



United States  
Office of Government Ethics

1315 North Capitol Street, NW, Room 400  
Washington, DC 20004

December 17, 1998

The Honorable Michael R. Bromwich  
Inspector General  
Department of Justice  
10th and Pennsylvania Avenue, NW.  
Room 4706  
Washington, DC 20530

Dear Mr. Bromwich:

As part of the Office of Government Ethics' monitoring activities, we have recently completed a review of the ethics programs at the following three Department of Justice components: the Criminal Division, the Antitrust Division, and the Executive Office for U.S. Attorneys.

This review was conducted pursuant to section 402 of the Ethics in Government Act of 1978, as amended. Our review objective was to determine the ethics programs' effectiveness, measured largely by their compliance with applicable laws and regulations.

I have enclosed a copy of the report for your information. Please call me at 202-208-8000, extension 1120, if I may be of assistance.

Sincerely,

Jack Covalleski  
Senior Associate Director  
Office of Program Assistance  
and Review

Enclosure



## Office of Government Ethics

December 17, 1998

Stephen R. Colgate  
Assistant Attorney General  
for Administration  
Department of Justice  
10th Street and Constitution Avenue, NW.  
Room 1111  
Washington, DC 20530

Dear Mr. Colgate:

The Office of Government Ethics (OGE) has recently completed its review of the ethics programs at the following three Department of Justice (Justice) components: the Criminal Division, the Antitrust Division, and the Executive Office for U.S. Attorneys (EOUSA).<sup>1</sup> This review was conducted pursuant to section 402 of the Ethics in Government Act of 1978, as amended.

Our review objective was to determine the ethics programs' effectiveness, measured largely by their compliance with applicable laws and regulations. To meet our objective, we examined the following program elements: the administration of the ethics program, the public and confidential financial disclosure systems, the ethics education and training program, the ethics counseling and advice services, the acceptance of travel payments from non-Federal sources, and ethics officials' relationship with the Office of the Inspector General (OIG) and the Office of Professional Responsibility (OPR). We also sought to determine whether improvements were made since OGE's last review of these components which was conducted in 1993.<sup>2</sup> Our current review was conducted from August through November 1998. This report summarizes our findings, conclusions, and recommendations.

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<sup>1</sup>Though EOUSA provides general executive assistance and supervision to the 94 offices of U.S. Attorneys, we did not conduct any review work in these offices. We only reviewed records available in the Office of Legal Counsel in the immediate office of EOUSA.

<sup>2</sup>OGE issued a report on October 1, 1993 which covered the results of our reviews at these three components, in addition to the Office of the Attorney General, the Executive Office of the U.S. Trustees, and three U.S. Attorneys' offices. Subsequent to our 1993 report, we issued a report on April 25, 1996 which covered the results of our reviews of the Civil Division, the Environmental and Natural Resources Division, the Tax Division, the Civil Rights Division, and the Office of the Attorney General.

As we discussed at our meeting with your representatives on November 20, 1998, we are pleased to report that the ethics program in EOUSA is functioning well and we have no recommendations for improvements. Also, in the three components reviewed, we found that the public systems are strong and that the ethics advice dispensed to employees is accurate and appears to meet employees' needs.

As we noted in our 1996 report, we continue to believe that officials in Justice's Departmental Ethics Office (DEO) are providing quality overall direction and useful ethics advice to Deputy Designated Agency Ethics Officials (DDAEO) within the components. In particular, we endorse efforts made to distribute ethics-related information to DDAEOs and we commend DEO officials for holding regularly scheduled meetings for all DDAEOs where ethics matters are discussed. Overall, we also commend the dedication exhibited by the three DDAEOs we met with to providing required ethics-related services to employees within their offices.

Notwithstanding DDAEOs' efforts, however, within both the Criminal and Antitrust Divisions, improvements to the confidential systems are needed. Also, within the Criminal Division, ethics training requirements need to be met on an annual basis. We are pleased to report that since we initially raised some of our concerns directly to the respective DDAEOs before the close of our review, some corrective actions were already underway.

