

REAUTHORIZATION OF THE UNITED STATES DE-  
PARTMENT OF JUSTICE: CRIMINAL LAW EN-  
FORCEMENT

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HEARING

BEFORE THE

SUBCOMMITTEE ON CRIME, TERRORISM,  
AND HOMELAND SECURITY

OF THE

COMMITTEE ON THE JUDICIARY  
HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

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MAY 6 AND MAY 14, 2003  
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# CONTENTS

## HEARING DATES

	Page
May 6, 2003	
CRIMINAL LAW ENFORCEMENT AGENCIES .....	1
May 14, 2003	
CRIMINAL LAW COMPONENTS AT MAIN JUSTICE .....	63

## OPENING STATEMENT

### MAY 6, 2003

The Honorable Howard Coble, a Representative in Congress From the State of North Carolina, and Chairman, Subcommittee on Crime, Terrorism, and Homeland Security .....	1
The Honorable Robert C. Scott, a Representative in Congress From the State of Virginia, and Ranking Member, Subcommittee on Crime, Terrorism, and Homeland Security .....	2

### MAY 14, 2003

The Honorable Howard Coble, a Representative in Congress From the State of North Carolina, and Chairman, Subcommittee on Crime, Terrorism, and Homeland Security .....	63
The Honorable Robert C. Scott, a Representative in Congress From the State of Virginia, and Ranking Member, Subcommittee on Crime, Terrorism, and Homeland Security .....	64

## WITNESSES

### MAY 6, 2003

Mr. Pasquale J. D'Amuro, Executive Assistant Director Counterterrorism/Counterintelligence, Federal Bureau of Investigation, U.S. Department of Justice	
Oral Testimony .....	15
Prepared Statement .....	16
Mr. Richard J. Hankinson, Deputy Director, Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice	
Oral Testimony .....	30
Prepared Statement .....	31
Mr. Rogelio E. Guevara, Chief of Operations, Drug Enforcement Administration, U.S. Department of Justice	
Oral Testimony .....	33
Prepared Statement .....	35

### MAY 14, 2003

The Honorable Deborah Daniels, Assistant Attorney General, Office of Justice Programs, U.S. Department of Justice	
Oral Testimony .....	66
Prepared Statement .....	68
Mr. Harley G. Lappin, Director, Federal Bureau of Prisons, U.S. Department of Justice	
Oral Testimony .....	72

IV

	Page
Prepared Statement .....	74
Mr. Benigno G. Reyna, Director, United States Marshals Service, U.S. Department of Justice	
Oral Testimony .....	79
Prepared Statement .....	81
Ms. Julie L. Myers, Chief of Staff, Criminal Division, U.S. Department of Justice	
Oral Testimony .....	84
Prepared Statement .....	85

**LETTERS, STATEMENTS, ETC., SUBMITTED FOR THE HEARING**

MAY 6, 2003

Summary of study entitled "Controlling Cocaine: Supply Versus Demand," produced by RAND Drug Policy Research Center for the Office of National Drug Control Policy, 1994, .....	4
---	---

MAY 14, 2003

Article from the <i>Houston Chronicle</i> entitled, "DeLay backs federal aid to track down walkouts," May 13, 2003 .....	96
Letter to Attorney General Ashcroft from Members of the House Committee on the Judiciary regarding Federal intervention in matters of the State Legislature of Texas .....	99

**APPENDIX**

MATERIAL SUBMITTED FOR THE RECORD

MAY 6, 2003

Prepared Statement of the Honorable Sheila Jackson Lee, a Representative in Congress From the State of Texas .....	111
Response from Richard J. Hankinson, Deputy Director, Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice, to questions submitted by the Subcommittee .....	113
Response from Rogelio E. Guevara, Chief of Operations, Drug Enforcement Administration, U.S. Department of Justice, to questions submitted by the Subcommittee .....	118

MAY 14, 2003

Prepared Statement of the Honorable Sheila Jackson Lee, a Representative in Congress From the State of Texas .....	123
Response from the Honorable Deborah Daniels, Assistant Attorney General, Office of Justice Programs, U.S. Department of Justice, to questions submitted by the Subcommittee .....	125
Response from Harley G. Lappin, Director, Federal Bureau of Prisons, U.S. Department of Justice, to questions submitted by the Subcommittee .....	133
Response from Benigno G. Reyna, Director, United States Marshals Service, U.S. Department of Justice, to questions submitted by the Subcommittee ....	145
Response from Julie L. Myers, Chief of Staff, Criminal Division, U.S. Department of Justice, to questions submitted by the Subcommittee .....	150
Sexual Abuse/Assault Prevention and Intervention Programs, U.S. Department of Justice, Federal Bureau of Prisons .....	157

## CRIMINAL LAW ENFORCEMENT AGENCIES

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TUESDAY, MAY 6, 2003

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON CRIME, TERRORISM,  
AND HOMELAND SECURITY  
COMMITTEE ON THE JUDICIARY,  
*Washington, DC.*

The Subcommittee met, pursuant to call, at 2:04 p.m., in Room 2141, Rayburn House Office Building, Hon. Howard Coble (Chairman of the Subcommittee) presiding.

Mr. COBLE. Mr. Scott just mentioned that you all were standing at attention. We are not accustomed to that sort of respect, are we Bobby, although we appreciate that.

Folks, at the outset I want to apologize for the nonmelodious sound of my voice. I am battling a cold, and I am coming out second best. And I hope I don't give it to you or to anyone else today. So, you all bear with me.

Today, the Subcommittee on Crime, Terrorism, and Homeland Security conducts its first of two hearings relating to the reauthorization of the Department of Justice. This Subcommittee has jurisdiction over the largest portion of the Department of Justice, the criminal law components, as well as counterterrorism and intelligence components.

Representatives of three of the Department's enforcement agencies are here to testify before the Committee today. The agencies testifying today are the Bureau of Alcohol, Tobacco, Firearms and Explosives; the Federal Bureau of Investigation; and the Drug Enforcement Administration.

On September 25th, 2002, the President signed the 21st Century Department of Justice Appropriations Authorization Act, which was the first reauthorization of the Department in over two decades. The Subcommittee held hearings in May of 2001 to assist with the reauthorization. That act made a number of improvements in the way the Department operates and maintains its programs.

Since those hearings, our Nation has experienced what seems like a lifetime of historical and sometimes tragic events. The terrorist attacks of September 11th, the anthrax attacks, and the resulting war on terrorism have changed the priorities of the Department of Justice and its components to prevent, disrupt, and respond to terrorism. Just as our Nation has met these challenges over the last 2 years, so have our Federal law enforcement officials. I commend the witnesses and the employees for their fortitude, flexibility, and courage.

The Bureau of Alcohol, Tobacco, Firearms and Explosives is the newest component of the Department of Justice. After the terrorist attacks of September 11, 2001, the Congress enacted the Homeland Security Act of 2002 to create a new Department of Homeland Security. As part of that bill, the ATF was transferred to the Department of Justice from the Department of Treasury. ATF traces its roots back to 1791, when Alexander Hamilton imposed the first Federal tax on distilled spirits. Similar to the FBI and the DEA, ATF's mission has changed over the years to meet the needs of the Nation. Along with transferring the Bureau, Congress expanded ATF's authority through the Safe Explosives Act to place more stringent controls on explosives to prevent terrorists and others prohibited from obtaining them.

The FBI will testify as to the challenge it faces after the 9/11 attacks. The FBI grew out—as many of you know—grew out of a small force of investigators, creating the Department of Justice in 1908. Over the years, the FBI's mission has expanded as the Nation has changed. Today, the FBI has the broadest mission of any other enforcement agency, ranging from antiterrorism efforts to white collar fraud, to child abduction laws.

The FBI has recently made substantial changes to address the growing threat of terrorism against our citizens and our country. Most recently, on December 3rd, 2001, the FBI recognized and reorganized its priorities to make counterterrorism, counterintelligence, and cybercrime its top priorities.

The third agency represented today is the Drug Enforcement Administration, the world's preeminent drug law enforcement agency. DEA is the single point of contact for coordination of all international drug investigations. Created in 1973, the Agency is responsible for enforcing the controlled substances and chemical diversion trafficking laws and regulations of the United States. DEA oversees 21 domestic field divisions and 78 international offices in 56 countries, giving it extraordinary intelligence capacity, which is a huge benefit to the overall effectiveness with the war on terrorism. DEA was established by Reorganization Plan Number 2, rather than statute. DEA's enforcement authority derives from the Controlled Substances Act.

These agencies are vital to our Federal justice system and the security of our Nation. I want to thank the witnesses in advance for testifying before us today. I believe their testimony will provide valuable information for the Committee to further improve the performance of the Department of Justice.

And now I am pleased to recognize the distinguished gentleman from Virginia, the Ranking Member of the Subcommittee, Mr. Scott.

Mr. SCOTT. Thank you, Mr. Chairman. And I am pleased to join you in convening this hearing on the reauthorization of the U.S. Department of Justice, their law enforcement components.

Although we reauthorized the entire Department of Justice just last Congress, I believe this is the first time that we have had a chance to conduct an oversight hearing on these agencies since September 11, 2001.

The Federal law enforcement arena has changed drastically since 9/11, perhaps appropriately so in many respects. However, I am

concerned with some of the changes we have made, particularly as it relates to the unprecedented expansions of Federal law enforcement authority over traditional liberties, privacy, and everyday activities of ordinary citizens. I understand, Mr. Chairman, that the Committee intends to do specific oversight of the USA PATRIOT Act provisions that the Department of Justice enforces at a later time. Yet there are activities which agencies have undertaken on an administrative level which also affect the lives of ordinary citizens in a dramatic way, and we need to examine some of those matters today.

In the meanwhile, Mr. Chairman, the ravages of drug abuse and gun violence continue, generally unabated. While law enforcement efforts and prison populations have continued to go up in this country, so have quantities and quality of illegal drugs coming to this country, while the street price actually goes down. Yet studies continue to show that we get substantially more drug reduction value from drug treatment than law enforcement.

Mr. Chairman, at this point I would like to introduce a study which cites the Office of National Drug Control Policy, which states—the top three things—it says that treatment is three times more cost-effective than interdiction in reducing the use of cocaine in the United States. A recent RAND Corporation study found that every dollar invested in substance abuse treatment saves taxpayers \$7.46 in societal costs. And the same study found that additional domestic law enforcement efforts cost 15 times as much as treatment to achieve the same reduction in societal costs. I would like to introduce this study into the record.

Mr. COBLE. Without objection.

[The information referred to follows:]

## Controlling Cocaine: Supply Versus Demand Programs

C. Peter Rydell, Susan S. Everingham

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### Preface

This report presents a model-based policy analysis of alternative methods of controlling cocaine use in the United States. It builds upon previous and parallel work at RAND and elsewhere on cocaine supply and cocaine demand. In particular:

Reuter, Peter, and Mark Kleiman (1986), "Risks and Prices: An Economic Analysis of Drug Enforcement," in *Crime and Justice: A Review of Research*, Norval Morris and Michael Tonry (eds.), Chicago: University of Chicago Press.

Crawford, Gordon B., and Peter Reuter (1988), *Simulation of Adaptive Response: A Model of Drug Interdiction*, N-2680-USDP, Santa Monica, CA: RAND.

Homer, Jack B. (1990), *A System Dynamics Simulation Model of Cocaine Prevalence*, Los Angeles, CA: UCLA Drug Abuse Research Group.

Dombey-Moore, Bonnie, and Susan Resetar (1994), *A System Description of the Cocaine Trade*, MR-236-A/AF/DPRC, Santa Monica, CA: RAND.

Kennedy, Michael, Peter Reuter, and Kevin Jack Riley (1994), *A Simple Economic Model of Cocaine Production*, MR-201-USDP, Santa Monica, CA: RAND.

Everingham, Susan S., and C. Peter Rydell (1994), *Modeling the Demand for Cocaine*, MR-332-ONDCP/A/DPRC, Santa Monica, CA: RAND.

With that other work as a foundation, this study focuses on ways to intervene in the supply and demand processes to mitigate the cocaine problem.

This analysis examines only cocaine-control programs. That is a sufficiently ambitious undertaking, given the current state of the art of cost-effectiveness analyses of drug-control policies. However, the analytical methods used here are relevant to analyses of control programs for other illicit drugs, such as heroin and marijuana. Moreover, the programmatic conclusions of this study are likely to have analogues in those other drug-control efforts.

The work reported here was sponsored by the Office of National Drug Control Policy, the U.S. Army, RAND's Drug Policy Research Center (DPRC) with funding from The Ford Foundation, and RAND's Social Policy Department. The research was jointly carried out within three RAND entities: the DPRC, the National Defense Research Institute (NDRI), and the Strategy and Doctrine Program of the Arroyo Center. NDRI is a federally funded research and development center that supports the Office of the Secretary of Defense, the Joint Staff, and the defense agencies. The Arroyo Center is the U.S. Army's federally funded research and development center.

## Summary

The current cocaine epidemic in the United States started in the late 1960s, picked up momentum during the 1970s, and is still going strong in the 1990s. The number of cocaine users peaked in the early 1980s at about 9 million, and has gradually decreased to a little more than 7 million today. However, that downward trend in the total number of users is misleading, because a decline in the number of light users has masked an increase in the number of heavy users.[1]

Heavy users consume cocaine at a rate approximately eight times that of light users, so the upward trend in consumption by heavy users roughly cancels the downward trend in consumption by light users. The result is that total consumption of cocaine in the United States has remained at its mid-1980s peak for almost a decade (see Figure S.1).

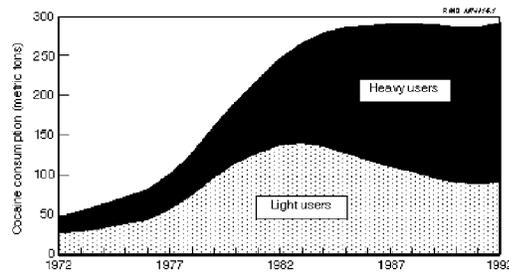


Figure S.1--Cocaine Consumption, by Type of User: 1972-1992

The persistence of high levels of cocaine consumption indicates the magnitude of the cocaine problem and the need for government to think carefully about its response. Part of thinking carefully includes estimating the relative cost-effectiveness of various available interventions. Four such interventions analyzed in this report are:

**Source-country control:** coca leaf eradication; seizures of coca base, cocaine paste, and the final cocaine product in the source countries (primarily Peru, Bolivia, and Colombia).

**Interdiction:** cocaine seizures and asset seizures by the U.S. Customs Service, the U.S. Coast Guard, the U.S. Army, and the Immigration and Naturalization Service (INS).

**Domestic enforcement:** cocaine seizures, asset seizures, and arrests of drug dealers and their agents by federal, state, and local law enforcement agencies; imprisonment of convicted drug dealers and their agents.

**Treatment of heavy users:** outpatient and residential treatment programs.

This study analyzes the relative and, to a lesser extent, absolute cost-effectiveness of these programs. The first three programs focus on "supply-control." They raise the cost to dealers of supplying cocaine by seizing drugs and assets, and by arresting and incarcerating dealers and their agents. The increased production costs raise retail cocaine prices and thus reduce consumption, partly by discouraging current consumption and partly by

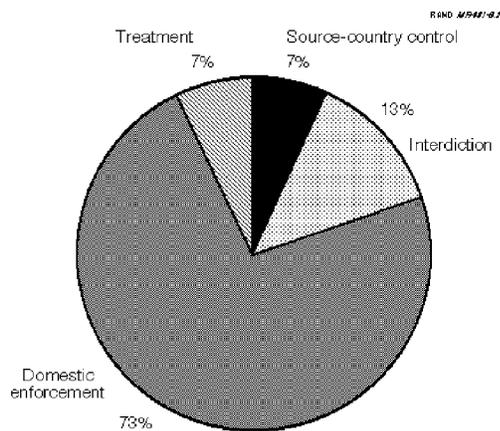
modifying the flows of people into and out of cocaine use, so that the number of cocaine users gradually declines.

The fourth program is a "demand-control" program: It reduces consumption directly, without going through the price mechanism. Treatment reduces consumption in the short term, because most clients stop their cocaine use while in the program, and in the longer term, because some clients stay off heavy drug use even after treatment ends.

User sanctions (arresting and incarcerating people for using drugs) and drug-abuse prevention programs (both school-based and community-based) are also viable interventions, but analyzing them is beyond the scope of the present study.

To assess the cost-effectiveness of these programs, one needs to know (1) how much is being spent on them and (2) what benefits accrue from that spending. Determining current spending levels, although time-consuming in practice, is conceptually straightforward.

Currently, an estimated \$13 billion is being spent in the United States each year on the four cocaine-control programs listed above. The bulk of these resources goes to domestic enforcement—drug busts, jails, and prisons are expensive. Treatment accounts for only a 7 percent share of this expenditure, even when privately funded treatment is included (see Figure S.2).

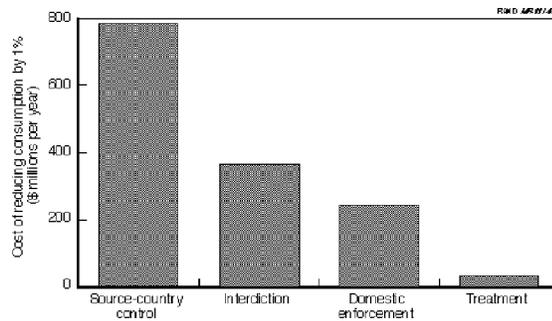


**Figure S.2--Distribution of Annual Expenditure on Cocaine Control: 1992**

Measuring the benefits of the four programs is more difficult, in part because they produce disparate effects. Supply-control programs generate cocaine seizures, asset seizures, and arrest and imprisonment of drug dealers. Treatment programs induce people to stop using cocaine. These outcome measures cannot be directly compared; they must first be translated into a common measure of effectiveness. For much of this analysis, the

common measure used is the cost of a given reduction in U.S. consumption of cocaine.

The analytical goal is to make the discounted sum of cocaine reductions over 15 years equal to 1 percent of current annual consumption. The most cost-effective program is the one that achieves this goal for the least additional control-program expenditure in the first projection year. The additional spending required to achieve the specified consumption reduction is \$783 million for source-country control, \$366 million for interdiction, \$246 million for domestic enforcement, or \$34 million for treatment (see Figure S.3). The least costly supply-control program (domestic enforcement) costs 7.3 times as much as treatment to achieve the same consumption reduction.



**Figure S.3--Cost of Decreasing Cocaine Consumption by 1 Percent with Alternative Cocaine-Control Programs**

The short story behind the supply-control cost estimates is that money spent on supply-control programs increases the cost to producers of supplying the cocaine. Supply costs increase as producers replace seized product and assets, compensate drug traffickers for the risk of arrest and imprisonment, and devote resources to avoiding the seizures and arrests. These added costs get passed along to the consumer as price increases, which in turn decreases consumption.

For example, a \$246 million additional annual expenditure on domestic enforcement causes annual cocaine supply costs to increase by an estimated \$750 million, or 2 percent of the estimated \$37.6 billion spent annually by consumers on cocaine. Assuming that the percentage decrease in consumption caused by a price increase is half the percentage price increase, the additional control expenditure achieves the goal of reducing consumption by 1 percent.

The specific cost estimates for the supply-control programs are, of course, driven by the assumption that a 1 percent increase in price causes a 0.5 percent decrease in cocaine consumption. (Some of this consumption decrease occurs immediately as this year's price increase reduces current consumption; the rest occurs gradually over time as the price increase alters flows of people into and out of cocaine use.) If the consumption decrease caused by a price increase is large, the costs of achieving the specified consumption reduction with supply-control programs will be proportionately small. However, the finding that treatment programs are more cost-effective than enforcement programs is not in question, because the effect of price on consumption would have

to be 7 times the assumed level to alter that conclusion.

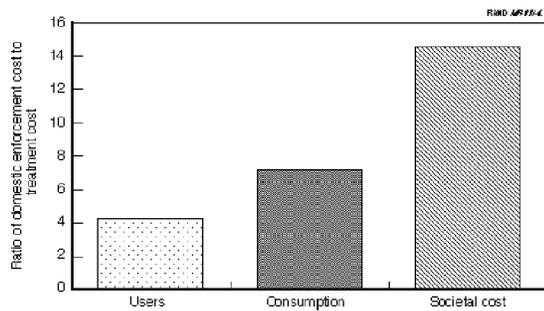
The estimate that an additional \$34 million dollars spent on cocaine treatment would reduce cocaine consumption by 1 percent is based on two factors: (1) most users stay off drugs while in treatment, and (2) some users stay off drugs after treatment.

