

**COMMERCE, JUSTICE, SCIENCE, AND RE-  
LATED AGENCIES APPROPRIATIONS FOR  
FISCAL YEAR 2007**

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**WEDNESDAY, APRIL 5, 2006**

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

The subcommittee met at 2:02 p.m., in room SD-192, Dirksen Senate Office Building, Hon. Richard C. Shelby (chairman) presiding.

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

DEPARTMENT OF JUSTICE

OFFICE OF THE ATTORNEY GENERAL

**STATEMENT OF HON. ALBERTO R. GONZALES, ATTORNEY GENERAL**

OPENING STATEMENT OF SENATOR RICHARD C. SHELBY

Senator SHELBY. The subcommittee will come to order.

I want to welcome Attorney General Alberto Gonzales to the subcommittee. He has been here before. And also, my second panel, we will have the Federal Bureau of Investigation Director Robert Mueller, Drug Enforcement Administration Director Karen Tandy, Bureau of Alcohol, Tobacco, Firearms and Explosives Director Carl Truscott, and U.S. Marshals Service Director John Clark who will be appearing before the subcommittee this afternoon.

Mr. Attorney General, in reviewing the Justice Department's budget request and anticipating the budget constraints weighing upon us due to the war on terror and the natural disasters that devastated the gulf coast, I believe it will take your unified leadership to make the tough choices regarding the allocation of scarce resources in this bill.

FISCAL YEAR 2007 BUDGET REQUEST

The fiscal year 2007 budget request for the Department of Justice is \$20.8 billion and represents a 0.5 percent decrease over the fiscal year 2006 enacted level. While this request proposes increases for the FBI, the U.S. attorneys, and the U.S. Marshals Service, it proposes cuts to local law enforcement assistance programs and other critical areas that are troubling. In particular, it recommends a \$1.6 billion decrease for State and local law enforcement programs. It proposes to rescind \$142 million for the con-

struction of two new Federal prisons and includes the same failed \$120 million mandatory fee on explosives manufacturers to fund the day-to-day operations of critical law enforcement activities.

The budget request for the FBI provides \$6 billion, an increase of 6 percent over the fiscal year 2006 enacted level. As the former chairman of the Senate Intelligence Committee, I know firsthand the challenges facing the Bureau's new national security branch, which is responsible for coordinating intelligence activities with the Director of National Intelligence. The Bureau's budget request seeks to permanently realign 300 special agent positions from criminal investigations to counterterrorism, to support the work of the NSB.

This shift in resources signals the importance of reprioritizing funding and personnel to the threat of terrorism. However, this realignment may not go far enough, as the budget request only adds one new agent position for this upcoming year. Instead, the FBI budget funds a variety of technological improvements for intelligence infrastructure, information technology management, information technology infrastructure, and the next generation of the much-maligned Trilogy program.

This subcommittee and the Bureau share the difficult task of targeting these resources in a manner that safeguards taxpayers' dollars while preserving public safety.

The FBI's former \$537 million technology initiative, Trilogy, while providing primitive functionality, was hardly a sound investment for the taxpayers. I was disappointed to learn that after spending in excess of \$170 million, Trilogy's Virtual Case File system was basically a failure. This represents a devastating blow to the information technology needs of the FBI.

The 2006 Government Accountability Office Trilogy report raises serious questions about the FBI's ability to oversee and to build any type of information technology system. The FBI's new technology initiative, Sentinel, like Trilogy, promises to bring the FBI into the 21st century. This new technology, I believe as you do, is critically important, but I remain concerned that the FBI does not possess the necessary project management expertise, nor do I feel that the FBI has applied lessons learned from past mistakes. We hope so.

And while I support and realize the importance of information technology to the FBI's mission, as you do, I cannot support unlimited and unchecked resources. I do not believe this subcommittee would do that. We will not tolerate broken promises for results that were never realized or delivered, such as Trilogy.

Given one failed attempt, Mr. Attorney General, I believe it is imperative that you proceed with caution to ensure that the FBI does not make the same mistakes. I expect results. We do here, and I will do everything we can to ensure there is a thorough congressional oversight for this program.

The budget request for the Bureau of Alcohol, Tobacco, Firearms and Explosives imposes a \$120 million tax on explosives manufacturers. I want to point out that even if Congress passed this proposal today, it would take the Department 2 years, I have been told, to begin collecting the fee. If this were true, I do not under-

stand how the Department of Justice proposes to use the receipts from this fee to offset the 2007 ATF budget.

This \$120 million hole is just one example of many contained in this budget request. These shortfalls force the subcommittee to make extremely difficult choices that undermine our ability to fund critical budget increases for hard working, as you have, Department of Justice law enforcement agencies.

While we believe that your new initiatives are extremely important, Mr. Attorney General, it will be difficult to give them consideration when the subcommittee must weigh this request with the numerous proposed rescissions, cuts, and eliminations of local law enforcement programs. State and local law enforcement agencies are the foundation of our Nation's law enforcement community. You know this as the former attorney general in Texas.

These proposed cuts have the potential to significantly weaken the ability of these agencies to protect our communities from traditional crimes, to maintain vigilance in the war on terror and to prepare for catastrophic disasters. Continually proposing major reductions for local law enforcement assistance programs will cripple the police and sheriffs' departments which are fixtures in our Nation's communities.

For the second year in a row, the Federal Bureau of Prisons has disregarded explicit congressional direction to construct new prisons in McDowell, West Virginia, and Burlington, New Hampshire. This year's proposed \$142 million rescission, combined with last year's \$314 million rescission, totals \$456 million in previously appropriated funding for the construction of additional correctional institutions. Not only are we facing significant prison overcrowding here in the country, but the Bureau of Prisons projects, according to what they tell us, approximately 8,500 new prisoners will enter the Federal system this year alone.

I look forward to hearing from you, Mr. Attorney General, first, and then the others later about your visions and the challenges that you see.

Senator Mikulski.

#### STATEMENT OF SENATOR BARBARA A. MIKULSKI

Senator MIKULSKI. Thank you very much, Mr. Chairman, and I once again, as we open our hearings on the Commerce, Justice, Science appropriations we look forward to working with you on a bipartisan basis to achieve important national goals in terms of public policy and yet be stewards of the Federal purse.

We want to welcome the Attorney General and our top law enforcement team from the FBI, DEA, ATF, and of course, the Marshals Service. Mr. Attorney General, I know we are anxious to get to your testimony, but we want to welcome you. We know that you said your goal was to help secure the American dream for all Americans and to keep America safe. We want to work with you to do that.

Your Department is responsible for protecting America, for your Department is one of the agencies responsible for protecting America from a predatory attack by international or even domestic terrorists and at the same time protect Americans from predatory attacks in our own neighborhood, whether they commit arson against

those people in our community trying to buy a home for the American dream; whether they are the sexual predators stalking and betraying children on the Internet; or whether they are the drug kingpins coming into our community. We need to protect America.

We are concerned, as we look at all of this and the national goals about some of the aspects of the budget, but before we get into the cuts that I am concerned about, we understand that when we look at counterterrorism, which we know is one of your priorities, the FBI does get the largest increase to pay for investigations and technology upgrades.

I share the flashing yellow lights and flashing impatience that has been shared with you by the chairman. I have met with the director of the FBI on our new approach to the case management system, and we are satisfied that a framework has been put in place that we can begin to get the best value in technology and the best value for the taxpayers' dollar. I want to work with the chairman and with the director on important oversight of this system.

At the same time, we do know that while we are upgrading the technology, we need to upgrade our agents and make sure that they have the best training. I am concerned that the facilities at Quantico are aging, that they are tattered; that while our agents are being brought in that we need to be sure that where we train them and how we train them is as modern as the mission that we have given them.

In the areas of agreement, we agree with you on reducing gun violence, ridding our streets of gangs, and keeping the Internet safe for our children, and protecting our fair housing. Those are your national goals, and we want to work with you on that. Yet, what we are concerned about is the cuts to local law enforcement. In my time, I would just like to focus on that, because your national goals, I will get to in there, but no matter how great the FBI, ATF, DEA is, they have to rely on local law enforcement. There is just not enough agents. There will never be enough agents. They have to be the cops on the beat, and they have to be trained. They have to be equipped, and they have to be ready to work with the kind of talent that we are asking.

In my own hometown in Maryland, because we are in the Capital region, we fear a predatory attack from terrorists, and at the same time, we have one of the highest heroin addiction rates in the country, and we need DEA, and ATF has come to our rescue in helping to find people who are trying to burn down the homes of African-Americans moving into new neighborhoods.

So we worry, though, that because the people that were caught were caught by local law enforcement, we are concerned about the cuts of several hundreds of millions of dollars in the Byrne grants and in other local law enforcement areas. So we want to hear from you how you think that is going to work, because as I said to you privately, and I said to you publicly, all of these members will feel this pressure.

We do not want to be into the mother of all earmarking. And we are concerned that if the communities cannot get their money for their policemen through a grant program that is peer reviewed, based on competition, granted on merit, they come to us to be able to do this, to fight crime, upgrade their technology, gang initiatives,

and also deal with this horrendous challenge of meth that is sweeping this country.

So we need to find a way and a wallet to really deal with the local law enforcement that is the underpinnings that support in many ways the efforts of our very talented Federal law enforcement and the variety of agencies that they have. So let us work on those national goals, but really, the gang fighting, so many of these things, are done at the local level.

So, Mr. Chairman, we will follow this up in more extensive conversations.

Senator SHELBY. Thank you.

Senator Stevens.

STATEMENT OF SENATOR TED STEVENS

Senator STEVENS. Well, thank you very much, and welcome, Mr. Attorney General. I have another committee meeting, as a matter of fact, but I came to emphasize what Senator Mikulski has already addressed, and that is this methamphetamine. The COPS meth hot spots program was authorized for \$99 million. This is a scourge as far as rural America is concerned. And I have got a question I would like to submit for the record and appreciate your answers, Mr. Attorney General.

Thank you very much.

Senator SHELBY. Senator Leahy.

STATEMENT OF SENATOR PATRICK J. LEAHY

Senator LEAHY. Mr. Chairman, I will put my whole statement in the record so we can go to the witnesses.

Senator SHELBY. Without objection.

Senator LEAHY. I would say that I am concerned, and I will raise this in my questions, about the budget cutting of funds for proven anti-crime and anti-drug and community safety efforts. They make a difference in your State, my State, Vermont and elsewhere. I see programs slated for elimination. Cuts include Byrne and the COPS grant, something every police department has benefitted from; the crime victims fund, the bullet proof vest partnership that Senator Ben Nighthorse Campbell and I started; the Violence Against Women Act programs; boys and girls clubs.

We have unlimited amounts of money to build up everything that they want in Iraq. I think we should be worried more about crime victims and rank and file police in the United States.

I will also ask questions about what, in heaven's name, we are allowing somebody as careless as ChoicePoint to get control of our data, but I will put my whole statement in the record, Mr. Chairman, and I will ask those questions.

Senator SHELBY. Without objection, so ordered.

[The statement follows:]

PREPARED STATEMENT OF SENATOR PATRICK J. LEAHY

Mr. Chairman, I join you, the ranking member and our colleagues in welcoming all of our distinguished witnesses who are here to testify before our subcommittee today on the Justice Department's fiscal year 2007 budget. I particularly want to welcome Attorney General Gonzales and FBI Director Mueller, both of whom I see from time-to-time when they come before the Judiciary Committee for oversight hearings. Today, however, I am here to wear my appropriator's cap and listen to

them describe and attempt to justify the Justice Department budget request for the coming year.

During recent years, the Justice Department has confronted the daunting challenge of protecting our Nation against international terrorism in the wake of the attacks of September 11, 2001, the subsequent anthrax attack and other threats. All the witnesses before us today deserve credit for their efforts to assure the safety of the American people.

I was disappointed to see, however, that the administration's fiscal year 2007 Justice Department budget request calls for deep cuts in crime prevention programs that State and local police and sheriffs' departments have long relied upon, including key efforts such as Byrne Grants, the Crime Victims Fund, the Bulletproof Vest Partnership Program, and the Violence Against Women Act programs. This budget would undermine proven anti-crime, anti-drug and community safety efforts that are making a difference in Vermont and in communities across the Nation. These budget priorities are out of whack. This budget puts more tax cuts for the rich at the front of the line, while leaving behind crime victims, local police and boys and girls clubs. This is simply irresponsible and wrong.

In the wake of terrorist attacks, I recognize that the Justice Department focused much of its attention on the prevention of terrorism and the promotion of national security. Its top priorities continue to be the prevention, investigation and prosecution of terrorist activities against U.S. citizens and interests, which is evident in the request for \$318.5 million in new investments for the FBI, including counterintelligence activities and justice information systems technology. Unfortunately, the FBI has not always been a good steward of those resources.

It has been almost a year since the FBI announced it would have to scrap the \$170 million IT project known as the Virtual Case File (VCF). I have repeatedly expressed my deep frustration and concern over the millions wasted on "lessons-learned" and the fact that more than 2 years have passed since the original deadline; however, these technology goals are not yet met.

In the year since the FBI announced the VCF's successor, the Sentinel program, I have seen nothing to boost my confidence in the Bureau's ability to manage the status and cost of this project. We learned recently that the FBI estimates that Sentinel will cost the American taxpayers \$425 million to complete and that the full Sentinel system will not be deployed until 2009. The FBI has asked Congress to commit \$197 million to the project between this year and the coming year, but it is already behind schedule and the FBI has yet to solidify its IT goals and plans for achieving them. The President's fiscal year 2007 Budget proposes another \$100 million for the Sentinel project. We must ensure that the FBI's technological capabilities keep pace. To do so requires an emphasis not just on providing funds, but also on effective use and implementation. I hope the latter is not neglected.

No one will argue over the importance of counterterrorism programs. Nonetheless, I am concerned that the DOJ's traditional duties have recently garnered too little attention and support. The Justice Department must lead the Nation in deterring, investigating and prosecuting gun, drug and civil rights violations; incarcerating offenders; partnering with State, local and community groups to prevent crimes; and providing leadership and assistance in meeting the needs of crime victims. In recent years we have seen an end to the downward trend in violent crime, with rates leveling out instead of continuing to decrease. We must not allow daily responsibilities that keep our citizens safe to fall aside.

The President claims that he wants to ensure that our State and local police receive the resources necessary to do the job the American public expects them to do. I am truly frustrated to see, however, that he proposes the elimination or reduction of funding by \$1.31 billion, or 52 percent cut, for programs crucial to State and local law enforcement and terrorism prevention. As a Senator from a rural State that relies in part of Federal grants to combat crime, I am deeply concerned about these cuts.

Under this budget, we would see an end to Byrne Memorial Justice Assistance Grants, which Congress recently reauthorized by law to provide vital grant funding to States to improve the functioning of the criminal justice system, as well as a \$23.3 million cut COPS programs. Police departments nationwide would experience severe reductions in equipment and support staff grants to combat illegal drugs. In my home State, these programs have provided vital funding for the Drug Task Force, which combats the growing problem of heroin use and trafficking, as well as keeps the production and use of highly addictive methamphetamine from infiltrating Vermont's borders.

The Bulletproof Vests Partnership Grant Program plays a vital role in distributing lifesaving bulletproof vests to law enforcement officers serving in the front lines nationwide. I am proud to have authored with our former colleague, Senator

Campbell, the charter to create this program that saves lives and spares injuries of law enforcement officers nationwide by providing more help to State and local law enforcement agencies to purchase body armor. The Vests Partnership is authorized to allow for \$50 million per year through fiscal year 2009 so that this successful program can continue to help protect the lives of State and local law enforcement officers. Indeed, it is so successful that since 1999 it has provided law enforcement officers in more than 11,900 jurisdictions nationwide with nearly 450,000 new bulletproof vests.

The President's budget, however, proposes to drastically reduce funding of this program by almost \$20 million, or by 67 percent. This proposal comes at a time when the Bulletproof Vest Partnership Program is needed more than ever. Compounding the usual funding demand for help to purchase vests, concerns over the effectiveness of Zylon-based body armor vest have resulted in an estimated 200,000 of these vests needing to be replaced. Across our Nation, law enforcement agencies are struggling over how to find the funds necessary to replace defective vests that are less than 5 years old with ones that will actually stop bullets and save lives. We should be making sure that every police officer who needs a vest gets one.

Two more points I would like to make: The Boys and Girls Clubs of America—a proven and growing success in preventing crime and supporting our children—would have its budget reduced by \$25 million, a 30 percent cut. Finally, the President proposes to drain all amounts remaining in the Crime Victims Fund at the end of fiscal year 2007. This represents an estimated cut of \$1.255 billion, and will place crime victim service programs in serious jeopardy. These cuts send the wrong message to our children and crime victims.

Now is not the time to eliminate initiatives that we know to be effective in the prevention, enforcement and aftermath of crime. Strengthening security, information sharing and disaster response programs to combat terrorism must not totally overshadow the prevention of more traditional crimes.

Senator SHELBY. Senator Harkin.

#### STATEMENT OF SENATOR TOM HARKIN

Senator HARKIN. I just wanted to make one point. Mr. Attorney General, just echoing what Senator Mikulski and Senator Stevens were saying. Methamphetamine. I was looking through your statement, there are drastic cuts in the COPS program and in the Byrne grant program, and when my question comes around, that is what I want to focus on. Because I see no justification for this. We are just having the rug pulled out from underneath our local law enforcement by submitting a budget that zeroes out the Byrne grant program. I will have more to ask you about that when my question comes around.

Thank you, Mr. Chairman.

Senator SHELBY. Senator Kohl.

Senator KOHL. Mr. Chairman, in order to expedite getting to our witnesses, I will forego an opening statement.

Senator SHELBY. Without objection, so ordered.

Senator Murray.

#### STATEMENT OF SENATOR PATTY MURRAY

Senator MURRAY. Thank you, Mr. Chairman, and Ranking Member Mikulski for holding the hearing and Attorney General Gonzales and all the witnesses today. Like my colleagues, I just want to say that I have some serious concerns about the cuts to the Byrne grant and COPS programs. These programs really help reduce crime in communities all across this country, and Byrne grants in particular have allowed my State, the State of Washington, to take on the meth epidemic with some real resources. And

I am proud to say that Washington State is now the national model in the fight against meth.

You know, States from all over the country have been talking to leaders in law enforcement and education and treatment in my State about how to create similar comprehensive efforts to stop meth in their States. But Washington State got to be a leader in the fight on meth by showing that partnerships work, and not just partnerships between law enforcement and education and treatment community but partnerships at all three levels of the Government: Federal, State, and local jurisdictions. And there is no question that the Federal resources from COPS and the Byrne grant help these partnerships grow and become really a keystone in the fight against drugs.

At the same time that police officers are retiring, and local funding has dried up for our drug task force, this administration wants to close the door on law enforcement, and I know that this subcommittee will hear about some newfound efficiencies and better partnerships. But let me be clear: any solution that lets the criminals win is not a win in my book.

Speaking of meth, I want to just say that I am very concerned that the Department of Justice is not doing enough, I believe, to stop the spread of methamphetamine and other synthetic drugs. Although efforts in our States to increase precursor control and the passage of the Combat Meth Act are going to help, drug cartels are now flooding the market with meth.

So just as we are now succeeding to stop some of the smaller mom and pop operations, we are now seeing these cartels use their immense resources and drug distribution chains to bring meth back into our neighborhoods and meet the demand that is out there. So I hope to hear this afternoon how you and Administrator Tandy are working on taking on those drug cartels to help stop this.

Finally, I just want to mention, we have talked before, you and I, about the needs of local jurisdictions along our northern border. In Washington State, our northern border counties are spending millions of dollars on cases that are initiated by Federal agencies. Whether it is Customs or ICE, our Federal agencies are increasing the numbers of criminals that they bring into these local courts and detain in our local jails. And the U.S. Attorney's Office has been unable to meet the demand and often declines these cases and refers them directly to cities and counties for processing and prosecution.

Whatcom County, which is on our northern border just across the border from Vancouver, British Columbia, is now spending over \$2 million a year to process these federally initiated, declined, and deferred cases. So we have county sheriff offices who are unable to serve warrants now because their jails are full, and I hope that we can continue to work together to help the northern border communities so that our local communities are not forced to let their criminals go free because the Federal agencies are now forcing them to take more and more of these border related cases.

This is really an equity issue, because as you know, along the southwest border, there is a program to reimburse those local costs associated with the criminals caught on the border, and I think it is time we fixed this problem and created a sister program to the

Southwest border prosecution initiative to help States like mine and Alaska, New Hampshire, Vermont, Wisconsin, other northern border States that are facing the same problem.

So I hope that we hear from all of you today about how your departments and agencies are finding better ways to partner with our local jurisdictions and working with our communities to help our neighborhoods be safe. And I think we can continue to create some success stories if we have increased law enforcement partnerships at the local, Federal, and State level.

Thank you, Mr. Chairman.

Senator SHELBY. Attorney General, welcome again to the subcommittee. Your written testimony will be made part of the record. You may proceed as you wish.

#### SUMMARY STATEMENT OF ATTORNEY GENERAL GONZALES

Attorney General GONZALES. Good afternoon, Mr. Chairman, Ranking Member Mikulski, and members of the subcommittee. First of all, Senator Mikulski, congratulations on last night's great victory.

The men and women of the Department of Justice are working every day to secure the opportunities of the American dream for all Americans. As Attorney General, I want to ensure that our neighborhoods are safe, secure, and prosperous. This is an enormous goal and one that we have made steady progress on over the past few years.

Today, I present the President's fiscal year 2007 budget for the Department. Mr. Chairman, in an administration that is committed to controlling overall Government spending, this budget prioritizes our top public safety needs. This is a budget that builds on our expertise, launches new programs, and eliminates or cuts programs that have not met our high standards. It focuses State and local assistance on priorities established by the administration and by Congress.

#### COUNTERTERRORISM INVESTIGATIONS

Included in this \$19.5 billion budget are the Department's six major priorities for the coming year. Our highest priority is to stop the terrorists who seek to destroy the American promise of liberty and prosperity. Waging the war on terror has been among the most difficult challenges that the Justice Department and the Government have ever undertaken. But we have made great progress, as evidenced by the hundreds of convictions we have obtained in terrorism-related investigations and by the terror cells that we have located and broken up from coast to coast.

Still, we know that al Qaeda remains a threat. I want to thank Congress for reauthorizing the PATRIOT Act and providing resources in the war on terror. I look forward to your support of our effort to stand up the new National Security Division, which will enable us to house our counterterrorism and counterintelligence prosecutors side by side, making it faster and easier to connect the dots.

The threat of terrorism is not going to go away, and neither is our commitment to do everything we can to stop it. And so, we are requesting over \$330 million for new and directed counterterrorism

and intelligence programs to protect our Nation from this continuing threat.

Every American deserves to live free from the fear of violent crime. The President's Project Safe Neighborhoods is taking criminals off the streets and reducing gun and gang crime. Our efforts are working. Crime has plunged to 30-year lows, resulting in thousands of Americans who have not been threatened, have not been harmed, and have not been violated by gangs with guns. However, gang violence is still a problem, and this budget requests over \$22 million in enhancements and almost \$163 million in State and local grants to further liberate our communities from gang and gun crime.

Illegal drugs poison children, destroy lives, and threaten the safety and the prosperity of our communities. Methamphetamine is particularly destructive, and the Department has worked harder than ever to combat methamphetamine over the past year. We have successfully dismantled some of the most deadly drug organizations that dump drugs into our neighborhoods. This budget requests almost \$235 million in enhancements to stem the supply of drugs from overseas and secure our homeland and shut down our borders to illegal aliens.

#### CHILDSAFE INITIATIVE

The Internet should be a safe, crime-free place for all Americans, especially our children. Our new Project Safe Childhood Initiative is designed to complement our other efforts to secure for every child the most important gift that we can give: a safe environment in which to live, grow, and learn.

Through this initiative, we will identify, prosecute, and lock up those who victimize our children through the production and distribution of child pornography and those who use the shadow of the Internet to lure minors into sexual activity. In this budget, we seek more than \$186 million to end the sexual exploitation of children and the proliferation of obscenity.

#### CIVIL RIGHTS DIVISION

Securing the American dream requires protecting individuals from illegal discrimination, and I am pleased that the Department prosecuted a record number of criminal civil rights cases in the last 2-year period, but I am asking the Civil Rights Division to do even more: to vigorously protect our citizens' right to vote, to work, and to buy or rent a home free from discrimination. We are seeking over \$113 million for the Civil Rights Division to accomplish these goals. We have also launched a new initiative, Operation Home Sweet Home, which expands our Fair Housing Act testing program.

#### HUMAN TRAFFICKING

The Division is also focused on eradicating the modern day slavery of human trafficking. Prosecutions of this crime have increased over 300 percent during this administration, but even one victim is too many. In the coming year, we will continue our efforts to locate and rescue the victims of this atrocity.

The sixth and final priority I want to emphasize is the Department's fight against Government and corporate corruption. Honesty and integrity in Government and in business are essential for a strong America. Prosperity cannot flourish if taxpayers and investors lose their confidence in these institutions. As part of our anticorruption commitment, more than 200 new FBI agents have been added in the past 3 years to anticorruption squads across the United States.

Now, virtually all of these priorities require our Federal prosecutors to do more. Over the past several years, Congress has been supportive in providing law enforcement more agents and investigators to detect crime. But now that we have more cops on the street, we need more prosecutors in the courtroom to make sure that the criminals we identify are brought to justice. Accordingly, I am asking that you fully fund the budget for the United States Attorneys, to provide additional prosecutors to ensure justice in communities across the Nation.

The priorities I outlined today in no way reflect all of our many important responsibilities. The Department serves as the Nation's chief prosecutor and litigator, representing the people of the United States in court not just to prosecute crime but also to enforce immigration laws, protect intellectual property, safeguard the environment, defend the laws that Congress passes, and protect the National Treasury against fraud.

The Department also protects our communities by safely and securely confining all of the people in Federal custody. These are all tremendous responsibilities and require sufficient resources as well.

Securing the American dream for all Americans is an easy thing to say, but it is a very difficult thing to do. In the past few years, America has been a safer, more secure place than it was a decade ago. We have faced many challenges, and we have made great strides. Others are still before us. You have my commitment that the men and women of the Department of Justice will work hard every day with the resources you provide to make the communities that we both serve as safe, secure and prosperous as possible.

Thank you, Mr. Chairman.

[The statement follows:]

PREPARED STATEMENT OF ALBERTO R. GONZALES

Good afternoon Chairman Shelby, Senator Mikulski, and Members of the Subcommittee: It is my pleasure to appear before you today to present the President's fiscal year 2007 Budget for the Department of Justice ("Department" or "DOJ"). My goal as Attorney General is simple: Secure the opportunities of the American dream for all Americans and for future generations. It is a goal I am sure this Committee supports. But it is no small task and requires the hard work of thousands of Department officials stationed around the country and the globe. With your continued support, I have established priorities and initiatives to guide the Department's efforts in the coming year.

My highest priority remains keeping America safe by using every tool at our disposal, consistent with our Constitution, to prevent another terrorist attack on our Nation. At the same time, the Department continues to investigate, prosecute, detain, and incarcerate federal criminals. We are currently focusing on top initiatives such as an aggressive anti-gang program that will help combat some of the most violent gangs in the country.

In pursuit of these and other priorities, for fiscal year 2007, the President's Budget requests \$19.5 billion for DOJ, including \$330.8 million in new investments for preventing and combating terrorism. The fiscal year 2007 budget further strength-

ens counterterrorism efforts by investing in essential intelligence infrastructure and information technology. The budget also includes many new, critical investments that will continue to make America a safer place for law-abiding American citizens and a tougher place for criminals. An integral part of our funding need is support for the United States Attorneys' Offices. The budget prioritizes funding for our most important goals and proposes reductions to some programs, many of which have not shown effective results.

I also want to thank the Congress for reauthorizing the USA PATRIOT Act. The USA PATRIOT Act is a vitally important tool for the Department, and its reauthorization will help us prevent another terrorist attack.

#### PREVENTING AND COMBATING TERRORISM

In the 5 years since 2001, the Department has requested and the Congress has provided significant resources for counterterrorism and intelligence activities. With these resources, the Department has accomplished a great deal. But we must never forget we are under constant threat. Al Qaeda leaders continue to remind us of their desire to attack our homeland and murder our citizens. We must continue to work together to stop terrorists before they strike. To that end, the Department remains open to productive suggestions on how to improve our organizational capacity to accomplish our counterterrorism mission. With the passage of the USA PATRIOT Act reauthorization, the Department is moving quickly to make operational the new National Security Division. Yesterday, I sent up to the Congress a reprogramming request for the National Security Division. I hope the Congress will support this request.

The National Security Division was created in response to the recommendations presented by the Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction (WMD Commission). This major organizational change reflects the Department's commitment to building a structure that best supports our national security mission. The fiscal year 2007 budget includes \$67 million to fund the new National Security Division. This Division will combine the Counterterrorism Section and the Counterespionage Section from the Criminal Division with the Office of Intelligence and Policy Review (OIPR). The Division will be led by a new Assistant Attorney General for National Security who will coordinate all of the Department's counterterrorism, counterespionage, and intelligence work. This new Assistant Attorney General will also serve as the lead conduit for our activities with the Intelligence Community and the Director of National Intelligence.

The requested increase would add 21 attorneys to OIPR and 12 attorneys to the Counterterrorism and Counterespionage Sections of the National Security Division. These additional resources will assist the new Division in meeting the increased workload of intelligence searches and surveillances, and will ensure that the Department aggressively pursues cases involving trade in weapons of mass destruction.

Over the past 5 year's, the FBI has developed a distinct Intelligence Program and hired and trained thousands of new Special Agents and Intelligence Analysts who have contributed to our continuing safety. The fact that there has not been another major attack within the United States borders since September 11th is a credit to the hard work of those individuals, working alongside our prosecutors and partners in law enforcement and intelligence. With the support of Congress, the Department has realigned millions in base resources to support these efforts. This budget requests additional, critical resources to further enhance our counterterrorism efforts, while continuing to realign base resources to wage the war on terror. The Department will use these resources to remain on the offensive, detecting and disrupting the enemies' plans and bringing terrorist operatives to justice.

As the lead federal law enforcement agency for counterterrorism, the FBI's critical mission requires a significant amount of personnel and infrastructure. To maximize the effectiveness of the additional personnel resources Congress has provided in recent years, this request stresses the FBI's infrastructure needs. The request provides a total of just over \$6 billion for the FBI, with enhancements of \$319 million to support the following objectives: the continued development of our intelligence infrastructure, including increasing the number of secure facilities to conduct intelligence analysis; enhanced intelligence collection systems and training for a growing and diverse workforce that can act upon intelligence information; the continued development of the SENTINEL case management system, which will improve productivity and information sharing; and upgraded fingerprint identification systems to improve screening activities and identify more criminals and terrorists.

Since 2001, the Federal Government has added thousands of federal agents and analysts to the counterterrorism effort. The addition of these personnel has magnified the need for additional prosecutors in the field. For example, the criminal caseload for the United States Attorneys has increased by 18 percent in this same time frame. The 2007 budget supports the ongoing activities for the United States Attorneys with over \$1.6 billion in total resources, of which \$92 million will support national security and terrorism-related prosecutions. I believe that it is very important that the President's budget request for United States Attorneys be fully funded.

The United States Attorneys are vital to the Federal Government's counterterrorism effort. In the past year alone, the government has obtained convictions or guilty pleas in 40 terrorism-related cases across the Nation, continuing the successful record established since September 11th. For example, Ahmed Omar Abu Ali was convicted of terrorism charges, including conspiracy to assassinate the President of the United States; conspiracy to commit air piracy; and conspiracy to destroy aircraft. Ali Al-Timimi was convicted on all charges in connection with the "Virginia Jihad" case. In a domestic terrorism case, Eric Robert Rudolph pleaded guilty to charges related to deadly bombings in Birmingham, Alabama, and in the Atlanta area, including the bombing at the 1996 Olympics. Since the September 11th attacks, the Department has charged more than 400 individuals in matters arising from terrorism-related investigations and obtained convictions or guilty pleas in more than 220 of those cases to date. Some of those cases include the conviction of John Walker Lindh, Richard Reid and the disruption of terrorist cells in New York, Oregon, Ohio, Virginia, and North Carolina. This budget requests additional positions and \$7.7 million to enhance counterterrorism prosecution efforts by our United States Attorneys' Offices.

This budget also supports other key intelligence initiatives within the Department. The Department is requesting an increase of \$12 million for the Drug Enforcement Administration (DEA) to facilitate full coordination and information sharing with other members of the U.S. Intelligence Community. That coordination will enhance national security, combat global terrorism, and reduce the global supply of drugs. Even though DEA did not officially have capabilities in the Intelligence Community until February, it has been contributing to national security investigations for many years. In fiscal year 2005, DEA disrupted eight, and dismantled two, terrorist-linked Priority Target Organizations using information gathered during drug investigations. In support of our national security objectives, the fiscal year 2007 budget also provides resources to help the Executive Office for Immigration Review and the Civil Division's Office of Immigration Litigation address their expanded caseload.

#### PROJECT SAFE NEIGHBORHOODS

In 2001, the Administration announced the Project Safe Neighborhoods (PSN) initiative to reduce gun crime in our communities. PSN brings together local, State, and Federal law enforcement officials, prosecutors, and community leaders to implement a multi-faceted strategy to deter and punish gun criminals. This initiative is taking some of the most dangerous and violent offenders out of our communities. Today, federal firearms prosecutions are up nearly 73 percent and violent crime is at its lowest level in 30 years. Since 2001, the nonfatal firearm crime rate has dropped from 2.3 incidents per 1,000 residents to 1.4, and firearm incidents have dropped 40 percent—from 467,880 to 280,890. With the support of Congress, the Department has dedicated over \$1.5 billion to this important program. Those funds have provided necessary training, hired agents and prosecutors, and supported State and local partners working to combat gun crime. For 2007, the budget requests \$395 million for PSN.

In response to the danger that violent gangs pose to our neighborhoods, the Department recently developed a comprehensive strategy to combat gang violence as part of PSN. Building on the lessons learned fighting gun crime, this strategy coordinates enforcement, prosecution, and prevention resources to target gangs that terrorize our communities. The Violent Crime Impact Team (VCIT) program, part of the PSN initiative, helps reduce communities' homicide and firearms-related violent crime through the use of geographic targeting, aggressive investigation, and prosecution. This budget provides \$16 million for ATF and the United States Attorneys to combat gang activity by expanding the VCIT program to 15 additional cities, for a total of 40 sites.

The PSN request also includes enhancements of \$44 million for DOJ's State and Local Gun Violence Assistance Program. This program is the State and local grant program that supports PSN in individual communities. This request also includes \$15 million to initiate a new Gang Training and Technical Assistance Program that

will provide assistance to States and localities in support of efforts to reduce criminal gang activity and reduce the threat of terrorism and violent crime through enhanced sharing of criminal intelligence; and a \$29 million increase for the National Criminal History Improvement Program, which provides grants to States to improve their criminal history and related records so that they are complete, accurate, and available for use by Federal, State, and local law enforcement.

United States Attorneys' Offices across the country continue to work with law enforcement partners to develop strategies to make their communities safer. Thus, the fiscal year 2007 PSN request includes resources to prosecute gang members and gun criminals and to create new and strengthened partnerships with local agencies that are addressing gang violence and gun crime.

#### DRUG ENFORCEMENT AND BORDER SECURITY

In February 2002, the President set an ambitious goal: "To reduce the use of illegal drugs by 10 percent over 2 years, and by 25 percent over 5 years." To meet this goal, the Department announced a six-part drug enforcement strategy for DOJ. The Department focuses its drug law enforcement efforts on reducing the availability of drugs by disrupting and dismantling the largest drug supply and related money laundering networks operating nationally and internationally, including those on the Consolidated Priority Organization Target (CPOT) List. The CPOT list identifies the "Most Wanted" drug trafficking and money laundering organizations believed to be primarily responsible for the Nation's illicit drug supply. In fiscal year 2005, the Department dismantled 121 CPOT-linked drug trafficking organizations and severely disrupted another 204 CPOT-linked organizations. For example, DOJ arrested the two founders of the Cali Cartel and arrested two Afghan drug kingpins with ties to the Taliban. The fiscal year 2007 budget requests enhancements of \$234.7 million for its drug enforcement efforts.

The cornerstone of the Department's drug supply reduction strategy is the Organized Crime Drug Enforcement Task Force (OCDETF) program. Centrally managed within the Department, the OCDETF program combines the resources and expertise of DEA, the FBI, the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), the U.S. Marshals Service, the Internal Revenue Service, the Bureau of Immigration and Customs Enforcement, the U.S. Coast Guard, and the litigating forces of DOJ's Criminal Division, Tax Division, and the United States Attorneys' Offices. The fiscal year 2007 Budget contains \$706 million for OCDETF, which includes a \$208 million transfer of the Office of National Drug Control Policy's High Intensity Drug Trafficking Area (HIDTA) Program. Transferring the HIDTA Program to the Department will facilitate strategic coordination with our other drug enforcement assets, eliminating duplication and ensuring the most effective use of limited resources.

As the only federal agency with its sole focus on drug enforcement, DEA must have the necessary resources to invest in intelligence and operational requirements overseas to stem the supply of illegal drugs. This budget requests \$13 million in additional funds to continue reducing the availability of illicit drugs and the diversion of licit drugs and precursor chemicals in the United States. The Department will achieve these goals by disrupting and dismantling significant drug trafficking and money laundering organizations as well as attacking the economic basis of the drug trade. DEA's drug trafficking and money laundering enforcement initiatives support and augment U.S. efforts against terrorism by denying both drug trafficking and money laundering routes to foreign terrorist organizations. DEA's work also helps stem the use of illicit drugs as barter for munitions to support terrorism. This request includes \$4 million for Foreign Advisory Support Teams (FAST) to continue attacking drug trafficking and foreign terrorist organizations operating in Afghanistan, and \$3.5 million for a new team to deploy in the Western Hemisphere. Focusing resources on a geographic area or group, like the FAST program, yields results: for example, DEA investigations have led to the indictment of 13 members and associates of the Colombian terrorist group, the Revolutionary Armed Forces of Colombia (FARC), on drug trafficking. In fiscal year 2005, two high ranking FARC officers were extradited to the United States to stand trial.

After the drug arrests, searches, and seizures have been completed by DEA, the Federal Government also has the responsibility to clean-up the toxic chemicals left behind at methamphetamine labs. This budget provides \$40 million to the Office of Community Oriented Policing Services for the clean-up of these toxic waste sites, an increase of \$20 million over the enacted 2006 level. The additional funding would ensure that DEA is able to respond to the increased workload to clean up methamphetamine laboratories seized by State and local law enforcement agencies and fund the start up costs for State container programs.

On November 28, 2005, President Bush outlined his plan to enhance America's homeland security through comprehensive immigration reform. Two major partners in this reform are the Department's Executive Office for Immigration Review (EOIR), and the Civil Division's Office of Immigration Litigation (OIL). The Department's fiscal year 2007 Budget requests significant increases to help EOIR and OIL keep pace with the growing workload resulting from DHS' increased border security efforts. A good portion of this workload is related to national security and is critical to the Department's mission to combat terrorism and violent crime.

The EOIR request includes an increase of 120 positions and \$8.8 million to meet additional caseload requirements that have resulted from the increased resources DHS has received for immigration enforcement from 2003 to 2006. For example, EOIR caseloads increased by 70,000 cases in 2005. In addition, the appellate caseload is expected to increase by approximately 4,000 cases annually. EOIR's requested increase is linked to DHS' increase of nearly 4,000 detention beds, which will be fully on-line by 2007.

Established in 1983, OIL has jurisdiction over all civil immigration litigation and is responsible for the nationwide coordination of immigration matters before the federal district courts and circuit courts of appeals. Since fiscal year 2001, OIL's caseload has more than tripled as OIL attorneys defend the government's efforts to detain and remove illegal aliens, many of whom are criminals or suspected terrorists. This budget provides 114 positions and \$9.6 million in enhancements to assist OIL's vigorous defense of the cases that are critical to the safety of our communities.

#### CRIMES AGAINST CHILDREN AND OBSCENITY

The Department is committed to fighting child pornography and obscenity as well as to protecting children from trafficking and other forms of exploitation. The Department works with other law enforcement agencies to target, dismantle, and prosecute predatory child molesters and those who traffic in child pornography. In 2005, the Department increased its efforts, charging 1,503 individuals and obtaining 1,220 guilty pleas and convictions in criminal cases involving predation of children.

The fiscal year 2007 budget request includes an additional \$2.7 million to combat crimes against children and obscenity, \$23.9 million for the Office of Justice Programs to direct to State and local law enforcement, and an enhancement of 26 positions and \$2.6 million for the United States Attorneys' Offices to bolster their efforts in combating child exploitation. These requests are complemented by \$50.9 million for the Missing and Exploited Children Program (MECP), which is the primary vehicle for building an infrastructure to support the national effort to prevent the abduction and exploitation of our Nation's children. The request includes support for the National Center for Missing and Exploited Children.

To enhance this work, I recently announced a new Project Safe Childhood initiative. This effort will be implemented through a partnership of United States Attorneys, Internet Crimes Against Children Task Forces, and other Federal, State, and local law enforcement officials in each district. These partnerships will investigate and prosecute crimes against children that are facilitated through the Internet or other electronic media. Communities will be able to design and execute programs tailored specially for their individual needs, while maximizing national resources and expertise. In fiscal year 2006, DOJ will award more than \$14 million to the Internet Crimes Against Children program, a national network of 46 regional task forces funded by the Department's Office of Justice Programs. In fiscal year 2005, federal prosecutors charged 1,447 child exploitation cases involving child pornography, coercion, and enticement offenses. The Criminal Division's Child Exploitation and Obscenity Section, in conjunction with the FBI's Innocent Images Unit, will fully integrate the Project Safe Childhood Task Forces by sharing local leads that develop from its major national operations.

#### CIVIL RIGHTS

In 2005, the Civil Rights Division secured more convictions against human trafficking defendants, increased the number of trafficking cases filed by over 30 percent, and doubled the number of trafficking defendants charged from the previous year. We need to continue to support this concerted effort. The Civil Rights Division has also reported record enforcement of laws that protect the right to vote, ensure the disabled can fully participate in their communities, and provide the highest standard of care for institutionalized persons. It is my goal to build on these successes while supporting the reauthorization of the Voting Rights Act and renewing the Department's commitment to the principle of fair housing.

In addition to an increased Civil Rights Division budget request of \$113 million, the President's 2007 Budget envisions the creation of Operation Home Sweet Home.

This initiative will focus on ensuring fair housing practices through improved targeting, increased testing, aggressive public awareness, and partnership with fair-housing organizations across the country. The initiative will include concentrated housing discrimination testing in areas recovering from the effects of Hurricane Katrina and bring to an all-time high the number of fair housing test investigations nationwide.

All Americans should have the same chance to pursue their dreams by earning a job, finding homes for their families, voting for their representatives, and living safe from fear and servitude. We will continue to aggressively combat discrimination wherever it is found.

#### PUBLIC AND CORPORATE CORRUPTION

Another priority for the Department is ensuring the integrity of government and business. Integrity in these institutions is the foundation for a strong America—both taxpayers and investors deserve nothing less. The Department is engaged in robust efforts to prosecute corruption, and I have called on Justice Department employees to preserve the integrity of our public institutions and corporations.

