

**DEPARTMENTS OF COMMERCE, JUSTICE, AND  
STATE, THE JUDICIARY, AND RELATED  
AGENCIES APPROPRIATIONS FOR FISCAL  
YEAR 2004**

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**TUESDAY, APRIL 1, 2003**

U.S. SENATE,  
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,  
*Washington, DC.*

The subcommittee met at 10 a.m., in room SD-192, Dirksen Senate Office Building, Hon. Judd Gregg (chairman) presiding.

Present: Senators Gregg, Stevens, Domenici, Campbell, Hollings, and Kohl.

DEPARTMENT OF JUSTICE

OFFICE OF THE ATTORNEY GENERAL

**STATEMENT OF HON. JOHN ASHCROFT, ATTORNEY GENERAL OF THE  
UNITED STATES**

OPENING STATEMENT OF SENATOR JUDD GREGG

Senator GREGG. Welcome to this hearing. Senator Hollings is headed in this direction. It was kind of the Attorney General to arrive early, which we appreciate. And we thank him for that.

This is obviously a time of acute sensitivities on a lot of issues. And we appreciate the Attorney General taking time out of his day to testify before the Appropriations Committee which has jurisdiction over the Justice Department. We also have jurisdiction over the Commerce Department, State Department, Judiciary, and a variety of independent agencies. But the Justice Department is the largest account in this subcommittee's jurisdiction and one of the most complicated.

There is a lot going on that deals with the question of our national security and how we protect Americans and America. The Attorney General is at the center of that.

So rather than my going on for an extended period of time about those concerns, we would like to hear from the Attorney General. And then we will proceed with questions.

Mr. Attorney General.

ATTORNEY GENERAL'S OPENING STATEMENT

Attorney General ASHCROFT. Thank you very much. Good morning, Chairman Gregg and members of the subcommittee.

We are at war. And I know that as we watch the events unfolding overseas, that our thoughts and prayers are with the young men and women who are defending our freedom. We pray also for the families who have lost loved ones or whose loved ones have been captured or are missing in action or wounded. Their efforts in the defense of freedom, which is a noble, if not the most noble of causes, will never be forgotten. We will honor their sacrifice with an ever-vigilant commitment to our war on terrorism.

Indeed, the first and overriding priority of this budget and of the Department is to protect America from acts of terrorism and bring terrorists to justice. I am pleased to be here to present the President's fiscal year 2004 budget request for the Department of Justice. I thank you for your continued assistance in providing the Department of Justice with the resources to detect, disrupt, and dismantle terrorist activity.

#### IRAQI TASK FORCE PLAN

The Justice Department's terrorism prevention efforts have included planning for the possibility of intensified conflict with Iraq. Last spring, the FBI began developing an action plan to address any related threats that might face us in the event of this intensification of the conflict. An Iraqi Task Force Plan was developed, in addition to the integrated prevention security framework put in place after September 11, 2001. The Iraqi Task Force Plan includes: around-the-clock operations at FBI headquarters and field offices, since the escalation of hostilities with Iraq and outreach to Middle Eastern and Islamic communities in the United States. The plan includes an analysis of prior cases involving Iraq and/or supporters of Iraq to identify potential intelligence targets or persons of interest. The plan includes stepped-up monitoring of individuals suspected of links to the Iraqi hostile forces or other terrorist organizations. The plan also includes voluntary interviews of 11,000 U.S.-based Iraqis to obtain counterterrorism information and intelligence information, as well as to identify any backlash threats to Iraqis in the United States. When I say backlash threats, I mean that we do not want Iraqi individuals in the United States to be the subject of discrimination, intimidation, harassment, or injustice. Those individuals of Iraqi origin are entitled to the same kind of security, freedom, and liberty as are other citizens in the United States. The voluntary interviews include inquiries about whether or not their well-being has been threatened.

We appreciate the valuable information we have gained from the voluntary interviews and the cooperation of the Iraqi community in the United States. This cooperation has assisted us in our efforts in Iraq, as well as in our own domestic antiterrorism efforts. We have gathered intelligence about such things as Iraqi bunkers, tunnel systems, telecommunications networks, manufacturing plants, and Iraqi military officials. This information is being shared and analyzed by our law enforcement, military and intelligence officials.

#### 2003 SUPPLEMENTAL BUDGET REQUEST

On March 25, 2003, the President submitted a supplemental budget request for fiscal year 2003 to address the continuing threat to the national security of the United States posed by Iraq. For the

Department of Justice, the request includes \$500 million for the Counterterrorism Fund to meet terrorism-related prevention and response requirements. Among our top priorities for the use of this funding is critical funding for the FBI that addresses response capabilities, security enhancements, language translation services, operational field expenses, and surveillance support.

We also anticipate using a small portion of this funding to meet increased U.S. Marshal Service security requirements for the Federal judiciary and to upgrade the capability of the Office of Intelligence Policy and Review for its role in the Foreign Intelligence Surveillance Act warrant process.

#### 2004 BUDGET REQUEST

The President's overall Justice Department budget request I am discussing today will strengthen our capacity to fulfill all of the Department's top priorities. The President's budget requests \$23.3 billion for the Department of Justice, including \$19 billion in discretionary funding and \$4.3 billion for the Department's mandatory and fee funded accounts.

#### TERRORISM PREVENTION

The September 11 attacks made it clear that America's defense requires a new culture, a culture of prevention, nurtured by cooperation, built on coordination, and rooted in our constitutional liberties. The Justice Department is battling terrorism by integrating our law enforcement effort, not separating it, and by integrating, not separating, our intelligence capabilities.

Our integrated terrorism prevention strategy is having an impact on terrorist threats. Listen to this recorded conversation between charged terrorist cell member Jeffrey Battle and an FBI informant on May 8, 2002, in Portland, Oregon. In this conversation, which was unsealed by the Court, Battle explained why his threatening enterprise was not as organized as he thought it should be. I will quote Mr. Battle now.

"Because we don't have support. Everybody's scared to give up any money to help us. You know what I'm saying? Because that law that Bush wrote about, you know, supporting terrorism, whatever, the whole thing. Everybody's scared. He made a law that says, for instance, I left out of the country and I fought. Right? But I wasn't able to afford a ticket. But you bought my plane ticket. You gave me the money to do it. By me going and me fighting and doing what they can by this new law, they can come and take you and put you in jail."

Mr. Chairman, terrorists clearly recognize the effectiveness of the laws passed by Congress and utilized by the Department to disrupt terrorist activity by interdicting the funding of terrorism. It is a credit to our new investigative tools, the hard work of the law enforcement community, and our intelligence agencies, as well as a vigilant public, that we have not suffered another major terrorist attack in this country.

The FBI indicates that since September 11, 2001, over 100 terrorist plots have been disrupted and some, no doubt, disrupted, delayed, or abandoned because funding was not available as the intercepted conversation between two individuals involved in terrorism clearly indicates.

Nevertheless, as the President recently stated, "There is no such thing as perfect security against a hidden network of cold-blooded killers. Yet abroad and at home we are not going to wait until the worst dangers are upon us." Therefore, we will continue to seek the assistance of Congress as we enhance a culture of prevention and ensure the resources of our Government are dedicated to defending Americans.

#### INTEGRATED PREVENTION STRATEGY

Now, I would like to give you a brief overview of the results to date of our integrated prevention strategy to fight the war on terrorism.

First, we are gathering and cultivating detailed intelligence on terrorism in the United States. Hundreds of suspected terrorists have been identified and tracked throughout the United States. Our human sources of information intelligence have doubled. Our counterterrorism investigations have doubled in the last year. In 2002, over 18,000 subpoenas and search warrants have been issued. Over 1,000 applications were made to the Foreign Intelligence Surveillance Act (FISA) court targeting terrorist spies, foreign powers that threaten our security, including 170 emergency FISA applications. These are emergency requests for surveillance activity based on our belief and information that there are threatening circumstances requiring us to implement coverage immediately. Those calls come to me at virtually any time of the day or night; and it is my responsibility to approve those, when appropriate.

Second, we are arresting and detaining potential terrorists. Four alleged terrorist cells were broken up in Buffalo, Portland, Detroit, and Seattle. Two hundred twenty-eight criminal charges have been brought to date. One hundred thirteen individuals have been convicted or pled guilty, including shoe bomber Richard Reid, American Taliban John Walker Lindh, three of the six members of the Buffalo cell, two more of whom pled guilty just last week, joining another defendant who was already cooperating, and there are 478 deportations linked to the September 11 investigation.

Third, we are dismantling the terrorist financial network. Thirty-six terrorist organizations have been designated as terrorist organizations, \$125 million in assets have been frozen, and over 660 accounts frozen around the world; 70 investigations into terrorist financing, with 23 convictions or guilty pleas to date related to terrorist financing.

Fourth, we are disrupting potential terrorist travel. Nine major alien smuggling networks have been disrupted. Hundreds of terrorist criminals have been stopped through the National Security Entry-Exit Registration System, called NSEERS. Among those individuals stopped, 11 suspected terrorists with at least one known member of Al-Qaeda; 649 stopped at the border who were wanted criminals, who had committed past felonies or violated other laws; and 77 felons identified through domestic enrollment, who were in the country illegally. They were not stopped at the border but asked to come in and register as part of the NSEERS program. These included a murderer, a cocaine trafficker, child molesters, and individuals convicted of assault with a deadly weapon.

Fifth, we are building our long-term counterterrorism capacity. A near threefold increase in the counterterrorism funds devoted by the Department, over 1,000 new and redirected FBI agents dedicated to counterterrorism and counterintelligence, 250 new assistant U.S. attorneys, 66 joint terrorism task forces, a 337 percent increase in the joint terrorism task force staffing, and fly-away expert teams for rapid deployment to hot spots around the world.

We have made progress, but there is always additional work to be done. And to that end, the budget request includes an increase of \$598.2 million for programs that support our mission to prevent and combat terrorism, including \$516 million to enhance or complement the FBI's counterterrorism program.

Even as the men and women of the Justice Department fight the war on terrorism, we do so within a framework that upholds our other crucial responsibilities. Let me briefly review these other core missions.

#### CORPORATE FRAUD TASK FORCE

First, the Department of Justice has taken decisive action to combat corporate corruption and punish corporate lawbreakers. The relentless work of the Corporate Fraud Task Force, chaired by Deputy Attorney General Larry Thompson, has resulted in over 200 investigations opened into suspected corporate fraud, over 200 people charged to date, and 70 convictions have been obtained. To date \$20 million in assets have been frozen, \$14 million in forfeitures, and we are seeking to forfeit more than \$2.5 billion to restore to the creditors and investors the resources, which were lost as a result of the corporate fraud.

The Department is committed to ensuring a marketplace of integrity and restoring the confidence of American investors and protecting their assets. And to that end, the fiscal year 2004 budget requests \$24.5 million to support the Corporate Fraud Task Force.

#### DRUG ENFORCEMENT

Second, the Department of Justice has continued to fight the scourge of illegal drugs. Thanks to the tireless efforts of the Drug Enforcement Administration and the Organized Crime Drug Enforcement Task Force, we have increased the seizures of drug assets from major drug trafficking organizations by 20 percent. We have dismantled 305 drug trafficking organizations in 2002 alone. We have more than doubled the amount of heroin seizures from 2000 to 2002. We have reached a 9-year low in student drug use.

We have attacked the nexus, the connection between drug trafficking and terrorism, including bringing charges in San Diego against individuals for conspiring to trade heroin and hashish for anti-aircraft missiles, which they allegedly intended to sell to Al-Qaeda forces in Afghanistan. The fiscal year 2004 budget request includes \$117.9 million to augment our efforts to reduce the availability of illegal drugs, to identify and dismantle drug trafficking organizations, and support drug treatment.

## CRIMES AGAINST CHILDREN

Third, the Department of Justice has prevented and prosecuted crimes against children. It allocated \$2.5 million to develop an effective nationwide Amber Alert Network. We have reassigned three FBI investigative analysts to work full-time at the National Center for Missing and Exploited Children. We are supporting Internet Crimes Against Children Task Forces across the Nation with technology and capacity. We are dedicating a total of \$15.2 million to the FBI's Innocent Images National Initiative, a \$3.6 million increase, to keep pace with the nearly 2,000 percent increase in investigations since 1996, investigations to combat the proliferation of child pornography and child sexual exploitation via the Internet.

## PROJECT SAFE NEIGHBORHOODS

Fourth, the Department of Justice has provided increasing protection to Americans from gun crime. In the first 2 years of this administration's Project Safe Neighborhoods Initiative to combat gun crime, we have increased Federal gun crime prosecutions by 36 percent, which has helped lock up repeat offenders and lower crime in cities across America.

For example, in Philadelphia, robberies at gunpoint dropped 11 percent, and the homicide rate is the lowest it has been since 1985. In Kansas City, the murder rate dropped 23 percent to its lowest level in three decades. This reduction translates to 27 more people alive today who might not have been alive if the previous trend had continued.

U.S. attorneys have charged 10,634 defendants for violating gun statutes, and they have convicted and taken 7,747 gun criminals off the street with those prosecutions. In 2002, the conviction rate for those charged with Federal gun crimes—which may include other non-gun related charges as well—was near 90 percent. More than half of those charged were sentenced to more than 5 years in Federal prison. Our success in these areas would not be possible without the diligence and hard work of State and local law enforcement agencies who are partners in the Project Safe Neighborhoods endeavor.

## FIRST RESPONDERS

To that end, the administration is requesting \$8.5 billion for first responders and state and local law enforcement in the budget and in the supplemental appropriation; \$2 billion in the current war supplemental that is pending; and \$6.5 billion in the fiscal year 2004 budget request for both the Justice Department and the Department of Homeland Security providing funding for State and local law enforcement and first responders.

## CIVIL RIGHTS

Fifth, the Department of Justice has protected vigorously the civil rights of all Americans. The Department has strengthened our Civil Rights Division with an approximately 10 percent increase in both full-time attorneys at 355 and total employees at 709, enforcing the Nation's civil rights laws since the beginning of this administration; a 12 percent increase in successful prosecutions of crimi-

nal civil rights violations from the previous 2 years; a 100 percent increase in settling pattern or practice police misconduct cases during the first 2 years of the Bush administration than during the final 2 years of the previous administration; a \$500 million amount obtained for traditional black colleges through settlement of a 25-year-old desegregation lawsuit.

The Department has prosecuted more than 80 discriminatory backlash hate crimes in the wake of September 11, for example, by securing the conviction of Zachary Rolnik for violating the civil rights of Dr. James J. Zogby, the president of the Arab American Institute, by securing the guilty plea of Earl Leslie Krugel for conspiracy to manufacture and detonate bombs at a mosque and at a field office of United States Congressman Darrell Issa of California.

The Department has prosecuted 43 non-September 11-related hate crimes cases in the last 2 years and initiated over 600 non-September 11 hate crimes investigations.

The Department has coordinated the Voting Rights Initiative to ensure access, honesty, and integrity at the polls on election day that resulted in a smooth election with far fewer complaints than were reported in recent years.

The Department has investigated, prosecuted, and convicted record numbers of human trafficking and sex trafficking cases, doubling the number of trafficking prosecutions and the number of convictions over the previous 2 years.

Now, obviously, our Department has other vital missions I have not been able to address here fully, but I would be happy to address them during the questions. For example, the Department's Antitrust Division successfully settled the *Microsoft* case, receiving praise from Judge Colar Catelli for, and I quote her now, "The clear, consistent, and coherent manner" in which the Division reached this historic settlement.

On the criminal enforcement front last year, individuals convicted for antitrust violations and related criminal offenses received a record average sentence of greater than 18 months.

#### PREPARED STATEMENT

Mr. Chairman, ranking member, and other members of the subcommittee, as we work to achieve our Department's objectives, I want you to know that none of these are possible without the funding and the support and the framework of law, which is provided through the Department into the Nation by the Congress. And I want to express my appreciation to you for your conscientious devotion to your duties of protecting America and providing the resources through which the administration can join you in that effort to protect this Nation.

I would be pleased to respond to questions.

[The statement follows:]

#### PREPARED STATEMENT OF JOHN ASHCROFT

Mr. Chairman and Members of the Subcommittee: It is an honor to appear once again before this Subcommittee to present the President's budget request for the Department of Justice. For fiscal year 2004, the Budget seeks \$23,334,844,000 for the Department of Justice, including \$19,001,955,000 in discretionary funding and \$4,332,889,000 for the Department's mandatory and fee-funded accounts. In total, the fiscal year 2004 request is \$259,513,000 over the comparable fiscal year 2003

Budget Request. The fiscal year 2004 Budget reflects the transfer of the Immigration and Naturalization Service, the Office of Domestic Programs, and a portion of the FBI's National Infrastructure Protection Center (NIPC) and other Departmental resources to the new Department of Homeland Security. It also reflects the transfer of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) from the Department of the Treasury to the Department of Justice.

On March 25, 2003, the President submitted a supplemental budget request for fiscal year 2003 to address the continuing threat to the national security of the United States posed by Iraq. For the Department of Justice, the request includes \$500,000,000 for the Counterterrorism Fund to meet immediate or emerging terrorism-related prevention and response requirements. Among our top priorities for the use of this funding are critical items for the FBI that address response capabilities, security enhancements, language translation services, operational field expenses, and surveillance support. We would also anticipate using a small portion of this funding to upgrade the capability of the Office of Intelligence Policy and Review for its role in the FISA warrant process, and to meet increased U.S. Marshals Service security requirements for the Federal Judiciary. The use of the Counterterrorism Fund provides the Department with the flexibility to allocate resources among components and priorities to meet unanticipated requirements. The Department, of course, will apprise the Committee through existing notification procedures of proposed allocations.

The ongoing support of this Subcommittee for the Department's critical mission—the prevention and disruption of terrorist attacks—is recognized and deeply appreciated. You have worked with us to stand up the Foreign Terrorist Tracking Task Force; reorganize the Federal Bureau of Investigation and the Criminal Division; improve security at our Nation's borders; improve inspections at our air and sea ports; enhance our information technology infrastructure; increase information sharing among federal agencies and with our state and local partners; and undertake the largest criminal investigation in U.S. history. America is now more secure, more prepared, and better equipped to defeat the continued threat of terrorism.

#### PREVENTING AND COMBATING TERRORISM, INCLUDING COUNTERINTELLIGENCE

The fiscal year 2004 Budget places a high priority on securing additional resources needed to fight the nation's war on terrorism, while at the same time being sensitive to the overall economic picture that confronts our Nation. Our budget increases overall counterterrorism resources, while also reprioritizing some current resources to supplement requests for new program enhancements.

In the days following the September 11th attacks, we initiated a comprehensive review and wartime reorganization in order to identify and redirect appropriate resources to our primary mission: counterterrorism. With the submission of the fiscal year 2004 Budget, the resources devoted to counterterrorism and homeland security have increased by approximately \$1.9 billion over the Department's fiscal year 2001 Budget, representing an increase of 10 percent in the share of the Department's resources devoted to counterterrorism prior to September 11. Our budget request includes increases of \$598,258,000 for programs supporting our mission requirements for preventing and combating terrorism.

For the Federal Bureau of Investigation, the Budget requests \$516,258,000 in enhancements above the fiscal year 2003 request that support or complement the FBI's Counterterrorism Program. Of the total, \$189,107,000 is focused exclusively on the FBI's counterterrorism investigative capabilities. These increases will permit the FBI to continue its efforts to identify, track and prevent terrorist cells from operating within the United States and overseas and, where necessary, to investigate terrorist acts.

To prevent terrorist attacks, the FBI must recognize and understand worldwide economic, political, social, and technological changes that have occurred over the last decade, and it must leverage existing intelligence in support of ongoing cases and operations. Following September 11th, with the support of this Subcommittee, Director Mueller restructured the FBI's Counterterrorism Division to implement a nationally-managed and centrally-driven Counterterrorism program (CT). The program seeks to improve intelligence coordination and analysis, enhance technical capabilities, and build a national response capability that is more mobile, agile, and flexible and provides a more proactive orientation toward meeting the terrorism threat. The fiscal year 2004 Budget requests 430 support positions and \$27,381,000 to improve the FBI's capacity to manage this program, including:

- 62 positions and \$3,641,000 to build a national level of expertise and knowledge that can be accessed by and deployed to all field offices;

- 115 positions and \$7,081,000 to facilitate the collection, analysis, exploitation, and dissemination of intelligence gathered through the lawful interception of e-mail traffic of known and suspected terrorists;
- 61 positions and \$3,605,000 to provide a centralized and coordinated financial investigative component to identify, disrupt, and dismantle terrorist financing operations;
- 72 positions and \$4,430,000 to significantly enhance the capacity of the Terrorist Reports and Requirements Section to establish policies and to develop and disseminate Intelligence Information Reports;
- 19 positions and \$1,056,000 to improve the capability of the FBI's National Threat Center to evaluate terrorist threats for credibility and disseminate intelligence reports to the appropriate intelligence and law enforcement communities;
- 15 positions and \$844,000 to support a robust analytical capacity that will enable the FBI to better predict national security vulnerabilities or targets;
- 86 positions and \$5,224,000 to provide additional support to FBI Headquarters to expand the centralized management capacity of its counterterrorism mission; and
- \$1,500,000 to fund operational travel and to coordinate FBI investigative efforts.

For Counterterrorism field analytical support, the Budget requests 214 positions and \$14,603,000 to develop a comprehensive intelligence program that can identify emerging threats and patterns, find relationships among individuals and groups, and provide useful information to investigators in a timely manner.

To support the FBI's prevention mission in the field, the fiscal year 2004 Budget includes an additional 248 positions (149 agents) and \$28,046,000. These additional resources will expand the Bureau's ability to identify terrorist operatives and their targets, penetrate terrorist organizations, and neutralize or disrupt the threats posed by terrorist activities.

New funding of \$4,600,000 is requested for a communications application tool capable of conducting sophisticated link analysis on high volumes of telephone call and other relational data.

On October 29, 2001, President Bush directed the establishment of the Foreign Terrorist Tracking Task Force (FTTTF), a multi-agency endeavor, whose mission is to prevent admission to the United States of foreign terrorists and their supporters and to identify and locate known and suspected terrorists who have gained entry to this country. This Subcommittee has supported the Administration's efforts to stand up the Task Force and to ensure a sufficient level of funding for its critical mission. We recognize the difficulty you faced with your allocation constraints and we deeply appreciate your support of the FTTTF in the fiscal year 2003 Omnibus Appropriations Act. The fiscal year 2004 Budget includes a total of \$72,607,000 for on-going support of the FTTTF.

The Joint Terrorism Task Forces (JTTF) are the cornerstone of a coordinated Federal, State, and local law enforcement effort for conducting international and domestic terrorism investigations. The JTTFs promote an atmosphere of immediate transparency between the FBI and its other law enforcement partners that encourages and ensures the sharing of intelligence information among participating agencies. The fiscal year 2004 Budget requests an increase of \$11,548,000 in non-personnel funding to support the JTTF Program, of which \$5,000,000 will support an Information Sharing Initiative.

The FBI's Computer Intrusion Program targets cyber matters affecting our national security and our economic security. The FBI provides deterrence to disruptive intrusions by foreign powers, terrorists, and criminal elements through the successful identification, investigation, and prosecution of illegal computer intrusion activity. The proposed increase of 113 positions (53 agents) and \$41,113,000 includes 66 positions (45 agents) and \$11,128,000 to combat computer intrusions and 47 positions (8 agents) and \$29,985,000 for the Special Technologies Application Section to enhance technical analysis capabilities in support of cyber investigations.

In response to the September 11th attacks, the FBI modified its public information system infrastructure to establish a means for the general public to report suspected terrorist activity via the Internet. Located in the FBI's Strategic Information and Operations Center (SIOC), the Internet Team has received 375,000 tips, resulting in 40,000 investigative leads. The fiscal year 2004 budget proposes an additional 19 positions and \$1,209,000 to provide 24/7 coverage for tip review and analysis.

#### *Complementary Terrorism Support Programs*

The fiscal year 2004 Budget also requests an increase of \$409,151,000 for the Department's counterintelligence, national security and criminal enterprise programs,

all of which provide complementary counterterrorism support. Of this total, \$327,151,000 is for programs and initiatives of the FBI and \$82,000,000 supports initiatives in other DOJ components. With your support in December 2002, the FBI reprogrammed \$28,736,000 to counter the growing national security threats around the country and strengthen the central management of its counter-intelligence program. This was the first step in an ongoing effort to implement the FBI's counter-intelligence strategy. The fiscal year 2004 budget requests an additional 583 positions (94 agents) and \$69,880,000 for the FBI's counter-intelligence mission.

FBI Director Mueller has identified the need for upgraded technology as one of the top 10 priorities of the FBI, recognizing that over the years, the FBI failed to develop a sufficient capacity to collect, store, search, retrieve, analyze and share information. As this Committee is aware, the FBI has embarked on a comprehensive overhaul and revitalization of its information technology infrastructure. We appreciate your support of those efforts. The fiscal year 2004 Budget provides enhanced funding for the FBI's information technology programs of 3 positions and \$82,247,000. Included in the request is an additional \$61,689,000 for operation and maintenance costs associated with Trilogy hardware, \$18,558,000 for recurring hardware and software upgrades over the next several years to avoid a gradual return to a technological state of obsolescence, and \$2,000,000 for costs associated with operations and maintenance of the FBI's Top Secret/Sensitive Compartmentalized Information Local Area Network (TS/SCI LAN).

To enhance the FBI's response to crisis situations worldwide, including secure, remote communications networks, specialty vehicles and equipment, and helicopter support for hostage rescue, the fiscal year 2004 Budget requests an additional 35 positions (7 agents) and \$24,187,000. The request includes 27 positions (6 agents) and \$14,984,000 to enhance Crisis Response Unit capabilities; \$850,000 for automation equipment in support of rapid deployment team operations; 6 positions (1 agent) and \$2,226,000 for the Hostage Rescue Team (HRT) to provide aviation support during a terrorist or criminal act directed against the United States, its citizens, or interests; and 2 positions and \$6,127,000 to provide Weapons of Mass Destruction (WMD) equipment and supplies, staff, and training, for HRT and the SWAT teams to ensure an appropriate state of preparedness to respond to counterterrorism threats and other assigned tasks.

The investigation of the attacks on the World Trade Center and the Pentagon underscores the global nature of terrorism and the ability of terrorists to plan, finance, and conduct operations in a variety of countries around the world. Terrorist organizations such as Osama Bin Laden's Al Qaeda have a presence throughout the Middle East, Europe, and Asia. The FBI's Legal Attaché (Legat) Offices continue to be critical to our ongoing efforts to deny Al-Qaeda the ability to mount future attacks by building and maintaining effective international partnerships. For fiscal year 2004, the President's Budget includes an additional 82 positions (19 agents) and \$61,755,000 to expand and support the Legal Attaché (Legat) Program and the Visa Identification Terrorist Automated Lookout (VITAL) System. Legats and VITAL will provide a coordinated defense against terrorists seeking entry to the United States or threatening our interests and citizens abroad. The requested enhancements to the Legat Program of 30 positions (17 agents), and \$47,527,000 will add personnel and upgrade the communications capacity of the FBI's overseas offices, bringing the technology infrastructure of Legats in line with the Trilogy Project. Five new Legat Offices are requested in Sarajevo, Bosnia; Kuwait City, Kuwait; Tashkent, Uzbekistan; Kabul, Afghanistan; and Belgrade, Serbia. The requested funding will also expand five existing offices in Ottawa, Seoul, London, Berlin, and Moscow.

The FBI's VITAL project will improve the Nation's security by providing the United States embassies and consulates with the ability to identify individuals who are threats to our national security before they can gain entry into the United States via air and seaports. When fully implemented, consular and immigrant officials will be able to electronically process fingerprint-based criminal history checks of visa applicants against the records in the Integrated Automated Fingerprint Identification System (IAFIS) and authenticate identities of travelers through biometrics prior to the issuance of visas. The budget request of 52 positions (2 agents) and \$14,228,000 lays the groundwork for this important program by providing the necessary personnel and funding to develop and manage the VITAL project and to modify the IAFIS to provide the additional storage capacity needed to retain and store embassy and consulate fingerprint submissions.

With the proliferation of information technology and the increased availability of computers, criminal and terrorist activity has shifted from a physical dimension in which evidence and investigations are described in tangible terms, to a cyber dimension. The role of the FBI's Computer Analysis Response Team (CART) is to provide assistance to FBI field offices in the search and seizure of computer evidence and

in the conduct of forensic examinations where computers and storage media are required as evidence. It is anticipated that more than 60 percent of the FBI's caseload will require at least one computer forensic examination. To meet this growing demand, the fiscal year 2004 Budget includes an additional 45 positions (1 agent) and \$18,040,000. Resources will be used to maintain existing and establish new Regional Computer Forensic Laboratories and to provide funding for rapid deployment teams. This Subcommittee has led the support for the FBI's CART program in the past and we look forward to continuing to work with you on this important initiative in the future.

Since his appointment as FBI Director, Bob Mueller has made significant changes in the organizational structure at the FBI in an effort to make the agency more flexible, agile, and mobile in its capacity to respond to the many challenges it faces. The Director recognizes that the FBI must better shape its workforce and develop core competencies if it is to effectively respond to the array of national security and criminal threats facing our nation. Additional training resources are a necessary component of reshaping the FBI. The fiscal year 2004 Budget requests an additional 111 positions (76 agents) and \$17,559,000 to improve training in the fields of intelligence analysis (\$2,450,000), counterterrorism (\$14,027,000), and cyber crime (\$1,082,000).

The National Security Law Unit provides legal advice on all matters relating to the national security responsibilities of the FBI, including foreign counterintelligence, international terrorism, domestic security/terrorism, and computer intrusion/infrastructure protection matters. With the FBI's shift in focus to preventing future terrorist attacks, the workload of the National Security Law Unit has increased substantially. In fiscal year 2004, an additional 14 positions and \$1,405,000 is requested to meet the expanded workload of this office.

Mr. Chairman and Members of the Subcommittee, you have been instrumental in the elevation of the role of security within the FBI through the establishment of a new Security Division that for the first time in FBI history is responsible for ALL FBI security matters. As the premier domestic agency conducting criminal, counterintelligence, and counterterrorism investigations, the FBI is an attractive target for individuals and organizations that seek to impede investigations, or obtain sensitive national security information. The fiscal year 2004 budget requests 120 positions (32 agents) and \$37,146,000 for continued security improvements. The request includes:

- \$5,050,000 to conduct additional contract background investigations of on-board personnel and others with access to FBI information and facilities;
- 5 positions and \$968,000 for an enhanced adjudication program aimed at ensuring that security clearances are granted as necessary and appropriate;
- 24 positions and \$6,888,000 for additional technical and physical security improvements;
- 54 positions and \$15,821,000 for Police Force and Guard Services to meet increased security requirements at FBI Headquarters, the Washington Field Office, the FBI Academy, the Criminal Justice Information Services Facility in Clarksburg, WV; and the New York Field Office;
- 37 positions (32 agents) and \$6,419,000 to expand the polygraph program, which is aimed at assuring that national security information is not compromised by an FBI employee, contractor or other individual; and
- \$2,000,000 for the Defensive Programs Unit to develop technical surveillance countermeasures.

The final fiscal year 2004 budget enhancement for the FBI relates to its critical need for additional staff support for field investigations. An increase of 300 positions and \$14,932,000 is requested for essential personnel to focus on the administrative tasks associated with investigations, thereby allowing field agents, field investigators, and technical support personnel to focus exclusively on terrorist and criminal threats.

The war against terrorism cannot be won without the support and assistance of our State and local partners. Our successes will depend on our ability to share information and intelligence in a timely manner with state and local law enforcement agencies. At its inception the OJP-funded Regional Information Sharing System (RISS) supported State and local law enforcement efforts to combat drug trafficking and organized criminal activity. However, the regional information-sharing concept has expanded and now more law enforcement agencies routinely reach out to share intelligence across jurisdictional boundaries. Section 701 of the USA Patriot Act authorizes RISS to operate secure information sharing systems to enhance the investigative and prosecutorial abilities of participating law enforcement agencies in addressing terrorism.

A significant achievement in the last year has been the successful effort undertaken to link the various databases used by State and local law enforcement. We

have connected the RISS with the FBI's Law Enforcement Online (LEO) system developing a backbone for further information sharing improvements. The fiscal year 2004 Budget seeks an additional \$12,000,000 to further expand RISS' accessibility to state and local public safety agencies for the purpose of sharing terrorism alerts and related information.

The Office of Justice Programs also provides significant assistance to State and local law enforcement and public safety entities through the training and technical assistance provided by its program experts. OJP's training and technical assistance programs provide direct assistance to state and local jurisdictions in developing and implementing comprehensive, system-wide strategies and in demonstrating and documenting programs that work. The fiscal year 2004 Budget requests an enhancement of \$3,000,000 to provide training to state and local law enforcement, prosecution, and intelligence agency personnel at the command level in the areas of domestic anti-terrorism and extremist criminal activity. This funding will be combined with existing funding of \$1,238,000 for the hate crimes training and technical assistance program to form one Bureau of Justice Assistance-administered training program totaling \$4,238,000.

The President's fiscal year 2004 Budget for the Department of Justice includes \$851,987,000 for the Bureau of Alcohol, Tobacco, Firearms, and Explosives, which became a component of the Department of Justice on January 24, 2003, pursuant to the Homeland Security Act of 2002, Public Law 107-296.

The Homeland Security Act authorized the Safe Explosives Act, establishing a new program of explosives licenses and permits, expanding the number of individuals required to have licenses and permits, requiring fingerprinting and background checks for all applicants, and mandating the establishment of a National Explosives Licensing Center. The provisions of this new Act will aid in the fight against terrorism. The fiscal year 2004 Budget requests 88 positions and \$10,000,000 for ATF to carry out this new initiative. This budget request will build upon the efforts being undertaken by the ATF to implement these new responsibilities during fiscal year 2003.

As we succeed in the arrest, prosecution, and conviction of terrorists, we must also provide for the safe incarceration of those individuals. An increase of 2 positions and \$23,000,000 is requested for the Bureau of Prisons' Salaries and Expenses Account to provide physical security upgrades at an existing facility that will house terrorist inmates. The upgrades include enhancements to the perimeter security of the facility and construction of maximum isolation cells to ensure minimal exposure to other inmates.

The ability of law enforcement and public safety agencies to communicate effectively is essential to our ability to respond to future terrorism incidents. The Department's Narrowband Communications Program is responsible for developing the Integrated Wireless Network, a joint initiative with the Department of the Treasury, and several agencies of the Department of Homeland Security. The fiscal year 2004 Budget requests an increase of \$32,000,000 to continue the narrowband investment in radio infrastructure and radio investments principally along the Northern and Southern land borders and in key operational areas such as New York City.

The Office of Intelligence Policy and Review (OIPR) in the Department of Justice plays a critical role in terrorism prevention by providing operational support to the FBI in its investigation of terrorism, primarily through the application for warrants under the Foreign Intelligence Surveillance Act of 1978 (FISA). OIPR prepares and files all applications for electronic surveillance and physical search under FISA, assists government agencies by providing legal advice on matters of national security law and policy, and represents the Department of Justice in a variety of inter-agency forums related to counterintelligence. The fiscal year 2004 Budget requests an increase of 12 positions and \$2,000,000 to increase the operational support provided to the FBI through the application of FISA warrants and for information technology improvements.

#### COMBATING CORPORATE FRAUD

Since the exposure of the corporate fraud scandals, the Department of Justice has taken decisive action to combat corporate fraud and punish corporate wrongdoers. To restore confidence in the integrity of our markets, President Bush created the Corporate Fraud Task Force, chaired by Deputy Attorney General Larry Thompson, to bring the maximum combined force of the Federal Government to investigate and prosecute corporate fraud. In addition to the Deputy Attorney General, the Department's Corporate Fraud Task Force members include the Director of the FBI, the Assistant Attorneys General of the Criminal and Tax Divisions of the Department, and several United States Attorneys from around the Nation. We appreciate this

Committee's support for the Department's corporate fraud efforts and the \$23,000,000 in additional funding provided in fiscal year 2003 for the FBI and the U.S. Attorneys.

The Department of Justice is working closely in coordination with the Securities and Exchange Commission and other agencies through the Corporate Fraud Task Force to ensure a marketplace of integrity. The goal of our law enforcement efforts is clear: Information cannot be corrupted; trust must not be abused; confidence must be maintained in the markets; and the jobs, savings, investments, and pension plans of hard working Americans must be protected.

For fiscal year 2004, our budget requests enhancements of 212 positions (56 agents and 22 attorneys) and \$24,538,000 to continue these efforts. For the FBI, we are requesting 118 positions (56 agents) and \$16,000,000 for staff and resources to target corporate fraud cases. These resources will fund the immediate development or improvement of existing liaison with other agencies, increased corporate fraud training for agents and financial analysts and fund the establishment of corporate fraud "Reserve Teams" of financial experts dispatched to major fraud investigations. The budget also seeks \$8,538,000 for additional prosecutors, financial analysts and other staff for the U.S. Attorneys, Criminal Division, and Tax Division to enhance prosecutorial capacity in this arena.

#### DRUG ENFORCEMENT AND TREATMENT

Combating illegal drug trafficking and the continued wave of violent crime associated with it remains among the Department's highest priorities. The drug threat we face is not a new one, nor is the priority we place on ending the toll that illegal drugs take on the lives of Americans. The growing combination of drug trafficking and terrorism serves to call us even more urgently to action. In March 2002, I announced a strategy to reduce the availability of illegal drugs. The centerpiece of this strategy is the reorganization, revitalization and restoration of the Organized Crime Drug Enforcement Task Force (OCDETF) program. It is a strategy that recognizes illegal drugs as both a destructive force in the lives of individuals and a destructive force to the security of this nation.

OCDETF's cadre of experienced and talented federal agents and prosecutors, with support from state and local law enforcement, exemplifies the government's collaborative capabilities to disrupt and dismantle drug trafficking organizations and their related enterprises. For 2004, the Administration has proposed to once again consolidate all OCDETF funding for participating agencies from the Departments of the Treasury, Homeland Security, and Justice within the Department of Justice's Inter-agency Crime Drug Enforcement appropriation. The reconsolidation of this funding will support the OCDETF program's refocused mission and removes bureaucratic barriers to improved accountability and resource management throughout the program. Moreover, the reconsolidation supports the Department's strategy for OCDETF to lead the charge in disrupting and dismantling the most significant drug trafficking and money laundering organizations.

To establish the automated capacity to analyze and disseminate OCDETF investigative information, our budget proposes an enhancement of \$22,000,000. By leveraging existing Foreign Terrorist Tracking Task Force (FTTTF) technology, OCDETF would analyze the drug investigative information stored in existing database systems and, more importantly, provide crucial capacity needed to rapidly ingest, conduct cross-case analysis, and disseminate drug investigative information. Ultimately, this system would expand the capability of OCDETF to use both existing and new drug investigative information to make nationwide connections among the sophisticated, compartmentalized components of major drug trafficking and money laundering organizations.

In addition, our budget proposes an additional 192 positions and \$26,000,000 to enable OCDETF participants to mount comprehensive attacks, in multiple national and international locations, on the highest-level drug traffickers and drug organizations identified on the Department's Consolidated Priority Organization Target (CPOT) List. By concentrating our efforts on the top 53 command and control targets, our resources will have the most profound impact on the overall drug supply. Drug organizations are driven by the desire for profit; as these organizations develop into larger enterprises, they employ illegal financial techniques to transfer or transport drug proceeds, to obtain and conceal assets, and to reinvest profits to promote ongoing illegal activity. To combat these efforts, our budget proposes an enhancement of 83 positions and \$10,000,000 to expand the capability of OCDETF agencies to conduct meaningful investigations of the financial infrastructure supporting major drug organizations.

