

**COMMERCE, JUSTICE, SCIENCE, AND RE-
LATED AGENCIES APPROPRIATIONS FOR
FISCAL YEAR 2006**

TUESDAY, MAY 24, 2005

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

The subcommittee met at 10:01 a.m., in room SD-192, Dirksen Senate Office Building, Hon. Richard C. Shelby (chairman) presiding.

Present: Senators Shelby, Stevens, Mikulski, Leahy, Kohl, Murray, Harkin and Dorgan.

DEPARTMENT OF JUSTICE

OFFICE OF THE ATTORNEY GENERAL

STATEMENT OF HON. ALBERTO R. GONZALES, ATTORNEY GENERAL

Senator SHELBY. The subcommittee will come to order.

I want to welcome Attorney General Alberto Gonzales and the Director of the Federal Bureau of Investigation (FBI), Robert Mueller. Thank you both for appearing before the subcommittee this morning. This is your first appearance before the newly created Subcommittee on Commerce, Justice, Science, and Related Agencies. Previously in my capacity as the chairman of the Senate Select Committee on Intelligence we had the opportunity to work together, and I hope to continue that relationship with you.

I look forward to hearing from each of you about your vision of the Justice Department and the FBI respectively, and the challenges each of you see in the coming fiscal year. In particular I want to take this opportunity to thank the men and women who work at the Justice Department and all they do to keep America safe.

Based on my review of your budget request and the constraints of the subcommittee, I believe it will take your leadership to make the tough choices regarding the allocation of resources given the budget constraints we are facing.

FISCAL YEAR 2006 BUDGET REQUEST

The fiscal year 2006 budget request for the Department of Justice is \$20.3 billion and represents an increase of 1 percent over the 2005 enacted funding level. While the budget proposes increases for the FBI, the United States Attorneys, the United States Marshals Service, and the Bureau of Alcohol, Tobacco, Firearms and Explo-

sives (ATF), this budget proposes severe cuts to other important programs. In particular it proposes to cut \$1.4 billion to State and local law enforcement programs. It rescinds \$314 million in funds for the construction of new prisons, and proposes \$123 million in new fees to fund base operations for critical law enforcement activities. This budget also proposes to rescind \$1.3 billion held in trust for victims of crime to offset costs elsewhere. With that proposed offset, the Justice Department's request is actually \$19.1 billion and represents a 5 percent decrease from the 2005 level.

I find these cuts to be unacceptable and perhaps irresponsible, particularly as they relate to the rescission of important funds and the proposal of new fees.

I want to be supportive of this request, but these reductions and the budget maneuvers concern me and will concern others on the subcommittee. For example, the budget proposes to increase a fee on the explosives industry to generate revenue of \$120 million in offsetting collections in 2006. I want to point out that even if Congress passed this proposal today I am told it would take the Department 2 years to even begin collecting the fee. If that is true, I do not understand how the Department of Justice proposes to use the receipts from this fee to offset fiscal year 2006 law enforcement operations. This \$120 million hole is just one example of many contained in this request. These shortfalls will force the committee to make some extremely difficult choices.

Another offset that concerns me is the proposal to rescind funding previously provided by this subcommittee for new prison construction. Not only are we facing significant overcrowding at Federal prison facilities, but you are projecting the addition of approximately 8,000 new prisoners each year to those already crowded facilities. The budget proposes to rescind \$314 million for funding already provided to build two medium security facilities. Without construction and activation of these two facilities, projected medium security crowding, which is already 50 percent over capacity, will be 10 percent higher by 2009.

As for increases, Mr. Attorney General, your budget request proposes that \$2.7 billion be spent on information technology, also, I expect there to be some direct oversight by you of the systems being developed by the Department and in its bureaus. The fact that the Department's CIO has control of less than 10 percent of the information technology (IT) resources and the employees who build, run and maintain these systems, explains why there is no universal plan for systems development in the Department. But given the current budgetary constraints there are not sufficient resources to continue building these stovepipe systems that fail to deliver the results promised to the taxpayers and to the users.

I am especially interested in hearing what specific oversight the Department is conducting with respect to the FBI's Virtual Case File (VCF). I was extremely disappointed to learn of VCF's failure and the significant loss of funds associated with it. While I wholeheartedly support bringing the FBI into the 21st century and realize the importance of information technology to the FBI's mission, we cannot support unlimited and unchecked resources, and will not tolerate broken promises for results that are never realized or delivered. I believe, given one failed attempt, it is imperative that you

proceed with caution to ensure that we do not make the same mistakes twice. We expect results and will do everything we can to ensure that there is congressional oversight for this program. Someone must be accountable for the success or failure of VCF and all of the Department's programs.

There are many other issues that we anticipate discussing during this hearing, including the FBI's use of resources on priority missions, the relationship of the FBI Director and the new Director of National Intelligence, and the funding implications of that relationship, and the critical human resources issues the FBI is now confronting.

Attorney General Gonzales and Director Mueller, I look forward to hearing your thoughts on the Justice Department's budget request and will look forward to working with you on other important issues facing this country.

OPENING STATEMENT OF SENATOR BARBARA A. MIKULSKI

Senator Mikulski.

Senator MIKULSKI. Thank you very much, Mr. Chairman, and good morning to the subcommittee and to the Attorney General and to Director Mueller.

This is our first hearing of the Senate Appropriations newly constituted Commerce, Justice, Science Subcommittee, and as I said, I look forward to working with Senator Shelby. This is a great subcommittee due to Senator Shelby's long experience and involvement in this, and also because we both were on the Intelligence Committee together. As Senator Shelby said, we look forward to really working with you in both unclassified and classified situations. And we have Senator Leahy, the ranking member on Judiciary, which hopefully means we will be able to combine sound policy with a good budget.

We also note that as of this morning the Justice Department and the White House have sent forth a name for the U.S. Attorney in the State of Maryland. We have met with him and we feel confident that he will make a good one, and I assure you that I will do all that I can to move his nomination expeditiously.

As we look at what the Justice Department is facing, it is one of the most critical agencies in our country. It must join together to fight the global war against terrorism, and yet protect us against other threats of organized crime, white-collar crime and the rising gang violence. Its agencies are some of the most important that serve our Nation. In addition to the overall Justice framework, there is the FBI, the Drug Enforcement Administration, ATF, and our Marshals Service, often overlooked.

In serving in this subcommittee we look forward to working with you to build a safer and stronger country. And like Senator Shelby, I too am very concerned about this budget. Particular concerns to me are the drastic cuts to local law enforcement programs which have to be the hallmark of law enforcement in our community, and law enforcement, when it is coordinated, really serves the national interest.

Also, I am deeply concerned about the irresponsible \$1.3 billion rescission in the Crime Victims Fund. My job is to make sure the

Department stands sentry on protecting America and our country and to make sure that we are the safer and stronger country.

In order for our law enforcement strategy to work, we need to really focus on local law enforcement, and I have been concerned about programmatic cuts in the community oriented policing services (COPS), the Byrne program and others at the local level.

I just would like to commend you, Mr. Attorney General, and then also to thank Director Mueller. We had a terrible situation here a few years ago with the sniper case, and it was a phenomenal effort of coordination, and we could not have done what we did without the FBI and Gary Bald and our ATF, who worked closely with our county executive, Doug Duncan. But we did not federalize it. We worked with the local law enforcement people. We had a national effort without federalizing. The Federal Government came in with its highest and best use of resources, but because of all of the funding and work of local law enforcement and the insistence that they coordinate, there was a brotherhood of the Beltway, truly a brotherhood around the Beltway. What they were able to do is to find the killers, and now as you know, they are in our judicial system.

That to me is the model of local law enforcement, particularly when a nation or a community is under threat. So I am very committed to being able to make sure that local law enforcement has what it needs and that we have this kind of intense partnership.

The other issue that we see on the rise is the issue of gang violence, and we hope to discuss this with you more, particularly because this issue is not only in our region, but it is a growing one.

In an ideal world we could have had a separate hearing just on the FBI, but we need to move expeditiously in this appropriations cycle so that we are part of the cycle, and I want to thank Senator Shelby for the way he is organizing the subcommittee. But for the FBI, we really look forward to our continued relationship with the Director. We have worked with him in the intelligence effort. But now as we look at the FBI, we know we look at the request for increased funding for more analysts, language training, all of these things which we intensely support. We must go back though to the issues of Trilogy and to make sure we are on track with that, and at the same time as we work on making sure there is the technology to work, we cannot let domestic issues fall by the wayside, and I will be raising issues on an effort on health care fraud, the bilking of our citizens.

So we will be talking about that as well as the gang issue and the prisoner reentry program.

I am very interested, and I know Senator Shelby has raised the issue of new prisons. We have a Federal prison in Cumberland, Maryland and I compliment you on its staff. But what happens when the prisoners come home, and do we have a way that prevents recidivism and reintegrates them into the community and into the family?

Mr. Gonzales, I know this is a keen issue with you, and perhaps this is one of the areas where faith-based initiatives really work best because of its community-based initiative to welcome the prisoner, coordinate with parole or probation, and at the same time

make sure that when they reenter we move them to a new way of life and we look forward to discussing this with you.

Mr. Chairman, that concludes my statement. There is so much to talk about, but we agree on a lot of the priorities. We just need to agree now on the wallet.

Senator SHELBY. Senator Leahy.

OPENING STATEMENT OF SENATOR PATRICK J. LEAHY

Senator LEAHY. Thank you, Mr. Chairman. I join you and Senator Mikulski in welcoming Attorney General Gonzales and FBI Director Mueller here, and I know they represent the hard-working men and women of the Justice Department, the FBI, people who work around the clock every single day of the week, protect all Americans, and I would hope that all Americans are grateful.

They are here to talk not only directly on policy but indirectly on policy because they are going to talk about the budget request for the Justice Department, a request which recommends lessened priorities, substantial cuts in several programs that are critical to State and local agencies. They are in charge of fighting crime and preventing terrorism and assisting victims.

I share the frustration of local and State law enforcement. All of us, both Republicans and Democrats have heard from them, and the first responder agencies because they see a budget request that includes elimination and reduction of funding by \$1.5 billion. That is a 46.2 percent reduction in programs crucial to their day-by-day efforts. As a Senator from a rural State I've seen the partnerships we have made with our rural law enforcement, and how our State police have been called upon to carry out duties they had never done before, in cooperation with the Federal agencies. So when the administration proposes a 46.2 percent cut in what they have for law enforcement it is a matter of concern.

The Department's top priorities continue to be the prevention, investigation, and the prosecution of terrorist activities against U.S. citizens and interests, as we see in their request for \$535 million in new investments for the FBI including counterintelligence activities and Justice information systems technology. But I think it is legitimate to ask questions about how the FBI has handled some of these resources. At our last hearing in February we examined the lack of a Virtual Case File and the millions wasted on lessons learned. I hope that the Director will have new information today on the program successor, so-called SENTINEL, on the status and cost and make sure that this is not money down the drain like the last time.

There have been concerns that traditional duties to the Justice Department have garnered too little attention and support. They have to lead the Nation in deterring, investigating, prosecuting gun, drug, civil rights violations, incarcerating offenders, partnering with State, local and community groups to prevent crimes, and of course leadership and assistance in meeting the needs of crime victims. We have seen an end to the downward trend in violent crimes with rates leveling out instead of continuing to climb. The FBI has reported an overall violent crime decline of 3 percent in 2003. That is great news, but murders increased by

1.7 percent, and that of course creates a concern especially as it reflects a change and a downward slide.

The President says that he wants to ensure that our State and local police receive the resources necessary to do the job. Last week at the National Press Club the Attorney General said—and I totally agree with what he said—“we rely on local information, local partners to fight local crime, the beat cop, the county sheriff, and the lifelong investigator. They understand what is happening in the towns and cities and what needs to be done to stop it.”

Attorney General GONZALES. I could not agree with you more. But I worry when I see the drastic cuts in those programs. Under the President’s budget we are going to see an end to grants for hiring on the beat and school resources officers. We see under the President’s budget severe reductions in equipment and support staff grants to combat illegal drugs, particularly methamphetamine production and distribution. We are going to see drastic cuts of 50 percent to programs that support activities to prevent juvenile delinquency and address juvenile crime, something we were finally getting a handle on. The Boys and Girls Clubs of America, for example, something that has been proven to be a success, is going to see its budget cut by 30 percent.

And finally, and this I really cannot understand, in the Crime Victims Fund, which has had enormous bipartisan support, the President has proposed to take all the amounts remaining in the fund, all of them, at the end of fiscal year 2006. That is a cut of \$1.2 billion. It is going to place crime victim service programs in serious jeopardy. I think it sends a wrong message to law enforcement officers and crime victims. They see us spending billions of dollars for victims of crimes in Iraq, but we are cutting out every single cent in this budget for crime victims in America. I am not saying we should cut out the money in Iraq. That is not the question, but if we can find it in our hearts and our pocketbooks to help crime victims in Iraq, why are we taking away all the money that was put in there for crime victims in the United States. I do not think we should be eliminating initiatives that we know to be effective.

Strengthening security, information sharing, and disaster response programs to combat terrorism must not totally overshadow the prevention of more traditional crimes. Frankly, most people are far more worried about a burglar, a rapist, a murderer or somebody who is stealing their identity, doing these crimes, than they are about an airplane flying into their homes or the buildings where they work. Of course we watch out for the airplanes, but I think that the average person is far more worried about the safety of their home and their business and their person, and when they go shopping or with their children going to school. And if they have been a victim of a crime they are worried about being helped as a victim.

Mr. Chairman, I commend you for having this hearing. I think it is very important, and I congratulate you on your new chairmanship.

Senator SHELBY. Thank you.

Senator Stevens.

Senator STEVENS. I have no opening statement. Thank you.

Senator SHELBY. Senator Harkin.

OPENING STATEMENT OF SENATOR TOM HARKIN

Senator HARKIN. Thank you, Mr. Chairman. I will be brief.

Mr. Attorney General, between 1993 and 2003, violent crime in this country declined by more than 50 percent, from 49.1 to 22.3 incidents of violence per 1,000 persons. During this same period of time the Federal Government provided an increased level of assistance to local law enforcement agencies in the form of grants. Three programs in particular, the Edward Byrne Memorial grant, the local law enforcement block grant, and the COPS program, have been critical in providing resources to pay for more law enforcement officers and to fund more regional cooperation.

However, between fiscal year 2003 and 2005 over \$1 billion in grant assistance to State and local law enforcement was cut from the Department of Justice (DOJ) budget. This year you are taking the final step and eliminating what remains of these programs, and depriving law enforcement agencies across the country of an additional \$1.3 billion. This is quite a way to say thank you to the men and women in law enforcement. It is quite a way to handle programs that have contributed to this amazing reduction in violent crime.

Just as an example of what these cuts mean, the Byrne program, which is being eliminated, funds 4,316 cops and prosecutors working on 764 drug enforcement task forces nationally. Byrne funding led to 130,000 drug arrests in 32 States, the seizure of 136 tons of illegal drugs, the confiscation of over 7,000 weapons and the seizure of 7,691 meth labs. Yet the administration's rationale for doing away with the program is that it has not demonstrated results.

So, Mr. Attorney General, I would like very much for you to visit Iowa, where like many other midwestern States we are in the middle of a methamphetamine crisis. Our Byrne dollars, the ones that may not exist next year, fund 74 task forces and pay for an additional 84 law enforcement salaries. They fund task forces responsible for the seizure of 63 percent of the meth labs in my State of Iowa. They fund a women's prison treatment program, where only 9 percent have gone back on meth after their release. It is an award-winning dual diagnosis treatment program.

These funds are, quite simply, critical to the fight against meth. They are making a difference. When it comes to my turn for questioning I would like to again question you further about the taking away especially of the Byrne grant programs.

Thank you, Mr. Chairman.

Senator SHELBY. Senator Murray.

OPENING STATEMENT OF SENATOR PATTY MURRAY

Senator MURRAY. Mr. Chairman, thank you very much, and thank you to both Attorney General Gonzales and FBI Director Mueller for being here today, and I thank you and the ranking member for holding this hearing.

I do not have an official opening statement. Let me just say I echo the concerns about the cuts to the Byrne justice assistance grants and to the COPS Program. I am very deeply concerned

about those cuts and the impacts, as well as the proposal not only to cut HIDTA funding but to move it, and the implications there. I am also very concerned that the Department of Justice has not done enough to stop the spread of methamphetamine and other synthetic drugs, and I will be asking you about that during the questioning as well.

Mr. Chairman, most importantly to my State, as we have been dealing with challenges along the northern border and being much more aggressive, it has been good, but a lot of the costs have been dumped on our local jurisdictions to be able to deal with some of the drug smuggling and money laundering and other crimes, that as a result of more intense border security, we have been pushing these to the local jurisdictions to deal with it. It is a tremendous cost to the communities on our northern border. So I will be asking about that during the questioning.

Thank you for having this hearing.

Senator SHELBY. Mr. Attorney General, your written testimony, your written statement will be made part of the record, and so will yours, Director Mueller. You proceed as you wish. Welcome to the subcommittee.

OPENING STATEMENT OF ATTORNEY GENERAL GONZALES

Attorney General GONZALES. Good morning, Mr. Chairman, Senator Mikulski and members of the subcommittee. It is my pleasure to appear before you with Director Mueller to present the President's fiscal year 2006 budget of the Department of Justice.

This budget reflects some tough decisions, but it is a budget that I fully support. It reflects the President's charge for every public servant, which is not to simply spend more with the best of intentions, but to spend more wisely with an eye toward results.

It builds on our number one priority by including over \$500 million in new investments for preventing and combatting terrorism. I would like to present a few highlights from the budget that we believe will lead to a stronger Justice Department, better homeland defense, a more effective counterterrorism effort, and even smarter crime-fighting initiatives.

FEDERAL BUREAU OF INVESTIGATION INTELLIGENCE AND COUNTERTERRORISM PROGRAMS

First, the President's budget includes funding to strengthen the FBI's intelligence and counterterrorism programs, as has been mentioned, including additional resources to hire 499 intelligence analysts and 288 new agents for the counterterrorism program.

Our request also continues efforts to partner with State and local governments to maximize resources targeted to homeland security. It includes over \$90 million in directed investment grants for counterterrorism and counterintelligence efforts.

DRUG FIGHTING STRATEGIES

Second, the President's budget request will lead to even more effective drug fighting strategies. We request enhancements of \$245 million for drug enforcement efforts. For the first time in a decade, drug use has decreased among 8th, 10th, and 12th graders. With

extraordinary collaboration between Federal law enforcement agencies, in the past 2 years we have hurt international trafficking organizations responsible for the U.S. drug supply.

We know from experience that law enforcement agencies must pool their resources and expertise to target trafficking networks effectively. The Department of Justice's drug enforcement strategy refocuses the organized crime drug enforcement task force (OCDETF) program to conduct coordinated investigations of major drug supply and money laundering organizations, targeting the entire infrastructure of these enterprises. For this successful program, we are requesting additional resources of \$172 million and 517 positions.

Also included are enhancements of \$72.9 million for the Drug Enforcement Administration (DEA). This money will mean 122 new positions, including 76 new agents for the DEA.

To assist State and local efforts in implementing drug enforcement programs and strategies, the Department's fiscal year 2006 request also includes \$206.7 million in directed investments, including a \$19.3 million increase for residential substance abuse treatment, an additional \$30 million for drug courts, a \$19.4 million increase for Southwest border drug prosecution, \$20 million to continue methamphetamine lab cleanup, and \$5 million to continue the prescription drug monitoring program.

FIGHT VIOLENT CRIMES

Third, the President's budget will continue to build on the President's vision for policies that fight violent crime with hard time. Violent crime and firearms trafficking continue to be significant law enforcement problems throughout our Nation. We are committed to reducing violence and getting gun criminals off the streets through the Project Safe Neighborhoods (PSN) Initiative. The Department is requesting a total of \$379 million for PSN in fiscal year 2006. PSN is a comprehensive strategy that brings together Federal, State and local agencies to reduce violent crime in our communities. Working with the Department, each community tailors a program to target local gun violence problems.

PROTECT WOMEN AND CHILDREN

Fourth, the President's budget builds on our successful efforts to protect women and children and to build a more just and safer society for all. Over the last year we have worked aggressively with other law enforcement agencies to target and prosecute a large variety of offenders posing grave threats to children, including large international rings of organized and predatory child molesters and commercial producers and sellers of child sex abuse images. Through these efforts more than 150 child victims were rescued. The fiscal year 2006 budget increases funding by \$10.4 million for our efforts to fight child pornography and obscenity.

COURT SECURITY AND DETENTION RESOURCES

Fifth, as a result of aggressive law enforcement policies targeting terrorism, violent crime, immigration violations and drug crimes, as well as increases in the number of FBI, DEA and U.S. Immigra-

tion and Customs Enforcement (ICE) agents, the number of criminal suspects appearing in Federal court continues to grow, as does the number of individuals ordered detained and ultimately incarcerated. The fiscal year 2006 budget provides significant resources needed to improve courtroom security and the detention and incarceration of those accused or convicted of violent crimes. During fiscal year 2004 the Nation's Federal prison population rose 4.3 percent. That is an increase of more than 7,300 inmates. At the same time the Federal prison detention population rose 11.8 percent. Our fiscal year 2006 budget requests \$509.6 million in additional resources for the Federal Bureau of Prisons, U.S. Marshals Service, and the Office of the Detention Trustee to manage this growth.

Finally, the President's budget includes many directed investments and efficiencies to ensure that the Department continues down the path of wise and effective financial management so that we maximize every dollar that is provided to us.

PREPARED STATEMENTS

Chairman Shelby, Senator Mikulski, members of the subcommittee, I am honored to testify here, and I look forward to working with you in the days and months ahead for a budget that will lead to a safer, more secure, and more just America.

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

[The statements follow:]

PREPARED STATEMENT OF ALBERTO R. GONZALES

Good morning Chairman Shelby, Senator Mikulski and Members of the Subcommittee: It is my pleasure to appear before you for the first time to present the President's fiscal year 2006 budget for the Department of Justice. I assumed this office knowing that the Department of Justice (DOJ) is fully committed to protecting the lives and the liberties of our citizens. As such, the budget proposal I bring before you today requests resources to continue protecting Americans and keeping our streets safe. For fiscal year 2006, the President's budget requests \$19.1 billion for the Department of Justice, including \$535.2 million in new investments for preventing and combating terrorism, including counterintelligence.

The budget I present to you is also mindful of our need to ensure that programs achieve their intended result. We propose a number of reforms and, where warranted, program reductions or eliminations. As a result, the spending increases proposed in our budget are offset by \$1.88 billion in program savings and I look forward to working with you to achieve these savings.

The Department's fiscal year 2006 budget requests \$3.1 billion in homeland security spending, including funding to strengthen the Nation's counterterrorism investigative capabilities to identify, track and prevent terrorist cells from operating in the United States and enhance the Nation's counterintelligence analysis capabilities. This request also provides necessary resources to continue our efforts to deter, investigate and prosecute federal crimes, including gun, drug and civil rights violations; incarcerate offenders; partner with state, local, community and faith-based groups to prevent crime, including crimes against children; and provide leadership and assistance in meeting the needs of crime victims.

PREVENTING AND COMBATING TERRORISM, INCLUDING COUNTERINTELLIGENCE

Over the past three years, the Department has steadfastly allocated resources to counterterrorism and has undergone a transformation in our priorities, as well as our organization. Within DOJ, the Federal Bureau of Investigation is in the process of standing up a comprehensive Intelligence Program to prevent terrorist attacks, an effort that has been accelerated by the passage of the Intelligence Reform and Terrorism Prevention Act of 2004. The fiscal year 2006 budget includes funding to strengthen the FBI's Intelligence and Counterterrorism Programs, such as addi-

tional resources to hire an additional 499 Intelligence analysts and 288 agents for the Counterterrorism Program.

Tremendous strides in the war on terrorism were made under the leadership of Attorney General John Ashcroft. In the past year alone, the Department of Justice has arrested 379 individuals on counterterrorism-related charges and prosecuted and obtained convictions in 200 terrorism-related cases.

Under my leadership, we in the Department will continue to be resolute in our quest to address terrorism and other threats to our Nation with integrity and devotion to our highest ideals. I appreciate the support shown by this Subcommittee and the Congress in providing the necessary resources for the Department of Justice to be a champion and build a culture dedicated to protecting the lives and liberties of Americans. The budget that I present to you today reflects this support and seeks to enhance the Department's ability to protect America.

Enhancing Counterterrorism/Counterintelligence Capabilities

Since September 11, 2001, the Federal Bureau of Investigation's (FBI) counterterrorism workload has more than tripled, from 9,340 cases pending and received in the field to over 33,000 in fiscal year 2004. This budget request includes resources for the FBI to provide critical counterterrorism investigation capabilities. This funding will allow the FBI to strengthen its effort to identify, track, and prevent terrorist cells from operating in the United States. Principal increases would provide funding to: double the size of the Hostage Response Team, hire 499 additional intelligence analysts, enhance the foreign language translation program by \$26 million, and expand the Legal Attaché program.

This budget also includes funding for two Presidential initiatives, the National Counterterrorism Center (NCTC) and the Terrorist Screening Center (TSC). The NCTC, established in May 2003 as the Terrorist Threat Integration Center, is a multi-agency effort that merges and analyzes intelligence information to provide a comprehensive threat analysis to the intelligence and law enforcement communities.

The Terrorist Screening Center, which was established by Homeland Security Presidential Directive/HSPD-6 on September 16, 2003, and became operational on December 1, 2003, consolidates terrorist watch lists. Several initiatives require additional resources in this area, including: continuing education of state and local law enforcement; more stringent screening at U.S. borders; and screening passengers on domestic and international flights without unduly delaying commerce or travel. To meet these increased requirements, this budget includes an additional 61 positions and \$75 million for TSC, bringing total TSC funding up to \$104 million.