With several high-profile convictions over the last year, the Department has made great strides in this area. For example, former public relations specialist Michael Scanlon pleaded guilty to participating in a conspiracy to commit bribery, mail and wire fraud, and honest services fraud, and 40 defendants pleaded guilty in connection with Operation Lively Green, a widespread bribery and extortion conspiracy.

#### ENFORCING FEDERAL LAW IN THE COURTS

The Department of Justice serves as the Nation's chief prosecutor and litigator, representing the United States in court by prosecuting crime and enforcing federal civil laws. The Department's work includes protecting civil rights, safeguarding the environment, preserving a competitive market place, defending the national treasury against fraud and unwarranted claims, as well as preserving the integrity of the Nation's bankruptcy system.

As Congress puts more law enforcement agents on the street, the number of cases referred for prosecution continues to rise and the number of criminals incarcerated will climb. The fiscal year 2007 budget request includes enhancements of \$20.2 million to fortify the United States Attorneys' immigration and intellectual property crime prosecutions; enhance the Criminal Division's ability to investigate and prosecute intellectual property crimes; and provide sufficient resources to the Tax Division to handle an increased number of tax cases referred by the Internal Revenue Service. Also, the fiscal year 2007 budget includes additional resources for the United States Trustees to address new requirements imposed by the recently enacted Bankruptcy Reform legislation.

#### JUDICIAL SYSTEM SUPPORT AND INCARCERATION

As a result of successful law enforcement policies targeting terrorism, violent crime, and drug crimes, 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 2007 President's Budget requests significant resources to improve courtroom security and to provide for the detention and incarceration of those accused or convicted of violent crimes. During fiscal year 2005, the Nation's federal prison population rose 4 percent, an increase of 7,499 inmates. During the same period, the federal prisoner detention population rose 7.8 percent, increasing by approximately 4,558 detainees per day. The request provides additional resources for the Bureau of Prisons (BOP) and Office of the Detention Trustee (OFDT) to manage this growth, including funds for additional contract beds. The fiscal year 2007 Budget requests \$156.6 million in enhancements in these areas.

The United States Marshals Service (USMS) provides protection to federal courthouses, members of the federal judiciary, and witnesses associated with federal court cases. The fiscal year 2007 budget provides 37 new positions and an increase of \$4.6 million to enhance this mission. These resources will enable the marshals to detect, assess, and respond to potential threats in a timely manner and will strengthen threat analysis capability. This budget also provides new resources to make important upgrades to USMS information technology and financial management capabilities.

The Department's BOP and OFDT protect American society by providing for the safe, secure, and humane confinement of persons in federal custody. This budget provides \$1.3 billion for the OFDT and \$5 billion for the BOP. The costs of federal incarceration and detention account for almost a third of DOJ's annual discretionary budget. At present, there are over 189,000 inmates in federal custody, of which ap-

proximately 11 percent were arrested on immigration-related charges and over 53 percent were arrested on drug-related charges. The BOP request will provide an additional \$40.4 million to add contract beds at a new contractor-owned and operated low security prison in Philipsburg, Pennsylvania, to secure additional contract prison bed space and to begin the activation of a new housing unit at an existing correctional institution at FCI Otisville, New York, adding a total of 1,962-beds. This budget also provides funds to house an average daily detainee population of 63,000. These funds will support the Department's goal of ensuring zero escapes from federal detention and secure BOP facilities.

Criminals deserve to serve the time that they are sentenced in prison. However, once their time is served, they will re-enter society. The fiscal year 2007 Budget includes \$14.9 million for a prisoner re-entry initiative at the State and local level, designed to reduce recidivism and the societal costs of crime by helping released offenders find work and stable housing when they return to their communities.

#### STATE, LOCAL, AND TRIBAL ASSISTANCE

State and local law enforcement agencies are critical partners in the war against terror and the fight against crime. The 2007 budget includes over \$1.2 billion in discretionary grant assistance to States, localities and tribes. This funding includes \$66.6 million to strengthen communities through programs providing services such as drug treatment; \$44.6 million to fight terrorism; \$409 million to assist crime victims; \$88.2 million to combat crime, including enhancements to grant funding provided under Project Safe Neighborhoods; \$214.8 million for law enforcement technology, including funding to continue and enhance the Administration's DNA initiative; and \$209 million to support drug enforcement, including funding to continue the Southwest Border Drug Prosecution Program.

In addition to the requested funding at DOJ, the Administration has continued its commitment to provide funding to State and local governments for homeland security by including \$2.8 billion in funding for these programs in DHS' budget request for fiscal year 2007.

The Department's fiscal year 2007 request provides enhancements to strengthen our communities, including \$9.9 million for the Department's component of the Administration's offender re-entry initiative, which includes the participation of the Departments of Labor and Housing and Urban Development; \$13.9 million for Capital Litigation Improvement grants that provide training to private defense counsel, public defenders, State and local prosecutors, and State judges to improve the competency of all participants connected with the trial of State capital cases; \$59.3 million for Drug Courts; and \$68.4 million for the President's DNA initiative.

The fiscal year 2007 budget also contains \$29.8 million for local prosecutor offices in the four Southwest border states—California, Texas, Arizona, and New Mexico. This funding would provide for payment of approved prosecution and pre-trial detention costs for cases referred to local prosecutors by the United States Attorneys' Offices, and cases diverted from federal prosecution by law enforcement pursuant to a locally-negotiated agreement.

The fiscal year 2007 request for State and local resources also includes \$40.7 million in support of activities authorized in the Justice For All Act, including funds for the enhancement of the federal victim notification system as well as legal counsel and support services for victims of crime.

#### MANAGEMENT AND INFORMATION TECHNOLOGY IMPROVEMENTS

The Department of Justice is committed to providing the management and information technology necessary to ensure that our resources are used efficiently and effectively. The fiscal year 2007 President's Budget requests \$133.9 million in enhancements for critical Department-wide initiatives that support the Department's Strategic Goals and the President's Management Agenda.

##### *DOJ Financial Management*

The Department of Justice is committed to full accountability and continuous improvement in its financial operations, and we were extremely pleased to restore the unqualified audit opinion on our public financial statements this past year. However, independent auditors again identified material weaknesses in the Department's outdated financial systems, weaknesses that the planned Unified Financial Management System (UFMS) is designed to address. To that end, we greatly appreciated the funding provided by Congress in fiscal year 2006 for the UFMS project. That funding permitted us to make a contract award to begin implementation of the new system in the first two components (DEA and the Assets Forfeiture Fund). To continue this critical project in 2007, we are requesting \$25 million to complete the

component implementations begun this year and begin implementation work for three additional components, including the FBI.

*Other DOJ Information Technology Initiatives*

The fiscal year 2007 Budget request includes enhancements of \$18.1 million for the Justice Consolidated Office Network (JCON) to complete transition of the Bureau of Prisons to the JCON community. JCON provides a modern office automation system to multiple components using a common architecture for enhanced information sharing and interoperability. The request also includes \$9 million and 29 positions for USMS audited financial statements and technology enhancements, including \$3.9 million for the Justice Detainee Information System. The request also includes \$83.7 million for FBI information technology enhancements, including \$33 million for IDENT/IAFIS Interoperability activities.

The Department continues to evaluate its programs and operations to improve management and stewardship. Our goal is to achieve both component-specific and Department-wide economies of scale, increased efficiencies, and cost savings/offsets to permit us to fund initiatives that are of highest 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. Enhancements in management and information technology will ensure all DOJ components are able to function in an interoperable environment, particularly with respect to preventing terrorist attacks on the United States.

*Working for America Act Implementation*

The Working for America Act requires agencies to manage, develop, and reward employees effectively and to implement a new pay and performance system. Implementing this Act requires significant investments in training. The Department requests \$2 million to support the Working for America Act through the training of managers and supervisors in performance management and in using the new pay and performance system.

CONCLUSION

Mr. Chairman, Senator Mikulski, Members of the Subcommittee, I recently started my second year as Attorney General. I would like to take this opportunity to commend the people of the Justice Department. Each day I work with people who could be Chief Executive Officers in the private sector or partners at private law firms, but they all choose to serve their Nation by working for justice. They work for justice because they believe in the work we do to fight crime and safeguard the American people from terrorism. I am honored to work alongside them every day.

I ask for your support in providing the resources requested in the 2007 budget, so that we can fulfill our mission to safeguard the American people. I am honored to testify before you and look forward to working with you on this budget proposal and other issues.

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

STATE AND LOCAL PROGRAMS

Senator SHELBY. Thank you, Mr. Attorney General.

Just to touch on a few subjects, we have all brought them up, Mr. Attorney General, the Department of Justice, as I said earlier, is requesting a 51.6 percent funding cut for State and local law enforcement assistance programs. The Department expresses how critical State and local law enforcement partnerships are in homeland security and the war on terror but continuously proposes these cuts.

When you visited the gulf coast area devastated by the hurricanes of the 2005 season, what was the number one thing that State and local law enforcement officials needed from the Department of Justice in support of their recovery efforts?

Attorney General GONZALES. They needed resources. They needed training. They needed support. That is what they were asking for. Mr. Chairman, this budget does have cuts in certain programs—

Senator SHELBY. Sure.

Attorney General GONZALES [continuing]. That have benefitted State and local law enforcement. But I think if you study the budget, you will see that there is a lot of assistance being provided through this budget to State and locals in a wide variety of areas. There is \$1.2 billion in discretionary grants to State and locals, for example. There is \$66 million to help communities with issues like drug treatment; \$44 million to fight terrorism—these are grants directly to State and locals—\$409 million to assist crime victims; \$82 million to fight crime, including enforcement for Project Safe Neighborhood programs; \$214 million for law enforcement technology, including funding for the DNA databases; \$209 million to support drug enforcement, including funds for the Southwest border drug prosecution program.

And so, there is a lot of assistance and support for State and local agencies in this budget. I want to emphasize that. We understand how important these partnerships are. As I travel around the country, and I talk to State and local officials, I emphasize to them my commitment to continue working with them as hard as I can.

We have difficult decisions that have to be made in the budget. This budget represents the President's priorities. We think this budget does provide a large amount of assistance to State and locals, but it is targeted in a way that meets the President's priorities and ensures that we are accountable in the way these funds are spent, we are accountable to the taxpayers in this country.

Senator SHELBY. Mr. Attorney General, the budget also proposes a 44 percent cut from last year in juvenile justice programs. Why such a drastic cut on programs that impact our children?

Attorney General GONZALES. We have reduced juvenile justice programs by \$150 million; \$98 million of that is for demonstration programs that were earmarked funding that we simply are not requesting, and \$49 million of that was for the juvenile accountability block grant that did not fare well in our evaluation and analysis process of whether or not programs that we are funding are effective. There is insufficient accountability.

But we still fund \$188 million for juvenile justice, and I think we should also get credit for the amount of money that we spend on law enforcement to help kids in the area of gangs, prevention, reinforcement, and reentry; OJP programs focusing on child prostitution, the sex offender registry, the ICACs, which are the Internet crimes against children task forces; Amber Alert; the money we spend to fund for new prosecutors to go after people exploiting children, trafficking in children; money for drug courts.

So there is a lot of money in the President's budget to focus on crime specifically related to juveniles.

#### SEXUAL PREDATORS

Senator SHELBY. Mr. Attorney General, the rate of recidivism among convicted sexual predators remains alarmingly high. According to the National Center for Missing and Exploited Children, there are approximately 550,000 registered sex offenders in the United States. It is estimated that nearly 100,000 sex offenders have not registered or have failed to update their information. These people are normally obscure when living in our neighbor-

hoods but have been convicted of preying upon families and children.

Last year, the Department of Justice announced the creation of a National Registry website for sex offenders. Could you tell us about the registry, expand just a little on it, and any goals or successes the Department could share with us here? I think it is important.

Attorney General GONZALES. We did announce a National Registry which would allow parents to go online to determine whether or not there were sex offenders living in their neighborhoods. The registry is dependent on the information provided by State records. To date, all the States but two are now part of this registry. So we have made good progress in getting States to participate in this program.

There is, however, a problem, as I indicated. We are dependent on the records provided by the States and the upkeep of these records by the States, and we have discovered instances where some States are rather tardy in updating their records.

Senator SHELBY. Do they register them in different ways in different States?

Attorney General GONZALES. It is different information. That is right. We did not want to impose upon the States a uniform method of providing the information. This was a way that we could provide information to parents fairly quickly, without a great deal of cost to the States. So that is why we took this approach. In my judgment, it has been effective, but again, we need to work with the States to ensure that they are updating their databases as often as possible so that we have the most current information for parents.

Senator SHELBY. How can you meet the challenge, that is, there are an estimated 100,000 sex offenders who are unregistered? How can you work with the Justice Department and local law people to get these 100,000 people to register?

Attorney General GONZALES. Well, that is a very good question, Mr. Chairman. It is a challenge for the Department. As these offenders are, in fact, convicted, and first of all, we hope that there are requirements that they do register. If they do not register, there needs to be some kind of enforcement to ensure that there are consequences for it. But you are right. I do not have an answer for you, a good answer for you, Mr. Chairman. What I can tell you is that I am aware of the problem, and we will continue to work on it with State and local officials.

#### FEDERAL PRISON

Senator SHELBY. I want to get into the Bureau of Prisons. I mentioned that in my opening statement.

Attorney General GONZALES. Yes.

Senator SHELBY. A couple of prisons that you recommended last year and this year, one in West Virginia, one in New Hampshire for rescission. How and under what statute could you justify ignoring the direction of Congress 2 years in a row by rescinding funding for two prison construction projects? Could this be clarified as an impoundment of funds, or what is it?

Attorney General GONZALES. It is not an impoundment, Mr. Chairman, and it is not as a technical matter a rescission. No one has told the Bureau of Prisons or directed the Bureau of Prisons not to move forward with these two prisons. And in fact, with respect to the West Virginia prison, we expect that a contract for the design and planning will be let shortly and that there are sufficient funds in the budget for 2007.

With respect to New Hampshire, we anticipate that that contract will be let sometime in the fall, and we will have a decision by this subcommittee as to whether or not funds will be available in 2007 for the design and plans of that facility. If the subcommittee makes the decision to not provide funds for the design and the planning of that facility for 2007, then what we will have to do is see if there are other resources within BOP, see if there are other resources within the Department.

Again, if resources are not there, then what we will have to do is see whether or not we ought to look at—besides looking at building a new facility, is there a way we can renovate existing facilities? Is there a way that we can contract out for beds with State and local entities? We do need the beds, and the question is what is the most efficient way to obtain those beds? So that is my response to your question about the \$142 million.

Senator SHELBY. Thank you.

Senator Mikulski.

#### NATIONAL SECURITY DIVISION

Senator MIKULSKI. Mr. Attorney General, the Justice Department is tasked with playing a very important role in the global war against terrorism. Under the PATRIOT Act, my question is going to go to the National Security Division that has been created through the PATRIOT Act.

The 2007 budget includes the funding of \$67 million for this National Security Division. Could you share with the subcommittee what this money will buy? Essentially, how does it—because we have now been through a look at the PATRIOT Act. How will this \$67 million buy us more security, or is it buying us more bureaucracy?

And how, then, does that differ from the national security branch that is going to be at the FBI? And how does it all fit together, and how do you fit in with the DNI? Let us start with what we buy for \$67 million. That is a lot of money, and is this to stand up a new division? Is it to buy more gizmos and gear? Where are we heading here?

Attorney General GONZALES. Well, currently, we are talking about consolidating three branches within DOJ: The Office of Intelligence Policy and Review, the counterespionage section and the counterterrorism section. So we are talking about 226 individuals, 226 people with a budget of currently about \$48 million.

And so, what we are asking for in 2007 is for an additional \$19 million to add an additional 68 people to the National Security Division. You have to remember that part of what we are talking about is the branch that is responsible for preparing the applications for the Foreign Intelligence Surveillance Act (FISA). And there has been a lot of talk recently about FISA application and

whether or not we have sufficient resources to continue to make FISA an effective tool not only in the war on terror but against other foreign powers.

Senator MIKULSKI. You need \$20 million more and 68 people just to do FISA applications?

Attorney General GONZALES. Oh, no ma'am, that is not what I said, ma'am.

Senator MIKULSKI. And does it cost \$20 million to hire 68 people? That is expensive even by some Government accounting.

Attorney General GONZALES. Yes, ma'am. But in addition, of course, there are going to be startup costs in connection with consolidation of these units. It is going to require special technology. We want more secure technology so that they can communicate with each other and also communicate more effectively with the entire intelligence community.

And so, these are some of the costs that are going to be incurred. I would like the opportunity, Senator, to give you a more detailed breakdown.

Senator MIKULSKI. Is this an awkward place to have this, in an unclassified setting?

Attorney General GONZALES. No, ma'am, I do not think it is that, quite frankly. I just do not have the detail in my head that you are asking for. Okay; technology, the Sensitive Compartmental Information Facility (SCIF), we need more SCIFs and more intel analysts. So these are some of the additional things that we would need in connection with the startup of this division.

And you asked whether or not this is the creation of a new bureaucracy. You have to remember that this was one of the recommendations of the 9/11 Commission. They recognized that of all the departments, all the agencies that focus on the war on terror, here you have the Department of Justice claiming that terrorism is our number one priority, and yet, we had no central location, no central officer below the Attorney General and the DAG that was focused primarily on the national security of our country with respect to law enforcement matters.

And so, my hope and certainly my intent—this is not the creation of a bureaucracy, but we will make the Department more effective.

Senator MIKULSKI. If I could jump in, the FBI, first of all, I understand we are into the 9/11 Commission reforms. We recommended some essentially one-stop shops: the Office of DNI; now, this at the Justice Department. And I am not disputing the value. We want to implement the—absolutely passionate about implementing the 9/11 Commission's report. But then, it says the Criminal Division of Counterterrorism and Counterespionage. But does the FBI not also have this?

Attorney General GONZALES. Yes.

Senator MIKULSKI. And are you duplicating what the FBI does?

Attorney General GONZALES. Of course, their focus is in the investigation. We will be focused primarily on the prosecution side of it, and so, we will have different functions. And obviously, there will be a lot of interaction, and we will be working closely together.

Senator MIKULSKI. You mean the prosecution of terrorism?

Attorney General GONZALES. Yes, ma'am, but not only the prosecution of cases but also detection and prevention. Working with—

Senator MIKULSKI. Is that not what FBI is doing with detection and prevention?

Attorney General GONZALES. Yes, ma'am, and they will certainly be doing that as well.

Senator MIKULSKI. You see my question is are we all going to be bumping into each other.

Attorney General GONZALES. No, ma'am, we are not going to be bumping into each other. We have been working very hard.

Senator MIKULSKI. And I am not being sarcastic.

Attorney General GONZALES. And I do not take your comment as that.

Senator MIKULSKI. It has been 5 years since 9/11, 5 years, and I do not know if I feel safer. We in the Capital region still do not have a clear evacuation plan. We in the Capital region do not have interoperable communication. We do know in the Capital region local law enforcement talks with each other and works together, as we saw under the leadership of the FBI and ATF the way we handled the sniper, which is considered a national model of dealing with a crisis, for which we were very grateful and very proud. But—

Attorney General GONZALES. You asked whether or not we were safe.

Senator MIKULSKI. Do you see where—

Attorney General GONZALES. Yes, ma'am.

Senator MIKULSKI. And so, I am looking at whatever we do, it is not about new boxes and new bucks. It is about safety, security, and strength.

Attorney General GONZALES. Senator, I believe that this will make us safer, and I think we are safer than we were 5 years ago. We have taken tremendous steps with the assistance of Congress, and thank you for that, to give us additional tools to make America safer. I believe, and I think others believe, including the President of the United States, that having a National Security Division which focuses on our number one priority, which coordinates the law enforcement efforts to prosecute and to prevent terrorism, is something that is necessary for the Department of Justice and will make us safer.

You ask a legitimate question as to whether or not we are going to be bumping into each other. My goal is that we recognize that that cannot happen, and obviously, it is something that we have to be sensitive to as we stand up the National Security Division and as the FBI moves forward with the national security branch.

Senator MIKULSKI. Well, I know we will be pursuing this more when we talk to the FBI.

I want to be very clear about what I said about feeling safer. I want to say hats off to the people who work in the intelligence community, to the FBI and others who are doing due diligence, that I believe have detected, derailed, destroyed the predatory attacks coming into the United States. So it has been 5 years since an attack. So I want to acknowledge that.

But we have a lot more systemic reform that we need to do, and I sometimes am fearful that we get bogged down in boxes and charts and bureaucracy rather than safety and security. So I do not in any way doubt the energetic, dedicated work that people all over our country and all over the world who work for the Federal Government are doing to keep us safe, so I want to acknowledge that.

That is why we want the best organization, the resources that they need along with the training and management and technology, that they do it right. So my time is up on this. I know that we will come back.

Senator SHELBY. Senator Leahy.

#### CHOICEPOINT

Senator LEAHY. Thank you, Mr. Chairman. As I indicated in my earlier statement, I am concerned that the FBI signed a multimillion dollar licensing agreement with data broker ChoicePoint. I consider them the poster child for lax identity protection. They want to expand the use of software to help the Bureau analyze criminal organizations.

Just to put this into context, earlier this year, the FTC levied the largest civil penalty on record on ChoicePoint. They found that they had sold 160,000 consumer records to identity thieves. Last year in the Senate Judiciary Committee, we heard that because of this, hundreds of Americans were victims of identity theft, and people who have faced that sometimes can spend years and huge amounts of money to get out of it.

So now, we take the same company that has done horrible damage to their customers already, and they are to expand the FBI's analysis of criminal organizations. How do you justify entering into a multimillion dollar contract with ChoicePoint to handle sensitive investigative data about criminal enterprise operations when we know they are so lax that they used terrible judgment before with nonsensitive data, just normal data?

Attorney General GONZALES. Senator, obviously, there were mistakes made by ChoicePoint, and they have suffered the consequences for that. Let me just—

Senator LEAHY. Consequences, yes, they got a big fine, but why ChoicePoint? What is in their history that suggests that they know how to do this?

Attorney General GONZALES. The decision was our determination that this was the best contract for the Bureau. It is a contract for technology and software only. It is not a contract for data services. It is a \$12 million contract over 5 years, and I think that it reflects the best judgment that this was the best contract for the Bureau.

I want to emphasize that we understand the importance of respecting and protecting people's privacy, and we take those concerns very seriously. Those concerns were taken into account in connection with this contract.

Senator LEAHY. Well, you know, I want to beg to differ with you a little bit on taking the concerns of people's privacy seriously. Yesterday, the GAO found that the Justice Department, which uses private information services for law enforcement and counterterrorism and other investigations often does not even fol-

low Federal rules. You do not even follow your own laws in protecting Americans' privacy.

According to the report, the Department of Justice and three other Federal agencies spent about \$30 million last year on companies such as ChoicePoint that maintain billions of electronic files about adults' current and past addresses, family members and associates, buying habits, personal finances, listed and unlisted phone numbers.

I mean, this is going way beyond criminals or criminal organizations you are after. This is people in this room, tourists walking through this building or viewing the Grand Canyon or anything else. Now, what do you say about GAO? They say you are not even following the law. You are contracting out tens of millions of dollars. You are collecting a huge amount of data. Why should we feel more secure about this?

Attorney General GONZALES. Senator, obviously, the allegation that we are not following the law is a serious one. I have not read the GAO report, but obviously, we are going to study it very, very carefully, and if we are not doing what we are supposed to be doing, there should be consequences. We take our responsibilities very seriously, but again, I have not seen the report. I have not studied the report. I am not saying the report is incorrect.

Senator LEAHY. Mr. Attorney General, understand that I am not suggesting that you as Attorney General want to go and hand out this private data to crooks any more than I do or any more than anybody here. What I am saying is what level of competence are you requiring so that does not happen? Because it is not enough for us just to say, whoops, too bad if you have had somebody's life or their business ruined or their children's or their spouse's, or their medical records are all over the place, and they have lost their privacy. You see my concern.

Attorney General GONZALES. I do understand your concern, and I share your concern. There should be only one standard, and that is what the law requires to ensure that the personal data with respect to individuals is not compromised. You are correct: when that happens, it can be devastating to individuals. We have an obligation to ensure that we are doing everything we are legally required to do and perhaps beyond that to ensure the protection of this kind of information. If we are not doing that, Senator, I am going to—I want to know why and—

Senator LEAHY. Well, I have asked this question. I will be following up with you, and somebody should look carefully into it.

Attorney General GONZALES. Yes, sir.

Senator LEAHY. I was glad to hear you say you want to keep FISA helpful in your answer to Senator Mikulski's question; I am glad to know that you consider it helpful. Next time you are down at the White House, you might want to mention it to them that it is helpful, because the word has not gotten there.

#### CRIME VICTIMS FUND

I have one last question on the crime victims fund. I saw so many victims of crime when I was a prosecutor. It has gotten far worse now than it was then just because we have become a larger country, and crime has gotten even more vicious. The crime victims

fund has been so helpful all over the country, and now I find the administration wants to raid it of roughly \$1.25 billion by the end of the fiscal year. Last year, the administration tried to do that. Congress, in a bipartisan way, blocked it.

Now, this is not money from American taxpayers. It comes from criminal fines—

Attorney General GONZALES. And penalties.

Senator LEAHY [continuing]. And forfeitures. It has provided critical services: 4 million victims of domestic violence and sexual assault, child and elder abuse, drunk driving, all these other crimes, this is \$1.25 billion, what we will spend between now and the end of the week in Iraq. But we are cutting this from people here in the United States who desperately need it. How can you justify that?

Attorney General GONZALES. Well, Senator, there has been a cap on the use of this excess above what has been appropriated since, I believe, 2000 or 2001. And so, when you say how can you take this away from victims, the truth is we cannot even spend it on victims. There is an obligation cap on spending this money. What we are—

Senator LEAHY. Operation cap? This is going to leave it at zero going into 2008. I guarantee you, just go one dollar over zero, and we will spend that.

Attorney General GONZALES. We begin collecting receipts for 2008 in 2007. If we look at the record of the past few years, we can see the receipts will clearly reach a level of \$625 million, which is what both the administration and the Congress have indicated in the past few years is an appropriate level of expenditure with respect to—

Senator LEAHY. No, because last year, when you tried to cut it out, we put it back in, so now you are trying the same thing so we will put it back in?

Attorney General GONZALES. But, Senator, you said you put it back in—

Senator LEAHY. Big spending Congress?

Attorney General GONZALES [continuing]. We cannot spend it on victims. You characterize this as monies that are available for victims, and yet, you would not let us spend it. There is a cap.

Senator LEAHY. And drunk driving and child and elder abuse and a whole lot of other things. Maybe we are ships crossing in the night, but under your plan it is zeroed out by fiscal year 2008. How many of these organizations that are using this are going to be able to plan for it?

Attorney General GONZALES. We will commence collecting receipts for 2008 in 2007, and we will have a very good idea as to whether or not the receipts are going to be sufficient to meet the obligations.

Let me just emphasize that again, this administration is very much committed to crime victims. That is why we support the \$625 million to be spent on crime victims programs. What we are talking about is \$1.2 billion, which represents a perpetual float. It is not appropriate—well, I am not an accountant, but it seems to me it seems an odd accounting—I do not want to say gimmick—but procedure to include this in the budget when, in fact, it cannot be

spent for crime victims. And it simply rolls over year after year after year. We believe very strongly in ensuring that there is a large amount of money available for crime victims, and we believe \$625 million—

Senator LEAHY. Well, I think it is going to come as a huge surprise to a lot of people who deal with crime victims around this country that, gosh, we have got too much money for you to use. I know so many crime victims organizations that are desperate for money for battered women—

Attorney General GONZALES. But, Senator, you will not let us spend the money.

Senator LEAHY [continuing]. For abused children—

Attorney General GONZALES. You will not let us spend the money.

Senator LEAHY. What?

Attorney General GONZALES. You will not let us spend the money for crime victims above \$625 million. So to say that the—

Senator LEAHY. Well, let me put it this way: you say the Congress, so it is Congress' fault. Has the administration ever asked us to put more money or lift these caps?

Attorney General GONZALES. Well, I think the \$625 million is sufficient to meet the needs of crime victims.

Senator LEAHY. Okay. Thank you, Mr. Chairman. I appreciate the time.

Senator SHELBY. Senator Harkin.

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

#### BYRNE GRANT PROGRAM

Mr. Attorney General, I want to get back to the Byrne grant program. Funding has been eliminated in the budget. One of the rationales offered is that the program has not demonstrated a satisfactory level of performance results. You said in your opening statement that your budget cuts programs have not met our high standards.

However, the people in Iowa tell me that there has never been any effort on the part of the Bureau of Justice Assistance to actually measure the performance results of this program. Mr. Attorney General, has there been a valid effort to determine if Byrne dollars are working nationally as well as they are in Iowa?

Attorney General GONZALES. My understanding, Senator, is that with respect to the Byrne grant funds that are discretionary, they are all earmarked, and it is very, very difficult for us to determine whether or not they are being effectively spent. I do not know the answer to your question as to whether or not there has been some kind of effort by the Department to evaluate the effectiveness of these grants in your State, but I can certainly find out and get back to you.

Senator HARKIN. I am talking about nationally. I mean, you said that you cut these programs that do not meet your high standards and that have not demonstrated a satisfactory level of performance results. Well, how can you zero out the Byrne grant program when you do not know?

Attorney General GONZALES. Well, Senator, I think that again—

Senator HARKIN. May I correct one thing?

Attorney General GONZALES. Yes.

Senator HARKIN. You said that all the dollars were earmarked? Is that what you said?

Attorney General GONZALES. Well, with respect to Byrne grants, some are based on formulas to States.

Senator HARKIN. Yes, \$416 million was formula.

Attorney General GONZALES. And some are discretionary.

Senator HARKIN. \$167 million.

Attorney General GONZALES. Which are earmarked.

Senator HARKIN. \$167 million.

Attorney General GONZALES. All of it is earmarked.

Senator HARKIN. \$167 million.

Attorney General GONZALES. As I understand it.

Senator HARKIN. Pardon?

Attorney General GONZALES. As I understand, all of it is earmarked.

Senator HARKIN. \$416 million went out by formula.

Attorney General GONZALES. Exactly; some of it is by formula to the States, and a portion of it, which is discretionary, and all of that is earmarked.

Senator HARKIN. And that is \$167 million. I said that.

Attorney General GONZALES. Yes, sir, and part of the problem that we have with the earmarks is, quite frankly, it takes off the table the ability of nonprofit groups, faith-based organizations to compete for these dollars. They can provide services, very important needy services to the community, but they are precluded from doing so because these programs—

Senator HARKIN. Can you name me one NGO or faith-based group that is doing the kind of work that the local law enforcement people are doing under Byrne in fighting methamphetamine?

Attorney General GONZALES. Perhaps not on the law enforcement side, but of course, in fighting methamphetamine, we are focused well beyond law enforcement. We are looking at education; we are looking at prevention; we are looking at reentry, and so, clearly, there are NGOs and faith-based organizations that are involved in that effort.

Senator HARKIN. That is true, but that is in another funding packet. Where do you fund that? That is not funded under Byrne. Byrne is for law enforcement.

Attorney General GONZALES. Well—

Senator HARKIN. I still want to get back. I mean, how can you say it has not met your high standards when there has not been any effort done to quantify performance results?

Attorney General GONZALES. Senator, I did not say that there has not been an effort. Let me find out and confirm that with you.

Senator HARKIN. Well, I have reviewed the publicly available so-called performance assessment rating tool, PART analysis of the Byrne JAG program. It does not contain any feedback from any of the program participants or beneficiaries. Again, I would think that feedback and actual results, which I can compile, would be included in any type of review. Why would that not be included?

Attorney General GONZALES. Well, Senator, let me just say this, and I would like the opportunity to get back to you to respond to

your question. I want to make sure that I give you the most accurate information that I can. But in terms of while Byrne grants may have been zeroed out, we are giving a lot of money to States, to local communities on a wide variety of issues including drugs, \$10 million for the prescription drug monitoring program; \$70 million for drug courts.

And so, the fact that Byrne may have been cut does not mean that State and locals are not receiving Federal dollars with respect to some of these programs. What we have done is identified those priority areas for this President and focused money on those priority programs.

Senator HARKIN. Well, all I can say is that just between 2005 and this year, Iowa absorbed a \$2 million cut, 42 percent of the funding. And again, this paid almost exclusively for drug task officers going to have to be laid off in the middle of a meth epidemic.

And again, I recognize you have to have education. We need more money for rehabilitation. We do not have enough money in there for meth rehab. The recidivism rate is very high, because we know that to effectively get people over the hump on meth, it takes 6 months to 1 year. Yet, we are treating them for 6 weeks, and then, we are wondering why they are showing back up in our jails and our prisons again. So we do not have enough money for that either. But I am really upset. As far as I have heard from law enforcement all over this country, the Byrne grant program has worked. It is working well.

I just want to say one other thing for the record, Mr. Attorney General. On the issue of performance results, States are required to report the results of the Byrne grant program to the Bureau of Justice Assistance. Last year, my staff asked BJA about this reporting. They were told that 20 States had not met the deadline to turn in their reports. So we investigated that. We called these States. And then finally got back to BJA, and they conceded that, in fact, only Guam and American Samoa had failed to turn in their performance results. We were being told that 20 States had not.

So again, this all calls into question your justification for eliminating the program. You say you are going to get back to me on it. I appreciate that. But what in the meantime do I tell law enforcement officers in Iowa and others when I see the budget eliminated? You know, again, I just see no justification for it whatsoever. And I still do not know the answer as to why it has been eliminated. But if you can get back to me on that, I would appreciate it.

[The information follows:]

#### CUTS TO BYRNE JAG PROGRAM

In order to focus departmental resources on counterterrorism, which is and must be the Department of Justice's (DOJ) overriding priority, the Administration was required to make difficult choices in this budget proposal.

The President's fiscal year 2007 budget proposal recognizes the Federal government's responsibilities in regard to supporting effective law enforcement and improving the nation's criminal justice system. If approved as proposed, the President's fiscal year 2007 budget will provide over \$1.2 billion to State, local, and tribal law enforcement through the U.S. Department of Justice. This includes \$66.6 million to strengthen communities through programs providing services such as drug treatment; \$88.2 million to combat violence, including enhancements to Project Safe Neighborhoods; and \$209 million to support drug enforcement, including funding to

continue and expand the Southwest Border Drug Prosecution Program. The initiatives included in this proposal were selected by concentrating scarce resources on the highest priority criminal justice issues; promoting effective, evidence-based approaches to improving law enforcement and criminal justice system capabilities; and eliminating funding for programs that could not demonstrate results.

The proposed elimination of the JAG Program in fiscal year 2007 is based on this program's inability to clearly demonstrate its effectiveness. During the fiscal year 2005 PART assessment of the JAG Program and its predecessors (the Byrne Formula Grant Program and the Local Law Enforcement Block Grant), OMB concluded that these programs have not been able to clearly demonstrate through quantifiable performance measures that they had achieved nor were making progress toward their goals. In light of the broad array of assistance offered to State, local, and tribal law enforcement agencies through OJP, the Administration determined that the funds currently devoted to the JAG Program could be used more effectively elsewhere.

#### VIOLENCE AGAINST WOMEN ACT

Senator HARKIN. One last thing, Mr. Attorney General, and that is the Violence Against Women Act. The President hailed the reauthorization of it when he signed the bill in early January, but in February, the budget provided no funding for any of the new programs authorized by the Violence Against Women Act. That included \$50 million in funding for victims of sexual assault. I was just visited in my office this morning by some people regarding that.

It is the first time that sexual assault victims received dedicated funding. And again, if you have any information on that at your fingertips, I would like to know why there was not any funding for any of the—

Attorney General GONZALES. Well, Senator, I believe that the President's budget does include \$347 million for the Office on Violence Against Women. So perhaps I need to go back and check my figures, and I am happy to do that. If we need to give you more information about what we are doing for victims of violence, be happy to do that.

Senator HARKIN. Well, I would appreciate that, because I am told that there is no funding for any of the new programs, one of which is in funding for victims of sexual assault. It is the first time that they received dedicated funding, and there was no funding for it.

Attorney General GONZALES. I would be happy to look at that. [The information follows:]

#### VIOLENCE AGAINST WOMEN ACT FUNDING WITHIN THE DEPARTMENT OF JUSTICE

The 2007 President's budget for the Office on Violence Against Women (OVW) is \$347,013,000. An additional \$21,869,000 is requested for victims of child abuse programs administered by the Office of Justice Programs. These amounts do not include increased funding or new initiatives based on the recently enacted reauthorization of the Violence Against Women Act (VAWA), due to the fact that the reauthorization was signed just prior to the release of the 2007 President's budget. As the Administration prepares future budget proposals, the reauthorization will be considered. In the interim, OVW is actively working on a plan to make the changes directed by the new legislation for the current VAWA grant programs.

Senator HARKIN. I appreciate that. Thank you, Mr. Attorney General.

Thank you, Mr. Chairman.

Senator SHELBY. Senator Kohl.

Senator KOHL. Thank you, Mr. Chairman.

## BYRNE GRANTS

Just to conclude the Byrne grant questions, Mr. Attorney General, if you talked to police chiefs or sheriffs all across my State, all across the country, they say that the Byrne grant program is the backbone of Federal aid for local law enforcement. Now, it has been for many, many years. They have always attested that it was a good program, that the funds were used carefully.

As you know, the funds are appropriated down to the local level so that each dollar becomes very important. We are not talking about billions. We are talking about, you know, millions and thousands and hundreds of dollars so that they see that these dollars are used very efficiently. I think there is ample evidence that that is true.

Now, you have not told us why you would see fit not to cut this program but to scrap it. Did I hear your explanation, or have you not given it?

## STATE AND LOCAL PROGRAMS

Attorney General GONZALES. Well, let me try to clarify what I have said. With respect to Byrne, this has been a difficult decision. The decision was made that we have got to be more focused on the priorities of the administration. And if you look at the money that is going to State and locals, there is a lot of money that is being spent for State and locals on areas like terrorism, \$40 million for terrorism. And so, it may not be going through a Byrne grant, but there is \$40 million going to State and locals regarding terrorism; to reduce crime, \$16 million for VCIT programs; \$59 million for Project Safe Neighborhoods; \$15 million for gang training and technical assistance; \$10 million for prescription drug monitoring; \$7 million for drug courts; \$15 million for ICACs; \$22 million for trafficking; \$2 million for sex offender registry; \$347 million for Office on Violence Against Women; \$106 million for DNA; \$40 million for the national criminal history improvement program (NCHIP); \$30 million for Southwest border prosecution; \$50 million for the weed and seed program; \$31 million for Indian country problems; \$40 million for meth cleanup; \$3.9 million for training.

The point is, Senator, there is a lot of money going to State and locals. We have simply decided that it is better—we have a responsibility to the taxpayers to ensure that the monies that are being allocated to the States are focused on specific programs which we believe are effective, which we believe affect the most pressing needs of our communities.

And we believe it is a more effective way to provide monies out to deal with local issues. This does not reflect in any way a lack of commitment to working with State and local officials who we consider our partners. We want to continue to build on that relationship, but we have a responsibility, too, to the taxpayers, and we believe this is a more responsible way to get dollars down to State and local officials.

Senator KOHL. Are you saying that these programs total up to as much as more than the Byrne grant program.

Attorney General GONZALES. No, sir, I am not saying that.

Senator KOHL. I see.

Attorney General GONZALES. I am not saying that, no, sir.

Senator KOHL. I think when we add up the dollars, Mr. Attorney General, we are talking about cuts, significant cuts.

Attorney General GONZALES. But, sir, I am not sure that our service to our communities can be measured solely in the dollars. The dollars have to be spent efficiently and wisely, and I know as a businessman, you understand that and can appreciate that.

And so, that is the question: are we spending the taxpayers' dollars efficiently and wisely on programs that are targeted on the greatest needs in our communities?

Senator KOHL. But you have never assessed the program. You are apparently saying the money was not being spent efficiently. You are sort of winging it when you say that, and I do not want to use that word inappropriately.

Attorney General GONZALES. Yes, sir.

Senator KOHL. So we are just going to cut it.

Attorney General GONZALES. No, Senator, what I am saying is that we have identified in this budget the President's priorities: the pressing needs within the communities, and the decision has been made that we ought to take the monies in the budget and target those needs and focus dollars on the programs that address the most pressing needs.

Senator KOHL. That is fine, and I appreciate that. I think these scarce dollars that have been appropriated to local law enforcement should not have been cut; now, of course, we can have a difference of opinion on that, and it is very strongly felt out there at the local level, where I know you are focused.

Attorney General GONZALES. Sir, I hear about it when I travel. Obviously, this is an important issue. But I think, and I may be wrong about this, but I think State and local officials, they care about the dollars. I am not sure that they care that they be funded through the Byrne program. If there is another way that the dollars are getting down to the State and local officials, obviously, that is what they care about.

Senator KOHL. Just one other, and then, I will turn it over to Senator Murray.

#### COMMUNITY ORIENTED POLICING SERVICES

The COPS program, as you know, was a brilliant program for several years. It was universally acclaimed as being successful. It was at \$1 billion at its zenith, and now, it is basically zeroed out. Now, when Attorney General Ashcroft was here several years ago, and we asked him about it, I want to quote what he said: he said the COPS program was, quote, a good thing, quote, that it had worked very well, and quote, that it had been one of the most successful programs that we have ever had, quote.

So now, we are talking about taking a program that did as much good around our country again at the local level, which is where it is all about, and we are just saying let us forget about it. Why would you do that?

Attorney General GONZALES. Let me just echo General Ashcroft's comments about the importance of the COPS program. Putting more people on the streets, I think, is one reason we have had a reduction in violent crime across America. The COPS program in

terms of hiring more cops was focused on getting 100,000 cops on the street by a certain period of time.

We met that goal. I do not believe it was ever intended that we would continue to make monies available to continue to fund more hiring of State and local police officers on the streets. Now, having said that, there is still \$400 million in proposed appropriations for the COPS program. There is \$102 million for COPS-administered programs, including \$31 million for Indian country issues, \$40 million for meth cleanup, \$3.9 million for training of State and local officials.

And so, this notion that we have zeroed out COPS, there is no money for hiring additional police officers, but that was reflected in last year's budget approved by Congress. There were no additional COPS dollars for hiring police officers. That is the budget that Congress passed. And so, this is consistent with what Congress did in 2006, and I would just again remind you that there is \$400 million in proposed appropriations in the COPS program.

Senator KOHL. Thank you, Mr. Chairman.

Senator SHELBY. Senator Murray.

#### DRUG CARTELS

Senator MURRAY. Well, thank you very much, Mr. Chairman. Let me ask you about the meth program, because I am deeply concerned that—well, back in 2001, actually, a Drug Enforcement Administration estimate said drug cartels made up 80 percent of the meth consumed in the United States, and that has probably increased since then because of the crackdown we have done on some of the home mom and pop production.

But what we do know is that these cartels require about 200 metric tons of ephedrine and pseudoephedrine every year, and it is about 10 percent of the world's output of those legal chemicals. I am very concerned that we may be missing an opportunity to work with chemical factories abroad to prevent the cartels from getting their hands on these chemicals, and I wanted to know what you and the administration are doing to go after these cartels and their suppliers to stop the flow of meth into our communities.