As the world's leading drug enforcement agency and the only single-mission federal agency dedicated to drug law enforcement, the Drug Enforcement Administration (DEA) continues to target aggressively the Nation's illegal drug threats in the post-September 11, 2001 environment. Our budget proposes an enhancement of 329 positions (including 123 agents and 20 Diversion Investigators) and \$38,880,000 for the Priority Targeting Initiative. Through this initiative, DEA will target Priority Drug Trafficking Organizations involved in the manufacture and distribution of illegal drugs as well as those involved in the diversion of precursor chemicals used for manufacturing illegal drugs. International partnerships are critical to our Nation's efforts to combat the threat of illegal drugs. To continue the DEA's drug law enforcement training to our counterparts overseas, our budget proposes an enhancement of 20 positions (16 agents) and \$1,500,000. Our fiscal year 2004 budget also proposes an increase of 20 positions and \$2,500,000 to improve DEA's financial and asset management programs and \$7,847,000 in prior-year unobligated balances to design and construct a state-of-the-art laboratory in the Southeast region (Miami, Florida). This request will provide DEA's highly skilled and specialized chemists with a modern, state-of-the-art facility.

The Department's fiscal year 2004 budget requests additional funding for drug treatment programs in the Office of Justice Programs and the Bureau of Prisons. To expand the Drug Courts Program, our budget proposes an enhancement of \$16,614,000 for fiscal year 2004. The Drug Courts Program provides alternatives to incarceration to encourage abstinence and alter behavior with a combination of escalating sanctions, mandatory drug testing, treatment and strong aftercare. For the Bureau of Prisons, our budget proposes an enhancement of 12 positions and \$467,000 to support drug treatment for approximately 16,500 inmates. This will bring the BOP to its treatment threshold as required by the Violent Crime Control and Law Enforcement Act of 1994.

#### PREVENTING CRIMES AGAINST CHILDREN

A critical focus of the fiscal year 2004 Budget and a primary objective of Goal II of the Department's Strategic Plan is to Combat Crimes Against Children and Other Vulnerable Victims of Violence and Exploitation. Children today face dangers wholly new to any generation. The rapid expansion of the Internet into our homes, libraries and public institutions has brought boundless opportunity within reach, but the same vehicle that serves young people also aids those who would harm them. The fiscal year 2004 Budget includes enhancements totaling \$19,094,000 to support efforts to reduce child abductions and firearms violence.

The impact of firearms violence is particularly severe on our children and young adults. Of the approximately 1,400 juveniles murdered in 2001, 44 percent were killed with a firearm; and over 2,800 students were expelled in 1999–2000 for bringing firearms to school. The Youth Crime Gun Interdiction Initiative of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) is a model partnership between ATF and local law enforcement designed to reduce firearms violence by investigating illegal trafficking to youth. The fiscal year 2004 Budget proposes to expand this initiative, begun in 17 cities in 1996, to an additional 10 cities. The enhancement of 118 positions (62 agents) and \$13,000,000 will bring the total number of participating cities to 70.

Nothing hits home more than a missing child and nothing galvanizes law enforcement and the communities they serve more than finding that missing child and returning that child home safely. AMBER—America's Missing: Broadcast Emergency Response—was created in 1996 as a legacy to 9-year-old Amber Hagerman, who was kidnapped while riding her bicycle in Arlington, Texas and then brutally murdered. After this heinous crime, Dallas-Fort Worth broadcasters teamed with local police to develop an early warning system to help find abducted children. I am pleased that the fiscal year 2004 Budget includes \$2,500,000 to develop an effective, coordinated AMBER Alert program nationwide. The Department's AMBER Coordinator, Assistant Attorney General Deborah Daniels, will use these funds to train law enforcement and others in operating an effective AMBER Alert system and to give radio stations the software to upgrade their emergency alert systems so they can broadcast an AMBER Alert. A sound AMBER plan is vital to the swift recovery of a child in imminent danger of physical harm.

The Innocent Images National Initiative, a component of the FBI's Cyber Crime Program, combats the proliferation of child pornography and child sexual exploitation facilitated by on-line computers. The Innocent Images National Initiative focuses on individuals who indicate a willingness to travel interstate for the purposes of engaging in sexual activity with a minor and on major producers and/or distributors of child pornography. In the last six years, the FBI has seen a 20-fold increase

in the number of Innocent Images cases opened. The fiscal year 2004 Budget requests an additional 32 positions (19 agents) and \$3,594,000 to increase investigations and keep pace with the rising trend of child pornography and sexual exploitation via the Internet.

#### ENHANCING DNA PROGRAMS

The fiscal year 2004 Budget includes increases of \$106,220,000 in expanded funding for DNA analysis. Forensic DNA analysis has rapidly developed into a vital tool used to support an increasing number of investigative efforts. Increased demand and limited processing capability has created a significant backlog in cases requiring forensic DNA analysis. The FBI's Nuclear DNA Program has examined evidence from terrorist activities such as the U.S.S. *Cole* bombings, assaults on the World Trade Center and the Pentagon, the anthrax-laced mailings and numerous hoax anthrax letters. On the State level, DNA analysis has proved invaluable by instantly identifying repeat offenders, as well as narrowing the field of potential suspects. The fiscal year 2004 Budget will provide continued support to this indispensable investigative tool for both State and Federal programs.

The FBI's Combined DNA Index System (CODIS) and National DNA Database utilize forensic sciences and computer technology as an effective tool for solving violent crimes. CODIS and the National Database enable Federal, State, and local crime laboratories to exchange and compare DNA profiles electronically, thereby linking crimes to each other and to convicted offenders. The FBI's DNA effort began as a pilot project in 1990 serving 14 State and local laboratories. Today, the FBI's National DNA Index System includes 42 States, two Federal laboratories and the Commonwealth of Puerto Rico. It has produced more than 6,000 hits, assisting in more than 6,400 criminal investigations. Ultimately, the number of crimes it helps to solve measures its success.

In fiscal year 2004, the Budget is proposing an increase of 32 positions and \$3,283,000 to expand the FBI's capacity to collect, analyze, and store DNA forensic evidence. The FBI plans to double the processing rate of nuclear DNA cases by 2005, by increasing the number of Forensic DNA Examiners and Biologist Technicians by two-thirds and developing Rapid DNA Analysis Systems to replace manual processing. The Budget requests 28 positions and \$2,692,000 for this purpose. In addition, 4 positions and \$591,000 is requested to staff, supply and equip the Federal Convicted Offender Program to collect DNA samples and produce DNA profiles for CODIS. These resources will enable the FBI to keep pace with the expanded terrorism-related offenses authorized by the USA Patriot Act.

The fiscal year 2004 Budget also proposes a consolidated DNA effort in the Office of Justice Programs (OJP) to assist state and local laboratories to reduce backlogs of DNA samples and improve their capabilities through increased information and research to make DNA tests faster and cheaper. The Budget request proposes funding this consolidated effort at a level of \$177,000,000, an increase of \$102,937,000 above the fiscal year 2003 Budget request level.

Many of our Nation's crime labs lack the capacity to analyze all of the DNA evidence collected by police. While all 50 States collect DNA from their convicted felons, many lack the resources to enter these samples into the national DNA database. As a result, there are some 500,000 samples awaiting analysis in laboratories across the country. Reducing this backlog by entering these samples in State and national DNA databases will assist law enforcement in linking offenders already in custody to unsolved crimes. As of March 2002, the FBI's DNA database had identified 610 offenders and produced 193 "forensic hits" in which cases not known to be related were found to have been committed by the same offender. The proposed enhancements for fiscal year 2004 will be used to—

- Reduce the DNA backlog through formula-based grants to expedite the entry of DNA samples from convicted felons and unsolved crimes into the national database;
- Improve the capacity of DNA crime labs through grants to state and local crime labs for the acquisition of DNA analysis equipment that will process samples more quickly and accurately; and
- Support continuing research on forensic DNA technology and provide assistance for pilot projects.

#### PROTECTING THE JUDICIAL SYSTEM AND MANAGING FEDERAL DETENTION AND INCARCERATION CAPACITY

The Department's fiscal year 2004 budget request seeks significant resources to improve courtroom security, to detain the accused in Federal custody and to protect the American public by providing for the safe, secure and humane incarceration of

sentenced offenders. Security associated with terrorist-related court proceedings requires an unprecedented level of protection for all trial participants because of the global interest and intense media attention. These high-security, high profile proceedings require extensive operational planning and support from specially trained and equipped law enforcement personnel. The United States Marshal Service (USMS) is responsible for safely transporting accused individuals to and from judicial proceedings and ensuring the safety of the judicial participants, the public, and USMS personnel. To meet better the security needs of these proceedings; our budget seeks 275 positions (231 Deputy United States Marshals) and \$26,599,000. The budget request for USMS also seeks \$2,000,000 from the Department's Working Capital Fund for courthouse security equipment. This additional funding is sought to fund security systems, relocation, and telephone and data lines for four new courthouse facilities opening during fiscal year 2004.

During 2002, the Nation's prison population rose 4.4 percent, by over 6,800 inmates. The Department's fiscal year 2004 budget request seeks additional resources for the Bureau of Prisons to manage this growth, including activation costs for seven new facilities. Our budget seeks a total of 2,727 positions and \$251,978,000 to activate 7 new facilities including United States Penitentiary (USP)—Hazelton, West Virginia, USP—Canaan, Pennsylvania, and USP—Terre Haute, Indiana, Federal Correctional Institution (FCI)—Victorville, California, FCI—Forrest City, Arkansas, FCI—Herlong/Sierra, California, and FCI—Williamsburg, South Carolina. These facilities will add 8,000 critically needed beds to reduce overcrowding.

To provide adequate space to detain individuals in the custody of USMS, our budget seeks an increase of \$34,705,000. These resources will fund additional bed space in state, local and private facilities for Federal detainees.

#### MANAGING THE DEPARTMENT'S FINANCIAL AND INFORMATION RESOURCES, INCLUDING ENHANCING INFORMATION SECURITY

The Congress has entrusted a significant level of resources to the Department of Justice to enable it to carry out its important mission. Our budget seeks additional funding to ensure that resources entrusted have sufficient oversight. To strengthen the Department's management and oversight of information technology security, including the continued implementation of a Department-wide security architecture and security standards, and the development and initial implementation of a Public Key Infrastructure, the Department seeks an enhancement of 13 positions and \$9,000,000. For fiscal year 2004, the Department also seeks an enhancement of \$15,000,000 for the Department's Unified Financial Management System that will improve financial management and oversight with standardized core functions across the Department.

To continue the deployment of the Department's Justice Consolidated Office Network (JCON), our fiscal year 2004 budget seeks an enhancement of \$17,000,000 and \$33,000,000 from the Department's Working Capital Fund. These resources will continue to enable the United States Marshals Service to increase the JCON-architecture deployment to 92 percent.

#### OTHER IMPORTANT ACTIVITIES

Our budget seeks \$40,730,000, including \$35,030,000 in appropriated resources and \$5,655,000 from the Department's Working Capital Fund, to enhance several items of critical importance to the Department's continued efforts. For the United States Attorneys, we are seeking 145 positions and \$15,862,000. Of this amount, \$10,207,000 in appropriated resources would enable the United States Attorneys throughout the Nation to address critical areas including civil defensive litigation needs arising from greater demands associated with the implementation of anti-terrorism programs after September 11, 2001, expanding civil defensive case loads, and increased complexity of employment discrimination and tort cases; and to provide for much needed litigation support and enhanced timeliness of financial reporting. In addition, \$5,700,000 from the Department's Working Capital Fund would enhance the United States Attorneys' information technology infrastructure.

Our budget also seeks additional resources for the Environment and Natural Resources and Civil Divisions of the Department. Requested enhancements totaling 32 positions and \$4,188,000 would enable the Environment and Natural Resources Division to address its Tribal Trust Fund docket and to further implement a critically needed initiative to seek out and prosecute violators of hazardous material transportation and handling laws. Additional resources of 30 positions and \$4,500,000 for the Civil Division would enable the Division to continue to address high-profile immigration cases which implicate the integrity of the September 11, 2001 investigation and the Federal Government's response and to fund additional costs generated

by the 2000 amendments to the Radiation Exposure Compensation Act (RECA), which triggered a nearly five-fold increase in the number of RECA claims filed. An additional 28 positions and \$2,000,000 are also sought for the Executive Office for Immigration Review (EOIR). These additional resources would enable EOIR to keep pace with workload increases as a direct result of increased interior and border enforcement.

For fiscal year 2004, we are seeking \$5,500,000 for the Office of Justice Programs to fund additional Public Safety Officers Educational Assistance payments and to begin converting the National Crime Victimization Survey conversion from primarily a paper-and-pencil operation to a fully automated data collection process.

The United States National Central Bureau continues to facilitate international law enforcement cooperation as the United States representative with the International Criminal Police Organization (INTERPOL). Our fiscal year 2004 budget seeks an additional \$932,000 to fund increased dues payments on behalf of the United States to INTERPOL. Additional funds are needed to replenish depleted reserve accounts, while at the same time expanding operations and personnel to focus on combating international terrorism.

We are proposing additional resources to provide enhanced building security. In fiscal year 2004, our budget request seeks \$6,517,000 for improved perimeter security and guard services. This request builds upon the fiscal year 2002 reprogramming proposal submitted by the Department. In addition, for the United States Trustee Program, we seek an additional \$1,104,000 to enhance the information technology infrastructure of the Program.

#### CONCLUSION

Chairman Gregg, Senator Hollings, and Members of the Subcommittee, I have outlined for you today the principal focus of the fiscal year 2004 budget request for the Department of Justice. The Department continues to evaluate its programs and operations with the goal of achieving both component-specific and departmental economies of scale; increased efficiencies; and cost savings. Aided by ongoing reviews of business practices, we are beginning a comprehensive, multi-year process to implement a wide range of streamlining and efficiency measures that will result in substantial savings. Many of these proposals have been incorporated into our fiscal year 2004 budget proposal.

I look forward to working with you on this budget proposal and other issues.

Thank you. I would be pleased to answer any questions you might have.

Senator GREGG. Thank you, Mr. Attorney General, for that extensive opening statement. It does remind me a bit of a fellow I used to represent when I was practicing law named Oscar Payne. He was about 78 years old, and he worked on a farm up in Acworth, New Hampshire. He went to church once, and it appeared he was the only one at church. And the minister spoke, and did three readings from the Bible. He sang four hymns and did a sermon, a full sermon. It was a very good sermon. They even had the offering. They passed the plate.

And at the end of the service, the minister went to the front door and said to Oscar, as he walked out, shook his hand, "Oscar, what did you think?" And Oscar said, "Well, when I go down in my field, if I only find one stalk of corn, I don't dump the whole load of manure on it."

We certainly appreciate that extensive statement.

And as is the tradition of this committee, we always defer to the chairman when he comes.

Senator STEVENS. I left my truck behind today, Mr. Chairman.

Nice to see you, John. And you are doing a wonderful job. We thank you very much for what you are doing. I have to go get ready for the supplemental today and just dropped by briefly. Thank you very much.

Attorney General ASHCROFT. It is an honor to serve with you, sir.

Senator GREGG. I also want to say you are doing an exceptional job. And we——

Attorney General ASHCROFT. You could have at least——  
 Senator GREGG. As an old friend, I enjoy you.  
 Senator Hollings.

## CORPORATE FRAUD

Senator HOLLINGS. Thank you, Mr. Chairman.

General, I was listening to that litany of the various prosecutions, indictments, convictions, and what have you, and particularly with respect to corporate fraud. At the time that you put the Deputy Attorney General Larry Thompson in charge of corporate fraud, at that particular time the question arose that his firm represented Enron, Kenny-boy, Ken Lay.

Now 1½ years later, with all of those convictions that you talk about, prosecutions and indictments and everything else like that, we have not heard anything about Kenneth Lay. Specifically, we see now in the news what we heard the first couple of months before our Commerce Committee from California, that it was a total fraud the way Enron was taking more than their shortage of so-called allocation. And then with the more or overage of that particular shortage, they were sending a note, shipping it back in with the increased price, defrauding the State of California. Now that has been verified in several news stories here in the last 2 weeks.

At that time, there was a witness from the California Public Service Commission or Authority or whatever. And I asked him, I said, "Wait a minute here now. That morning, Mrs. Lay appeared on my television before I came to work, said that her husband did not know anything about it. And the witness testified he knew everything about it. He knew all the details."

With that in the public sector, what happens? You have everybody but Kenneth Lay. And that is where it all started. Can you tell the committee?

Attorney General ASHCROFT. Senator, the corporate fraud investigations are ongoing. As it relates to the Enron Corporation, I am not informed about that. I am not a part of it, because I was recused from those investigations as a result of a determination that was reached that recusal would be appropriate for me in regard to Enron. I do not want to be non-responsive, but it would be inappropriate for me to comment on something in which I am not involved, which is an ongoing investigation, and something from which I am recused.

Senator HOLLINGS. Well, as the Attorney General, you should be curious, just as this Senator is curious. Suppose you get a report from Deputy Attorney General Larry Thompson for you and for me on the status of the *Kenneth Lay* case.

Attorney General ASHCROFT. I would be happy to instruct the Department to give you a complete report, to the extent it is appropriate, on that investigation. It is something about which I cannot give you a report.

[The information follows:]

## ENRON TASK FORCE

As of June 19, 2003, the Department's Enron investigation has resulted in the convictions of Arthur Andersen and 5 individuals, as well as the indictment of 15 other individuals, including both the Chief Financial Officer and Treasurer of

Enron. The investigation into possible additional criminal activity is active and ongoing.

NATIONAL SECURITY COUNCIL

Senator HOLLINGS. Very good. Now let me ask with specificity with respect to the National Security Council. Now that we have changed over to domestic threats, at the time President Truman organized the National Security Council, you had the Vice President, the Secretary of State, and the Secretary of Defense, and everything else of that kind. We came within a vote of really asking that the Attorney General and that the FBI and others also be a part of that.

My concern is that the President gets a complete report from his National Security Council. Do you meet with him every day and give him a report intelligence-wise, or what is the score on that? Because the old rule was that the FBI just handled domestic crime; the CIA handled intelligence abroad. Now we have got to doing or developing as you are doing, a domestic intelligence. And you have to coordinate the two. And I have some questions about the coordination. But I am wondering if the President gets a complete report on the domestic intelligence. What is the setup?

Attorney General ASHCROFT. Well, every morning at just about 7 o'clock, I begin my day meeting with FBI officials, as we prepare to go and brief the President of the United States. On a daily basis, we brief the President of the United States, and we do so in the presence of those individuals who brief the international intelligence.

One of the things that is very apparent to us is that there is no longer a discontinuity or a break between things that might be happening in the United States and things that might be happening overseas. It is important that a complete picture be given and that the FBI knows what is happening internationally, and that the CIA knows what is happening as a result of the domestic thing, and that the President hears it all and be able to respond to it all.

The President devotes himself to that with a discipline and an intensity which is very, very impressive to me. He does it on a daily basis, and I witness it personally.

TERRORISM THREAT INTEGRATION CENTER

Senator HOLLINGS. Good. What about the status of the TTIC, the Terrorism Threat Integration Center? Is that developed?

Attorney General ASHCROFT. The Terrorism Threat Integration Center, TTIC as some folks are calling it, is being stood up at this time. It will go into effect on the first of May in a formal sense, as a way of integrating intelligence that comes from virtually all the sources that generate intelligence for the country. It will provide access to participants in the TTIC operation, meaning both the intelligence sources from overseas and from at home, and the intelligence that is gathered, say, by agencies that are not thought of as being intelligence agencies but uncover information. For example, the Immigration authorities who encounter information or Customs authorities, who hear about potential smuggling and the like.

The Terrorist Threat Integration Center, which would have the means of examining the intelligence information from all agencies by virtue of having search engines, could harmonize this information so it is all available. It is an attempt to have it in a format which would provide easy processing, so that information from different agencies, which has previously been assembled in different ways, would be comparable.

The TTIC will first come into existence and be stood up, as I said, on the first of May. It is later expected to be housed at an independent location, directed by an individual chosen by the Director of the CIA in consultation with the Attorney General and the Director of the FBI and others. It will also be at a location which will house the counterterrorism effort of the FBI and the CIA. But they will be separately administered.

I believe it is important that the output of these intelligence-gathering agencies be available broadly to both sides. They have separate gathering operations, primarily because the CIA has a culture of gathering outside the United States, where the rules are far different than the culture of gathering information inside the United States where we have to have strict adherence to the laws and to the Constitution of the United States.

Once information has been gathered by each of these agencies and by the other contributing agencies, it is available in this Terrorist Threat Integration Center. The intelligence of these various agencies that participate is available through a search engine function in the center that should make intelligence available to the FBI, which was developed originally by CIA, or vice-versa, and the other agencies, so that we should have a far more comprehensive understanding.

We should be able to integrate our understanding, rather than having the right hand maybe have some substantial assets the left hand does not know about. These assets should be jointly understood, although they are independently developed. The techniques for developing information in the United States, as opposed to abroad, follow a different set of protocols, guidelines, rules, which follow our Constitution, as opposed to a variety of other rules which are available and imposed in different settings overseas.

#### TERRORIST THREAT INTEGRATION CENTER BUDGET

Senator HOLLINGS. The budget for TTIC, do you have it? Who appropriates for that?

Attorney General ASHCROFT. Well, I believe TTIC is not provided for in our Department. I turned to make an inquiry because funding associated with the TTIC will be for the entire counterterrorism section of the FBI, which is part of our budget. The \$50 million to stand this project up was provided originally in the Defense area. But I am not—I would have to get back to you on the specifics.

[The information follows:]

#### TERRORIST THREAT INTEGRATION CENTER

The fiscal year 2003 Department of Defense appropriation included \$104 million for the Terrorist Threat Integration Center (TTIC), of which no less than \$50 million is to be used for FBI costs associated with TTIC.

## EMERGENCY WARTIME SUPPLEMENTAL APPROPRIATION

Senator HOLLINGS. Let us get a hold of it, so we can follow it.

Now the distinguished chairman, Senator Stevens, just left for the supplemental. I note that you have some \$500 million for the Department of Justice in that particular supplemental. Can you give the committee a breakdown on what that \$500 million will be expended for?

Attorney General ASHCROFT. Included in the \$500 million are resources that relate to the terrorist threats, and retaliatory actions that might be taken against the United States. Counterterrorism funds are requested to reimburse departmental components for extraordinary costs, security enhancements, language translation services, operational field expenses, including overtime and surveillance support.

The Office of Intelligence Policy and Review has been the subject of very serious demands recently and needs—

Senator HOLLINGS. Do you have amounts for each one of those items?

Attorney General ASHCROFT. We do not have a specific amount for each of those items listed in the request that went to the Congress.

Senator HOLLINGS. Can you furnish that for the committee?

Attorney General ASHCROFT. Pardon?

Senator HOLLINGS. Could you furnish the committee with the itemized amounts?

Attorney General ASHCROFT. We will be happy to discuss these needs with the committee. I do not know that I am prepared to provide a detailed list. But as monies would be spent, we would expect to be conferring with the committee about the way in which they are spent. I can read the list of the kinds of things, as I was beginning to do, that the funds would be used for. It goes on to include the United States Marshals Service courthouse security, which had to be elevated as a result of a number of our law enforcement efforts in terrorism.

We would be happy to be very collaborative about this particular set of resources and understand the desire of the Congress to watch carefully the expenditure.

Senator HOLLINGS. Let me yield to—

Senator GREGG. Okay. I have some questions.

On that point, Senator Hollings and I expect, to offer language to the markup which would require that we reintroduce the transfer language and make it applicable to this account, this extra \$500 million, which does not sound to be inconsistent with what you are suggesting you would be willing to do anyway.

Senator Campbell, do you have some questions?

Senator CAMPBELL. Thank you, Mr. Chairman. I have listened very carefully and read the Attorney General's statement, too. And I found it very detailed, a lot of information in there. I was even interested in your analogy concerning the volume of his testimony.

I do not want to know your reaction to that, Mr. A.G.

Attorney General ASHCROFT. Well, could I please—

Senator CAMPBELL. Yes. Why do you not go ahead?

Attorney General ASHCROFT [continuing]. Just personally note that this is April Fool's Day. And I was hoping——

Senator CAMPBELL. Oh, okay. That explains it.

Attorney General ASHCROFT [continuing]. That he would at least follow that remark with the words "April Fool."

#### CIVIL RIGHTS

Senator CAMPBELL. Well, in any event, I just want to tell you, I think you are in a very, very tough job. You are really in uncharted waters. And I want to associate my words with the brief remarks that Senator Stevens said before he left. I know that you are getting some accusations from different civil libertarians about, you know, sort of a punitive agenda or infringing on civil rights. And I do not see that at all.

We are facing a time in the United States that we have never faced before. And from my perspective, I think you are doing just about as good a job as a person can do, fully recognizing that in America anybody gets to accuse anybody of anything. And being at sort of the top of that ladder, you are going to be the recipient of a lot of accusations.

But I noted with interest the number of people you have increased in the Civil Rights Division, 709 employees now, I believe you said. And the number of hate crimes that you have prosecuted, and I did not remember the number of the 9/11-related crimes you have also prosecuted, but I know that is going up considerably, too.

And I think, very frankly, the numbers that you use would do all of us well, because we get questions in our town meetings and we get questions in our different forums about what we are doing when we hear some of these accusations. And I just wanted to commend you and say that you are setting an example, I think, for all of us to try to find that balance between preserving civil liberties and making sure that this is a safer Nation.

I just wanted to put that in the record, Mr. Chairman. Thank you.

#### TERRORIST THREAT

Senator GREGG. Thank you, Senator Campbell.

In regard to the expanded war, Hosni Mubarak made an interesting comment yesterday about the expansion of the terrorist threat that the war is creating from his perspective. Do you see an expansion of terrorist activity within the United States?

Attorney General ASHCROFT. We have expanded our efforts dramatically. I think it is fair to say that there was intelligence that indicated that an elevated and escalated military presence by the United States and escalated activity in Iraq might occasion additional activity by terrorists. And we have acted to do that.

I think in my opening statement, it may have been somewhere in the middle although it was less distinguishable, we have had a very substantial presence in seeking to curtail the activities of anyone who might be associated with terrorism, including the interviews that would help us learn about terrorist activities.

So, frankly, in the United States to date, we have an increased effort by law enforcement and by the Department to make sure that we are not placed at higher risk. And to date, I must thank

the hard work of the FBI and other law enforcement agencies, State and locals, who have worked very diligently with us to make sure that we have not seen specific terrorist acts carried out in the United States.

Senator GREGG. Is there higher activity, however, that you are trying to interdict?

Attorney General ASHCROFT. As I indicated before, the intelligence indicated that there were levels of threats that were high. We believe that—and very frequently the level of threats that you have is related to the level of activity. That is what we are seeking to interdict. We hope that we can continue to do it successfully.

#### TERRORIST THREAT INTEGRATION CENTER

Senator GREGG. Now when you were talking with Senator Hollings about TTIC, I am wondering how this coordinates with all the other activities that we have. We have the Foreign Terrorist Tracking Task Force. Homeland Security has a task force. You have the National Theater Center—the National Threat Center, and the FBI's analytical operations on counterterrorism. Are these all going to be moved out to the TTIC building?

Attorney General ASHCROFT. No, I do not believe they are. The FBI will maintain its own analysis. But it will also contribute its information intelligence on terrorism to the combined Terrorist Threat Integration Center. I think we anticipate that the FBI will continue to make its own independent evaluations but do so with the ability to gain the information that is available to TTIC and contribute the information it has to TTIC.

#### DEPORTED INDIVIDUALS

Senator GREGG. When you deport 436 people, do you keep track of them after you deport them? It is sort of like putting the sharks back in the ocean, is it not?

Attorney General ASHCROFT. We maintain a list of those individuals who have been deported and seek to make sure that they do not come back into the United States. There are times when individuals are deported and, depending upon the nature of the situation, we alert the countries to which they are deported. Frequently individuals in this setting are individuals that we believe the receiving country ought to be aware of and interested in. And we try and make sure that happens.

We have not deported individuals when we have felt that we had a valid basis for pursuing them for violations of the law in the United States. Generally, if persons have violated the law here in the United States in ways that are provable in the Article III Courts—and, you know, we have standards in that respect—for those individuals, we seek to prosecute them.

Senator GREGG. Senator Domenici.

Senator DOMENICI. Thanks very much, Mr. Chairman. I have three or four questions.

It is good to see you—

Senator GREGG. Excuse me, Senator Domenici. Senator Domenici, I apologize. Senator Kohl was here before you. I apologize.

Senator KOHL. I would be pleased to yield. Go ahead, Senator.

Senator DOMENICI. Thank you.

It is good to see you. We are neighbors, but we still do not see each other very much.

Attorney General ASHCROFT. We sure do not.

Senator DOMENICI. It looks like you are doing all right, though. You look healthy.

Attorney General ASHCROFT. Thank you.

Senator DOMENICI. Is everything going all right, as well as possible?

Attorney General ASHCROFT. We are grateful for the successes we have. And we are going to keep working as hard as we can.

#### ALIEN ASSISTANCE PROGRAM

Senator DOMENICI. Well, I have a few questions, I think three or four. My first one has to do with the Alien Assistance Program, SCAAP, and the Border Prosecutors Initiative. The President's budget eliminates funding for the State Criminal Alien Assistance Program, as it did last year, a \$565 million reduction from 2002. I am concerned about the impact that cutting this program is going to have on struggling counties in States like mine, as they shoulder the significant cost burden created by illegal immigration, which obviously is a Federal responsibility.

I am also concerned that this cost burden may damage localities' abilities to address other homeland security needs that they may have. Border counties are growing faster than any other region in the Nation. At the same time, they have a lower per capita income, and a higher percentage of people below the poverty level than any other region, making them the least able to foot the cost of services for criminal illegal aliens.

In this time of heightened security in the border regions, I think it is imperative to ensure the effective processing of criminal illegal aliens, including incarceration by local law enforcement agencies. So in the past years, I have fought to increase SCAAP resources to relieve some of these costs for local communities for detaining these aliens.

The State of New Mexico received a small amount, but important, \$2.3 million in 2002 for funding this program. A recent New Mexico border county coalition study detailing the costs associated with processing criminal illegal aliens estimates that New Mexico's three counties will spend an estimated \$5 million annually on criminal justice, law enforcement, and emergency medical care for illegal aliens. This is a small amount in your very large budget, but it is very important for these rural impoverished counties.

So in view of this tremendous burden on border criminal justice systems, how does the Department of Justice propose to meet the costs of the Federal responsibilities that are currently shouldered by States, if not through this program?

Attorney General ASHCROFT. Well, first, Senator, let me be the first to recognize that the incarceration of individuals who come into the United States and commit crimes falls inordinately heavily on those States that are on the border. And the States of Texas, New Mexico, Arizona, California, Florida, Illinois as well, have relied heavily on this program, which is designed to undertake some of the costs of incarcerating individuals who commit crimes after coming to the United States illegally, and therefore are detained.

The administration has sought to improve our performance at the borders, stop people from coming here illegally, and has focused its resources on doing that, so as to diminish the need to have people who come here illegally incarcerated because they commit crimes. We want to stop them before they get here. I think it is debatable as to how successful we are in all of that. We have a Border Assistance Initiative that related to the Southwest border that we are requesting that relates to prosecution. But I understand that if you prosecute, you need a place to put individuals, and that does not address the detention of those individuals.

Ideally, we need to do a better job and continue to improve our performance at preventing those individuals from coming, so that later on we do not have to seek to remediate the problem by detaining them in our prison systems at great expense.

As you mentioned, in the 2003 omnibus appropriation bill, Congress provided \$250 million for the State Criminal Alien Assistance Program (SCAAP). The administration is seeking to address those issues by improving our border performance and providing the other assistance in the Border Initiative Program.

Senator DOMENICI. Well, I bring it up because I think in the preparation of the budget it is so easy to eliminate and forget about these programs because of the bigger ones. But actually, when you have a border State, and especially one which is a broad area, not very much population in just a few communities, this is a tough area. A couple million dollars is pretty tough for those systems to try to accommodate. We will try to see what we can do in the process to be helpful.

#### STATE JUSTICE INSTITUTE

There is an institute called the State Justice Institute. Are you aware of that within the Department, the State Justice Institute? It has \$6 million in the past—

Senator GREGG. I believe that is independent of the Justice Department.

Attorney General ASHCROFT. I am not aware of it. I think it may be in the court system.

Senator DOMENICI. It is not in their budget?

Senator GREGG. No, it is not. It is an independent agency.

#### AMERICA'S LAW ENFORCEMENT AND MENTAL HEALTH PROJECT ACT

Senator DOMENICI. I am sorry.

Let me leave you a question with reference to the kind of court system that is evolving called the mental health courts. I am very aware of them, and had something to do with starting them. They are beginning to mature. I personally believe that they can have a great deal of positive impact on alleviating overcrowding and creating greater judicial economy within our court systems.

Are you aware of any steps that the DOJ is taking to distribute the \$3 million to implement America's Law Enforcement and Mental Health Project Act?

Attorney General ASHCROFT. We, in this fiscal year, have a \$4 million appropriation for distribution to assist about 23 different mental health courts around the country. As you have indicated, this is something sort of on the cutting edge, new.

Senator DOMENICI. Yes.

Attorney General ASHCROFT. In addition to working with them, we are trying to develop a set of guidelines, procedures, develop the information that would be valuable to other groups that might seek to start such courts. The grant program is underway. The awards are in the process of being made. There are a couple dozen that appear to be most likely to be the beneficiaries of the \$4 million of grant money.

Senator DOMENICI. Well, I thank you for being empathetic toward them. Some people seem to think they are a bother. But essentially, when you look around the country and find that so many individuals occupying prison space are actually mentally ill. They are put there either in county courts or others because of their mental illness, and nobody knows what else to do, so they throw them in jail for a while. It does not really work. Setting these courts up is a very good intermediary process to do a better job in that regard.

Attorney General ASHCROFT. Well, Senator, last year you asked me at this hearing if I would get a briefing on these so that I could become aware——

Senator DOMENICI. That is right.

Attorney General ASHCROFT [continuing]. Of the value. And I did get that briefing. And I have asked that the Department work carefully to make sure that the grant resources are properly made available.

#### RADIATION EXPOSURE COMPENSATION PROGRAM

Senator DOMENICI. My last observations and a few questions, which I will submit for the record, have to do with the Radiation Exposure Compensation Program. Now that program has been a difficult one. We have gone back and forth as to how it will be funded. But eventually we made it a mandatory program and put \$172 million in law. The Department has \$172 million to pay claims in 2002 and \$143 million for claims in 2003.

I would like you to submit for the record a status report on the payment of these claims. How many claims has the Department approved, and how much has been spent, and what is the average amount of the claims approved? This has become over time a program that got bounced back and forth. It became somewhat scandalous when people with claims could not get the money because they were given IOUs, because we did not have the appropriated funds.

Between the chairman and others, we have attempted to fund it properly. It has been a terribly difficult program, not only for me as one who helped start it, but for the chairman. I have about five questions that will get this on the record so everybody will know exactly where we are. I would appreciate it if you would answer them as early as the chairman expects the responses to the committee.

#### FEDERAL JUDGES—NEW MEXICO

And my last question has to do with New Mexico judges. The latest reports on the need for Federal judges would indicate that the area of the judiciary, Federal judiciary, that is most in need are

those courts along the borders of the United States. And my State, while it is a small one, continues to be one that needs judges because of the enormous criminal caseload. I believe there is an indication in the latest study that New Mexico needs three additional judges.

Are you aware of the last report? And are you going to do something to recommend that there be compliance and an effort to fill the need, as recommended, with reference to the Federal judges?

Attorney General ASHCROFT. Well, Senator, last year in the reauthorization of the Department, there were judges created, additional judges. The Department supported that. And the Department supports the additional judges' specific numbers in a particular report. Regional allocations are not something that I am focused on at this time. I have been made aware of the need, and I think that it is a need that this administration understands and is willing to address.

Senator DOMENICI. Well, I will ask you for some specific answers as to what would help alleviate this, if you would answer those, also. We need some indication from you about them so we can pursue it with a little more vigor to get the positions filled. Thank you.

Thank you, Mr. Chairman.

Senator GREGG. Okay. Senator Kohl. I apologize, Senator Kohl, for the mixup in the order.

Senator KOHL. Good morning.

Attorney General ASHCROFT. Good morning.

#### CHEMICAL WEAPONS

Senator KOHL. Mr. Attorney General, within the past month the FBI has warned law enforcement agencies nationwide that terrorists could build a simple but very deadly chemical weapon out of readily available materials. Specifically, the FBI cited hydrogen cyanide, or chlorine gas, as easy to make chemical weapons created by combining liquid and solid materials. In the case of hydrogen cyanide, which was once used as a war gas, one need only to combine cyanide and salt—cyanide salt and acid. Pardon me.

What is so disturbing is how easy it is to obtain cyanide. It is readily available at chemical weapon supply houses, from mail order catalogs, or even via the Internet. Even more disturbing is evidence that terrorists could use cyanide in a future terrorist attack.

Has the Department of Justice reviewed the potential use of these poisons as a terror weapon? Do you think that Congress needs to consider regulating the sale of toxic substances like cyanide through a permit system to ensure that it does not fall into the wrong hands?

Attorney General ASHCROFT. Well, first let me say, Senator, that this is a matter of real concern. I know that this is a matter that the terrorist community is aware of, that among the kinds of evil chemistry and other threats that they deal in, this is among those kinds of circumstances.

And I would be very happy to work with individuals in the Senate, and in the House for that matter, if they were to choose to seek to address this problem, just as we have been very pleased to work with you as it related to the Bureau of Alcohol, Tobacco, Fire-

arms and Explosives (ATF). The new explosives regulatory format, which is being implemented—and I must commend your staff for working with the Justice Department closely to iron out the difficulties there. The ATF has become a part of the Department of Justice. This new regulating responsibility for explosives is something they are working together on and, I think, productively.

We would be happy to confer in regard to efforts in the Congress that might relate to improving our safety and the security of the country when threatened by evil chemistry from terrorists or others.

#### TOBACCO SMUGGLING/TERRORIST FINANCING

Senator KOHL. Thank you. I would like to work with you on that. Mr. Attorney General, recent ATF investigations reveal that tobacco smugglers are using the profits they make from their illegal operations in the United States to fund terrorist groups, like Hezbollah, among others. Furthermore, the GAO estimates that State governments are losing billions of dollars in tax revenue because of cigarette smuggling and Internet sales of cigarettes. This is a serious problem that is not getting the attention it deserves as a funding source for terrorism.

I am considering introducing legislation to increase the penalties associated with tobacco smuggling. Do you agree that this is a serious terrorism-related concern? And will you pledge to work with me and my staff on this legislation?

Attorney General ASHCROFT. I certainly do agree that it is a serious terrorist concern. Last fall, in Charlotte, North Carolina, the Joint Terrorism Task Force of the FBI, together with the ATF, dismantled the terrorist financial support cell which operated there, which was funding terrorism, according to the allegations, out of the smuggled cigarettes which are bought in a low tax jurisdiction, transported to a high tax jurisdiction, and sold. The money which would have otherwise been available as tax revenue in the higher tax jurisdiction is diverted either into criminal activity or terrorist activity.

And in the case last fall, 26 individuals were charged with various crimes, including racketeering, money laundering, immigration fraud, credit card fraud, marriage fraud, visa fraud, bribery, and providing materials to support terrorist organizations. Now that is not a litany of good things.

So we are concerned about the problem and would be happy to work with you in regard to legislation that might help remediate the capacity of criminals generally, and terrorists as well, to fund their activities that threaten the security of our people through the use of these kinds of resources in smuggling.

#### LOCAL LAW ENFORCEMENT FUNDING

Senator KOHL. Thank you. I would like to ask a question about local law enforcement funding. This budget slashes funding for State and local law enforcement. For example, the following programs are either drastically reduced or just plain eliminated. The Burne Memorial Grant Program, the Local Law Enforcement Block Grant Program, the Juvenile Accountability Incentive Block Grant Program, and State Criminal Alien Assistance Program, the COPS

Universal Hiring Program, COPS and School Program, and the COPS Technology Program. Combined, these important programs delivered more than \$2.9 billion to police departments across the country last year.

The fiscal year 2004 DOJ proposal rolls most of these programs into a \$559 million Justice Assistant Grant Program. And only the COPS Technology Program has survived, although even that program had a reduced funding level. This is a startling cutback of law enforcement assistance of more than \$2 billion.

