

GAO

Report to the Honorable
Gerry Sikorski, Chairman, Subcommittee
on Investigations, Committee on Post
Office and Civil Service, House of
Representatives.

February 1987

ETHICS REGULATIONS

Compartmentalization of Agencies Under the Ethics in Government Act



132419

RESTRICTED AND UNCLASSIFIED AND OUTSIDE THE General
Accounting Office OR NOT OF THE FILE OF SPECIFIC APPROVAL
by the Office of Congressional Relations.

537995

RELEASED

1

1

1

1

1

1

1

1

General Government Division**B-225267**

February 11, 1987

The Honorable Gerry Sikorski
Chairman, Subcommittee on Investigations
Committee on Post Office and Civil Service
House of Representatives

Dear Mr. Chairman:

This report responds to your May 16, 1986, request and subsequent discussions with your office that we describe (1) the basis and administration of regulations which limit the application of certain conflict-of-interest restrictions to designated components of agencies and departments and (2) the application of the regulations to the Executive Office of the President (EOP). These matters are summarized below and discussed in detail in appendix I.

The law governing postemployment conflicts of interest is contained in 18 U.S.C. 207, as amended by the Ethics in Government Act of 1978 (Public Law 95-521) and the 1979 amendments to that act (Public Law 96-28). Under 18 U.S.C. 207(c), certain former senior-level employees are prohibited from contacting their former agencies on matters being considered by the agencies for 1 year after their employment ceases. However, other provisions in section 207 permit the Office of Government Ethics (OGE) to limit the application of the 1-year no-contact restriction by designating subagencies and bureaus within departments and agencies as separate organizations, thereby allowing a former employee of the designated subagency or bureau to contact other units of the parent department or agency (18 U.S.C. 207[e] and 207[d][1][C]). This statutory authority for the OGE to make subagency designations, referred to as "compartmentalizations," forms the basis for implementing regulations developed by the OGE and issued by the Office of Personnel Management.

Two types of compartmentalizations are permitted by the law and implementing regulations: (1) statutory designations, where an entity was created by statute or where a statute indicates that Congress intended its functions to be separable from the parent department or agency (e.g., the Federal Bureau of Investigation within the Department of Justice); and (2) nonstatutory designations, where an entity was administratively created and where the OGE determines that there is no potential for a former employee to use undue influence or take unfair advantage based on past government service or their connections with employees in other units of the department or agency (e.g., the Antitrust

Division within the Department of Justice). The OGE Director has recommended that his authority to make nonstatutory designations be abolished because he believes that the law provides few standards for use in making such designations and the process is cumbersome, difficult to understand, and very subjective.

In administering the no-contact restriction, the OGE decided it would designate subagencies and bureaus only at the request of departments and agencies, rather than utilizing its authority to make such designations unilaterally. As of November 15, 1986, the EOP, 9 of the 13 federal executive departments, and 3 of the 57 independent establishments and government corporations in the executive branch had parts of their organizations designated as subagencies for purposes of the 1-year no-contact restriction. Some large departments (e.g., the Department of Agriculture) have not been compartmentalized, while other, much smaller agencies (e.g., the National Credit Union Administration) have been divided into components for purposes of the 1-year no-contact restriction.

OGE officials also said their reviews of agency requests for designation depend on the sufficiency of supporting materials provided. Our review of OGE records on subagency designations, however, indicated that the process was largely undocumented. None of the files contained evidence to indicate the basis on which subagency designations were approved. Thirty-one of the 81 designations that had been made as of November 15, 1986, were documented by only the agency request letter; 28 had only the request letter and the approval letter; 11 had some other documentation. No records were available at all for 11 designations.

The OGE Director is required to publish subagency designations and to review and update nonstatutory designations. Our review of the published list of designations and OGE records indicated that (1) some subagencies that no longer exist continue to be designated, (2) some subagencies are misnamed, and (3) one designation was never published. OGE officials said these errors would be corrected and the published designations would be periodically reviewed.

The compartmentalization of the Executive Office of the President into nine separate components was approved by the OGE in March 1983, without any substantiating explanation. The justifications provided by the Counsel to the President to the OGE were similar to those which the OGE had rejected 2 years earlier as providing an insufficient basis for considering the EOP units to be separate agencies for purposes of

applying the 1-year no-contact restrictions. Also, several of the descriptions of the functions of the units within the EOP provided by the Counsel to the President do not themselves appear to support a conclusion that they are all distinct and separate entities. For example, the EOP's Office of Administration was described in the justification for its separate designation as providing "administrative support services to all units within the EOP except those services which are in direct support of the President." The Vice President was said to be a member of the National Security Council as well as distinct and separate from that Council. At the time of our review, the OGE Director was reexamining the EOP compartmentalization decision because of public concerns about a former White House official, Michael K. Deaver, having contacted the Director of the Office of Management and Budget within 1 year of his leaving government service

At your request, we did not obtain official agency comments on this report. We did discuss the report with OGE officials, and their comments have been incorporated where appropriate. As arranged with your office, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the date of publication. At that time, we will send copies to interested parties and make copies available to others upon request.

Sincerely yours,



William J. Anderson
Assistant Comptroller General

Contents

Letter	1	
<hr/>		
Appendix I	6	
The	Objectives, Scope, and Methodology	6
Compartmentalization	Basis of Regulations Limiting Conflict-Of-Interest Laws	6
of Agencies Under the	Administration of the No-Contact Restriction	9
Ethics in Government	Compartmentalization of the Executive Office of the	13
Act	President	
<hr/>		
Appendix II	18	
Postemployment		
Conflict-Of-Interest		
Statute (18 U.S.C 207)		
<hr/>		
Appendix III	21	
Regulations on Agency		
Statutory and		
Nonstatutory		
Designations		
(5 CFR 737.13)		
<hr/>		
Appendix IV	23	
Statutory and		
Nonstatutory		
Subagency		
Designations as of		
July 16, 1986		

Contents

Abbreviations

EOP	Executive Office of the President
OGE	Office of Government Ethics
OMB	Office of Management and Budget
OPM	Office of Personnel Management

The Compartmentalization of Agencies Under the Ethics in Government Act

Objectives, Scope, and Methodology

The objectives of our review were to describe (1) the basis and administration of regulations which limit the application of the 1-year no-contact restriction in the federal post-employment conflict-of-interest law to certain subagencies and bureaus and (2) the application of those regulations to the Executive Office of the President (EOP). We did not evaluate the implementation of those regulations by either the Office of Government Ethics (OGE) or other agencies.

