title 28, United States Code, the Attorney General shall acquire

data, for each calendar year, about crimes that manifest evidence of prejudice based on race, religion, disability, sexual orientation, or ethnicity, including where appropriate the crimes of murder, non-negligent manslaughter; forcible rape; aggravated assault, simple assault, intimidation; arson; and destruction, damage or vandalism of property.

“(2) The Attorney General shall establish guidelines for the collection of such data including the necessary evidence and criteria that must be present for a finding of manifest prejudice and procedures for carrying out the purposes of this section.

“(3) Nothing in this section creates a cause of action or a right to bring an action, including an action based on discrimination due to sexual orientation. As used in this section, the term ‘sexual orientation’ means consensual homosexuality or heterosexuality. This subsection does not limit any existing cause of action or right to bring an action, including any action under the Administrative Procedure Act [5 U.S.C. 551 et seq., 701 et seq.] or the All Writs Act [see 28 U.S.C. 1651].

“(4) Data acquired under this section shall be used only for research or statistical purposes and may not contain any information that may reveal the identity of an individual victim of a crime.

“(5) The Attorney General shall publish an annual summary of the data acquired under this section.

“(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section through fiscal year 2002.

“SEC. 2. (a) Congress finds that—

“(1) the American family life is the foundation of American Society,

“(2) Federal policy should encourage the well-being, financial security, and health of the American family,

“(3) schools should not de-emphasize the critical value of American family life.

“(b) Nothing in this Act shall be construed, nor shall any funds appropriated to carry out the purpose of the Act be used, to promote or encourage homosexuality.”

## UNIFORM FEDERAL CRIME REPORTING ACT OF 1988

Section 7332 of Pub. L. 100-690 provided that:

“(a) SHORT TITLE.—This section may be cited as the ‘Uniform Federal Crime Reporting Act of 1988’.

“(b) DEFINITIONS.—For purposes of this section, the term ‘Uniform Crime Reports’ means the reports authorized under section 534 of title 28, United States Code, and administered by the Federal Bureau of Investigation which compiles nationwide criminal statistics for use in law enforcement administration, operation, and management and to assess the nature and type of crime in the United States.

“(c) ESTABLISHMENT OF SYSTEM.—

“(1) IN GENERAL.—The Attorney General shall acquire, collect, classify, and preserve national data on Federal criminal offenses as part of the Uniform Crime Reports.

“(2) REPORTING BY FEDERAL AGENCIES.—All departments and agencies within the Federal government (including the Department of Defense) which routinely investigate complaints of criminal activity, shall report details about crime within their respective jurisdiction to the Attorney General in a uniform manner and on a form prescribed by the Attorney General. The reporting required by this subsection shall be limited to the reporting of those crimes comprising the Uniform Crime Reports.

“(3) DISTRIBUTION OF DATA.—The Attorney General shall distribute data received pursuant to paragraph (2), in the form of annual Uniform Crime Reports for the United States, to the President, Members of the Congress, State governments, and officials of localities and penal and other institutions participating in the Uniform Crime Reports program.

“(d) ROLE OF FEDERAL BUREAU OF INVESTIGATION.—The Attorney General may designate the Federal Bureau of Investigation as the lead agency for purposes of performing the functions authorized by this section and

may appoint or establish such advisory and oversight boards as may be necessary to assist the Bureau in ensuring uniformity, quality, and maximum use of the data collected.

“(e) INCLUSION OF OFFENSES INVOLVING ILLEGAL DRUGS.—The Director of the Federal Bureau of Investigation is authorized to classify offenses involving illegal drugs and drug trafficking as a part I crime in the Uniform Crime Reports.

“(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$350,000 for fiscal year 1989 and such sums as may be necessary to carry out the provisions of this section after fiscal year 1989.

“(g) EFFECTIVE DATE.—The provisions of this section shall be effective on January 1, 1989.”

FAMILY AND DOMESTIC VIOLENCE; DATA COLLECTION AND REPORTING

Section 7609 of Pub. L. 100-690 provided that:

“(a) FAMILY VIOLENCE REPORTING.—Under the authority of section 534 of title 28, United States Code, the Attorney General shall require, and include in uniform crime reports, data that indicate—

- “(1) the age of the victim; and
“(2) the relationship of the victim to the offender, for crimes of murder, aggravated assault, simple assault, rape, sexual offenses, and offenses against children.

“(b) NATIONAL CRIME SURVEY.—The Director of the Bureau of Justice Statistics, through the annual National Crime Survey, shall collect and publish data that more accurately measures the extent of domestic violence in America, especially the physical and sexual abuse of children and the elderly.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated in fiscal years 1989, 1990, 1991, and 1992, such sums as are necessary to carry out the purposes of this section.”

PARIMUTUEL LICENSING SIMPLIFICATION

Pub. L. 100-413, Aug. 22, 1988, 102 Stat. 1101, provided that:

“SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘Parimutuel Licensing Simplification Act of 1988’.

“SEC. 2. SUBMISSION BY ASSOCIATION OF STATE REGULATORY OFFICIALS.

“(a) IN GENERAL.—An association of State officials regulating parimutuel wagering, designated for the purpose of this section by the Attorney General, may submit fingerprints to the Attorney General on behalf of any applicant for State license to participate in parimutuel wagering. In response to such a submission, the Attorney General may, to the extent provided by law, exchange, for licensing and employment purposes, identification and criminal history records with the State governmental bodies to which such applicant has applied.

“(b) DEFINITION.—As used in this section, the term ‘State’ means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

“SEC. 3. EFFECTIVE DATE.

“This Act shall take effect on July 1, 1989.”

FUNDS FOR EXCHANGE OF IDENTIFICATION RECORDS

Pub. L. 92-544, title II, §201, Oct. 25, 1972, 86 Stat. 1115, provided that: ‘The funds provided for Salaries and Expenses, Federal Bureau of Investigation, may be used hereafter, in addition to those uses authorized thereunder, for the exchange of identification records with officials or federally chartered or insured banking institutions to promote or maintain the security of those institutions, and, if authorized by State statute and approved by the Attorney General, to officials of State and local governments for purposes of employment and licensing, any such exchange to be made only for the

official use of any such official and subject to the same restriction with respect to dissemination as that provided for under the aforementioned appropriation.”

§ 535. Investigation of crimes involving Government officers and employees; limitations

(a) The Attorney General and the Federal Bureau of Investigation may investigate any violation of title 18 involving Government officers and employees—

- (1) notwithstanding any other provision of law; and
(2) without limiting the authority to investigate any matter which is conferred on them or on a department or agency of the Government.

(b) Any information, allegation, or complaint received in a department or agency of the executive branch of the Government relating to violations of title 18 involving Government officers and employees shall be expeditiously reported to the Attorney General by the head of the department or agency, unless—

- (1) the responsibility to perform an investigation with respect thereto is specifically assigned otherwise by another provision of law; or
(2) as to any department or agency of the Government, the Attorney General directs otherwise with respect to a specified class of information, allegation, or complaint.

(c) This section does not limit—

- (1) the authority of the military departments to investigate persons or offenses over which the armed forces have jurisdiction under the Uniform Code of Military Justice (chapter 47 of title 10); or
(2) the primary authority of the Postmaster General to investigate postal offenses.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 616.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row 1: 5 U.S.C. 311a, Aug. 31, 1954, ch. 1143, §1, 68 Stat. 998.

The section is reorganized for clarity and continuity. In subsection (a), the word ‘may’ is substituted for ‘shall have authority’. The word ‘is’ is substituted for ‘may have been or may hereafter be’.

In subsection (c), the words ‘This section does not limit’ are substituted for ‘that the provisions of this section shall not limit, in any way’. The words ‘(chapter 47 of title 10)’ are added after ‘Uniform Code of Military Justice’ to reflect the codification of that Code in title 10, United States Code.

TRANSFER OF FUNCTIONS

Office of Postmaster General of Post Office Department abolished and all functions, powers, and duties of Postmaster General transferred to United States Postal Service by Pub. L. 91-375, §4(a), Aug. 12, 1970, 84 Stat. 773, set out as a note under section 201 of Title 39, Postal Service.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 50 section 403q.

§ 536. Positions in exempted service

All positions in the Federal Bureau of Investigation are excepted from the competitive serv-

ice, and the incumbents of such positions occupy positions in the excepted service.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 617.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 300d.	Aug. 31, 1964, Pub. L. 88-527, §201 (2nd par. under "Federal Bureau of Investigation"), 78 Stat. 718.
.....	5 U.S.C. 341c (last sentence).	July 28, 1950, ch. 503, §5 (last sentence), 4 Stat. 380.

The section is revised and restated to eliminate ambiguity and give true effect to the prohibition against the use of appropriations to the Federal Bureau of Investigation. The language used to define the excepted status of the positions, officers, and employees is based on revised sections 2102 and 2103 of title 5, United States Code.

The provisions of this section were made permanent by the Act of July 28, 1950, 64 Stat. 380. Identical provisions appearing in former section 300d of title 5 are derived from the Department of Justice Appropriation Act, 1965, and earlier appropriation Acts for the Department of Justice running back to 1942, which Acts are identified in a note under former section 300d of title 5, U.S.C. 1964 ed.

**§ 537. Expenses of unforeseen emergencies of a confidential character**

Appropriations for the Federal Bureau of Investigation are available for expenses of unforeseen emergencies of a confidential character, when so specified in the appropriation concerned, to be spent under the direction of the Attorney General. The Attorney General shall certify the amount spent that he considers advisable not to specify, and his certification is a sufficient voucher for the amount therein expressed to have been spent.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 617.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 341c (less last sentence).	July 28, 1950, ch. 503, §5 (less last sentence), 64 Stat. 380.

The section is revised and reorganized for clarity. The words "now or hereafter provided" are omitted as unnecessary. The words "for expenses of membership in the International Commission of Criminal Police and" are omitted as obsolete. The Act of Aug. 27, 1958, Pub. L. 85-768, 72 Stat. 921 (22 U.S.C. 263a) authorizes the Attorney General to accept and maintain, on behalf of the United States, membership in the International Criminal Police Organization, and to designate any departments and agencies which may participate in the United States representation with that organization; and authorizes each participating department and agency to pay its pro rata share, as determined by the Attorney General, of the expenses of such membership. The word "spent" is substituted for "expended". The words "certify the amount spent that he considers" are substituted for "make a certificate of the amount of any such expenditure as he may think it". The words "his certification is a sufficient voucher" are substituted for "and every such certificate shall be deemed a sufficient voucher".

**§ 538. Investigation of aircraft piracy and related violations**

The Federal Bureau of Investigation shall investigate any violation of section 46314 or chapter 465 of title 49.

(Added Pub. L. 103-272, §4(e)(1), July 5, 1994, 108 Stat. 1361.)

**§ 539. Counterintelligence official reception and representation expenses**

The Director of the Federal Bureau of Investigation may use funds available to the Federal Bureau of Investigation for counterintelligence programs to pay the expenses of hosting foreign officials in the United States under the auspices of the Federal Bureau of Investigation for consultation on counterintelligence matters.

(Added Pub. L. 99-569, title IV, §401(a), Oct. 27, 1986, 100 Stat. 3195.)

**§ 540. Investigation of felonious killings of State or local law enforcement officers**

The Attorney General and the Federal Bureau of Investigation may investigate felonious killings of officials and employees of a State or political subdivision thereof while engaged in or on account of the performance of official duties relating to the prevention, detection, investigation, or prosecution of an offense against the criminal laws of a State or political subdivision, when such investigation is requested by the head of the agency employing the official or employee killed, and under such guidelines as the Attorney General or his designee may establish.

(Added Pub. L. 100-690, title VII, §7331(a), Nov. 18, 1988, 102 Stat. 4468.)

**§ 540A. Investigation of violent crimes against travelers**

(a) IN GENERAL.—At the request of an appropriate law enforcement official of a State or political subdivision, the Attorney General and Director of the Federal Bureau of Investigation may assist in the investigation of a felony crime of violence in violation of the law of any State in which the victim appears to have been selected because he or she is a traveler.

(b) FOREIGN TRAVELERS.—In a case in which the traveler who is a victim of a crime described in subsection (a) is from a foreign nation, the Attorney General and Director of the Federal Bureau of Investigation, and, when appropriate, the Secretary of State shall assist the prosecuting and law enforcement officials of a State or political subdivision to the fullest extent possible in securing from abroad such evidence or other information as may be needed for the effective investigation and prosecution of the crime.

(c) DEFINITIONS.—In this section—

(1) "felony crime of violence" means an offense punishable by more than one year in prison that has as an element the use, attempted use, or threatened use of physical force against the person of another.

(2) "State" means a State, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(3) “traveler” means a victim of a crime of violence who is not a resident of the State in which the crime of violence occurred.

(Added Pub. L. 103-322, title XXXII, §320916(a), Sept. 13, 1994, 108 Stat. 2129; amended Pub. L. 104-294, title VI, §604(b)(21), Oct. 11, 1996, 110 Stat. 3507.)

AMENDMENTS

1996—Subsec. (c). Pub. L. 104-294 designated three designated pars. as pars. (1) to (3).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104-294, set out as a note under section 13 of Title 18, Crimes and Criminal Procedure.

CHAPTER 35—UNITED STATES ATTORNEYS

Sec.

- 541. United States attorneys.
- 542. Assistant United States attorneys.
- 543. Special attorneys.
- 544. Oath of office.
- 545. Residence.
- 546. Vacancies.
- 547. Duties.
- 548. Salaries.
- 549. Expenses.
- 550. Clerical assistants, messengers, and private process servers.

AMENDMENTS

1990—Pub. L. 101-647, title XXXVI, §3626(b), Nov. 29, 1990, 104 Stat. 4965, substituted “Clerical assistants, messengers, and private process servers” for “Clerical assistants and messengers” in item 550.

1966—Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 617, added chapter 35 and items 541 to 550.

CROSS REFERENCES

United States attorney for Guam, Virgin Islands, and Northern Mariana Islands, this chapter as applicable, see sections 1424b, 1617, and 1821 of Title 48, Territories and Insular Possessions.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 48 sections 1424b, 1617, 1821.

§ 541. United States attorneys

(a) The President shall appoint, by and with the advice and consent of the Senate, a United States attorney for each judicial district.

(b) Each United States attorney shall be appointed for a term of four years. On the expiration of his term, a United States attorney shall continue to perform the duties of his office until his successor is appointed and qualifies.

(c) Each United States attorney is subject to removal by the President.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 617.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	U.S. Code	Revised Statutes and Statutes at Large
(a) .....	28 U.S.C. 501.	[None].
(b) .....	28 U.S.C. 504(a).	[None].
(c) .....	28 U.S.C. 504(b) (less 2d sentence).	[None].

In subsection (c), the word “is” is substituted for “shall be”.

1948 ACT

Prior section 501.—Based on title 28, U.S.C., 1940 ed., §481, sections 643 and 863 of title 48, U.S.C., 1940 ed., Territories and Insular Possessions, and section 11-1001, District of Columbia Code, 1940 ed. (R.S., §767; June 26, 1876, ch. 147, §§1, 4, 19 Stat. 61, 62; Feb. 24, 1879, ch. 97, §8, 20 Stat. 320; Mar. 3, 1881, ch. 144, §7, 21 Stat. 507; Apr. 25, 1882, ch. 87, §§1, 3, 22 Stat. 47; July 20, 1882, ch. 312, §3, 22 Stat. 172; Aug. 5, 1886, ch. 928, §7, 24 Stat. 309; Feb. 22, 1889, ch. 180, §21, 25 Stat. 682; July 3, 1890, ch. 656, §16, 26 Stat. 217; July 10, 1890, ch. 664, §16, 26 Stat. 225; Mar. 3, 1893, ch. 220, 27 Stat. 745; July 16, 1894, ch. 138, §§14, 16, 28 Stat. 110, 111; June 24, 1898, ch. 495, §1, 30 Stat. 487; Apr. 12, 1900, ch. 191, §34, 31 Stat. 85; Apr. 30, 1900, ch. 339, §86, 31 Stat. 158; May 12, 1900, ch. 391, §9, 31 Stat. 176; Jan. 22, 1901, ch. 105, §§4, 7, 31 Stat. 736, 737; Feb. 12, 1901, ch. 355, §§5, 7, 31 Stat. 782; Mar. 2, 1901, ch. 801, §§3, 5, 31 Stat. 881; Mar. 3, 1901, ch. 854, §183, 31 Stat. 1220; Mar. 11, 1902, ch. 183, §§5, 6, 32 Stat. 66; June 30, 1902, ch. 1329, 32 Stat. 527; Mar. 2, 1905, ch. 1305, §§4, 6, 33 Stat. 824; Mar. 3, 1905, ch. 1427, §§13, 15, 19, 33 Stat. 995, 996; June 16, 1906, ch. 3335, §13, 34 Stat. 275; Mar. 3, 1909, ch. 269, §1, 35 Stat. 838; Jan. 7, 1913, ch. 6, 37 Stat. 648; Mar. 3, 1915, ch. 100, §§3, 4, 38 Stat. 961; Mar. 2, 1917, ch. 145, §41, 39 Stat. 965; Mar. 4, 1921, ch. 161, §1, 41 Stat. 1412; July 9, 1921, ch. 42, §313, 42 Stat. 119; May 28, 1926, ch. 414, §2(b), 44 Stat. 672; Apr. 21, 1928, ch. 393, 45 Stat. 437; Mar. 26, 1928, ch. 51, §2, 52 Stat. 118).

Section consolidates section 481 of title 28, U.S.C., 1940 ed., and section 11-1001 of the District of Columbia Code, 1940 ed., with parts of sections 643 and 863 of title 48, U.S.C., 1940 ed., relating to appointment of United States attorneys.

The term “United States attorney” was adopted in this section for “attorney for the United States.” Since the decision of the Supreme Court of the United States in *In re Neagle*, 1890 (10 S. Ct. 658, 135 U.S. 1, 34, L. Ed. 55) where the terms “attorneys of the United States” and “district attorneys” were used interchangeably, Congress has also designated such officers as either “United States attorneys” or as “district attorneys.” See Acts of Feb. 22, 1886, ch. 928, §7, 24 Stat. 309; July 3, 1890, ch. 656, §16, 26 Stat. 217; July 10, 1890, ch. 664, §16, 26 Stat. 225, and Acts of July 20, 1882, ch. 312, §3, 22 Stat. 172; Mar. 3, 1915, ch. 100, §3, 38 Stat. 961; May 28, 1926, ch. 414, §2(b), 44 Stat. 672.

At present, such officers are invariably designated as “United States attorneys” by Federal courts and the Department of Justice.

Words “The President may appoint, by and with the advice and consent of the Senate,” were inserted to conform section with the Constitution. See article II, section 2, clause 2.

Words “including the District of Columbia” were omitted, because the District is made a judicial district by section 88 of this title. District of Columbia Code, 1940 ed., §11-1001, provided for appointment of an “attorney of the United States for the District” by the President, subject to Senate confirmation.

Words “learned in the law” were omitted as unnecessary. Such requirement is not made of United States judges and no reason appears to make a distinction respecting United States attorneys.

Parts of section 863 of title 48, U.S.C., 1940 ed., remain in said title 48. For remainder thereof, see Distribution Table. Other provisions of section 643 of such title are incorporated in sections 133, 504 [now 541 and 544], and 541 [see 561] of this title.

Changes were made in phraseology.

[The Historical and Revision Notes for former section 504, from which this section is partially derived, is set out under section 544 of this title.]

PRIOR PROVISIONS

A prior section 541, acts June 25, 1948, ch. 646, 62 Stat. 910; Mar. 18, 1959, Pub. L. 86-3, §11(c), (d), 73 Stat. 9, re-

lated to appointment, residence and tenure of marshals, prior to repeal by Pub. L. 89-554, §8(a), and reenactment in section 561 of this title by section 4(c) of Pub. L. 89-554.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 546 of this title.

§ 542. Assistant United States attorneys

(a) The Attorney General may appoint one or more assistant United States attorneys in any district when the public interest so requires.

(b) Each assistant United States attorney is subject to removal by the Attorney General.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 618.)

HISTORICAL AND REVISION NOTES 1966 ACT

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row (a) shows 28 U.S.C. 502. Row (b) shows 28 U.S.C. 504(b) (2d sentence, as applicable to assistant United States attorneys).

In subsection (b), the word "is" is substituted for "shall be".

1948 ACT

Prior section 502.—Based on title 28, U.S.C., 1940 ed., §§ 483, 594 (May 28, 1896, ch. 252, §8, 29 Stat. 181; July 19, 1919, ch. 24, §1, 41 Stat. 209; Mar. 4, 1923, ch. 295, 42 Stat. 1560; June 25, 1936, ch. 804, 49 Stat. 1921).

Section consolidates sections 483 and 594 of title 28, U.S.C., 1940 ed., relating to appointment of assistant United States attorneys.

Words "United States attorneys" were substituted for "district attorneys." (See reviser's note under section 501 [now 541] of this title.)

The exception of Alaska from the operation of such section 483 was omitted as covered by section 109 of title 48, U.S.C., 1940 ed., Territories and Insular Possessions, authorizing appointment of assistant United States attorneys in Alaska.

Reference in such section 483 to "District of Columbia" was omitted. (See reviser's note under section 501 [now 541] of this title.)

The provisions of sections 483 and 594 of title 28, U.S.C., 1940 ed., requiring the judges and United States attorneys to certify or evidence in writing the necessity for assistant United States attorneys in their respective districts, and specifying that such opinion of the judge shall state to the Attorney General the facts as distinguished from conclusions, showing the necessity therefor, were omitted. The Attorney General, as chief law enforcement officer, is in a better position to determine such necessity.

The salary provisions of such section 594 were omitted as covered by section 508 [now 548] of this title.

Changes were made in phraseology.

PRIOR PROVISIONS

A prior section 542, act June 25, 1948, ch. 646, 62 Stat. 911, related to appointment and tenure of deputies and assistants for United States marshals, prior to repeal by Pub. L. 89-554, §8(a), and reenactment in section 562 of this title by section 4(c) of Pub. L. 89-554.

§ 543. Special attorneys

(a) The Attorney General may appoint attorneys to assist United States attorneys when the public interest so requires.

(b) Each attorney appointed under this section is subject to removal by the Attorney General.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 618.)

HISTORICAL AND REVISION NOTES 1966 ACT

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row (a) shows 28 U.S.C. 503, 5 U.S.C. 298. Row (b) shows 28 U.S.C. 504(b) (2d sentence, less applicability to assistant United States attorneys).

The text of former section 298 of title 5 is omitted as unnecessary. The position so authorized has not been filled in recent years, and the authority is preserved by this section and revised section 3101 of title 5, United States Code.

In subsection (b), the word "is" is substituted for "shall be".

1948 ACT

Prior section 503.—Based on section 312 of title 5, U.S.C., 1940 ed., Executive Departments and Government Officers and Employees (R.S. §363).

Other provisions of section 312 of title 5, U.S.C., 1940 ed., are incorporated in sections 507 [now 509 and 547] and 508 [now 548] of this title.

Changes were made in phraseology.

