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103

STATE OF ALASKA
THE LEGISLATURE

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May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

House Judiciary:

5-2-88

5-4-88

5-8-88

HOUSE COMMITTEE REPORT

(7)

Date referred: 3/2/87

FURTHER REFERRALS: Finance

DATE: 5-8-87
~~5-4-87~~

The Judiciary Committee has considered SB 103

"An Act relating to the disposal of property forfeited under federal drug enforcement laws.

RECOMMENDS:

- replace with HCS 573103 (Jud) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

[Signature]
Chairman's signature

5-0448X ✓
Levy
5/6/87

Original sponsor: Faiks

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR SENATE BILL NO. 103 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the disposal of property for-
7 feited under federal drug enforcement laws."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 17.30.100 is amended by adding a new subsection to
10 read:

11 (d) The Department of Public Safety or a local law enforcement
12 agency may accept from the United States Attorney General property,
13 including money, that is forfeited under 21 U.S.C. 881 (the Controlled
14 Substances Act). The Department of Public Safety and local law
15 enforcement agencies shall, in accordance with 21 U.S.C. 881(e) and
16 regulations and policies adopted under that section, use property and
17 the proceeds of property obtained under this subsection in the
18 enforcement of this chapter, AS 11.71, and municipal ordinances sub-
19 stantially similar to this chapter and AS 11.71.

20 * Sec. 2. This Act is retroactive to January 1, 1985.

Adopted

5-0448Aa
Levy

A M E N D M E N T

TO: SB 103

Page 1, line 11, following "Safety":

Insert "or a local law enforcement agency"

Page 1, line 14, following "Safety":

Insert "and local law enforcement agencies"

Page 1, line 17, following "chapter":

Delete "and"

Insert ", "

Page 1, line 17, following "AS 11.71":

Insert ", and municipal ordinances substantially similar to this chapter and AS 11.71"

Retrospective
Effective Date
4/1/85

January 18, 1988

MEMORANDUM

TO: Rep. John Sund, Chair,
House Judiciary Committee

FROM: John Hartle, PA, *JH*
House Judiciary Committee Staff

RE: SB 103 (Faiks) An Act relating to the disposal of property
forfeited under federal drug enforcement laws

House Judiciary heard and passed out a Judiciary CS Friday 5/1/87

Committee Substitute (JUD): 7 do pass:

- 1) Added "and municipal ordinances substantially similar to this chapter and AS 11.71"
- 2) Added Effective date retroactive to 1/1/85

The purpose of the bill is to take advantage of a provision in the Federal Controlled Substances Act allowing local law enforcement agencies to accept a share of money and other property (e.g. autos) forfeited in drug prosecutions. The share will be based on the percentage of the total prosecution effort put in by the local agency.

The Department of Public Safety strongly supports the bill, along with the entire Judiciary Committee.

In file:

Memo from Faiks
Public Safety position paper
memo from Chip Dennerlein
Federal Register w/ policy on forfeitures

*request
maybe some funds being held that way
be available.*

TITLE: "An Act relating to the disposal of property forfeited under federal drug enforcement laws."

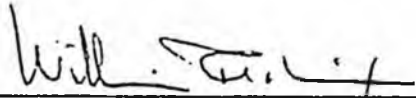
CONTACT:Maj. Walter J. Gilmour
Acting Director

DEPARTMENT OF PUBLIC SAFETY
ALASKA

The purpose of this legislation is to allow the Department of Public Safety to receive property forfeited to the Federal Government as a result of charges under the Federal Controlled Substances Act (2 U.S.C. 881).

The authorization of the Department of Public Safety to receive property, including money, and to use it in supporting law enforcement activities, will be of great assistance. While the unpredictability of such receipts prevents any accurate estimate of the impact of this statute change, the reduction in the budget of the Division of Alaska State Troopers as a result of the revenue crisis can be partially offset by such receipts.

The Department of Public Safety supports SB 103.


WILLIAM R. NIX
Acting Commissioner

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

Bill Version: SB 103
Publish Date: _____

REQUEST: _____

Revision Date: _____
Title: "An Act relating to the disposal
of property forfeited under Fed drug laws."
Sponsor: Sen. Faiks
Requestor: Senate Judiciary

Agency Affected: Public Safety
BRU: Alaska State Troopers
Components: Detachments & CIB
Narcotics

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

The unpredictability of amounts and timeliness of such receipts prevents any accurate estimate of the impact of this statute change.

JNR
2/9/87

Prepared by: Francis C. Allan Phone: 269-5691
Division: Alaska State Troopers Date: 2/09/87

Approved by Commissioner: *Michael J. Jensen* Date: 2-9-87
Agency: Public Safety

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)
 - Senate Secretary

Alaska State Legislature



PRESIDENT
907-465-3755

JAN FAIKS
POST OFFICE BOX V
JUNEAU, ALASKA 99811

Senate

March 17, 1987

MEMORANDUM

TO: Representative John Sund, Chairman
House Judiciary Committee

FROM: Senator Jan Faiks
President of the Senate

SUBJECT: Background on Senate Bill 103
An Act relating to the disposal of property
forfeited under federal drug enforcement laws.

Senate Bill 103 has been referred to your committee for consideration. The purpose of this bill is to enable the state to use funds collected from the forfeiture of assets of convicted drug dealers for the enforcement of state drug laws.

This bill will permit the Department of Public Safety to accept property, including money, from the United States Attorney General which has been forfeited under the federal Controlled Substances Act. It further enables the Department to dedicate those funds to the enforcement of state drug laws.

The amount of funds which can be anticipated under this plan will vary with the amount of property that is seized in any given year and the amount of participation from the state.

The Department of Public Safety estimates that in 1986 it was allocated nearly \$150,000 in cash from drug-related investigations from the federal government. Although the funds have been allocated, the state has not been able to accept them, as there is not statutory authority to do so. Presently, the money reverts to the federal government.

