

Public Law 95-624
95th Congress

An Act

To authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1979, and for other purposes.

Nov. 9, 1978
[S. 3151]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Justice Appropriation Authorization Act, Fiscal Year 1979".

Department of
Justice
Appropriation
Authorization
Act, Fiscal Year
1979.

SEC. 2. There are hereby authorized to be appropriated for the fiscal year ending September 30, 1979, to carry out the activities of the Department of Justice (including any bureau, office, board, division, commission, or subdivision thereof), the following amounts:

(1) For General Administration, including hire of passenger motor vehicles and miscellaneous and emergency expenses authorized or approved by the Attorney General, or the Associate Attorney General or the Assistant Attorney General for Administration: \$28,966,000.

(2) For General Legal Activities, including miscellaneous and emergency expenses authorized or approved by the Attorney General, or the Deputy Attorney General, or the Associate Attorney General or the Assistant Attorney General for Administration; not to exceed \$20,000 for expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on his certificate; and advance of public moneys under section 3648 of the Revised Statutes (31 U.S.C. 529): \$95,481,000.

(3) For the Antitrust Division: \$47,080,000.

(4) For United States Attorneys and Marshals, including purchase of firearms and ammunition; lease and acquisition of law enforcement and passenger motor vehicles without regard to the general purchase price limitation for the current fiscal year; supervision of United States prisoners in non-Federal institutions; and bringing to the United States from foreign countries persons charged with crime: \$221,736,000.

(5) For Fees and Expenses of Witnesses, including expenses, mileage, compensation and per diems of witnesses in lieu of subsistence, as authorized by law; including advances of public moneys except that no sums authorized to be appropriated by this Act shall be used to pay any witness more than one attendance fee for any one day: \$20,144,000.

(6) For Support of United States Prisoners in non-Federal institutions, including necessary clothing and medical aid, payment of rewards, and reimbursements to Saint Elizabeths Hospital for the care and treatment of United States prisoners, at per diem rates as authorized by section 2 of the Act entitled "An Act to authorize certain expenditures from the appropriations of Saint Elizabeths Hospital, and for other purposes", approved August 4, 1947 (24 U.S.C. 168a): \$25,100,000.

(7) For the Community Relations Service: \$5,353,000.

(8) For the Federal Bureau of Investigation for expenses necessary for the detection and prosecution of crimes against the

United States; protection of the person of the President of the United States and the person of the Attorney General; acquisition, collection, classification and preservation of identification and other records and their exchange with, and for the official use of, the duly authorized officials of the Federal Government, of States, cities, and other institutions, such exchange to be subject to cancellation if dissemination is made outside the receiving departments or related agencies; and such other investigations regarding official matters under the control of the Department of Justice and the Department of State as may be directed by the Attorney General; including purchase for police-type use without regard to the general purchase price limitation for the current fiscal year and hire of passenger motor vehicles; acquisition, lease, maintenance, and operation of aircraft; firearms and ammunition; payment of rewards; benefits in accordance with those provided under sections 911 (9) through (11) and 957 of the Foreign Service Act of 1946 (22 U.S.C. 1136(9)-(11) and 22 U.S.C. 1157) under regulations prescribed by the Secretary of State; and not to exceed \$70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate: \$561,341,000.

(9) For the Immigration and Naturalization Service, for payment of expenses not otherwise provided for, necessary for the administration of the laws relating to immigration, naturalization, and alien registration, including advance of cash to aliens for meals and lodging while en route; payment of allowances to aliens, while held in custody under the immigration laws, for work performed; payment of expenses and allowances incurred in tracking lost persons as required by public exigencies in aid of State or local law enforcement agencies where provision for reimbursement by such State and local law enforcement agencies is made; payment of rewards; not to exceed \$70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on his certificate; purchase for police-type use without regard to the general purchase price limitation for the current fiscal year and hire of passenger motor vehicles; acquisition, lease, maintenance, and operation of aircraft; firearms and ammunition and attendance at firearms matches; operation, maintenance, remodeling and repair of buildings, and the purchase of equipment incident thereto; refunds of maintenance bills, immigration fines, and other items properly returnable except deposits of aliens who become public charges and deposits to secure payment of fines and passage money; payment of interpreters and translators who are not citizens of the United States and distribution of citizenship textbooks to aliens without cost to such aliens; acquisition of land as sites for enforcement fence and construction incident to such fence; benefits in accordance with those provided under sections 911 (9) through (11) and 957 of the Foreign Service Act of 1946 (22 U.S.C. 1136(9)-(11) and 22 U.S.C. 1157) under regulations prescribed by the Secretary of State; research related to immigration enforcement which shall remain available until expended: \$320,722,000, of which \$2,052,000 shall be made available for the

investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals.