The average cocaine treatment (a mixture of relatively inexpensive outpatient and relatively expensive residential treatments, including partial as well as complete treatments) costs \$1,740 per person treated, so \$34 million pays for 19,500 treatments. These additional treatments are assumed to be given to heavy cocaine users (of whom there are about 1.7 million today) with average use of about 120 grams of cocaine a year. The average treatment lasts 0.3 years, and 80 percent of people in treatment are off drugs, so the in-treatment effect of 19,500 treatments is about 5,000 person-years less heavy cocaine use, which amounts to 0.6 metric tons less cocaine consumption.

An estimated 13 percent of heavy users treated do not return to heavy use after treatment. Although not all those departures are permanent, during the 14 years following treatment, the 19,500 treatments would generate an estimated present value of 20,000 person-years less heavy cocaine use, which amounts to 2.4 metric tons less cocaine consumption. If we add the 0.6 metric ton in-treatment reduction to the 2.4 metric ton after-treatment reduction, we find that 19,500 additional treatments would reduce cocaine consumption by an amount equal to 1 percent of the 300 metric tons currently consumed annually.

The *specific* cost advantage of treatment over enforcement (\$34 million as opposed to \$246 million for domestic enforcement to achieve the same benefit) depends crucially on the estimated after-treatment effect. However, the cost advantage is so large that even if the after-treatment effect is ignored, treatment still is more cost-effective than enforcement. The in-treatment effect is one-fifth of the total, and five times \$34 million is still less than \$246 million.

Reducing the quantity of cocaine consumed is not the only possible measure of program effectiveness. However, our findings about the relative cost-effectiveness of the different control programs do not depend upon the choice of evaluation criteria. The cost-effectiveness ranking of the control programs studied here is the same whether one evaluates the programs in terms of their effects on consumption, the number of users, or societal costs of crime and lost productivity due to cocaine use. That is, in all cases, the supply-control programs are more costly than treatment programs per unit accomplishment (see Figure S.4).



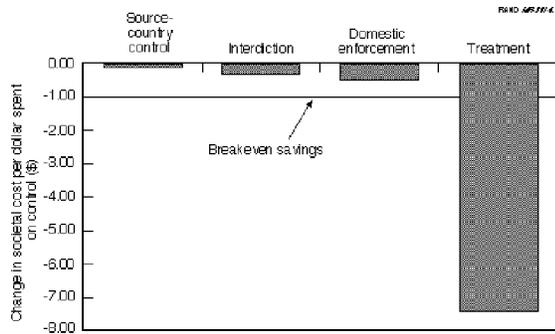
**Figure S.4—Cost of Domestic Enforcement Relative to Treatment, for 1 Percent Reductions in Alternative Evaluation Criteria**

The extent to which supply-control measures are more expensive, however, does vary depending on the evaluation measure chosen. Domestic enforcement costs 4 times as much as treatment for a given amount of user reduction, 7 times as much for consumption reduction, and 15 times as much for societal cost reduction.

These results suggest that if an additional dollar is going to be spent on drug control, it should be spent on treatment, not on a supply-control program. They do not, however, indicate whether or not that dollar should be spent in the first place. It might be that all four programs generate greater benefits than they cost, and treatment is just the best of four good programs. Or, at the other extreme, treatment might be merely the least ineffective of four ineffective programs.

With the first two criteria, quantity of cocaine consumed and number of users, this is as specific as one can get without placing a figure on the dollar value of reducing U.S. cocaine consumption by 1 metric ton or the number of users by 1,000. The benefits under the third criterion, reductions in the societal cost of crime and lost productivity, are, however, already measured in dollars. Hence, using this criterion, we can make some estimates of the four programs' absolute cost-effectiveness. The reader is cautioned, however, that societal costs are difficult to define, let alone measure; thus our estimates are very rough. Nevertheless, the results are intriguing.

This study found that the savings of supply-control programs are smaller than the control costs (an estimated 15 cents on the dollar for source-country control, 32 cents on the dollar for interdiction, and 52 cents on the dollar for domestic enforcement). In contrast, the savings of treatment programs are larger than the control costs; we estimate that the costs of crime and lost productivity are reduced by \$7.46 for every dollar spent on treatment (see Figure S.5).



**Figure S.5—Savings in Societal Costs of Crime and Lost Productivity Due to Cocaine Use per Dollar Spent on a Control Program**

Our findings thus suggest a way to make cocaine control policy more cost-effective: Cut back on supply control

and expand treatment of heavy users. In light of this conclusion, four (prominent) alternatives to current policy are explored this study:

**Alternative A:** decrease each of the three supply-control program budgets by 25 percent.

**Alternative B:** decrease the supply-control budgets by 25 percent and double the current treatment budget.

**Alternative C:** decrease the supply-control budgets by 25 percent and treat 100 percent of heavy users each year.

**Alternative D:** treat 100 percent of heavy users each year without changing the supply-control budget.

Our best estimates of the consequences of pursuing these alternatives to current policy are summarized in Figure S.6 and Table S.1. If supply-control budgets are cut by 25 percent (Alternative A), the cocaine problem (as measured by consumption) gets worse, but the supply-control cuts make the overall control budget decrease. However, spending about half of the supply-control savings on doubling treatment (Alternative B) reduces cocaine consumption below what would occur under current policy. Expanding treatment to all heavy users (Alternative C) further reduces consumption and uses up essentially all the savings from the supply-control cut. Finally, if all heavy users are treated and the supply-control budget is not cut (Alternative D), consumption decreases even more, but the control budget is one-fifth higher than it is under current policy.

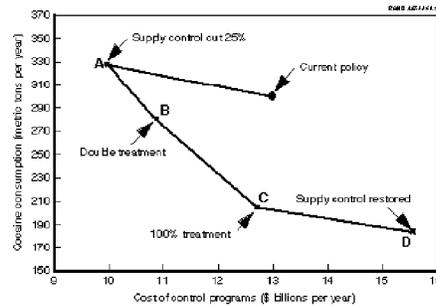


Figure S.6--Cocaine-Control Budget vs. Cocaine Consumption

**Table S.1**  
**Comparison of Alternative Composite Cocaine-Control Programs**

Intervention Strategy	Evaluation Criterion				
	Total Control Cost (\$ billions /yr)	Users (millions)	Consumption (metric tons/yr)	Societal Costs <sup>a</sup> (\$ billions /yr)	Societal Cost plus Control Costs (\$ billions /yr)
Current policy	13.0	7.06	314	28.0	42.0
Alternative A: Supply control - 25%	10.0	7.28	244	30.0	40.0
Alternative B: Double treatment	10.9	7.06	264	25.9	36.7
Alternative C: 100% treatment	12.7	6.67	211	19.0	31.7
Alternative D: Restore supply control	15.3	6.42	188	18.3	33.9

NOTE: Alternative A cuts all three supply-control program budgets by 25 percent; Alternative B spends one-third of the supply-control savings on doubling the current treatment budget; Alternative C spends nearly all the supply-control savings to treat 100 percent of the heavy users each year; and Alternative D treats 100 percent of the heavy users each year with no cut in the supply-control budget. Estimates are annualized values over 15 projection years using a 4 percent real discount rate.

<sup>a</sup>Estimated cost of crime and lost productivity due to cocaine use.

Decreasing supply control by 25 percent and doubling treatment (Alternative B) would leave the number of users essentially unchanged but would decrease average annual consumption by 20 metric tons (a 6 percent reduction). This composite program would save \$2.1 billion in annual costs of cocaine control and \$3.2 billion in annual societal costs, for a total annual saving of \$5.3 billion.

Further expanding treatment to cover all heavy users (Alternative C) would decrease the number of users by 0.39 million and decrease average annual consumption by 103 metric tons, relative to current policy. The total annual cost of cocaine control would be only \$0.3 billion less than under current policy, but societal costs would decrease by \$10.0 billion, for total annual saving of \$10.3 billion.

Finally, treating all heavy users without changing the current budget for supply control would decrease user counts, annual consumption, and societal costs even more. However, restoring the supply-control budget would increase control costs more than it would decrease societal costs, so the total annual saving relative to current policy, \$8.1 billion, would be less than that under Alternative C.

Hence, this report concludes that treatment of heavy users is more cost-effective than supply-control programs. One might wonder how this squares with the (dubious) conventional wisdom that, with treatment, "nothing works." There are two explanations. First, evaluations of treatment typically measure the proportion of people who no longer use drugs at some point after completing treatment; they tend to underappreciate the benefits of keeping people off drugs while they are in treatment—roughly one-fifth of the consumption reduction generated by treatment accrues during treatment. Second, about three-fifths of the users who start treatment stay in their program less than three months. Because such incomplete treatments do not substantially reduce consumption, they make treatment look weak by traditional criteria. However, they do not cost much, so they do not dilute the cost-effectiveness of completed treatments.

Does this mean that treatment is a panacea? Unfortunately not, because there is a limit on how much treatment can be done. In our analysis, we explore the consequences of treating every heavy user once each year (Alternatives C and D). In principle, even more treatment is possible because the average duration of a treatment is less than 12 months. However, considering the difficulties of getting people into treatment, more

treatment may not be feasible. Treating all heavy users once each year would reduce U.S. consumption of cocaine by half in 2007, and by less than half in earlier years (see Figure S.7).

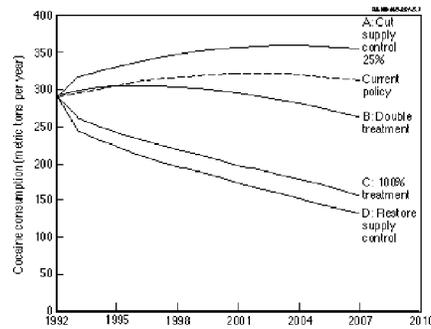


Figure S.7--Dynamics of Change in Cocaine Consumption

[1] This analysis defines "heavy use" as once a week or more and "light use" as at least once a year, but less than weekly. At the end of 1992, there were an estimated 5.6 million light users and 1.7 million heavy users, by these definitions.

## Contents

### Chapter 1: Introduction

- The Size of the Problem
- Cocaine-Control Programs
- The Model
- Overview of the Report

### Chapter 2: Supply Control

- How Supply-Control Programs Work
- Effects on Cocaine Consumption

### Chapter 3: Demand Control

- Consumption of Cocaine
- Characteristics of Treatment Programs
- Effects on Cocaine Consumption

**Chapter 4: Sensitivity to Key Parameters**

Parameters Analyzed  
Uncertainty Ranges  
Sensitivity Results  
Interaction Effects  
Threshold Analysis

**Chapter 5: Alternative Evaluation Criteria**

Number of Cocaine Users  
Societal Costs  
How Large Are the Societal Costs of Cocaine?  
How Do Control Programs Affect the Societal Costs?

**Chapter 6: Composite Programs****Appendix**

A. Cocaine Supply  
B. Supply-Control Programs  
C. Cocaine Demand  
D. Demand-Control Programs  
E. The Cocaine-Control Model  
F. Sensitivity To Uncertain Parameters

**References**

[To order this document . . .](#)

Mr. SCOTT. Mr. Chairman, with respect to gun violence, clearly we need to look at prudent restrictions on gun access, such as assault bans, one gun a month sales limitation, gun show sales regulations, and studying the effect of ballistic fingerprinting to help address the growing gun violence carnage. We also need to take a look at the level of our law enforcement efforts. I believe that our law enforcement agencies consist of dedicated, hard-working public servants who have had a tough job to do, and that is made even tougher since 9/11. Our job as congressional overseers is all the more important as well as to ensure that we don't do to ourselves through denial of civil rights what the terrorists could never accomplish, and that is deny our basic civil rights and liberties in a free society. I say that especially in the light of the fact that the changes we made after 9/11 were not limited to terrorism, but affected general criminal law and procedure.

So I thank you, Mr. Chairman, and I look forward to the testimony of our witnesses and to working with you as we take a look at the operations of these agencies during this Congress.

Mr. COBLE. I thank the gentleman.

And we are pleased also to have with us the gentleman from Florida, and the gentleman from Wisconsin and the gentleman from Virginia. I stand corrected. The other gentleman from Virginia.

Let me give you a little background about our witnesses. I think the people of our office need to know the caliber of the witnesses who are with us, and I will be brief. One of our witnesses today is Robert J. Hankinson, the Deputy Director of the Bureau of Alcohol, Tobacco, Firearms and Explosives.

Mr. Hankinson, I have always said ATF. I guess I may have to amend that now to ATFE to be grammatically correct.

Mr. Hankinson was appointed Deputy Director on October 20th, 2002, is a native of Pennsylvania and a graduate of the University of the Richmond in Virginia. Prior to his service with the ATF, he was appointed in 1990 as the first inspector general for the Department of Justice. He has also worked for the General Services Administration and the United States Secret Service.

Our witness representing the FBI today is Mr. Pasquale D'Amuro—have I pronounced that correctly, Mr. D'Amuro—Executive Assistant Director for Counterterrorism, Counterintelligence division of the FBI. Mr. D'Amuro graduated with a bachelor's degree in business administration from Niagara University located in Lewiston on the northern border of the city of Niagara Falls. He was appointed as FBI Special Agent on May 6, 1979, and completed his training at the FBI Academy in Quantico. He was initially assigned to the New York office.

Our final witness today will be Mr. Rogelio E. Guevara, Chief of Operations for the Drug Enforcement Administration. Mr. Guevara grew up in the San Gabriel Valley of Los Angeles, California, where he attended the California State University. Mr. Guevara graduated with a B.S. Degree in political science and administration.

Gentlemen, it is good to have each of you with us. You all have been requested in advance to try to limit your remarks to 5 min-

utes. When the red light appears in your eyes, you will know that the ice is getting thin, and if you could wrap up shortly after that.

Mr. D'Amuro, why don't we begin with you.

**STATEMENT OF PASQUALE J. D'AMURO, EXECUTIVE ASSISTANT DIRECTOR COUNTERTERRORISM/COUNTERINTELLIGENCE, FEDERAL BUREAU OF INVESTIGATION, U.S. DEPARTMENT OF JUSTICE**

Mr. D'AMURO. Good afternoon, Chairman Coble, Congressman Scott, and others. I am grateful for the opportunity to appear before you today. I am very pleased to be seated alongside my colleagues from DEA and ATF.

Congressman Scott, I believe you are right. This is the first time that an FBI representative has testified before your panel on authorization matters since the tragic events of September 11th. As each of you know, that day put into motion a series of historical changes within the FBI, much like those faced after the attack on Pearl Harbor some 60 years ago. The FBI responded to its new national security responsibilities then and has been working diligently these past 20 months to address the new challenges and threats that confront us now.

I want to ensure that everyone clearly understands that, as President Bush recently emphasized during a speech at FBI headquarters, "the FBI has no greater priority than preventing terrorist acts against America." And I would like to reiterate what Director Mueller said earlier this month to your Senate counterparts, that "the FBI is committed to carrying out its mission in accordance with the protections provided by the Constitution. Every FBI agent is trained to recognize that the responsibility to protect the law is the basis for their authority to enforce it. Respect for constitutional liberties is not optional, it is mandatory."

Recognizing that today's hearing is one of the first steps in the authorization process, I have included with my statement FBI summary excerpts from the Department of Justice 2004 Authorization and Budget Request.

Today I would like to highlight some of those concrete steps the FBI has taken to improve cooperation and information-sharing with the Intelligence Community, other Government agencies, and our very essential partners at the State and local level. These initiatives touch each of your districts and are an unprecedented commitment to ensuring that information-sharing and operational coordination succeeds at all levels.

To enhance cooperation with Federal, State, and local agencies, we have almost doubled the Joint Terrorism Task Forces operating today. Prior to 9/11, 35 JTTFs were in existence; today, 66 JTTFs are operational throughout the country.

The JTTFs partner FBI personnel with hundreds of investigators from various Federal, State, and local agencies in FBI field offices across the country. As part of this expansion, we are providing 500 JTTF agents as well as State and local law enforcement personnel with specialized counterterrorism training, and by the end of the year basic counterterrorism training to every JTTF member. We are also expanding basic counterterrorism training on a national level, and estimate that almost 27,000 Federal, State, and local law

enforcement officers will ultimately benefit from these FBI training initiatives. JTTFs are truly our first line of defense against terrorism.

To improve the effectiveness of our expanding JTTF base, in July of 2002, we established the National Joint Terrorism Task Force at FBI headquarters. Staffed by representatives from 30 different Federal, State, and local agencies, the National JTTF serves as a point of fusion for terrorism information by coordinating the flow of information across the country between the representative agencies and the JTTFs in the field. On a weekly basis over 17,000 law enforcement agencies receive the FBI Intelligence Bulletin, providing needed information on terrorism issues and threats particularly to patrol officers and other law enforcement personnel who have direct contact with the general public.

For the Intelligence Community as well as the JTTFs, the FBI also prepares an Intelligence Information Report. These reports provide FBI information and analysis on counterintelligence as well as counterterrorism matters. In the last 6 months alone, the FBI has prepared over 1,200 of these reports that have been disseminated to the field.

To further strengthen the FBI's ability to forge more cooperative relationships with our State and local counterparts, the Office of Law Enforcement Coordination was created. Headed by a former chief of police, this vital office also has liaison responsibilities with the White House and Homeland Security Council.

I would also like to note that besides enhancing our cooperative efforts at home, the FBI has expanded its liaison efforts overseas, and we currently have 45 Legal Attache offices in operation. These offices are vital links in following up on terrorist leads around the world.

As you well know, the FBI's investigative efforts depend on state-of-the-art technology, and I want to take this opportunity to report that tremendous progress is being made in this critical area. Over 21,000 new desktop computers and nearly 5,000 printers and scanners have been provided, along with high-speed local area networks that have been deployed in over 600 FBI locations.

I understand that we still have a long way to go, but I want to thank the Subcommittee for the support it has provided on these critical technology issues.

In closing, I want to assure you that the men and women of the FBI are fully committed to today's challenges much like their colleagues 60 years ago. With the vital tools that you have provided, I am confident that we can carry out our mission to protect America.

Again, I offer my gratitude and appreciation for you giving me this opportunity to appear today before your Subcommittee, and I will be happy to respond to any questions.

Mr. COBLE. Thank you, Mr. D'Amuro.

[The prepared statement of Mr. D'Amuro follows:]

PREPARED STATEMENT OF PASQUALE J. D'AMURO

Good afternoon Chairman Coble, Congressman Scott, and other distinguished Members. I am grateful for the opportunity to appear before you today and am very pleased to be seated alongside my colleagues from DEA and ATF.

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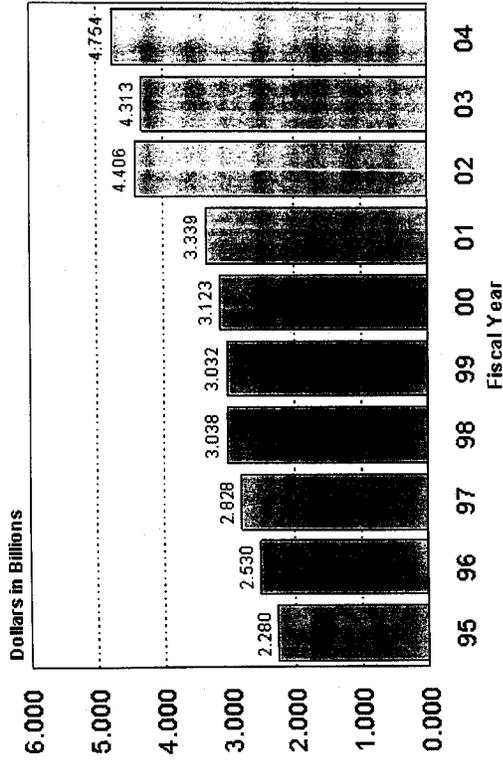
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ATTACHMENT

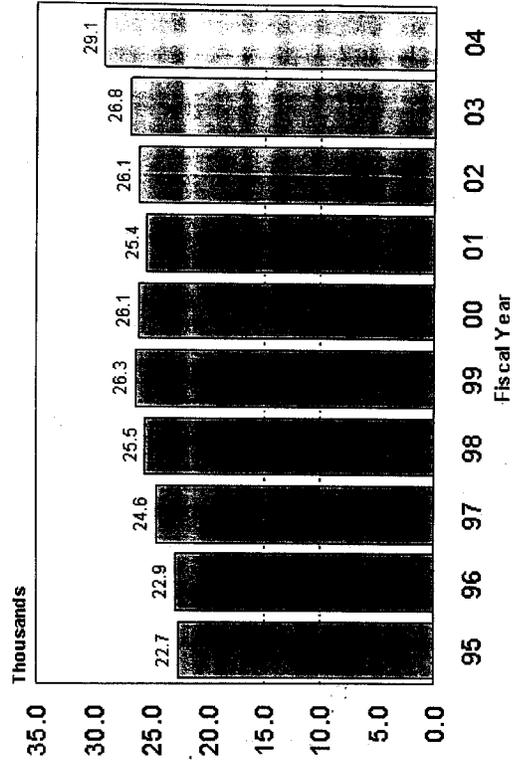
### Federal Bureau of Investigation Budget Authority 1995-2004



85

Excludes Federal, Retiree and Health Benefit Costs for all years.