#### PUBLIC SYSTEM

Overall, the public financial disclosure system is well managed. To assist in ensuring an effective public system, ethics officials have developed comprehensive written procedures for administering the system in accordance with section 402(d)(1) of the Ethics in Government Act of 1978, as amended. In the components we reviewed, we found that public reports were filed timely and most were reviewed and certified timely. In addition, the reports contained only a few technical but no substantive deficiencies. All DDAEOs took appropriate measures to assure that public reports were complete and free from reporting errors.

We examined a sample of the public reports required to be filed in 1998 in the three components. Our sample consisted of: all 33 from the Criminal Division; all 32 from the Antitrust Division; and 103<sup>3</sup> from EOUSA. We did not examine any reports

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<sup>3</sup>EOUSA administers the public system for EOUSA's immediate office and for the 94 offices of U.S. Attorneys. EOUSA ethics officials review, certify, and maintain approximately 1,200 reports annually. We examined all of the 1998 reports that had been certified by the time of our review from employees within EOUSA's

Mr. Stephen R. Colgate  
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required to be forwarded to OGE in accordance with 5 C.F.R. § 2634.602(c)(1).

While officials in the Justice Management Division assist the Criminal and Antitrust Division DDAEOs in identifying those employees required to file public reports, EOUSA operates its public system independently. Within EOUSA's Office of Legal Counsel, based on employee information supplied by EOUSA personnel officials, a management analyst maintains an impressive data base to track the large number of reports due from covered employees. After the initial screening of public reports, which is primarily performed by the management analyst, all of the approximately 1,200 reports are forwarded to the DDAEO, who is EOUSA's Legal Counsel, for review and certification. All reports are centrally filed and maintained within the Office of Legal Counsel.

#### CONFIDENTIAL SYSTEM

Justice's confidential system continues to operate in a highly decentralized manner whereby components' systems are the responsibility of each DDAEO. The written procedures that were developed by DEO officials serve as a framework for administering the confidential system Justicewide and meet the requirements of section 402(d)(1) of the Ethics in Government Act of 1978, as amended.

In 1992, Justice implemented two methods of confidential financial disclosure. Currently, some Justice employees are covered by the executive branchwide OGE Form 450 system while others certify to no conflict of interest on a case-by-case basis. For the components we reviewed, the no conflict-of-interest certification (certification) process is in use in 12 of the 16 offices/sections of the Antitrust Division. Certifications had been used in one office/section within the Criminal Division (in the Appellate Section) until 1997. However, as of early 1998, covered employees in the Appellate Section began filing OGE Forms 450. Also, certifications are filed by attorneys within the 94 district offices of the U.S. Attorneys', but since our work did not include these offices, we did not examine any of these certifications.

We have no suggestions for improvements to EOUSA's operation of its confidential system based on our examination of the 15 OGE Forms 450 required to be filed in 1997 by immediate office covered employees. We found that most reports were collected, reviewed, and certified timely. In addition, reports were

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immediate office and from employees located in U.S. Attorneys' offices in Washington, DC, New York Southern, Washington Western, and California Central.

thoroughly reviewed by ethics officials which ensured that they were technically complete and free from conflicts. Also, based on the documents available within EOUSA, we believe that the DDAEO provides suitable information to all ethics advisors within U.S. Attorneys' offices concerning administering offices' confidential systems.

Within both the Criminal Division and the Antitrust Division, improvements are needed in the operation of the confidential systems. In both components, we found that (1) some required confidential reports (OGE Forms 450 and certifications) were not filed or were missing; (2) some OGE Forms 450 were not certified as required; and (3) no divisionwide systems were in place to assure the filing of OGE Forms 450 within 30 days of employees assuming covered positions. The report sections below discuss the operations of the confidential systems within the Criminal Division and the Antitrust Division and highlight our specific findings.

#### Criminal Division

Within the Criminal Division, the DDAEO provides information to the Division's office/section<sup>4</sup> directors and chiefs, who are delegated authority to administer their respective confidential systems. In each office, OGE Forms 450 are required to be collected by office heads (or their designees). These officials are also responsible for report review, certification, and maintenance.

At the start of our review, in August 1998, Criminal Division ethics officials provided statistical information (and lists of employees required to file confidential reports) which showed that 253 employees divisionwide were required to file OGE Forms 450 in 1997. We determined, however, that the statistical information provided to us was flawed and that many fewer reports than required were, in fact, collected. Ethics officials were not aware of this until we informed them because they did not have a reliable feedback method in place to know whether all required reports were collected. In addition to the lack of reliable data on the collection of OGE Forms 450 divisionwide, we also found fundamental problems in how the various offices were administering their confidential systems.