PRIOR PROVISIONS

A prior section 543, act June 25, 1948, ch. 646, 62 Stat. 911, related to oath of office for United States Marshals, prior to repeal by Pub. L. 89-554, §8(a), and reenactment in section 563 of this title by section 4(c) of Pub. L. 89-554.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 519, 544, 548 of this title.

§ 544. Oath of office

Each United States attorney, assistant United States attorney, and attorney appointed under section 543 of this title, before taking office, shall take an oath to execute faithfully his duties.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 618.)

HISTORICAL AND REVISION NOTES 1966 ACT

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row shows 28 U.S.C. 504(c).

1948 ACT

Prior section 504.—Based on section 315 of title 5, U.S.C., 1940 ed., Executive Departments and Government Officers and Employees, title 28, U.S.C., 1940 ed., §482, and sections 643 and 863 of title 48, U.S.C., 1940 ed., Territories and Insular Possessions (R.S. §§366, 769; June 24, 1898, ch. 495, §1, 30 Stat. 487; Apr. 12, 1900, ch. 191, §34, 31 Stat. 85; Apr. 30, 1900, ch. 339, §86, 31 Stat. 158; Mar. 3, 1909, ch. 269, §1, 35 Stat. 838; Jan. 7, 1913, ch. 6, 37 Stat. 648; Mar. 2, 1917, ch. 145, §41, 39 Stat. 965; Mar. 4, 1921, ch. 161, §1, 41 Stat. 1412; July 9, 1921, ch. 42, §313, 42 Stat. 119; Feb. 12, 1925, ch. 220, 43 Stat. 890; Apr. 17, 1930, ch. 174, 46 Stat. 170; Mar. 26, 1938, ch. 51, §2, 52 Stat. 118).

Section consolidates parts of sections 315 of title 5, U.S.C., 1940 ed., and 643 and 863 of title 48, both U.S.C.,

1940 ed., with section 482 of title 28, U.S.C., 1940 ed. It is recommended that said section 315 be amended so as to omit those provisions relating to special attorneys to assist “district attorneys” which were used as part of the basis for this section, as other parts of said section 315, relating to special assistants to the Attorney General, and to foreign counsel, are to remain in title 5.

Words “United States attorney” were substituted for district attorney, and reference to District of Columbia was omitted. (See reviser’s note under section 501 [now 541] of this title.)

Reference to the territories in said section 482, was also omitted as covered by provisions of title 48, U.S.C., 1940 ed., Territories and Insular Possessions. See sections 109 and 112 of such title applicable to United States attorney in Alaska, and 1353 applicable in the Canal Zone, and 1405y applicable in the Virgin Islands.

The provision as to the tenure of the assistant United States attorneys and special attorneys is new. Existing law contains no provision as to tenure or removal of such officials. While the Supreme Court has held that the power of removal of executive officials is incident to the power of appointment, this section expressly provides for removal. See *Meyers v. United States*, 1926 (47 S.Ct. 21, 272 U.S. 52, 71 L.Ed. 160).

Said section 315 contained a provision that special attorneys appointed to assist United States attorneys should take the same oath required of the latter. This section was extended to assistant United States attorneys, respecting whom no provision existed as to oaths.

A portion of section 863 of title 48, U.S.C., 1940 ed., is retained in said title 48. For remainder of said section 863, see Distribution Table. Other provisions of section 643 of such title are incorporated in sections 133, 501 [now 541], and 541 [see 561] of this title.

Other changes were made in phraseology.

PRIOR PROVISIONS

A prior section 544, acts June 25, 1948, ch. 646, 62 Stat. 911; Sept. 2, 1958, Pub. L. 85-856, 72 Stat. 1104, related to bonds of United States marshals, prior to repeal by Pub. L. 89-554, §8(a), and reenactment in section 564 of this title by section 4(c) of Pub. L. 89-554.

§ 545. Residence

(a) Each United States attorney shall reside in the district for which he is appointed, except that these officers of the District of Columbia, the Southern District of New York, and the Eastern District of New York may reside within 20 miles thereof. Each assistant United States attorney shall reside in the district for which he or she is appointed or within 25 miles thereof. The provisions of this subsection shall not apply to any United States attorney or assistant United States attorney appointed for the Northern Mariana Islands who at the same time is serving in the same capacity in another district.

(b) The Attorney General may determine the official stations of United States attorneys and assistant United States attorneys within the districts for which they are appointed.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 618; amended Pub. L. 95-530, §1, Oct. 27, 1978, 92 Stat. 2028; Pub. L. 96-91, Oct. 25, 1979, 93 Stat. 700; Pub. L. 103-322, title XXXII, §320932, Sept. 13, 1994, 108 Stat. 2135.)

HISTORICAL AND REVISION NOTES  
1966 ACT

Derivation	U.S. Code	Revised Statutes and Statutes at Large
.....	28 U.S.C. 505.	[None].

In subsection (a), the word “shall” is substituted for “must”. The word “thereof” is substituted for “of the District”.

1948 ACT

*Prior section 505.*—Based on title 28, U.S.C., 1940 ed., § 524 (June 20, 1874, ch. 328, §2, 18 Stat. 109; May 28, 1896, ch. 252, §§8, 12, 29 Stat. 181, 183; Mar. 3, 1911, ch. 231, §291, 36 Stat. 1167; June 14, 1941, ch. 203, §§1, 2, 55 Stat. 251).

The provisions of section 524 of title 28, U.S.C., 1940 ed., that the United States attorney shall give his personal attention to the duties of his office and declaring the office of United States attorney vacant upon his removal from his district or neglect of duty, were omitted as unnecessary and inconsistent with section 507(b) [now 519] of this title, charging the Attorney General with the duty of supervising the United States attorneys in the performance of their duties.

The provision permitting the United States attorney and his assistants to reside within twenty miles of the District of Columbia was added because of the relatively small and congested area of the District, as a result of which few Federal officers are appointed from the District or reside therein. Also the residence requirement of this section has no relation to domicile or voting residence nor does it affect the citizenship or residence status of District of Columbia officeholders in the several States from which appointed.

Only citizens of Hawaii resident therein at least 3 years preceding appointment may be appointed as United States Attorneys for the district of Hawaii. See section 501 [now 541] of this title.

Other provisions of section 524 of title 28, U.S.C., 1940 ed., were incorporated in sections 541 [see 561] and 751 of this title.

Changes were made in phraseology.

PRIOR PROVISIONS

A prior section 545, act June 25, 1948, ch. 646, 62 Stat. 911, related to vacancies in the office of the United States Marshal, prior to repeal by Pub. L. 89-554, §8(a), and reenactment in section 565 of this title by section 4(c) of Pub. L. 89-554.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-322 struck out “and assistant United States attorney” after “Each United States attorney” and inserted after first sentence “Each assistant United States attorney shall reside in the district for which he or she is appointed or within 25 miles thereof.”

1979—Subsec. (a). Pub. L. 96-91 inserted provisions authorizing the United States attorney and the assistant United States attorneys for the Eastern District of New York to reside outside the district but within 20 miles thereof.

1978—Subsec. (a). Pub. L. 95-530 inserted provision that this subsection not apply to any United States attorney or assistant United States attorney appointed for the Northern Mariana Islands who at the same time is serving in the same capacity in another district.

§ 546. Vacancies

(a) Except as provided in subsection (b), the Attorney General may appoint a United States attorney for the district in which the office of United States attorney is vacant.

(b) The Attorney General shall not appoint as United States attorney a person to whose appointment by the President to that office the Senate refused to give advice and consent.

(c) A person appointed as United States attorney under this section may serve until the earlier of—

- (1) the qualification of a United States attorney for such district appointed by the President under section 541 of this title; or

(2) the expiration of 120 days after appointment by the Attorney General under this section.

(d) If an appointment expires under subsection (c)(2), the district court for such district may appoint a United States attorney to serve until the vacancy is filled. The order of appointment by the court shall be filed with the clerk of the court.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 618; amended Pub. L. 99-646, §69, Nov. 10, 1986, 100 Stat. 3616.)

HISTORICAL AND REVISION NOTES  
1966 ACT

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	28 U.S.C. 506.	[None].

1948 ACT

*Prior section 506.*—Based on title 28, U.S.C., 1940 ed., §511 (R.S. §793; June 24, 1898, ch. 495, §2, 30 Stat. 487; Mar. 3, 1911, ch. 231, §291, 36 Stat. 1167).

Words “United States attorney” were substituted for “district attorney.” (See Reviser’s Note under section 501 [now 541] of this title.)

Words “The Supreme Court of the Territory, and the district court of the United States for the District of Columbia” were omitted as obsolete. This section, as revised, applies to all districts enumerated in chapter 5 of this title. There were no provisions respecting vacancies in Hawaii and Puerto Rico. Therefore this section remedies this situation and establishes a uniform method to fill interim vacancies.

Words “and a copy shall be entered on the journal of the court” after “filed in the clerk’s office of said court”, in section 511 of title 28, U.S.C., 1940 ed., were omitted as unnecessary.

The provisions of section 511 of title 28, U.S.C., 1940 ed., relating to marshals, are incorporated in sections 544 and 545 [see Prior Provisions notes under those sections] of this title.

Changes were made in phraseology.

PRIOR PROVISIONS

A prior section 546, act June 25, 1948, ch. 646, 62 Stat. 911, related to death of a marshal, prior to repeal by Pub. L. 89-554, §8(a), and reenactment in section 566 of this title by section 4(c) of Pub. L. 89-554.

AMENDMENTS

1986—Pub. L. 99-646 amended section generally. Prior to amendment, section read as follows: “The district court for a district in which the office of United States attorney is vacant may appoint a United States attorney to serve until the vacancy is filled. The order of appointment by the court shall be filed with the clerk of the court.”

§ 547. Duties

Except as otherwise provided by law, each United States attorney, within his district, shall—

- (1) prosecute for all offenses against the United States;
- (2) prosecute or defend, for the Government, all civil actions, suits or proceedings in which the United States is concerned;
- (3) appear in behalf of the defendants in all civil actions, suits or proceedings pending in his district against collectors, or other officers of the revenue or customs for any act done by them or for the recovery of any money exacted

by or paid to these officers, and by them paid into the Treasury;

(4) institute and prosecute proceedings for the collection of fines, penalties, and forfeitures incurred for violation of any revenue law, unless satisfied on investigation that justice does not require the proceedings; and

(5) make such reports as the Attorney General may direct.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 618.)

HISTORICAL AND REVISION NOTES  
1966 ACT

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	28 U.S.C. 507(a).	[None].

The word “shall” is substituted for “it shall be the duty of”.

1948 ACT

*Prior section 507.*—Based on sections 312, 317, 323, 324, 327, 329, 330, 331 of title 5, U.S.C., 1940 ed., Executive Departments and Government Officers and Employees; second paragraph of section 305e of title 25, U.S.C., 1940 ed., Indians; and title 28, U.S.C., 1940 ed., §§485, 486, 487, 488, 489 (R.S. §§362, 363, 373, 374, 377, 379-381, 771-775, 838; Feb. 27, 1877, ch. 69, §1, 19 Stat. 241; Apr. 9, 1910, ch. 152, 36 Stat. 294; Mar. 3, 1911, ch. 231, §291, 36 Stat. 1167; May 10, 1934, ch. 277, §512, 48 Stat. 758; Aug. 27, 1935, ch. 748, §6, 49 Stat. 893).

This section consolidates provisions of the sections enumerated above.

Other provisions of section 312 of title 5, U.S.C., 1940 ed., are incorporated in sections 503 [now 543] and 508 [now 548] of this title.

All requirements in said sections for reports to officers other than the Attorney General are omitted as unnecessary and are simplified in subsection (a)(5) of this section. The Attorney General directs the course of litigation in government cases and makes appropriate rules for furnishing information promptly to the Departments interested.

Specific duties fixed by sections 485-489 of title 28, U.S.C., 1940 ed., and the second paragraph of section 305e of title 25, U.S.C., 1940 ed., to prosecute and defend both civil and criminal proceedings, are covered in subsections (a)(1)-(4) of this section.

Use of “revenue law” in subsection (a)(4) in this section, which is based on section 486 of title 28, U.S.C., 1940 ed., obviates repetition of provisions relating to customs and revenue laws as both are covered by the term. For discussion of this point, see reviser’s note under section 3283 in House Report 152, to accompany H.R. 1600 Eightieth Congress, for revision of the Criminal Code.

The following sections of said title 5, U.S.C., 1940 ed., are superseded by, covered by, or inconsistent with subsection (a)(2)(5) of this section, subsection (b) of this section [now section 519 of this title], and section 5 of Executive Order No. 6166 of June 10, 1933, transferring to the Department of Justice the function of supervising the work of United States attorneys in connection with suits by or against the United States exercised by any agency or officer:

Section 323 requiring the General Counsel of the Treasury to make entries of bonds delivered to United States attorneys by collectors for suit until the amounts have been paid or judgments secured;

Section 324 requiring said General Counsel to examine and compare the reports made by collectors of bonds delivered by them to United States attorneys for suit, and of the returns of such bonds;

Section 329 authorizing said General Counsel to instruct United States attorneys, marshals and clerks in all matters relating to suits, except for taxes, forfeit-

ures and penalties, and to require them to make such reports to him as he may direct. The first provision of section 329 of title 5, U.S.C., 1940 ed., is covered by the last paragraph of this section [now section 519 of this title], under which the Attorney General exercises supervision of the duties of United States attorneys. The Director of the Administrative Office of the United States Courts supervises the duties of clerks under chapter 41 of this title. The provision for authority of said General Counsel over marshals, also contained in section 329, is incorporated in section 547 [see Prior Provisions note below] of this title in which such authority is vested in the Attorney General.

Section 327 of title 5, U.S.C., 1940 ed., authorized said General Counsel to establish regulations, subject to approval by the Attorney General, to be observed by United States attorneys and marshals in which the United States is a party. The provision as to United States attorneys is also covered by the last paragraph of this section [now section 519 of this title], and that as to marshals is covered by section 547 [see Prior Provisions note below] of this title.

Provisions of section 327 of title 5, U.S.C., 1940 ed., relating to establishment of regulations for the observance of collectors of the customs, by the General Counsel for the Department of the Treasury, with the approbation of the Secretary of the Treasury, was omitted and recommended for repeal as covered by section 66 of title 19, U.S.C., 1940 ed., Customs Duties.

The last paragraph of this section [now section 519 of this title], is based on the first clause of section 317 of title 5, U.S.C., 1940 ed.; see also section 309 of title 5. The second clause of said section 317 is covered by subsection (a)(5) of this section. The authority of the Attorney General over marshals and the requirement that they shall report to him the conduct and state of their offices, contained also in said section 317, is incorporated in section 547 [see Prior Provisions note below] of this title.

Section 330 of title 5, U.S.C., 1940 ed., which required that United States attorneys should conduct, under direction of the General Counsel of the Treasury, all suits and proceedings involving the United States under the laws governing national banking associations is covered by subsection (a)(2) of this section.

Section 331 of title 5, U.S.C., 1940 ed., requiring United States attorneys to obey directions of the Department of Justice in suits for money due the Post Office Department, is covered also by subsection (a)(2) of this section.

Changes in arrangement and phraseology were made.

PRIOR PROVISIONS

A prior section 547, acts June 25, 1948, ch. 646, 62 Stat. 912; Oct. 18, 1962, Pub. L. 87-845, § 8, 76A Stat. 699, related to powers and duties of marshals, prior to repeal by Pub. L. 89-554, § 8(a), and reenactment in section 569 of this title by section 4(c) of Pub. L. 89-554.

CROSS REFERENCES

Bankruptcy offenses, duties of United States attorneys, see section 3057 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 4243; title 19 section 2350; title 20 section 1082; title 31 section 3718; title 42 sections 292j, 12651d.

§ 548. Salaries

Subject to sections 5315 through 5317 of title 5, the Attorney General shall fix the annual salaries of United States attorneys, assistant United States attorneys, and attorneys appointed under section 543 of this title at rates of compensation not in excess of the rate of basic compensation provided for Executive Level IV of the Executive Schedule set forth in section 5315 of title 5, United States Code.

(Added Pub. L. 89-554, § 4(c), Sept. 6, 1966, 80 Stat. 618; amended Pub. L. 98-473, title II, § 1701(a) Oct. 12, 1984, 98 Stat. 2184.)

HISTORICAL AND REVISION NOTES  
1966 ACT

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	28 U.S.C. 508.	[None].

The words “sections 5315-5317 of title 5” are substituted for “subsection (f) and (g) of section 303 of the Federal Executive Salary Act of 1964” to reflect the codification of those subsections in title 5. The words “GS-18 of the General Schedule set forth in section 5332 of title 5” are substituted for “grade 18 of the General Schedule of the Classification Act of 1949, as amended”.

1948 ACT

*Prior section 508.*—Based on section 312 of title 5, U.S.C., 1940 ed., Executive Departments and Government Officers and Employees, and title 28, U.S.C., 1940 ed., §§ 579 and 580 (R.S. § 363; May 28, 1896, ch. 252, §§ 8, 24, 29 Stat. 181, 186; Mar. 3, 1903, ch. 1007, § 1, 32 Stat. 1141; Mar. 4, 1907, ch. 2918, § 1, 34 Stat. 1360; May 27, 1908, ch. 200, § 1, 35 Stat. 375; July 19, 1919, ch. 24, § 1, 41 Stat. 209; June 1, 1922, ch. 204, title II (part), 42 Stat. 616; Jan. 3, 1923, ch. 21, title II, 42 Stat. 1083; Mar. 4, 1923, ch. 295, 42 Stat. 1560; May 28, 1924, ch. 204, title II (part), 43 Stat. 220).

Section consolidates part of section 312 of title 5, U.S.C., 1940 ed., and part of section 579 of title 28, U.S.C., 1940 ed., with section 580 of title 28, U.S.C., 1940 ed.

Sections 579 and 580 of title 28, U.S.C., 1940 ed., fixed specific salaries for the United States attorneys and assistants, while section 312 of title 5, U.S.C., 1940 ed., provided for a contractual arrangement for compensation of special attorneys.

According to a Department of Justice interpretation, provisions for specific salaries were superseded by section 678 of title 5, which provides for adjustment of compensation by heads of departments. Hence, this section leaves the amount of compensation to the Attorney General.

Section 578b of title 28, U.S.C., 1940 ed., providing that United States attorneys shall be paid for their services, was omitted as unnecessary.

Section 578c of title 28, U.S.C., 1940 ed., providing that United States attorneys shall not receive fees in addition to their salaries, was omitted as obsolete, in view of this section and current practice.

Other provisions of section 312 of title 5, U.S.C., 1940 ed., are incorporated in sections 503 [now 543] and 507 [now 509 and 547] of this title, and other provisions of section 579 of title 28, U.S.C., 1940 ed., are incorporated in section 552 [see Prior Provisions note for that section] of this title.

PRIOR PROVISIONS

A prior section 548, act June 25, 1948, ch. 646, 62 Stat. 912, related to administration of oaths by marshals, prior to repeal by Pub. L. 89-554, § 8(a).

AMENDMENTS

1984—Pub. L. 98-473 amended section generally, substituting “rate of basic compensation provided for Executive Level IV of the Executive Schedule set forth in section 5315 of title 5, United States Code” for “highest rate of GS-18 of the General Schedule set forth in section 5332 of title 5”.

SALARY INCREASES

1969—Increase in the rates of pay of United States Attorneys and Assistant United States Attorneys whose annual salaries are fixed pursuant to this section, effective on the first day of the first pay period which begins on or after Dec. 27, 1969, by amounts equal, as

nearly as may be practicable, to the increases provided pursuant to section 2 of Pub. L. 91-231, which raised corresponding rates by 6 percent, see Pub. L. 91-231, set out as a note under section 5332 of Title 5, Government Organization and Employees.

1967—Pub. L. 90-206, title II, §211(a), Dec. 16, 1967, 81 Stat. 633, provided that: "The rates of basic pay of United States attorneys and assistant United States attorneys whose annual salaries are fixed pursuant to section 548 of title 28, United States Code shall be increased, effective on the effective date of section 202 of this title [see Effective Date of 1967 Amendment note set out under section 5332 of Title 5] by amounts equal, as nearly as may be practicable, to the increases provided by section 202(a) of this title [see section 5332(a) of Title 5] for corresponding rates of basic pay."

Section 211(a) of Pub. L. 90-206 effective as of the beginning of the first pay period which begins on or after Oct. 1, 1967, see section 220(a)(2) of Pub. L. 90-206, set out as a note under section 5332 of Title 5.

1966—Pub. L. 89-504, title I, §108(a), July 18, 1966, 80 Stat. 293, provided that: "The rates of basic compensation of assistant United States attorneys whose basic salaries are fixed pursuant to section 508 of title 28, United States Code [now this section] shall be increased, effective on the effective date of section 102 of this title [first day of the first pay period beginning on or after July 1, 1966], by amounts equal, as nearly as may be practicable, to the increases provided by section 102(a) of this title [see section 5332(a) of Title 5], for corresponding rates of compensation."

Provision effective July 18, 1966, see section 109(1) of Pub. L. 89-504.

1965—Pub. L. 89-301, §15(a), Oct. 29, 1965, 79 Stat. 1122, provided that: "The rates of basic compensation of assistant United States attorneys whose basic salaries are fixed pursuant to section 508 of title 28, United States Code, [now this section], shall be increased by 3.6 per centum effective on the first day of the first pay period which begins on or after October 1, 1965."

1962—Pub. L. 87-793, §1003(b), Oct. 11, 1962, 76 Stat. 866, provided that: "The rates of basic compensation of assistant United States attorneys whose basic salaries are fixed by section 508 of title 28, United States Code, [now this section], shall be increased by 7½ per centum effective on the first day of the first pay period which begins on or after the date of enactment of this Act [Oct. 11, 1962]."

#### COMPENSATION OF INCUMBENT UNITED STATES ATTORNEYS AND ASSISTANT UNITED STATES ATTORNEYS

Pub. L. 88-426, §306(a)(2), Aug. 14, 1962, 78 Stat. 428, as amended by Pub. L. 88-631, §3(c), Oct. 6, 1964, 78 Stat. 1008, provided that: "Subject to section 303(f) and (g) of this Act [see sections 5315 to 5317 of Title 5, Government Organization and Employees], each incumbent United States attorney and assistant United States attorney shall be paid compensation at a rate equal to that of attorneys of comparable responsibility and professional qualifications, as determined by the Attorney General, whose compensation is prescribed in the General Schedule of the Classification Act of 1949, as amended [now covered by chapter 51 and subchapter III of chapter 53 of Title 5]."

#### ALASKA, CANAL ZONE AND VIRGIN ISLANDS

Act Mar. 2, 1955, ch. 9, §2(b), 69 Stat. 10, provided that: "The salaries of United States attorneys and assistant United States attorneys for the districts of Alaska, Canal Zone, and the Virgin Islands are subject to the provisions of section 508 of title 28, United States Code [now this section]."