# Federal Bureau of Investigation Authorized Positions 1995-2004



FEDERAL BUREAU OF INVESTIGATION  
SALARIES AND EXPENSES  
(Dollars in thousands)

	Perm. Pos.	FTE	Amount
2002 Obligations 1/.....	25,328	23,695	\$3,865,198
Transfer of Resources to Department of Homeland Security 2/.....	-307	-307	-51,000
2002 Obligations Adjusted.....	25,021	23,388	3,814,198
2003 President's Budget Request.....	26,215	25,464	4,202,887
2003 Position/Year Adjustment 3/.....	44	22	49,000
Transfer of Resources to Department of Homeland Security 5/.....	-307	-307	-54,281
2003 President's Budget Request Adjusted.....	25,952	25,179	4,187,306
(Health Insurance Portability and Accountability Act) 6/.....	[878]	[844]	[114,000]
Adjustments to Base:			
Merger of Construction Funds into Salaries & Expenses.....	...	...	1,250
Decreases (see p. 30).....	...	442	131,348
2004 Current Services.....	25,952	25,621	4,126,391
Program Improvements (see details below).....	2,489	1,272	539,135
Program Cuts (see details below).....	-153	-153	-25,857
Subtotal, Program Improvements/Offsets.....	2,346	1,119	513,178
2004 Request 7/.....	28,298	26,740	4,639,569
(Health Insurance Portability and Accountability Act) 6/.....	[854]	[854]	[114,000]

1/ While HRTA benefits are shown in 2002 totals, they are not shown for 2003 or 2004 because final elections on amounts have not been determined.  
 2/ 2002 transfer shown for comparison purposes.  
 3/ House Conference Report accompanying FY 2003 Supplemental Appropriations Act for Further Program, Firm and Disposal, enacted the FBI to use \$44,719,000, restricted for FY 2003. The House Conference Report also authorized the FBI to use \$17,200,000 for the same purpose. The FBI proposes to use \$23,713,000 to fund 44 positions (22 against the open new Legal offices, vacant existing offices, establish new sub-offices, and increase FBI headquarters personnel to support the overall Legal expansion.  
 4/ On November 13, 2002 the President submitted a budget amendment to Congress that includes \$49,000,000 for the FBI to fund the Foreign Terrorist Trading Task Force in FY 2003.  
 5/ Pursuant to the President's Budget Request, the FBI headquarters National Infrastructure Protection Center (later the Computer Investigations and Operations Section) and Key Asset Program resources will be transferred to the Department of Homeland Security.  
 6/ Provided for information purposes only. Figure is a non-add. Amounts provided to the FBI from the Health Insurance Portability and Accountability Act are considered reimbursable resources. In addition to direct funding, the FBI will receive reimbursable resources totaling 2,923 positions (1,071 agents and 2,852 support personnel) from the Health Insurance Portability and Accountability Act. The FBI will receive reimbursable resources totaling \$20,385,000 to support 915 positions (517 agents) and \$12 FTE under the Intergency Crime and Drug Enforcement program.  
 7/ In addition to direct funding, the FBI will receive reimbursable resources totaling 2,489 positions (1,071 agents and 2,852 support personnel) from the Health Insurance Portability and Accountability Act. The FBI will receive reimbursable resources totaling \$170,385,000 to support 915 positions (517 agents) and \$12 FTE under the Intergency Crime and Drug Enforcement program.

FEDERAL BUREAU OF INVESTIGATION  
SALARIES AND EXPENSES  
(Dollars in thousands)

	2003 Final Budget Request Adjusted			2004 Current Services			2004 Request			Program Improvements/Offsets		
	Perm	FTE	Amount	Perm	FTE	Amount	Perm	FTE	Amount	Perm	FTE	Amount
Consolidation by activity and program												
1. Counterterrorism.....	5,352	5,666	1,115,514	6,019	6,016	\$1,088,136	7,343	6,644	1,379,619	1,265	628	280,683
2. National Security.....	4,432	4,221	726,393	4,463	4,386	726,395	5,132	4,708	826,410	699	322	100,025
3. Criminal Enterprises and Federal Crimes.....	13,697	13,319	2,072,872	13,440	13,249	2,035,891	13,831	13,410	2,145,077	391	161	109,186
4. Criminal Justice Services.....	1,951	1,971	286,452	1,971	1,971	274,979	1,952	1,972	288,283	21	7	13,284
Total.....	25,952	25,179	4,197,306	25,952	25,821	4,126,391	28,298	26,740	4,639,669	2,346	1,119	513,178
Reimbursable FTE.....	.....	2,824	.....	.....	2,808	.....	.....	2,864	.....	.....	44	.....
Grand Total.....	25,952	28,003	4,197,306	25,952	28,629	4,126,391	28,298	29,604	4,639,669	2,346	1,075	513,178

Consistent with the Government Performance and Results Act, the 2004 budget proposes to merge construction funds into the Salaries and Expenses Account and streamline the FBI's decision unit structure from 10 program activities to 4 to align the FBI's budget more closely with the mission and organizational structure of the FBI (see the 2004 budget request for details). The 2004 budget also proposes to align the FBI's budget more closely with the mission and organizational structure of the FBI (see the 2004 budget request for details). In addition, the program activities for the 2004 budget are more closely linked to the program activities for the 2001-2006 budget. In this way, budget and performance are more closely linked, and provide a better basis on which to make budget decisions. Over time, agencies will be expected to identify effective outcome measures, monitor their progress, and accurately present the associated costs.

FEDERAL BUREAU OF INVESTIGATION  
DEPARTMENT OF JUSTICE  
(Office in Houston)

	2003 Fed. Budget Request Available			National Security			Counterterrorism			Central Elements/Support Center			Critical Junct. Sources			2003 Total		
	Fed.	EIE	Amount	Fed.	EIE	Amount	Fed.	EIE	Amount	Fed.	EIE	Amount	Fed.	EIE	Amount	Fed.	EIE	Amount
<b>Operations and Administration</b>																		
4. Operations and Administration	2,890	2,890	5,000,000	29	29	54,075	58	58	86,487	74	74	506,125	208	208	2,038	208	2,038	5,060,585
5. Operations and Administration	11,850	11,411	1,718,817	3,427	3,261	448,838	4,510	4,281	246,672	3,893	3,671	216,522	10	8	1,482	11,850	11,411	1,718,817
6. Operations and Administration	18,688	18,181	2,813,000	3,656	3,259	450,314	4,568	4,237	751,162	10,586	10,061	1,429,242	10	8	1,482	18,688	18,181	2,813,000
<b>2. Law Enforcement Support</b>	103	913	129,995	182	157	22,474	200	185	27,942	503	493	68,905	68	68	8,674	303	313	129,995
7. Law Enforcement Support	73	698	174,557	110	106	26,184	110	106	26,184	442	417	104,734	185	175	43,639	737	698	174,557
8. Law Enforcement Support	37	362	271,564	65	63	40,845	81	78	50,371	203	194	146,033	28	27	20,211	377	362	271,564
9. Law Enforcement Support	191	668	442,877	189	172	128,720	215	191	140,625	304	289	192,402	43	36	21,951	791	668	442,877
10. Law Enforcement Support	1,100	4,254	1,277,692	406	412	206,814	704	660	263,312	1,207	1,030	500,059	1,000	1,000	206,864	4,700	4,254	1,277,692
<b>3. Program Division</b>	2251	2,424	357,714	451	459	69,695	656	622	96,432	1,238	1,193	183,721	172	170	23,921	2,587	2,424	357,714
11. Program Division	1,250	1,250	1,250,000	216	216	216,000	280	280	280,000	672	672	672,000	93	93	93,000	1,250	1,250	1,250,000
12. Program Division	2,982	25,179	4,196,586	4,432	4,221	786,609	5,532	5,660	1,115,763	13,297	13,319	2,973,644	1,991	1,971	282,220	25,862	25,179	4,196,586
13. Program Division	2,674	2,674	2,674,000	68	68	68,000	62	62	62,000	2,095	2,095	2,095,000	717	717	717,000	2,674	2,674	2,674,000
<b>Grand Tot.</b>	20,962	28,853	4,196,586	4,432	4,290	786,609	5,932	5,730	1,115,763	13,297	13,345	2,973,644	1,990	2,888	282,220	28,962	28,053	4,196,586



FEDERAL BUREAU OF INVESTIGATION  
 SALARY EXPENSES  
 (Dollars in thousands)

Perm. Pos. FTE Amount

Program Improvements

8. CT and Other Training (Field and Headquarters)

The FBI requests 98 positions (70 agents), 49 workyears, and \$14,027,000 to staff and support field and headquarters CT and other training. Resources would fund personnel, student and support staff, and other training. Resources would also fund support for field police training to meet the demands of state and local law enforcement agencies.

9. Communications Application

The FBI requests \$4,600,000 to obtain a software application that is capable of conducting sophisticated link analysis on extremely high volumes of intercepted communications data and other relational data. This software would enable the FBI to leverage modern technology to expeditiously conduct analyses of large collections of relational data.

10. National Security Law Unit

The FBI requests 14 positions, 7 workyears, and \$1,405,000 to enhance the National Security Law Unit. Resources would provide additional attorneys and paralegal support to meet the significant increase in demands for legal services relating to the matter of the National Security Law Unit including: foreign counterintelligence, international terrorism, counterterrorism (relating to weapons of mass destruction and counter-proliferation), and computer intrusion/infrastucture protection matters.

11. Legal Attache (Legal) Program

The FBI requests 30 positions (17 agents), 37 workyears, and \$47,527,000 to expand and support the Legal program. Resources would provide for 9 additional headquarters and 21 overseas personnel in key locations and strengthen FBI's ability to respond to international terrorism and apprehend terrorists and other international criminals. Funding would include 22 FTEs and \$12,615,000 to continue efforts directed in the field. Funding would include 15 FTEs and \$10,500,000 to fund the second phase of the initiative to upgrade the IT infrastructure at Legal offices. Funding will complete the upgrade of communications circuits; provide equipment for multimedia data processing; provide internet connectivity from Legats to foreign law enforcement and intelligence counterparts; provide training for Legats staff to use the provided electronic translation capabilities; and upgrade portable computing capabilities. Funding would also support the IT infrastructure of Legat offices to the same standard used to deploy infrastructure upgrades to domestic field offices through the Trilogy project.

12. Field Clerical Support

The FBI requests 300 positions, 150 workyears, and \$14,392,000 to provide essential clerical/administrative support personnel to FBI field offices. The requested clerical support would include 150 field agents, as well as field investigative and technical support personnel, to fully staff the offices and support the processing of mission-critical clerical and administrative functions to employees whose primary duty is to perform these important duties. Of the 300 positions requested, 128 positions and \$6,293,000 will support CT programs; the remaining 174 positions and \$8,099,000 will support all other programs. The requested positions will free up 240 agent FTEs to address terrorist and criminal threats.

FEDERAL BUREAU OF INVESTIGATION  
 SALARIES AND EXPENSES  
 (Dollars in thousands)

Fam. Pos. FTE Amount

Program Improvements

13. Crisis Response Unit

The FBI requests 27 positions (6 agents), 19 workyears, and \$14,984,000 to enhance Crisis Response Unit (CRU) capabilities. Resources will be used to purchase and install equipment, purchase and lease vehicles, and purchase and lease communications equipment. The project will purchase and lease 3) specialty vehicles and other equipment necessary to support command, control, and communications for crisis or special event deployments worldwide.

14. Rapid Deployment and Logistics Unit Equipment

The FBI requests \$850,000 for automation equipment to manage administrative and investigative information in support of rapid deployment team operations. Resources would provide funding to replace equipment in out-of-service age category.

15. Hostage Rescue Team (HRT) Tactical Helicopter Program

The FBI requests 6 positions (1 agent), 3 workyears, and \$2,228,000 to provide aviation support during a terrorist or criminal act directed against the United States and its citizens or interests. Resources would provide for pilots, helicopter mechanics, training, maintenance, fuel, chemical and biological protective systems for pilots, and video downlink capability.

16. Hostage Rescue Team/Special Weapons and Tactics (SWAT) WMD Equipment, Supplies, Training and Personnel

The FBI requests 2 positions, 1 workyear, and \$6,127,000 to staff and outfit Hostage Rescue and SWAT Teams with protective clothing and equipment. Resources would provide the FBI with suitable personnel, training and equipment to ensure the HRT always is prepared to perform its CT mission and that FBI/SWAT Teams would have the basic WMD training and equipment required to accomplish any assigned task.

17. Internet Tip Line

The FBI requests 19 positions, 9 workyears, and \$1,209,000 to permanently staff an Internet Tip Line. Resources would provide for support staff to maintain 3 shifts for a round-the-clock tip review and analysis of suspected terrorist activity reported to the FBI via the Internet. The Internet Tip Line is located in FBI's Strategic Information and Operations Center (SIOC).

18. Visa Identification Terrorist Automated Lookup (VITAL)

The FBI requests 52 positions (2 agents), 26 workyears, and \$14,228,000 for the VITAL project. The project would improve the Nation's ability to identify and track terrorists and their associates. Resources would purchase and install equipment, purchase and lease equipment, and purchase and lease personnel to develop and manage the VITAL project and modify the IAFIS to provide the additional storage capacity needed to retain and store embassy and consulate submissions for future search.

FEDERAL BUREAU OF INVESTIGATION  
 SALARIES AND EXPENSES  
 (Dollars in thousands)

Perm. Pos. EIE Amount  
 583 .292 \$69,840

Counterintelligence..... 197 63,829  
 The FBI requests 583 positions (94 agents), 292 workyears, and \$69,880,000 for counterintelligence activities. Funding would enable the FBI to address national security investigations related to the global threat and provide the necessary guidance and oversight related to investigations. A more detailed description of the request can be found in the FBI's classified budget request.

Cybercrime Investigations..... 99  
 1. National Infrastructure Protection Computer Intrusion Program (NIPCIP) Investigations/Equipment  
 The FBI requests 113 positions (53 agents), 96 workyears, and \$41,115,000 to support field and headquarters operations to identify, investigate and disrupt criminal and terrorist attacks on computer systems and critical national infrastructure such as the digital switches that run power, water, transportation, and communication systems. The funding also will allow for expanded contractor resources to increase flexibility in developing case-specific data-mining tools and methodology.

2. Innocent Images National Initiative (IINI)  
 The FBI requests 32 positions (19 agents), 16 workyears and \$3,594,000 to support Innocent Images undercover operations and investigations. Additional resources would allow the FBI to keep pace with the rising trend of child pornography and sexual exploitation on the internet. In six years, the FBI has experienced a 20-fold increase in the number of IINI cases opened, from 113 cases in 1999 to 2,370 in 2002.

3. Computer Analysis Response Team (CART)  
 The FBI requests 45 positions (1 agent), 23 workyears, and \$18,646,000 to support both field and headquarters operations to extract data and provide case-specific analysis. The FBI requests 100 workyears for FBI investigators involving computer evidence, provide technical support to field agents, and disseminate information on state-of-the-art methods of forensic examination (including surreptitious data collection). This request includes resources to maintain six existing Regional Computer Forensics Laboratories (RCFL) and establish four new RCFLs, as well as funding for Rapid Deployment Teams.

4. Cybercrime Training  
 The FBI requests 7 positions (4 agents), 4 workyears and \$1,082,000 to enhance its cybercrime training program, including hiring agent and support computer training instructors, developing curricula and investigative tools and acquiring classroom equipment. Additional agent positions appropriated in FY 2002 and proposed in FY 2003 have resulted in the need to train as many as 1,000 new agents in FY 2004.

Security..... 120 60 37,146

1. Background Investigation Contract Service (BICS) Funding/Contract Adjudicator Funding  
 The FBI requests 5 positions, 3 workyears, and \$6,019,000 to provide background investigations contract support and enhance the adjudication program. Resources will enable FBI to fully fund the costs associated with the BICS program and the adjudication program. The funding also will fund the seeking security clearance for access to national security information. Of the requested resources, \$688,000 would fund the enhancement to the adjudication program.

2. Technical and Physical Security  
 The FBI requests 24 positions, 12 workyears, and \$6,888,000 for physical and technical security services. Resources would provide for force protection officers, physical and technical security specialists, security programs, and technical equipment to respond to physical and technical attacks on FBI's' and facilities.

FEDERAL BUREAU OF INVESTIGATION  
SALARIES AND EXPENSES  
 (Dollars in thousands)

	Perm. Pos.	ETE	Amount
3. Police Force and Guard Services			
The FBI requests 54 positions, 27 workyears, and \$15,821,000 to provide better protection to its employees and property. Resources would include and guard personnel, police radio replacement, a needs analysis for a FBI-wide common smart access system, and additional canine support.			
4. Polygraph Expansion			
The FBI requests 37 positions (32 agents), 18 workyears, and \$6,415,000 to expand polygraph examination capabilities. Resources would provide staffing needed to fully utilize the polygraph requirements to ensure the initial and continued trustworthiness of all persons being granted a security clearance by the FBI.			
5. Defensive Programs			
The FBI requests \$2,000,000 for technical surveillance countermeasures. Resources would provide for operational and investigative support pertaining to technical security, assessments of technical threats, and physical security protection of all FBI personnel and facilities through the integration of intrusion detection and video security systems.			
Technology Investments.....	3	2	\$82,247
1. Trilogy Operations and Management (O&M)			
The FBI requests 3 positions, 2 workyears, and \$1,689,000 to address O&M requirements associated with its Trilogy Information Technology (IT) upgrade plan, including the operation, troubleshooting and repair of equipment, communications networks, and software. This request includes training for recurring training of Computer Specialist and Electronic Technicians.			
2. Trilogy/Technology Refreshment Program			
The FBI requests \$18,559,000 to allow for an orderly replacement of Trilogy network and workstation data storage, server hardware, and embedded software or firmware on a periodic basis to prevent system degradation and obsolescence. Resources would allow for a plan to refresh desktop computers, servers, mass storage equipment, and software over the next several years to avoid a gradual return to the FBI's current state of technological obsolescence.			
3. TSSCI LAN Operations and Maintenance			
The FBI requests \$2,000,000 for costs associated with operations and maintenance of the Top Secret/Sensitive Compartmented Information (TSSCI) Local Area Network (LAN) at FBIHQ. Costs include contracting for LAN configuration and operation support once the current ad hoc network has been consolidated into a single TSSCI network meeting FBI requirements.			
Criminal Investigations.....	118	59	16,000
1. Corporate Fraud			
The FBI requests 118 positions (65 agents), 69 workyears, and \$16,000,000 to assemble sufficient staff and resources to target major corporate fraud investigations. Resources would fund immediate development of essential training for agents and financial analysts, and establishment of corporate fraud "Reserve Teams," teams of financial experts dispatched to major fraud investigations.			