Chart 1 shows the number of OGE Forms 450 we would have expected to examine based on information provided by the DDAEO versus the number of reports actually examined in 6 of the 11 Criminal Division offices where employees were required to file. We chose to not examine reports in three offices based on the

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<sup>4</sup>For writing convenience, in this report we refer to Criminal Division's office(s)/section(s) as "office(s)."

expected low number of covered employees. In addition, we did not examine reports in two other offices--the Office of Administration and the Public Integrity Section--because required confidential reports were not collected in 1997.<sup>5</sup>

Chart 1: Comparison Of The Information Provided To OGE By The Criminal Division DDAEO Versus The Actual Number Of OGE Forms 450 On-Hand And Examined By OGE In Each Criminal Division Office

Criminal Division Offices	Information Provided by DDAEO	OGE Forms 450 Available and Examined
Fraud Section	59	46 (note a)
Office of International Affairs	38	28
Asset Forfeiture & Money Laundering Section	29	30
Appellate Section	22	20
Computer Crime & Intellectual Property Section	16	10
Office of Enforcement Operations	9	8
Public Integrity Section	27	-- (note b)
Office of Administration	47	-- (note b)
Terrorism & Violent Crimes Section	1 (note c)	--
Narcotic & Dangerous Drug Section	3 (note c)	--
Organized Crime & Racketeering Section	2 (note c)	--
Total	253	142

(See notes on next page.)

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<sup>5</sup>Though the Office of Administration had advised Criminal Division ethics officials that 47 employees were required to file confidential reports in 1997, they subsequently determined, and informed ethics officials just before we planned to visit their office, that the required reports were either never collected or were misplaced. Within the Public Integrity Section, at our meeting with the Chief, he informed us that he did not collect reports in 1997 because he was not initially advised or reminded to do so.

Note a: We only examined OGE Forms 450 readily available from one of three deputy chiefs who review and maintain reports.

Note b: OGE Forms 450 were not collected in 1997.

Note c: These offices were not selected for OGE review based on the low number of reported covered employees. We did not verify whether reports were, in fact, collected by office heads.

#### OGE Forms 450 System Deficiencies

As we conducted our work in the various Criminal Division offices, we kept the DDAEO apprised of our findings. We also advised him of some of the immediate corrective actions that should be taken before the start of the 1998 annual collection process. At our October 1 meeting with the DDAEO, we related the following confidential system deficiencies.

- (1) Lists of employees required to file OGE Forms 450 in 1997 were inaccurate.
- (2) Ethics officials did not establish a consistent and reliable feedback method to obtain filing status information from office heads to ensure that all OGE Forms 450 were collected, reviewed, and certified.
- (3) Many OGE Forms 450 that should have been collected within several offices were not.
- (4) Many OGE Forms 450 were not certified--though reviewing officials stated that they had reviewed the reports.
- (5) Reviewing officials lacked training on administering their offices' confidential systems and on how to review OGE Forms 450.<sup>6</sup> This lack of training led to reviewer confusion and poor quality review of reports.
- (6) Within some offices, OGE Forms 450 from previous years either could not be located or had been destroyed. Most officials were not cognizant of the requirement to maintain reports for six years.
- (7) No divisionwide system was in place to ensure that OGE Forms 450 were collected from employees within 30 days of entering covered positions.

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<sup>6</sup>We advised the DDAEO that, at a minimum, he provide each reviewer a copy of OGE's publication, "OGE Form 450: A Review Guide."

- (8) An outdated designated filing position category-- requiring all former "GM" level attorneys only to file OGE Forms 450--was in use in several Criminal Division offices.

Improvements Made

We are pleased to report that by the time we last met with the DDAEO, on November 12, he had taken corrective actions which addressed many of our concerns. Three key memorandums had been issued since our October 1 meeting. First, a memorandum to all office heads, dated October 5 and signed by the Criminal Division Assistant Attorney General, specified the requirements of the confidential system and identified some newly covered positions.<sup>7</sup> This memorandum also instructed each office head to provide the DDAEO a list of all covered employees within their unit.