#### SALARY LIMITATIONS

Acts Aug. 5, 1953, ch. 328, title II, §202, 67 Stat. 375; July 2, 1954, ch. 456, title II, §202, 68 Stat. 421, which prescribed salary limitations, were repealed by Pub. L. 89-554, §8(a), Sept. 6, 1966, 80 Stat. 657.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 594 of this title.

### § 549. Expenses

Necessary office expenses of United States attorneys shall be allowed when authorized by the Attorney General.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 618.)

#### HISTORICAL AND REVISION NOTES 1966 ACT

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	28 U.S.C. 509.	[None].

The second paragraph of former section 509 is omitted as it was superseded by the Travel Expense Act of 1949, which is codified in subchapter I of chapter 57 of title 5, United States Code.

The second paragraph was based in part on former section 73 of title 5, 1940 ed., which was superseded by the Subsistence Expense Act of 1926.

Section 6 of the Travel Expense Act of 1949, which is codified in section 5706 of title 5, United States Code, substantially reenacted former section 73 of title 5, 1940 ed., which was repealed by the Act of June 25, 1948, ch. 646, by which title 28 was originally enacted. The purpose of section 6 was to allow reimbursement for only such actual and necessary travel expenses incurred unless otherwise permitted by the Act of 1949 itself or by laws relating to the military. Section 6 did not, however, provide for the exception of United States attorneys as did former section 73.

Sections 2 and 3 of the Act of 1949, which are codified in sections 5701 and 5702 of title 5, United States Code, defined the coverage of the Act and allowed for specific exclusions in the legislative and judicial branches but did not mention an exclusion in the executive branch for United States attorneys.

Section 7 of the 1949 Act, which is codified in section 5707 of title 5, United States Code, expressly vested in the Director of the Bureau of the Budget the authority to prescribe regulations covering travel allowances and the reimbursement of travel expenses.

Section 8 of the 1949 Act, which is codified in section 5708(1), (2) of title 5, United States Code, made specific exclusions from the coverage of the Act, and United States attorneys were not so excluded.

Section 9 of the 1949 Act, which is codified in section 5708(3), (4) of title 5, United States Code, modified acts inconsistent with the 1949 Act, and specifically mentioned acts which authorize reimbursement of "actual and necessary" expenses.

#### 1948 ACT

*Prior section 509.*—Based on sections 73 and 318 of title 5, U.S.C., 1940 ed., Executive Departments and Government Officers and Employees, and title 28, U.S.C., 1940 ed., §§586, 587 and 592 (R.S. §§368, 833, 834; Mar. 3, 1875, ch. 133, §1, 18 Stat. 452; May 28, 1896, ch. 252, §§13, 14, 24, 29 Stat. 183, 186; Mar. 4, 1907, ch. 2918, §1, 34 Stat. 1360; May 27, 1908, ch. 200, §1, 35 Stat. 375; Mar. 3, 1911, ch. 231, §291, 36 Stat. 1167; July 1, 1918, ch. 113, §1, 40 Stat. 683; July 19, 1919, ch. 24, §1, 41 Stat. 209; Dec. 24, 1942, ch. 825, §3, 56 Stat. 1089).

Section consolidates parts of sections 73 and 318 of title 5, U.S.C., 1940 ed., and of sections 586, 587, and 592 of title 28, U.S.C., 1940 ed.

First paragraph of this section is from section 587 of title 28, U.S.C., 1940 ed., which did not apply to Alaska because of the restriction in section 591 of said title 28. However, the latter section has been superseded, in that respect, by subsequent appropriation acts, the latest being act July 5, 1946, ch. 541, title II, 60 Stat. 460, which specifically allows office expenses for United States attorneys in Alaska. This section applies to all United States attorneys.

Section 73 of title 5, U.S.C., 1940 ed., allowed only actual traveling expenses to Government employees, ex-

cept “district attorneys,” marshals and clerks of courts and their deputies. It has been superseded by the Subsistence Expense Act of 1926. See sections 821 et seq. of said title 5.

References in section 592 of title 28, U.S.C., 1940 ed., to absence “from their respective official residences” and to going to and returning from attendance before courts, etc., were omitted as surplusage and covered by the phrase “on official business.” Language relating to Standardized Government Travel Regulations was also omitted as the reference in this section is to the provision in the Subsistence Expense Act, supra, authorizing those regulations. Verification under oath provision was omitted as covered by section 553 [see Prior Provisions note for that section] of this title which simplifies procedure by requiring payment upon certification by the payee. The penal provisions of title 18 are ample protection against fraud and an oath alone is no deterrent.

The requirement in section 592 of title 28, U.S.C., 1940 ed., that the marshals should include such payments in their accounts for auditing and allowance, was omitted as unnecessary. See section 541 et seq. [now section 561 et seq.] of this title and section 71 et seq. of title 31, U.S.C., 1940 ed.

Section 318 of title 5, U.S.C., 1940 ed., required the Attorney General to supervise the accounts of “district” attorneys, marshals, clerks, and other court officers. The language of this section covers that requirement. The provision as to marshals is incorporated in section 547 [see Prior Provisions note under that section] of this title.

Quarterly expense accounts were required of United States attorneys and marshals by section 586 of title 28, U.S.C., 1940 ed. Such provision is omitted as unnecessary in view of this section and section 547 [see Prior Provisions note under that section] of this title. Further provisions of said section 586 that office expenses of United States attorneys, assistants, and marshals should be allowed under regulations of the Attorney General and verified under oath, are simplified by this section and section 550 [see Prior Provisions note under that section] of this title. Another provision that accounts therefor should be submitted to, examined by the district court and, when approved by the court then audited and allowed by law, was omitted. The power of the Attorney General is sufficient. The reference to audit and allowance was unnecessary as covered by section 71 et seq. of title 31, U.S.C., 1940 ed., Money and Finance. Said section 586 applied also to marshals and deputies and those provisions are incorporated in section 550 [see Prior Provisions note under that section] of this title.

The exception in sections 586 and 591 of title 28, U.S.C., 1940 ed., that the former should not apply in Alaska was omitted as unnecessary. Section 114 of title 48, U.S.C., 1940 ed., Territories and Insular Possessions, requires travel expense accounts to be rendered and paid as in other districts.

Changes were made in phraseology.

PRIOR PROVISIONS

A prior section 549, act June 25, 1948, ch. 646, 62 Stat. 912, related to the marshal’s power as a sheriff, prior to repeal by Pub. L. 89-554, §8(a), and reenactment in section 570 of this title by section 4(c) of Pub. L. 89-554.

CROSS REFERENCES

Payment of office expenses by marshal, see section 566 of this title.

**§ 550. Clerical assistants, messengers, and private process servers**

The United States attorneys may employ clerical assistants, messengers, and private process servers on approval of the Attorney General.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 619; amended Pub. L. 101-647, title XXXVI, §3626(a), Nov. 29, 1990, 104 Stat. 4965.)

HISTORICAL AND REVISION NOTES  
1966 ACT

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	28 U.S.C. 510.	[None].

The words “and at salaries fixed by” are omitted as superseded by the Classification Act of 1949, as amended, which is codified in chapter 51 and subchapter III of chapter 53 of title 5, United States Code.

1948 ACT

*Prior section 510.*—Based on title 28, U.S.C., 1940 ed., §§ 484, 593 (May 28, 1896, ch. 252, §15, 29 Stat. 183; June 30, 1906, ch. 3914, §1, 34 Stat. 753; July 19, 1919, ch. 24, §1, 41 Stat. 209).

Section consolidates and simplifies sections 484 and 593 of title 28, U.S.C., 1940 ed. For provisions with respect to classified civil service, see sections 631-684 of title 5, U.S.C., 1940 ed., Executive Departments and Government Officers and Employees.

Section 593 of title 28, U.S.C., 1940 ed., related to clerks and messengers in the office of United States attorney, southern district of New York. Section 484 of title 28, U.S.C., 1940 ed., related to clerical assistants for all United States attorneys. It was not affected by section 678 of title 5 U.S.C. 1940 ed., Executive Departments and Government Officers and Employees, according to a Department of Justice interpretation.

Provision of said section 593 for office expenses of United States attorneys is covered by section 509 [now 549] of this title.

Said section 593 also required that payment of salaries of such clerks and messengers be made by the disbursing clerk of the Department of Justice. Under section 550 [see Prior Provisions note below] of this title the marshals will make such payments including the office expenses of United States attorneys.

The restriction that section 484 of title 28, U.S.C., 1940 ed., did not apply to Alaska is omitted as unnecessary since section 109 of title 48, U.S.C., 1940 ed., Territories and Insular Possessions, authorizes employment of clerical assistants to United States attorneys in Alaska by the Attorney General.

The provision in such section 484 of title 28, U.S.C., 1940 ed., that the need for clerical assistants be certified by the district judge, was omitted as unnecessary. The need may be determined by the Attorney General.

Changes were made in phraseology.

PRIOR PROVISIONS

A prior section 550, acts June 25, 1948, ch. 646, 62 Stat. 912; Sept. 9, 1959, Pub. L. 86-243, §2, 73 Stat. 474, related to disbursement of salaries and expenses, prior to repeal by Pub. L. 89-554, §8(a), and reenactment in section 571 of this title by section 4(c) of Pub. L. 89-554.

A prior section 551, act June 25, 1948, ch. 646, 62 Stat. 912, related to the collection of fees by United States marshals, prior to repeal by Pub. L. 89-554, §8(a), Sept. 6, 1966, 80 Stat. 663, and reenactment in section 572 of this title by section 4(c) of Pub. L. 89-554.

A prior section 552, act June 25, 1948, ch. 646, 62 Stat. 912, related to the fixing of salaries of United States marshals, their deputies and assistants, by the Attorney General, prior to repeal by Pub. L. 89-554, §8(a), Sept. 6, 1966, 80 Stat. 663, and reenactment in section 571 of this title by section 4(c) of Pub. L. 89-554.

A prior section 553, acts June 25, 1948, ch. 646, 62 Stat. 912; May 24, 1949, ch. 139, §72, 63 Stat. 100; Aug. 4, 1955, ch. 550, 69 Stat. 492; Aug. 14, 1961, Pub. L. 87-139, §5, 75 Stat. 340, related to expenses of marshal, prior to repeal by Pub. L. 89-554, §8(a), Sept. 6, 1966, 80 Stat. 663, and reenactment in section 567 of this title by section 4(c) of Pub. L. 89-554.

A prior section 554, act June 25, 1948, ch. 646, 62 Stat. 913, related to the delivery of prisoners to the successor marshal, prior to repeal by Pub. L. 89-554, §8(a), Sept.

6, 1966, 80 Stat. 663, and reenactment in section 573 of this title by section 4(c) of Pub. L. 89-554.

A prior section 555, act June 25, 1948, ch. 646, 62 Stat. 913, related to the delivery of all unserved process to the successor marshal or his deputies, prior to repeal by Pub. L. 89-554, §8(a), Sept. 6, 1966, 80 Stat. 663, and reenactment in section 574 of this title by section 4(c) of Pub. L. 89-554.

A prior section 556, act June 25, 1948, ch. 646, 62 Stat. 913, related to the prohibition of the practice of law by a marshal or deputy marshal, prior to repeal by Pub. L. 89-554, §8(a), Sept. 6, 1966, 80 Stat. 663, and reenactment in section 575 of this title by section 4(c) of Pub. L. 89-554.

#### AMENDMENTS

1990—Pub. L. 101-647 substituted “, messengers, and private process servers” for “and messengers” in section catchline and text.

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-647 effective 180 days after Nov. 29, 1990, see section 3631 of Pub. L. 101-647, set out as an Effective Date note under section 3001 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 594 of this title.

### CHAPTER 37—UNITED STATES MARSHALS SERVICE

Sec.	
561.	United States Marshals Service.
562.	Vacancies.
563.	Oath of office.
564.	Powers as sheriff.
565.	Expenses of the Service.
566.	Powers and duties.
567.	Collection of fees; accounting.
568.	Practice of law prohibited.
569.	Reemployment rights.

#### AMENDMENTS

1988—Pub. L. 100-690, title VII, §7608(a)(3), Nov. 18, 1988, 102 Stat. 4514, substituted in chapter heading “Marshals Service” for “Marshals” and amended chapter analysis generally, substituting items 561 to 569 for former items 561 to 576.

1984—Pub. L. 98-473, title II, §1211(c), Oct. 12, 1984, 98 Stat. 2163, added item 576.

1982—Pub. L. 97-258, §2(g)(3)(A), Sept. 13, 1982, 96 Stat. 1060, added item 572a.

1972—Pub. L. 92-310, title II, §206(a)(2), June 6, 1972, 86 Stat. 203, struck out item 564 “Bond”.

1966—Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 619, added chapter 37 and items 561 to 575.

#### CROSS REFERENCES

Supreme Court marshal, see section 672 of this title.

#### CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 48 sections 1424b, 1614, 1821.

#### § 561. United States Marshals Service

(a) There is hereby established a United States Marshals Service as a bureau within the Department of Justice under the authority and direction of the Attorney General. There shall be at the head of the United States Marshals Service (hereafter in this chapter referred to as the “Service”) a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) The Director of the United States Marshals Service (hereafter in this chapter referred to as

the “Director”) shall, in addition to the powers and duties set forth in this chapter, exercise such other functions as may be delegated by the Attorney General.

(c) The President shall appoint, by and with the advice and consent of the Senate, a United States marshal for each judicial district of the United States and for the Superior Court of the District of Columbia, except that any marshal appointed for the Northern Mariana Islands may at the same time serve as marshal in another judicial district. Each United States marshal shall be an official of the Service and shall serve under the direction of the Director.

(d) Each marshal shall be appointed for a term of four years. A marshal shall, unless that marshal has resigned or been removed by the President, continue to perform the duties of that office after the end of that 4-year term until a successor is appointed and qualifies.

(e) The Director shall designate places within a judicial district for the official station and offices of each marshal. Each marshal shall reside within the district for which such marshal is appointed, except that—

(1) the marshal for the District of Columbia, for the Superior Court of the District of Columbia, and for the Southern District of New York may reside within 20 miles of the district for which the marshal is appointed; and

(2) any marshal appointed for the Northern Mariana Islands who at the same time is serving as marshal in another district may reside in such other district.

(f) The Director is authorized to appoint and fix the compensation of such employees as are necessary to carry out the powers and duties of the Service and may designate such employees as law enforcement officers in accordance with such policies and procedures as the Director shall establish pursuant to the applicable provisions of title 5 and regulations issued thereunder.

(g) The Director shall supervise and direct the United States Marshals Service in the performance of its duties.

(h) The Director may administer oaths and may take affirmations of officials and employees of the Service, but shall not demand or accept any fee or compensation therefor.

(i) There are authorized to be appropriated such sums as may be necessary to carry out the functions of the Service.

(Added Pub. L. 100-690, title VII, §7608(a)(1), Nov. 18, 1988, 102 Stat. 4512.)

#### PRIOR PROVISIONS

A prior section 561, added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 619; amended Pub. L. 95-530, §2, Oct. 27, 1978, 92 Stat. 2028, related to appointment, term, and residence of United States marshals, prior to repeal by Pub. L. 100-690, §7608(a)(1).

#### CROSS REFERENCES

Guam, Virgin Islands, and Northern Mariana Islands, appointment of marshal, see sections 1424b, 1614, and 1821 of Title 48, Territories and Insular Possessions.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 562 of this title.

**§ 562. Vacancies**

(a) In the case of a vacancy in the office of a United States marshal, the Attorney General may designate a person to perform the functions of and act as marshal, except that the Attorney General may not designate to act as marshal any person who was appointed by the President to that office but with respect to such appointment the Senate has refused to give its advice and consent.

(b) A person designated by the Attorney General under subsection (a) may serve until the earliest of the following events:

(1) The entry into office of a United States marshal appointed by the President, pursuant to section 561(c).

(2) The expiration of the thirtieth day following the end of the next session of the Senate.

(3) If such designee of the Attorney General is appointed by the President pursuant to section 561(c), but the Senate refuses to give its advice and consent to the appointment, the expiration of the thirtieth day following such refusal.

(Added Pub. L. 100-690, title VII, §7608(a)(1), Nov. 18, 1988, 102 Stat. 4513.)

## PRIOR PROVISIONS

A prior section 562, added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 619, related to appointment of deputy marshals and clerical assistants, prior to repeal by Pub. L. 100-690, §7608(a)(1). See section 561(f) of this title.

**§ 563. Oath of office**

The Director and each United States marshal and law enforcement officer of the Service, before taking office, shall take an oath or affirmation to faithfully execute the duties of that office.

(Added Pub. L. 100-690, title VII, §7608(a)(1), Nov. 18, 1988, 102 Stat. 4513.)

## PRIOR PROVISIONS

A prior section 563, added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 619, specifically stated the oath of office to be taken, prior to repeal by Pub. L. 100-690, §7608(a)(1). See section 561(h) of this title.

**§ 564. Powers as sheriff**

United States marshals, deputy marshals and such other officials of the Service as may be designated by the Director, in executing the laws of the United States within a State, may exercise the same powers which a sheriff of the State may exercise in executing the laws thereof.

(Added Pub. L. 100-690, title VII, §7608(a)(1), Nov. 18, 1988, 102 Stat. 4513.)

## PRIOR PROVISIONS

A prior section 564, added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 619, related to bonds of United States marshals, prior to repeal by Pub. L. 92-310, title II, §206(a)(1), June 6, 1972, 86 Stat. 203.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3002 of this title.

**§ 565. Expenses of the Service**

The Director is authorized to use funds appropriated for the Service to make payments for ex-

penses incurred pursuant to personal services contracts and cooperative agreements, authorized by the Attorney General, for security guards and for the service of summons on complaints, subpoenas, and notices in lieu of services by United States marshals and deputy marshals.

(Added Pub. L. 100-690, title VII, §7608(a)(1), Nov. 18, 1988, 102 Stat. 4513.)

## PRIOR PROVISIONS

A prior section 565, added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 620, related to filling vacancies, prior to repeal by Pub. L. 100-690, §7608(a)(1). See section 562 of this title.

**§ 566. Powers and duties**

(a) It is the primary role and mission of the United States Marshals Service to provide for the security and to obey, execute, and enforce all orders of the United States District Courts, the United States Courts of Appeals and the Court of International Trade.

(b) The United States marshal of each district is the marshal of the district court and of the court of appeals when sitting in that district, and of the Court of International Trade holding sessions in that district, and may, in the discretion of the respective courts, be required to attend any session of court.

(c) Except as otherwise provided by law or Rule of Procedure, the United States Marshals Service shall execute all lawful writs, process, and orders issued under the authority of the United States, and shall command all necessary assistance to execute its duties.

(d) Each United States marshal, deputy marshal, and any other official of the Service as may be designated by the Director may carry firearms and make arrests without warrant for any offense against the United States committed in his or her presence, or for any felony cognizable under the laws of the United States if he or she has reasonable grounds to believe that the person to be arrested has committed or is committing such felony.

(e)(1) The United States Marshals Service is authorized to—

(A) provide for the personal protection of Federal jurists, court officers, witnesses, and other threatened persons in the interests of justice where criminal intimidation impedes on the functioning of the judicial process or any other official proceeding; and

(B) investigate such fugitive matters, both within and outside the United States, as directed by the Attorney General.

(2) Nothing in paragraph (1)(B) shall be construed to interfere with or supersede the authority of other Federal agencies or bureaus.

(f) In accordance with procedures established by the Director, and except for public money deposited under section 2041 of this title, each United States marshal shall deposit public moneys that the marshal collects into the Treasury, subject to disbursement by the marshal. At the end of each accounting period, the earned part of public moneys accruing to the United States shall be deposited in the Treasury to the credit of the appropriate receipt accounts.

(g) Prior to resignation, retirement, or removal from office—

- (1) a United States marshal shall deliver to the marshal's successor all prisoners in his custody and all unserved process; and
- (2) a deputy marshal shall deliver to the marshal all process in the custody of the deputy marshal.

(h) The United States marshals shall pay such office expenses of United States Attorneys as may be directed by the Attorney General.

(Added Pub. L. 100-690, title VII, § 7608(a)(1), Nov. 18, 1988, 102 Stat. 4514.)

PRIOR PROVISIONS

A prior section 566, added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 620; amended Pub. L. 92-310, title II, §206(b), June 6, 1972, 86 Stat. 203, provided that upon death of a marshal his deputy or deputies perform his duties until a successor is appointed and qualifies, prior to repeal by Pub. L. 100-690, § 7608(a)(1).

§ 567. Collection of fees; accounting

(a) Each United States marshal shall collect, as far as possible, his lawful fees and account for the same as public moneys.

(b) The marshal's accounts of fees and costs paid to a witness or juror on certificate of attendance issued as provided by sections 1825 and 1871 of this title may not be reexamined to charge him for an erroneous payment of the fees or costs.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 621, §572; renumbered §567, Pub. L. 100-690, title VII, § 7608(a)(2)(B), Nov. 18, 1988, 102 Stat. 4514.)

HISTORICAL AND REVISION NOTES  
1966 ACT

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	28 U.S.C. 551.	[None].

In subsection (b), the words "may not" are substituted for "shall not".

1948 ACT

*Prior section 551.*—Based on title 28, U.S.C., 1940 ed., §§ 577, 578a (R.S. § 846; May 28, 1896, ch. 252, §§ 6, 13, 24, 29 Stat. 179, 183, 186; May 27, 1908, ch. 200, § 1, 35 Stat. 375; June 6, 1930, ch. 409, 46 Stat. 522; Oct. 13, 1941, ch. 431, § 1, 55 Stat. 736).

Section consolidates first sentence of section 577 with section 578a of title 28, U.S.C., 1940 ed., with changes of phraseology necessary to effect consolidation. Other provisions of said section 577 are incorporated in section 1929 of this title.

The qualification that payments of witness fees or costs be made upon "order of court," contained in said section 577 of title 28, U.S.C., 1940 ed., was omitted as obsolete and suitable reference was made to sections 1825 and 1871 of this title under which payments are now made on certificates of attendance.

Section 578a of title 28, U.S.C., 1940 ed., is rewritten in simplified terms without change of substance. The proviso of such section 578a, prohibiting the collection of fees from the United States, was omitted as covered by section 2412 of this title, providing that the United States should be liable only for fees when such liability is expressly provided by Congress.

The provision of section 578a of title 28, U.S.C., 1940 ed., requiring that fees and emoluments collected by the marshal shall be deposited by him in accordance with the provisions of section 495 of title 31, U.S.C., 1940

ed., Money and Finance, was omitted as said section 495 governs such deposits without implementation in this section.

PRIOR PROVISIONS

A prior section 567, added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 620, related to expenses of marshals, prior to repeal by Pub. L. 100-690, §7608(a)(1). See section 565 of this title.

AMENDMENTS

1988—Pub. L. 100-690 renumbered section 572 of this title as this section.

§ 568. Practice of law prohibited

A United States marshal or deputy marshal may not practice law in any court of the United States.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 621, §575; renumbered §568, Pub. L. 100-690, title VII, § 7608(a)(2)(B), Nov. 18, 1988, 102 Stat. 4514.)

HISTORICAL AND REVISION NOTES  
1966 ACT

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	28 U.S.C. 556.	[None].