FEDERAL BUREAU OF INVESTIGATION  
SALARIES AND EXPENSES  
(Dollars in thousands)

	Perm. Pos.	FTE	Amount
<b>Program Improvements</b>			
Forensic DNA Program.....	32	16	\$3,283
<p>1. Nuclear DNA Program</p> <p>The FBI requests 28 positions, 14 workyears, and \$2,692,000 to allow the FBI to reduce the backlog of cases requiring forensic DNA analysis. This effort would include doubling the throughput of nuclear DNA cases by 2005 by 1) increasing the number of Forensic DNA Examiners and Biologist Technicians by two-thirds - reducing average caseload per examiner; and 2) developing rapid DNA Analysis Systems to replace current manual processing.</p> <p>2. Federal Convicted Offender Program (FCOP)</p> <p>The FBI requests 4 positions, 2 workyears, and \$591,000 to fully staff, supply, and equip the FCOP to collect DNA samples from persons convicted in Federal and military courts of certain offenses, and produce DNA profiles for the collection of DNA samples from persons convicted of certain offenses. The list of covered offenses expanded by 40 percent in 2001 to include terrorism-related offenses per the USA PATRIOT Act.</p>			
Program Reductions.....	-153	-153	-25,967
<p>1. Crosscutting Efficiencies</p> <p>The Department continues to evaluate its programs and operations with the goal of achieving across-the-board economies of scale that result in increased efficiencies, reduced duplication of effort, and cost savings. The crosscutting savings identified are the result of consolidating facilities management, improving deployment of human resources personnel, outsourcing fleet maintenance and management, consolidating Background Investigation Contract Services (BICS), centralizing procurement for relocation costs, and consolidating JCNWAW IT support.</p>			
Reimbursable Workyear Changes.....	(44)	(44)	(4,377)
<p>A decrease of \$4,327,000 and 44 reimbursable workyears is for health care fraud enforcement. The Health Insurance Portability and Accountability Act (HIPAA) of 1996 provides a total of \$114,000,000 in reimbursable funding for FY 2004, the same level as FY 2003. Since FY 2004 adjustments to base result in the FBI exceeding the statutory funding limit, the FBI must eliminate 44 workyears to offset the adjustments to base.</p>			
Total Program Improvements, Federal Bureau of Investigation	2,346	1,119	\$513,178



Mr. COBLE. Mr. Hankinson.

**STATEMENT OF RICHARD J. HANKINSON, DEPUTY DIRECTOR,  
BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLO-  
SIVES, U.S. DEPARTMENT OF JUSTICE**

Mr. HANKINSON. Mr. Chairman, Mr. Scott, and Members of the Subcommittee, I am pleased to be here this afternoon on behalf of Director Brad Buckles, representing the men and women of the Bureau of Alcohol, Tobacco, Firearms and Explosives. Thank you again for this opportunity to testify.

This is our first time before this Subcommittee as part of the Department of Justice, and I am confident you will find that ATF provides great value to the American people. As you previously mentioned, we trace our roots back to 1791 to the time of Alexander Hamilton. Since that time we have been granted and maintain jurisdiction over Federal firearms enforcement and regulation, and we investigate crimes committed via arson and explosives, as well as investigate tobacco smuggling. Above all, our mission today is to reduce violent crime and protect the public. We currently have somewhat over 2,300 special agents, about 660 inspectors, and 1,800 other employees who support our mission.

In fiscal year 2002, we initiated 27,241 firearms investigations. Our criminal referrals in the past year have resulted in over 6,600 indictments and more than 5,100 convictions.

On January 24 of this year, the Homeland Security Act transferred the public safety functions of ATF, both law enforcement and regulatory, to the Department of Justice. The revenue collection and consumer protection functions previously performed by ATF remain in the Department of the Treasury. A great deal of time, effort, and resources were devoted to ensure a seamless transition, and we believe these efforts have been successful.

The Department of Justice, we believe, clearly is the right place for the newly configured ATF. We share a common cause in law enforcement, we share a common mission in protecting the public, and we share a deep commitment to ensuring a safer America.

We believe that ATF's mission and expertise will complement other Justice Department assets and agencies as we work together to defeat the Nation's number one threat, terrorism. We have worked with the Justice components in the past, and those experiences have proven positive to the American public. We look forward to strengthening this ongoing relationship. In no way does this transfer duplicate missions within DOJ, because ATF and each Justice component brings unique jurisdiction, missions, responsibilities and talents to the table.

This transition has been smooth, but ATF does face significant challenges in what remains of 2003 and into 2004 as a result of a significant increase in responsibilities from the new explosive control laws. The Safe Explosives Act was included in the larger Homeland Security Act, amended Federal explosive laws enforced by ATF since 1970. It expands the categories of persons prohibited from purchasing or possessing explosives, requires a Federal permit of all retail purchasers of explosives, and mandates additional ATF inspection activity.

ATF currently has less than 500 inspectors to police over 100,000 firearms licensees and over 8,000 explosive licensees and permittees. With the new permit requirements of the Safe Explosive Act, the number of explosive permittees is expected to increase significantly. ATF aims by this law to keep explosives out of the hands of those who would use them against us, while facilitating the acquisition of explosives for use in industry and agriculture. Despite these challenges, the men and women of ATF continue to perform as dedicated professionals and reliable partners in our enforcement of the Nation's firearms, explosives, arson, and alcohol and tobacco diversion laws.

ATF is a proud participant in the President's Project Safe Neighborhoods Initiative. And while the threat of terrorism from outside the United States is real, the criminal misuse of firearms and resulting loss of life is a daily event. Recent statistics show that more than 10,000 lives are lost annually to criminals with guns, and for every fatal shooting there are three nonfatal shootings. Untold numbers of people are terrorized each year by the threatened use of a gun. While we are ever alert to the possible terrorist angle to everything that we do, the overwhelming majority of our work is directed at reducing gun violence in the streets and neighborhoods of this great Nation.

The President's Project Safe Neighborhoods provides for the effective use of Federal resources through a series of locally designed and driven anticrime efforts. We have a lead role in this effort, and we are in approximately in this effort in over 100 areas in the United States.

The Youth Crime Gun Initiative is also a main component. The idea here is to prevent our youth from illegally possessing firearms.

I want to thank you for taking the time to permit me to testify today. We look forward to working with you and the other Committees charged with the oversight of the Department of Justice and its components. And I will be happy at any time to answer any questions that you may have.

Mr. COBLE. Thank you, Mr. Hankinson.

[The prepared statement of Mr. Hankinson follows:]

PREPARED STATEMENT OF RICHARD J. HANKINSON

Mr. Chairman, Mr. Scott, and members of the Subcommittee, I am pleased to be here this afternoon on behalf Director Buckles, representing the men and women of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). Thank you for this opportunity to testify.

This is our first time before this committee as a part of the Department of Justice and I am confident you will find that ATF provides great value to the American public, and that we are responsive, thoughtful and effective in the way in which we approach our business. I am equally confident that—as you get to know ATF—you will come to share my pride in its people and their accomplishments.

ATF traces our roots to 1791, when Alexander Hamilton imposed the first Federal tax on distilled spirits. The collection of this tax by revenue officers appointed by President Washington was no easy task and, in some cases, was met with violent physical resistance, such as the Whiskey Rebellion of 1794.

Since then we have been granted and maintained jurisdiction over Federal firearms enforcement and regulation; and we investigate crimes committed via arson and explosives, as well as investigate tobacco smuggling. Above all, our mission today is to reduce violent crime and protect the public. We currently have 2305 special agents; 666(check number on background) inspectors and 1810 other employees who support our mission.

In fiscal year 2002, ATF initiated 27,241 firearms investigations (including nearly 13,000 NICS referrals). ATF criminal case referrals have resulted in over 6,660 indictments and more than 5,100 convictions in fiscal year 2002. Also in fiscal year 2002, ATF initiated 3,221 arson and explosives investigations that resulted in 780 defendants recommended for prosecution. Additional arson and explosives cases resulted in 421 indictments and 430 convictions during fiscal year 2002.

ATF's experience has resulted in our assisting in every major explosives investigation in the United States, including: the World Trade Center bombing of 1993; the Murrah Federal Building bombing, and the terrorist acts of September 2001 in New York, the Pentagon, and western Pennsylvania. It was during these major events that ATF contributed unique skills, knowledge and jurisdiction while working closely with other law enforcement agencies at the Federal, State and local levels.

On January 24 of this year, the Homeland Security Act transferred the public safety functions of ATF, both law enforcement and regulatory, to the Department of Justice. The revenue collection (including related law enforcement authorities) and consumer protection functions previously performed by ATF remain in the Department of the Treasury. A great deal of time, effort, and resources were devoted to ensuring a seamless transition, and we believe those efforts have been successful.

The Department of Justice is the right place for the newly configured ATF. We share a common cause in law enforcement. We share a common mission in protecting the public. And we share a deep commitment to ensuring a safer America. We believe that ATF's mission and expertise will complement other Justice Department assets and agencies as we work together to defeat the nation's number one threat: terrorism. We have worked with Justice components in the past and those experiences have proven positive to the American public. We look forward to strengthening this on-going relationship. In no way does this transfer duplicate missions within DOJ because ATF and each Justice component brings unique jurisdiction, missions, responsibilities, and talents to the table.

The transition has been smooth, but ATF does face significant challenges in what remains of 2003, and into 2004 as a result of a significant increase in responsibilities from the new explosives control laws. The Safe Explosives Act, approved by this committee and included in the larger Homeland Security Act, amended Federal Explosives laws enforced by ATF since 1970. It expands the categories of persons prohibited from purchasing or possessing explosives, requires a federal permit of all retail purchasers of explosives, and mandates additional ATF inspection activity.

The new categories of prohibited persons include non-permanent resident aliens, persons who have renounced their US citizenship and persons dishonorably discharged from the military. The Safe Explosives Act also requires background checks on all purchasers of explosives, and in some cases, on the employees of companies that purchase explosives. Today, a purchaser merely self-certifies on a form that he is not a prohibited person. Beginning this month, May 24, no one will be able to lawfully purchase explosives without a license or permit issued by ATF.

The new law also mandates that we physically inspect permit premises to ensure compliance with rules on the safe and secure storage of explosives. Although the timing and frequency of these inspections varies with the type of permit, the new law still mandates more inspection work than ATF has performed in the past.

ATF currently has less than 500 inspectors to police over 100,000 firearms licensees and over 8,000 explosives licensees and permittees. With the new permit requirements of the Safe Explosives Act, the number explosives permittees is expected to increase by a minimum of 10,000. ATF aims, by this law, to keep explosives out of the hands of those who would use them against us, while facilitating the acquisition of explosives for use in industry and agriculture.

Despite these challenges, the men and women of ATF continue to perform as dedicated professionals and reliable partners in our enforcement of our nation's firearms, explosives, arson and alcohol and tobacco diversion laws. Perhaps the most effective way to provide a clearer picture of their work is to highlight ATF's involvement in several high profile cases over the past few months.

- This past fall, nearly 650 ATF special agents, forensic lab personnel, firearms examiners, and support staff joined forces with other law enforcement agencies in the DC Sniper case. This on-going investigation crossed state and international borders and is one of the very best examples of the strong law enforcement partnerships that ATF has built over the years.
- In February, ATF agents in Rhode Island responded to one of the worst nightclub fires in our Nation's history which resulted in 99 deaths. ATF special agents and our National Response Team responded immediately and evidence gathered at the fire scene is currently being examined and analyzed at ATF's National Laboratory.

- During 2002, an ATF investigation in North Carolina resulted in convictions for contraband cigarette trafficking, money laundering, and providing material support to a terrorist organization. The case revealed a conspiracy where in the defendants were illegally trafficking cigarettes between North Carolina and Michigan, and through various methods funneling the profits back to the Hezbollah.

In addition to these and many other important criminal investigations, ATF is a proud participant in the President's Project Safe Neighborhoods initiative. While the threat of terrorism from outside the United States is real, the criminal misuse of firearms and the resulting loss of life is a daily event. Recent statistics show that more than 10,000 lives are lost annually to criminals with a gun, and for every fatal shooting there were three non-fatal shootings. Untold numbers of people are terrorized each year by the threatened use of a gun. While we are ever alert to a possible terrorist angle to everything we do, the overwhelming majority of our work is directed at reducing gun violence in the streets and neighborhoods of this great nation.

The President's Project Safe Neighborhood provides for the effective use of Federal resources through a series of locally designed and driven anti-crime efforts. ATF anchors the Federal enforcement efforts in projects around the country. United States Attorneys leads PSN initiatives by bringing State and local police and prosecutors together with ATF and other federal resources to develop unified strategies tailored to the problems of particular communities.

One component of PSN is specifically designed to protect our youth. The Youth Crime Gun Interdiction Initiative seeks to reduce firearms-related violence among our nation's youth by identifying and interrupting the sources of illegal firearms. This program is due to be expanded from 50 to 60 cities in FY 2004.

This is but a snapshot of what we do. Thank you for taking the time to permit me to testify today. We look forward to working with you and the other committees charged with the oversight of the Department of Justice and its components. I would be happy to answer any questions the committee may have.

Mr. COBLE. Mr. Guevara.

**STATEMENT OF ROGELIO E. GUEVARA, CHIEF OF OPERATIONS, DRUG ENFORCEMENT ADMINISTRATION, U.S. DEPARTMENT OF JUSTICE**

Mr. GUEVARA. Chairman Coble, Ranking Member Scott, and distinguished Members of the Subcommittee, it is a pleasure for me to appear today before you for the first time in my capacity as the Drug Enforcement Administration's Chief of Operations to discuss DEA's reauthorization. On behalf of Acting Administrator William B. Simpkins and all the men and women of the DEA, I want to thank you and the entire Subcommittee for their continued support of the DEA and its mission.

The DEA employs a universal approach in enforcing the provisions of the controlled substances and chemical diversion trafficking laws and regulations of the United States. As a single-mission agency, DEA's only focus is reducing drug trafficking abuse in America. There is much work to be done. Worldwide drug trafficking generates billions of dollars in illicit proceeds, sometimes used by criminal and terrorist organizations to carry out horrific acts against law-abiding citizens and established governments, including the United States.

In 1973, DEA's first budget was \$74 million and covered 2,868 special agents and support personnel. In 2003, DEA's enacted appropriation was 1.6 billion, and our authorized positions have reached 8,475 employees that are deployed worldwide.

To address America's drug threat, DEA has instituted a number of strategic enforcement, intelligence, and support programs. I would like to share a few of them with you today.

In April of 2001, DEA initiated the Priority Drug Trafficking Organization, or PDTO, initiative. This system was developed as a clear and specific enforcement objective targeting the highest levels of drug trafficking organizations by disrupting the networks that link them. Since April 2001, DEA has initiated approximately 1,200 PDTO cases, which has resulted in the disruption of 158 organizations and the dismantling of 187 others.

The DEA's State and Local Task Force Program, a key to our successes, continues to foster productive relationships and enhance coordination. These task forces account for nearly 40 percent of all DEA case initiations and seizures. Recognizing the value of this program, the President's 2004 budget provides for an additional \$4 million for additional task force officers.

To augment DEA's enforcement operations, one of our most enforcement programs, the Special Operations Division, or SOD, is a DEA-led division with participation from the Department of Homeland Security, the Federal Bureau of Investigation, the Bureau of Alcohol, Tobacco, Firearms and Explosives, the Internal Revenue Service, and the Department of Justice Criminal Division. SOD's mission is to coordinate the dismantling of national and international drug trafficking organizations by attacking their command and control communications. The unique investigative support provided by SOD allows the program to act as a force multiplier for drug law enforcement because it provides an effective medium for communication, intelligence sharing, and coordination among America's major drug law enforcement agencies. I have listed several of our enforcement operations in my written statement. Let me share two cases with you now.

Operation Webslinger was the first national operation that targeted organizations utilizing the Internet to traffic predatory drugs. Culminating in September 2002, it resulted in the arrest of 170 individuals and the seizure of 3,600 gallons of GHB, GBL, BD, other illegal drugs, and \$2.4 million in currency.

Operation Mountain Express III, an investigation targeting pseudoephedrine suppliers from Mexican methamphetamine superlabs, revealed that proceeds from sales of Canadian pseudoephedrine were being funneled through traditional hawala networks to individuals in the Middle East. This operation resulted in the arrest of 136 subjects and the seizure of 35 tons of pseudoephedrine and the seizure of \$4.5 million.

Regarding DEA's Office of International Operations, our presence has grown to 79 offices in 58 countries. Foreign operations enables DEA to share intelligence, coordinate and develop worldwide drug strategy and cooperation with our host countries. These offices support DEA domestic investigations through foreign liaison, training for our host country officials, bilateral investigations, and intelligence gathering.

The Intelligence Division, another integral DEA component, provides dedicated analytical support to our investigations, programs, and operations worldwide. DEA's Intelligence Division has been active in international cooperation, strengthening the bilateral drug intelligence working groups.

DEA's Office of International Control focuses on the illegal diversion of legitimately produced controlled substances and listed

chemicals, while ensuring adequate supplies for legitimate needs. Among Diversion's initiatives are a national program to prevent diversion of Oxycodone, and an international partnership to prevent global diversion of key chemicals used in the illicit production of cocaine, heroin, and methamphetamine-type stimulants.

In conclusion, Mr. Chairman, DEA remains committed to our primary goal of targeting and arresting the most significant traffickers in the world, and we will continue to work in close partnership with our local, State, Federal, and international counterparts to target drug trafficking groups who spread misery and false hope to our American citizens.

Again, I would like to thank the Subcommittee for inviting me here today, and I would be happy to answer any questions.

Mr. COBLE. Thank you, Mr. Guevara.

[The prepared statement of Mr. Guevara follows:]

PREPARED STATEMENT OF ROGELIO E. GUEVARA

EXECUTIVE SUMMARY

*The Drug Enforcement Administration (DEA) employs a universal approach in enforcing the provisions of the controlled substances and chemical diversion trafficking laws and regulations of the United States. As a single mission agency, DEA is strictly focused on reducing drug trafficking and abuse in America, which continues to bring misery to America's cities and children. DEA's strong presence, both domestically and internationally, enables the agency to focus its resources on the most substantial drug trafficking organizations impacting the United States.*

*DEA's primary duty is to provide the best drug law enforcement agency to the American people, thereby reducing America's abuse of illicit drugs. America's efforts to reduce drug abuse have resulted in various successes. However, there is still much work to be done. Worldwide drug trafficking generates billions of dollars in illicit proceeds, sometimes used by criminal and terrorist organizations to carry out horrific acts against law-abiding citizens and established governments, including the United States.*

*To combat America's drug threat, DEA has instituted a number of strategic enforcement and intelligence programs and initiatives, which the Subcommittee should be aware of as it considers a new authorization bill, including:*

- *DEA's Priority Drug Trafficking Organization (PDTO) initiative will focus substantial resources in its 21 nationwide field divisions on local, regional, national and international drug organizations significantly impacting the drug supply;*
- *DEA's Intelligence Division vigorously focuses on intelligence driven targeting, in support of DEA's strategic goal to identify, target, investigate, disrupt and dismantle the most substantial drug trafficking groups;*
- *DEA's Operational Support Division has implemented significant changes regarding their management, technology, facilities and oversight, which has resulted in cost effective operations more efficient, expeditious and systematically run programs;*
- *DEA's Demand Reduction Program, an element of our enforcement strategy, compliments DEA's investigative operations by educating the media, law enforcement, the public at large and anti-drug groups, through initiatives such as Operation X-Out and Meth in America: Not in Our Town.*

Chairman Coble, Ranking Member Scott and distinguished members of the subcommittee, it is my distinct pleasure to appear before you for the first time in my capacity as the Chief of Operations of the Drug Enforcement Administration (DEA). Before I begin, Mr. Chairman, I would like to recognize you and the members of the subcommittee for your outstanding support of the mission and men and women of the DEA. I look forward to a continued productive and cooperative relationship with the subcommittee, as we work to advance DEA's mission and objectives.

## THE DEA MISSION

The mission of DEA is to enforce the Controlled Substances laws and regulations of the United States and to bring to the criminal and civil justice system of the U.S., or any other competent jurisdiction, those organizations involved in the growing, manufacturing or distribution of controlled substances appearing in or destined for illicit traffic in the United States.

## THE DEPARTMENT OF JUSTICE STRATEGY

On March 19, 2002, the Attorney General announced a six-part drug strategy for the Department of Justice, which was squarely focused on reducing the availability of illegal drugs to Americans. Given the inherent relationship between drug supply and drug demand, the Department's strategy plays a pivotal role in achieving the President's overall goal of reducing drug use. Specifically, the Attorney General's strategy mounts a comprehensive multi-level attack on drug trafficking and money laundering organizations, as the central means of accomplishing Priority III of the President's National Drug Control Strategy—Disrupting the Drug Market. That strategy consists of six key elements:

Reduce the supply of drugs available in the United States by 10 percent.