Second, a memorandum dated October 9 notified office heads that the submission date for OGE Forms 450 for incumbent 1998 filers was November 30, 1998.<sup>8</sup> In addition to granting a filing extension divisionwide, the October 9 memorandum provided additional information geared to training reviewing officials on how to administer their respective offices' confidential systems. This included clarifying the requirement to maintain reports for six years. Also, each office head was given a copy of OGE's Form 450 review guide, as we suggested. Most importantly, however, the DDAEO has imposed status reporting by year-end on all office heads to aid in ensuring that all required reports are collected, reviewed, and certified.

Third, another memorandum dated October 9 was distributed to all covered OGE Form 450 employees. This memorandum clearly laid out the filing requirements and provided tips for completing the OGE Form 450.

The DDAEO stated that based on information provided by office heads, now, approximately 350 employees divisionwide are covered employees and, therefore, were expected to file OGE Forms 450 by November 30, 1998. He believes, and we agree, that he has established the framework for obtaining reliable feedback from office heads.

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<sup>7</sup>Three new filing designation categories were added and the category previously identified as all former "GM" level attorneys was eliminated.

<sup>8</sup>This extension is permitted in accordance with 5 C.F.R. § 2634.903(d).

Criminal Division ethics officials have also begun working on a process to ensure that employees who enter covered positions file OGE Forms 450 within 30 days. We were told that the Criminal Division's Office of Administration has already started to provide biweekly lists of new employees to ethics officials. Ethics officials plan to identify those on the list who meet the filing criteria and notify them of the filing requirements. At the same time, reviewing officials will receive notification to assist them in assuring that OGE Forms 450 are filed as required and subsequently reviewed. Ethics officials indicated that they will need a few months before determining whether their newly instituted process is working as planned.

#### Antitrust Division

Similar to the Criminal Division, within the Antitrust Division, the DDAEO provides information to the Division's office/section<sup>9</sup> directors and chiefs, who are delegated authority to administer their respective confidential systems. In each office, OGE Forms 450 are required to be collected by office heads. These officials are also responsible for report review, certification, and maintenance.

Within the Antitrust Division, while some covered employees file OGE Forms 450, primarily those who are either assistant office chiefs or in procurement-type positions, most Antitrust Division covered employees are required to file certifications on a case-by-case basis. Employees who certify to having no conflicts of interest are in 12 offices of the Antitrust Division serving in attorney and economist positions.<sup>10</sup>

While we found the need for some improvement to Antitrust Division's OGE Form 450 system, we are more concerned about the operation of the certification process. To assess the functioning of the OGE Form 450 system, we examined 66 reports that were required to be filed in 1997. The DDAEO eased our examination of reports by centrally collecting all of them from reviewing officials divisionwide. We found that while most reports were filed and reviewed timely, some were not. Also, a few 1997 reports could not be located by office heads and, therefore, were not forwarded to the DDAEO for our review. In addition, a few office heads were not cognizant of the requirement to certify reports after their review was completed. The DDAEO advised us, at the start of our examination of reports, that she had noted this

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<sup>9</sup>For writing convenience, in this report we refer to Antitrust Division's office(s)/section(s) as "office(s)."

<sup>10</sup>Financial analysts and statisticians are also required to complete certifications.

problem and had already spoken to those affected office heads about the need to sign reports after their review is completed. Concerning another OGE Form 450 issue, while we found that a few 1997 "new entrant" reports were being filed, but not necessarily within 30 days of employees entering covered positions, we also found that other newly covered employees did not file OGE Forms 450 until the annual filing time frame. The DDAEO stated that she is working on a divisionwide system to assure timely filing of reports from new entrant employees.

Pertaining to the alternative confidential system, we recognize the value of using the no conflict-of-interest certification process on a case-by-case basis as a method to raise employee consciousness of potential conflicts they may have. However, in order for this alternative confidential system to work, employees must complete a certification for each case assigned to them. We found that this is not always occurring. The number of missing certifications, in addition to the other documentation-related deficiencies we found, we believe cast doubt on whether this alternative system should continue to be used. But, we understand--based on discussions with the DDAEO and DEO officials--that they are committed to ensuring that the certification system remains in place. They expect to implement several corrective measures over the next few months that should aid in ensuring that attorneys and economists comply with the certification requirements.