The words "may not" are substituted for "shall not".

1948 ACT

*Prior section 556.*—Based on title 28, U.S.C., 1940 ed., §§ 395 and 396 (Mar. 3, 1911, ch. 231, §§ 273, 274, 36 Stat. 1164).

Section consolidates parts of sections 395 and 396 of title 28, U.S.C., 1940 ed. Similar provisions in said sections, relating to clerks, are incorporated in section 955 of this title.

The revised section substitutes, as simpler and more appropriate, the prohibition against practice of law "in any court of the United States" for the more involved language of section 395 of title 28, U.S.C., 1940 ed., which provided that no clerks or marshals, deputies, or assistants within the district for which appointed "shall act as solicitor, proctor, attorney or counsel, in any cause depending in any of said courts, or in any district for which he is acting as such officer."

Provisions of section 396 of title 28, U.S.C., 1940 ed., for striking the name of an offender from the roll of attorneys and for recommendation of dismissal, were omitted as unnecessary and as covered by section 541 of this title.

Changes were made in phraseology.

PRIOR PROVISIONS

A prior section 568, added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 620, related to availability of appropriations for transfer of prisoners to narcotic farms, prior to repeal by Pub. L. 100-690, § 7608(a)(1).

AMENDMENTS

1988—Pub. L. 100-690 renumbered section 575 of this title as this section.

§ 569. Reemployment rights

(a) A United States marshal for a judicial district who was appointed from a position in the competitive service (as defined in section 2102 of title 5) in the United States Marshals Service and who, for reasons other than misconduct, neglect of duty, or malfeasance, is removed from such office, is entitled to be reemployed in any vacant position in the competitive service in the United States Marshals Service at the same

grade or pay level, or lower, as the individual's former position if—

- (1) the individual is qualified for the vacant position; and
- (2) the individual has made application for the position not later than ninety days after being removed from office as a United States marshal.

Such individual shall be so reemployed within thirty days after making such application or after being removed from office, whichever is later. An individual denied reemployment under this section in a position because the individual is not qualified for that position may appeal that denial to the Merit Systems Protection Board under section 7701 of title 5.

(b) Any United States marshal serving on the effective date of this section shall continue to serve for the remainder of the term for which such marshal was appointed, unless sooner removed by the President.

(Added Pub. L. 98-473, title II, §1211(a), Oct. 12, 1984, 98 Stat. 2163, §576; renumbered §569, Pub. L. 100-690, title VII, §7608(a)(2)(B), Nov. 18, 1988, 102 Stat. 4514.)

#### REFERENCES IN TEXT

The effective date of this section, referred to in subsec. (b), is Oct. 1, 1984. See Effective Date note set out below.

#### PRIOR PROVISIONS

A prior section 569, added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 620; amended Pub. L. 95-598, title II, §221, Nov. 6, 1978, 92 Stat. 2662; Pub. L. 96-417, title V, §501(12), Oct. 10, 1980, 94 Stat. 1742; Pub. L. 99-466, §3(a), Oct. 14, 1986, 100 Stat. 1191, related to powers and duties generally and supervision by the Attorney General, prior to repeal by Pub. L. 100-690, §7608(a)(1). See section 566 of this title.

#### AMENDMENTS

1988—Pub. L. 100-690 renumbered section 576 of this title as this section.

#### EFFECTIVE DATE

Section 1212 of subpart B (§§1211, 1212) of part F of chapter XII of title II of Pub. L. 98-473 provided that: "The amendments made by this subpart [enacting this section] shall take effect on October 1, 1984."

#### [§§ 570, 571. Repealed. Pub. L. 100-690, title VII, § 7608(a)(1), Nov. 18, 1988, 102 Stat. 4512]

Section 570, added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 620, granted United States marshals the power of a sheriff in executing laws of the United States in a State. See section 564 of this title.

Section 571, added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 621; amended Pub. L. 95-598, title II, §§222, 223, Nov. 6, 1978, 92 Stat. 2662; Pub. L. 97-258, §2(g)(2), Sept. 13, 1982, 96 Stat. 1060, related to disbursement of salaries and moneys.

#### [§ 572. Renumbered § 567]

#### [§§ 572a to 574. Repealed. Pub. L. 100-690, title VII, § 7608(a)(2)(A), Nov. 18, 1988, 102 Stat. 4514]

Section 572a, added Pub. L. 97-258, §2(g)(3)(B), Sept. 13, 1982, 96 Stat. 1060, related to depositing of public moneys. See section 566(f) of this title.

Section 573, added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 621, related to delivery of prisoners to a successor. See section 566(g)(1) of this title.

Section 574, added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 621, related to delivery of unserved process to a successor. See section 566(g)(2) of this title.

#### [§§ 575, 576. Renumbered §§ 568, 569]

### CHAPTER 39—UNITED STATES TRUSTEES

Sec.	
581.	United States trustees.
582.	Assistant United States trustees.
583.	Oath of office.
584.	Official stations.
585.	Vacancies.
586.	Duties; supervision by Attorney General.
587.	Salaries.
588.	Expenses.
589.	Staff and other employees.
589a.	United States Trustee System Fund.

#### AMENDMENTS

1986—Pub. L. 99-554, title I, §115(b), Oct. 27, 1986, 100 Stat. 3095, added item 589a.

#### UNITED STATES TRUSTEE PILOT; REPEAL OF BANKRUPTCY PROVISIONS RELATING TO UNITED STATES TRUSTEES

Pub. L. 95-598, title IV, §408, Nov. 6, 1978, 92 Stat. 2686, as amended by Pub. L. 98-166, title II, §200, Nov. 28, 1983, 97 Stat. 1081; Pub. L. 98-353, title III, §323, July 10, 1984, 98 Stat. 358; Pub. L. 99-429, Sept. 30, 1986, 100 Stat. 985; Pub. L. 99-500, §101(b) [title II, §200], Oct. 18, 1986, 100 Stat. 1783-39, 1783-45, and Pub. L. 99-591, §101(b) [title II, §200], Oct. 30, 1986, 100 Stat. 3341-39, 3341-45; Pub. L. 99-554, title III, §307(a), Oct. 27, 1986, 100 Stat. 3125, which provided that the Attorney General conduct such studies and surveys as necessary to evaluate needs, feasibility, and effectiveness of the United States trustee system, and report result of such studies and surveys to Congress, the President, and the Judicial Conference of the United States, beginning on or before January 3, 1980, and annually thereafter during the transition period; that not later than January 3, 1984, the Attorney General report to Congress, the President, and the Judicial Conference of the United States, as to the feasibility, projected annual cost and effectiveness of the United States trustee system, as determined on the basis of the studies and surveys respecting the operation of the United States trustee system in the districts, together with recommendations as to the desirability and method of proceeding with implementation of the United States trustee system in all judicial districts of the United States; and that chapter 15 of title 11 and chapter 39 of this title were repealed, and all references to the United States trustee contained in this title were deleted, 30 days after the effective date of Pub. L. 99-554 (see section 302 of Pub. L. 99-554, set out as a note under section 581 of this title), with service of any United States trustee, of any assistant United States trustee, and of any employee employed or appointed under the authority of such chapter 39 was terminated on such date, was repealed by Pub. L. 99-554, title III, §307(b), Oct. 27, 1986, 100 Stat. 3125.

#### § 581. United States trustees

(a) The Attorney General shall appoint one United States trustee for each of the following regions composed of Federal judicial districts (without regard to section 451):

(1) The judicial districts established for the States of Maine, Massachusetts, New Hampshire, and Rhode Island.

(2) The judicial districts established for the States of Connecticut, New York, and Vermont.

(3) The judicial districts established for the States of Delaware, New Jersey, and Pennsylvania.

(4) The judicial districts established for the States of Maryland, North Carolina, South Carolina, Virginia, and West Virginia and for the District of Columbia.

(5) The judicial districts established for the States of Louisiana and Mississippi.

(6) The Northern District of Texas and the Eastern District of Texas.

(7) The Southern District of Texas and the Western District of Texas.

(8) The judicial districts established for the States of Kentucky and Tennessee.

(9) The judicial districts established for the States of Michigan and Ohio.

(10) The Central District of Illinois and the Southern District of Illinois; and the judicial districts established for the State of Indiana.

(11) The Northern District of Illinois; and the judicial districts established for the State of Wisconsin.

(12) The judicial districts established for the States of Minnesota, Iowa, North Dakota, and South Dakota.

(13) The judicial districts established for the States of Arkansas, Nebraska, and Missouri.

(14) The District of Arizona.

(15) The Southern District of California; and the judicial districts established for the State of Hawaii, and for Guam and the Commonwealth of the Northern Mariana Islands.

(16) The Central District of California.

(17) The Eastern District of California and the Northern District of California; and the judicial district established for the State of Nevada.

(18) The judicial districts established for the States of Alaska, Idaho (exclusive of Yellowstone National Park), Montana (exclusive of Yellowstone National Park), Oregon, and Washington.

(19) The judicial districts established for the States of Colorado, Utah, and Wyoming (including those portions of Yellowstone National Park situated in the States of Montana and Idaho).

(20) The judicial districts established for the States of Kansas, New Mexico, and Oklahoma.

(21) The judicial districts established for the States of Alabama, Florida, and Georgia and for the Commonwealth of Puerto Rico and the Virgin Islands of the United States.

(b) Each United States trustee shall be appointed for a term of five years. On the expiration of his term, a United States trustee shall continue to perform the duties of his office until his successor is appointed and qualifies.

(c) Each United States trustee is subject to removal by the Attorney General.

(Added Pub. L. 95-598, title II, § 224(a), Nov. 6, 1978, 92 Stat. 2662; amended Pub. L. 99-554, title I, § 111(a)-(c), Oct. 27, 1986, 100 Stat. 3090, 3091.)

#### CODIFICATION

Section 408(c) of Pub. L. 95-598, as amended, which provided for the repeal of this section and the deletion of any references to United States Trustees in this title at a prospective date, was repealed by section 307(b) of Pub. L. 99-554. See note set out preceding section 581 of this title.

#### AMENDMENTS

1986—Subsec. (a). Pub. L. 99-554, § 111(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read

as follows: “The Attorney General shall appoint one United States trustee for each of the following districts or groups of districts:

“(1) District of Maine, District of New Hampshire, District of Massachusetts, and District of Rhode Island.

“(2) Southern District of New York.

“(3) District of Delaware and District of New Jersey.

“(4) Eastern District of Virginia and District of District of Columbia.

“(5) Northern District of Alabama.

“(6) Northern District of Texas.

“(7) Northern District of Illinois.

“(8) District of Minnesota, District of North Dakota, District of South Dakota.

“(9) Central District of California.

“(10) District of Colorado and District of Kansas.”

Subsec. (b). Pub. L. 99-554, § 111(b), substituted “five years” for “seven years” and “office” for “Office”.

Subsec. (c). Pub. L. 99-554, § 111(c), struck out “for cause” after “removal”.

#### EFFECTIVE DATE OF 1986 AMENDMENT; TRANSITION AND ADMINISTRATIVE PROVISIONS

Title III of Pub. L. 99-554, as amended by Pub. L. 101-650, title III, § 317(a), (c), Dec. 1, 1990, 104 Stat. 5115, 5116; Pub. L. 103-65, § 1, Aug. 6, 1993, 107 Stat. 311, provided that:

“SEC. 301. INCUMBENT UNITED STATES TRUSTEES.

“(a) AREA FOR WHICH APPOINTED.—Notwithstanding any paragraph of section 581(a) of title 28, United States Code, as in effect before the effective date of this Act, a United States trustee serving in such office on the effective date of this Act shall serve the remaining term of such office as United States trustee for the region specified in a paragraph of such section, as amended by this Act, that includes the site at which the primary official station of the United States trustee is located immediately before the effective date of this Act.

“(b) TERM OF OFFICE.—Notwithstanding section 581(b) of title 28, United States Code, as in effect before the effective date of this Act, the term of office of any United States trustee serving in such office on the date of the enactment of this Act [Oct. 27, 1986] shall expire—

“(1) 2 years after the expiration date of such term of office under such section, as so in effect, or

“(2) 4 years after the date of the enactment of this Act, whichever occurs first.

#### “SEC. 302. EFFECTIVE DATES; APPLICATION OF AMENDMENTS.

“(a) GENERAL EFFECTIVE DATE.—Except as provided in subsections (b), (c), (d), (e), and (f), this Act and the amendments made by this Act [see Short Title of 1986 Amendment note below] shall take effect 30 days after the date of the enactment of this Act [Oct. 27, 1986].

“(b) AMENDMENTS RELATING TO BANKRUPTCY JUDGES AND INCUMBENT UNITED STATES TRUSTEES.—Subtitle A of title I, and sections 301 and 307(a) [amending sections 152 and 156 of this title, enacting provisions set out as notes under section 581 of this title, and amending provisions set out as notes under section 152 of this title and preceding section 581 of this title], shall take effect on the date of the enactment of this Act [Oct. 27, 1986].

“(c) AMENDMENTS RELATING TO FAMILY FARMERS.—(1) The amendments made by subtitle B of title II [§§ 251 to 257 of Pub. L. 99-554, see Tables for classification] shall not apply with respect to cases commenced under title 11 of the United States Code before the effective date of this Act.

“(2) Section 1202 of title 11 of the United States Code (as added by the amendment made by section 255 of this Act) shall take effect on the effective date of this Act and before the amendment made by section 227 of this Act [amending section 1202 of this title].

“(3) Until the amendments made by subtitle A of title II of this Act [§§ 201 to 231 of Pub. L. 99-554, see Tables for classification] become effective in a district and apply to a case, for purposes of such case—

“(A)(i) any reference in section 326(b) of title 11 of the United States Code to chapter 13 of title 11 of the United States Code shall be deemed to be a reference to chapter 12 or chapter 13 of title 11 of the United States Code,

“(ii) any reference in such section 326(b) to section 1302(d) of title 11 of the United States Code shall be deemed to be a reference to section 1302(d) of title 11 of the United States Code or section 586(b) of title 28 of the United States Code, and

“(iii) any reference in such section 326(b) to section 1302(a) of title 11 of the United States Code shall be deemed to be a reference to section 1202(a) or section 1302(a) of title 11 of the United States Code, and

“(B)(i) the first two references in section 1202(a) of title 11 of the United States Code (as added by the amendment made by section 255 of this Act) to the United States trustee shall be deemed to be a reference to the court, and

“(ii) any reference in such section 1202(a) to section 586(b) of title 28 of the United States Code shall be deemed to be a reference to section 1202(c) of title 11 of the United States Code (as so added).

“(d) APPLICATION OF AMENDMENTS TO JUDICIAL DISTRICTS.—

“(1) CERTAIN REGIONS NOT CURRENTLY SERVED BY UNITED STATES TRUSTEES.—(A) The amendments made by subtitle A of title II of this Act [§§ 201 to 231 of Pub. L. 99-554, see Tables for classification], and section 1930(a)(6) of title 28 of the United States Code (as added by section 117(4) of this Act), shall not—

“(i) become effective in or with respect to a judicial district specified in subparagraph (B) until, or

“(ii) apply to cases while pending in such district before,

the expiration of the 270-day period beginning on the effective date of this Act or of the 30-day period beginning on the date the Attorney General certifies under section 303 of this Act the region specified in a paragraph of section 581(a) of title 28, United States Code, as amended by section 111(a) of this Act, that includes such district, whichever occurs first.

“(B) Subparagraph (A) applies to the following:

“(i) The judicial district established for the Commonwealth of Puerto Rico.

“(ii) The District of Connecticut.

“(iii) The judicial districts established for the State of New York (other than the Southern District of New York).

“(iv) The District of Vermont.

“(v) The judicial districts established for the State of Pennsylvania.

“(vi) The judicial district established for the Virgin Islands of the United States.

“(vii) The District of Maryland.

“(viii) The judicial districts established for the State of North Carolina.

“(ix) The District of South Carolina.

“(x) The judicial districts established for the State of West Virginia.

“(xi) The Western District of Virginia.

“(xii) The Eastern District of Texas.

“(xiii) The judicial districts established for the State of Wisconsin.

“(xiv) The judicial districts established for the State of Iowa.

“(xv) The judicial districts established for the State of New Mexico.

“(xvi) The judicial districts established for the State of Oklahoma.

“(xvii) The District of Utah.

“(xviii) The District of Wyoming (including those portions of Yellowstone National Park situated in the States of Montana and Idaho).

“(xix) The judicial districts established for the State of Alabama.

“(xx) The judicial districts established for the State of Florida.

“(xxi) The judicial districts established for the State of Georgia.

“(2) CERTAIN REMAINING JUDICIAL DISTRICTS NOT CURRENTLY SERVED BY UNITED STATES TRUSTEES.—(A) The amendments made by subtitle A of title II of this Act [§§ 201 to 231 of Pub. L. 99-554, see Tables for classification], and section 1930(a)(6) of title 28 of the United States Code (as added by section 117(4) of this Act), shall not—

“(i) become effective in or with respect to a judicial district specified in subparagraph (B) until, or

“(ii) apply to cases while pending in such district before,

the expiration of the 2-year period beginning on the effective date of this Act or of the 30-day period beginning on the date the Attorney General certifies under section 303 of this Act the region specified in a paragraph of section 581(a) of title 28, United States Code, as amended by section 111(a) of this Act, that includes such district, whichever occurs first.

“(B) Subparagraph (A) applies to the following:

“(i) The judicial districts established for the State of Louisiana.

“(ii) The judicial districts established for the State of Mississippi.

“(iii) The Southern District of Texas and the Western District of Texas.

“(iv) The judicial districts established for the State of Kentucky.

“(v) The judicial districts established for the State of Tennessee.

“(vi) The judicial districts established for the State of Michigan.

“(vii) The judicial districts established for the State of Ohio.

“(viii) The judicial districts established for the State of Illinois (other than the Northern District of Illinois).

“(ix) The judicial districts established for the State of Indiana.

“(x) The judicial districts established for the State of Arkansas.

“(xi) The judicial districts established for the State of Nebraska.

“(xii) The judicial districts established for the State of Missouri.

“(xiii) The District of Arizona.

“(xiv) The District of Hawaii.

“(xv) The judicial district established for Guam.

“(xvi) The judicial district established for the Commonwealth of the Northern Mariana Islands.

“(xvii) The judicial districts established for the State of California (other than the Central District of California).

“(xviii) The District of Nevada.

“(xix) The District of Alaska.

“(xx) The District of Idaho.

“(xxi) The District of Montana.

“(xxii) The District of Oregon.

“(xxiii) The judicial districts established for the State of Washington.

“(3) JUDICIAL DISTRICTS FOR THE STATES OF ALABAMA AND NORTH CAROLINA.—(A) Notwithstanding paragraphs (1) and (2), and any other provision of law, the amendments made by subtitle A of title II of this Act [§§ 201 to 231 of Pub. L. 99-554, see Tables for classification], and section 1930(a)(6) of title 28 of the United States Code (as added by section 117(4) of this Act), shall not—

“(i) become effective in or with respect to a judicial district specified in subparagraph (E) until, or

“(ii) apply to cases while pending in such district before,

such district elects to be included in a bankruptcy region established in section 581(a) of title 28, United States Code, as amended by section 111(a) of this Act, or October 1, 2002, whichever occurs first, except that the amendment to section 105(a) of title 11, United

States Code, shall become effective as of the date of the enactment of the Federal Courts Study Committee Implementation Act of 1990 [Dec. 1, 1990].

“(B) Any election under subparagraph (A) shall be made upon a majority vote of the chief judge of such district and each bankruptcy judge in such judicial district in favor of such election.

“(C) Notice that an election has been made under subparagraph (A) shall be given, not later than 10 days after such election, to the Attorney General and the appropriate Federal Circuit Court of Appeals for such district.

“(D) Any election made under subparagraph (A) shall become effective on the date the amendments made by subtitle A of title II of this Act become effective in the region that includes such district or 30 days after the Attorney General receives the notice required under subparagraph (C), whichever occurs later.

“(E) Subparagraph (A) applies to the following:

“(i) The judicial districts established for the State of Alabama.

“(ii) The judicial districts established for the State of North Carolina.

“(F)(i) Subject to clause (ii), with respect to cases under chapters 7, 11, 12, and 13 of title 11, United States Code—

“(I) commenced before the effective date of this Act, and

“(II) pending in a judicial district in the State of Alabama or the State of North Carolina before any election made under subparagraph (A) by such district becomes effective or October 1, 2002, whichever occurs first.

the amendments made by section 113 [amending section 586 of this title] and subtitle A of title II of this Act, and section 1930(a)(6) of title 28 of the United States Code (as added by section 117(4) of this Act), shall not apply until October 1, 2003, or the expiration of the 1-year period beginning on the date such election becomes effective, whichever occurs first.

“(ii) For purposes of clause (i), the amendments made by section 113 and subtitle A of title II of this Act, and section 1930(a)(6) of title 28 of the United States Code (as added by section 117(4) of this Act), shall not apply with respect to a case under chapter 7, 11, 12, or 13 of title 11, United States Code, if—

“(I) the trustee in the case files the final report and account of administration of the estate, required under section 704 of such title, or

“(II) a plan is confirmed under section 1129, 1225, or 1325 of such title.

before October 1, 2003, or the expiration of the 1-year period beginning on the date such election becomes effective, whichever occurs first.

“(G) Notwithstanding section 589a of title 28, United States Code, as added by section 115 of this Act, funds collected as a result of the amendments made by section 117 of this Act [amending section 1930 of this title] in a judicial district in the State of Alabama or the State of North Carolina under section 1930(a) of title 28, United States Code, before the date the amendments made by subtitle A of title II of this Act take effect in such district shall be deposited in the general receipts of the Treasury.

“(H) The repeal made by section 231 of this Act [repealing chapter 15 of title 11] shall not apply in or with respect to the Northern District of Alabama until March 1, 1987, or the effective date of any election made under subparagraph (A) by such district, whichever occurs first.

“(I) In any judicial district in the State of Alabama or the State of North Carolina that has not made the election described in subparagraph (A), any person who is appointed under regulations issued by the Judicial Conference of the United States to administer estates in cases under title 11 of the United States Code may—

“(i) establish, maintain, and supervise a panel of private trustees that are eligible and available to

serve as trustees in cases under title 11, United States Code, and

“(ii) supervise the administration of cases and trustees in cases under chapters 7, 11, 12, and 13 of title 11, United States Code,

until the amendments made by subtitle A of title II take effect in such district.

“(e) APPLICATION OF UNITED STATES TRUSTEE SYSTEM AND QUARTERLY FEES TO CERTAIN CASES.—

“(1) IN GENERAL.—Subject to paragraph (2), with respect to cases under chapters 7, 11, 12, and 13 of title 11, United States Code—

“(A) commenced before the effective date of this Act, and

“(B) pending in a judicial district referred to in section 581(a) of title 28, United States Code, as amended by section 111(a) of this Act, for which a United States trustee is not authorized before the effective date of this Act to be appointed,

the amendments made by section 113 [amending section 586 of this title] and subtitle A of title II of this Act [§§ 201 to 231 of Pub. L. 99-554, see Tables for classification], and section 1930(a)(6) of title 28 of the United States Code (as added by section 117(4) of this Act), shall not apply until the expiration of the 3-year period beginning on the effective date of this Act, or of the 1-year period beginning on the date the Attorney General certifies under section 303 of this Act the region specified in a paragraph of such section 581(a), as so amended, that includes such district, whichever occurs first.