Attorney General GONZALES. Those are all very good questions, Senator. I am sure Administrator Tandy will be able to amplify on what I have to say.

We are working with countries like China, Germany, and India to restrict the import of precursor chemicals into Mexico, because you are right, it is a serious problem. And we are working closely with our counterparts in Mexico about this issue. I have had several meetings with the Mexican attorney general. He and I are attending an anti-meth conference in Dallas in May, because he understands how serious this issue that we can do, we can pass all the laws here at the Federal level and at the State level which have been successful with respect to reducing mom and pop labs, but if we do not have some help from Mexico and the law enforcement efforts there, it is a tough, tough battle.

And so, I share your concern. We are focused on it. I know Administrator Tandy is working on this issue, and Mexico has already passed legislation to—maybe not legislation; could be regulations to deal with limiting access to precursor chemicals as well. But you

are right: the problem is that we have to put limits or try to retard efforts to have precursor chemicals come in from other countries, and we are doing that.

Senator MURRAY. Good, we do not want to miss that, because I think it is the gorilla in the room if we are not focused on these drug cartels and where they are getting their supplies, so I really encourage you to do that and want to hear more about that as we go along.

#### NORTHERN BORDER

Let me ask you another question, because the importance of local law enforcement agencies having the ability to work closely with their Federal counterparts has never been more significant, and in my opening statement, I talked about the concern I have about the need to increase Federal, State, and local law enforcement partnerships.

In my State, southwest Washington is an area where law enforcement continues to talk to me about the need for an increased Federal presence. Vancouver, Washington right on the border, Columbia River, is now the fourth largest city in Washington. It is projected to be the second largest by 2010, and as you probably know, Federal agents cannot cross over the Columbia River, because that represents the dividing line of Federal jurisdiction.

What that means is that southwest Washington's primary offices for Federal assistance are located more than 100 miles away, and there is a lot of threats we are hearing about including organized crime and drug trafficking. So a Federal presence in Vancouver is really essential for our State.

And I wanted to know, I know we got about six new staff a few years ago, but I would like to ask if you would be willing to work with my office and law enforcement stakeholders in our region to take a look at this situation and really help us find some solutions to this.

Attorney General GONZALES. Senator, I am told, and I do not know how current this information is, that the Department has 769 personnel in your State. We may only have two agents in Vancouver.

Senator MURRAY. Correct.

Attorney General GONZALES. Period; that may be the sole scope of our presence.

I am not sure that that is right, and so I have asked our folks to look at this issue, and I would be happy to work with you on it.

Senator MURRAY. I would really appreciate if we could get together and focus on that with some of the folks from southwest Washington. I think we need to come up with some solutions for them. It is really becoming more and more critical.

I also wanted to talk to you about the challenges facing our northern border States with respect to some of the typically border related cases. You and I have talked about this before. We are seeing increased border apprehensions for drug smuggling, money laundering, other crimes because we have increased the number of people on the border.

The southwestern States, as I said, have a Federal program for reimbursement. We do not have a similar program at the northern border, and this really puts a tremendous burden on our local officials. I know they have talked to you. I know Senator Cantwell and I have mentioned this many times.

I wanted to find out would you support an effort to expand the southwest border prosecution initiative program to our northern border States?

Attorney General GONZALES. I would be happy to talk with you about it. I worry about the fact that 70 percent of our immigration cases are on the southern border, and 30 percent are on the northern border.

[The information follows:]

#### NORTHWEST BORDER SECURITY

The Department does not support an effort to expand the Southwest Border Prosecution Initiative to the Northern Border at this time. A review of the Department's statistics indicate that 68 percent of all immigration cases occur on the Southwest Border (12,318 immigration cases were filed in the Southwest Border Districts out of a total of 18,147 immigration cases filed nationwide in 2005). Furthermore, the Department did an extensive study of this issue and determined that while both borders share some of the same vulnerability the security of the SW border requires significantly more resources and personnel to address the explosion of people crossing the border illegally.

Senator MURRAY. But I would remind you that Ahmed Rassam came through the northern border.

Attorney General GONZALES. No question about it. Obviously, we need to be concerned.

Senator MURRAY. I believe there was an investigation a few weeks ago that showed that a dirty bomb could get through that came through the northern border in my State.

Attorney General GONZALES. No question about it.

My own view of reimbursement of costs of State and local officials is that quite frankly, the Federal Government needs to do its job. It needs to do a better job of securing the border so that you do not have the kinds of burdens that we see today on municipalities and State governments. So I think that should be our focus. In terms of focusing on reimbursement, I think we ought to be focusing on, quite frankly, the Federal Government doing its job, but I would be happy to talk to you about it.

Senator MURRAY. Well, we had the same conversation 1 year ago. It feels like we are in the same spot; no changes.

So I would really like to hear from you if you could get a response back to us how we are going to deal with this critical issue.

Attorney General GONZALES. Yes, ma'am.

Senator MURRAY. Thank you.

Senator SHELBY. Mr. Attorney General, we appreciate you appearing here today, and we appreciate your service to the Nation. We have a number of additional questions we will submit for the record, and we would appreciate your timely response if you can do it as soon as you can.

Attorney General GONZALES. I will, Mr. Chairman.

## FEDERAL BUREAU OF INVESTIGATION

**STATEMENT OF ROBERT MUELLER, DIRECTOR**

Senator SHELBY. And at this time, we would like to call the second panel of witnesses. They are Director Robert Mueller, Director of the Federal Bureau of Investigation; Administrator Karen Tandy, Drug Enforcement Administration; Director Carl J. Truscott, Bureau of Alcohol, Tobacco, Firearms and Explosives; and Director John Clark, United States Marshals Service.

Director Mueller, we will start with you. If you could just sum up briefly, because we have enough; your top points. We welcome you to the subcommittee, and we also appreciate your service, all of your service to the country.

Mr. MUELLER. Thank you, Mr. Chairman, and thank you for having me today, and thank you, Senator Mikulski, Senator Leahy, for being here. Thank you for the opportunity to testify today in front of you. I want to thank you also for the funding that was provided to the FBI in the Hurricane Katrina supplemental, and I understand yesterday that the 2006 war supplemental may also have passed through the Senate, and we thank you for your support there.

## NATIONAL SECURITY BRANCH

My testimony sets forth the details supporting the budget request of the over 31,000 positions and \$6 billion, and I do not want to spend a great deal of time on that because it is in my written remarks. I will say, I want to spend a couple moments at the outset first of all talking about the national security branch that was approved in September. And the mission of the national security branch, as you are well aware, is to position the FBI to protect the United States against weapons of mass destruction, terrorist attacks, and foreign intelligence operations.

With regard to the budget for the national security branch, we have asked for \$25.8 million for resources to respond to terrorist threats and incidents such as those posed by weapons of mass destruction; \$15 million for essential infrastructure enhancements; and \$16 million to support our core intelligence processes.

I do want to make the point that while national security efforts remain our top priority, we continue to fulfill our crime fighting responsibilities as well. Public corruption is the top criminal priority for the FBI. In the last 2 years, our investigations have led to the conviction of over 1,000 Government employees involved in corrupt activities, to include 177 Federal officials, 158 State officials, 260 local officials, and more than 365 police officers.

At the same time, we continue to focus on implementing the national gang strategy along with ATF. This strategy is designed to identify the prolific and violent gangs in the United States and to investigate, disrupt, and dismantle their criminal enterprises.

## SENTINEL

Having made those two points, Mr. Chairman, I would like to spend a couple of moments to focus on Sentinel, which was raised in your opening remarks. As you are aware, as we have discussed, on March 16, we announced the award of a \$305 million contract

to Lockheed Martin for the development, operation, and maintenance of the Sentinel program. And I would like to spend a couple of moments responding to anticipated questions and some of the remarks you made in your opening comments.

As you are aware, the \$305 million contract cost constitutes approximately \$232 million for development of Sentinel, and this new information management system will be developed over a period of approximately 4 years and will be deployed in four phases. We anticipate completion of the first phase approximately 1 year from now. And as each phase is completed and deployed, we will begin to incur costs for operation and maintenance or O&M, as it is called.

After completion of the final phase in 2009, we have the opportunity to exercise the option for Lockheed Martin to continue providing O&M for an additional 2 years, through 2011.

With regard to these four phases, each phase will deliver a new standalone capability and will provide greater access to existing information and will, as importantly, facilitate the input of information into the system and the dissemination of information to others both inside the FBI as well as to our partners outside the FBI. In addition, Sentinel will provide the FBI a system that is flexible and adaptable to address future advances in technology and changes in our mission and the threat environment.

I know that, Mr. Chairman, you are concerned as we are concerned about the success of this program, and to ensure the successful and the timely completion of Sentinel within budget, we have structured the contract with Lockheed Martin in such a way as to provide clear requirements, deliverables, and milestones. The contract is also structured so that each phase is an exercisable option. And in addition, we have invited close scrutiny of each phase of the Sentinel process through multiple venues, both internal and external.

We have created a strong program management office for Sentinel and staffed it with skilled technical, programmatic, business management, and administrative subject experts. In fact, two of our program management employees have recently been honored by industry for their leadership and their accomplishments.

We also have independent contractors who will conduct verification and validation reviews of the Sentinel program, of the management office, of the Lockheed Martin's performance and the performance of the subcontractors in order to ensure proper execution and delivery of Sentinel. We have asked the GAO and the inspector general to work with us as we undertake this 4-year program to ensure that we are on the right track.

We are aware of the GAO's recently released report to which you alluded in your remarks, and we welcome that report, and we have established safeguards for Sentinel, as has been recommended in that report by GAO. The Justice Department inspector general will be conducting audits of Sentinel throughout the development and implementation of the program as well, and it recently released its first report on the preaward phase of Sentinel, which in part confirms that we are addressing the issues identified in the GAO report.

The Deputy Attorney General, the Department of Justice Chief Information Officer, the Office of the Director of National Intelligence, the Office of Management and Budget, are all meeting periodically with the Sentinel program manager and senior FBI management to ensure that Sentinel is proceeding as planned.

We have engaged as well outside experts to help us review and assess the implementation of Sentinel, and finally, Sentinel will be subject to close congressional scrutiny. We are committed to keeping this subcommittee and/or other oversight committees informed as we move ahead.

Mr. Chairman, we believe that the extensive internal and external oversight I have just described will ensure the successful delivery of Sentinel, and even so, we are ever mindful of the challenges of the past, and I believe we have learned from what went right and what went wrong with Trilogy. And I know you have a number of concerns, and I would like to briefly address three of those concerns, which you mentioned in your opening statement.

#### VIRTUAL CASE FILE PROJECT

First, the cost to the taxpayers of the Virtual Case File project as compared with this project: if you recall, sir, in the beginning of 2004, we were presented with Virtual Case File by the contractor. It did not work. We went into negotiations with that contractor. We were told that it would take \$50 million in addition to the \$170 million to get a project or a product that would work.

We employed outside independent contractors to come in and see whether it was worthwhile spending that money. They said no. That contract ultimately would have been around \$220 million if we were lucky. This is around \$232 million for the same development, but it is a development of a product that will put us on a firm foundation in the future.

Let me turn to the deficiencies in the GAO report. As I mentioned briefly, we have taken, we have looked at those deficiencies. We have established a new unit to address those deficiencies that were identified in the GAO report, and I believe that we, with that new unit, we will be on top of the matters that were pointed out to us by the GAO.

#### SENTINEL

And last, Mr. Chairman, I know that there were concerns about two of the subcontractors on the Sentinel project. One of those subcontractors was involved in providing training to employees under the Trilogy project, but that was not an issue with regard to the successes and/or the failures of Trilogy. The other subcontractor acquired an entity that had previously performed work on the Trilogy project, but that division has nothing to do with providing work on the Sentinel project.

Let me finish by summarizing and saying that we recognize that Sentinel is a large project and a large investment for the taxpayers of the United States.

Senator SHELBY. But an important one.

Mr. MUELLER. But a very important one, and it is important to the men and women of the FBI, who need this technology system, and I can tell you that we have learned from the mistakes of the

past. We are intent in bringing this home, and we have, in Lockheed Martin, I believe, a partner who will get us across the finish line.

And with that, I would be happy to respond to any questions on this or any other issues.

Thank you, Mr. Chairman.  
[The statement follows:]

#### PREPARED STATEMENT OF ROBERT S. MUELLER III

Good afternoon, Mr. Chairman, Senator Mikulski, and Members of the subcommittee. I appreciate the opportunity to appear before you today to discuss the President's fiscal year 2007 budget for the Federal Bureau of Investigation (FBI). I also would like to thank you for passing the fiscal year 2006 Katrina supplemental which included \$45 million for the FBI. Our employees in the Gulf region endured great suffering and devastating property loss in the aftermath of Katrina. In addition to the horrific personal toll the storm took on the people of the Gulf region, the FBI offices in New Orleans, Beaumont, Gulfport and Pascagoula were either severely damaged or completely destroyed. However, your funding is helping to rebuild our offices, put our employees back to work, and enable us to bring our capabilities back to pre-Katrina levels.

With this Committee's help, the FBI was able to establish Katrina Fraud Task Forces, in Lake Charles and Lafayette, Louisiana, to investigate and prosecute those unscrupulous individuals who seek to benefit from this national tragedy. We intend to continue this important work as the Gulf region recovers.

#### 2007 BUDGET REQUEST

The fiscal year 2007 budget totals 31,359 positions and \$6.04 billion. The net fiscal year 2007 program increases total 75 positions. Our fiscal year 2007 budget is focused on enhancing and improving our infrastructure. Since September 11th, the FBI has undergone significant reorganization and tremendous personnel growth. However, FBI Headquarters (HQ) facilities and infrastructure programs have not kept pace with our transformation from a law enforcement entity to a key player in the Government's war against terrorism.

As an agency, we must find the proper balance between expanding our workforce and supporting on-board employees with the technology and infrastructure necessary to accomplish our dual mission as both a law enforcement and an intelligence entity. I believe the fiscal year 2007 budget will go a long way in rectifying the gaps between our rapid growth in personnel and our current infrastructure.

#### IMPROVING PHYSICAL INFRASTRUCTURE

The FBI's space for handling and storing classified information is currently inadequate. We are formulating a strategy to address Sensitive Compartmented Information Facility (SCIF) space requirements. The primary objective of the FBI's plan is to provide SCIF space and SCI connectivity to key national security field facilities by the end of calendar year 2007 which will be accomplished using resources requested in the fiscal year 2007 President's Budget.

In fiscal year 2007, the FBI is requesting \$33 million in construction funding for SCIF expansion. This funding would allow for information sharing between the FBI and our partners within the Intelligence Community (IC), as envisioned by the President and Congress. Without this SCIF expansion, the FBI cannot ensure an adequate intelligence infrastructure to achieve our strategic goals. In the fiscal year 2006 conference report you requested that we develop a plan to prioritize our SCIF expansion program. This report is currently under Administration review and we look forward to discussing it with the Committee once it is released.

We are also requesting \$8.8 million to acquire additional space for an FBI Headquarters Annex which would be located in the Washington, D.C. metropolitan area. Most of FBI's Headquarters components operate in fragmented and overcrowded office space. The FBI must secure an additional 150,000 square feet of useable space in order to accommodate the needs of new personnel coming on-board through fiscal year 2007.

The current FBI Academy training facilities located at Quantico, Virginia are inadequate to address the training needs of our analysts and Special Agent personnel. Most of the Academy's facilities were designed in the late 1960s to accommodate small groups in a traditional classroom training setting. However, given the FBI's growth and dual mission requirements, the Academy can no longer support our ex-

panding needs or provide us the forum to develop a world-class cadre of intelligence professionals.

After the September 11th terrorist attacks, the FBI developed and implemented professional training for Intelligence Analysts (IA) throughout the FBI. In October 2001, the Center for Intelligence Training (CIT), formerly known as College of Analytical Studies, was established at the FBI Academy. The CIT was established to improve the FBI's analytical capabilities to meet our present and future investigative responsibilities. All courses delivered by the CIT are designed to support the FBI's Counterterrorism (CT), Counterintelligence (CD), and analytical missions. The CIT experienced significant growth during its first years of operation and, based on expected hiring levels of new IAs, the FBI expects the CIT to continue to expand its operational and training missions.

In the fiscal year 2007 budget, we are requesting \$6.3 million to upgrade our CIT facilities by beginning the process of designing the CIT training center at the FBI Academy complex in Quantico, Virginia. The CIT will be a major element in continuing to promote and develop the FBI's leadership training for FBI-wide, State/local, and international law enforcement personnel.

We are also requesting \$11.9 million for interim space at the FBI Academy for the FBI's Hostage Rescue Team (HRT). Although HRT's current space was built to accommodate only 50 employees, there are currently more than 200 staff members using this limited space. As with many FBI units, HRT's responsibilities have increased enormously since the September 11th terrorist attacks. Over the past 3 years, the HRT has been deployed on 159 occasions, of which over 62 percent were related to counterterrorism. The HRT was also utilized in support of search and recovery efforts in the aftermath of Hurricanes Katrina and Rita. Much of HRT's work is sensitive in nature and must be conducted in a secure area.

#### INFORMATION TECHNOLOGY

We continue to upgrade and enhance our technological infrastructure. In our fiscal year 2007 budget, we are requesting \$100 million for Sentinel. Sentinel will leverage technology to reduce redundancy, eliminate inefficiencies, and maximize the FBI's ability to use the information in its possession. Our objectives for Sentinel include the following: (1) Deliver a set of capabilities that provide a single point of entry for investigative case management and intelligence analysis; (2) Implement a new and improved FBI-wide global index for persons, organizations, places, things and events; (3) Implement a paperless information management and work-flow capability; and (4) Implement an electronic records management system.

I want to stress that the Sentinel program is not a reincarnation of the Virtual Case File. In the past few years we have struggled with our information technology programs. However, we have learned hard lessons from our missteps and we are doing things very differently this time. Each phase of the Sentinel contracting process is being closely scrutinized by a team of FBI technical experts, the Government Accountability Office (GAO), the Office of Management and Budget, and the Department of Justice's Chief Information Office and Inspector General. Furthermore, at this Committee's recommendation, we have also engaged outside experts to help us review and assess the implementation of Sentinel.

On March 16, 2006, we announced the award of the contract for development of the Sentinel to Lockheed Martin. Under the terms of the \$305 million, 6-year contract, Lockheed Martin and its industry partners will use proven commercial off-the-shelf technologies to produce an integrated system that supports processing, storage and management of the FBI's current paper-based records system. The program includes an incremental development and delivery of Sentinel capabilities including \$73 million for operations and maintenance activities.

Now that the contract has been awarded, we are moving forward with phase one of the development process. Each of the four phases will introduce new stand-alone capabilities and will be user-focused. As each phase is implemented, existing information will be transferred to new systems and old legacy systems will be retired. As a result, Sentinel will replace a number of legacy applications including: Automated Case Management System (ACS); ASSET; Criminal Informant Management System; Bank Robbery Statistical Application; and Financial Institution Fraud and Integrated Statistical Reporting Analysis Application (ISRAA).

I will continue to update this committee on the progress of Sentinel and I expect and welcome your strong congressional oversight of this program.

#### NGI AND IAFIS/IDENT INTEROPERABILITY

We are also requesting funding for major enhancements to our Integrated Automated Fingerprint Identification System (IAFIS). IAFIS is the ten-rolled fingerprint

identification system that was successfully deployed in 1999 and is used by Federal, State, and local law enforcement and authorized non-criminal justice agencies to identify subjects with criminal history information. While IAFIS was a state-of-the-art system at its inception, technology has since advanced, and we must update IAFIS in order to meet the needs of our customers.

The FBI intends to meet these new requirements by implementing a Next Generation Identification system (NGI). We are currently conducting a comprehensive requirements study that will produce an Implementation/Strategy Plan, baseline Systems Requirement Document (SRD), Functional Requirements Document, and Requirement Traceability Matrix.

Once we have completed the planning effort, we will design, develop, and implement modular builds with each module providing improved functionality, such as improved accuracy and speed. The FBI is requesting \$38 million to support development of NGI.

Along with improvements to IAFIS, the FBI is developing interoperability with the Department of Homeland Security's (DHS) Automated Biometric Identification System (IDENT). DHS's IDENT program is a two-flat fingerprint identification system. Various legislative acts have required the FBI and DHS to ensure that the systems are interoperable and that the criminal and immigration information that they contain is accessible to, and shared among, other Federal, State, and local law enforcement agencies. In 2002, the FBI began providing DHS with extracted, partial data from IAFIS. This is a temporary solution until full interoperability can be achieved.

Interoperability efforts between IAFIS and IDENT are advancing. A multi-agency Interoperability Integrated Project Team (IPT) was established to address the problem. In June 2005, FBI Criminal Justice Information Services (CJIS), DHS United States Visitor and Immigrant Status Indicator Technology (US VISIT) and the Department of State signed a charter which established cooperative guiding principles for IPT. IPT is aggressively pursuing different interoperability models to find a solution to the problem. For fiscal year 2007, the FBI is requesting \$33 million to purchase hardware, software, and contract services to support this interoperability initiative.

#### HUMAN RESOURCES

During fiscal year 2005, this Committee provided the FBI with the legislative authority and resources to help us compete with other homeland security and Intelligence Community (IC) organizations who often recruited employees away from the FBI. The funding allowed us to provide recruitment bonuses for potential new hires, retention and relocation bonuses to existing employees with job offers from other government entities, and increased funding for our University Education Program and student loan repayments. Thanks to your support, the FBI used approximately \$22 million for these purposes during fiscal year 2005, including almost \$5 million on recruitment initiatives, \$1.6 million on employee retention and relocation bonuses, and \$14.9 million on degree programs and student loan repayments.

The additional funding this Committee provided as an extension of these authorities is allowing the FBI to extend relocation bonuses to agents assigned to high cost of living offices. Each of these incentives is providing us with the leverage to retain a high-caliber workforce to better serve the Nation in our fight against terrorism.

Additionally, this Committee provided for the establishment of our Sabbatical Program. Last year, the FBI sent participants to the St. Andrews Program for International Security Studies and to Harvard's John F. Kennedy School of Government. This year, we added several new partners to our Sabbatical Program and are able to provide opportunities for FBI employees to attend Mercyhurst College; the George C. Marshall Center; the National Defense University; the Naval Postgraduate School; the Marine Corps University; and the Naval War College. Students will benefit from receiving various certificates and degrees ranging from Applied Intelligence to National Resource Strategy.

The FBI is developing programs designed to recruit, train, develop, and retain professionals who have the skills necessary for the success of its national security missions. Among these workforce programs are the Special Agent career path and the Intelligence Career Service. These programs are designed to enhance the national security workforce and to create training and development opportunities for agents, analysts, linguists, and surveillance specialists in the FBI's national security programs. Last year, the FBI trained 589 new agents and over 1,000 Intelligence Career Service professionals.

The FBI will expand current in-service and virtual intelligence training initiatives for FBI employees and our partners in other Federal, State, local, and tribal agen-

cies. Efforts are underway to assess our training and to develop the capabilities we need as we go forward. Revisions to New Agents and Cohort training programs are also underway. We are requesting \$5 million in fiscal year 2007 to provide advanced intelligence training curriculum development and \$1 million to establish our Intelligence Officer certification program.

NATIONAL SECURITY BRANCH—CT/CI/DI

Over the past 4 years, the FBI has developed its intelligence capabilities and improved its ability to protect America from threats to national security. We have built on our established capacity to collect information and enhanced our ability to analyze and disseminate intelligence. Implementation of the National Security Branch (NSB) is the next step in the FBI's transformation.

On June 28, 2005, in response to the findings of the Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction (WMD Commission), President Bush directed the FBI to create a "National Security Service" within the FBI. The FBI implemented this directive through the creation of a new entity—the National Security Branch (NSB)—that integrates the FBI's primary national security programs under the leadership of a single Executive Assistant Director, and through policies and initiatives designed to enhance the capability of the entire FBI to support its national security mission.

The mission of the NSB is to optimally position the FBI to protect the United States against weapons of mass destruction (WMD), terrorist attacks, foreign intelligence operations, and espionage by integrating investigative and intelligence activities against current and emerging national security threats; providing useful and timely information and analysis to the intelligence and law enforcement communities; and effectively developing enabling capabilities, processes, and infrastructure, consistent with applicable laws, Attorney General and Director of National Intelligence guidance, and civil liberties.

The FBI's NSB was established and is making significant progress in integrating the missions, capabilities, and resources of the Counterterrorism, Counterintelligence, and Directorate of Intelligence (DI) programs. The NSB builds on the success of the DI and other initiatives already underway by helping to integrate the FBI's intelligence mission more fully into the FBI and into the IC, so that the IC can better understand FBI operations, while enhancing the FBI's ability to protect the Nation.

The NSB essentially puts one face on the FBI's intelligence mission to stakeholders, including Congress, other IC agencies, and the general public. The FBI is currently working with the Department of Justice (DOJ) and the Administration to ensure that the NSB meets the directives set forth by the President and is responsive to the Office of the Director of National Intelligence (ODNI).

A major part of our counterterrorism work has been supporting the war on terror overseas in Iraq and Afghanistan. The FBI's responsibility there is to protect U.S. interests and persons from terrorist attacks by conducting investigations and acquiring intelligence that would prevent, disrupt, and defeat terrorist operatives targeting America. The U.S. military and IC are partners with the FBI in this mission.

As a result of our intelligence gathering overseas, IC reports indicate Al-Qa'ida has declared its intent to execute a WMD attack against the United States. A successful attack using a WMD device consisting of a chemical, biological, radiological, or nuclear payload would have catastrophic consequences. Preventing the detonation of a WMD device through an effective, coordinated, and technically proficient response program is an FBI responsibility defined by Presidential Decision Directive-39. The FBI is requesting \$25.8 million to provide resources to respond to terrorist threats and incidents such as WMD and other explosive devices.

The DI oversees the Field Intelligence Groups (FIGs). FIGs are central to the integration of the intelligence cycle into field operations. The FIGs coordinate, manage, and execute all the functions of the intelligence cycle. FIGs include Special Agents and Intelligence Analysts as well as officers and analysts from other intelligence and law enforcement agencies. The establishment of FIGs in every field office during October 2003, and the issuance of initial guidance for their operations, laid the groundwork for enhancing the FBI's intelligence capability in the field. From January 2004 through January 2006, Intelligence Analyst staffing increased on the FIGs 61 percent, from 617 to 995. Work will continue with the implementation of a plan to more fully integrate the intelligence cycle into FBI field operations through standardized processes, pilot implementation projects, specialized training, and refinement of roles and responsibilities. We have also assessed our field-wide intelligence collection capabilities to include human, technical, and physical collection posture.

Our fiscal year 2007 budget request reflects our need for resources to close gaps identified in our Intelligence Program infrastructure.

In addition to overseeing the national security operations of the CT, CD and DI, the NSB is also accountable for the functions carried out by the other FBI divisions that support the national security mission, such as language translation support and Field Intelligence Group program management.

Today's FBI linguist cadre is 69 percent larger than it was on September 11th. The three languages with the largest growth are Somali, Pashto, and Turkish, each with an increase of over 400 percent. This growth was made possible by the resources provided by this Committee.

Another way we are providing support to counterterrorism and counterintelligence investigations is through the West Virginia Translation and Analysis Center. The Center provides field offices with an alternative to processing their Foreign Intelligence Surveillance Act audio collections. Analysts at the Center listen for pertinent English conversation containing intelligence material and provide English summaries and occasional full transcripts.

The National Virtual Translation Center (NVTC) is an excellent example of the continuous transformation efforts underway at the FBI: creative and aggressive recruiting; interagency resource sharing and collaboration; and streamlined methods for serving agencies across the United States government in support of the war on terrorism. The NVTC was established with Central Intelligence Agency (CIA) resources under the authority of the USA PATRIOT Act to provide accurate and timely translations of foreign intelligence material to the IC.

During 2003, the CIA awarded the FBI executive agency authority over the NVTC. Together with the CIA, we have recruited translators from the military and colleges, and secured added assistance through civilian contract staff. We continue to benefit from the interagency sharing of translation resources, collaborative use of human and automated translation capabilities, and parity in translation workload across various IC elements.

Additional fiscal year 2007 enhancements to the NSB include:

- \$15 million for Intelligence infrastructure requirements. This funding will provide essential infrastructure enhancements for the Intelligence Program including multi-media workstations, FALCON notebook computers for language analysts, electronic surveillance data management system development, expanded SIPRNET access, and IC XML application, Intelligence website support, and non-English web page postings.
- \$16 million for Intelligence Operations and Production. This funding will support initiatives that comprise the core intelligence processes that are aligned with the intelligence production cycle. This would provide 5 positions for human source validation, 52 positions for intelligence operations and production, FBIHQ operations and maintenance funding for the FBI's IIR Dissemination System [FIDS], a human source validation system, and physical surveillance support.

#### CYBER

The cyber threat confronting the United States is rapidly increasing as the number of people with the tools and abilities to use computers against us is rising. The country's vulnerability is escalating as the United States economy and critical infrastructures become increasingly reliant on interdependent computer networks and the World Wide Web. Large scale computer attacks on the Nation's critical infrastructure and economy could have devastating results. The Internet knows no boundaries. A perpetrator can sit at his computer anywhere in the world and gain unauthorized access to systems throughout the globe with complete anonymity. This puts law enforcement at a severe disadvantage and we must leverage all of our existing resources to bring cyber investigations to successful conclusions.

We must continue to increase our capability to identify and neutralize enterprises and individuals who illegally access computer systems, spread malicious code, or support terrorist or state-sponsored computer intrusion operations. Since fiscal year 2001, the FBI has seen a 906 percent increase in International terrorism, Counterintelligence, and Domestic Terrorism computer intrusion cases. The FBI's Legal Attaches are working closely with our international law enforcement and intelligence partners to combat this rising threat.

#### LEGAL ATTACHE PROGRAM

The FBI continues to expand its Legal Attache (Legats) program. International cases have become the rule, rather than the exception, for the Bureau. Legats are a key component of our extraterritorial law enforcement effort and often provide the

first response to crimes against the United States that have an international nexus. Legats also provide a prompt and continuous exchange of information with foreign law enforcement. But Legats are no longer just information conduits. Rather, these offices assist our counterparts overseas on joint investigations, intelligence-sharing, and the development of new methods to prevent terrorist attacks. Currently, we have 53 fully operational Legal Attaches offices, and 13 fully operational sub-offices covering over 200 countries throughout the world.

This year we plan to open six more offices, located in Afghanistan, Qatar, Sudan, South Africa, Algeria, and El Salvador, and convert two sub-offices, Port-of-Spain and Jakarta, to fully operational Legats. The San Salvador Legat office is being opened with the support and resources provided by this Committee for the intended purpose of working with El Salvador's law enforcement to target the MS-13 gang's leadership in one of its Central America strongholds.

#### CRIMINAL PROGRAMS

Although much of my testimony has been geared toward a discussion of the FBI's national security efforts, we continue to take great pride in our criminal programs. As with all of our investigative efforts, these criminal programs are in concert with the Attorney General's priorities, as announced earlier this spring. Specifically, as I mentioned earlier, we are aggressively pursuing any Katrina-related criminal fraud. The Attorney General has asked the United States Attorneys' Offices to adopt a "zero tolerance" policy toward all cases involving hurricane relief related fraud. To date, over 150 investigations have been initiated and over 100 individuals have been indicted on corruption and fraud related charges.

Public corruption is the top criminal priority for the FBI. The FBI's highly sensitive public corruption investigations focus on all levels of government. The heightened focus has helped increase both the number and quality of the cases being investigated. Over the last 2 years, FBI investigations have led to the conviction of more than 1,060 government employees involved in corrupt activities, to include 177 federal officials, 158 state officials, 360 local officials, and more than 365 police officers.

We also continue our work refining and implementing the National Gang Strategy (NGS). Developed in 1993, the goal of the NGS is to identify the prolific and violent gangs in the United States and to aggressively investigate, disrupt, and dismantle their criminal enterprises through prosecution under the federal racketeering statutes and other appropriate laws.

I know the escalation of gang violence is an area of particular concern to this Committee and the FBI appreciates the efforts and resources you have provided to law enforcement to attack this growing problem. With your help, in 2005, the National Gang Intelligence Center (NGIC) was formed to allow State, local and Federal agencies to share gang data across jurisdictions and identify trends related to violent gang activity and migration.

This multi-agency center functions from the Washington D.C. area and has coordinated information sharing with other investigative and intelligence operations of local, State, and Federal criminal justice agencies, and has become a national center for case coordination and information. The gang information provided by Federal, State and local agencies is one of the most vital aspects of this center for the successful integration and sharing of data.

Another area of concern for the FBI's Criminal Investigative Division is the escalating level of violence in the Southwest border region. The recurring violence on the Southwest border revolves around the Gulf Cartel drug trafficking organization, which has traditionally dominated the region and commanded smuggling operations along this stretch of the border.

The FBI is taking proactive measures to assess and confront this threat to public safety on both sides of the border through participation in multiple bi-lateral multi-agency meetings, working groups, and enforcement operations. The FBI, along with DHS, the Drug Enforcement Administration (DEA), and the Department of State, are working with the Mexican Attorney General's Office to identify Gulf Cartel members and is using all available techniques to disrupt and dismantle this dangerous organization and reduce the violence in the Southwest border region.

#### CONCLUSION

Mr. Chairman, Senator Mikulski, and Members of the subcommittee, today's FBI is part of a vast national and international campaign dedicated to defeating terrorism. Working hand-in-hand with our partners in law enforcement, intelligence, the military and diplomatic circles, the FBI's primary responsibility is to neutralize terrorist cells and operatives here in the United States and help dismantle terrorist

networks worldwide. Although protecting the United States from terrorist attacks is our first priority, we remain committed to the defense of America against foreign intelligence threats as well as enforcing federal criminal laws while still respecting and defending the Constitution.

This year will mark the 5-year anniversary of September 11. The FBI has changed dramatically since the terrorist attacks and we will continue to evolve to meet the emerging threats to our country. We have expanded our mission, radically overhauled our intelligence programs and capabilities, and have undergone tremendous personnel growth. With the fiscal year 2007 budget request, in order to capitalize on these changes and our past investments in personnel, we intend to bridge the gap between our growth and infrastructure by focusing on updating our technology and facilities.

Once again, I thank you for your continued support of the FBI. I am happy to answer any questions you may have.

#### DRUG ENFORCEMENT ADMINISTRATION

##### STATEMENT OF KAREN TANDY, ADMINISTRATOR

Senator SHELBY. Administrator Tandy.

Ms. TANDY. Good afternoon, Chairman Shelby, Ranking Member Mikulski, and members of the subcommittee. It is my pleasure to appear before you this afternoon to present and discuss the President's 2007 budget request for the Drug Enforcement Administration (DEA).

I want to thank this subcommittee for its support and guidance to DEA, also for your passage of the supplemental yesterday affecting DEA as well. Our enforcement efforts have been successful, and they have contributed to the 19 percent overall reduction in drug use over the past 5 years. As Congress appreciates and certainly this subcommittee, the devastation of drugs knows no bounds and takes an enormous toll on both human lives and our country's economy. It takes victims as young as the 10-month-old baby who died in January from ingesting a massive amount of his parents' heroin to 90-year-old nursing home patients who are hospitalized from exposure to methamphetamine that was being cooked in their nursing home.

#### METHAMPHETAMINE

Meth labs have now been found in every State in this country. Last year, about 35 percent of the meth consumed in America was homemade. Thanks to congressional leadership and new State laws, the number of small toxic labs in America has decreased, but meth use still remains high.

Today, about 20 percent of meth consumed in America is made here. The balance is manufactured and distributed by Mexican trafficking organizations operating in the United States and Mexico. DEA and the government of Mexico have joined together to combat that threat by redirecting our resources to specifically target Mexican meth manufacturing and trafficking both here and in Mexico.

#### GLOBAL DRUG TRADE

The global drug trade is a continuing and serious national security threat to Americans at home and to our interests abroad. Colombia produces about 90 percent of the cocaine that is smuggled into the United States. DEA is attacking that trade at its source and transit zones. Just 2 weeks ago, we charged 50 leaders of the

FARC, a State Department-designated foreign terrorist organization. We charged those 50 leaders with supplying more than 60 percent of the cocaine in the United States that is valued at \$25 billion.

Through our DEA operations in Afghanistan, DEA seeks to prevent that country from returning as a major U.S. supplier of heroin, as it was in the 1970s and 1980s and to help stabilize the Afghanistan government. Last year, DEA-led investigations resulted in the first ever extradition from Afghanistan to the United States.

#### DRUG FLOW PREVENTION STRATEGY

DEA's drug flow prevention strategy, which targets transportation choke points, focuses on disrupting the flow of drugs, money, and chemicals between the source and transit countries and America. We are requesting a budget enhancement to fund this strategy, which already has resulted in record seizures and disrupted trafficking in the western hemisphere, actually forcing them to suspend drug operations, change their modes of drug transport, and even jettison loads of drugs.

With this request, we can expand our foreign-deployed advisory support teams, the FAST teams that are in Afghanistan, to include one of those FAST teams in the western hemisphere and solidify as well the base for funding of our five existing FAST teams that are operating in Afghanistan.

DEA's drug flow prevention strategy, as I mentioned, included a 65-day interagency operation late last year that targeted the transit zones both in the eastern Pacific and in the Caribbean, and it was during that 65-day operation that 46 metric tons of cocaine were seized under our strategy. It included among those seizures the largest eastern Pacific seizure in the history of the Joint Interagency Task Force-South for that period. A temporary reduction in the ability of cocaine in the United States also appears to have resulted from this operation under this strategy.

DEA continues our assault on drug traffickers' illegal proceeds as well, and last year, I am very pleased to say that we stripped domestic and foreign drug traffickers of a record breaking \$1.9 billion in drug proceeds and in the denial of drug revenue. This exceeds internal goals in DEA, aggressive goals that were set for 2005, where we had a goal of \$1 billion to be seized in 2005; it exceeded our goal by 90 percent and got us one step closer to the point where the risk of seizure will begin to outweigh the financial gains for drug traffickers.

#### DRUG ENFORCEMENT ADMINISTRATION INTELLIGENCE ROLE

The second, the other budget enhancement, supports DEA's recent reentry to the intelligence community in order to provide DEA with the infrastructure required to function in the community and to increase our contribution to national security while at the same time protecting the primacy of the agency's law enforcement functions.

Nearly half of all State Department foreign terrorist organizations have ties to the drug trade. DEA is poised to make valuable and lasting contributions in the intelligence arena, and the President's 2006 supplemental request that you passed last night in-

cluded \$5 million to enable DEA to jumpstart that initiative this year, while the 2007 budget requests for funding remain so that we can continue this initiative through 2007.

The men and women of the Drug Enforcement Administration thank you for your support as we continue to score major victories and protect America against drugs. Thank you, and I look forward to your questions.

Senator SHELBY. Thank you.

[The statement follows:]

PREPARED STATEMENT OF KAREN P. TANDY

Mr. Chairman and Members of the subcommittee: Good afternoon, and thank you for the opportunity to testify on behalf of the President's Fiscal Year 2007 Budget request for the Drug Enforcement Administration (DEA). I appreciate your strong and continued support for the important work of DEA—reducing the availability of illicit drugs in the United States. Every single day, DEA's brave men and women combat the world's drug trafficking organizations. We wage the battle on every front. It begins with the cultivation or manufacturing of drugs, complete with the movement of chemicals, carries on through the transit zones and final distribution in our Nation's communities, and concludes with the laundering of the distribution proceeds. Furthermore, the battle extends well beyond our borders into foreign lands and into cyberspace. To this end, DEA continues to be an active partner in the war against global terrorism and protecting the homeland.

While we have made great strides over the years and continue to adapt to the increasingly complex challenges that face modern-day law enforcement, much work remains to be done. The resources that Congress provides are critical to our success and all of us at DEA are grateful for the chairman's and the subcommittee members' leadership.

In my statement, I will summarize some of our important successes of 2005, summarize the President's request for DEA, and discuss some of the challenges that lie ahead. An attachment for the hearing record that provides additional mission-related data also is included.

FISCAL YEAR 2005 ACCOMPLISHMENTS

Through continuous strategic thinking and planning, DEA is able to meet the ever-changing demands of contemporary drug enforcement. Ours is an organization that has had to be agile and resourceful in order to combat those whose criminal methods become more and more refined and complicated. Our successes in fiscal year 2005 are in those areas that are the agency's foremost priorities:

*Financial and Money Laundering Operations.*—DEA focuses on the dismantlement of the financial infrastructures of drug trafficking organizations, and the pay-off has more than met expectations. In fiscal year 2005, DEA stripped domestic and foreign drug traffickers of nearly \$1.9 billion in drug proceeds and revenue denied, which included \$1.4 billion in asset seizures and \$477 million in drug seizures. This, Mr. Chairman, exceeds DEA's fiscal year 2005 \$1 billion goal for asset and drug seizures by 90 percent. Furthermore, DEA's seizures nearly match DEA's fiscal year 2006 enacted appropriation for our Salaries and Expenses Account. We have developed a 5-year plan with an ultimate goal of taking \$3 billion away from all drug trafficking organizations by fiscal year 2009, and we are committed to meeting our goal. In fiscal year 2006, DEA will transform its current temporary staffing in Dubai, United Arab Emirates, into a permanent presence, with a commitment of four positions (including two agents). These positions will serve as a liaison for all drug enforcement matters, including financial investigations. We also are in the process of standing up a financial investigations team that will be staffed in Bogota and Cartagena, Colombia, and we anticipate establishing a money laundering group in Mexico City. It is our goal by adding offices in these regions, that we will be able to bolster our efforts to take potentially billions in drug profits away from trafficking organizations, and inflict enough damage to leave them unable to reconstitute their operations.

Since the launch of our "Money Trail Initiative" in July 2005, more than \$36.2 million in proceeds that traffickers attempted to smuggle from the United States have been seized. An investigation during fiscal year 2005 by a DEA-led multi-jurisdictional Organized Crime Drug Enforcement Task Force (OCDETF) of a Colombian-based money laundering operation resulted in 81 arrests and the seizure of \$7.8 million. During fiscal year 2005, DEA continued to be a key leader in the

multi-jurisdictional law enforcement effort that targeted the 45 “Most Wanted” drug trafficking and money laundering organizations, commonly referred to as CPOTs (Consolidated Priority Organization Target). As a result of this critical supply reduction strategy, 6 CPOTs have been dismantled and removed from the list of 45, and the operations of another 6 were significantly disrupted. In addition, in fiscal year 2005, 121 CPOT-linked drug trafficking organizations were dismantled and 204 CPOT-linked organizations were severely disrupted.

*Fighting Methamphetamine.*—DEA has redoubled its efforts to fight methamphetamine and continues to turn the tide against the use, trafficking, and manufacture of the drug. DEA takes a comprehensive approach to combating a problem that poses a unique and deadly threat to communities across America—enforcement, domestic and international precursor chemical control, and the identification and cleanup of the large number of small toxic laboratories. As trafficking patterns have changed, so has DEA. We have shifted our focus from the super labs in the United States, to the small toxic labs that spring up as a result. This is in addition to targeting precursor chemical control and increasing our focus on the Mexican organizations that conduct the vast majority of the methamphetamine trade. In fiscal year 2005, DEA spent an estimated \$176 million to combat methamphetamine, including \$18.8 million to administer 8,897 clandestine laboratory cleanups.