OUT OF SESSION

6060 YUKON DRIVE ANCHORAGE, ALASKA 99516 907-274-6611



The Department is able to retain property which is forfeited in these cases. Automobiles comprise the majority of the property that is confiscated, which the Department can then use as part of the enforcement process. The property obtained by the Department in 1986 has a value between \$50,000-72,000.

Senate Bill 103 does not appear to violate the Dedicated Funds clause of the Alaska Constitution, as the dedication of those funds is required by relevant federal law which enable such allocation to the states.

Specifically, the dedicated funds clause contained in Article IX, sec. 7 of the state constitution provides that

The proceeds of any state tax or license shall not be dedicated to any special purpose, except...when required by the federal government for state participation in federal programs.

The relevant federal law in this area, 21 U.S.C. 881 (e), provides that

Whenever property is civilly or criminally forfeited under this subchapter the Attorney General may
(1) retain the property for official use or transfer the custody of ownership of any forfeited property to any Federal, State, or local agency . . .

The United States Attorney General has issued guidelines which spell out the procedures for transferring property seized and forfeited under 21 U.S.C. 881 which provide that

Property will be transferred [to a state law enforcement agency] only in cases where the tangible property or cash will be credited to the budget of the state or local agency that directly participated in the seizure or forfeiture, resulting in an increase of law enforcement resources for that specific state or local agency.

These guidelines make it clear that the dedication of funds received by the state under 21 U.S.C. 881 appears to be required for state participation in a federal program, and is not in violation of the dedicated funds clause of the state constitution.

Attached is a copy of the analysis of the dedicated funds clause issue which was prepared by Legal Services.

Since this bill was passed by the Senate, I have prepared an amendment which will enable the Department of Public Safety to allocate those funds directly to the state and local law

enforcement agencies which participate in drug-related cases. This amendment does not conflict with the dedicated funds clause of the Alaska Constitution, and ensures that the participating agencies will benefit from this program.

I would appreciate the committee's consideration of the legislation at its earliest convenience. Should you need any additional information, please let me know.

Thank you.

Municipality of Anchorage



P.O. BOX 6-650
ANCHORAGE, ALASKA 99502-0650
(907) 264-4960

TONY KNOWLES
MAYOR

INTERGOVERNMENTAL AFFAIRS
March 17, 1987

Sen. Rick Halford
Rep. Virginia Collins
Co-Chairs, Anchorage Caucus
P. O. Box V
Juneau, Alaska 99811

Re: Follow-up on Public Safety Presentation

Dear Sen. Halford and Rep. Collins:

In summarizing the public safety presentation for the Anchorage Caucus on March 5, I requested on behalf of the Municipality assistance from the Legislature on four specific points:

1. Mitigation of impacts in the Governor's FY88 proposed budget for prosecution. According to both the Municipality and State Department of Law officials, the Governor's proposed FY88 budget would mean virtual elimination of state misdemeanor prosecution in Anchorage. Serious white-collar crime would not be prosecuted, and there would be major impacts on domestic violence prosecution. Moreover, since our caucus presentation, further discussions with the State have indicated that little, if any, drug prosecution will occur. The Municipal Attorney has had some discussions with the Department of Law regarding what it would take to correct the problem. Our best estimate is that approximately \$300,000 would need to be added to the prosecutor's office in Anchorage. The Municipality is not the best qualified to review specific staffing options and caseload assignments. We would ask that the Caucus work closely with Assistant Attorney General Dean Guaneli, who made the presentation, and other administration officials for more detailed information.

2. Enactment of a Drug Conspiracy Law. We requested a statute which would allow law enforcement officials and the courts to reach those who plan and finance drug operations. We have reviewed HB 30. Enactment of this legislation would achieve our goals. While we do not object to the inclusion of prostitution in the proposed statute, our primary focus is drugs. In the past, the Legislature has not supported enactment of conspiracy law. We are not recommending a broad conspiracy statute. We support HB 30 with or without the inclusion of prostitution.

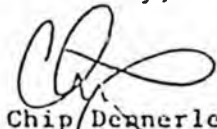
Sen. Rick Halford
Rep. Virginia Collins
March 17, 1987
Pg. Two

3. Changes to forfeiture law. We requested legislation which would enable a municipal law enforcement agency to receive forfeiture of property used in connection with trafficking in controlled substances. This would enable the Anchorage Police Department to utilize forfeited property and money to finance drug buys, etc. Attached is a bill drafted by the Municipal Attorney. I have also spoken to staff in Sen. Faiks' office concerning this issue.

4. Sixth Avenue jail. Initially, the state Administration proposed to transfer Sixth Avenue jail to the Municipality as early as July, 1987. As a result of early discussions, the Administration now acknowledges that the earliest any transfer could be accomplished would be January, 1988. I have been working closely with the Corrections Subcommittee in the House. Representatives Rieger and Gruenberg sit on that Subcommittee. The Municipality continues to oppose the transfer of the Sixth Avenue jail at this time. In the course of my discussions with the Subcommittee and with the Department of Corrections, a number of facts have come to light which argue in favor of Anchorage's position. I request that the Caucus take a lead on this issue from Representatives Rieger and Gruenberg. I am in continual discussion and correspondence with them and Committee Chairman Swackhammer.

I hope this letter clarifies the key areas of concern highlighted during our Public Safety presentation. Please make this information available to your colleagues as appropriate. I will continue to offer you any assistance I can on these issues.

Sincerely,



Chip Dennerlein

cc: Mayor Tony Knowles
Jerry Wertzbaugher, Esq.
Chief Ron Otte
Dean Guaneli, Esq.

ALASKA PEACE OFFICERS ASSOCIATION

State APOA Office • P.O. Box 240106 • Anchorage, AK 99524-0106 • (907)786-1807



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January 19 1988

Representative John Sund
P.O. Box V
Juneau Alaska 99811

Dear Mr. Sund

Thank you for spending some time explaining your views on bills important to us. I was pleased to see your vocal support on SB 103 relating to the disposal of property forfeited under federal drug enforcement laws. We heard you speak on the floor concerning this bill.