#### Certification Process Deficiencies

We found the following deficiencies in the operation of the Antitrust Division's certification process.

- (1) Many required certifications were missing. (The number of missing certifications is displayed in Chart 2.)
- (2) Many certifications--though required to be filed at the time of case assignment--were dated within a few days of the date of our examination.
- (3) Paralegals--who are not covered employees--were required to file certifications in one of the offices we reviewed.<sup>11</sup>
- (4) Many certifications were missing identifying information (such as case numbers or names) or the information was partially illegible).

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<sup>11</sup>By our last meeting with the DDAEO, she assured us that the office chief is no longer requiring paralegals to file certifications.

- (5) Some certifications were not signed or dated.
- (6) Though certifications were maintained centrally within each office by employee name, compliance checking was difficult and time consuming because the individual certifications (often 50-100) were maintained in random order within each file folder.<sup>12</sup>

#### Missing Certifications

To determine whether certifications were completed as required, we tried to find certifications in employee file folders from a range of cases in 6 of the 12 offices where the process was in use. We used a combination of methods for selecting recent cases, ranging from available case data base listings to hand-maintained logs identifying case assignments. We also discussed with each office head how the process was administered, including the number of attorneys or economists assigned to each case. As Chart 2 shows, we could not find between 1 to 35 percent of the required certifications.

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<sup>12</sup>In our letter to Janis Sposato, dated August 7, 1992, which approved Justice's alternative procedures, we required that certifications be maintained in separate files for ease in gathering statistics and to facilitate audits.

Chart 2: Comparison Of Number Of Certifications Required (Based On Attorneys Or Economists Assigned) Versus Those Not Found In Six Offices Within The Antitrust Division

Antitrust Division Office	Number of Cases Selected	Number of Certifications Required	Number of Certifications not Found	Percent of Certifications not Found
Computers & Finance Section	21	68	24	35%
Economic Regulation Section	33	33	9	27%
Competition Policy Section	(note a)	--	--	--
Merger Task Force	33	54	14	26%
Litigation I Section	40	79	10	13%
Telecommunications Task Force	70	78	1	1%

Note a: Due to the way that economists are assigned to matters in the economic offices, we did not try to separate out whether the economist was part of the Economic Regulation Section or the Competition Policy Section. The statistics shown under the Economic Regulation Section represent the results of our work in the two offices.

Office chiefs and the DDAEO stated that the certifications were missing mostly because of attorney/economist oversight and case numbering anomalies. In addition, they stated that while they may occasionally remind their staffs to complete certifications for all case assignments, they do not routinely monitor for compliance. Monitoring for compliance, which we believe could be very time consuming, however, would most likely raise the rate of certification filing.

#### Improvements Made

We are again pleased to report that by the time we last met with the DDAEO, on November 17, she had taken steps to aid in ensuring that covered employees file certifications as required. She advised us that she had met with many office heads to discuss the certification filing problems we found and sought their views on how compliance can be assured. By the time we met, she had developed a list of ideas geared to improving certification

compliance.<sup>13</sup> She believes, and we tend to agree, that by implementing a combination of her ideas within each office, the rate of certification compliance should improve and that documentation-related deficiencies should be eliminated.

However, we remain concerned about the continuing administrative "filing" burdens, which are significant due to the high volume of certifications required to be filed. In fiscal year 1998, the Antitrust Division received 4,643 planned company merger filings. All covered employees are required to file certifications on their review of these planned mergers. Typically, but not always, only one attorney or economist is involved in reviewing the merger filing; therefore, he/she files a certification. These certifications are subsequently required to be placed in employees' certification file folders.<sup>14</sup>

Associated administrative burdens will likely increase over the upcoming years since divisionwide responsibilities concerning reviewing planned company mergers will probably increase which will, in turn, increase the number of certifications required to be filed. Again, however, we understand that officials believe that certifications allow for better detection of potential or actual conflicts of interest instead of the OGE Form 450 system.