In August 2005, DEA wrapped up “Operation Wildfire”—a nationally coordinated law enforcement initiative that was designed to target all levels of the methamphetamine manufacturing and distribution chain in the country. Two hundred cities took part in the operation and the results were unprecedented—427 arrests and the seizure of 95 kilograms of methamphetamine, 201,035 tablets of pseudoephedrine, 153 kilograms of pseudoephedrine powder, and 224,860 tablets of ephedrine. In addition, 56 clandestine laboratories were seized and 30 children were rescued. A second operation in August, “Operation Three Hour Tour”, resulted in 170 arrests and the dismantlement of three major drug transportation rings with international ties, as well as 27 United States distribution groups. We estimate that these groups were capable of transporting enough methamphetamine into the United States to provide product for over 22,700 methamphetamine users every month. 1,634 kilograms of cocaine, 159 pounds of methamphetamine, 9 ounces of crack, 7 kilograms of heroin, 216 pounds of marijuana, and 22,000 dosage units of MDMA were seized in the operation.

In addition to these large scale operations, DEA’s Mobile Enforcement Teams (METs) continued their methamphetamine focus. Since 1995, METs have significantly increased the number of methamphetamine deployments. At the end of the first quarter of fiscal year 2006, 66 percent of MET deployments initiated targeted methamphetamine trafficking organizations. This compares to 21.8 percent in fiscal year 2003, 27 percent in fiscal year 2004, and 41 percent in fiscal year 2005.

DEA also has continued its work with our global partners including Canada, Hong Kong, and Mexico to target international methamphetamine traffickers and to increase chemical control efforts abroad. For example, the United States and Mexico have obtained a commitment from Hong Kong not to ship chemicals to the United States, Mexico, or Panama until Hong Kong authorities have received an import permit or equivalent documentation. Hong Kong officials also agreed to provide advance notice to a receiving country before a shipment is made. On the training side, in fiscal year 2005, DEA trained 105 Mexican officials in the areas of chemical control and clandestine laboratory cleanup. In partnership with Mexican law enforcement, DEA targets Mexican methamphetamine manufacturers, distributors and sources of supply based in the western United States and Mexico. One operation that culminated in March 2006, included the seizure of nearly 200 pounds of methamphetamine.

*Internet Drug Trafficking.*—In fiscal year 2005, DEA initiated 100 new internet investigations involving the online sales of pharmaceutical controlled substances. Over the course of fiscal year 2005, DEA arrested 62 individuals and seized \$44 million in cash, property, computers, and bank accounts from individuals who had been selling prescription drugs via the Internet. As a result of one internet drug trafficking investigation, Operation Cyberchase, DEA identified approximately 200 web sites that illegally sold prescription drugs and arrested 25 individuals who had been operating in the United States, India, Asia, Europe, and the Caribbean. DEA also led a 21-month OCDETF investigation that concluded with criminal charges against the principal Mexican steroid manufacturers, whose U.S. sales totaled an estimated \$56 million annually. DEA has arrested nine individuals, one of whom was the owner of three of the world’s largest anabolic steroid manufacturing operations. Eighty percent of the steroids seized in the United States last year originated from Mexican manufacturers.

*War on Terror.*—DEA is well-placed to identify those threats posed by international terrorism funded by drug proceeds. The case of Afghani Bashir Noorzai, who was arrested in the United States in April 2005, illustrates the link that exists between drug trafficking and terrorist organizations. Noorzai was the leader of the largest Central and Southwest Asia-based heroin drug trafficking organization known to DEA. Noorzai is charged with providing explosives, weaponry, and personnel to the Taliban in exchange for protection for his organization's opium poppy crops, heroin laboratories, drug transportation routes, and members and associates. Noorzai was also a close associate of a member of the Taliban leadership. During fiscal year 2005, DEA operations also included the deployment of 5 Foreign-deployed Advisory and Support Teams (FAST) to Afghanistan and the disruption of 8 and dismantlement of 2 terrorist-linked Priority Target Organizations (PTO).

Currently, Afghanistan is not a major heroin supplier to the United States; only about 8 percent of the United States supply comes from that country. However, DEA operations in Afghanistan serve a dual purpose—preventing the country from returning as a major supplier of heroin to the United States, as it was in the 1970s and 1980's, and helping stabilize the Afghanistan government as it battles the powerful drug warlords for control of portions of the country.

Mr. Chairman, I also am very proud to report that the FASTs have played a pivotal role in protecting the lives of both our U.S. military and our coalition partners in Afghanistan. The teams have identified narcotics traffickers involved in targeting U.S. forces with improvised explosive devices (IEDs) and have provided critical information obtained from DEA Human Intelligence (HUMINT) sources to U.S. Special Forces Teams. In fact, on several occasions after DEA shared its source information, the Special Forces have successfully intervened and seized IEDs, other bomb making materials, and weapons caches.

*Assisting Local Law Enforcement.*—This year, we had an additional mission in our longstanding support of state and locals—rescue and cleanup in the Gulf Region following Katrina. Our office in New Orleans sustained some damage and our Gulfport office was uninhabitable. Our operational assets had to be temporarily moved to Baton Rouge. With the funding DEA was provided in the fiscal year 2006 supplemental appropriation, repairs have been made and we have been able to return to our New Orleans office. Currently, we are operating in temporary space in Gulfport until repairs can be made for safe occupancy at our permanent location. In the aftermath of the storm, 251 DEA personnel, including Special Agents, Special Agent pilots, Intelligence Analysts, and other technical and logistical staff were deployed to provide law enforcement and rescue/humanitarian assistance to 13 law enforcement agencies in Louisiana, Mississippi, and Alabama. We established and manned mobile command posts and communications systems, and assisted with the rescue of 3,340 stranded victims using DEA helicopters, which included 70 senior citizens from a nursing home that had been flooded. DEA also assisted with patrol assignments, transported medicine to law enforcement personnel to combat hepatitis, and worked with Texas and Arkansas pharmacy boards on emergency refill procedures to serve Louisiana, Mississippi, and Alabama residents. I am very proud of the many members of the DEA community who gave so selflessly at a time of a national tragedy. You may be sure that we will continue to support the recovery efforts in the stricken areas in any way we can.

In addition to Katrina assistance, DEA remained dedicated to our critical state and local partners. For example, in fiscal year 2005, DEA led 217 State and Local Task Forces, with an on board strength of 2,096 Task Force Officers and 1,253 DEA Special Agents. We also have provided drug enforcement training to 41,000 state and local police officers in fiscal year 2005. DEA's Jetway Program, which instructs state and local law enforcement officers how to address interdiction issues in airports, bus and train stations, and hotel/motel environments, conducted nine schools in cities across the country during fiscal year 2005. Our Pipeline/Convoy Program, which teaches highway patrol officers how to address commercial and passenger vehicle interdiction issues, conducted 16 seminars in fiscal year 2005. These two important programs trained a total of more than 3,000 officers. DEA has trained drug unit commanders, DEA and other federal, state and local law enforcement intelligence analysts, and international narcotics leaders. Furthermore, we trained 1,100 police officers in the enforcement areas of clandestine labs and diversion.

*Outreach and Public Awareness.*—9,000 people have received victim, witness, and drug-endangered awareness training in fiscal year 2005. We also launched a public website ([justthinktwice.com](http://justthinktwice.com)) in fiscal year 2005, designed for young people that provides information on topics such as methamphetamine, prescription drugs, drugged driving, marijuana, and drug legalization. Since the launch of the site, there have been an average of 200,000 hits per month, and many Governors have written to

the Attorney General to express how useful they have found the website to be and have pledged to publicize the website widely in their states.

FISCAL YEAR 2007 BUDGET REQUEST

For fiscal year 2007, the President's Budget requests \$1.9 billion for DEA (\$1.7 billion under the Salary and Expenses Account and \$212 million under the Diversion Control Fee Account). A total of 9,310 positions, of which 4,066 are Special Agent positions, will be funded. This request represents an increase of \$72 million over fiscal year 2006. I would like to call attention to a few highlights of the President's request.

*Salaries and Expenses Account*

The request includes a \$24.8 million investment to fund two initiatives:

Drug Flow Prevention Initiative (\$12.8 million and 10 positions) involves multiple agencies in multiple countries targeting major drug trafficking organizations (CPOTS). This initiative is designed to disrupt the flow of drugs, money, and chemicals between the source zones and the United States. The strategy DEA employs is to attack the organizations' vulnerabilities in their supply, transportation systems, and financial infrastructures. The program supports the Department of Justice's Strategic Goal of preventing terrorism and promoting the nation's security and enforcing federal laws and representing the rights and interests of the American people.

As part of this program, \$7.5 million is requested for our very valuable FAST operations. With this request, DEA has the necessary resources, coupled with Department of Defense funds, to permanently support the five FAST teams now operating in Afghanistan. In addition, one new team will be created whose initial focus will be on Western Hemisphere operations. Under the Drug Flow Prevention program, 10 positions and \$5.3 million also are requested to expand a successful multi-agency cocaine interdiction program known as "Operation Panama Express." Since its inception in February 2000, Operation Panama Express has seized 356 metric tons of cocaine, which averages almost 4½ tons per month for the past 6 years. The Country Offices in Venezuela, Guatemala, Honduras, and Ecuador and the Caribbean Field Division would receive additional Special Agent positions. Resources will be used to recruit additional HUMINT sources to provide information to DEA regarding drug smuggling operations involving the transit of drugs through Central America, and the Caribbean and Eastern Pacific zones. The information from these sources will provide an early warning against narcotics and terrorist threats, which will ensure that our southwest border strategy has a defense-in-depth capability.

I would add, Mr. Chairman, that this initiative follows a successful DEA 2005 international Drug Flow Prevention initiative ("Operation All Inclusive I-2005") that targeted the Eastern Pacific and Western Caribbean transit zones of Central America and the Central America land mass. By concentrating law enforcement efforts in this corridor, multi-ton bulk drug shipments were interdicted before reaching Mexico. All Inclusive's success with respect to seizures was unprecedented. Over 46 metric tons of cocaine was seized in transit zones during the 65-day operation, and included the largest EASTPAC seizures for the month of August in JIATF South's history, 21.3 metric tons. At the same time, DEA's domestic seizures decreased by 29 percent compared to the 65-day period prior to the operation. DEA's domestic cocaine seizures for the three-month period following the operation decreased by 27 percent compared to the three-month period preceding the operation, and by 36 percent compared to the same three-month period in 2004. Although other explanations are possible, preliminary analysis suggests that All Inclusive may have resulted in a temporary reduction in the availability of cocaine in the United States. Other All Inclusive seizures included: the largest ever cocaine seizure in Belize—2,376 kilograms; the largest ever currency seizure in Nicaragua—\$1.2 million; 3.9 metric tons of cocaine and \$5.7 million in currency seized in Panama; 21 metric tons of marijuana seized in Mexico. Furthermore, as a result of All Inclusive, we found that traffickers were forced to delay or suspend their drug operations, divert their routes, change their modes of transportation, and even jettison loads.

Intelligence and National Security (\$11.9 million and 57 positions—including one Special Agent and 42 Intelligence Analysts). In February of this year, Director of National Intelligence John Negroponte and Attorney General Alberto Gonzales signed a joint memorandum designating an element of DEA's Intelligence Division to be a member of the Intelligence Community (IC). IC membership will allow DEA to expand and strengthen its existing relationships with our nation's intelligence agencies. With 86 offices in 62 countries—the largest law enforcement presence abroad—DEA is poised to make valuable and lasting contributions in the intelligence arena. In DEA, intelligence drives enforcement strategies and operations.

This approach has yielded impressive results: since the terrorist attacks of September 11, 2001, DEA's Special Operations Division has produced 26,499 counterterrorism products for United States law enforcement agencies with counterterrorism missions; during fiscal year 2005, the El Paso Intelligence Center responded to more than 260,000 counterterrorism inquiries from federal, state, and local law enforcement agencies, of which 12 percent were directly related to counterterrorism. Moreover, as of December 31, 2005, DEA has identified 48 percent (21 of 44) of the organizations on the Department of State's Foreign Terrorist Organizations list as having possible ties to the drug trade.

This request will fund DEA's entry into the IC. \$4 million and 20 positions (including one Special Agent and 9 Intelligence Analysts) will create a National Security Intelligence Section (NN) within DEA's Intelligence Division. Through DEA's newly designated element, DEA will pass to the IC any counterterrorism or national security information it obtains during the course of its Title 21 drug enforcement mission. The NN objective will be to maximize DEA's contribution to national security, while protecting the primacy of the agency's law enforcement functions. \$7 million and 37 positions (including 33 Intelligence Analysts) will fund the development of a Central Tasking Management System (CTMS)<sup>1</sup> at DEA. The CTMS will track the acquisition of law enforcement investigative information and the dissemination of this information to other law enforcement and IC elements; establish policies and procedures for information acquisition and dissemination; produce acquisition plans, and establish an interface with acquisition management elements in the law enforcement community. Finally, \$1 million will establish base funding to continue the Reports Officer Program, which began as a pilot project in June 2004. The Reports Officers have proven beneficial in extracting and passing in a timely manner, DEA law enforcement information that is relevant to IC requirements. Specifically, the Reports Officers review DEA law enforcement intelligence reporting and develop reports based on that information which responds to IC taskings.

#### *Program Offsets*

In order to fund the Drug Flow Prevention and Intelligence and National Security initiatives, the President's Budget includes the following three offsets:

*Regional Enforcement Teams (RET).*—DEA proposes to eliminate the RET program, for a reduction of \$9 million and 34 positions (23 Special Agents). DEA's remaining resources would continue to target the drug trafficking organizations having the most significant impact on the United States. RET was seen as a program that did not tie as closely to DEA's core focus on international drug trafficking organizations.

*Demand Reduction Program.*—DEA proposes to eliminate all positions dedicated to this program for a reduction of 40 positions (including 31 Special Agents) and \$9.2 million. This proposal would allow DEA to focus on its core mission of drug law enforcement. When possible, however, Special Agents would participate in demand reduction activities on a collateral duty basis.

*Mobile Enforcement Teams (MET).*—DEA proposes to reduce by 151 (including 132 Special Agents) the number of positions dedicated to the MET program, for a reduction of \$30.2 million. The remaining \$20.5 million and 83 positions (including 80 Special Agents) would continue to support the MET program, with priority focus on methamphetamine investigations. In addition to MET deployments targeting methamphetamine organizations, in the areas of the county where the number of clandestine labs has declined but methamphetamine use still remains high, I have directed DEA's Clandestine Laboratory Enforcement Teams (CLET) to begin investigating United States domestic networks that are distributing Mexican produced methamphetamine. At the same time, CLETs will continue their investigations of synthetic drug labs and will continue to assist state and local law enforcement agencies with laboratory, precursor, and distribution investigations. Finally, DEA would continue to administer funds from the Community Oriented Policing Services (COPS) program for clandestine laboratory cleanups.

#### *Diversions and Control Fee Account (DCFA)*

As I stated earlier, the President's request includes \$212 million under the DCFA, a \$10.4 million increase over fiscal year 2006. Of the total requested amount, DEA proposes funding of \$3.4 million for DCFA program improvements. This funding would allow DEA to boost intelligence support (33 Intelligence Analysts) needed for diversion investigations. This request is a continuation of the fiscal year 2006 Diver-

<sup>1</sup> The CTMS is formally the Collection Requirement Management System (CRMS) as discussed in the fiscal year 2007 President's Budget.

sion Intelligence Initiative, whose goal is to place one Intelligence Analyst in every Field Division Diversion group.

*Base Transfer*

Since 2002, the Federal Bureau of Investigation (FBI) has annually reimbursed DEA approximately \$6 million to DEA for providing counterterrorism related information to multiple federal agencies. The President's Budget proposes that these resources (which fund 45 positions, including 11 Special Agents) would be permanently transferred from the FBI to DEA.

OPPORTUNITIES AHEAD

Mr. Chairman, DEA continues to make steady progress in all facets of its mission and has seen some encouraging trends, particularly as it relates to drug use among our nation's children. In fact, the Office of National Drug Control Policy reports that since 2001, teen drug use is down by 19 percent and on track to decline by a total of 25 percent by 2007 to meet the President's drug use reduction goals. We are a key partner in the effort through the DEA mission to reduce the drug supply in America. Drug prevention will not take hold and treatment will not succeed if Americans are surrounded by cheap and plentiful drugs. DEA implements the President's National Drug Control Strategy by disrupting the supply of illegal or diverted drugs, through national and international attacks to dismantle the entire infrastructure of the most significant drug trafficking and money laundering organizations that supply our nation's illicit drug market.

As you know, the devastation of drugs knows no bounds and takes an enormous toll on both human lives and our country's economy. Moreover, we are seeing that the global drug trade continues to be an evolving national security threat to Americans at home and to our interests abroad. To address these disturbing facts, DEA takes a proactive and aggressive approach. In addition to the fiscal year 2007 initiatives I have outlined, we will use our existing resources to focus on the following areas during fiscal year 2006:

*Establishing a Methamphetamine Task Force.*—The fiscal year 2006 Department of Justice Appropriations Act directs the Attorney General to establish a Methamphetamine Task Force (MTF) within DEA. The purpose of the Task Force will be to improve and target the federal government's policies related to the production and trafficking of methamphetamine. The MTF is comprised of three DEA Special Agents, two Diversion Investigators, one Program Analyst, and attorneys from DEA's Office of Chief Counsel, and the Justice Department's Office of Legal Policy and the Criminal Division's Narcotics and Dangerous Drugs Section. These are veteran personnel with extensive experience and knowledge in the field, who will acquire and analyze investigative and intelligence information from numerous sources. Their analysis will focus on trends in: chemical trafficking and manufacturing methods; clandestine laboratory cleanup issues; changes in trafficking routes and patterns; regional abuse and distribution patterns; chemical and equipment sources and methods of procurement; foreign and domestic precursor sources, and smuggling and methods of financing. The MTF will propose recommendations for addressing issues identified from the analysis, and forward them to the National Synthetic Drugs Interagency Working Group for review and action.

*Implementing the Combat Methamphetamine Epidemic Act of 2005.*—As you know, President Bush recently signed the USA PATRIOT Improvement and Reauthorization Act of 2005, which includes the provisions of the Combat Methamphetamine Epidemic Act. These provisions provide law enforcement with the necessary tools to address the spread of methamphetamine manufacture and abuse across the country and the devastating effects that this drug is having on society. With these much needed chemical control measures, clandestine laboratory operators will have more difficulty in obtaining large quantities of pseudoephedrine and ephedrine products at retail outlets for use in methamphetamine manufacture. The Act also closes a loophole that allowed importers to sell pseudoephedrine to companies that were not identified on the original import notice, and enhance criminal penalties for methamphetamine traffickers. These measures are part of a comprehensive national approach toward controlling this growing problem and protecting our nation's children.

*Increasing Internet investigations and halting the diversion and abuse of legal controlled substance pharmaceuticals.*—The Internet has increased the opportunities for diversion and is the means by which many abusers are now purchasing Schedule III and Schedule IV drugs. DEA's plan to target and dismantle online pharmacies, builds on the successes of our online pharmacy strategy, which combines enforcement, regulatory, and technological efforts to detect and prevent diversion. The strategy calls for DEA to coordinate its Internet investigations with Federal, State,

and local agencies, and provide training for investigators, prosecutors, the pharmaceutical industry, and DEA registrants. We have supported legislative and regulatory initiatives aimed at curtailing and preventing online diversion of controlled substances. Finally, DEA has taken a leadership role in the development and use of new technologies as investigative tools.

*Improving the measures of effectiveness for DEA programs and operations.*—DEA is developing a management information tool, the Drug Enforcement Strategic Target Analysis Review (DrugSTAR), to establish links between a Priority Target's disruption or dismantlement and its impact on drug availability. It will be a key component of the agency's overall strategic management system. Using DrugSTAR, DEA will be able to identify our challenges and best practices, focus on performance and accountability, and demonstrate results in compliance with the Office of Management and Budget's management requirements.

Under DrugStar, DEA also has been piloting the Significant Investigation Impact Measurement System (SIIMS), which collects and analyzes enforcement, public health, and social service statistics both before an organization is taken down and for the 6 months that follow. This analysis will determine whether DEA targeting and enforcement operations had real impact and, if not, enable DEA to redirect resources and revise operations to achieve great impact. The SIIMS system has generated assessments of three takedown operations in 2005. For example, a SIIMS assessment of a successful New Orleans operation involving pain clinics and pharmacies revealed that the operation had significant impact on the availability of diverted drugs in that area, lasting for months after the enforcement operation. Specifically, SIIMS analysis revealed that, among other things, there were no seizures by DEA New Orleans of three illegally prescribed medications in the two months following the operation. This type of information can be useful when evaluating DEA's performance in reducing drug availability and for reporting purposes for the Attorney General, Congress, and the Office of National Drug Control Policy.

Mr. Chairman, this concludes my remarks. I would be pleased to answer any questions.

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#### ATTACHMENT

##### DRUG THREATS TO THE UNITED STATES

###### *Methamphetamine*

Methamphetamine is the most widely abused and most frequently clandestinely produced synthetic drug<sup>1</sup> in the United States. Methamphetamine appeals to people across all genders, ages, and socio-economic levels. Methamphetamine has a high rate of addiction, a low rate of sustained recovery, and is cheap to manufacture. It has become a problem of epidemic proportions in the United States, devastating users, their families, and local communities. According to the 2004 *National Survey on Drug Use and Health* (NSDUH), 583,000 persons 12 and older used methamphetamine during the past 30 days (a 4 percent decrease from 2003) and 1.4 million have used it in the past year, a 10 percent increase from 2003. The estimated number of past year methamphetamine users is three times the number of estimated past year heroin users.

By effectively targeting and arresting the main suppliers of bulk precursor chemicals, DEA has successfully reduced the number of "super labs"<sup>2</sup> in the United States. As a consequence, operators of "super labs" have shifted their production to Mexico. Current drug and lab seizure data suggest that 80 percent of the methamphetamine consumed in the United States comes from larger labs, for the most part in Mexico, and that approximately 20 percent of the methamphetamine consumed comes from the small, toxic laboratories (STLs) in the United States. STLs generally are unaffiliated with major drug trafficking organizations, but nevertheless present enormous environmental challenges.

In recent years, the proliferation of STLs has been fueled by the ready availability of pseudoephedrine, the key ingredient in methamphetamine and by the fact that the manufacturing process is simple, inexpensive, and recipes can be found easily on the Internet. In 1990, there were 2 States with 20 or more clandestine laboratory seizures. In 1996, this number increased to 10 States. In 2004, there were over 40

<sup>1</sup>The term "synthetic drugs" refers to controlled substances such as methamphetamine, MDMA "ecstasy" (and its analogues), GHB (and its analogues), ketamine, and other substances, which are not of primarily organic origin and are usually associated with clandestine manufacture.

<sup>2</sup>"Super labs" are those labs that are capable of producing at least 10 pounds of methamphetamine per cycle.

States where 20 or more seizures of clandestine laboratories occurred. From 2002 through 2005, more than 55,000 STLs were discovered and seized.

According to the Clandestine Laboratory Seizure System database located at the DEA's El Paso Intelligence Center (EPIC), 11,746 labs, dumpsites, and chemicals, glass, and equipment were seized in the United States in calendar year 2005. Of those seized, 5,308 labs were capable of producing only up to one pound of methamphetamine per cycle. In fiscal year 2005, DEA domestic seizures of methamphetamine totaled 3.1 metric tons, which is the equivalent to approximately 367 million dosage units. Fiscal year 2005 seizures increased by 24 percent from fiscal year 2004, when 2.5 metric tons were seized.

The most promising means of eliminating STLs is to choke off the sources for ephedrine and pseudoephedrine. DEA has removed a number of distributors of grey market drug products (those that can be purchased at truck stops, party/liquor stores, etc.) from the marketplace. Following DEA's success with removing grey market distributors, STLs have become heavily reliant on obtaining precursor chemicals from cold and asthma drug products (usually packaged in blister packs) from traditional retail outlets, such as chain drug stores. Based on clandestine lab seizure statistics, those States restricting the availability of methamphetamine precursor chemicals, like pseudoephedrine, have seen a dramatic decrease in the number of small toxic labs. With the enactment of Federal and State legislation limiting the sale of products containing pseudoephedrine and ephedrine, further reduction in the number of STLs is anticipated.

Once a STL has been identified, it must be dismantled. DEA assists State and local law enforcement by providing hazardous waste contractor clean-up services administered through Community Oriented Policing Services (COPS) grant funding. In fiscal year 2005, DEA administered 8,678 State and local clandestine clean ups. This is a decrease from fiscal year 2004 when 9,474 clean ups were administered. In addition, DEA has trained nearly 12,000 Federal, State, and local law enforcement personnel since 1998 to conduct investigations and dismantle seized methamphetamine labs to protect the public from methamphetamine lab toxic waste.

At the end of the first quarter of fiscal year 2006, there were 298 active DEA Priority Target Organization (PTO) investigations with methamphetamine as the primary drug type. Seven (7) of the 44 organizations (16 percent) on the fiscal year 2006 Consolidated Priority Organization Target (CPOT) list are engaged in methamphetamine trafficking. At the end of the first quarter of fiscal year 2006, there were 157 active PTO investigations linked to those seven CPOTs. Since the inception of the PTO program, DEA has disrupted or dismantled 427 methamphetamine PTOs.

*Operational Highlight: Operations Cold Remedy and Aztec Flu.*—From March 2003 to March 2005, as part of DEA's Operations Cold Remedy and Aztec Flu, more than 5 metric tons of 60 milligram tablets of pseudoephedrine were seized in the United States, Mexico, and Panama—which could have yielded an excess of 3 metric tons of methamphetamine. The seizures were conducted by DEA with Mexico's Organized Crime Prosecutor's Office and Hong Kong law enforcement authorities. Operations Cold Remedy and Aztec Flu are investigations run under the auspices of Project Prism, an international initiative aimed at assisting governments in developing and implementing cooperating procedures more effectively control and monitor trade in amphetamine-type stimulant precursors to prevent their diversion. Participants of Project Prism include 95 countries and 5 international organizations.

*Operational Highlight: MET Case Against Street Gang "Satan's Disciples".*—On March 7, 2006, the DEA Dallas Field Division MET concluded a 9 month deployment and OCDETF/PTO investigation that resulted in the dismemberment of seven methamphetamine trafficking organizations and two crack cocaine organizations. The investigation targeted Rocky Salazar who headed a street gang named Satan's Disciples, responsible for distributing methamphetamine in the Gainesville, Texas area. The Satan's Disciples also distributed narcotics and laundered money in three separate casinos located on Indian Reservations in nearby Oklahoma. The investigation culminated with the arrest of 93 individuals (81 State and 12 Federal), including priority target Salazar, and the seizure of 0.6 kilograms of crack cocaine, 0.2 kilograms of powder cocaine, 2.5 kilograms of marijuana, 8.8 kilograms of methamphetamine, 0.6 kilograms of GHB, 65 firearms, \$167,000 in U.S. currency, \$70,000 in real property, and four vehicles. DEA conducted this enforcement operation together with ATF, BIA, the Chickasaw Indian Nation, and State and local officers from Texas and Oklahoma.

### *Marijuana*

Marijuana continues to be a significant threat because today's potent marijuana causes more teens to be dependent on it. This is supported by the following data: (1) More teens seek treatment for marijuana dependency than for all other drugs combined including alcohol. (2) Marijuana was involved in 79,663 emergency department visits<sup>3</sup> in calendar year 2003, second only to cocaine among drug-related visits.<sup>4</sup> (3) The 2004 NSDUH found that marijuana was the most commonly used illicit drug with 14.6 million users (6.1 percent of the population 12 and older) during the past month in calendar year 2004—the same as in calendar year 2003.<sup>5</sup> (4) Past year use of marijuana remained unchanged statistically between calendar year 2003 and calendar year 2004 at 10.6 percent.

Marijuana trafficking is prevalent across the Nation, with both domestic and foreign sources of supply. The most recent supply availability estimates indicate that between 10,000 and 24,000 pure metric tons of marijuana are available in the United States<sup>6</sup> and that Americans spend more than \$10.4 billion every year on marijuana.<sup>7</sup> Since the demand for marijuana far exceeds that for any other illegal drug and the profit potential is so high, some cocaine and heroin drug trafficking organizations traffic marijuana to help finance their other drug operations.

Mexican drug trafficking organizations dominate the transportation and wholesale distribution of the majority of foreign-based marijuana available in the United States and cultivate marijuana on U.S. public lands throughout California. High grade marijuana from Canada, commonly referred to as "BC Bud," also is available in every region of the United States.

At the end of the first quarter of fiscal year 2006, there were 146 active PTO investigations with marijuana as the primary drug type. Twelve (12) of the 44 organizations on the fiscal year 2006 CPOT list (27 percent) are engaged in marijuana trafficking. At the end of the first quarter of fiscal year 2006, there were 385 active DEA PTO investigations linked to these 12 CPOTs. Since the inception of the PTO program, DEA has disrupted or dismantled 208 marijuana PTOs.

*Operational Highlight: Operation Falling Star.*—As of the end of 2005, this Organized Crime Drug Enforcement Task Force (OCDETF/SOD) coordinated operation targeting a Detroit and Phoenix-based marijuana drug trafficking organization (DTO), resulted in 63 arrests, and the seizure of \$13.7 million in cash, 16.4 metric tons of marijuana, 305 kilograms of cocaine, 14 properties, 22 vehicles, and 42 weapons, leading to the dismantlement of the drug trafficking organization. The Detroit target, Quasand Lewis, has been targeted for approximately 10 years by State and local law enforcement agencies for his suspected involvement in several homicides and extensive drug trafficking and witness intimidation. The focal point of the investigation, Giovanni Ruanova, coordinated multi-million dollar currency transportation routes and pick-ups from Detroit.

### *Non-medical use of prescription drugs*

Non-medical use of addictive prescription drugs has been increasing throughout the United States at alarming rates. In calendar year 2004, an estimated 6.0 million<sup>8</sup> Americans age 12 and older reported past month use of prescription drugs for non-medical purposes compared to 3.8 million in calendar year 2000<sup>9</sup>—a 58 percent increase in 4 years. Nationally, the misuse of prescription drugs was second only to marijuana in calendar year 2004.

Individual users can easily acquire prescription drugs through a variety of means, generally dependent on type of drug. DEA and other data sources reveal that

<sup>3</sup>A visit to the emergency room is referred to as an episode, and every time a drug is involved in an episode it is counted as a mention.

<sup>4</sup>U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration. *Detailed Emergency Department Tables from DAWN: 2003*. December 2004.

<sup>5</sup>U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration. (2005). *Overview of Findings from the 2004 National Survey on Drug Use and Health*.

<sup>6</sup>Drug Availability Steering Committee, *Drug Availability Estimates in the United States*, December 2002.

<sup>7</sup>Executive Office of the President, Office of National Drug Control Policy. *What Americans Spend on Illegal Drugs 1988–1998*. December 2000.

<sup>8</sup>U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration. (2005). *Overview of Findings from the 2004 National Survey on Drug Use and Health*.

<sup>9</sup>U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration. (2002). *National Household Survey on Drug Abuse: Vol 1. Summary of National Findings*.

OxyContin® and other Schedule II drugs are most commonly obtained illegally through “doctor shopping” or are sold illegally by registrants (e.g., doctors/pharmacists). On the other hand, Schedule III and Schedule IV drugs (e.g., anti-anxiety medications, hydrocodone, and anabolic steroids) are often purchased through the Internet. Many of these e-pharmacies are foreign-based and expose the purchaser to potentially counterfeit, contaminated, or adulterated products.

*Operational Highlight: An Advanced Pain Management Case.*—In April 2005, DEA culminated a 5 year OCDETF and Priority Target investigation that resulted in the dismantlement of a major prescription drug trafficking organization and the seizure of \$1.6 million in cash, \$4.7 million in financial and approximately \$4.8 million in real assets. Five individuals, including three physicians, were arrested and charged with the distribution of pharmaceutical controlled substances, distribution of drugs to a minor, conspiracy, and money laundering. The physicians prescribed a cocktail of hydrocodone, Xanax and Soma to approximately 100–300 patients per day under the guise of “pain management”. To date, this investigation has resulted in Immediate Suspensions of DEA Registrations of the doctors and four pharmacies were also issued.

DEA, in collaboration with its State and local law enforcement counterparts, investigates registrants and non-registrants who intentionally divert prescription drugs. DEA has made pharmaceutical investigations a priority and continues to focus its drug enforcement efforts toward the most important members of the drug supply chain. In fiscal year 2005, DEA opened 1,672 investigations focused on the diversion of pharmaceutical controlled substances by registrants and non-registrants, an approximate increase of 11 percent over fiscal year 2004 (1,508). DEA’s fiscal year 2005 Priority Target pharmaceutical investigations of key drug supply organizations (59) represents a dramatic increase (168 percent) over fiscal year 2004 (22).

Combating the diversion of OxyContin® remains a priority within DEA. Of the 1,668 open investigations in fiscal year 2005, 117 were open OxyContin® investigations involving 48 doctors. Of those 117 OxyContin® investigations, 25 were Priority Target investigations.

The illicit sale of controlled pharmaceutical substances, including narcotics, anti-anxiety medications, steroids, and amphetamines, is a serious global problem and the Internet has become one of the most popular sources for these products. DEA targets its investigations on domestic Internet pharmacies using data from available data bases (such as the Automated Reporting of Completed Orders System—ARCOS) to determine which retail pharmacies are most likely involved in distribution of large quantities of controlled substances over the Internet. In fiscal year 2005, 11.2 percent of investigative work hours dedicated to open diversion cases were Internet cases. This is an increase of 30 percent from fiscal year 2004 when Internet cases represented 8.6 percent of the investigative work hours dedicated to open diversion cases. In fiscal year 2005, as a result of online pharmacy investigations, DEA seized over \$32 million in financial and property assets. This is a 184 percent increase from fiscal year 2004 when asset seizures totaled \$11 million.

*Operational Highlight: Operation Cyber Chase.*—In April 2005, a 1-year, multi-jurisdictional OCDETF investigation (Operation Cyber Chase) was concluded with the dismantlement of the Bansal drug trafficking organization and the arrest of 20 individuals in New York, Philadelphia, India, Costa Rica, Austria, and Hungary. Those arrested were distributing drugs worldwide using rogue Internet pharmacies to dispense controlled substances directly to customers without a medical evaluation by a physician. The Bansal organization used over 200 websites to distribute 2.5 million dosage units of Schedule II through IV pharmaceutical controlled substances per month. Electronic mail communications among the co-conspirators included: “It’s not easy to get rich. My goal is towards the upper echelon of economic independence. All things considered, it should only take about 800 million. That’s um, 3,000 packs of valium sold a day for 5 years. Well, that’s actually about 921 mill, but I’m not sure there’ll be a few costs in there somewhere.” As of September 30, 2005, Operation Cyber Chase has resulted in 26 arrests, the seizure of 5.8 million dosage units of Schedule II–IV controlled substances, 105 kilograms of Ketamine, and \$8.6 million.

### *Cocaine*

Cocaine remains a major illegal drug of concern throughout the United States based upon abuse indicators, violence associated with the trade, and trafficking volume. After marijuana and prescription drugs, cocaine continues to be the most wide-

ly used illicit drug among all age categories. The 2004 NSDUH found that 2 million people used cocaine within the past 30 days and that over 5.6 million people used it within the past year. According to the 2003 DAWN report, cocaine is the most frequently reported illegal drug in hospital emergency department visits, accounting for 1 in 5 (20 percent) drug related emergency room visits in calendar year 2003.<sup>10</sup>

Although Columbia is the principal supplier of cocaine to the United States, most of the wholesale cocaine distribution in the United States is controlled by Mexican drug trafficking organizations and criminal enterprises. Even in areas dominated by Colombian and Dominican drug trafficking organizations, such as the Northeast and Caribbean regions, the influence of Mexican drug trafficking organizations is increasing.

At the end of the first quarter of fiscal year 2006, there were 1,028 active DEA PTO investigations with cocaine as the primary drug type. Thirty-nine (39) of the 44 organizations on the fiscal year 2006 CPOT list (89 percent) are engaged in cocaine trafficking. At the end of the first quarter of fiscal year 2006, there were 514 active PTO investigations linked to these 39 CPOTs. Since the inception of the PTO program, DEA has disrupted or dismantled 1,208 cocaine PTOs.

*Operational Highlight: Operations Firewall and Panama Express.*—DEA's multi-agency cocaine interdiction programs—known as Operation Firewall and Operation Panama Express—combine investigative and intelligence resources to interdict and disrupt the flow of cocaine from the northern coast of Colombia to the United States. Since the July 2003 commencement of Operation Firewall, 29.2 metric tons of cocaine have been directly seized. In addition, Operation Firewall has provided assistance in Operation Panama Express seizures of 33.2 metric tons of cocaine, and in other foreign countries with the seizure of 25.7 metric tons of cocaine. Since the February 2000 implementation of Operation Panama Express to December 31, 2005, 356 metric tons of cocaine have been seized, 109.2 metric tons of cocaine have been scuttled, and 1,107 individuals arrested. As of December 31, 2005, these combined operations have resulted in total seizures of 410.9 metric tons of cocaine.

#### *Heroin*

The overall demand for heroin in the United States is lower than for other major drugs of abuse such as cocaine, marijuana, methamphetamine, and MDMA.<sup>11</sup> However, one cause for concern is the recent increase in heroin use. According to the 2004 NSDUH, 166,000 people aged 12 and older (0.1 percent) reported using heroin during the past 30 days in calendar year 2003 compared to 119,000 (0.1 percent) in calendar year 2003.<sup>12</sup> Heroin remains readily available in major metropolitan areas and is the third most frequently mentioned illegal drug reported to DAWN by participating emergency departments after cocaine and marijuana, accounting for 47,604 mentions in calendar year 2003.<sup>13</sup>

Most of the heroin entering the United States is produced in South America and Mexico. Although heroin production in these areas has decreased in recent years, the production capacity remains sufficient to meet U.S. demand for the drug.<sup>14</sup> In 2004, Afghanistan produced more than 90 percent of the worldwide heroin produced.<sup>15</sup> However, Afghanistan is not currently a major heroin supplier to the United States; only about 8 percent of the U.S. supply comes from that country.

At the end of the first quarter of fiscal year 2006, there were 240 active DEA PTO investigations with heroin as the primary drug type. Fourteen (14) of the 44 organizations on the fiscal year 2006 CPOT list (32 percent) are engaged in heroin trafficking. At the end of the first quarter of fiscal year 2006, there were 514 active PTO investigations linked to these 14 CPOTs. Since the inception of the PTO program, DEA has disrupted or dismantled 357 heroin PTOs.

*Operational Highlight: Operation Containment and FAST.*—Through Operation Containment, DEA is working with a coalition of 19 countries from

<sup>10</sup> U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration. *Detailed Emergency Department Tables from DAWN: 2003*. December 2004.

<sup>11</sup> U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration. (2005). *Overview of Findings from the 2004 National Survey on Drug Use and Health*.

<sup>12</sup> *Ibid.*

<sup>13</sup> U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration. *Detailed Emergency Department Tables from DAWN: 2003*. December 2004.

<sup>14</sup> U.S. Department of Justice, National Drug Intelligence Center. (2006). *2006 National Drug Threat Assessment*.

<sup>15</sup> *Ibid.*

Central Asia, the Caucasus, Europe, and Russia, to reduce the flow of Afghan heroin into world markets, prevent Afghanistan from becoming a major heroin supplier to the United States, and disrupt drug related terrorist activities that could hamper the long term stabilization of the Afghanistan government. In fiscal year 2005, Operation Containment resulted in the seizure of 11.5 metric tons of heroin, 1.3 metric tons of morphine base, 43.9 metric tons of opium gum, 14.2 metric tons of precursor chemicals, and 248 clandestine opium, morphine, and heroin conversion laboratories. By comparison, just 3 years prior, .47 metric tons of heroin was seized, representing a 2,300 percent increase in fiscal year 2005. Operation Containment also resulted in the initiation of 146 investigations and led to the disruption of two CPOTs, including the Haji Bashir Noorzai and Haji Baz Mohammad organizations in fiscal year 2005. DEA's Foreign-deployed Advisory Support Team (FAST) Program augments Operation Containment. Since being deployed in April 2005, the FAST program has trained over 100 Afghan officers who work bi-laterally with DEA's FAST teams. One successful FAST operation occurred on June 18, 2005, when the DEA Kabul Country Office, FAST, United Kingdom forces, and the U.S. trained Afghan officers raided and destroyed four fully operational clandestine heroin laboratories. One of the four opium-to-morphine base conversion laboratories destroyed was one of the largest seized in Afghanistan. Approximately 4.4 metric tons of opium, hundreds of gallons of chemicals, four opium presses, six opium vats, and 500 kilograms of soda ash were destroyed.

#### *Transit Zones*

The Southwest Border area is the principal arrival zone for most illicit drugs smuggled into the United States. From that area, the smuggled drugs are distributed throughout the country.

Most cocaine is transported from South America, particularly Colombia, through the Mexico-Central America Corridor via the Eastern Pacific transit zone (50 percent) and the Western Caribbean zone (40 percent). Most of the cocaine transiting these two areas is ultimately smuggled into the country via the Southwest Border. The remaining 10 percent of cocaine transported from South America mostly transits the Caribbean zones to Florida and the Gulf Coast.<sup>16</sup>

According to the 2006 *National Drug Threat Assessment*, methamphetamine seizures increased from 1.12 metric tons in calendar year 2002, to 1.73 metric tons in calendar year 2003, to 1.98 metric tons in calendar year 2004. Most of the foreign-produced marijuana available in the United States is smuggled into the country from Mexico via the Southwest Border by Mexican drug trafficking organizations and criminal groups, as evidenced by calendar year 2004 seizures of 1,103 metric tons on the Southwest Border versus 9.2 metric tons on the Northern Border.

In calendar year 2004, seizures for Southwest Border points of entry included 22.4 metric tons of cocaine, 388 kilograms of heroin, 1,070 metric tons of marijuana, and 2.3 metric tons of methamphetamine. By comparison, seizures in the Florida/Caribbean arrival zone for the same time period included 10.5 metric tons of cocaine, 481 kilograms of heroin, 4.9 metric tons of marijuana and no methamphetamine.

*Operational Highlight: Discovery of Narcotics Smuggling Tunnel.*—Acting on intelligence from a confidential source, in January 2006, a joint investigation between DEA, Immigration and Customs Enforcement, United States Border Patrol, and the Mexican Policia Federal Preventiva culminated in the discovery of a narcotics smuggling tunnel. The tunnel spanned the United States/Mexican border just east of the Otay Mesa, California Port of Entry and resulted in the seizure of approximately two tons of marijuana. The discovery of the tunnel followed an extensive investigation resulting from DEA and ICE confidential source information. The tunnel, approximately 86 feet deep and nearly three-quarters of a mile long, originated inside a small warehouse in Otay Mesa, Mexico, and exited inside a vacant warehouse in San Diego, California.