Please feel invited to contact my office on any matter you feel we could be of assistance.

Sincerely , Ed Kalwara
State President
Alaska Peace Officers Association

Reorganization Court directed us to act on CAE's application by June 27, 1985.

CAE petitioned for waiver of the information requirements of 49 CFR Part 1180, Subpart B. It contends that the proposed purchase is a minor transaction involving terminal track that would be exempt from Commission jurisdiction under 49 U.S.C. 10907.

However, the exemption is not available because the transaction is governed by the MRR. CAE requests that we treat its proposal as if it were an exemption request and waive the information requirements of our regulations.

I will grant the waiver petition. CAE's petition contains the information required by our regulations.

A copy of verified statements must be served on the Attorney General of the United States and the United States Secretary of Transportation.

It is ordered:

1. CAE's petition for waiver is granted, and the proposal is accepted for consideration.

1. CAE's petition for waiver is granted, and the proposal is accepted for consideration.

2. Parties must comply with all provisions stated above.

3. This decision will be effective on date it is served.

Decided: June 6, 1985.

By the Commission, Fisher P. Hurdy,
Director, Office of Proceedings.

James H. Bayno,

Secretary.

[FR Doc. 85-13952 Filed 6-6-85; 10:37 am]

STANDARD CODE 7034-01-01

DEPARTMENT OF JUSTICE

Office of the Attorney General

Attorney General's Guidelines on Seized and Forfeited Property

AGENCY: Office of the Attorney General, Justice.

ACTION: Notice of Department of Procedures for Seized and Forfeited Property.

SUMMARY: This document sets forth the Department's policy under 21 U.S.C. 881(e) regarding the handling of seized and forfeited property. It is exempt from the notice and comment requirements of the Administration Procedure Act, 5 U.S.C. 553(b) by virtue of 5 U.S.C. 553(a)(2). The Department of Justice has determined that it is not a "major rule" within the meaning of Executive Order No. 12291 or a rule within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601(1).

FOR FURTHER INFORMATION CONTACT:
Director, Asset Forfeiture Office,
Criminal Division, Room 916, Federal
Triangle Building, 316 9th Street, NW.,
Washington, D.C. 20530. (202) 272-6420.

ATTORNEY GENERAL'S GUIDELINES ON SEIZED AND FORFEITED PROPERTY

I. Statement of Policy

The following guidelines are designed to implement certain asset forfeiture provisions of the Comprehensive Crime Control Act of 1984 pertaining to the disposition of forfeited property, the management and use of the Department of Justice Assets Forfeiture Fund, and the discontinuance of federal forfeiture actions to permit forfeiture by State or local procedures.

The statute directs, "The Attorney General shall ensure the equitable transfer . . . of any forfeited property to the appropriate State or local law enforcement agency so as to reflect generally the contribution of any such agency participating directly in any of the acts which led to the seizure or forfeiture of such property."

This authority is consistent with the Department of Justice's purpose of promoting cooperative law enforcement efforts in drug trafficking and other investigations. The Department intends to manage its asset forfeiture program in a manner designed to enhance this Federal, State and local cooperation.

Title 21, United States Code (U.S.C.), section 881(e), authorizes the Attorney General to dispose of forfeited property by (1) retaining the property for official use; (2) transferring custody or ownership of the property to any Federal, State or local agency pursuant to the Tariff Act of 1930, Title 19, USC, Section 1016; or (3) placing the forfeited cash or proceeds of sale of forfeited property in an appropriation called the Department of Justice Assets Forfeiture Fund (hereinafter "the Fund"). A decision of the Attorney General regarding placing the forfeited property into official use or transferred the property to another agency is not subject to judicial review.

The Law Enforcement Coordinating Committee program will inform State and local law enforcement agencies as to the procedures for requesting an equitable transfer of forfeited property, help facilitate the application for transfer of such property, and see that the spirit and letter of the forfeiture provisions of the Comprehensive Crime Control Act of 1984 are implemented in each Federal district.

II. Definitions

A. "Department of Justice investigative bureau" refers to the investigative unit within the Department of Justice that participated in the investigation and seizure of property and is responsible for the processing of the forfeiture arising from the seizure.

B. "Head of the Department of Justice investigative bureau" means the head of that bureau or his headquarters-level designee.

C. "Placing property into official use" means use of forfeited property by a Department of Justice bureau for any official purpose.

D. "Property" means tangible property and cash.

E. "Cash" means currency, negotiable instruments and securities.

F. "State and local agencies" means State and local law enforcement agencies.

G. "Appraised value" means fair market value.

III. Use and Transfer of Forfeited Property

A. Retention of Property for Official Use

a. The Attorney General has the authority to retain any civilly or criminally forfeited tangible property for official use by any Department of Justice bureau.

2. No forfeited cash, nor any proceeds from sales of forfeited property may be transferred to, or retained by, federal law enforcement agencies under the provisions of 21 U.S.C. 881(e) for disposition of forfeited property.

b. Payment of liens and mortgages pursuant to an authorization to place property into official use.

a. Liens and mortgages cumulatively amounting to less than one third of the appraised value of the asset and totalling less than \$50,000 will be paid from the Fund at the request of the head of the Department Justice investigative bureau.

b. Payments of liens or mortgages that, in the aggregate, total \$50,000 or greater or exceed one third of the appraised value of the asset, will be paid from the Fund at the request of the Department of Justice investigative bureau subject to the concurrence of the Deputy Attorney General.

B. Official Use by Department of Justice Investigative Bureau

1. The Attorney General's authority to place tangible property into official use is delegated to the head of the Department of Justice investigative bureau.

a. In making a decision concerning placing forfeited property into official

use, the head of the Department investigative bureau must consider the financial status of the Department of Justice Assets Forfeiture Fund.

b. Exercise of this delegation of authority is subject to concurrence by the Deputy Attorney General for all property appraised at \$750,000 or more.