What does not make sense about this huge reduction is that we are asking State and local law enforcement, as you know, to devote even more time and resources in the fight against terrorism. Many of our law enforcement agencies' budgets are dependent on Federal aid, as you well know. And if we abandon them, then they will have a very tough time doing what we are asking them to do with even less funding. It does not seem to make too much sense. What are your comments?

Attorney General ASHCROFT. Well, first of all, if you combine the supplemental request and the request for this appropriation year, it is clear that the money that goes to local law enforcement through the Justice Department and through the Department of Homeland Security is far more than it has ever been before; so while the justice portion of the resources may not be what it once was, the development of new resources through the Department of Homeland Security provides a much greater resource. For example, the President's 2004 budget request, plus the supplemental transmitted last week, totals \$8.5 billion, which is a very, very substantial sum of money.

Now as it relates to the COPS Hiring Program and a number of the other programs, some of them are discontinued because this administration believes that they have fulfilled their purpose. Others, like the resources available under the Justice Assistance Program, which is right at \$600 million, are not earmarked for specific programs to provide for greater flexibility on the part of law enforcement to meet the needs that they have. This administration believes flexibility is more valuable.

I understand that there is a difference between the administration and the Congress, as it relates to earmarks and that is probably going to be something that there is continuing discussion on. But overall, when you put together the supplemental and the budget request, it totals far in excess of anything we have ever done to assist State and local first responders and law enforcement personnel. And we believe that it should help them be the kind of excellent partners they have turned out to be.

If I could just take this moment again to commend our colleagues in State and law enforcement. They have risen to the challenge of defending America with the kind of team work that is very, very gratifying.

#### TERRORISM THREAT WARNING SYSTEM

Senator KOHL. I appreciate your comment. And I am sure you are aware of the many complaints across the country in terms of our asking them to do more and their contention that we are, in

fact, providing fewer dollars while at the same time asking them to do more.

I would like to ask a question about the orange terror threat level alert. For the second time in the last 2 months, the country is again at the orange terror threat level. Last month we talked about these warnings. And I asked whether they could be reorganized or regionalized or made more specific. And you gave a very thoughtful answer at that time.

That said, the threat level was raised when the war began in Iraq. Was the war the rationale for raising the threat level, or had there been particular threats to certain cities or industries? My concern is that when we put the entire Nation at a heightened sense of alert for extended periods of time, then vigilance will fade. And we will become perhaps even numb to the orange alert.

Is there any better way to target this alert system so that local law enforcement agencies or particular States and localities that really need to be on the lookout are alerted, and other places in our country which are much less at risk are not put at the same high level of alert?

Attorney General ASHCROFT. Senator, when we last spoke about this, a migration was underway, which has been underway for some months now, of moving that from the Department of Justice, in terms of primary responsibility, to the Department of Homeland Security. I am pleased to make a response.

I think when we talked last, we talked about understanding that, I think as everyone can, there are many areas in the country that are not as likely as other areas to be the subject of major attacks. That is one of the reasons why the alert system is an advisory system that does not mandate specific activities on the part of people, but suggest things that might be done based on the kinds of assets, infrastructure, or otherwise that exist there.

At that time, I did comment as well, and I thank you for reflecting on my comments then. We have learned, however, that preparations for terrorist attacks tend to take place in a wide variety of settings that are not likely to be the ultimate attack locations, or at least were not on September 11. We saw terrorist preparations all across America, in towns small and large, from Portland, Maine, to Oklahoma City, I believe it was, to the west coast, across the Southwest, Minneapolis, a wide variety of places.

So one of the things we want to ask Americans to do is not just to be alert to the fact that there might be an attack there, but be alert to the kinds of circumstances that might be preparatory for an attack or individuals who might be involved in the developing of the skills or assets necessary to launch an attack.

I have said all this now to say that the Department of Homeland Security is now the final arbiter of whether we change. I would just add this one final remark, which I believe is in direct answer to your question. I know of no instance when the risk, when the level was raised that it was not raised in response to an understanding of the risk being higher. I know of no instance when the level was lowered when it was not lowered in response to the fact that we believed that we had digested some of the risk, and we could go back to the lower level.

So that threat warning system is a risk-related system. It is designed to reduce risk and that is sort of strange. As you know, weather reporting is not designed to reduce or change the weather. But this system is designed to actually reduce the risk because if we get on a higher alert, it is very likely that we can, by being more active, reduce the likelihood that we will be hit. And that is an anomaly, but it is the truth.

I hope that when we elevate our sensitivity and we take extra steps, we displace and disrupt terrorism. So it is risk-driven. It is information-driven, not aspiration-driven. We do not put the risk where we want it to be. We take a look at the information, and we make the determination. I am kind of reporting historically now, since this is not my final call anymore, but that is the way I believe it is run.

And when we do it properly, we report a risk, we diminish the risk by reporting it and enlisting the American people in working to make sure the risk never materializes.

#### ROCKET LAUNCHERS AND AIRLINE SECURITY

Senator KOHL. All right. Thank you. One last question on rocket launchers and airline security: Recent news reports have highlighted the danger that shoulder-mounted rocket launchers pose to commercial aircraft. In fact, there was an attempted rocket attack on an Israeli airliner in Kenya last November. Fortunately, it was not successful. News reports suggest that Federal authorities are concerned about the issue with regard to airports, or particular airports, around our country.

Given that these weapons are widely available, cheap, and easy to make, should not the American flying public be justifiably concerned that what happened in Kenya could happen here? Are you doing anything to assess this risk? Do you have any activities that you have undertaken to help prevent such an attack here in this country?

Attorney General ASHCROFT. This is a matter of concern. I believe that the airline industry provides secure air traffic in the United States. My family and I are in the planes on a regular basis. My wife will be flying today.

So we believe that this is a matter that is appropriate for our attention, and it is a matter that we consider and are carefully assessing.

#### RISK OF INTERNATIONAL TERRORISM IN THE UNITED STATES

Senator KOHL. One last question, if I might ask: Was 9/11 the watershed moment in terms of all the terrorism that we are trying to prevent in this country? Was the risk as great before 9/11, but we were not aware of it? I guess many of my constituents back home are trying to understand and figure out why it is today we are so, so concerned, justifiably, about terrorism, doing so much and spending so much to prevent terrorism.

What happened before 9/11, or were we fortunate, you know, and perhaps somewhat naive, and we are much more sophisticated now? In your mind, this is just a judgment, but—

Attorney General ASHCROFT. Well, frankly, Senator, I think 9/11 was a watershed event. I think if the water did anything, it washed

our eyes so that we could see that America was not as isolated as we had once thought and hoped. We had relied on oceans to defend us and to make us different.

Terrorism had been significant around the world, but it had only really reached America in one previous setting where it was an American terrorist who had killed almost 170 people in Oklahoma City, a very serious event. But we had not seen terrorism as international. We had seen terrorism in other settings, in other countries, but the international terrorists had never reached into America.

And while we were concerned about things that were happening overseas and happening to our assets overseas, no relation, but the U.S.S. *Cole* bombing was one of those things. The bombings of our Embassies were things like that, but they were overseas.

We were introduced to the idea of international terrorism actually having very serious impacts here, and I do not want to disregard the fact that there was the attempt on the World Trade Center in the early 1990s, which was a bombing attempt, and that should be understood. But we saw it entirely differently after 9/11, and we should. And if I could do it over again, I would. If I could relive the 1990s, I would spend some of these resources in the 1990s to see if we could have prevented what happened in 2001.

It is clear from what we know, having survived 9/11, and what we have learned in the intelligence community, that there are still very serious individuals with capacity, who would continue to hurt the United States, at a level as great as or greater than the injury to the United States on 9/11. We take that very seriously and are addressing those threats as intensely as we possibly can, respecting the framework of freedom which we have the responsibility to defend, and without which we would not care about defense. The only thing worth securing is liberty, and we are not going to trample on liberty in order to develop security.

Senator KOHL. Thank you. Thank you, Mr. Attorney General, Senator Gregg.

#### OPERATION TOP OFF

Senator GREGG. That was an interesting question, Senator Kohl. I would just note that this committee, prior to 9/11, did a lot in the area of terrorism and had a lot of trouble getting the attention of the community out there on that issue. We held two operations, called Operation Top Off, which was a chemical attack and a major bomb attack. One was held in Denver, and one was held in Portsmouth, New Hampshire. They were held over the strongest objection of the community out there that was supposed to be doing the exercises. And finally this community had to actually force those communities to pursue that.

In addition, we held a joint hearing with this committee, the Defense Committee, the Intelligence Committee, where we asked all the agencies to come up and testify before us. The Attorney General was kind enough to do that prior to 9/11. And what was highlighted there was once again our lack of readiness.

I think our culture has a lot of trouble dealing with issues until we have an event. And that is just the nature of the American culture, I am afraid. We have had the event, and we are certainly ag-

gressively dealing with it. And the Attorney General, I think, is doing a superb job, as is the FBI, to try to deal with it.

Senator Hollings.

Senator HOLLINGS. Senator Gregg is too modest. Actually he, long before any kind of hearing or finding by Hart and Rudman, this subcommittee, under his leadership, had hearings on terrorism. He instituted a training course. Several hundred were lost at 9/11 that had been trained. And 80,000 at that time, I will never forget it, had already been trained in terrorism work that was an initiative by Senator Judd Gregg. So we have been working on it.

On your successes, and I speak only from experience having served with the Hoover Commission some 50 years ago, investigating the CIA and the FBI, amongst other intelligence agencies, I was inculcated by Alan Dulles and J. Edgar Hoover on this need to know discipline. And yes, everybody has to be proud of the successes. But in your game in antiterrorism and otherwise, a lot of them should not be even announced.

Specifically, I will never forget when we got that hit in Yemen, that car full of terrorists, the FBI participated in leads for that particular hit. The Yemenites covered for us. They said there must have been explosives in the car. They do not know what happened. No, no. Big mouth, "Oh, no. We have a drone. We run them down with a drone."

We got Mohammed in Pakistan. We followed him for 6 months. We could not keep our mouths shut for 6 hours so the FBI could follow the leads we got from him.

And on top of it, we bragged about, "Oh, we got the computer, we got this, we got that." Lies, so you got nothing. You just got the fellow, but he just did not give you any information. But use the leads to enforce law.

I find too much braggadocio. "You are either with us or against us here. Now is the time. The time has run out. You are irrelevant." Now, ha-ha, we are running around saying, "You are very relevant, and we need your help." I mean, this crowd has been bragging too much.

#### STATE AND LOCAL FUNDING

Other than that, let us get back to Senator Kohl's question because, General, you said that none of this was possible without the funding. Yes, the Office of Domestic Preparedness was transferred to Home Security. And I am on that subcommittee. But that did not supplant the \$500 million of the Burne Formula Grants. That does not supplant the \$397.4 million that you cut out of local law enforcement block grants. You eliminated COPS Hiring Programs, the COPS interoperability, the \$139.9 million in the COPS Law Enforcement Technology Program. Just when crime is on the way up, you cut out the money and give us a Mitch Daniel put-off, that "Oh, well, we have a lot more money in the other budget." We are here on all the budgets.

And you had the successes. And now you are cutting it out. Well, in the DEA, that is under you, you changed the FBI to 567 FBI agents that were working on drug enforcement that are now working on terrorism. So what happens to the DEA? That was like the hearing we just had last Thursday. You had both Governor Ridge

and Secretary Rumsfeld up here, and they are fighting over the same people. These first responders, policemen and firemen and the National Guard, and all my crowd had cleared out. They are out in the Persian Gulf now and in Iraq. And we look around, and we find out that we just do not have enough.

I told Secretary Rumsfeld rather than a money supplemental, he needed a manpower supplemental. You have 12 of these peace-keeping. You have a war in Iraq. You have a war in Afghanistan. And you have a terrorism war here. And you are still trying to do it. And everybody is fighting over the same manpower. And we cannot afford to cut these particular grants, cops hiring programs and different other things of that kind, the DEA. A war in Iraq is not going to be shortchanged money. You cannot shortchange the terrorism war. We need way more cops. We need way more effort and everything else.

Last week, when they had that other alert that you folks put out, the Governor of South Carolina had to take and put parole officers around the Port of Charleston. He just ran out of personnel. And that is the same with the airports and everything else.

I just want you to get a grasp of this thing, because this is a grasp that you can, Senator Kohl, Chairman Gregg, all of us have. I mean, the buck stops here. And we are not going to shortchange Iraq. You do not have to worry about the money for Iraq. We would be falling over each other. Support the troops. Support the troops. We are running around with the flag. Of course, we are not going to pay for it. We are going to borrow for the troops.

This is some crowd. But then to go even further and cut out the working programs when crime is on the increase and everything else of that kind, I just want to register that observation.

#### TRILOGY

Let me ask about Trilogy. Where is that? What is the final price tag? What is the status of it, you know? So everybody in the FBI is talking to everybody. We had the Arizona agent, that somehow it fell between the cracks. The Minnesota young lady who had to travel all the way, and they then would not listen to her, and everything else. So we gave Mueller, Director Mueller, millions and millions of dollars. This committee had a program transfer November a year ago, a year and a half ago now. So what is the program? Do we have it? Is it working? Do you need more money? We are going to get it done.

Attorney General ASHCROFT. We are going to get Trilogy done. It was a project started several years ago, before 9/11. It has been upgraded on the basis of several things, including 9/11. The first big deadline was to get all the computers talking to each other. That was to take place by March 31, yesterday. I am happy to report to you that we came in 3 days early on that. We met the deadline. By March 28 Trilogy was operational.

The Trilogy Wide Area Network connects computers throughout the FBI, except for a couple crucial computers that were involved in specific matters that were ongoing and could not be disrupted in order to make the switch-over at this time.

The next big deadline, which is scheduled for completion, is the upgrade of software for desktop computers by November 2003. And by the end of this year, December—

Senator HOLLINGS. Do you have the money for that, for the November time line?

Attorney General ASHCROFT. The money is in the request. The original request was short \$137.9 million. It was short for two reasons: 20 percent of that, about \$27 million, close to \$30 million, was underestimated. The other 80 percent, \$111 million, has gone up as a result of the *Hanssen* case. We learned we did not have the security in our computer system we needed, if you remember the case.

Senator HOLLINGS. Oh, yes.

Attorney General ASHCROFT. We cannot forget it, and we should not forget it.

In the *McVeigh* case, you will remember, that was the first execution the Federal Government had undertaken in about 25 years. We found out that we needed, according to the Inspector General, additional capacity to track evidence and the like in the computer system. Trilogy was upgraded as a result of 9/11.

All of these things are accommodated in the budget. And we expect to have the virtual case file capacity in place by December of 2003. The virtual case file addresses the idea that you raised in your question about whether people in one part of the organization can know about information that is developed in another part of the organization. As a case oriented organization, when it was a paper system, the paper file of a case was where the case was prosecuted. The rest of the organization did not necessarily know about the facts and circumstances in that setting.

The electronic file, of course, can be transferred and replicated without expense, once you have an electronic system. That is known as the Virtual Case File Program of the Trilogy effort. That is on schedule to be implemented by December of 2003 so we will no longer have disparities between what is known about a circumstance in one part of the country and another part of the country.

When case information is available on a broader basis, the information which comes out of these cases and investigations is also intelligence. It has intelligence value. And it appropriately can be fed into TTIC, so that the Terrorist Threat Integration Center, can be aware of that as well.

The work in this respect is very important. We just met the March 31 deadline. We are on schedule to meet the other deadlines. And the resources are in the budget to achieve that, according to my best information from the Department, which is making major progress in this respect.

[The information follows:]

#### CLARIFICATION OF FISCAL YEAR 2004 TRILOGY REQUEST AND REPROGRAMMING

The fiscal year 2004 President's Budget includes \$82.2 million and 3 positions for Information Technology (IT) Projects, including funds to continue the Trilogy initiative and other critical IT projects. Funds include \$18.5 million for recurring hardware and software upgrades and replacement over the next several years to preserve the gains made through the Trilogy program and avoid gradual erosion of the FBI's upgraded technology. These funds also include \$61.7 million for costs associ-

ated with completing the communications circuit installation; hardware and software acquisition and maintenance; and contractor support for the Enterprise Operations Center. Finally, \$2 million of the fiscal year 2004 President's Budget is to upgrade the Top Secret/Sensitive Compartmented Information Local Area Network at FBI Headquarters.

In addition, the Department of Justice transmitted a reprogramming request to Congress on May 21, 2003, proposing to redirect \$137.9 million in existing resources to the Trilogy program. This proposal represents an increased level of funding to complete Trilogy, from a total project cost of \$457.8 million to \$595.7 million. Additional funding is needed to ensure Trilogy addresses all identified requirements related to the network/infrastructure and applications components, as well as program management support and component integration issues. The reprogramming reflects the Department's response to changing requirements resulting from events such as the World Trade Center and Pentagon attacks, as well as the *Hanssen* and *McVeigh* cases, most notably expanding the scope and adding risk mitigation to ensure success of the Trilogy project.

#### ADDITIONAL COMMITTEE QUESTIONS

Senator HOLLINGS. Great.

Thank you, Mr. Chairman. I will submit some other questions.

Senator GREGG. Mr. Attorney General, we have a variety of questions, especially dealing with technical aspects of the budget and dealing with capital costs specifically and personnel, that we will submit to you in writing and would appreciate your staff getting back to us with some answers, if they have the opportunity.

And we appreciate you taking the time to come and thank you for your courtesy.

Attorney General ASHCROFT. We will make the answers to the questions a matter of priority. And thank you very much for your help.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

#### QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

##### SCAAP AND SOUTHWEST BORDER

*Question.* Mr. Attorney General, as you are aware, the President's Budget completely eliminates funding for the State Criminal Alien Assistance Program, as it did last year, a \$565 million reduction from fiscal year 2002. I am highly concerned about the impact cutting this program would have on many struggling counties in New Mexico, as they shoulder the significant cost burden created by illegal immigration, a federal responsibility. I am also concerned that this unbearable cost burden may damage localities' ability to address other homeland security needs.

Border counties are growing faster than any other region in the nation. At the same time, they have a lower per capita income and a higher percentage of people below the federal poverty level than any other region, making them the least able to foot the cost of services for criminal illegal aliens. In this time of heightened security in our border regions, it is imperative to ensure the effective processing of criminal illegal aliens, including incarceration by local law enforcement agencies.

In past years, I have fought to increase SCAAP resources to relieve the significant costs imposed on local communities by the costs of detaining criminal aliens. The state of New Mexico received \$2.3 million in fiscal year 2002 funding through this program. However, a recent U.S.-Mexico Border Counties Coalition study detailing costs associated with processing criminal illegal aliens estimates that New Mexico's three border counties alone spend an estimated \$5.0 million annually on criminal justice, law enforcement, and emergency medical care for illegal immigrants.

In view of the tremendous burden on border criminal justice systems in the border region, how does the Department of Justice propose to meet the costs of the federal responsibilities currently shouldered by states and localities, if not through SCAAP?

*Answer.* The State Criminal Alien Assistance Program (SCAAP) is a payment program designed to provide federal assistance to states and localities that incur costs for incarcerating certain criminal aliens held as a result of state convictions. In fis-

cal year 2004, the Office of Justice Programs (OJP) requests no funding for SCAAP for the following reasons:

- SCAAP does not advance the core mission of the Department of Justice (DOJ). Since 1995, approximately \$3.45 billion has been distributed to eligible state and local jurisdictions. By statute, SCAAP funds are unrestricted, and recipient jurisdictions may use these funds for any lawful state or local purpose. Expenditures are not limited to correctional or even criminal justice purposes. Thus, in contrast to other programs administered by the Department, funds awarded under SCAAP do not necessarily support efforts to develop the nation's capacity to prevent and control crime, administer justice, or assist crime victims. Further, funds awarded are not linked to overall performance or evaluation data as is now required for other DOJ programs.
- Redirecting resources from SCAAP will provide funding for Congressional and Administration initiatives. These initiatives include increasing resources available to stem the tide of illegal immigration as well as the funding of programs such as OJP's Southwest Border Initiative (SWBI), a \$50 million program that provides targeted assistance to southwestern state and local jurisdictions, including those in New Mexico, that prosecute referred Federal drug cases. The Administration has already begun to prioritize and move resources among programs that are competing for scarce federal dollars in order to ultimately fund those programs that provide the most cost-effective and direct support to jurisdictions for addressing pressing national crime problems.
- Finally, since the Bureau of Justice Assistance (BJA) began administering SCAAP in fiscal year 1995, there has been only marginal improvement in the technical ability of the Immigration and Naturalization Service to positively identify those offenders being held in the nation's prisons and jails who are undocumented aliens. Yet, the number of jurisdictions claiming they are housing undocumented aliens has increased to more than 800 applicants as of the fiscal year 2003 cycle. The vast majority of these applicants will receive some funds, and many of these awards will be quite small, some falling below \$1,000. Without better individual verification of offender identity and a clearer link between payments and relieving the burden of detention costs, this trend toward more jurisdictions sharing each new appropriation dilutes the impact of these program funds and fails to address the purpose for which this program was initiated. That purpose was to help relieve an unfair financial burden on a limited number of states and localities that were seriously inundated with undocumented alien offenders who should have been prevented from crossing the nation's borders.

In fiscal year 2002, funds distributed to New Mexico under the SCAAP program totaled approximately \$2.33 million of the total of \$540 million awarded. Only 14 of New Mexico's 33 counties received awards, which ranged from \$402 to \$250,610; the state's award was approximately \$1.77 million. In contrast, more than \$1.5 million had been requested under SWBI by New Mexico jurisdictions through June 2003. More funding is available, and there will be another funding opportunity to cover costs incurred in the second half of fiscal year 2003 later this year. Thus, while the scope and coverage of these two programs are not identical and not all cases for which payments will be provided will involve illegal aliens, both the offender populations involved and the goals of the program are very similar. And, more importantly, for the state of New Mexico specifically, SWBI will generate proportionally more funding that will go to directly reimburse local jurisdictions affected by illegal crime than will SCAAP.

#### NEED FOR ADDITIONAL PERMANENT JUDGESHIPS IN NEW MEXICO

*Question.* Attorney General Ashcroft, the Chief Justice of the United States Supreme Court, William H. Rehnquist, and the Chief Circuit Judge for the Tenth Circuit, Deanell Reece Tacha, have described the Southwest Border states as being in crisis. This description is based upon the massive number of cases that each federal judge currently has on his or her docket. Chief Circuit Judge Tacha expressed her concern about the District of New Mexico in particular. The District of New Mexico ranks fifth in the nation in weighted filings per judgeship. Two weeks ago the Judicial Conference of the United States asked Congress for 57 new Judgeships, including 3 more for the District of New Mexico (only Northern California, Eastern California, Southern Florida, and Eastern New York have need for a greater number of judgeships).

Based upon the experiences of the U.S. Attorney practicing in this district, would you agree that the judicial system in the district of New Mexico is in a state of cri-

sis? What would help to alleviate the problems that are making the administration of justice so difficult?

Answer. The District of New Mexico has seen a marked increase in criminal case filings over the last ten years. In fiscal year 1992, 602 criminal cases were filed against 905 defendants. In contrast, during fiscal year 2002, 2,232 criminal cases were filed against 2,570 defendants. Clearly the heavy workload in this area impacts the federal judiciary. Increased staffing combined with more efficient case processing procedures has been highly beneficial to the United States Attorneys along the Southwest Border. Further refinements of the court's case processing procedures might have similar benefits for the courts.

The Las Cruces United States Attorney's Branch Office has an area of responsibility that includes 15 counties comprising more than 60,000 square miles including a 180-mile border with Mexico. The 180-mile Mexico/New Mexico border is highly porous, remote, and unpopulated. The increase in criminal immigration cases has been particularly striking. In fiscal year 1992, 76 cases were filed involving 92 defendants. In fiscal year 2002, 1,339 cases were filed against 1,401 defendants.

Virtually 100 percent of the immigration related offenses prosecuted in Las Cruces are generated by the U.S. Border Patrol, now a part of the Department of Homeland Security. El Paso Sector Border Patrol encompasses West Texas and all of New Mexico. In 1993, El Paso Sector inaugurated an operation called "Hold the Line." The preliminary concept of "Hold the Line" was to move undocumented immigrant traffic to areas that were less populated and would be more manageable. This endeavor appears to be continuing successfully.

Undocumented immigrant apprehensions dropped dramatically (72 percent) in El Paso at the initiation of "Hold the Line" in fiscal year 1994. Apprehensions then increased for the next two fiscal years until the implementation of the Illegal Immigration Reform and Immigrant Responsibilities Act (IIRIRA) on April 1, 1997.

Though the number of illegal alien apprehensions dramatically declined after enactment of the IIRIRA, the "Hold the Line" stations that bordered the Rio Grande River continued to apprehend the largest number of illegal aliens. As time went on, "Hold the Line" stations' apprehensions declined and apprehensions in New Mexico began to increase. In 1998, Border Patrol stations in the New Mexico sector began to apprehend more aliens than the El Paso sector stations in Texas.

The Las Cruces Office expects this trend to continue. As the enforcement presence remains highly visible in and around central El Paso and as the Border Patrol's presence continues to escalate in southern Arizona. The number of aliens apprehended in southern New Mexico will continue to skyrocket.

Another factor in the continued rise is prosecution cases for the State of New Mexico is the IDENT system at all the New Mexico Stations and the Integrated Automated Fingerprint Identification System (IAFIS) in Deming, New Mexico. These systems identify fugitive aliens and aliens who are prior deportees and aggravated felons. When the prior deportees and aggravated felons are located, we are required by law to federally prosecute these aliens. In the near future the IAFIS system will be deployed in all the Border Patrol Stations in New Mexico and will again increase the prosecution load for the USAO in New Mexico.

To put this into context, the El Paso Border Patrol Sector Prosecutions Program has seen dramatic increases in New Mexico cases prosecuted. In fiscal year 1999 the average number of cases prosecuted per month for New Mexico was 53. Currently for fiscal year 2003 the average number of cases prosecuted per month is 131. That is a 147 percent increase in four years.

There are currently no resident district judges in Las Cruces, even though more than 70 percent of the criminal cases in the District of New Mexico are prosecuted here. The active district judges, augmented by senior district and circuit judges as well as an array of visiting judges, take turns coming to Las Cruces. A given case can easily pass to three or four district judges prior to trial. The assignment of two or more district judges to Las Cruces would help our ability to appropriately service our caseload.

#### RADIATION EXPOSURE COMPENSATION PROGRAM

*Question.* Attorney General Ashcroft, I want to congratulate the Department of Justice for its hard work to ensure that claimants under the Radiation Exposure Compensation Act are receiving claims payments instead of IOUs as was the case a couple of years ago. I commend the Department for aggressively implementing language I sponsored in the fiscal year 2001 Supplemental Appropriations bill that provided "such sums as may be necessary" to pay RECA claims approved by September 30, 2001, to compensate those who sustained injury as a result of the United

States open-air nuclear testing and uranium mining activities in the 1950's through 1970's.

Will you please give the Subcommittee a status report on this program?

Answer. The July 2000 Amendments to the Radiation Exposure Compensation Act (RECA) markedly expanded the scope of the Program. Major changes include new categories of beneficiaries; expansion of eligible diseases, geographic area, and time period; and a reduction in the radiation exposure threshold for miners.

It has been nearly three years since the Amendments were enacted. Since that time, the level of activity has increased dramatically:

- The approval rate increased from 49 percent—before enactment—to 83 percent, since enactment.
  - Nearly 9,800 claims have been received since enactment—compared with some 1,200 claims received in the three fiscal years preceding the Amendments.
  - More than 6,200 claims, valued at over \$380 million, have been approved since enactment—compared with 574 approvals valued at less than \$42 million in the three fiscal years preceding the Amendments.
- Our most current estimates for fiscal year 2003:

WORKLOAD SUMMARY

	Fiscal year—			
	2000	2001	2002	2003 est.
Pending, Beginning of Year .....	353	728	2,936	2,679
Received .....	854	3,828	3,416	3,200
Approved .....	316	1,561	2,807	2,480
Denied .....	163	59	866	620
Pending, End of Year .....	728	2,936	2,679	2,779

To address this sharp rise in workload, we are doing all we can to ensure the program is being administered to provide timely and accurate compensation for all eligible claimants. Currently, there are 20 staff on board, including 11 claims examiners. With nearly 2,800 claims pending, each examiner is responsible for an average of 252 claims. Thus, while the program is able to process a huge volume—some 3,100 projected this fiscal year, the backlog is growing: we will end the year with a greater number of pending claims than the number pending at the year's outset.

So that we may reduce the number of pending claims significantly, the Department seeks Congressional approval to reprogram funds for RECA administration this fiscal year. In addition, the President's fiscal year 2004 budget includes an increase of \$1 million for RECA Administrative Expenses. This increase will provide examiners with much needed support to review claims, assist claimants in providing information that will complete claims, and perform many of the time-consuming administrative tasks that detract from the primary mission—resolving claims.

As you know, the Fiscal Year 2002 National Defense Authorization Act (Public Law 107-107) made the Trust Fund a mandatory account and provided \$665 million, setting annual spending caps for 2002-2011. We applaud Congress' decision to make the RECA Trust Fund mandatory. We are monitoring spending under the caps and can report the following with respect to the current status:

- In fiscal year 2002, the cap provided \$172 million and the Department obligated the full amount.
- The fiscal year 2003 cap is \$143 million. To date, an average of \$12.3 million has been obligated per month. To stay within the cap, obligations will have to drop to about \$9.5 million per month for the remainder of this fiscal year.
- No "IOU's" will be necessary this fiscal year. However, compensation for some current claims will be paid from fiscal year 2004 funds.

*Question.* Would you please provide for the record an updated breakdown of the number of claims paid by state and by category of beneficiary?

Answer. The table at Attachment 1 displays the number of claims approved through June 11, 2003, by state and by type of claim. Residents of Utah, Arizona, Colorado, and New Mexico have been awarded 79 percent of the compensation approved. However, RECA awards have been made to residents of all 50 states and the District of Columbia.

*Question.* I also congratulate the President and the Department for proposing in the 2002 budget to make payments for claims under RECA an entitlement. Congress did enact as part of the Defense Authorization bill, my amendment to make the RECA program a mandatory program. The Department has \$172 million to pay

claims in 2002 and \$143 million to pay claims in 2003, and additional amounts in future years.

Will you please give the Subcommittee a status report on the payment of RECA claims? How many claims has the Department approved and how much has been spent out of the Trust Fund to pay these claims since the inception of RECA?

Answer. Through June 11, 2003, a total of 9,588 claims have been approved, with a value of \$631,323,282.

*Question.* What is the average amount of the claims approved, the number of claims denied, and the general reason for denial of these claims?

Answer. RECA award amounts are fixed by statute. Uranium workers (uranium miners, mill workers, ore transporters) are eligible for a \$100,000 award; onsite participants are eligible for a \$75,000 award; and downwinders are eligible for a \$50,000 award. Over the 11-year history of the Program, the average amount approved is \$65,845. However, since enactment of the Amendments, the average has declined from \$74,000 to \$61,000—due to the predominance of downwinder awards.

Through June 11, 2003, the RECA Program has denied 4,866 claims. Claims are denied if one or more of the eligibility criteria are not satisfied. For example, uranium worker claims are typically denied in cases where the documentation does not establish that the individual contracted an illness specified under the law. Similarly, downwinder and onsite participant claims are most frequently denied where the records fail to establish a covered disease or the individual was either not present in the affected “downwind” area or did not participate in atmospheric weapons testing.

*Question.* For the record, would you please provide the Subcommittee with a breakdown of the types of claims approved or disapproved (childhood leukemia, other downwinder, onsite participants, or uranium miners), the number of claims currently pending, and the amounts disbursed by type of claim paid?

Answer. The table on the following page provides the requested information as of June 11, 2003.

#### RADIATION EXPOSURE COMPENSATION PROGRAM APRIL 1992-JUNE 11, 2003

	Value of Awards	Claims Received	Approved	Denied	Pending
Childhood Leukemia .....	\$1,200,000	44	24	19	1
Downwinder .....	309,170,000	9,723	6,184	1,981	1,558
Onsite Participant .....	42,461,782	1,808	589	955	264
Uranium Miner .....	251,391,500	5,096	2,520	1,861	715
Uranium Miller .....	21,700,000	419	217	40	162
Ore Transporter .....	5,400,000	106	54	10	42
<b>TOTAL .....</b>	<b>631,323,282</b>	<b>17,196</b>	<b>9,588</b>	<b>4,866</b>	<b>2,742</b>

*Question.* For my use, would you please provide this same information specifically for claims from New Mexico, including the total claims received, the total claims approved, the total claims denied, and the total claims pending?

Answer. With respect to claims for which the primary claimant resides in New Mexico, the Department has approved 801 claims, with a total value of \$76,277,799 through June 11, 2003. The following table provides the requested information.

#### RADIATION EXPOSURE COMPENSATION PROGRAM: NEW MEXICO APRIL 1992-JUNE 11, 2003

	Value of Awards	Claims Received	Approved	Denied	Pending
Childhood Leukemia .....	\$50,000	1	1	0	0
Downwinder .....	3,300,000	151	66	38	47
Onsite Participant .....	993,299	55	14	33	8
Uranium Miner .....	66,334,500	1,706	664	753	289
Uranium Miller .....	5,300,000	109	53	10	46
Ore Transporter .....	300,000	16	3	4	9
<b>TOTAL .....</b>	<b>76,277,799</b>	<b>2,038</b>	<b>801</b>	<b>838</b>	<b>399</b>

*Question.* How many claims are projected to be filed and processed under current law in the upcoming year?

Answer. For fiscal year 2004, we estimate that 2,900 claims will be filed and 3,100 claims will be processed. Of the 3,100 that may be processed, at an estimated 2,215 claims would be approved, valued at \$135 million. This assumes that the approval rate will fall from 80 percent in fiscal year 2003 to 71 percent in fiscal year 2004, while the average value of awards holds at \$61,000. Based on these conservative assumptions, the value of approvals would exceed the \$107 million cap by more than \$28 million—exclusive of unfunded awards from the end of fiscal year 2003.

To stay within the \$107 million cap set for fiscal year 2004, while paying for awards made in the final weeks for fiscal year 2003, the approval rate would have to fall to 48 percent.

*Question.* Does the Administration have any long-range estimates as to the number of claims that might still be filed under the Radiation Exposure Compensation Act under current law and regulations?

Answer. In May 2000, the Congressional Budget Office (CBO) developed cost estimates for a bill that became the Radiation Exposure Compensation Act Amendments of 2000 (Public Law 106-245). CBO roughly estimated that about 15,600 claims might be filed over the 22-year lifetime of the Act. CBO projected that about 11,700 claims would be filed in the first five years—or, roughly 2,340 per year. These estimates appear to be low. In less than three years, nearly 9,800 claims have been filed—more than 3,200 annually. Based on a three-year track record with the expanded program, we have developed detailed projections through fiscal year 2005. The following chart includes these projections, along with our “guesstimates” regarding the fiscal year 2006–2011 period—bearing in mind that the farther we delve into the future, the greater is the uncertainty we attach to our estimates. These projections suggest that (1) more people are responding more quickly than CBO anticipated and (2) the amount that may be approved in a given year may exceed existing caps.

#### OUT YEAR WORKLOAD AND FUNDING ESTIMATES

[Dollars in millions]

	Fiscal year—		
	2004	2005	2006–2011
Pending, Beginning of Year .....	2,779	2,579	2,179
Received .....	2,900	2,300	5,200
Approved .....	2,215	1,625	3,235
Denied .....	885	1,075	3,240
Pending, End of Year .....	2,579	2,179	904
Value of Approvals .....	\$135	\$99	\$197
Public Law 107–107 Cap .....	\$107	\$65	\$168

ATTACHMENT 1—AWARDS APPROVED BY STATE AND BY CATEGORY

	Downwinder	Onsite Participant	Uranium Miner	Uranium Miller	Ore Transporter	Total Awards	Value of Awards
Alabama	4	9	3			16	\$1,081,344
Alaska	10	1	7			18	\$1,275,000
Arizona	2,386	38	292		3	2,729	\$152,502,016
Arkansas	15	5	12			34	\$2,495,490
California	198	80	33		1	313	\$19,135,196
Colorado	67	11	869		28	1,062	\$102,575,000
Connecticut	1	2				3	\$200,000
Delaware	1	3				4	\$275,000
D.C.	2	1				3	\$175,000
Florida	12	35	6			53	\$3,692,507
Georgia	5	8	1			14	\$927,181
Hawaii	3	16	1		1	21	\$1,473,334
Idaho	60	8	22		1	91	\$5,870,000
Illinois	5	10	6			21	\$1,585,511
Indiana	3	3	9			15	\$1,275,000
Iowa	3	4	3			11	\$822,503
Kansas	12	6	3		1	21	\$1,350,000
Kentucky	1	4	1			6	\$395,319
Louisiana		8				8	\$549,170
Maine		2				2	\$190,000
Maryland	10	19	1			30	\$1,945,180
Massachusetts	1	6				7	\$500,000
Michigan	4	6				12	\$800,000
Minnesota	8	6	2		1	17	\$1,150,000
Mississippi		1	1			3	\$275,000
Missouri	11	7	12			31	\$2,375,000
Montana	15	4	8		1	28	\$1,909,872
Nebraska	4	3	6			13	\$1,025,000
Nevada	619	94	45		2	761	\$42,775,000
New Hampshire	1	1	1			3	\$225,000
New Jersey	2	3				5	\$325,000
New Mexico	67	14	664		53	801	\$76,277,799
New York	9	9	1			19	\$1,212,608
North Carolina	3	10	4			17	\$1,253,241
North Dakota	1				1	2	\$150,000
Ohio	2	6	3			13	\$1,050,000

Oklahoma	13	4	24	2	43	\$3,509,500
Oregon	41	10	23		74	\$5,097,234
Pennsylvania	7	10			17	\$1,072,054
Rhode Island		2			2	\$150,000
South Carolina	1	5			6	\$411,328
South Dakota	2	2	5	4	14	\$1,235,174
Tennessee	7	8	1		16	\$981,133
Texas	40	20	17	2	79	\$5,298,097
Utah	2,473	35	350	37	2,908	\$165,719,850
Vermont		1	1		2	\$175,000
Virginia	9	17			26	\$1,656,302
Washington	42	20	26	1	90	\$6,278,077
West Virginia		1	22		23	\$2,275,000
Wisconsin		7	1		8	\$561,262
Wyoming	27	2	34	6	71	\$5,700,000
Subtotal	6,207	589	2,520	216	9,586	\$631,173,282
Canada	1			1	2	\$150,000
TOTAL	6,208	589	2,520	217	9,588	\$631,323,282

## MENTAL HEALTH COURTS

*Question.* Attorney General Ashcroft, as you are aware, the fiscal year 2003 Omnibus Appropriations Bill contained \$3 million for Mental Health Courts. The funding is the result of the Americas Law Enforcement and Mental Health Project Act, enacted into law three years ago. The Act authorized the creation of Mental Health Courts with separate dockets to handle cases involving individuals with a mental illness.

The specific thrust of Mental Health Courts is simple to provide an individual with a mental illness and charged with a misdemeanor or nonviolent offense the option of out-patient or in-patient mental health treatment as an alternative to incarceration.

Finally, the Department of Justice estimates that sixteen percent of all inmates in local and state jails suffer from a mental illness and the American Jail Association estimates that as many as 700,000 persons suffering from a mental illness are jailed each year.

Do you believe Mental Health Courts can alleviate prison overcrowding and create greater judicial economy within our court systems?

*Answer.* Mental Health Courts can help alleviate overcrowding, to a degree, by employing problem-solving approaches that use alternative sentencing options to reduce the demands on correctional institutions while offering approaches that address the underlying issues of these mentally ill offenders. These courts use several critical elements as part of their comprehensive case management approach, such as complete individualized mental assessments as soon as possible after interface with law enforcement, judicial supervision, immediate mental health services as needed, and a plan for longer-term services. They can alleviate prison overcrowding by segregating a population whose minor criminal misbehavior is likely to be a function of their illness and providing the treatment they need. In doing so, it is hoped that communities with mental health courts will see reduced recidivism, and a reduction in the recurring costs to the system of continued criminal behavior by this population.