#### FINANCIAL INVESTIGATIONS

Drug trafficking organizations are motivated by one thing—money. According to the 2006 *National Drug Threat Assessment*, between \$13.6 billion and \$48.4 billion

<sup>16</sup>U.S. Department of Justice, National Drug Intelligence Center. (2006). *2006 National Drug Threat Assessment*.

is generated annually by wholesale-level drug distribution.<sup>17</sup> To truly dismantle drug enterprises, we must attack the drug trafficking organizations' ability to collect proceeds from the drug trade.

DEA has reenergized and refocused its attack on the financial infrastructure of drug cartels. DEA's Office of Financial Operations and specialized Money Laundering Groups in DEA's 21 domestic field divisions principally target the drug money laundering systems and the drug profits that flow back to the sources of drug supply. In fiscal year 2005, DEA established a 5-year plan with annual milestones through fiscal year 2009. The plan calls for DEA to increase seizures until we seize drug profits at a level each year that will actually destroy drug networks rather than being viewed by traffickers only as an expected cost of doing business. To do this, DEA must seize \$3 billion from drug trafficking organizations each year. In the first year under this plan, DEA denied drug traffickers \$1.9 billion in revenue in fiscal year 2005—including \$1.4 billion in seized assets and \$477 million in drug seizures—exceeding DEA's first year goal of \$1 billion in seizures by 90 percent.

The smuggling of large sums of cash across our borders continues to be the primary method used to expatriate drug proceeds from the United States to the source countries. To address this increasing threat, the DEA has initiated a bulk currency program to coordinate all U.S. highway interdiction money seizures. Bulk currency cash seizures in fiscal year 2005 totaled \$407 million, a 28 percent increase over the \$317 million seized in fiscal year 2004.

*Operational Highlight: Arrest of Martin Tremblay.*—On January 20, 2006, Martin Tremblay, a Canadian national and President and Managing Director of the Bahamas-based investment firm “Dominion Investments, LTD” was arrested by the DEA and other Federal and State law enforcement agencies. Tremblay was indicted for conspiracy to launder narcotics proceeds in a long-term money laundering scheme from approximately 1998 through December 2005. Tremblay conspired to launder \$1 billion in illegal drug proceeds for “Dominion Investment” clients in exchange for a substantial commission. Dominion Investment was used by Tremblay to create shell companies and fictitious entities to launder the drug proceeds he received to offshore accounts in the United States, Canada, Switzerland, and elsewhere around the world. Tremblay's activities as a money launderer were first identified in an international DEA drug investigation targeting subjects distributing GHB over the Internet (Operations Webslinger and Black Goblin). Other Federal and State law enforcement agencies involved in this case include the Internal Revenue Service, Criminal Investigations Division (IRS/CID) the New York State Police, and the Organized Crime Drug Enforcement Strike Force in New York, New York.

*Operational Highlight: Operations Dirty Dinero/Common Denominator.*—On March 2, 2006, in a joint action between the Colombian National Police and the Drug Enforcement Administration, Financial CPOT Ricardo Mauricio BERNAL-Palacios, his brother Juan BERNAL-Palacios and Tier 1 Money Broker Camillo ORTIZ-Echevi were arrested in Bogotá, Colombia. These arrests were based on provisional arrest warrants filed against the three in relation to a February 2006 indictment in the Southern District of Florida charging 48 counts of money laundering, 18 USC 1956(h) and one count of conspiracy to distribute cocaine, 21 USC 846.

#### GANGS

Gangs have become an increasing threat to our nation's security and the safety of our communities. Seventy-five percent of the United States Attorneys report that parts of their districts currently have a moderate or significant gang problem. Gangs commonly use drug trafficking as a means to finance their criminal activities. Furthermore, many have evolved from turf-oriented entities to profit-driven, organized criminal enterprises whose activities include not only retail drug distribution but also other aspects of the trade, including smuggling, transportation and wholesale distribution.

Criminal street gangs, outlaw motorcycle gangs, and prison gangs are the primary retail distributors of illegal drugs on the streets of the United States and the threat of these gangs is magnified by the high level of violence associated with their attempts to control and expand drug distribution operations. Gangs primarily transport and distribute cocaine, heroin, marijuana, and methamphetamine. Authorities

<sup>17</sup>U.S. Department of Justice, National Drug Intelligence Center. (2006). *2006 National Drug Threat Assessment*.

throughout the country report that gangs are responsible for most of the serious violent crime in the major cities of the United States.

DEA is committed to combating the gang problem within the United States. As of February 7, 2006, approximately 12 percent (239) of DEA's total active Priority Target investigations target gangs. In addition, DEA's Mobile Enforcement Teams (METs) target violent drug trafficking organizations in areas where State, local, and Tribal law enforcement is challenged by limited resources to counter the threat. Often, these MET deployments target violent gangs involved in drug trafficking activity, such as the Hell's Angels, Latin Kings, Bloods, Crips, Mexican Mafia, and Gangster Disciples. In fiscal year 2004, approximately 27 percent (11 of 40) of MET deployments targeted gangs. Gang related MET deployments increased to 38 percent in fiscal year 2005, when 15 of 39 MET deployments initiated targeted gangs. Through the second quarter of fiscal year 2006, 5 of 14 deployments (35 percent) targeted gangs.

DEA also recognizes the value of an integrated, collaborative and comprehensive approach to multi-faceted gang organizations and their operations. DEA participates in a number of anti-gang initiatives with other law enforcement components, including Violent Crime Impact Teams, Project Safe Neighborhoods, Weed and Seed Program, Safe Streets and Safe Trails Task Forces and the Attorney General's Anti-Gang Coordination Committee.

*Operational Highlight: Operation Motor City Mafia.*—Operation Motor City Mafia was a Special Operations Division-supported, OCEETF and PTO investigation of the Black Mafia Family (BMF). DEA and the Internal Revenue Service identified the BMF as a major cocaine and crack cocaine distribution organization with cells in major metropolitan cities including Detroit, Atlanta, Los Angeles, Miami, St. Louis, Orlando, and Louisville. The BMF uses the rap music industry to distribute hundreds of kilograms of cocaine and to launder millions of dollars in drug proceeds. The BMF has used intimidation, violence, and murder to maintain their strong presence among their urban drug trafficking organizations. As of January 27, 2006, Operation Motor City Mafia resulted in the arrest of 53 defendants and the seizure of 385 kilograms of cocaine, 1.2 metric tons of marijuana, \$4.6 million, and other assets valued at over \$16 million.

#### STATE AND LOCAL ASSISTANCE

DEA provides direct assistance to State and local law enforcement agencies through its State and Local Law Enforcement Officer Training program, State and Local Task Force program, and Mobile Enforcement Team (MET) program. In addition, DEA provides clandestine laboratory clean up assistance to State and local law enforcement agencies.

*State and Local Training.*—DEA trained 22 percent more State and local officers in fiscal year 2005 (41,853) than fiscal year 2004 (34,183), including training in responding to clandestine laboratories, drug diversion, and law enforcement intelligence.

*State and Local Task Forces.*—DEA's partnerships with Federal, State, local, and international law enforcement entities serve as force multipliers in our efforts to reduce the availability of illicit drugs in America. As of the end of first quarter fiscal year 2006, DEA's State and Local Task Forces numbered 214 and included over 2,500 authorized Task Force Officers with more than 1,100 authorized DEA Special Agents.

*Mobile Enforcement Teams.*—In April 1995, DEA created the MET Program to assist State, local, and Tribal law enforcement in the disruption or dismantlement of violent drug trafficking organizations and gangs. Since March 2005, METs have prioritized deployments on methamphetamine, targeting repeat meth offenders and clandestine laboratory operators in areas of the United States that have a limited DEA presence. Since the re-direction of MET, 44 percent (20 out of 45) of new MET deployments opened in fiscal year 2005 were methamphetamine deployments. This is nearly double the methamphetamine deployments by METs from fiscal year 2003 to fiscal year 2004. During this period, an average of 24 percent of new MET deployments were focused on methamphetamine.

*Hazardous Waste Program.*—Established in 1990 to address environmental concerns from the seizure of clandestine drug laboratories, DEA's hazardous waste program promotes the safety of law enforcement personnel and the public by using highly qualified companies with specialized training and equipment to perform the removal of the methamphetamine-related wastes at seized laboratories. In fiscal year 2005, DEA administered 8,678 State and local clandestine clean ups. In addition, DEA has trained nearly 12,000 Federal, State, and local law enforcement per-

sonnel since 1998 to conduct investigations and dismantle seized methamphetamine labs to protect the public from methamphetamine lab toxic waste. To accelerate the clean up process and reduce costs borne by State and local governments associated with seized sites, DEA has developed a hazardous waste container program that will allow for the central collection of waste products, reducing the time and expense of lab clean ups. A pilot program in Kentucky produced savings of \$800,000 in fiscal year 2005 and approximately \$500,000 in fiscal year 2004.

BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES

STATEMENT OF CARL J. TRUSCOTT, DIRECTOR

Senator SHELBY. Mr. Truscott.

Mr. TRUSCOTT. Mr. Chairman, Ranking Member Mikulski, distinguished members of the subcommittee, I am pleased to appear before you today to discuss the President's fiscal year 2007 budget for the Bureau of Alcohol, Tobacco, Firearms and Explosives. I appreciate very much the support—

Senator LEAHY. Mr. Chairman?

Senator SHELBY. Yes, Senator Leahy.

Senator LEAHY. And I apologize, you know, you are my favorite chairman the way you run things. I just got called. I have to go back for the immigration bill. Would it be possible to ask Administrator Tandy just a couple of short questions? I may get stuck on the floor.

Senator SHELBY. Can you just submit them for the record, where we can keep it going? If you would submit them for the record.

Senator LEAHY. Well—

Senator SHELBY. I would rather you just submit them for the record.

Senator LEAHY. Okay, I will try to come back, because I find when I submit them, I never get the answers.

Senator SHELBY. We will lose our rhythm otherwise.

Senator LEAHY. All right.

Senator SHELBY. I appreciate it, Senator Leahy, but we've got to keep the subcommittee going.

Mr. TRUSCOTT. Mr. Chairman, I appreciate very much the support that this subcommittee has given to ATF and the interest it has demonstrated in ATF's missions and programs. Thanks to the leadership and support of this subcommittee and the dedication and diligence of the men and women of ATF, we are improving the lives of Americans.

Your investments in our efforts produce real results, safer neighborhoods where all of us can live without fear. The statement I provided for the record goes into great detail on ATF's programs and accomplishments, so I will use the time I have today to briefly highlight our budget request, which includes expansion of our violent crime impact team program, one of ATF's most effective initiatives. I will also provide a brief overview of our response to the recent church fires in rural Alabama and our activities in support of the coalition forces in Iraq.

ALCOHOL, TOBACCO, FIREARMS BUDGET REQUEST

The President's budget for fiscal year 2007 requests \$860 million and 5,030 full-time equivalent positions for ATF. The President's request also includes \$120 million from a fee on explosive industry operations, which would bring our total resources to \$980 million.

I believe these investments will provide essential benefits to the American people.

#### VIOLENT CRIME IMPACT TEAMS

Our fiscal year 2007 request includes new funds for the VCIT program. VCIT is a focused and cooperative law enforcement component of the President's Project Safe Neighborhoods Initiative. Through VCIT, ATF-led teams work with local law enforcement to identify and arrest the most violent offenders, including gang members in specific geographic locations with high crime rates. The program began in 15 selected communities and since has expanded to a total of 23, and because VCIT has proven so successful, the administration has requested \$16 million and 44 FTEs to support the initiative and offer more Americans the opportunity to enjoy safer neighborhoods.

#### ALABAMA CHURCH FIRES INVESTIGATION

Mr. Chairman, I want to inform you and the subcommittee of the steps that we have taken, including my colleagues here at the table, to respond to the church fires in rural Alabama in early February. We view the intentional burning of a place of worship as a violent attack on the community's well being. Upon learning of the fires, ATF immediately activated our national response teams to investigate the fires. The teams include special agents, forensic chemists, fire protection engineers, accelerant detection canines, geographic and criminal profilers.

ATF's partnership with Federal, State, and local law enforcement was vital to this effort. I am pleased to report that through law enforcement's hard work, this investigation was brought to a successful conclusion. Three individuals were indicted in connection with the church fires and are being charged with one count of conspiracy and nine counts of arson.

#### ALCOHOL, TOBACCO, FIREARMS AND IRAQ

With respect to Iraq, ATF is contributing the expertise of our special agents and our explosive enforcement officers to the combined explosives exploitation cells. In cooperation with the U.S. Army, we are training Army explosive units at our National Center for Explosives Training and Research, and we are doing that prior to their deployment to Iraq. In addition, ATF provides post-blast training for U.S. and coalition forces in Iraq and for the Iraqi National Police. ATF-trained explosive detection canines are also deployed there. ATF has special agents assigned to the Regime Crimes Liaison Office to investigate in the investigation and the prosecution of war crimes. ATF personnel are also working in support of the newly established U.S. Embassy in Iraq.

I have referenced several of our activities in support of our mission to prevent terrorism, reduce violent crime, and protect our Nation. We are committed to working directly and through partnerships to investigate and reduce crime involving firearms and explosives, acts of arson, and illegal trafficking of alcohol and tobacco products.

Once again, Mr. Chairman, ranking member Mikulski, members of this subcommittee, on behalf of ATF, I thank you for your support of our crucial work. I also thank you for this opportunity to testify before you today, and I look forward to answering any questions you may have.

[The statement follows:]

PREPARED STATEMENT OF CARL J. TRUSCOTT

Mr. Chairman, Senator Mikulski, and distinguished members of the subcommittee, I am pleased to appear before you today to discuss the accomplishments of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and the President's fiscal year 2007 Budget for ATF.

As you know, ATF is a principal law enforcement agency within the United States Department of Justice dedicated to preventing terrorism, reducing violent crime, and protecting our Nation. The men and women of ATF perform the dual responsibilities of enforcing Federal criminal laws and regulating the firearms and explosives industries. We are committed to working directly, and through partnerships, to investigate and reduce crime involving firearms and explosives, acts of arson, and illegal trafficking of alcohol and tobacco products.

I appreciate very much the support the subcommittee has given to ATF and the interest it has demonstrated in ATF's missions and programs. Thanks to the leadership and support of this committee, and the dedication and diligence of the men and women of ATF, our efforts are producing real results: safer neighborhoods, where all of us can live without fear.

With your support during the fiscal year 2006 appropriations process, ATF received funding to expand its Violent Crime Impact Teams (VCIT), participate in the Terrorist Explosive Device Analytical Center (TEDAC), and plan a permanent facility for the National Center for Explosives Training and Research (NCETR). These investments are in direct support of ATF's core mission.

The President's budget request for fiscal year 2007 builds on your fiscal year 2006 investments with \$16 million to further enhance VCIT, a focused and cooperative law enforcement component of the President's Project Safe Neighborhoods (SN) initiative.

RESPONSE TO HURRICANE KATRINA

Before I give an overview of ATF programs and our fiscal year 2007 budget request, first I would like to briefly inform the committee of the resources we deployed to the Gulf Region and the efforts we undertook as part of the Federal response to Hurricane Katrina.

In the week preceding Katrina making landfall in New Orleans, we prepared by identifying resources and personnel to send to the affected areas and held daily meetings and teleconferences of our Emergency Management Working Group. On August 30, one day after Katrina made landfall, we activated our Continuity of Operations (COOP) site in Mandeville, Louisiana, and established an alternative division office in Shreveport, Louisiana. At that time, we also began planning forward command posts in Mandeville, New Orleans, and Biloxi, Mississippi, and decided to establish a Critical Incident Management Response Team (CIMRT) in Baton Rouge, Louisiana. ATF field offices from across the Nation immediately began moving manpower and equipment to the region, while personnel in the affected areas made locating missing ATF employees their top priority. In the following days, we deployed two Special Response Teams (SRTs) to New Orleans to address, in coordination with the New Orleans Police Department, the looting and violence in the aftermath of the storm.

Despite catastrophic damage to our facilities, the onerous logistics of re-establishing operations, and the severe personal hardships endured by our personnel, I am proud to point out that ATF was able, without interruption or a reduction in effectiveness, to continue our mission of enforcing Federal law and safeguarding the public. By September 22, less than 4 weeks after the levee breaches in New Orleans, ATF had assisted with over 600 law enforcement actions. Twelve arrests were made by ATF, including the September 5th arrest of a suspect who was observed by ATF SRT members firing on a helicopter conducting relief efforts. This arrest was the first of many Federal arrests, both by ATF and other Federal partners, for firearms violations in New Orleans after Hurricane Katrina.

ATF was given primary jurisdiction in the 1st and 8th Police Districts in New Orleans, responded to firearms-related calls, stopped looting, assisted in rescue oper-

ations, provided surveillance, assisted in the establishment of a detention center, and provided security to Assistant United States Attorneys. During that time, ATF also proactively reached out to all Federal Firearms Licensees (FFLs) and Federal Explosives Licensees (FELs) in affected areas. As an extension of those efforts, we established a toll-free number for FFLs and FELs to contact ATF regarding the status of their premises, records, and inventory; and we instituted a plan to systematically inspect all 742 FFLs and 182 FELs where looting and flooding occurred.

#### IRAQ

I would also like to provide the committee with a brief overview of our activities in support of the coalition forces in Iraq before I move on to a discussion of ATF programs. I would like to thank the committee for its support for ATF's fiscal year 2006 Iraq Supplemental request. Currently, ATF is contributing the expertise of its special agents and Explosives Enforcement Officers to the Iraq Combined Exploitation Cells (CEXCs). This participation has been praised by the Department of Defense. In cooperation with the U.S. Army, we are training Army explosives units at our National Center for Explosives Training and Research (NCETR) prior to their deployment to Iraq. In addition, ATF provides post-blast training for United States and coalition forces in Iraq and for the Iraqi National Police, and ATF-trained explosives detection canines are deployed in Iraq. ATF also has special agents assigned to the Regime Crimes Liaison Office in Iraq to assist in the investigation and prosecution of war crimes.

#### FISCAL YEAR 2007 PRESIDENT'S BUDGET REQUEST

ATF's mission supports the priorities of the administration and the Department under the Department's Strategic Goals 1 and 2, to "Prevent Terrorism and Promote the Nation's Security" and "Enforce Federal Laws and Represent the Rights of the American People."

The President's 2007 budget request for ATF is 5,030 FTE and \$860,128,000 for salaries and expenses and for program enhancements, offset by a \$20,000,000 reduction in the firearms decision unit and a \$120,000,000 explosives user fee.

The fiscal year 2007 request includes funds for the expansion of the VCIT program. VCIT is one of ATF's most effectively designed initiatives and is an important part of PSN. The President's budget requests \$16,000,000 and 44 FTE to further enhance the initiative and offer more Americans the opportunity to live in safer neighborhoods. This initiative would increase the number of VCIT teams from 25 to 40 in the coming fiscal year.

#### FIREARMS

ATF enforces Federal firearms laws and provides requested support to Federal, State, and local law enforcement officials in their fight against crime and violence. Our 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 persons possessing firearms that are generally prohibited, such as machineguns and sawed-off shotguns; and
- investigations of firearms trafficking.

From these types of investigations, ATF agents concentrate on firearms traffickers diverting 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, illegal dealing at gun shows or other locations, robberies of gun stores, and thefts from interstate shipments.

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 cases and seek the most appropriate venue for firearms prosecution. The Department filed 10,841 federal firearms cases in fiscal year 2005—a 73 percent increase since PSN's inception. ATF-related firearms investigations resulted in over 8,300 convictions in fiscal year 2005.

## VIOLENT CRIME IMPACT TEAMS

In June 2004, former Attorney General Ashcroft, former Deputy Attorney General Comey, and I announced the VCIT initiative, a new program to reduce violent crime in specific geographic locations with high crime rates. Through VCIT, ATF-led teams work with local law enforcement to identify and arrest the most violent offenders in each area. The program began in 15 selected communities and has since expanded to a total of 23. VCITs are now in place in: Albuquerque, New Mexico; Atlanta, Georgia; Baltimore, Maryland; Baton Rouge and New Orleans, Louisiana; Camden, New Jersey; Columbus, Ohio; Fresno and Los Angeles, California; Greensboro, North Carolina; Hartford, Connecticut; Houston and Laredo, Texas; Las Vegas, Nevada; Miami and Tampa, Florida; Minneapolis, Minnesota; Philadelphia and Pittsburgh, Pennsylvania; Richmond, Virginia; Tucson, Arizona; Tulsa, Oklahoma; and the Washington, DC/Northern Virginia area. We plan to expand to 25 cities in this fiscal year and 40 cities in fiscal year 2007.

ATF-led VCIT teams in these cities bring the targeted area's Federal, State, local and Tribal law enforcement officials together. The VCIT strategy counsels each team to create an individualized strategy, then to work together to remove those responsible for violent crime. Civic leaders and law enforcement officials have praised VCIT's positive impact on their communities. I am proud to note that, in August 2005, six ATF personnel received the Attorney General's Outstanding Contributions to Community Partnerships for Public Safety Award, honoring them for developing, organizing, and implementing VCIT.

## ANTI-GANG EFFORTS

We have developed expertise in working against criminal groups, particularly gangs. As such, ATF played an integral role in the development of the Department of Justice'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. As part of the strategy, ATF shares investigative information with other law enforcement agencies 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.

Our efforts have resulted in ATF referring more than 7,750 gang members and their associates to Federal and State prosecutors for prosecution during the past 5 years—3,100 of them during fiscal year 2005 alone—for charges including firearms violations, continuing criminal enterprise violations, Racketeer Influenced Corrupt Organization Act (RICO) violations, and arson and explosives violations. During this same 5-year period, as a result of our investigations, more than 3,000 gang members have been convicted of firearms offenses. In the past 2 fiscal years, we also traced more than 12,000 firearms linked to gang activity to assist in developing investigative leads for law enforcement.

The Regional Area Gang Enforcement (RAGE) unit, an ATF led task force, was established in June 2003 to contend with the growing Latino gang problems in the Maryland portion of the Washington, DC Metropolitan region. RAGE has had contact with and identified approximately 1,000 members of various Latino gangs in this area. RAGE is currently comprised of investigators from ATF, ICE, FBI, Prince George's County Police, Maryland National Capital Park Police, Howard County Police, Montgomery County Police, Hyattsville City Police, Fairfax County (VA) Police and Maryland State Police. RAGE investigators have identified three Mara Salvatrucha 13 (MS-13) cliques which are the most violent and involved in criminal activity, and consequently present the greatest threat to the public and law enforcement. MS-13 is an extremely violent street gang with documented involvement in homicides, rapes, aggravated assaults, carjacking, citizen robberies, prostitution, firearm trafficking, extortion, witness intimidation, auto theft, burglaries and other crimes.

## SOUTHWEST BORDER INITIATIVE

In October 2005, the Attorney General established an ATF-led VCIT in Laredo, Texas, to address increased violent crime along the border between the United States and Mexico. The Laredo VCIT serves as the focal point for ATF's Southwestern Border Initiative. This Initiative coordinates resources from four field divisions and previously established VCITs in Tucson, Albuquerque, and Houston. The initiative fights regional and cross-border violence and firearms trafficking by em-

ploying the tools of the VCIT strategy—geographic targeting, partnership and technology. ATF is working closely with the Laredo Police Department to identify targeted geographical areas and the worst offenders. ATF also is working in a reciprocal partnership with Immigration and Customs Enforcement [ICE] lending support to Operation Community Shield and Operation Blackjack while ICE supports VCIT to ensure the full use of the expertise and resources of both agencies. Through its International Programs Branch, ATF is working closely with the Mexican government to ensure that U.S.-sourced firearms recovered in Mexico are properly identified and documentation is submitted to ATF for tracing. ATF uses the trace results to identify and investigate firearms traffickers who illegally divert firearms to drug traffickers. Other technologies being used include crime gun mapping and ballistic tracing.

#### 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 2005, the NTC traced over 260,000 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.

In the conference report accompanying the Consolidated Appropriations Act for fiscal year 2005, Congress expressed support for the NTC Program known as Access 2000 and encouraged us to emphasize and expand it. I am pleased to inform the committee that we have done so. Under the Access 2000 initiative, which benefits both ATF and our industry partners, servers supplied by ATF have been installed at 49 firearms manufacturers and major wholesale distributors, all of them FFLs, who have voluntarily 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 industry operation investigators (IOIs) ensure that the manufacture, importation, and commerce in 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 explosives 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 11, 2004, 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, and a few of the decision points are as follows:

- Mandated that ATF would control the investigation of all explosives incidents except those related to terrorism and those where the FBI has traditionally exercised jurisdiction [bank robberies, organized crime, etc].
- Tasked ATF to maintain all DOJ arson and explosives databases currently maintained by other DOJ components.
- Mandated the consolidation within ATF of all budget, curriculum, teaching, and scheduling functions related to DOJ post-blast explosives training for Federal, State, local, and international entities.

—Directed ATF to establish standards to certify all explosives detection canines used by DOJ components.

I am honored by the confidence that the Attorney General placed in ATF when he made these decisions. Mr. Chairman, I believe that these policies will be responsible for significant financial efficiencies.

ATF strives to investigate 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. In fiscal year 2005 alone, ATF's diligent investigative efforts have led to the recovery of more than 15,000 pounds of high explosives, in addition to 1,533 pounds of low explosives, 5,280 blasting agents, 14,356 detonators, and 6,859 grenades. Mr. Chairman, the recovery of these items has made our Nation a safer place.

At the end of last year, the theft of a large quantity of explosives and detonators garnered significant public attention. On December 18, 2005, ATF, the Albuquerque Police Department, the Bernalillo County Sheriff's Department, the New Mexico State Police, and the FBI began investigating the theft of approximately 400 pounds of explosives from a Federal Explosive Licensee (FEL) located just outside Albuquerque, New Mexico. Five subjects have been subsequently arrested and charged with Federal explosives- and firearms-related violations. All of the stolen explosives have subsequently been recovered with the exception of one or two detonators.

While all ATF special agents receive substantial explosives-related training, special agents who qualify as certified explosives specialists (CESs) are among the most experienced, best-trained explosives experts in the Federal Government. They conduct 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. 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 throughout the United States and at the International Law Enforcement Academies in Budapest, Hungary; Bangkok, Thailand; and Gaborone, Botswana.

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 other 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 including such robotic equipment as 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.

To comply with the Attorney General's 2004 August memorandum, ATF has transferred the Arson and Explosives National Repository (AENR) to the United States Bomb Data Center (USBDC). The information maintained within the USBDC 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 USBDC 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 the Bomb Arson Tracking System (BATS). This program facilitates and promotes the collection and dissemination of fire, arson, and explosives incidents and information among participating agencies. Law enforcement agencies 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 there are plans to incorporate a feature providing 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 USBDC 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 NCETR, currently located at Fort A.P. Hill, Virginia. ATF offers numerous advanced courses related to explosives disposal and post-blast investigation techniques at NCETR, which was authorized in the Homeland Security Act of 2002. As previously noted, 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. Since ATF began holding training classes at Fort A.P. Hill in 2000, we have provided training to more than 4,000 Federal, State, local, and international bomb technicians and investigators. The fiscal year 2006 conference agreement (Public Law 109–108) provides \$5.0 million in funding for site selection, architectural design, site preparation for the construction of a permanent site for NCETR. In considering site selection, ATF is directed to consider a site collocated with other law enforcement and Federal government entities that provides similar training and research. The dynamic of these collective resources will provide a unique opportunity to leverage assets, knowledge, and expertise in the field, providing Federal, State and local law enforcement explosives expertise at a single location.

#### ARSON

ATF's arson investigative work includes two recent high-profile arson cases. In December 2004, fires were set in a new housing development in Charles County, Maryland, resulting in damage to over 30 homes—a number of which were completely destroyed. Our agents investigated and our state-of-the-art Forensic Science Laboratory analyzed all of the evidenced gathered. The results of our efforts were two guilty pleas and a conviction. The second example is the District of Columbia (D.C.) serial arsonist investigation. From June 2003 through April 2005, ATF, with other law enforcement organizations, investigated over 50 fires in the District of Columbia and adjoining Prince Georges County, Maryland. These fires caused considerable loss of property for residents, and in the District of Columbia, were responsible for the deaths of two people. We examined more than 1,000 leads and 1,300 suspects and were ultimately able to identify the person responsible using DNA evidence. In June, the defendant pled guilty to 50 arsons and two counts of murder. In subsequent interviews, he has acknowledged setting as many as 350 additional fires. By investigating and solving these crimes with our State and local partners, 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. 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 2005, ATF opened nearly 2,000 fire investigations. I would like to address some of ATF's arson program areas and assets, including the certified fire investigator (CFI) program, ATF's response to animal-rights and environmental-rights extremism, the ATF Church Arson Task Force, and the ATF Fire Research Laboratory.

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 currently has CFIs who are based in 39 States and provide support to the entire United States and its territories.

ATF also investigates bombings and crimes of arson by environmental and animal rights extremists, such as the Animal Liberation Front (ALF) and the Earth Liberation Front (ELF). 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. Most recently, 11 defendants were indicted by a Federal grand jury on 65 counts including arson, conspiracy and destruction of an energy facility for allegedly participating in a criminal campaign in five western states on behalf of ELF

and ALF. In the past, many of the fires set by these extremists have been set utilizing a particular methodology, and the USBDC—which has records and intelligence on these acts spanning 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 2005, ATF responded to approximately 223 such fires and explosives incidents. Out of that number, 108 of the fires were determined to be incendiary, that is, set by human hands. Those 108 arsons caused over \$23 million in damage.

In addition to the Forensic Science Laboratory, one of ATF's newer fire investigation resources is the Fire Research Laboratory (FRL). The FRL houses 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.

#### CRIMINAL DIVERSION OF ALCOHOL AND TOBACCO

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. In fiscal year 2002 we had 61 defendants, 35 arrests, and 18 convictions relating to tobacco diversion. In fiscal year 2005, we had 314 defendants, 162 arrests, and 73 convictions, increases of 515 percent, 463 percent, and 406 percent respectively. From the hijacking of tractor trailer loads and cargo containers of cigarettes, to the armed robbery of tobacco retailers, wholesalers, and distributors, to traditional smuggling conspiracies, ATF has successfully investigated and prosecuted the criminals involved. 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, 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. Where a terrorism nexus is present, ATF works with the local Joint Terrorism Task Force.

Illegal trafficking of ATF-regulated commodities using the Internet is a growing problem, particularly with tobacco products. The illicit sale of tobacco products via the Internet is increasing and causing a substantial loss of excise tax revenue to Federal and State Governments. ATF utilizes laws such as the Contraband Cigarette Trafficking Act and Wire Fraud, Mail Fraud, and money laundering statutes to interdict illicit interstate cigarette distribution via the Internet and the mail.

#### INDUSTRY OPERATIONS: ATF'S DUAL ROLE

ATF's role in Federal firearms and explosives laws, with both regulatory and enforcement responsibilities, is unique. ATF industry operations 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 5.6 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 foreign commerce against interference and interruption by reducing hazards to persons and property arising from the misuse and unsafe or unsecured 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 and accidents. 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.

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 nearly 13,000 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 proposed explosives user fee will offset the explosives industry inspections that are currently carried out by ATF in furtherance of its mission.

ATF's investigators are also responsible for firearms licensee inspections. Day in and day out, these investigators ensure that FFLs follow appropriate guidelines and procedures. Their work helps 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 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. I would like to note that, consistent with the Consolidated Appropriations Act for fiscal year 2005 (Public Law 108-447), we are in the process of moving the licensing center to the site of our National Tracing Center in Martinsburg, West Virginia. Co-locating these facilities will result in increased efficiencies and improved service to the public.

#### INTELLIGENCE/TECHNOLOGY

ATF recognized the opportunity to improve intelligence support internally and externally, and created an Office of Strategic Intelligence and Information (OSII) in 2003. The new directorate, headed by an assistant director, provides timely, accurate, and focused intelligence through the collection and analysis of information which enhances decision-making for all Bureau customers. Thus, it ensures that our special agents and investigators receive the necessary information to disrupt criminal organizations and individuals that threaten public safety. The creation of OSII was a big step toward enabling ATF to put its information to the best possible use. 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. I would also like to note that ATF has committed resources to all Joint Terrorism Task Forces (JTTFs) nationwide. The ultimate outcome of these efforts will be better information to investigators, which will, we hope, help prevent future incidents.

ATF's Forensic Science Laboratories are an invaluable resource in perfecting ATF cases and in serving as a resource for State and local law enforcement. ATF's Forensic Science 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. ATF laboratory personnel perform fire debris analysis, tool mark comparisons, explosives scene evidence examinations, searches for the presence and comparison of identifiable latent fingerprints, and examine trace evidence from crime scenes such as hair, paint, or fibers.

ATF is a 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 evaluate improvised explosive device (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—including an ATF special agent who serves as TEDAC's Deputy Director—providing their technical expertise in identifying components of IEDs. TEDAC has provided assistance to U.S. military and intelligence personnel in preventing fatal detonations of IEDs and in tracking down bombing suspects. This is an example of how we are working within DOJ to prevent terrorism, and contributing our knowledge to a common goal.

I have worked closely with Federal Bureau of Investigation Director Robert Mueller to strengthen interagency collaboration on a number of international efforts, including TEDAC. Under Director Mueller's leadership, and with the assistance of an ATF special agent serving as deputy director, TEDAC's device component analyses has more than doubled. ATF is incorporating this information on terrorist IEDs in State and local training programs to better equip local investigators and bomb technicians in recognition and investigative skills to alert on potential criminal and terrorist IEDs.

## 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 our Nation.

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. The NRT augments the investigative expertise of special agents in each field office and are capable of responding within 24 hours to major explosives or fire incidents. NRT members—consisting of highly trained special agent CFIs as well as CESs, EEOs, chemists, intelligence and audit support, legal advisors, and others—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. Since the NRT was created in 1978, it has been activated 601 times. In fiscal year 2005 alone there were 13 activations. 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.

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 the execution of arrest warrants, search warrants, and buy/bust operations. In fiscal year 2005, the SRT planned 150 operations and executed 101 of these high risk enforcement actions. In addition, two SRT Teams were assigned to New Orleans for 60 days to assist in the law enforcement response in the aftermath of Hurricane Katrina.

In September of last year, ATF had the privilege of providing a demonstration of our explosives and accelerant detection canine program to the House Homeland Security Subcommittee on Management, Integration and Oversight. After the demonstration, the branch chief for the canine training program testified before the subcommittee regarding the status of ATF's program and progress made on establishing a National Odor Recognition Standard for all explosives canines. 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. By breaking down the thousands of known explosive compounds into five recognizable and consistent chemicals, the canines can detect explosives used in up to 19,000 known explosives compounds. It is important to note that ATF is the only agency systemically training canines on peroxide explosives such as those used in the July 2005 terrorist attacks on the London transportation system.

Our canine program trains and certifies explosives detection canines for State, local, and Federal agencies as well as foreign countries. To date, we have trained 621 canines for the use of our agents and our domestic and international law enforcement partners. In compliance with former-Attorney General Ashcroft's mandate, we have established standards to certify all canines used by DOJ components which will ensure that these components have an efficient tool to identify and locate explosives. Because there are so many other providers of explosives detection canines that are trained under a variety of standards and conditions, the National Bomb Squad Commanders Advisory Board, which represents State and local bomb squads, asked ATF to implement a National Canine Basic Odor Recognition Standard for all explosives canine teams domestically. While ATF shares the concern of the advisory board that explosives detection canines used domestically should be trained to a national odor recognition standard, this cannot currently be accomplished within existing resource levels. ATF is evaluating ways to further implementation of the standard within existing resource levels. Moreover, our 60-accelerant detection canines help to identify potential points of origin at a fire scene. In addition to supporting local authorities, the accelerant detection canines respond with the NRT and are used by ATF field offices on a case-by-case basis.

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. On October 20, 2002, following a shooting connected to the District of Columbia sniper investigation, an ATF canine team searching the woods surrounding the crime scene found a .223 shell casing.

This ballistics discovery also led investigators to a note tacked to a nearby tree which had been placed by the suspects in an effort to communicate their demands. The shell casing was analyzed by the ATF National Laboratory and was eventually matched to the Bushmaster rifle recovered at the arrest site.

#### INTERNATIONAL

Law enforcement agencies worldwide use our firearms tracing capabilities to gain additional information about crime guns. In fiscal year 2005, Congress provided ATF's National Tracing Center with a \$1 million increase to cover the cost of increased international trace requests. In that fiscal year, ATF traced over 12,000 firearms for foreign law enforcement representing 56 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 375 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 25 times in response to fire and explosives incidents since its inception in 1991, most recently to investigate a deadly fire in Granada.

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.

#### 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 enforcement agencies, industry, and the scientific and academic communities. Our successes are directly related to our ability to work effectively with our colleagues.

As part of our robust support for joint efforts to counter the grave threat of terrorism, we share our expertise in firearms, explosives, and alcohol and tobacco diversion. As noted previously, ATF contributes to the Department of Justice's fight against terrorism through the JTTF program. ATF personnel assigned to JTTFs function as in-house experts on firearms and explosives violations and on tobacco diversion act as liaisons between the FBI and ATF at the local level on intelligence matters, and are a vital part of the joint investigative team. ATF has 43 full-time and 17 part-time personnel assigned to JTTFs around the country with an additional 42 personnel designated to liaison with the remaining JTTFs not located in proximity to an ATF field office—therefore, ATF has committed resources to all JTTFs nationwide.

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. ATF representatives also serve as a subgroup co-chair and as task managers on several research efforts funded through the Technical Support Working Group (TSWG). The TSWG, administered by DOD under the auspices of the National Security Council, conducts rapid research, development, and prototyping of multiple use technologies for law enforcement and military purposes. ATF also has collaborative research partnerships with the U.S. Army Engineer Research and Development Center, and has 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 leverages its resources to better inform, advise, and educate its stakeholders and customers. For instance, ATF has partnered with The Fertilizer Institute to launch voluntary campaigns to raise the awareness of industry, law enforcement,

and the public on the sale, security, storage, and transportation of ammonium nitrate, the chemical that was mixed with fuel oil in the Oklahoma City bombing.

ATF employees hold key positions in many prestigious professional organizations. I am a member of the executive committee of the International Association of Chiefs of Police (IACP) and, since 1990, an ATF agent has chaired the IACP Arson and Explosives Committee. Similarly, ATF has maintained outstanding relationships with the International Association of Bomb Technicians and Investigators, the International Association of Arson Investigators, the International Association of Explosives Engineers, the National Sheriff's Association, Major Cities Chiefs Association, Police Research Forum, 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.

#### 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 a rating of "moderately effective," one of the higher ratings received 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 15th. With the continued support of the Department and this subcommittee, we will continue to provide innovative management and personnel.

The ATF Headquarters building is being constructed here in Washington, DC. The vision for this high-tech, environmentally friendly building is threefold: it fulfills Congress' intention to move ATF employees and mission to safer and more secure facilities; it will serve as a landmark facility for the Federal government; and it will support the revitalization efforts of the city. ATF is scheduled to move to its new Headquarters this fiscal year.

#### CONCLUSION

Chairman Shelby, Senator 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 mission of preventing terrorism, reducing violent crime, and protecting our Nation. We look forward to working with you to pursue this goal.

#### UNITED STATES MARSHALS SERVICE

##### STATEMENT OF JOHN F. CLARK, DIRECTOR

Senator SHELBY. Director Clark.

Mr. CLARK. Thank you, Chairman Shelby, Senator Mikulski, and members of the subcommittee. I appreciate the opportunity to appear before you today to discuss the President's fiscal year 2007 budget request for the United States Marshals Service. I am also honored to appear before the subcommittee today as the first career employee of the Marshals Service and also with my distinguished colleagues.

##### UNITED STATES MARSHALS SERVICE ACCOMPLISHMENTS

I just want to briefly outline some of our most recent accomplishments to set the stage for our 2007 budget request. Protecting the American judicial system continues to be a top priority for the Marshals Service. Last year, we protected 2,200 Federal judges, 5,500

U.S. attorneys and their staff, as well as numerous juries and other people associated with the American judicial system. We provided the safekeeping for nearly 55,000 pretrial prisoners, produced prisoners for 650,000 court proceedings, provided protection for over 200 individuals who had received threats; we analyzed and investigated over 950 threats to those protectees.

#### FUGITIVE REGIONAL TASK FORCES

In the area of violent crime, we continued to use our fugitive regional task forces. Last year, we apprehended over 77,000 Federal fugitives and 52,000 State and local fugitives. We safely handled 673 international extraditions, a record high for fiscal year 2005. We increased our fugitive efforts in foreign field offices, most notably in Mexico. We conducted several major fugitive roundups, such as Operation Falcon, which netted an unprecedented 10,000 fugitives in a single week. And we continue to manage over \$1 billion in seized assets.

#### SUMMARY OF FISCAL YEAR 2007 BUDGET REQUEST

For the sake of time, I will move into our 2007 budget request. Our fiscal year 2007 budget request addresses the Marshals Service highest priority needs. In total, we are requesting 66 additional positions and \$13.6 million to address critical needs related to judicial security, information technology, and audited financial statements. We are also proposing \$9.4 million in program offsets.

#### JUDICIAL SECURITY

In the area of judicial security, in order to keep pace with a growing workload and to improve judicial security, we are requesting 37 positions and \$4.6 million. The requested resources will allow the Marshals Service to hire 28 additional deputy marshals and nine administrative support staff for our district offices as well as fund the ongoing costs associated with the home security monitoring systems.

#### INFORMATION TECHNOLOGY

In the area of information technology, in order to maximize the agency's use of new technologies and strengthen the information technology infrastructure, we are requesting 14 system administrators and \$7.2 million. The Marshals Service has made significant progress in the information technology area, but more is needed to successfully accomplish our mission and support the Department's Federal initiatives.

#### AUDITED FINANCIAL STATEMENTS

In the area of the audited financial statements, we are requesting 15 positions and \$1.8 million to correct material weaknesses and reportable conditions identified in the 2005 financial audit and to address the increased financial oversight and internal control workload associated with the Sarbanes-Oxley Act of 2002.

With regard to the offsets mentioned previously, in 2006, the Congress generously provided resources in addition to our request. The Marshals Service needs to reduce the levels of these programs

by \$9.4 million in fiscal year 2007 to ensure that adequate resources are available for judicial security.

I appreciate again the opportunity to appear before the subcommittee, and I look forward to taking your questions now.

[The statement follows:]

PREPARED STATEMENT OF JOHN F. CLARK

Chairman Shelby, Senator Mikulski, and Members of the subcommittee, I appreciate the opportunity to appear before you today to discuss the President's fiscal year 2007 budget request for the United States Marshals Service.

Since September 11, the Marshals Service has had an integral role in the Nation's efforts to combat terrorism. We were among the first responders at the World Trade Center and the Pentagon on September 11. Our primary mission is to protect the judicial process, and in doing so, we have taken aggressive measures to protect courthouses and secure courtrooms in order to handle the many high threat trials involving suspected terrorists, violent gang members, and drug traffickers.