C. Official Use by Other Department of Justice Bureaus

1. If the Department investigative bureau does not choose to place the forfeited property into official use, the Director, United States Marshals Service will determine appropriate disposal, including screening any remaining property suitable for official use by other Department of Justice bureaus.

a. A decision to place such property into official use is subject to concurrence by the Deputy Attorney General for all property appraised at \$750,000 or more.

2. If more than one Department of Justice component wants to retain for official use the same piece of seized and forfeited property, the Deputy Attorney General will determine which component may place such property in official use.

D. Transfer of Property to State or Local Law Enforcement Agencies

1. Attorney General's Authority for Equitable Transfer of Seized Property

a. The Act authorizes the Attorney General to transfer forfeited property to state or local law enforcement agencies that directly participated in the acts which led to the seizure or forfeiture.

b. Tangible property not retained for official use by the Department of Justice investigative bureau is eligible for equitable transfer.

c. Where a participating law enforcement agency petitions for a share in the forfeited property, the Attorney General shall determine an equitable transfer of the property that generally reflects the relative contribution of the participating agencies.

2. Procedure for Determining Equitable Transfer

a. Any state or local law enforcement agency that participates in the acts leading to a Department of Justice seizure for forfeiture may file a request for an equitable transfer of the property.

b. The criteria for determining the equitable transfer of the property will be the same for all requests.

c. In all cases the final decision-making authority rests with the Attorney General or his designee.

3. Requests from Participating Law Enforcement Agencies

a. Within thirty days following the seizure for forfeiture, a state or local

agency should submit a written request for an equitable transfer of the property subject to forfeiture.

b. This request must be filed with the local or regional office of the Department investigative bureau responsible for processing the forfeiture.

c. The request must include the following information:

(1) Identification of the property against which the claim is made;

(2) Details regarding the requesting agency's participation, including the amount of money and manpower expended by the state or local agency in pursuing the case;

(3) A statement of the intended use for the property;

(4) A designation of the proper fiscal officer to whom cash or check disbursements can be made;

(5) A designation of the proper official to whom transfer documents should be delivered by the United States;

(6) A designation of the proper party to whom possession should be delivered;

(7) A statement indicating that the transfer is not prohibited under the applicable state or local law;

(8) In instances of a joint application by several state or local agencies, the relative share of such state or local agency; and

(9) A statement that all fees and expenses necessary to effect transfer of title will be paid by or on behalf of the requesting agency not later than the time of transfer.

d. The requesting agency must certify that the information contained in 3(c)(4-7) above is true and correct.

e. Property will be transferred only in cases where the tangible property or cash will be credited to the budget of the state or local agency that directly participated in the seizure or forfeiture, resulting in an increase of law enforcement resources for that specific state or local agency.

f. An information copy of any request will be forwarded to the United States Attorney in the district where the transfer request originated.

4. Procedure for Processing Requests for Equitable Transfer

a. In all cases, the Department investigative bureau field unit receiving the request will prepare a written report that will evaluate the degree of assistance provided by the requesting agency or agencies in the underlying investigation.

b. The equitable share for a participating state or local agency should generally reflect the contribution of the agency participating directly in any of the acts which led to the seizure

or forfeiture of the property, including, but not limited to, the following factors:

(1) Which agency initiated the case;

(2) Which agency identified the asset;

(3) The amount of money and manpower expended by the state or local agency in pursuing the case;

(4) Whether or not the state or local agency seized other assets during the course of the same investigation and whether such seizures were made pursuant to state or local law; and

(5) Whether or not the state or local agency could have achieved forfeiture under state law, with favorable consideration given to a state or local agency which could have forfeited the asset(s) on its own but joined forces with the United States to make a more effective investigation.

c. The head of the Department investigative bureau may place tangible property forfeited administratively or judicially into official use in cases in which a state or local agency has filed a request for an equitable share of that property.

(1) In making this decision, the head of the Department investigative bureau must consider the following factors:

(a) The relative needs of both the requesting law enforcement agency and the Department investigative bureau for the particular asset;

(b) The uniqueness of the asset and the likely ability to secure such an asset by other seizures in the near future;

(c) The relative significance of the requesting law enforcement agency's participation in the case, as well as all the other factors pertinent to the determination of equitable distribution as set forth in Part III.B.4.c. above;

(d) The potential of, or likelihood that, the requesting agency will be eligible for an equitable share of property from additional seizures arising from the same investigation or from other seizures in the near future; and

(e) The impact that a decision to place the property into official use might have on Federal, state and local relations in that District.

5. Decision-Making Authority for Determining Equitable Transfer

a. The equitable distribution of an asset forfeited administratively with an appraised value of \$100,000 or less will be determined by the head of the Department investigative bureau.

(1) The Department investigative bureau's field unit shall forward its report and recommendation to the bureau head for decision.

(2) In making this decision, the head of the Department investigative bureau will consider the report and recommendation forwarded by the field

unit and issue to the requesting agency a written ruling on the request.

(3) A copy of the decision document will be forwarded to the United States Attorney, or to the Criminal Division section chief in a Criminal Division case, and to the Director, United States Marshals Service.

(4) A copy of the decision document will be made available upon request to the Director, Asset Forfeiture Office.

b. In the case of all administratively forfeited property with an appraised value greater than \$100,000 and with all judicially forfeited property, the evaluation and recommendation will be forwarded to the appropriate United States Attorney or to the Criminal Division section chief in a Criminal Division case.

(1) The equitable distribution of an asset forfeited judicially with an appraised value of \$100,000 or less will be determined by the United States Attorney or the Criminal Division section chief.

(2) In making this decision, the United States Attorney or section chief will consider the reports and recommendations forwarded by the head of the Department of Justice investigative bureau and will consult with the United States Marshals Service.