This approach ensures a coordinated response between the service providers and community supervision that reinforces accountability and access to the critical services needed for the offenders to gain stability in their mental health and uses sanctions and incentives that are meaningful to the mentally ill offenders to help keep them crime free.

*Question.* What steps are being taken by DOJ to distribute the \$3 million appropriated to implement Americas Law Enforcement and Mental Health Project Act?

*Answer.* The competition for the fiscal year 2003 funds has taken place. The Bureau of Justice Assistance received 44 applications. The peer review process is underway, and 14 awards are expected to be made by the end of this fiscal year. These 14 sites will be in addition to the 23 sites awarded during the first cycle (fiscal year 2002 funding). Site awards in both cycles were for up to \$150,000 each, varying according to the applicant's request and budget clearances, and have grant periods of 18 months. Additional funding will be used for technical support. An evaluator is assessing and documenting a sample of the courts in sites funded with fiscal year 2002 resources.

*Question.* What plans does DOJ have to provide assistance to court systems seeking to develop and implement a Mental Health Court and does DOJ plan to offer continued technical assistance after the implementation of a Mental Health Court?

*Answer.* Approximately \$500,000 from the initial earmark in fiscal year 2002 was used to support non-site work related to examining the mental health courts approach. The Crime and Justice Research Institute received a grant to provide an update of an overview of the issues related to mental health courts and reported in May 2002 in *Emerging Judicial Strategies for the Mentally Ill in the Criminal Caseload*. The Bureau of Justice Assistance also funded the Criminal Justice/Mental Health Consensus Project. This national scope, 2-year effort prepared specific recommendations for local, state and federal policymakers and criminal justice and mental health professionals on how to improve the criminal justice system response to people with mental illness. The Council of State Governments coordinated this effort, working with the Association of State Correctional Administrators, Bazelon Center for Mental Health Law, Center for Behavioral Health, Justice and Public Policy, National Association of State Mental Health Program Directors, Police Executive Research Forum, and the Pretrial Services Resource Center.

This year, approximately \$750,000 will be set aside for technical assistance support to the sites, primarily to bring professionals involved in the courts to the funded sites. It is anticipated that several organizations will be involved, each bringing to the table expertise in reaching constituencies in different areas, including law en-

forcement, prosecutor, judges, community correctional personnel, and treatment coordinators. This technical assistance will be available to the courts selected and, to the extent feasible, to other jurisdictions attempting this approach without federal funding. Courts will be assisted at least through the initial startup phase.

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QUESTIONS SUBMITTED BY SENATOR TED STEVENS

VILLAGE OF CHICKALOON AND VILLAGE FORESTRY DEPARTMENT OF ALASKA

*Question.* The Office of Community Oriented Policing Services (COPS) was created to meet the needs of law enforcement in Native American Communities. According to DOJ records, the Village of Chickaloon and the Village of Forestry Department (of Alaska) have received \$1,473,250.00 in funding from COPS from 1994–2002. In addition, eight officers have been funded through COPS. However, the Village of Chickaloon is not a sovereign entity and the State Troopers monitor the Village. Please describe each grant proposal submitted by the Village of Chickaloon and explain how each grant proposal meets the requirements for funding under the COPS program.

*Answer.* The Village of Chickaloon and the Chickaloon Village of Forestry Department have received a total of 8 grant awards, totaling \$1,723,238, from the COPS Office.

The first award to the Village of Chickaloon, in 1995, was awarded through COPS FAST program. The FAST program provided jurisdictions serving fewer than 150,000 persons to hire new officers to engage in community policing. The Village of Chickaloon was eligible to apply under the FAST program, along with other state, local, and tribal law enforcement agencies serving populations less than 150,000.

The following seven awards, to the Village of Chickaloon and the Chickaloon Village of Forestry Department, were awarded through COPS Tribal Resources Grant Program. Under this program federally recognized tribes may apply to receive funding for training and equipment for new and existing officers as well as salary and benefits for new community policing officers. As a federally recognized tribe, Chickaloon was eligible to apply for federal assistance through COPS Tribal Resources Grant Program.

Details of the eight grants are provided in the following answers as well as in the supplemental documentation provided.

*Question.* For each grant given to the Village of Chickaloon under the COPS program, detail the funds given for each year and describe the purpose of each grant.

*Answer.* The Village of Chickaloon and the Chickaloon Village of Forestry Department have received a total of 8 grant awards, totaling \$1,723,238, from the COPS Office.

1. The Village of Chickaloon was awarded one full-time position through the COPS FAST grant program (COPSFASST). COPSFASST provided funding to jurisdictions serving populations of less than 50,000. The program provided funding for the payment of salaries and approved fringe benefits for sworn entry-level officers, lateral transfers, or rehired officers. The FAST grant provided a maximum federal contribution of 75 percent of the salary and benefits for each officer position over three years, up to \$75,000 per officer. Chickaloon's FAST grant, which began March 1, 1995, and expired August 31, 1998, totaled \$75,000.

2. The Village of Chickaloon was awarded two full-time positions through the Universal Hiring Program (UHP). The UHP grant provided funding for the payment of salaries and approved fringe benefits for newly hired entry-level officer positions with a maximum federal contribution of 75 percent of the salary and benefits for each officer position over three year, up to \$75,000 per officer position, unless a waiver of the matching local funds was granted. Chickaloon's UHP grant, which began December 1, 1995, and expired December 31, 2000, totaled \$252,084—the grantee received a full waiver of the local match.

3. The Village of Chickaloon was awarded equipment and training through the Tribal Resources Grant Program 1999 (TRGP99), the specifics of the departments' award are detailed in the attached Final Funding Memo. The TRGP99 grant provided funding to federally recognized tribes for salaries and benefits for newly hired entry-level officer positions, and training and equipment for new and existing with a maximum federal contribution of 75 percent of the approved costs, unless a waiver of the local matching funds is granted, up to \$75,000 per officer for salary and benefits, \$3,000 for background investigations, \$1,200 to \$6,000 per type of training, \$3,000 per officer for basic equipment, \$75,000 per department for technology, and/or \$20,000 per vehicle. Chickaloon's TRGP99 grant, which began September 1, 1999,

and expired May 31, 2001, totaled \$90,810—the grantee received a full waiver of the local match.

4. The Village of Chickaloon was awarded equipment and training through the Tribal Resources Grant Program 2000 (TRGP00), the specifics of the department's award are detailed in the attached Final Funding Memo. The TRGP00 grant provided funding to federally recognized tribes for salaries and benefits for newly hired entry-level officers positions, and training and equipment for new and existing officers. The TRGP00 grant provided a maximum federal contribution of 75 percent of the approved costs, unless a waiver of the local matching funds is granted, up to \$75,000 per officer for salary and benefits, \$3,000 for background investigations, \$1,200 to \$6,000 per type of training, \$3,000 per officer for basic equipment, \$75,000 per department for technology, and/or \$20,000 per vehicle. Chickaloon's TRGP00 grant, which began August 1, 2000, and expired on July 31, 2003, totaled \$14,251—the grantee received a full waiver of the local match.

5. The Village of Chickaloon was awarded two full-time positions through the Tribal Resources Grant Program 2000 (TRGP00). The TRGP00 program parameters are detailed in the above paragraph (#4). Chickaloon's TRGP00 grant, which began August 1, 2000, and is scheduled to expire January 31, 2005, totals \$281,172—the grantee received a full waiver of the local match.

6. The Chickaloon Village Forestry Department was awarded equipment and training through the Tribal Resources Grant Program 2000 (TRGP00), the specifics of the department's award are detailed in the attached Final Funding Memo. The TRGP00 grant provided funding to federally recognized tribes for salaries and benefits for newly hired entry-level officer positions, and training and equipment for new and existing officers. The TRGP00 grant provided a maximum federal contribution of 75 percent of the approved costs, unless a waiver of the local matching funds is granted, up to \$75,000 per officer for salary and benefits, \$3,000 for background investigations, \$1,200 to \$6,000 per type of training, \$3,000 per officer for basic equipment, \$75,000 per department for technology, and/or \$20,000 per vehicle. Chickaloon Village Forestry Department's TRGP00 grant, which began August 1, 2000, and is scheduled to expire July 31, 2003, totaled \$207,177—the grantee received a full waiver of the local match.

7. The Chickaloon Village Forestry Department was awarded two full-time positions through the Tribal Resources Grant Program 2000 (TRGP00). The TRGP00 program parameters are detailed in the above paragraph (#6). Chickaloon Village Forestry Department's TRGP00 grant, which began August 1, 2000, and is scheduled to expire January 31, 2005, totals \$421,756—the grantee received a full waiver of the local match.

8. The Village of Chickaloon received funding through the Tribal Hiring Renewal Grant Program (THRGP) to renew two full-time positions. The THRGP grant provides funding to federally recognized tribes that were unable to retain the previously awarded COPS-funded positions with tribal, state, or BIA funding and have received an exemption from the COPS Office's retention requirement. The THRGP grant is a two-year grant, which funds fourth and fifth year salaries and benefits for the renewal of COPS-funded police officer positions, there is not a local match requirement for this program. Chickaloon's grant, which began September 1, 2002, and is scheduled to expire August 31, 2004, totals \$249,988.

*Question.* Has the Village of Chickaloon submitted any periodic reports to the COPS office in Washington regarding the use of the grant funds and/or the effectiveness of the grant funds? If so, detail the results of said studies?

*Answer.* All COPS grantees, including the Village of Chickaloon, are required to submit programmatic progress reports and quarterly financial status reports. The COPS Office has not conducted an on site visit to the Village of Chickaloon, however COPS is aware of their program progress through the grantee's submission of programmatic progress reports and quarterly financial status reports.

*Question.* Has the DOJ conducted any studies regarding the effects of the COPS programs in Alaskan communities? If so, detail the results of said reports.

*Answer.* The COPS Office has not funded a study to evaluate the effect of COPS grants specifically in Alaskan communities. However, independent evaluations of COPS programs have been conducted by the University of Nebraska and the Urban Institute to evaluate the effect of COPS funding.

*Question.* Please submit a copy of each application received from Chickaloon or its Forestry Department.

*Answer.* The COPS Office has submitted a binder containing grant information received from the Village of Chickaloon and the Chickaloon Village Forestry Department.

*Question.* Have any official (or officials) of your Department visited Chickaloon?

Answer. No, the COPS Office has not conducted a formal site visit to the Village of Chickaloon.

*Question.* Did your office receive any letters of support for the applications of Chickaloon or the Department of Forestry pertaining to any applications?

Answer. The COPS Office did not receive any letters of support for the Chickaloon or the Department of Forestry applications.

*Question.* Please provide a copy of any report pertaining to Chickaloon received by your office from any official source Federal or state pertaining to Chickaloon's eligibility for these grants, or the need for the grants, or the use of these grants.

Answer. The need for federal funding is demonstrated in each of the eight applications requesting federal assistance. Under COPS statutory authority and programmatic guidelines, the Village of Chickaloon and the Chickaloon Village Forestry Department were eligible for the grant funding received from the COPS Office. The Village of Chickaloon is a federally recognized tribe according to the Department of the Interior Bureau of Indian Affairs.

QUESTIONS SUBMITTED BY SENATOR ROBERT C. BYRD

SAFE EXPLOSIVES ACT

*Question.* It is my understanding that the Safe Explosives Act, enacted last year, requires tighter security for explosives materials and increased security measures for purchasers and possessors of explosives and that this new law will assist the Bureau of Alcohol, Tobacco, and Firearms (ATF) in helping to ensure that terrorists and criminals do not have access to explosives.

In testimony before the House Appropriations Subcommittee on the Departments of Commerce, Justice and State, the Judiciary and Related Agencies on March 20, 2003, Acting ATF Director Bradley Buckles stated that the Safe Explosives Act represents a significant additional workload for ATF.

I understand that, currently, the initial processing and issuance or denial of explosive licenses or permits is handled out of ATF's National Licensing Center in Atlanta, Georgia, which also handles the processing of Federal Firearms Licenses and is, consequently, overburdened, as well as overcrowded.

In addition, Mr. Buckles stated in his testimony that the fiscal year 2004 budget request of \$10,000,000 for the continuation of the implementation of the Safe Explosives Act " \* \* \* would continue the implementation of the Act and specifically, would be used to create the National Explosives Licensing Center (NELC) in an existing ATF facility in Martinsburg, West Virginia \* \* \*."

I fully support the establishment of the NELC at the ATF facility in Martinsburg, West Virginia.

Can you provide more details regarding the creation of the National Explosives Licensing Center (NELC) in West Virginia, including a detailed timeframe and cost estimate, including the costs of renovations needed to accommodate the NELC at the Martinsburg ATF facility, space and equipment needs, as well as the number of federal and contractor personnel that would be employed at the center?

Answer. The requirements of the Safe Explosives Act (SEA) became fully effective on May 24, 2003. In part, the SEA increased the number of entities required to obtain an explosives permit from ATF. Also, the SEA enhanced the license/permit qualification requirements to include the submission of additional documentation (fingerprints and photographs) of individuals responsible for explosives operations and additional identifying information for employee possessors of explosives. This additional information is needed so that ATF can conduct, with the assistance of the FBI, more thorough background checks of these individuals. This increase in responsibility resulted in a need for a National Explosives Licensing Center (NELC). Since ATF currently houses the National Tracing Center in West Virginia and space was available at this location, the proposal was made to also house the NELC at the same location in Martinsburg, West Virginia.

Renovations needed at the West Virginia site would not start any earlier than fiscal year 2004 and span into fiscal year 2005 due to other renovations taking place at the site. A minimal amount of funds (approximately \$268,000) have been allocated in fiscal year 2003 for this purpose of filling two full time positions. Approximately \$4 million is estimated to establish the NELC in West Virginia. The following is a breakdown of the \$4 million:

Computer system development/enhancement .....	\$545,000
15 contractors .....	771,680
16 full time positions .....	1,258,151

2 pc moves .....	144,000
Space buildout/renovations/furniture .....	<sup>1</sup> 1,000,000
Annualization of 2 positions funded 2003 .....	268,246
Grand total .....	3,987,077

<sup>1</sup> Recently revised to reflect current costs.

The NELC in West Virginia would employ 18 federal employees and 15 contractors.

*Question.* Does the President’s fiscal year 2004 budget request provide sufficient funding to establish a fully operational NELC? If not, what additional funds would be needed in fiscal year 2004 for this purpose?

*Answer.* The President’s fiscal year 2004 budget request includes \$10 million for implementing the provisions of the Safe Explosives Act. A portion of this funding will be used to establish the NELC in West Virginia.

QUESTIONS SUBMITTED BY SENATOR PATRICK J. LEAHY

USA PATRIOT ACT

*Question.* Last month, when you testified before the Judiciary Committee, you were asked about a secret bill entitled the “Domestic Security Enhancement Act of 2003,” which was leaked to the press as a sequel to the USA PATRIOT Act. You responded, “there has been no bill decided on, no proposal decided on.” That was on March 4th. Three weeks later, a Department spokesperson told the Village Voice that the bill was coming soon, and that it “will be filling in the holes” of the PATRIOT Act.

When will the Department share a draft of this bill with Congress?

*Answer.* The primary mission of the Department of Justice is to protect the American people from the threat of terrorist attacks, while respecting the constitutional rights and liberties that the birthright of every American. Department staff constantly are thinking about new ways to detect and prevent terrorism. In that process, Department staff continually ask our prosecutors and investigators in the field what tools they need in the fight against terrorism. That process of considering ideas is continuing. It would be inappropriate to comment on the status of the internal deliberations or to speculate about any future decisions. However, if the Administration moves forward with such a proposal, the Department will consult with Members of Congress and their staff at an appropriate time. If and when a final proposal is approved by the Administration, we will work closely with Members of the Congress and their staff in their review of the proposal.

*Question.* What legislative “holes” can we expect this bill to address?

*Answer.* Please see the answer above.

PRIVACY ACT EXEMPTIONS

*Question.* Please provide a detailed description of each of the three databases affected by the new rule, i.e., the National Crime Information Center (NCIC), Central Records System (CRS), and National Center for the Analysis of Violent Crime (NCAVC), including the types of records they contain and where these records originate.

*Answer.* These databases are described in the following notices, published by the FBI in accordance with the Privacy Act, 5 U.S.C. 552a(e)(4)(B) and (C). Each notice details the organization and categorization of the individuals and information in the database.

- National Crime Information Center (NCIC), 64 Federal Register 52343 (Sept. 28, 1999);
- Central Records System (CRS), 63 Federal Register 8659 (Feb. 20, 1998) and 66 Federal Register 17200 (March 29, 2001);
- National Center for the Analysis of Violent Crime (NCAVC), 58 Federal Register 51887 (Oct. 5, 1993);
- Blanket Routine Uses (BRU) Applicable to More Than One FBI Privacy Act System of Records (JUSTICE/FBI-BRU), 66 Federal Register 33558 (June 22, 2001).

Each database is summarized below. Copies of the Privacy Act notices are enclosed.

The NCIC system of records provides a computerized database for ready access by a criminal justice agency making an inquiry. It includes information on fugitives, missing persons, members of violent criminal gangs, members of terrorist organiza-

tions, and other persons of interest to law enforcement. The database also includes records on stolen property, vehicles, and guns. The attached Privacy Act notice provides an exhaustive list of the available data. The NCIC system provides prompt disclosure of information in the system from other criminal justice agencies about crimes and criminals.

The CRS maintains the FBI's investigative, personnel, applicant, and administrative case files. This system consists of one numerical sequence of subject matter files and an alphabetical index to the case files. The case file classifications used by the FBI in its basic filing system pertain primarily to Federal violations over which the FBI has investigative jurisdiction. The case file classifications include personnel, applicant, and administrative matters to facilitate information retrieval. As a part of the NCAVC, the Violent Crime Apprehensive Program (VICAP) maintains investigation reports on all forms of solved and unsolved violent crimes. These violent crimes include, but are not limited to, acts or attempted acts of murder, kidnapping, incendiary arson or bombing, rape, physical torture, sexual trauma, or evidence of violent forms of death. VICAP records include, but are not limited to, crime scene descriptions, victim and offender descriptive data, laboratory reports, criminal history records, court records, news media references, crime scene photographs, and statements. The data in the system consists of homicide, missing person, unidentified dead, sexual assault, and other criminal cases. State and local law enforcement agencies enter their case information, consisting primarily of victim information, offender information, and a description of the event, into the national database. In addition to entering data, law enforcement personnel can retrieve their own cases, run reports using their own data, and request query against the national database.

Copies of the Privacy Act system notices listed above for the NCIC, CRS, and NCAVC are attached.

[From the Federal Register, Vol. 64, No. 187, September 28, 1999]

#### DEPARTMENT OF JUSTICE

#### [AAG/A Order No. 170-99]

#### **Privacy Act of 1974; Notice of Modified Systems of Records**

Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a) and Office of Management and Budget (OMB) Circular No. A-130, notice is given that the Department of Justice, Federal Bureau of Investigation (FBI), is modifying the following system of records which was last published in the Federal Register on April 20, 1995 (60 FR 19775):

National Crime Information Center (NCIC), JUSTICE/FBI-001.

Also being modified is the following system of records which was last published in the Federal Register on February 20, 1996 (61 FR 6386):

Fingerprint Identification Records Systems (FIRS), JUSTICE/FBI-009.

The FBI has made revisions to these systems of records to update information about these systems, make editorial adjustments to existing language, confirm in clearer language the categories of agencies that participate in the exchange of records through these systems, and add three new routine uses for both systems. A brief description of these changes is provided below.

The two systems of records are being modified to update the location of the systems and denote the exact street address of the system manager. Both notices are also being revised to clarify existing language through minor editorial adjustments and to confirm in clearer language the authorized participation in these systems, and the availability of system records, to tribal, foreign, and international agencies, in addition to local, state, and federal agencies. Three routine uses have been added to allow disclosure of information maintained in these systems: To criminal justice agencies to conduct background checks under the National Instant Criminal Background Check System (NICS); to noncriminal justice government agencies, subject to appropriate controls, performing criminal justice dispatching functions or data processing/information services for a criminal justice dispatching functions or data processing/information services for a criminal justice agency; and to a private entity, subject to appropriate controls and under a specific agreement with an authorized governmental agency to perform an administration of criminal justice function (privatization). (In addition to the above changes, the FBI is currently reviewing additional changes to better describe new capabilities and practices, to be promulgated in a future notice.) Revisions to 28 CFR parts 0, 16, 20 and 50 which underlie these changes are being implemented in the Rules section of today's Federal Register.

The Privacy Act (5 U.S.C. 552a (e)(4) and (11)) requires that the public be given 30 days in which to comment on any new or intended uses of information in a system of records. In addition, OMB, which has oversight responsibilities under the

Act, requires that OMB and the Congress be given 40 days in which to review major changes to the system.

Therefore, the public, OMB, and the Congress are invited to submit written comments to Mary E. Cahill, Management Analyst, Management and Planning Staff, Justice Management Division, Department of Justice, 1400 National Place, Washington, DC 20530.

In accordance with Privacy Act requirements (5 U.S.C. 552a(r)), the Department of Justice has provided a report on the modified system to OMB and the Congress.

Dated: July 27, 1999.

STEPHEN R. COLGATE,  
*Assistant Attorney General for Administration.*

*JUSTICE/FBI 001*

*System name:*

National Crime Information Center (NCIC).

*System location:*

Federal Bureau of Investigation, Criminal Justice Information Services (CJIS) Division, 1000 Custer Hollow Road, Clarksburg, WV 26306.

*Categories of individuals covered by the system:*

A. Wanted Persons:

1. Individuals for whom federal warrants are outstanding.
2. Individuals who have committed or have been identified with an offense which is classified as a felony or serious misdemeanor under the existing penal statutes of the jurisdiction originating the entry and for whom a felony or misdemeanor warrant has been issued with respect to the offense which was the basis of the entry. Probation and parole violators meeting the foregoing criteria.

3. A "Temporary Felony Want" may be entered when a law enforcement agency has need to take prompt action to establish a "want" entry for the apprehension of a person who has committed, or the officer has reasonable grounds to believe has committed, a felony and who may seek refuge by fleeing across jurisdictional boundaries and circumstances preclude the immediate procurement of a felony warrant. A "Temporary Felony Want" shall be specifically identified as such and subject to verification and support by a proper warrant within 48 hours following the entry of a temporary want. The agency originating the "Temporary Felony Want" shall be responsible for subsequent verification or re-entry of a permanent want.

4. Juveniles who have been adjudicated delinquent and who have escaped or absconded from custody, even though no arrest warrants were issued. Juveniles who have been charged with the commission of a delinquent act that would be a crime if committed by an adult, and who have fled from the state where the act was committed.

5. Individuals who have committed or have been identified with an offense committed in a foreign country, which would be a felony if committed in the United States, and for whom a warrant of arrest is outstanding and for which act an extradition treaty exists between the United States and that country.

6. Individuals who have committed or have been identified with an offense committed in Canada and for whom a Canada-Wide Warrant has been issued which meets the requirements of the Canada-U.S. Extradition Treaty, 18 U.S.C. 3184.

B. Individuals who have been charged with serious and/or significant offenses:

1. Individuals who have been fingerprinted and whose criminal history record information has been obtained.

2. Violent Felons: Persons with three or more convictions for a violent felony or serious drug offense as defined by 18 U.S.C. 924(e).

C. Missing Persons:

1. A person of any age who is missing and who is under proven physical/mental disability or is senile, thereby subjecting that person or others to personal and immediate danger.

2. A person of any age who is missing under circumstances indicating that the disappearance was not voluntary.

3. A person of any age who is missing under circumstances indicating that that person's physical safety may be in danger.

4. A person of any age who is missing after a catastrophe.

5. A person who is missing and declared unemancipated as defined by the laws of the person's state of residence and does not meet any of the entry criteria set forth in 1-4 above.

D. Individuals designed by the U.S. Secret Service as posing a potential danger to the President and/or other authorized protectees.

E. Members of Violent Criminal Gangs: Individuals about whom investigation has developed sufficient information to establish membership in a particular violent criminal gang by either:

1. Self admission at the time of arrest or incarceration, or
2. Any two of the following criteria:
  - a. Identified as a gang member by a reliable informant;
  - b. Identified as a gang member by an informant whose information has been corroborated;
  - c. Frequents a gang's area, associates with known members, and/or affects gang dress, tattoos, or hand signals;
  - d. Has been arrested multiple times with known gang members for offenses consistent with gang activity; or
  - e. Self admission (other than at the time of arrest or incarceration).

F. Members of Terrorist Organizations: Individuals about whom investigation has developed sufficient information to establish membership in a particular terrorist organization using the same criteria listed above in paragraph E, items 1 and 2 a-e, as they apply to members of terrorist organizations rather than members of violent criminal gangs.

G. Unidentified Persons:

1. Any unidentified deceased person.
2. Any person who is living, but whose identity has not been ascertained (*e.g.*, infant, amnesia victim).
3. Any unidentified catastrophe victim.
4. Body parts when a body has been dismembered.

*Categories of records in the system:*

A. Stolen Vehicle File:

1. Stolen vehicles.
2. Vehicles wanted in conjunction with felonies or serious misdemeanors.
3. Stolen vehicle parts including certificates of origin or title.

B. Stolen License Plate File.

C. Stolen Boat File.

D. Stolen Gun File:

1. Stolen guns.
2. Recovered guns, when ownership of which has not been established.

E. Stolen Article File.

F. Securities File:

1. Serially numbered stolen, embezzled, or counterfeited securities.
2. "Securities" for present purposes of this file are currency (*e.g.*, bills, bank notes) and those documents or certificates which generally are considered to be evidence of debt (*e.g.*, bonds, debentures, notes) or ownership of property (*e.g.*, common stock, preferred stock), and documents which represent subscription rights, warrants and which are of the types traded in the securities exchanges in the United States, except for commodities futures. Also included are warehouse receipts, travelers checks and money orders.

G. Wanted Person File: Described in "Categories of individuals covered by the system: A. Wanted Persons, 1-4."

H. Foreign Fugitive File: Identification data regarding persons who are fugitives from foreign countries, who are described in "Categories of individuals covered by the system: A. Wanted Persons, 5 and 6."

I. Interstate Identification Index File: A cooperative federal-state program for the interstate exchange of criminal history record information for the purpose of facilitating the interstate exchange of such information among criminal justice agencies: Described in "Categories of individuals covered by the system: B. 1."

J. Identification records regarding persons enrolled in the United States Marshals Service Witness Security Program who have been charged with serious and/or significant offenses. Described in "Categories of individuals covered by the system: B."

K. Bureau of Alcohol, Tobacco, and Firearms (BATF) Violent Felon File: Described in "Categories of individuals covered by the system: B.2."

L. Missing Person File: Described in "Categories of individuals covered by the system: C. Missing Persons."

M. U.S. Secret Service Protective File: Described in "Categories of individuals covered by the system: D."

N. Violent Criminal Gang File: A cooperative federal-state program for the interstate exchange of criminal gang information. For the purpose of this file, a "gang" is defined as a group of three or more persons with a common interest, bond, or

activity characterized by criminal delinquent conduct. Described in "Categories of individuals covered by the system: E. Members of Violent Criminal Gangs."

O. Terrorist File: A cooperative federal-state program for the exchange of information about terrorist organizations and individuals. For the purposes of this file, "terrorism" is defined as activities that involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or any state or would be a criminal violation if committed within the jurisdiction of the United States or any states, which appear to be intended to:

1. Intimidate or coerce a civilian population,
2. Influence the policy of a government by intimidation or coercion, or
3. Affect the conduct of a government by crimes or kidnaping. Described in "Categories of individuals covered by the system: F. Members of Terrorist Organizations."

P. Unidentified Person File: Described in "Categories of individuals covered by the system: G. Unidentified Persons."

*Authority for maintenance of the system:*

The system is established and maintained in accordance with 28 U.S.C. 534; 28 CFR part 20; Department of Justice Appropriation Act, 1973, Pub. L. 92-544, 86 Stat. 1115; Securities Acts Amendment of 1975, Pub. L. 94-29, 89 Stat. 97; and 18 U.S.C. 924 (e). Exec. Order No. 10450, 3 CFR (1974).

*Purpose(s):*

The purpose for maintaining the NCIC system of records is to provide a computerized data base for ready access by a criminal justice agency making an inquiry and for prompt disclosure of information in the system from other criminal justice agencies about crimes and criminals. This information assists authorized agencies in criminal justice objectives, such as apprehending fugitives, locating missing persons, locating and returning stolen property, as well as in the protection of the law enforcement officers encountering the individuals described in the system.

*Routine uses of records maintained in the system, including categories of users and the purposes of such uses:*

Data in NCIC files is exchanged with and for the official use of authorized officials of the federal government, the states, cities, penal and other institutions, and certain foreign governments. The data is exchanged most frequently, but not exclusively, through NCIC lines to federal criminal justice agencies, criminal justice agencies in the 50 states, the District of Columbia, Puerto Rico, U.S. Possessions, U.S. Territories, and certain authorized foreign and international criminal justice agencies. Criminal history data is disseminated to non-criminal justice agencies for use in connection with licensing for local/state employment or other uses, but only where such dissemination is authorized by federal or state statute and approved by the Attorney General of the United States.

Data in NCIC files, other than the information described in "Categories of records in the system: I, J, K, M, N, and O" is disseminated to:

- (1) A nongovernmental agency or subunit thereof which allocates a substantial part of its annual budget to the administration of criminal justice, whose regularly employed peace officers have full police powers pursuant to state law and have complied with the minimum employment standards of governmentally employed police officers as specified by state statute;
- (2) A noncriminal justice governmental department of motor vehicle or driver's license registry established by a statute, which provides vehicle registration and driver record information to criminal justice agencies;
- (3) A governmental regional dispatch center, established by a state statute, resolution, ordinance or Executive order, which provides communications services to criminal justice agencies; and
- (4) The National Insurance Crime Bureau (NICB), a nongovernmental nonprofit agency which acts as a national clearinghouse for information on stolen vehicles and offers free assistance to law enforcement agencies concerning automobile thefts, identification and recovery of stolen vehicles.

Disclosures of information from this system, as described in (1) through (4) above, are for the purpose of providing information to authorized agencies to facilitate the apprehension of fugitives, the location of missing persons, the location and/or return of stolen property, or similar criminal justice objectives.

Information on missing children, missing adults who were reported missing while children, and unidentified living and deceased persons may be disclosed to the National Center for Missing and Exploited Children (NCMEC). The NCMEC is a non-governmental, nonprofit, federally funded corporation, serving as a national resource and technical assistance clearinghouse focusing on missing and exploited

children. Information is disclosed to NCMEC to assist it in its efforts to provide technical assistance and education to parents and local governments regarding the problems of missing and exploited children, and to operate a nationwide missing children hotline to permit members of the public to telephone the Center from anywhere in the United States with information about a missing child.

System records may be disclosed to criminal justice agencies for the conduct of background checks under the National Instant Criminal Background Check System (NICS).

System records may be disclosed to noncriminal justice governmental agencies performing criminal justice dispatching functions or data processing/information services for criminal justice agencies.

System records may be disclosed to private contractors pursuant to a specific agreement with a criminal justice agency or a noncriminal justice governmental agency performing criminal justice dispatching functions or data processing/information services for criminal justice agencies to provide services for the administration of criminal justice pursuant to that agreement. The agreement must incorporate a security addendum approved by the Attorney General of the United States, which shall specifically authorize access to criminal history record information, limit the use of the information to the purposes for which it is provided, ensure the security and confidentiality of the information, provide for sanctions, and contain such other provisions as the Attorney General may require. The power and authority of the Attorney General hereunder shall be exercised by the FBI Director (or the Director's designee).

In addition, information may be released to the news media and the public pursuant to 28 CFR 50.2, unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy;

System records may be disclosed to a Member of Congress or staff acting on the member's behalf when the member or staff requests the information on behalf of and at the request of the individual who is the subject of the record; and,

System records may be disclosed to the National Archives and Records Administration and the General Services Administration for records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

*Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:*

*Storage:*

Information maintained in the NCIC system is stored electronically for use in a computer environment.

*Retrievability:*

On line access to data in NCIC is achieved by using the following search descriptors:

- A. Stolen Vehicle File:
  1. Vehicle identification number;
  2. Owner applied number;
  3. License plate number;
  4. NCIC number (unique number assigned by NCIC computer to each NCIC record.)
- B. Stolen License Plate File:
  1. License plate number;
  2. NCIC number.
- C. Stolen Boat File:
  1. Registration document number;
  2. Hull serial number;
  3. Owner applied number;
  4. NCIC number.
- D. Stolen Gun File:
  1. Serial number of gun;
  2. NCIC number.
- E. Stolen Article File:
  1. Serial number of article;
  2. Owner applied number;
  3. NCIC number.
- F. Securities File:
  1. Type, serial number, denomination of security, and issuer for other than U.S. Treasury issues and currency;
  2. Type of security and name of owner of security;

3. Social Security number of owner of security (it is noted the requirements of the Privacy Act with regard to the solicitation of Social Security numbers have been brought to the attention of the members of the NCIC system);
4. NCIC number.
- G. Wanted Person File:
  1. Name and one of the following numerical identifiers:
    - a. Date of birth;
    - b. FBI number (number assigned by the Federal Bureau of Investigation to an arrest fingerprint record);
    - c. Social Security number (it is noted the requirements of the Privacy Act with regard to the solicitation of Social Security numbers have been brought to the attention of the members of the NCIC system);
    - d. Operator's license number (driver's number);
    - e. Miscellaneous identifying number (military number or number assigned by federal, state, or local authorities to an individual's record);
    - f. Originating agency case number;
  2. Vehicle or license plate known to be in the possession of the wanted person;
  3. NCIC number.
- H. Foreign Fugitive File: See G, above.
- I. Interstate Identification Index File:
  1. Name, sex, race, and date of birth;
  2. FBI number;
  3. State identification number;
  4. Social Security number;
  5. Miscellaneous identifying number.
- J. Witness Security Program File: See G, above.
- K. BATF Violent Felon File: See G, above.
- L. Missing Person file: See G, above, plus the age, sex, race, height and weight, eye and hair color of the missing person.
- M. U.S. Secret Service Protective File: See G, above.
- N. Violent Criminal Gang File: See G, above.
- O. Terrorist File: See G, above.
- P. Unidentified Person File: The age, sex, race, height and weight, eye and hair color of the unidentified person.

*Safeguards:*

Data stored in the NCIC is documented criminal justice agency information and access to that data is restricted to duly authorized users. The following security measures are the minimum to be adopted by all authorized users having access to the NCIC.

Interstate Identification Index (III) File. These measures are designed to prevent unauthorized access to the system data and/or unauthorized use of data obtained from the computerized file.

1. Computer Center.
  - a. The authorized user's computer site must have adequate physical security to protect against any unauthorized personnel gaining access to the computer equipment or to any of the stored data.
  - b. Since personnel at these computer centers can have access to data stored in the system, they must be screened thoroughly under the authority and supervision of an NCIC control terminal agency. (This authority and supervision may be delegated to responsible criminal justice agency personnel in the case of a satellite computer center being serviced through a state control terminal agency.) This screening will also apply to non-criminal justice maintenance or technical personnel.
  - c. All visitors to these computer centers must be accompanied by staff personnel at all times.
  - d. Computers having access to the NCIC must have the proper computer instructions written and other built-in controls to prevent criminal history data from being accessible to any terminals other than authorized terminals.
  - e. Computers having access to the NCIC must maintain a record of all transactions against the criminal history file in the same manner the NCIC computer logs all transactions. The NCIC identifies each specific agency entering or receiving information and maintains a record of those transactions. This transaction record must be monitored and reviewed on a regular basis to detect any possible misuse of criminal history data.
  - f. Each State Control terminal shall build its data system around a central computer, through which each inquiry must pass for screening and verification. The configuration and operation of the center shall provide for the integrity of the data base.

2. Communications:
  - a. Lines/channels being used to transmit criminal history information must be dedicated solely to criminal justice, i.e., there must be no terminals belonging to agencies outside the criminal justice system sharing these lines/channels.
  - b. Physical security of the lines/channels must be protected to guard against clandestine devices being utilized to intercept or inject system traffic.
3. Terminal Devices Having Access to NCIC:
  - a. All authorized users having terminal on this system must be required to physically place these terminals in secure locations within the authorized agency.
  - b. The authorized users having terminals with access to criminal history must screen terminal operators and restrict access to the terminal to a minimum number of authorized employees.
  - c. Copies of criminal history data obtained from terminal devices must be afforded security to prevent any unauthorized access to or use of the data.
  - d. All remote terminals on NCIS III will maintain a manual or automated log of computerized criminal history inquiries with notations of individuals making requests for records for a minimum of one year.

*Retention and disposal:*

Unless otherwise removed, records will be retained in files as follows:

- A. Vehicle File:
  - a. Unrecovered stolen vehicle records (including snowmobile records) which do not contain vehicle identification numbers (VIN) or Owner-applied number (OAN) therein, will be purged from file 90 days after date of entry. Unrecovered stolen vehicle records (including snowmobile records) which contain VINS or OANs will remain in file for the year of entry plus 4.
  - b. Unrecovered vehicles wanted in conjunction with a felony will remain in file for 90 days after entry. In the event a longer retention period is desired, the vehicle must be reentered.
  - c. Unrecovered stolen VIN plates, certificates of origin or title, and serially numbered stolen vehicle engines or transmissions will remain in file for the year of entry plus 4. (Job No. NC1-65-82-4, Part E. 13 h.(12))
- B. License Plate File: Unrecovered stolen license plates will remain in file for one year after the end of the plate's expiration year as shown in the record. (Job no. NC1-65-82-4, Part E. 13 h. (2))
- C. Boat file: Unrecovered stolen boat records, which contain a hull serial number or an OAN, will be retained in file for the balance of the year entered plus 4. Unrecovered stolen boat records which do not contain a hull serial number or an OAN will be purged from file 90 days after date of entry. (Job No. NC1-65-82-4, Part E. 13 h. (6))
- D. Gun File:
  - a. Unrecovered weapons will be retained in file for an indefinite period until action is taken by the originating agency to clear the record.
  - b. Weapons entered in file as "recovered" weapons will remain in file for the balance of the year entered plus 2. (Job No. NC1-65-82-4, Part E. 13 h. (3))
- E. Article File: Unrecovered stolen articles will be retained for the balance of the year entered plus one year. (Job No. NC1-65-82-4, Part E. 13 h. (4))
- F. Securities File: Unrecovered stolen, embezzled or counterfeited securities will be retained for the balance of the year entered plus 4, except for travelers checks and money orders, which will be retained for the balance of the year entered plus 2. (Job No. NC1-65-82-4, Part E. 13 h. (5))
- G. Wanted Person File: Person not located will remain in file indefinitely until action is taken by the originating agency to clear the record (except "Temporary Felony Wants", which will be automatically removed from the file after 48 hours". (Job No. NC1-65-87-114, Part E. 13 h. (7))
- H. Foreign Fugitive File: Person not located will remain in file indefinitely until action is taken by the originating agency to clear the record.
- I. Interstate Identification Index File: When an individual reaches age of 99. (Job No. N1-65-95-03)
- J. Witness Security Program File: Will remain in file until action is taken by the U.S. Marshals Service to clear or cancel the records.
- K. BATF Violent Felon File: Will remain in file until action is taken by the BATF to clear or cancel the records.
- L. Missing Persons File: Will remain in the file until the individual is located or action is taken by the originating agency to clear the record. (Job No. NC1-65-87-11, Part E 13h (8))
- M.U.S. Secret Service Protective File: Will be retained until names are removed by the U.S. Secret Service.

N. Violent Criminal Gang File: Records will be subject to mandatory purge if inactive for five years.

O. Terrorist File: Records will be subject to mandatory purge if inactive for five years.

P. Unidentified Person File: Will be retained for the remainder of the year of entry plus 9.

*System manager(s) and address:*

Director, Federal Bureau of investigation, J. Edgar Hoover Building, 935 Pennsylvania Avenue, NW., Washington, DC 20535-0001.

*Notification procedure:*

Same as the above.