Most recently, the Marshals Service sent hundreds of deputies to Alabama, Mississippi, Louisiana, and Texas to assist in rescue, recovery, evacuation, and law enforcement activities in the aftermath of Hurricanes Katrina and Rita. I would like to thank this subcommittee for its support of the Marshals Service and for the supplemental funding we received to repair our courthouses and replace damaged equipment.

FISCAL YEAR 2005 ACCOMPLISHMENTS

The legal proceedings of Zacarias Moussaoui have been ongoing through all of fiscal year 2005. The USMS has continued to provide security for this high-profile trial. Thankfully, we have been successful in producing the defendant safely and securing the judicial proceedings. On April 22, 2005, Mr. Moussaoui pleaded guilty to all of the charges against him. The trial is now in the penalty phase and we expect this phase to last 2 to 3 months.

As the former U.S. Marshal in the Eastern District of Virginia, I can speak firsthand about the planning and resource requirements necessary to prepare for a high threat trial. The Moussaoui case is just one example. Agency-wide, our personnel produced prisoners for 650,000 court proceedings; all without one escape or injury to a judge, witness, or prosecutor. Last year, we investigated over 950 potential threats to Federal judges and prosecutors. Our Deputy Marshals provided 200 personnel protective details and another 300 event protective details. All were completed without a single incident of violence.

The increase in gang-related trials also presents many challenges for us. For example, in Santa Ana, California, we are securing the largest capital murder case in United States history. Forty defendants affiliated with the Aryan Brotherhood are on trial for a variety of violent crimes including conspiracy to commit murder and drug trafficking. At least 8 gang members face the death penalty. Not only are the defendants part of this gang, but so are the witnesses. At least 12 former gang members are expected to testify.

In addition to the Aryan Brotherhood gang, the Mara Salvatrucha gang, referred to as MS-13, is expanding its influence internationally. Last year in Alexandria, several members of the MS-13 gang were successfully convicted of a brutal murder. That trial included producing participants from the Witness Security Program which required additional security precautions. Providing protection for witnesses who testify against a gang known for its viciousness is a daunting task. I would like to thank this subcommittee for its continued support of the Witness Security Program and for recognizing their role in stopping gang violence.

Outside of the courtroom, the Marshals Service is working diligently to achieve the offsite security initiative funded through the 2005 Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief. We are grateful for the support provided by Congress. The funds will allow the Marshals Service and the Judiciary to install home intrusion detection systems in the homes of federal judges. After planning the implementation of this system, we have hired a contractor to provide and install the systems. The four pilot sites concluded successfully and systems are being ordered and installed throughout the country.

Over 4 days in August 2005, the Marshals Service conducted a unique fugitive apprehension initiative, Operation Fugitive Safe Surrender, in the Northern District of Ohio. This operation combined the efforts of the Marshals Service, State and local law enforcement, local prosecutors, and community leaders in creating an environment where fugitives were encouraged to surrender under circumstances that guar-

anteed their safety and the safety of the surrounding community. This innovative, faith-based initiative resulted in the peaceful surrender of 850 fugitives, of which 350 were fugitive felons. Later this year, we will expand this initiative into 6 cities including: Albuquerque, New Mexico; Camden, New Jersey; Louisville, Kentucky; Phoenix, Arizona; Richmond, Virginia; and Washington, DC.

The Marshals Service continues to improve strategies used to apprehend fugitives. In April of 2005, the Marshals Service conducted the largest fugitive roundup undertaken by any law enforcement agency in the United States. By working with law enforcement officers from Federal, State, county, and city agencies, Operation FALCON (Federal and Local Cops Organized Nationally) apprehended over 10,000 violent fugitives and cleared 14,000 warrants. Agency-wide, our Deputy Marshals apprehended over 77,000 Federal fugitives and another 52,000 State and local fugitives.

We have also made a substantial impact on the fugitive workload in Mexico, Jamaica, and the Dominican Republic. The placement of deputy marshals in these foreign field offices led to 673 extraditions in 2005; a record-high number for the Marshals Service. One of these extraditions from last February involved deputy marshals working with Mexican authorities on the return to the United States of a sex offender who had kidnapped a 15-year-old girl and taken her to Mexico. Once in Mexico, the offender abused the girl for 2 weeks before she managed to escape. Criminal acts of this nature must be investigated vigorously and immediately. We thank our Mexican counterparts for their diligence and continued cooperation.

#### CHILDREN'S SAFETY ACT

The protection of the nation's children from those who would prey upon them is important to our nation's future. For that reason, I would like to thank you, Mr. Chairman, and other members of this subcommittee for co-sponsoring the Children's Safety Act of 2005 (H.R. 3132). This important piece of legislation would establish a comprehensive national system for the registration of sex offenders. Failure to register would make it a federal crime which in turn would generate additional federal fugitives. We would welcome the opportunity to become involved in this vital effort to keep our children and families safe.

#### FISCAL YEAR 2007 BUDGET REQUEST

Our fiscal year 2007 budget request addresses the Marshals Service's highest priority needs. In total, we are requesting 66 additional positions and \$13.6 million to address critical needs related to judicial security, information technology, and audited financial statements. We are also proposing \$9.4 million in program offsets.

#### JUDICIAL SECURITY

Protection of the judicial process—with a heavy emphasis on judicial security—remains the primary mission of the United States Marshals Service. The workload associated with judicial and courthouse security has significantly increased in the last 5 years due to the Nation's heightened awareness of possible threats. The murder of Judge Lefkow's husband and mother in retaliation for her rulings demonstrates why judicial security is vital in maintaining the Federal judicial process. To keep pace with a growing workload and to improve judicial security, we are requesting 37 positions and \$4.6 million. The requested resources would allow the Marshals Service to hire 28 additional deputy marshals and 9 administrative support staff for district offices, as well as fund the ongoing costs associated with home security system monitoring.

#### INFORMATION TECHNOLOGY

In order to maximize the agency's use of new technologies and strengthen the information technology infrastructure, we are requesting 14 systems administrators and \$7.2 million. The Marshals Service has made significant progress in the information technology area but more is needed to successfully accomplish our mission and support departmental and Federal initiatives. We will use the requested resources to enhance the Justice Detainee Information System, purchase replacement servers and software, and provide additional systems administrators to district offices. JDIS is a critical law enforcement tool because it marries our judicial threat data with warrant, criminal history, prisoner scheduling, and booking information into a single database. Our long term goal is to share this information with other agencies, including the Federal courts, so we all can take advantage of this law enforcement information. These resources will ensure that the Marshals Service is

working not only harder but smarter and taking full advantage of available technologies.

#### AUDITED FINANCIAL STATEMENTS

Finally, we are requesting 15 positions and \$1.8 million to correct material weaknesses and reportable conditions identified in the 2005 financial audit and to address the increased financial oversight and internal control workload associated with the Sarbanes-Oxley Act of 2002. In the 2005 financial audit of the Marshals Service, auditors provided an unqualified opinion on our financial statements; however, they also identified three material weaknesses and one reportable condition. The requested program increase will ensure that the auditors' recommendations are addressed and that we continue to provide appropriate financial oversight, policy compliance, and delivery of timely, accurate and reliable financial statements.

#### OFFSETS

In 2006, Congress generously provided resources in addition to our request. Though appreciated, the Marshals Service needs to reduce the levels of these programs by \$9.4 million in fiscal year 2007 to ensure that adequate resources are available for judicial security. The proposed offsets reduce funding for courthouse renovations and fugitive apprehension.

Thank you for the opportunity to present the Marshals Service budget request for fiscal year 2007. We appreciate your ongoing support and hope to prove efficient stewards of the resources entrusted to us. I would be happy to answer any questions you may have at this time.

Senator SHELBY. Thank you. We will start with the FBI, Mr. Director. We will have a number of questions for the record, but we will try to move this.

#### SENTINEL

We are both—we all were interested in Trilogy. We wanted it to work. We want the next one, Sentinel, to work. Last week, I wrote a letter to you requesting answers to a lot of the questions the staff is interested in regarding the procurement and the FBI's new \$500 million procurement of Sentinel. I have a copy of this that we will make part of the record here, but I know there are lots of questions here, Mr. Director.

Can you assure us you will get those answers as soon as possible just for our information of the subcommittee?

Mr. MUELLER. Again, Mr. Chairman, we are working. We are working. I think there are something like 85 questions.

Senator SHELBY. It is a lot of them.

Mr. MUELLER. And a number of them go back to Trilogy.

Senator SHELBY. They do.

Mr. MUELLER. Which was two-thirds of it was successful, one-third not successful.

Senator SHELBY. We know.

Mr. MUELLER. And what we are focusing on is making certain that Sentinel is successful. We would be happy to brief your staff at any time and in addition to take suggestions from your staff or others on the Hill on how we can do it better. We have always come up and said we are open to any suggestions that you might have in terms of how we can make sure this is successful, because I know we both want to make it successful.

Senator SHELBY. I know you do, and I believe that you have probably learned things. We have all learned. But we have that responsibility on money, even if it is a dollar. But in this case, it was a lot of money, and we know the FBI has to have the modern tech-

nology. You know it better than I know, and Senator Mikulski knows it very, very well herself.

Mr. MUELLER. I can use your help in one area, Mr. Chairman. Senator SHELBY. Yes.

Mr. MUELLER. And that is we have welcomed oversight both within Congress but also outside in terms of GAO and the inspector general and the like. We have persons who are dedicated to Sentinel, and to the extent that we can consolidate requests and briefings, it would be helpful in terms of freeing up the personnel to work on the project.

Senator SHELBY. I understand.

Mr. MUELLER. And so, we are working on those questions now, but we also ask your assistance in helping us to consolidate the requests so that our personnel can respond to the legitimate requests but also spend time on the project.

Senator SHELBY. Absolutely. We want you to be successful. And our interest in oversight is to be constructive. If we are being critical, it is because we have a job to do. But we know the ultimate goal is to modernize the technology that you have at the FBI; is that correct?

Mr. MUELLER. Yes, sir.

Senator SHELBY. And we want to help you do that, want to make sure.

#### DRUG ENFORCEMENT ADMINISTRATION INVOLVEMENT IN THE INTELLIGENCE COMMUNITY

Administrator Tandy, the 2000 budget includes \$12 million for the DEA to formally become part of the intelligence community. How will this funding change DEA's current contributions to the intelligence community? Do you have sufficient intelligence sources in your foreign offices to help with this transition? I know you have good people, but for the record, we are interested in this.

Ms. TANDY. Thank you, Mr. Chairman.

First of all, DEA is reentering the intelligence community with a lapse since 1980.

Senator SHELBY. We know.

Ms. TANDY. We have the largest law enforcement presence in foreign countries around the world, and from that standpoint, we are extremely well positioned with our 80-plus offices in 62 countries to contribute to the community and the flow of intelligence to protect our national security. DEA did not receive additional authorities, so we continue with our primary drug enforcement function. But what you should see as a difference with DEA in the community is the flow of intelligence. First of all, DEA has rich intelligence and sources around the world. We—

Senator SHELBY. Great resources.

Senator MIKULSKI. And sources.

Ms. TANDY. Thank you.

Senator SHELBY. And sources; she is right, Senator Mikulski, resources and sources.

Ms. TANDY. We have tremendous people developing those.

But as a result of that, we will now know what is important to the intelligence community, and as we speak to our sources during the course of our normal drug enforcement work, we will be able

to expand those areas that we are covering with our sources to include the areas that are important to this country in the intelligence community. I think that is the principal benefit, and we hope there will be a two-way street as well.

Senator SHELBY. I think it is something you have got to mine. It will be very rich for the intelligence community.

Director Truscott, I want to welcome you back. You are no stranger to the Appropriations Committee.

Mr. TRUSCOTT. Thank you, Mr. Chairman.

Senator SHELBY. You have worked here with us before.

I appreciate personally the work that you explained a few minutes ago, the professionalism of your organization in dealing with the church burning in my home State of Alabama.

Mr. TRUSCOTT. Thank you.

Senator SHELBY. You did a good job; so did the Bureau, you know, working there. And you are to be commended not only one time but many times, especially by we who help fund you.

#### ALCOHOL, TOBACCO, FIREARMS USER FEE PROPOSAL

I commented earlier on my serious concerns with the \$120 million fee proposal included in your budget request. I am told, as I said earlier, that it would take nearly 2 years for the ATF to implement this proposal if it were enacted into law by the Congress. Is the ATF ready to implement this fee? And if the fee does not become law, what would be the impact on your agency?

Mr. TRUSCOTT. Mr. Chairman, thank you for your comments regarding our efforts.

With regard to the \$120 million user fee, ATF has the statutory responsibility to regulate the explosives industry. And there are approximately 12,000 licensed explosives entities throughout the United States. And this user fee would be an offsetting receipt for the work that we do.

There are approximately 6 billion pounds of explosives, both imported and domestic, that this user fee would apply to at the rate of 2 cents per pound. And so, the intent is that this would serve as a mechanism to offset the expenses that we have, the regulatory effort that we have to undertake this requirement that we have.

In terms of if it were not able to be funded in some sort of way, it would have a very significant impact on the agency; \$120 million is well over 10 percent of ATF's budget, so it certainly would impact our ability to regulate the explosives industry, but it also would roll into our ability to enforce explosives related statutory authority as well as the Federal firearms licensees that we also have the regulatory authority for, because it is the same industry operations investigators who do the explosives and the firearms regulatory work.

Senator SHELBY. Thank you.

#### JUDICIAL SECURITY

Director Clark, judicial security, that is a big issue with the Marshals. A March 2004 inspector general review showed that the Marshals Service assessment of threats against members of the Federal judiciary were deficient in several respects. The report found that the threat assessments are often untimely and of ques-

tionable validity. Further, the Marshals Service has limited capability to collect and share intelligence on potential threats, so its said, the report.

The inspector general also found that the Marshals Service lacks adequate standards for determining the appropriate measures that should be applied to protect the judiciary against danger.

Do you agree with the inspector general's finding? Do you take issue with it? And second, what is the status of the Marshals Service's efforts to protect judicial security in this country?

Mr. CLARK. Thank you, Senator, yes; as I said earlier, judicial security remains a top priority for me and for the Marshals Service. Since serving as the Acting Director and more recently being appointed as Director, we have taken several steps to improve some of the findings that were brought forward by the inspector general's report. Most notably, we have established a 24/7 or are in the process, I should say, of establishing a 24/7 threat analysis and intelligence center. This will help us speed up the process for analyzing threats against the judiciary and investigating them.

We plan on increasing the number of staff at this center with analysts and deputy marshals.

Senator SHELBY. Will you be working with the FBI on this?

Mr. CLARK. Most certainly. We in fact use their joint terrorism task forces as one of the avenues to collect and gather intelligence that we might need to protect the judiciary.

We are also in the process of conducting security awareness training for the members of the judiciary as well as retraining a number of the members of our staff in the Marshals Service on protective operations. We have been working very, very closely with the Judicial Conference and the Judicial Security Committee as an avenue to solicit their input on how we can best serve and protect them.

Most notably recently, you may be aware that we are working diligently to install the home intrusion alarms in many of the judges' residences around the country.

Senator MIKULSKI. The what?

Mr. CLARK. We have been working to install the home intrusion alarms.

Senator SHELBY. Home intrusion.

Mr. CLARK. Yes, within—

Senator SHELBY. No, home intrusion alarms.

Mr. CLARK. That is correct, yes.

Senator MIKULSKI. No, it is the arm of the Marshals, but—

Mr. CLARK. And using that as an additional security enhancement to protect them.

Senator SHELBY. Senator Mikulski.

Senator MIKULSKI. Thank you very much, Mr. Chairman. And I just have a few questions, but I do want to say something about the agencies that are represented before us and truly how much they are appreciated, Mr. Chairman, and I know you feel the same way from your own State of Alabama, but we in Maryland are part of the Capital region. We in Maryland, when we are fighting drugs, are an intersect for several States, whether it is Virginia or West Virginia, whether it is Pennsylvania or Delaware, and we are also a high threat area.

And it is the people of my State, both its citizens and its law enforcement as well as those around the Beltway that turn to these people. Whether it is the sniper that is now indicted on which the ATF and the FBI were the lead agencies, but we did not federalize continuing to rely on local law enforcement. We had our fires in a community where African-Americans who had worked hard to be able to afford \$500,000 saw the American dream go up in smoke.

So we want to thank all of the people who work in these agencies. They work 24/7; lots of times, when we are having Thanksgiving dinner, or we are off to church to hear the melody of "Silent Night", they are out there working to protect us. And I think everybody who works at these agencies are an agent, whether they are people like Agent Perkins, who is now at the Budget Office, but over there in the FBI, Mr. Chairman, there is a lady who worked for the FBI as a secretary for 50 years who went to the same high school Nancy Pelosi and I did. She has trained more FBI agents and could run this Sentinel program better than anybody else, and we could go down the line.

Senator SHELBY. You might need to find her.

Senator MIKULSKI. Yes, I think we do. So I just want to say thank you, and I mean that very, very, very sincerely, and we are safer because of the work that has been done.

#### DRUG TRADE FUNDING AND TERRORISM

Let me go on, though, to the questions, first of all, on terrorism. Ms. Tandy, you talk about the fact that DEA is now coming back into the intel business, and I am delighted to hear that, because in your testimony, you talk about nearly half of the State Department's listed foreign terrorist organizations have ties to the—nearly half of the State Department's listed terrorist organizations have ties to the drug trade.

That is a stunning statement, stunning. Are we saying that it is the drug trade that is one of the primary sources of revenue for terrorism?

Ms. TANDY. Senator, I am not sure I could say it is the primary revenue for each of them, although it certainly is for many of them. For others, it may be part of not just the money flow but trading drugs for munitions.

Senator MIKULSKI. What do you mean by munitions? Is that everything from a handgun to a Stinger?

Ms. TANDY. Yes, it could be a Stinger missile, an anti-aircraft missile. It could be weaponry, ammunition, all kinds of munitions used by terrorists.

Senator MIKULSKI. But what would be the range of its lethal character? I mean, do they have it to buy an ICBM? I mean, are they talking about weapons that would just be used in small areas, in kind of urban guerilla terrorist attacks, or are we talking about somebody who could take down an aircraft or someone who could have the capability of launching a weapon of mass destruction?

Ms. TANDY. I do not have any information about weapons of mass destruction, but certainly, as you have noted, Stinger missiles are capable of shooting down aircraft. That is what they are there for. There are examples of undercover investigations that DEA on the one hand, and the FBI on the other, were involved in where

there were two different drug trafficking organizations, two different locations in the United States, San Diego and Houston, where the organizations were trading cocaine on the one hand for a Stinger missile, and on the other, it was heroin for a Stinger missile, one out of Colombia and one out of Pakistan. So you do have some of that associated with those foreign terrorist organizations on the State Department list.

Senator MIKULSKI. Well, I know Senator Leahy will have some of his own questions in that area, but I think we would like very much to be kept posted on that and also particularly on the DEA efforts on Afghanistan.

We do not have the time to go into this, but in our hearing with Secretary Rice, she told us at the State Department approps hearing that literally, if we do not get a handle on the drug traffic in Afghanistan, it would have a severely destabilizing effect on Afghanistan's permanent move to democracy. So we think what you are doing is really important in that area.

#### NATIONAL SECURITY DIVISION

Director Mueller, on terrorism, you heard the questions that I was asking the Attorney General. Can you tell us, though, what is your new national security office, and is this the beginning of like what the Brits have, an MI-5 agency within the FBI? What will it do, and how is it not bureaucracy but an antiterrorist effort?

Mr. MUELLER. Well, for our national security branch, it consolidates counterintelligence, counterterrorism, and intelligence under one authority so that you eliminate overlap; you make certain that we are addressing the same targets.

And one thing that cannot be lost, I do not think, when you raise the specter of an MI-5 is the importance of our criminal programs in terms of training, in terms of providing us the capabilities to do an effective job in addressing terrorism or counterintelligence. We also see that the criminal programs are an abundant source of intelligence, because many of those who support terrorism are involved in criminal matters in a variety of ways and it may not be just supporters of terrorism but may be recruiting individuals or the gaining funds that would support terrorism through their criminal activities.

So it is my belief that it is important to establish a national security branch so we have recruiting, training and executive development in these specialized areas, but it has to be part of the FBI.

Your questions directed to the Attorney General were also directed to the establishment of the National Security Division in the Department of Justice. And the differentiation I would make is between our investigative responsibilities and intelligence development and gathering responsibilities through our collectors, agents, and analysts to, on the other hand, the role of the Department of Justice in taking that information and prosecuting those individuals who are found guilty of violation of any one of the statutes.

One of the prime components of the new National Security Division at the Department of Justice is the office that handles the FISA process. And I do believe it is important to focus on the FISA process to eliminate any holdups, glitches, giving it the support

that it needs so that we have an effective, swift FISA response in that area.

So the development of the National Security Division, I believe, replicates what is being done in the FBI but does it in a way that focuses on the legal side of the house as opposed to the investigative side of the house.

Senator MIKULSKI. Well, I think that is a very important clarification, and we would like to look at it. They are talking about \$67 million to, I would hope, do more than the legal side. That is a lot of money and a lot of people to implement FISA. If FISA needs it, then, we would like to know about it, because you, Ms. Tandy, said you have got a supplemental here of \$5 million to get your agency back in this very important antiterrorism, and I think you are going to be an important linchpin; exactly what the Director said. You all are abroad. You are abroad. You are abroad, Director Truscott. You are picking up this information as much as any intel collection source.

#### DRUG ENFORCEMENT AGENCY ANTI-TERRORISM

Is that going to be enough money? I mean, you have got \$67 million over there at Justice to stand up a new agency. You are talking about a supplemental—I would hope that what you are talking about is more than \$5 million.

Ms. TANDY. It is, Senator. The \$5 million in the supplemental is just to get us through the rest of 2006.

Senator MIKULSKI. What is it that you need, and is it in here?

Ms. TANDY. It is in there in the 2007 budget to get us through the 2007 fiscal year. It includes analysts to establish the infrastructure at DEA in order to have the collection, the intel taskings to go out from headquarters. It expands our existing SCIF to accommodate this additional load of intel collection and taskings from the community. So between the supplemental for the rest of this year and the 2007 budget, that will get us started.

Senator MIKULSKI. Well, you know, each one of you, we could ask several more questions, and Director Mueller, we will be following up to just see how this goes as well as the Sentinel and this.

#### LOCAL LAW ENFORCEMENT

I am going to have one last question that really goes down the line. You have heard from our colleagues their intense feelings about the cut in the COPS and the Byrne program. We feel that in addition to the superb work that you all do, it is really the cops out there on the beat that you work with. Certainly, we saw that in the snipers. You did not federalize that. And we could go on.

My question is how would the cuts proposed by the President to State and local law enforcement grant programs do you think will affect your respective agencies? Director Clark, why do we not start with you and just go down? But please be brief. I know Senator Leahy returned, and he has got to return to the floor.

Mr. CLARK. Sure, thank you, Senator.

As you may know, we work very, very closely with our State and local partners, particularly in the area of fugitive apprehension. And we have been able to work with them and help fund, particu-

larly with the regional task force efforts, one of which covers suburban Maryland, with some of the resources they need.

Senator MIKULSKI. But how will the cuts affect your operation? How do you think the cuts in local law enforcement could impact on you? Will you have more work? Less work? Are you going to be less effective? Thank you for your work in Maryland.

Mr. CLARK. Yes, thank you, Senator, yes. I do not see it having a direct impact on our operations, and the funding that we are able to provide them with regard to violent crime initiatives I think, right now, is very adequate, as we have used it very successfully to do a lot of our fugitive roundups, particularly in this Capital region, for example. So I do not think it will have a significant impact.

Senator MIKULSKI. Thank you.

Mr. Truscott.

Mr. TRUSCOTT. Senator, like the Attorney General indicated, I have heard anecdotally from some of the State and local representatives from law enforcement that I speak to from time to time about their concerns. But I do not think that necessarily, it is going to have a negative impact on their or our ability to do our job. I think it forces us to work smarter, to leverage our resources; certainly, the DOJ component agencies that are represented here today, I think we partner and share our expertises to the best extent possible to benefit not only the Department of Justice but the American people.

So it will just force us to work a little bit harder in that regard.

Ms. TANDY. Senator, I think the area where it will be felt the most is in our mobile enforcement teams with our assistance to police chiefs and sheriffs in oftentimes remote areas.

Senator MIKULSKI. That is what we are hearing from Prince Georges, yes.

Ms. TANDY. It is about a two-thirds cut to that program. We will still have 80 agents, but it will affect the timing of our ability to respond to requests for our mobile enforcement teams, and we will probably have to move to a regional concept of our MET team deployments.

On the other hand, Senator, I think it is important to add to this that DEA shared \$176 million with our State and local partners last year. We have a very aggressive strategy, policy, and priority to go after the money and to turn that back around to State and local law enforcement as well as—

Senator MIKULSKI. That has been one of the more successful efforts then to get money out of hard work, money goes back to fight even more crime.

Ms. TANDY. We are very proud of the success we have had. When I came through the door in 2003, our receipts from seized assets were below \$500 million. As I said in my statement, we are at well over \$1 billion last year and climbing.

For our participation in the HIDTA, we lead 54 HIDTA groups with State and local law enforcement. That will not change. The work that we do in training State and local law enforcement will not change. We trained 42,000 State and local law enforcement officers last year, and we will continue to do that.

I think it really is going to be in the MET area, which is where we serve Indian country, gangs, and methamphetamine.

Mr. MUELLER. And let me reiterate what I think was said by many. We are a small agency compared to the 800,000 State and local law enforcement around the country. And in order to be successful against the threats of the future, there is no one agency that can do it alone. We have to leverage our resources both on the Federal level as well as with our partners at State and local law enforcement.

That said, the adverse impact for us may be down the road if police departments are less willing to participate in task forces because of the crunch in terms of persons. I am sympathetic and supportive to the argument of the Attorney General that we need to focus the funds for State and local law enforcement. We have not seen that diminution of interest in the joint terrorism task forces or other task forces, but that is a possible consequence.

The only other observation I would make is, as you talk to State and local law enforcement, they are concerned about the grants, but they are also concerned about the balance between funds going to first responders and funds going to law enforcement.

The argument being made that you want to prevent the attack, and it is the police officers on the street; it is those that know the community that can prevent the attack, and when you are looking at the balance between those monies going to the first responders and those going to law enforcement, the argument is made that perhaps we ought to be focusing more of those funds on law enforcement as opposed to more of the balance going to the first responders.

Senator MIKULSKI. Well, I appreciate all of those answers and your candor.

Just a word about first responders. The Federal program for first responders was created by Senator Bond and myself with many members here at this table, and it was at \$900 million. It has now been cut down to \$274 million. So it never reached over \$1 billion when Byrne grants were \$2.2 billion.

But it is not meant to be a zero sum game. Each has what they need to be needed for. But we thank you for your candor; we thank you for your dedication. We look forward to working with you.

Mr. Chairman.

Senator SHELBY. Senator Leahy.

Senator LEAHY. Thank you, Mr. Chairman.

I would note that as I am sure we all realize, among those first responders are a lot of law enforcement, and we anticipate that in many cases, they will be. I realize Homeland Security is the first responder when we get these unexpected emergencies like the hurricane that we expected for 1 week or more, and I know that they are going to have their homes down there rebuilt any year now. So it is not a zero sum game.

#### COCAINE TRAFFICKING

Administrator Tandy, I find interesting the successes you have had, and all of us want you to be successful. I am just curious: has the supply of cocaine, is it any more difficult to get cocaine in the

United States than it was, say, 3 years ago? I am told by local law enforcement that it is not.

Ms. TANDY. Senator, I think that has varied over time with the increase in eradication efforts.

Senator LEAHY. Is it any more difficult, if someone is a cocaine user, if they wanted to go, say, a few hundred yards from this building or 200 yards from the State house in pick whatever State you want, would they have any more difficulty getting cocaine today than they would have 3 years ago?

Ms. TANDY. I have seen impact on the availability of cocaine. I cannot tell you that it is sustained. With our drug flow prevention strategy, which is part of our request, we saw impact there.

Senator LEAHY. I understand that, but I am told that the prices have not gone up, and the availability is about the same as it was 3 years ago. I realize it is a bit of a generalization, but would you disagree with that generalization?

Ms. TANDY. There have been some changes in areas with the price of cocaine where—

Senator LEAHY. Significant?

Ms. TANDY. It has been statistically significant. It is measurable, and that is in certain areas of the country which would follow from market changes with the eradication, with record-breaking—

Senator LEAHY. How about here in the District of Columbia?

Ms. TANDY. Excuse me?

Senator LEAHY. What about right here in Washington, the Nation's Capital?

Ms. TANDY. I do not know the answer to that. I would have to get back to you on that one.

[The information follows:]

#### PRICE OF COCAINE IN WASHINGTON, DC

##### *Price*

DEA data reveal that cocaine prices in Washington, DC, have remained stable over the past five years, as have cocaine availability and abuse patterns. Cocaine price data for 2005 indicate the sale price for cocaine powder (cocaine hydrochloride) ranged between \$650 and \$1,250 per ounce in the D.C. metropolitan area. Data for 2005 indicate the sale price for crack cocaine ranged between \$550 and \$1,250 per ounce in the D.C. area.

Price data was derived from undercover buys, confidential source information, and defendant information. Much of this information is anecdotal, and thus the data cannot be validated by DEA through any scientific methodology. Since DEA does not often purchase kilogram quantities, price estimates for kilograms are less accurate than estimates for smaller quantities. Furthermore, in DEA's experience price data is not a completely accurate indicator of supply and demand.

The following chart provides 2001 to 2005 cocaine prices for Washington DC, as well as the national price range for comparison.

#### POWDER COCAINE (COCAINE HYDROCHLORIDE)

Year	Kilogram	Ounce	Gram
WASHINGTON, DC PRICE RANGE			
2001 .....	\$16,500-\$35,000	\$900-\$1,250	\$50-\$100
2002 .....	\$17,500-\$35,000	\$600-\$2,000	\$30-\$80
2003 .....	\$17,000-\$35,000	\$825-\$1,300	\$50-\$100
2004 .....	\$24,000-\$25,000	\$900-\$1,100	\$100
2005 .....	\$23,000-\$27,000	\$650-\$1,250	( <sup>1</sup> )

## POWDER COCAINE (COCAINE HYDROCHLORIDE)—Continued

Year	Kilogram	Ounce	Gram
NATIONAL PRICE RANGE			
2001 .....	\$13,000–\$35,000	\$400–\$1,600	\$20–\$200
2002 .....	\$10,000–\$35,000	\$400–\$3,500	\$24–\$150
2003 .....	\$10,000–\$35,000	\$375–\$1,800	\$25–\$150
2004 .....	\$10,000–\$35,000	\$350–\$1,800	\$9–\$200
2005 .....	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )

<sup>1</sup> N/A.<sup>2</sup> Pending.

Source: Quarterly Trends in the Traffic Report—DEA Washington Division.

## CRACK COCAINE (COCAINE BASE)

Year	Kilogram	Ounce	Gram
WASHINGTON, DC PRICE RANGE			
2001 .....	\$28,000–\$34,000	\$900–\$1,300	\$80–\$100
2002 .....	\$30,000	\$900–\$1,750	\$80–\$100
2003 .....	\$28,000–\$34,000	\$1,000–\$1,300	\$80–\$100
2004 .....	\$28,000–\$34,000	\$1,000–\$1,200	( <sup>1</sup> )
2005 .....	\$28,000–\$34,000	\$550–\$1,250	( <sup>1</sup> )
NATIONAL PRICE RANGE			
2001 .....	\$13,000–\$50,000	\$300–\$2,800	\$10–\$200
2002 .....	\$13,000–\$35,000	\$325–\$2,800	\$10–\$130
2003 .....	\$7,500–\$35,000	\$325–\$2,000	\$10–\$130
2004 .....	\$7,500–\$60,000	\$325–\$2,000	\$18–\$200
2005 .....	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )

<sup>1</sup> N/A.<sup>2</sup> Pending.

Source: Quarterly Trends in the Traffic Report—DEA Washington Division.

*Availability*

In determining the availability of drugs DEA looks at various indicators, such as price and purity, defendant and confidential source debriefings, and the professional judgment of colleagues in the law enforcement community. Source information, such as the source of cocaine supplied to the D.C. area, is gathered as a normal course of investigations. For example, whenever drug traffickers are arrested, they will be asked for information such as, “Who hired you to pick up, transport, deliver, and sell the drugs?”

According to the Washington, D.C. Metropolitan Police Department (MPD), cocaine availability has remained stable over the past several years. The MPD also reports that drug-related violence remains static, with the exception of homicides, which have decreased over the past four years.

Kilogram quantities of cocaine hydrochloride (HCl) continue to arrive in the Washington, DC area. Powder cocaine sold at the mid- to retail level remains widely available. The quantities of cocaine HCl available in any given area greatly depend on abuse patterns and the level of distribution at which a particular dealer conducts business. Cocaine HCl most commonly is found in gram and ounce quantities for resale in suburban and rural areas, but in larger quantities (i.e., quantities appropriate for redistribution after conversion to crack) in urban areas of the D.C. area.

Crack cocaine is available throughout the D.C. area in quantities ranging from small quantities up to one kilogram. Most of the crack cocaine distributed within the D.C. area originates as cocaine HCl and is subsequently converted to crack. Generally, significant quantities of crack cocaine are not stockpiled and are manufactured according to demand.

The main change in cocaine trafficking in the D.C. metropolitan area pertains to cocaine sources of supply. Over the past years, cocaine smuggling from the Southwest Border (especially Texas and Arizona) to the D.C. area has increased. The flow of cocaine through North Carolina has also increased. This mainly impacts southern Virginia but also affects the northern Virginia area, including Washington, DC. However, drug trafficking organizations in New York City still appear to be the principal cocaine suppliers for the Washington, DC. area.

Senator LEAHY. I think you would be shocked to hear the answer that the price, availability is roughly the same, the price is roughly the same. I believe if you took a general view of the country, you would find that the availability is roughly the same, and the price is roughly the same. Of course, there are fluctuations in everything. We are paying three times more for gasoline now than we were 5 or 6 years ago.

And now, you said 2 weeks ago you charged 50 leaders of FARC, a State Department designated foreign terrorist organization, with supplying 60 percent of the cocaine in the United States. In the last 5 years, how many FARC members that your administration has indicted have actually been extradited and brought to trial?

Ms. TANDY. There actually are two high-ranking members of the FARC that are here in the District of Columbia who are facing trial this year. One was a financial officer—

Senator LEAHY. That is two out of how many that have been indicted over the last 5 years?

Ms. TANDY. I would have to get you the actual numbers. Fifty was an extraordinary number for us. And that was—

Senator LEAHY. Would you agree that most of the kingpins that we have indicted, and I certainly would want you to indict, but most of the kingpins, we have not been able to extradite from Colombia? Would you disagree with that statement?

Ms. TANDY. Actually, I would differ with that statement. We have had tremendous success with President Uribe's administration and extraditions out of Colombia.

Senator LEAHY. Of kingpins. I am talking about Major—

Ms. TANDY. Absolutely.

Senator LEAHY. I had a discussion with President Uribe about this just 1 month ago, and I want to see if your answer in any way relates to what his is. How many of the kingpins, some of the major paramilitary, some of the others that we have indicted, how many have actually been extradited, have actually been sent to the United States?

Ms. TANDY. I would have to get you the actual numbers, but I can give you some examples that are significant. The founders of the Cali cartel who were extradited in the time that you are talking about are here on U.S. soil facing trial. We have, as I recall, about 20 percent of the most wanted drug trafficking organizations on the consolidated priority organization target list who have been extradited.

Senator LEAHY. So one out of five have been extradited to the United States. That would be a large number. Would that not be about 50, 60 people?

Ms. TANDY. The CPOT list, which is the one I just referred to, is actually one that varies over the years, but it is about 44 on the list right now, and so, 20 percent, about 80 percent of the targets, the targeted organizations have been indicted on that list, and about 20 percent of them, as I recall, I want to get you the exact figure.

[The information follows:]

## INDICTMENTS AND EXTRADITIONS FROM COLOMBIA

Since 2002, 360 individuals have been extradited from Colombia to the United States. The Department of Justice Criminal Division estimates that approximately 94 percent of these extraditions have been for drug charges.

## EXTRADITIONS FROM COLOMBIA TO THE UNITED STATES (AS OF JUNE 2, 2006)

Extraditions by Year	2002	2003	2004	2005	2006	Total
Total Extradited from Colombia .....	40	68	91	134	27	360

Because Colombians are indicted by grand juries in various federal districts and a single indictment may charge multiple individuals, DOJ does not know the exact number of Colombians indicted since 2002.

Over the past two years, several key traffickers have been extradited to the United States from Colombia, including members of the Revolutionary Armed Forces of Colombia (FARC), the Norte Valle Cartel, and the Cali Cartel. Some of these key extraditions include the following:

*2006**Julio Cesar Lopez Pena*

In March 2005, Julio Cesar Lopez Pena was extradited to face racketeering and drug charges. According to a May 2004 indictment, Lopez Pena operated a cocaine laboratory under the control of the Norte Valle Cartel beginning in 1998.

*2005**Jairo Aparicio Lenis*

In October 2005, Jairo Aparicio Lenis was extradited to the United States to face racketeering and drug charges. According to an April 2004 indictment, Aparicio Lenis was a member of the Norte Valle Cartel responsible for laundering the cartel's cocaine proceeds.

*Elias Cobos Munoz*

In April 2005, Consolidated Priority Organization Target (CPOT) Elias Cobos Munoz was extradited from Colombia to face cocaine conspiracy and money laundering conspiracy charges. Cobos Munoz is allegedly responsible for importing more than three metric tons of cocaine per month from Colombia into the United States since 2000, which is approximately 10 percent of the cocaine available in the United States. Cobos Munoz was extradited along with two co-defendants, Florentino Riviera-Farfan, aka "Tarzan," and Jorge Ivan Lalinde-Lalinde, aka "El Mono."

*Nayibe Rojas Valderama*

In March 2005, FARC Commander Nayibe Rojas Valderama, aka "Sonia," was extradited from Colombia to the United States to face drug trafficking charges in the U.S. District Court for the District of Columbia. Prior to her arrest, Rojas Valderama was allegedly the finance officer for the FARC's 14th Front. Rojas Valderama is charged in an indictment together with the leader of the 14th Front, Jose Benito Cabrera Cuevas, aka "Fabian Ramirez." Cabrera Cuevas is allegedly a member of the Central General Staff, the second highest governing body of the FARC, and he is the second-in-command of the Southern Block which is composed of 12 fronts containing approximately 600-700 FARC members. Rojas Valderama, Cabrera Cuevas, and two international drug traffickers were indicted in December 2003.

*Rodriguez Orejuela Brothers*

Colombian CPOT Miguel Rodriguez Orejuela was extradited from Bogotá, Colombia, to Miami, Florida, in March 2005. His brother, CPOT Gilberto Jose Rodriguez Orejuela, was extradited to the United States in December 2004. The Rodriguez Orejuela brothers were allegedly the heads of one of the largest cocaine and money laundering organizations in Colombia and were key figures in the establishment of a sophisticated cocaine trafficking consortium known as the Cali Cartel, which has operated since the 1980s. They remain two of the most significant Colombian drug traffickers extradited to the United States to date.

Senator LEAHY. So eight or nine have been extradited?

Ms. TANDY. That is my recollection, but I will confirm that. I was also told, Senator Leahy, that at 1:30 this afternoon, Mexico put on

the plane 1 of our top 25 fugitives who they have extradited to the United States.

Senator LEAHY. As you know, Colombia is one of the largest recipients of U.S. aid. Of the 50 leaders that you have charged, the most successful, of course, would be if you get all 50 up here. What if you got 40? Would that still be a success?

Ms. TANDY. That would be a tremendous success.

Senator LEAHY. What if you got 30?

Ms. TANDY. It would be a tremendous success, and I will tell you why.

Senator LEAHY. What if you got 20?

FUERZAS ARMADAS REVOLUCIONARIAS DE COLOMBIA—EJÉRCITO DE  
PUEBLO—FARC

Ms. TANDY. The 50 members of the FARC who are indicted decimate the entire leadership of the FARC. So how ever many of those—

Senator LEAHY. Only if they are in jail. But if they go into an amnesty program and are in Colombia and are allowed to go right back out, how does that decimate the FARC? I mean, I can see it would decimate it if we bring them up here and put them in jail, but that is what I am asking: of that 50, I mean, we will probably come back to this next year, but of that 50, a year from now, how many do you expect to actually see in the United States?

Ms. TANDY. I cannot answer that, Senator. We certainly have had success with our partners in Colombia of getting two major FARC members arrested and extradited and here now facing trial. I have confidence that we will get more, but I could not possibly give you a number.

Senator LEAHY. How many would you expect at this time next year if you would consider it to be a success? And I will let you designate what a success is. Of the 50, how many would you want to see here this time next year so that you could consider it a success?

Ms. TANDY. I would like to see all 50 of them, but I would not anticipate that we will succeed in getting all 50 arrested and extradited to the United States before I see you next year. I just could not give you a number, Senator. Any one of these 50 are leaders.

Senator LEAHY. Suppose we only had three or four. Would that be a success?

Ms. TANDY. We would consider any one of these 50 leaders of the FARC being extradited to the United States a success.

Senator LEAHY. Would it be a success if a large number of them went into the amnesty program and were returned to society in Colombia?

Ms. TANDY. I know that those are issues that are principally related to the other terrorist organization, one of the other two remaining in Colombia, the United Self-Defense Force of Columbia (AUC). Those are issues that the State Department and the government of Colombia are addressing in terms of the parameters of that amnesty.

Senator LEAHY. Well, the parameters of amnesty is a nice term, but the fact is every time the Appropriations Committee tries to put any kinds of controls on our large amount of foreign aid that we actually have to get some of these people to come here and not

just be given amnesty and turned back, your administration objects to that.

And more and more of these people, the members of the drug cartels, the members of the terrorist organizations, the members involved with human rights violations, are told they can turn over some weapons and rejoin society.

So I am trying to—and it is like Hotspur in Shakespeare. You know, I can call them from the vasty depths; well, so can I; so can anybody, but will they come when you call? And it is a nice statement. It has been my experience many times with all administrations that when law enforcement officials come here for appropriations hearings there are usually indictments shortly before so they can talk about success.

I want to know how many are going to come here. Now, of 50, you indicted 50. But I wonder if only half a dozen of those 50 actually come here to face justice, because one does not see them really facing it down there.

Ms. TANDY. Senator, I can tell you that this is not an easy case to make. It is very complicated to penetrate the FARC and to identify the leaders and to amass the evidence that was put together against these 50.

The counterparts of ours in Colombia have been partners for us in this effort, and I have a great deal of confidence that if these members of the FARC can be located and arrested that we will see them here. The demobilization that you are talking about has not been extended to the FARC, to the best of my knowledge. DEA is very pleased, very proud of this effort, as we were with the return of the founding heads of the Cali cartel earlier this year, not before this hearing, as well as the other two members of the FARC who were returned and facing trial, not before this hearing.

Senator LEAHY. Well, will you have your staff keep me informed of when they do come here?

Ms. TANDY. Yes.