We conducted our work between May and October 1986 by reviewing the laws, regulations, and legislative histories of the relevant statutes. We also interviewed OGE officials, reviewed documents relating to the compartmentalization process, and contacted ethics officials in several other agencies about their designations. At the direction of the requester, we did not obtain official agency comments on this report but we did discuss the report with OGE officials. Their comments have been incorporated where appropriate. Our review was conducted in accordance with generally accepted government auditing standards.

Basis of Regulations Limiting Conflict-Of-Interest Laws

Title V of the Ethics in Government Act of 1978 amended 18 U.S.C. 207, the criminal conflict-of-interest statute which restricts certain postemployment activities of former officials and employees of the executive branch, independent agencies of the United States, and the District of Columbia. (See app. II for a copy of this statute as amended.) One of the amendments to the statute, codified in 18 U.S.C. 207(c), prohibits former senior-level employees from contacting their former agencies on particular matters either before the agency or in which the agency has a direct or substantial interest for 1 year after their employment ceases. The principal objective behind enactment of this subsection was to prevent former senior-level officials from exerting unfair or undue influence over their former colleagues and subordinates.

Statutory Designations of Department Components

In enacting the 1-year no-contact prohibition in 18 U.S.C. 207(c), the drafters of the legislation recognized that "no valid purpose is served by making the subsection (c) restriction department-wide for a former official who worked in a wholly distinct and separate departmental bureau" because there is "little or no potential of undue influence over officials in other units."¹ They explained that

¹S REP No 170, 95th Cong, 1st Sess 154 (1977)

“the present complexity and size of Executive departments require occasional separate treatment of certain departmental agencies and bureaus. It would be patently unfair in some cases to apply the one year no contact prohibition to certain employees for the purpose of an entire department—when in reality the agency in which he worked was separate and distinct from the larger entity.”²

Accordingly, title V of the Ethics Act also added 18 U.S.C. 207(e), which requires the Director of the OGE to designate separate subagencies or bureaus within a parent department or agency for purposes of limiting the scope of the 1-year no-contact restriction whenever the Director determines that the subagency or bureau exercises functions which are distinct and separate from the remaining functions of the department or agency. When such designations are made, former senior-level officials are generally allowed to contact employees in the remainder of their former department or agency.

The authority of the Director of the OGE to designate separate components under subsection 207(e) extends only to agencies or bureaus which were created by statute or have functions which were expressly referred to by statute in such a way that it appears that Congress intended that their functions were separable (5 CFR 737.13(b)). Also, subsection 207(e) states that the designation cannot be applied to former heads of designated subagencies or bureaus or former officers and employees of the department or agency whose official responsibilities included supervision of the designated subagency or bureau. For example, the Federal Bureau of Investigation has been designated by the OGE as a separate statutory component within the Department of Justice. This designation permits former senior-level employees of the Bureau to contact employees in other bureaus and divisions of the Department about any particular matter within 1 year of leaving government service so long as those other departmental employees' responsibilities did not include supervision of the Bureau. The former Director of the Bureau, however, is not permitted to make such contacts. (See app. IV for a complete list of statutory designations.)

Nonstatutory Designation of Department Components

In June 1979, the Ethics in Government Act was amended (Public Law 96-28) to authorize the OGE Director to designate certain nonstatutory components of a parent department or agency as separate units having distinct subject matter jurisdictions (18 U.S.C. 207(d)(1)(C)). The legislative history of the amendment indicates that Congress considered the

²Ibid

provision necessary because the existing authority for statutory designations did not permit limitation of the 1-year no-contact restriction with respect to subagencies and bureaus which had been created administratively.

Subparagraph 207(d)(1)(C) requires that, in order for the Director of the OGE to make a nonstatutory designation, he must determine that no potential exists for a former employee to use undue influence or take unfair advantage of employees in other units of the department or agency based on past government service. Those responsible for the amendment's enactment expected such designations would be made infrequently, would be available only for the most significant subagencies or bureaus within departments or agencies, and would not involve splitting offices within bureaus or subdivisions within divisions. (See app. IV for a complete list of nonstatutory designations.)

In a February 23, 1983, report, Information on Selected Aspects of the Ethics in Government Act of 1978 (GAO/FPCD-83-22, p. 22), we stated that the OGE believed that its authority to designate nonstatutory agency components should be abolished. The OGE also requested that this authority be rescinded in testimony before the Subcommittee on Oversight of Government Management of the Senate Committee on Governmental Affairs on February 24, 1983. According to the OGE, 18 U.S.C. 207(d)(1)(C) provides few standards to use in making such designations, and the designation process is cumbersome, difficult to understand, and very subjective. The OGE said that it found it difficult to rule consistently since nonstatutory components are subject to internal administrative and subject matter reorganizations. The current OGE Director told us that his Office continues to believe that its nonstatutory subagency designation authority should be rescinded.

Issuance of Implementing Regulations

Title IV of the Ethics in Government Act (5 U.S.C. app. 401-405) created the OGE within the Office of Personnel Management (OPM) and required the Director of the OGE to provide overall direction of executive branch policies related to preventing conflicts-of-interest, including the development and recommendation of ethics regulations to the OPM. On February 1, 1980, the OPM issued final regulations implementing the postemployment statute, with an effective date of March 3, 1980 (45 FR 7402-7431). The final regulations incorporated the changes made by the 1979 amendments to the Ethics in Government Act, including the addition of nonstatutory subagency designation authority. (See app. III for a copy of these regulations.)

The regulations describe the processes by which statutory and nonstatutory designations are to be made. For both types of designations, the regulations (5 CFR 737.13) require agencies to notify the Director of the OGE in writing when they desire to have component subagencies, bureaus, or offices designated as separate entities. For statutory designations under subsection 207(e), the notification must include (1) a description of the functions of the subagency or bureau, (2) the separate statutory basis of the subagency or bureau, and (3) an identification of those positions in the parent agency with official responsibility for supervision of the separate subagency or bureau. For nonstatutory designations under subparagraph 207(d)(1)(C), the notification must provide (1) a description of the subject matter jurisdiction of the component, indicating the basis on which that jurisdiction is claimed to be distinct from other units of the agency; (2) a description of the connections and interactions between the component and other units in the agency, indicating the basis on which the component is claimed to be unrelated to the other units; (3) a statement of the basis on which it is claimed that no potential exists for former senior employees of the component to have undue influence over or unfair advantage of employees in other units based on their past government service; and (4) identification of those units of the agency having authority over the component. Final decisions on both types of designations are reserved to the OGE Director.

Administration of the No-Contact Restriction

In administering the 1-year no-contact restriction, the OGE (1) relies on the agencies to request designation of components; (2) reviews and, if appropriate, approves the requests; and (3) publishes the list of designated agencies and bureaus in the Federal Register. Each of these three administrative areas are discussed below.