“(2) AMENDMENTS INAPPLICABLE.—For purposes of paragraph (1), the amendments made by section 113 and subtitle A of title II of this Act, and section 1930(a)(6) of title 28 of the United States Code (as added by section 117(4) of this Act), shall not apply with respect to a case under chapter 7, 11, 12, or 13 of title 11, United States Code, if—

“(A) the trustee in the case files the final report and account of administration of the estate, required under section 704 of such title, or

“(B) a plan is confirmed under section 1129, 1225, or 1325 of such title,

before the expiration of the 3-year period, or the expiration of the 1-year period, specified in paragraph (1), whichever occurs first.

“(3) RULE OF CONSTRUCTION REGARDING FEES FOR CASES.—This Act [see Short Title of 1986 Amendment note below] and the amendments made by section 117(4) of this Act [amending section 1930 of this title] shall not be construed to require the payment of a fee under paragraph (6) of section 1930(a) of title 28, United States Code, in a case under title 11 of the United States Code for any conduct or period occurring before such paragraph becomes effective in the district in which such case is pending.

“(f) REPEAL OF CHAPTER 12 OF TITLE 11.—Chapter 12 of title 11 of the United States Code is repealed on October 1, 1998. All cases commenced or pending under chapter 12 of title 11, United States Code, and all matters and proceedings in or relating to such cases, shall be conducted and determined under such chapter as if such chapter had not been repealed. The substantive rights of parties in connection with such cases, matters, and proceedings shall continue to be governed under the laws applicable to such cases, matters, and proceedings as if such chapter had not been repealed.

“SEC. 303. CERTIFICATION OF JUDICIAL DISTRICTS; NOTICE AND PUBLICATION OF CERTIFICATION.

“(a) CERTIFICATION BY ATTORNEY GENERAL.—The Attorney General may certify in writing a region specified in a paragraph of section 581(a) of title 28, United States Code (other than paragraph (16)), as amended by section 111(a) of this Act, to the appropriate court of appeals of the United States, for the purpose of informing such court that certain amendments made by this Act will become effective in accordance with section 302 of this Act.

“(b) NOTICE AND PUBLICATION OF CERTIFICATION.—Whenever the Attorney General transmits a certification under subsection (a), the Attorney General shall simultaneously—

“(1) transmit a copy of such certification to the Speaker of the House of Representatives and to the President pro tempore of the Senate, and

“(2) publish such certification in the Federal Register.

“SEC. 304. ADMINISTRATIVE PROVISIONS.

“(a) COOPERATIVE ARRANGEMENTS.—The Attorney General and the Director of the Administrative Office of the United States Courts may enter into agreements under which United States trustees may—

“(1) use—

“(A) the services, equipment, personnel, records, reports, and data compilations, in any form, of the courts of the United States, and

“(B) the facilities of such courts, and

“(2) cooperate in the use by the courts of the United States of—

“(A) the services, equipment, personnel, records, reports, and data compilations, in any form, of United States trustees, and

“(B) the facilities of such trustees,

to prevent duplication during the 2-year period beginning on the effective date of this Act.

“(b) INFORMATION AND DOCUMENTS RELATING TO BANKRUPTCY CASES AND UNITED STATES TRUSTEES.—The Director of the Administrative Office of the United States Courts shall make available to United States trustees, at the request of the Attorney General and on a continuing basis, all records, reports, and data compilations relating to—

“(1) cases and proceedings under title 11 of the United States Code, and

“(2) the duties of United States trustees under titles 11 and 28 of the United States Code.

“SEC. 305. APPLICATION OF CERTAIN BANKRUPTCY RULES.

“(a) RULES RELATING TO THE UNITED STATES TRUSTEE SYSTEM.—If a United States trustee is not authorized, before the effective date of this Act, to be appointed for a judicial district referred to in section 581(a) of title 28, United States Code, as amended by section 111(a) of this Act, then part X of the Bankruptcy Rules [11 U.S.C. App.] shall not apply to cases in such district until the amendments made by subtitle A of title II of this Act [§§ 201 to 231 of Pub. L. 99-554, see Tables for classification] become effective under section 302 of this Act in such district.

“(b) RULES RELATING TO CHAPTER 12 OF TITLE 11.—The rules prescribed under section 2075 of title 28, United States Code, and in effect on the date of the enactment of this Act [Oct. 27, 1986] shall apply to cases filed under chapter 12 of title 11, United States Code, to the extent practicable and not inconsistent with the amendments made by title II of this Act [see Tables for classification].

“SEC. 306. SALARY OF INCUMBENT UNITED STATES TRUSTEES.

“For service as a United States trustee in the period beginning on the effective date of this Act and ending on the expiration under section 301 of this Act of their respective terms of office, the salary payable to United States trustees serving in such offices on the effective date of this Act shall be fixed in accordance with section 587 of title 28, United States Code, as amended by section 114(a) of this Act.

“SEC. 307. PRESERVATION OF UNITED STATES TRUSTEE SYSTEM DURING PENDENCY OF LEGISLATION; REPEALER.

“(a) TEMPORARY DELAY OF REPEAL OF UNITED STATES TRUSTEE SYSTEM.—Effective immediately before November 10, 1986, section 408(c) of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2687), is amended by striking out ‘November 10, 1986’ and inserting in lieu

thereof ‘30 days after the effective date of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 [Pub. L. 99-554]’.

“(b) CONFORMING AMENDMENT.—Section 408 of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2687), is repealed.

“SEC. 308. CONSIDERATION OF CURRENT PRIVATE TRUSTEES FOR APPOINTMENT BY UNITED STATES TRUSTEES.

“(a) TRUSTEES IN BANKRUPTCY CASES UNDER CHAPTER 7.—It is the sense of the Congress that individuals who are serving before the effective date of this Act, as trustees in cases under chapter 7 of title 11, United States Code, should be considered by United States trustees for appointment under section 586(a)(1) of title 28, United States Code, to the panels of private trustees that are established as a result of the amendments made by this Act [see Short Title of 1986 Amendment note below].

“(b) STANDING TRUSTEES IN BANKRUPTCY CASES UNDER CHAPTER 13.—It is the sense of the Congress that individuals who are serving before the effective date of this Act, as standing trustees in cases under chapter 13 of title 11, United States Code, should be considered by the United States trustees for appointment under section 586(b) of title 28, United States Code, as standing trustees who are appointed as a result of the amendments made by this Act [see Short Title of 1986 Amendment note below].

“SEC. 309. APPOINTMENT OF UNITED STATES TRUSTEES BY THE ATTORNEY GENERAL.

“It is the sense of the Congress that individuals otherwise qualified who are serving, before the effective date of this Act, as estate administrators under title 11 of the United States Code should be considered by the Attorney General for appointment under sections 581 and 582 of title 28, United States Code, to new positions of United States trustee and assistant United States trustee resulting from the amendments made by this Act [see Short Title of 1986 Amendment note below].

“SEC. 310. ELECTRONIC CASE MANAGEMENT DEMONSTRATION PROJECT.

“(a) ESTABLISHMENT OF PROJECT.—Not later than 1 year after the effective date of this Act, the Director of the Executive Office for United States Trustees, in consultation with the Director of the Administrative Office of the United States Courts, shall establish an electronic case management demonstration project to be carried out in 3 Federal judicial districts that have a sufficiently large and varied bankruptcy caseload so as to provide a meaningful evaluation of the cost and effectiveness of such system. A contract for such project shall be awarded—

“(1) on the basis of competitive bids submitted by qualified nongovernmental entities that are able to design an automated joint information system for use by the United States courts and by United States trustees, and

“(2) in accordance with the Federal Property and Administrative Services Act of 1949 [see Short Title note under 40 U.S.C. 471], the Office of Federal Procurement Policy Act [see Short Title note under 41 U.S.C. 401], and title 31 of the United States Code.

“(b) STUDY BY GENERAL ACCOUNTING OFFICE.—Not later than 1 year after the electronic case management system begins to operate in all of the judicial districts participating in the demonstration project carried out under subsection (a), the General Accounting Office shall conduct a study to compare the cost and effectiveness of such system with the cost and effectiveness of case management systems used in Federal judicial districts that are not participating in such project.

“(c) TERM OF PROJECT.—The demonstration project required by subsection (a) shall be carried out until—

“(1) the expiration of the 2-year period beginning on the date the electronic case management system begins to operate in all of the judicial districts participating in such project, or

“(2) legislation is enacted to extend, expand, modify, or terminate the operation of such project, whichever occurs first.

“(d) USE BY CLERKS OF THE COURTS.—The electronic case management system demonstrated under the project required by subsection (a) shall provide the clerk of court in each district in which such system is operated, with a means of—

“(1) maintaining a complete electronic case file of all relevant information contained in petitions and schedules (and any amendments thereto) relating to debtors in cases under title 11 of the United States Code, including—

“(A) a complete list of creditors in each such case, as listed by the debtor,

“(B) a complete list of assets scheduled by the debtor, the value of such asset, and any action taken by the trustee or debtor in possession with regard to such asset during the pendency of such case,

“(C) a complete list of debts and, with respect to each debt—

“(i) any priority of such debt under title 11 of the United States Code,

“(ii) whether such debt is secured or unsecured, and

“(iii) whether such debt is contingent or non-contingent, and

“(D) the debtor’s statements of current expenses and income, and

“(2) maintaining all calendars and dockets and producing all notices required to be sent in cases under title 11 of the United States Code.

“(e) USE BY UNITED STATES TRUSTEES.—The electronic case management system demonstrated under the project required by subsection (a) shall provide, at a minimum, the United States trustee in each district in which such system is operated with—

“(1) complete electronic case files which contain, in addition to the information listed in subsection (d), records of case openings, case closings, hearings, and the filing of all motions, trustee appointments, pleadings, and responses, as well as a record of the responses by the United States trustee to those motions, trustee appointments, and pleadings,

“(2) a means to generate standardized forms for motions, appointments, pleadings, and responses,

“(3) a means to generate standard management reports and letters on an exception basis,

“(4) a means to maintain accounting records, reports, and information required to be maintained by debtors in possession and trustees in cases under title 11 of the United States Code,

“(5) a means to calculate and record distribution to creditors, final applications and orders for distribution, and final case closing reports, and

“(6) a means to monitor the payment of filing and other required fees.

“(f) AVAILABILITY TO CERTAIN GOVERNMENTAL ENTITIES.—Unlimited access to information maintained in the electronic case management system demonstrated under the project required by subsection (a) shall be provided at no charge to the following:

“(1) The Congress.

“(2) The Executive Office for the United States Trustees.

“(3) The Administrative Office of the United States Courts.

“(4) The clerks of the courts in judicial districts in which such system is operated and persons who review case information, in accordance with section 107(a) of title 11, United States Code, in the offices of the clerks.

“(5) The judges on the bankruptcy and district courts in districts in which such system is operated.

“(6) Trustees in cases pending in districts in which such system is operated.

“(g) FEES FOR OTHER USERS.—(1) The entity which is awarded a contract to provide the electronic case management system demonstrated under this project may,

under guidelines established by the Director of the Executive Office for the United States Trustees in the provisions of such contract, collect reasonable fees from assets of the estate of the debtor in bankruptcy for providing notices and services to the court and trustees under the demonstration project.

“(2) Access to information maintained in electronic case files pursuant to the demonstration project may be provided to persons other than those specified in subsection (f), but such access shall be limited to viewing such information only. A reasonable charge for such access may be collected by the entity which is awarded a contract under this section, in accordance with the guidelines established by the Director of the Executive Office for the United States Trustees in such contract. A reasonable portion of any charge so collected may be required by the Director to be remitted to the Executive Office for United States Trustees and deposited in the United States Trustee System Fund established in section 589a of title 28, United States Code.

“(h) SECURITY.—Access provided under subsection (f) to an entity or an individual shall be subject to such security limitations as may be imposed by the Congress or the head of the affected entity.

“SEC. 311. CASES PENDING UNDER THE BANKRUPTCY ACT.

“At the end of one calendar year following the date the amendments made by subtitle A of title II of this Act [ §§201 to 231 of Pub. L. 99-554, see Tables for classification] take effect in a district in which any case is still pending under the Bankruptcy Act [see 11 U.S.C. notes prec. 101], the district court shall withdraw the reference of any such case and, after notice and a hearing, determine the status of the case. Such case shall be remanded to the bankruptcy judge with such instructions as are necessary for the prompt closing of the case and with a requirement that a progress report on the case be provided by the bankruptcy judge after such interval as the district court deems appropriate.”

#### EFFECTIVE DATE

Chapter effective Oct. 1, 1979, see section 402(c) of Pub. L. 95-598, set out as a note preceding section 101 of Title 11, Bankruptcy.

#### SHORT TITLE OF 1986 AMENDMENT

Section 1 of Pub. L. 99-554 provided: “That this Act [enacting section 589a of this title and section 307 and chapter 12 of Title 11, Bankruptcy, amending this section, sections 49, 96, 152, 156, 157, 526, 582, 584 to 587, 604, 1334, and 1930 of this title, sections 101 to 103, 105, 108, 109, 303, 321, 322, 324, 326, 327, 329, 330, 341, 343, 345 to 348, 362 to 365, 502, 503, 521 to 524, 546 to 549, 554, 557, 701, 703 to 707, 724, 726 to 728, 743, 1102, 1104 to 1106, 1112, 1121, 1129, 1163, 1202, 1302, 1306, 1307, and 1324 to 1326 of Title 11, Bankruptcy Form No. 1, set out in the Appendix to Title 11, repealing chapters 11 and 12 of Title 11, enacting provisions set out as notes under this section and section 589 of this title, amending provisions set out as notes preceding this section and under section 152 of this title, and repealing provisions set out as a note preceding this section] may be cited as the ‘Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986.’”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 585 of this title.

### § 582. Assistant United States trustees

(a) The Attorney General may appoint one or more assistant United States trustees in any region when the public interest so requires.

(b) Each assistant United States trustee is subject to removal by the Attorney General.

(Added Pub. L. 95-598, title II, §224(a), Nov. 6, 1978, 92 Stat. 2663; amended Pub. L. 99-554, title I, §111(d), Oct. 27, 1986, 100 Stat. 3091.)

## CODIFICATION

Section 408(c) of Pub. L. 95-598, as amended, which provided for the repeal of this section and the deletion of any references to United States Trustees in this title at a prospective date, was repealed by section 307(b) of Pub. L. 99-554. See note set out preceding section 581 of this title.

## AMENDMENTS

1986—Subsec. (a). Pub. L. 99-554, §111(d)(1), substituted “region” for “district”.

Subsec. (b). Pub. L. 99-554, §111(d)(2), struck out “for cause” after “removal”.

## EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-554 effective 30 days after Oct. 27, 1986, see section 302(a) of Pub. L. 99-554, set out as a note under section 581 of this title.

## APPOINTMENT OF UNITED STATES TRUSTEES BY ATTORNEY GENERAL

For sense of Congress concerning consideration of estate administrators under title 11 by the Attorney General for appointment under this section as U.S. trustee and assistant U.S. trustee, see section 309 of Pub. L. 99-554, set out as a note under section 581 of this title.

**§ 583. Oath of office**

Each United States trustee and assistant United States trustee, before taking office, shall take an oath to execute faithfully his duties.

(Added Pub. L. 95-598, title II, §224(a), Nov. 6, 1978, 92 Stat. 2663.)

## CODIFICATION

Section 408(c) of Pub. L. 95-598, as amended, which provided for the repeal of this section and the deletion of any references to United States Trustees in this title at a prospective date, was repealed by section 307(b) of Pub. L. 99-554. See note set out preceding section 581 of this title.

**§ 584. Official stations**

The Attorney General may determine the official stations of the United States trustees and assistant United States trustees within the regions for which they were appointed.

(Added Pub. L. 95-598, title II, §224(a), Nov. 6, 1978, 92 Stat. 2663; amended Pub. L. 99-554, title I, §144(d), Oct. 27, 1986, 100 Stat. 3096.)

## CODIFICATION

Section 408(c) of Pub. L. 95-598, as amended, which provided for the repeal of this section and the deletion of any references to United States Trustees in this title at a prospective date, was repealed by section 307(b) of Pub. L. 99-554. See note set out preceding section 581 of this title.

## AMENDMENTS

1986—Pub. L. 99-554 substituted “regions” for “districts”.

## EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-554 effective 30 days after Oct. 27, 1986, see section 302(a) of Pub. L. 99-554, set out as a note under section 581 of this title.

**§ 585. Vacancies**

(a) The Attorney General may appoint an acting United States trustee for a region in which the office of the United States trustee is vacant. The individual so appointed may serve until the

date on which the vacancy is filled by appointment under section 581 of this title or by designation under subsection (b) of this section.

(b) The Attorney General may designate a United States trustee to serve in not more than two regions for such time as the public interest requires.

(Added Pub. L. 95-598, title II, §224(a), Nov. 6, 1978, 92 Stat. 2663; amended Pub. L. 99-554, title I, §112, Oct. 27, 1986, 100 Stat. 3091.)

## CODIFICATION

Section 408(c) of Pub. L. 95-598, as amended, which provided for the repeal of this section and the deletion of any references to United States Trustees in this title at a prospective date, was repealed by section 307(b) of Pub. L. 99-554. See note set out preceding section 581 of this title.

## AMENDMENTS

1986—Pub. L. 99-554 amended section generally. Prior to amendment, section read as follows: “The Attorney General may appoint an acting United States trustee for a district in which the office of United States trustee is vacant, or may designate a United States trustee for another judicial district to serve as trustee for the district in which such vacancy exists. The individual so appointed or designated may serve until the earlier of 90 days after such appointment or designation, as the case may be, or the date on which the vacancy is filled by appointment under section 581 of this title.”

## EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-554 effective 30 days after Oct. 27, 1986, see section 302(a) of Pub. L. 99-554, set out as a note under section 581 of this title.

**§ 586. Duties; supervision by Attorney General**

(a) Each United States trustee, within the region for which such United States trustee is appointed, shall—

(1) establish, maintain, and supervise a panel of private trustees that are eligible and available to serve as trustees in cases under chapter 7 of title 11;

(2) serve as and perform the duties of a trustee in a case under title 11 when required under title 11 to serve as trustee in such a case;

(3) supervise the administration of cases and trustees in cases under chapter 7, 11, 12, or 13 of title 11 by, whenever the United States trustee considers it to be appropriate—

(A)(i) reviewing, in accordance with procedural guidelines adopted by the Executive Office of the United States Trustee (which guidelines shall be applied uniformly by the United States trustee except when circumstances warrant different treatment), applications filed for compensation and reimbursement under section 330 of title 11; and  
(ii) filing with the court comments with respect to such application and, if the United States Trustee considers it to be appropriate, objections to such application.<sup>1</sup>

(B) monitoring plans and disclosure statements filed in cases under chapter 11 of title 11 and filing with the court, in connection with hearings under sections 1125 and 1128 of such title, comments with respect to such plans and disclosure statements;

<sup>1</sup> So in original. The period probably should be a semicolon.

(C) monitoring plans filed under chapters 12 and 13 of title 11 and filing with the court, in connection with hearings under sections 1224, 1229, 1324, and 1329 of such title, comments with respect to such plans;

(D) taking such action as the United States trustee deems to be appropriate to ensure that all reports, schedules, and fees required to be filed under title 11 and this title by the debtor are properly and timely filed;

(E) monitoring creditors' committees appointed under title 11;

(F) notifying the appropriate United States attorney of matters which relate to the occurrence of any action which may constitute a crime under the laws of the United States and, on the request of the United States attorney, assisting the United States attorney in carrying out prosecutions based on such action;

(G) monitoring the progress of cases under title 11 and taking such actions as the United States trustee deems to be appropriate to prevent undue delay in such progress; and

(H) monitoring applications filed under section 327 of title 11 and, whenever the United States trustee deems it to be appropriate, filing with the court comments with respect to the approval of such applications;

(4) deposit or invest under section 345 of title 11 money received as trustee in cases under title 11;

(5) perform the duties prescribed for the United States trustee under title 11 and this title, and such duties consistent with title 11 and this title as the Attorney General may prescribe; and

(6) make such reports as the Attorney General directs.

(b) If the number of cases under chapter 12 or 13 of title 11 commenced in a particular region so warrants, the United States trustee for such region may, subject to the approval of the Attorney General, appoint one or more individuals to serve as standing trustee, or designate one or more assistant United States trustees to serve in cases under such chapter. The United States trustee for such region shall supervise any such individual appointed as standing trustee in the performance of the duties of standing trustee.

(c) Each United States trustee shall be under the general supervision of the Attorney General, who shall provide general coordination and assistance to the United States trustees.

(d) The Attorney General shall prescribe by rule qualifications for membership on the panels established by United States trustees under paragraph (a)(1) of this section, and qualifications for appointment under subsection (b) of this section to serve as standing trustee in cases under chapter 12 or 13 of title 11. The Attorney General may not require that an individual be an attorney in order to qualify for appointment under subsection (b) of this section to serve as standing trustee in cases under chapter 12 or 13 of title 11.

(e)(1) The Attorney General, after consultation with a United States trustee that has ap-

pointed an individual under subsection (b) of this section to serve as standing trustee in cases under chapter 12 or 13 of title 11, shall fix—

(A) a maximum annual compensation for such individual consisting of—

(i) an amount not to exceed the highest annual rate of basic pay in effect for level V of the Executive Schedule; and

(ii) the cash value of employment benefits comparable to the employment benefits provided by the United States to individuals who are employed by the United States at the same rate of basic pay to perform similar services during the same period of time; and

(B) a percentage fee not to exceed—

(i) in the case of a debtor who is not a family farmer, ten percent; or

(ii) in the case of a debtor who is a family farmer, the sum of—

(I) not to exceed ten percent of the payments made under the plan of such debtor, with respect to payments in an aggregate amount not to exceed \$450,000; and

(II) three percent of payments made under the plan of such debtor, with respect to payments made after the aggregate amount of payments made under the plan exceeds \$450,000;

based on such maximum annual compensation and the actual, necessary expenses incurred by such individual as standing trustee.

(2) Such individual shall collect such percentage fee from all payments received by such individual under plans in the cases under chapter 12 or 13 of title 11 for which such individual serves as standing trustee. Such individual shall pay to the United States trustee, and the United States trustee shall deposit in the United States Trustee System Fund—

(A) any amount by which the actual compensation of such individual exceeds 5 per centum upon all payments received under plans in cases under chapter 12 or 13 of title 11 for which such individual serves as standing trustee; and

(B) any amount by which the percentage for all such cases exceeds—

(i) such individual's actual compensation for such cases, as adjusted under subparagraph (A) of paragraph (1); plus

(ii) the actual, necessary expenses incurred by such individual as standing trustee in such cases. Subject to the approval of the Attorney General, any or all of the interest earned from the deposit of payments under plans by such individual may be utilized to pay actual, necessary expenses without regard to the percentage limitation contained in subparagraph (d)(1)(B) of this section.