Additionally, successful counterterrorism requires the cohesive intelligence, investigative, and prosecutorial efforts of many government agencies, including the federal, state, and local law enforcement agencies participating in the Joint Terrorism Task Forces (JTTF). A key to the success of the JTTF concept remains the melding of personnel from various law enforcement agencies into a single focused unit. Also, since the events of September 11, 2001, the U.S. Attorneys and the Department's Criminal Division have utilized the full cadre of anti-terrorism statutes to prosecute terrorist activities, including disrupting terrorist financing. Our budget seeks an additional \$13.2 million and 91 positions to enhance these efforts, including funds to support the investigation of terrorism, primarily through the application of warrants under Foreign Intelligence Surveillance Act and Department-wide continuity of operations investments.

Additional Enhancements to Counterterrorism/Counterintelligence Infrastructure

A key element in our efforts to prevent future acts of terrorism is our ability to effectively share information about terrorists, criminal activity and threats to public safety within DOJ and with other federal, tribal, state and local law enforcement partners. To support this effort, this budget requests an additional \$63.9 million and 5 positions for the Justice Information Sharing Technology (JIST) Program. This program will ensure that investments in information sharing technology are well planned and aligned with the Department's overall information technology strategy and enterprise architecture. JIST will also ensure that all DOJ components are able to operate in an interoperable environment, particularly with respect to preventing terrorist attacks on the United States.

This request also continues efforts to partner with state and local governments to maximize resources targeted to homeland security efforts. The fiscal year 2006 budget maintains this commitment and includes \$90.3 million in directed investment grants for counterterrorism/counterintelligence efforts.

DRUG ENFORCEMENT

For the first time in a decade, drug use has decreased among 8th, 10th, and 12th graders. With extraordinary collaboration between federal law enforcement agencies, in the past two years the Department of Justice has crippled international trafficking organizations responsible for the U.S. drug supply. In fiscal year 2004, the Department dismantled 36 Consolidated Priority Organization Target (CPOT)-linked drug trafficking organizations and severely disrupted an additional 159 organizations.

The fiscal year 2006 budget requests enhancements of \$245.4 million for drug enforcement efforts: \$172.5 million is for the Organized Crime Drug Enforcement Task Force (OCDETF) Program, the cornerstone of the Department's drug enforcement strategy, and \$72.9 million is for the Drug Enforcement Administration (DEA), the Nation's sole law enforcement entity dedicated exclusively to drug enforcement. The request also includes an additional \$32.6 million in new initiatives for DEA's Diversion Control Fee Account and \$206.7 million in directed investments for the Office of Justice Programs.

Law enforcement agencies must pool their resources and expertise to target trafficking networks effectively. The Department's Drug Enforcement Strategy refocused the OCDETF Program to conduct coordinated investigations of major drug supply and money laundering organizations, targeting the entire infrastructure of these enterprises. For this successful program, the Department requests additional resources of \$172.5 million and 517 positions. This increased level of funding will address staffing imbalances that exist within the U.S. Attorney workforce; increase FBI OCDETF drug resources that focus on major trafficking organizations; implement Phase II of a multi-year plan to increase the capacity of the U.S. Marshals Service to apprehend OCDETF fugitives; and provide for ongoing operations and maintenance of the OCDETF Fusion Center beyond fiscal year 2005.

This request also reflects the President's proposal to transfer the High Intensity Drug Trafficking Area (HIDTA) Program from the Office of National Drug Control Policy (ONDCP) to the Department of Justice, with funding provided through OCDETF at a level of \$100 million including 5 positions. A smaller refocused HIDTA program, will enable law enforcement to target the drug trade in a manner that is strategic and complementary of the OCDETF Program and preserves HIDTA's most effective elements, such as intelligence sharing and fostering multi-agency law enforcement coordination.

Our fiscal year 2006 budget requests \$72.9 million and 122 positions, including 76 new agents, for the DEA. The investments requested will provide permanent funding for DEA's Overseas Rightsizing plan; expand DEA's presence in Afghanistan, Central Asia, and the Middle East; enhance intelligence sharing to fully exploit, gather, analyze and share intelligence information; and maintain and upgrade DEA's intelligence capabilities. These resources will also strengthen the investigation of drug trafficking and money laundering priority target organizations through enhanced communications intercept capabilities and investigative technologies.

For DEA's Diversion Control program, our fiscal year 2006 request proposes an increase of \$32.6 million and 97 positions to enhance investigations and enforcement actions against the illegal sale, use, or diversion of controlled substances. The request also proposes to transfer funding associated with the Chemical Program from the Salaries and Expenses account to the Diversion Control Fee Account to complete the transfer effectuated in the fiscal year 2005 Appropriations Act. Funding all Diversion Control Program activities from the Diversion Control Fee Account will help streamline the program's financial management activities.

The Department's fiscal year 2006 budget also includes \$206.7 million in directed investments to assist state and local efforts in implementing drug enforcement programs and strategies. Among these directed investments are: a \$19.3 million increase for residential substance abuse treatment; an additional \$30.0 million for drug courts; a \$19.4 million increase for southwest border drug prosecution; \$20 million to continue methamphetamine lab cleanup; and \$5 million to continue the prescription drug monitoring program.

VIOLENT CRIME ENFORCEMENT

Violent crime and firearms trafficking continue to be significant law enforcement problems throughout the Nation. The Administration is committed to reducing violence and getting gun criminals off the streets through the Project Safe Neighborhood (PSN) initiative. The Administration is requesting \$379 million for PSN in 2006. PSN is a comprehensive strategy that brings together federal, state, and local agencies to reduce violent crime in our communities. Working with the Department, each community tailors the program to target local gun violence problems. The Ad-

ministration has also launched a companion initiative, the Violent Crime Impact Teams (VCIT), led by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). VCIT, currently active in 15 cities, expands to 25 cities in the fiscal year 2006 budget.

Multiple Justice components play key roles in the Department's effort to reduce violent crime. The fiscal year 2006 request for PSN includes \$154.2 million in new investments, including \$136.2 million in additional funding for PSN initiatives such as Project ChildSafe, the National Criminal History Improvement Program, and State and Local Gun Crime Prosecution Assistance—all funded within the Office of Justice Programs. Funding also is requested under the PSN umbrella for ATF, the U.S. Attorneys, and the Criminal Division.

Since joining the Department in January 2003, ATF has become an integral part of the Department's efforts to reduce the violent use of firearms by criminals and gangs. Over 72 percent of ATF's resources (\$666.0 million) are dedicated to firearms regulation and enforcement efforts, including licensing and inspection of federal firearms dealers, ballistics gun tracing, and criminal investigations of gun related crimes in partnership with a variety of federal, state and local law enforcement agencies. In addition, the United States Attorneys Offices (USAO) across the country, continue to develop strategies to make their communities safer. Critical to that goal is the aggressive prosecution of violent crimes, particularly those involving firearms. Another key component to helping to forge strong and effective partnerships with state and local law enforcement, is the Office of Justice Programs which provides grant funding that focuses on youth gun violence deterrence, firearms safety, criminal records improvements, and strategic planning.

LITIGATION

The Department's fiscal year 2006 request includes \$31.6 million and 227 positions in new investments for litigation to enforce federal laws and represent the rights and interests of the American people, as well as \$1 million in Office of Justice Programs directed investments. The Department serves as the Nation's chief litigator, representing the United States in court and enforcing federal civil and criminal statutes, including those protecting civil rights, safeguarding the environment, preserving a competitive market structure, defending the public against unwarranted claims, and preserving the integrity of the Nation's bankruptcy system.

The President's fiscal year 2006 budget request includes funding to fortify the U.S. Attorneys' immigration and intellectual crime prosecutions; the Criminal Division's ability to investigate and prosecute child sex exploitation, trafficking, and obscenity; the Civil Division's efforts to address immigration litigation; and the Environment and Natural Resources Division's litigation needs associated with tribal trust cases.

Key investments include: \$1.9 million and 36 positions for additional paralegals to narrow the gap between the private sector industry average and that found in the U.S. Attorneys' Offices; \$3.7 million and 46 positions to ensure there is sufficient U.S. Attorney presence to meet the steadily increasing caseload generated by increased Immigration and Customs Enforcement cases; \$5 million and 58 positions in U.S. Attorney and Civil Division resources for Health Care Fraud investigations and prosecutions; and \$1 million and 11 positions to expand the Computer Crime, High Tech and Intellectual Property program.

Between fiscal year 2001 and fiscal year 2004, the Civil Division's Office of Immigration Litigation (OIL) workload tripled to approximately 15,000 cases and will likely surpass 21,000 by fiscal year 2006 due to the avalanche of appeals by aliens challenging decisions to detain, deport, exclude, and remove them. By fiscal year 2006, the attorney workload is projected to reach 186 cases—a number that is impossible for any attorney to handle effectively. Inadequate resources to defend these cases could result in adverse judgments, hindering the government's ability to pursue a consistent, unified strategy for upholding immigration enforcement actions and, consequently, undermining our national security. The fiscal year 2006 budget requests \$5.8 million and 58 positions to protect our Nation by excluding and deporting those aliens who pose a threat to national security and aliens who otherwise lack entitlement as defined by the Immigration and Naturalization Act. The request also includes enhanced resources for the Civil Division's Spent Nuclear Fuel Litigation to provide automated litigation support for the sixty-six cases filed by nuclear utility companies against the Department of Energy.

The fiscal year 2006 budget also requests \$7.4 million and 18 positions to defend the United States in lawsuits filed by Indian Tribes for allegations regarding the management of Tribal assets by the Bureau of Indian Affairs. The United States' potential exposure in these cases is more than \$200 billion. Adequate resources are

necessary to limit exposure and establish proper precedent for the United States. These cases differ from lawsuits brought against the United States by individual Tribal members, like Cobell, due to the extent of the potential exposure and the amount of document management/production required. The document management is astronomical: approximately 55 million pages of documents need to be reviewed. Thus the requested increase includes \$6.1 million to address these document management-related expenses.

CRIMES AGAINST WOMEN AND CHILDREN AND OBSCENITY

The Violence Against Women Act has made a critical difference in the lives of countless women and children. During this Administration, the Office on Violence Against Women (OVW) has awarded nearly \$1.25 billion in grants and cooperative agreements to enable communities to increase their efforts in addressing violence against women and to support and enhance services for victims. To build on these efforts this budget requests a \$363 million total investment for Violence Against Women Act programs, including the Office on Violence Against Women.

The Department's budget reflects its commitment to protect the most defenseless and youngest victims from human trafficking and other forms of exploitation. During the last year, the Department worked aggressively with other law enforcement agencies to target and prosecute a large variety of offenders posing grave threats to children, including large international rings of organized and predatory child molesters and commercial producers and sellers of child sex abuse images. Through these efforts, more than 150 child victims were rescued. As the Nation's expert in the prevention and prosecution of child exploitation and obscenity, the Department's Criminal Division attorneys prosecute defendants who have violated federal child exploitation and obscenity laws and also assist the 94 United States Attorney Offices in investigations, trials, and appeals related to these offenses. Additionally, the FBI's Innocent Images National Initiative (IINI) identifies, and investigates sexual predators who use the Internet and other online services to sexually exploit children, identifies and rescues child victims, and establishes a law enforcement presence on the Internet as a deterrent to subjects that exploit children. This budget increases funding by \$10.4 million for the Justice Department's efforts to fight child pornography and obscenity, including the Criminal Division programs, the FBI's IINI and Child Obscenity Enforcement efforts, and the Internet Crimes Against Children Task Forces.

In fiscal year 2004, the FBI located 300 missing children, shut down 2,638 child pornography websites or web hosts, and assisted in obtaining 881 convictions/pre-trial diversions for crimes against children via online computer usage. This budget requests an increase of \$9.1 million and 85 positions to continue these efforts.

The Office of Justice Programs plays a significant role in reducing crimes against children through training and technical expertise to our state and local law enforcement partners and public safety entities. Since the President announced an administration effort to expand and coordinate the AMBER Alert network in October 2002, it has been credited with the recovery of over 150 children, or over 80 percent of the 188 recoveries since the initiative began in Texas in 1996. In 2005 the Amber Alert plans were established in all 50 states marking a milestone in our efforts to prevent child abductions. This budget seeks \$5.0 million to maintain this system.

STATE AND LOCAL ASSISTANCE

State and local law enforcement departments are critical partners in the war against terror and the fight against crime. Fiscal year 2006 budget selectively maintains and grows effective programs with over \$1.5 billion in grant assistance to state and local agencies, including \$185.3 million to strengthen communities through programs providing services such as drug treatment, \$90.3 million to fight terrorism, and \$335 million to combat violence. This includes enhancements to grant funding provided under Project Safe Neighborhoods; \$235.2 million for law enforcement technology, including funding to continue and enhance the Administration's DNA initiative; and \$92.5 million to support drug enforcement, including funding to continue and expand the Southwest Border Drug Prosecution Program.

Programs targeted to helping strengthen our community remains a priority for the Department of Justice. A total investment of \$185.3 million in fiscal year 2006 provides \$15 million to increase support for the Administration's offender re-entry program, which includes the participation of the Departments of Labor and Housing and Urban Development. An increase of \$19.3 million is requested to assist states and units of local government in developing and implementing residential and substance abuse treatment programs. An increase of \$29.9 million is requested for the

drug courts program, which will result in a 2 percent improvement in the graduation rate from the drug courts program as compared to fiscal year 2005 estimates.

Our request proposes the establishment of a program to provide \$20 million in fiscal year 2006 (\$50 million over three years) for training to private defense counsel and public defenders, state and local prosecutors, and state judges to improve the competency of all participants connected with the trial of state capital cases.

Efforts to improve our ability to combat terrorism would not be a success without our state and local partners. The fiscal year 2006 request invests \$90.3 million in state and local programs to combat terrorism including a \$4.5 million increase for the Regional Information Sharing System; \$14 million for state and local anti-terrorism training; \$7 million to develop tools and approaches to improve the ability of state and local first responders to detect and effectively respond to terrorist attacks; \$16 million to fund the USA Freedom Corps program; and a total of \$6.2 million for the National Criminal Intelligence Sharing Plan—the state and local complement to the Department's Law Enforcement Information Sharing Program.

A \$227.4 million investment is also proposed to assist state and local communities in combating other violent crimes, including \$10.2 million to prevent prison rape and prosecute persons committing it. The Department is committed to upholding the rights and to defending human dignity of all citizens, including prisoners.

The fiscal year 2006 budget requests an additional \$72.7 million to continue efforts to reduce convicted offender and crime scene backlogs, strengthen the capabilities of labs, fund DNA research and development projects, provide specialized training to law enforcement and lab and medical personnel, pay for programs and educational materials that employ DNA technology to identify missing persons, and to fund a post-conviction DNA testing program. Also included in the fiscal year 2006 budget is a \$29.9 million total investment in the Bulletproof Vests Program.

JUDICIAL PROTECTION, DETENTION AND INCARCERATION

As a result of aggressive law enforcement policies targeting terrorism, violent crime, immigration violations, and drug crimes, as well as the increases in the number of FBI and DEA agents, the number of criminal suspects appearing in federal court continues to grow, as does the number of individuals ordered detained and ultimately incarcerated. The fiscal year 2006 budget request provides significant resources needed to improve courtroom security and the detention and incarceration of those accused or convicted of violent crimes. During fiscal year 2004, the Nation's federal prison population rose 4.3 percent, by 7,396 inmates. At the same time, the federal prisoner detention population rose 11.8 percent, increasing by approximately 5,200 detainees on a daily basis. The request provides additional resources for the Bureau of Prisons and Office of the Detention Trustee to manage this growth, including activation costs for three new facilities and two expansions of existing facilities. The fiscal year 2006 DOJ budget requests \$509.6 million in additional resources in these areas

The U.S. Marshals Service (USMS) ensures that the federal justice system operates effectively and securely by providing judicial and courtroom security to deter and respond to threats and protect federal judges, court personnel, witnesses and other participants in federal judicial proceedings. This budget will provide the resources needed for the Department to continue to ensure that no judicial proceedings are interrupted due to inadequate security as well as to continue to identify, assess, and respond to the threats against court personnel and property; enhance the physical security of federal courthouse facilities; and provide for the long-term protection of federal witnesses and their families.

Additionally, the USMS has primary jurisdiction to conduct and investigate fugitive matters involving escaped federal prisoners; probation, parole and bond default violators; warrants generated by DEA investigations; and certain other related felony cases. In fiscal year 2004, the USMS apprehended 39,000 federal felons—more than all other law enforcement agencies combined. In addition, working with authorities at the federal, state, and local levels, USMS apprehended 79,740 fugitives. This budget provides \$790.2 for the USMS, which is \$42.6 million and 114 positions over the 2005 enacted level.

For the Bureau of Prisons (BOP), our fiscal year 2006 budget seeks an increase of \$148 million and 1,007 positions, which includes \$37.2 million for the subsistence cost of the increasing inmate population. The BOP projects that it will receive 4,269 additional inmates between fiscal year 2005 and fiscal year 2006. These resources will enable the BOP to meet the marginal costs, \$8,712 per inmate, of providing security, food, medical care, clothing, education, and other costs associated with the population increase. An increase of \$85.0 million and 1,002 positions is also included to begin the activation process for 3 newly constructed facilities, activate a 50 cell

expansion to the existing Special Housing Unit at United States Penitentiary Florence, Colorado and to begin the activation process for a 362 bed low security housing unit at Federal Correctional Institution (FCI) Sandstone, Minnesota. In addition, \$19.8 million and 5 positions are requested to begin the process to obtain 1,600 additional beds in contract facilities to house low security and female inmates for 6 months in fiscal year 2006. In addition, the budget requests the rescission of \$314 million in unobligated prison construction balances. The funds are associated with prisons not scheduled to activate until 2009 or beyond. During 2006, the Bureau of Prisons will undertake a thorough review of all of its existing minimum and low security facilities to evaluate the potential of upgrading or modifying these prisons to house higher security inmates, where the inmate crowding level is the highest. BOP remains committed to contracting out for low and minimum security inmates which currently makes up 58 percent of the federal inmate population. Lastly, the BOP request seeks \$6.0 million to establish a residential re-entry program at 6 institutions that will build partnerships with faith based and community organizations.

For the Office of the Federal Detention Trustee, our request reflects an additional \$347.4 million to house USMS detainees in state, local and private facilities. The number of federal prisoners detained is expected to increase 14.9 percent over fiscal year 2005, resulting in an average daily population of over 60,000 detainees compared to approximately 27,000 three years ago. This enhancement will ensure the availability of adequate, cost-effective detention capacity for the anticipated jail days that will be spent in state, local or private facilities.

Lastly, with the recent violence perpetrated in courthouses in the southeast and midwest, I have directed that a review of judicial security measures be undertaken so the Department, as well as state and local law enforcement, can benefit from a compilation of best practices from across the nation.

MANAGEMENT AND STEWARDSHIP IMPROVEMENTS

In his February 2nd State of the Union Address, the President underscored the need to restrain spending in order to sustain our economic prosperity. As part of this restraint, it is important that total discretionary and non-security spending be held to levels proposed in the fiscal year 2006 budget. The budget savings and reforms in the budget are important components of achieving the President's goal of cutting the budget deficit in half by 2009 and we urge the Congress to support these reforms. The fiscal year 2006 budget includes more than 150 reductions, reforms, and terminations in non-defense discretionary programs, of which 1.88 billion affect DOJ programs. The Department wants to work with the Congress to achieve these savings.

As part of our efforts to improve management and stewardship, the Department continues to evaluate its programs and operations with the goals of achieving both component-specific and departmental economies of scale, increased efficiencies, and cost savings/offsets to permit us to fund initiatives that are of higher priority. The Department is engaged in a multi-year process to implement a wide range of management and information technology improvements that will result in substantial savings. The cost absorptions and crosscutting efficiencies identified in this budget impact virtually every component in the Department. Additional investments in management and information technology improvements, such as e-gov, e-training and e-travel initiatives, will ensure all DOJ components are able to function in an interoperable environment, particularly with respect to preventing terrorist attacks on the United States.

DOJ Financial Management

The Department is committed to continuous improvement in financial management in order to maximize every dollar that is provided to us. The fiscal year 2006 budget requests \$33.0 million and 6 positions to continue support for the Unified Financial Management System (UFMS), including hardware and software acquisition, integration and implementation, and project management activities. The annual financial audits of DOJ and its components have found fault with several of the seven core financial management systems in use at DOJ. Continuing the UFMS initiative will result in a significant improvement to the efficiency and integrity of our financial and accounting system.

DOJ Diversity

The fiscal year 2006 request seeks \$.8 million to enhance attorney recruitment and retention through an enhanced student loan repayment program and to implement an automated attorney hiring system. The Department is committed to casting the widest net to attract the most qualified and diverse applicants.

CONCLUSION

In closing, I would like to thank the members of the subcommittee for your recent actions on the fiscal year 2005 Supplemental. The funds provided for the Department of Justice are critical to our efforts both domestic and abroad.

Chairman Shelby, Senator Mikulski, Members of the Subcommittee, I have brought before you today the resources necessary to carryout the Department's priorities for fiscal year 2006. I am honored to testify before you and look forward to the days and months ahead working with you on this budget proposal and other issues.

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

PREPARED STATEMENT OF CARL J. TRUSCOTT, DIRECTOR, BUREAU OF ALCOHOL,
TOBACCO, FIREARMS AND EXPLOSIVES, DEPARTMENT OF JUSTICE

Mr. Chairman, Senator Mikulski, and distinguished members of the Subcommittee: thank you for this opportunity to submit a statement about the accomplishments of the men and women of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and discuss the President's fiscal year 2006 budget for the ATF. We are working together to protect America. Our agents, inspectors/investigators, administrative, professional, and technical personnel have earned renown and respect for their contributions to the Department of Justice and to law enforcement. I am honored to lead such capable and motivated colleagues, and to serve our great Nation as the Director of ATF.

I appreciate very much the support the Subcommittee has given to ATF and the interest the Subcommittee has demonstrated in ATF's missions and programs. With your support during fiscal year 2005 appropriations, ATF received funding and positions for the Safe Explosives Act (SEA) and explosives enforcement, Project Safe Neighborhoods (PSN) and anti-gang efforts, the National Tracing Center (NTC), and relocation of the Federal Licensing Center to West Virginia.

The President's budget request for fiscal year 2006 builds on your fiscal year 2005 investment with \$30.3 million to expand the number of Violent Crime Impact Teams (VCIT) targeting the most violent criminals in specific areas within selected cities and \$6 million to develop the Terrorist Explosive Device Analysis Center (TEDAC) database which will record, inventory, and catalog improvised explosive devices being used in Iraq and Afghanistan. These investments are in direct support of ATF's core missions.

As Director, I lead our efforts to reduce violent crime, prevent terrorism, and protect the public. Thanks to the leadership and support of this Committee, and through our dedicated work, the men and women of ATF are improving the lives of Americans. Your investment, and our efforts, produce real results: safer neighborhoods, where all of us, including children and senior citizens, can live without fear.

Since being sworn in as Director of ATF last May, I have visited all 23 ATF field divisions. I have talked with special agents and inspectors/investigators who are: taking violent criminals, including gang members, off the streets; preventing the illegal diversion of firearms; ensuring the security and accountability of explosives and firearms commerce; investigating bombings and thefts of explosives; solving arsons, through investigation and research; investigating alcohol and tobacco diversion schemes; and sharing information and intelligence with our law enforcement partners.

FIREARMS

ATF continues to fight violent crime on the streets of America. We enforce Federal firearms laws and provide extensive support to Federal, State, and local law enforcement officials in their fight against crime and violence.

ATF agents investigate a broad range of firearms violations that can be generally divided into three categories: investigations of those persons who are prohibited by law from possessing firearms, such as felons, illegal aliens, and drug traffickers; investigations of firearms diversion; and investigations of persons possessing those firearms that are generally prohibited, such as machineguns and sawed-off shotguns.

From these types of investigations, ATF agents concentrate on illegal firearms traffickers and the diversion of firearms out of lawful commerce into the hands of criminals. Firearms trafficking investigations can be complex and time-consuming. They can involve illegal straw purchases of firearms for those unable to legally possess firearms (with or without the complicity of a Federal firearms licensee, or FFL),

illegal dealing at gun shows or other locations, robberies of gun stores, and thefts from interstate shipments.

ATF combines state-of-the-art technology and effective partnerships into an Integrated Violence Reduction Strategy, or IVRS. We are a major participant in the Administration's PSN initiative, which began in 2001. This cooperative program builds upon the enforcement efforts of the past, and includes the use of advanced technology and effective sharing of intelligence and information. Law enforcement, prosecutors, and community leaders work together on deterrence and prevention. Agencies develop focused enforcement strategies to investigate, arrest, and prosecute violent offenders, prohibited possessors of firearms, domestic and international firearms traffickers, and others who illegally attempt to acquire firearms. ATF, local law enforcement, U.S. attorneys, and local prosecutors evaluate which set of laws and circumstances can best be employed against the violators and/or prohibited possessors and seek the most appropriate venue for firearms prosecution. Under PSN, the number of Federal firearms cases filed increased 76 percent between fiscal year 2000 and fiscal year 2004. In fiscal year 2004, ATF opened 29,440 firearms investigations, and during the same timeframe, there were over 7,000 convictions.

Violent Crime Impact Teams

In June 2004, former Attorney General Ashcroft, Deputy Attorney General Comey, and I announced the VCIT initiative, a new program to reduce violent crime in 15 targeted communities. Through VCIT, ATF-led teams work with local law enforcement to identify and arrest the most violent offenders in each area. The selected communities are: Albuquerque, New Mexico; Baltimore, Maryland; Chattanooga, Tennessee; Tampa, Florida; Miami, Florida; Richmond, Virginia; Greensboro, North Carolina; Tulsa, Oklahoma; Pittsburgh, Pennsylvania; Las Vegas, Nevada; Columbus, Ohio; Philadelphia, Pennsylvania; Los Angeles, California; Tucson, Arizona; and the Washington, DC/Northern Virginia area.

ATF-led VCIT teams in these cities bring the targeted area's Federal, State, and local law enforcement officials together. Each team creates an individualized strategy, then works together to remove those responsible for violent crime. I can tell you that VCIT is working: in our first 8 months of operation, 3,100 State and Federal arrests were made, and 3,700 firearms were recovered. Civic leaders and law enforcement officials have praised VCIT's positive impact on their communities. News reports credit VCITs with contributing to a decrease in homicides, as has occurred in Greensboro, Tulsa, and Columbus, among others. For example, a November report by the Albuquerque Journal stated that the VCIT contributed to a 23 percent decrease in the homicide rate in Albuquerque alone, compared with the same period last year.