(3) A copy of the decision document will be forwarded to the Department of Justice investigative bureau, the Director, United States Marshals Service and the Director, Asset Forfeiture Office.

c. In the case of all property with an appraised value greater than \$100,000, the United States Attorney or section chief will forward the evaluation and recommendation of the Department of Justice investigative bureau, along with his own recommendation, to the Director, Asset Forfeiture Office, who will determine the equitable distribution of those assets.

(1) In making this decision, the Director will consider the reports and recommendations forwarded by the head of the Department of Justice investigative bureau and the United States Attorney or section chief and will consult with the United States Marshals Service.

(2) A copy of the decision document will be forwarded to the Department of Justice investigative bureau, the United States Marshals Service and the United States Attorney or section chief.

d. The Deputy Attorney General will make the final determination of equitable distribution of any asset with an appraised value of \$750,000 or greater.

(1) The request will be processed as in b.c. above.

(2) A copy of the decision document will be forwarded to the Director, Asset Forfeiture Office, the Director, United States Marshals Service, the United States Attorney or section chief and the Department of Justice investigative bureau.

a. In all cases in which judicially forfeited property is located in a judicial district other than where the judicial proceedings are taking place, the party determining the equitable distribution must consult with the respective United States Attorney prior to determining equitable distribution.

b. Proceeds Placed in the Department of Justice Assets Forfeiture Fund

a. If the federal forfeiture action is not deferred, and the property is not placed into official use or transferred to a state or local agency, it will be sold and the net proceeds of sale will be placed in the Assets Forfeiture Fund.

b. Forfeited cash will be placed in the Assets Forfeiture Fund.

c. All Department of Justice bureaus will promptly notify the United States Marshals Service of any facts affecting seized property. Some relevant facts would include bills, invoices, orders of mitigation and remission, orders of sharing with state or local agencies, orders of designation for official use by Department of Justice components, and appraisals. Based upon these and other factors, the United States Marshals Service should appropriately dispose of the property.

7. Disposition of Forfeited Property

a. State or local agencies may share in seized and forfeited tangible property, and seized and forfeited cash.

b. Any property that cannot be used for law enforcement purposes must be liquidated.

c. Where tangible property is transferred to qualifying state or local agencies, monies from the Assets Forfeiture Fund will not be used to pay liens or mortgages on the property, to equip the property for law enforcement purposes, or to pay salaries.

d. The recipient state or local agency must pay the valid liens and mortgages on the forfeited tangible property prior to the transfer of such property.

e. The recipient state or local agency may be required to pay direct expenses pertaining to the seizure prior to the transfer of tangible property.

f. In the event of an interlocutory sale of property pending forfeiture, the Director, United States Marshals Service first must consult with the United States Attorney, Criminal Division section chief or the Director of the Asset Forfeiture Office in the case of judicially forfeited property, or the head of the pertinent Department of Justice

bureau in the case of administrative forfeitures, to determine the status of any state or local law enforcement agency requests for equitable sharing.

IV. Department of Justice Assets Forfeiture Fund

A. Administration of the Fund

1. The Attorney General delegates the administration of the Department of Justice Assets Forfeiture Fund to the United States Marshals Service. It will operate under guidelines developed by the Subcommittee on Asset Forfeiture of the Department's Forum for Cooperative Strategy and in accordance with Department of Justice financial management policy.

2. The United States Marshals Service will submit to the Deputy Attorney General on a quarterly basis a financial statement as to the current status of the fund.

3. Copies of the quarterly United States Marshals Service statement will be provided to the Federal Bureau of Investigation, Drug Enforcement Administration, Immigration and Naturalization Service and the Asset Forfeiture Office to assist the recipients in making decisions as to the use and transfer of forfeited property.

B. Payments Allowable Under Department of Justice Assets Forfeiture Fund

1. Forfeiture cash and proceeds from the sale of forfeited property are to be deposited in the Department of Justice Assets Forfeiture Fund.

2. Money from the Fund may be used for the following:

a. Payment of liens and mortgages pursuant to an order of remission or mitigation;

b. Payment of liens and mortgages pursuant to an order to place into official use.

c. Payment of liens and mortgages pursuant to court order.

d. Payment to equip, for law enforcement purposes, conveyances placed into official use by the Drug Enforcement Administration, and the Immigration and Naturalization Service.

e. Payment of awards;

f. Purchase of evidence; and

g. Reversion to the United States Treasury at the end of the fiscal year of all amounts in excess of \$5,000,000.

C. The Following, in Order of Priority Will Be the Uses of the Forfeited Cash and the Proceeds of Sale of Forfeited Property

1. Payment of expenses incurred by the Department of Justice for the care,

custody and disposal of the seized and forfeited property;

2. Payment of expenses incurred by the Department of Justice in the seizure and forfeiture of the property;

3. Payment of expenses relative to the detention, inventory, safeguarding, maintenance, or disposal of the seized and forfeited property incurred by state and local agencies which assist in the seizure and forfeiture of the property;

4. Payments of orders of mitigation or remission;

5. Payments for orders of equitable sharing with state or local law enforcement agencies;

6. Payments for liens on vehicles placed into official use;

7. Payment of awards;

8. Payment to equip, for law enforcement purposes, conveyances placed into official use by the Drug Enforcement Administration Immigration and Naturalization Service; and

9. Purchase of evidence.

D. Limitation on Use of the Fund

1. The Department of Justice Assets Forfeiture Fund cannot be used to pay any of the following:

a. Salaries; and

b. Where property is transferred to state or local law enforcement agencies, (1) liens or mortgages on the property; and

(2) Payments to equip the property for law enforcement purposes.

2. Liens and mortgages shall be paid from the Fund only pursuant to an order of remission or mitigation, an order of the court, or an order to place the property into official use.

V. Discontinuance of Federal Forfeiture Actions

A. Deferral of Federal Judicial Forfeiture Proceedings

1. A decision to forego an federal judicial forfeiture proceeding against any seized asset in favor of a state or local forfeiture proceeding requires the personal approval of the United States Attorney after review of the evaluation and recommendation of the concerned investigative bureau.