(Added Pub. L. 95-598, title II, §224(a), Nov. 6, 1978, 92 Stat. 2663; amended Pub. L. 99-554, title I, §113, Oct. 27, 1986, 100 Stat. 3091; Pub. L. 101-509, title V, §529 [title I, §110(a)], Nov. 5, 1990, 104 Stat. 1427, 1452; Pub. L. 103-394, title II, §224(a), title V, §502, Oct. 22, 1994, 108 Stat. 4130, 4147.)

## REFERENCES IN TEXT

Level V of the Executive Schedule, referred to in subsec. (e)(1)(A)(i), is set out in section 5316 of Title 5, Government Organization and Employees.

## CODIFICATION

Section 408(c) of Pub. L. 95-598, as amended, which provided for the repeal of this section and the deletion of any references to United States Trustees in this title at a prospective date, was repealed by section 307(b) of Pub. L. 99-554. See note set out preceding section 581 of this title.

## AMENDMENTS

1994—Subsec. (a)(3). Pub. L. 103-394 inserted “12,” after “11,” in introductory provisions and amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “monitoring applications for compensation and reimbursement filed under section 330 of title 11 and, whenever the United States trustee deems it to be appropriate, filing with the court comments with respect to any of such applications;”.

1990—Subsec. (e)(1)(A). Pub. L. 101-509 amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “a maximum annual compensation for such individual, not to exceed the annual rate of basic pay in effect for step 1 of grade GS-16 of the General Schedule prescribed under section 5332 of title 5; and”.

1986—Subsec. (a). Pub. L. 99-554, §113(a)(1), substituted “the region for which such United States trustee is appointed” for “his district” in introductory text.

Subsec. (a)(3). Pub. L. 99-554, §113(a)(2), substituted “title 11 by, whenever the United States trustee considers it to be appropriate—” for “title 11;” and added subpars. (A) to (H).

Subsec. (a)(5). Pub. L. 99-554, §113(a)(3), inserted “and this title, and such duties consistent with title 11 and this title as the Attorney General may prescribe” after “title 11”.

Subsec. (b). Pub. L. 99-554, §113(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “If the number of cases under chapter 13 of title 11 commenced in a particular judicial district so warrant, the United States trustee for such district may, subject to the approval of the Attorney General, appoint one or more individuals to serve as standing trustee, or designate one or more assistant United States trustee, in cases under such chapter. The United States trustee for such district shall supervise any such individual appointed as standing trustee in the performance of the duties of standing trustee.”

Subsec. (d). Pub. L. 99-554, §113(c), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: “The Attorney General shall prescribe by rule qualifications for membership on the panels established by United States trustees under subsection (a)(1) of this section, and qualifications for appointment under subsection (b) of this section to serve as standing trustee in cases under chapter 13 of title 11. The Attorney General may not require that an individual be an attorney in order to qualify for appointment under subsection (b) of this section to serve as standing trustee in cases under chapter 13 of title 11.”

Subsec. (e). Pub. L. 99-554, §113(c), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows:

“(1) The Attorney General, after consultation with a United States trustee that has appointed an individual under subsection (b) of this section to serve as standing trustee in cases under chapter 13 of title 11, shall fix—

“(A) a maximum annual compensation for such individual, not to exceed the lowest annual rate of basic pay in effect for grade GS-16 of the General Schedule prescribed under section 5332 of title 5; and

“(B) a percentage fee, not to exceed ten percent, based on such maximum annual compensation and the actual, necessary expenses incurred by such individual as standing trustee.

“(2) Such individual shall collect such percentage fee from all payments under plans in the cases under chapter 13 of title 11 for which such individual serves as standing trustee. Such individual shall pay to the United States trustee, and the United States trustee shall pay to the Treasury—

“(A) any amount by which the actual compensation of such individual exceeds five percent upon all payments under plans in cases under chapter 13 of title 11 for which such individual serves as standing trustee; and

“(B) any amount by which the percentage for all such cases exceeds—

“(i) such individual actual compensation for such cases, as adjusted under subparagraph (A) of this paragraph; plus

“(ii) the actual, necessary expenses incurred by such individual as standing trustee in such cases.”

## EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-394 effective Oct. 22, 1994, and not applicable with respect to cases commenced under Title 11, Bankruptcy, before Oct. 22, 1994, see section 702 of Pub. L. 103-394, set out as a note under section 101 of Title 11.

## EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, §305] of Pub. L. 101-509, set out as a note under section 5301 of Title 5, Government Organization and Employees.

## EFFECTIVE DATE OF 1986 AMENDMENT

Effective date and applicability of amendment by Pub. L. 99-554 dependent upon the judicial district involved, see section 302(d), (e) of Pub. L. 99-554, set out as a note under section 581 of this title.

## APPLICATION TO ALL STANDING TRUSTEES

Section 529 [title I, §110(b)] of Pub. L. 101-509 provided that: “The amendment made by subsection (a) [amending this section] shall apply to any trustee to whom the provisions of section 302(d)(3) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Public Law 99-54 [Pub. L. 99-554]; 100 Stat. 3121) [set out in an Effective Date of 1986 Amendment note under section 581 of this title] apply.”

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 11 sections 326, 589a, 701, 703, 1202, 1302, 1326.

**§ 587. Salaries**

Subject to sections 5315 through 5317 of title 5, the Attorney General shall fix the annual salaries of United States trustees and assistant United States trustees at rates of compensation not in excess of the rate of basic compensation provided for Executive Level IV of the Executive Schedule set forth in section 5315 of title 5, United States Code.

(Added Pub. L. 95-598, title II, §224(a), Nov. 6, 1978, 92 Stat. 2664; amended Pub. L. 99-554, title I, §114(a), Oct. 27, 1986, 100 Stat. 3093.)

## CODIFICATION

Section 408(c) of Pub. L. 95-598, as amended, which provided for the repeal of this section and the deletion of any references to United States Trustees in this title at a prospective date, was repealed by section 307(b) of Pub. L. 99-554. See note set out preceding section 581 of this title.

## AMENDMENTS

1986—Pub. L. 99-554 amended section generally. Prior to amendment, section read as follows: “The Attorney

General shall fix the annual salaries of United States trustees and assistant United States trustees at rates of compensation not to exceed the lowest annual rate of basic pay in effect for grade GS-16 of the General Schedule prescribed under section 5332 of title 5.”

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-554 effective 30 days after Oct. 27, 1986, see section 302(a) of Pub. L. 99-554, set out as a note under section 581 of this title.

#### § 588. Expenses

Necessary office expenses of the United States trustee shall be allowed when authorized by the Attorney General.

(Added Pub. L. 95-598, title II, § 224(a), Nov. 6, 1978, 92 Stat. 2664.)

#### CODIFICATION

Section 408(c) of Pub. L. 95-598, as amended, which provided for the repeal of this section and the deletion of any references to United States Trustees in this title at a prospective date, was repealed by section 307(b) of Pub. L. 99-554. See note set out preceding section 581 of this title.

#### § 589. Staff and other employees

The United States trustee may employ staff and other employees on approval of the Attorney General.

(Added Pub. L. 95-598, title II, § 224(a), Nov. 6, 1978, 92 Stat. 2664.)

#### CODIFICATION

Section 408(c) of Pub. L. 95-598, as amended, which provided for the repeal of this section and the deletion of any references to United States Trustees in this title at a prospective date, was repealed by section 307(b) of Pub. L. 99-554. See note set out preceding section 581 of this title.

#### TEMPORARY SUSPENSION OF LIMITATION ON APPOINTMENTS

Pub. L. 99-554, title I, § 114(b), Oct. 27, 1986, 100 Stat. 3093, provided that: “During the period beginning on the effective date of this Act [see section 302 of Pub. L. 99-554, set out as an Effective Date note under section 581 of this title] and ending on October 1, 1989, the provisions of title 5 of the United States Code governing appointments in the competitive service shall not apply with respect to appointments under section 589 of title 28, United States Code.”

#### § 589a. United States Trustee System Fund

(a) There is hereby established in the Treasury of the United States a special fund to be known as the “United States Trustee System Fund” (hereinafter in this section referred to as the “Fund”). Monies in the Fund shall be available to the Attorney General without fiscal year limitation in such amounts as may be specified in appropriations Acts for the following purposes in connection with the operations of United States trustees—

- (1) salaries and related employee benefits;
- (2) travel and transportation;
- (3) rental of space;
- (4) communication, utilities, and miscellaneous computer charges;
- (5) security investigations and audits;
- (6) supplies, books, and other materials for legal research;

- (7) furniture and equipment;
- (8) miscellaneous services, including those obtained by contract; and
- (9) printing.

(b) For the purpose of recovering the cost of services of the United States Trustee System, there shall be deposited as offsetting collections to the appropriation “United States Trustee System Fund”, to remain available until expended, the following—

- (1) 23.08 percent of the fees collected under section 1930(a)(1) of this title;
- (2) one-half of the fees collected under section 1930(a)(3) of this title;
- (3) one-half of the fees collected under section 1930(a)(4) of this title;
- (4) one-half of the fees collected under section 1930(a)(5) of this title;
- (5) 100 percent of the fees collected under section 1930(a)(6) of this title;
- (6) three-fourths of the fees collected under the last sentence of section 1930(a) of this title;
- (7) the compensation of trustees received under section 330(d) of title 11 by the clerks of the bankruptcy courts; and
- (8) excess fees collected under section 586(e)(2) of this title.

(c) Amounts in the Fund which are not currently needed for the purposes specified in subsection (a) shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

(d) The Attorney General shall transmit to the Congress, not later than 120 days after the end of each fiscal year, a detailed report on the amounts deposited in the Fund and a description of expenditures made under this section.

(e) There are authorized to be appropriated to the Fund for any fiscal year such sums as may be necessary to supplement amounts deposited under subsection (b) for the purposes specified in subsection (a).

(Added Pub. L. 99-554, title I, § 115(a), Oct. 27, 1986, 100 Stat. 3094; amended Pub. L. 101-162, title IV, § 406(c), Nov. 21, 1989, 103 Stat. 1016; Pub. L. 102-140, title I, § 111(b), (c), Oct. 28, 1991, 105 Stat. 795; Pub. L. 103-121, title I, § 111(a)(2), (b)(2), (3), Oct. 27, 1993, 107 Stat. 1164; Pub. L. 104-91, title I, § 101(a), Jan. 6, 1996, 110 Stat. 11, amended Pub. L. 104-99, title II, § 211, Jan. 26, 1996, 110 Stat. 37; Pub. L. 104-208, div. A, title I, § 101(a) [title I, § 109(b)], Sept. 30, 1996, 110 Stat. 3009, 3009-18.)

#### CODIFICATION

Amendment by Pub. L. 104-91 is based on section 111(b) and (c) of H.R. 2076, One Hundred Fourth Congress, as passed by the House of Representatives on Dec. 6, 1995, which was enacted into law by Pub. L. 104-91.

#### AMENDMENTS

1996—Pub. L. 104-208 reenacted section catchline without change and amended text generally, revising and restating as subsecs. (a) to (e) provisions of former subsecs. (a) to (f).

Subsec. (b)(5). Pub. L. 104-91, as amended by Pub. L. 104-99, inserted “until a reorganization plan is confirmed” before semicolon.

Subsec. (f)(2). Pub. L. 104-91, as amended by Pub. L. 104-99, substituted “until a reorganization plan is confirmed;” for period at end.

Subsec. (f)(3). Pub. L. 104-91, as amended by Pub. L. 104-99, added par. (3).

1993—Subsec. (b)(1). Pub. L. 103-121, §111(a)(2), substituted “23.08 per centum” for “one-fourth”.

Subsec. (b)(2). Pub. L. 103-121, §111(b)(2), substituted “37.5 per centum” for “50 per centum”.

Subsec. (f)(1). Pub. L. 103-121, §111(b)(3), substituted “12.5 per centum” for “16.7 per centum”.

1991—Subsec. (b)(2). Pub. L. 102-140, §111(b)(1), substituted “50 per centum” for “three-fifths”.

Subsec. (b)(5). Pub. L. 102-140, §111(b)(2), substituted “60 per centum” for “all”.

Subsec. (f). Pub. L. 102-140, §111(c), added subsec. (f).  
1989—Subsec. (b)(1). Pub. L. 101-162 substituted “one-fourth” for “one-third”.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Section 101(a) [title I, §109(c)] of Pub. L. 104-208 provided that: “Notwithstanding any other provision of law or of this Act, the amendments to 28 U.S.C. 589a made by subsection (b) of this section shall take effect upon enactment of this Act [Sept. 30, 1996].”

#### EFFECTIVE DATE OF 1993 AMENDMENT

Section 111(a) of Pub. L. 103-121 provided in part that the amendment made by that section is effective 30 days after Oct. 27, 1993.

Section 111(b) of Pub. L. 103-121 provided in part that the amendment made by that section is effective 30 days after Oct. 27, 1993.

#### EFFECTIVE DATE OF 1991 AMENDMENT

Section 111 of Pub. L. 102-140 provided that the amendment made by that section is effective 60 days after Oct. 28, 1991.

#### EFFECTIVE DATE

Section effective 30 days after Oct. 27, 1986, see section 302(a) of Pub. L. 99-554, set out as a note under section 581 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 11 section 330.

### CHAPTER 40—INDEPENDENT COUNSEL

Sec.	
591.	Applicability of provisions of this chapter.
592.	Preliminary investigation and application for appointment of an independent counsel.
593.	Duties of the division of the court.
594.	Authority and duties of an independent counsel.
595.	Congressional oversight.
596.	Removal of an independent counsel; termination of office.
597.	Relationship with Department of Justice.
598.	Severability.
599.	Termination of effect of chapter.

#### AMENDMENTS

1987—Pub. L. 100-191, §2, Dec. 15, 1987, 101 Stat. 1293, amended chapter 40 heading and analysis generally, substituting items 591 to 599 for former items 591 to 598.

1986—Pub. L. 99-554, title I, §144(g)(1), Oct. 27, 1986, 100 Stat. 3097, substituted “40” for “39” as chapter designation.

1983—Pub. L. 97-409, §2(a)(1)(A), Jan. 3, 1983, 96 Stat. 2039, substituted “independent counsel” for “special prosecutor” in chapter heading and in items 592, 594, and 596.

#### CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 49 of this title; title 18 section 202.

### § 591. Applicability of provisions of this chapter

(a) PRELIMINARY INVESTIGATION WITH RESPECT TO CERTAIN COVERED PERSONS.—The Attorney

General shall conduct a preliminary investigation in accordance with section 592 whenever the Attorney General receives information sufficient to constitute grounds to investigate whether any person described in subsection (b) may have violated any Federal criminal law other than a violation classified as a Class B or C misdemeanor or an infraction.

(b) PERSONS TO WHOM SUBSECTION (a) APPLIES.—The persons referred to in subsection (a) are—

- (1) the President and Vice President;
- (2) any individual serving in a position listed in section 5312 of title 5;
- (3) any individual working in the Executive Office of the President who is compensated at a rate of pay at or above level II of the Executive Schedule under section 5313 of title 5;
- (4) any Assistant Attorney General and any individual working in the Department of Justice who is compensated at a rate of pay at or above level III of the Executive Schedule under section 5314 of title 5;
- (5) the Director of Central Intelligence, the Deputy Director of Central Intelligence, and the Commissioner of Internal Revenue;
- (6) the chairman and treasurer of the principal national campaign committee seeking the election or reelection of the President, and any officer of that committee exercising authority at the national level, during the incumbency of the President; and
- (7) any individual who held an office or position described in paragraph (1), (2), (3), (4), or (5) for 1 year after leaving the office or position.

(c) PRELIMINARY INVESTIGATION WITH RESPECT TO OTHER PERSONS.—

(1) IN GENERAL.—When the Attorney General determines that an investigation or prosecution of a person by the Department of Justice may result in a personal, financial, or political conflict of interest, the Attorney General may conduct a preliminary investigation of such person in accordance with section 592 if the Attorney General receives information sufficient to constitute grounds to investigate whether that person may have violated Federal criminal law other than a violation classified as a Class B or C misdemeanor or an infraction.

(2) MEMBERS OF CONGRESS.—When the Attorney General determines that it would be in the public interest, the Attorney General may conduct a preliminary investigation in accordance with section 592 if the Attorney General receives information sufficient to constitute grounds to investigate whether a Member of Congress may have violated any Federal criminal law other than a violation classified as a Class B or C misdemeanor or an infraction.

(d) EXAMINATION OF INFORMATION TO DETERMINE NEED FOR PRELIMINARY INVESTIGATION.—

(1) FACTORS TO BE CONSIDERED.—In determining under subsection (a) or (c) (or section 592(c)(2)) whether grounds to investigate exist, the Attorney General shall consider only—

- (A) the specificity of the information received; and

(B) the credibility of the source of the information.

(2) TIME PERIOD FOR MAKING DETERMINATION.—The Attorney General shall determine whether grounds to investigate exist not later than 30 days after the information is first received. If within that 30-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 30-day period the Attorney General determines that the information is specific and from a credible source, the Attorney General shall, upon making that determination, commence a preliminary investigation with respect to that information. If the Attorney General is unable to determine, within that 30-day period, whether the information is specific and from a credible source, the Attorney General shall, at the end of that 30-day period, commence a preliminary investigation with respect to that information.

(e) RECUSAL OF ATTORNEY GENERAL.—

(1) WHEN RECUSAL IS REQUIRED.—(A) If information received under this chapter involves the Attorney General, the next most senior official in the Department of Justice who is not also recused shall perform the duties assigned under this chapter to the Attorney General.

(B) If information received under this chapter involves a person with whom the Attorney General has a personal or financial relationship, the Attorney General shall recuse himself or herself by designating the next most senior official in the Department of Justice who is not also recused to perform the duties assigned under this chapter to the Attorney General.

(2) REQUIREMENTS FOR RECUSAL DETERMINATION.—Before personally making any other determination under this chapter with respect to information received under this chapter, the Attorney General shall determine under paragraph (1)(B) whether recusal is necessary. The Attorney General shall set forth this determination in writing, identify the facts considered by the Attorney General, and set forth the reasons for the recusal. The Attorney General shall file this determination with any notification or application submitted to the division of the court under this chapter with respect to such information.

(Added Pub. L. 95-521, title VI, §601(a), Oct. 26, 1978, 92 Stat. 1867; amended Pub. L. 97-409, §§3, 4(a), Jan. 3, 1983, 96 Stat. 2039, 2040; Pub. L. 98-473, title II, §228(b), Oct. 12, 1984, 98 Stat. 2030; Pub. L. 100-191, §2, Dec. 15, 1987, 101 Stat. 1293; Pub. L. 103-270, §§3(j), (k), 4, June 30, 1994, 108 Stat. 735, 736.)

#### AMENDMENTS

1994—Subsec. (b)(6) to (8). Pub. L. 103-270, §4(b), redesignated par. (8) as (6) and substituted “; and” for the period at end, added par. (7), and struck out former pars. (6) and (7) which read as follows:

“(6) any individual who leaves any office or position described in any of paragraphs (1) through (5) of this subsection, during the incumbency of the President under whom such individual served in the office or position plus one year after such incumbency, but in no event longer than a period of three years after the individual leaves the office or position;

“(7) any individual who held an office or position described in any of paragraphs (1) through (5) of this subsection during the incumbency of one President and who continued to hold the office or position for not more than 90 days into the term of the next President, during the 1-year period after the individual leaves the office or position; and”.

Subsec. (c). Pub. L. 103-270, §4(a), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “PRELIMINARY INVESTIGATION WITH RESPECT TO PERSONS NOT LISTED IN SUBSECTION (b).—The Attorney General may conduct a preliminary investigation in accordance with section 592 if—

“(1) the Attorney General receives information sufficient to constitute grounds to investigate whether any person other than a person described in subsection (b) may have violated any Federal criminal law other than a violation classified as a Class B or C misdemeanor or an infraction; and

“(2) the Attorney General determines that an investigation or prosecution of the person, with respect to the information received, by the Attorney General or other officer of the Department of Justice may result in a personal, financial, or political conflict of interest.”

Subsec. (d)(2). Pub. L. 103-270, §3(j), substituted “30” for “15” wherever appearing.

Subsec. (e). Pub. L. 103-270, §3(k), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: “(e) RECUSAL OF ATTORNEY GENERAL.—

“(1) WHEN RECUSAL IS REQUIRED.—If information received under this chapter involves the Attorney General or a person with whom the Attorney General has a current or recent personal or financial relationship, the Attorney General shall recuse himself or herself by designating the next most senior officer in the Department of Justice whom that information does not involve and who does not have a current or recent personal or financial relationship with such person to perform the duties assigned under this chapter to the Attorney General with respect to that information.

“(2) REQUIREMENTS FOR RECUSAL DETERMINATION.—The Attorney General shall, before personally making any other determination under this chapter with respect to information received under this chapter, determine under paragraph (1) whether to recuse himself or herself with respect to that information. A determination to recuse shall be in writing, shall identify the facts considered by the Attorney General, and shall set forth the reasons for the recusal. The Attorney General shall file this determination with any notification or application submitted to the division of the court under this chapter with respect to the information involved.”

1987—Pub. L. 100-191 amended section generally, substituting subsecs. (a) to (e) relating to applicability of chapter for former subsecs. (a) to (c) relating to similar subject.

1984—Subsec. (a). Pub. L. 98-473 substituted “Class B or C misdemeanor or an infraction” for “petty offense”.

1983—Subsec. (a). Pub. L. 97-409, §4(a)(1), substituted “information sufficient to constitute grounds to investigate” for “specific information” after “the Attorney General receives”.

Subsec. (b)(3). Pub. L. 97-409, §3, substituted “who is compensated at or above a rate equivalent to level II” for “and compensated at a rate not less than the annual rate of basic pay provided for level IV”.

Subsec. (b)(4), (5). Pub. L. 97-409, §3, redesignated as par. (5) “the Director of Central Intelligence” and all that followed through end of par. (4). Former par. (5) redesignated (6).

Subsec. (b)(6). Pub. L. 97-409, §3, redesignated former par. (5) as (6) and substituted “through (5) of this subsection during the period consisting of the incumbency of the President such individual serves plus one year after such incumbency, but in no event longer than two years after the individual leaves office;” for “through (4) of this subsection during the incumbency of the

President or during the period the last preceding President held office, if such preceding President was of the same political party as the incumbent President; and". Former par. (6) redesignated (8).

Subsec. (b)(7). Pub. L. 97-409, §3, added par. (7).

Subsec. (b)(8). Pub. L. 97-409, §3, redesignated former par. (6) as (8) and substituted "the chairman and treasurer of the principal national campaign committee seeking the election or reelection of the President, and any officer of the campaign exercising authority at the national level, such as the campaign manager or director, during the incumbency of the President" for "any officer of the principal national campaign committee seeking the election or reelection of the President".

Subsec. (c). Pub. L. 97-409, §4(a)(2), added subsec. (c).