Anti-Gang Efforts

We have developed expertise in working against criminal groups, particularly gangs, and this is recognized by the Department of Justice (DOJ). ATF played a prominent role in the development of the Department's Gang Strategy Report for the House Appropriations Committee. This reflects our years of experience in working against violent gangs, including outlaw motorcycle organizations active in firearms and narcotics trafficking. In fact, ATF oversees a comprehensive gang strategy, combining education, prevention, training, and a variety of criminal enforcement tactics to take violent gang members and their organizations off the streets. ATF shares investigative information on gangs nationally through its case management system. This system allows every agent and task force member the ability to access information about other cases in order to coordinate efforts. ATF recommended more than 5,000 gang members and their associates for prosecution during the past 5 years (2,000 of them during fiscal year 2004 alone) for charges including firearms violations, continuing criminal enterprise violations, Racketeer Influenced Corrupt Organization Act violations, and arson and explosives violations. In the past 2 years, we also traced more than 11,000 firearms linked to gang activity, and initiated more than 1,500 cases involving gang members participating in firearms trafficking.

We are fighting gangs with proactive efforts as well as enforcement actions: the Gang Resistance Education And Training (G.R.E.A.T.) Program has been presented to more than 3.8 million middle school students since its inception in 1992. And thanks to a new agreement with Boys and Girls Clubs of America, ATF's G.R.E.A.T. program is being used to help young people make positive decisions and resist negative influences. In this way we are not just working to deter crime—we are working to prevent it.

National Tracing Center

ATF's National Tracing Center (NTC) is the largest operation of its kind in the world. This facility conducts traces of firearms recovered at crime scenes for any Federal, State, local, or international law enforcement agency. In fiscal year 2004, the NTC traced over 250,000 firearms. The NTC stores information concerning multiple sales of firearms, suspect guns, and firearms with obliterated serial numbers, and is also the only repository for all records of FFLs that have gone out of business. The NTC provides ATF personnel and other law enforcement agencies with crime gun data specific to their geographic areas, and helps them identify emerging trends and patterns in firearms-related criminal activity.

The NTC has established and provides support to four Regional Crime Gun Centers. These centers are located in Washington, DC; Chicago; New York; and Los Angeles. Each provides focused analysis of crime gun trace information in these major metropolitan areas for ATF and local partners from other Federal, State, and local law enforcement agencies to reduce firearms-related violent crime within their regions. The information gathered and analyzed through these centers and the Crime Gun Analysis Branch (CGAB) provides law enforcement with specific leads through the use of firearms tracing and geographic information to discern indicators of trafficking activity within a city that has a high violent crime rate involving gangs and illegal use and possession of firearms. This allows law enforcement to efficiently apply resources to combat violent firearms activities.

Another NTC program is called Access 2000. This initiative benefits both ATF and our industry partners. Servers supplied by ATF have been installed at 36 manufacturers and major wholesale distributors, all of them FFLs, who have partnered with ATF in this effort. FFLs enter firearms information into the servers; the NTC connects to these servers remotely and can obtain information on a firearm's disposition in the course of a crime gun trace. This program substantially reduces administrative costs to the FFL and the time it takes ATF to trace a firearm.

In order to reduce violent crime, ATF will continue to develop and employ technology that will help law enforcement at all levels. Through the National Integrated Ballistic Information Network (NIBIN) Program, ATF has installed automated ballistic comparison equipment at 230 sites in participating forensic laboratories in the continental United States and its territories, giving these State and local law enforcement agencies the opportunity to identify ballistic links between crimes not otherwise known to be connected.

EXPLOSIVES

In addition to our investigative efforts against firearms trafficking and violent firearms crime, ATF agents investigate bombings, unlawful distribution of explosives, thefts of explosives, and other violations of explosives laws. ATF inspectors/investigators ensure that the manufacture, importation, and commerce in firearms and explosives are conducted lawfully. Other programs combine advanced technology with ATF's years of expertise, providing critical intelligence for Federal, State, and local law enforcement to use in investigating fire and explosion incidents in their areas.

As part of the Department of Justice's efforts to ensure the coordination of explosives investigations, explosives information sharing, and other related explosives matters amongst its law enforcement components, the Department of Justice reviewed the explosive programs of ATF, FBI, and others and on August 11th, issued a policy memo outlining roles and responsibilities as they relate to explosives issues. Former Attorney General Ashcroft's policy memorandum regarding coordination of explosives investigation and related matters helped to clarify the responsibilities of ATF.

- The Attorney General mandated that ATF would control the investigation of all explosives incidents except those related to terrorism. I am honored by the confidence that the Attorney General placed in ATF when he made this decision, and I note that approximately 98 percent of the bombings in America are unrelated to terrorism. In instances of terrorism, ATF stands ready to assist with Department-wide efforts.
- The Attorney General also tasked ATF to maintain all DOJ arson and explosives databases currently maintained by other DOJ components. Our state-of-the-art system for documenting arson and explosives incidents, known as the Bomb Arson Tracking System or BATS, has become the DOJ standard.
- Further, his decision mandated the consolidation within ATF of all budget, curriculum, teaching, and scheduling functions related to post-blast explosives training for Federal, State, local, and international entities.

Mr. Chairman, I believe that this decision will be responsible for significant financial efficiencies.

ATF special agents work with State and local law enforcement throughout all aspects of bombing and explosion incidents, from the post-blast recovery of evidence through the subsequent investigation. ATF has explosives and arson groups nationwide, each consisting of special agents, including certified fire investigators (CFIs) and certified explosives specialists (CESs), as well as State and local police or fire personnel. These ATF special agents are dedicated full-time to investigating explosives and arson incidents and violations. In fiscal year 2005, the Congressional appropriation directed ATF to form four specialized explosives groups. These groups are enhancing our ability to prevent criminal acts involving explosives, respond to criminal acts, plan for special events, and assist first responders by adding special agents trained in rendering improvised explosive devices (IEDs) safe.

Some ATF special agents receive even more intense explosives training than the substantial amount received in Special Agent Basic Training. Special agent CESs are among the most experienced, best-trained explosives experts in the Federal Government. They provide explosives crime scene examinations, lend expertise in support of security measures implemented at special events, and assist ATF's law enforcement counterparts at the Federal, State, local, and international levels in their efforts to investigate explosives-related incidents. The CESs are highly trained in all aspects of explosives handling, instruction, identification, demonstration, and destruction. Because of their proficiency in explosives investigation, CESs are used regularly as instructors for explosives-related training at the International Law Enforcement Academies in Budapest, Hungary; Bangkok, Thailand; and Gaborone, Botswana. They have also instructed post-blast investigation techniques for foreign law enforcement officers in South American, Central American, and Eastern European countries, and are currently providing this instruction in supporting coalition forces in Iraq.

ATF investigates each and every report of theft or loss of explosives in the United States in order to ensure that these explosives do not fall into the hands of terrorists or criminals. When explosives are used for criminal purposes, ATF brings the full weight of its explosives programs and investigative assets to the task of identifying and bringing the perpetrator to justice. On July 6, 2004, a theft of explosives occurred from a San Mateo County, CA, explosives storage facility used by law enforcement. ATF immediately responded to the crime scene and began an investigation. Working with the California Highway Patrol, the Alameda County Sheriff's Office, the Hayward Police Department, the Union City Police Department, and the Oakland Police Department, and others, the stolen explosives were recovered and ATF arrested four individuals on charges relating to the theft, possession, and distribution of explosives.

ATF has other experts in the field of explosives. ATF's explosives enforcement officers (EEOs) provide technical assistance and support in explosives matters. These bomb technicians have between 12 and 35 years of experience in explosives and bomb disposal. EEOs render explosive devices safe, disassemble explosive and incendiary devices, prepare destructive device determinations, and render expert testimony in support of such determinations in State and Federal criminal court proceedings. EEOs also provide expert analysis and onsite investigative technical assistance at bombing and arson scenes and scenes where explosions of an undetermined nature have occurred. They provide assistance and training in all aspects of explosives handling, usage, and destruction; threat vulnerability assessments; and all other explosives-related matters for ATF and State and local law enforcement agencies. EEOs use a full range of bomb disposal equipment, such as explosives-actuated disrupters; radiographic (x-ray) equipment; personal protective equipment (bomb suits); and robotic equipment, including the All-purpose Remote Transport System (ARTS), which is designed to remotely disrupt car and truck bombs that are too large to disarm by traditional methods. ATF is one of the few Federal agencies with ARTS capability.

Maintained within ATF's Arson and Explosives National Repository (AENR) is this country's most comprehensive set of data describing fire/explosion incidents. The incidents are divided into specific categories such as targets, locations, motives, and victims. Trends, patterns, and criminal methodologies, as well as the identities of known previous offenders, can be derived from the data set. Most importantly, ATF agents or other law enforcement officials can contact the Repository to query the construction characteristics of an explosive device, and match the device to others with similar characteristics.

ATF is now using the latest information management technology to make case information available to law enforcement nationwide through BATS. This program facilitates and promotes the collection and dissemination of fire, arson, and explosives

incidents and information among participating agencies. Law enforcement agencies and members with established National Crime Information Center access can access BATS via personal computer in a secure Internet environment. End users are able to enter their case information and query information entered by others, both locally and across agencies. BATS benefits its users by providing real-time incident-based information, records management functions, and advanced features, such as spatial representation of incidents via an integrated Geographical Information System—all within a secure law enforcement environment. Eventually, the wealth of case information available through the Repository will also be accessible through BATS.

ATF is sharing its expertise by training Federal, State, local, military, and international bomb technicians and investigators in explosives disposal and investigation techniques at the National Center for Explosives Training and Research (NCETR) at Fort A.P. Hill, Virginia. This course was developed in response to data showing that more bomb technicians were injured or killed during explosives disposal operations than when performing render safe procedures on explosive devices. ATF offers numerous advanced courses related to explosives disposal and post-blast investigation techniques at the NCETR, which was authorized in the Homeland Security Act of 2002. Since ATF began holding training classes at Fort A.P. Hill in 2000, we have provided training to over 4,000 Federal, State, local, and international bomb technicians and investigators. In cooperation with the U.S. Army, we are currently training Army explosives units prior to their deployment to Iraq. In addition, ATF provides post-blast training to members of the Department of State, the Naval Criminal Investigative Service, and the Air Force Office of Special Investigations. This facility will include a permanent classroom facility and an advanced explosives research and training range for the study of various explosive devices. This dedicated facility will advance our expertise in the investigation of bombings and explosives-related crimes. The NCETR is ideally located close to the Washington, DC, area, but remote enough to offer unlimited opportunities for expansion and enhancement as the needs of the Department require it.

ATF has found a unique niche with its delivery and cosponsorship of an underwater explosives recovery course for State and local bomb technicians and divers. ATF worked with the Edmond, Oklahoma, Police Department to develop the course, which was established in response to the growing number of investigations in which evidence either directly or indirectly ended up in a body of water. The TWA Flight 800 investigation in July 1996 further justified the need to train law enforcement/bomb squad personnel to recover fire- and explosives-related evidence.

ARSON

One recent example of ATF's investigative work is the arson committed in December 2004 in a neighborhood in Charles County, Maryland. Our field agents investigated this crime scene, where 26 homes were damaged, ten of which were destroyed entirely. I visited this enormous and complex crime scene, and I was stunned by the devastation. ATF's state-of-the-art Fire Research Laboratory is analyzing the evidence gathered. By investigating and solving these crimes, we are also helping to prevent future arsons.

ATF's arson enforcement efforts are an integral part of ATF's overall violent crime reduction strategy, and are directed toward preventing the crime of arson, providing effective post-incident response, and reducing the community impact of crimes involving fire. The long-term, strategic goal of the arson program is to provide effective investigative and technical expertise, rapid response, assistance, and state-of-the-art training to reduce the impact of violent crimes that involve fire. ATF investigative efforts are generally focused on arsons of Federal interest, including those at houses of worship, commercial buildings, and reproductive health clinics. In fiscal year 2004, ATF opened approximately 2,000 arson investigations. I would like to address some of ATF's arson program areas and assets, including the CFI program, the ATF Church Arson Task Force, ATF's response to animal-rights extremists and environmental-rights extremist fires, the ATF Fire Research Laboratory, and others.

After fire departments extinguish the flames, the work begins for cause and origin investigators who must determine whether the fire was intentionally set and whether a crime was committed. The agents participating in ATF's CFI program are at the forefront of fire investigation. The special agents who participate in this program are the only federally trained and federally certified cause and origin investigators in the Federal Government. These CFIs are able to qualify as expert witnesses, that is, opinion witnesses, in fire cause and origin determinations. Each CFI has participated in hundreds of investigations and has undergone hundreds of hours of training to qualify in giving expert testimony. The CFI program is the only one of its type in Federal law enforcement and has received national and international

acclaim. ATF's 107 CFIs are based in 36 States and provide support to the entire United States and its territories. ATF CFIs responded to over 1,200 fires in fiscal year 2004.

ATF also investigates bombings and crimes of arson by environmental and animal rights extremists using explosives and fire as their weapons, such as the Animal Liberation Front (ALF) and the Earth Liberation Front (ELF). ATF estimates that property damage committed by those groups in the past several years exceed \$65 million. Because of ATF's expertise in these areas, we have made these investigations a priority and will continue to do so. In the last several years, we have initiated about 100 explosives and arson investigations believed to be linked to ALF and ELF. In the past, many of the fires set by these extremists have been set utilizing a particular methodology, and the Arson and Explosives National Repository (AENR)—which has kept records and intelligence on these acts for decades—stands ready to assist fire investigators in determining the methodology used in future incidents, linking events, and identifying suspects.

One of the most painful and destructive crimes that ATF investigates is arson directed at houses of worship. In fiscal year 2004, ATF responded to approximately 210 such fires and explosives incidents. Out of that number, 88 of the fires were determined to be incendiary: that is, set by human hands. Of the 210 fires, ATF conducted the origin and cause investigation at 61 predominantly African-American churches, six Hispanic churches, six temples, and six mosques.

ATF works to prevent future incidents by documenting information such as why an incident happened and what human factors were involved. Lending additional credence to ATF's scene capabilities is the expertise afforded by its fire protection engineers (FPEs), who are ATF's experts in fire reconstruction and engineering analysis. Through their contributions, lessons can be learned and safeguards can be implemented if fire spread and fire progression are analyzed and documented properly (e.g., fatalities that are due to smoke and heat). These FPEs also provide technical advice and support to U.S. Attorneys and testify as expert witnesses in the prosecution of criminal cases.

One of ATF's newer fire investigation resources is the Fire Research Laboratory (FRL), a one-of-a-kind fire test center with the capability of replicating initial fire scenarios approaching a quarter acre in size, to scale, and under controlled conditions allowing for detailed analysis. This facility is the only such facility in the United States that is dedicated to providing case support in fire investigations using forensic fire science, and the facility will support ATF's investigative requirements well into the future.

ATF has profilers assigned to the National Center for the Analysis of Violent Crime at the FBI Academy in Quantico, Virginia. The ATF profilers analyze behavior characteristics of serial arsonists and bombers and provide investigative suggestions to case investigators. Although specializing in bombings and arsons, ATF profilers work on other violent crimes such as murders. ATF recently added a position of geographic profiler to its resources. This position is the first of its kind in the United States. Geographic profiling is a relatively new investigative tool being applied in serial crime investigations.

CRIMINAL DIVERSION OF ALCOHOL AND TOBACCO

ATF's goal as it relates to alcohol and tobacco diversion is to reduce violent crime and prevent terrorism by preventing the illegal domestic and international trafficking of alcohol and tobacco products. To accomplish this goal, ATF is enforcing laws that prohibit the diversion of alcohol and tobacco products, and providing Federal, State, and local agencies with the tools needed to identify trafficking schemes. From the hijacking of tractor trailer loads and cargo containers of cigarettes, to the armed robbery of tobacco wholesalers and distributors, to the smash and grab techniques at the retail level, ATF has successfully investigated and prosecuted the criminals involved.

ATF is engaged in ongoing efforts to reduce the rising trend of the illegal diversion of alcohol and tobacco products by criminal gangs, organized crime, and terrorist groups. Current investigations have identified several instances of terrorist groups forming alliances with tobacco traffickers to generate funding to support their organizations and activities. We have built complex cases against individuals and organizations that have used proceeds from the illegal sales of cigarettes to fund organized crime and terrorism, including those involving the channeling of funds to Hezbollah, and these cases have been successfully prosecuted. ATF also works in partnership with other Federal, State, and local agencies to enforce the laws under their jurisdiction. The investigation of alcohol and tobacco crimes is

unique in that the penalties are not commensurate with the profits that can be made.

INDUSTRY OPERATIONS: ATF'S DUAL ROLE

ATF's role in Federal firearms and explosives laws, with both regulatory and enforcement responsibilities, is unique. In addition to our investigative efforts against firearms trafficking and violent firearms crime, ATF agents investigate bombings, unlawful distribution of explosives, thefts of explosives, and other violations of explosives laws. ATF inspectors/investigators ensure that the manufacture, import, and sale of firearms and explosives are conducted lawfully. Through education and industry partnerships, we work to keep firearms and explosives out of the wrong hands.

According to the Institute of Makers of Explosives, over 5.5 billion pounds of commercial explosives are used every year in the United States in mining and other applications. ATF ensures compliance with explosives laws and regulations through its explosives regulatory program. The purpose of this program is to protect interstate and international commerce against interference and interruption by reducing hazards to persons and property arising from the misuse and unsafe or insecure storage of explosive materials.

This is accomplished through the explosives field inspection effort; through the development, implementation, and evaluation of regulatory enforcement procedures and policy; through the screening of prospective and current explosive licensees/permittees and their employees; and through regular and open communication with the explosives industry and its representatives. ATF's field inspection program includes the thorough review of records and inventory to ensure product accountability, as well as the visual inspection of explosives storage facilities to ensure safe and secure product storage to prevent theft and misuse of explosives. Inspectors/investigators verify that explosives storage magazines meet Federal construction and location requirements, including the required distance from explosives storage areas to roads or residential areas.

Approximately 580 of ATF's inspectors/investigators are assigned to the field, and are responsible for inspections of FFLs and Federal explosive licensees (FEL). They are responsible for working with the population of 106,000 FFLs and over 12,000 FELs.

The Safe Explosives Act (SEA) enhanced ATF's unique statutory mission of regulating the explosives industry. With the passage of this Act in 2002, ATF assumed a significant additional workload such as continued issuance of renewal licenses/permits for 12,000 explosives-related businesses; increased inspection efforts and more thorough license application processing, including background checks for all employees who possess explosives. Further, the SEA decreed that ATF physically inspect every new explosives licensee applicant to ensure public safety.

ATF's field inspectors/investigators are also responsible for firearms licensee inspections. Day in and day out, these inspectors/investigators ensure that FFLs follow appropriate guidelines and procedures. Their work truly makes America safer by helping to prevent the acquisition of firearms by prohibited persons. Further, by promoting proper recordkeeping and business practices, they help ensure effective firearms tracing in critical investigations by all of the Nation's law enforcement community. Cooperative programs such as "Don't Lie for the Other Guy," a joint venture between ATF and the National Shooting Sports Foundation, provide essential education for FFLs. In addition, our Federal Firearms Licensing Center in Atlanta screens all FFL applicants by coordinating background checks on persons responsible for firearms operations.

ATF formulated its Explosives Threat Assessment and Prevention Strategy, or ETAPS, in the spring of 2004. This strategy gives us the opportunity to respond to changes in the explosives industry and the society in which it operates. It is a dynamic process—we gather information, evaluate it, plan programs in response to it, and evaluate the results. By combining ATF's assets involving technical explosives expertise, criminal and regulatory enforcement experience, and partnership with industry and law enforcement, we are able to continually assess risks and focus resources appropriately. It is through this dynamic process that ATF is best prepared to accomplish our vision of "Working for a Safer and More Secure America Through Innovation and Partnership."

INTELLIGENCE/TECHNOLOGY

ATF recognized the opportunity to perfect intelligence support internally and externally, and created an Office of Strategic Intelligence and Information (OSII) last year. The new directorate, headed by a new assistant director, ensures that ATF

accomplishes its missions and that our special agents and inspectors/investigators receive the necessary information to disrupt criminal organizations and individuals that threaten public safety. This arrangement aligns with the E-Government aspect of the President's Management Agenda, the DOJ's strategic goals relating to the enforcement of Federal laws and protection of America against terrorism and violent crime, and the Attorney General's priorities, including the Law Enforcement Information Sharing Program and VCIT.

OSII's mission is to provide timely, accurate, and focused intelligence through the collection and analysis of information, to enhance decision-making for all Bureau customers. The creation of OSII was a big step toward enabling ATF to put its information to the best possible use. The intelligence process is a continuous loop in which data are gathered, evaluated, and analyzed. Analytical reports are then distributed to end users, including the source of the original information. The dynamic exchange of intelligence information between Headquarters and field offices allows ATF to leverage data collection and analytical expertise to aid in providing accurate and timely intelligence support. The ultimate outcome of these efforts will be better information to investigators, which could help prevent future incidents.

ATF's laboratories are an invaluable resource in perfecting ATF cases and in serving as a resource for State and local law enforcement. ATF's laboratory system is composed of the National Laboratory Center (NLC) in Ammdendale, Maryland, and the regional laboratories in Atlanta, Georgia, and San Francisco, California. The laboratories are equipped with state of the art forensic and scientific technologies. Whether performing fire debris analysis, tool mark comparisons, explosives scene evidence examinations, searching for the presence and comparing identifiable latent fingerprints, or examining trace evidence from crime scenes such as hair, paint, or fibers, the ATF's laboratory personnel provide the finest laboratory service in the Federal Government.

The NLC is also the home of the ATF National Firearms Examiners Academy. Attendees from State and local law enforcement agencies attend this rigorous 1-year program to become firearms and toolmark examiners, qualified to confirm a ballistic link between two crimes and to analyze firearms evidence. This program has become the benchmark for training in this field. The NLC also houses the Fire Research Laboratory.

ATF is a valued participant in the Terrorist Explosive Device Analytical Center, or TEDAC, operated at the FBI laboratory in Quantico, Virginia. At this center, ATF and other partners analyze explosive devices from Iraq and Afghanistan, in an effort to identify bombers and to prevent further attacks. Experts work to technically evaluate IED components to identify similarities and potential bomb makers, provide timely intelligence to military and law enforcement, and collect latent prints and DNA from terrorist IEDs to link the same person to similar devices. Four ATF employees work full-time at the center, providing their technical expertise in identifying components of IEDs. TEDAC has provided invaluable assistance to U.S. military and intelligence personnel in preventing fatal detonations of IEDs and in tracking down bombing suspects. This is a great example of how we are working within DOJ to prevent terrorism, and contributing our knowledge to a common goal.

SPECIAL PROGRAMS

Several of ATF's programs, such as the National Response Team (NRT), Special Response Team (SRT), and the canine program, strengthen our efforts in firearms, explosives and arson, and alcohol and tobacco diversion. They contribute to our missions of preventing terrorism, reducing violent crime, and protecting the public.

In the wake of a major fire or explosives incident, law enforcement investigators can rely on the expertise and advanced technology of ATF's NRT. Capable of responding within 24 hours to major explosives or fire incidents, NRT members work alongside State and local officers in reconstructing the scene, identifying the seat of the blast or origin of the fire, conducting interviews, sifting through debris to obtain evidence related to the explosion and/or fire, assisting with the ensuing investigation, and providing expert court testimony.

Deployed teams include highly trained special agent CFIs, CESs, FPEs, forensic mappers, EEOs, and chemists. Intelligence and audit support, and technical and legal advisors further complement the team. The teams use state-of-the-art tools, including specialized response vehicles, each equipped with forensic, computer, and crime scene mapping equipment.

In its 25 years, the NRT has responded to nearly 600 fires and explosive incidents, with 32 NRT callouts in fiscal year 2004 alone. The effectiveness of this response capability and the expertise of the team members were evident in the NRT's responses to incidents, such as the 1993 World Trade Center and 1995 Oklahoma

City Federal Building bombings and the 2001 attack on the Pentagon. NRTs have investigated a wide range of events, including the deadly fire at the Dupont Plaza Hotel in Puerto Rico in 1986, in which 97 people were killed in less than 12 minutes. Analysis of the quick and deadly spread of this fire gave valuable information about fire protection measures that could prevent such extensive loss of life in future buildings.

One of ATF's major assets in the fight against violent criminals is our SRTs consisting of some of the bravest, most dedicated, and most professional special agents in Federal law enforcement. The special agents on these teams conduct high-risk tactical operations such as arrest warrants, search warrants, and buy/bust operations. These are ATF's "best of the best" when it comes to tactical experts. The SRT was called out 108 times in fiscal year 2004, and its expertise is critical to our success in confronting crisis incidents.

ATF's explosives and accelerant detection canine program also plays a critical role in ensuring public safety. ATF's unique training methodology enables its 35 explosives detection canines to find explosives and gunpowder residue, IEDs, post-blast debris, firearms, ammunition, bulk explosives, and spent shell casings. The canines can detect explosives used in up to 19,000 known explosives compounds. Our 60-accelerant detection canines help to identify potential points of origin at a fire scene. In addition to supporting local authorities, the canines respond with the NRT and are used by ATF field offices on a case-by-case basis. ATF-trained canines are also deployed to other Federal, State, and local law enforcement agencies.

Although the original goal of the explosives detection canine program was to locate explosive devices, these canines have also proven themselves to be a valuable asset in firearms investigations through their ability to locate hidden firearms and ammunition. Using this existing asset in a new way has been invaluable during search warrants and following shootings when other means of locating firearms, ammunition, and spent shell casings have failed.

INTERNATIONAL

ATF's expertise and efforts benefit not only Americans, but law-abiding citizens worldwide. Through our international activities, ATF employees are working to support American interests. As discussed earlier, ATF provides post-blast and render safe training for U.S. and coalition forces in Iraq and for the Iraqi National Police. ATF also has special agents assigned to the Regime Crimes Liaison Office in Iraq to assist in the investigation and prosecution of war crimes. Law enforcement agencies worldwide use our firearms tracing capabilities to gain additional information about crime guns. In fiscal year 2004, ATF traced over 27,000 firearms for foreign law enforcement representing 50 foreign countries. Our international activities enhance public safety in many countries worldwide, and in so doing, they protect American interests.