(10) For the Drug Enforcement Administration to hire and acquire law enforcement and passenger motor vehicles without regard to the general purchase price limitation for the current fiscal year; pay in advance for special tests and studies by contract; pay in advance for expenses arising out of contractual and reimbursable agreements with State and local law enforcement and regulatory agencies while engaged in cooperative enforcement and regulatory activities in accordance with section 503a(2) of the Controlled Substances Act; pay expenses not to exceed \$70,000 to meet unforeseen emergencies of a confidential character to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; pay rewards; pay for publication of technical and informational material in professional and trade journals; purchase chemicals, apparatus, and scientific equipment; pay for necessary accommodations in the District of Columbia for conferences and training activities; acquire, lease, maintain, and operate aircraft; research related to enforcement and drug control to remain available until expended; employ aliens by contract for services abroad; benefits in accordance with those provided under sections 911 (9) through (11) and 957 of the Foreign Service Act of 1946 (22 U.S.C. 1136 (9)-(11) and 22 U.S.C. 1157), under regulations prescribed by the Secretary of State, such sums as authorized by section 709(a) of the Controlled Substances Act (21 U.S.C. 904 (a)), for the fiscal year ending September 30, 1979, for the activities authorized by the Comprehensive Drug Abuse Prevention and Control Act of 1970.

21 USC 873.

21 USC 801 note.

(11) For the Federal Prison System, \$362,662,000, including—

(A) for the administration, operation, and maintenance of Federal penal and correctional institutions, including supervision and support of United States prisoners in non-Federal institutions; purchase of and hire of law enforcement and passenger motor vehicles; compilation of statistics relating to prisoners in Federal penal and correctional institutions; assistance to State and local governments to improve their correctional systems; firearms and ammunition; medals and other awards; payment of rewards; purchase and exchange of farm products and livestock; construction of buildings at prison camps; and acquisition of land as authorized by section 4010 of title 18, United States Code; transfer to the Health Services Administration such amounts as may be necessary, in the discretion of the Attorney General, for the direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions; making such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Control Corporation Act, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for Federal Prison Industries, Incorporated;

42 USC 250a.

31 USC 849.

(B) for carrying out the provisions of sections 4351 through 4353 of title 18, United States Code, which establish

a National Institute of Corrections, to remain available until expended; and

(C) for planning, acquisition of sites and construction of new facilities, and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, to remain available until expended.

Appropriated
sums,
unauthorized use.

SEC. 3. (a) None of the sums authorized to be appropriated by this Act may be used to pay the compensation of any person employed after the date of the enactment of the Act as an attorney (except foreign counsel employed in special cases) unless such person shall be duly licensed and authorized to practice as an attorney under the laws of a State, territory, or the District of Columbia.

(b) None of the sums authorized to be appropriated by this Act for the Federal Bureau of Investigation shall be used to pay the compensation of any employee in the competitive service.

(c) None of the additional sums authorized to be appropriated by this Act for criminal investigations and management direction shall be reprogrammed to the Domestic Terrorism Intelligence Program.

Appropriated
sums, authorized
use.

SEC. 4. (a) Sums authorized to be appropriated by this Act which are available for expenses of attendance at meetings shall be expended for such purposes in accordance with regulations prescribed by the Attorney General.

(b) Sums authorized to be appropriated by this Act may be used for the purchase of insurance of motor vehicles operated in official government business in foreign countries.

(c) Sums authorized to be appropriated by this Act for salaries and expenses shall be available for services as authorized by section 3109 of title 5 of the United States Code.

(d) The labor of United States prisoners may be used for work performed with sums authorized to be appropriated by section 2(11)(C).

(e) Sums authorized to be appropriated by this Act to the Department of Justice may be used for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

(f) Sums authorized to be appropriated by this Act may be used for (1) expenses of primary and secondary schooling for dependents of personnel stationed outside the continental United States at cost not in excess of those authorized by the Department of Defense for the same area, when it is determined by the Attorney General that schools available in the locality are unable to provide adequately for the education of such dependents, and (2) transportation of those dependents between their place of residence and schools serving the area which those dependents would normally attend when the Attorney General, under such regulations as he may prescribe, determines that such schools are not accessible by public means of transportation.

(g) There are authorized to be appropriated such sums as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs.

SEC. 5. Section 1001(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000g) is amended by striking out the last sentence.

Evaluations.

SEC. 6. (a) The Attorney General shall perform periodic evaluations of the overall efficiency and effectiveness of the Department of Justice programs and any supporting activities funded by appropria-

tions authorized by this Act and annual specific program evaluations of selected subordinate organization's programs, as determined by priorities set either by the Congress or the Attorney General.

(b) The evaluations shall be performed by the appropriate Department level program review staff.