#### EFFECTIVE DATE OF 1994 AMENDMENT; TRANSITION PROVISIONS

Section 7 of Pub. L. 103-270 provided that:

"(a) IN GENERAL.—Except as provided in this section, the amendments made by this Act [amending this section and sections 592 to 596 and 599 of this title] shall apply with respect to independent counsels appointed before, on, or after the date of enactment of this Act [June 30, 1994].

"(b) ASSIGNMENT OF EMPLOYEE TO CERTIFY EXPENDITURES.—An independent counsel appointed prior to the date of enactment of this Act shall assign to an employee the duty of certifying expenditures, as required by section 594(l) of title 28, United States Code, as added by section 3(a), by the date that is 30 days after the date of enactment of this Act.

"(c) OFFICE SPACE.—The Administrator of General Services, in applying section 594(l)(3) of title 28, United States Code, as added by section 3(a), to determine whether the office of an independent counsel appointed prior to the date of enactment of this Act should be moved to a Federal building, shall take into account the moving, legal, and other expenses that might arise if the office were moved.

"(d) TRAVEL AND SUBSISTENCE EXPENSES.—For purposes of the restrictions on reimbursement of travel and subsistence expenses of an independent counsel and employees of an office of independent counsel contained in paragraph (3) of section 594(b) of title 28, United States Code, as amended by section 3(b), as applied to the office of an independent counsel appointed before the date of enactment of this Act, the 1-year service period shall begin on the date of enactment of this Act.

"(e) RATES OF COMPENSATION.—The limitation on rates of compensation of employees of an office of independent counsel contained in the last sentence of section 594(c) of title 28, United States Code, as amended by section 3(c), shall not be applied to cause a reduction in the rate of compensation of an employee appointed before the date of enactment of this Act.

"(f) PERIODIC REAPPOINTMENT.—The determinations by the division of the court contained in the last sentence of section 596(b)(2) of title 28, United States Code, as amended by section 3(h), shall, for the office of an independent counsel appointed before the date of enactment of this Act, be required no later than 1 year after the date of enactment of this Act and at the end of each succeeding 1-year period.

"(g) REPORTING REQUIREMENTS.—No amendment made by this Act that establishes or modifies a requirement that any person submit a report to any other person with respect to an activity occurring during any time period shall be construed to require that a report submitted prior to the date of enactment of this Act, with respect to that time period be supplemented to include information with respect to such activity.

"(h) REGULATORY INDEPENDENT COUNSEL.—Notwithstanding the restriction in section 593(b)(2) of title 28, United States Code, the division of the court described in section 49 of that title may appoint as an independent counsel any individual who, on the date of enactment of this Act, is serving as a regulatory independent counsel under parts 600 and 603 of title 28, Code of Fed-

eral Regulations. If such an individual is so appointed, such an independent counsel shall comply with chapter 40 of title 28, United States Code, as amended by this Act, in the same manner and to the same extent as an independent counsel appointed before the date of enactment of this Act is required to comply with that chapter, except that subsection (f) of this section shall not apply to such an independent counsel.

"(i) WHITE HOUSE PERSONNEL REPORT.—Section 6 [enacting provisions set out as a note under section 113 of Title 3, The President] shall take effect on January 1, 1995."

#### EFFECTIVE DATE OF 1987 AMENDMENT

Section 6 of Pub. L. 100-191 provided that:

"(a) IN GENERAL.—Subject to subsection (b), the amendments made by this Act [enacting section 599 of this title, amending this section, sections 49 and 592 to 598 of this title, sections 203 and 205 of Pub. L. 95-521 set out in the Appendix to Title 5, Government Organization and Employees, and section 202 of Title 18, Crimes and Criminal Procedure, enacting provisions set out as a note under section 1 of this title, and amending provisions set out below] take effect on the date of the enactment of this Act [Dec. 15, 1987].

"(b) PENDING PROCEEDINGS.—With respect to any proceeding under chapter 39 of title 28, United States Code (before the redesignation of such chapter as chapter 40 by section 144(g) of Public Law 99-554), or under chapter 40 of such title (after such redesignation), which is pending on the date of the enactment of this Act [Dec. 15, 1987], the following shall apply:

"(1) Except as provided in paragraphs (2) and (3), the provisions of chapter 40 of such title as in effect on the day before such date of enactment shall, in lieu of the amendments made by this Act, continue to apply on or after such date to such proceeding until such proceeding is terminated in accordance with such chapter.

"(2) The following provisions shall apply to such proceeding on or after such date of enactment:

"(A) Section 593(f) of title 28, United States Code, as amended by section 2 of this Act, relating to the award of attorneys' fees.

"(B) Section 594(d)(2) of such title, as added by section 2 of this Act, to the extent that such section 594(d)(2) relates to reports by the Attorney General on expenditures by independent counsel, except that the first such report shall be made only with respect to expenditures on or after the date of the enactment of this Act.

"(C) Section 594(h)(1)(A) of such title, as added by section 2 of this Act, relating to reports by independent counsel, except that the 6-month periods described in such section 594(h)(1)(A) shall be calculated from the date of the enactment of this Act.

"(D) Section 594(i) of such title, as added by section 2 of this Act, relating to the independence of the office of independent counsel for certain purposes.

"(E) Section 594(k) of such title, as added by section 2 of this Act, relating to custody of records of independent counsel.

"(F) Section 596(a)(3) of such title, as amended by section 2 of this Act, relating to judicial review of the removal of an independent counsel from office.

"(G) Section 596(c) of such title, as added by section 2 of this Act, relating to audits of expenditures of independent counsel.

"(H) The amendments made by section 3 of this Act [amending sections 203 and 205 of Pub. L. 95-521, set out in Appendix to Title 5, and section 202 of Title 18], relating to the status of independent counsel and their appointees as special government employees and to their financial disclosure requirements.

"(3) Section 594(j) of title 28, United States Code, as added by section 2 of this Act, relating to certain standards of conduct shall, 90 days after the date of the enactment of this Act, apply to a pending proceeding described in this subsection."

## EFFECTIVE DATE OF 1984 AMENDMENT

Section 235(a)(1)(B)(ii)(IV) of Pub. L. 98-473 provided that the amendment made by Pub. L. 98-473 is effective Oct. 12, 1984.

## EFFECTIVE DATE

Section 604 of Pub. L. 95-521 provided that: "Except as provided in this section, the amendments made by this title [enacting this chapter and sections 49, 528, and 529 of this title] shall take effect on the date of the enactment of this Act [Oct. 26, 1978]. The provisions of chapter 39 of title 28 of the United States Code, as added by section 601 of this Act, shall not apply to specific information received by the Attorney General pursuant to section 591 of such title 28, if the Attorney General determines that—

"(1) such specific information is directly related to a prosecution pending at the time such specific information is received by the Attorney General;

"(2) such specific information is related to a matter which has been presented to a grand jury and is received by the Attorney General within one hundred and eighty days of the date of the enactment of this Act; or

"(3) such specific information is related to an investigation that is pending at the time such specific information is received by the Attorney General, and such specific information is received by the Attorney General within ninety days of the date of the enactment of this Act."

## PERMANENT APPROPRIATION FOR EXPENSES OF INDEPENDENT COUNSELS

Pub. L. 100-202, §101(a) [title II], Dec. 22, 1987, 101 Stat. 1329, 1329-9, provided: "That a permanent indefinite appropriation is established within the Department of Justice to pay all necessary expenses of investigations and prosecutions by independent counsel appointed pursuant to the provisions of 28 U.S.C. 591 et seq. or other law: *Provided further*, That the Comptroller General shall perform semiannual financial reviews of expenditures from the Independent Counsel permanent indefinite appropriation, and report their findings to the Committees on Appropriations of the House and Senate".

## CONTINGENCY FUND FOR INDEPENDENT COUNSELS

Section 601(c) of Pub. L. 95-521, as amended by Pub. L. 97-409, §2(c)(2), Jan. 3, 1983, 96 Stat. 2039; Pub. L. 100-191, §5(b), Dec. 15, 1987, 101 Stat. 1307, provided that: "There are authorized to be appropriated for each fiscal year such sums as may be necessary, to be held by the Department of Justice as a contingent fund for the use of any independent counsels appointed under chapter 40 (relating to independent counsels) of title 28 of the United States Code in the carrying out of functions under such chapter."

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 592, 593 of this title.

### § 592. Preliminary investigation and application for appointment of an independent counsel

#### (a) CONDUCT OF PRELIMINARY INVESTIGATION.—

(1) IN GENERAL.—A preliminary investigation conducted under this chapter shall be of such matters as the Attorney General considers appropriate in order to make a determination, under subsection (b) or (c), on whether further investigation is warranted, with respect to each potential violation, or allegation of a violation, of criminal law. The Attorney General shall make such determination not later than 90 days after the preliminary investigation is commenced, except that, in the case of a pre-

liminary investigation commenced after a congressional request under subsection (g), the Attorney General shall make such determination not later than 90 days after the request is received. The Attorney General shall promptly notify the division of the court specified in section 593(a) of the commencement of such preliminary investigation and the date of such commencement.

(2) LIMITED AUTHORITY OF ATTORNEY GENERAL.—(A) In conducting preliminary investigations under this chapter, the Attorney General shall have no authority to convene grand juries, plea bargain, grant immunity, or issue subpoenas.

(B)(i) The Attorney General shall not base a determination under this chapter that information with respect to a violation of criminal law by a person is not specific and from a credible source upon a determination that such person lacked the state of mind required for the violation of criminal law.

(ii) The Attorney General shall not base a determination under this chapter that there are no reasonable grounds to believe that further investigation is warranted, upon a determination that such person lacked the state of mind required for the violation of criminal law involved, unless there is clear and convincing evidence that the person lacked such state of mind.

(3) EXTENSION OF TIME FOR PRELIMINARY INVESTIGATION.—The Attorney General may apply to the division of the court for a single extension, for a period of not more than 60 days, of the 90-day period referred to in paragraph (1). The division of the court may, upon a showing of good cause, grant such extension.

(b) DETERMINATION THAT FURTHER INVESTIGATION NOT WARRANTED.—

(1) NOTIFICATION OF DIVISION OF THE COURT.—If the Attorney General, upon completion of a preliminary investigation under this chapter, determines 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 appoint an independent counsel with respect to the matters involved.

(2) FORM OF NOTIFICATION.—Such notification shall contain a summary of the information received and a summary of the results of the preliminary investigation.

(c) DETERMINATION THAT FURTHER INVESTIGATION IS WARRANTED.—

(1) APPLICATION FOR APPOINTMENT OF INDEPENDENT COUNSEL.—The Attorney General shall apply to the division of the court for the appointment of an independent counsel if—

(A) the Attorney General, upon completion of a preliminary investigation under this chapter, determines that there are reasonable grounds to believe that further investigation is warranted; or

(B) the 90-day period referred to in subsection (a)(1), and any extension granted under subsection (a)(3), have elapsed and the Attorney General has not filed a notification with the division of the court under subsection (b)(1).

In determining under this chapter whether reasonable grounds exist to warrant further investigation, the Attorney General shall comply with the written or other established policies of the Department of Justice with respect to the conduct of criminal investigations.

(2) RECEIPT OF ADDITIONAL INFORMATION.—If, after submitting a notification under subsection (b)(1), the Attorney General receives additional information sufficient to constitute grounds to investigate the matters to which such notification related, the Attorney General shall—

(A) conduct such additional preliminary investigation as the Attorney General considers appropriate for a period of not more than 90 days after the date on which such additional information is received; and

(B) otherwise comply with the provisions of this section with respect to such additional preliminary investigation to the same extent as any other preliminary investigation under this section.

(d) CONTENTS OF APPLICATION.—Any application for the appointment of an independent counsel under this chapter shall contain sufficient information to assist the division of the court in selecting an independent counsel and in defining that independent counsel's prosecutorial jurisdiction so that the independent counsel has adequate authority to fully investigate and prosecute the subject matter and all matters related to that subject matter.

(e) DISCLOSURE OF INFORMATION.—Except as otherwise provided in this chapter or as is deemed necessary for law enforcement purposes, no officer or employee of the Department of Justice or an office of independent counsel may, without leave of the division of the court, disclose to any individual outside the Department of Justice or such office any notification, application, or any other document, materials, or memorandum supplied to the division of the court under this chapter. Nothing in this chapter shall be construed as authorizing the withholding of information from the Congress.

(f) LIMITATION ON JUDICIAL REVIEW.—The Attorney General's determination under this chapter to apply to the division of the court for the appointment of an independent counsel shall not be reviewable in any court.

(g) CONGRESSIONAL REQUEST.—

(1) BY JUDICIARY COMMITTEE OR MEMBERS THEREOF.—The Committee on the Judiciary of either House of the Congress, or a majority of majority party members or a majority of all nonmajority party members of either such committee, may request in writing that the Attorney General apply for the appointment of an independent counsel.

(2) REPORT BY ATTORNEY GENERAL PURSUANT TO REQUEST.—Not later than 30 days after the receipt of a request under paragraph (1), the Attorney General shall submit, to the committee making the request, or to the committee on which the persons making the request serve, a report on whether the Attorney General has begun or will begin a preliminary investigation under this chapter of the matters with respect to which the request is made, in

accordance with subsection (a) or (c) of section 591, as the case may be. The report shall set forth the reasons for the Attorney General's decision regarding such preliminary investigation as it relates to each of the matters with respect to which the congressional request is made. If there is such a preliminary investigation, the report shall include the date on which the preliminary investigation began or will begin.

(3) SUBMISSION OF INFORMATION IN RESPONSE TO CONGRESSIONAL REQUEST.—At the same time as any notification, application, or any other document, material, or memorandum is supplied to the division of the court pursuant to this section with respect to a preliminary investigation of any matter with respect to which a request is made under paragraph (1), such notification, application, or other document, material, or memorandum shall be supplied to the committee making the request, or to the committee on which the persons making the request serve. If no application for the appointment of an independent counsel is made to the division of the court under this section pursuant to such a preliminary investigation, the Attorney General shall submit a report to that committee stating the reasons why such application was not made, addressing each matter with respect to which the congressional request was made.

(4) DISCLOSURE OF INFORMATION.—Any report, notification, application, or other document, material, or memorandum supplied to a committee under this subsection shall not be revealed to any third party, except that the committee may, either on its own initiative or upon the request of the Attorney General, make public such portion or portions of such report, notification, application, document, material, or memorandum as will not in the committee's judgment prejudice the rights of any individual.

(Added Pub. L. 95-521, title VI, §601(a), Oct. 26, 1978, 92 Stat. 1868; amended Pub. L. 97-409, §§2(a)(1), 4(b)-(e), Jan. 3, 1983, 96 Stat. 2039-2041; Pub. L. 100-191, §2, Dec. 15, 1987, 101 Stat. 1295; Pub. L. 103-270, §3(l), June 30, 1994, 108 Stat. 736.)

#### AMENDMENTS

1994—Subsec. (e). Pub. L. 103-270 inserted "or as is deemed necessary for law enforcement purposes" after "Except as otherwise provided in this chapter".

1987—Pub. L. 100-191 amended section generally, substituting provisions relating to preliminary investigation and application for appointment of an independent counsel for provisions relating to application for appointment of an independent counsel.

1983—Subsec. (a). Pub. L. 97-409, §4(b), designated existing provisions as par. (1), substituted, "Upon receiving information that the Attorney General determines is sufficient to constitute grounds to investigate that any person covered by the Act has engaged in conduct described in subsection (a) or (c) of section 591 of this title, the Attorney General" for "The Attorney General, upon receiving specific information that any of the persons described in section 591(b) of this title has 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.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 591, 593 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 com-

plete 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 juris-

diction 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<sup>1</sup> independent counsel who conducted the investigation and Attorney<sup>2</sup> 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.

<sup>1</sup> So in original.

<sup>2</sup> So in original. Probably should be preceded by "the".

(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.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 592, 594 of this title; title 26 section 6103.

### § 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 re-

spect to all matters in such independent counsel's 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. 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 considers 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, 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 the 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 independent counsel is appointed was alleged to have occurred.

(b) COMPENSATION.—

(1) IN GENERAL.—An independent counsel appointed under this chapter shall receive compensation at the per diem rate equal to the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5.

(2) TRAVEL EXPENSES.—Except as provided in paragraph (3), an independent counsel and persons appointed under subsection (c) shall be entitled to the payment of travel expenses as provided by subchapter I of chapter 57 of title 5, United States Code, including travel, per

diem, and subsistence expenses in accordance with section 5703 of title 5.

(3) TRAVEL TO PRIMARY OFFICE.—

(A) IN GENERAL.—After 1 year of service under this chapter, an independent counsel and persons appointed under subsection (c) shall not be entitled to the payment of travel, per diem, or subsistence expenses under subchapter I of chapter 57 of title 5, United States Code, for the purpose of commuting to or from the city in which the primary office of the independent counsel or person is located. The 1-year period may be extended for successive 6-month periods if the independent counsel and the division of the court certify that the payment is in the public interest to carry out the purposes of this chapter.

(B) RELEVANT FACTORS.—In making any certification under this paragraph with respect to travel and subsistence expenses of an independent counsel or person appointed under subsection (c), the independent counsel and the division of the court shall consider, among other relevant factors—

- (i) the cost to the Government of reimbursing such travel and subsistence expenses;
- (ii) the period of time for which the independent counsel anticipates that the activities of the independent counsel or person, as the case may be, will continue;
- (iii) the personal and financial burdens on the independent counsel or person, as the case may be, of relocating so that such travel and subsistence expenses would not be incurred; and
- (iv) the burdens associated with appointing a new independent counsel, or appointing another person under subsection (c), to replace the individual involved who is unable or unwilling to so relocate.

(c) ADDITIONAL PERSONNEL.—For the purposes of carrying out the duties of an office of independent counsel, such independent counsel may appoint, fix the compensation, and assign the duties of such employees as such independent counsel considers necessary (including investigators, attorneys, and part-time consultants). The positions of all such employees are exempted from the competitive service. Such employees shall be compensated at levels not to exceed those payable for comparable positions in the Office of United States Attorney for the District of Columbia under sections 548 and 550, but in no event shall any such employee be compensated at a rate greater than the rate of basic pay payable for level ES-4 of the Senior Executive Service Schedule under section 5382 of title 5, as adjusted for the District of Columbia under section 5304 of that title regardless of the locality in which an employee is employed.

(d) ASSISTANCE OF DEPARTMENT OF JUSTICE.—

(1) IN CARRYING OUT FUNCTIONS.—An independent counsel may request assistance from the Department of Justice in carrying out the functions of the independent counsel, and the Department of Justice shall provide that assistance, which may include access to any records, files, or other materials relevant to matters within such independent counsel's

prosecutorial jurisdiction, and the use of the resources and personnel necessary to perform such independent counsel's duties. At the request of an independent counsel, prosecutors, administrative personnel, and other employees of the Department of Justice may be detailed to the staff of the independent counsel.

(2) PAYMENT OF AND REPORTS ON EXPENDITURES OF INDEPENDENT COUNSEL.—The Department of Justice shall pay all costs relating to the establishment and operation of any office of independent counsel. The Attorney General shall submit to the Congress, not later than 30 days after the end of each fiscal year, a report on amounts paid during that fiscal year for expenses of investigations and prosecutions by independent counsel. Each such report shall include a statement of all payments made for activities of independent counsel but may not reveal the identity or prosecutorial jurisdiction of any independent counsel which has not been disclosed under section 593(b)(4).

(e) REFERRAL OF OTHER MATTERS TO AN INDEPENDENT COUNSEL.—An independent counsel may ask the Attorney General or the division of the court to refer to the independent counsel matters related to the independent counsel's prosecutorial jurisdiction, and the Attorney General or the division of the court, as the case may be, may refer such matters. If the Attorney General refers a matter to an independent counsel on the Attorney General's own initiative, the independent counsel may accept such referral if the matter relates to the independent counsel's prosecutorial jurisdiction. If the Attorney General refers any matter to the independent counsel pursuant to the independent counsel's request, or if the independent counsel accepts a referral made by the Attorney General on the Attorney General's own initiative, the independent counsel shall so notify the division of the court.

(f) COMPLIANCE WITH POLICIES OF THE DEPARTMENT OF JUSTICE.—

(1) IN GENERAL.—An independent counsel shall, except to the extent that to do so would be inconsistent with the purposes of this chapter, comply with the written or other established policies of the Department of Justice respecting enforcement of the criminal laws. To determine these policies and policies under subsection (1)(B), the independent counsel shall, except to the extent that doing so would be inconsistent with the purposes of this chapter, consult with the Department of Justice.

(2) NATIONAL SECURITY.—An independent counsel shall comply with guidelines and procedures used by the Department in the handling and use of classified material.

(g) DISMISSAL OF MATTERS.—The independent counsel shall have full authority to dismiss matters within the independent counsel's prosecutorial jurisdiction without conducting an investigation or at any subsequent time before 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.

(h) REPORTS BY INDEPENDENT COUNSEL.—

(1) REQUIRED REPORTS.—An independent counsel shall—

(A) file with the division of the court, with respect to the 6-month period beginning on the date of his or her appointment, and with respect to each 6-month period thereafter until the office of that independent counsel terminates, a report which identifies and explains major expenses, and summarizes all other expenses, incurred by that office during the 6-month period with respect to which the report is filed, and estimates future expenses of that office; and

(B) before the termination of the independent counsel's office under section 596(b), file a final report with the division of the court, setting forth fully and completely a description of the work of the independent counsel, including the disposition of all cases brought.

(2) DISCLOSURE OF INFORMATION IN REPORTS.—The division of the court may release to the Congress, the public, or any appropriate person, such portions of a report made under this subsection as the division of the court considers appropriate. The division of the court shall make such orders as are appropriate to protect the rights of any individual named in such report and to prevent undue interference with any pending prosecution. The division of the court may make any portion of a final report filed under paragraph (1)(B) available to any individual named in such report for the purposes of receiving within a time limit set by the division of the court any comments or factual information that such individual may submit. Such comments and factual information, in whole or in part, may, in the discretion of the division of the court, be included as an appendix to such final report.

(3) PUBLICATION OF REPORTS.—At the request of an independent counsel, the Public Printer shall cause to be printed any report previously released to the public under paragraph (2). The independent counsel shall certify the number of copies necessary for the public, and the Public Printer shall place the cost of the required number to the debit of such independent counsel. Additional copies shall be made available to the public through the depository library program and Superintendent of Documents sales program pursuant to sections 1702 and 1903 of title 44.

(i) INDEPENDENCE FROM DEPARTMENT OF JUSTICE.—Each independent counsel appointed under this chapter, and the persons appointed by that independent counsel under subsection (c), are separate from and independent of the Department of Justice for purposes of sections 202 through 209 of title 18.

(j) STANDARDS OF CONDUCT APPLICABLE TO INDEPENDENT COUNSEL, PERSONS SERVING IN THE OFFICE OF AN INDEPENDENT COUNSEL, AND THEIR LAW FIRMS.—

(1) RESTRICTIONS ON EMPLOYMENT WHILE INDEPENDENT COUNSEL AND APPOINTEES ARE SERVING.—(A) During the period in which an independent counsel is serving under this chapter—

(i) such independent counsel, and

(ii) any person associated with a firm with which such independent counsel is associated,

may not represent in any matter any person involved in any investigation or prosecution under this chapter.