ATF provides extensive support to America's diplomatic activities. Regional Security Officers from the Department of State's Diplomatic Security Service (DSS) participate in post-blast training led by ATF. The training focuses on explosives crime scene processing, management and preservation, and includes explosives identification and effects. Other countries have benefited from ATF's expertise in training explosives detection canines: through a partnership with the Department of State, ATF has trained approximately 450 canines for international law enforcement agencies since the program's inception in 1990. Also, our International Response Team (IRT) deploys in support of DSS investigative responsibilities and foreign government requests. The IRT has been deployed 24 times in response to fire and explosives incidents since its inception in 1991, most recently to investigate a deadly fire in Paraguay. ATF investigators quickly determined the cause and origin of this fire, which claimed 456 lives.

Attaché offices in Canada, Mexico, France, and Colombia support law enforcement within those countries and help ATF achieve our firearms and explosives missions. Our international work with IEDs provides insight into the tools used by international terrorists, and this information is critical to the protection of our homeland. With the Department's support, I am examining ATF's international presence to identify instances where a stronger international presence would help reduce violent crime and reduce our Nation's vulnerability to terrorism.

ATF works with agencies worldwide to prevent firearms from reaching the hands of organized criminal gangs, drug traffickers, terrorist organizations, and other criminals. ATF enforces provisions of the Arms Export Control Act (AECA), and has primary jurisdiction over permanent firearms and ammunition imports. The Department of State administers the temporary import and export provisions of the AECA,

and the Department of Homeland Security enforces all AECA provisions at U.S. ports and borders.

ATF personnel are also included on U.S. delegations to the United Nations, the Organization of American States, and the Group of Eight when these bodies are negotiating instruments relating to firearms, ammunition, and explosives. The Department of State values the expertise ATF personnel bring to the delegations, which is crucial in ensuring that treaties resulting from such negotiations include effective measures to combat international trafficking and terrorist access to these dangerous commodities. ATF participation is also essential to ensure that binding international agreements do not obligate the United States to implement policies that impose undue burdens on sportsmen, firearms enthusiasts, and the firearms industry.

PARTNERSHIPS

At ATF, we believe that working together is not just a good idea—it is a matter of national security. Our agency has a long history of collaborating effectively with other Federal, State, and local law enforcement agencies; in fact, other Federal, State, and local agencies consistently turn to ATF because of our expertise and our commitment to partnerships.

We are proud to be part of the Department of Justice, and to contribute our efforts toward reaching the Department's strategic goals. We are participating in Joint Terrorism Task Force (JTTF) operations, and working to improve information sharing between agencies. We share our expertise in firearms, explosives, and alcohol and tobacco diversion, as part of our robust support for joint efforts to counter the grave threat of terrorism. We make significant contributions to the law enforcement community, and our presence within the Department helps use the benefits we provide more effectively. This transition has provided both financial and operational efficiencies, which have improved effectiveness. Former Attorney General Ashcroft and Deputy Attorney General Comey have provided invaluable support to ATF, and this productive and supportive relationship is continuing with Attorney General Gonzales.

As I mentioned, ATF contributes to the Department of Justice's fight against terrorism through the JTTF program. Sixty-four ATF personnel are assigned to JTTFs across the Nation, and others support the remaining JTTFs as needed. ATF personnel assigned to JTTFs perform multiple roles: they function as in-house experts on firearms and explosives violations and on tobacco diversion; they act as liaisons between the FBI and ATF at the local level on intelligence matters; and they are a vital part of the joint investigative team that is truly the backbone of the JTTF mission.

ATF fosters innovation and cooperation in the explosives investigation community through its partnerships with other agencies, through liaison efforts with the legal explosives industry, and through research and development efforts. ATF works closely with other Federal agencies and with the academic and scientific communities, to conduct research and monitor developments in explosives research, blast mitigation, and explosives detection. Such agencies include the Department of State, the Department of Defense, the Transportation Security Administration, and others. ATF representatives also serve as co-chairs and task managers on several research efforts funded through the Technical Support Working Group (TSWG). The TSWG is administered by the Department of Defense under the auspices of the National Security Council. The principal mission of the TSWG is to conduct rapid research, development, and prototyping of multiple use technologies for law enforcement and military purposes. ATF also has collaborative research partnerships with Oak Ridge National Laboratory; Lawrence Livermore National Laboratory; University of Missouri, Rolla; and University of Massachusetts, Lowell. Also, ATF closely and regularly collaborates with representatives of foreign governments, including the United Kingdom, Israel, and Canada.

ATF employees hold key positions in many prestigious professional organizations. Since 1990, an ATF agent has chaired the Arson and Explosives Committee of the International Association of Chiefs of Police. Similarly, ATF has maintained outstanding relationships with the International Association of Bomb Technicians and Investigators, the International Association of Arson Investigators, and the National Bomb Squad Commanders. Also, as stated previously, ATF has a partnership with the National Shooting Sports Foundation in conducting the "Don't Lie for the Other Guy" program which provides essential education for FFLs.

ATF leverages its resources to better inform, advise, and educate its stakeholders and customers. In partnership with The Fertilizer Institute, ATF's voluntary "Be Aware for America" campaign raises the awareness of industry, law enforcement, and the public of the need for vigilance in connection with the sale and security of

ammonium nitrate. This chemical mixed with fuel oil was used in the Oklahoma City bombing. ATF later launched, again in partnership with The Fertilizer Institute, the voluntary “Be Secure for America” campaign, which focuses on the safe storage and transportation of ammonium nitrate.

STRATEGIC PLAN/JURISDICTIONS/VISION

ATF is striving every day to meet the strategic goals of the Attorney General and Department of Justice: preventing terrorism and promoting the Nation’s security; enforcing Federal laws and representing the rights and interests of the American people; and assisting State, local, and tribal efforts to prevent or reduce crime and violence.

With the Department’s goals in mind, ATF created an internal set of strategic goals consisting of the following: Preventing violent crime and terrorist related crime involving firearms; providing effective arson and explosives investigative and technical expertise to protect the public from violent crime and terrorism; and preventing illegal domestic and international trafficking of alcohol and tobacco products.

Firearms, explosives, and arson are the tools of terrorist groups and ATF’s role in firearms and explosives enforcement is significant in the battle against terrorism. ATF, while working against violent firearms crime, is also helping to prevent terrorism by monitoring and investigating violations of the Federal firearms and explosives laws. ATF is preventing violent crime through its own enforcement efforts and its effective partnerships with other agencies.

ATF prides itself on its assistance to State and local law enforcement agencies, supporting the third DOJ strategic goal to “assist State, local, and tribal efforts to prevent or reduce crime and violence.” As discussed earlier, ATF makes a wealth of resources available to State and local law enforcement agencies, including expert investigators, ballistic comparison technology, and explosives incident information.

ATF’s jurisdictional responsibilities are directly related to efforts to combat violent crime on America’s streets. ATF, as the lead Federal law enforcement agency fighting violent firearm crime, enforces the Gun Control Act of 1968 (GCA), the National Firearms Act, and other related statutes. In section 101 of the GCA, Congress declared that its primary purpose was to “provide support to Federal, State, and local law enforcement officials in their fight against crime and violence.” I would note that the GCA section goes on to state that it is not intended to “place any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms appropriate to the purpose of hunting, trapshooting, target shooting, personal protection, or any other lawful activity . . .” I want to assure the committee that ATF is mindful of this provision while maintaining a vigorous enforcement of all Federal firearms laws.

Mr. Chairman, ATF’s dual role to enforce and administer Federal explosives laws is unique. While ATF agents investigate bombings, unlawful distributions of explosives, thefts of explosives, and other violations of the Federal explosives laws, ATF inspectors/investigators are carrying out the vital work of insuring the integrity of explosives as they move through commerce. While other agencies may have the resources to respond to and investigate explosives incidents, only ATF regulates the legal explosives industry, and only ATF is responsible for tracking and investigating explosives losses and thefts.

The Anti-Arson Act of 1982 gave ATF broad-based jurisdiction in arson offenses. ATF’s arson enforcement efforts are directed toward preventing the crime of arson, providing effective post-incident response, and reducing the community impact of crimes involving fire. ATF enforces Federal laws related to alcohol and tobacco diversion, and is applying its past experience in governing and regulating these products of commerce to investigating the violent crimes that often accompany diversion activity.

Even as we work to solve the problems of the present, we have developed a strategic vision for the future. Pursuing this vision will help us to remain an effective and respected law enforcement organization while adapting to changing circumstances. We are working on using what we know to its maximum effectiveness—sharing intelligence information, ensuring that employees have the training and technology to accomplish their work effectively, and communicating with the public. We are focusing on working together—maintaining the partnerships that sustain us, and ensuring that administrative actions and personnel policies support ATF’s fulfillment of its missions. And we are growing with purpose—seeking out opportunities to expand our contributions, focusing on prevention, and focusing our efforts internationally as well as here at home. Abiding by these principles will enable us to work most effectively and get the best results for the American people.

MANAGEMENT

Mr. Chairman, ATF is a well-managed and effective organization, and external evaluations of our abilities confirm this. In the last 2 years, the Office of Management and Budget has evaluated ATF's explosives and arson programs and our firearms programs. In each review, we received some of the highest scores achieved by Federal law enforcement programs. Also, as part of the President's Management Agenda, the Office of Personnel Management sponsored a survey of 115 Federal subcabinet agencies. On this survey of employee satisfaction, I am proud to say that ATF ranked eighth, the highest of any law enforcement agency.

With the continued support of the Department and this subcommittee, we will continue to provide innovative management and personnel projects such as the Pay Demonstration project. This program uses an alternative to the General Schedule pay scale so that pay is more directly based on performance. This program has allowed ATF to recruit and retain technically skilled employees, especially those with science-based skills and intelligence research capabilities.

We are also implementing a Bureau-wide telework program. We recognize the many benefits of telework, including improved work operations, better customer service, improved employee morale, assistance with recruitment and retention efforts, and reduced traffic on area highways. After two successful telework pilot programs in the last 2 years, we recently conducted an analysis of all positions at ATF, and concluded that 1,300 positions were suitable for telework. Employees who occupy these positions have been notified that they may apply for a telework arrangement. In the next few weeks, managers and supervisors will review employee requests to telework, and begin implementing telework agreements.

The ATF Headquarters building is being constructed here in Washington, DC, and is promising to be a model of future Government construction. The facility will combine security and advanced design technology for an environmentally friendly and cost-effective facility. ATF is scheduled to move to its new Headquarters in 2006.

FISCAL YEAR 2006 PRESIDENT'S BUDGET REQUEST FOR ATF

Congressional funding for ATF in past years is money well invested in the safety of the American people. The President's Budget for fiscal year 2006 requests \$923,613,000 and 5,128 full-time equivalent (FTE) positions. I believe these additional investments will provide essential benefits to the American people.

One important new initiative will provide for the expansion of the VCIT program I mentioned earlier. Because VCIT has proven so successful, the Administration has requested \$30.3 million and 150 FTEs to establish a VCIT base in 10 additional cities that have experienced an increase in armed violence in specific geographic areas or have not followed the national trend of reduced homicides and armed violence. Establishing a VCIT base in a total of 25 cities will offer more Americans the opportunity to enjoy safer neighborhoods again.

Additional funding will also enable us to increase our participation in TEDAC. Four ATF employees currently work with experts from other agencies to identify components of IEDs. The \$6 million will provide two additional special agents to analyze the devices and to continue intelligence support to law enforcement and military organizations to work against the threat of terrorist IEDs.

The funds will also provide for the creation of a new database that will record, inventory, and catalog IEDs used in Iraq and Afghanistan. This database would use association software to identify similarities between explosives events and devices, and to match characteristics of bombings/bombers in real time, including latent prints, DNA reports, components of the explosives, and other forensic information. We will have the ability to extract information from the database and share it with State, local, and international law enforcement partners. The development of the database would be a partnership led by DOJ's Chief Information Officer and coordinated by ATF and the FBI.

CONCLUSION

Mr. Chairman, Ms. Mikulski, members of the subcommittee: On behalf of the men and women of ATF, I thank you for your support of our crucial work. In the last year, we have worked to stop those whose violent and criminal behavior threatens the peace of our communities. We have investigated explosives incidents and arsons. We have helped to ensure that the firearms and explosives industries operate safely and lawfully. And we have shared our knowledge with other law enforcement personnel through extensive training programs and effective partnerships. Yet I believe that our greatest achievements are still to come. We have made much progress—but we know there is much more to do. We are determined to succeed in our mis-

sions of reducing violent crime, preventing terrorism, and protecting the public. And we look forward to working with you to pursue this goal.

FEDERAL BUREAU OF INVESTIGATION

STATEMENT OF HON. ROBERT S. MUELLER, III, DIRECTOR

Senator SHELBY. Director Mueller.

Mr. MUELLER. Good morning, Mr. Chairman, Senator Mikulski and members of the subcommittee. I thank you for the opportunity to appear here today in front of you for the first time. I am sure it will not be the last.

My prepared statement sets forth the FBI's 2006 budget request and the program areas in which we seek expansion, but for purposes of my opening remarks, I would like to briefly address two of the areas that I believe are most important to the FBI's continuing success. The first is the progress we have made in establishing the Directorate of Intelligence, and the second is the improvement and expected improvement in our information technology.

DIRECTORATE OF INTELLIGENCE

Let me spend a moment on establishing the Directorate of Intelligence. In response to direction from the President and the Congress, including the findings of the Joint Intelligence Committee inquiry, the 9/11 Commission, and the Intelligence Reform and Terrorism Prevention Act of 2004, we established the Directorate of Intelligence earlier this year. This directorate has clear authority and responsibility over all of our FBI intelligence functions. This newly established directorate is comprised of a dedicated headquarters element that sets policy and direction to be carried out by all of our embedded elements, and then with embedded intelligence entities in each of our headquarters operational divisions, as well as embedded intelligence entities in every one of our FBI field offices. And these entities are called the field intelligence groups.

These field intelligence groups are central to the integration of the intelligence cycle into our field operations, and they include special agents, analysts, language specialists, surveillance specialists, as well as officers and analysts from other intelligence and law enforcement agencies. They are responsible for coordinating, managing, and executing all of the functions of the intelligence cycle and have significantly improved the FBI's intelligence capabilities and capacity.

Our efforts to date have focused on aligning our processes with partners and customers outside the FBI and increasing our intelligence production. We have had over the last year a 312 percent increase in the dissemination of intelligence assessments and over a 200 percent increase in the dissemination of intelligence information reports.

We have also made substantial progress over the last year toward expanding and strengthening our intelligence workforce. In fiscal year 2005 we initiated a plan to accelerate the interviewing and processing of applicants residing in the Washington, DC, and Baltimore region. We had a 1-week vacancy announcement advertised in 2005 for analysts and it yielded over 2,800 high-qualified applicants for the analyst position. We have filled 533 of these posi-

tions to date, and have a hiring objective of 880 analysts by the end of this year.

In order to continue to build on the progress we have made to date, we are taking measures to assure a consistent level of knowledge across our workforce, and we have instituted mandatory training for analysts. We have also taken steps to strengthen the special agent component of the workforce.

First, in this coming year we are establishing a clear path that gives all agents experience in intelligence collection, analysis, and dissemination. We also are building the capacity of agents to develop specialized skills, experience, and aptitudes in one of five areas including counterterrorism, counterintelligence, and intelligence. We are making an intelligence officer certification a prerequisite for advancement to the senior supervisory ranks. All of this is important and key to achieving full integration of the intelligence operations with our law enforcement operations.

I mention this, Mr. Chairman, because if you look at many of the requests that we have in this upcoming year, those requests are supportive of our building this Intelligence Directorate within the FBI. We continue to make progress in strengthening this capability and we absolutely believe that establishing this capability is instrumental to preventing attacks in the future.

Let me add, as I discuss the Intelligence Directorate, a note to say that we are currently reviewing the recommendations of the Weapons of Mass Destruction (WMD) Commission. As you know, the Commission recently completed its report and offered a number of recommendations for the FBI as well as for the rest of the intelligence community. The Commission's work makes a significant contribution to understanding ways we can improve our intelligence capabilities, and we are looking forward to continuing to build and reform our national security program in light of the Commission's recommendations, and I believe you will find that a number of our requests in the 2006 budget are supportive of that goal.

SENTINEL PROJECT

Let me turn for a second to the second area that I wish to discuss, and that is information technology. We absolutely recognize the importance of strong information technology as a backbone if we are to effectively collect, analyze, and share intelligence both within the FBI but also with our intelligence and law enforcement partners.

Mr. Chairman, we are committed to delivering to the desktops of the men and women of the FBI the enhanced technology capabilities they need and deserve. I believe that overall the Trilogy program was successful. I have before and continue to acknowledge that the Virtual Case File aspect of it was not successful. Yet our efforts to enhance our information technology during the past several years have provided us with a much improved understanding of program management as well as technical expertise. We are in a much better position to shape the FBI's next generation of electronic information management. This next generation, as I believe you have noted, is called SENTINEL and it remains one of my highest priorities.

This new system called SENTINEL is different from the Virtual Case File Program in a number of ways. I believe you have a chart that illustrates the additional capabilities that will be available under SENTINEL, capabilities that were not contemplated as a part of Virtual Case File when Virtual Case File was on the drawing boards in 2000 and 2001.

And while I am, as I expressed here before, disappointed at the time and effort and monies that were expended on Virtual Case File without success, I do believe we have an opportunity to provide our employees more of what they need to do their jobs.

A major difference between SENTINEL, the new system, and Virtual Case File is that SENTINEL represents our first step in deployment of a service-oriented architecture, what is known in the trade, I believe, as SOA. That means that SENTINEL will serve as a platform for the gradual deployment of capabilities and services needed by all FBI divisions. At the same time, we will gradually roll out key technical services through the SENTINEL program, such as automated work flow, search capabilities, records and case management and reporting protocols, rather than doing it through one massive flash cut-over as was contemplated by Virtual Case File.

The service-oriented architecture will raise our business practices to the next level by providing enhanced capabilities, new services, and better efficiency, while also ensuring a smooth transition from our legacy applications to a more state-of-the-art technical platform. This special oriented architecture will further support the FBI's mission by helping manage our investigative, administrative and intelligence needs while also improving ways to encourage information sharing among our counterparts.

SENTINEL is a four-phase project, each phase developing a stand-alone capability to our users. The phased rollout will facilitate ease of user transition, training, deployment, and support. Phase I will be ready for deployment approximately 12 months after the contract award date, which we expect to be toward the end of this year. We have taken the first step in the deployment strategies—I believe your staff has been briefed—by selecting our contracting vehicle. Our next step of the procurement process is to consider the proposals from interested and qualified vendors.

I know a question that all would ask is what is the cost? And let me try to give an answer that may at this point not be altogether satisfactory in open session, but we have a cost estimate. However, because of the procurement process and the sensitivity of the procurement process, our preference would be to discuss those with you off the record.

Let me just say, as we complete the remarks on the technology, that I fully understand the scrutiny that is necessary and appropriate to ensure that the SENTINEL Project is successful from beginning to end, and we have implemented a number of undertakings to ensure that that will be the case.

In conclusion, Mr. Chairman, thank you again for the opportunity to testify before you today and to highlight the importance of both the Directorate of Intelligence as well as our plans for SENTINEL.

PREPARED STATEMENT

In closing, I will also refer to the comment that I believe you may have made, that is, we are looking forward to working with the new Director of National Intelligence, Ambassador Negroponte. We expect to support him and his efforts in any way we can. The expansion of our intelligence capabilities I believe fits directly into what he anticipates he needs in assuring that he is able to bring together domestic intelligence with intelligence that is derived from overseas.

I also would be happy to answer any questions you have, Mr. Chairman.

Senator SHELBY. Thank you.
[The statement follows:]

PREPARED STATEMENT OF ROBERT S. MUELLER, III

Good morning, Mr. Chairman, Senator Mikulski, and Members of the Subcommittee. I am pleased to appear before you today with Attorney General Gonzales and I appreciate the opportunity to discuss the President's fiscal year 2006 budget for the Federal Bureau of Investigation (FBI). I would first like to express my gratitude for the continued support and guidance you have provided the FBI as we continue our efforts to ensure that we are able to address current threats and keep America safe from those who would do us harm. Specifically, I would like to thank you for recently passing the fiscal year 2005 Supplemental, which included \$74 million for the FBI. In addition to including critical funding for the FBI's operations in Iraq, the Supplemental will allow the FBI to improve its efforts at home in the war on terrorism.

2006 BUDGET REQUEST

The FBI's fiscal year 2006 budget request totals 31,475 positions, including 12,140 agents and 2,745 Intelligence Analysts, and \$5.7 billion. This includes 2,086 new positions—615 agents, 508 Intelligence Analysts, and 963 support positions—and \$496 million in new investments to continue strengthening our Intelligence Program and support our Counterterrorism and Counterintelligence activities. In addition, the fiscal year 2006 budget request includes resources to address the FBI's information technology and infrastructure requirements. These resources are critical to the Intelligence, Counterterrorism, and Counterintelligence Programs, as well as to our traditional criminal investigative efforts, and maintain the support we provide to our state, local, and tribal partners. The following highlights critical areas of operations and support functions.

TECHNOLOGY

Since I last appeared before the Subcommittee in February of this year, the FBI has taken significant steps in planning for our future case management system. I want to take an opportunity to provide you with an update on our plans, and proposed time-line.

The FBI's commitment to delivering enhanced technology capabilities remains resolute. Our efforts with regard to the Trilogy Project resulted in a better understanding of program management and technical expertise. The lessons learned have resulted in changes that have already facilitated successful programs, including the pilot testing of VCF Initial Operating Capability (IOC), which concluded at the end of March 2005. As a result of VCF IOC, we were able to gain user input that will better direct the development and roll-out of future capabilities. Additionally, lessons learned have better positioned us to shape the FBI's next generation electronic information management system, SENTINEL. Successful deployment of SENTINEL remains one of my top priorities.

SENTINEL is different from the VCF program because it will serve as a vehicle in which capabilities can be gradually deployed. We will roll-out key technical services in phases, such as records and case management capabilities, to smoothly transition into the new system while retiring legacy applications. SENTINEL will raise our business practices to a higher level of performance by providing enhanced capabilities, new services and better efficiency. SENTINEL will further encourage information sharing within the FBI and among our counterparts.

The current planning has SENTINEL functions divided into four phases, which will be incrementally developed and deployed. Each phase will deliver stand-alone capabilities. The phases take into consideration migration of legacy data and retirement of legacy systems. An initial estimate for full development and implementation of SENTINEL is 39 to 48 months. The first phase of the development is estimated to begin late this calendar year. As I mentioned, SENTINEL will replace a number of legacy applications, the most important of which is the Automated Case Management System; other applications to be replaced include: ASSET; Criminal Informant Management System; Bank Robbery Statistical Application; Financial Institution Fraud and Integrated Statistical Reporting Analysis Application. Additionally, SENTINEL incorporates support for XML standards to facilitate internal and external information sharing.

The total estimated cost of SENTINEL has not yet been finalized, but would be distributed over two to four fiscal years. However, development costs for each phase will be fully funded in the year in which work begins on that phase.

DIRECTORATE OF INTELLIGENCE

At the direction of the Congress and President, the FBI has established the Directorate of Intelligence. As required in the FBI's fiscal year 2005 Appropriation legislation, the Directorate will lead the FBI's integrated, dedicated national intelligence workforce—"A Service within a Service." The guiding principle for FBI intelligence is the integration of law enforcement and intelligence operations. To achieve this integration, we use a management principle of centralized management and distributed execution. The Directorate establishes priorities, processes and policies for intelligence operations that are executed by fully integrated intelligence elements in other Headquarters offices and the Field. The priorities, processes, and policies are fully aligned with those of the Attorney General, and the Director of National Intelligence (DNI):

- This integrated intelligence service leverages our traditional law enforcement culture—with particular attention to the pedigree of sources and fact-based analysis—while ensuring no walls exist between collectors, analysts, and those who must act upon intelligence information.
- The term "Directorate" signifies that intelligence is not the responsibility of one office or one division, but crosses program lines and permeates all we are charged with doing.
- FBI intelligence professionals will integrate all partners—particularly state, local and tribal law enforcement—into our intelligence structures. Through joint operations in a shared information space, we create a common view of the threat and a clear understanding of our respective roles in countering the threat.

The FBI's fiscal year 2006 budget request includes an enhancement of \$26 million for the Directorate of Intelligence. The resources would strengthen three critical areas: program development; training; and recruitment and retention. These areas have been identified as critical to the success of our Intelligence Program.

We are requesting resources to continue restructuring and integrating the enterprise-wide Intelligence Program, which would enable us to centrally manage our core intelligence functions and implement programs, standards, policies, and training for analysts consistent with standards to be determined by the Director of National Intelligence (DNI). This would also allow us to manage intelligence requirements and intelligence collection activities in accordance with national intelligence priorities, and to ensure that all intelligence gathered and analyzed is disseminated to those who need it, both inside and outside the FBI. Our efforts to date have focused on aligning our processes with partners and customers outside the FBI, and increasing our intelligence production. The FBI had a 312 percent increase in the dissemination of intelligence assessments from calendar year 2003 to 2004, and a 222 percent increase in the dissemination of Intelligence Information Reports during that same period.

- In order to ensure a consistent level of knowledge across the workforce, we have instituted specialized training, which is now mandatory for all FBI Intelligence Analysts. This year, more than 150 analysts have received intelligence training and our goal is to train at least 1,000 analysts by December 2005. In addition, intelligence training has been incorporated into new agent training. As directed in the FBI's fiscal year 2005 Appropriation, we are making additional improvements to expand and enhance our training program, to include joint training sessions with other members of the Intelligence Community, creation of a fellows program to exchange staff with other federal agencies and the private sector, and opportunities for academic sabbaticals to pursue advanced degrees. Our

fiscal year 2006 request would enhance the basic intelligence analyst course, and provide support for advanced Intelligence Analyst training.