Through the Organized Crime Drug Enforcement Task Force (OCDETF), engage the talent and resources of all of the federal law enforcement agencies to identify and target the major trafficking organizations responsible for the U.S. drug supply across the nine OCDETF regions.

Create, for the first time, a unified national list of drug organization targets—the consolidated Priority Organization Target (CPOT) list—developed collaboratively by federal drug enforcement agencies.

Emphasize financial investigations to eliminate the infrastructure of drug organizations and remove the profits from these organizations through asset forfeiture.

Undertake a substantial redirection of resources to the drug importation and bulk distribution “hot spots” so that federal resources are realigned, commensurate with the current drug threat.

Conduct expanded investigations that move simultaneously in many districts against the different parts of the targeted organizations in order to eliminate their ability to supply illegal drugs to Americans.

## DEA'S STRATEGY

To accomplish this mission, DEA has specific long-range goals and objectives to target and immobilize major drug trafficking organizations operating at all levels of the drug trade. DEA directs investigative resources toward every angle of drug trafficking groups, using both traditional and innovative drug control approaches. This overall strategic approach is based on the recognition that the major drug traffickers, operating both internationally and domestically, have insulated themselves from the drug distribution networks but remain closely linked to the proceeds of their trade. Consequently, the identification and forfeiture of illicitly derived assets is a powerful means to successfully destroy the economic base of the drug trafficking organization, as well as a means of proving a connection between violators and a criminal drug conspiracy at the time of prosecution.

DEA's investigative efforts continue to be directed against major international drug trafficking organizations and their facilitators at every juncture in their operations—from the cultivation and production of drugs in foreign countries, to their passage through the transit zone, and eventual distribution on the streets of America's communities. DEA's Strategic Plan takes into account its management infrastructure and the current drug trafficking situation affecting the United States and works to identify the characteristics and exploit the vulnerabilities of all three levels of the drug trade. By focusing directly on the agency's investigative priority targeting system, DEA responds to each of the following levels, simultaneously:

*International Targets:* DEA will eliminate the power and control of the major drug trafficking organizations and dismantle their infrastructure by disrupting and dismantling the operations of their supporting organizations that provide raw materials and chemicals, produce and transship illicit drugs, launder money worldwide and halt the operations of their surrogates in the United States.

*National/Regional Targets:* DEA will continue an aggressive and balanced enforcement program with a multi-jurisdictional approach designed to help focus Federal and interagency resources on illegal drug traffickers, their organizations and

key members who have control of an area within a region of the United States, and the drugs and assets involved in their activities.

*Local Initiatives:* DEA will continue to assist States and localities in attacking the violence that plagues our cities, rural areas and small towns to protect our citizens from the impact of drugs and help restore a positive quality of life. (DEA considers this an important part of its overall strategy to complement the state and local efforts with specialized programs that bring DEA's intelligence, expertise and leadership into specific trouble spots throughout the nation.)

*Management and Infrastructure:* DEA will develop a secure and effective infrastructure and ensure that management oversight provides DEA personnel with the tools necessary to get the job done. DEA must also have the systems and structures to monitor its programs carefully, comply with reporting and information sharing requirements and manage its finite resources efficiently.

#### THE TASK: DOMESTIC DRUG TRENDS AND TRAFFICKING PATTERNS

The drug market in the United States is one of the most diverse and profitable illegal enterprises in the world. Drug trafficking organizations exploit legal and geographic vulnerabilities and demonstrate a high-degree of flexibility in their operations to evade law enforcement. Consequently, the deployment of DEA's counter-drug resources remains flexible in order to respond to the dynamics of the illicit drug trade.

#### MARIJUANA

Marijuana is the most widely abused and most readily available illicit drug in the United States and is available in varying degrees in every state in the union. Although precise estimates for the source of marijuana consumed in the United States cannot be made, marijuana smuggled into the United States, whether grown in Mexico, Colombia, or Jamaica, accounts for a large share of the marijuana available in the United States. High potency marijuana also enters the country from Canada. However, based on eradication statistics, domestic production is increasing. In the United States, cannabis is mainly cultivated in remote locations and frequently on public lands.

Mexican-based traffickers, with extensive networks in the United States, control poly-drug smuggling and wholesale distribution from hub cities to retail markets throughout the country. Mexican marijuana primarily enters the United States through entry points along the Southwest Border. Multi-ton amounts are often smuggled in tractor-trailers.

#### COCAINE

Colombian organizations control the worldwide supply of cocaine and move cocaine by land, sea and air. These groups have ceded an increasing role in cocaine trafficking to Mexican-based trafficking organizations that smuggle cocaine from Mexico into the United States. Colombian traffickers control wholesale-level cocaine distribution in the Northeast, while Mexican traffickers control distribution throughout the West and Midwest.

Southeastern ports, most notably Miami, Houston and New Orleans, are the primary maritime arrival zones, while cities along the Southwest Border are arrival and distribution points for overland cocaine movement. Chicago is a critical distribution hub for Mexican-based cocaine trafficking organizations, while New York City remains under the control of Colombian-based organizations.

#### HEROIN

Heroin is readily available in many U.S. cities, as evidenced by its high purity at the street-level. Heroin from the four source areas—South America, Southeast Asia, Mexico and Southwest Asia—reaches the United States. Virtually all heroin produced in Mexico and South America is destined for the U.S. market.

Since the mid-1990s, when Colombian traffickers penetrated the market with high-purity, low-priced heroin, South American heroin has dominated the market in the eastern half of the country. Couriers traveling on commercial airlines are the primary smugglers of Colombian heroin to the United States, and their primary entry points are Miami and New York. Mexican heroin continues to dominate the market west of the Mississippi and is generally smuggled overland through Southwest Border states. Southwest and Southeast Asian heroin are available in the Northeast and North Central sections of the country.

## METHAMPHETAMINE

Domestic methamphetamine production, trafficking and abuse are concentrated in the western, southwestern and mid-western sections of the United States. Although outlaw motorcycle gangs traditionally controlled methamphetamine production and trafficking, criminal groups composed of Mexicans and Mexican-Americans now produce most of the domestic methamphetamine. Methamphetamine produced in large-capacity laboratories, primarily located in the western and southwestern United States or Mexico, is transported via passenger vehicle across the country. Many of the largest methamphetamine laboratories can be found in California. Thousands of small independent laboratories, especially in the Midwest, produce gram or ounce quantities of methamphetamine, primarily for personal use or small-scale distribution.

## MDMA (3,4-METHYLENEDIOXYMETHAMPHETAMINE)

MDMA (Ecstasy, XTC, Hug Drug), a hallucinogen with stimulant properties that is primarily produced in the Netherlands, remains the most prevalent of all the so-called club drugs in the United States. Often distributed at nightclubs and "raves," all-night dance parties, it is widely abused by middle-class teenagers and young professionals. In Fiscal Year 2001, the U.S. Customs Service seized approximately 7.2 million MDMA tablets. MDMA tablets smuggled into the United States from Europe are destined for distribution primarily in New York City, Miami and Los Angeles.

## OTHER DANGEROUS DRUGS

Often referred to as designer or club drugs, these illicit drugs, primarily synthetic, vary widely in their psychoactive effects and are most commonly encountered at nightclubs and "raves." In addition to MDMA, the most widely available club drugs include the depressant/predatory drug GHB and the hallucinogens PCP and LSD. These drugs have gained popularity principally due to the false perception that they are not as harmful, nor as addictive, as mainstream drugs such as cocaine and methamphetamine. The United Nations recently stated that, if current trends continue, "synthetic drugs" like MDMA and predatory drugs will be the number one drug problem in the world.

The synthetic substances, 5-MeO-DIPT, known by the street name "Foxy" or "Foxy Methoxy," and alpha-methyltryptamine (AMT), are being reported as new drugs of abuse in limited areas of the United States. These substances, which produce hallucinogenic effects, are indicative of a trend in which many non-controlled synthetic substances are sold to capitalize on the current popularity of club drugs, especially MDMA. Recognizing this problem, DEA temporarily placed these two drugs in Schedule I, in April 2003.

## THE RESPONSE: DOMESTIC OPERATIONS

In 1973, DEA was comprised of 2,868 Special Agents and support personnel. Today, DEA has 8,475 authorized positions worldwide, including Special Agents, Intelligence Analysts, Diversion Investigators and Chemists. DEA's first budget was \$74 million. In 2003, our enacted appropriation was \$1.6 billion. Domestically, DEA maintains 21 Field Divisions, with offices in every State and the Special Operations Division at DEA Headquarters. At the core of DEA's operational successes lie specific programs and initiatives to combat America's greatest drug trafficking threats.

In April 2001, DEA initiated the Priority Drug Trafficking Organization (PDTO) initiative. The PDTO system was developed as a clear and specific enforcement objective targeting drug trafficking organizations by disrupting the networks that link them. PDTOs are regionally identified by field divisions as investigations of drug trafficking organizations that control the highest known level of the drug trafficking hierarchy.

PDTO investigations must reveal that the organization is stable and deals violently with members of its organization, competitors, clients, law enforcement officers, or citizens. Large-scale drug trafficking organizations use sophisticated techniques such as business fronts and the use of the Internet to facilitate their criminal activity. Their methodology consists of money laundering schemes, established lines of command and control, establishment of drug manufacturing, importation, transportation and distribution cells and diversion of controlled substances or precursor chemicals.

Since April 2001, DEA has initiated 1,276 PDTO cases. Of those cases, 158 organizations have been disrupted and 187 have been dismantled. Currently, there are 911 open, active PDTO investigations within DEA.

The greatest impact in combating drug trafficking organizations has been made when the full concentration of federal resources are brought to bear on these individuals and organizations through the efforts of the Department of Justice's OCDETF program. Just as when the program was originally initiated, DEA remains the leading initiator of OCDETF cases within the federal law enforcement community. The OCDETF program functions through the investigative, intelligence and support staffs of DEA; the Federal Bureau of Investigation; the Bureau of Alcohol, Tobacco, Firearms and Explosives and components of the Department of Homeland Security, as well as the efforts of the U.S. Attorneys, the Internal Revenue Service, the U.S. Coast Guard and state and local law enforcement agencies.

The primary goal of each OCDETF investigation is to reduce the availability of drugs in America by strategically targeting and eliminating those trafficking organizations responsible for supplying the largest amounts of drugs. The OCDETF member agencies determine connections to related investigations, nationwide, in order to identify and dismantle the entire structure of the drug trafficking organization (DTO). OCDETF investigations emphasize disrupting the financial dealings and dismantling the financial infrastructure that supports the DTO. DEA's State and Local Task Forces and High Intensity Drug Trafficking Area (HIDTA)-funded groups are engaged as partners with the OCDETF program and enhance the effectiveness and success of the OCDETF program.

Complementing DEA's PDTO and OCDETF initiatives, the DEA State and Local Task Force (SLTF) Program continues to foster productive relationships and enhance cooperation and coordination with our state and local counterparts in the enforcement of federal drug laws. These SLTFs address drug problems of concern in the geographic regions where they operate. State and local agencies that participate in this program are actually force multipliers, which add additional resources to DEA. Statistically, DEA SLTFs account for approximately 40 percent of all DEA case initiations and seizures.

It is important to emphasize that there are no real operational differences between the types of cases conducted by DEA Task Forces and DEA's regular enforcement groups. This program provides numerous advantages to both the DEA and participating agencies. DEA is able to share resources and expertise with state and local law enforcement, thereby increasing investigative results. The SLTF Program also allows state and local officers to be federally deputized, thus extending their jurisdiction. The SLTF Program is a significant asset to DEA and America's efforts to curb drug trafficking and abuse.

And finally, the HIDTA program is a national strategy providing Federal assistance in coordinating law enforcement efforts of local, state and Federal entities in areas where major drug production, manufacturing, importation or distribution flourish to such a degree that they have harmful effects on other parts of the country. DEA maintains a strong ongoing commitment to the HIDTA program, addressing regional drug problems of concern. The DEA continues to achieve success in HIDTA-funded initiatives through cooperation and coordination with our state and local counterparts in the enforcement of federal drug laws.

DEA currently oversees and directly supervises 48 HIDTA-funded task forces located in DEA offices, consisting of 527 Task Force Officers. Over 300 DEA Special Agents work within HIDTA initiatives to share and develop narcotics intelligence and pursue joint investigations. DEA's commitment to the HIDTA program has resulted in significant HIDTA program successes, in furtherance of the Department of Justice's Domestic Drug Enforcement Strategy.

In furtherance of our mission, DEA has conducted numerous significant investigations. I would like to share a few of DEA's notable investigations with the Subcommittee.

- In July 2001, the DEA Miami HIDTA Task Force initiated an international investigation that identified a worldwide MDMA distribution network operating in Colombia, Israel, the Netherlands and the United States. Title III intercepts, undercover operations and search warrants resulted in the seizure of approximately 2 million MDMA pills and more than \$2 million. Nine of the organizational leaders were arrested in Spain, Colombia and the United States. The investigation also determined that Israeli organized crime elements were financing the smuggling operation and obtaining the MDMA from the sources of supply in Holland. In January 2003, as a result of the international scope of this investigation, the authorities in Switzerland froze additional accounts of the organization totaling \$1.5 million. The investigation is active and continuing.
- In September 2001, the FBI initiated the undercover investigation in Houston, Texas. The target was attempting to obtain \$25 million worth of East-

bloc military weapons for the AUC, a Colombian terrorist organization, in exchange for cocaine and U.S. Currency. In April 2002, DEA Houston HIDTA Major Drug Squad (MDS) 6 became involved in the investigation. To date, the investigation has revealed that the original PDTO target has been a long-time member of an international drug trafficking organization responsible for the importation of more than 50 tons of cocaine into the United States. The undercover operation resulted in the arrest of four defendants in connection with the weapons deal, three of which occurred in Costa Rica.

- In October 2002, an international MDMA investigation conducted in Belgium, Israel and the United States culminated with three arrests in New York City. The case began with the seizure of 1.4 million tablets of MDMA in Antwerp, Belgium, by the Belgian Federal Police—the largest MDMA seizure in Europe to date and the third largest MDMA seizure in the United States. The shipment had a retail value of approximately \$42 million. During the course of the investigation, the Israeli National Police identified the shipment as part of an ongoing investigation targeting a group of Israeli nationals. These individuals were affiliated with violent, organized crime elements in Israel.
- Oliver BEASLEY, identified as a major cocaine and heroin distributor in the Pittsburgh, Pennsylvania area, was the leader of an organization responsible for the distribution of 50–100 kilograms of cocaine and at least 12 kilograms of heroin, per month. Direct evidence has corroborated that at least 11 heroin overdose deaths, from January 2002 to March 2002 in the Pittsburgh area, were attributed to the heroin bearing the stamps of this organization. To date, 45 individuals have been indicted and arrested. The seizure of the organization's assets total in excess of \$8.6 million dollars, including U.S. Currency, real estate, jewelry, vehicles and businesses 12 weapons, three and a half kilograms of heroin, a half-kilogram of crack cocaine and three-quarters kilogram of cocaine.

#### INTERNATIONAL OPERATIONS

DEA's Office of International Operations maintains 79 offices in 58 countries. These offices support DEA domestic investigations through foreign liaison, training for host country officials, bilateral investigations and intelligence gathering. The DEA's international presence is an invaluable asset in the pursuit of drug traffickers in all areas of the world. Foreign operations enables DEA to share intelligence and coordinate and develop a worldwide drug strategy, in cooperation with our host countries. The DEA's foreign operations are managed in five sections: Southeast Asia, Central America/Mexico, South America, Europe/Middle East and the Caribbean.

#### SOUTHEAST ASIA

Southeast Asia covers fifteen country offices. Intelligence indicates that, although there has been a marked decrease in the amount of Southeast Asian heroin seized in the U.S., Southeast Asian heroin continues to pose a threat to the United States. A shift in U.S. heroin trafficking trends could easily result in the resurgence of Southeast Asian heroin. Southeast Asian heroin has the broadest U.S. geographical distribution. The most visible trafficking organizations operating in Bangkok are the West African groups. In addition, DEA offices in Southeast Asia have reported an increase in methamphetamine production/abuse. The methamphetamine epidemic has negatively affected many U.S. strategic partners in this area, including the Philippines, Japan and Thailand.

DEA has supported significant investigations in Southeast Asia. In April 2002, an investigation with host country counter-parts culminated in the seizure of approximately 317 kilograms of heroin and the arrest of 13 subjects. This investigation is significant, as it was the first time that the exchange of "real-time intelligence" had led to a major seizure in China.

#### MEXICO

Central America/Mexico covers fifteen country offices. Current reporting indicates that the Southwest Border remains the point of entry for the majority of all illicit drugs smuggled into the United States. The Mexico-Central America corridor is currently the predominant route for cocaine movement to the United States, with an estimated 72 percent of the cocaine transiting this corridor. Mexico also supplies heroin, methamphetamine and a significant amount of the marijuana consumed in the United States.

The U.S. diplomatic and DEA presence in Mexico is one of the largest outside the United States. The Government of Mexico (GOM) and DEA have achieved great successes in drug interdiction and eradication. Bilateral cooperation and the exchange of information have been unprecedented under President Vicente Fox-Quesada's administration. Under his Administration, the GOM has pursued every major drug trafficking organization (DTO). However, despite recent successes, Mexico still faces daunting and significant challenges in the areas of counter-narcotics, its legal system and anti-corruption effort.

Significant arrests of prominent Mexican DTOs have been made by the GOM over the last two years. In March 2002, Special Forces of the Mexican Army, in conjunction with the Mexican Organized Crime Unit, arrested Benjamin Arellano-Felix, leader and patriarch of the Arellano-Felix drug trafficking organization. Mexican authorities charged Arellano-Felix with money laundering, organized delinquency and trafficking in marijuana, cocaine and heroin. He is also indicted in the Southern District of California with operating a Continuing Criminal Enterprise, money laundering and drug conspiracy charges. Arellano-Felix led one of the most powerful and violent drug cartels in Mexico since the 1980, transporting ton quantities of marijuana, cocaine, methamphetamine and heroin into the United States, through the Tijuana and Mexicali corridors.

#### SOUTH AMERICA

The South America section covers fifteen country offices. The DEA in South America and, in particular, the Bogota, Colombia Country Office (BCO), is aggressively targeting international drug trafficking organizations, in addition to facilitating the objectives of the Andean Regional Initiative. The BCO continues to focus on the dismantling of trafficking organizations with international implications—specifically, those with a connection to the United States. Colombia has long been the largest exporter of cocaine to the U.S. and has become a major supplier of heroin, as well. In addition, the BCO is focusing its efforts on the importation and diversion of precursor chemicals. The BCO's Special Investigative Units (SIU) and the Andean Programs have been very successful in mounting cases against major traffickers and having these traffickers extradited to the U.S. for prosecution.

Enforcement actions in the BCO demonstrate DEA's commitment in the war against drug trafficking and abuse and terrorism. In 2002, several high ranking members of the Revolutionary Armed Forces of Colombia (FARC) and the United Self-Defense Forces of Colombia (AUC) were indicted in the United States for drug trafficking. This investigation highlighted the link between groups and individuals under investigation for drug trafficking, as well as terrorist activity. This case represented the first time that drug trafficking charges were brought in the United States against members of foreign terrorist organizations.

In November 2002, the BCO successfully concluded a two-year investigation with the arrests of 16 defendants. The arrests included the principal targets in Colombia and Ecuador responsible for the 13-ton shipment of cocaine seized from the vessel M/V Svesda Maru. In June 2002, the BCO concluded the yearlong investigation, Operation Julieta, by arresting 21 individuals in Colombia responsible for shipping multi-kilograms of heroin and cocaine to the United States.

#### CARIBBEAN

The Caribbean section covers seven foreign country offices and four domestic offices. The Caribbean has long been an important transit zone for drugs entering the United States and Europe from South America. The drugs are transported through the region, to both the United States and Europe, through a wide variety of routes and methods, primarily marine vessels. The Caribbean remains a major transit route for South American cocaine destined for the United States and other world markets. The Caribbean is also an important transit point for marijuana and heroin destined for the United States, as well as a major money-laundering center for illicit drug proceeds.