Reliance on Agency Requests for Compartmentalization

Although 18 U.S.C. 207(e) and 207(d)(1)(C) allow the OGE Director to make statutory and nonstatutory designations unilaterally, the OGE decided that it would designate separate subagencies and bureaus only at the request of departments and agencies.³ Some departments and agencies have requested such designations, but many others have not.

For example, the Departments of Agriculture, Education, Housing and Urban Development, and Interior are each single agencies for purposes

³The OGE designated itself as a separate agency without a request from its parent agency, the OPM. However, OGE files indicate that the OPM deferred to the OGE in this matter.

of the 1-year no-contact restriction because they have not requested compartmentalization and because the OGE has not acted unilaterally to designate subagency components. Any senior-level employee who leaves any component of one of these departments is prohibited from contacting anyone in that department about a particular matter pending before the department for 1 year. On the other hand, the National Credit Union Administration, with about one-half of 1 percent the number of employees as the Department of Agriculture, has had its Central Liquidity Facility (4 full-time equivalent employees as of December 1985) designated as a separate agency. A senior-level employee leaving the Facility is prohibited from contacting any of the other individuals at the Facility for 1 year on any pending matter, but can contact officials in other parts of the National Credit Union Administration at any time (as long as other provisions of 18 U.S.C. 207 are not violated)

Undocumented Review of Designation Requests

In a December 7, 1979, report, Efforts by the Office of Government Ethics to Implement Certain Sections of the Ethics in Government Act (FPCD-80-34, p. 15), we noted that the OGE's reviews of agency requests for compartmentalization designation were largely undocumented. OGE officials said at that time the burden of proof for subagency designations was on the requesting department or agency, and that the OGE would approve any subagency designation request if sufficient evidence was provided.

In the course of this review, OGE officials told us that its policy on review of agency submissions had not changed since 1979, with the nature of the OGE's review still depending on the designation request and the supporting materials provided. Our review of OGE records on subagency designations indicated the reviews are still largely undocumented. None of the files contained evidence to indicate the basis on which the subagency designations were approved. For example, the only documentation in the OGE files for the designations in the Departments of Health and Human Services, Labor, and Transportation, the Federal Emergency Management Administration, the National Credit Union Administration, and ten of the designations at the Department of Justice were the agency letters requesting the designations. None contained OGE approval letters or evidence of a review process such as OGE notes or internal memoranda. In addition, OGE files contained only the request letter and the approval letter for the Commerce, Energy, Treasury, ten other Justice Department designations, and one designation at the Department of Defense. No documentation of any kind was available for two designations at the Department of State, one designation at the

Department of Justice, and eight of the ten designations at the Department of Defense. OGE officials said they did not know whether the missing documentation had been lost or had ever existed, but indicated that no designations were made without a written agency request.

Some Errors in Publication of Agency Designations

After OGE approves a designation, the updated list of statutory and non-statutory designations is published in the Federal Register.⁴ The first list was published on February 1, 1980, and the most recent list was published on July 16, 1986. The July 1986 list of statutory and nonstatutory subagency designations and their effective dates are included in appendix IV. As of November 15, 1986, the Executive Office of the President, 9 of the 13 federal executive departments, and 3 of the 57 independent establishments and government corporations in the executive branch had parts of their organizations designated as separate subagencies or bureaus for purposes of the 1-year no-contact restriction

The provisions of 18 U.S.C. 207(d)(1)(C) require the OGE Director to review the list of nonstatutory subagency designations annually and, in consultation with the departments or agencies involved, make such additions and deletions as are necessary. An OGE official told us that this review function was delegated to the departments and agencies, and that they are responsible for notifying the OGE about any changes needed in both statutory and nonstatutory subagency designations.

Some reviews appear to have been conducted and subagency designations updated. For example, between 1980 and 1986, three designations were deleted after publication in the Federal Register. They were: (1) the Education Division at the Department of Health and Human Services (first designated in 1980 and deleted in 1983); (2) the Law Enforcement Assistance Administration at the Department of Justice (first designated in 1980 and deleted in 1983); and (3) the Defense Civil Preparedness Agency within the Department of Defense (first designated in 1980 and deleted in 1984)

In our review of the published lists of subagency designations, we noted some errors. For example, five entities within executive departments which currently are designated as subagencies no longer exist. They are

⁴Subsection 207(e) requires that the OGE Director make statutory designations "by rule." While subparagraph 207(d)(1)(C) does not contain such a requirement, the legislative history indicates that it was also Congress' intention to require the OGE to make each nonstatutory designation a matter of public record. See 125 CONG. REC. 14,821 (1979)

Appendix I
The Compartmentalization of Agencies Under
the Ethics in Government Act

- The Department of Commerce's Bureau of Industrial Economics, first designated effective November 14, 1980. It was abolished effective January 22, 1984.
- The Department of Labor's Labor-Management Services Administration, first designated effective March 3, 1980. This entity ceased to exist when its functions were reassigned on May 3, 1984.
- The Department of Justice's Office of Justice Assistance, Research, and Statistics, first designated effective November 14, 1980. It was abolished effective October 12, 1984.
- The Department of Justice's Office for Improvements in the Administration of Justice, first designated effective November 14, 1980. It was abolished effective May 24, 1981.
- The Department of Transportation's Alaska Railroad, first designated effective March 3, 1980. It was purchased by the State of Alaska effective January 5, 1985.

Our review of OGE designation files and the published list of designations in the Federal Register also indicated several other errors. For example, (1) one entity (the Maritime Administration of the Department of Transportation) was misnamed or designated under the wrong department for 4 of the last 5 years; (2) another entity (the Office of Federal Procurement Policy of the Office of Management and Budget) was initially listed in the Federal Register under the OPM, and has not been listed since 1980;⁵ (3) another entity (the Civil Division of the Department of Justice) was initially designated in the November 1980 published listing but was then deleted by the OGE from publications since 1983; (4) one agency designation (the Office of Special Counsel of the Merit Systems Protection Board) was approved by the OGE but was never published in the Federal Register; and (5) two designations in the Executive Office of the President (the Office of the United States Trade Representative and the Council on Environmental Quality) have been misnamed since their initial publication in the Federal Register in 1984.