—We have made substantial progress towards expanding and strengthening our intelligence workforce. As a result of our hiring efforts, we have received overwhelming interest in the Intelligence Analyst position. A one-week vacancy announcement advertised in February 2005 yielded over 2,218 applicants. We have hired 476 Intelligence Analysts through February and have a hiring objective of 880 by the end of the year. The fiscal year 2006 budget request includes resources to continue recruitment and retention initiatives.

Finally, the FBI has integrated management of the Foreign Language program within the Directorate of Intelligence. This integration aligns foreign language and intelligence management activities and provides for delivery of service across all program areas. At the end of February 2005, there were 406 language specialists on-board. In addition, we use the services of over 900 contract linguists. This represents a 67 percent increase in the number of total linguists since 9/11. During calendar year 2004, our Language Services program reviewed over 532,000 hours of audio and over 1.9 million pages of text in support of the counterterrorism and counterintelligence missions. We are requesting an enhancement of 274 positions and \$26 million in fiscal year 2006 to enhance the program's capacity in counterterrorism and counterintelligence-related languages, and to integrate a permanent staff of linguists within the National Virtual Translation Center.

COUNTERTERRORISM

The FBI is committed to defeating terrorists and preventing terrorist attacks. We endeavor to deny terrorists and their supporters the capacity to plan, organize, and carry out logistical, operational, and support activities. In order to be successful, we must be able to develop intelligence about their plans and disrupt their efforts. In conjunction with our partners, we will pursue appropriate sanctions against terrorists and their supporters. Success is dependent on networked information technology systems and the capacity to manage and share information effectively. Resources are also critical to the mission. In fiscal year 2006, we are requesting an enhancement of 791 positions, including 468 agents, and \$122 million for national security field investigations.

A critical mission within the Counterterrorism Division is the Foreign Terrorist Tracking Task Force (FTTTF). FTTTF was created in response to Homeland Security Presidential Directive-2 (HSPD-2). The mission of the FTTTF is to provide information that helps keep foreign terrorists and their supporters out of the country or leads to their exclusion, removal, surveillance, or prosecution. The FTTTF specializes in combining public, proprietary and government data sources to support the FBI's counterterrorism mission, including support to other U.S. and international operations.

Current collaborative partners and key players include: FBI's Counterterrorism Division—National Joint Terrorism Task Force; Central Intelligence Agency; Department of Defense; DOD Counterintelligence Field Activity; Department of State; and Department of Homeland Security.

In February 2005, the FBI and DHS executed an agreement to provide for the sharing of information from the US-VISIT and Student and Exchange Visitor Information Systems (SEVIS) programs. As a result of the agreement, the FBI will be able to retrieve and analyze all of the biographic and biometric data on foreign travelers and students collected in US-VISIT and SEVIS. FBI personnel will be able to access this information through the Investigative Data Warehouse and FTTTF databases, as well as through established user accounts at FBIHQ and field office.

The agreement requires the FBI to verify information and coordinate with DHS before taking action on leads or disseminating intelligence products developed as a result of information under this shared agreement. It also broadly provides the FBI authority to share US-VISIT and SEVIS information as necessary with other federal, state and local personnel.

TERRORIST SCREENING CENTER

The Terrorist Screening Center (TSC) is a multi-agency effort designed to consolidate the screening process for known and suspected terrorists, and to provide for the appropriate and lawful use of terrorist information. The TSC operates 24/7 to provide a unified approach to terrorist screening. Through February 2005, TSC received 21,650 calls (over 3,500 from state and local law enforcement), made over 11,300 positive identifications, and assisted in over 340 arrests—including six with a terrorism nexus. For fiscal year 2006, we are requesting an increase of 61 positions, to include six Intelligence Analysts and eight agents, and \$75 million. These

resources would provide the TSC with the ability to not only continue fulfilling the TSC's mission as mandated by Homeland Security Presidential Directive 6, but also begin to address the requirements generated by several other initiatives—more stringent screening at United States borders, new requirements for the government to screen passengers on domestic and international flights without unduly delaying commerce or travel, and ensuring organizations receiving public funds do not have terrorist links. TSC projects that its workload will increase by up to 3 million queries per day by fiscal year 2006.

COUNTERINTELLIGENCE

As the lead counterintelligence agency in the United States, the FBI is responsible for identifying and neutralizing ongoing national security threats. In counterintelligence, we are alert to the potential of a foreign power to penetrate the United States Intelligence Community and to compromise Critical National Assets. We are also deeply concerned about an agent of a hostile group or nation producing or using weapons of mass destruction. Furthermore, the players in the espionage game have diversified. We are no longer dealing exclusively with intelligence agents. Today the threat can just as easily come from students, business executives, or hackers.

OFFICE OF CHIEF INFORMATION OFFICER

In fiscal year 2006, we are also requesting an enhancement of \$7 million to provide contract support for the Office of the Chief Information Officer. With these resources, we will be able to better ensure that disciplined processes are applied to our project management activities and that our projects accurately reflect operational requirements and our architecture standards while supporting our information technology systems development and engineering.

INTEGRATED AUTOMATED FINGERPRINT IDENTIFICATION SYSTEM (IAFIS)

We appreciate the support you provided us for the Integrated Automated Fingerprint Identification System (IAFIS) program in the fiscal year 2005 Appropriation language. It allows us to move forward with our plans to modernize our hardware and software to ensure interoperability and increased information sharing with other agencies through use of emerging technologies. In fiscal year 2006, we are requesting an increase of \$16.8 million for Next Generation IAFIS to improve its speed and accuracy, allow for flat print capture, and enhance the Criminal History Record Information Database. These initiatives will support both our state and local partners and the security of our nation's borders.

LAW ENFORCEMENT ONLINE (LEO)

We are also focused on developing technology to promote information sharing with our state and local law enforcement partners. The FBI is requesting an increase of \$8 million to upgrade the Law Enforcement Online (LEO) network with cost effective solutions to accommodate law enforcement user and content growth, and to conduct annual security audits, reviews, and technology assessments to ensure LEO remains compatible with emerging technologies and customer needs. As of March 1, 2005, LEO supported over 41,000 users. In addition to the current LEO user base, there are approximately 17,000 Regional Information Sharing System users who have the ability to access LEO. During fiscal year 2004, the FBI added more than 4,000 National Alert System, or NAS, users. NAS provides immediate notification regarding crisis events.

OVERSEAS COOPERATION

International cooperation has been, and will continue to be, crucial to effectively prevent and disrupt terrorist networks. We are continuing to develop foreign partnerships through expansion of our Legal Attaché program. Currently, we have 51 Legal Attaché offices open, covering over 200 countries around the world, supporting our efforts to neutralize transnational threats. We anticipate opening three additional Legal Attaché offices by the end of this year: Kabul, Afghanistan; Sofia, Bulgaria; and Sarajevo, Bosnia. In fiscal year 2006, we are requesting an enhancement of 60 positions and \$11 million for the Legal Attaché program and related information technology infrastructure requirements. We propose to open one new office and to enhance our presence in several existing critical locations. Augmenting the Legal Attaché presence overseas will provide an operational benefit by reducing the span of control of affected offices, resulting in more manageable workloads to address terrorist and criminal investigations. Foreign law enforcement cooperation is a central

ingredient in fighting the international war on terrorism, and an effective Legal Attaché program is essential to maintaining our success in this area.

INFRASTRUCTURE IMPROVEMENTS

The last few years have seen rapid reorganization and expansion of our organization. We have undergone much change and hired many new personnel. One of our highest priorities has been maintaining the strength of our workforce. We conducted a study in 2004 to improve the hiring process of support personnel. The study's recommendations included streamlining several business practices and realigning resources to more effectively execute our hiring efforts. The majority of these recommendations are in the process of being implemented. For fiscal year 2005, we have initiated a plan to accelerate the interviewing and processing of applicants residing in the Washington, DC and Baltimore region for the FBI's top priority programs, including the Directorate of Intelligence, in an effort to achieve this year's hiring goals.

As we expand our hiring, our training capacity must improve as well. In fiscal year 2006, we are requesting \$15 million to continue addressing the more pronounced deficiencies at the FBI Academy. We need to ensure that our facilities at the FBI Academy are suitable for training agents and Intelligence Analysts, as well as maintaining our support of the National Academy. Quantico provides training to an average of 1,500 intelligence and law enforcement personnel each day. We are renovating and modernizing our facilities in order to meet the demands of our new intelligence-driven training initiatives.

As part of our initiative to improve physical infrastructure and support the counterterrorism mission, we are requesting \$10 million in construction funding to conduct architectural and engineering studies for a new Critical Incident Response Group (CIRG) facility. The funding would also be available for the purchase of land once a suitable location is found. A new complex would provide for adequate training space, and would allow CIRG's executive management, command and control, and crisis response elements to be centralized in one location.

CRIMINAL INVESTIGATIVE DIVISION

We are also continuing to enhance our Criminal Program. In 2004, we realigned our program structure. The realignment maximizes the effectiveness of resources, mirrors actual work processes, focuses on threats from criminal enterprises, and promotes the collection, exchange and dissemination of intelligence throughout the FBI and other authorized agencies. In fiscal year 2004, we reported more than 21,000 arrests, 15,000 indictments, and 16,000 convictions. The focus of the Criminal Investigative Program is in areas where we provide a unique skill and provide a critical contribution to law enforcement.

We have placed additional emphasis on targeting violent gangs. Gangs and other criminal enterprises operating in the United States and throughout the world pose increasing concerns for the international law enforcement and intelligence communities. Today, gangs are more violent, more organized and more widespread than ever before. They pose one of the greatest threats to the safety and security of all Americans. The Department of Justice estimates there are approximately 30,000 gangs with 800,000 members, impacting 2,500 communities across the United States. The innocent people in these communities face daily exposure to violence from criminal gangs trafficking in drugs and weapons, gangs fighting amongst themselves to control or extend their turf and their various criminal enterprises, which pose a significant threat.

In response to the threat, we have developed the National Gang Strategy. Priority is given to efforts to disrupt and dismantle gangs that are national in scope. One of the first to be targeted is MS-13, a violent gang that originated in Los Angeles and has spread across the country. We have created a National Gang Task Force specifically to address MS-13. We are establishing a new National Gang Intelligence Center (NGIC) at FBI headquarters, which has been made possible through resources the Congress provided this year. The NGIC will collect intelligence on gangs from across the United States, analyze this intelligence, and disseminate it to help law enforcement authorities throughout the country plan and execute strategies to prevent further gang activity and violence.

The FBI views identity theft as a significant and growing crime problem, especially as it relates to the theft of consumer information from large wholesale data companies. Identity theft has emerged as one of the dominant white-collar crime problems of the 21st century. The FBI opened 889 investigations related to identity theft in fiscal year 2004. That number is expected to increase as identity thieves become more sophisticated and as the crime is further embraced by large criminal

organizations, placing more identity theft crime within FBI investigative priorities. Identity theft crosses all program lines and is usually perpetrated to facilitate other crimes such as credit card fraud, check fraud, mortgage fraud, and health care fraud. At present, the FBI has over 1,600 active investigations involving some aspect of identity theft.

The National Sex Offender Registry (NSOR) is under the control of the Criminal Division's Crime Against Children Section and the Criminal Justice Information System (CJIS). As directed by Congress, the FBI maintains a national database to track the whereabouts and movements of sex offenders. The foremost goal of the Registry is to prevent sexual offenders from committing further sex crimes and protecting the public, and the NSOR is a critical tool that is educating and protecting the public and children from harm. The system uses an FBI number to connect information in the National Crime Information Center (NCIC) to existing criminal history information in the Integrated Automated Fingerprint Identification System (IAFIS). In order for this to occur, the convicted offender must have a preestablished FBI criminal history record, which can be based on any prior arrest. Recent murders of innocent children have highlighted the need to make the public even more aware of the NSOR, which is available as a link from the FBI's website, fbi.gov, and state and local government agencies.

CONCLUSION

Mr. Chairman, Senator Mikulski, and Members of the Subcommittee, the FBI's overriding priority has been protecting America by preventing further terrorist attacks. The FBI has made many significant changes, and will continue to adapt to protect our country. We have reorganized from an agency whose primary focus was law enforcement into an integral member of the Intelligence Community. The men and women of the FBI are its greatest asset. Working together, Special Agents, analysts, scientists, managers, and support employees attack threats as a team, with a unified determination to protect our country and our civil liberties.

Once again, I thank you for your strong support of the FBI. It will be my pleasure to answer any questions you may have.

IDENTITY THEFT

Senator SHELBY. Attorney General Gonzales, I understand that some of the Department of Justice's travel card accounts may have been compromised recently. Can you describe your efforts as they relate to stealing and compromise of account and other personal information? In other words, what are you doing at the Justice Department in helping to stop identity theft?

Attorney General GONZALES. Mr. Chairman, identity theft is regrettably one of the fastest growing crimes in our country. One of the consequences, regrettably, of our growing technology and the use of the Internet is making it easier for those with bad intentions to engage in identity theft.

The Department's approach is basically three-prong. The first is enforcement. In connection with that, of course, there was legislation recently passed, the Identity Theft Penalty Enhancement Act, which imposes additional penalties above and beyond penalties related to the underlying criminal conduct, such as credit card fraud. The past few years we have engaged in some major sweeps around the country, but clearly, more needs to be done.

Second, in relation to that, we are engaged in a very strong educational program providing training to State and local officials, and providing education to the public, to tell them what is possible, what can possibly be done by these criminals, and what good God-fearing citizens can do to protect their assets.

The final component, of course, is to continue to look to see whether or not additional legislation is necessary or appropriate to deal with this threat. We obviously are very concerned about it. I am committed to working with the Department of Homeland Secu-

rity (DHS). I know for Mike Chertoff this is a security issue, the fact you have people that are able to take the identity of someone else. It does create a security issue for this country, and we are committed to working with DHS to try to address this problem.

Senator SHELBY. It is involving billions of dollars, is it not?

Attorney General GONZALES. It is a massive problem, yes, Mr. Chairman.

NATIONAL REGISTRY WEBSITE FOR SEX OFFENDERS

Senator SHELBY. Shift to another area. According to the National Center for Missing and Exploited Children, there are 549,000 registered sex offenders in the United States. These are people who have been convicted of preying on our families and especially our children. They are largely unknown. They have a high rate of recidivism. It is estimated that nearly 100,000 sex offenders do not register, fail to update the information, or have just disappeared.

Last Friday the Department of Justice, under your leadership, announced the creation of a national registry website for sex offenders. Could you discuss that just a little bit, and how is this website different from sites currently operated by the Bureau, FBI, and the Bureau of Immigration and Customs Enforcement, and will people be able to enter a name and the site will search all of the sites it is linked to? How will it work, in other words, Mr. Attorney General?

Attorney General GONZALES. Thank you, Mr. Chairman. The Department saw a need to try to provide additional information to the public about sex offenders who may possibly be within their neighborhoods, and there were too many families crying out for information in order to protect their kids. We took existing technology with existing information on the websites of States and territories who require registration of sex offenders, and provided a vehicle free of charge for any American who has access to the Internet to simply type in a name, a precinct, a county, a ZIP code, a State, and able to pull up the names of all registered sex offenders within that scope.

It relies upon State databases, and for that reason, obviously, we are dependent upon the information—

Senator SHELBY. Are they interoperable?

Attorney General GONZALES. Pardon me?

Senator SHELBY. Will the databases be interoperable?

Attorney General GONZALES. Absolutely. We rely upon the States' information, and, therefore, we are dependent upon the accuracy of the information within the State. The beauty from my perspective is that it does rely upon existing technology. The cost is minimal. We have existing funds from 2005 and 2006 to operate this facility, and obviously we will look for ways to find additional funding for future years. But in my judgment, it is a good start in providing additional information to families.

EXPLOSIVES FEE

Senator SHELBY. Mr. Attorney General, the budget request proposes a \$120 million fee increase that I mentioned earlier on the explosives industry. What is your schedule for getting this authorization through Congress? Has the authorizing language for the fee

been transmitted by the administration? And if not, when will it be transmitted?

Attorney General GONZALES. Mr. Chairman, I don't know what the schedule is, but I will find out and get that information to you. Let me just say that with respect to the administration of fees, it has been longstanding administration policy that in appropriate circumstances there should be fees charged in connection with the administration of certain laws, and this would be one such example. But I will get that information to you as quickly as I can.

STATE AND LOCAL LAW ENFORCEMENT FUNDING

Senator SHELBY. I think I mentioned it and Senator Mikulski did, too. The funding for State and local law enforcement, the proposed cuts here, a lot of us believe they are critical partners in homeland security, the war on terrorism, law enforcement and so forth. How do you justify the funding cut there, Mr. Attorney General? I know it is a tough budget deal.

Attorney General GONZALES. Mr. Chairman, the budget does reflect some very tough decisions. There are priorities within this administration, one priority being, of course, the protection of this country. And then we have other priorities, and regrettably, there may be some good programs that we just do not have enough money to fund. And so the budget reflects some tough decisions.

With respect to State and local law enforcement, let me first begin by emphasizing that we understand and appreciate the importance of cooperation and coordination with State and local officials. We cannot be successful unless we have the help of State and local officials in addressing not just terrorism, but other crimes in this country.

There are various reasons why certain programs may be cut, irrespective of whether or not they are actually good programs. For example, we may discontinue funding because the objective of the initial funding may have been met, such as the COPS program, where initially that was a program created to put 100,000 cops on the street. We met that objective.

Second, some programs reflect a one-time grant and, therefore, they are not funded again.

Third, a program, quite frankly, may not score well with respect to the OMB standards about whether or not a particular program can justify continued funding.

And, finally, there is a longstanding administration policy to sort of discourage funding of programs that are not competitively bid, that are sort of earmarked. And so there are a variety of reasons why certain programs may receive discontinued funding.

Now, with respect to cuts to State and local law enforcement, let me just emphasize there is a tremendous increase in the budget within the Department of Homeland Security (DHS) to provide monies to first responders. Some might argue, well, those are monies that will not find their way to the cops on the streets. But, in truth, many of the monies will be spent on resources and technology, computers that can be shared by first responders, and by the beat cop. And so I think it is not a fair assertion to look at the monies cut out of these programs and say that the administration is somehow not providing resources to State and local officials.

We are finding other ways to do it, and obviously we are working as hard as we can to be more efficient in the monies that we continue to provide to State and locals, which is a significant amount. But the bottom line is this budget does reflect some very tough decisions.

PRISON CONSTRUCTION RESCISSIONS

Senator SHELBY. Mr. Attorney General, how do you justify ignoring this subcommittee's direction regarding prison funding by rescinding funding for two prison construction projects? And in your view, does the budget request support the real needs of the Federal prison system? It continues to grow. It is overcrowded.

Attorney General GONZALES. It does continue to grow, and it is a serious problem. It does require us to become more efficient. We are looking at finding ways to be more efficient by consolidating facilities, by looking to create prisons that are not stand-alone facilities but are located in proximity to other Federal facilities so that we can share resources.

The prisons that we are contemplating to retire are very old facilities. They are minimum-bed facilities. We had the bed space available with respect to minimum security beds in other prisons. We are committed, if these prisons are retired, to ensure—we will do our best to make sure that the people that are working there have the opportunity to find a job in other facilities.

If you look at the age of the facilities and what it would cost to renovate these facilities and provide additional needed infrastructure, we believe it simply makes more sense to retire these facilities as opposed to continue to try to fund to keep these facilities open.

Senator SHELBY. Senator Mikulski.

NATIONAL REGISTER FOR SEXUAL PREDATORS

Senator MIKULSKI. Thank you, Mr. Chairman. I want my first round of questions to be directed at Mr. Gonzales, unless it is appropriate for Mr. Mueller to come in, and then in my second round to talk about the FBI.

Mr. Gonzales, I am so pleased in your national budget you are talking about how to protect children, and women and children. I want to pick up on one question with the National Register for Sexual Predators.

I am so pleased that you have established this registry. This is an enormous threat to our own community. In Maryland, we have had children die because of sexual predators. Also, most recently we have had them lurking around schools and playgrounds again, and parents need tools that they can use, as well as local crime watch.

Could I just understand, if I type in a zip code or a parent types in a zip code, would then the registry show the name of the predator, the convicted predator, and the address of the predator?

Attorney General GONZALES. That is my understanding, Senator. You would get that information. Again, the way this has been structured, we can do it fairly quickly because we are relying upon information that currently already exists in databases of States

and territories. We are dependent upon the information that is within the State databases. But you would get that information.

Senator MIKULSKI. It will come back to the State databases because the Federal funds go to State and local law enforcement, which I know many of my other colleagues will focus on. In the interest of time, I am going to stick with the children's issue.

This is a really big issue, and we thank you for your leadership. We were so dismayed to hear our colleague, Senator Schumer, bring to our attention that Medicaid is now paying for Viagra for these predators. What a despicable thing. What a ripoff of the taxpayer. And we hope that the Department of Health and Human Services is going to take action on this, and we look forward to your working together on this.

I would like to compliment your office as well as the FBI on the leadership it has taken to protect children not only in their community but virtually in what we would call the virtual playground. And we are so pleased that it was the FBI through its project called Innocent Images, started in Maryland because of the death of a child in Maryland, that has really been standing sentry on the sexual predators on the Internet, a despicable situation. And as we fight our global war against terrorism, there are many predators that pose threats in our communities, so we want to encourage the ongoing efforts to have these efforts to protect our children in our neighborhood as well as on Innocent Images. And when you come back, Mr. Director, we would like to know that is not being short-changed.

VICTIMS OF CRIME

Then let me go to the victims of crime. While we see how we are trying to protect, we are concerned very much about the cuts in the victims of crime assistance. Could you share with us what this one—because we see what is happening. Most recently, the little girl that was found buried alive, an 8 year old, after she had been raped and buried alive, thanks again, local law enforcement found her. The murder of the girl that was trying to get out of a gang life who was stabbed 16 times. We have these terrible victims of crime, and yet there is a rescission here in the victims of crime program.

Could you tell us—the Crime Victims' Fund, as I understand it, is paid for fees collected from convicted criminals. I believe the money should be made available to victims. Number one, will that money be made available? And, number two, with the rescission of \$1.3 billion from the Victims of Crime Fund, what services will be either eliminated or diluted?

Attorney General GONZALES. Senator, let me—

Senator MIKULSKI. Because we have got to really think about these victims.

Attorney General GONZALES. Senator, I do think about the victims. Attending several victims ceremonies recently in connection with Victims' Rights Week, I heard their stories and I really understand that we have an obligation. The Department, I believe, has a very strong obligation to look out for the rights and the interests and the concerns of victims. I care about them very, very deeply.

I would remind you, of course, that the President feels the same way, and he advocated a constitutional amendment with respect to victims' rights.

Our budget request does lift the cap on spending out of the Crime Victims Fund from \$620 million to \$650 million. So we view it as an increase in terms of spending for victims' rights.

Now, we have requested a rescission of prior year unspent balances. As you know, because of the way our budget process works, that amount gets rolled over from year to year. We just felt it was a more straightforward way of dealing with this budget issue, but it does not, in my judgment, reflect lessening of a commitment to victims' rights. In looking at the receipts, it appears that the receipts will be sufficient to maintain the level of funding that we have come to expect with respect to this fund. Again, this just reflects a budgetary decision.

Senator MIKULSKI. Mr. Gonzales, I don't question your commitment, but I am here as an advocate, not an accountant. And my question is: If you rescind close to \$1 billion, what does that mean? That you had a pile-up of money from collecting funds from these convicted criminals, that you did not spend it? And shouldn't this be rolled over then and more direct assistance to the victims as well as other kinds of programs?

Attorney General GONZALES. You are correct, it was a pile of money that was collected, fees, that could not be spent because there were caps placed upon it. Therefore, it could not be spent, and it kept rolling over from year to year.

Senator MIKULSKI. Why couldn't it have been spent? There was not enough "demand" by the victims?

Attorney General GONZALES. I don't know if it is a question of demand, Senator. It is a question of this was a cap imposed by the Congress and agreed to by the administration, and there was—I think it was to provide some level of certainty because the fact that the level of fees collected year to year varied, and there was a decision to provide some level of certainty as to how much money would be spent every year, and so the decision was made as to what the cap should be. And as I have indicated, we propose raising the cap from \$620 million, which it had been, to \$650 million.

Senator MIKULSKI. Well, I think what I am trying to understand, then, is why did the money pile up. Number two, what is a better use of the money?

I know my time has expired, and perhaps we could have that in more detail from your Department so that, number one, we really are on the side of the victims. And we will come back to some other issues on that.

Attorney General GONZALES. We would be happy to try to get your more information about that, Senator. Thank you.

[The information follows:]

CRIME VICTIMS FUND—WHY DID THE MONEY PILE UP AND WHAT IS A BETTER USE FOR THE MONEY?

The Fund is set up as a separate account in the United States Treasury with deposits coming predominantly from criminal fines; the proceeds of forfeited appearance bonds, bail bonds, and collateral, special forfeitures of the collateral profits of crime proceeds retained in an escrow account for more than 5 years, and penalty assessments for federal misdemeanor and felony convictions. Money is collected and

deposited in the Fund account in one year and made available for obligation the succeeding fiscal year. Hence, money deposited into the Fund in fiscal year 2005 will serve as the source of funding for programs in fiscal year 2006. The collection and deposit period runs from October 1 through September 30 of a given fiscal year.

For the last several years, both Congress and the Administration have proposed to control the level of expenditures made from the Crime Victims Fund (CVF) by imposing an obligation limitation. The fiscal year 2006 President's Budget continues to propose a cap on the CVF, as it is necessary to ensure a more continuous level of service provided by the partners in the field. Any collections in excess of the cap for a given year are carried forward into the following year, which is how collections have accumulated in the Fund. The fiscal year 2006 budget proposes to rescind these accumulated balances. The accumulated balances are due to exceptionally large collections that have occurred in recent years. As to a better use of the money, collections should be used for the purposes for which they are authorized, to provide assistance and compensation to victims of crime. The Administration's proposal simply seeks to end the current practice in which unspent balances are carried forward into the next fiscal year, creating a discretionary budget "offset" that permits spending for other, unrelated activities.

