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The DOJ and Its Lawyers

TWENTY YEARS ago, the attorney general created an Office of Professional Responsibility in the Department of Justice to investigate and report on charges of employee misconduct. The office's jurisdiction includes employees in the Bureau of Prisons, the U.S. Marshal's Office and the Immigration and Naturalization Service. But by far the most serious cases involve department attorneys whose unethical behavior might subvert the justice system and undermine fair trials. Reports are issued annually by the office, and this year the information released—data from 1993—reveals a startling increase in the number of complaints filed against attorneys. The number is 78 percent higher than that of the previous year.

While any rise in complaints is bad news, it is important to note that both the number and percentage of complaints that were substantiated actually fell during this period. Some complaints, for example, come from individuals disappointed by the government's failure to prosecute someone else and convinced that the fix is in. Sometimes they are filed by defense attorneys seeking to derail prosecutions or laying the groundwork for appeals. And there are the usual vindictive filings by people successfully prosecuted by the government who seek to blame their troubles on "corrupt" government lawyers. But of course, there are also serious charges of criminality,

abuse of authority and unethical behavior. These often prompt resignations or early retirements, sanctions including firings and, where warranted, subsequent prosecution.

The government's release of all this information about alleged misconduct in its ranks is at least reassuring. And there have been some procedural improvements. Details of each investigation are now released as soon as an inquiry has been completed, instead of only in an annual report. Investigations of alleged prosecutorial misconduct are begun as soon as they are received, instead of waiting, as the department used to do, until all trials and appeals have been completed. And inquiries are no longer considered moot when the subject of the probe resigns or retires. They are completed and are made part of the record in any case.

The legal profession is supposed to be guided by a detailed and specific code of ethics, and government attorneys have even greater responsibilities to do justice. It should be noted that procedural improvements are of course not the whole story, and that numbers of infractions are not the whole story either. Even if they are relatively few, the serious lapses of conduct on the part of department attorneys remain a blight, and no one can be complacent about the fact that there aren't even more of them.