We found no indication that these designation errors have affected enforcement of or compliance with the postemployment prohibitions in 18 U.S.C. 207(c). The continued designation of subagencies which no longer exist (e.g., the Alaska Railroad) is not a material error because, according to an OGE official, a former senior employee of a subagency

⁵According to an Office of Management and Budget (OMB) official, after the Office of Federal Procurement Policy was listed incorrectly, the OMB called the error to the OGE's attention and assumed that approval for the designation had been granted. The OMB later noticed, though, that it was not included in the next published listing of subagency designations. The OGE denied approving the request for designation, and the OMB decided not to pursue the matter.

which has been abolished may not be subject to the 1-year no-contact restriction.⁶ Although the other types of errors could affect enforcement, agency ethics officers at each of the agencies where those errors occurred told us that they use the correct designations they received directly from the OGE Director rather than the listing of designated agencies in the Federal Register when counseling senior employees who leave the government.

Nevertheless, the errors indicate either that the required review and updating of agency designations is not being properly conducted or that the OGE Director is not fulfilling his responsibility to publish those designations accurately. We brought the errors we noted to the attention of OGE officials, and they said that all of the errors will be corrected when the 1987 designations are published. They also said that they would periodically review the published designations to ensure that they are accurate and current.

Compartmentalization of the Executive Office of the President

On January 16, 1981, an Assistant to the President in the Carter Administration notified the OGE Director of the administration's opinion that OGE subagency designations for the EOP would be unnecessary. He explained that the administration did not view the EOP as a single agency for purposes of the 1-year no-contact restriction because the EOP had no common functions, responsibilities, or staff, and the EOP as a whole was not subject to laws that apply to agencies (e.g., the Administrative Procedure Act, the Freedom of Information Act, and the Privacy Act). Instead, he explained, the administration viewed the EOP as consisting of separate agencies for purposes of the 1-year no-contact prohibition. He said that the administration believed that an entity of the EOP should be treated as an "agency" if the entity was designated as such by statute and covered by laws which generally apply to agencies, and that EOP entities not qualifying as agencies under these criteria should be collectively treated as a single "agency" for purposes of the 1-year no-contact restriction.

Applying these criteria, the Assistant to the President said that the administration had determined that the following entities were separate agencies for purposes of section 207(c):

⁶Also, see 85 OGE 5 (May 9, 1985), in which the OGE concluded that the 1-year no-contact prohibition did not bar former senior-level employees of the Civil Aeronautics Board from contacting employees of the Board who had been transferred to the Department of Transportation following the Board's termination.

- The Office of Management and Budget.
- The Office of Science and Technology Policy
- The Council on Environmental Quality.
- The Office of Administration.
- The Council on Wage and Price Stability
- The Office of the United States Trade Representative
- The National Security Council.

The remaining EOP entities were considered to be a single agency. They were:

- The Vice President's Office
- The White House Office.
- The Intelligence Oversight Board
- The Domestic Policy Staff.
- The Council of Economic Advisers.

According to his letter, the latter entities were considered one agency because their staffs interacted with each other regularly and extensively in assisting and advising the President or Vice President. Their dealings with the staffs of the other EOP components were described as significantly more limited, resembling their dealings with the staffs of departments and agencies outside the EOP.

On March 31, 1981, the Director of the OGE notified the White House Chief of Staff in the Reagan Administration that the OGE disagreed with the former Assistant to the President's interpretation that the EOP was not a single agency for purposes of 18 U.S.C. 207(c) and that the offices and councils described as separate agencies in his letter were like independent agencies. The OGE concluded that the EOP was one "umbrella agency with changing components or units whose responsibilities themselves change from time to time." The OGE Director recommended that the Chief of Staff review the matter and decide whether he wished to make a presentation to OGE on how the EOP should be compartmentalized, starting from the premise that the EOP was a single agency under 18 U.S.C. 207(c).

The OGE Director also disagreed with the criteria the former Assistant to the President said the administration used to determine whether entities within the EOP were separate agencies under the statute. According to the OGE Director, the fact that an EOP entity was created by statute would have "no particular relevance one way or the other" in determining whether it was an agency under 18 U.S.C. 207(c). In this regard,

he noted that subsection 207(e) recognizes that separate statutory entities may exist within an agency but do not themselves constitute agencies for purposes of the 1-year no-contact restriction. He also said that whether an entity is covered by some other statute like the Privacy Act, the Freedom of Information Act, or the Administrative Procedure Act was "of no particular significance" because these laws may apply to components of agencies as well as to agencies as a whole.

The next step in the EOP compartmentalization occurred on December 6, 1982, when the Counsel to the President requested that the Acting Director of the OGE designate the following entities within the EOP as separate and distinct units for purposes of the 1-year no-contact restriction.

- Office of Management and Budget.
- Council of Economic Advisers
- National Security Council.
- United States Trade Representative.
- Council for Environmental Quality.
- Office of Science and Technology Policy
- Office of Administration
- White House Office and the Office of Policy Development
- Office of the Vice President.

According to the Counsel to the President, each of these units within the EOP was

"characterized by (1) statutory responsibilities that are distinct within its umbrella department or agency, and (2) categorization as an 'agency' under other statutes, such as the Freedom of Information Act, the Privacy Act, and the Administrative Procedure Act, where such categorization is dispositive of the duties and requirements placed upon certain entities "

The Counsel to the President also enclosed with his request descriptions of each of the units within the EOP, including its statutory authority

On March 7, 1983, the Acting Director of the OGE notified the Counsel to the President that the nine requested subdivisions of the EOP met the requirements for designation as statutory subagencies under 18 U.S.C. 207(e) and agreed, without any substantiating explanation, that each of the units exercised functions that were distinct and separate from the rest of the EOP. The designations were published in the Federal Register on March 15, 1984. As a result of this ruling, former senior employees of the EOP are not allowed to contact employees in their former subagency

for 1 year after leaving government service but are allowed to contact employees in other subagencies within the EOP. The former heads of each of the nine subagencies, however, are precluded from contacting anyone in the Executive Office during that period.

The OGE's letter granting the Counsel to the President's request for separate statutory designation of the nine EOP components under 18 U.S.C. 207(e) did not contain any explanation of the criteria it had used to grant the request. The OGE did not indicate whether it had been persuaded by the rationale offered in that request (separate statutory basis of each of the components and categorization as an agency under other statutes). Nor did it distinguish the relevance of that rationale in the context of compartmentalization under subsection 207(e) from its earlier decision that the rationale did not provide a sufficient basis for considering the EOP components to be separate agencies under subsection 207(c).

Furthermore, the descriptions of some of the entities within the EOP provided in the Counsel to the President's letter do not themselves appear to establish conclusively that they exercise functions that are distinct and separate from the other entities in the EOP. For example, the Office of Administration was described as being authorized "to provide administrative support services to all units within the EOP except those services which are in direct support of the President." The Office of Science and Technology Policy was described as providing advice to the President in such areas as the economy, national security, and the environment, areas which were covered by other parts of the EOP. The letter also noted that the Vice President was a member of the National Security Council, even though it also said that his Office was distinct and separate from the Council.