2. In making this decision, the United States Attorney must consider the status of the Department of Justice Assets Forfeiture Fund.

3. Judicial forfeitures foregone in favor of state or local proceedings are to be reported by the United States Attorney in writing, within five days, to the Director, Asset Forfeiture Office, Criminal Division, United States Department of Justice, Washington, D.C. 20530.

B. Deferral of Federal Administrative Forfeiture Proceedings

1. A decision to forego a federal administrative forfeiture proceeding against any seized asset in favor of a state or local forfeiture proceeding requires the approval of the head of the Department Investigative Bureau.

2. In making this decision, the head of the Department Investigative Bureau must consider the status of the Assets Forfeiture Fund and, where appropriate, consult with the United States Marshals Service.

3. Department of Justice investigative bureaus must develop procedures for recording these decisions and providing reports as required.

VI. United States Customs Service Forfeitures

A. Pursuant to Title 28 United States Code, section 524(c), all proceeds from the forfeiture of property under any law enforced or administered by the Department of Justice remaining after payment of expenses for forfeiture and sale authorized by law are to be deposited in the Department of Justice Assets Forfeiture Fund, except to the extent that the seizure was effected by a United States Customs Service officer or that custody was maintained by the Customs Service, in which case the provisions of 19 U.S.C. 1613a (Customs Forfeiture Fund) shall apply.

B. To the extent that the United States Marshals Service may have the capacity to do so, it may store and maintain seized property for the Customs Service.

1. Where the United States Marshals Service maintains custody of property seized by a Customs officer, the Customs Service will reimburse the Marshals Service for the expenses of such custody prior to the deposit of the net proceeds into the Customs Forfeiture Fund.

2. In instances where proceeds are to be deposited in the Department of Justice Assets Forfeiture Fund and the Customs Service, as a substitute custodian, has maintained custody of property seized by the Department of Justice, the Department of Justice will reimburse the Customs Service for the expenses of such custody.

C. Requests for transfers of forfeited property by participating state and local law enforcement agencies in forfeitures where the seizure was effected by a Customs officer of custody was maintained by the Customs Service should be directed pursuant to 19 U.S.C. 1616 to the Customs Service for evaluation and forwarding to the Assistant Secretary of Treasury for Enforcement and Operations with an

information copy to the United States Attorney in the district of seizure.

D. In the event of an unresolved dispute concerning whether a given forfeiture constitutes a Customs or Department of Justice forfeiture for purposes of cash or proceeds disposition, or for state and local transfers, the Deputy Attorney General and the Assistant Secretary of Treasury for Enforcement and Operations shall resolve the issue. Where appropriate, they may submit the issue to the Organized Crime Drug Enforcement Task Force Working Group for recommendation.

Dated May 24, 1985

Edwin Meese III,

Attorney General

[FR Doc. 85-11041 Filed 6-6-85; 8:45 am]

BILLING CODE 4410-01-M

[Order No. 1095-86]

President's Commission on Organized Crime; Meetings

AGENCY: Department of Justice.

ACTION: Notice.

SUMMARY: This notice announces four forthcoming meetings of the President's Commission on Organized Crime. This notice also sets forth a summary of the agenda for the four meetings, together with an explanation of why the first meeting will be closed to the public. Notice of these meetings is required by the Federal Advisory Committee Act, 5 U.S.C. App. I, section 10(a)(2).

DATE:

June 24, 25, and 26, 1985, 10:00 a.m. to

12:00 noon; 1:00 p.m. to 3:00 p.m.

(public hearing).

June 23, 1985, 4:00 p.m. to 6:00 p.m.

(closed meeting).

ADDRESS:

Appellate Courtroom, U.S. Court of International Trade, Second Floor, 1 Federal Plaza, New York, New York 10007 (public hearing);

Empire Room B, New York Penta Hotel, 401 Seventh Avenue, New York, New York 10007 (closed meeting).

FOR FURTHER INFORMATION CONTACT:

James D. Harmon, Jr., Executive Director and Chief Counsel, President's Commission on Organized Crime, 1425 K Street, N.W., Suite 700, Washington, D.C. 20005; (202) 780-3500.

SUPPLEMENTARY INFORMATION: The closed meeting on June 23 will be conducted to discuss several matters. The Commission will be briefed concerning the investigation by the Commission staff of the organized

Situations not requiring warrants

(c) A warrant under this section shall not be required for the inspection of books and records pursuant to an administrative subpoena issued in accordance with section 876 of this title, nor for entries and administrative inspections (including seizures of property)—

- (1) with the consent of the owner, operator, or agent in charge of the controlled premises;
- (2) in situations presenting imminent danger to health or safety;
- (3) in situations involving inspection of conveyances where there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant;
- (4) in any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking; or
- (5) in any other situations where a warrant is not constitutionally required.

Administrative inspection warrants; issuance; execution; probable cause

(d) Issuance and execution of administrative inspection warrants shall be as follows:

(1) Any judge of the United States or of a State court of record, or any United States magistrate, may, within his territorial jurisdiction, and upon proper oath or affirmation showing probable cause, issue warrants for the purpose of conducting administrative inspections authorized by this subchapter or regulations thereunder, and seizures of property appropriate to such inspections. For the purposes of this section, the term "probable cause" means a valid public interest in the effective enforcement of this subchapter or regulations thereunder sufficient to justify administrative inspections of the area, premises, building, or conveyance, or contents thereof, in the circumstances specified in the application for the warrant.