(c) Subordinate Department of Justice organizations and their officials shall provide all necessary assistance and cooperation to the Department level program review staff in the conduct of the evaluation, including full access to all information, documentation, and cognizant personnel, as required.

(d) Completed evaluations shall be made available to the Committees on the Judiciary of the Senate and House of Representatives.

SEC. 7. During the fiscal year for which appropriations are authorized by this Act, each organization of the Department of Justice, through the appropriate office within the Department of Justice, shall notify in writing the Committees on the Judiciary, of the House of Representatives and the Senate, and other appropriate committees a minimum of fifteen days prior to—

Notification of congressional committees.

(1) reprogramming of funds in excess of \$150,000 or 10 percent, whichever is less, between the programs within the offices, divisions, and boards as defined in the Department of Justice's program structure submitted to the Committees on the Judiciary of the Senate and House of Representatives;

(2) reprogramming of funds in excess of \$500,000 or 2 percent, whichever is less, between programs within the Bureaus as defined in the Department of Justice's program structure submitted to the Committees on the Judiciary of the Senate and House of Representatives;

(3) any reprogramming action which involves less than the amounts specified in paragraphs (1) and (2) if such action would have the effect of significant program changes and committing substantive program funding requirements in future years;

(4) increasing personnel or funds by any means for any project or program for which funds or other resources have been restricted;

(5) creation of new programs or significant augmentation of existing programs;

(6) reorganization of offices or programs; and

(7) significant relocation of offices or employees.

SEC. 8. Section 4002 of title 18, United States Code, is amended by striking out "Director of the Bureau of Prisons" and inserting "Attorney General" in lieu thereof.

SEC. 9. The Attorney General shall consult with the Secretary of Defense in order to develop a plan to assure that such suitable facilities as the Department of Defense operates which are not in active use shall be made available for operation by the Department of Justice for the confinement of United States prisoners. Such plan shall provide for the return to the management of the Department of Defense of any such facility upon a finding by the Secretary of Defense that such return is necessary to the operation of the Department.

18 USC 4001 note.

SEC. 10. (a) On or before September 1, 1979, the Attorney General shall submit to the Congress—

18 USC 4121 note.

(1) a plan to assure the closure of the United States Penitentiary on McNeil Island, Steilacoom, Washington, on or before January 1, 1982; and

McNeil Island Penitentiary, closure.

Employment and
training for
prisoners.

(2) a report on the status of the Federal Prison Industries.
(b) The report made under this section shall include a long-range plan for the improvement of meaningful employment training, and the methods which could be undertaken to employ a greater number of United States prisoners in the program. Such report may include recommendations for legislation.

SEC. 11. Notwithstanding the second of the paragraphs relating to salaries and expenses of the Federal Bureau of Investigation in the Department of Justice Appropriation Act, 1973 (86 Stat. 1115), sums authorized to be appropriated by this Act for such salaries and expenses may be used for the purposes described in such paragraph until but not later than the end of the fiscal year ending September 30, 1979.

SEC. 12. In addition to any other sums authorized by this Act to be appropriated for the activities of the Federal Prison System, there are authorized to be appropriated \$1,000,000 to bring the facilities of the Federal Prison System into compliance with fire safety standards of the localities in which such facilities are located. Not later than one hundred and eighty days after the appropriation of sums authorized for this purpose, the Federal Bureau of Prisons shall report to the Congress the extent to which such facilities have complied with such standards. Such report shall describe the purposes for which sums authorized to be appropriated have been or are to be expended.

Report to
Congress.
28 USC 519 note.

SEC. 13. (a) The Attorney General shall, during the fiscal year for which appropriations are authorized by this Act, transmit a report to each House of the Congress in any case in which the Attorney General—

(1) establishes a policy to refrain from the enforcement of any provision of law enacted by the Congress, the enforcement of which is the responsibility of the Department of Justice, because of the position of the Department of Justice that such provision of law is not constitutional; or

(2) determines that the Department of Justice will contest, or will refrain from defending, any provision of law enacted by the Congress in any proceeding before any court of the United States, or in any administrative or other proceeding, because of the position of the Department of Justice that such provision of law is not constitutional.

(b) Any report required in subsection (a) shall be transmitted not later than thirty days after the Attorney General establishes the policy specified in subsection (a) (1) or makes the determination specified in subsection (a) (2). Each such report shall—

(1) specify the provision of law involved;

(2) include a detailed statement of the reasons for the position of the Department of Justice that such provision of law is not constitutional; and

(3) in the case of a determination specified in subsection (a) (2), indicate the nature of the judicial, administrative, or other proceeding involved.