The current Director of the OGE told us that the EOP designation was made by his predecessor and that he could not say why the request had been approved. He also said that the EOP designation was being reexamined by his Office because of public concerns raised as a result of Michael K. Deaver's contacts with the Director of the Office of Management and Budget within 1 year of Mr. Deaver having left the White House Office.⁷ The OGE Director said he had asked the Counsel to the

⁷Michael K. Deaver served as Deputy Chief of Staff and Assistant to the President in the White House Office until May 10, 1985. Within 1 year of leaving office, Mr. Deaver met with the Director of the OMB on an issue pending before the administration. The White House Office and the OMB were designated as separate statutory components of the EOP in 1983.

Appendix I
The Compartmentalization of Agencies Under
the Ethics in Government Act

President and the Office of Administration for further information on the relationships between the entities within the EOP.

Postemployment Conflict-Of-Interest Statute (18 U.S.C. 207)

§ 207 Disqualification of former officers and employees, disqualification of partners of current officers and employees

(a) Whoever, having been an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, including a special Government employee, after his employment has ceased, knowingly acts as agent or attorney for, or otherwise represents, any other person (except the United States), in any formal or informal appearance before, or, with the intent to influence, makes any oral or written communication on behalf of any other person (except the United States) to—

(1) any department, agency, court, court-martial, or any civil, military, or naval commission of the United States or the District of Columbia, or any officer or employee thereof, and

(2) in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter involving a specific party or parties in which the United States or the District of Columbia is a party or has a direct and substantial interest, and

(3) in which he participated personally and substantially as an officer or employee through decision, approval, disapproval recommendation, the rendering of advice, investigation or otherwise, while so employed, or

(b) Whoever, (i) having been so employed, within two years after his employment has ceased, knowingly acts as agent or attorney for, or otherwise represents, any other person (except the United States), in any formal or informal appearance before or, with the intent to influence, makes any oral or written communication on behalf of any other person (except the United States) to, or (ii) having been so employed and as specified in subsection (d) of this section, within two years after his employment has ceased, knowingly represents or aids counsels, advises, consults, or assists in representing any other person (except the United States) by personal presence at any formal or informal appearance before—

(1) any department, agency, court, court-martial, or any civil, military or naval commission of the United States or the District of Columbia, or any officer or employee thereof and

(2) in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest or other particular matter involving a specific party or parties in which the United States or the District of Columbia is a party or has a direct and substantial interest, and

(3) as to (i), which was actually pending under his official responsibility as an officer or employee within a period of one year prior to the termination of such responsibility or, as to (ii), in which he participated personally and substantially as an officer or employee or

(c) Whoever other than a special Government employee who serves for less than sixty days in a given calendar year, having been so employed as specified in subsection (d) of this section within one year after such employment has ceased, knowingly acts as agent or attorney for, or otherwise represents anyone other than the United States in any formal or informal appearance before, or with the intent to influence, makes any oral or written communication on behalf of anyone other than the United States, to—

(1) the department or agency in which he served as an officer or employee, or any officer or employee thereof and

(2) in connection with any judicial, rule-making or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter, and

(3) which is pending before such department or agency or in which such department or agency has a direct and substantial interest—

shall be fined not more than \$10,000 or imprisoned for not more than two years, or both

(d)(1) Subsection (c) of this section shall apply to a person employed—

(A) at a rate of pay specified in or fixed according to subchapter II of chapter 53 of title 5, United States Code, or a comparable or greater rate of pay under other authority,

(B) on active duty as a commissioned officer of a uniformed service assigned to pay grade of O-9 or above as described in section 201 of title 37, United States Code, or

(C) in a position which involves significant decision-making or supervisory responsibility, as designated under this subparagraph by the Director of the Office of Government Ethics in consultation with the department or agency concerned. Only positions which are not covered by subparagraphs (A) and (B) above, and for which the basic rate of pay is equal to or greater than the basic rate of pay for GS-17 of the General Schedule prescribed by section 5332 of title 5, United States Code, or positions which are established within the Senior Executive Service pursuant to the Civil Service Reform Act of 1978, or positions of active duty commissioned officers of the uniformed services assigned to pay O-7 or O-8 as described in section 201 of title 37, United States Code, may be designated. As to persons in positions designated under this subparagraph the Director may limit the restrictions of subsection (c) to permit a former officer or employee, who served in a separate agency or bureau within a department or agency to make appearances before or communications to persons in an unrelated agency or bureau, within the same department or agency, having separate and distinct subject matter jurisdiction, upon a determination by the Director that there exists no potential for use of undue influence or unfair advantage based on past government service. On an annual basis, the Director of the Office of Government Ethics shall review the design

Appendix II
Postemployment Conflict-Of-Interest Statute
(18 U.S.C. 207)

nations and determinations made under this subparagraph and, in consultation with the department or agency concerned make such additions and deletions as are necessary. Departments and agencies shall cooperate to the fullest extent with the Director of the Office of Government Ethics in the exercise of his responsibilities under this paragraph.

(2) The prohibition of subsection (c) shall not apply to appearances, communications or representation by a former officer or employee, who is

(A) an elected official of a State or local government, or

(B) whose principal occupation or employment is with (i) an agency or instrumentality of a State or local government, (ii) an accredited degree-granting institution of higher education, as defined in section 1201(a) of the Higher Education Act of 1965 or (iii) a hospital or medical research organization, exempted and defined under section 501(c)(3) of the Internal Revenue Code of 1954, and the appearance, communication, or representation is on behalf of such government, institution, hospital, or organization.

(c) For the purposes of subsection (c), whenever the Director of the Office of Government Ethics determines that a separate statutory agency or bureau within a department or agency exercises functions which are distinct and separate from the remaining functions of the department or agency, the Director shall by rule designate such agency or bureau as a separate department or agency, except that such designation shall not apply to former heads of designated bureaus or agencies or former officers and employees of the department or agency whose official responsibilities included supervision of said agency or bureau.

(d) The prohibitions of subsections (a), (b), and (c) shall not apply with respect to the making of communications solely for the purpose of furnishing scientific or technological information under procedures acceptable to the department or agency concerned or if the head of the department or agency concerned with the particular matter in consultation with the Director of the Office of Government Ethics, makes a certification, published in the Federal Register that the former officer or employee has outstanding qualifications in a scientific, technological, or other technical discipline and is acting with respect to a particular matter which requires such qualifications and that the national interest would be served by the participation of the former officer or employee.