The Caribbean Offices strive to strengthen the region's collective ability to track, interdict, arrest and prosecute successfully money laundering and drug smuggling organizations that operate in the Caribbean.

#### EUROPE, AFRICA, MIDDLE EAST AND CANADA

Europe/Middle East covers 156 countries, with 24 DEA country offices. With various drug trafficking organizations' methods of operation and tentacles stretching around the globe, DEA offices in these regions are combating the aggressive activities of numerous DTOs. These include the new methods of operation of the Albanian

DTOs, the influx of MDMA and multi-ton shipments of cocaine from South America in containerized shipments.

The DEA initiated Operation Containment, an enforcement program involving the Central Asian States, India, Pakistan, Turkey, the Balkan countries, Russia, Germany and the United Kingdom. The goal of Operation Containment is to reduce the amount of Afghan heroin flowing to Western Europe through enhanced interdiction efforts, intelligence sharing and database connectivity. During Operation Containment's "Interdiction Blitz," from June 10, 2002 through July 10, 2002, the following drug seizures were made: 1705 kilograms of heroin, 125 kilograms of hashish, 1.5 kilograms of liquid cocaine, 1.6 kilograms of powder cocaine, 250,000 tablets of amphetamines, 690 tablets of MDMA, 5329 kilograms of cannabis, 352 kilograms of opium, 1574 metric tons of toluol, (precursor), 1008 kilograms of poppy straw and 2013 opium plants.

#### SPECIAL OPERATIONS DIVISION

DEA's Special Operations Division (SOD), created in 1995, is a DEA led Division with participation from the Department of Homeland Security, the Federal Bureau of Investigation (FBI), the Internal Revenue Service (IRS) and Department of Justice's (DOJ) Criminal Division. SOD's mission is to establish seamless law enforcement strategies and operations aimed at dismantling national and international trafficking organizations by attacking their command and control communications. Special emphasis is placed on those major drug trafficking organizations that operate across jurisdictional boundaries on a regional, national and international level. The unique investigative support provided by SOD allows the program to act as a "force multiplier" for drug law enforcement because it provides an effective and efficient medium for communication, intelligence sharing and coordination among America's major drug law enforcement agencies.

Significant operations supported by SOD include Operation Webslinger, the first national operation that targeted organizations utilizing the Internet to traffic the predatory drugs GHB, GBL and 1,4 BD (BD). Operation Webslinger culminated in September 2002 and resulted in the arrest of 170 individuals and the seizure of 3,600 gallons of GHB, GBL and BD; 2 clandestine laboratories; 4.75 pounds of methamphetamine; 1.3 kilograms of MDMA; 2,500 vials of steroids; 17 properties; 10 vehicles; 44 weapons; and \$2.4 million in U.S. currency. SOD also supported Operation Double Trouble a money laundering operation that targeted international money brokers responsible for laundering drug proceeds. To date, this operation has resulted in the arrest of 62 individuals and the seizure of 170 kilograms of cocaine, 7 kilograms of heroin, 10 weapons, 4 vehicles and \$12.4 million in U.S. currency.

Operation Mountain Express III, a nationwide investigation targeting pseudoephedrine suppliers for Mexican methamphetamine "super labs," revealed that proceeds from sales of Canadian pseudoephedrine were being funneled through traditional "hawalah" networks to individuals in the Middle East. This operation resulted in the arrest of 136 individuals, the seizure of 35.8 tons of Canadian origin pseudoephedrine, 179 lbs. of methamphetamine, six methamphetamine labs and \$4.5 million.

Operation Northern Star employed a comprehensive strategy targeting the entire methamphetamine trafficking process, including the suppliers of precursor chemicals, chemical brokers, transporters, manufacturers, distributors and the money launderers who helped conceal their criminal proceeds. DEA and the Royal Canadian Mounted Police announced the arrests of over 65 individuals in ten cities, throughout the United States and Canada. The arrests resulted from an 18-month international investigation targeting the illegal importation of pseudoephedrine, an essential chemical used in methamphetamine production. As part of this investigation, agents targeted six executives from three Canadian chemical companies. All sold bulk quantities of pseudoephedrine to methamphetamine manufacturers in the United States, with the full knowledge that their sales were intended for the illegal production of the highly addictive and dangerous drug methamphetamine.

#### INTELLIGENCE DIVISION

The Intelligence Division provides dedicated analytical support to DEA investigations, programs and operations worldwide. The headquarters component advises on all matters pertaining to the formulation, direction, coordination and management of DEA's global drug intelligence and information exchange programs. Intelligence functions include policy development and management, guidance on sensitive activities and maintenance and development of methods and techniques, domestic intelligence, international intelligence and the El Paso Intelligence Center (EPIC). The Intelligence Division also is active in countering terrorism. DEA has over 700 Intel-

ligence Analysts assigned to field divisions; foreign offices; and headquarters functions, including EPIC and the Aviation Intelligence Group.

EPIC concentrates primarily on drug movement, illegal aliens and weapons violations in the United States and the Western Hemisphere. A number of EPIC programs are dedicated to port-seizure analysis and the establishment of links between recent enforcement actions and ongoing investigations. EPIC coordinates training for state and local officers concerning interdiction and concealment methods used for drugs and drug currency. EPIC also provides tactical intelligence information to the officers within the first critical week after a seizure or a stop.

In FY2002, 32 percent of EPIC's inquiries were related to counterterrorism. EPIC has supported the FBI, the Department of Defense, the United States Coast Guard, other federal and state and local agencies by processing almost a million database accesses, providing over 33,000 investigative leads and forwarding over 6,000 communiqués to investigators. The Office of Special Intelligence (NS) also is involved, routinely researching its databases for leads. NS has been critical in the identification of impending terrorism activities.

DEA's Intelligence Division is committed to interagency cooperation. Each designated HIDTA has at least one intelligence element, usually called an Investigative Support Center (ISC). HIDTA intelligence elements serve as hubs for the sharing of drug intelligence among federal, state and local law enforcement HIDTA-funded participating agencies. DEA's commitment to HIDTA shows in the assignment of nearly 10 percent of our analytical resources to HDTAs. EPIC also plays a critical role in support of the HIDTA funded task forces by dedicating specific intelligence resources to facilitate HIDTA requests. Additionally, DEA provides leadership to the Counterdrug Intelligence Coordination Group and the Counterdrug Executive Secretariat and provides, on a reimbursable basis, at least three employees to the Central Intelligence Agency to support that agency's counterdrug programs.

DEA's Intelligence Division has been active in international cooperation, strengthening the Bilateral Drug Intelligence Working Groups. Mutually beneficial meetings have been held with the partners: Germany, Canada and Australia. To expand this initiative, meetings also were conducted with China.

#### OFFICE OF DIVERSION CONTROL

The mission of DEA's Office of Diversion Control (OD) is to prevent the diversion of legitimately produced controlled substances and listed chemicals while ensuring adequate supplies for legitimate needs. In fulfilling its mandate under the Controlled Substances Act, among many functions, OD maintains a national registration program for all controlled substances handlers (those who manufacture, distribute, dispense, import or export such substances); conducts major diversion investigations, unilaterally or together with state/local authorities; serves as the U.S. Competent Authority in fulfilling national obligations under United Nations drug and chemical control treaties; establishes national drug production quotas; controls the import/export of controlled drugs and listed chemicals; and maintains liaison with the drug and chemical industry, associations and related professions.

Among current important OD initiatives are a national program to prevent and detect diversion of the powerful narcotic OxyContin<sup>®</sup>; international partnership initiatives to prevent and detect global diversion of key chemicals used in illicit cocaine, heroin and amphetamine-type stimulant (e.g., MDMA) production; and a program to target use of the Internet to illegally obtain controlled drugs. In a continual effort to streamline/improve efficiency of service to DEA registrants, OD is in the process of "re-engineering" the registration program to allow interactive Internet provision of registration services and is embarked on a major E-commerce initiative. This initiative which will provide for the secure use of the Internet to conduct controlled substance prescription and ordering functions.

One notable Diversion case concerned the owner and six physicians of the Carolina Neurology and Pain Management Center in Myrtle Beach, South Carolina, who were named in a 59-count federal indictment. Each defendant was charged with conspiracy to unlawfully distribute and dispense Oxycodone, as well as a variety of other controlled substances. Due to the large amounts of controlled substances distributed for non-legitimate medical reasons at the clinic, several patients died. The defendants also were charged with money laundering in excess of \$5,000,000 during the period between June 1997 and July 2001.

DEA employs over 500 Diversion Investigators, who are assigned to domestic field divisions, foreign offices and Headquarters elements. The Diversion Control Program is a fee-funded activity with respect to its controlled pharmaceutical functions.

## OFFICE OF TRAINING

The Drug Enforcement Administration's Office of Training is the nation's pre-eminent law enforcement training organization for national and international drug law enforcement training. The Office of Training provides technical and non-technical training to DEA personnel and appropriate domestic and foreign law enforcement officers, to improve individual and organizational performance and assist in achieving mission and performance goals.

The primary purpose of the DEA Training Academy is to train the agency's four core constituencies: Basic Agents, Basic Diversion Investigators, Basic Intelligence Research Specialists and Basic Forensic Scientists. In addition, the Academy provides for professional and executive development training, certification training and specialized training. The Academy also is used to conduct drug law enforcement seminars for state and local law enforcement personnel, and through the use of specially equipped classrooms, international drug training seminars for foreign law enforcement officials. DEA training includes Executive and Professional Development training, state and local training, clandestine laboratory training and various international training programs. During FY 2002, DEA's Office of Training provided instruction to over 7,800 DEA and other federal, state, local and international students. DEA anticipates training approximately the same number of personnel in FY 2003.

## OPERATIONAL SUPPORT DIVISION

The Operational Support Division is responsible for the management and operation of DEA's Offices of Administration, Investigative Technology, Information Systems and Forensic Sciences. Numerous improvements have been realized in the areas of investigative technology, information technology, laboratory services, clandestine laboratory cleanups, audit requirements and domestic and laboratory replacements and renovations.

For example, the Office of Investigative Technology implemented a Centralized Call Data Delivery system for intercepted cellular pen register data for the field. This system enables each division to obtain cellular call data without the need to establish a dedicated connection to individual cellular companies, thus generating substantial cost savings to DEA. The Office of Information Systems was the first component in the Department of Justice to electronically transmit information through the Department's Joint Automated Booking System (JABS) to the FBI's Integrated Automated Fingerprint Identification System, through the Firebird Booking Station. This system provides rapid identification of individuals under arrest or detention, minimizes duplication of data entry during booking, and it promotes data sharing among Department law enforcement agencies and other authorized parties, through an interface with the Nationwide JABS.

The Operational Support Division has improved hazardous waste disposal by implementing significant cost savings and efficiencies with a new five year hazardous waste cleanup contract and developing an alternative clean up program. In addition, significant improvements have been made in DEA's audit requirements, as apparent in the recently completed KPMG 2002 Financial Audit, in which DEA went from three IT material weaknesses in 2001 to none in 2002.

## DEMAND REDUCTION

While DEA is principally a law enforcement agency, demand reduction is an important element of DEA's overall enforcement strategy. Through investigations such as Operation Webslinger and Operation Pipe Dreams, an investigation that targeted national distributors of drug paraphernalia, DEA carries out its enforcement mission while achieving the complementary goal of raising public awareness regarding the dangers of drug abuse and drug trafficking.

DEA also provides training in support of national conferences held by a variety of federal, state and local agencies. These conferences bring together law enforcement, health, prevention and education groups to craft a specific strategy to deal with methamphetamine abuse unique to their states. Last year, for example, DEA hosted Methamphetamine Conferences in Arkansas, Oklahoma, Kentucky, Hawaii and at the Midwest Governor's Summit in Iowa. DEA's Demand Reduction Program also spearheaded the following campaigns:

## DEA'S "METH IN AMERICA: NOT IN OUR TOWN" CAMPAIGN IN 2002

Methamphetamine has become the number one drug problem of rural and small-town America. As a law enforcement agency, DEA felt this message was an important one to put out to the American people. This public awareness campaign has

led to numerous congressional offices requesting DEA participation in “Meth Town Hall Meetings,” allowing Members to bring awareness about the problem to their constituents.

#### OPERATION X-OUT

Operation X-Out shows how deeply integrated supply reduction and demand reduction are. X-Out combines enforcement operations against MDMA and predatory drug traffickers with public news conferences and town hall discussions in communities about the devastating effects of club drugs. Local citizens, drug prevention experts and victims of drug-inspired crimes participate and articulate how the community can actively engage and stop the spread of club drugs in their community.

#### FY 2003 ENACTED APPROPRIATION AND FY 2004 BUDGET REQUEST

In FY 2003, DEA’s enacted appropriation of \$1.6 billion and 8,475 positions, provides 161 positions (including 95 Special Agents) and \$43.8 million in direct funding to enhance drug enforcement activities, strengthen financial investigations and protect DEA’s personnel and sensitive information.

The President’s FY 2004 Budget Proposal for DEA of \$1.7 billion and 8,815 positions responds to the challenge we face—reducing availability of illegal drugs in America. To this end, DEA’s FY 2004 Budget Request includes three programmatic enhancements as follows:

To target Priority Drug Trafficking Organizations, DEA requests \$38.9 million and 329 positions (including 123 Special Agents and 20 Diversion Investigators). This initiative includes a request for administrative support positions to free up the equivalent of 80 Special Agents’ work hours for enforcement activities and \$4 million to support 100 State and Local Task Force Officers. These resources are necessary to fully support DEA’s plan for addressing the Nation’s illegal drug threats in the post-September 11, 2001, environment.

To continue the International Training Program, DEA requests \$1.5 million and 20 positions (including 16 Special Agents). These resources will address an anticipated shortfall of reimbursable resources that the Department of State currently provides for this program.

To improve DEA’s Financial and Asset Management Programs, DEA requests \$2.5 million and 20 positions. This enhancement will allow DEA to make systemic improvements necessary to ensure continued success in future financial audits.

For the Diversion Control Fee Account, the FY 2004 President’s Budget continues the increased level of funding requested in FY 2003 to strengthen our enforcement capabilities for investigating the diversion of controlled substances, including OxyContin®.

In addition, the President’s FY 2004 Budget includes \$23 million and 150 positions (110 Special Agents) for DEA under the OCDFTF Program to support the Department’s Strategy by targeting Consolidated Priority Organization Targets.

#### CONCLUSION

The DEA remains committed to our primary goal of targeting and arresting the most significant traffickers in the world today. In particular, we will continue to work in close partnership with our local, state, federal and international counterparts to target drug trafficking groups, who spread misery and false hope to America’s citizens.

Again, I would like to thank the Subcommittee for inviting me here today. You have given me an opportunity to speak to you regarding DEA’s programs, initiatives, goals and objectives in addressing drug trafficking and abuse in America. As the Members of this Subcommittee know well, drugs know no boundaries and do not make distinctions between big city and small town America, between color and ethnicity, whether rich or poor. It is the responsibility of every American to contribute in the fight against illegal drugs.

I will be happy to respond to any questions you may have.

Mr. COBLE. Time permitting, we may have a second round here, because I suspect we will all have a good number of questions to put to you all.

Mr. D’Amuro, today’s *Washington Post* story indicates that we may well be on our way to winning the war on terrorism. The article includes, “The failure of al-Qaeda to launch terrorist attacks against the U.S. or its allies during the war in Iraq has bolstered

a growing belief among U.S. intelligence agencies that 19 months of worldwide counterterrorism operations and arrests have nearly crippled the organization.”

The article goes on to say that “senior intelligence officials continue to speak optimistically about the progress that has been made since September 11th, 2001.” .

Now, Mr. D’Amuro, my heart wants to warmly embrace the contents of this article. My head conversely reminds me that we have an enemy that is not only willing to die, but eager to die as long as they can take us down with them. So I am in a quandary. I hope the article is correct, but if anyone in the room is in a position to authoritatively respond to it, it is you. So, what say you to the article?

Mr. D’AMURO. Well, I agree with aspects of that article, Mr. Chairman. The United States Government, the Intelligence Community, both the Agency, the Bureau, the Department of Defense have had significant achievements against al-Qaeda. Now, that does not mean that there are not numerous other entities out there, terrorist groups affiliated with al-Qaeda that received training in al-Qaeda training camps in Afghanistan that are not a threat to this country. While al-Qaeda may very well be in disarray, I still believe it has the potential to attack United States interests, as well as all the other tangential groups to al-Qaeda that sympathize with their cause. Those groups are still the number one priority of the FBI. Our mission is the identification of terrorist cells, sleeper cells in this country to prevent the next attack.

So, while I agree with the disruption of al-Qaeda efforts, I still want to emphasize that it is still a severe threat to this country’s safety.

Mr. COBLE. And I didn’t want to portray myself as a naysayer. But we are pretty much coming from the same vantage point, I think.

Mr. Hankinson, the implementation of the Safe Explosives Act has created some confusion between the duties of DOT and ATF with regards to regulating the explosives. Is it the intention of ATF to regulate in any aspect of the transportation of explosives and is there an effort to coordinate to avoid duplication, A? And, B, what has ATF done to notify individuals and corporations about these changes? I can see that all sorts of inconvenience is going to be imposed. I realize we don’t need every Osama bin Laden walking down the street with explosives in his handbag, but at the same time we don’t want to make it difficult for other folks who do, in fact, need explosives in their day-to-day work. So talk to us about that.

Mr. HANKINSON. As a result of this act being implemented, what we did, we went out to the industry trade groups, to also industry associations. We went further; we made up posters and sent them to retailers delineating this law and the affect it would have on people who actually purchase, maintain, retailers, so forth, these explosives. And we also placed it on our Website. So we made a concentrated effort to inform the public, and specifically those people who would be affected by this law, to advise them of what they would need to do and to go through in order to purchase explosives.

In respect to Department of Transportation, we do not believe there is any duplication. In fact, Department of Transportation does have the responsibility under the law in regard to transportation of explosives. They have also issued regulations. Before they issued those regulations, they gave us an opportunity to comment upon them, which we did. So in that regard, there is no duplication because that is where their authorities and jurisdiction lie. And I do not believe, as we move to this act's implementation on the 24th of this month, that we will see any problem regarding duplication or friction between Department of Transportation and ATF. We have met with them on many times, had conferences, personal meetings to ensure that all the regulations that are issued by us and those regulations issued by them are not in conflict.

Mr. COBLE. Thank you.

My time has expired. The gentleman from Virginia.

Mr. SCOTT. Thank you, Mr. Chairman.

Mr. Hankinson, there has been controversy about how long firearms dealers will keep their records. What is the present situation there?

Mr. HANKINSON. I do not believe—and I have only been in this position for the last number of months—there have been any change whatsoever in the law or how it is applied on the part of ATF.

Mr. SCOTT. Is there any desire to shorten the length of time that the firearms dealers will keep their records?

Mr. HANKINSON. I am not aware of any desire in that particular matter.

Mr. SCOTT. What is ATF's position on ballistic fingerprinting, or at least a scientific study of whether it is a good idea or not?

Mr. HANKINSON. Well, this study is actually under the auspices and within the Department of Justice. We have given our expertise and information, any questions they may have to the Department of Justice. So it is actually out of our hands in particular and under their domain.

Mr. SCOTT. When would we expect results from the study?

Mr. HANKINSON. That is a question, I am sorry, I cannot answer.

Mr. SCOTT. Okay. Mr. D'Amuro, can you tell me something about the diversity in the FBI workforce? There was—I think a lack of diversity in the workforce has been part of the problem of us getting good information. Can you tell us how much more diverse the FBI is than it was before September 11th?

Mr. D'AMURO. Congressman, I don't have the official numbers with me here, but we have created an engineering product to take a look at our hiring requirements and the specialty needs of the Bureau to ensure that the Bureau is in a position to focus on the future to make sure we have the critical needs going through our Academy at Quantico both in the analytical core and in the special agent category. I can get you the figures as to the recent hires, I just do not have them with me.

Mr. SCOTT. Well, is it significantly more diverse now than it was, particularly with Middle Eastern agents?

Mr. D'AMURO. We are looking to increase our language ability of the agent position. We have made significant efforts in that area,

both in our language services as well as the agent cadre, and will continue to look toward that.

Mr. SCOTT. Well, you made efforts. Have we got any results?

Mr. D'AMURO. I don't have any results with me as to numbers. There have been significant results in the language services areas, but I don't have the numbers.