(2) A warrant shall issue only upon an affidavit of an officer or employee having knowledge of the facts alleged, sworn to before the judge or magistrate and establishing the grounds for issuing the warrant. If the judge or magistrate is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he shall issue a warrant identifying the area, premises, building, or conveyance to be inspected, the purpose of such inspection, and, where appropriate, the type of property to be inspected, if any. The warrant shall identify the items or types of property to be seized, if any. The warrant shall be directed to a person authorized under subsection (b)(2) of this section to execute it. The warrant shall state the grounds for its issuance and the

name of the person or persons whose affidavit has been taken in support thereof. It shall command the person to whom it is directed to inspect the area, premises, building, or conveyance identified for the purpose specified, and, where appropriate, shall direct the seizure of the property specified. The warrant shall direct that it be served during normal business hours. It shall designate the judge or magistrate to whom it shall be returned.

(3) A warrant issued pursuant to this section must be executed and returned within ten days of its date unless, upon a showing by the United States of a need therefor, the judge or magistrate allows additional time in the warrant. If property is seized pursuant to a warrant, the person executing the warrant shall give to the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken or shall leave the copy and receipt at the place from which the property was taken. The return of the warrant shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other than the person making such inventory, and shall be verified by the person executing the warrant. The judge or magistrate, upon request, shall deliver a copy of the inventory to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

(4) The judge or magistrate who has issued a warrant under this section shall attach to the warrant a copy of the return and all papers filed in connection therewith and shall file them with the clerk of the district court of the United States for the judicial district in which the inspection was made.

(Pub. L. 91-513, Title II, § 510, Oct. 27, 1970, 84 Stat. 1274)

1 So in original. Probably should be "paragraph (1)".

Code of Federal Regulations

Administrative policies, practices, and procedures, see 21 CFR 1316.01 et seq.

§ 881. Forfeitures

Property subject

(a) The following shall be subject to forfeiture to the United States and no property right shall exist in them:

(1) All controlled substances which have been manufactured, distributed, dispensed, or acquired in violation of this subchapter.

(2) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this subchapter.

(3) All property which is used, or intended for use, as a container for property described in paragraph (1) or (2).

(4) All conveyances, including aircraft, vehicles, or vessels, which are used, or are intended for use, to transport, or in any manner to facilitate the transportation, sale, receipt, possession, or concealment of property described in paragraph (1) or (2), except that—

(A) no conveyance used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under the provisions of this section unless it shall appear that the owner or other person in charge of such conveyance was a consenting party or privy to a violation of this subchapter or subchapter II of this chapter; and

(B) no conveyance shall be forfeited under the provisions of this section by reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than such owner while such conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States, or of any State.

(5) All books, records, and research, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this subchapter.

(6) All moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of this subchapter, all proceeds traceable to such an exchange, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this subchapter, except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

(7) All real property, including any right, title, and interest in the whole of any lot or tract of land and any appurtenances or improvements, which is leased, or intended to be used, in any manner or part, to commit, or to facilitate the

commission of, a violation of this title punishable by more than one year's imprisonment, except that no property shall be forfeited under this paragraph, to the extent of an interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

(8) All controlled substances which have been possessed in violation of this subchapter.

Seizure pursuant to Supplemental Rules for Certain Admiralty and Maritime Claims

(b) Any property subject to civil or criminal forfeiture to the United States under this subchapter may be seized by the Attorney General upon process issued pursuant to the Supplemental Rules for Certain Admiralty and Maritime Claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made when—

(1) the seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(2) the property subject to seizure has been the subject of a prior judgment in favor of the United States in a criminal injunction or forfeiture proceeding under this subchapter;

(3) the Attorney General has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(4) the Attorney General has probable cause to believe that the property is subject to civil or criminal forfeiture under this subchapter.

In the event of seizure pursuant to paragraph (3) or (4) of this subsection, proceedings under subsection (d) of this section shall be instituted promptly.

Custody of Attorney General

(c) Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the Attorney General, subject only to the orders and decrees of the court or the official having jurisdiction thereof. Whenever property is seized under any of the provisions of this subchapter, the Attorney General may—

(1) place the property under seal;

(2) remove the property to a place designated by him; or

(3) require that the General Services Administration take custody of the property and remove it, if practicable, to an appropriate location for disposition in accordance with law.

Other laws and proceedings applicable

(d) The provisions of law relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws; the disposition of such property or the proceeds from the sale thereof; the remission or mitigation of such forfeitures; and the compromise of claims shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under any of the provisions of this subchapter, insofar as applicable and not inconsistent with the provisions hereof; except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this subchapter by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General, except to the extent that such duties arise from seizures and forfeitures effected by any customs officer.

Disposition of forfeited property

(e) Whenever property is civilly or criminally forfeited or under this subchapter the Attorney General may—

(1) retain the property for official use or transfer the custody or ownership of any forfeited property to any Federal, State, or local agency pursuant to section 616 of Title 19;

(2) sell any forfeited property which is not required to be destroyed by law and which is not harmful to the public;

(3) require that the General Services Administration take custody of the property and dispose of it in accordance with law; or

(4) forward it to the Drug Enforcement Administration for disposition (including delivery for medical or scientific use to any Federal or State agency under regulations of the Attorney General).

* The Attorney General shall ensure the equitable transfer pursuant to paragraph (1) of any forfeited property to the appropriate State or local law enforcement agency so as to reflect generally the contribution of any such agency participating directly in any of the acts which led to the seizure or forfeiture of such property. A decision by the Attorney General pursuant to paragraph (1) shall not be subject to review. The proceeds from any sale under paragraph (2) and any moneys forfeited under this subchapter shall be used to pay all proper expenses of the proceedings for forfeiture and sale including expenses of seizure, maintenance of custody, advertising, and court costs. The Attorney General shall forward to the Treasurer of the United States for deposit in accordance

with section 524(c) of Title 28 any amounts of such moneys and proceeds remaining after payment of such expenses.

Forfeiture of schedule I substances

(f) All controlled substances in schedule I that are possessed, transferred, sold, or offered for sale in violation of the provisions of this subchapter shall be deemed contraband and seized and summarily forfeited to the United States. Similarly, all substances in schedule I, which are seized or come into the possession of the United States, the owners of which are unknown, shall be deemed contraband and summarily forfeited to the United States.