(B) During the period in which any person appointed by an independent counsel under subsection (c) is serving in the office of independent counsel, such person may not represent in any matter any person involved in any investigation or prosecution under this chapter.

(2) POST EMPLOYMENT RESTRICTIONS ON INDEPENDENT COUNSEL AND APPOINTEES.—(A) Each independent counsel and each person appointed by that independent counsel under subsection (c) may not, for 3 years following the termination of the service under this chapter of that independent counsel or appointed person, as the case may be, represent any person in any matter if that individual was the subject of an investigation or prosecution under this chapter that was conducted by that independent counsel.

(B) Each independent counsel and each person appointed by that independent counsel under subsection (c) may not, for 1 year following the termination of the service under this chapter of that independent counsel or appointed person, as the case may be, represent any person in any matter involving any investigation or prosecution under this chapter.

(3) ONE-YEAR BAN ON REPRESENTATION BY MEMBERS OF FIRMS OF INDEPENDENT COUNSEL.—Any person who is associated with a firm with which an independent counsel is associated or becomes associated after termination of the service of that independent counsel under this chapter may not, for 1 year following such termination, represent any person in any matter involving any investigation or prosecution under this chapter.

(4) DEFINITIONS.—For purposes of this subsection—

(A) the term “firm” means a law firm whether organized as a partnership or corporation; and

(B) a person is “associated” with a firm if that person is an officer, director, partner, or other member or employee of that firm.

(5) ENFORCEMENT.—The Attorney General and the Director of the Office of Government Ethics have authority to enforce compliance with this subsection.

(k) CUSTODY OF RECORDS OF AN INDEPENDENT COUNSEL.—

(1) TRANSFER OF RECORDS.—Upon termination of the office of an independent counsel, that independent counsel shall transfer to the Archivist of the United States all records which have been created or received by that office. Before this transfer, the independent counsel shall clearly identify which of these records are subject to rule 6(e) of the Federal Rules of Criminal Procedure as grand jury materials and which of these records have been classified as national security information. Any records which were compiled by an independent counsel and, upon termination of the independent counsel’s office, were stored with the division of the court or elsewhere before the enactment of the Independent Counsel Re-

authorization Act of 1987, shall also be transferred to the Archivist of the United States by the division of the court or the person in possession of such records.

(2) MAINTENANCE, USE, AND DISPOSAL OF RECORDS.—Records transferred to the Archivist under this chapter shall be maintained, used, and disposed of in accordance with chapters 21, 29, and 33 of title 44.

(3) ACCESS TO RECORDS.—

(A) IN GENERAL.—Subject to paragraph (4), access to the records transferred to the Archivist under this chapter shall be governed by section 552 of title 5.

(B) ACCESS BY DEPARTMENT OF JUSTICE.—The Archivist shall, upon written application by the Attorney General, disclose any such records to the Department of Justice for purposes of an ongoing law enforcement investigation or court proceeding, except that, in the case of grand jury materials, such records shall be so disclosed only by order of the court of jurisdiction under rule 6(e) of the Federal Rules of Criminal Procedure.

(C) EXCEPTION.—Notwithstanding any restriction on access imposed by law, the Archivist and persons employed by the National Archives and Records Administration who are engaged in the performance of normal archival work shall be permitted access to the records transferred to the Archivist under this chapter.

(4) RECORDS PROVIDED BY CONGRESS.—Records of an investigation conducted by a committee of the House of Representatives or the Senate which are provided to an independent counsel to assist in an investigation or prosecution conducted by that independent counsel—

(A) shall be maintained as a separate body of records within the records of the independent counsel; and

(B) shall, after the records have been transferred to the Archivist under this chapter, be made available, except as provided in paragraph (3)(B) and (C), in accordance with the rules governing release of the records of the House of Congress that provided the records to the independent counsel.

Subparagraph (B) shall not apply to those records which have been surrendered pursuant to grand jury or court proceedings.

(l) Cost and Administrative Support.—

(1) COST CONTROLS.—

(A) IN GENERAL.—An independent counsel shall—

(i) conduct all activities with due regard for expense;

(ii) authorize only reasonable and lawful expenditures; and

(iii) promptly, upon taking office, assign to a specific employee the duty of certifying that expenditures of the independent counsel are reasonable and made in accordance with law.

(B) LIABILITY FOR INVALID CERTIFICATION.—An employee making a certification under subparagraph (A)(iii) shall be liable for an

invalid certification to the same extent as a certifying official certifying a voucher is liable under section 3528 of title 31.

(C) DEPARTMENT OF JUSTICE POLICIES.—An independent counsel shall comply with the established policies of the Department of Justice respecting expenditures of funds, except to the extent that compliance would be inconsistent with the purposes of this chapter.

(2) ADMINISTRATIVE SUPPORT.—The Director of the Administrative Office of the United States Courts shall provide administrative support and guidance to each independent counsel. No officer or employee of the Administrative Office of the United States Courts shall disclose information related to an independent counsel's expenditures, personnel, or administrative acts or arrangements without the authorization of the independent counsel.

(3) OFFICE SPACE.—The Administrator of General Services, in consultation with the Director of the Administrative Office of the United States Courts, shall promptly provide appropriate office space for each independent counsel. Such office space shall be within a Federal building unless the Administrator of General Services determines that other arrangements would cost less. Until such office space is provided, the Administrative Office of the United States Courts shall provide newly appointed independent counsels immediately upon appointment with appropriate, temporary office space, equipment, and supplies.

(Added Pub. L. 95-521, title VI, §601(a), Oct. 26, 1978, 92 Stat. 1869; amended Pub. L. 97-409, §§2(a)(1), 6(a)-(c), Jan. 3, 1983, 96 Stat. 2039, 2041; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100-191, §2, Dec. 15, 1987, 101 Stat. 1300; Pub. L. 103-270, §3(a)-(f), (m), (o), June 30, 1994, 108 Stat. 732-734, 736; Pub. L. 104-208, div. A, title I, §101(a) [title I, §118], Sept. 30, 1996, 110 Stat. 3009, 3009-23.)

#### REFERENCES IN TEXT

Section 6103 of the Internal Revenue Code of 1986, referred to in subsec. (a)(8), is classified to section 6103 of Title 26, Internal Revenue Code.

The Federal Rules of Criminal Procedure, referred to in subsec. (k)(1), (3)(B), are set out in the Appendix to Title 18, Crimes and Criminal Procedure.

The enactment of the Independent Counsel Reauthorization Act of 1987, referred to in subsec. (k)(1), is the enactment of Pub. L. 100-191, which was approved Dec. 15, 1987.

#### AMENDMENTS

1996—Subsec. (b)(3)(A). Pub. L. 104-208, §101(a) [title I, §118(a), (b)], in second sentence substituted “for successive 6-month periods” for “by 6-months” and “independent counsel and the division of the court certify” for “employee assigned duties under subsection (l)(1)(A)(iii) certifies”.

Subsec. (b)(3)(B). Pub. L. 104-208, §101(a) [title I, §118(c)], which directed the amendment of second sentence of subsec. (b)(3)(A) by striking “such employee” and inserting “the independent counsel” and “the division of the court”, was executed to introductory provisions of subsec. (b)(3)(B) by substituting “the independent counsel and the division of the court” for “such employee” to reflect the probable intent of Congress.

1994—Subsec. (b). Pub. L. 103-270, §3(b), designated existing text as par. (1) and inserted heading, and added pars. (2) and (3).

Subsec. (c). Pub. L. 103-270, §3(c), substituted last sentence for former last sentence which read as follows: “No such employee may be compensated at a rate exceeding the maximum rate of pay payable for GS-18 of the General Schedule under section 5332 of title 5.”

Subsec. (d)(1). Pub. L. 103-270, §3(m), inserted at end “At the request of an independent counsel, prosecutors, administrative personnel, and other employees of the Department of Justice may be detailed to the staff of the independent counsel.”

Subsec. (f). Pub. L. 103-270, §3(e), designated existing provisions as par. (1) and inserted heading, substituted “shall, except to the extent that to do so would be inconsistent with the purposes of this chapter, comply” for “shall, except where not possible, comply”, inserted at end “To determine these policies and policies under subsection (l)(1)(B), the independent counsel shall, except to the extent that doing so would be inconsistent with the purposes of this chapter, consult with the Department of Justice.”, and added par. (2).

Subsec. (h)(1)(B). Pub. L. 103-270, §3(o), struck out before period at end “, and the reasons for not prosecuting any matter within the prosecutorial jurisdiction of such independent counsel”.

Subsec. (h)(3). Pub. L. 103-270, §3(f), added par. (3).

Subsec. (j)(5). Pub. L. 103-270, §3(d), added par. (5).

Subsec. (l). Pub. L. 103-270, §3(a), added subsec. (l).

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

1986—Subsec. (a)(8). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”.

1983—Pub. L. 97-409, §2(a)(1)(A), substituted “independent counsel” for “special prosecutor” in section catchline.

Subsec. (a). Pub. L. 97-409, §2(a)(1), substituted “independent counsel” for “special prosecutor” wherever appearing and “independent counsel’s” for “special prosecutor’s”.

Subsec. (a)(10). Pub. L. 97-409, §6(a), added par. (10).

Subsecs. (b), (c). Pub. L. 97-409, §2(a)(1)(A), substituted “independent counsel” for “special prosecutor” wherever appearing.

Subsecs. (d), (e). Pub. L. 97-409, §2(a)(1), substituted “independent counsel” for “special prosecutor” and “independent counsel’s” for “special prosecutor’s” wherever appearing.

Subsec. (f). Pub. L. 97-409, §§2(a)(1)(A), 6(b), substituted “independent counsel” for “special prosecutor”, “except where not possible” for “to the extent that such special prosecutor deems appropriate”, and “written or other established policies” for “written policies”.

Subsec. (g). Pub. L. 97-409, §6(c), added subsec. (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, with transition provisions relating to assignment of employee to certify expenditures and relating to office space, travel and subsistence expenses, rates of compensation, and reporting requirements established or modified by Pub. L. 103-270, see section 7(a)-(e), (g) 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 the following provisions applicable to previously initiated proceedings pending on Dec. 15, 1987: subsec. (d)(2) (relating to reports by Attorney General on expenditures by independent counsel, except that the first such report shall be made only with respect to expenditures on or after Dec. 15, 1987), subsec. (h)(1)(A) except that the 6-month periods described in subsec. (h)(1)(A) of

this section shall be calculated from Dec. 15, 1987, subsec. (i), subsec. (k) of this section, and 90 days after Dec. 15, 1987, subsec. (j), see section 6 of Pub. L. 100-191, set out as a note under section 591 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 593, 596, 597 of this title; title 18 section 202.

### § 595. Congressional oversight

#### (a) OVERSIGHT OF CONDUCT OF INDEPENDENT COUNSEL.—

(1) CONGRESSIONAL OVERSIGHT.—The appropriate committees of the Congress shall have 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.

(2) REPORTS TO CONGRESS.—An independent counsel appointed under this chapter shall submit to the Congress annually a report on the activities of the independent counsel, including a description of the progress of any investigation or prosecution conducted by the independent counsel. Such report may omit any matter that in the judgment of the independent counsel should be kept confidential, but shall provide information adequate to justify the expenditures that the office of the independent counsel has made.

(b) OVERSIGHT OF CONDUCT OF ATTORNEY GENERAL.—Within 15 days after receiving an inquiry about a particular case under this chapter, which is a matter of public knowledge, from a committee of the Congress with jurisdiction over this chapter, the Attorney General shall provide the following information to that committee with respect to that case:

(1) When the information about the case was received.

(2) Whether a preliminary investigation is being conducted, and if so, the date it began.

(3) Whether an application for the appointment of an independent counsel or a notification that further investigation is not warranted has been filed with the division of the court, and if so, the date of such filing.

(c) INFORMATION RELATING TO IMPEACHMENT.—An independent counsel shall advise the House of Representatives of any substantial and credible information which such independent counsel receives, in carrying out the independent counsel's responsibilities under this chapter, that may constitute grounds for an impeachment. Nothing in this chapter or section 49 of this title shall prevent the Congress or either House thereof from obtaining information in the course of an impeachment proceeding.

(Added Pub. L. 95-521, title VI, §601(a), Oct. 26, 1978, 92 Stat. 1871; amended Pub. L. 97-409, §2(a)(1), Jan. 3, 1983, 96 Stat. 2139; Pub. L. 100-191, §2, Dec. 15, 1987, 101 Stat. 1304; Pub. L. 103-270, §3(g), June 30, 1994, 108 Stat. 734.)

#### AMENDMENTS

1994—Subsec. (a)(2). Pub. L. 103-270 substituted “annually a report on the activities of the independent counsel, including a description of the progress of any

investigation or prosecution conducted by the independent counsel. Such report may omit any matter that in the judgment of the independent counsel should be kept confidential, but shall provide information adequate to justify the expenditures that the office of the independent counsel has made” for “such statements or reports on the activities of such independent counsel as the independent counsel considers appropriate”.

1987—Pub. L. 100-191 amended section generally, substituting subsecs. (a) to (c) relating to congressional oversight for former subsecs. (a) to (e) relating to reporting and congressional oversight.

1983—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; TRANSITION PROVISIONS

Amendment by Pub. L. 103-270 applicable with respect to independent counsels appointed before, on, or after June 30, 1994, with transition provision relating to reporting requirements established or modified by Pub. L. 103-270, see section 7(a), (g) 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, see section 6 of Pub. L. 100-191, set out as a note under section 591 of this title.

### § 596. Removal of an independent counsel; termination of office

#### (a) REMOVAL; REPORT ON REMOVAL.—

(1) GROUNDS FOR REMOVAL.—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 or mental disability (if not prohibited by law protecting persons from discrimination on the basis of such a disability),<sup>1</sup> or any other condition that substantially impairs the performance of such independent counsel's duties.

(2) REPORT TO DIVISION OF THE COURT AND CONGRESS.—If an independent counsel is removed from office, the Attorney General shall promptly submit to the division of the court and 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 committees shall make available to the public such report, except that each committee may, if necessary to protect the rights of any individual named in the report or to prevent undue interference with any pending prosecution, postpone or refrain from publishing any or all of the report. The division of the court may release any or all of such report in accordance with section 594(h)(2).

(3) JUDICIAL REVIEW OF REMOVAL.—An independent counsel removed from office may obtain judicial review of the removal in a civil action commenced in the United States District Court for the District of Columbia. A member of the division of the court may not hear or determine any such civil action or any appeal of a decision in any such civil action.

<sup>1</sup> So in original.

The independent counsel may be reinstated or granted other appropriate relief by order of the court.

(b) TERMINATION OF OFFICE.—

(1) TERMINATION BY ACTION OF INDEPENDENT COUNSEL.—An office of independent counsel shall terminate when—

(A) the independent counsel notifies the Attorney General that the investigation of all matters within the prosecutorial jurisdiction of such independent counsel or accepted by such independent counsel under section 594(e), 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

(B) the independent counsel files a final report in compliance with section 594(h)(1)(B).

(2) TERMINATION BY DIVISION OF THE COURT.—

The division of the court, either on its own motion or upon the request of the Attorney General, may terminate an office of independent counsel at any time, on the ground that the investigation of all matters within the prosecutorial jurisdiction of such independent counsel or accepted by such independent counsel under section 594(e), 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. At the time of such termination, the independent counsel shall file the final report required by section 594(h)(1)(B). If the Attorney General has not made a request under this paragraph, the division of the court shall determine on its own motion whether termination is appropriate under this paragraph no later than 2 years after the appointment of an independent counsel, at the end of the succeeding 2-year period, and thereafter at the end of each succeeding 1-year period.

(c) AUDITS.—(1) On or before June 30 of each year, an independent counsel shall prepare a statement of expenditures for the 6 months that ended on the immediately preceding March 31. On or before December 31 of each year, an independent counsel shall prepare a statement of expenditures for the fiscal year that ended on the immediately preceding September 30. An independent counsel whose office is terminated prior to the end of the fiscal year shall prepare a statement of expenditures on or before the date that is 90 days after the date on which the office is terminated.

(2) The Comptroller General shall—

(A) conduct a financial review of a mid-year statement and a financial audit of a year-end statement and statement on termination; and

(B) report the results to the Committee on the Judiciary, Committee on Governmental Affairs, and Committee on Appropriations of the Senate and the Committee on the Judiciary, Committee on Government Operations, and Committee on Appropriations of the House of Representatives not later than 90 days following the submission of each such statement.

(Added Pub. L. 95-521, title VI, §601(a), Oct. 26, 1978, 92 Stat. 1872; amended Pub. L. 97-409, §§2(a)(1), 6(d), Jan. 3, 1983, 96 Stat. 2039, 2042; Pub. L. 98-620, title IV, §402(29)(A), Nov. 8, 1984, 98 Stat. 3359; Pub. L. 100-191, §2, Dec. 15, 1987, 101 Stat. 1304; Pub. L. 103-270, §§3(h), (i), 5, June 30, 1994, 108 Stat. 735, 737.)

AMENDMENTS

1994—Subsec. (a)(1). Pub. L. 103-270, §5, substituted “physical or mental disability (if not prohibited by law protecting persons from discrimination on the basis of such a disability),” for “physical disability, mental incapacity”.

Subsec. (b)(2). Pub. L. 103-270, §3(h), inserted at end “If the Attorney General has not made a request under this paragraph, the division of the court shall determine on its own motion whether termination is appropriate under this paragraph no later than 2 years after the appointment of an independent counsel, at the end of the succeeding 2-year period, and thereafter at the end of each succeeding 1-year period.”

Subsec. (c). Pub. L. 103-270, §3(i), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “AUDITS.—After the termination of the office of an independent counsel, the Comptroller General shall conduct an audit of the expenditures of that office, and shall submit to the appropriate committees of the Congress a report on the audit.”

1987—Pub. L. 100-191 amended section generally, substituting subssecs. (a) to (c) for former subssecs. (a) and (b) which related to similar subject matter.

1984—Subsec. (a)(3). Pub. L. 98-620 struck out provision requiring the division of the court to cause such an action to be in every way expedited.

1983—Pub. L. 97-409, §2(a)(1)(A), substituted “independent counsel” for “special prosecutor” in section catchline.

Subsec. (a)(1). Pub. L. 97-409, §§2(a)(1), 6(d), substituted “independent counsel” for “special prosecutor”, “good cause” for “extraordinary impropriety”, and “independent counsel’s” for “special prosecutor’s”.

Subsecs. (a)(2), (3), (b). Pub. L. 97-409, §2(a)(1)(A), substituted “independent counsel” for “special prosecutor” wherever appearing.

CHANGE OF NAME

Committee on Government Operations of House of Representatives treated as referring to Committee on Government Reform and Oversight of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress.

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, with transition provisions directing that determinations by the division of the court contained in last sentence of subsec. (b)(2) of this section shall, for the office of an independent counsel appointed before June 30, 1994, be required no later than 1 year after June 30, 1994, and at end of each succeeding 1-year period, and transition provisions relating to reporting requirements established or modified by Pub. L. 103-270, see section 7(a), (f), (g) 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 subssecs. (a)(3) and (c) 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.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98-620,

set out as an Effective Date note under section 1657 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 594 of this title.

§ 597. Relationship with Department of Justice

(a) SUSPENSION OF OTHER INVESTIGATIONS AND PROCEEDINGS.—Whenever a matter is in the prosecutorial jurisdiction of an independent counsel or has been accepted by an independent counsel under section 594(e), 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 section 594(d)(1), and except insofar as such independent counsel agrees in writing that such investigation or proceedings may be continued by the Department of Justice.

(b) PRESENTATION AS AMICUS CURIAE PERMITTED.—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.

(Added Pub. L. 95-521, title VI, §601(a), Oct. 26, 1978, 92 Stat. 1872; amended Pub. L. 97-409, §2(a)(1)(A), Jan. 3, 1983, 96 Stat. 2039; Pub. L. 100-191, §2, Dec. 15, 1987, 101 Stat. 1306.)

AMENDMENTS

1987—Pub. L. 100-191 amended section generally, substituting provisions relating to relationship with Department of Justice for substantially similar provisions.

1983—Pub. L. 97-409, §2(a)(1)(A), substituted “independent counsel” for “special prosecutor” wherever appearing.

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.

§ 598. Severability

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of this chapter and the application of such provision to other persons not similarly situated or to other circumstances shall not be affected by such invalidation.

(Added Pub. L. 95-521, title VI, §601(a), Oct. 26, 1978, 92 Stat. 1873; amended Pub. L. 97-409, §2(a)(1)(A), 7, Jan. 3, 1983, 96 Stat. 2039, 2042; Pub. L. 100-191, §2, Dec. 15, 1987, 101 Stat. 1306.)

AMENDMENTS

1987—Pub. L. 100-191 amended section generally, substituting provisions relating to severability for provisions relating to termination of chapter. See section 599 of this title.

1983—Pub. L. 97-409, §§2(a)(1)(A), 7, substituted reference to the date of enactment of the Ethics in Government Act Amendments of 1982 for reference to the date of enactment of this chapter and substituted “independent counsel” for “special prosecutor” wherever appearing.

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.

§ 599. Termination of effect of chapter

This chapter shall cease to be effective five years after the date of the enactment of the Independent Counsel Reauthorization Act of 1994, except that this chapter shall continue in effect with respect to then pending matters before an independent counsel that in the judgment of such counsel require such continuation until that independent counsel determines such matters have been completed.

(Added Pub. L. 100-191, §2, Dec. 15, 1987, 101 Stat. 1306; amended Pub. L. 103-270, §2, June 30, 1994, 108 Stat. 732.)

REFERENCES IN TEXT

The date of the enactment of the Independent Counsel Reauthorization Act of 1994, referred to in text, is the date of enactment of Pub. L. 103-270, which was approved June 30, 1994.

AMENDMENTS

1994—Pub. L. 103-270 substituted “1994” for “1987”.

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

Section effective Dec. 15, 1987, see section 6 of Pub. L. 100-191, set out as a note under section 591 of this title.

PART III—COURT OFFICERS AND EMPLOYEES

Table with 2 columns: Chap. and Sec. listing sections 41 through 58, including Administrative Office of United States Courts, Federal Judicial Center, United States Magistrates, Arbitration, Supreme Court, Courts of Appeals, District Courts, United States Court of Federal Claims, Repealed, Court of International Trade, General Provisions Applicable to Court Officers and Employees, and United States Sentencing Commission.

SENATE REVISION AMENDMENT

Chapter 59 was renumbered as Chapter 57 but without change in its section numbers, by Senate amendment. See 80th Congress Senate Report No. 1559.

AMENDMENTS

1992—Pub. L. 102-572, title IX, §902(b)(1), Oct. 29, 1992, 106 Stat. 4516, substituted “United States Court of Federal Claims” for “United States Claims Court” as item for chapter 51.