

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, insolvency, 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 U.S.C. App.], Tax Court Rules of Practice and Procedure, 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.

§ 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

(a) 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.

(b) With respect to any data, records, or other information acquired, collected, classified, preserved, or published by the Attorney General for any statistical, research, or other aggregate reporting purpose beginning not later than 1 year after the date of enactment of 21st Century Department of Justice Appropriations Authorization Act and continuing thereafter, and notwithstanding any other provision of law, the same criteria shall be used (and shall be required to be used, as applicable) to classify or categorize offenders and victims (in the criminal context), and to classify or categorize actors and acted upon (in the noncriminal context).

(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; Pub. L. 107-273, div. A, title II, §204(b), Nov. 2, 2002, 116 Stat. 1776.)

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

1 So in original. Probably should be followed by “the”.