*Record access procedures:*

It is noted the Attorney General has exempted this system from the access and contest procedures of the Privacy Act. However, the following alternative procedures are available to a requester. The procedures by which an individual may obtain a copy of his or her criminal history record from a state or local criminal justice agency are detailed in 28 CFR 20.34 appendix and are essentially as follows:

If an individual has a criminal record supported by fingerprints and that record has been entered in the III System, it is available to that individual for review, upon presentation of appropriate identification and in accordance with applicable state and federal administrative and statutory regulations.

Appropriate identification includes being fingerprinted for the purpose of insuring that the individual is who the individual purports to be. The record on file will then be verified through comparison of fingerprints.

*Procedure:*

1. All requests for review must be made by the subject of the record through a law enforcement agency which has access to the III System. That agency within statutory or regulatory limits can require additional identification to assist in securing a positive identification.

2. If the cooperating law enforcement agency can make an identification with fingerprints previously taken which are on file locally and if the FBI identification number of the individual's record is available to that agency, it can make an on-line inquiry through NCIC to obtain the III System record or, if it does not have suitable equipment to obtain an on-line response, obtain the record from Clarksburg, West Virginia, by mail. The individual will then be afforded the opportunity to see that record.

3. Should the cooperating law enforcement agency not have the individual's fingerprints on file locally, it is necessary for that agency to relate the prints to an existing record by having the identification prints compared with those already on file in the FBI, or, possibly, in the state's central identification agency.

The procedures by which an individual may obtain a copy of his or her criminal history record from the FBI are set forth in 28 CFR 16.30-16.34.

*Contesting record procedures:*

The Attorney General has exempted this system from the contest procedures of the Privacy Act. Under the alternative procedures described above under "Record Access Procedures," the subject of the requested record shall request the appropriate arresting agency, court, or correctional agency to initiate action necessary to correct any stated inaccuracy in subject's record or provide the information needed to make the record complete. The subject of a record may also direct his/her challenge as to the accuracy or completeness of any entry on his/her record to the FBI, Criminal Justice Information Services (CJIS) Division, ATTN: SCU, Mod. D-2, 1000 Custer Hollow Road, Clarksburg, WV 26306. The FBI will then forward the challenge to the agency which submitted the data requesting that agency to verify or correct the challenged entry. Upon the receipt of an official communication directly from the agency which contributed the original information, the FBI CJIS Division will make any changes necessary in accordance with the information supplied by that agency.

*Record source categories:*

Information contained in the NCIC system is obtained from local, state, tribal, federal, foreign, and international criminal justice agencies.

*Systems exempted from certain provisions of the act:*

The Attorney General has exempted this system from subsection (c)(3) and (4); (d); (e)(1), (2), and (3); (e)(4)(G) and (H), (e)(8) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k)(3). Rules have been promulgated in accordance with the

requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

[From the Federal Register, Vol. 63, No. 34, February 20, 1998]

DEPARTMENT OF JUSTICE

**[AAG/A Order No. 146-97]**

**Privacy Act of 1974; Notice of Modified Systems of Records**

Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), the Department proposes to modify the following Privacy Act systems of records:

Antitrust Information Management System (AMIS)—Matter Report, Justice/ATR-006 (previously published on October 17, 1988 at 53 FR 40502)

Central Civil Rights Division Index File and Associated Records, Justice/CRT-001 (previously published on May 17, 1993 at 58 FR 28896)

Central Criminal Division Index File and Associated Records, Justice/CRM-001 (previously published on December 11, 1987 at 53 FR 47186)

Civil Division Case File System, Justice/CIV-001 (previously published on October 17, 1988 at 53 FR 40504)

Civil Case Files, Justice/USA-005 (previously published on January 22, 1988 at 53 FR 1864)

Criminal Case Files, Justice/USA-007 (previously published on January 22, 1988 at 53 FR 1861)

FBI Central Records System, Justice/FBI-002 (previously published on October 5, 1993 at 58 FR 51858)

Tax Division Central Classification Cards, Index Docket Cards, and Associated Records—Criminal Tax Cases, Justice/TAX-001 (previously published on September 30, 1977 at 42 FR 53389)

Tax Division Central Classification Cards, Index Docket Cards, and Associated Records—Civil Tax Cases, Justice/TAX-002 (previously published on September 30, 1977 at 42 FR 53390)

The Department proposes to add a new routine use disclosure to all of the above-named systems of records. The routine use will permit disclosure of health care-related information obtained during health-care related investigations. In addition, the Department proposes to add an additional routine use disclosure to the Central Civil Rights Division Index File and Associated Records system to permit the disclosure of information regarding the progress and results of investigations to the complainants and/or victims involved. The proposed disclosures have been italicized for the reader's convenience. The modified systems of records are printed below.

Title 5 U.S.C. 552a(e)(4) and (11) provide that the public be given a 30-day period in which to comment on proposed new routine use disclosures. The Office of Management and Budget (OMB), which has oversight responsibilities under the Act, requires a 40-day period in which to conclude its review of the new routine uses.

Therefore, please submit any comments by March 23, 1998. The public, OMB, and the Congress are invited to send written comments to Patricia E. Neely, Program Analyst, Information Management and Security Staff, Justice Management Division, Department of Justice, Washington, DC 20530 (Room 850, WCTR Building).

In accordance with 5 U.S.C. 552a(r), the Department has provided a report to OMB and the Congress on the proposed modification.

Dated: December 31, 1997.

STEPHEN R. COLGATE,  
*Assistant Attorney General for Administration.*

\* \* \* \* \*

*JUSTICE/FBI-002*

*System name:*

The FBI Central Records System.

*System location:*

a. Federal Bureau of Investigation, J. Edgar Hoover Building, 10th and Pennsylvania Avenue, NW, Washington DC 20535; b. 56 field divisions (see Appendix); c. 16 Legal Attache (see Appendix).

*Categories of individuals covered by the system:*

- a. Individuals who relate in any manner to official FBI investigations including, but not limited to subjects, suspects, victims, witnesses, and close relatives and associates who are relevant to an investigation.
- b. Applicants for and current and former personnel of the FBI and persons related thereto who are considered relevant to an applicant investigation, personnel inquiry, or other personnel matters.
- c. Applicants for and appointees to sensitive positions in the United States Government and persons related thereto who are considered relevant to the investigation.
- d. Individuals who are the subject of unsolicited information, who offer unsolicited information, request assistance, and make inquiries concerning record material, including general correspondence, and contacts with other agencies, businesses, institutions, clubs; the public and the news media.
- e. Individuals associated with administrative operations or services including pertinent functions, contractors and pertinent persons related thereto. (All manner of information concerning individuals may be acquired in connection with and relating to the varied investigative responsibilities of the FBI which are further described in "CATEGORIES OF RECORDS IN THE SYSTEM." Depending on the nature and scope of the investigation this information may include, among other things, personal habits and conduct, financial information, travel and organizational affiliation of individuals. The information collected is made a matter of record and placed in FBI files.)

*Categories of records in the system:*

The FBI Central Records Systems—The FBI utilizes a central records system of maintaining its investigative, personnel, applicant, administrative, and general files. This system consists of one numerical sequence of subject matter files, an alphabetical index to the files, and a supporting abstract system to facilitate processing and accountability of all important mail placed in files. This abstract system is both a textual and an automated capability for locating mail. Files kept in FBI field offices are also structured in the same manner, except they do not utilize an abstract system.

The 281 classifications used by the FBI in its basic filing system pertain primarily to Federal violations over which the FBI has investigative jurisdiction. However, included in the 281 classifications are personnel, applicant, and administrative matters to facilitate the overall filing scheme. These classifications are as follows (the word "obsolete" following the name of the classification indicates the FBI is no longer initiating investigative cases in these matters, although the material is retained for reference purposes):

1. Training Schools; National Academy Matters: FBI National Academy Applicants. Covers general information concerning the FBI National Academy, including background investigations of individual candidates.
2. Neutrality Matters. Title 18, United States Code, Sections 956 and 958 962; Title 22, United States Code, Sections 1934 and 401.
3. Overthrow or Destruction of the Government. Title 18, United States Code, Section 2385.
4. National Firearms Act, Federal Firearms Act; State Firearms Control Assistance Act; Unlawful Possession or Receipt of Firearms. Title 26, United States Code, Sections 5801–5812; Title 18, United States Code, Sections 921–928; Title 18, United States Code, Sections 1201–1203.
5. Income Tax. Covers violations of Federal income tax laws reported to the FBI. Complaints are forwarded to the Commissioner of the Internal Revenue Service.
6. Interstate Transportation of Strikebreakers. Title 18, United States Code, Section 1231.
7. Kidnapping. Title 28, United States Code, Sections 1201 and 1202.
8. Migratory Bird Act. Title 18, United States Code, Section 43; Title 16, United States Code, Section 703 through 718.
9. Extortion. Title 18, United States Code, Sections 876, 877, 875, and 873.
10. Red Cross Act. Title 18, United States Code, Sections 706 and 917.
11. Tax (Other than Income). This classification covers complaints concerning violations of Internal Revenue law as they apply to other than alcohol, social security and income and profits taxes, which are forwarded to the Internal Revenue Service.
12. Narcotics. This classification covers complaints received by the FBI concerning alleged violations of Federal drug laws. Complaints are forwarded to the headquarters of the Drug Enforcement Administration (DEA), or the nearest district office of DEA.

13. Miscellaneous. Section 125, National Defense Act, Prostitution; Selling Whiskey Within Five Miles of An Army Camp, 1920 only. Subjects were alleged violators of abuse of U.S. flag, fraudulent enlistment, selling liquor and operating houses of prostitution within restricted bounds of military reservations. Violations of Section 13 of the Selective Service Act (Conscription Act) were enforced by the Department of Justice as a war emergency measure with the Bureau exercising jurisdiction in the detection and prosecution of cases within the purview of that Section.

14. Sedition. Title 18, United States Code, Sections 2387, 2388, and 2391.

15. Theft from Interest Shipment. Title 18, United States Code, Section 859; Title 18, United States Code, Section 660; Title 18 United States Code, Section 2117.

16. Violations of Federal Injunction (obsolete). Consolidated into Classification 69, "Contempt of Court".

17. Fraud Against the Government, Department of Veterans Affairs, Department of Veterans Affairs Matters. Title 18, United States Code, Section 287, 289, 290, 371, or 1001, and Title 38, United States Code, Sections 787(a), 787(b), 3405, 3501, and 3502.

18. May Act. Title 18, United States Code, Section 1384.

19. Censorship Matter (obsolete). Pub. L. 77th Congress.

20. Federal Grain Standards Act (obsolete) 1920 only. Subjects were alleged violators of contracts for sale. Shipment of Interstate Commerce, Section 5, U.S. Grain Standards Act.

21. Food and Drugs. This classification covers complaints received concerning alleged violations of the Food, Drug and Cosmetic Act; Tea Act; Import Milk Act; Caustic Poison Act; and Filled Milk Act. These complaints are referred to the Commissioner of the Food and Drug Administration of the field component of that Agency.

22. National Motor Vehicle Traffic Act, 1922–27 (obsolete). Subjects were possible violators of the National Motor Vehicle Theft Act, Automobiles seized by Prohibitions Agents.

23. Prohibition. This classification covers complaints received concerning bootlegging activities and other violations of the alcohol tax laws. Such complaints are referred to the Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, or field representatives of the Agency.

24. Profiteering 1920–42 (obsolete). Subjects are possible violators of the Lever Act—Profiteering in food and clothing or accused company was subject of file. Bureau conducted investigations to ascertain profits.

25. Selective Service Act; Selective Training and Service Act. Title 50, United States Code, Section 462; Title 50, United States Code, Section 459.

26. Interstate Transportation of Stolen Motor Vehicle; Interstate Transportation of Stolen Aircraft. Title 18, United States Code, Sections 2311 (in part), 2312, and 2313.

27. Patent Matter. Title 35, United States Code, Sections 104 and 105.

28. Copyright Matter. Title 17, United States Code, Sections 104 and 105.

29. Bank Fraud and Embezzlement. Title 18, United States Code, Sections 212, 213, 215, 334, 655–657, 1004–1006, 1008, 1009, 1014, and 1306; Title 12, United States Code, Section 1725(g).

30. Interstate Quarantine Law, 1922–25 (obsolete). Subjects alleged violators of Act of February 15, 1893, as amended, regarding interstate travel of persons afflicted with infectious diseases. Cases also involved unlawful transportation of animals, Act of February 2, 1903. Referrals were made to Public Health Service and the Department of Agriculture.

31. White Slave Traffic Act. Title 18, United States Code, Section 2421–2424.

32. Identification (Fingerprint) Matters. This classification covers general information concerning Identification (fingerprint) matters.

33. Uniform Crime Reporting. This classification covers general information concerning the Uniform Crime Reports, a periodic compilation of statistics of criminal violations throughout the United States.

34. Violation of Lacy Act. 1922–43. (obsolete) Unlawful Transportation and shipment of black bass and fur seal skins.

35. Civil Service. This classification covers complaints received by the FBI concerning Civil Service matters which are referred to the Office of Personnel Management in Washington or regional offices of that Agency.

36. Mail Fraud. Title 18, United States Code, Section 1341.

37. False Claims Against the Government. 1921–22 (obsolete). Subjects submitted claims for allotment, vocational training, compensation as veterans under the Sweet Bill. Letters were generally referred elsewhere (Veterans Bureau). Violators apprehended for violation of Article No. 1, War Risk Insurance Act.

38. Application for Pardon to Restore Civil Rights. 1921–35 (obsolete). Subjects allegedly obtained their naturalization papers by fraudulent means. Cases later referred to Immigration and Naturalization Service.

39. Falsely Claiming Citizenship (obsolete). Title 18, United States Code, Sections 911 and 1015(a)(b).

40. Passport and Visa Matter. Title 18, United States Code, Sections 1451–1546.

41. Explosives (obsolete). Title 50, United States Code, Sections 121 through 144.

42. Deserter; Deserter, Harboring. Title 10, United States Code, Sections 808 and 885.

43. Illegal Wearing of Uniforms; False Advertising or Misuse of Names, Words, Emblems or Insignia; Illegal Manufacturer, Use, Possession, or Sale of Emblems and Insignia; Illegal Manufacture, Possession, or Wearing of Civil Defense Insignia; Miscellaneous, Forging or Using Forged Certificate of Discharge from Military or Naval Service; Miscellaneous, Falsely Making or Forging Naval, Military, or Official Pass; Miscellaneous, Forging or Counterfeiting Seal of Department or Agency of the United States, Misuse of the Great Seal of the United States or of the Seals of the President or the Vice President of the United States; Unauthorized Use of “Johnny Horizon” Symbol; Unauthorized Use of Smokey Bear Symbol. Title 18, United States Code, Sections 702, 703, and 704; Title 18, United States Code, Sections 701, 705, 707, and 710; Title 36, United States Code, Section 182; Title 50, Appendix, United States Code, Section 2284; Title 46, United States Code, Section 249; Title 18, United States Code, Sections 498, 499, 506, 709, 711, 711a, 712, 713, and 714; Title 12, United States Code, Sections 1457 and 1723a; Title 22, United States Code, Section 2518.

44. Civil Rights; Civil Rights, Election Laws, Voting Rights Act, 1965, Title 18, United States Code, Sections 241, 242, and 245; Title 42, United States Code, Section 1973; Title 18, United States Code, Section 243; Title 18, United States Code, Section 244, Civil Rights Act—Federally Protected Activities; Civil Rights Act—Overseas Citizens Voting Rights Act of 1975.

45. Crime on the High Seas (includes stowaways on boats and aircraft). Title 18, United States Code, Sections 7, 13, 1243, and 2199.

46. Fraud Against the Government (includes Department of Health, Education and Welfare; Department of Labor (CETA), and Miscellaneous Government Agencies), Anti-Kickback Statute; Department Assistance Act of 1950; False Claims, Civil; Federal-Aid Road Act; Lead and Zinc Act; Public Works and Economic Development Act of 1965; Renegotiation Act, Criminal; Renegotiation Act, Civil; Trade Expansion Act of 1962; Unemployment Compensation Statutes; Economic Opportunity Act, Title 50, United States Code, Section 1211 et seq.; Title 31, United States Code, Section 231; Title 41, United States Code, Section 119; Title 40, United States Code, Section 489.

47. Impersonation. Title 18, United States Code, Sections 912, 913, 915, and 916.

48. Postal Violation (Except Mail Fraud). This classification covers inquiries concerning the Postal Service and complaints pertaining to the theft of mail. Such complaints are either forwarded to the Postmaster General or the nearest Postal Inspector.

49. Bankruptcy Fraud. Title 18, United States Code, Sections 151–155.

50. Involuntary Servitude and Slavery. U.S. Constitution, 13th Amendment; Title 18, United States Code, Sections 1581–1588, 241, and 242.

51. Jury Panel Investigations. This classification covers jury panel investigations which are requested by the appropriate Assistant Attorney General as authorized by 28 U.S.C. 533 and AG memorandum 781, dated November 9, 1972. These investigations can be conducted only upon such request and consist of an indices and arrest check, and only in limited important trials where defendant could have influence over a juror.

52. Theft, Robbery, Embezzlement, Illegal Possession or Destruction of Government Property. Title 18, United States Code, Sections 641, 1024, 1660, 2112, and 2114. Interference With Government Communications, Title 18, United States Code, Section 1632.

53. Excess Profits on Wool. 1918 (obsolete). Subjects possible violators of Government Control of Wool Clip Act of 1918.

54. Customs Laws and Smuggling. This classification covers complaints received concerning smuggling and other matters involving importation and entry of merchandise into and the exportation of merchandise from the United States. Complaints are referred to the nearest district office of the U.S. Customs Service or the Commissioner of Customs, Washington, DC.

55. Counterfeiting. This classification covers complaints received concerning alleged violations of counterfeiting of U.S. coins, notes, and other obligations and secu-

rities of the Government. These complaints are referred to either the Director, U.S. Secret Service, or the nearest office of that Agency.

56. Election Laws. Title 18, United States Code, Sections 241, 242, 245, and 591–607; Title 42, United States Code, Section 1973; Title 26, United States Code, Sections 9012 and 9042; Title 2, United States Code, Sections 431–437, 439, and 441.

57. War Labor Dispute Act (obsolete). Pub. L. 89—77th Congress.

58. Corruption of Federal Public Officials. Title 18, United States Code, Sections 201–203, 205–211; Public Law 89–4 and 89–136.

59. World War Adjusted Compensation Act of 1924–44 (obsolete). Bureau of Investigation was charged with the duty of investigating alleged violations of all sections of the World War Adjusted Compensation Act (Pub. L. 472, 69th Congress (H.R. 10277)) with the exception of Section 704.

60. Anti-Trust, Title 15, United States Code, Sections 1–7, 12–27, and 13.

61. Treason or Misprision of Treason. Title 18, United States Code, Sections 2381, 2382, 2389, 2390, 756, and 757.

62. Administrative Inquiries. Misconduct Investigations of Officers and Employees of the Department of Justice and Federal Judiciary; Census Matters (Title 13, United States Code, Sections 211–214, 221–224, 304, and 305) Domestic Police Cooperation; Eight-Hour-Day Law (Title 40, United States Code, Sections 321, 332, 325a, 326); Fair Credit Reporting Act (Title 15, United States Code, Sections 1681q and 1681r); Federal Cigarette Labeling and Advertising Act (Title 15, United States Code, Section 1333); Federal Judiciary Investigations; Kickback Racket Act (Title 18, United States Code, Section 874); Lands Division Matter, other Violations and/or Matters; Civil Suits—Miscellaneous; Soldiers' and Sailors' Civil Relief Act of 1940 (Title 50, Appendix, United States Code, Sections 510–590); Tariff Act of 1930 (Title 19, United States Code, Section 1304); Unreported Interstate Shipment of Cigarettes (Title 15, United States Code, Sections 375 and 376); Fair Labor Standards Act of 1938 (Wages and Hours Law) (Title 29, United States Code, Sections 201–219); Conspiracy (Title 18, United States Code, Section 371 (formerly Section 88, Title 18, United States Code); effective September 1, 1948).

63. Miscellaneous—Nonsubversive. This classification concerns correspondence from the public which does not relate to matters within FBI jurisdiction.

64. Foreign Miscellaneous. This classification is a control file utilized as a repository for intelligence information of value identified by country. More specific categories are placed in classification 108–113.

65. Espionage. Attorney General Guidelines on Foreign Counterintelligence; Internal Security Act of 1950; Executive Order 11905.

66. Administrative Matters. This classification covers such items as supplies, automobiles, salary matters and vouchers.

67. Personnel Matters. This classification concerns background investigations of applicants for employment with the FBI and folders for current and former employees.

68. Alaskan matters (obsolete). This classification concerns FBI investigations in the Territory of Alaska prior to its becoming a State.

69. Contempt of Court. Title 18, United States Code, Sections 401, 402, 3285, 3691, 3692; Title 10, United States Code, Section 847; and Rule 42, Federal Rules of Criminal Procedure.

70. Crime on Government Reservation. Title 18, United States Code, Sections 7 and 13.

71. Bills of Lading Act, Title 49, United States Code, Section 121.

72. Obstruction of Criminal Investigations: Obstruction of Justice, Obstruction of Court Orders. Title 18, United States Code, Sections 1503 through 1510.

73. Application for Pardon After Completion of Sentence and Application for Executive Clemency. This classification concerns the FBI's background investigation in connection with pardon applications and request for executive clemency.

74. Perjury. Title 18, United States Code, Sections 1621, 1622, and 1623.

75. Bondsmen and Sureties. Title 18, United States Code, Section 1506.

76. Escaped Federal Prisoner. Escape and Rescue; Probation Violator, Parole Violator, Mandatory, Release Violator. Title 18, United States Code, Sections 751–757, 1072; Title 18, United States Code, Sections 3651–3656; and Title 18, United States Code, Sections 4202–4207, 5037, and 4161–4166.

77. Applicants (Special Inquiry, Departmental and Other Government Agencies, except those having special classifications). This classification covers the background investigations conducted by the FBI in connection with the aforementioned positions.

78. Illegal Use of Government Transportation Requests. Title 18, United States Code, Section 287, 495, 508, 641, 1001 and 1002.

79. Missing Persons. This classification covers the FBI's Identification Division's assistance in the locating of missing persons.

80. Laboratory Research Matters. At FBI Headquarters this classification is used for Laboratory research matters. In field office files this classification covers the FBI's public affairs matters and involves contact by the FBI with the general public, Federal and State agencies, the Armed Forces, Corporations, the news media and other outside organizations.

81. Gold Hoarding, 1933–45. (obsolete) Gold Hoarding investigations conducted in accordance with an Act of March 9, 1933 and Executive Order issued August 28, 1933. Bureau instructed by Department to conduct no further investigations in 1935 under the Gold Reserve Act of 1934. Thereafter, all correspondence referred to Secret Service.

82. War Risk Insurance (National Life Insurance (obsolete)). This classification covers investigations conducted by the FBI in connection with civil suits filed under this statute.

83. Court of Claims. This classification covers requests for investigations of cases pending in the Court of Claims from the Assistant Attorney General in charge of the Civil Division of the Department of Justice.

84. Reconstruction Finance Corporation Act (obsolete). Title 15, United States Code, Chapter 14.

85. Home Owner Loan Corporation (obsolete). This classification concerned complaints received by the FBI about alleged violations of the Home Owners Loan Act, which were referred to the Home Owners Loan Corporation. Title 12, United States Code, Section 1464.

86. Fraud Against the Government—Small Business Administration. Title 15, United States Code, Section 645; Title 18, United States Code, Sections 212, 213, 215, 216, 217, 657, 658, 1006, 1011, 1013, 1014, 1906, 1907, and 1909.

87. Interstate Transportation of Stolen Property (Heavy Equipment—Commercialized Theft). Title 18, United States Code, Sections 2311, 2314, 2315 and 2318.

88. Unlawful Flight to Avoid Prosecution, Custody, or Confinement; Unlawful Flight to Avoid Giving Testimony. Title 18, United States Code, Sections 1073 and 1074.

89. Assaulting or Killing a Federal Officer, Crimes Against Family Members, Congressional Assassination Statute, Title 18, United States Code, Sections 1111, 1114, 2232.

90. Irregularities in Federal Penal Institutions. Title 18, United States Code, Sections 1791 and 1792.

91. Bank Burglary, Bank Larceny; Bank Robbery. Title 18, United States Code, Section 2113.

92. Racketeer Enterprise Investigations. Title 18, United States Code. Section 3237.

93. Ascertaining Financial Ability. This classification concerns requests by the Department of Justice for the FBI to ascertain a person's ability to pay a claim, fine or judgment obtained against him by the United States Government.

94. Research matters. This classification concerns all general correspondence of the FBI with private individuals which does not involve any substantive violation of Federal law.

95. Laboratory Cases (Examination of Evidence in Other Than Bureau's Cases). The classification concerns non-FBI cases where a duly constituted State, county or a municipal law enforcement agency in a criminal matter has requested an examination of evidence by the FBI Laboratory.

96. Alien Applicant (obsolete). Title 10, United States Code, Section 310.

97. Foreign Agents Registration Act. Title 18, United States Code, Section 951; Title 22, United States Code, Sections 611–621; Title 50, United States Code, Sections 851–857.

98. Sabotage. Title 18, United States Code, Sections 2151–2156; Title 50, United States Code, Section 797.

99. Plant Survey (obsolete). This classification covers a program wherein the FBI inspected industrial plants for the purpose of making suggestions to the operations of those plants to prevent espionage and sabotage.

100. Domestic Security. This classification covers investigations by the FBI in the domestic security field, e.g., Smith Act violations.

101. Hatch Act (obsolete). Public Law 252, 76th Congress.

102. Voorhis Act, Title 18, United States Code, Section 1386.

103. Interstate Transportation of Stolen Livestock, Title 18, United States Code, Sections 667, 2311, 2316 and 2317.

104. Servicemen's Dependents Allowance Act of 1942 (obsolete). Public Law 625, 77th Congress, Sections 115–119.

105. Foreign Counterintelligence Matters. Attorney General Guidelines on Foreign Counterintelligence. Executive Order 11905.

106. Alien Enemy Control; Escaped Prisoners of War and Internees, 1944–55 (obsolete). Suspects were generally suspected escaped prisoners of war, members of foreign organizations, failed to register under the Alien Registration Act. Cases ordered closed by Attorney General after alien enemies returned to their respective countries upon termination of hostilities.

107. Denaturalization Proceedings (obsolete). This classification covers investigation concerning allegations that an individual fraudulently swore allegiance to the United States or in some other manner illegally obtained citizenship to the U.S. Title 8, United States Code, Section 738.

108. Foreign Travel Control (obsolete). This classification concerns security-type investigations wherein the subject is involved in foreign travel.

109. Foreign Political Matters. This classification is a control file utilized as a repository for intelligence information concerning foreign political matters broken down by country.

110. Foreign Economic Matters. This classification is a control file utilized as a repository for intelligence information concerning foreign economic matters broken down by country.

111. Foreign Social Conditions. This classification is a control file utilized as a repository for intelligence information concerning foreign social conditions broken down by county.

112. Foreign Funds. This classification is a control file utilized as a repository for intelligence information concerning foreign funds broken down by country.

113. Foreign Military and Naval Matters. This classification is a control file utilized as a repository for intelligence information concerning foreign military and naval matters broken down by country.

114. Alien Property Custodian Matter (obsolete). Title 50, United States Code, Sections 1 through 38. This classification covers investigations concerning ownership and control of property subject to claims and litigation under this statute.

115. Bond Default; Bail Jumper. Title 18, United States Code, Sections 3146–3152.

116. Department of Energy Applicant; Department of Energy, Employee. This classification concerns background investigations conducted in connection with employment with the Department of Energy.

117. Department of Energy, Criminal. Title 42, United States Code, Sections 2011–2281; Public Law 93–438.

118. Applicant, Intelligence Agency (obsolete). This classification covers applicant background investigations conducted of persons under consideration for employment by the Central Intelligence Group.

119. Federal Regulation of Lobbying Act. Title 2, United States Code, Sections 261–270.

120. Federal Tort Claims Act, Title 28, United States Code, Sections 2671 to 2680. Investigations are conducted pursuant to specific request from the Department of Justice in connection with cases in which the Department of Justice represents agencies sued under the Act.

121. Loyalty of Government Employees (obsolete). Executive Order 9835.

122. Labor Management Relations Act, 1947. Title 29, United States Code, Sections 161, 162, 176–178 and 186.

123. Section inquiry, State Department, Voice of America (U.S. Information Center) (Public Law 402, 80th Congress) (obsolete). This classification covers loyalty and security investigations on personnel employed by or under consideration for employment for Voice of America.

124. European Recovery Program Administration, formerly Foreign Operations Administration, Economic Cooperation Administration or E.R.P., European Recovery Programs; A.I.D. Agency for International Development (obsolete). This classification covers security and loyalty investigation of personnel employed by or under consideration for employment with the European Recovery Program, Public Law 472, 80th Congress.

125. Railway Labor Act; Railway Labor Act—Employer's Liability Act Title 45, United States Code, Sections 151–163 and 181–188.

126. National Security Resources Board, Special Inquiry (obsolete). This classification covers loyalty investigations on employees and applicants of the National Security Resources Board.

127. Sensitive Positions in the United States Government, Public Law 266 (obsolete). Public Law 81st Congress.

128. International Development Program (Foreign Operations Administration) (obsolete). This classification covers background investigations conducted on individ-

uals who are to be assigned to duties under the International Development Program.

129. Evacuation Claims (obsolete). Public Law 886, 80th Congress.

130. Special Inquiry. Armed Forces Security Act (obsolete). This classification covers applicant-type investigations conducted for the Armed Forces security agencies.

131. Admiralty Matter. Title 46, United States Code, Sections 741–752 and 781–799.

132. Special Inquiry, Office of Defense Mobilization (obsolete). This classification covers applicant-type investigations of individuals associated with the Office of Defense Mobilization.

133. National Science Foundation Act, Applicant (obsolete). Public Law 507, 81st Congress.

134. Foreign Counterintelligence Assets. This classification concerns individuals who provide information to the FBI concerning Foreign Counterintelligence matters.

135. PROSAB (Protection of Strategic Air Command Bases of the U.S. Air Force (obsolete). This classification covered contacts with individuals with the aim to develop information useful to protect bases of the Strategic Air Command.

136. American Legion Contact (obsolete). This classification covered liaison contracts with American Legion offices.

137. Informants. Other than Foreign Counterintelligence Assets. This classification concerns individuals who furnish information to the FBI concerning criminal violations on a continuing and confidential basis.

138. Loyalty of Employees of the United Nations and Other Public International Organizations. This classification concerns FBI investigations based on referrals from the Office of Personnel Management wherein a question or allegation has been received regarding the applicant's loyalty to the U.S. Government as described in Executive Order 10422.

139. Interception of Communications (Formerly, Unauthorized Publication or Use of Communications). Title 47, United States Code, Section 605; Title 47, United States Code, Section 501; Title 18, United States Code, Sections 2510–2513.

140. Security of Government Employees; Fraud Against the Government, Executive Order 10450.

141. False Entries in Records of Interstate Carriers. Title 47, United States Code, Section 220; Title 49, United States Code, Section 20.

142. Illegal Use of Railroad Pass. Title 49, United States Code, Section 1.

143. Interstate Transport of Gambling Devices. Title 15, United States Code, Sections 1171 through 1180.

144. Interstate Transportation of Lottery Tickets. Title 18, United States Code, Section 1301.

145. Interstate Transportation of Obscene Materials. Title 18, United States Code, Sections 1462, 1464, and 1465.

146. Interstate Transportation of Prison-Made Goods. Title 18, United States Code, Sections 1761 and 1762.

147. Fraud Against the Government—Department of Housing and Urban Development, Matters. Title 18, United States Code, Sections 657, 709, 1006, and 1010; Title 12, United States Code, Sections 1709 and 1715.

148. Interstate Transportation of Fireworks. Title 18, United States Code, Section 836.

149. Destruction of Aircraft or Motor Vehicles. Title 18, United States Code, Section 31–35.

150. Harboring of Federal Fugitives, Statistics (obsolete).

151. (Referral cases received from the Office of Personnel Management under Pub. L. 298). Agency for International Development; Department of Energy; National Aeronautics and Space Administration; National Science Foundation; Peace Corps; Action; U.S. Arms Control and Disarmament Agency; World Health Organization; International Labor Organization; International Communications Agency. This classification covers referrals from the Office of Personnel Management where an allegation has been received regarding an applicant's loyalty to the U.S. Government. These referrals refer to applicants from Peace Corps; Department of Energy, National Aeronautics and Space Administration, Nuclear Regulatory Commission, United States Arms Control and Disarmament Agency and the International Communications Agency.

152. Switchblade Knife Act. Title 15, United States Code, Sections 1241–1244.

153. Automobile Information Disclosure Act. Title 15, United States Code, Sections 1231–1233.

154. Interstate Transportation of Unsafe Refrigerators. Title 15, United States Code, Sections 1211–1214.

155. National Aeronautics and Space Act of 1958. Title 18, United States Code, Section 799.
156. Employee Retirement Income Security Act. Title 29, United States Code, Sections 1021–1029, 1111, 1131, and 1141; Title 18, United States Code, Sections 644, 1027, and 1954.
157. Civil Unrest. This classification concerns FBI responsibility for reporting information on civil disturbances or demonstrations. The FBI's investigative responsibility is based on the Attorney General's Guidelines for Reporting on Civil Disorders and Demonstrations Involving a Federal Interest which became effective April 5, 1976.
158. Labor-Management Reporting and Disclosure Act of 1959 (Security Matter) (obsolete). Public Law 86–257, Section 504.
159. Labor-Management Reporting and Disclosure Act of 1959 (Investigative Matter). Title 29, United States Code, Sections 501, 504, 522, and 530.
160. Federal Train Wreck Statute. Title 18, United States Code, Section 1992.
161. Special Inquiries for White House, Congressional Committee and Other Government Agencies. This classification covers investigations requested by the White House. Congressional committees or other Government agencies.
162. Interstate Gambling Activities. This classification covers information acquired concerning the nature and scope of illegal gambling activities in each field office.
163. Foreign Police Cooperation. This classification covers requests by foreign police for the FBI to render investigative assistance to such agencies.
164. Crime Aboard Aircraft. Title 49, United States Code, Sections 1472 and 1473.
165. Interstate Transmission of Wagering Information. Title 18, United States Code, Section 1065.
166. Interstate Transportation in Aid of Racketeering. Title 18, United States Code, Section 1952.
167. Destruction of Interstate Property. Title 15, United States Code, Sections 1281 and 1282.
168. Interstate Transportation of Wagering Paraphernalia. Title 18, United States Code, Section 1953.
169. Hydraulic Brake Fluid Act (obsolete); 76 Stat. 437, Public Law 87–637.
170. Extremist Informants (obsolete). This classification concerns individuals who provided information on a continuing basis on various extremist elements.
171. Motor Vehicle Seat Belt Act (obsolete). Pub. L. 88–201, 80th Congress.
172. Sports Bribery. Title 18, United States Code, Section 244.
173. Public Accommodations. Civil Rights Act of 1964 Public Facilities; Civil Rights Act of 1964 Public Education; Civil Rights Act of 1964 Employment; Civil Rights Act of 1964. Title 42, United States Code, Section 2000; Title 18, United States Code, Section 245.
174. Explosives and Incendiary Devices; Bomb Threats (Formerly Bombing Matters; Bombing Matters, Threats). Title 18, United States Code, Section 844.
175. Assaulting, Kidnapping or Killing the President (or Vice President) of the United States. Title 18, United States Code, Section 1751.
176. Anti-riot Laws. Title 18, United States Code, Section 245.
177. Discrimination in Housing. Title 42, United States Code, Sections 3601–3619 and 3631.
178. Interstate Obscene or Harassing Telephone Calls. Title 47, United States Code, Section 223.
179. Extortionate Credit Transactions. Title 18, United States Code, Sections 891–896.
180. Desecration of the Flag. Title 18, United States Code, Section 700.
181. Consumer Credit Protection Act. Title 15, United States Code, Section 1611.
182. Illegal Gambling Business: Illegal Gambling Business, Obstruction; Illegal Gambling Business Forfeiture. Title 18, United States Code, Section 1955; Title 18, United States Code, Section 1511.
183. Racketeer, Influence and Corrupt Organizations. Title 18, United States Code, Sections 1961–1968.
184. Police Killings. This classification concerns investigations conducted by the FBI upon written request from local Chief of Police or duty constituted head of the local agency to actively participate in the investigation of the killing of a police officer. These investigations are based on a Presidential Directive dated June 3, 1971.
185. Protection of Foreign Officials and Officials Guests of the United States. Title 18, United States Code, Sections 112, 970, 1116, 1117, and 1201.
186. Real Estate Settlement Procedures Act of 1974. Title 12, United States Code, Section 2602; Title 12, United States Code, Section 2606, and Title 12, United States Code, Section 2607.

187. Privacy Act of 1974, Criminal. Title 5, United States Code, Section 552a.
188. Crime Resistance. This classification covers FBI efforts to develop new or improved approaches, techniques, systems, equipment and devices to improve and strengthen law enforcement as mandated by the Omnibus Crime Control and Safe Streets Act of 1968.
189. Equal Credit Opportunity Act. Title 15, United States Code, Section 1691.
190. Freedom of Information/Privacy Acts. This classification covers the creation of a correspondence file to preserve and maintain accurate records concerning the handling of requests for records submitted pursuant to the Freedom of Information—Privacy Acts.
191. False Identity Matters. (obsolete) This classification covers the FBI's study and examination of criminal elements' efforts to create false identities.
192. Hobbs Act—Financial Institutions; Commercial Institutions Armored Carrier. Title 18, United States Code, Section 1951.
193. Hobbs Act—Commercial Institutions (obsolete). Title 18, United States Code, Section 1951; Title 47, United States Code, Section 506.
194. Hobbs Act—Corruption of Public Officials. Title 18, United States Code, Section 1951.
195. Hobbs Act—Labor Related. Title 18, United States Code, Section 1951.
196. Fraud by Wire. Title 18, United States Code, Section 1343.
197. Civil Actions or Claims Against the Government. This classification covers all civil suits involving FBI matters and most administrative claims filed under the Federal Tort Claims Act arising from FBI activities.
198. Crime on Indian Reservations. Title 18, United States Code, Sections 1151, 1152, and 1153.
199. Foreign Counterintelligence—Terrorism. Attorney General Guidelines on Foreign Counterintelligence. Executive Order 11905.
200. Foreign Counterintelligence Matters. Attorney General Guidelines on Foreign Counterintelligence. Executive Order 11905.
201. Foreign Counterintelligence Matters. Attorney General Guidelines on Foreign Counterintelligence. Executive Order 11905.
202. Foreign Counterintelligence Matters. Attorney General Guidelines on Foreign Counterintelligence. Executive Order 11905.
203. Foreign Counterintelligence Matters. Attorney General Guidelines on Foreign Counterintelligence. Executive Order 11905.
204. Federal Revenue Sharing. This classification covers FBI investigations conducted where the Attorney General has been authorized to bring civil action whenever he has reason to believe that a pattern or practice of discrimination in disbursement of funds under the Federal Revenue Sharing status exists.
205. Foreign Corrupt Practices Act of 1977. Title 15, United States Code, Section 78.
206. Fraud Against the Government—Department of Defense, Department of Agriculture, Department of Commerce, Community Services Organization, Department of Transportation. (See classification 46 (supra) for a statutory authority for this and the four following classifications.)
207. Fraud Against the Government—Environmental Protection Agency, National Aeronautics and Space Administration, Department of Energy, Department of Transportation.
208. Fraud Against the Government—General Services Administration.
209. Fraud Against the Government—Department of Health and Human Services (Formerly Department of Health, Education, and Welfare).
210. Fraud Against the Government—Department of Labor.
211. Ethics in Government Act of 1978, Title VI (Title 28, Sections 591–596).
212. Foreign Counterintelligence—Intelligence Community Support. This is an administrative classification for the FBI's operational and technical support to other Intelligence Community agencies.
213. Fraud Against the Government—Department of Education.
214. Civil Rights of Institutionalized Persons Act (Title 42, United States Code, Section 1997).
215. Foreign Counterintelligence Matters. Attorney General Guidelines on Foreign Counterintelligence. Executive Order 11905.
216. thru 229. Foreign Counterintelligence Matters. (Same authority as 215.)
230. thru 240. FBI Training Matters.
241. DEA Applicant Investigations.
242. Automation Matters.
243. Intelligence Identities Protection Act of 1982.
244. Hostage Rescue Team.
245. Drug Investigative Task Force.