Senator SHELBY. Senator Leahy, Senator Stevens is going to yield to you right now.

Senator LEAHY. I appreciate that. I appreciate my friend from Alaska. I have to be on the floor.

Attorney General, I am troubled by your answer to Senator Mikulski. Are you concerned about the victims of crime? I am sure you are. You and I have discussed this before. I have no doubt of your sincerity. But we can talk about, well, we are going to raise the limits, we are going put more money, we are going to do this, that, and the other thing for the victims of crime. But this money is from criminal fines, forfeitures, assessments. It does not come from the American taxpayers. And you are zeroing out the fund. At the end of fiscal year 2007 there will be no money left. The administration's fiscal year 2006 budget proposal would siphon off all the funds. You know and should know full well that as we put together—and these have all been bipartisan efforts to put together these victims' funds—and suddenly the money is zeroed out, it has this chilling effect all the way down the line. The victims' programs are not going to be funded. People are going to say there is no money there. Sure, the money is rolled over. Sure, the money is rolled over each year. That is what the Congress wanted the money to do, to roll over each year, because new programs are coming online, whether it is in your State of Texas, my State of Vermont, Director Mueller's State of California, or anywhere else. They are coming online. Our country is growing all the time. Unfortunately, there are more victims of crime all the time.

I would hope that you and the administration would go and review this again because it creates in my mind a somewhat chilling effect. We can talk about how we all want to raise the caps on these, but if the money is gone, it does not make any difference.

COST OF SENTINEL

Director Mueller, I am concerned about your testimony on the cost of SENTINEL, the Virtual Case File replacement. We have been unable—our staff, including staff cleared for security matters, has been unable to get an estimate of what this is going to cost. You suggest we might do this in a closed-door hearing. Frankly, I get kind of worried because for years we were unable to get estimates on a virtual case file, even in testimony here. A few days

later we find out how much was wasted, how badly it went down the drain. I think you are going to find that many of us want to get those briefings, and I would suggest that stonewalling staff up here is not the way to do it.

FBI SEARCH OF TERRY NICHOLS' HOUSE

But my question to you in the time I have is: On March 31—and I happened to notice this date because it was my birthday—FBI agents acting on a tip searched the house where Terry Nichols lived just before the bombing of the Alfred P. Murrah Federal Building in April 1995, 10 years ago, one of the worst acts of domestic terrorism on our soil.

So 10 years later, 10 years after the fact, 10 years after the time Terry Nichols was in jail, the FBI searched his house and they found blasting caps and other explosive materials apparently related to the bombing. Ten years?

Mr. MUELLER. I would be happy to explain that, Senator.

Senator LEAHY. I would love to hear the explanation because I understand that they took—an informant gave them a tip. He failed a lie detector test. To have a lie detector test be the determining factor on something like this—yes, go ahead and explain it.

Mr. MUELLER. Well, first of all, let me clarify that we are not stonewalling your staff, Senator. We have not. We would be happy to provide you with the briefings. As I told you before, in terms of the cost, we have estimates now. The reason for not putting it in public is because there are certain procurement sensitivities that are involved. But we are happy to provide you the briefings that you request, and I do believe we have provided them in the past, certainly with regard to the outline of the SENTINEL program.

With regard to the explosives that were found in Terry Nichols' house, we did search the house way back. In fact, there were a number of searches of the house during the course of the investigation.

Senator LEAHY. You were not the Director at that time.

Mr. MUELLER. I was not, but I know that there were searches of the house back in the wake of the Oklahoma City bombing. We did get an informant or a tip that came from Nichols, as to where additional explosives were buried. We followed up on that, and we found that they were buried under the house, under the earth under the house where they would not have been easily found in the previous searches. It took the additional information by way of Nichols to identify the location of these particular explosives, and we followed through on that tip and found them.

Senator LEAHY. How long after getting the tip was the search made?

Mr. MUELLER. I would have to check. I am not certain of the timeframe.

Senator LEAHY. I think it was a few weeks, but feel free to provide that for the record.

Mr. MUELLER. We will.

[The information follows:]

TIMEFRAME FOR LOCATING EXPLOSIVES IN THE FORMER HOME OF TERRY LYNN
NICHOLS IN HERINGTON, KANSAS ON MARCH 31, 2005

On March 1, 2005, the Bureau of Prisons contacted the FBI Denver Field Office regarding information it obtained from an inmate about explosives under the former home of Terry Lynn Nichols. On March 4, 2005, the inmate failed an FBI polygraph exam regarding this information. Although the inmate did not pass the polygraph examination, the FBI continued to review and investigate the information. Additional detailed information about the location and alleged existence of the explosives was received on March 11, 2005, from an FBI source from another FBI Field Office. Based upon the information provided by the sources, the FBI continued to investigate the allegations to determine their veracity. The investigation included, but was not limited to, locating the home and its owner, and obtaining permission to search the premises. On March 31, 2005, the buried cache of explosives was successfully recovered without incident and forwarded to the FBI Laboratory for analysis.

INNOCENCE PROTECTION ACT

Senator LEAHY. In October 2004, the Congress passed and then the President signed the Justice for All Act that had the Innocence Protection Act, the IPA, which I authored. And, Attorney General, at your confirmation hearing you said that you would work with us on IPA, on the Innocence Protection Act.

The Innocence Protection Act authorized a total of \$375 million for this program over a 5-year period. This was carefully worked out over months, actually years of negotiations, by everybody from Chairman James Sensenbrenner and Majority Leader Tom DeLay, to myself, to others. We wanted to have effective systems for appointing counsel in death penalty cases. The President, the White House was involved. The President was happy to sign it and stated it when he stepped forward and was to sign it. But now we find that the administration has proposed zero funding on this, and they are trying to figure out a new program, ignoring the work of Republicans and Democrats in both bodies, across the political aisles, across the political spectrum, on a bill the President signed.

Is this a sign to us don't bother to try to form bipartisan coalitions, don't bother to work with this administration, don't bother to work with you or anybody else, because we will just zero it out? I am somewhat troubled, as you may have noticed.

Attorney General GONZALES. Yes, sir. I would not describe it in that fashion. We obviously care very much, the President cares very much about ensuring that those who are facing the death penalty have adequate representation.

Senator LEAHY. I am talking about the IPA. The Innocence Protection Act was part of the bill that the President signed, which has now been zeroed out for the money that was authorized.

Attorney General GONZALES. I thought you were talking about providing lawyers in connection with—

Senator LEAHY. I am talking about the program that the Congress, after years of work, of hearings, put together, signed into law by the President, is now in law, has been basically zeroed out by the administration, and you are basically inventing a new program.

Attorney General GONZALES. I am sorry. I misunderstood you, Senator. I think that the President—this is the DNA initiative, Senator?

Senator LEAHY. Yes.

Attorney General GONZALES. Okay.

Senator LEAHY. And zeroed out the part that we had in there on capital cases.

Attorney General GONZALES. The President has a DNA initiative that was announced and funded prior to the enactment of the Justice for All Act. It has been successful, and it has worked, and we believe that this is the way to deal with ensuring that we provide resources and training so that we can use DNA to clear up the backlog of DNA cases—

Senator LEAHY. Everybody here supports that. I am one of the ones that helped get the funding for that program, so that is not the question. We all want to clear up the backlog in DNA. It is going to help our prosecutors. It is going to help our defense counsel. I am talking about the Justice for All Act with the Innocence Protection part that was carefully negotiated by Republicans and Democrats, signed into law, and is now being zeroed out.

Attorney General GONZALES. Senator, the position of the Department is that the President's DNA initiative is a better way to deal with this problem, and we can do it in a way that requires less money and can be more effective in dealing with the issues relating to the use of DNA.

Senator LEAHY. So basically you are saying ignore what we did in the Congress and the law the President signed with great fanfare and praise.

Attorney General GONZALES. Senator, we believe that the most effective way to deal with this is with respect to the decisions made to fund the DNA initiative announced by this President.

Senator LEAHY. Mr. Chairman, thank you.

Senator SHELBY. Senator Stevens.

NATIONAL SEX OFFENDER REGISTRY

Senator STEVENS. First let me agree with the Senator from Maryland. We do have this National Sex Offender Registry, and that is supposed to help us keep track of these people so that parents can help protect their children from harm. Is there a requirement that these people continue to report their changes in address? There seems to be a policy that these people can just sort of disappear and show up in new communities. How does that happen?

Attorney General GONZALES. They have an obligation to report, Senator. As you might expect, these are criminals and some people do not abide by the rules. And so part of our charge is to try to identify when people move and identify where they are.

Senator STEVENS. Is the law strong enough? Shouldn't we put through a provision that says that if they don't report, they go back to jail?

Attorney General GONZALES. I don't know what the law requires at this time. It may already have such a requirement, but if it does not, I think that would be something that we should be looking at.

Senator STEVENS. I would tell the Senator from Maryland, I would be pleased to join in such a provision to strengthen that.

USA PATRIOT ACT

Let me ask you as a former U.S. attorney about the PATRIOT Act. It expires at the end of this year, and in my judgment, in terms of things we have seen in terms of the working relationship

between agents and making available intelligence without chimneys, it is working very well. Are you seriously urging the Congress to extend the PATRIOT Act?

Attorney General GONZALES. Senator, I agree with you. I think the PATRIOT Act has been effective in protecting America, and I think it reflects a careful balance of protecting our country and respecting our civil liberties and the privacy rights of all Americans.

There are 16 provisions that are set to expire at the end of this year. We have had a good debate about how this Department has exercised those authorities. I think the record shows that the Department has been very careful in the use of these authorities. I think the record also shows that the Act has been effective and, therefore, in my judgment, the PATRIOT Act is deserving of reauthorization.

Senator STEVENS. When the Defense Subcommittee traveled to Iraq, we interviewed some people there who were multinational and multiagency people who had really functioned extremely well because of the PATRIOT Act. I think you ought to bring some of those people in and have them testify to Congress and tell us how that act has changed their lives and increased their ability to track down terrorists and to bring them to justice. It seems to me that there should be no opposition to extending that act and continuing to give that authority to the people who are really trying to seek out terrorists throughout the world.

Mr. Mueller, your agency in particular has used it very effectively. Do you have any comment about it?

Mr. MUELLER. I think we would be going back 10 years if the PATRIOT Act is not reauthorized, particularly those provisions that have broken down the walls in the sharing of information. The ability to share information between the intelligence community and the law enforcement community has been instrumental in securing the safety of United States citizens, both in the United States but also overseas, in allowing us to share information between our various agencies and also with our counterparts overseas. We have testified previously on a number of occasions how absolutely essential it is to have the reauthorization of the PATRIOT Act to prevent additional acts of terrorism. A number of our investigations have been successful in the United States because of our ability to share information and utilize the provisions of the PATRIOT Act.

Senator STEVENS. Well, take the Terrorist Screening Center (TSC), which you commented on in your statement. Could it effectively work without the PATRIOT Act?

Mr. MUELLER. It would be very difficult for it to be able to perform its functions because it would still be beset by walls segmenting information between the intelligence community and the law enforcement community. And, consequently, the PATRIOT Act in its breaking down those walls enables the Terrorist Screening Center to assemble information from a variety of sources to determine the appropriateness of putting somebody on the terrorist screening watchlist and to follow through if that person comes within the United States or attempts to get into the United States.

Senator STEVENS. This is a multiagency effort, as I understand, the Terrorism Center, right?

Mr. MUELLER. Yes, it is.

Senator STEVENS. And in your statement, you said through February 2005 TSC received 21,650 calls, over 3,500 from State and local law enforcement agencies, made over 11,300 positive identifications, and assisted in 340 arrests, including six with terrorist nexus.

Now, none of that would be available without knocking down the walls that the PATRIOT Act knocked down. In the past, they all would have had to go to the top of their agency, and the information would have to be shared at the top of the agency, and the top of the agency would have to be aware of the fact that someone down here had that information. Is that not right?

Mr. MUELLER. The PATRIOT Act broke down those walls, along with rulings of the Foreign Intelligence Surveillance Act court. Between the two of those entities, it broke down the walls, enabling the Terrorist Screening Center to have that record of success.

DIRECTOR OF NATIONAL INTELLIGENCE

Senator STEVENS. Let me shift over to the National Director of Intelligence, and I appreciate your visit. I am sure you visited others. But I see that there are several functions you have mentioned that really now will be integrated with the National Director of Intelligence. And you created a special section within the FBI to deal with that, right?

Mr. MUELLER. That is correct. What we are trying to do is build up within the FBI what is called a Directorate of Intelligence that, from the headquarters perspective, is the brains of intelligence, regardless of whether it comes from a criminal program, a cyber program, a counterintelligence program, or a counterterrorist program, where the agents are collectors. The Intelligence Directorate is that entity that pulls in the information, analyzes the information, and makes certain that that information as analyzed gets to the right policymaker. It may be an agent himself or herself. It could be a supervisor in the FBI. Or it could be somebody at the Central Intelligence Agency (CIA), Defense Intelligence Agency (DIA), or now the Director of National Intelligence.

The other substantial role that the Directorate of Intelligence plays is to identify what we know but, most particularly, what we don't know and establish requirements for intelligence collection in the United States so we have a much fuller picture of the threats that we face in the United States, complemented with the information that may be brought to the table by the CIA, the National Security Agency (NSA), or one of the other intelligence actors. And it is tremendously important for the Bureau to build up this capability, but it would not be able to build up this capability without the information that it now has access to by reason of the PATRIOT Act and rulings of the FISA court.

Senator STEVENS. And it is the act that makes that center operable, right? All these agencies now share information really at the inception of knowledge, right? They come in and they are shared and they are made available throughout the community, and this is an underpinning for the National Director of Intelligence, isn't it?

Mr. MUELLER. As far as our National Director of Intelligence, it absolutely is. We have that capability. But also we complement the National Counterterrorism Center where both the intelligence agencies and the law enforcement agencies share space, have access to our various databases so that there can be in very short order a complete picture of a threat or a group or an individual who presents a terrorist threat. And having the ability to access these databases, having the ability to pull this information together, to analyze it in the National Counterterrorism Center, was made practical and legal by the passage of the PATRIOT Act and the FISA court rulings.

DNA INITIATIVE

Senator STEVENS. Last, Mr. Attorney General, in your discussion with the Senator from Vermont about the DNA concept, it is our understanding the program that is in effect now is a broader one and has been more effective in dealing with DNA and its use in prior convictions and throughout the whole system of the Department of Justice. Is that your feeling?

Attorney General GONZALES. It is hard for me to compare, Senator, but I will say that it has been, in my judgment, very effective in clearing out the DNA backlog and providing training to State and local officials, to help them find missing people. And so it has been very effective.

Senator STEVENS. Has there been a reduction in funding for the DNA effort?

Attorney General GONZALES. No, Senator.

Senator STEVENS. What is the budget this year for?

Attorney General GONZALES. I don't have it at my fingertips, but I will get you that information.

Senator STEVENS. Thank you.

Thank you very much, Mr. Chairman.

Senator SHELBY. Senator Harkin.

Senator HARKIN. Thank you very much, Mr. Chairman.

[The information follows:]

WHAT IS THE BUDGET THIS YEAR FOR DNA INITIATIVE?

In fiscal year 2004, Attorney General John Ashcroft announced the awarding of nearly \$95 million in DNA grants nationwide as part of President Bush's DNA initiative, Advancing Justice Through DNA Technology. The awards represent the greatest investment in DNA technology to date—more than twice the amount of any previous year's funding—and the first grants to be awarded under the President's initiative. In fiscal year 2005, approximately \$168 million will go to activities under the DNA initiative. The fiscal year 2006 request includes an increase of \$69 million for a total funding level of more than \$236 million.

BYRNE GRANTS

Senator HARKIN. Mr. Attorney General, back to Byrne grants, funding for the Byrne grant program has been eliminated from the budget. One of the rationales offered is that the program has not demonstrated a satisfactory level of performance results. However, the law enforcement people in Iowa tell me there has never been any effort on the part of the Bureau of Justice Assistance to actually measure the performance results of this program.

My question is: Has there been a valid effort to determine if Byrne dollars are working nationally as well as they are in Iowa?

Attorney General GONZALES. I believe there has been a valid effort to determine whether or not these dollars are being used effectively. Again, Senator, as I indicated in response to an earlier question, there are a variety of reasons why a decision is made not to continue funding a certain program. That may not reflect a decision that the program is not an effective program, but may reflect a determination that there are other priorities that deserve funding. There may be other ways to provide resources to State and local officials to address the problem, and that is why the decision was made to deal with the Byrne grant program in this fashion.

Senator HARKIN. Could you provide to the subcommittee a list of the efforts that were made by the Bureau of Justice Assistance to measure the performance results of this program?

Attorney General GONZALES. I will try to provide you that information, Senator.

Senator HARKIN. I would like to see that because I am told that there never was any effort to really measure, so I would like to kind of get to the bottom of that one.

[The information follows:]

EFFORTS THAT WERE MADE BY THE BUREAU OF JUSTICE ASSISTANCE TO MEASURE THE PERFORMANCE RESULTS OF THE BYRNE JUSTICE ASSISTANCE GRANT PROGRAM

There are a number of efforts underway to measure whether Byrne dollars are working nationally. The Byrne Justice Assistance Grant (JAG) program is currently undergoing an Office of Management and Budget Program Assessment Rating Tool (PART) review to assess Byrne JAG's purpose and design, strategic planning, management, and results and accountability. While final National Institute of Justice (NIJ) evaluations of Byrne JAG are not yet completed, many state-initiated independent evaluations have been conducted, including a study, "Multi-Jurisdictional Drug Task Forces in Ohio," commissioned by the Ohio State Administering Agency and conducted by the University of Cincinnati and Kent State University. Another example is in Oklahoma, where the Oklahoma District Attorneys Council contracted with the University of Oklahoma to conduct a comprehensive review of the evaluation activities of other states that fund drug task forces. Through a literature review, they found that 39 states have in the past or are currently conducting independent evaluations of their Byrne JAG-funded drug task forces and other grant-funded programs. Phase II of NIJ's evaluation of Byrne JAG-funded Multi-Jurisdictional Drug Task Forces will build on the effort to provide a complete picture of the overall effectiveness of the Bureau of Justice Assistance of the Byrne JAG Program.

JUSTICE ASSISTANCE GRANTS

Senator HARKIN. Last year, the President's budget merged the local law enforcement block grant with the Byrne program and called it the Byrne justice assistance grant. It required an entirely new application process, set entirely new criteria. The merger of the programs was particularly painful for States like Iowa, in which the majority of our people do not live in a major city.

Now, given that the budget eliminates this newly merged Byrne program, which is now called the Byrne justice assistance grant program, I would be interested in learning exactly how much we have spent on merging the two programs and administering it for just 1 year? In other words, we merged them last year. You set up new criteria, set up a new application process, merged the two, did it for 1 year, and now you are eliminating it. What did it cost us to do that for 1 year? And why did we do it?

Attorney General GONZALES. I don't know that information, Senator, but I will try to get that for you.
[The information follows:]

WHAT DID IT COST TO MERGE LOCAL LAW ENFORCEMENT BLOCK GRANT WITHIN THE BYRNE PROGRAM FOR 1 YEAR AND WHY DID WE DO IT

Proposed to streamline justice funding and grant administration, the Edward Byrne Memorial Justice Assistance Grant (JAG) Program allows states, tribes, and local governments to support a broad range of activities to prevent and control crime based on their own local needs and conditions. JAG blends the previous Byrne Formula and Local Law Enforcement Block Grant (LLEBG) Programs to provide agencies with the flexibility to prioritize and place justice funds where they are needed most. As the Office of Justice Programs' Bureau of Justice Assistance (BJA) works to administer JAG requests for state and local grantees, there has been a savings—not cost—associated with the program's streamlined application, review, and award processes. Savings considerations include: the mandatory match requirement was eliminated, allowing states to measure their own match needs and implement at the state level if indicated; awards are distributed up front instead of on a reimbursement basis, giving recipients immediate control over their funds; direct recipients can earn interest on their awards, generating additional funding for future justice projects; projects can be funded beyond a 4-year period, allowing successful initiatives to receive funding to continue and expand their efforts; various fiscal and programmatic reports have been replaced with fewer, but more targeted, reporting, saving State Administering Agencies (SAA) and local programs valuable staff time and resources; and mandatory set-asides have been eliminated, encouraging states and communities to spend justice funds more strategically.

Senator HARKIN. There is something bureaucratic going on here, and I am not quite certain what it is. The reason for my question is because my law enforcement people in Iowa—and I checked in the Midwest. These Byrne grants have been a lifeline for the coordinated efforts for drug intervention, for arrests, getting meth labs; as I mentioned in my opening statement, even in terms of programs for rehabilitation. And they have worked from everything I have ever seen. And so I am really trying to figure out why this rationale for eliminating it after we just merged it for 1 year. I know you say you have priorities and stuff, but I am wondering about what has more priority than this and why this was done away with. This is not just being cut. This is eliminated. That is a big body blow to law enforcement all over.

Attorney General GONZALES. Again, Senator, in cases like this, decisions are made as to which programs are the most effective and what's the most efficient use of taxpayers' dollars. And so there may be a particular problem that is being addressed by the expenditure of Byrne grants that we believe can be more efficiently dealt with through other programs or coordinating resources in a different kind of way. And I guess what I want to do is reassure you and the people in your State that we, like you, consider these drug issues very, very serious and that we ought to be looking at ways to try to deal with this in the most effective and most efficient way. We are committed to work with people in your State to address these problems.

Senator HARKIN. The only thing I am asking you, again, to give to the subcommittee, is the efforts that have been made to determine the outcomes results of the Byrne grant program.

Attorney General GONZALES. I will try to get that to you, Senator.

[The information follows:]

EFFORTS THAT WERE MADE BY THE BUREAU OF JUSTICE ASSISTANCE TO MEASURE
THE PERFORMANCE RESULTS OF THE BYRNE JUSTICE ASSISTANCE GRANT PROGRAM

There are a number of efforts underway to measure whether Byrne dollars are working nationally. The Byrne Justice Assistance Grant (JAG) program is currently undergoing an Office of Management and Budget Program Assessment Rating Tool (PART) review to assess Byrne JAG's purpose and design, strategic planning, management, and results and accountability. While final National Institute of Justice (NIJ) evaluations of Byrne JAG are not yet completed, many state-initiated independent evaluations have been conducted, including a study, "Multi-Jurisdictional Drug Task Forces in Ohio," commissioned by the Ohio State Administering Agency and conducted by the University of Cincinnati and Kent State University. Another example is in Oklahoma, where the Oklahoma District Attorneys Council contracted with the University of Oklahoma to conduct a comprehensive review of the evaluation activities of other states that fund drug task forces. Through a literature review, they found that 39 states have in the past or are currently conducting independent evaluations of their Byrne JAG-funded drug task forces and other grant-funded programs. Phase II of NIJ's evaluation of Byrne JAG-funded Multi-Jurisdictional Drug Task Forces will build on the effort to provide a complete picture of the overall effectiveness of the Bureau of Justice Assistance of the Byrne JAG Program.

HIDTA PROGRAM

Senator HARKIN. I would appreciate that. Last—well, no, two quick things. High-intensity drug trafficking (HIDTA) program, the budget has been slashed by 50 percent, and it says, "The Department's budget states that the program will be redesigned to focus on efforts to stop drugs entering the country." Well, what effect is that going to have on the Midwest HIDTA program, high-intensity drug trafficking area program in the Midwest, which is engaged in fighting a meth epidemic—and it is an epidemic—in Iowa, South Dakota, Missouri, Nebraska, that whole area there. That is after the drugs have entered the country. So if we are slashing it by 50 percent, again, we are going to have a problem in funding the high-intensity drug trafficking areas in the upper Midwest.

Again, I don't know how we are going to continue to do this by slashing it by 50 percent.

Attorney General GONZALES. HIDTA has traditionally been within the Office of National Drug Control Policy. That is a policy-focused organization, and we believe that these funds ought to be administered through the Department of Justice, which has as its primary focus law enforcement. It just makes sense, quite frankly. The question then is whether—

Senator HARKIN. I don't mind that. That is fine.

Attorney General GONZALES. And in doing so, we are able to take the organized crime drug enforcement task force (OCDETF) program and the HIDTA programs under sort of the joint supervision of the Deputy Attorney General and make sure that they remain a priority, both of those programs.

I want to reassure everyone that the fact that it is moving into the Department of Justice does not mean that we are going to in any way merge the two programs. I think OCDETF has more focus on national and international programs and HIDTA is more regional.

The fact that the monies are being reduced to HIDTA does not mean that there will be a change in the first year with respect to providing funding for intelligence-sharing and critical infrastructure. Those will be funded with respect to all the HIDTAs. In 2006, every single HIDTA will continue. We will take the HIDTA funding

and we will allocate it according to priorities: first intelligence, then infrastructure, and then we will look at each of the HIDTAs and have the HIDTAs make the best case as to where the remaining dollars should go. And that is what we intend to do with respect to the HIDTA program going forward.

Senator HARKIN. Thank you, Attorney General.

DEFINITION OF TERRORISM

Mr. Director, since September 11, 2001, the FBI's counterterrorism workload, as you stated in your written statement, has more than tripled, from 9,340 cases to over 30,000 in fiscal year 2004. My question is: How much of this is redefining criminal and drug activities as "terrorism?" Do we have a definition of terrorism? And has it changed in the last 3 years? Or are we just seeing a tripling of terrorist activities? How much of this is just redefining normal criminal—not normal, but abnormal criminal and drug activities as just, oh, this is terrorism, justifies more money?

Mr. MUELLER. No, I would say it is not redefinition. There may be a little of that where cases, if you have a terrorist group, an acknowledged terrorist group that is engaged in criminal activity and the results of that criminal activity, the funding is going overseas to Palestine or Lebanon or elsewhere to support terrorist activities, it may have been identified principally as a criminal case but now is identified as a terrorist case. I think that is a very, very small sliver of those cases where there was some redefinition.

But the fact of the matter is we now have—we had 1,300 agents pre-9/11; we now have almost 3,000 agents that are directed to counterterrorism. We had on our joint terrorism task forces prior to September 11 just over 900 Federal, State, and local officers serving on those joint terrorism task forces. There were only 34 task forces. We now have 103 joint terrorism task forces, and we have 3,700 Federal, State, and local officers serving on them.