Mr. SCOTT. Well, you don't have the numbers right now. There have been significant increases. If you can get me those numbers, I would appreciate it.

Can you tell me the FBI position on investigating people, gathering information on people without an ongoing criminal investigation? The old rule, as I understand it, was that you wouldn't gather information domestically unless you were actually investigating an ongoing criminal investigation. And there were public comments, that you would start gathering information on American citizens by attending public meetings and this kind of thing, gathering information, developing dossiers and whatnot on American citizens. Can you tell me the status of that little operation?

Mr. D'AMURO. Congressman, we are bound by the Constitution of the United States, we are bound by the Attorney General guidelines in how we conduct our investigations. We have two types of investigations that we undertake at the FBI; they are both criminal and the national security type investigations. When we have an individual under investigation for national security, there is a file. It is pursuant to the Attorney General guidelines for conducting those investigations. We do not attend group meetings per se. If we have a source that we are worried about protecting, we have certain guidelines that we are allowed to attend that and coverage for the source of a particular meeting. We do not violate constitutional requirements in this country. Those guidelines are still in place. They were in place prior to 9/11. We are constantly looking at them to see if they need to be revamped.

Mr. SCOTT. Let me be more direct. In the absence of an ongoing criminal investigation, are you gathering information on people?

Mr. D'AMURO. If we have a reason to suspect an individual, we open up a file on that individual, and we are required to do so. Now, in the process of conducting—

Mr. SCOTT. If you have—

Mr. D'AMURO. If we have information of an individual involved in terrorism, there is an official file opened on that individual.

Mr. SCOTT. And you would be investigating a specific crime.

Mr. D'AMURO. Correct.

Mr. SCOTT. My question is are you doing this in the absence of an ongoing criminal investigation?

Mr. D'AMURO. No, Congressman. We still operate pursuant to opening those files. In conducting any investigation, there is information and intelligence in the national security type investigation that may not pertain to that particular file. That is the purpose for us creating the Office of Intelligence, where there is positive intelligence gathered on counterintelligence investigations.

Mr. SCOTT. Chairman, could I ask just one follow-up? Does this mean the procedure has changed or not changed?

Mr. D'AMURO. It has not changed, Congressman.

Mr. SCOTT. Thank you.

Mr. COBLE. The gentleman from Florida.

Mr. FEENEY. Thank you, Mr. Chairman.

Gentlemen, thank you for being here.

Mr. D'Amuro, please excuse me; I am a freshman, and if I ask a question that is sensitive or secure, of course you are not going to give me an answer in this forum. But I am interested, given the fact that recent reports indicate that some of our longstanding allies have been perhaps cooperating with the Iraqi Government, amongst others, in providing both information and equipment, in the case perhaps of the Russians, I am interested in terms of how we are treating some of those allies in their business dealings in the United States of America as it relates to technology or to other information that may be heretofore shared on a fairly frequent basis with companies from France, for example, or others. And I am interested in whether the FBI has enhanced efforts to watch foreign companies and their representatives as they do business with American technology companies or other American companies that may have access to secure information.

Mr. D'AMURO. Congressman, a lot of that question I can't answer, but I will say this: That we do have increased concerns, and we have increased our economic espionage coverage in the Bureau, and we will continue to look toward that goal in the very near and long-term future. It is one of the major problems that we foresee the Bureau to be involved in.

Mr. FEENEY. Well, criminals on a wide array of matters, both foreign and domestic, are increasingly sophisticated in terms of their technological capabilities. And the FBI has ramped up its technological infrastructure and is trying to keep pace with the activities of terrorists and criminals and presumably perhaps threatening foreign nations. It is my understanding that that has resulted in some large cost increases that perhaps were unanticipated a few years ago in the FBI.

And where are we going with respect to the costs of dealing with the enhanced technological challenges that the FBI has to deal with? And do you have any predictions for the Committee about where we will be in the future?

Mr. D'AMURO. Yes, I do. And first let me say again thank you to the Committee for enhancing the Bureau's technology problem. In my opinion, in my 24 years with the FBI, it has been the most significant problem that we have faced. The management of our information is critical to protecting this country. We anticipate with the enhancements of Trilogy and other information technology advancements within the FBI that there could be a shortage of approximately \$137 million. We are in the process of working with the Department of Justice in coming back to the appropriation Committees and looking at that shortfall.

Mr. FEENEY. And with respect to the Joint Terrorism Task Forces, obviously until 1812 it had been a long time since the continental mainland of the U.S. had been attacked by a foreign power. Since 1812, it really hadn't occurred outside of Pearl Harbor and a few lesser incidents. But nowadays the cooperation with respect to the information that we gather at the Federal level, and Federal, State, and local law enforcement and other first responders and other counterintelligence activities is increasingly important.

And, number one, I would like to know how you are breaking down the barriers between the different domestic Federal agencies; and secondly, with respect to the barriers between the Federal Government and the States and locals. And the third question would be as it relates to the fact that some States, like my own in Florida, have fairly aggressive public records laws that protect the access under the first amendment and then go further of the press to records involved in potential criminal activity. So what do you do on the one hand to share as much information as you can, while preserving and protecting the access, the secure nature of some of the things that you are sharing? So I guess those are three related questions.

Mr. D'AMURO. I will start with that. There is a lot of different pieces to that question, and I will try to answer that the best that I can.

The JTTFs are a community entity. It is an operational piece of the FBI that belongs to the communities that they serve. With various Federal, State, and local agencies that are part of that entity, it is not only an operational piece to the counterterrorism program, it is an intelligence collection and dissemination piece, and the significance of going from 35 to 66 JTTFs throughout the country hopefully will greatly enhance the amount of intelligence that is collected by the JTTFs and shared back here at FBI headquarters, and then the amount of information that the FBI disseminates to those JTTFs as appropriate.

The beauty of the JTTF is that not only does it collect that information, it also acts upon it and has the ability to disrupt terrorist activities in the field.

With respect to the sharing of intelligence, I think another significant piece is the TTIC, the newly created TTIC, with all Federal components participating at a collocated center so that the one piece that has been missing in the past with respect to threat analysis is the coupling and the fusion of all the intelligence that the Federal entities have with respect to terrorism to provide one-stop shopping for threat analysis. And that organization was just put into operation the first of this month. In fact, they just went out again this morning to take another tour of the facility.

We are also under way, as I said in my statement, with providing intelligence reports to the field, to the JTTFs both on counterintelligence and counterterrorism, over 1,200 reports in the last 6 months.

Mr. COBLE. The gentleman's time has expired. When we pick up on the second round, just hold that thought, if you will.

The gentlelady from Texas.

Ms. JACKSON LEE. Thank the Chairman very much.

Let me thank the witnesses for their presentation. And again, we have lived together—as I have been a Member of this Judiciary Committee ever since I have come to the United States Congress, it has been my honor to work with agents from the DEA and the ATF and the FBI. And this should not be taken personally, but let me acknowledge the SAC in charge in Houston, Richard Garcia, who has been a delight and extremely involved in working with us on Homeland Security issues. And I might attribute those same

compliments to the representatives from the DEA and ATF as we work together.

But let me pursue a line of questioning that has concerned my office and my constituents and are crucial, of course, to whether we get the job done on terrorism in this Nation and fight terror together.

Constituents of mine, happen to be Muslims, had a tragedy in their family which resulted in a number of individuals dying. And so the mourning started, the mourning the loss of these individuals, and Muslims from around Houston began to gather at their home. Information was given by the neighbors that individuals were going to a home with heads wrapped and clothing on, Muslim attire, and before you know it, the INS had raided this home early in the morning, causing almost a heart condition by the father. It is one of those 3:00, 4:00, 5:00, 6 a.m. raids where the father had to be taken into the hospital, elderly grandmother was in shock. And it was based upon information given to authorities that was—the information itself was wrong.

Certainly I would be disingenuous not to say that there was some immigration issues within that family, but they were law-abiding. There was not one—short of the immigration issues—one iota of any kind of criminal activity, terror activity involved. But they were swooped up on an INS raid on the basis of information given.

And without you saying, well, we got some INS violations, let me go to the larger question: That—and this is to Mr. D'Amuro. We have several points here about you now receiving voluntary information from groups, from private entities, the outsiders, encouraging that. It is important for me to know what you are doing to ensure the accuracy of this information.

Let me quickly go to my other question so that I can leave time for the Member panelists to ask. The accuracy of this information—because obviously those neighbors, private entities, outsiders, gave information of—which we certainly want to encourage, but it was wrong. Because obviously their information is they are gathering to talk about terror acts against Houston, Texas, et cetera, and it was absolutely wrong. And you sent people to hospitals, you destroyed a family, et cetera.

The other question I am interested in is the status of this gathering together or the process of Iraqi nationals and what happened with that. And has that ceased, or are we still doing that?

The other, of course, is the problem we have with the immigration community in general, throngs of individuals I have had in meetings, on the distrust and fear of even saying anything because you will be called in. How are you treating immigrants now, particularly those from Muslim background, young men? And I would be interested in getting a status report on the registration lists, to my knowledge, particularly impacting Pakistanis. And are you engaged in expanding that list? Is the FBI intimately engaged in expanding that list? If you would.

Lastly, to the DEA and ATF. And if we are going to have a second round, just to say to you that I would be interested in what resources you need to be fully a part of Homeland Security in the fight against terror from your agencies.

Mr. D'Amuro, if you would start on your questions.

Mr. D'Amuro, if you would start on your answer.

Mr. D'AMURO. Congresswoman, I will not attempt to speak for INS. I am unaware of the specific investigation you are talking about.

Ms. JACKSON LEE. You can focus on getting private information.

Mr. D'AMURO. You mentioned our Iraqi program. I have to be very cautious as to what specific information we put forth in an open hearing. However, I will say this, that I am very, very pleased with the results of the program that the Bureau put forward on that.

We took great care—and we began planning that program last spring—in making sure that we reached out to those communities and we talked to community leaders to make sure they understood what the FBI was going to be doing, what actions we would be taking, and what kind of information we were looking for.

We had our SACs from all the divisions reach into those communities and liaison with those communities. We also put forth through the media what actions the FBI would be taking with potential hostilities occurring with Iraq. The results of that program have been phenomenal. We have received very few complaints. We have received outstanding information that we have provided to the appropriate Government entities. So I think that is a success story.

I can understand the concerns of a lot of communities looking at actions since the events of 9/11, but we remain focused on making sure that our field office executive management liaised with those communities and made sure that we have appropriate coverages to investigate not only terrorist acts but also civil rights violations. We have made sure we have told those communities that in the event of hate crimes or civil rights violations that they contact the FBI office, and we will investigate those crimes in addition to counterterrorism threats.

Mr. COBLE. Sheila, if you will suspend on the second question, I will recognize the gentleman from Virginia and Wisconsin, and you may come back on the second round.

Ms. JACKSON LEE. Thank you.

Mr. COBLE. The gentleman from Virginia, Mr. Goodlatte.

Mr. GOODLATTE. Thank you for holding the hearing, and I appreciate the contributions of the witnesses, but I have no questions.

Mr. COBLE. The gentleman from Wisconsin.

Mr. GREEN. Thank you, Mr. Chairman. I have two questions for the FBI and the ATF.

Last year, last August, the GAO issued a report entitled Internet Cigarette Sales: Giving the ATF Investigative Authority May Improve Reporting and Enforcement. That report examined the growing problem of remote sales of cigarettes via mail order, the phone, and Internet, in clear violation of the Jenkins Act.

Currently, the FBI has primary authority for the enforcement of the Jenkins Act, but for some obvious reasons does not have all the resources to focus on the Jenkins Act enforcement. To improve enforcement of the law, GAO has suggested transferring primary enforcement authority from the FBI to the ATF, which is already engaged in tobacco-related enforcement activities.

Two questions. First off, how would the FBI and ATF receive such a change if it were proposed?

Secondly, what is the best way to accomplish this transfer of enforcement authority? Is legislation necessary, or can this be done administratively by the Attorney General?

In any order you would like to take it up in.

Mr. HANKINSON. I recall very well this review by GAO and looking at this particular matter. Yes, we do vigorously investigate various aspects of tobacco violations. Of course, they are becoming more numerous every day as the States continue to raise taxes on cigarettes, whether it be counterfeit tobacco, whether it be counterfeit stamps, whether they are sold on the black market, so to speak.

But this particular act probably, as I understand it from our chief counsel's office, would need legislation. I also want to point out in this particular act I believe that the violation amounts to a misdemeanor, which is a particular problem. The legislation would be needed to enhance the penalties.

Mr. GREEN. Mr. D'Amuro.

Mr. D'AMURO. Congressman, to answer your question, we have been utilizing some of those statutes with respect to the cigarette tax, with respect to investigating Hezbollah activities in this country. We have been very successful in doing that to disrupt those terrorist activities.

We are looking at a vast array of different classifications that ATF and the Bureau is working on, and we are in the process of those discussions to see how we go forward in the future.

Mr. GREEN. Thank you, Mr. Chairman.

Mr. COBLE. Let's start a second round right quickly here. Mr. Guevara, we have ignored you, so I will bring you into the center ring, here.

Given the FBI's redirection of resources toward terrorism and away from drug investigation, how is the DEA picking up the slack, A; B, is the current budget request adequate to cover these additional responsibilities; and, C, generally what is the DEA's role in the war on terrorism?

Mr. GUEVARA. Yes, sir. If I may begin with the latter part of the question with regard to DEA's role in terrorism, let me say that DEA is fully coordinating all our efforts with the rest of the Government agencies that require that cooperation. As my colleague from the FBI mentioned earlier, the Joint Terrorism Task Force on the ground level is, first and foremost, one of the central points of coordination in the field. DEA has personnel assigned to each and every one of those units for purposes of coordination.

The other thing that we are doing is, through the Special Operations Division that I mentioned in my testimony, we are providing additional support that will ensure that any intelligence that DEA is privy to is shared with the appropriate agencies.

As an example, between September 11, 2001, and December 31 of 2002, DEA's Office of Intelligence completed over 3,300 products in support of the FBI's counterterrorism activities.

In addition to that, the El Paso Intelligence Center, which is a DEA-led co-mingled effort, through February of this year was re-

sponsible for servicing 39 percent of all their inquiries relating to counterterrorism.

In addition to that, let me add that DEA has engaged in a heightened awareness of drug investigations to ensure that any investigations that DEA is pursuing in the course of our responsibilities is identified and passed to the appropriate agencies.

In addition to that question, DEA is fully committed to the OCDETF program, where DEA continues to be supported with budget increases that have allowed us to receive additional agent personnel that will again allow DEA to pursue drug trafficking investigations at the highest level of the traffic and, through our presence overseas, as well as domestically, allow us to target the major kingpins that are responsible for introducing narcotics and drugs into our communities.

Mr. COBLE. Thank you, sir.

Mr. Guevara, I have been told that appropriators may be attempting to eliminate the Demand Reduction coordinators under the RAVE Act. What do you say to that? It is my belief that these coordinators are essential.

Mr. GUEVARA. Yes, sir. The DEA Demand Reduction Program was initiated by DEA in 1986. The program involves 21—excuse me, involves a coordinator in each of the 21 field divisions. These Drug Demand Coordinators are responsible for outreach programs in the community and education, as well as training. Through this program we have reached some 10.4 million people across the United States.

We consider this a very important part of our efforts that are designed to complement the drug enforcement principal duties DEA is responsible for.

Mr. COBLE. Thank you.

Mr. Scott.

Mr. SCOTT. No, thank you.

Mr. COBLE. The gentlewoman from Texas.

Ms. JACKSON LEE. Thank you very much, Mr. Chairman. I thank Mr. Scott, as well.

Because we were in the midst of a line of questioning and maybe a line of reasoning, I might follow up again.

Mr. D'Amuro, let me pursue again with you—I appreciate the answers, but let me pursue this. I want you to be able to confine your responses to what is declassified, so let me be pointed about my questioning about the Iraqi nationals.

Clearly, I am sure that the attitude was to be helpful, but you have to understand that out of the desire to be helpful is also a fear not to complain. What are the guidelines and protections that are evidenced to this community that say, if you complain, you are as protected as if you don't complain? I am concerned about that.

If it is declassified, I would like to know, has it ended; or is this program still being monitored, still being utilized?

Let me press further on the outreach question or the question about the immigrant community. I don't think we have fixed that problem. There is no doubt that, whether it is the DEA, whether it is the ATF, that intelligence—when I say that, information—helps you solve cases. If you have a chilling effect where it is not known to the immigrant community—you can't speak for the INS,

but when it is not known to the immigrant community whether any encounter with law enforcement will result in their incarceration, I don't know how you are being helped in getting information.

With the new FBI focus on terror, that is a key aspect of your business, getting information. I am not convinced—and I did not hear you talk about the registration list, where we are on the registration list. I can assure you that that created enormous hardship, panic, fear and trepidation. I would like to know where you are and whether or not the FBI is engaged in expanding the list or doing anything with the list.

With the other gentlemen I raise that same question: How are you fitting yourselves into the Homeland Security Department on those aspects of your business, and what do you need from us? I serve on that Committee, the Select Committee on Homeland Security, and we are trying to deal specifically with solutions as to how we can make sure that we are working together.

Mr. D'Amuro, if you would focus on the concerns that I have.

Mr. D'AMURO. Congresswoman, I believe you are talking about the INSR list. That is an INS project. It is not a list that the FBI is going out trying to get people to register in. I don't know how to answer your concern about an INS program right now.

Ms. JACKSON LEE. I do know it is an INS program. My understanding was that the FBI is collaboratively assisting. You can correct that if that is incorrect.

What connection do you have to any who may be registered on that list in terms of interrogating them about information that may come to your attention? I am trying to find the nexus, and to suggest that there is a nexus; but more importantly, that the FBI has a responsibility in the immigrant community as it relates to your outreach necessities and getting information.

Mr. D'AMURO. Again, let me reiterate: We have gone to great lengths to make sure that the immigrant communities, the communities that we serve, understand what their legal rights are. We have instructed our special agent in charge of all the field offices to make sure they liaison with those communities.

They did this prior to hostilities occurring in Iraq to ensure that these communities were well aware that in the event that civil rights were violated, the FBI was there to conduct those investigations and to offer solutions to the problems that they were having, to make sure that connectivity was in place.

We also wanted to ensure that the communities felt as comfortable as they could. I know it is never comfortable when an FBI agent or a Federal officer is knocking on your door, but we felt it crucial to go out and reach those communities and to obtain the information that we feel this country needed to better protect itself.

We were very concerned, as the *Post* article that I commented on earlier stated, that we were in a situation that, once hostilities were engaged in with Iraq, that we would see additional terrorist acts in the United States. We have not seen those, and we are very fortunate we have not seen those. It is due to, I believe, the efforts of a lot of men and women in the Federal Government and in State and local law enforcement entities to try to prevent that.

I am not sure how else to answer your question. When we go out and we find people that are out of status, if those individuals are of concern to us, with INS, some of those individuals are picked up and arrested and incarcerated. They have the opportunity through the legal system to work out those particular problems.

We are very concerned that we reach out to the communities and obtain the information and obtain the intelligence we need to better protect this country. Those are the efforts that we are trying to make. We are not trying to go out and harass citizens that are here legally, that are law-abiding citizens. We are trying to do the best we can walking down a path that sometimes may seem very difficult.

Ms. JACKSON LEE. Mr. Chairman, can I ask unanimous consent for an additional minute for these gentleman who got passed up in the first round to at least answer this question?

Mr. COBLE. Permission is granted, if the gentleman from Florida will hang tough.

Ms. JACKSON LEE. If I can just restate it, Mr. D'Amuro, if you would give me in writing a response dealing with the question of whether you have access to these individuals on the registration lists, and whether you engage them in any sort of organized questioning, or do you utilize the list, I would appreciate it. We can talk directly on that point. I'm not asking you to answer it now. We can talk directly on that point by phone call or in writing. I would appreciate it very much.

The gentleman here wearing the homeland security hat, the question is how you interface with that department and what more can we do to make sure there is a good fit. Obviously, there is a suggestion of laundering of drug money, utilization in terror activities, and certainly weapons would be utilized.

Mr. HANKINSON. Speaking of ATF, we do have two important jurisdictions that relate potentially to terrorism. One, of course, is weapons. The second most important is explosives.