- 246 thru 248. Foreign Counterintelligence Matters. (Same authority as 215.)
249. Environmental Crimes—Investigations involving toxic or hazardous waste violations.
250. Tampering With Consumer Products (Title 18, U.S. Code, Section 1395).
251. Controlled Substance—Robbery;—Burglary (Title 18, U.S. Code, section 2118).
252. Violent Crime Apprehension Program (VICAP). Case folders containing records relevant to the VICAP Program, in conjunction with the National Center for the Analysis of Violent Crime Record System at the FBI Academy; Quantico, Virginia.
253. False Identification Crime Control Act of 1982 (Title 18, U.S. Code, Section 1028—Fraud and Related Activity in Connection With Identification Documents, and Section 1738—Mailing Private Identification Documents Without a Disclaimer).
254. Destruction of Energy Facilities (Title 18, U.S. Code, Section 1365) relates to the destruction of property of nonnuclear energy facilities.
255. Counterfeiting of State and Corporate Securities (Title 18, U.S. Code, Section 511) covers counterfeiting and forgery of all forms of what is loosely interpreted as securities.
256. Hostage Taking—Terrorism (Title 18, U.S. Code, Section 1203) prohibits taking of hostage(s) to compel third party to do or refrain from doing any act.
257. Trademark Counterfeiting Act (Title 18, United States Code, section 2320) covers the international trafficking in goods which bear a counterfeited trademark.
258. Credit Card Fraud Act of 1984 (Title 18, United States Code, section 1029) covers fraud and related activities in connection with access devices (credit and debit cards).
259. Security Clearance Investigations Program. (Same authority as 215.)
260. Industrial Security Program. (Same authority as 215.)
261. Security Officer Matters. (Same authority as 215.)
262. Overseas Homicide (Attempted Homicide—International Terrorism). Title 18, United States Code, Section 2331.
263. Office of Professional Responsibility Matters.
264. Computer Fraud and Abuse Act of 1986. Electronic Communications Privacy Act of 1986. Title 18, United States Code, Section 1030; Title 18, United States Code, Section 2701.
265. Acts of Terrorism in the United States—International Terrorist. (Followed by predicate offense from other classification.)
266. Acts of Terrorism in the United States—Domestic Terrorist. (Followed by predicate offense from other classification.)
267. Drug-Related Homicide. Title 21, U.S. Code, Section 848(e).
268. Engineering Technical Matters—FCI.
269. Engineering Technical Matters—Non-FCI.
270. Cooperative Witnesses.
271. Foreign Counterintelligence Matters. Attorney General Guidelines on Foreign Counterintelligence. Executive Order 11905.
272. Money Laundering. Title 18, U.S. Code, Sections 1956 and 1957.
273. Adoptive Forfeiture Matter—Drug. Forfeiture based on seizure of property by state, local or other Federal authority.
274. Adoptive Forfeiture Matter—Organized Crime. (Same explanation as 273.)
275. Adoptive Forfeiture Matter—White Collar Crime. (Same explanation as 273.)
276. Adoptive Forfeiture Matter—Violent Crime/Major Offenders Program. (Same explanation as 273.)
277. Adoptive Forfeiture Matter—Counterterrorism Program. (Same explanation as 273.)
278. Presidents Intelligence Oversight Board. Executive Order 12334.
279. Biological Weapons Anti-Terrorism Act of 1989. (Title 18, U.S. Code, Sections 175–179).
280. Equal Employment Opportunity Investigations.
281. Organized Crime Drug Investigations. Records Maintained in FBI Field Divisions—FBI field divisions maintain for limited periods of time investigative, administrative and correspondence records, including files, index cards and related material, some of which are duplicated copies of reports and similar documents forwarded to FBI Headquarters. Most investigative activities conducted by FBI field divisions are reported to FBI Headquarters at one or more stages of the investigation. There are, however, investigative activities wherein no reporting was made to FBI Headquarters, *e.g.*, pending cases not as yet reported and cases which were closed in the field division for any of a number of reasons without reporting to FBI Headquarters.

Duplicate records and records which extract information reported in the main files are also kept in the various divisions of the FBI to assist them in their day-to-day operation. These records are lists of individuals which contain certain biographic data, including physical description and photograph. They may also contain information concerning activities of the individual as reported to FBIHQ by the various field offices. The establishment of these lists is necessitated by the needs of the Division to have immediate access to pertinent information duplicative of data found in the central records without the delay caused by a time-consuming manual search of central indices. The manner of segregating these individuals varies depending on the particular needs of the FBI Division. The information pertaining to individuals who are a part of the list is derivative of information contained in the Central Records System. These duplicative records fall into the following categories:

(1) Listings of individuals used to assist in the location and apprehension of individuals for whom legal process is outstanding (fugitives):

(2) Listings of individuals used in the identification of particular offenders in cases where the FBI has jurisdiction. These listings include various photograph albums and background data concerning persons who have been formerly charged with a particular crime and who may be suspect in similar criminal activities; and photographs of individuals who are unknown but suspected of involvement in a particular criminal activity, for example, bank surveillance photographs:

(3) Listings of individuals as part of an overall criminal intelligence effort by the FBI. This would include photograph albums, lists of individuals known to be involved in criminal activity, including theft from interstate shipment, interstate transportation of stolen property, and individuals in the upper echelon of organized crime:

(4) Listings of individuals in connection with the FBI's mandate to carry out Presidential directives on January 8, 1943, July 24, 1950, December 15, 1953, and February 18, 1976, which designated the FBI to carry out investigative work in matters relating to espionage, sabotage, and foreign counterintelligence. These listings may include photograph albums and other listings containing biographic data regarding individuals. This would include lists of identified and suspected foreign intelligence agents and informants:

(5) Special indices duplicative of the central indices used to access the Central Records System have been created from time to time in conjunction with the administration and investigation of major cases. This duplication and segregation facilitates access to documents prepared in connection with major cases.

In recent years, as the emphasis on the investigation of white collar crime, organized crime, and hostile foreign intelligence operations has increased, the FBI has been confronted with increasingly complicated cases, which require more intricate information processing capabilities. Since these complicated investigations frequently involve massive volumes of evidence and other investigative information, the FBI uses its computers, when necessary to collate, analyze, and retrieve investigative information in the most accurate and expeditious manner possible. It should be noted that this computerized investigative information, which is extracted from the main files or other commercial or governmental sources, is only maintained as necessary to support the FBI's investigative activities. Information from these internal computerized subsystems of the "Central Records System" is not accessed by any other agency. All disclosures of computerized information are made in printed form or other appropriate format, in accordance with the routine uses which are set forth below and in compliance with applicable security requirements.

Records also are maintained on a temporary basis relevant to the FBI's domestic police cooperating program, where assistance in obtaining information is provided to state and local police agencies. Also, personnel type information, dealing with such matters as attendance and production and accuracy requirements is maintained by some divisions.

(The following chart identifies various listings or indexes maintained by the FBI which have been or are being used by various divisions of the FBI in their day-to-day operations. The chart identifies the list by name, description and use, and where maintained, i.e., FBI Headquarters and/or Field Office. The number of field offices which maintain these indices is also indicated. The list indicates those indexes which are in current use (designated by the word "active") and those which are no longer being used, although maintained (designated by the word "inactive"). There are 27 separate indices which are classified in accordance with existing regulations and are not included in this list. The following indices are no longer being used by the FBI and are being maintained at FBIHQ pending receipt of authority to destroy: Black Panther Party Photo Index; Black United Front Index; Security Index; and Wounded Knee Album.)

1. Administrative Index (ADEX). Consists of cards with descriptive data on individuals who were subject to investigation in a national emergency because they were believed to constitute a potential or active threat to the internal security of the United States. When ADEX was started in 1971, it was made up of people who were formerly on the Security Index, Reserve Index, and Agitator Index. This index is maintained in two separate locations in FBI Headquarters. ADEX was discontinued in January 1978. This list is inactive at FBI Headquarters and 29 Field Offices.

2. Anonymous Letter File. Consists of photographs of anonymous communications and extortionate credit transactions, kidnapping, extortion and threatening letters. It is active at FBI Headquarters.

3. Associates of DEA Class I Narcotics Violators Listing. Consists of a computer listing of individuals whom DEA has identified as associates of Class I Narcotics Violators. It is active at FBI Headquarters and 56 Field Offices.

4. Background Investigation Index—Department of Justice. Consists of cards on persons who have been the subject of a full field investigation in connection with their consideration of employment in sensitive positions with Department of Justice, such as U.S. Attorney, Federal judges, or a high level Department position. It is active at FBI Headquarters.

5. Background Investigation Index—White House, Other Executive Agencies, and Congress. Consists of cards on persons who have been the subject of a full field investigation in connection with their consideration for employment in sensitive positions with the White House, Executive agencies (other than the Department of Justice) and the Congress. Active at FBI Headquarters.

6. Bank Fraud and Embezzlement Index. Consists of individuals who have been the subject of "Bank Fraud and Embezzlement" investigation. This file is used as an investigative aid. It is active in one Field Office.

7. Bank Robbery Album. Consists of photos of bank robbers, burglars, and larceny subjects. In some field offices it will also contain pictures obtained from local police departments of known armed robbers and thus potential bank robbers. The index is used to develop investigative leads in bank robbery cases and may also be used to show to witnesses of bank robberies. It is usually filed by race, height, and age. This index is also maintained in one resident agency (a suboffice of a field office). Active in 47 Field Offices.

8. Bank Robbery Nickname Index. Consists of nicknames used by known bank robbers. The index cards on each would contain the real name and method of operation and are filed in alphabetical order. Active in one Field Office.

9. Bank Robbery Note File. Consists of photographs of notes used in bank robberies in which the suspect has been identified. This index is used to help solve robberies in which the subject has not been identified but a note was left. The role is compared with the index to try to match the sentence structure and handwriting for the purpose of identifying possible suspects. Active at FBI Headquarters.

10. Bank Robbery Suspect Index. Consists of a control file or index cards with photos, if available, of bank robbers or burglars. In some field offices these people may be part of a bank robbery album. This index is generally maintained and used in the same manner as the bank robbery album. Active in 33 Field Offices.

11. Car Ring Case Photo Album. Consists of photos of subjects and suspects involved in a large car theft ring investigation. It is used as an investigative aid. Active in one Field Office.

12. Car Ring Case Photo Album and Index. Consists of photos of subjects and suspects involved in a large car theft ring investigation. The card index maintained in addition to the photo album contains the names and addresses appearing on fraudulent title histories for stolen vehicles. Most of these names appearing on these titles are fictitious. But the photo album and card indexes are used as an investigative aid. Active in one Field Office.

13. Car Ring Case Toll Call Index. Consists of cards with information on persons who subscribe to telephone numbers to which toll calls have been placed by the major subjects of a large car theft ring investigation. It is maintained numerically by telephone number. It is used to facilitate the development of probable cause for a court-approved wiretap. Active in two Field Offices.

14. Car Ring Theft Working Index. Contains cards on individuals involved in car ring theft cases on which the FBI Laboratory is doing examination work. Active at FBI Headquarters.

15. Cartage Album. Consists of photos with descriptive data of individuals who have been convicted of theft from interstate shipment or interstate transportation of stolen property where there is a reason to believe they may request the offense. It is used in investigating the above violations. Active in three Field Offices.

16. Channelizing Index. Consists of cards with the names and case file numbers of people who are frequently mentioned in information reports. The index is used to facilitate the distributing or channeling of information reports to appropriate files. Active in nine Field Offices.

17. Check Circular File. Consists of fliers numerically in a control file on fugitives who are notorious fraudulent check passers and who are engaged in a continuing operation of passing checks. The fliers, which include the subject's name, photo, a summary of the subject's method of operation and other identifying data, are used to alert other FBI field offices and business establishments which may be the victims of bad checks.

18. Computerized Telephone Number File (CTNF) Intelligence. Consists of a computer listing of telephone numbers (and subscribers' names and addresses) utilized by subjects and/or certain individuals which come to the FBI's attention during major investigations. During subsequent investigations, telephone numbers, obtained through subpoena, are matched with the telephone numbers on file to determine connections or associations. Active at FBI Headquarters.

19. Con Man Index. Consists of computerized names of individuals, along with company affiliation, who travel nationally and internationally while participating in large-dollar-value financial swindles. Active in four Field Offices.

20. Confidence Game (Flim Flam) Album. Consists of photos with descriptive information on individuals who have been arrested for confidence games and related activities. It is used as an investigative aid. Active in one Field Office.

21. Copyright Matters Index. Consists of cards of individuals who are film collectors and film titles. It is used as a reference in the investigation of copyright matters. Active in one Field Office.

22. Criminal Intelligence Index. Consists of cards with name and file number of individuals who have become the subject of an antiracketeering investigation. The index is used as a quick way to ascertain file numbers and the correct spelling of names. This index is active in two Field Offices and one Resident Agency.

23. Criminal Informant Index. Consists of cards containing identity and brief background information on all active and inactive informants furnishing information in the criminal area. Active at FBI Headquarters.

24. DEA Class 1 Narcotics Violators Listing. Consists of a computer listing of narcotic violators—persons known to manufacture, supply, or distribute large quantities of illicit drugs—with background data. It is used by the FBI in their role of assisting DEA in disseminating intelligence data concerning illicit drug trafficking. This index is also maintained in two resident agencies.

25. Deserter Index. Contains cards with the names of individuals who are known military deserters. It is used as an investigative aid. Active in four Field Offices.

26. False Identities Index. Contains cards with the names of deceased individuals whose birth certificates have been obtained by other persons for possible false identification uses and in connection with which the FBI laboratory has been requested to perform examinations. Inactive at FBI Headquarters.

27. False Identities List. Consists of a listing of names of deceased individuals whose birth certificates have been obtained after the person's death, and thus whose names are possibly being used for false identification purposes. The listing is maintained as part of the FBI's program to find persons using false identities for illegal purposes. Inactive at 31 Field Offices.

28. False Identity Photo Album. Consists of names and photos of people who have been positively identified as using a false identification. This is used as an investigative aid in the FBI's investigation of false identities. Inactive in two Field Offices.

29. FBI/Inspector General (IG) Case Pointer System (FICPS). Consists of a computerized listing of individual names of organizations which are the subject of active and inactive fraud investigations, along with the name of the agency conducting the investigation. Data is available to IG offices throughout the federal government to prevent duplication of investigative activity. Active at FBI Headquarters.

30. FBI Wanted Persons Index. Consists of cards on persons being sought on the basis of Federal warrants covering violations which fall under the jurisdiction of the FBI. It is used as a ready reference to identify those fugitives. Active at FBI Headquarters.

31. Foreign Counterintelligence (FCI). Consists of cards with identity background data on all active and inactive operational and informational assets in the foreign counterintelligence field. It is used as a reference aid on the FCI Asset program. Active at FBI Headquarters.

32. Fraud Against the Government Index. Consists of individuals who have been the subject of a "fraud against the Government" investigation. It is used as an investigative aid. Active in one Field Office.

33. Fugitive Bank Robbers File. Consists of fliers on bank robbery fugitives filed sequentially in a control file. FBI Headquarters distributes to the field offices fliers on bank robbers in a fugitive status for 15 or more days to facilitate their location. Active at FBI Headquarters and in 43 Field Offices.

34. General Security Index. Contains cards on all persons that have been the subject of a security classification investigation by the FBI field office. These cards are used for general reference purposes. Active in one Field Office.

35. Hoodlum License Plate Index. Consists of cards with the license plate numbers and descriptive data on known hoodlums and cars observed in the vicinity of hoodlum homes. It is used for quick identification of such person in the course of investigation. The one index which is not fully retrievable is maintained by a resident agency. Active in three Field Offices.

36. Identification Order Fugitive Flier File. Consists of fliers numerically in a control file. When immediate leads have been exhausted in fugitive investigations and a crime of considerable public interest has been committed, the fliers are given wide circulation among law enforcement agencies throughout the United States and are posted in post offices. The fliers contain the fugitive's photograph, fingerprints, and description. Active at FBI Headquarters and in 49 Field Offices.

37. Informant Index. Consists of cards with the name, symbol numbers, and brief background information on the following categories of active and inactive informants, top echelon criminal informants, security informants, criminal information, operational and informational assets, extremist informants (discontinued), plant informant—informants on and about certain military basis (discontinued), and potential criminal informants. Active in 56 Field Offices.

38. Informants in Other Field Offices, Index of. Consist of cards with names and/or symbol numbers of informants in other FBI field offices that are in a position to furnish information that would also be included on the index card. Active in 15 Field Offices.

39. Interstate Transportation of Stolen Aircraft Photo Album. Consists of photos and descriptive data on individuals who are suspects known to have been involved in interstate transportation of stolen aircraft. It is used as an investigative aid. Active in one Field Office.

40. IRS Wanted List. Consists of one-page fliers from IRS on individuals with background information who are wanted by IRS for tax purposes. It is used in the identification of persons wanted by IRS. Active in 11 Field Offices.

41. Kidnapping Book. Consists of data, filed chronologically, on kidnappings that have occurred since the early fifties. The victims' names and the suspects, if known, would be listed with a brief description of the circumstances surrounding the kidnapping. The file is used as a reference aid in matching up prior methods of operation in unsolved kidnapping cases. Active at FBI Headquarters and inactive in four Field Offices.

42. Known Check Passers Album. Consists of photos with descriptive data of persons known to pass stolen, forged, or counterfeit checks. It is used as an investigative aid. Active in four Field Offices.

43. Known Gambler Index. Consists of cards with names, descriptive data, and sometimes photos of individuals who are known bookmakers and gamblers. The index is used in organized crime and gambling investigations. Subsequent to GAO's review, and at the recommendation of the inspection team at one of the two field offices where the index was destroyed and thus is not included in the total. Active in five Field Offices.

44. La Cosa Nostra (LCN) Membership Index. Contains cards on individuals having been identified as members of the LCN index. The cards contain personal data and pictures. The index is used solely by FBI agents for assistance in investigating organized crime matters. Active at FBI Headquarters and 55 Field Offices.

45. Leased Line Letter Request Index. Contains cards on individuals and organizations who are or have been the subject of a national security electronic surveillance where a leased line letter was necessary. It is used as an administrative and statistical aid. Active at FBI Headquarters.

46. Mail Cover Index. Consists of cards containing a record of all mail covers conducted on individuals and group since about January 1973. It is used for reference in preparing mail cover requests. Active at FBIHQ.

47. Military Deserter Index. Consists of cards containing the names of all military deserters where the various military branches have requested FBI assistance in locating. It is used as an administrative aid. Active at FBI Headquarters.

48. National Bank Robbery Album. Consists of fliers on bank robbery suspects held sequentially in a control file. When an identifiable bank camera photograph is available and the case has been under investigation for 30 days without identifying

the subject, FBIHQ sends a flier to the field offices to help identify the subject. Active at FBI Headquarters and in 42 Field Offices.

49. National Fraudulent Check File. Contains photographs of the signature on stolen and counterfeit checks. It is filed alphabetically but there is no way of knowing the names are real or fictitious. The index is used to help solve stolen check cases by matching checks obtained in such cases against the index to identify a possible suspect. Active at FBI Headquarters.

50. National Security Electronic Surveillance Card File. Contains cards recording electronic surveillances previously authorized by the Attorney General and previously and currently authorized by the FISC; current and previous assets in the foreign counterintelligence field; and a historical, inactive section which contains cards believed to record nonconsented physical entries in national security cases, previously toll billings, mail covers and leased lines. The inactive section also contains cards Attorney General approvals and denials for warrantless electronic surveillance in the national security cases. Inactive at FBI Headquarters.

51. Night Depository Trap Index. Contains cards with the names of persons who have been involved in the theft of deposits made in bank night depository boxes. Since these thefts have involved various methods, the FBI uses the index to solve such cases by matching up similar methods to identify possible suspects. Active at FBI Headquarters.

52. Organized Crime Photo Album. Consists of photos and background information on individuals involved in organized crime activities. The index is used as a ready reference in identifying organized crime figures within the field offices' jurisdiction. Active in 13 Field Offices.

53. Photospread Identification Elimination File. Consists of photos of individuals who have been subjects and suspects in FBI investigations. It also includes photos received from other law enforcement agencies. These pictures can be used to show witnesses of certain crimes. Active in 14 Field Offices.

54. Prostitute Photo Album. Consists of photos with background data on prostitutes who have prior local or Federal arrests for prostitution. It is used to identify prostitutes in connection with investigations under the White Slave Traffic Act. Active in four Field Offices.

55. Royal Canadian Mounted Policy (RCMP) Wanted Circular File. Consists of a control file of individuals with background information of persons wanted by the RCMP. It is used to notify the RCMP if an individual is located. Active in 17 Field Offices.

56. Security Informant Index. Consists of cards containing identity and brief background information on all active and inactive informants furnishing information in the criminal area. Active at FBI Headquarters.

57. Security Subjects Control Index. Consists of cards containing the names and case file numbers of individuals who have been subject to security investigations check. It is used as a reference source. Active in one Field Office.

58. Security Telephone Number Index. Contains cards with telephone subscriber information subpoenaed from the telephone company in any security investigation. It is maintained numerically by the last three digits in the telephone number. It is used for general reference purposes in security investigations. Active in one Field Office.

59. Selective Service Violators Index. Contains cards on individuals being sought on the basis of Federal warrants for violation of the Selective Service Act. Active at FBI Headquarters.

60. Sources of Information Index. Consists of cards on individuals and organizations such as banks, motels, local government that are willing to furnish information to the FBI with sufficient frequency to justify listing for the benefit of all agents. It is maintained to facilitate the use of such sources. Active in 10 Field Offices.

61. Special Services Index. Contains cards of prominent individuals who are in a position to furnish assistance in connection with FBI investigative responsibility. Active in 28 Field Offices.

62. Stolen Checks and Fraud by Wire Index. Consists of cards on individuals involved in check and fraud by wire violations. It is used as an investigative aid. Active in one Field Office.

63. Stop Notices Index. Consists of cards on names of subjects or property where the field office has placed a stop at another law enforcement agency or private business such as pawn shops in the event information comes to the attention of that agency concerning the subject or property. This is filed numerically by investigative classification. It is used to insure that the agency where the stop is placed is notified when the subject is apprehended or the property is located or recovered. Active in 43 Field Offices.

64. Surveillance Locator Index. Consists of cards with basic data on individuals and businesses which have come under physical surveillance in the city in which the field office is located. It is used for general reference purposes in antiracketeering investigations. Active in two Field Offices.

65. Telephone Number Index—Gamblers. Contains information on persons identified usually as a result of a subpoena for the names of subscribers to particular telephone numbers or toll records for a particular phone number of area gamblers and bookmakers. The index cards are filed by the last three digits of the telephone number. The index is used in gambling investigations. Active in two Field Offices.

66. Telephone Subscriber and Toll Records Check Index. Contains cards with information on persons identified as the result of a formal request or subpoena to the phone company for the identity of subscribers to particular telephone numbers. The index cards are filed by telephone number and would also include identity of the subscriber, billing party's identity, subscriber's address, date of request from the telephone company, and file number. Active in one Field Office.

67. Thieves, Couriers and Fences Photo Index. Consists of photos and background information on individuals who are or are suspected of being thieves, couriers, or fences based on their past activity in the area of interstate transportation of stolen property. It is used as an investigative aid. Active in four Field Offices.

68. Toll Record Request Index. Contains cards on individuals and organizations on whom toll records have been obtained in national security related cases and with respect to which FBIHQ had to prepare a request letter. It is used primarily to facilitate the handling of repeat requests on individuals listed. Active at FBIHQ.

69. Top Burglar Album. Consists of photos and background data of known and suspect top burglars involved in the area of interstate transportation of stolen property. It is used as an investigative aid. Active in four Field Offices.

70. Top Echelon Criminal Informer Program (TECIP) Index. Consists of cards containing identity and brief background information on individuals who are either furnishing high level information in the organized crime area or are under development to furnish such information. The index is used primarily to evaluate, corroborate, and coordinate informant information and to develop prosecutive data against racket figures under Federal, State, and local statutes. Active at FBI Headquarters.

71. Top Ten Program File. Consists of fliers, filed numerically in a control file, on fugitives considered by the FBI to be 1 of the 10 most wanted. Including a fugitive of the top 10 usually assures a greater national news coverage as well as nation-wide circulation of the flier. Active at FBI Headquarters and in 44 Field Offices.

72. Top Thief Program Index. Consists of cards of individuals who are professional burglars, robbers, or fences dealing in items likely to be passed in interstate commerce or who travel interstate to commit the crime. Usually photographs and background information would also be obtained on the index card. The index is used as an investigative aid. Active in 27 Field Offices.

73. Truck Hijack Photo Album. Contains photos and descriptive data of individuals who are suspected truck hijackers. It is used as an investigative aid and for displaying photos to witnesses and/or victims to identify unknown subjects in hijacking cases. Active in four Field Offices.

74. Truck Thief Suspect Photo Album. Consists of photos and background data on individuals previously arrested or are currently suspects regarding vehicle theft. The index is used as an investigative aid. Active in one Field Office.

75. Traveling Criminal Photo Album. Consists of photos with identifying data of individuals convicted of various criminal offenses and may be suspects in other offenses. It is used as an investigative aid. Active in one Field Office.

76. Veterans Administrative (VA)/Federal Housing Administration (FHA) Matters Index. Consists of cards of individuals who have been subject of an investigation relative to VA and FHA matters. It is used as an investigative aid. Active in one Field Office.

77. Wanted Fliers File. Consists of fliers, filed numerically in a control file, on badly wanted fugitives whose apprehension may be facilitated by a flier. The flier contains the names, photographs, aliases, previous convictions, and a caution notice. Active at FBI Headquarters and in 46 Field Offices.

78. Wheelindex. Contains the nicknames and the case file numbers of organized crime members. It is used in organized crime investigations. Active in one Field Office.

79. White House Special Index. Contains cards on all potential White House appointees, staff members, guests, and visitors that have been referred to the FBI by the White House security office for a records check to identify any adverse or derogatory information. This index is used to expedite such check in view of the tight timeframe usually required. Active at FBI Headquarters.

80. Witness Protection Program Index. Contains cards on individuals who have been furnished a new identity by the U.S. Justice Department because of their testimony in organized crime trials. It is used primarily to notify the U.S. Marshals Service when information related to the safety of a protected witness comes to the FBI's attention. Active at FBI Headquarters.

*Authority for maintenance of the system:*

Federal Records Act of 1950, Title 44, United States Code, chapter 31, section 3101; and title 36, Code of Federal Regulations, chapter XII, require Federal agencies to insure that adequate and proper records are made and preserved to document the organization, functions, policies, decisions, procedures and transactions and to protect the legal and financial rights of the Federal Government, title 28, United States Code, section 534, delegates authority to the Attorney General to acquire, collect, classify, and preserve identification, criminal identification, crime and other records.

*Routine uses of records maintained in the system, including categories of users and the purposes of such uses:*

Records, both investigative and administrative, are maintained in this system in order to permit the FBI to function efficiently as an authorized, responsive component of the Department of Justice. Therefore, information in this system is disclosed to officials and employees of the Department of Justice, and/or all components thereof, who have need of the information in the performance of their official duties.

Personal information from this system may be disclosed as a routine use to any Federal agency where the purpose in making the disclosure is compatible with the law enforcement purpose for which it was collected, e.g., to assist the recipient agency in conducting a lawful criminal or intelligence investigation, to assist the recipient agency in making a determination concerning an individual's suitability for employment and/or trustworthiness for employment and/or trustworthiness for access clearance purposes, or to assist the recipient agency in the performance of any authorized function where access to records in this system is declared by the recipient agency to be relevant to that function.

In addition, personal information may be disclosed from this system to members of the Judicial Branch of the Federal Government in response to a specific request, or at the initiation of the FBI, where disclosure appears relevant to the authorized function of the recipient judicial office or court system. An example would be where an individual is being considered for employment by a Federal judge. Information in this system may be disclosed as a routine use to any state or local government agency directly engaged in the criminal justice process, e.g., police, prosecution, penal, probation and parole, and the judiciary, where access is directly related to a law enforcement function of the recipient agency, e.g., in connection with a lawful criminal or intelligence investigation, or making a determination concerning an individual's suitability for employment as a state or local law enforcement employee or concerning a victim's compensation under a state statute. Disclosure to a state or local government agency, (a) not directly engaged in the criminal justice process or (b) for a licensing or regulatory function, is considered on an individual basis only under exceptional circumstances, as determined by the FBI.

Information in this system pertaining to the use, abuse or traffic of controlled substances may be disclosed as a routine use to federal, state or local law enforcement agencies and to licensing or regulatory agencies empowered to engage in the institution and prosecution of cases before courts and licensing boards in matters relating to controlled substances, including courts and licensing boards responsible for the licensing or certification of individuals in the fields of pharmacy and medicine.

*In any health care-related civil or criminal case, investigation, or matter, information indicating patient harm, neglect, or abuse, or poor or inadequate quality of care, at a health care facility or by a health care provider, may be disclosed as a routine use to any Federal, State, local, tribal, foreign, joint, international, or private entity that is responsible for regulating, licensing, registering, or accrediting any health care provider or health care facility, or enforcing any health care-related laws or regulations. Further, information indicating an ongoing quality of care problem by a health care provider or at a health care facility may be disclosed to the appropriate health plan. Additionally, unless otherwise prohibited by applicable law, information indicating patient harm, neglect, abuse, or poor or inadequate quality of care may be disclosed to the affected patient or his or her representative or guardian at the discretion of and in the manner determined by the agency in possession of the information. Information in this system may be disclosed as a routine use in a proceeding before a court of adjudicative body, e.g., the Equal Employment Opportunity Commission and the Merit Systems Protection Board, before which the FBI is au-*

thorized to appear, when (a) the FBI or any employee thereof in his or her official capacity, or (b) any employee in his or her individual capacity where the Department of Justice has agreed to represent the employee, or (c) the United States, where the FBI determines it is likely to be affected by the litigation, is a party to litigation or has an interest in litigation and such records are determined by the FBI to be relevant to the litigation.

Information in this system may be disclosed as a routine use to an organization or individual in both the public or private sector if deemed necessary to elicit information or cooperation from the recipient for use by the FBI in the performance of an authorized activity. An example would be where the activities of an individual are disclosed to a member of the public in order to elicit his/her assistance in our apprehension or detection efforts.

Information in this system may be disclosed as a routine use to an organization or individual in both the public or private sector where there is reason to believe the recipient is or could become the target of a particular criminal activity or conspiracy, to the extent the information is relevant to the protection of life or property.

Information in this system may be disclosed to legitimate agency of a foreign government where the FBI determines that the information is relevant to that agency's responsibilities, and dissemination serves the best interests of the U.S. Government, and where the purpose in making the disclosure is compatible with the purpose for which the information was collected.

Relevant information may be disclosed from this system to the news media and general public where there exists a legitimate public interest, e.g., to assist in the location of Federal fugitives, to provide notification of arrests, and where necessary for protection from imminent threat of life or property. This would include releases of information in accordance with 28 CFR 50.2.

A record relating to an actual or potential civil or criminal violation of the copyright statute, Title 17, United States Code, or the trademark statutes, Titles 15 and 17, U.S. Code, may be disseminated to a person injured by such violation to assist him/her in the institution or maintenance of a suit brought under such titles. The FBI has received inquiries from private citizens and Congressional offices on behalf of constituents seeking assistance in locating individuals such as missing children and heirs to estates. Where the need is acute, and where it appears FBI files may be the only lead in locating the individual, consideration will be given to furnishing relevant information to the requester. Information will be provided only in those instances where there are reasonable grounds to conclude from available information the individual being sought would want the information to be furnished, e.g., an heir to a large estate. Information with regard to missing children will not be provided where they have reached their majority.

Information contained in this system, may be made available to a Member of Congress or staff acting upon the member's behalf when the member of staff requests the information in behalf of and at the request of the individual who is the subject of the record.

A record from this system of records may be disclosed as a routine use to the National Archives and Records Administration and General Services Administration in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906, to the extent that legislation governing the records permits.

*Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:*

*Storage:*

The active main files are maintained in hard copy form and some inactive records are maintained on microfilm. Investigative information which is maintained in computerized form may be stored in memory, on disk storage, on computer tape, or on a computer printed listing.

*Retrievability:*

The FBI General Index must be searched to determine what information, if any, the FBI may have in its files. Index records, or pointers to specific FBI files, are created on all manner of subject matters, but the predominant type record is the name index record. It should be noted the FBI does not index all individuals who furnish information or all names developed during the course of an investigation. Only that information considered pertinent, relevant, or essential for future retrieval, is indexed. In certain major cases, individuals interviewed may be indexed to facilitate the administration of the investigation. The FBI has automated that portion of its index containing the most recent information—15 years for criminal related matters and 30 years for intelligence and other type matters.

Automation will not change the "Central Records System"; it will only facilitate more economic and expeditious access to the main files. Searches against the automated records are accomplished on a "batch off-line" basis for certain submitting agencies where the name search requests conform to FBI specified formats and also in an "on-line" mode with the use of video display terminals for other requests. The FBI will not permit any organization, public or private, outside the FBI to have direct access to the FBI indices system. All searches against the indices data base will be performed on site within FBI space by FBI personnel with the assistance of the automated procedures, where feasible. Automation of the various FBI field office indices was completed in 1989. This automation initiative has been on a "day-one" basis. This indices system points to specific files within a given field office. Additionally, certain complicated investigative matters may be supported by specialized computer systems or by individual microcomputers. Indices created in these environments are maintained as part of the particular computer system and accessible only through the system or through printed listings of the indices. Full text retrieval is used in a limited number of cases as an investigative technique. It is not part of the normal search process and is not used as a substitute for the General Index or computer indices mentioned above.

The FBI will transfer historical records to the National Archives consistent with 44 U.S.C. 2103. No record of individuals or subject matter will be retained for transferred files; however, a record of the file numbers will be retained to provide full accountability of FBI files and thus preserve the integrity of the filing system.

*Safeguards:*

Records are maintained in a restricted area and are accessed only by agency personnel. All FBI employees receive a complete background investigation prior to being hired. All employees are cautioned about divulging confidential information or any information contained in FBI files. Failure to abide by this provision violates Department of Justice regulations and may violate certain statutes providing maximum severe penalties of a ten thousand dollar fine or 10 years imprisonment or both. Employees who resign or retire are also cautioned about divulging information acquired in the jobs. Registered mail is used to transmit routine hard copy records between field offices. Highly classified records are hand carried by Special Agents or personnel of the Armed Forces Courier Service. Highly classified or sensitive privacy information, which is electronically transmitted between field offices, is transmitted in encrypted form to prevent interception and interpretation. Information transmitted in teletype form is placed in the main files of both the receiving and transmitting field offices. Field offices involved in certain complicated investigative matters may be provided with on-line access to the duplicative computerized information which is maintained for them on disk storage in the FBI Computer Center in Washington, DC, and this computerized data is also transmitted in encrypted form.

*Retention and disposal:*

As the result of an extensive review of FBI records conducted by NARA, records evaluated as historical and permanent will be transferred to the National Archives after established retention periods and administrative needs of the FBI have elapsed. As deemed necessary, certain records may be subject to restricted examination and usage, as provided by 44 U.S.C. section 2104.

FBI record disposition programs relevant to this System are conducted in accordance with the FBI Records Retention Plan and Disposition Schedule which was approved by the Archivist of the United States and the U.S. District Court, District of Columbia. Investigative, applicant and administrative records which meet the destruction criteria will be destroyed after 20 or 30 years at FBI Headquarters and after 1, 5, 10 or 20 years in FBI Field Offices. Historical records will be transferred to the National Archives after 30 or 50 years, contingent upon investigative and administrative needs. The administrative indices and listings described within this System were appraised separately and disposition authority established. (Job No. NC1-65-82-4 and amendments)

*System manager(s) and address:*

Director, Federal Bureau of Investigation, Washington, DC 20535.

*Notification procedure:*

Same as above.

*Record access procedures:*

A request for access to a record from the system shall be made in writing with the envelope and the letter clearly marked "Privacy Access Request". Include in the

request your full name, complete address, date of birth, place of birth, notarized signature, and other identifying data you may wish to furnish to assist in making a proper search of our records. Also include the general subject matter of the document of its file number. The requester will also provide a return address for transmitting the information. Requests for access to information maintained at FBI Headquarters must be addressed to the Director, Federal Bureau of Investigation, Washington, DC 20535. Requests for information maintained at FBI field divisions or Legal Attaches must be made separately and addressed to the specific field division or Legal Attache listed in the appendix to this system notice.

*Contesting record procedures:*

Individuals desiring to contest or amend information maintained in the system should also direct their request to the Director, Federal Bureau of Investigation, Washington, DC 20535, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

*Record source categories:*

The FBI, by the very nature and requirement to investigate violations of law within its investigative jurisdiction and its responsibility for the internal security of the United States, collects information from a wide variety of sources. Basically, it is the result of investigative efforts and information furnished by other Government agencies, law enforcement agencies, and the general public, informants, witnesses, and public source material.

*Systems exempted from certain provisions of the act:*

The Attorney General has exempted this system from subsections (c)(3), (d), (e)(1), (2) and (3), (e)(4) (G) and (H), (e)(8) (f), (g), of the Privacy Act pursuant to 5 U.S.C. 552a (j) and (k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e).

APPENDIX OF FIELD DIVISIONS AND LEGAL ATTACHES FOR THE FEDERAL BUREAU OF INVESTIGATION FIELD DIVISIONS; JUSTICE/FBI-999

5th Floor, 445 Broadway, Albany, NY 12201.  
 POB 25186, Albuquerque, NM 87125.  
 POB 100560, Anchorage, AK 99510.  
 POB 1683, Atlanta, GA 30370.  
 7142 Ambassador Road, Baltimore, MD 21207.  
 2122 Building, Birmingham, AL 35203.  
 One Center Plaza, Suite 600, Boston, MA 02108.  
 111 West Huron Street, Buffalo, NY 14202.  
 6010 Kenley Lane, Charlotte, NC 28217.  
 219 S. Dearborn St., Chicago, IL 60604.  
 POB 1277, Cincinnati, OH 45201.  
 1240 E. 9th St., Cleveland, OH 44199.  
 POB 137, Columbia, SC 29202.  
 1801 W. Lamar, Dallas, TX 75202.  
 POB 1229, Denver, CO 80201.  
 POB 2118, Detroit, MI 48231.  
 700 E. San Antonio Ave., El Paso, TX 79901.  
 POB 50164, Honolulu, HI 96850.  
 POB 61369, Houston, TX 77208.  
 POB 1186, Indianapolis, IN 45206.  
 100 W. Capitol St., Jackson, MS 39269.  
 POB 8928, Jacksonville, FL 32239.  
 POB 2449, Kansas City, MO 64142.  
 POB 10368, Knoxville, TN 37919.  
 POB 16032, Las Vegas, NV 89101.  
 POB 21470, Little Rock, AR 72221-1470.  
 11000 Wilshire Blvd., Los Angeles, CA 90024.  
 POB 2467, Louisville, KY 40201.  
 167 N. Main St., Memphis, TN 38103.  
 POB 592418, Miami, FL 33159.  
 POB 2058, Milwaukee, WI 53201.  
 111 Washington Ave. South S-1100, Minneapolis, MN 55401.  
 POB 2128, Mobile, AL 36652.  
 POB 1158, Newark, NJ 07101.  
 POB 2058, New Haven, CT 06521.