Senator LEAHY. I have been supportive of President Uribe. I think he has tried very hard. I have a great deal of admiration for him. He and I meet several times a year. But I do worry that sometimes, the claims we make are not borne out by the facts, and certainly, when I watch what is happening with cocaine and meth and all, prices do not go up. Availability does not go down, which would be the best example that this effort is paying off with the billions upon billions of dollars we are spending down there.

Director Mueller, you and I have discussed the case management system. You have expressed your concern to me that you feel I have been critical when I should not be. I get critical of anybody spending the taxpayers dollars if I do not see the results I think I would like to see. I have been just as critical of a Democratic administration as a Republican administration.

#### VIRTUAL CASE FILE COST

You scrap the Virtual Case File. It is not just the money that was lost, and I realize you recaptured some of it, but it was the time that was lost. I still think back, and this was not your fault; this came from your predecessors, but I remember being down there right after 9/11, and people figured out how they could fly

pictures of the hijackers around the country, and everybody is writing down information on pieces of paper, putting them in one file, which is written down by somebody else and put in another file, and kids in my neighborhood would just e-mail those pictures back and forth to each other.

SENTINEL COST

Now, we understand your estimate is that Trilogy's successor Sentinel is going to cost the American taxpayers \$425 million to complete. It will not be ready until the end of this decade. You set aside \$97 million for it this year. You are asking for another \$100 million for fiscal year 2007. Are you confident about the final cost estimate of this program?

Mr. MUELLER. Yes, Senator; let me say at the outset that nobody is as harshly critical as I am of the mistakes that were made in the past. My concern is that we do not focus on the successes of Trilogy in terms of the networks and the modern computers that were put on the desks.

Great work has been done since September 11 in putting together the investigative data warehouse, where you have in excess of 250 million documents searchable by the latest tools. Also, my concern exists because we all want to make this work in Sentinel and we will need to have an open mind toward what we have undertaken to assure not only the success of this but visibility into what we are doing every step of the way.

And when it comes, then, to your question with regard to the cost, the cost is \$425 million.

Senator LEAHY. Is that the FBI's estimate, or is that Lockheed Martin's estimate?

Mr. MUELLER. No, it is not. It is our estimate. But the contract with Lockheed Martin is \$305 million. Of that, \$232 million is the development contract, which if you ask, if you add the \$50 million to \$170 million, it is comparable to what we were going to spend on Virtual Case File.

The other monies go to exactly what the GAO, the Inspector General, and Congress wants us to do. Preaward was \$4 million. Program management operations, the program management that we have to put into place to make this successful is almost \$75 million. The independent validation and verification is \$6 million.

Senator LEAHY. Who does that?

Mr. MUELLER. Risk management.

Senator LEAHY. Who does that?

Mr. MUELLER. Those are independent contractors who are doing that aspect of it. That is not Lockheed Martin. We have an independent contractor.

Senator LEAHY. Do you know off hand who that is?

Mr. MUELLER. I do not know off hand.

Senator LEAHY. Could somebody give me that?

Mr. MUELLER. Assuredly.

Senator LEAHY. Thank you.

[The information follows:]

## INDEPENDENT VERIFICATION AND VALIDATION OF SENTINEL'S IMPLEMENTATION

The FBI is establishing a multi-award Independent Verification & Validation (IV&V) contract. At the Department of Justice's (DOJ) request, this contract will be made available DOJ-wide. The FBI's Financial Division is currently managing the preacquisition effort and eventual contract award.

Until this DOJ-wide contract award is in place, the Office of Information Technology Program Management's (OIPM) Program Oversight Unit will provide interim IV&V services.

Mr. MUELLER. And so, the package will cost down the road \$425 million, but the pieces of it are that which we have put into place to make certain that it will be successful down the road.

Senator LEAHY. So will there be additional funding or reprogrammed funds that the FBI will need to complete it?

Mr. MUELLER. Yes, down the road, 2008–2009.

Senator LEAHY. If a reprogramming is required, do you have any idea which programs you would shift funds out of?

Mr. MUELLER. No, and my problem last year is that you had asked what is the cost of the Sentinel going to be? I could not tell you until we had the contract, until we had the bids in and identified the ultimate cost for that bid. Now that we have the bids in, now that we have the monies, we put aside \$97 million for this year that we had to reprogram. We are asking for \$100 million next year, and we will be asking in 2008 for those sums we need to complete this package.

Now, the other point I make as well is that we are now part of the intelligence community. We are not just law enforcement; we are part of the intelligence community. That which we are putting together, whether it be Sentinel or any number of our other programs that are meant to develop the domestic intelligence capacity of the Bureau should be treated as part of the intelligence community and perhaps looked to for dollars in terms of supporting our intelligence side of the house.

And so, we will be looking for additional funds for Sentinel down the road, but we will also be asking for the Congress and others to look at us as not just a law enforcement entity but also as an intelligence entity.

## CHOICEPOINT

Senator LEAHY. There has been a great deal of criticism up here by both Republicans and Democrats in both bodies about ChoicePoint, and you have entered into a multimillion dollar contract with them to handle sensitive investigative data about criminal enterprise systems. Did you or anyone in the FBI have any discussion with any of the Members of Congress who had been raising these concerns, the various chairmen and others, about ChoicePoint before entering into that contract?

Mr. MUELLER. I do not believe so, but let me, if I could, clarify exactly what we have from ChoicePoint.

At the outset, let me say that I share your concerns about any breaches of privacy by ChoicePoint. As you point out in your recent press release, ChoicePoint has been fined by the FTC. I have no doubt that the fine was appropriate, that to the extent that ChoicePoint—

Senator LEAHY. Trust me, they would have fought it like hell if they thought it was too much.

Mr. MUELLER. All I have to say is that to the extent that ChoicePoint is liable for those fines or breaches privacy, then, they should be treated like any other corporation.

What we have bought from ChoicePoint is a software package that will help our analysts do their jobs. It is a software package that has been used not by us but by other organizations. It is not a data package. It is a software package. It helps our analysts do the job. We would be remiss if we did not look at this software package, evaluate it along with other software packages and use it if it was the best software package—

Senator LEAHY. Who services that?

Mr. MUELLER. I will have to get back to you on that.

[The information follows:]

PURCHASE OF SOFTWARE PACKAGE FROM CHOICEPOINT

The FBI awarded a 5-year, fixed-price contract with i2, Inc., a subsidiary of ChoicePoint, on 12/1/05. The contract is serviced by ChoicePoint.

Senator LEAHY. Would it be ChoicePoint?

Mr. MUELLER. I do not know. I would have to get back to you on that. But let me give you another aspect—

Senator LEAHY. You understand the reason I am asking that question.

Mr. MUELLER. I do not know, and I will have to get back to you on that.

But let me also indicate that we do seek data from ChoicePoint because ChoicePoint has public source data that it accumulates, and it is one of those entities that we would be remiss if we did not use that capability in certain circumstances to identify persons whom we need to locate within the United States.

Go back to the 9/11 Commission report. I have this vague memory of it. Midhar and Alhamzi were in the United States, and if I am not mistaken, when the 9/11 Commission said we should have been on them and utilized tools such as ChoicePoint to identify those persons in the United States before they undertake this attack. So to the extent that we use ChoicePoint or other data accumulation companies, we would again, I would say, be remiss if we did not utilize those tools when they are accumulating public source data, not private data.

Senator LEAHY. Mr. Chairman, both the Administrator and the Director are going to get back to me on a number of things, and I will have, if you do not mind, I will have follow up questions for them once I have heard their answers.

Senator SHELBY. We will leave the record open.

I think what the Director is saying, and I believe he is right on this, ChoicePoint did have a big breach, but they are also known for doing some good things in some certain areas. Is that not what you are basically saying?

Mr. MUELLER. They along with other companies—

Senator SHELBY. Right, absolutely.

Mr. MUELLER [continuing]. Have consolidated open source data—

Senator SHELBY. Absolutely.

Mr. MUELLER [continuing]. That gives us an easy way to obtain information that comes from open sources relative to particular investigative leads that we have.

ADDITIONAL COMMITTEE QUESTIONS

Senator SHELBY. We appreciate your cooperation from the subcommittee today. I know it has been a long afternoon, but we will have some other Senators, Senator Leahy and others, who will be asking questions for the record, and we hope you could respond to them by May 5.

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

QUESTIONS SUBMITTED TO ALBERTO R. GONZALES

QUESTION SUBMITTED BY SENATOR RICHARD C. SHELBY

NATIONAL MOTOR VEHICLE TITLE INFORMATION SYSTEM

*Question.* We know that by congressional direction the Justice Department has funded the NMVTIS (National Motor Vehicle Title Information System) program in the past but the funding stream stopped in 2004 leaving the majority of states unconnected to a system which could dramatically assist law enforcement in their efforts to track stolen vehicles. This is a mission which again is gaining attention as stolen U.S. cars have surfaced in terrorist bombings in Iraq, a particular concern when it comes to protecting our troops in the Green Zone.

NMVTIS could also be helpful in tracking more than a half million vehicles, including school buses, flooded or damaged by hurricanes Katrina and Rita. Some of these have been driven to other states, re-titled as "clean vehicles" and sold to unsuspecting customers.

Has the Justice Department given any thought or consideration to reviving the NMVTIS program in order to connect all the states, so we have a better way to stop these vehicles from falling into the wrong hands?

*Answer.* The Department of Justice (DOJ) shares your concern regarding the continuing problem of auto theft. This past March, the Department's Bureau of Justice Assistance (BJA) convened a focus group to discuss this issue. The group, which was comprised of representatives from federal, State, and local law enforcement, insurance corporations, and NMVTIS staff, agreed that the NMVTIS program is an important asset in reducing auto theft.

While the Attorney General delegated responsibility to the Federal Bureau of Investigation (FBI) to oversee the implementation of the NMVTIS system, BJA has provided over \$12 million in funding for NMVTIS since fiscal year 1997. BJA has been working closely with anti-fraud components within DOJ and with the FBI to assess the status and need for NMVTIS. Additionally, BJA engaged the Integrated Justice Systems Institute (IJIS) to assess NMVTIS' current technological architecture and has discussed with States how the system could be improved to encourage greater participation. These discussions and reviews are now complete and BJA will be working closely with the American Association of Motor Vehicle Administration, the FBI, and other law enforcement entities to make any necessary changes to the system, to improve the administration of the overall title information sharing effort, and to increase State and local law enforcement participation. A key aspect of any new approach will be to implement the "self-sustaining" aspect of the original authorizing legislation, which called for the States to support the system through user fees.

BJA will also continue to address the costly problem of auto theft through various other efforts. This month, the FBI and BJA are convening a meeting of southwestern federal, State, and local law enforcement agencies to discuss the problem of vehicles being stolen in the United States and taken to Mexico. Intelligence and recent arrests indicate that Mexico is a prime location for cloning (replacing vehicle identification numbers of stolen vehicles with those of legal vehicles for resale), chopping (vehicles dismantled for parts), and foreign order fulfillment. We anticipate that this meeting will foster closer working relationships among agencies working the Mexico border and identify areas where the Department can provide assistance.

QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

JUDICIARY NEEDS ON INTERNATIONAL BORDERS

*Question.* Federal Judges serving in districts located on the southern international border have caseloads with an increasing number of immigration related matters. According to the Administrative Office of the Courts, for fiscal year 2004 my home state of New Mexico had 1,502 immigration filings and 2,497 total criminal filings. Compare that to a northern border district—the Western District of Washington had 78 immigration filings and 539 total criminal filings.

As we continue to work to secure our nation, we must be sure that we adequately equip all of the agencies involved in this fight, including the federal courts that must prosecute immigration related charges. I fear that we are not focusing on agencies outside of the Department of Homeland Security and their need for funding, as I have heard from New Mexico judges that their resources are insufficient to meet their increasing immigration-related caseloads.

Additionally, I am afraid our Southwest border district courts will be unable to handle the increased immigration caseload that is sure to result from increased enforcement efforts without new judges.

Can you speak to the crisis southwest border courts like Arizona and New Mexico face?

*Answer.* The five judicial districts that comprise the Southwest border make up a significant percentage of the total workload for Department of Justice components such as the U.S. Marshals Service (USMS) and the U.S. Attorneys' Offices (USAOs). In the USAOs, 68 percent of all immigration cases occur on the Southwest border—12,318 immigration cases were filed in the Southwest border districts out of a total of 18,147 immigration cases filed nationwide in 2005.

In fiscal year 2005, 31 percent of all prisoner productions (transporting a prisoner to a judicial proceeding) by the USMS were in the five Southwest border districts; there are 94 districts nationwide. Ten percent of all USMS prisoner productions were in Arizona and New Mexico in fiscal year 2005. In addition to court proceedings, the Southwest border districts have an enormous warrant workload. In fiscal year 2005, 21 percent of all Class I fugitive warrants (federal felony warrants and DEA warrants) were issued by federal judges working in Southwest border districts. Six percent of all Class I fugitive warrants were issued by federal judges in Arizona and New Mexico in fiscal year 2005.

*Question.* What resources are being marshaled by the Department of Justice to assist federal courts faced with increasing caseloads due to our successful efforts to secure our country?

*Answer.* Judicial security is one area where the Department of Justice can directly assist federal courts. The USMS strives to place its personnel in those districts with the greatest amount of workload. In fiscal year 2005, the USMS received 94 new Deputy U.S. Marshals for judicial security work in the districts. Of this amount, 34 percent (or 32 Deputy U.S. Marshals) were allocated to the five Southwest border districts. The Department of Justice is providing significant resources, in the form of judicial security, to assist federal courts along the Southwest border. The Department has approved significant resource allocations to the United States Attorneys Offices along the Southwest border in recognition of increasing workload demands in a number of areas, most notably antiterrorism (border security), immigration and narcotics enforcement.

*Question.* What other needs does the Department of Justice have on our international borders—is there a need for more Assistant U.S. Attorneys, Deputy U.S. Marshals, and/or Bureau of Prisons personnel?

*Answer.* The 2007 President's Budget for the Department of Justice requests resources to fund additional Assistant U.S. Attorneys (AUSAs) and Deputy U.S. Marshals:

[Dollars in thousands]

Requested Fiscal Year 2007 Program Increases	Positions	FTE	Amount
U.S. Attorneys .....	149	75	\$23,205
U.S. Marshals Service .....	66	33	13,619

In addition, the budget request for the USAOs and USMS include \$58.6 million and \$57.7 million respectively for adjustments-to-base increases to cover rising pay, benefits and overhead costs. These additional resources, if fully funded, will be allocated based on Departmental priorities, and the latest workload and budgetary data available at the time of enactment.

By way of background, the USAOs in the five districts along the Southwest Border are at the forefront of the Department's efforts to stem the tide of illegal immigration and drug trafficking. Between fiscal year 1998 and fiscal year 2005, a total of 97 new Assistant United States Attorneys positions were allocated to the five Southwest Border districts. These additional resources have helped to play a part in increasing the number of criminal immigration cases filed in the five Southwest Border districts by over 55 percent between fiscal year 2000 and fiscal year 2005—from 7,942 to 12,318 cases filed.

*Question.* Besides creating new district judgeships for border courts and providing more funding for these courts, what else can Congress do to assist the federal border courts that are in a situation the Judicial Conference has called a crisis?

*Answer.* From time to time, the Department of Justice submits legislative proposals to the Congress that address a wide range of legal issues including those affecting the courts. Those proposals are the most effective avenue for responding to such a question. However, it is clear that as the judicial staffing and workload of the courts expand, the space, personnel and funding resources needed for Department of Justice components such as the USMS, USAOs and Bureau of Prisons also expands.

#### MENTAL HEALTH COURT NEEDS

*Question.* The Department of Justice has estimated that 16 percent of all inmates in local and State jails suffer from a mental illness, and the American Jail Association estimates that as many as 700,000 persons suffering from a mental illness are jailed each year. In New Mexico, we know the impact that such persons can have; on August 18, 2005, a diagnosed schizophrenic shot five people to death in the space of 16 hours, including the two police officers who were sent to pick him up for a mental evaluation.

In response to cases like this, America's Law Enforcement and Mental Health Project Act created Mental Health Courts with separate dockets to handle cases involving individuals with mental illnesses. Bernalillo County's Mental Health Court in New Mexico was created in 2003 and ninety-two percent of its graduates are not arrested again. The \$500,000 Congress provided for this court in fiscal year 2006 is expected to double the number of people the Bernalillo County Mental Health Court serves over the next two years.

With success rates like this for such small sums of money, I believe this is an innovative approach to address the needs of those individuals suffering from mental illnesses that come into contact with the judicial system.

How much does the Department of Justice propose spending on mental health courts in fiscal year 2007?

*Answer.* There is not a dedicated funding line for Mental Health Courts in the fiscal year 2007 budget. The Office of Justice Programs (OJP) is working with federal partners, including the National Institute of Corrections, to develop a coordinated strategy for the \$5 million appropriated in fiscal year 2006 for the Mentally Ill Offender Act.

*Question.* Do you have any suggestions on how we might otherwise help individuals who are charged with a non-violent crime and who suffer from a mental illness?

*Answer.* Partnerships with criminal and juvenile justice agencies provide mental health agencies unique opportunities for early identification, diversion from prosecution to treatment, enhanced supervision and case management. Recent innovations in collaborative approaches, the use of assessment tools, targeted approaches, and appropriate interventions have shown promise in the areas of law enforcement, courts, and corrections. Mental health courts, an example of this innovative and collaborative approach, provide the voluntary opportunity for non-violent offenders to participate in court-supervised, community-based treatment. As in Bernalillo County, these efforts include continued judicial supervision and the coordinated delivery of health and social support services. Initial evaluations of mental health courts have shown that they result in fewer jail bookings and jail time, a greater number of treatment episodes, an increase in the frequency and volume of treatment services, and a reduction in drug use and psychological distress in participants, as compared to traditional misdemeanor defendants.

During the last few years, OJP has been engaged in collaboration with other federal agencies to coordinate activities related to offenders with mental health issues. Many activities have been consistent with the recommendations of the President's New Freedom Commission and have also been formed in relation to the recommendations developed in OJP's Bureau of Justice Assistance's (BJA) Mental Health Consensus Project. Current areas of collaboration include coordination of

Substance Abuse and Mental Health Services Administration's Targeted Jail Diversion program and BJA's Mental Health Courts Program. In fiscal year 2005, OJP expanded efforts into training law enforcement to assess and build partnerships in mental health.

In fiscal year 2006, BJA received a \$5 million appropriation to begin implementing the Mentally Ill Offender Treatment and Crime Reduction Act (Public Law 108-414). This funding supports critical efforts to build State, local and tribal capacity to better understand and address individuals with mental illness, who also often face substance abuse and other public health issues. This program is designed to increase public safety through innovative cross-system collaboration for individuals with mental illness who come into contact with the criminal and juvenile justice systems. It will encourage early intervention for system-involved individuals with mental illness; provide new and existing mental health courts with various treatment options; maximize diversion opportunities for non-violent offenders with mental illness and co-occurring disorders; promote training for justice and treatment professionals on court processes and mental health and substance abuse issues; and facilitate communication, collaboration, and the delivery of support services among justice professionals, treatment and related service providers, and governmental partners. These efforts will help individuals who are charged with a non-violent crime and who suffer from a mental illness.

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QUESTIONS SUBMITTED BY SENATOR KAY BAILEY HUTCHISON

INTERGOVERNMENTAL AGREEMENTS

*Question.* It is my understanding that some of the local West Texas communities, who stand to lose their contracts under the CAR 6 Project, issued long term municipal bonds to pay for expansion of their jails when the DOJ's sought additional bed-space years ago. It is also my understanding that Texas law required these local communities and then Texas Attorney General—my Senate colleague Senator John Cornyn—to first perform a “due diligence” review of the need for the issuance of these bonds. Did the DOJ assure these local communities that the Federal government's need was long term?

*Answer.* Each Intergovernmental Agreement (IGA) is for three years only. There has been no contractual commitment by the Bureau of Prisons (BOP) beyond the IGA terms.

*Question.* Further, it is my understanding that this Subcommittee, the CJS Appropriations Subcommittee, directed the Government Accountability Office (GAO) in the fiscal year 2006 CJS Appropriations Report to conduct a cost benefit study of agreements with local governments to house federal inmates. Has that study been completed? If not, why is it not more prudent to renew the agreements with these West Texas communities pending the results of the GAO cost study? Furthermore, the 2006 Appropriations Conference Report encouraged the Bureau of Prisons to expand the use of Intergovernmental Agreements. Why is DOJ moving to eliminate these large Intergovernmental Agreements in Texas, contrary to the directives of Congress and the President?

*Answer.* The GAO study has not begun. All four agreements expire in early 2007 (January-April), and provide the opportunity to conduct a full and open competition for contracts in order to provide for the best value for the BOP and taxpayers. The BOP uses IGAs when appropriate and when the need exists. As of April 2006, BOP has 68 IGAs with State, county, and local governments throughout the country to provide about 800 beds. The fiscal year 2006 Conference Report also states: “The BOP is encouraged to solicit proposals in a manner that allows for an optimal level of competition so that BOP's [bedspace] requirements can be met and the best value achieved.”

The four agreements with the Texas local governments differ from other IGAs in that they are for the entire facility and are all managed by private companies; in one case the private company owns the prison facility. The private contractors hire and fire staff and are responsible for the daily operations of the prison. Each local government is like a “silent partner” generally removed from the daily operations at the facilities.

*Question.* It is also my understanding that the CAR 6 Project will not result in any new bed-space for the DOJ, is this correct? As a follow up, if the CAR 6 Project will not result in new bed-space, why is the CAR 6 Project a prudent use of federal tax dollars?

*Answer.* The CAR 6 Project will not result in any new BOP bed-space. However, by conducting a full and open competition, the BOP requirements can be met and

the best value achieved including price and quality of service. In addition, the contracts will be for up to ten years which allows the BOP to “lock-in” pricing for the next ten years, thus assisting with budget projections and avoiding renegotiation of terms every three years. Full and open competition provides for a competitive market that assists in controlling prices.

*Question.* Finally, has DOJ considered the long-term impact of the CAR 6 Project? Other agencies in your Department, including the U.S. Marshals Service, as well as the Department of Homeland Security utilize local governments agreements for correctional or detention purposes. If the CAR 6 Project causes these local Texas communities to go bankrupt or suffer significant financial hardship, I imagine other local governments will avoid partnering with the Federal Government, for fear of suffering the same fate as these West Texas local governments.

*Answer.* Yes, the DOJ has considered the long-term impact of CAR 6 and its benefits to both the Bureau and the taxpayers. All current providers under the Texas IGAs have the opportunity and have been encouraged to submit competitive proposals under the CAR 6 solicitation. The BOP will consider multiple awards under the CAR 6 solicitation. The BOP has an outstanding relationship with state and local governments throughout the United States using their available bed space for short-term needs, and we plan to maintain that working relationship.

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QUESTIONS SUBMITTED BY SENATOR PATRICK J. LEAHY

COMPETITION AND INTERNATIONAL TRADE

*Question.* There is a great deal of concern across the country that some of our trading partners don't always play fair, and that the U.S. Government needs to do more to protect the interests of U.S. businesses and workers. One issue that is of growing concern is the prospect of foreign countries using their competition laws to advance industrial policy goals in ways that prevent U.S. companies from competing fairly, or penalizing U.S. firms for conduct that is entirely legal under U.S. law. This problem is only going to grow as countries such as China ramp up their antitrust enforcement while looking for new ways to insulate local industries from U.S. competition.

I know the United States has antitrust cooperation agreements with a few of our trading partners, but problems persist, and I don't see things getting any better without a more active role by your Department. Is the Antitrust Division prepared to step up its efforts to dissuade foreign governments from pursuing competition policies or imposing penalties that create barriers to trade? Do you agree that the time has come for the Administration to establish a standing interagency committee to address these problems as they arise?

*Answer.* The Department, through its Antitrust Division, advocates around the world for antitrust enforcement based on rigorous legal and economic analysis, with the goal of promoting consumer welfare by preserving competition. We oppose any agency misusing antitrust to defend a country's own home companies or exclude competitors from other nations. The Division aggressively pursues international coordination and cooperation and substantive and procedural convergence around these principles, and these efforts will continue to be an important priority. The Division is working in international fora, including the International Competition Network and the Organization for Economic Cooperation and Development, as well as on a bilateral level with many foreign antitrust authorities, including the European Commission, both generally and on specific matters.

The Department also takes an active role in negotiating free trade agreements. Beginning with NAFTA in 1994, the United States has negotiated provisions relating to antitrust enforcement and to conduct of official monopolies and state enterprises in a number of free trade agreements—including those with Chile, Singapore, and Australia—where we have taken the lead role in negotiating such provisions. These provisions help to ensure that the opportunities created by trade liberalization are supported by competitive domestic markets. The Department of Justice works with other parts of the Administration, including the United States Trade Representative (USTR) and the Departments of State and Commerce, on these agreements and other competition issues as appropriate, and at this stage I believe that it is the most effective way to handle these competition issues.

*Question.* I am aware that the Department of Justice has competition comity agreements with several of our trading partners, including the EU. Nonetheless, it remains the case that EU authorities sometimes reach results or impose penalties that conflict with our own—the proposed GE/Honeywell merger and the Microsoft case are two recent examples. Beyond the immediate impact on U.S. companies op-

erating in Europe, I worry that competition authorities in other countries, such as China, will view this divergence as a justification to pursue even more radical measures against U.S. multinationals, particularly if they can give a helping hand to their own industries by doing so.

Can you assure this Committee that the Department will put more effort into promoting U.S. antitrust policies around the globe and avoiding situations where U.S. companies are subject to one set of rules or remedies here, and an entirely different set elsewhere? Is the Department prepared to engage more energetically with the European Commission to resolve ongoing disputes and divergence in this area?

Answer. With the globalization of markets, it is increasingly important that antitrust enforcers around the world base their enforcement decisions on sound legal and economic analysis. Antitrust laws should protect competition, not competitors. Antitrust laws should not be used to defend a country's own home companies or to try to exclude competitors from other nations. We are working with many foreign antitrust agencies in a variety of contexts, including the International Competition Network and the Organization for Economic Cooperation and Development, to achieve international consensus on sound antitrust enforcement. Those efforts are important, and we will continue to devote significant resources to those efforts.

The Department also works closely with foreign antitrust agencies, particularly the European Commission, in order to achieve the greatest possible coordination with them on particular matters. Divergent outcomes can sometimes occur due to different legal regimes or different factual circumstances in different countries. When divergent outcomes do occur, we work with our foreign counterparts to minimize that divergence and to lessen the possibility of divergence in the future. The Department will continue to place a high priority on pursuing greater coordination and substantive and procedural convergence on antitrust issues with foreign antitrust agencies, at both the staff and policy levels, to limit the risk of significantly divergent outcomes in particular cases.

Much of the work of minimizing duplication and divergence will continue to be done bilaterally, often on a case-specific basis. Cases like GE/Honeywell and Microsoft, though rare, understandably attract public attention and concern. But in most instances, we are succeeding in working very well with dozens of antitrust agencies around the world on particular merger and cartel matters with the goal of getting sound and consistent results. In the particular case of the European Commission, close collaboration has enabled us to achieve consistent results in several recent matters on both the determination of a violation and, where necessary, the remedy.

In fact, there has been considerable convergence in recent years in both civil and criminal antitrust enforcement around the globe. Many jurisdictions are now making increasing efforts to combat cartels, which the U.S. Supreme Court has called "the supreme evil of antitrust." Many jurisdictions have revised their merger process and enforcement policies, reducing complexity and business costs and bringing them into closer harmony with the U.S. merger review practices. These are good starts, but this is an ongoing effort, and it will remain a high priority for the Department.

*Question.* U.S. antitrust policy is one of the principal tools used to promote free and open markets. Antitrust law should play the same role internationally by opening markets and removing barriers to trade. In nations where free market principles are not as fully developed as in the United States, however, competition law can play a more equivocal role—sometimes opening markets, but sometimes protecting local firms from U.S. competition. I understand that U.S. industry has raised precisely this concern with respect to Korea, where the competition authority has been aggressive in pursuing leading U.S. firms, even while local Korean conglomerates, or chaebol, continue to restrict competition in certain markets. Similar concerns have been voiced with respect to China, which is well on its way to adopting an anti-monopoly law that many fear will be used as a weapon against U.S. exports, technology, and investment.

American companies and workers need the Department of Justice's help to prevent our trading partners from using competition law as a trade tool. Is the Department prepared to become more active in advancing U.S. interests in this area? Will the Department support adopting stronger competition commitments in U.S. free trade agreements?

Answer. Antitrust laws should promote competition; they should not be used to defend a country's own home companies, or to try to exclude competitors from other nations. That is why it is critical that we work to ensure that other enforcers around the world rely on sound economics as the basis for antitrust enforcement. This is a priority in building our relationship with the South Korean antitrust agency, as in all our international competition policy efforts. It is important that burdens and inefficiencies that divergences in competition policy and antitrust enforcement create for United States companies operating in international markets be as low as

possible, and the Department is working hard to achieve that end. Coordination and substantive and procedural convergence on antitrust must continue to be a high priority for the Department. The Department has been working with many foreign antitrust agencies in a variety of contexts, including the International Competition Network, the Organization for Economic Cooperation and Development, and bilaterally, both generally and on particular matters.

The Department also supports strong competition commitments in free trade agreements. The United States has negotiated provisions relating to antitrust enforcement and to conduct of official monopolies and state enterprises in a number of free trade agreements, including those with Chile, Singapore, and Australia. These provisions help to ensure that the opportunities created by trade liberalization are supported by competitive domestic markets in foreign countries. The Department of Justice works cooperatively with other parts of the Administration, including the United States Trade Representative (USTR), the Department of State, and the Department of Commerce, on these agreements.

OFFICE OF THE INSPECTOR GENERAL COPS METHAMPHETAMINE INITIATIVE AUDIT

*Question.* In March 2006, the Department of Justice (DOJ) Office of the Inspector General (OIG) released its final audit report on the Community Oriented Policing Services (COPS) Methamphetamine (Meth) Initiative grant program. One of the targets of the audit was the Vermont State Police and the Vermont Drug Task Force. I am deeply concerned that DOJ is now attempting to contest how the Task Force used funds from the grants.

The COPS Office has consistently approved the Vermont State Police grant applications to the COPS Methamphetamine Initiative grant program each year since 2001 with explicit knowledge that the money would be used primarily for fighting heroin abuse. I therefore object to DOJ now contesting how the funds were used and requesting that the contested sum be returned. The loss of \$1.2 million would have a devastating effect on a small state such as Vermont and undo the progress and successes that have been accomplished in the last five years.

I request that the Department of Justice stand behind its grant decisions and allow funds that have been used in the way the COPS Office approved them to be used to remain in the state. I further request your cooperation in resolving this situation.

What are your suggestions for reaching a satisfactory solution?

*Answer.* The COPS Office has been working closely with the Vermont State Police to obtain additional documentation surrounding the contested costs. The Vermont State Police have not been asked to return any grant funding, and COPS currently has no intention of making such a request. The COPS Office will continue to work with the Vermont State Police to close all audit recommendations as quickly as possible and work to ensure that expenditures made by the agency have been consistent with guidance issued by the COPS Office. If any expenditures are ultimately determined to be unallowable, whenever possible the COPS Office remedies such situations by allowing the grantee to use the funds in a manner which furthers the purposes of the grant, rather than through repayment of grant funds.

*Question.* What steps will you take to work with the Vermont State Police and my office in achieving this goal?

*Answer.* The Vermont State Police is currently in the process of compiling information requested by the COPS Office to demonstrate the expenditures under their grants. Once documentation has been submitted, the COPS Office will work closely with the agency to remedy the current situation, and will always remain available to address any questions or concerns regarding this audit. The COPS Office will be sure to inform your office of any significant developments that may arise during the process.

JUSTICE FOR ALL ACT

*Question.* In the fiscal year 2006 CJS Appropriations conference report, Congress appropriated \$1 million for improving the quality of representation in state capital cases authorized under the Innocence Protection Act (IPA), which was including as Title IV of the Justice for All Act, Public Law 108-405. The final authorizing language for the IPA reflects nearly five years of work—there were multiple hearings in both Houses, we studied the problem, we considered the alternatives, we agreed on a result. The program is aimed at helping states establish effective systems for appointing counsel in death penalty cases, and incorporates essential elements of the ABA's guidelines.

What has the Justice Department done to date to administer this program, as authorized?

Answer. In fiscal year 2006, Congress appropriated \$1 million for capital litigation-related programs. Given this level of funding, it was not possible for OJP to enact the full range of activities outlined in the Innocence Protection Act (which provides authorization for up to \$75 million to carry out the programs outlined in these sections).

The Office of Justice Programs' Bureau of Justice Assistance (BJA), which administers the Capital Litigation Improvement Program, convened a multi-disciplinary focus group of national, state, and local practitioners in early 2005 to develop a program plan for more effective systems for death penalty cases. This group identified a substantial need for sound curriculums, training, and technical assistance as an important priority for any effort to improve capital case litigation at the State and local level.

Based on these findings, BJA determined that the most effective way to advance the goals underlying the Innocence Protection Act in regard to capital case litigation was to focus the limited resources available on the development of model training programs for capital case prosecutors, defense counsel and judges. Accordingly, awards were made to three organizations—the National District Attorneys Association (NDAA), National Judicial College (NJC), and National Legal Aid and Defenders Association (NLADA)—to develop appropriate training programs for prosecutors, judges and defense attorneys (respectively).

Program deliverables completed include: (1) the development and implementation of curriculums at the State level, one for each of the three disciplines (prosecution, judiciary and defense); (2) sub-grants for curriculum delivery; and (3) technical assistance at the national level for death penalty inquiries from the states. The curricula—adaptable to incorporation of state statutes and death penalty constitutional law—focus on investigation techniques; pretrial and trial procedures, including the use of expert testimony and forensic science evidence; advocacy in capital cases; and capital case sentencing-phase procedures.

During fiscal year 2006, the NDAA has provided training to approximately 125 prosecutors in Arkansas, Florida and Georgia; an upcoming training for 30 prosecutors will be held in Nevada. The NJC has trained approximately 150 judges in Arkansas, Virginia, North Carolina, Texas and Pennsylvania. The NLADA has sponsored training events in California, Texas, South Carolina, and Illinois which have reached approximately 140 defense attorneys. NDAA, NJC, and NACDL will continue to support the delivery of additional state trainings in fiscal year 2006. The program will also help maintain clearinghouses and websites offering capital case litigation materials.

*Question.* If the Justice Department has not yet acted to administer this program, then what is the delay? Is the Department trying to reinvent the wheel with a new training program rather than following through on the bipartisan program that Congress worked out and President Bush signed into law?

Answer. Implementation of the full capital litigation improvement program outlined in the Innocence Protection Act (IPA) is not possible without a significant increase in funding or the diversion of significant resources from other high-priority OJP programs through reprogramming. With only \$1 million available, BJA determined that development of model training programs was the most realistic and practical option for advancing the goals of the IPA.

*Question.* Secondly, on several occasions when you have testified before both this subcommittee and the Judiciary Committee, you assured me that you would work to ensure the successful implementation of the Justice For All Act. However, in the President's budget request for fiscal year 2006 and again for fiscal year 2007 the President has proposed funding a capital litigation program vastly different than that authorized by law.

So once again I must ask the following: Will you pledge to work with me and the Appropriations Committees to ensure not only adequate funding but also the successful implementation of the Innocence Protection Act, as authorized by the Justice For All Act?

Answer. The President and the Department share the goal of behind the Justice For All Act of ensuring that the best possible lawyers are available to litigate capital cases, but we believe the President's training initiative is more cost-effective, better at building capacity, and far less expensive than the authorized program. Under the authorized program, before any training could take place, States would have to qualify for the program, and to do so most would have to enact changes to their laws, delaying the onset of training. In addition, because of the burdens imposed by the law on States in order for them to receive the funds, we do not believe many States would opt to seek the funds, especially given the relatively modest sums that would be available to each participating State. While the sums available to each State would be relatively modest, the overall authorize level of funding under the

Justice For All Act is beyond the Department's budgetary capacity at this time. Therefore, the Department will continue to seek to implement the capital-counsel training program announced by the President.

*Question.* A report issued by the Government Accountability Office on April 4, 2006, found that the Justice Department, which uses private information services for law enforcement, counterterrorism and other investigations, often does not follow federal rules to protect Americans' privacy. According to the report, the Justice Department, and three other federal agencies examined by the GAO spent about \$30 million last year on companies—such as Choicepoint—that maintain billions of electronic files about adults' current and past addresses, family members and associates, buying habits, personal finances, listed and unlisted phone numbers, and much more.

Do you agree with the GAO's findings in this report?

*Answer.* The Department of Justice (DOJ) recognizes the important issues presented by the Government Accountability Office (GAO) report and agrees that additional measures could be taken regarding its use, in the form of revised or additional guidance and policy. However, the DOJ already places great importance on compliance with existing federal rules aimed at protecting Americans' privacy, namely the Privacy Act of 1974 (5 U.S.C. § 552a).

When Congress enacted the Privacy Act, it recognized the fact that government operations are widely varied (including such activities as law enforcement and intelligence). Therefore, the Privacy Act incorporated some, but not all, of the Fair Information Practices by allowing agencies to exempt themselves from certain requirements of the Privacy Act. (The Fair Information Practices were first proposed in 1973 by a U.S. government advisory committee and were widely accepted as including collection limitation, data quality, purpose specification, use limitation, security safeguards, openness, individual participation, and accountability.) For example, pursuant to regulations, criminal law enforcement records may be exempted from the Privacy Act's requirement that an agency make reasonable efforts to assure that a record is accurate, complete, timely, and relevant for agency purposes before disseminating that record to someone other than an agency or pursuant to FOIA. Therefore, the GAO should not have focused on whether agencies were satisfying all of the Fair Information Practices, because not all of the Fair Information Practices are incorporated into the Privacy Act. The more appropriate metric should be whether an agency has met the requirements of the Privacy Act.

For this reason, DOJ believes that prior to the issuance of any new guidance or policy, a careful analysis and assessment of the degree of need for any new guidance should be conducted. That assessment should take into account agency resources, competing mission priorities, and the privacy protections already in place as a result of DOJ's compliance with the Privacy Act of 1974 (5 U.S.C. § 552a).

*Question.* What steps is the Justice Department taking to address the privacy concerns raised in this report and to protect the privacy interests of law-abiding Americans?

*Answer.* As indicated in response to subpart A, above, DOJ complies with the requirements of the Privacy Act, which prohibits the disclosure of protected information in the absence of a statutorily provided exception. In addition, DOJ has appointed its own Chief Privacy and Civil Liberties Officer (CPCLO) and the CPCLO has established a Privacy and Civil Liberties Board with three subcommittees: Outreach; Data Collection, Aggregation, and Maintenance; and Law Enforcement and National Security. The Data Collection Subcommittee has held its first meeting and established its initial task, which is to survey the Department's use of reseller data and then to develop a policy for the DOJ that will be informed by the Department's use of that information and by existing legal protections. Such a policy will include appropriate oversight mechanisms. The CPCLO has also mandated DOJ-wide compliance with the Privacy Impact Assessment (PIA) process established by the E-Government Act and will be the final approving authority for PIAs on all major record systems. The CPCLO recently issued guidance to the DOJ regarding PIAs. This guidance requires components to consider the privacy concerns of all information in identifiable form, including information received on a systematic basis from data resellers, in developing and maintaining computer systems that collect such information.

The FBI has also appointed a Privacy and Civil Liberties Officer and uses the E-Government PIA process to evaluate privacy in major record systems prior to system implementation. The PIA process requires that the system sponsor or developer conduct a thorough, written analysis of the impact on privacy that will result from the creation of a proposed system prior to the system's implementation. The FBI assesses both impacts attributable solely to the proposed system and the cumulative impacts arising from the proposed system's interface with existing systems. The PIA

provides senior FBI management officials with an assessment of a major new system's impact on privacy before the system becomes operational. The FBI PIA process includes a review of major systems by the FBI Privacy Council, a group composed of representatives from several FBI divisions, as well as the FBI Senior Privacy Official.

#### CUTS TO STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

*Question.* States, counties and communities nationwide continue to be overwhelmed by increasing homeland security mandates from the Federal government. The President often says that he wants to ensure that our State and local police receive the resources necessary to do the job the American public expects them to do, but then he goes and proposes a \$1.309 billion, or 52 percent, in overall cuts to funds for assistance programs that have a proven track record and are primarily designed to assist state and local law enforcement agencies carry out their day-to-day public safety duties.

The Administration proposes to slash funding for Community-Oriented Policing Services (COPS) by \$161.2 million, or 61 percent, leaving it at \$102.1 million. Programs targeted for elimination included the COPS Law Enforcement Technology Program, as well as drastic reductions in equipment and support staff grants that State and local police departments depend on to carry out their crime-fighting duties. This budget would also reduce by \$23.3 million, or 37 percent, COPS Methamphetamine Enforcement and Clean-Up for state and local law enforcement programs to combat methamphetamine production and distribution, to target drug "hot spots," and to remove and dispose of hazardous materials at clandestine methamphetamine labs.

The President's proposed budget would eliminate all Byrne JAG funding. This grant program, which Congress funded at \$327.2 in fiscal year 2006, provides vital funding to States to improve the functioning of the criminal justice system, with emphasis on violent crimes and serious offenders, and to enforce State and local drug laws. In the recently enacted Violence Against Women and the Department of Justice Reauthorization Act of 2005 (Public Law 109-162), which the President signed into law on January 5, 2006, Congress codified the Byrne Memorial Justice Assistant Grant Program, and authorized funding for it at over \$1 billion.

Given the President's rhetoric expressing support for our State and local law enforcement, how does DOJ justify cutting funds to the highly successful and effective COPS Program and the Byrne Memorial Justice Assistance Grants?

If the President's budget were followed, how would the Justice Department propose to address the needs of State and local police departments that are currently met by the COPS Program and the Byrne Memorial Justice Assistance Grants?

Answer. In order to focus departmental resources on counterterrorism, which is and must be the Department of Justice's (DOJ) overriding priority, the Administration was required to make difficult choices in this budget proposal.

The President's fiscal year 2007 budget proposal recognizes the Federal government's responsibilities in regard to supporting effective law enforcement and improving the nation's criminal justice system. If approved as proposed, the President's fiscal year 2007 budget will provide over \$1.2 billion to State, local, and tribal law enforcement through the U.S. Department of Justice. This includes \$66.6 million to strengthen communities through programs providing services such as drug treatment; \$88.2 million to combat violence, including enhancements to Project Safe Neighborhoods; and \$209 million to support drug enforcement, including funding to continue and expand the Southwest Border Drug Prosecution Program. The initiatives included in this proposal were selected by concentrating scarce resources on the highest priority criminal justice issues; promoting effective, evidence-based approaches to improving law enforcement and criminal justice system capabilities; and eliminating funding for programs that could not demonstrate results.

Drug enforcement continues to be one of the most significant criminal justice priorities of both the Administration and the Department of Justice. In addition to supporting drug enforcement and treatment initiatives, the fiscal year 2007 President's budget includes \$706 million for the Organized Crime and Drug Enforcement Task Force (OCDETF) program and \$208 million for the High Intensity Drug Trafficking Area (HIDTA) Program. These programs support drug enforcement efforts undertaken by task forces made up of Federal, State, local, and tribal law enforcement agencies and enhance the coordination of efforts against drug trafficking and drug-related crime at all levels of government.