(g) Whoever, being a partner of an officer or employee of the executive branch of the United States Government or any independent agency of the United States or of the District of Columbia, including a special Government employee, acts as agent or attorney for anyone other than the United States before any department, agency, court, court-martial, or any civil, military, or naval commission of the United States or the District of Columbia or any officer or employee thereof in connection with any judicial or other proceeding, application, request for a ruling or other determina-

tion, contract, claim controversy, investigation, charge, accusation, arrest, or other particular matter in which the United States or the District of Columbia is a party or has a direct and substantial interest and in which such officer or employee or special Government employee participates or has participated personally and substantially as an officer or employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or which is the subject of his official responsibility, shall be fined not more than \$5,000, or imprisoned for not more than one year, or both.

(h) Nothing in this section shall prevent a former officer or employee from giving testimony under oath, or from making statements required to be made under penalty of perjury.

(i) The prohibition contained in subsection (c) shall not apply to appearances or communications by a former officer or employee concerning matters of a personal and individual nature, such as personal income taxes or pension benefits, nor shall the prohibition of that subsection prevent a former officer or employee from making or providing a statement, which is based on the former officer's or employee's own special knowledge in the particular area that is the subject of the statement, provided that no compensation is thereby received, other than that regularly provided for by law or regulation for witnesses.

(j) If the head of the department or agency in which the former officer or employee served finds, after notice and opportunity for a hearing, that such former officer or employee violated subsection (a), (b), or (c) of this section, such department or agency head may prohibit that person from making, on behalf of any other person (except the United States), any informal or formal appearance before, or, with the intent to influence, any oral or written communication to, such department or agency on a pending matter of business for a period not to exceed five years, or may take other appropriate disciplinary action. Such disciplinary action shall be subject to review in an appropriate United States district court. No later than six months after the effective date of this Act, departments and agencies shall in consultation with the Director of the Office of Government Ethics establish procedures to carry out this subsection.

(Added Pub. L. 87-849 § 1(a), Oct. 23, 1962, 76 Stat. 1123, and amended Pub. L. 95-521, title V, § 501(a), Oct. 26, 1978, 92 Stat. 1864, Pub. L. 96-28 §§ 1, 2, June 22, 1979, 93 Stat. 76.)

REFERENCES IN TEXT

The Civil Service Reform Act of 1978 referred to in subsec. (d)(1)(C), is Pub. L. 95-454, Oct. 13, 1978, 92 Stat. 111, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 5, Government Organization and Employees, and Tables.

The Higher Education Act of 1965 referred to in subsec. (d)(2)(B), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219, as amended, which is classified principally to chapter 28 (§ 1001 et seq.) of Title 20, Education. Section 1201(a) of the Higher Education Act of 1965, is classified to section 1141(a) of Title 20. For complete

**Appendix II
Postemployment Conflict-Of-Interest Statute
(18 U.S.C. 207)**

classification of this Act to the Code see Short Title note set out under section 1001 of Title 20 and Tables

Section 501(c)(3) of the Internal Revenue Code of 1954 referred to in subsec (d)(2)(B), is classified to section 501(c)(3) of Title 26, Internal Revenue Code

The effective date of this Act referred to in subsec (j) probably means the date of enactment of Pub L 95 521 which was approved on Oct 26, 1978

PRIOR PROVISIONS

A prior section 207 act June 25, 1948 ch 645 62 Stat 692, which related to the acceptance of a bribe by a judge, was eliminated by the general amendment of this chapter by Pub L 87-849 and is substantially covered by revised section 201

Provisions similar to those comprising this section were contained in section 284 of this title prior to the repeal of such section and the general amendment of this chapter by Pub L 87-849

AMENDMENTS

1979-Subsec (b) Pub L 96 28 § 1 substituted by personal presence at any formal or informal appearance' for concerning any formal or informal appearance' in cl (ii) of the provisions preceding par (1), and in par (3), inserted as to (i), preceding "which was actually pending and as to (ii) preceding in which he participated

Subsec (d) Pub L 96 28 § 2, designated existing provisions as par (1) designated existing pars (1) and (3) as subpars (A) and (B) of par (1) as so designated, and added subpar (C) of par (1) and par (2) incorporating into the new par and subpar portions of former provisions relating to positions for which the basic rate of pay was equal to or greater than the basic rate of pay for GS-17 of the General Schedule prescribed by section 5332 of Title 5 and who had significant decision making or supervisory responsibility as designated by the Director of the Office of Government Ethics, in consultation with the head of the department or agency concerned, and provisions relating to the designation of positions by the Director of the Office of Government Ethics

1978-Pub L 95-521 expanded section to include provisions designed to more effectively deal with the problem of the disproportionate influence former officers and employees might have upon the government processes and decision making in their previous departments or agencies when they return in the role of representatives or advocates of nongovernmental groups or interests before those same departments or agencies

EFFECTIVE DATE OF 1978 AMENDMENT

Section 503 of Pub L 95 521 provided that The amendments made by section 501 (amending this section) shall become effective on July 1 1979

EFFECTIVE DATE

Section effective 90 days after Oct 23 1962 see section 4 of Pub L 87-849 set out as an Effective Date note under section 201 of this title

APPLICATION TO INDIVIDUALS WHO LEFT GOVERNMENT SERVICE PRIOR TO JULY 1 1979

Section 502 of Pub L 95 521 provided that The amendments made by section 501 (amending this section) shall not apply to those individuals who left Government service prior to the effective date of such amendments (July 1 1979) or in the case of individuals who occupied positions designated pursuant to section 207(d) of title 18 United States Code prior to the effective date of such designation except that any such individual who returns to Government service on or after the effective date of such amendments or designation shall be thereafter covered by such amendments or designation

CANAL ZONE

Applicability of section to Canal Zone see section 14 of this title

CROSS REFERENCES

American Institute in Taiwan employees in representing Institute to be exempt from this section see section 3310 of Title 22 Foreign Relations and Inter course

Definitions, see section 202 of this title

Memorandum of Attorney General regarding conflict of interest provisions see note under section 201 of this title

Officials appointed under laws and regulations of the Universal Military Training and Service System nonapplicability of this section to see section 463 of Title 50, Appendix War and National Defense

Surplus property, disposal of, restriction on practice by former Government officers and employees and commissioned officers, see section 471 et seq of Title 40, Public Buildings, Property, and Works