Terrorism investigations are not directed just at that person who is gathering the explosives, but it is those persons who are recruiting, those persons who are sending persons to camps overseas, those persons who are engaged in criminal activity to develop funding that supports terrorism. And so we have been far more effective because we have the additional personnel, and because of the breakdown of the rules separating intelligence and the criminal side, to address those persons within the United States who either would want to conduct a terrorist attack or are in some ways supporting terrorism.

Senator HARKIN. Well, Mr. Director, my time is up. You know, we are doing everything. We are closing down cells overseas. I hear about all the successes we are having in Afghanistan, we are having in other parts of the world in closing down these networks. And yet terrorism has tripled in this country. I just have this uneasy feeling that we are just redefining it and putting a bigger blanket over what is just normal—not normal, but criminal activities, drug activities, that type of thing, and just calling it "terrorism."

Mr. MUELLER. I would have to disagree.

Senator HARKIN. Well, do you have a definition of "terrorism"?

Mr. MUELLER. There is a definition in title 18 that we utilize, yes. I would have to get you the specific definition, but—

Senator HARKIN. It is in title 18. Has that changed in the last 3 years?

Mr. MUELLER. No.

Senator HARKIN. It is the same today as it was before?

Mr. MUELLER. No, but there are various aspects to terrorism that include fundraising, training, and recruiting; we have many ongoing investigations into those aspects of it that we did not investigate in the past. The large number of open terrorism investigations that you reference relate in large part to a number of these other areas that are important in addressing terrorism.

Senator HARKIN. Thank you.

Thank you, Mr. Chairman.

Senator SHELBY. Senator Murray.

Senator MURRAY. Thank you very much, Mr. Chairman.

NORTHERN BORDER

Attorney General Gonzales, as I talked about in my opening statement, I have some real concerns about the challenges facing northern border States with respect to Federal, typically border-related, cases. And as you know, many of these cases are being referred to local jurisdictions by Federal agencies and the U.S. Attorney's Office. And I, like everyone, fully support the efforts to increase the Federal agents along the border. It is important. But as those numbers have increased post-9/11, more criminals are being apprehended for drug smuggling, money laundering, and other crimes on the border. And as you know, these cases are often declined and referred for prosecution and detention to local jurisdictions by the U.S. Attorney's Office.

Now, the southwestern States have a Federal program for reimbursement of costs run out of the Department's Office of Justice Programs. It is the Southwest Border Prosecution Initiative. But there isn't any program like that for the northern border States, and I think it is long past time to do that because these cases really put an immense burden on cities and counties in my State and across the northern border.

In Whatcom County in my State, which is where I-5 crosses the border into British Columbia, they are spending over \$2 million a year to handle these federally initiated declined and referred cases. And those costs are placing a tremendous strain on local jurisdictions. In fact, the situation in Whatcom County is already forcing that county to release criminals from the county jail in order to make room for the increased referred caseload.

Now, back in fiscal years 2004 and 2005, as part of the omnibus appropriations bills, your Department was asked to do a study on the need to expand the Southwest border program to the northern border States, and to my knowledge—and I am not going to hold you accountable; I know you are new to the role. But to my knowledge, that study has not been completed or done, which is disconcerting to all of us who have been involved in this.

But my question to you today is: Would you support an effort to expand the Southwest Border Prosecution Initiative program to our northern border States?

Attorney General GONZALES. Senator, I would have to look at all the facts before I could answer that question, quite frankly. I am certainly aware of the strains that exist on all the border States. I understand your concerns.

With respect to the study, I was not aware of the study, but I am now aware of the study and I will find out where we are on that. And maybe you and I can have a further dialogue about what we can do to try to help your State deal with these additional costs.

[The information follows:]

STATUS OF THE STUDY TO EXPAND THE SOUTHWEST BORDER PROSECUTION INITIATIVE PROGRAM TO THE NORTHERN BORDER, AND COMMENT ON THE EXPANSION OF THE PROGRAM

The Department does not support an effort to expand the Southwest Border Prosecution Initiative to the Northern Border at this time.

Although the United States Attorneys' Offices along the Northern Border believe that the expansion of this grant program to the Northern Border districts would be helpful in that they have similar border issues and limited resources for prosecutions, a review of the Department's statistics indicate that the declination rate for federal prosecutions is higher along the Southwest Border because of the substantial number of illegal immigrants who cross that border daily, but who are not prosecuted federally because of limited resources and other issues.

The study of immigration cases in Northern Border districts to which you refer was submitted to the Committee on Appropriations on August 11, 2004. A copy of the report is inserted.

U.S. DEPARTMENT OF JUSTICE,
Washington, DC, August 11, 2004.

The Honorable FRANK R. WOLF,
Chairman, Subcommittee on the Departments of Commerce, Justice and State, the Judiciary, and Related Agencies, Committee on Appropriations, U.S. House of Representatives, Washington, DC 20515.

The Honorable ERNEST F. HOLLINGS,
Ranking Minority Member, Subcommittee on the Departments of Commerce, Justice and State, the Judiciary, and Related Agencies, Committee on Appropriations, U.S. Senate, Washington, DC 20510.

The Honorable JOSE SERRANO,
Ranking Minority Member, Subcommittee on the Departments of Commerce, Justice and State, the Judiciary, and Related Agencies, Committee on Appropriations, U.S. House of Representatives, Washington, DC 20515.

The Honorable JUDD GREGG,
Chairman, Subcommittee on the Departments of Commerce, Justice and State, the Judiciary, and Related Agencies, Committee on Appropriations, U.S. Senate, Washington, DC 20510.

DEAR MR. CHAIRMAN, SENATOR HOLLINGS, CONGRESSMAN SERRANO, AND SENATOR GREGG: The Conference report accompanying the Fiscal Year 2004 Appropriations Act for the Department of Justice (Public Law 108-199), directs the Department of Justice to submit to the Senate and House Appropriations Committees, a report on the number of Northern Border Prosecutions referred to state and local prosecutors. This report provides the requested information with the U.S. Attorneys' caseload and referrals on the Northern Border as compared to those on the Southwest Border.

The report was recently approved by the Office of Management and Budget. Please feel free to contact me if you or your staff have additional questions.

Sincerely,

PAUL R. CORTS,
Assistant Attorney General for Administration.

REPORT OF THE DEPARTMENT OF JUSTICE REGARDING IMMIGRATION CASES IN THE
NORTHERN BORDER DISTRICTS

INTRODUCTION

The conference report accompanying the Consolidated Appropriations Act of 2004 requested a report from the Department of Justice regarding the number of cases referred to local prosecutors from Federal arrests along the Northern Border. The conference report adopts by reference the House report language directing the Department of Justice to report the following:

Southwest Border Prosecutions.—The Committee recommends \$40,000,000 to assist State and local law enforcement agencies, including prosecutors, probation officers, courts, and detention facilities along the Southwest border with the handling and processing of drug and alien cases referred from Federal arrests. The Committee directs the Department of Justice to study whether a similar number of cases are being referred to local prosecutors from Federal arrests along the Northern border. The Department shall report its findings to the Committee within 90 days of enactment of this Act.

This report summarizes three categories of information relative to Immigration Matters considered by the United States Attorneys Offices in Northern Border Districts.¹

BACKGROUND

Within the Department of Justice, United States Attorneys' Offices have responsibility for prosecuting immigration offenses. Typically immigration cases are referred to United States Attorneys' Offices by agents for the Department of Homeland Security, including the Bureau of Immigration and Customs (ICE), the Bureau of Customs and Border Protection, and Border Patrol, but may also be referred by other federal agencies and local officers.

MATTERS RECEIVED, CASES FILED AND DECLINATIONS BY UNITED STATES ATTORNEYS
OFFICES

This chart sets forth the Matters Received,² Cases Filed,³ and Declinations⁴ for immigration offenses considered by United States Attorneys' Offices in the Northern Border Districts during fiscal years 2000–2003.

NORTHERN BORDER DISTRICTS IMMIGRATION CASELOAD DATA

	2000	2001	2002	2003
Matters Received	1,026	902	1,030	1,136
Cases Filed	800	704	780	905
Matters Declined	270	272	290	263

This chart sets forth the Matters Received, Cases Filed, and Declinations for immigration offenses considered by United States Attorneys' Offices in the Southwest Border Districts during fiscal years 2000–2003.

¹For the purpose of this Report, Northern Border Districts are the District of Alaska, the District of Idaho, the Northern District of Illinois, the Northern District of Indiana, the District of Maine, the Eastern and Western Districts of Michigan, the District of Minnesota, the District of Montana, the District of New Hampshire, the Northern and Western Districts of New York, the District of North Dakota, the Northern District of Ohio, the Western District of Pennsylvania, the District of Vermont, the Eastern and Western Districts of Washington, and the Eastern and Western Districts of Wisconsin.

²*Matters Received.*—All proceedings on which Assistant United States Attorneys (AUSA) spend one hour or more of time and the AUSAs entry are recorded in their case management system. Matters Received includes criminal referrals from investigative agencies, and matters that may be handled as misdemeanor cases in U.S. Magistrate Court. Matters Received does not include criminal miscellaneous matters (requests for arrest warrants, search warrants, etc.), petty offenses or infractions, or matters that are immediately declined.

³*Cases Filed.*—All proceedings for which a significant paper has been filed in court, other than U.S. Magistrate Court and below the appeals court level. Significant papers include indictments and informations filed in district court.

⁴*Declinations.*—All proceedings terminated (closed) during the reporting period without ever having attained case status.

SOUTHWEST BORDER DISTRICTS¹ IMMIGRATION CASELOAD DATA

	2000	2001	2002	2003
Matters Received	10,023	10,042	10,658	14,175
Cases Filed	7,942	7,851	8,805	10,933
Matters Declined	146	111	227	987

¹For the purpose of this Report, Southwest Border Districts are the District of Arizona, the Southern District of California, the District of New Mexico, and the Southern and Western Districts of Texas.

CASES REFERRED FOR LOCAL PROSECUTION

The figures set forth in this report represent immigration cases handled by the United States Attorneys' Offices for the Northern and Southwest Border districts. United States Attorneys' Offices do not maintain records of cases referred for local prosecution by Federal Investigative agencies. Offenses may be referred to local jurisdictions by federal law enforcement agents without involvement from the United States Attorney's office.

This report provides comparison data on caseload for the Northern Border districts and the Southwest Border districts. The matters received and cases filed in the Northern Border districts are approximately one-tenth of those of the Southwest Border. The declinations for the Northern Border are greater in fiscal year 2000–2002 than the Southwest Border. However, in fiscal year 2003, the declinations for the Southwest Border are almost four times greater than those of the Northern Border. Declinations by the USAO would not suggest that these matters could or would be prosecuted by the state and locals.

The United States Attorneys' Case Management system contains a declination code which indicates that a criminal suspect will not be prosecuted by the United States Attorney's Office but may be considered for prosecution by another authority. The referral is then returned to the referring federal investigative agency; however, we do not have the ability to determine whether that agency refers that matter to a state or local authority.

Senator MURRAY. Okay. Well, I would like to know what you want these communities to do short of releasing the criminals.

Attorney General GONZALES. Well, we are committed to working with them. Obviously, no one wants criminals running around in the streets, and we are committed to working with your communities to see if we can find additional resources, and to see whether or not there are additional things that we can do at the Federal level. But I want to assure you that this Attorney General does not want to have criminals released onto the streets because we do not have the facilities to deal with them. So I look forward to working with you on this very, very difficult issue.

Senator MURRAY. I would very much like to do that because we have tried to pursue this for several years now, and our communities really are at, you know, their last strain here.

Attorney General GONZALES. Thank you, Senator.

Senator MURRAY. So I would like to work with you to find some additional resources to help them out.

I also wanted to ask you about the U.S. Attorney's Office because it appears they really lack some of the resources to handle the caseloads that are being forced on them as well. Is this something your agency is trying to address to make sure that our U.S. Attorney's Offices can handle the cases that are being brought forward?

Attorney General GONZALES. One thing that is currently ongoing is we are engaged in a review across the country to evaluate the caseloads amongst the various U.S. Attorney's Offices and to assess whether we have the proper allocation of resources across the country.

NEEDS OF THE CRIMINAL JUSTICE SYSTEM

Senator MURRAY. Okay. Well, I would like to hear more specifically from you on that because I am very concerned about that, too, and some of the fallout we have seen.

Also, in my State and in other States, the increase in Federal police presence, you know, we welcome it. However, we are seeing an increase in demand for Federal courtrooms, for judges, for detention facilities, more regional justice centers. In fact, in my State some of our Federal agents are now driving criminals 2 to 3 hours each way just to have their first appearances in Federal courtrooms. And I am really concerned about the costs associated with that system, as well as, you know, the delay it is taking in getting these individuals before a Federal judge. And I would like to ask you how you think we are going to meet those needs.

Attorney General GONZALES. Well, I am likewise concerned, Senator. It is a rising cost for the budget of the Department of Justice. We are looking at various ways that we can reduce those costs. For example, it makes no sense that we have to drive someone a long way in order to bring them to justice. So are there ways that we can reduce the costs? This is something that we are looking at; particularly, it is a problem that is likely to increase as we look at issues like enforcing our borders. We are going to be detaining more people. As we continue to enforce the laws that are passed by this Congress, we have to do something with these people. And so this is a cost that I have a great deal of concern about. The Department is looking at developing a strategy that looks at the total cost of someone that goes through the justice system from the beginning, not just when they are in prison or afterwards, but from the time that they are arrested. There are definite costs, fixed costs that we cannot avoid.

And so I have asked for an examination of how we can better coordinate how we enforce justice around this country.

Senator MURRAY. Okay. Well, I would like to hear more from you as quickly as possible specifically how we can do that, because we want criminals apprehended, but just dumping the costs on our local communities means they end up out on the street. And that is where I don't think you want any of them to end up.

DRUG CARTELS

One more question, Mr. Chairman, for the Attorney General, and that is: According to a 2001 Drug Enforcement Administration estimate, drug cartels make up 80 percent of America's methamphetamines, and these cartels require about 200 metric tons of ephedrine and pseudoephedrine each year, or about 10 percent of the world's output of these legal chemicals. I am really concerned that we may be missing an opportunity to work with chemical factories abroad to help prevent some of the cartels from getting their hands on the chemicals. And if either one of you could talk to me about what we are doing to try and break these cartels' supply chain of ephedrine and pseudoephedrine, I would really appreciate it.

Attorney General GONZALES. I can tell you that we are working with law enforcement officials in other countries. I believe that this

problem cannot be effectively dealt with without the cooperation of other countries. And so we are working in that respect, and I think we are making some progress. Obviously, more needs to be done, and as I have traveled the country in these first 2½ months, I have been surprised when I talk to law enforcement officials, the two issues that they raise as the most pressing concerns for them are the explosion of meth labs, particularly these mom-and-pop labs, and gangs.

And so for that reason, both of those have become a priority for me. I have asked the folks within the Department to make sure that we are doing everything that we can do under existing authorities to address this problem, and one, of course, is communicating with our counterparts in other countries regarding the supply of ephedrine and pseudoephedrine.

Senator MURRAY. Mr. Mueller, do you have any comment on any of that?

Mr. MUELLER. I have not looked at this issue in a while, but I know that both DEA and Customs had a substantial program looking at those manufacturers of ephedrine and pseudoephedrine overseas and attempting with our counterparts overseas to track those shipments. I also know that there is a substantial undertaking within the United States in those stores that sell quantities of ephedrine or pseudoephedrine to monitor those sales.

Senator MURRAY. We are making some progress there, but I think unless we look at the supply chain from some of the cartels, we are not going to get to where we need to be. And meth is probably the biggest issue I hear about, particularly in our rural counties across Washington State, and the impact it is having on their communities.

Thank you, Mr. Chairman.

Senator SHELBY. Thank you.

Senator KOHL.

Senator KOHL. Thank you, Mr. Chairman.

CONVICTED SEX OFFENDERS

Mr. Attorney General, as a point of information, when sex offenders and pedophiles are released from prison, are they adjudged to no longer be a threat to society, or have they simply served their term?

Attorney General GONZALES. Well, they certainly have served their term. I for one would not concede that they are no longer a threat to society.

Senator KOHL. So when they are released, they have served their term.

Attorney General GONZALES. They have served their term, but there are ongoing obligations. They have an obligation, for example, to register so that law enforcement authorities know where they are.

Senator KOHL. I appreciate that. But, you know, if there is an issue out there that really, really ticks people off, it is the existence of these sex offenders out there in our society, registered or not—I mean, you know, if you know that one lives on the next block, what do you do about it? You are really sort of powerless to deal

with the fact. You may be scared as hell to know, but there is not anything you can do about it.

I am not holding you accountable. I am suggesting that we in our society are not dealing properly with sex offenders, convicted sex offenders, who, to my knowledge, for the most part are simply released back into society after they have served their 2 or 5 or 10 years. Families are scared as can be.

I talked to a friend of mine who lives in Illinois just yesterday, and she was talking about the issue, and she told me, "If there is one thing you can do, just one thing to make my life easier, and life easier in my neighborhood, it is to do something about these sex offenders who are still out there, released from prison," and, she says, fully capable and she expects that they will continue to commit sex offenses and molest children, which we cannot tell her she is wrong.

Attorney General GONZALES. Senator, I cannot tell her that she is wrong.

Senator KOHL. She said to me that if a person is convicted of a sex offense or a pedophile offense, they should be put in jail and not released until somebody attests to the overwhelming likelihood that they will not commit this kind of a crime again. Wouldn't you agree?

Attorney General GONZALES. I think in an ideal world, Senator, anyone who is a danger to our children, arrangements should be made—everything should be done within the limits of our Constitution to ensure that those folks, like pedophiles, do not have access to our children.

It seems to me that it is certainly a good start—it may not be where we want to end up, but it is certainly a good start to provide as much information as we can to parents and let them make the decisions or judgments about what they can do to protect their families.

Now, is there more that we can do? I would be happy to sit down and talk with you about that because I have got two young boys, too, and I worry about them.

Senator KOHL. Sure.

Attorney General GONZALES. And I do not want any, you know—

Senator KOHL. If a person is adjudged to commit a crime because they are criminally insane and, you know, they go to prison for an indefinite period of time, it is my understanding that they will not get out until they are said to be no longer criminally insane. Isn't that true?

Attorney General GONZALES. That is correct.

Senator KOHL. In large part, this is no different, is it?

Attorney General GONZALES. I don't know if I'm qualified, quite frankly, Senator, to render that opinion, but I think it is certainly a question that ought to be asked and one that we ought to be discussing.

BYRNE GRANTS

Senator KOHL. On the Byrne grant program, I know you have been really pummeled on it, but I just want to add my 2 cents. Last year, it was \$700 million in both discretionary and formula funds,

and as you know, they pay for State and local drug task forces, community crime prevention programs, substance abuse treatment programs, prosecutions, many other local crime control programs. And you ask any sheriff or police chief around the country, and I guarantee you back in my State of Wisconsin, which I think is not unusual, and they will tell you that this Byrne grant program is the backbone of Federal aid for local law enforcement. The backbone.

Now, if they are right, then I would like to hope that you might be willing to reconsider your position on Byrne grant programs. You know, hearings of this sort are for a purpose. We listen to you, you listen to us; we go back and think about what you said, you go back and think about what you are hearing. Otherwise, the hearing has no purpose, right?

Attorney General GONZALES. That is correct, Senator.

Senator KOHL. And I am telling you, this Byrne grant program, if you ask some of your people to look at it more closely, I believe that you will conclude that it is one Federal program that deserves support.

Attorney General GONZALES. We are always looking at these kinds of issues, Senator, and we are looking at ways to make sure that not just Federal officials but also State and local officials have the necessary tools they need to deal with the problems that confront our society.

Senator KOHL. Thank you.

FBI INTELLIGENCE ANALYSTS

One question for Director Mueller. In 2002, the Inspector General of the Justice Department found that, "The FBI lacked the ability to connect the dots or establish relationships among varied pieces of information." Nearly 4 years after 9/11, the FBI's analytical capabilities are still often limited, as you know, to supporting individual cases. As everyone knows, part of the problem is the inadequate number of qualified intelligence analysts at the Bureau, and in your most recent proposal, you asked for money to hire 499 more analysts to improve this vital capability. However, last year, your goal was to hire 787 analysts, and you only hired about 173. Nearly 32 percent of FBI's analyst positions are still vacant. Is the FBI capable of hiring enough qualified analysts to fill these positions? And if so, do you have the capability to train that many analysts?

Mr. MUELLER. By the end of this year, I believe we will be fully hired up on our analysts. We did fall behind last year, but we made it up in the beginning of this year through some innovative methods for getting analysts on board. I can tell you that on September 11 we had 218 analysts in counterterrorism; we now have 808 analysts working in counterterrorism.

I also would dispute, I think, some of the premise of the question in terms of our analysts solely doing case support work. I would be happy to provide you a full portfolio of our intelligence products. I think they are first-rate. We are doing first-rate assessments. We have provided, I think, close to 8,000 intelligence investigative reports over the last several years. We have, I believe, close to 200 reports officers. We had none before September 11.

I believe that we are not where we ultimately want to be, but we have made substantial strides, particularly over the last 6 to 8 months, where much of the preparatory work that we were doing to bring these people on board had been done, but we then had to execute.

With regard to training, all of our analysts are required to go through a training program. By the end of this year, we are expecting that close to 1,000 will have gone through that training program down at Quantico. That, again, had to be established from scratch in the wake of September 11, but it was established and I believe it is a first-rate course at this point.

Senator KOHL. Thank you.

JUVENILE JUSTICE PROGRAMS

One last question for you, Mr. Attorney General. Juvenile justice and delinquency programs are allocated, as you know, \$187 million in the President's budget for next year. This is about half of what was allocated last year. So we are talking about, you know, a 50-percent cut from last year's number.

I hope you are not concluding that juvenile justice programs are not very important and that Federal funding for juvenile justice programs is not very, very important. And, you know, the only way that we attest to that here in large part—not entirely—is by allocating a certain amount of money to States for juvenile justice programs. And these programs really work. You know, there are several of them in our State. I am not going to go into them in detail.

One school that was built outside of Racine, Wisconsin, is the Southern Oaks Girls School. It built a new mental health wing with Federal funds to provide counseling service for the girl inmates, and the school's administrator says that there is a 56-percent drop in violent behavior since the new mental services have been offered at that school.

Now, this is just one of many, many successes in the program, and I would like to hope that juvenile justice funding is something that the administration continues to regard as important and does not put on the chopping block.

Attorney General GONZALES. Well, addressing the juvenile justice issue is important. Juveniles represent the future employees and the future leadership of our country and the future leaders of communities around the country. And so we need to do what we can to try to help wayward youth.

From the Department's perspective, obviously our primary focus is on enforcement, to ensure that juveniles who engage in criminal behavior are, in fact, held to account. But a successful juvenile justice program has got to do more than prosecution and enforcement. You have got to look at education. You have got to look at rehabilitation. You have got to look at mentoring programs.

I do agree with you that there are certain juvenile justice programs that should continue to be supported.

Senator KOHL. I thank you, and I thank you, Director Mueller.

Thank you, Mr. Chairman.

Senator SHELBY. Thank you, Senator Kohl.

ADMINISTRATIVE SUBPOENAS

Attorney General Gonzales, regarding the PATRIOT Act, it is my understanding that the USA PATRIOT Act is up for renewal and so forth. It would give the FBI the authority to use administrative subpoenas to fight terrorists and spies. I personally think the FBI should have every constitutional tool available to help fight terrorists.

My question to you: Are administrative subpoenas a good addition to the toolbox? In other words, what do you gain as the chief law enforcement officer—and I will address this to Director Mueller, too—and what do the American people lose? This has been talked about a lot, as you know.

Attorney General GONZALES. I am aware of that, Mr. Chairman. Let me first begin by emphasizing that administrative subpoenas are not part of the provisions that are subject—

Senator SHELBY. They are not part of it?

Attorney General GONZALES. Part of the provisions subject to reauthorization of the PATRIOT Act. But with respect to administrative subpoenas—

Senator SHELBY. But they have been proposed, have they not?

Attorney General GONZALES. They have been proposed as an additional necessary tool. Administrative subpoenas are a tool that is available to various other agencies to deal with a wide variety of other criminal conduct, such as health care fraud. And I think my view is that if you can use an administrative subpoena to go after the bad conduct of doctors, why can't you use this tool to go after terrorists?

Oftentimes, it is in terrorism cases where speed is essential, speed and gathering information. And there may be an instance where you need to move very, very quickly in accessing information which is held in the hands of third parties, and so you do not have the same level of expectation of privacy, and you need to be able to get that information from a third party, and that is why we think it is a valuable tool.

Senator SHELBY. Director Mueller.

Mr. MUELLER. I know it would be a very valuable tool for us. As the Attorney General has indicated, it is authorized in drug-trafficking cases, crimes against children, health care fraud, and also for the Secret Service where there is a threat against one of its protectees. And the reason is exemplified there. There is a threat, and the Secret Service may need to get information about where a person is staying, what kind of communications device he or she is using. And the administrative subpoena gives the Secret Service the ability to get that information quickly, as the administrative subpoena would give us the ability to get that type of information exceptionally quickly.

Now, you ask what is the benefit to those who are served the subpoena. One is their right to challenge it. But it also gives us the right to enforce it. The proposals require the authorization of the Attorney General for an order directing that it be kept secret for a period of time, and then the Attorney General would have to determine when that level of secrecy comes off.

So it provides a balance between giving us the capability very swiftly to get the information we need, but it also gives those who are served the subpoena some benefits that in other cases they would not have.

JUDICIAL SECURITY

Senator SHELBY. Judicial security, Mr. Attorney General. Recent violence in courthouses in the Southeast and in the Midwest have raised significant concerns about the safety of the judges, jurors, attorneys, and even the public who appear in court. I understand that you have ordered a review of judicial security measures. Are you ready to give us a report on that? Would you do that for the record? Or where are you?