(c) If, during the fiscal year for which appropriations are authorized by this Act, the Attorney General determines that the Department of Justice will contest, or will refrain from defending, any provision of law enacted by the Congress in any proceeding before any court of the United States, or in any administrative or other proceeding, because of the position of the Department of Justice that such

provision of law is not constitutional, then the representative of the Department of Justice participating in such proceeding shall make a declaration in such proceeding that such position of the Department of Justice regarding the constitutionality of the provision of law involved constitutes the position of the executive branch of the United States with respect to such matter.

Sec. 14. Using sums authorized to be appropriated by this Act, the Federal Bureau of Investigation shall in its Uniform Crime reports classify arson as a Part I offense.

Sec. 15. No part of any sums authorized to be appropriated by this Act may be used for the purpose of transferring any border control activities of the Immigration and Naturalization Service (including patrol and inspections) to any other agency or department of the Federal Government.

Sec. 16. The Attorney General, in consultation with the Congress, shall develop special eligibility criteria under the current United States parole program for Indochina Refugees which would enable a larger number of refugees from Cambodia to qualify for admission to the United States.

8 USC 1255 note.

Sec. 17. The Attorney General shall undertake a study of the extent to which complaints of violations of Federal criminal laws are not prosecuted and shall make recommendations for improving the percentage of such complaints which are prosecuted by the Department. The study shall also analyze the cases that have not been prosecuted and make recommendations to assure that the decisions not to prosecute are in accordance with national policy. The study and recommendations shall be provided to the Committees on the Judiciary of the Senate and House of Representatives not later than October 1, 1979.

28 USC 519 note.

Sec. 18. (a) With respect to any undercover investigative operation of the Federal Bureau of Investigation which is necessary for the detection and prosecution of crimes against the United States or for the collection of foreign intelligence or counterintelligence—

(1) sums authorized to be appropriated for the Federal Bureau of Investigation by this Act may be used for leasing space within the United States, the District of Columbia, and the territories and possessions of the United States without regard to section 3679(a) of the Revised Statutes (31 U.S.C. 665(a)), section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading "MISCELLANEOUS" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3648 of the Revised Statutes (31 U.S.C. 529), section 3741 of the Revised Statutes (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Services Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c));

(2) sums authorized to be appropriated for the Federal Bureau of Investigation by this Act, and the proceeds from such undercover operation, may be deposited in banks or other financial institutions without regard to the provisions of section 648 of title 18, United States Code, and section 3639 of the Revised Statutes (31 U.S.C. 521); and

(3) the proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation without regard to the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484);

only upon the written certification of the Director of the Federal Bureau of Investigation and the Attorney General (or, if designated by the Attorney General, the Deputy Attorney General) that any action authorized by paragraph (1), (2), or (3) of this subsection is necessary for the conduct of such undercover operation.

(b) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under paragraphs (2) and (3) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited into the Treasury of the United States as miscellaneous receipts.

18 USC 351 note.

SEC. 19. The Federal Bureau of Investigation shall provide a written report to a Member of Congress on any investigation conducted based on a threat on the Member's life under section 351 of title 18 of the United States Code.

SEC. 20. (a) The Attorney General shall take such steps as may be necessary to acquire or to construct, in Los Angeles County, California, a Federal detention center. Such center shall be capable of accommodating not less than five hundred Federal detainees.

(b) In addition to any other sums that are authorized to be appropriated by this Act, there are authorized to be appropriated \$2,600,000 for planning and site acquisition for the fiscal year ending September 30, 1979, to carry out this section.

22 USC 263a.

SEC. 21. (a) The Act entitled "An Act to authorize membership on behalf of the United States in the International Criminal Police Commission, approved June 10, 1938 (52 Stat. 640; 22 U.S.C. 236a), is amended by striking out the last two sentences and inserting in lieu thereof the following: "All dues and expenses to be paid for the membership of the United States shall be paid out of sums authorized and appropriated for the Department of Justice."

(b) The Attorney General is authorized to pay to the International Criminal Police organization the unpaid balance of the dues for calendar years prior to 1978 and such sums as may be necessary are authorized to be appropriated to carry out the provisions of this subsection.

SEC. 22. Section 5108(c)(8) of title 5, United States Code, is amended by striking out "32" and inserting in lieu thereof "45".

Approved November 9, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1148 accompanying H.R. 12005 (Comm. on the Judiciary) and Pt. 2 (Permanent Select Comm. on Intelligence); No. 95-1777 (Comm. of Conference).

SENATE REPORT No. 95-911 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 124 (1978):

July 10, considered and passed Senate.

Sept. 26, H.R. 12005 considered in House.

Sept. 28, H.R. 12005 considered and passed House; proceedings vacated and S. 3151, amended, passed in lieu.

Oct. 13, Senate agreed to conference report.

Oct. 14, House agreed to conference report.