Wartime suspension of limitations see section 3287 of this title

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 14, 202 of this title title 5 section 3374 title 12 section 1457 title 22 sections 3310 3507, 3508 3622 title 25 section 450, title 30 section 663, title 38 section 3402, title 40 App section 108 title 42 sections 1396a 1975d 7216 7218 8714 title 50 section 405, title 50 App section 463

Regulations on Agency Statutory and Nonstatutory Designations (5 CFR 737.13)

§ 737.13 Limitation of restrictions of 18 U.S.C. 207(c) to less than that whole of a department or agency

(a) *Authority*. There are two methods by which the application of the one-year cooling-off prohibition of 18 U.S.C. 207(c) may be limited to less than the entirety of a department or agency. First, 18 U.S.C. 207(c) provides that the Director may by rule designate as separate a statutory agency or bureau which exercises functions that are distinct and separate from the remaining functions of the parent department or agency of which it is part (see 737.31). Second, under the provisions of 18 U.S.C. 207(d)(1)(C), the Director may restrict the application of the prohibition as to a former employee (other than one who served in an Executive Level position or at a uniformed service grade level of 0-9 and above) insofar as it affects his or her communications with persons in an unrelated agency or bureau within his former parent department or agency which has separate and distinct subject matter jurisdiction from the agency or bureau in which he or she served (see § 737.32).

(b) *Distinctions between the 18 U.S.C. 207(c) and 207(d)(1)(C) provisions*. (1) The authority granted by 18 U.S.C. 207(c) is applicable solely to a separate statutory agency or bureau that is one created by statute or the functions of which are expressly referred to by statute in such a way that it appears that Congress intended that its functions were to be separable. A determination made under this 18 U.S.C. 207(c) does not, however, benefit former heads of the separate statutory agency or bureau. Such a determination does, however, work to the benefit of other employees at Executive Level or at uniformed service grade level of 0-9 or above.

(2) The determination made pursuant to section 207(d)(1)(C) is intended to provide similar recognition of separability where the subordinate agency or bureau has been *administratively* created. A determination of such separability does inure to the benefit of the head of the separate component if he is a Senior Employee designated by the Director. However, the determination is not beneficial to persons including the head of a separate component in positions at Executive Level or serving at uniformed service grade level of 0-9 above.

(c) *Separate Statutory Components*

(1) *Procedure*. Each agency shall notify the Director in writing of any separate statutory agency or bureau which it desires to submit for such designation under 18 U.S.C. 207(c), providing:

(i) A description of the functions of the agency or bureau indicating the basis on which such functions are claimed to be distinct and separate from the parent organization.

(ii) The separate statutory basis of the agency or bureau and

(iii) Identification of those positions in the parent agency with official responsibility for supervision of such separate statutory agency or bureau.

(2) *Standards*. A parent agency may propose as a separate statutory agency an agency or bureau (i) created specifically by statute (ii) the functions of which are expressly referred to by statute in such a way as to indicate that a separate component was intended or (iii) which is the successor to either of the foregoing, but a decision as to the sufficiency of the statutory authority as well as the separability of functions shall be reserved to the Director OGE.

(3) *Effect of designation*. If a subordinate part of an agency is designated as separate by the Director, then Senior Employees of such separate agency and those of the parent agency are not subject to the restrictions of section 207(c) as to each other, agencies except that the prohibition of section 207(c) remains applicable to the former head of a separate subordinate agency and to former Senior Employees of the parent agency whose official responsibility included supervision of the subordinate agency.

Example 1. A former Senior Employee of the Product Agency in Executive Department leaves and joins a law firm which represents Q Corporation. Product Agency has been designated by the Director as a separate from Executive Department. The former employee is not restricted from representing the Q Corporation on a new matter before the Executive Department.

(d) *Separate Nonstatutory Components* - (1) *Procedure*. Each agency may notify the Director in writing of a component agency, bureau or office having separate and distinct subject matter jurisdiction which it desires to submit for designation under 18 U.S.C. 207(d)(1)(C), providing:

**Appendix III
Regulations on Agency Statutory and
Nonstatutory Designations (5 CFR 737.13)**

(i) A description of the subject matter jurisdiction of such component indicating the basis on which such jurisdiction is claimed to be separate and distinct from certain other agencies, bureaus, and offices of the parent agency.

(ii) A description of the nature of the connections and interactions between such component and certain other agencies, bureaus, or offices of the parent agency indicating the basis on which the component is claimed to be unrelated.

(iii) A statement of the basis on which it is claimed that no potential exists for use by former Senior Employees of such component of undue influence or unfair advantage with respect to the named other agencies, bureaus, or offices of the parent agency based on past Government service and

(iv) Identification of those organizational units of the parent agency having administrative or operational authority over such component agency, bureau, or office.

(2) *Standards.* (i) A parent agency may propose as separate from other parts of a department or agency any agency or bureau having subject matter jurisdiction separate and distinct from one or more other portions of the department or agency accompanied by a showing that there would be no potential for use of undue influence or unfair advantage based upon past Government service if a former employee of one such subordinate agency or bureau communicated with employees of such other portions of the department or agency.

(ii) A determination under this section rests solely with the Director, OGE, and is available only for those subordinate components which would but for the lack of a statutory basis qualify for separate agency treatment under 18 U.S.C. 207(c).

(iii) Where one component has supervisory authority over another, the two components may not be considered separate and distinct for purposes of this section.

(iv) The requirement of "separate and distinct subject matter jurisdiction" may be met in at least two ways. First, the substantive areas of coverage may be distinct. For example, an

office or bureau within the parent agency may handle only maritime matters. Second, the regional area of coverage may be different. For example, one regional office may, on appropriate facts, be considered separate and distinct from other regional offices and from the parent agency - except for the bureau or office in the parent agency which is responsible for its supervision.

(v) It is necessary to specify the unrelated agency or bureau within the same department or agency as to which it is recommended that post employment communication be permitted. For example, one bureau may involve a subject matter distinct from some, but not all, parts of the parent department. Attempts to fractionalize a department could however become deeply complicated and involve difficult judgments and fact finding. OGE will not usually act on such cases and submissions should be confined to relatively clear cases.

(3) *Effect of determination.* If a component agency, bureau, or office is determined to be separate by the Director, then Senior Employees of such component are not subject to the restrictions of 18 U.S.C. 207(c) and § 737.11 as to the remaining agencies, bureaus, or offices of the parent agency (except certain such agencies, bureaus, or offices as specified in § 737.32) except that the prohibition of section 207(c) and § 737.11 shall remain applicable (i) to those former Senior Employees of such component who served in positions designated by 18 U.S.C. 207(d)(1)(A) and (B) and (ii) to former Senior Employees of such component with respect to the parent agency (as defined in § 737.13(e)). Such limited application of 18 U.S.C. 207(c) may be available for the head of a separate component unlike the limitation of 18 U.S.C. 207(e) as determined by the Director.