The Administration applied the same principles it used to select initiatives for inclusion in the fiscal year 2007 budget to make decisions regarding reductions in or elimination of funding for existing programs. While these choices are often difficult,

they are unquestionably necessary. Due to the fiscal pressures resulting from the need to fund an effective response to terrorism at home and abroad, reduce the Federal deficit and address the growing financial burdens created by Social security and health care entitlement programs, discretionary spending must be reduced.

The proposed elimination of the JAG Program in fiscal year 2007 is based on this program's inability to clearly demonstrate its effectiveness. During the fiscal year 2005 PART assessment of the JAG Program and its predecessors (the Byrne Formula Grant Program and the Local Law Enforcement Block Grant), OMB concluded that these programs have not been able to clearly demonstrate through quantifiable performance measures that they had achieved nor were making progress toward their goals. Concerns were also raised about the broad range of the 29 purpose areas allowed under the JAG Program, making it difficult for the program to develop meaningful performance measures or focus its efforts on priority concerns. In light of the broad array of assistance offered to State, local, and tribal law enforcement agencies through OJP, the Administration determined that the funds currently devoted to the JAG Program could be used more effectively elsewhere.

While the COPS grant programs have achieved a number of noteworthy successes, the primary mission of the Office of Community Oriented Policing Services—to hire 100,000 community policing officers to serve in law enforcement agencies throughout the nation—has been achieved. COPS has dedicated \$12 billion to add 118,000 community policing officers to America's streets and schools. The Administration's decision to restructure the COPS grant programs and reduce overall COPS funding reflect the policy of directing Federal resources to the areas of greatest need.

In fiscal year 2007, the President's budget request redirects COPS funding toward training and technical assistance in support of efforts to implement community policing strategies and provide increased grant assistance to tribal law enforcement agencies to meet the unique needs of Native American communities. Funding for interoperable communications technology, provided through the COPS Program in past years, is now requested in the budget of the Department of Homeland Security to ensure efficient coordination throughout the first responder community. Training, technical assistance and funding to support the clean-up of methamphetamine labs by State, local and tribal law enforcement agencies will be administered in partnership with the Drug Enforcement Administration (DEA), the recognized leader in this area. The President's fiscal year 2007 budget request seeks \$40 million for methamphetamine lab clean-up efforts, doubling the level of funding appropriated for this purpose in fiscal year 2006.

Consistent with its standing policy of not requesting continued funding for earmarked projects, the administration is not requesting funding for the Byrne Discretionary Grant Program administered by the Office of Justice Programs (OJP) or the Crime Identification Technology Act (CITA) and Methamphetamine Enforcement and Clean-up (Meth Hot Sports) Grants administered by the COPS Office.

Communities and law enforcement agencies receiving grants under the programs being proposed for elimination will be encouraged to look to other OJP and DOJ programs to fund their ongoing efforts. For instance, an interagency drug task force receiving funding from a JAG grant may be eligible for funding from a number of other OJP and DOJ programs, such as Project Safe Neighborhoods or the Organized Crime and Drug Enforcement Task Force (OCDETF) Program. The Department will continue to work closely with Congress to ensure that State, local, and tribal law enforcement and criminal justice agencies receive appropriate Federal support for efforts to protect America's citizens from crime and terrorism and strengthen the criminal justice system.

#### VICTIMS OF CRIME ACT CRIME VICTIMS FUND

*Question.* I am greatly troubled by the Administration's proposal to raid at the end of fiscal year 2007 all amounts remaining in the Crime Victims Fund, projected to be more than \$1.25 billion.

Year after year, the Crime Victims Fund—financed by criminal fines, forfeitures and assessments; not the American taxpayers—plays an essential role in helping thousands of agencies provide critical services annually to nearly four million victims of domestic violence, sexual assault, child abuse, drunk driving, elder abuse and all other crimes.

Despite the fact that Congress blocked this same proposal last year and has continued to express its intention that all deposits remain in the Fund to ensure its future, the Administration has once again proposed in its fiscal year 2007 budget proposal to siphon off all amounts remaining in the Fund at the end of the coming fiscal year to help offset the budget deficit that it has created. Such a move would leave the Fund with a balance of zero going into fiscal year 2008, jeopardizing the

ability of thousands of agencies to staff and operate programs vital to victims' well-being.

Attorney General Gonzales, how can the Administration justify expunging amounts from the Crime Victims Fund?

Answer. The cap enables Congress to determine the appropriate level of expenditures required to maintain viable victims' programs. Excess balances above the cap remain in the fund and "roll over" from year to year. Significant rollover balances have existed in the fund since 2000, creating what has been characterized as a perpetual float in the account well in excess of \$1 billion. This float is not required to fund the enacted level of victims' programs, nor is it money that can be made available for other use. These balances have become fodder for temporary scoring proposals. This tactic undermines the budget process because the same offset is counted each year. As the fiscal year 2007 President's budget proposes to rescind and permanently cancel the excess balance, returning the funds to the general fund of the Treasury, as a more straightforward approach to budgeting.

*Question.* Just how does the Administration expect victims and victims' services to sustain themselves in the interim while the Fund is replenished in fiscal year 2008?

Answer. While we do not believe that the proposal included in the President's budget would create an interim funding problem, we would be happy to work with you to develop language that both eliminates the budget gimmick and ensures uninterrupted funding availability for crime victims.

*Question.* How long do you estimate it will take for the Fund to be replenished in any given year after the remaining monies are drained?

Answer. Given recent history, our expectation is that the crime victims programs will be self-financing based on the fines and penalties paid into the Crime Victims Fund in any given year.

*Question.* How will the Office for Victims of Crime determine how much money would become available in the course of any given fiscal year to allocate to each of the 50 states?

Answer. The Department of Justice has not proposed to modify the formulas under which the bulk of the funds are distributed to the states each year for victims' compensation and crime victims programs. The amount of money distributed would be determined by the amount collected in the fund at time of disbursement.

*Question.* Additionally, how could local agencies apply for funds when each state would have no idea how much money would come to them that year?

Answer. Funding made available in the President's budgets and via the appropriations process has remained markedly stable in recent years. We are not anticipating at this point any dramatic departures from past funding levels. The Administration's fiscal year 2007 proposal is intended to preserve \$625 million in spending for crime victims programs while ending the budget gimmick that allows \$1.3 billion in balances to roll forward each year to be used as an offset for other spending. We certainly are willing to have some flexibility in working with the Congress to meet both of these objectives.

*Question.* When faced with times when collections from fines and forfeitures are low or if we are faced with a national victims emergency, such as we were with the September 11 terrorist attacks or Hurricane Katrina, where do you propose to find the funds for victims' services and compensation, seeing how the Administration will have drained the Fund?

Answer. If criminal fine collections decline in future years, the Administration would request additional appropriations, or in the event of a catastrophe, such as 9/11, request emergency supplemental funding to help offset those costs and restore the balance to sustainable levels.

#### BULLETPROOF VESTS PARTNERSHIP GRANT PROGRAM

*Question.* The Bulletproof Vest Partnership (BVP) Grant Program has been vital to distributing lifesaving bulletproof vests to law enforcement officers serving in the front lines across the country. However, DOJ's budget for fiscal year 2007 proposes to slash funding for this program by almost \$20 million, or by 63 percent. On January 5, 2006, the President signed into law the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109-162), which reauthorized the BVP Grant Program with funding levels at \$50 million per year through fiscal year 2009.

Compounding the usual funding demand for help to purchase vests, concerns from the law enforcement community over the effectiveness of body armor surfaced over two years ago when a Pennsylvania police officer was shot and critically wounded through his relatively new Zylon-based body armor vest. In August 2005, DOJ an-

nounced that test results indicate that used Zylon-containing body armor vests may not provide the intended level of ballistic resistance. Unfortunately, an estimated 200,000 Zylon-based vests have been purchased—many with BVP funds—and now need to be replaced. The Justice Department has adopted new interim requirements for its body armor compliance testing program and also provided an additional \$10 million at the end of fiscal year 2005/beginning of fiscal year 2006 to assist agencies in their replacement of Zylon-based body armor vests.

Vests cost between \$500 and \$1,000 each, depending on the style. The extra \$10 million released by the Justice Department, while appreciated, is only a drop in the bucket when compared to the need.

Across our nation, law enforcement agencies are struggling over how to find the funds necessary to replace defective vests that are less than five years old with ones that will actually stop bullets and save lives. How does DOJ justify cutting the BVP grant program by 63 percent in the face of needing to match costs for new vests, as well as to assist in the replacement of defective vests in fiscal year 2007?

Answer. The Administration continues to support the Bullet Proof Vest Partnership (BVP) program administered by the Bureau of Justice Assistance (BJA), which utilizes federal funds to assist State and local law enforcement to purchase stab- and bullet-resistant vests that meet National Institute of Justice (NIJ) standards.

The Attorney General, recognizing the crisis in the law enforcement community, added an additional \$10 million to the \$24.6 million appropriated for BPV in fiscal year 2005. This additional funding was made through a special BPV solicitation and resulted in 1,343 awards to State and local law enforcement agencies to replace 72,711 vests made with Zylon. In addition, through BJA's regular BPV process, in fiscal year 2005, BJA made \$23.6 million in BPV payments to over 4,000 agencies. These funds supported the purchase of more than 181,000 vests (over the next four years) for law enforcement officers across the country. In fiscal year 2006, \$29.6 million is appropriated for BPV.

Currently, there is over \$70 million available for the BPV program, including the fiscal year 2005 appropriation of \$24.6 million; \$7.8 million in reprogrammed funds; \$10 million at the request of the Attorney General; and the fiscal year 2006 appropriation of \$30 million. The fiscal year 2007 President's budget request of \$9.82 million will sustain the program and should adequately fund the anticipated demand for new vests.

Funding for BVP is also being allocated to support NIJ research on ballistic materials and armor performance under the Attorney General Body Armor Safety Initiative. The NIJ voluntary compliance testing program for bullet-resistant body armor has been revised to take into account performance of used armor.

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#### QUESTIONS SUBMITTED BY SENATOR HERB KOHL

##### OFFICE OF INTELLIGENCE POLICY AND REVIEW

*Question.* Do you believe this increase is sufficient to meet OIPR's needs? What information can you provide us with to demonstrate that this number will be sufficient to meet the needs of OIPR? Is this what OIPR told you they needed? Is that what they requested?

Answer. The President's fiscal year 2007 budget includes an increase of 30 positions, of which 21 are attorneys, for functions performed by OIPR. This increase—20 percent over the 2006 position level—will help allow the Department to address the growth in Foreign Intelligence Surveillance Act (FISA) applications that are a key element in our fight against terrorism. If FISA-related workload continues to grow, additional resources for OIPR may be necessary. These additional needs would be reflected in future budget requests.

##### ELIMINATING THE BYRNE GRANT PROGRAM IN THE FACE OF A METH EPIDEMIC

*Question.* Local law enforcement officials back in Wisconsin have warned us that the meth epidemic could get even worse as the drug moves into our urban areas. Instead of being home-made in rural labs, meth is increasingly being mass-produced and trafficked by large drug cartels. What this all means is more meth will be on the streets and law enforcement is very worried that we may experience a meth epidemic even worse than the crack epidemic of the 1980s.

In order to better combat the spread of crack cocaine which devastated our cities some 20 years ago and fight drug trafficking in general, Congress created the Edward J. Byrne Memorial Grant Program. The Byrne Grant Program provided federal funds to State and local police agencies to form regional drug task forces which coordinated law enforcement's efforts to fight drug crimes. By several accounts, the

Byrne Grant Program was and remains successful—and it has become the backbone of federal aid for local law enforcement.

We created the Byrne Grant Program twenty years ago to fight the rising tide of drugs in this country. Why now—when law enforcement is warning us that meth will be the new crack epidemic in our cities—is the Administration eliminating this program? We did not eliminate, we created, a federal program to help our local police fight drugs when crack exploded in the 80s. We should not be eliminating the Byrne Grant Program when we face the challenge of meth.

Answer. Due to the limited resources available to the Department of Justice (DOJ), both the Administration and the Department have been forced to make many difficult choices while preparing the fiscal year 2007 President's budget proposal. The decision to eliminate funding for the Byrne Justice Assistance Grant program (JAG) was a difficult choice necessitated by the Department's need to focus available resources on its top priorities, such as antiterrorism efforts, and ensure that existing programs make the best possible use of the federal funds dedicated to them. We are actively working with Congress and State and local officials to help ensure that law enforcement needs are addressed nationwide.

In fact, a number of critical and important investments for state and local law enforcement exist in the fiscal year 2007 budget—areas where funding is requested to target specific priority problems. In recent years, both the President and Congress have tended to focus funding on initiatives in key priority areas, where we have the best chance of making a difference, in lieu of funding large, broad-based programs that are not targeted and have not been able to show the same level of results. JAG represents less than one percent of all State and local spending in law enforcement.

If the President's fiscal year 2007 budget request is approved, over \$1 billion will be available to State, local and tribal law enforcement through the U.S. Department of Justice for many of the same purposes that JAG funded, such as training and equipment that logically cross-cut crime and drug issues. The DOJ fiscal year 2007 President's budget request includes \$66.6 million to strengthen communities through programs providing services such as drug treatment; \$88.2 million to combat violence, including enhancements to Project Safe Neighborhoods; and \$209 million to support drug enforcement, including funding to continue and expand the Southwest Border Drug Prosecution Program.

During its fiscal year 2005 PART assessment of the Byrne JAG Program and its predecessors (the Byrne Formula Grant Program and the Local Law Enforcement Block Grant), OMB concluded that the JAG Program has not been able to clearly demonstrate through quantifiable performance measures that it is achieving its goals. Concerns were also raised about the broad range of purpose areas allowed under the JAG Program; JAG funded efforts in a total of 29 different purpose areas, making it difficult for the program to develop meaningful performance measures or focus its efforts on priority concerns. Much of the justification for such assistance has diminished in comparison to other priority needs, such as increasing federal counterterrorism efforts.

The Administration and the Department of Justice are committed to supporting interagency drug enforcement efforts. The fiscal year 2007 President's budget includes \$706 million for the Organized Crime and Drug Enforcement Task Force (OCDETF) program and \$208 million for the High Intensity Drug Trafficking Area (HIDTA) Program. These programs support drug enforcement efforts undertaken by task forces made up of Federal, State, local and tribal law enforcement agencies and enhance the coordination of efforts against drug trafficking and drug-related crime at all levels of government. The Department will continue to work with Congress and State and local officials to address the many threats that methamphetamine and other illegal drugs pose to America's communities.

#### JUVENILE JUSTICE FUNDING

*Question.* Once again, juvenile justice and delinquency programs are cut in half in the President's fiscal year 2007 budget proposal. These programs, housed at the Office for Juvenile Justice and Delinquency Prevention (OJJDP), are allocated \$176 million, which is about half of what was appropriated last year (nearly \$343 million).

Juvenile justice programs have suffered during the Bush Administration. Just four short years ago, these programs received approximately \$556 million, with more than \$94 million for the Title V Local Delinquency Prevention Program and nearly \$250 million for the Juvenile Accountability Block Grant (JABG) program. The Administration's proposed level of \$176 million for juvenile justice programs represents more than a two-thirds cut from fiscal year 2002. The downward spiral

of juvenile justice funding is a disturbing budget trend with ugly real world implications. Juvenile crime is an ongoing challenge and it is not a problem that is going to solve itself. Boosting funding for successful juvenile justice programs is the first step in addressing this challenge.

Though we were able to increase that funding here in Congress last year, we wonder why this Administration targets reductions for juvenile justice programs year after year? Can you provide us some idea of whether or not this sort of funding will be a priority of yours, as it is to many of us here?

Answer. In fiscal years 2006 and 2007, the Office of Justice Programs (OJP) proposes the elimination of the Juvenile Accountability Block Grant (JABG) Program, which received a “results not demonstrated” rating due to the lack of key information required by the Office of Management and Budget Program Assessment Rating Tool (PART) in fiscal year 2002. In an effort to increase accountability without undermining State juvenile justice programming, the OJP budget requests \$33.5 million for the recently-authorized Part C: Juvenile Delinquency Prevention Block Grants Program from which State and local governments can fund similar activities.

Funding for the Title V Incentive Grants Program is proposed for an overall reduction due to the elimination of two initiatives whose funding is carved out of this program at approximately \$25 million each—Underage Drinking and Gang Resistance Education and Training. However, OJP is requesting an increase of \$14.7 million in discretionary funding compared to the fiscal year 2006 enacted level for the Title V Program. Beginning in fiscal year 1995 (the second year of the Program), Congress allocated an increasingly larger portion of total Title V funds to earmarked programs which has resulted in fewer dollars being allocated to communities to formulate, implement, and evaluate comprehensive delinquency prevention plans through the Incentive Grants, the original intent of the Program.

In addition, the fiscal year 2007 budget request includes an increase of \$14.2 million for the Formula Grants Program which supports State and local efforts to develop and implement comprehensive State juvenile justice plans. Funds may be used for research, evaluation, statistics and other informational activities, and training and technical assistance. Funding is also available for training and technical assistance to help small, non-profit organizations, including faith-based organizations, with the federal grants process.

#### WHIRLPOOL-MAYTAG MERGER

*Question.* Last week many of us were surprised when the Antitrust Division decided not to challenge Whirlpool’s acquisition of Maytag. It was widely reported in the press that the Antitrust Division staff had recommended that the Justice Department should file suit to block this deal, because of the possibility that the deal could lead to injury to competition and higher prices for consumers. The merger will result in the combined company controlling about 70 percent of the washing machine market.

The Justice Department’s decision on this deal was contrary to the predictions of many antitrust experts. Diana Moss of the American Antitrust Institute argued that the combined company’s market power would “substantially lessen competition by impairing the ability of rivals to compete effectively.” Even the Wall Street Journal—usually not an advocate of aggressive antitrust enforcement—reported that “under traditional antitrust analysis, the deal would probably be rejected or reshaped because of the combined companies’ majority share of the U.S. market for washers and dryers.”

Why did you ignore the recommendation of the Antitrust Division staff in approving this merger?

Answer. After thoroughly investigating Whirlpool’s proposed acquisition of Maytag, the Antitrust Division determined that the proposed transaction was not likely to reduce competition substantially. We came to this conclusion because Whirlpool will likely achieve large cost savings and efficiencies, which would allow the combination of strong rival suppliers not to harm consumer welfare.

Based on the evidence obtained during its extensive investigation, the Division found that this merger is not likely to give the merged entity market power in the sale of any of its products in the United States. The Division found that, despite the two companies’ relatively high share of laundry appliance sales in the United States, any attempt to raise prices likely would be unsuccessful. Whirlpool and Maytag represent two well-known brands in the industry, but rival appliance brands such as Kenmore, General Electric and Frigidaire are also well established, and newer brands such as LG and Samsung have quickly established themselves in recent years. LG, Samsung, and other foreign manufacturers could increase their imports into the United States; rival U.S. manufacturers have excess capacity and

could increase their production. Further, the large retailers through which the majority of these appliances are sold—Sears, Lowe’s, The Home Depot and Best Buy—have alternatives available to help them resist any attempt by the merged entity to raise prices. Also, the parties substantiated large cost savings and other efficiencies that should benefit consumers.

TUNNEY ACT REVIEW

*Question.* Two years ago I sponsored an amendment to the Tunney Act, the law which governs the manner in which the courts review government antitrust settlements with the government. My amendment was enacted into law. This amendment heightened the scrutiny that courts must give to such settlements. We intended to halt the practice of courts merely “rubber stamping” these settlements, but instead to ensure that the courts scrutinized these consent decrees to insure that the settlements were in the public interest.

In the Justice Department’s recent court filings in the SBC/ATT merger Tunney Act proceedings, the Department has asserted that these amendments “did not materially affect the scope or standard of review courts are to apply in reviewing antitrust settlements.” This assertion is contrary to the plain words and legislative intent of our Tunney Act amendments.

Why has the Justice Department taken the position that our Tunney Act amendments have not changed the standard of review that courts are to follow in reviewing antitrust settlements? What basis do you have for ignoring the plain language and legislative history of our amendments that was intended to strengthen the court’s review?

*Answer.* The text of the 2004 amendments to the Tunney Act modified the list of factors a court is to consider in making its public interest determination and made judicial consideration of each factor mandatory rather than discretionary. The quotation in the filing you cite was in the context of that case, in which it was claimed that the 2004 Tunney Act amendments somehow gave the court the authority to review a consent judgment on the basis of allegations that were not included in the underlying complaint. The 2004 Amendments do not in any way suggest that they altered the Tunney Act’s fundamental purpose or standard in that respect.

Section 221(a) contains a “finding” that “it would misconstrue the meaning and Congressional intent in enacting the Tunney Act to limit the discretion of district courts to review antitrust consent judgments solely to determining whether entry of those consent judgments would make a ‘mockery of the judicial function.’” Antitrust Criminal Penalty Enhancement and Reform Act of 2004, Public Law 108–237, § 221(a)(1)(B), 118 Stat. 661, 668 (2004). Senator DeWine stated that “this bill makes clear that the Tunney Act requires what it has always required, and that mere rubber-stamping is not acceptable.” 150 Cong. Rec. S3610–02, \*S3618 (Apr. 2, 2004) (statement of Sen. DeWine). The Department agrees. Both the statute and the case law make clear a court’s Tunney Act role: far from applying a rubber-stamp, the court is to examine the proposed antitrust consent decree and determine whether that judgment addresses the harms alleged in the complaint and therefore falls within the reaches of the public interest based on the factors enumerated in the statute.

QUESTIONS SUBMITTED BY SENATOR BYRON L. DORGAN

ANTITRUST MODERNIZATION COMMISSION

*Question.* The Antitrust Modernization Commission recently held a hearing that discussed the risks that U.S. businesses face as a result of the growing number of competition authorities around the world. These authorities can impose requirements or remedies on U.S. companies that conflict with our own. As one witness testified, this situation “has created the potential for a variety of adverse consequences, including increased transaction costs and heightened uncertainty for businesses, and instances of friction and conflict across jurisdictional boundaries.”

Would the Department support efforts to deal with these issues, so that foreign antitrust authorities are more likely to defer to the rulings of the Department and FTC where the United States’ interests in a transaction or conduct are paramount?

Should the United States also seek to strengthen existing antitrust cooperation agreements to address this issue?

*Answer.* The potential for foreign competition authorities to impose burdensome conflicting requirements and uncertainties on companies from other nations, or even to misuse enforcement to bolster a country’s own home companies, has been an ongoing concern of the Antitrust Division for a number of years. The Division has ac-

tively worked to promote antitrust enforcement around the world based on sound economic and legal analysis. In this regard, one of the principles we have urged as part of international comity in antitrust enforcement is that, where appropriate, deference be given to the enforcement authorities in the country with the most significant relationship to the transaction or conduct.

At the same time, the Department recognizes that there are numerous instances in which both the United States and a foreign antitrust authority have a significant interest in a particular course of conduct or a particular transaction. It is therefore critical that the Department work closely in a variety of contexts to achieve international consensus on sound antitrust enforcement, thereby limiting the risk of significantly divergent outcomes in particular cases. In recent years the Department has actively engaged antitrust enforcers around the world through the International Competition Network, the Organization for Economic Cooperation and Development, competition working groups, and bilateral and trilateral meetings. Our goal is to strengthen international cooperation, minimize unnecessary burdens on companies doing business globally, and promote convergence on sound antitrust principles. This will continue to be a priority for the Department.

#### SEX OFFENDER DATABASE

*Question.* Mr. Attorney General, I met with you in February of 2005, and urged you to implement a national sex offender database that the public could access through the internet, along the lines of what I have proposed in Dru's Law. I appreciate the fact that the Justice Department has begun implementation of such a database.

The database currently allows users to search for offenders by multiple zip codes, but not by a radius defined by users, as proposed by Dru's Law. I think the database would be far more useful if it allowed the user to ask for a list of offenders within, say, a 10-mile radius—rather than having to sit down with a map and figuring out the intricacies of the zip code system. Would you be willing to look into that?

*Answer.* A zip code radius search has been a sought after function of the National Sex Offender Public Registry (NSOPR) since the inception of the program. After the initial release of NSOPR, the original zip code function was modified from single zip code search capability to the current search capability that allows users to search multiple known adjacent zip codes. With the final two states scheduled to participate in the program this summer, work is underway to develop zip code radius style searches.

#### EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANTS (JAG) PROGRAM

*Question.* The President's fiscal year 2007 budget would eliminate funding for Edward Byrne Memorial Justice Assistance Grants program that was developed to help states and local law enforcement control violent crime and drug-related crime as well as improve operations and coordination.

The Byrne grant program helps to fund the South Sakakawea Narcotics Task Force that services the southwest counties of North Dakota. Prior to having this task force, the Dickinson Police Department and Stark County Sheriff's Department combined to investigate narcotics. It was on a part time basis because it utilized detectives who had to work criminal cases as well and it was not effective enough to deter the dealers moving into our area.

According to the Dickinson Chief of Police, the task force this past year handled 181 cases and made a total of 233 arrests. They also have confiscated about \$29,000 in asset forfeitures.

In eliminating funding, the Administration says the Byrne program is "unable to demonstrate results" and that there is "little justification for continued funding." How can you justify cutting this program? What methods did the Department of Justice use to evaluate this program? Did you reach out directly to local law enforcement officials in North Dakota to gather facts and results?

*Answer.* Due to the limited resources available to the Department of Justice (DOJ), both the Administration and the Department have been forced to make many difficult choices while preparing the fiscal year 2007 President's budget proposal. The decision to eliminate funding for the Byrne Justice Assistance Grant program (JAG) was a difficult choice necessitated by the Department's need to focus available resources on its top priorities, such as antiterrorism efforts, and ensure that existing programs make the best possible use of the federal funds dedicated to them. We are actively working with Congress and state and local officials to help ensure that law enforcement needs are addressed nationwide.

In fact, a number of critical and important investments exist in the fiscal year 2007 budget—areas where funding is requested to target specific priority problems. In recent years, both the President and Congress have tended to focus funding on initiatives in key priority areas, where we have the best chance of making a difference, in lieu of funding large, broad-based programs that are not targeted and have not been able to show the same level of results. JAG represents less than one percent of all state and local spending in law enforcement.

If the President's fiscal year 2007 budget request is approved, over \$1 billion will be available to State, local and tribal law enforcement through the U.S. Department of Justice for many of the same purposes that JAG funded, such as training and equipment that logically cross-cut crime and drug issues. The DOJ fiscal year 2007 President's budget request includes \$66.6 million to strengthen communities through programs providing services such as drug treatment; \$88.2 million to combat violence, including enhancements to Project Safe Neighborhoods; and \$209 million to support drug enforcement, including funding to continue and expand the Southwest Border Drug Prosecution Program.

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The Administration and the Department of Justice are committed to supporting interagency drug enforcement efforts. The fiscal year 2007 President's budget includes \$706 million for the Organized Crime and Drug Enforcement Task Force (OCDETF) program and \$208 million for the High Intensity Drug Trafficking Area (HIDTA) Program. These programs support drug enforcement efforts undertaken by task forces made up of Federal, state, local and tribal law enforcement agencies and enhance the coordination of efforts against drug trafficking and drug-related crime at all levels of government. The Department will continue to work with Congress and State and local officials to address the many threats that methamphetamine and other illegal drugs pose to America's communities.

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QUESTION SUBMITTED BY SENATOR ROBERT C. BYRD

NSA'S DOMESTIC SURVEILLANCE PROGRAM AND ITS POSSIBLE UNDERMINING AFFECT ON COUNTERTERRORISM EFFORTS

*Question.* The Administration has been very vocal about its disdain for the information leaked concerning domestic wiretapping program. Is it possible, that by ignoring FISA, as well as the FISA court, the Administration has encouraged intelligence gatherers and analysts to engage in constitutionally-suspect activities, and that the leaks that have resulted have come about not through any dereliction of duty, but from a real concern that individuals have been asked to conduct domestic surveillance outside the rule of law?

If this is in fact true, then not only has the NSA's domestic surveillance program been conducted illegally, it has placed counterterrorism agents beyond the law, and possibly caused the leaks it now condemns. What is the Administration's response to its possibly undermining counterterrorism efforts by its brazen indifference to FISA and the Constitution?

*Answer.* Thank you for the opportunity to address these questions, which I believe reflect several misunderstandings. We hope our response will allay your concerns.

First, the care that the Administration has taken in establishing, implementing, and overseeing the Terrorist Surveillance Program described by the President bears emphasis. The Administration has gone to extraordinary lengths to ensure that, even while it protects the American people from another catastrophic terrorist attack, it observes the constitutional protections that we, as a Nation, cherish. For this reason, the Administration sought and received the legal advice of the Department of Justice and of the career attorneys who specialize in this area of law at the National Security Agency (NSA) before the program was first authorized, and it continues to seek such advice when appropriate. The Program is narrowly focused, targeting only international communications for which a trained intelligence professional concludes there is probable cause to believe at least one of the parties

is a member or agent of al Qaeda or an affiliated terrorist organization. The need for the Program is reevaluated approximately every 45 days to minimize the risk of any unnecessary interception of communications. Finally, from the very beginning, the Administration has kept Congress informed through appropriate briefings of the Intelligence Committees and leadership.

Second, the Administration has not “circumvent[ed] procedures required by Foreign Intelligence Surveillance Act (FISA) and the Constitution,” nor has it “ignored” FISA. As explained in the Department’s January 19, 2006 paper, the Terrorist Surveillance Program is fully consistent with FISA. FISA expressly recognizes that electronic surveillance can be authorized by statutes other than FISA. See 50 U.S.C. § 1809(a)(1) (providing that electronic surveillance is not prohibited if it is “authorized by statute”). The Authorization for the Use of Military Force of September 18, 2001 (“Force Resolution”) is just such a statute. The Supreme Court has explained that the Force Resolution must be understood to have authorized “fundamental and accepted” incidents of waging war. *Hamdi v. Rumsfeld*, 542 U.S. 507, 518 (2004) (plurality opinion); see *id.* at 587 (Thomas, J., dissenting). As explained at length in the January 19th paper, the use of signals intelligence is a fundamental incident of the use of military force. Consistent with this traditional understanding, other Presidents, including Woodrow Wilson and Franklin Roosevelt, have interpreted general force authorization resolutions to permit warrantless electronic surveillance to intercept suspected enemy communications. Cf. generally Curtis A. Bradley & Jack L. Goldsmith, Congressional Authorization and the War on Terrorism, 118 Harv. L. Rev. 2048, 2091 (2005) (explaining that, with the Force Resolution, “Congress intended to authorize the President to take at least those actions permitted by the laws of war”). The Force Resolution thus authorizes the President to conduct the Terrorist Surveillance Program against al Qaeda and affiliated terrorist organizations, and does so in a way explicitly contemplated by FISA. At the same time, as we have explained repeatedly, the Administration understands and appreciates FISA’s value. It and the Foreign Intelligence Surveillance Court have been of enormous assistance in protecting the Nation from terrorist attacks and other threats to the national security. The Administration, accordingly, makes full use of the FISA.

Third, we do not agree that concerns about the legality of the Terrorist Surveillance Program caused the unauthorized leak that publicly revealed the existence of the Program. Even if an employee were concerned about the legality of the program, although the program has been, from the beginning, subject to legal review at several levels, there has long been a mechanism in place—the Intelligence Community Whistleblower Protection Act of 1998—that would allow an employee to bring such concerns to the attention of the relevant Inspector General and, if that did not resolve his concerns, the Intelligence Committees of Congress. This act provides a mechanism to address concerns while protecting sensitive intelligence sources and methods. No concern for the legality of the Program could have impelled someone to break the law and cause irreparable harm to the national security by leaking highly classified information when this alternative was open.

Finally, the Terrorist Surveillance Program has been critical to protecting the Nation from a subsequent al Qaeda attack and is in no way “undermining counterterrorism efforts.” We hope these clarifications allay your concerns.

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#### QUESTIONS SUBMITTED TO ROBERT S. MUELLER III

##### QUESTIONS SUBMITTED BY SENATOR HERB KOHL

###### FBI ANALYSTS

*Question.* Director Mueller, since 9/11, you have tried to transform the FBI into an intelligence agency, one that actively prevents terrorist attacks instead of just responding to them. Last year, we talked about an Inspector General report that criticized the FBI for its inability to recruit, train, and retain qualified intelligence analysts. Connecting the dots, of course, is crucial to that transformation. The FBI fell well short of its analyst hiring goals in 2004, but you assured me that you would get that back on track in 2005, and that you would meet your goals. What goals did the FBI set for 2005, and were they met? What sorts of people did you hire as analysts? Are you fully satisfied with the qualifications of the applicants?

*Answer.* The FBI has worked hard to recruit the best possible candidates to move us forward during our transformation. This work is exemplified by our effort to hire intelligence analysts (IAs); through an extremely aggressive recruiting effort, we

have increased our total on-board IA complement over the 9/11/01 level by 108 percent.

Throughout this period, we have set very high IA hiring goals, and achieving these goals has been quite challenging. The FBI's goal in fiscal year 2005 was to hire 780 analysts and, with the benefit of streamlined pre-employment procedures and a hiring "blitz," we hired 678 analysts. (Of these, 170 IAs counted against our fiscal year 2004 goal, so that the total IAs hired against our fiscal year 2005 goal of 780 was 508). Both our efforts and our challenges are continuing; in the first two quarters of fiscal year 2006, we hired 233 IAs.

While the hiring of skilled and motivated federal employees in such large numbers is always challenging, the hiring of IAs in adequate numbers is made more challenging by the fact that the same backgrounds and expertise we are seeking are also being sought by other intelligence organizations. In order to close the gap created by hiring shortfalls, the FBI has established a team that consists of representatives from the Directorate of Intelligence, Administrative Services Division, Security Division, and Training and Development Division, who meet weekly to address hiring and training needs throughout the FBI. We will sustain our vigorous hiring effort until we meet our hiring goals.

The FBI has established policies and procedures designed to ensure we have the highest quality IAs, and the qualifications of the IAs hired in fiscal year 2005–2006 have been outstanding. For example, 48 percent of the recent hires have advanced degrees and, of those with baccalaureate or advanced degrees, 25 percent possess critical skills in such areas as Islamic studies, international banking, analytical studies, or computer science.

#### SENIORS INVESTMENT FRAUD

*Question.* Since 9/11, the FBI has focused on protecting our homeland and rightfully so. But the FBI also has other law enforcement priorities. Recently, I chaired an Aging Committee hearing that focused on the growing issue of securities fraud that seniors are facing. One of the messages from that hearing was that law enforcement must focus on both prosecuting fraud complaints and investigating potential scams before they ensnare seniors' life savings. I understand that the FBI has begun working on this, but can you tell us what additional resources you need to step up your efforts in this area?

*Answer.* Securities fraud is a priority of the FBI's White Collar Crime Program. During fiscal year 2005, the FBI had more than 1,500 pending securities fraud cases. These investigations resulted in 479 indictments or informations, 479 convictions, over \$4.9 billion in court-ordered restitution, and approximately \$25 million in forfeitures. The FBI will work with DOJ and Congress to identify any additional resources needed to increase our securities fraud program as it relates to senior citizens.

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#### QUESTIONS SUBMITTED BY SENATOR PATRICK J. LEAHY

##### CHOICEPOINT

*Question.* On April 3, 2006, the FBI announced that it was entering into a \$12 million, 5-year licensing agreement with ChoicePoint to expand the use of software that helps the FBI analyze criminal organizations. During the Committee's April 5, 2006, hearing, you stated that the FBI did not consult with Congress before entering into this agreement.

Given the well-publicized problems that ChoicePoint has had with maintaining data security, how can the Justice Department possibly justify entering into a multi-million dollar contract with ChoicePoint to handle sensitive investigative data about how criminal enterprises operate?

*Answer.* The FBI awarded a 5-year, fixed-price contract to i2, Inc., a subsidiary of ChoicePoint, on 12/1/05. ChoicePoint issued a press release announcing this contract on 4/3/06, which created some confusion as to whether the contract was for ChoicePoint data services or for i2 analytical tools. In fact, this contract is solely for i2's software applications and analytical tools, and not for ChoicePoint data services. These i2 applications and tools include software licenses, software upgrades, technical support for the "Analyst's Notebook" (i2's primary product), a scaled-down version of i2's "Visual Notebook," and related tools. The "Analyst's Notebook" is a link-node analysis tool that has proven highly useful in counterintelligence, counterterrorism, and criminal investigations that involve large volumes of data.

Like private investigators, paralegals, and others who subscribe to such services, the FBI continues to use commercial databases, such as ChoicePoint, that contain

public-source information as well as proprietary information that is privately owned and commercially available at the owner's discretion. This information is available to the FBI from the same sources that provide it to the commercial databases. What these commercial databases offer their customers, including the FBI, by contract is a consolidation of this information so that, rather than going to multiple databases for this information, it can be obtained through one or two searches.

The FBI contracts with commercial data providers, such as ChoicePoint, in order to access the information they maintain. We do not provide FBI information, including FBI investigative data, to these organizations, and neither they nor their other clients have any access to FBI information as a result of our contract or our access.

*Question.* Given the well-publicized problems that ChoicePoint has had with maintaining data security, why did the FBI choose to not consult Congress before entering into this licensing agreement?

*Answer.* As indicated in the response above, the recent contract did not concern ChoicePoint's data services, but was instead a contract for i2's software applications and analytical tools. Furthermore, the FBI's spending with regard to contracts with ChoicePoint and other data brokers has always been consistent with resources appropriated for such matters.

*Question.* Did the FBI conduct a review of ChoicePoint's data security procedures and privacy policy before entering into this licensing agreement? If so, please describe that review process.

*Answer.* Because the recent contract with i2, Inc., was for software applications and analytical tools, rather than for data services, it did not raise any concerns regarding data security procedures or privacy policy. These tools were evaluated as part of the FBI system's security certification and accreditation process, in accordance with FBI data security procedures and privacy policy.

#### VIRTUAL CASE FILE/SENTINEL

*Question.* Director Mueller, you are well aware of my ongoing interest in getting a fully functional case management system into the hands of agents. Last year, after consultants pronounced it obsolete and riddled with problems, the FBI scrapped its \$170 million Virtual Case File component of the Trilogy program, which was supposed to create an instantaneous and paperless way for FBI agents and analysts to manage all types of investigations.

We recently learned that the FBI estimates that Trilogy's successor, Sentinel, will cost the American taxpayers \$425 million to complete. Additionally, Sentinel will not be fully deployed until 2009. The FBI has already set aside \$97 million for Sentinel this year and you are asking for an additional \$100 million for this project for fiscal year 2007.

How confident are you about the final cost estimate for the Sentinel program?

*Answer.* The FBI is confident that the approved contract will meet the requirements specified in the statement of work at the contracted price. Should modifications be required, we will make the proper notifications within the FBI and to the Department of Justice (DOJ), OMB, and Congress. The total value of the contract with Lockheed Martin is \$305 million over 6 years, including both development and Operations and Maintenance (O&M). The FBI estimates that the total cost for the Sentinel program, including program management, systems development, O&M, and independent validation and verification (IV&V), will be \$425 million over 6 years.

*Question.* Based on this cost estimate, how much additional funding or reprogrammed funds will the FBI require to complete this program? If reprogramming is required, what programs do you anticipate will lose funds?

*Answer.* The funding requested in the President's fiscal year 2007 budget will fund O&M for Phase 1 and a portion or all of the system development, training, and program management costs for Phase 2. Final funding requirements for Phase 2 are dependent on the completed contract negotiations and other factors. Funding for Phases 3 and 4 and for the remainder of O&M for all Phases will be requested in future year budget submissions. If additional Phase 2 costs are identified in fiscal year 2007 beyond the \$100 million in the President's budget, the FBI will work with DOJ, OMB, and Congress to redirect existing funds where available or request additional funding as needed.

*Question.* I am trouble[d] by reports that two of the companies that are part of the Sentinel contract team—Computer Sciences Corp. and CACI International Inc.—also played roles in the earlier failed Trilogy effort. How do you justify entrusting these companies with taxpayer funds again?

*Answer.* Although it is true that two of the 11 companies partnering with Lockheed Martin are common to both Trilogy and Sentinel (Computer Science Corporation (CSC) and CACI), these companies were associated with the Transportation

Network and Information Presentation components of the Trilogy contract rather than with the Virtual Case File portion, which was led by SAIC.

The FBI believes both CSC and CACI will make significant contributions toward Sentinel's success. CSC will provide subject-matter expertise regarding legacy systems, system design, commercial off-the-shelf software selection, and O&M support. CSC will also provide information technology security services, a business line in which they have excelled while working with the FBI's information assurance program during the past three years. CACI will provide subject-matter expertise in support of case management, records management, development and testing, and implementation and integration.

The FBI has strengthened its internal controls to avoid a repetition of prior problems. For example, we have improved our contract oversight in four significant ways. First, this contract has clear reporting requirements and clear, defined deliverables at each contract phase (each of the four phases delivers capability to the end-user), and the contract can be terminated at any point should these results be unsatisfactory. Second, those responsible for contract management have clearly defined roles and responsibilities, and the management function is structured so as to ensure that accountable personnel review all documentation and expenses. This contract management function will be supplemented by internal financial management audits. Third, an IV&V specialist who reports directly to the Chief Information Officer will independently assess the efficiency and progress of the Program Management Office (PMO) and the work of the Sentinel contractors. Fourth, to eliminate the likelihood of "scope creep," any significant requirements changes must first be approved by the Executive Steering Council chaired by the FBI's Deputy Director.

The FBI has implemented measures to verify the FBI's receipt of the contract's deliverables and to validate their costs when invoiced. Unlike Trilogy, these measures include the creation of a PMO that includes personnel with the expertise to ensure proper contract administration. The Sentinel PMO includes a contracting officer and a dedicated unit that is specifically assigned to track, monitor, and control all program and development costs. This dedicated unit, which includes a business manager, budget analyst, Earned Value Metrics analyst, cost estimator, and full-time contracting officer's technical representative, will use detailed invoicing procedures developed by the PMO to validate all internal and external costs. As recognized in the recent GAO and IG reports, the FBI has conveyed to Lockheed Martin the importance of detailed cost tracking and adherence to established policies and protocols. Lockheed Martin has assured the FBI that they understand and concur in our requirements and will implement appropriate policies and processes to ensure compliance.

Generally a government entity has no direct relationship with subcontractors, who instead work for prime contractor, submitting invoices to the prime contractor for approval and payment. While this is true of the FBI's relationship with subcontractors in this case, as well, the FBI has requested greater transparency of subcontractor activities and charges with respect to the Sentinel contract, and Lockheed Martin's monthly reports will be required to include subcontractor costs in the same manner as their own costs.

#### SUBCOMMITTEE RECESS

Senator SHELBY. We will review the 2007 budget request for the National Aeronautics and Space Administration on Wednesday, April 26 in this room, and at that time, the NASA Administrator, Dr. Michael Griffin, will be here to discuss the budget for the programs under his jurisdiction. Until then, the subcommittee stands in recess.

[Whereupon, at 4:38 p.m., Wednesday, April 5, the subcommittee was recessed to reconvene at 2 p.m., Wednesday, April 26.]