Plants

(g)(1) All species of plants from which controlled substances in schedules I and II may be derived which have been planted or cultivated in violation of this subchapter, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the United States.

(2) The failure, upon demand by the Attorney General or his duly authorized agent, of the person in occupancy or in control of land or premises upon which such species of plants are growing or being stored, to produce an appropriate registration, or proof that he is the holder thereof, shall constitute authority for the seizure and forfeiture.

(3) The Attorney General, or his duly authorized agent, shall have authority to enter upon any lands, or into any dwelling pursuant to a search warrant, to cut, harvest, carry off, or destroy such plants.

(h) All right, title, and interest in property described in subsection (a) of this section shall vest in the United States upon commission of the act giving rise to forfeiture under this section.

(i) The filing of an indictment or information alleging a violation of this subchapter or subchapter II of this chapter which is also related to a civil forfeiture proceeding under this section shall, upon motion of the United States and for good cause shown, stay the civil forfeiture proceeding.

(j) In addition to the venue provided for in section 1395 of Title 28 or any other provision of law, in the case of property of a defendant charged with a violation that is the basis for forfeiture of the property under this section, a proceeding for forfeiture under this section may be brought in the judicial district in which the defendant owning such property is found or in the judicial district in which the criminal prosecution is brought.

(Pub. L. 91-513, Title II, § 511, Oct. 27, 1970, 84 Stat. 1276; Pub. L. 95-633, Title III, § 301(a), Nov. 10, 1978, 92 Stat. 3777; Pub. L. 96-132, § 14, Nov. 30, 1979, 93 Stat. 1048; Pub. L. 98-473, Title II, §§ 306, 309, 518, Oct. 12, 1984, 98 Stat. 2050, 2051, 2075.)

References in Text. Subchapter II of this chapter, referred to in subsec. (a)(1)(A), was in the original "Title III", meaning Title III of Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1285. Part A of Title III comprises subchapter II of this chapter. For classification of Part B, consisting of sections 1101 to 1105 of Title III, see U.S.C.A. Tables volume.

The criminal laws of the United States, referred to in subsec. (a)(1)(B), are classified generally to Title 18, U.S.C.A., Crimes and Criminal Procedure, set out Ante.

The Supplemental Rules for Certain Admiralty and Maritime Claims, referred to in subsec. (b), are set out in Title 28, U.S.C.A., Judiciary and Judicial Procedure, and Federal Rules of Civil Procedure pamphlet, 1982 ed.

The customs laws, referred to in subsec. (d), are classified generally to Title 19, U.S.C.A., Customs Duties,

Schedules I and II, referred to in subsecs. (f) and (g)(1), are set out in section 812(c) of this title.

Codification. "Drug Enforcement Administration" was substituted for "Bureau of Narcotics and Dangerous Drugs" in subsec. (b)(4) to conform to congressional intent manifest in amendment of section 802(4) of this title by Pub. L. 96-132, § 16(a), Nov. 30, 1979, 93 Stat. 1049, now defining term "Drug Enforcement Administration" as used in this subchapter.

Code of Federal Regulations

Administrative policies, practices, and procedures, see 21 CFR 1316.01 et seq.

Inspection, search, and seizure, see 19 CFR 162.0 et seq.

§ 882. Injunctions

(a) The district courts of the United States and all courts exercising general jurisdiction in the territories and possessions of the United States shall have jurisdiction in proceedings in accordance with the Federal Rules of Civil Procedure to enjoin violations of this subchapter.

(b) In case of an alleged violation of an injunction or restraining order issued under this section, trial shall, upon demand of the accused, be by a jury in accordance with the Federal Rules of Civil Procedure.

(Pub. L. 91-513, Title II, § 512, Oct. 27, 1970, 84 Stat. 1278.)

References in Text. The Federal Rules of Civil Procedure, referred to in text, are set out in Title 28, U.S.C.A., Judiciary and Judicial Procedure, and Federal Rules of Civil Procedure pamphlet, 1982 ed.

§ 883. Enforcement proceedings

Before any violation of this subchapter is reported by the Administrator of the Drug Enforcement Administration to any United States attorney for institution of a criminal proceeding, the Administrator may require that the person against whom such proceeding is contemplated be given appropriate notice and an opportunity to present his views,

either orally or in writing, with regard to such contemplated proceeding.

(Pub. L. 91-513, Title II, § 513, Oct. 27, 1970, 84 Stat. 1278; Pub. L. 96-132, § 16(c), Nov. 30, 1979, 93 Stat. 1049.)

Code of Federal Regulations

Administrative policies, practices, and procedures, see 21 CFR 1316.01 et seq.

§ 884. Immunity and privilege

Refusal to testify

(a) Whenever a witness refuses, on the basis of his privilege against self-incrimination, to testify or provide other information in a proceeding before a court or grand jury of the United States, involving a violation of this subchapter, and the person presiding over the proceeding communicates to the witness an order issued under this section, the witness may not refuse to comply with the order on the basis of his privilege against self-incrimination. But no testimony or other information compelled under the order issued under subsection (b) of this section or any information obtained by the exploitation of such testimony or other information, may be used against the witness in any criminal case, including any criminal case brought in a court of a State, except a prosecution for perjury, giving a false statement, or otherwise failing to comply with the order.

Order of United States district court

(b) In the case of any individual who has been or may be called to testify or provide other information at any proceeding before a court or grand jury of the United States, the United States district court for the judicial district in which the proceeding is or may be held shall issue, upon the request of the United States attorney for such district, an order requiring such individual to give any testimony or provide any other information which he refuses to give or provide on the basis of his privilege against self-incrimination.

Request by United States attorney

(c) A United States attorney may, with the approval of the Attorney General or the Deputy Attorney General, or any Assistant Attorney General designated by the Attorney General, request an order under subsection (b) of this section when in his judgment—

(1) the testimony or other information from such individual may be necessary to the public interest; and

(2) such individual has refused or is likely to refuse to testify or provide other information on