Example 1. In the Department of Justice, while the Antitrust Division may be separate from other Divisions, it is not separate from the immediate office of the Attorney General.

Statutory and Nonstatutory Subagency Designations as of July 16, 1986^a

Statutory Subagency Designations (18 U.S.C. 207[e])	Subagency Designations and Effective date
Parent Agency	
Executive Office of the President	White House Office and the Office of Policy Development (3/7/83) Office of the U S Trade Representative (3/7/83) Office of Management and Budget (3/7/83) Council of Economic Advisors (3/7/83) National Security Council (3/7/83) Council on Environmental Quality (3/7/83) Office of Science and Technology Policy (3/7/83) Office of Administration (3/7/83) Office of the Vice President (3/7/83)
Department of Commerce	Economic Development Administration (11/14/80) Patent and Trademark Office (11/14/80) National Oceanic and Atmospheric Administration (11/14/80) Bureau of the Census (11/14/80)
Department of Defense	Department of the Army (3/3/80) Department of the Navy (3/3/80) Department of the Air Force (3/3/80) Defense Mapping Agency (3/3/80)
Department of Energy	Federal Energy Regulatory Commission (3/3/80)
Department of Health and Human Services	Food and Drug Administration (3/3/80) Public Health Service (3/3/80) Social Security Administration (3/3/80)
Department of Justice	Bureau of Prisons ^b (3/3/80) Community Relations Service (3/3/80) Drug Enforcement Administration (3/3/80) Federal Bureau of Investigation (3/3/80) Immigration and Naturalization Service (3/3/80) U S Parole Commission (3/3/80) National Institute of Justice ^c (11/14/80) Bureau of Justice Statistics ^c (11/14/80) Office of Justice Assistance, Research, and Statistics ^c (11/14/80) Foreign Claims Settlement Commission (3/5/82) Independent Counsel ^d (7/31/85)
Department of Labor	Bureau of Labor Statistics (3/3/80) Mine Safety and Health Administration (3/3/80) Occupational Safety and Health Administration (3/3/80)
Department of Transportation	Federal Aviation Administration (3/3/80) Federal Highway Administration (3/3/80) Federal Railroad Administration (3/3/80) National Highway Traffic Safety Administration (3/3/80) Saint Lawrence Seaway Development Corporation (3/3/80) U S Coast Guard (3/3/80) Urban Mass Transportation Administration (3/3/80) Federal Maritime Commission ^e (3/5/82)

**Appendix IV
Statutory and Nonstatutory Subagency
Designations as of July 16, 1986**

Parent Agency	Subagency Designations and Effective date
Department of the Treasury	Bureau of Alcohol, Tobacco and Firearms (7/1/79) Bureau of Engraving and Printing (7/1/79) U S Mint (7/1/79) Comptroller of the Currency (7/1/79) Internal Revenue Service (7/1/79) U S Customs Service (7/1/79) U S Secret Service (7/1/79)
Federal Emergency Management Agency	U S Fire Administration (3/3/80)
National Credit Union Administration	Central Liquidity Facility (3/5/82)
Office of Personnel Management	Office of Government Ethics (3/3/80)
Nonstatutory Subagency Designations (18 U.S.C. 207[d][1](C))	
Department of Commerce	National Telecommunications and Information Administration (11/14/80) Bureau of Industrial Economics ¹ (11/14/80) International Trade Administration (3/5/82) Minority Business Development Administration (3/5/82)
Department of Defense	Defense Communications Agency (3/3/80) Defense Intelligence Agency (3/3/80) Defense Nuclear Agency (3/3/80) National Security Agency (3/3/80) Defense Logistics Agency (3/15/84)
Department of the Health and Human Services	Health Care Financing Administration (3/3/80)
Department of Justice	Executive Office for U S Attorneys ⁹ (3/3/80) U S Marshals Service ⁹ (3/3/80) Antitrust Division (11/14/80) Civil Rights Division (11/14/80) Criminal Division (11/14/80) Land and Natural Resources Division (11/14/80) Tax Division (11/14/80) Office for Improvements in the Administration of Justice ^h (11/14/80)
Department of Labor	Employment and Training Administration (3/3/80) Employment Standards Administration (3/3/80) Labor-Management Services Administration ¹ (3/3/80)
Department of State	Foreign Service Grievance Board (3/3/80) International Joint Commission, United States and Canada (American Section) (3/3/80)
Department of Transportation	Alaska Railroad ^d (3/3/80)

**Appendix IV
Statutory and Nonstatutory Subagency
Designations as of July 16, 1986**

^aSource: Federal Register, Volume 51, Number 136, p. 25646

^bThe Bureau of Prisons includes Federal Prison Industries, Inc.

^cThese three components are not considered separate from each other, but only from other separate components of the Department of Justice. Also, the Office of Justice Assistance, Research, and Statistics was abolished by Sec. 609B of the act on October 12, 1984 (98 Stat. 2091).

^dOGE officials told us that the Independent Counsel would be removed from the 1987 listing of designated agencies because of a court order indicating it is not part of the Department of Justice.

^eThe Federal Maritime Commission is an independent agency and not a part of the Department of Transportation. OGE officials indicated that this was in error; the designation should be for the Maritime Administration.

^fThe Bureau of Industrial Economics was abolished by Secretarial Order (49 FR 4538) effective January 22, 1984.

^gThe offices of U.S. attorneys are considered separate agencies for each of the 95 judicial districts, however, each office is not designated as separate from the office of the U.S. Marshals Service for the same judicial district. Likewise, each office of the U.S. Marshals Service is not designated as separate from the office of U.S. attorney for the same judicial district.

^hThis agency was abolished effective May 24, 1981.

ⁱThe functions of the Labor-Management Services Administration were reassigned on May 3, 1984, by Secretary's Order 3-84.

^jThe Alaska Railroad was purchased by the State of Alaska effective January 5, 1985.

Requests for copies of GAO reports should be sent to:

U.S. General Accounting Office
Post Office Box 6015
Gaithersburg, Maryland 20877

Telephone 202-275-6241

The first five copies of each report are free. Additional copies are \$2.00 each.

There is a 25% discount on orders for 100 or more copies mailed to a single address.

Orders must be prepaid by cash or by check or money order made out to the Superintendent of Documents.

United States
General Accounting Office
Washington, D.C. 20548

First Class Mail
Postage & Fees Paid
GAO
Permit No. G100

Official Business
Penalty for Private Use \$300

Address Correction Requested