#### EDUCATION AND TRAINING

Justice ethics officials are meeting the initial ethics orientation requirements. In addition, EOUSA and Antitrust Division ethics officials are meeting annual ethics briefing requirements. However, in 1997, the Criminal Division DDAEO experienced difficulties meeting the annual ethics training

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<sup>13</sup>The DDAEO plans include: (1) designating office "coordinators," (2) incorporating certification filing reminders into the divisionwide electronic time reporting system, (3) separating merger filing certifications from other types of certification filings and maintaining each in chronological order, and (4) obtaining consistent divisionwide attorney/economist assignment data base information to ease gathering statistics and to facilitate compliance auditing.

<sup>14</sup>In addition to these merger case filings, other types of antitrust matters and investigations also require certification. Often, several covered employees may be required to file for one investigation and staffing is not necessarily determined at the time that casework first begins. All of the staff members subsequently assigned to a matter are required to file certifications. These certifications must also be filed in employees' certification folders.

requirements and not all those required to receive briefings did so.

New Justice employees primarily receive required ethics orientation materials through DEO. However, EOUSA distributes the required materials to all new EOUSA employees. In addition, new senior EOUSA and U.S. Attorneys' office employees are provided more detailed and extensive written materials as part of their orientation.

In 1997, ethics officials used a variety of methods to accomplish the annual ethics briefing requirements. Some employees played the Justice-developed "Quandaries" ethics game while others attended lecture format sessions, and/or watched various ethics videotapes. Briefing requirements were satisfied for covered employees in EOUSA and the Antitrust Division.

In 1997, meeting the training requirements in the Criminal Division was problematic. Ethics officials had intended to use the Quandaries game. However, Quandaries was not installed for employees' use until early 1998 due to various computer incompatibility problems. Therefore, no covered employees were briefed in 1997, but many certified that they used Quandaries in the February through April 1998 time frame. In June 1998, the DDAEO offered alternative briefings for those employees who did not certify that the game was used. Notwithstanding the efforts of the DDAEO, by the start of our review in August 1998, training requirements were not satisfied for several covered employees.

To meet the training requirements in 1998, all DDAEOs indicated that they planned to use written briefings for nonpublic filers. Criminal Division ethics officials distributed written materials to nonpublic filers by memorandum dated October 27, 1998. In both EOUSA and the Antitrust Division, ethics officials indicated that materials would be distributed to all required employees by late November or early December 1998. In addition, DDAEOs planned to provide verbal briefings to all public filers by year end. Within the Criminal Division, the DDAEO had scheduled a briefing session for December 8 and anticipated that most public filers would attend. Subsequent briefing sessions would be planned as needed.

#### ADVICE AND COUNSELING

Within the three components, ethics officials provide both oral and written counseling and advice services to employees. DDAEOs stated that they always provide formal written determinations when needed, but also maintain some written records of the oral advice they provide to employees.

Our examination of the written determinations covering 1997 to the present revealed that the advice was correct and was meeting employees' needs. Advice rendered covered a variety of issues, including gift acceptance, resolution of potential and actual financial conflicts, use of official position, travel, and negotiating for employment and post-employment issues.

We support the efforts of the EOUSA DDAEO to occasionally distribute general ethics-related information to all employees to address common ethics concerns, such as gift, outside activity, and travel restrictions. We favor the idea of distributing information via memorandums, electronic mail, or employee newsletters as tools to raise and maintain employees' awareness of ethics rules. We encourage DDAEOs to use all means available to proactively reach out to employees.

#### OUTSIDE EMPLOYMENT

Justice's supplemental regulations to the executive branchwide standards of conduct, at 5 C.F.R. § 3801.106, include requiring prior written approval before engaging in certain outside employment. In all three components, our review of approvals rendered revealed that the requests were appropriately reviewed and acted upon. As required, our examination noted many instances where an employee sought prior approval before engaging in the practice of law or work in a subject matter, policy, or program that is in his/her component's area of responsibility.

#### TRAVEL PAYMENTS

In the components we reviewed, we examined approximately 90<sup>15</sup> of the payments accepted from September 1996 through April 1998 under the General Services Administration's Interim Rule 4 at 41 C.F.R. part 304-1, implementing 31 U.S.C. § 1353. We found the payments were generally appropriately reviewed and accepted. However, we observed that, on occasion, ethics officials' review of travel requests (or management authorization) did not occur prior to the employees' dates of travel. We reminded officials that agencies may only accept payments from non-Federal sources if authorization to do so is issued in advance of the travel taking place.