Attorney General GONZALES. We are close, Mr. Chairman, expect the results of that report shortly. Let me again repeat what I have said often about this issue. It is intolerable that we have judges in any way fearful for their lives or safety or fearful for the lives or safety of any family member. And so we are working as hard as we can to ensure that we have done what we need to do to protect our judges.

AGENTS FOR COUNTERTERRORISM

Senator SHELBY. Director Mueller, the FBI is on pace to need an additional 700 or 800 agents for terrorism investigations, which are not supported by your budget request. Since 9/11, the FBI has relied on agents from other divisions to handle its terrorism caseload. While you have permanently shifted 480 agents to counterterrorism, I believe back in 2002, it does not appear to be nearly enough if you are still 700 to 800 agents short, if you are, in fact.

Given the workforce requirements within the terrorism program, the continuing threat, and the fact that terrorism is your top priority, why haven't you permanently shifted additional agents to the counterterrorism program? And where are you in this regard?

Mr. MUELLER. Each year I have this discussion, both with our people and with the committee, in terms of where we are going on this. I expected that there would be a greater drop in the number of agents who are working on counterterrorism cases over the years since September 11. There has been a diminishment of the numbers that are assigned to counterterrorism cases, but it still has not closed the gap. At the same time, each year I have asked for additional agents from Congress and through the administration to help close that gap, and I have gotten that. My expectation is that by the end of 2006, if trends continue, we will still have a gap of approximately 400. And I will be looking at how we can close that gap, whether it means additional requests from Congress or another reassignment of agents.

One of the concerns I have about doing it too precipitously is that you can assign agents to a particular squad doing counterterrorism someplace in the country. But what we have found is that terrorism cases that require all our resources will pop up all over the place—Lackawanna, New York; Northern Virginia; Portland, Oregon. Understanding that our first priority is to prevent terrorist attacks and that we have to surge the manpower wherever the investigation is, it has provided some flexibility in terms of where we

surge that manpower in order to address a particular investigation. Each year I will be looking at it. Each year we will be having a discussion, and I would be interested in your views about how you think we ought to best close that gap.

FEDERAL BUREAU OF INVESTIGATION RECRUITMENT

Senator SHELBY. How is your recruiting going on at the FBI?

Mr. MUELLER. Very well. There are a number of people out there who want to be FBI agents. There are a tremendous number of people out there who want to be FBI analysts. I think we had an ad out for 1 week, and we got something like 2,200 applications from persons who want to be FBI analysts. Our recruiting is going very well. We still are recruiting in other areas where we need different language capabilities, for instance, and scientific capabilities. But we are getting a very good response to what we have been doing.

DIRECTOR OF NATIONAL INTELLIGENCE

Senator SHELBY. Director Mueller, Ambassador Negroponte is setting up the Office of the Director of National Intelligence, or DNI. The Intelligence Reform and Terrorism Prevention Act of 2004 gives the DNI more direct authority over the FBI than was previously afforded the Director of Central Intelligence. For example, it is my understanding that the DNI, the Director of National Intelligence, Negroponte, has authority over the individual that you choose to serve as the Executive Assistant Director, or EAD, for Intelligence.

What do you see as the role, sir, of the DNI in overseeing the intelligence functions of the Bureau? Do you have any concerns over the DNI trying to direct FBI operations—you know, if they do—as opposed to focusing on intelligence collection requirements, coordinating community efforts, and setting overall policy? And do you see any potential chain of command problems with the DNI in this authority over the EAD for Intelligence?

Mr. MUELLER. Let me start by saying the President has made it clear that the chain of command in the respective agencies is retained. But going to the DNI, I believe that with regard to the Executive Assistant Director for Intelligence, it is appropriate that any selection put forth by myself and approved by the Attorney General should include the input from the DNI before we put that person in place because that person will be a principal interlocutor with the DNI.

Senator SHELBY. Okay.

Mr. MUELLER. I believe the DNI appropriately should establish the requirements for collection, not just outside the United States but to the extent that it is a national threat nationally and we should be responsive. I believe the DNI should have some role in coordinating activities between the various agencies on particular threats.

I do not perceive that, in working with John Negroponte, we will have any difficulties in sorting out those relationships. We look forward to working with him in order to become much more a part of the intelligence community than we have been in the past.

WMD COMMISSION RECOMMENDATION

Senator SHELBY. Director Mueller, the key recommendation from the President's WMD Commission was to unify the Bureau's intelligence, counterterrorism, and counterintelligence programs under a single Executive for National Security who would report to you and Ambassador Negroponte. Currently, you have separate Executive Assistant Directors for Intelligence and for Counterterrorism Counterintelligence. What are the advantages and disadvantages of the WMD Commission's recommendation? And how do you plan to respond to this recommendation?

Mr. MUELLER. We are in the process with the Attorney General of making recommendations to the President in response to those recommendations that were made by the WMD Commission. In terms of the benefits of doing that, you have one person who is in a position to sort out whatever disagreements or differences of perception there may be between counterintelligence, counterterrorism, and the Intelligence Directorate. It also is in some sense beneficial because we perceive those three entities as being a national security service. We are developing career paths for both intelligence personnel to come up through the Intelligence Directorate, but also career paths for counterintelligence and counterterrorism. And that will help to build that national security service.

The details of how it will be structured within the Bureau and the relationship with the DNI are still under discussion with the Attorney General and with the White House.

Senator SHELBY. Senator Mikulski, I would just note we have a vote on the floor of the Senate.

Senator DORGAN. Mr. Chairman, I have not yet had a chance to ask questions.

Senator SHELBY. I apologize. I know you were in and out. I am sorry.

Senator DORGAN. A vote has just started on the floor, so I apologize, but I—

Senator SHELBY. I went ahead of you. I shouldn't have done that.

Senator DORGAN. No problem. But let me again apologize for being late. I had three subcommittee hearings this morning, but thank you, both of you, for being here.

SEXUAL PREDATORS

Let me ask you, Attorney General Gonzales, about an issue that you have been asked about by several people on the subcommittee this morning, and that is the issue of sexual predators. Martha Stewart was let out of prison and wore an electronic ankle bracelet to go bake bread and do gardening, I guess. Today, there is perhaps a high-risk type 3 sexual predator being let out of prison with not much more than a "So long, see you later." And you and I talked in January about this issue.

My interest was stimulated by the murder of a young woman in Grand Forks, North Dakota, by a sexual predator who had been in prison for 23 years, a high-risk sexual predator, judged to be at high risk for reoffending, let out after 23 years; within 6 months, moved on the Minnesota side of the border, so the registry in North

Dakota would not have identified that person was living nearby; and within 6 months has been arrested for the murder of Dru Sjodin.

When you and I visited in January, I talked about three things in a piece of legislation that I have introduced in the Senate with Arlen Specter, the chairman of the Judiciary Committee:

One, a national registry of sex offenders. I was delighted with what you announced on Friday. Congratulations to you. I think it is exactly the right thing to do. I appreciate your agency and your leadership in doing it. We need a national registry of sex offenders.

The other two provisions in my legislation are, two, before a high-risk sexual predator is let out of prison, the local State's attorney in the jurisdiction where that person was prosecuted should be notified in the event they wish to seek additional civil commitment. In the case of the person arrested for Dru Sjodin's murder, he was judged by the experts to be at high risk for reoffense and a more violent reoffense. I think the local authorities should be notified so that they can seek additional civil commitment where they think appropriate.

And third, and very important, if, in fact, high-risk offenders reach the end of their sentence and are not recommitted civilly and are released, there needs to be monitoring, high-level monitoring for a period of time. As I said, if Martha Stewart wears an ankle bracelet, so, too, should a violent sexual predator who has finished his or her term of incarceration.

So having said all that, first, congratulations to you. I think what you did Friday is wonderful. I am fully supportive of it. Second, can you give me your analysis of the other two provisions of the bill that Senator Specter and I have? One, as I said, is notification of local authorities, and the second is required monitoring upon release of a high-risk predator.

Attorney General GONZALES. Senator, thank you, first of all, and thank you for reminding me about our conversation, the two points. I did ask my staff to go back and look at that specifically. I have not talked with them, but let me just give you sort of my gut reaction—which sometimes can be dangerous. I understand that. But it seems to me that providing notice to local officials seems to make sense. If you have got someone who is especially dangerous, notifying the local officials that you are about to release a very dangerous sexual predator in that community seems to make sense to me.

In terms of monitoring, I don't know what can be done after the fact, after someone has already been sentenced and has served their time and is now being released. Clearly, if we are talking about people that are being tried today as part of the condition of their confinement, it might be possible to include supervision, part of the penalty, like under the PROTECT Act, under which I understand you can get lifetime supervision of dangerous pedophiles. So with respect to people going in, I think there are certainly steps that you can do to provide some kind of monitoring, but in terms of after the fact, I would have to look to see whether or not that is something that could be done. We would obviously be happy to look at that.

Senator DORGAN. Well, I would like—and I am sure speaking for Senator Specter, we would really like to work with you on that to see if, number one, when we pass this legislation—and we will. It was already passed by the Senate last year. I am sure this legislation will be embraced by the Congress. Can we be helpful in the construct of the national registry, anything that we need to do to authorize or to be helpful to you on that? And then, second, we would like to work with you on the other two pieces as we proceed forward, and I appreciate the invitation to do that.

Attorney General GONZALES. Thank you.

Senator DORGAN. The last piece would be an unfunded mandate to the extent that we can do it, but it should not be a massive amount of expenditure by local governments, and it is just a thoughtful thing to do.

USA PATRIOT ACT

Let me make one final point. Director Mueller, you both have talked about the PATRIOT Act because you have been asked questions about it. As you know, there is great controversy about that in some circles, and while I think it has been very helpful in some areas, it also has some provisions that are controversial. It was passed very quickly post-9/11. I don't think those of us in the Congress would believe that we ought to get rid of the PATRIOT Act wholesale at this point. But there may need to be some adjustments in the PATRIOT Act.

Are there any complaints about the PATRIOT Act that you think have some merit? And you no doubt have heard many complaints about the PATRIOT Act. Are they all without merit, or are there some that have some merit and as we begin looking through reauthorization of the PATRIOT Act, what should we look to with respect to valid complaints about it?

Attorney General GONZALES. Well, let me just say that I think it is never inappropriate to express concerns about the exercise of Government authority that might impact or does impact upon civil liberties and the privacy rights of any American. That is a good debate to have, and people ought to be worried about that.

However, as we have considered the allegations of abuses, we have yet to find one verifiable instance when there has been an abuse under the PATRIOT Act. And I think the record reflects that the Department has been very judicious in the way it exercises its authority. I think the record reflects that the Congress did a good job in including within the PATRIOT Act appropriate safeguards to protect the civil liberties and the private rights of Americans.

Senator DORGAN. My question was not so much about abuse. My question was about the authority itself. And there is some controversy about certain areas of authority. But let me submit some questions in writing, and undoubtedly the Congress will proceed in this area, and not, in my judgment—

Senator SHELBY. The record will stay open for these.

Senator DORGAN. Let me just submit that to you. And, again, let me thank both of you for being here.

Senator SHELBY. Senator Mikulski.

Senator MIKULSKI. Mr. Chairman, I note that there is a vote on, and this is the vote that shows our willingness to cross a divide

that was growing in the Senate on judicial nominations. I want to be on the floor. The number of Senators who participated kind of minimizes my time for a second round, but, Mr. Mueller, I hope to be able to continue a conversation with you on a couple of issues. One, you are leading a major transformation of the FBI, and know that we want to be very supportive.

HEALTH CARE FRAUD

I note that there was a scathing article in the New York Times about the FBI and health care fraud and the issue of the FBI mishandling health care fraud cases. I will give you the article. But what it comes down to is that you could not account for the data and what agents were doing what, et cetera. We cannot enter into a conversation about this as I had hoped to, but this then takes me to technology—

Mr. MUELLER. Can I just say, the GAO report takes us to task for not adequately showing that the agents were actually working health care fraud cases. They were. And so it is our ability to account for that that is being—

Senator MIKULSKI. That was going to be my next question, which then takes us to the whole issue of technology and the use of technology, and also the fact that I understand you now have a prime time chief information officer that will be involved in procurement.

Again, my time is up. I have to go to the floor to vote. But I do hope that we can continue the discussion as well as the transformation on counterterrorism. We want to support you. We want you to do what you can do.

Mr. Chairman, thank you for an excellent hearing.

Senator SHELBY. Thank you.

ADDITIONAL COMMITTEE QUESTIONS

First of all, Mr. Attorney General and Director Mueller, we want to thank you for your appearance. We do have a number of additional questions for the record we will send to you. We look forward to working with you. We want to make sure that both of you have the resources that you need here to do your job.

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

QUESTIONS SUBMITTED TO ALBERTO R. GONZALES

QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

IMMIGRATION BACKGROUND CHECKS

Question. What immigration applications require an FBI background check?

Answer. Federal Bureau of Investigation (FBI) Name Checks are provided with respect to six specific applications: Form N-400, Application for Naturalization; Form I-192, Application for Advance Permission to Enter as Nonimmigrant; Form I-485, Application to Register Permanent Residence or Adjust Status; Form I-589, Application for Asylum; Form I-601, Application for Waiver of Grounds of Excludability; and Form I-687, Application for Status as a Temporary Resident Under Section 245A of the Immigration and Nationality Act.

Further details may be available from U.S. Citizenship and Immigration Services (USCIS).

Question. When was the policy that requires these background checks created?

Answer. The FBI began conducting name checks for naturalization applicants after the Immigration and Nationality Act was passed in 1952.

Question. Is there another way to safely review these applications in a more expedited manner?

Answer. It is the FBI's understanding that no other source of information would contain the extensive biographical and historical information found in FBI files (including information concerning violations of law and threats to our national security), which is the product of the FBI's long history of conducting criminal and counterintelligence investigations. The current global situation requires diligence in the screening of applicants for entry into the United States and for citizenship. Without considering all pertinent facts, informed decisions cannot be made regarding the suitability of foreign individuals for immigration or for naturalization as United States citizens.

On average, the FBI's National Name Check Program Section (NNCPS) returns 68 percent of name check requests to the USCIS within 48 hours. An additional 22 percent of these requests are responded to within 30 days, on average. The remainder of the requests require extensive research and processing and often take 120 days or more. Much of this work requires analysts to retrieve and review paper documents, which is a time consuming but necessary step. To improve the performance of the National Name Check Program and reduce the time required to process name check requests, the FBI continues to leverage technology and to identify management actions that will improve efficiency.

Question. Could another agency be equipped with the tools to conduct these background checks?

Answer. The FBI is not aware of another source that could provide the type and depth of information, including historical information, necessary for these checks. The FBI's NNCPS works cooperatively with its customer base and continuously seeks to improve the quality of its customer service through the innovative application of technology and effective resource management.

QUESTIONS SUBMITTED BY SENATOR PATRICK J. LEAHY

VIRTUAL CASE FILE/SENTINEL

Question. What were the two cost estimates provided by Mitretek and Aerospace, and when does the FBI expect to have a final cost estimate? If this information is classified, please make arrangements to provide this information to cleared staff.

Answer. The Federal Bureau of Investigation (FBI) has reconciled the cost estimates from Aerospace and Mitretek and has developed a cost estimate to be used for budgetary purposes. Although this information is not classified, revealing it would alert potential contractors to the government's expectations regarding contract price, and would compromise the ability of the bid process to identify the lowest responsive, responsible bidder. The FBI will provide a final cost estimate when the contractor has been selected.

Question. Based on the two cost estimates you have received so far, how much additional funding or reprogrammed funds will the FBI require? If reprogramming is required, what programs do you anticipate will lose funds?

Answer. On September 27, 2005, the Department of Justice (DOJ) submitted a reprogramming to Congress for Phase 1 of SENTINEL, totaling \$97 million. Since SENTINEL will support all investigative activities across the FBI, all programs were reviewed as potential sources to support SENTINEL.

Question. Please reconcile these statements. Will the FBI utilize the interface or any element of the IOC, and on what basis did the Bureau reach this conclusion? Please also indicate whether the FBI has received any assessment from Mitretek of the IOC pilot, and if so, please describe those results.

Answer. The pilot was intended to test case management concepts as well as actual software code developed by the Virtual Case File (VCF) contractor. While the user interface code developed for VCF will not be re-used in SENTINEL, user interface concepts tested in the pilot proved to be essential tools and were incorporated into SENTINEL's requirements document. In addition, portions of the VCF interface code will be used in an on-going project to make data in the existing case management system (the Automated Case Support system) accessible through SENTINEL. This on-going effort will support Phase 1 of SENTINEL.

Mitretek Systems' VCF Initial Operating Capability Final Report, delivered in April 2005, was consistent with the conclusions described above. In addition, its evaluation stressed the importance of waiting to deploy an electronic workflow capability until it can be supported by an electronic records management capability. The notional phases in which SENTINEL will be developed have been structured to reflect this conclusion.

Question. Has the list of requirements been refined and does the FBI now have a final requirements list for the SENTINEL project? If not, when will the FBI have a final list?

Answer. Review of the SENTINEL System Requirements Specification (SRS) by line-of-business owners and stakeholders has been completed and comments from this review have been incorporated into the SRS.

Question. Has a project manager been appointed for SENTINEL, and if so, who is the project manager? If not, when will a project manager be appointed?

Answer. Miodrag Lazarevich was appointed as SENTINEL's Program Manager on 6/13/05. Prior to his detail to the FBI, Mr. Lazarevich served as the Deputy Director for a joint special program office at the Central Intelligence Agency (CIA). During that assignment and numerous assignments in the military, diplomatic, and intelligence communities, Mr. Lazarevich has managed large programs dealing with the development of communications systems, information technology, strategic investment plans for future systems, research and development technology insertion, and cross-agency policy. Mr. Lazarevich is program manager and a Contracting Officer Technical Representative certified at level 3, and has had extensive field experience and executive management training and experience. Mr. Lazarevich is also a former United States Army Signal Corps officer, including both active and reserve duty, and holds a Bachelor of Science degree in Electronic Engineering from the University of Wisconsin at Madison and a Master of Science degree in Electronic Engineering from the University of Arizona at Tucson.

Question. Director Mueller testified on May 24 that the FBI intends to complete the SENTINEL project in 4 phases with phase one to be completed 12 months after the contract award and an overall timeline of 39 to 48 months. In light of the time we have already lost on the Virtual Case File effort, the prospect of 4 more years before agents will have these full capabilities disappoints and concerns me. Please describe what functionalities will be available to FBI agents when each of these phases is complete, and please also provide the estimated completion dates for phases 2 and 3.

Answer. As indicated in the below chart, Phase 1 will establish a single point of entry for legacy case management. The user will be presented with the look and feel of a single integrated system instead of stove-piped applications. Phase 1 will also expand the search capability, allowing searches across multiple case-related systems, and subsuming and expanding Automated Case Support capabilities by summarizing a user's workload on a dashboard, rather than requiring the user to perform a series of queries to obtain it. To simplify the entry of data into the Universal Index (UNI), an entity extraction tool will be used to automatically index appropriate persons, places, and things. Finally, the core infrastructure components will be selected during Phase 1.

Phase 2 will provide case document management and records management repositories, beginning the transition to paperless case records and implementing the electronic records management capability. A workflow tool will support the flow of electronic case documents through their review and approval cycles, and a new security framework will support role-based access controls, single sign on, externally controlled interfaces, and electronic signatures based on Public Key Infrastructure. This phase will address the concern expressed by users of Virtual Case File's Initial Operating Capability that a paperless environment is necessary to leverage the benefits of automated workflow.

Phase 3 will replace and improve the Bureau-wide global index for persons, places, and things. In the "Connect the Dots" paradigm, the "dots" are represented by UNI, the legacy index that is, in effect, a database of entities (i.e., persons, places, and things) that have case relevance. Unlike the current UNI index, which supports a limited number of attributes, the new global index will improve the richness of the attributes associated with the indexed entities, permitting more precise searching.

Phase 4 will implement the new case and task management and reporting capabilities and will begin the systematic consolidation of case management systems. This phase will consolidate and incorporate functions currently performed by stove-pipe legacy systems, which will be retired at this point.

The following chart identifies the functionalities that will become available through each phase of SENTINEL's development.

Phase	Description	Functionality Provided
Phase 1	SENTINEL Portal Access to ACS	SENTINEL portal access to legacy data Case Management Workbox Entity extraction for the UNI application Expanded search capability, including Electronic Case File (ECF) and IntelPlus Service Oriented Architecture (SOA) framework and foundation services
Phase 2	ECF Replacement	Case Document Management (DM) Records Management Repository (RM) Workflow management Extended security with role-based access controls, Public Key Infrastructure (PKI), and digital signatures Searching and reporting for DM/RM
Phase 3	UNI Replacement	Adjustments to interfaces Improved Global Index with expanded attributes, including Data Extraction and Extension Project (DEEP) Expanded searching and reporting
Phase 4	Case Management Consolidation, including Investigative Case Management, Asset Database, Criminal Management Informant System, Financial Institution Fraud, Bank Robbery Statistical Application, Integrated Statistical Reporting and Analysis Application, and Guardian.	Adjustments to interfaces Case Management and Reporting Task Management Collected Items Management Adjustments to interfaces

Question. Director Mueller testified on May 24 that “SENTINEL is different from the Virtual Case File program in a number of ways” and referenced a “chart that illustrates the additional capabilities that will be available under SENTINEL, capabilities that were not contemplated as part of Virtual Case File. . .” Please provide a copy of this chart.

Answer. The Request for Proposals (RFP) was not made public, but was instead published only to those contractors eligible to bid under the Government Wide Acquisition Contract. Because the chart comparing VCF capabilities with those we will seek in SENTINEL would convey much the same information as the RFP (though in far broader terms), we cannot provide the chart until the RFP is made public. We will be happy to provide the chart when that occurs.

Question. In response to questions from the Feb. 3, 2005, VCF hearing, Director Mueller stated that the FBI “plans to request additional government software and systems engineers in the future to bolster its resource pool for dealing with complex and critical information technology projects.” Do the funds requested in this budget cycle address the FBI’s needs for additional software and systems engineers, and how much do you anticipate will be necessary for these purposes?

Answer. The FBI’s portion of the President’s fiscal year 2006 budget includes \$7 million in nonpersonnel funding for “Enterprise Information Technology Management.” Of this \$7 million, \$5.8 million would be used to hire 23 contractors in the Office of the Chief Information Officer, 5 of whom would focus on systems engineering. Future budget requests for additional contractors or full-time FBI software engineers will be based on an assessment of personnel and operational needs related to the evolving technologies that support the FBI’s mission.

Question. When do you expect that the FICMS framework will be finalized?

Answer. A draft white paper describing the Federal Investigative Case Management System (FICMS) framework has been forwarded to DOJ for its use in assisting other law enforcement agencies’ case management projects.

Question. What will the FBI’s role be in the FICMS project?

Answer. FICMS serves as the framework that will guide the development of DOJ and Department of Homeland Security investigative case management systems. The FICMS framework complies with the Federal Enterprise Architecture (FEA), uses FEA reference models, and will contribute to our national security by strengthening the sharing of terrorist information as required by Executive Order 13356. Each agency participating in FICMS has unique needs and will employ its own mechanisms to manage investigative workflow, manage records, and analyze data. These individual systems will, however, follow the FICMS blueprint, permitting data to flow easily and securely between agencies. As the FICMS Executive Agent, the FBI

is moving forward with the development and deployment of the SENTINEL system, which will follow the FICMS framework and establish key architectural components for the FICMS infrastructure.

QUESTIONS SUBMITTED TO ROBERT S. MUELLER, III

QUESTIONS SUBMITTED BY SENATOR PATRICK J. LEAHY

OKLAHOMA CITY BOMBING

Question. You indicated at the hearing that the FBI failed to find all the evidence when it searched Nichols' home ten years ago because the evidence was buried under the earth. Are you considering any changes to the Bureau's search protocols as a result of this incident?

Answer. The Federal Bureau of Investigation (FBI) used all appropriate investigative techniques when searching Terry Nichols' home in April 1995, and it does not appear that, short of dismantling the residence, the explosives buried under the crawl space could have been located given the technology available at that time. Among other investigative techniques, the FBI used an Ion Mobility Spectrometer (IMS), which is an instrument designed to detect explosives. It is likely the IMS did not detect the presence of explosives, which were later found based upon information provided by Nichols, because these explosives were in their original packaging, then wrapped in paper, then further shrink-wrapped with several layers of plastic, and finally buried beneath rocks and dirt. The 1995 search revealed only normal construction debris and stones left from the construction of the stone foundation, and no anomalies or indicia of recent disturbance were identified.

While the FBI constantly seeks advancements in technology that can aid in our investigative mission, and the capabilities of the FBI's Evidence Response Team have increased significantly in the past decade, the FBI forensic personnel deployed to the site in 1995 were both appropriate for the circumstances and highly qualified. The team of personnel included a Supervisory Special Agent from the FBI's Explosives Unit, a chemist, a latent fingerprint supervisor, and a fingerprint examiner, as well as a team of United States Army Explosive Ordnance Disposal personnel and bomb technicians from the Bureau of Alcohol, Tobacco, and Firearms. This group was highly effective, locating numerous items of incriminating evidence, including weapons, explosives, blasting caps, chemicals, United States currency, and documents. While the forensic tools available to the FBI improve as technology advances, the FBI does not believe that a different search protocol would have yielded a different result.

Question. Is there anything about the recent discovery that changes the Bureau's understanding of who did what in the conspiracy to bomb the Murrah building—and if not, why not?

Answer. The information derived from the recent discovery does not change the FBI's determination of who was responsible for or involved in the conspiracy to bomb the Murrah Building. An extensive and exhaustive investigation determined that the two subjects responsible for the bombing of the Murrah Building were Timothy McVeigh and Terry Nichols. The FBI thoroughly investigated the allegation that Roger Edwin Moore was involved in that bombing, but the investigation yielded no credible evidence supporting the allegation.

SUBCOMMITTEE RECESS

Senator SHELBY. The subcommittee will now stand in recess until Thursday, May 26, at 2 p.m., when we will hear testimony from the Secretary of Commerce on the Department's budget for 2006.

The subcommittee is recessed.

[Whereupon, at 12:12 p.m., Tuesday, May 24, the subcommittee was recessed, to reconvene at 2 p.m., Thursday, May 26.]