POB 51930, New Orleans, LA 70151.  
 POB 1425, New York, NY 10008.  
 POB 3828, Norfolk, VA 23514.  
 POB 54511, Oklahoma City, OK 73154.  
 POB 548, Omaha, NE 68101.  
 600 Arch St., Philadelphia, PA 19106.  
 201 E. Indianola, Phoenix, AZ 85012.  
 POB 1315, Pittsburgh, PA 15230.  
 POB 709, Portland, OR 97207.  
 POB 12325, Richmond, VA 23241.  
 POB 13130, Sacramento, CA 95813.  
 POB 7251, St. Louis, MO 63177.  
 125 S. State St., Salt Lake City, UT 84138.  
 POB 1630, San Antonio, TX 78296.  
 880 Front St., San Diego, CA 92188.  
 POB 36015, San Francisco, CA 94102.  
 POB BT, San Juan, PR 00936.  
 915 2nd Ave., Seattle, WA 98174.  
 POB 3646, Springfield, IL 62708.  
 POB 172177, Tampa, FL 33602.  
 Washington Field Office, Washington, DC 20535.  
 Federal Bureau of Investigation Academy, Quantico, VA 22135.  
 Legal Attaches: (Send c/o the American Embassy for the Cities indicated).  
 Athens, Greece (PSC 108, Box 45, APO AE 09842)  
 Bangkok, Thailand (Box 67, APO AP 96546).  
 Bern, Switzerland.  
 Bogota, Columbia (APO, Miami 34038).  
 Bonn, Germany (Box 310, APO, New York 09080).  
 Bridgetown, Barbados (Box B, FPO, Miami 34054).  
 Brussels, Belgium (APO, New York 09667).  
 Canberra, Australia (APO, San Francisco 96404-0001).  
 Caracas, Venezuela (Unit 4966, APO AA 34037).  
 Hong Kong, B.C.C. (FPO, San Francisco 96659-0002).  
 London, England (Box 2, FPO, New York 09509).  
 Madrid, Spain (PSC 61, Box 0001, APO AE 09642).  
 Manila, Philippines (APO, San Francisco 96528).  
 Mexico City, Mexico (POB 3087, Laredo, TX 78044-3087).  
 Montevideo, Uruguay (APO, Miami 34035).  
 Ottawa, Canada.  
 Panama City, Panama (Box E, APO, Miami 34002).  
 Paris, France (APO, New York 09777).  
 Rome, Italy (APO, New York 09794).  
 Tokyo, Japan (APO, San Francisco 96503).  
 Vienna, Austria (Unit 27937, Box 37, APO AE 09222).

[From the Federal Register, Vol. 66, No. 61, March 29, 2001]

## DEPARTMENT OF JUSTICE

### [AAG/A Order No. 223-2001]

#### Privacy Act of 1974; Systems of Records

Pursuant to the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, notice is given that the Department of Justice proposes to modify the following systems of records:

ATR-006	Antitrust Information Management System (AMIS)—Matter Report .....	2-20-98	63 FR 8660.
CIV-001	Civil Division Case File System .....	2-20-98	63 FR 8665.
CRM-001	Central Criminal Division Index File and Associated Records .....	2-20-98	63 FR 8663.
CRM-012	Organized Crime and Racketeering Section, General Index File and Associated Records.	11-26-90	55 FR 49147.
CRT-001	Central Civil Rights Division Index File and Associated Records .....	2-20-98	63 FR 8661.
FBI-002	The FBI Central Records System .....	2-20-98	63 FR 8671.
TAX-001	Tax Division Central Classification Cards, Index Docket Cards, and Associated Records—Criminal Tax Cases.	2-20-98	63 FR 8684.
TAX-002	Tax Division Central Classification Cards, Index Docket Cards, and Associated Records—Civil Tax Cases.	2-20-98	63 FR 8685.

USA-005 Civil Case Files .....	2-20-98	63 FR 8666.
USA-007 Criminal Case Files .....	12-21-99	64 FR 71499.

The Department has modified the above systems of records to include a new routine use that allows disclosure of information relating to health care fraud to private health plans, associations of private health plans, health insurers, and associations of health insurers, for the following purposes: To promote the coordination of efforts to prevent, detect, investigate, and prosecute health care fraud; to assist victims of such fraud to obtain restitution; to enable private health plans to participate in health care fraud task force activities; and to assist tribunals having jurisdiction over claims against private health plans. It should be noted that with regard to taxpayer information, the addition of this routine use is not intended to affect the confidentiality of such taxpayer information as provided for in 26 U.S.C. 6103.

In accordance with 5 U.S.C. 552a(e)(4) and (11), the public is given a 30-day period in which to comment; and the Office of Management and Budget (OMB), which has oversight responsibility under the Privacy Act, requires a 40-day period in which to conclude its review of the system. Therefore, please submit any comments by [30 days after publication in the Federal Register]. The public, OMB, and the Congress are invited to submit any comments to Mary E. Cahill, Management and Planning Staff, Justice Management Division, United States Department of Justice, Washington, DC 20530-0001 (Room 1400, National Place Building).

A description of the modification to the Department's systems of records is provided below. In accordance with 5 U.S.C. 552a(r), the Department has provided a report to OMB and the Congress.

Dated: March 19, 2001.

STEPHEN R. COLGATE,  
*Assistant Attorney General for Administration.*

*DOJ Privacy Act Systems of Records*

- ATR-006 Antitrust Information Management System (AMIS)—Matter Report.
- CIV-001 Civil Division Case File System.
- CRM-001 Central Criminal Division Index File and Associated Records.
- CRM-012 Organized Crime and Racketeering Section, General Index File and Associated Records.
- CRT-001 Central Civil Rights Division Index File and Associated Records.
- FBI-002 The FBI Central Records System.
- TAX-001 Tax Division Central Classification Cards, Index Docket Cards, and Associated Records—Criminal Tax Cases.
- TAX-002 Tax Division Central Classification Cards, Index Docket Cards, and Associated Records—Civil Tax Cases.
- USA-005 Civil Case Files.
- USA-007 Criminal Case Files.

\* \* \* \* \*

*Routine Uses of Records Maintained in the System, Including Categories of Users and the Purposes of Such Uses:*

Information relating to health care fraud may be disclosed to private health plans, or associations of private health plans, and health insurers, or associations of health insurers, for the following purposes: to promote the coordination of efforts to prevent, detect, investigate, and prosecute health care fraud; to assist efforts by victims of health care fraud to obtain restitution; to enable private health plans to participate in local, regional, and national health care fraud task force activities; and to assist tribunals having jurisdiction over claims against private health plans.

\* \* \* \* \*

[FR Doc. 01-7676 Filed 3-28-01; 8:45 am]

**BILLING CODE 4410-14-M**

[From the Federal Register, Vol. 58, No. 191, October 5, 1993]

DEPARTMENT OF JUSTICE

[AAG/A Order No. 79-93]

\* \* \* \* \*

*JUSTICE/FBI-015**System name:*

National Center for the Analysis of Violent Crime (NCAVC).

*System location:*

Federal Bureau of Investigation, Training Division, FBI Academy, Behavioral Science Unit, Quantico, Virginia 22135.

*Categories of individuals covered by the system:*

A. Individuals who relate in any manner to official FBI investigations into violent crimes including, but not limited to, subjects, suspects, victims, witnesses, close relatives, medical personnel, and associates who are relevant to an investigation.

B. Individuals who are the subject of unsolicited information or who offer unsolicited information, and law enforcement personnel who request assistance and/or make inquiries concerning records.

C. Individuals who are the subject of violent crime research studies including, but not limited to, criminal personality profiles, scholarly journals, and news media references.

*Categories of records in the system:*

The National Center for the Analysis of Violent Crime will maintain in both manual and automated formats case investigation reports on all forms of solved and unsolved violent crimes. These violent crimes include, but are not limited to, acts or attempted acts of murder, kidnapping, incendiary arson or bombing, rape, physical torture, sexual trauma, or evidence of violent forms of death. Less than ten percent of the records which are analyzed may not be directly related to violent activities.

A. Violent Criminal Apprehension Program (VICAP) case reports submitted to the FBI by a duly constituted Federal, State, county, *municipal*, or *foreign* law enforcement agency in any violent criminal matter. VICAP reports include, but are not limited to, crime scene descriptions, victim and offender descriptive data, laboratory reports, criminal history records, court records, news media references, crime scene photographs, and statements.

B. Violent crime case reports submitted by FBI headquarters or field offices, and case reports submitted to the FBI by a duly constituted Federal, State, county, *municipal*, or *foreign* law enforcement agency in any violent criminal matter.

C. Violent crime research studies, scholarly journal articles, textbooks, training materials, and news media references of interest to NCAVC personnel.

D. An index of all detected trends, patterns, profiles and methods of operation of known and unknown violent criminals whose records are maintained in the system.

E. An index of the names, addresses, and contact telephone numbers of professional individuals and organizations who are in a position to furnish assistance to the FBI's NCAVC operation.

F. An index of public record sources for historical, statistical and demographic data collected by the U.S. Bureau of the Census.

G. An alphabetical name index pertaining to all individuals whose records are maintained in the system.

*Authority for maintenance of the system:*

44 U.S.C. Section 3101; 41 CFR subpart 101-11.2 and 28 U.S.C. Section 534.

*Routine uses of records maintained in the system, including categories of users and the purposes of such uses:*

Currently, the NCAVC is administered by the FBI through its Training Division, located at the FBI Academy, Quantico, Virginia. Its primary mission is to consolidate research, training, and operational support activities for the express purposes of providing expertise to any legitimate law enforcement agency confronted with unusual, bizarre, and/or particularly vicious or repetitive violent crimes.

Records described above are maintained in this system to permit the FBI to function efficiently as an authorized, responsive component of the Department of Justice. Therefore, the information in this system is disclosed to officials and employees of the Department of Justice, and/or all components thereof, who need the information to perform their official duties.

Information in this system may be disclosed as a routine use to any Federal, State, local, or foreign government agency directly engaged in the criminal justice process where access is directly related to a law enforcement function of the recipient agency in connection with the tracking identification, and apprehension of persons believed to be engaged in repeated or exceptionally violent acts of criminal behavior.

Information in this system may be disclosed as a routine use in a proceeding before a court or adjudicative body, e.g., the Equal Employment Opportunity Commission and the Merit Systems Protection Board, before which the FBI is authorized to appear, when (a) the FBI or any employee thereof in his or her official capacity, or (b) any employee in his or her individual capacity where the Department of Justice has agreed to represent the employee, or (c) the United States, where the FBI determines it is likely to be affected by the litigation, is a party to litigation or has an interest in litigation and such records are determined by the FBI to be relevant to the litigation.

Information in this system may be disclosed as a routine use to an organization or individual in both the public or private sector pursuant to an appropriate legal proceeding or, if deemed necessary, to elicit information or cooperation from the recipient for use by the FBI in the performance of an authorized activity. An example could be where the activities of an individual are disclosed to a member of the public to elicit his/her assistance in FBI apprehension or detection efforts.

Information in this system may be disclosed as a routine use to an organization or individual in the public or private sector where there is reason to believe the recipient is or could become the target of a particular criminal activity or conspiracy and to the extent the information is relevant to the protection of life or property.

Relevant information may be disclosed from this system to the news media and general public where there exists a legitimate public interest. Examples would include: To obtain public or media assistance in the tracking, identifying, and apprehending of persons believed to be engaged in repeated acts of violent criminal behavior; to notify the public and/or media of arrests; to protect the public from imminent threat to life or property where necessary; and to disseminate information to the public and/or media to obtain cooperation with violent crime research, evaluation, and statistical programs.

Information in this system may be disclosed as is necessary to appropriately respond to congressional inquiries on behalf of constituents.

A record from a system of records may be disclosed as a routine use to the National Archives and Records Administration (NARA) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906 to the extent that legislation governing the record permits.

*Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:*

*Storage:*

Information in the system is stored manually in locked file cabinets, either in its natural state or on microfilm, at the NCAVC in Quantico, Virginia. The active main files are maintained in hard copy form and some inactive records are maintained on microfilm.

In addition, some of the information is stored in computerized data storage devices at the NCAVC and FBI Computer Center in Washington, DC. Investigative information which is maintained in computerized form may be stored in memory on disk storage on computer tape, or on computer printed listings.

*Retrievability:*

On-line computer access to NCAVC files is achieved by using the following search descriptors:

A. A data base which contains the names of individuals, their birth dates, physical descriptions, and other identification numbers such as FBI numbers, if such have been assigned.

B. Summary variables contained on VICAP reports submitted to the NCAVC as previously described.

C. Key words citations to violent crime research studies, scholarly journal articles, textbooks, training materials, and media references.

*Safeguards:*

Records are maintained in restricted areas and accessed only by FBI employees. All FBI employees receive a complete pre-employment background investigation. All employees are cautioned about divulging confidential information or any information contained in FBI files. Failure to abide by this provision violates Department of Justice regulations and may violate certain statutes providing maximum severe penalties of a ten thousand dollar fine or 10 years' imprisonment or both. Employees who resign or retire are also cautioned about divulging information acquired in the job.

Registered mail is used to transmit routine hard copy records between field offices. Highly classified records are hand carried by Special Agents or personnel of

the Armed Forces Courier Service. Highly classified or sensitive privacy information, which is electronically transmitted between field offices and to and from FBI Headquarters, is transmitted in encrypted form to prevent interception and interpretation.

Information transmitted in teletype form between the NCAVC in Quantico, Virginia and the FBI Computer Center in Washington, DC, is encrypted prior to transmission at both places to ensure confidentiality and security of the data.

FBI field offices involved in certain complicated, investigative matters may be provided with on-line access to the computerized information which is maintained for them on disc storage in the FBI Computer Center in Washington, DC. This computerized data is also transmitted in encrypted form.

*Retention and disposal:*

Records are proposed for destruction after 50 years or upon termination of the program, whichever is earlier. The disposition schedule is pending with NARA as Job No. N1-65-88-13.

*System manager(s) and address:*

Director, Federal Bureau of Investigation, 10th and Pennsylvania Avenue NW., Washington, DC 20535.

*Notification procedure:*

Address inquiries to the System Manager.

*Record access procedures:*

Requests for access to records in this system shall be made in writing with the envelope and the letter clearly marked "Privacy Access Request." The request must provide the full name, complete address, date of birth, place of birth, and notarized signature of the individual who is the subject of the record requested. The request should also include the general subject matter of the document or its file number—along with any other known information which may assist in making a search of the records. The request must also provide a return addressing for transmitting the information. Access requests should be addressed to the Director, Federal Bureau of Investigation, Washington, DC 20535.

*Contesting record procedures:*

Individuals desiring to contest or amend information maintained in the system should also direct their request to the Director, Federal Bureau of Investigation, Washington, DC 20535. The request should state clearly and concisely (1) the reasons for contesting the information, and (2) the proposed amendment to the information.

*Record source categories:*

The FBI, by the very nature of its responsibilities to investigate violations of law within its investigative jurisdiction and ensure the internal security of the United States, collects information from a wide variety of sources. Basically, information is obtained, as a result of investigative efforts, from other Government agencies, law enforcement agencies, the general public, informants, witnesses, and public source material.

*Systems exempted from certain provisions of the act:*

The Attorney General has exempted this system from subsections (c)(3), (d), (e)(1), (e)(4) (G) and (H), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c), and (e).

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[From the Federal Register, Vol. 66, No. 121, June 22, 2001]

DEPARTMENT OF JUSTICE

**[AAG/A Order No. 233-2001]**

**Privacy Act of 1974; System of Records**

**AGENCY:** Federal Bureau of Investigation, DOJ.

**ACTION:** Notice.

**SUMMARY:** Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), and Office of Management and Budget (OMB) Circular No. A-130, notice is hereby given that the Department of Justice, Federal Bureau of Investigation (FBI), is establishing ten

“blanket” routine uses to be applicable to more than one FBI system of records. Further, the FBI is modifying the following systems of records:

Bureau Mailing Lists, Justice/FBI-003 (previously published on October 5, 1993, at 58 FR 51846); and

Electronic Surveillance (ELSUR) Indices, Justice/FBI-006 (previously published on March 10, 1992, at 57 FR 8473).

*Opportunity for Comment:* The Privacy Act (5 U.S.C. 552a(e)(r) and (11)) requires that the public be given 30 days in which to comment on any new or amended uses of information in a system of records. In addition, in accordance with Privacy Act requirements (5 U.S.C. 552a(r)), the Department of Justice has provided a report on these modifications to OMB and the Congress. OMB, which has oversight responsibilities under the Act, requires that OMB and the Congress be given 40 days in which to review major changes to Privacy Act systems. Therefore, the public, OMB, and the Congress are invited to submit written comments on this modification.

*Address Comments or Request for Further Information to:* Mary E. Cahill, Management Analyst, Management and Planning Staff, Justice Management Division, Department of Justice, 1400 National Place, Washington, DC 20530.

**EFFECTIVE DATE:** These proposed changes will be effective August 1, 2001, unless comments are received that result in a contrary determination.

**SUPPLEMENTARY INFORMATION:** The FBI is proposing to establish ten blanket routine uses in order to: (1) Foster greater public understanding by simplifying and consolidating FBI Privacy Act issuances; (2) minimize through use of standardized wording the potential for misunderstanding or misinterpretation which might arise from unintended variations in different versions of common routine uses; and (3) reduce costs and duplication of effort in the publication and maintenance of FBI Privacy Act issuances. Unless this or other published notice expressly provides otherwise, these blanket routine uses will apply to existing FBI systems of records as indicated below and to all FBI systems of records created or modified hereafter. However, the FBI is not at this time applying blanket routine uses to the National DNA Index System (NDIS) (Justice/FBI-017) or to the National Instant Criminal Background Check System (NICS) (Justice/FBI-018). (Any blanket routine uses which the FBI may in the future propose to apply to these two systems will be implemented by express reference in revisions to the respective systems notices.)

In large part these blanket routine uses standardize wording of routine uses already promulgated for one or more FBI or DOJ systems. The wording of a blanket use may differ somewhat from the existing counterpart(s). These differences generally do not reflect substantially different uses; however, some uses are clarified or broadened as to when and to whom disclosures may be made. Furthermore, Blanket Routine Use 9 is a new use not now reflected in any FBI system.

Upon taking effect, these blanket routine uses will apply to the FBI systems indicated below:

National Crime Information Center (NCIC), JUSTICE/FBI-001 (last published in the Federal Register on September 28, 1999, at 64 FR 52343);

FBI Central Records System, JUSTICE/FBI-002 (last published in the Federal Register on February 20, 1998, at 63 FR 8671);

Bureau Mailing Lists, JUSTICE/FBI-003 (published in today's Federal Register);  
Electronic Surveillance (ELSUR) Indices, JUSTICE/FBI-006 (published in today's Federal Register);

FBI Automated Payroll System, JUSTICE/FBI-007 (last published in the Federal Register on October 5, 1993, at 58 FR 51874);

Bureau Personnel Management System (BPMS), JUSTICE/FBI-008 (last published in the Federal Register on October 5, 1993, at 58 FR 51875);

Fingerprint Identification Records System (FIRS), JUSTICE/FBI-009 (last published in the Federal Register on September 28, 1999, at 64 FR 52347);

Employee Travel Vouchers and Individual Earning Records, JUSTICE/FBI-010 (last published in the Federal Register on December 11, 1987, at 52 FR 47248);

Employee Health Records, JUSTICE/FBI-011 (last published in the Federal Register on October 5, 1993, at 58 FR 51875);

Time Utilization Record/Keeping (TURK) System, JUSTICE/FBI-012 (last published in the Federal Register on October 5, 1993, at 58 FR 51876);

Security Access Control System (SACS), JUSTICE/FBI-013 (last published in the Federal Register on October 5, 1993, at 58 FR 51877);

FBI Alcoholism Program, JUSTICE/FBI-014 (last published in the Federal Register on December 11, 1987, at 52 FR 47251);

National Center for the Analysis of Violent Crime (NCAVC), JUSTICE/FBI-015 (last published in the Federal Register on October 5, 1993, at 58 FR 51877);

FBI/Counterdrug Information Indices Systems (CIIS), JUSTICE/FBI-016 (last published in the Federal Register on June 9, 1994, at 59 FR 29824);

The routine uses currently published for each system will also continue to apply to that system. As individual FBI system notices are hereafter revised, we will eliminate individual system routine uses which duplicate blanket routine uses and add express reference to the applicability of the blanket routine uses.

The Department is also modifying the Bureau Mailing Lists and the ELSUR systems of records in order to clarify and more accurately describe them. The Bureau Mailing Lists system notice is being modified to clarify the categories of individuals covered by the system, the categories of records in the system, and the record access procedures. The existing routine uses are modified to include a system specific routine use which permits the disclosure of system records to public and/or private entities where such disclosures may promote, assist, or otherwise serve law enforcement interests. The notice also provides that records can be disclosed in accordance with the blanket routine uses that are concurrently being established for FBI records systems.

The ELSUR notice is being modified to include a new category of records in the system, "reference records." Additionally, the ELSUR notice clarifies the record access procedures. The routine uses for the ELSUR system were also modified to reflect three additional system specific routine uses which permit the disclosure of system records to public and/or private entities where: (1) Such disclosures may promote, assist, or otherwise serve law enforcement interests; (2) the FBI deems it reasonable and helpful in eliciting information or cooperation from the recipient for use by the FBI in the performance of an authorized function; or (3) there is reason to believe that a person or entity could become the target of a particular criminal activity or conspiracy. In addition, the notice provides that records may be disclosed pursuant to the proposed blanket routine uses being published simultaneously herein.

Both the Bureau Mailing Lists and the ELSUR systems are being republished to reflect these and other minor changes, including the addition of a "Purpose" section to both notices.

A description of the proposed ten blanket routine uses and the modification to the Bureau Mailing Lists and the ELSUR systems of records is provided below.

Dated: June 11, 2001.

JANIS A. SPOSATO,  
*Acting Assistant Attorney General for Administration.*

*JUSTICE/FBI-BRU*

**SUBJECT:**

Blanket Routine Uses (BRU) Applicable to More Than One FBI Privacy Act System of Records.

**APPLICABILITY:**

The following routine uses describe those types of disclosures which are common to more than one FBI Privacy Act system of records and which the FBI is establishing as "blanket" routine uses. Unless this or other published notice expressly provides otherwise, these blanket routine uses shall apply, without need of further implementation, to every existing FBI Privacy Act system of records and to all FBI systems of records created or modified hereafter. These blanket routine uses supplement but do not replace any routine uses that are separately published in the notices of individual record systems to which the blanket routine uses apply.

**ROUTINE USES OF RECORDS MAINTAINED IN FBI SYSTEMS, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

System records may be disclosed to the following persons or entities under the circumstances or for the purposes described below, to the extent such disclosures are compatible with the purpose for which the information was collected. (These routine uses are not meant to be mutually exclusive and may overlap in some cases.)

BRU-1. Violations of Law, Regulation, Rule, Order, or Contract. If any system record, on its face or in conjunction with other information, indicates a violation or potential violation of law (whether civil or criminal), regulation, rule, order, or contract, the pertinent record may be disclosed to the appropriate entity (whether federal, state, local, joint, tribal, foreign, or international), that is charged with the responsibility of investigating, prosecuting, and/or enforcing such law, regulation, rule, order, or contract.

BRU-2. Non-FBI Employees. To contractors, grantees, experts, consultants, students, or other performing or working on a contract, service, grant, cooperative agreement, or other assignment for the Federal Government, when necessary to accomplish an agency function.

BRU-3. Appropriate Disclosures to the Public. To the news media or members of the general public in furtherance of a legitimate law enforcement or public safety function as determined by the FBI, e.g., to assist in locating fugitives; to provide notifications of arrests; to provide alerts, assessments, or similar information on potential threats to life, health, or property; or to keep the public appropriately informed of other law enforcement or FBI matters or other matters of legitimate public interest where disclosure could not reasonably be expected to constitute an unwarranted invasion of personal privacy. (The availability of information in pending criminal or civil cases will be governed by the provisions of 28 CFR 50.2.)

BRU-4. Courts or Adjudicative Bodies. To a court or adjudicative body, in matters in which (a) the FBI or any FBI employee in his or her official capacity, (b) any FBI employee in his or her individual capacity where the Department of Justice has agreed to represent the employee, or (c) the United States, is or could be a party to the litigation, is likely to be affected by the litigation, or has an official interest in the litigation, and disclosure of system records has been determined by the FBI to be arguably relevant to the litigation. Similar disclosures may be made in analogous situations related to assistance provided to the Federal Government by non-FBI employees (see BRU-2).

BRU-5. Parties. To an actual or potential party or his or her attorney for the purpose of negotiating or discussing such matters as settlement of the case or matter, or informal discovery proceedings, in matters in which the FBI has an official interest and in which the FBI determines records in the system to be arguably relevant.

BRU-6. As Mandated by Law. To such recipients and under such circumstances and procedures as are mandated by Federal statute or treaty.

BRU-7. Members of Congress. To a Member of Congress or a person on his or her staff acting on the Member's behalf when the request is made on behalf and at the request of the individual who is the subject of the record.

BRU-8. NARA/GSA Records Management. To the National Archives and Records Administration and the General Services Administration for records management inspections and such other purposes conducted under the authority of 44 U.S.C. 2904 and 2906.

BRU-9. Auditors. To any agency, organization, or individual for the purposes of performing authorized audit or oversight operations of the FBI and meeting related reporting requirements.

BRU-10. Former Employees. The DOJ may disclose relevant and necessary information to a former employee of the Department for purposes of: responding to an official inquiry by a federal, state, or local government entity or professional licensing authority, in accordance with applicable Department regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the Department requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility. (Such disclosures will be effected under procedures established in title 28, Code of Federal Regulations, sections 16.300-301 and DOJ Order 2710.8C, including any future revisions.)

*FBI RECORDS SYSTEMS TO WHICH THESE BLANKET ROUTINE USES DO NOT APPLY:*

These blanket routine uses shall not apply to the following FBI Privacy Act systems of records (to which shall apply only those routine uses established in the records system notice for the particular system):

JUSTICE/FBI-017, National DNA Index System (NDIS) (last published in the Federal Register on July 18, 1996, at 61 FR 37495); and

JUSTICE/FBI-018, National Instant Criminal Background Check System (NICS) (last published in the Federal Register on November 25, 1998, at 63 FR 65,223).

*JUSTICE/FBI-003*

*SYSTEM NAME:*

Bureau Mailing Lists.

*SYSTEM LOCATION:*

Records may be maintained at all locations at which the Federal Bureau of Investigation (FBI) operates, including: J. Edgar Hoover Bldg., 935 Pennsylvania Ave., NW., Washington, DC 20535; FBI Academy, Quantico, VA 22135; FBI Criminal Justice Information Services (CJIS) Division, 1000 Custer Hollow Rd., Clarksburg, WV

26306; and FBI field offices, legal attaches, and information technology centers as listed on the FBI's Internet website, <http://www.fbi.gov>, including any future revisions to the website.

*CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:*

All persons appearing on mailing lists maintained throughout the FBI to facilitate mailings to multiple addressees in furtherance of FBI activities. These include persons who have requested Bureau material, persons who are routinely forwarded unsolicited Bureau material and who meet established criteria (generally law enforcement or closely related interests), and persons who may be in a position to furnish assistance in furtherance of the FBI's mission. These do not include persons on mailing lists not encompassed within this system as described in the section titled "Categories of Records in the System."

*CATEGORIES OF RECORDS IN THE SYSTEM:*

Records may include name, address, business affiliation, and supplemental information related to addressees and relevant to a list's purpose. These do not, however, include mailing lists which have been incorporated into some other FBI records system, such as a mailing list supporting a particular investigation maintained as an investigative record within the FBI's Central Records System.

*AUTHORITY FOR MAINTENANCE OF THE SYSTEM:*

Title 5, United States Code, section 301; title 44, United States Code, section 3101; title 28, United States Code, section 533; and title 28, Code of Federal Regulations, section 0.85.

*PURPOSE(S):*

System records are used for mailing FBI material to multiple addressees, via hard copy, e-mail, or other means of distribution, in furtherance of FBI activities. For example, various fugitive alerts are furnished to local law enforcement agencies, investigations periodicals are provided to law enforcement professionals, and information on local law enforcement issues may be provided to community leaders.

*ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:*

The FBI may disclose relevant system records in accordance with any blanket routine uses established for FBI records systems. See Blanket Routine Uses Applicable for FBI records systems. See Blanket Routine Uses Applicable to More Than One FBI Privacy Act System of Records, Justice/FBI-BRU, as published today in the Federal Register (and any future revisions).

In addition, as a routine use specific to this system, the FBI may disclose relevant system records to the following persons or entities under the circumstances or for the purposes described below, to the extent such disclosures are compatible with the purpose for which the information was collected. (Routine uses are not meant to be mutually exclusive and may overlap in some cases.)

A. To a federal, state, local, joint, tribal, foreign, international, or other public agency/organization, or to any person or entity in either the public or private sector, domestic or entity in either the public or private sector, domestic or foreign, where such disclosure may promote, assist, or otherwise serve law enforcement interests. By way of example and not limitation, such disclosures may for instance include: Sharing names of law enforcement professionals receiving FBI periodicals with law enforcement agencies interested in reaching a similar audience; sharing information of intelligence value with other law enforcement or intelligence agencies to whose lawful responsibilities the information may be germane; or sharing information pertinent to victim/witness assistance with local government entities in furtherance of such assistance.

*POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:*

*STORAGE:*

Most information is maintained in computerized form and stored in memory, on disk storage, on computer tape, or other computer media. However, some information may also be maintained in hard copy (paper) or other form.

*RETRIEVABILITY:*

Information typically will be retrieved by an ID number assigned by computer or by name of person or organization.

*SAFEGUARDS:*

System records are maintained in limited access space in FBI facilities and offices. Computerized data is password protected. All FBI personnel are required to pass an extensive background investigation. The information is accessed only by authorized FBI personnel or by non-FBI personnel properly authorized to assist in the conduct of an agency function related to these records.

*RETENTION AND DISPOSAL:*

FBI offices revised the lists as necessary. The records are destroyed, under authority granted by the National Archives and Records Administration, when administrative needs are satisfied (Job. No. NC1-65-82-4, part E, item 13 (I)).

*SYSTEM MANAGER(S) AND ADDRESS:*

Director, FBI, 935 Pennsylvania Ave., NW, Washington, DC 20535-0001.

*NOTIFICATION PROCEDURES:*

Same as Record Access Procedures.

*RECORD ACCESS PROCEDURES:*

A request for access to a record from the system shall be made in writing with the envelope and the letter clearly marked "Privacy Act Request". Include in the request your full name and complete address. The requester must sign the request; and, to verify it, the signature must be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. You may submit any other identifying data you wish to furnish to assist in making a proper search of the system. Requests for access to information maintained at FBI Headquarters must be addressed to the Director, Federal Bureau of Investigation, 935 Pennsylvania Ave., NW, Washington, DC 20535-0001. Requests for information maintained at FBI field offices, legal attaches, information technology centers, or other locations must be made separately and addressed to the specific field office, legal attache, information technology center, or other location as listed on the FBI's Internet website, <http://www.fbi.gov>, including any future revisions to the website.

*CONTESTING RECORD PROCEDURES:*

Individuals desiring to contest or amend information maintained in the system should also direct their request to the appropriate FBI office, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

*RECORD SOURCE CATEGORIES:*

The mailing list information is based on information supplied by affected individuals/organizations, public source data, and/or information already in other FBI records systems.

*SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:*

None.

*JUSTICE/FBI 006*

*SYSTEM NAME:*

Electronic Surveillance (ELSUR) Indices.

*SYSTEM LOCATION:*

Records may be maintained at all locations at which the Federal Bureau of Investigation (FBI) operates, including: J. Edgar Hoover Bldg., 935 Pennsylvania Ave., NW, Washington, DC 20535; and FBI field offices and information technology centers as listed on the FBI's Internet website, <http://www.fbi.gov>, including any future revisions to the website.

*CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:*

Individuals and entities who have been the targets of electronic surveillance coverage sought, conducted, or administered by the FBI pursuant to a court order or other authority; those who have been a party to a communication monitored/recorded electronically pursuant to a court order, consensual monitoring, or other authorized monitoring sought, conducted, or administered by the FBI; and those who own, lease, license, hold a possessor interest in, or commonly use the location subjected to electronic surveillance.

*CATEGORIES OF RECORDS IN THE SYSTEM:*

The ELSUR Indices are comprised of four types of records:

1. Principal records identify, by true name or best known name, all persons, entities, and facilities who have been the targets of electronic surveillance coverage sought, conducted, or administered by the FBI pursuant to a court order or other authority. These records include, but are not limited to, persons, entities, and facilities named in an application filed by the FBI in support of an affidavit seeking a court order to conduct or administer an electronic surveillance. Principal records may also include descriptive data associated with the name appearing on the record.

2. Proprietary-interest records identify entities and/or individuals who own, lease, license, hold a possessory interest in, or commonly use the location subjected to an electronic surveillance. Proprietary-interest records may also include descriptive data associated with the name appearing on the record.

3. Intercept records identify, by true name or best known name, individuals who have been reasonably identified by a first name or initial and a last name as being a party to a communication monitored/recorded electronically by the FBI pursuant to an electronic surveillance. Intercept records also identify entities that have been a party to a communication monitored/recorded electronically by the FBI pursuant to an electronic surveillance. Intercept records may include descriptive data associated with the name appearing on the record.

4. Reference records identify, by partial name, such as a first name only, last name only, code name, nickname, or alias those individuals who have been a party to a communication monitored/recorded electronically by the FBI pursuant to an electronic surveillance, and may include descriptive data associated with the individual. If the individual is later identified by a more complete name, e.g., through further monitoring or normal investigative procedures, the reference record is re-entered as an intercept record.

*AUTHORITY FOR MAINTENANCE OF THE SYSTEM:*

The ELSUR Indices were initiated in October, 1966, at the recommendation of the Department of Justice and relate to electronic surveillance sought, administered, and/or conducted by the FBI since January 1, 1960. The authority for the maintenance of these records is title 5, United States Code, section 301; title 44, United States Code, section 3101; title 18, United States Code, section 2510, et seq.; title 18, United States Code, section 3504; title 28, United States Code, section 533, title 50, United States Code 1801, et seq.; and title 28, Code of Federal Regulations, section 0.85.

*PURPOSE(S):*

These records are used by the FBI to maintain certain information regarding electronic surveillance sought, conducted or administered by the FBI in order to permit the agency to respond to judicial inquiries about possible electronic surveillance coverage of any individual or entity involved in Federal court proceedings and to enable the Government to certify, as requested by federal, state or local law enforcement agencies, whether or not an individual, entity, facility, or place on whom a court ordered authority is being sought for electronic surveillance coverage has ever been subjected to electronic surveillance coverage in the past.

*ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:*

The FBI may disclose relevant system records in accordance with any blanket routine uses established for FBI records systems. See Blanket Routine Uses Applicable to More Than One FBI Privacy Act System of Records, Justice/FBI-BRU, as published today in the Federal Register (and any future revisions).

In addition, as routine uses specific to this system, the FBI may disclose relevant system records to the following persons or entities under the circumstances or for the purposes described below, to the extent such disclosures are compatible with the purpose for which the information was collected. (Routine uses are not meant to be mutually exclusive and may overlap in some cases.)

A. To the judiciary in response to inquiries about possible electronic surveillance coverage of any individual or entity involved in Federal court proceedings.

B. To federal, state, and local law enforcement officers to enable the government to certify whether or not an individual, entity, facility, or place on whom a court ordered authority is being sought for electronic surveillance coverage has ever been subjected to electronic surveillance coverage in the past.

C. To a federal, state, local, joint, tribal, foreign, international, or other public agency/organization, or to any person or entity in either the public or private sector, domestic or foreign, where such disclosure may promote, assist, or otherwise serve law enforcement interests. By way of example and not limitation, such disclosures may for instance include: Sharing information of intelligence value with other law

enforcement or intelligence agencies to whose lawful responsibilities the information may be germane; disclosing information to another law enforcement or intelligence agency which may bear on the suitability of a person for employment or continued employment with that agency; disclosing information to a cognizant employer or clearance-granting authority which may bear on the trustworthiness of a person to obtain or retain a security clearance; or sharing information pertinent to victim/witness assistance with local government entities in furtherance of such assistance.

D. To any person or entity in either the public or private sector, domestic or foreign, if deemed by the FBI to be reasonable and helpful in eliciting information or cooperation from the recipient for use by the FBI in the performance of an authorized function, e.g., disclosure of personal information to a member of the public in order to elicit his/her assistance/cooperation in a criminal, security, or employment background investigation.

E. To any person or entity in either the public or private sector, domestic or foreign, where there is reason to believe that a person or entity could become the target of a particular criminal activity or conspiracy, to the extent the disclosure of information is deemed by the FBI to be reasonable and relevant to the protection of life, health, or property of such target.

*POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OR RECORDS IN THE SYSTEM:*

*STORAGE:*

The majority of the records are maintained in an automated data base. Some records are maintained in hard-copy (paper) format or other form.

*RETRIEVABILITY:*

Information typically will be retrieved by the name of the individual or entity. Telephone numbers and other such serial or identification numbers are retrievable numerically. Locations targeted are retrievable by street name.

*SAFEGUARDS:*

System records are maintained in limited access space in FBI facilities and offices. Computerized data is password protected. All FBI personnel are required to pass an extensive background investigation. The information is accessed only by authorized FBI personnel or by non-FBI personnel properly authorized to assist in the conduct of an agency function related to these records.

*RETENTION AND DISPOSAL:*

A reference record is purged if the individual is later identified by a more complete name and re-entered as an intercept record. Remaining reference records are purged from the system as follows: Those relating to court ordered electronic surveillance are purged six months from the date the corresponding authorization for the surveillance expires. Reference records relating to consensual intercepts are purged one year from the last intercept date shown on the record. Until advised to the contrary by the Department, the courts, or the Congress, all other indices records will be maintained indefinitely and have been declared permanent by the National Archives and Records Administration (NARA) (Job No. NC1-65-82-4, Part E, item 2 (t)).

*SYSTEM MANAGER(S) AND ADDRESS:*

Director, Federal Bureau of Investigation, 935 Pennsylvania Avenue, NW, Washington, DC 20535.

*NOTIFICATION PROCEDURE:*

Same as Record Access Procedures.

*RECORD ACCESS PROCEDURES:*

A request for notification as to whether a record about an individual exists in the system and/or for access to a record from the system shall be made in writing with the envelope and the letter clearly marked "Privacy Act Request." Include in the request your full name and complete address. The requests must sign the request; and, to verify it, the signature must be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. You may submit any other identifying data you wish to furnish to assist in making a proper search of the system. Requests for access to information maintained at FBI Headquarters must be addressed to the Director, Federal Bureau of Investigation, 935 Pennsylvania Avenue, NW, Washington, DC 20535-0001. Requests for information maintained at FBI field offices, information technology centers, or other locations must be made separately and addressed to the

specific field office, information technology center, or other location as listed on the FBI's Internet website, <http://www.fbi.gov>, including any future revisions to the website.

Some information may be exempt from notification and/or access procedures as described in the section titled "Systems Exempted from Certain Provisions of the Act." An individual who is the subject of one or more records in this system may be notified of records that are not exempt from notification and may access those records that are not exempt from disclosure. A determination on notification and access will be made at the time a request is received.

**CONTESTING RECORD PROCEDURES:**

If you desire to contest or amend information maintained in the system, you should also direct your request to the appropriate FBI office, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Some information may be exempt from contesting record procedures as described in the section titled "Systems Exempted from Certain Provisions of the Act." An individual who is the subject of one or more records in this system may contest and pursue amendment of those records that are not exempt. A determination whether a record may be subject to amendment will be made at the time a request is received.

**RECORD SOURCE CATEGORIES:**

Information in the indices is derived from electronic surveillance, public source information, and other FBI record systems.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

The Attorney General has exempted this system from subsections (c)(3) and (4), (d), (e)(1), (2) and (3), (e)(4)(G) and (H), (e)(5) and (8), (f), (g) and (m) of the Privacy Act pursuant to 5 U.S.C. 552a(j). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

[FR Doc. 01-15675 Filed 6-21-01; 8:45 am]

**BILLING CODE 4410-02-M**

**DEPARTMENT OF JUSTICE**

**Antitrust Division**

**Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Center for Manufacturing Sciences (NCMS): Advanced Embedded Passives Technology**

Notice is hereby given that, on May 23, 2001, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), National Center for Manufacturing Sciences (NCMS): Advanced Embedded Passives Technology has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, SAS Circuits, Inc., Littleton, CO has been added as a party to this venture. Also, HADCO Corporation, Salem, NH and Ormet Corporation, Carlsbad, CA have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and National Center for Manufacturing Sciences (NCMS): Advanced Embedded Passives Technology intends to file additional written notification disclosing all changes in membership.