We note that EOUSA processes many hundreds of non-Federal travel payment acceptance requests from employees located in the various U.S. Attorneys' offices on an annual basis. We were impressed with the extent of recordkeeping maintained by the

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<sup>15</sup>Approximately 20 from the Antitrust Division, 50 from the Criminal Division, and 20 from EOUSA.

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management analyst to ensure that requests were logged-in and approved by the DDAEO before the employees' dates of travel.

#### RELATIONSHIP WITH OIG AND OPR

Ethics, OIG, and OPR officials stated that effective working relationships exist when needed between the offices concerning matters involving criminal conflict of interest. OPR has the general responsibility for investigating allegations of misconduct by Justice attorneys, whereas the OIG has other investigative responsibilities over Justice employees.

According to officials, there have been infrequent occasions where OGE-related conflict-of-interest matters have been raised or needed investigating. However, since the 1996 time frame, two matters involving two employees from different U.S. Attorneys' offices were referred to the Office of Public Integrity for alleged violations of 18 U.S.C. section 208. One matter was declined for prosecution, while the other is pending.

As discussed with representatives from your office, the Office of Public Integrity typically notifies OGE of referrals after disposition on the matter rather than when the matter is referred to its office. In accordance with 5 C.F.R. § 2638.603(b), agencies are to concurrently notify the Director of OGE when any matter involving an alleged violation of Federal conflict-of-interest law is referred to the Attorney General. OGE has only been notified of the one matter (after it was declined). We learned of the other referral based on our recent conversation with the EOUSA DDAEO rather than through the concurrent notification process.

As a reminder, in addition to concurrent notification responsibilities, each agency shall also provide to the Director follow-up reports of any indictment, information, or declination of prosecution as well as any disciplinary or corrective action initiated, taken, or to be taken by the agency.

#### CONCLUSIONS AND RECOMMENDATIONS

Justice's ethics program generally complies with applicable ethics laws and regulations. Priority is placed on maintaining a strong public system, providing required ethics education and training, and providing useful ethics counseling and advice to ensure that employees are knowledgeable of ethics laws and regulations. We commend the efforts of ethics officials at EOUSA for administering an ethics program that is meaningful to its employees and one that complies with applicable ethics laws and regulations.

As discussed in this report, we are primarily concerned about the operations of the confidential systems in the Criminal and Antitrust Divisions. Corrective actions already taken by the respective DDAEOs to remedy the problems we identified clearly demonstrate their dedication to improving their programs.

Accordingly, we recommend that you ensure the following:

1. The Director of OGE is concurrently notified when any matter involving an alleged violation of Federal conflict-of-interest law is referred to the Attorney General. In addition, provide to the Director follow-up reports of any indictment, information, or declination of prosecution as well as any disciplinary or corrective action initiated, taken, or to be taken by the agency.

In The Criminal Division

2. Accurate lists of employees required to file OGE Forms 450 are maintained.
3. All required OGE Forms 450 are filed, reviewed, and certified as required in 1998.
4. The newly established divisionwide system to collect OGE Forms 450 from employees within 30 days of them entering covered positions is working as planned.
5. The 1998 annual ethics briefing requirement for public filers is met.

In The Antitrust Division

6. All required OGE Forms 450 are filed, reviewed, and certified as required in 1998.
7. A divisionwide system is established for collecting OGE Forms 450 from employees within 30 days of them entering covered positions.
8. The no conflict-of-interest certifications are filed by covered employees on a case-by-case basis.

In closing, I would like to thank you for all of your efforts on behalf of the ethics program. Please advise me within 60 days of the specific actions your agency has taken or plans to take concerning the recommendations in our report. A brief follow-up

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review will be scheduled within six months from the date of this report. In view of the corrective action authority vested with the Director of the Office of Government Ethics under subsection 402(b)(9) of the Ethics Act, as implemented in subpart D of 5 C.F.R. part 2638, it is important that ethics officials implement actions to correct these deficiencies in a timely manner. A copy of this report is being sent to the IG. Please contact Ilene Cranisky at 202-208-8000, extension 1218, if we may be of further assistance.

Sincerely,



Jack Covalleski  
Senior Associate Director  
Office of Agency Programs

Report Number 98 - 044