On October 7, 1998, National Center for Manufacturing Sciences (NCMS): Advanced Embedded Passives Technology filed its original notification pursuant to section 6(a) of the Act. The Department of justice published a notice in the Federal Register pursuant to section 6(b) of the Act on January 22, 1999 (64 FR 3571).

The last notification was filed with the Department on August 5, 1999. A notice was published in the Federal Register pursuant to section 6(b) of the Act on March 21, 2000 (65 FR 15176).

CONSTANCE K. ROBINSON,  
*Director of Operations, Antitrust Division.*

[FR Doc. 01-15672 Filed 6-21-01; 8:45 am]

**BILLING CODE 4410-11-M**  
**DEPARTMENT OF JUSTICE**

**Antitrust Division**

**Notice Pursuant to the National Cooperative Research and Production Act of 1933—The National Center for Manufacturing Sciences, Inc.**

Notice is hereby given that, on May 15, 2001, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), the National Center for Manufacturing Sciences, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, Automated Precision Inc., Gaithersburg, MD; Cincinnati Machine Division of Unova, Inc., Cincinnati, OH; CoCreate Software, Inc., Fort Collins, CO; ComauPico, Inc., Southfield, MI; Defense Modeling and Simulation Office of the U.S. Department of Defense, Alexandria, VA; Electronic Data Systems, Inc., Troy, MI; Holagent Corporation, Gilroy, CA; Hydrogen Technology Applications, Inc., Clearwater, FL; Johann A. Krause Inc., Auburn Hills, MI; Johnson Controls, Inc., Plymouth, MI; LFX Technologies LLC, Bloom field Hills, MI; Manufacturing Resources, Inc., Cleveland, OH; Michigan Technological University, Houghton, MI; Sulzer Metco Inc., Westbury, NY; and Tecumseh Products Company, Tecumseh, MI have been added as parties to this venture.

Also, Aesop, Inc., Concord, NH; American Induction Heating Corporation, Fraser, MI; Ascent Logic Corporation, Northville, MI; Auto-Air Composites, Inc., Lansing, MI; Bencyn West LLC, North Highlands, CA; Center for Clean Industrial and Treatment Technologies (CenCITT), Houghton, MI; Corning, Inc., NY; Dow-United Technologies Composite Products, Inc., Wallingford, CT; Eaton Corporation, Cleveland, OH; FileNET Corporation, Denver, CO; The Federal Trchnology Center, North Highlands, CA; Flame Spray Industries, Inc., Port Wahington, NY; Gensym Corporation, Cambridge, MA; Hewlett-Packard Company, Kirkland, Quebec, CANADA; IBD, Inc., Winnetka, IL; Indium Corporation of America, Utica, NY; Information Transport Associates, Inc., Annapolis, MD; Iowa State University, Ames, IA; Michigan Virtual Automotive College, Ann Arbor, MI; Midwest Manufacturing Technology Corporation, St. Louis, MO; Minnesota Technology, Inc., St. Cloud, MN; MSC Software Corporation, Costa Mesa, CA; MSE Technology Applications, Inc., Butte, MT; Progressive Tool & Industries Company, Southfield, MI; Remmele Engineering, Inc., Big Lake, MN; Schafer Corporation, Albuquerque, NM; Setco Industries, Inc., Cincinnati, OH; Teknowledge Corporation, Palo Alto, CA; Trellis Software and Controls, Inc., Rochester Hills, MI; Trust Data Solutions, San Jose, CA; TRW Integrated SupplyChain Solutions, Reston, VA; University of New Hampshire, Durham, NH; and UNOVA-Industrial Automation Systems, Cincinnati, OH have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and the National Center for Manufacturing Sciences, Inc. intends to file additional written notification disclosing all changes in membership.

On February 20, 1987, the National Center for Manufacturing Sciences, Inc. filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to section 6(b) of the Act on March 17, 1987 (52 FR 8375).

The last notification was filed with the Department on December 20, 2000. A notice has not yet been published in the Federal Register.

CONSTANCE K. ROBINSON,  
*Director of Operations, Antitrust Division.*

[FR Doc. 01-15673 Filed 6-21-01; 8:45 am]

**BILLING CODE 4410-11-M**

*Question.* With respect to each of the three databases, please explain how the timeliness requirement—which sought to ensure that computer records were as current as possible—interfered with effective law enforcement. Don’t we want our records to be as current as possible, and don’t we want to create incentives for agencies like the FBI to meet that standard?

*Answer.* As to each of these databases, the FBI continuously strives to keep all records as current as feasible. The exemption allows the FBI the necessary leeway

to collect information that may be crucial to the successful conduct of the FBI's mission.

In the collection of information for law enforcement purposes it may be impossible to determine in advance what information may still be of current utility. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light. The restrictions imposed by paragraph (e)(5) of the Privacy Act would limit the ability of investigators to exercise their judgment in acquiring and exploiting potentially significant information (during which information quality can be validated through links, relationships and other evidence discovered during investigative efforts.) Assessing the investigative utility of retention and use of even very old information should thus be left to the investigative discretion of the FBI.

Additionally, many records in the systems come from other federal, state, local, joint, foreign, tribal, and international agencies, and it is administratively impossible for the FBI to guarantee the records comply with paragraph (e)(5).

Because NCIC functions almost exclusively as a medium for information exchange, additional quality assurance procedures are in place. The exemption has not changed NCIC's program requirements for entry, audit, validation, and hit confirmation of NCIC records that are applicable to NCIC users. For instance, the NCIC 2000 manual explains the requirements of "timely entry" for NCIC 2000 files and explains records should be complete and include all information available on a person or property at the time of entry.

For CRS and NCAVC, in the course of an investigation, retained information is reviewed at reasonable intervals to determine its relevance. Analysts, case agents, task force members, supervisors, and legal counsel may perform reviews as necessary.

Specific to NCAVC's VICAP, there is no federal statute requiring reports of homicide or other, serial, violent crime to be sent to a central location or clearinghouse. On their own initiative, several states have enacted mandatory reporting laws requiring timely submission of homicide or violent crime data to a central state authority. Thus, submission of a case in the VICAP database is voluntary on the part of the law enforcement entity with original jurisdiction for the offense under investigation. Once submitted, cases are subject to initial quality control. Reports of additional investigation, including laboratory results, inclusion or elimination of suspects, or arrest and conviction of an offender, are forwarded to VICAP upon the initiative of the investigator. Periodically, VICAP staff members may contact submitting agencies or investigators and request updated information.

VICAP has demonstrated that prompt submission of cases produces valuable investigative results. An example is the Rafael Resendez-Ramirez investigation. Before Mr. Resendez was identified, and when only three of his offenses in Texas were linked to him (there would be a total of six murders allegedly committed in Texas by Mr. Resendez), the command post in Texas notified VICAP. A murder and sexual assault committed in Kentucky were located in the VICAP database, and information concerning them was relayed to the command post. DNA evidence linked the Texas murders and the Kentucky murder before Mr. Resendez was identified.

*Question.* With respect to each of the three databases, please explain how the other requirements that were lifted by the new rule—that is; accuracy, relevance, and completeness—interfered with the legitimate collection of information for law enforcement purposes.

*Answer.* See preceding response.

*Question.* The new rule states that the Justice Department is currently reviewing additional changes to 28 CFR Part 16 for possible promulgation in future rule-making. Please describe the changes the Department is considering.

*Answer.* The FBI periodically reviews all systems and proposes amendments to the rule, as necessary, to further important FBI mission interests, implement clerical improvements, etc. For example, for ease of reference, the FBI may consider reorganizing the format of the rule, placing systems in a more logical order and eliminating the frequent cross-references within the rule.

#### DNA INITIATIVE

*Question.* Last month, the Administration unveiled a proposal to spend more than \$1 billion over five years on forensic DNA programs. This proposal is overdue, but it is welcome, and it will make a difference. For two years, I have been urging the Administration and House Republicans to fully fund existing programs aimed at eliminating the DNA backlog crisis and, in particular, the inexcusable backlog of untested rape kits. Across the country, untested critical evidence has been piling up

while rapists and killers remain at large, victims continue to anguish, and statutes of limitation expire. It is about time that we made this a national priority.

The President's DNA Initiative includes \$5 million a year for post-conviction DNA tests that can be used by inmates to prove their innocence. This proposal is also long overdue. Post-conviction DNA testing has already been used to exonerate more than 120 prisoners nationwide, including 12 awaiting execution. Last year the Justice Department cancelled plans to spend \$750,000 on a post-conviction DNA testing initiative, and diverted the money to another program. When I wrote the Department about this development, I was informed—in a letter dated May 8, 2002—that “the Department does not plan to undertake a national effort to promote and fund post-conviction DNA testing.” I am pleased that the Department has changed its position.

The Administration proposes spending \$232.6 million in federal funding for fiscal year 2004, which includes \$100.7 million in new funding. Are these amounts reflected in the President's official budget request for fiscal year 2004?

Answer. The President's DNA Initiative—*Advancing Justice Through DNA Technology*—calls for \$232.6 million in federal funding for fiscal year 2004. This includes \$100.7 million in new funding. Of the \$232.6 million, \$177 million is proposed for DNA initiatives to be administered by the Office of Justice Programs (OJP) and \$42.1 million is to be administered by the Federal Bureau of Investigation. In addition, the \$232.6 million includes \$13.5 million in training resources from existing programs within OJP and the Community Oriented Policing Services that have been identified as complementary and supportive of the larger DNA Initiative.

The bulk of the \$177 million proposed for OJP in the fiscal year 2004 DNA Initiative will be administered by the National Institute of Justice (NIJ), and will be used to assist state and local governments in eliminating their backlogs of crime scene and offender DNA samples, and to increase state and local forensic laboratory capacity to carry out DNA analysis. Rape kits and other crime scene evidence that sit for years in storage and cannot be analyzed because of inadequate resources or capacity are not solving crimes. The perpetrators may remain at large, free to commit more crimes, and the victims continue to live in fear.

By addressing these problems, the DNA backlog reduction and laboratory capacity programs will directly result in major benefits for law enforcement and increased security of the public against sexually violent crimes, homicides, and other offenses. In addition, the Justice Department expects to commit substantial funds through OJP for other measures to strengthen the DNA identification system, such as improved training in the collection and handling of DNA evidence, and DNA technology research and development.

The following chart displays a detailed funding breakdown of the fiscal year 2004 DNA Initiative.

[In millions of dollars]

Element of the DNA Initiative	2004 Budget Request
Using DNA To Solve Crimes:	
Eliminating Backlogs .....	92.9
State Casework Backlogs .....	76.0
State Convicted Offender Backlogs .....	15.0
Funding the Federal Convicted Offender Program .....	1.9
Strengthening Crime Lab Capacity .....	90.4
Increasing the Analysis Capacity of Public Crime Labs .....	60.0
Funding FBI Forensic Analysis Programs .....	20.5
Funding the Combined DNA Index System .....	9.9
Stimulating Research and Development .....	24.8
Improving DNA Technology .....	10.0
FBI Research and Development .....	9.8
DNA Demonstration Projects .....	4.5
The National Forensic Science Commission .....	0.5
Training the Criminal Justice Community .....	17.5
Law Enforcement .....	3.5
Prosecutors, Defense Attorneys, and Judges .....	2.5
Probation & Parole Officers, Corrections Personnel .....	1.0
Forensic Scientists .....	3.0
Medical Personnel .....	5.0
Victim Service Providers .....	2.5
Using DNA To Protect the Innocent .....	5.0

[In millions of dollars]

Element of the DNA Initiative	2004 Budget Request
Using DNA To Identify Missing Persons .....	2.0
Total Funding .....	232.6

*Question.* With respect to the proposal to spend \$5 million a year for post-conviction DNA testing, how did the Department arrive at this amount? Will it cover the costs of post-conviction DNA testing nationwide?

*Answer.* The President's Initiative on DNA evidence, "Advancing Justice Through DNA Technology" calls for the appropriation to the Department of \$5 million annually to be used by the Attorney General to establish a grant program to help states defray the costs of post-conviction DNA testing and, therefore, encourage states to adopt procedures that authorize post-conviction DNA testing in appropriate cases.

The President's Initiative was developed, in part, from the recommendations of a task force convened by the Department's National Institute of Justice (NIJ) at the request of Attorney General Ashcroft to assess existing DNA analysis delays and develop recommendations for eliminating those delays. In developing this aspect of the Initiative, the Department conferred with members of the NIJ task force, as well as other public and private laboratory directors across the United States, to ascertain the extent and cost of the post-conviction DNA testing currently on-going in those states that provide for convicted offenders to seek such testing.

Based on these discussions, the Department estimates that the cost of post-conviction DNA analysis in those states that have, or soon will authorize, a post-conviction DNA testing procedure will not exceed \$5 million annually for at least the next five years. This estimate relates to the actual cost of testing the biological evidence at issue in those cases, as this program is not intended to pay for the operational costs of law enforcement personnel in locating any evidence that an offender requests or that a court orders be tested.

*Question.* In your remarks announcing the DNA initiative, you said that you looked forward to working with the "Chairmen" of the House and Senate Judiciary Committees to develop post-conviction DNA testing legislation. But at your confirmation hearing, you assured me that you would work on such legislation with "the Congress"—not just the Republican Chairmen. Are you willing to honor that commitment today by working with me to refine and pass the Innocence Protection Act, which has already garnered overwhelming bipartisan support?

*Answer.* The Department is committed to working with the Chairmen of the House and Senate Judiciary Committees, ranking minority members, and all of the members of the respective authorizing and Appropriations Committees in developing any legislation necessary to implement all aspects of the President's DNA Initiative, including the recommendation that "Federal law also should provide for post-conviction DNA testing in appropriate cases," and in appropriating the funds necessary to enable the Attorney General to establish a grant program to "help states defray the costs of post-conviction DNA testing."

#### FBI ENFORCEMENT OF IMMIGRATION LAWS

*Question.* Traditionally, we have not had the FBI enforce our civil immigration laws because we wanted to encourage maximum cooperation between illegal immigrants and the officers looking to prevent and solve crimes and acts of terrorism. Do you disagree with that logic?

*Answer.* Following the transfer of the Immigration and Naturalization Service from the Department of Justice, the new Department of Homeland Security is the primary immigration law enforcement agency. However, the safety of the American people is the primary concern for both the Department of Justice and the Department of Homeland Security.

Pursuant to the Attorney General's longstanding authority under the immigration laws, last year the Attorney General delegated immigration law enforcement authority to officers of the Federal Bureau of Investigation (FBI) and the United States Marshals Service (USMS). Under this delegation, in certain limited circumstances, the FBI may in the course of its counterterrorism investigations discover that an alien who poses a potential threat to national security is illegally present in the United States and find that DHS is unable to take custody immediately because agents are not available.

The FBI has issued field guidance to implement the delegation of authority in a manner that ensures that it is used only in appropriate situations, such as when

DHS immigration officials are not available or when the public safety requires prompt action without DHS.

As of April 15, 2003, in connection with Operation Liberty Shield, the FBI had interviewed 9,383 individuals and while there were 31 arrests for immigration violations, all arrests were made by BICE agents. The Department of Justice and the Department of Homeland Security have discussed this delegation and will continue to do so.

*Question.* At the same time that the FBI is now policing immigration violations, it is depending upon Iraqis in the United States to provide information of value to the U.S. war effort. Do you have any fear that this expansion of FBI authority will have a chilling effect on Iraqi cooperation?

*Answer.* Because the FBI has been mindful of the constitutional rights and sensitivities of the Iraqi population in the United States in the course of our interview program, we do not believe that the expansion of Department of Justice (DOJ) authority will have a chilling effect on future efforts to reach out to the Iraqi population.

From the beginning of the hostilities in Iraq, the FBI conducted approximately 10,000 interviews of Iraqis who might have knowledge of the Iraqi leadership, military facilities, or Iraqi activities in support of terrorism. These interviews were strictly voluntary and conducted within the confines of the Constitution:

- FBI agents were trained and given sensitivity training for conducting these interviews, and Iraqis being interviewed were informed of their civil rights.
- High-level FBI officials met with Arab-American civic leaders to explain the interview process and to enhance communication between the FBI and the Arab-American community.

The response of the interviewees and the Arab-American community was overwhelmingly positive, and the DOJ and the FBI would like to thank community leaders and those interviewed for their cooperation. As a result of the information derived from the interviews, the FBI disseminated over 250 reports to assist the military in conducting the war and locating Saddam Hussein's weapons of mass destruction. The military consumers of these reports, including CENTCOM, have indicated that the reports were highly useful.

*Question.* Considering this committee's obvious interest in both the FBI and the enforcement of our immigration laws, why did you fail to notify us of this regulation?

*Answer.* The Department appreciates the Committee's interest in its programs. The preceding answer explains the rationale and limited use of this delegation.

*Question.* According to the Washington Post, the FBI has drafted guidelines on how this new authority should be used. Would you provide a copy of those guidelines to the committee?

*Answer.* The information follows.

FEDERAL BUREAU OF INVESTIGATION,  
02/26/2003.

To: All FBIHQ Divisions, All Field Offices  
Attn: Assistant Director, ADIC, SAC, CDC  
From: Office of the General Counsel, Investigative Law Unit  
Contact: UC Elaine N. Lammert (202) 324-5640  
Approved By: Mueller Robert S. III, Gebhardt Bruce J., Wainstein Kenneth L.  
Drafted By: Rowan Patrick  
Case ID #: 66F-HQ-A1085154-MISC Serial 85

Title: Delegation of Authority to the FBI to Exercise the Powers and Duties of Immigration Officers

*Enclosure.*—Memorandum summarizing the power to arrest under the Immigration and Naturalization Act (INA) and listing a number of INA violations the FBI may enforce pursuant to the delegation and guidance contained in this communication.

*Synopsis.*—This communication advises the receiving offices that the Attorney General has authorized Agents to exercise the functions of immigration officers in some circumstances and provides guidance on the implementation of this authority. This guidance was prepared in consultation with the Department of Justice, the SAC Advisory Committee and FBIHQ operational components.

*Details.*—The Attorney General recently issued an Order delegating authority to exercise the powers and duties of Immigration Officers to the FBI. The Order, which is no in effect, grants powers that will be particularly useful in the FBI's counterterrorism investigations. In pertinent part, the Order states as follows:

"I authorize the Director of the Federal Bureau of Investigation ("FBI") and, under this direction Special Agents of the FBI, to exercise the functions of immigra-

tion officers for the purposes of (1) investigating, determining the location of, and apprehending, any alien who is in the United States in violation of the Immigration and Nationality Act of 1952, as amended, or any other law or regulation relating to visas or the conditions of visas, admission of aliens or the conditions of admission, or the maintenance of status as an immigrant or nonimmigrant or in any category of nonimmigrant; or (2) enforcing any requirements of such statutes or regulations, including, but not limited to, nonimmigrant aliens subject to special registration under 8 C.F.R. § 264.1(f).

This communication is to provide guidance on the implementation of this Order.

Even prior to the issuance of the Attorney General's Order the FBI possessed broad authority to investigate criminal violations related to immigration offenses under both Title 18 and Title 8 of the United States Code and to arrest those who commit such criminal violations. There will be no change in the handling or the classification of those investigations. The Attorney General's Order expands the FBI's authority to include the investigation and arrest of aliens who have committed or are committing non-criminal, i.e., civil violations of the Immigration and Nationality Act of 1952 (INA) and related statutes. This guidance addresses the handling of aliens who are non-criminal violators.

At the outset, it should be understood that the Immigration and Naturalization Service and its successor within the Department of Homeland Security (referred to hereafter collectively as the "INS") will retain primary jurisdiction over the enforcement of immigration statutes, including both criminal and civil violations of the INA. The FBI will not create a separate investigative program to cover violations of the INA, as these violations will ordinarily be addressed only in support of existing investigative programs. Individuals detained or arrested for immigration violations should be turned over to INS' custody as soon as possible. The Attorney General's Order provides authority in those circumstances when agents of the INS are not immediately available to take custody of an alien violator. It also provides a basis for the apprehension of alien violators encountered in the course of the FBI's counterterrorism investigations.

In all instances, the Order should be employed in a manner that strengthens the FBI's ability to address its priorities, rather than diverting from them. Accordingly, as a general rule, when, during the course of an investigation, agents encounter an alien who is reasonably believed to be in violation of the INA, they should exercise their authority under the Order to detain, question, and, if justified, arrest the alien if the exercise of these powers will serve the objectives of the investigation. Conversely, if the exercise of these powers will harm or undermine the investigation, agents are under no obligation to do so. Even in the absence of an ongoing investigation, agents should exercise all appropriate authority under this Order when necessary to prevent serious bodily injury or destruction of property. With respect to counterterrorism investigations in particular, and keeping in mind the FBI's primary mission of preventing acts of terrorism against American interests, agents should not hesitate to exercise any or all of their lawful authority under the Order as appropriate to serve this vital mission, or to refrain from exercising these powers if, in the judgment of the agent, the FBI's investigative interests are best served by doing so.<sup>1</sup>

There may be instances, unrelated to ongoing investigations, in which the FBI will receive requests for assistance from state or local law enforcement who have detained aliens for immigration violations. Such requests should ordinarily be referred to the INS. In those instances in which the INS is unable to respond to the request, each ADIC or SAC should exercise his or her discretion, based on resources and other relevant considerations, as to whether to provide the requested assistance and, if so, to what extent.

The Order grants FBI agents the authority to exercise the powers to arrest an alien without warrant set forth in Title 8, U.S. Code, Section 1357. Under that sec-

<sup>1</sup>In furtherance of its mission to prevent acts of terrorism, the FBI has at its disposal the National Security Entry-Exit Registration System (NSEERS) database, maintained by the INS. This database contains comprehensive information on temporary visitors to the United States who are from countries designated by the Attorney General or who meet pre-existing criteria related to national security. Any NSEERS registrant who violates his requirements (e.g., by overstaying his visa, or by failing to verify his address and activities with the INS after violations are immediately identified by NSEERS, and, like other violations of the INA, the NSEERS violation may serve as a basis for arrest when arrest of the violator will advance an investigation and the FBI's operation priorities. In such cases, the INS should be notified and consulted as soon as possible. In addition, FBI personnel supervising counterterrorism investigations should regularly consult the NSEERS database to determine if aliens who have violated their requirements have any connection to terrorist suspects already under FBI investigation.

tion, agents may arrest an alien when they have reason to believe the alien is present in the United States in violation of an immigration provision of the INA, a standard that can be met by an admission from the alien, a review of immigration records, or other reliable information. In many cases, agents will be unable to make a determination that an alien is in violation without the assistance of the INS. Each Field Office should consult with their local INS office to develop a procedure for obtaining such assistance on a local level. In addition, the INS maintains a Law Enforcement Support Center that is staffed around the clock and can perform record checks and provide other assistance.

Each Field Office should also consult with their local INS office to formulate procedures for the prompt transfer to INS' custody of any alien arrested by the FBI under the authority of the Attorney General's Order. Any arrest made under the authority of this Order should be properly documented in an FD-302.

Attached hereto is a memorandum, prepared by the Office of General Counsel, summarizing a number of the commonly-encountered INA violations. In the near future, Headquarters personnel will be working with their counterparts at the INS and then the Department of Homeland Security to resolve issues arising from this Order. Training materials on immigration enforcement will soon be disseminated through the Chief Division Counsel of each Field Office, and additional training will be provided in the course of the upcoming counterterrorism training ordered by the Deputy Attorney General.

#### NATIONAL SECURITY ENTRY-EXIT REGISTRATION SYSTEM

*Question.* Under the National Security Entry-Exit Registration System (NSEERS), male nationals from 25 countries, all but one of which are overwhelmingly Muslim, must register with the government if they meet certain criteria. As of one week ago, more than 7,000 men who presented themselves for registration had been notified of the government's intention to deport them for various violations of our immigration laws. Many of those 7,000 are nationals of Pakistan, a U.S. ally in the war on terror that has informed the United States of its objections to NSEERS. Earlier this year, the Senate included language to end the NSEERS program in our omnibus appropriations bill, but agreed in conference instead to demand a report about the program, from you, by March 1. That deadline has come and gone, even though this report will be critical in determining whether we continue to fund NSEERS, and despite the serious domestic and international ramifications of this program. When will you submit this report?

*Answer.* The Department is continuing to assemble the materials required by Section 112 of Title I of Division B of Public Law 108-7. The material will be submitted to the Committee.

#### CRIME-FREE RURAL STATES PROGRAM

*Question.* Congress created the Crime-free Rural States program last year in the 21st Century Department of Justice Appropriations Authorization Act. This program authorizes \$10 million for rural states to combat drug abuse and other crimes that increasingly affect rural states and have put mounting stress on rural law enforcement officers. Senator Hatch and I have written to the Chairman and Ranking Member of the subcommittee to request full funding for this program. Do you support our request for full funding?

*Answer.* In developing the fiscal year 2004 President's Budget, the Department faced the challenge of managing multiple competing priorities with limited resources. As a result, no resources were specifically requested for the Crime-free Rural States program.

However, I do appreciate the problems faced by rural law enforcement. In fact, the Department currently provides substantial resources to rural communities. For example, the Office of Justice Programs' (OJP) fiscal year 2004 President's Budget included \$599.724 million for the Justice Assistance Grants program, a formula program designed to address a wide array of criminal justice issues that would provide resources directly to our nation's state and local jurisdictions, including those in rural areas. Other OJP programs included in the fiscal year 2004 President's Budget that provide resources to rural communities across the country include: \$39.460 million for the Rural Domestic Violence program, which specifically targets rural communities, \$47.683 million for the State and Local Gun Violence Assistance program, which will continue to support projects in rural communities; \$49.387 million for the Southwest Border Initiative, which provides assistance to many rural prosecutors in the Southwest dealing with drug cases; and a total of \$25.339 million in programs specifically requested for Tribal governments and communities, almost all of which are in rural areas.

## OIG OVERSIGHT OF DEA AND FBI

*Question.* I have repeatedly expressed concern that the DOJ Inspector General's Office be as independent and strong as possible. Without accountability, which the Inspector General brings to the Department, our law enforcers will not be as efficient and as effective as they can be. For that reason, I sponsored bipartisan legislation, which was enacted as part of the landmark DOJ Authorization Act last Congress, that expanded the jurisdiction of the IG by statute to cover the FBI and DEA. In light of these important additions—and in light of the growth of the FBI itself as it fulfills its stated mission of protecting against terrorist attacks—we need to ensure that the IG's budget grows to meet its new responsibilities. The IG needs to have the resources required to examine an FBI that is retooling its computer systems and its entire culture. Unfortunately, however, I note that the President's budget request "flat lines" the IG's office even though the Republican-controlled Congress did not grant the President's entire requested increase for the IG in last year's Omnibus Appropriations bill. Please explain why the Administration is not seeking to provide the IG with the new resources it will need to oversee the FBI's efforts to modernize itself.

*Answer.* The Office of the Inspector General (OIG) received \$5,000,000 and 63 positions in fiscal year 2002 to expand the Inspector General's authorities in investigating employee misconduct within the Federal Bureau of Investigation and the Drug Enforcement Administration, this allowed for an 18 percent increase in staff. In fiscal year 2003, the OIG received an additional \$2.0 million and 17 positions, in part to address the FBI's growth in personnel and counterterrorism programs. These funds, coupled with the recent supplemental of \$2,500,000 for fiscal year 2003/2004, provide sufficient funding for the OIG through fiscal year 2004.

## IMPLEMENTATION OF USA PATRIOT ACT AND OTHER ISSUES RELATED TO WAR ON TERRORISM

*Question.* In a letter dated April 1, 2003, the Chairman and Ranking Member of the House Judiciary Committee requested extensive information from the Justice Department regarding the Department's implementation of the USA PATRIOT Act and other issues related to the war on terrorism. Please provide your responses to the 38 questions posed in that letter, a copy of which is attached. (Attachment 1)

*Answer.* In response to your letter of September 4, 2003, co-signed by Senate Judiciary Committee Chairman Hatch, the Department provided a copy of the Department's May 13, 2003, response to the April 1, 2003, letter from the Ranking Member of the House Judiciary Committee on September 9, 2003. As noted in our transmittal letter, while we made every effort to answer each question thoroughly and in an unclassified format, four of the questions required the submission of classified information. The answer to a portion of question 16(a), and questions 30 and 37 are classified and were delivered to the Senate Security Office for the Senate Judiciary Committee under separate cover. In accordance with longstanding Executive branch practices on the sharing of operational intelligence information with the Congress, the classified answers to question 1(c), and a further portion of question 16(a), were delivered to the Senate Select Committee on Intelligence.

## QUESTIONS SUBMITTED BY SENATOR HERB KOHL

## JUVENILE ACCOUNTABILITY INCENTIVE BLOCK GRANT PROGRAM

*Question.* Mr. Attorney General, even in a time of great domestic instability, we cannot forget about the important law enforcement functions of the DOJ. Among these responsibilities is juvenile delinquency prevention and enforcement. However, the fiscal year 2004 Department of Justice budget proposal eliminates the Juvenile Accountability Incentive Block Grant Program (JAIBG) a program that was funded at \$140 million last year, and more than \$200 million two years ago. The budget justification cites that the program was found "ineffective" by OMB.

However, when we reauthorized the Department of Justice last fall, we also reauthorized the JAIBG program at \$350 million per year. More importantly, we dramatically improved the program. The program purpose areas have been significantly expanded to provide additional services and treatment for troubled youth, including graduated sanctions, substance abuse and mental health counseling, restitution, community service, and supervised probation.

Nonetheless, JAIBG has been zeroed out. The new and improved JAIBG has not even been given a chance by this Administration—the same Administration that reauthorized JAIBG just last year. I am aware that the Justice budget retains some

funding for juvenile justice programs. However, a new \$43 million “Juvenile Delinquency Block Grant Program” still represents almost a \$100 million cut from last year’s JAIBG program—a program authorized at \$350 million. Moreover, Title V juvenile crime prevention programs—cut in half in the fiscal year 2003 appropriation B are also under-funded and overly earmarked in this year’s budget proposal.

Why are these programs being cut at a time when the latest statistics suggest an up tick in juvenile crime after a steady decrease throughout the nineties? Now is not the time to give up juvenile justice programs.

Answer. The fiscal year 2004 President’s Budget request for juvenile justice delinquency and prevention programs focuses on those programs that work and provide states and local governments maximum flexibility. These programs include the \$93.768 million Part B Formula Grants, the new \$42.881 million Juvenile Justice Delinquency Prevention Block Grant Program created by the 21st Century Department of Justice Reauthorization Act, and the \$82.255 million Title V Incentive Grants for Local Delinquency Prevention Program, which represents an increase of \$36.1 million above the fiscal year 2003 enacted level. The request includes funding for two major activities: \$69.755 million for Title V Delinquency Prevention Program Incentive Grants; and \$12.5 million for the Tribal Youth Program, which awards grants directly to American Indian and Alaska Native communities for prevention, control, and juvenile justice system improvement. This is essentially the same level as requested in fiscal year 2001 through fiscal year 2003.

The Juvenile Accountability Block Grant Program (JABG) was reauthorized under the 21st Century Department of Justice Reauthorization Act, which was signed into law on November 2, 2002. Funding for the JABG, formerly the Juvenile Accountability Incentive Block Grant (JAIBG) Program, was not requested because in its recent Program Assessment Rating Tool (PART) evaluation, OMB ranked JAIBG as “ineffective.” As OMB indicated in the evaluation, program managers have little information on the activities and outcomes of JABG, and cannot verify the need for or the results of this program.

According to the initial statutory guidance for JABG, the ultimate purpose of the block grants is to make juvenile offenders more accountable for their actions and to make the justice system more accountable for juveniles’ safety. These stated goals make it difficult for managers to develop clear, outcome-based performance measures. Other than anecdotal evidence, the program has not demonstrated any measurable impact on either juvenile crime or the juvenile justice system to date.

There are purpose areas in the Juvenile Delinquency Block Grant program that overlap with JABG purpose areas. In addition, funds under the proposed \$599.724 million Justice Assistance Grants (JAG) program can be used by state and local governments to address the areas funded through JABG. Thus, resources will still be available to address juvenile offender accountability.

#### IMPORTED EXPLOSIVES

*Question.* Federal explosives regulations require domestically manufactured explosives to include identifying information such as manufacturer, location, date, and shift of manufacture. This information is vital to criminal investigations when law enforcement authorities recover explosives. ATF can trace the purchase of explosives in much the same way that it traces firearms. Yet, imported explosives are not required to have any identification information.

How many pounds of unmarked imported explosives enter the country—say annually? I understand that millions of pounds of these unmarked explosives enter this country each year. If this is the case, should we not take immediate legislative action to close this loophole? Do you pledge to work with me on this?

Answer. Currently there are no regulations requiring the marking of explosive materials imported into the United States. Federal regulations at 27 CFR part 555, Commerce in Explosives, administered by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), require that licensed domestic manufacturers of explosive materials legibly identify all explosive materials manufactured for sale or distribution by placing the identity of the manufacturer and the location, date, and shift of manufacture on each cartridge, bag, or other immediate container. ATF; the Institute of Explosives Makers (IME); and the International Association of Bomb Technicians and Investigators (IABTI) recognized that these regulations do not extend similar requirements on importers of explosive materials. ATF; the IME; and the IABTI recognized that this loophole creates a major obstacle for tracing foreign manufactured recovered explosives, as well as results in an economic disadvantage by placing the marking requirement only on domestic producers. To that end, both the IME and IABTI petitioned ATF to pursue rulemaking to close this loophole. On October 16, 2002, ATF issued a notice of proposed rulemaking to require the mark-

ing of all explosive materials imported into the United States. The notice comment period ended January 14, 2003 and is in the final stages of review.

There is no federal requirement for reporting the amount of explosives materials imported into the United States. ATF is working with the U.S. Customs Service to obtain a reliable figure. However, information from the IME indicates that there are approximately 6 billion pounds of explosive materials used in the United States annually. Of that amount, approximately 2 million pounds of boosters (a high explosive) are imported into the United States annually. Additionally, industry sources have advised ATF that approximately 165 million pounds of Chinese fireworks enter the United States annually.

#### FISA (FOREIGN INTELLIGENCE SURVEILLANCE ACT)

*Question.* Press reports indicate that for the first time since FISA became law, surveillance requests under FISA outnumbered all of those under domestic law—the Washington Post reported last week that you personally signed more than 170 “emergency foreign intelligence warrants”—this is three times the number authorized in the preceding 23 years.

Mr. Attorney General, can you comment on whether that is true? In addition, given the much greater powers granted to the government under FISA, can you tell us whether we should be disturbed by this trend. After all, the secrecy that surrounds FISA provides very little accountability and oversight. Are we in danger of living in a country where secret wiretaps and extended surveillance are the norm?

Answer. While I cannot speak to the accuracy of press reports, as I have said previously, in 2002, using Foreign Intelligence Surveillance Act (FISA) tools, we targeted more than 1,000 international terrorists, spies and foreign powers who threaten our country’s security. We requested 170 emergency FISAs. This is more than three times the total number of emergency FISAs obtained in the 23 years prior to September 11.

This is a reflection, in part, of the imminent need to protect the United States from potential acts of terrorism or other grave hostile acts from foreign powers or agents of foreign powers. I would disagree that the FISA provides little accountability and oversight. Every application that is presented to the Foreign Intelligence Surveillance Court (the Court) goes through a rigorous review on many levels. Before presenting an application to the Court, the Attorney General must approve the application based upon his finding that the application satisfies the criteria and requirements for such applications set forth in the FISA, including the requirement that the target of the surveillance or search is a foreign power or an agent of a foreign power. In addition, the application is certified by an appropriately designated official. Among other things, the official certifies that a significant purpose of the surveillance or search is to obtain foreign intelligence information. Finally, the application is presented to the Court for its independent judicial review. In the event that an application is denied by the Court, the Foreign Intelligence Surveillance Court of Review has jurisdiction to review such a case.

In addition, Congress plays an important role in oversight of the FISA process. The Attorney General submits, on a semi-annual basis, detailed reports concerning activities conducted pursuant to the FISA to the Senate Select Committee on Intelligence, the House Permanent Select Committee on Intelligence, and both the House and Senate Judiciary Committees.

In all cases, strict adherence to the Constitution, and observation of the responsibility of this government to safeguard the rights of all individuals regarding the Constitution, is the highest priority of the Department of Justice. Any surveillance or search conducted pursuant to the FISA is done in strict accordance with the law, and is conducted in ways which I believe fully respect the Constitution.

#### ANTITRUST—TELECOM

*Question.* A priority of the Antitrust Subcommittee has been promoting competition in the local and long distance phone markets. For many years, the Antitrust Division has had a task force—the Telecommunications and Media Section—devoted to monitoring competition in the telecom industry. Its principal responsibility has been to determine whether the local telephone market is open to competition when the incumbent Bell company applies for permission to provide long distance service. As you know, this is known as the Section 271 process. The 271 process has been conducted on a state-by-state basis and is now nearly complete.

With this process winding up, some observers wonder if the Telecommunications and Media Section is as active as it should be, and whether the Antitrust Division will continue to aggressively police anti-competitive practices in local phone mar-

kets. We must ensure that the markets deemed open to competition remain open, rather than backsliding into a monopoly environment.

What do you see as the role of the Antitrust Division in ensuring competitive local phone markets in the future? Would you favor giving, by statute, the Telecommunications and Media Section clearly established periodic responsibilities to examine local phone competition?

Answer. The Antitrust Division has played an important role in protecting competition in the telecommunications industry for decades and fully intends to continue doing so through vigorous antitrust enforcement. Following enactment of the Telecommunications Act of 1996, the Division has provided guidance to the FCC and the state regulatory agencies on the Section 271 process and has provided the FCC with an evaluation of each Section 271 application. Before that, the Division spent 14 years enforcing the 1982 antitrust consent decree that settled the enforcement action the Division brought against AT&T in 1974. Along with these responsibilities, the Division aggressively investigates proposed mergers and potentially anticompetitive conduct in a wide variety of communications and media markets.

With the Section 271 initial application process approaching completion, the Division intends to continue monitoring activities in the telecommunications industry across the country. In states where the Bell Operating Company has been granted Section 271 authority, the Division will continue to play its traditional roles of enforcing the antitrust laws against Sherman Act violations and anticompetitive mergers, as well as engaging in competition advocacy through participation in FCC and state regulatory proceedings where we can provide competitive analysis that would assist these agencies in promoting and maintaining the development of local competition.

The FCC will continue to have authority to enforce compliance with the specific market-opening provisions of the 1996 Act. The antitrust laws give the Antitrust Division sufficient authority to perform its broader role in protecting competition in this important marketplace, and the 1996 Act contains a savings clause that explicitly preserves the Division's antitrust enforcement authority in this area. Given our enforcement history and accumulated experience in telecommunications markets, we plan to remain fully engaged in monitoring these markets for possible antitrust violations. Additional authority is not needed in order for us to perform this role.

#### SLEEPER CELLS

*Question.* What is the current status of the investigation to root out more terrorist sleeper cells in this country? Are we on the right track or do we have a long way to go?

Answer. With the cooperation of the Joint Terrorism Task Force Program, the FBI successfully identified cells in Buffalo, Detroit, and Portland, Oregon. These investigations have resulted in convictions of subjects charged with offenses ranging from providing material support to terrorist organizations to misuse of identification documents.

The FBI is currently working jointly with all members of the Intelligence Community to identify additional terrorist sleeper cells within the United States. Although we have identified new cells within the United States, and we are on the right track, the war on terrorism is ongoing.

#### SUBCOMMITTEE RECESS

Senator GREGG. The next hearing will be on Tuesday, April 8, at 10 a.m., in the Dirksen Building at 124. The subcommittee will be hearing testimony of SEC Chairman William Donaldson. This is going to be in the Senate Office Building—we are going to hold it over in the Capitol.

Thank you.

[Whereupon, at 11:25 a.m., Tuesday, April 1, the subcommittee was recessed, to reconvene at 10 a.m., Tuesday, April 8.]