The Safe Explosives Act itself is prevention. That is, Congress clearly had the intent to see that explosives do not fall into the hands of, one, the criminal element and, two, people associated with terrorism. In that particular matter, we think that is a very important factor in the potential prevention of terrorism.

Ms. JACKSON LEE. Are you working with the Homeland Security Department?

Mr. HANKINSON. There is no doubt that we need to work better and harder with Homeland Security.

In that effort, we are establishing a separate directorate of information/intelligence for that data that we do gather in our everyday work so that we can, one, assemble it in one area; two, analyze it; and, three, get it to our Federal counterparts, as well as necessary to the local and State law enforcement officials.

Mr. COBLE. Very quickly, if you will.

Ms. JACKSON LEE. Thank you, Mr. Chairman.

The gentleman from the DEA, as well.

Mr. GUEVARA. Yes, ma'am. I can assure you that the DEA is taking steps aggressively to make sure that coordination is implemented. I know of at least six liaison officers who are attached to the Department of Homeland Security for purposes of coordination

and for purposes of capturing any information that may come to the attention of the Department of Homeland Security, where DEA may service any request, by way of any data or information that DEA is privy to.

On the other hand, or in reverse, they are there also for purposes of sharing any information that DEA may collect, particularly since we do have a foreign presence in 58 foreign countries. We are taking it very seriously, I can assure you, and have established these open lines of communication; while at the same time we are seeing these representatives come back to DEA and making suggestions on how we can best improve that.

Ms. JACKSON LEE. Thank you very much.

Mr. COBLE. You are indeed welcome.

The gentleman from Florida, Mr. Feeney.

Mr. FEENEY. Thank you, Mr. Chairman.

Mr. D'Amuro, when my last 5 minutes concluded you were at the point where you were describing the relationship between the FBI and information flow back and forward, and also intercepting and interdicting actual criminal behavior. We were talking about the 1,200 or so FBI notices that you have sent to sheriffs.

By the way, my sheriffs in Central Florida get those and they appreciate them. They say they are working with you to coordinate wiretapping capabilities because you don't have enough manpower to coordinate all the things you would like to be doing, at least in my area. If you can elaborate on that and finish your thought.

Also, I asked you about the States that have, as my State does, a public records policy of open access to the media and to individual citizens, to what extent is that hampering your ability to communicate freely with those local and State officials?

Mr. D'AMURO. We do have a project under way called Operation Gateway in which we are sharing intelligence with State and local entities, and where we are creating a database where those entities participating in the information-sharing will load their information into a database that is accessible to all the participants.

This particular program—the first one we have planned is hopefully going to be under way by the end of the month. It will be pursuant to—the State and local agencies are going to have to abide by their State and local laws, but it is an effort on our part to share Federal information that we can collect, that we are able to share, with all the securities built into that information, to try to enhance our information-sharing.

The intelligence reports are just one aspect of what we are trying to do at headquarters by centralizing the counterterrorism and counterintelligence program to make sure we get the information at headquarters and disseminate that to the communities that need it.

There are concerns. Whenever you share information on operations, you run the risk of divulging sources or techniques. We take great care in trying to protect those sources and techniques.

One of the positions we have created at FBI headquarters is that of a Reports Officer. The Reports Officer's function is to take the intelligence, take the information, and clean out and glean out the techniques and sources so we can share that information with the various communities.

We do all this, as I said earlier, under the guidelines that we have—under regulations with the Attorney General, guidelines and oversight from the Attorney General community and our own Office of Professional Responsibility. So all the protection for the American public is in place to ensure that we don't violate any civil liberties in the collection of this information and then in the dissemination or sharing of that information.

Mr. FEENEY. Some have suggested that the collection and analysis of intelligence-gathering domestically ought to be separated from the law enforcement capacity, and have even suggested that the FBI concentrate on law enforcement and have the intelligence-gathering aspects removed. Do you agree with that? What is your response to those critics?

Mr. D'AMURO. I vehemently disagree with that. I will tell you why.

The beauty—I will use the counterterrorism program as an example of this. The beauty of how the Bureau operates in the counterterrorism world, I said earlier, is two-fold. It deals with national security issues; it deals with criminal issues.

Whenever we open investigations, there are national security concerns. That is how we look at them. We look at the prevention issue.

The beauty of what we do, if we look at the situation in Buffalo, New York—and I can't get into a lot of details in this particular hearing—that was a national security investigation in which we were collecting intelligence. Once we learned that actual crimes had taken place, it gave the FBI, it gave the JTTF the ability to request to have that information passed over a wall so we could utilize it in a criminal proceeding to disrupt the actual activity that was taking place in this country.

Many other countries that have intelligence organizations only can only collect information; they can't act upon it. Within 24 hours of receiving intelligence information that crimes had taken place, these individuals were off the street.

There are many other law enforcement entities and intelligence entities that I have dealt with over my career that wished they had the ability to—not to have stovepipes, but be able to act upon intelligence and law enforcement evidence at the same time. That I think is the beauty of what the JTTF brings to this country. It has the ability for the intelligence collection as well as the disruptive law enforcement action, and all of it is monitored so that we don't overstep our bounds.

If I could just add one more thing, I would say to Congresswoman Lee, I would like to offer you a full briefing on how we operate with INS. They are on the task forces, and we do work very closely with them. I offer you that briefing at any time you would like. I will reach out to your office to get that scheduled.

Ms. JACKSON LEE. Absolutely. I appreciate it.

I hope to be back before the conclusion to say one or two things on the record. Thank you very much.

Mr. COBLE. The gentleman from Virginia, Mr. Scott.

Mr. SCOTT. Thank you, Mr. Chairman.

Just following up on that, Mr. D'Amuro, is the CIA part of the JTTF?

Mr. D'AMURO. Many of the JTTFs do have CIA representation on them; not all 66, but many of them.

Mr. SCOTT. Now, your USA PATRIOT Act additional powers are not limited to terrorism, is that right?

Mr. D'AMURO. That is correct. The ones I am most familiar with are the counterterrorism ones.

Mr. SCOTT. When you start gathering information on people with these accelerated procedures and without the normal checks and balances, you can get foreign intelligence information without probable cause that a crime is being committed.

Mr. D'AMURO. There is a different threshold of what probable cause is for a national security investigation.

Mr. SCOTT. Yes. But a crime does not have to be involved?

Mr. D'AMURO. That is correct. That's correct.

Mr. SCOTT. If this was limited to terrorism, I don't think many of us would have much of a concern. But we are doing this in run-of-the-mill, everyday domestic crimes, right?

Mr. D'AMURO. No, not in the domestic crimes. We are looking at this for counterintelligence and counterterrorism information.

Mr. SCOTT. Is there anything in the USA PATRIOT Act that limits the application of that act in sharing information between the CIA and the FBI? Is there anything that limits it to—

Mr. D'AMURO. Not in the sharing of the information, no. We do share information much more freely now, specifically as it pertains to FISA-derived information, which is the biggest change.

Mr. SCOTT. Mr. Guevara, you mentioned that you have been dismantling drug operations. Has there been any study to show whether or not the dismantling of a drug operation actually results in a reduction in drug use, rather than having a situation where others come in to fill the demand, fill the void that has been created by your investigatory and prosecution—

Mr. GUEVARA. Yes, sir. We have the Metropolitan Enforcement Teams, the MET program, that goes into high crime, violent-type street crime activity. Studies following the deployment of these teams have indicated that crime does, in fact, go down.

As to the second part of your question, whether others come in and take over, we have not had exhaustive and long-term studies to address that specifically. That is one of the things that DEA needs to do better, in terms of measuring our success.

Mr. SCOTT. You have measured the drop in actual drug use with treatment?

Mr. GUEVARA. Yes, sir, we have. There are studies that indicate, for example, that cocaine use has declined over the course of the last 10 years. That I will daresay is, in part, because of the efforts of law enforcement, and DEA in particular, in dismantling these major drug trafficking organizations that are responsible for bringing in the large-scale quantities of drugs into our country.

Mr. SCOTT. All of the studies show that you can reduce drug use more with treatment than with law enforcement. Are you familiar with those studies?

Mr. GUEVARA. Yes, sir. That is correct.

Mr. SCOTT. How much money would it cost for us to be able to provide drug treatment on demand so there are no waiting lists?

Mr. GUEVARA. I do not know the answer to that. If I may, perhaps I could respond to you in writing.

Mr. SCOTT. Okay.

I say that because we spend billions for interdiction and law enforcement. If we could get drug treatment on demand, which would have, as we know, a more cost-effective way of reducing drug use—we ought not to be stingy on drug treatment, where it is more cost-effective.

Mr. D'Amuro, in your response to the Chairman's first question, I wasn't sure whether you had connected terrorism to Iraq or not. We know that the terrorists for 9/11 were from Saudi Arabia, Egypt, everywhere except Iraq, and that there are a great number of questions as to whether Iraq has anything to do with international terrorism landing in the United States or not.

Is it your testimony now that the Iraqi government was any more of a threat of terrorism in the United States than anybody else in the Middle East? Or is it your testimony that the FBI and others have been effective with—not in Iraq but all around the world dealing with al-Qaeda.

Mr. D'AMURO. As I said, I believe DOD, CIA, and FBI has been very effective with al-Qaeda. Iraq has long been a state sponsor for terrorism. I would be more than happy to brief you in a closed hearing as to some of the different aspects of Iraqi support of terrorism, as well as some of the other state sponsors.

My opinion of Iraq has not changed. They are a state sponsor and they were a threat to this country.

Mr. SCOTT. Mr. Chairman, I would like to pose one further question that I would like answers in writing for, because I suspect they will take longer than can reasonably fit into whatever the extension of 5 minutes there will be.

The last time we were here, we had testimony that firearms were being lost by some of our law enforcement agencies. I would like an update on what we are doing to prevent firearms from being lost in our various agencies, from all three agencies.

For the FBI specifically, what is going on in our criminal labs after the questions are raised about whether or not the test results have been accurate or not?

If they could respond as soon as they can, Mr. Chairman.

Mr. COBLE. If you all could respond in writing to Mr. Scott for that.

Mr. D'Amuro, I like the idea of a closed hearing for this Subcommittee. I think that has merit. We will talk about that in more detail.

Before I recognize the gentleman from Virginia, Mr. Goodlatte, in response to Mr. Scott's question, I believe you said it would not require a crime. But if it is a United States citizen, it would in fact require a crime, would it not?

Mr. D'AMURO. Yes. There are separate regulations governing investigation of United States citizens.

Mr. COBLE. Okay.

The gentleman from Virginia.

Mr. SCOTT. Mr. Chairman, if you will yield on that point, on these roving wiretaps, where there are taps all over the place, you may in fact be listening in on American citizens that have nothing

to do with the operation. They just happen to be using the same phone, and the tap was put there without any predicate of a crime being committed.

Mr. D'AMURO. There are separate guidelines. Once that is identified, we have to immediately notify the Attorney General. I will be glad to go through those procedures with you, where we have to seek appropriate authority once we have shown a United States citizen is acting on behalf of a foreign power.

Mr. SCOTT. I am saying, you have a target who is an agent of a foreign government using a phone, a corner pay phone, and you have a tap on it. Some citizen wanders in, uses the same phone, and you have got a wiretap on him.

I had an amendment when this thing went through the Committee on the Judiciary that said when the target leaves the building where one of these roving wiretaps are placed that you would stop listening.

Mr. D'AMURO. Correct.

Mr. SCOTT. Well, except that the amendment was not adopted.

Mr. D'AMURO. There are minimization laws and requirements that are imposed upon different types of techniques that we utilize. There are oversights to make sure that we don't overstep those bounds. I will not say that there are not mistakes made, but they are identified and reported whenever they occur.

Mr. SCOTT. If you have a minimization of listening in on an American citizen because you are listening to somebody else and you heard him blurt out a crime, what would happen?

Mr. D'AMURO. If there was information that was obtained that was outside of the minimization laws, we would have to make that known.

Mr. SCOTT. Within the minimization laws, you are listening, you just happen to be listening—

Mr. D'AMURO. He blurts out a crime? If this is a national security case, we would go back to the FISA court and request authorization by them to be able to use them, in that case.

Mr. SCOTT. Not a foreign threat, a drug deal.

Mr. D'AMURO. There is a whole different thing. Are you talking about a criminal investigation?

Mr. SCOTT. No, I am talking about listening in on an agent of a foreign government. You use your minimization, an American citizen wanders in on the same phone, you listen to determine whether it is your man or not, and he blurts out an entirely unrelated crime.

Mr. D'AMURO. That would have to go back to the FISA court. The only two mechanisms we have for intercepts such as you are speaking of are national security laws governed by the FISA court or title III governed by a criminal court.

Mr. SCOTT. You are listening in on a FISA wiretap and you just happen to trip over some information of another crime.

Mr. D'AMURO. That would be made known to the FISA court, because there are minimization procedures set up—I don't understand what you are saying. If we did not violate the minimization procedure, we would still make that information known to the FISA court to determine whether or not it could be used in a criminal case.

Mr. COBLE. The gentleman from Virginia.

Mr. GOODLATTE. Thank you. I do have one question of Mr. D'Amuro.

You mentioned assessments, ensuring information-sharing and comprehensive analysis of threats. How does the TTIC differ from the Homeland Security's information analysis division?

Mr. D'AMURO. I won't speak for Homeland Security, but what we tried to do with the TTIC, the one piece that was missing was the fusion of all the different intelligence community components.

In the fusion of that threat analysis, Homeland Security is a full participant in the TTIC. I believe it chooses to do the threat analysis within the TTIC, but all the different agencies are providing the information there, so you have one-stop shopping for that fusion of information.

Now, Homeland Security, in addition to the threat analysis piece that it obtains from the TTIC, has the vulnerability assessment analysis within the department itself. So it would take the threat assessment, the threat analysis, and lay that over the vulnerabilities assessment in doing the infrastructure protection. We have a separate analytical center for that.

Mr. GOODLATTE. Thank you.

Mr. COBLE. Thank you, Mr. Goodlatte.

Gentlemen, we thank you all for your testimony. The Subcommittee very much appreciates your contribution.

This concludes the oversight hearing on the reauthorization of the Department of Justice criminal law enforcement agencies. The record will remain open for one week. Thank you for your cooperation.

The Subcommittee stands adjourned.

[Whereupon, at 3:38 p.m., the Subcommittee was adjourned.]

## CRIMINAL LAW COMPONENTS AT MAIN JUSTICE

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WEDNESDAY, MAY 14, 2003

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON CRIME,  
COMMITTEE ON THE JUDICIARY,  
*Washington, DC.*

The Subcommittee met, pursuant to call, at 2 p.m., in Room 2141, Rayburn House Office Building, Hon. Howard Coble (Chairman of the Subcommittee) presiding.

Mr. COBLE. Good afternoon, ladies and gentlemen.

The Subcommittee on Crime, Terrorism, and Homeland Security holds the second of two hearings on the reauthorization of the Department of Justice.

Our Subcommittee is charged with oversight of seven of the DOJ components. The Subcommittee's first hearing, held on May 6, featured four law enforcement agencies under the Department of Justice, FBI, DEA and ATF. Events from last week remind us why it is important for this Subcommittee to exercise its oversight responsibilities.

Today's hearing focuses on four additional criminal law components of the Justice Department. They are the Criminal Division, the Office of Justice Programs, U.S. Marshals Service and the Federal Bureau of Prisons.

The Criminal Division was created in 1919 and is responsible for developing, enforcing and supervising the application of all Federal criminal laws except those specifically assigned to other divisions. The Division has the responsibility of overseeing criminal matters under more than 900 statutes. In addition to its direct litigation responsibilities, the Division formulates and implements criminal law enforcement policy and provides legal advice and assistance to Federal prosecutors and investigative agencies.

The Office of Justice Programs was established in 1984 to provide Federal leadership, coordination and assistance needed to make the Nation's justice system more efficient and effective in preventing and controlling crime. Through programs developed and funded by its bureaus and offices, OJP works to form partnerships among Federal, State and local government officials to reduce and prevent crime, improve the administration of justice in America and meet the needs of crime victims.

The Federal Bureau of Prisons was established in 1930 to provide more progressive and humane care for Federal inmates, to professionalize the prison service and to ensure consistent and centralized administration of Federal prisons. The Bureau of Prisons

protects society by confining offenders in safe, humane and secure facilities. The Bureau focuses on balancing punishment, deterrence, incapacitation and rehabilitation.

The United States Marshals Service is the Nation's oldest law enforcement agency. Since 1789, the U.S. Marshals have served in a variety of law enforcement activities. The Marshals Service occupies a uniquely central position in the Federal justice system. It is involved in virtually every Federal law enforcement initiative. Deputy Marshals and career employees perform a variety of missions including fugitive apprehension, court security, prison transportation and custody, witness protections and assets seizure.

Today's witnesses oversee some of the most significant components of our Nation's criminal justice system, since guarding public safety is one of Government's most essential duties. We look forward to hearing from the witnesses about the challenges they face and the ways in which Congress can help them accomplish their goals.

I am now pleased to recognize the distinguished gentleman from Virginia, the Ranking Member of the Subcommittee, Mr. Bobby Scott.

Mr. SCOTT. Thank you, Mr. Chairman.

I am pleased to join you in convening the hearing on the reauthorization of the Department of Justice criminal law enforcement support operations.

The operations in force today reflect the wide breadth of the Department's jurisdictions from the front end of the criminal justice process with the Office of Justice programs to prevent crimes before they occur, to the U.S. Marshals' apprehension and arrest functions, the Criminal Division's prosecution function, to the end of the system with the Bureau of Prisons' incarceration and rehabilitation.

I would hope to hear from OJP about effective crime prevention programs. We know that prevention—just because a program is called a prevention program doesn't mean that it works, but many of the programs save a lot more money than they cost because they are so effective. I understand that Abt Associates has recently done a report on crime prevention programs, and the results are somewhere in the Department of Justice, and we would like to hear the results of that study.<sup>1</sup>

On the arrest and prosecution functions, we have concerns about violations of traditional principles of criminal law where we are using extraordinary law enforcement powers authorized under the USA PATRIOT Act and the recently enacted Protect Act. The USA PATRIOT Act allows interactions between law enforcement and intelligence gathering which draws the traditional bright line between the two to become a bit fuzzy.

Under FISA, you can get wiretaps involved, including roving wiretaps, without probable cause of a crime and rove around and place taps in many places without specific court intervention. Now FISA can share information without probable cause with law enforcement, and so criminal investigations can be opened without

<sup>1</sup>This report, entitled "The Comparative Costs and Benefits of Programs to Reduce Crime" is not reprinted here. It is available at <http://www.wsipp.wa.gov/crime/pdf/costbenefit.pdf>.

the probable cause requirement. This is just not for terrorism. It is also for other crimes as well.

Even under the traditional criminal law enforcement procedures, we have authorized sneak and peek searches, arrest and hold without charges, let alone probable cause; and now we are proposing a second round of PATRIOT Act authorizations. So we need to find out exactly how it has worked and what is being proposed.

Under the Protect Act, searches, wiretaps, arrests and prosecutions are all authorized for legal virtual images created on a computer; and we force a defendant to prove his or her innocence to avoid a conviction and imprisonment. Under the BOP function, we incarcerate people for many years; and we ought to make sure for the sake of public safety as well as prisoners and their families that they leave better than they came.

Now we, in Congress, unfortunately, ended the use of Pell Grants which allowed prisoners to take college courses while they are incarcerated, despite the universally consistent evidence that education reduces crime. The crime rate among college graduates is nonexistent, compared to the rate among those who have not attended college. Taking Pell Grants away was not the fault of the Department of Justice, but I would like to hear what they thought of that and some other ideas.

I would also like to hear about what we are doing involving work experience and job training for inmates in light of the Department of Defense FPI restrictions and overwhelming evidence of the recidivism reduction for those who have had the opportunity to participate in the prison workforce programs.

I would like to hear about what we are doing for inmate drug treatment in light of the evidence that drug treatment reduces recidivism. We would like to hear about the Bureau of Prisons' position on the Prison Rape Reduction Act, particularly in light of the Chairman's cosponsorship of the bill and our full Committee Chairman Mr. Sensenbrenner's stated objective of moving the bill forward.

With that, Mr. Chairman, I look forward to the testimony of the witnesses and hope they can address some of those issues.

Mr. COBLE. I thank the gentleman; and we are pleased as well to welcome the other gentleman from Virginia, Mr. Forbes.

Let me give some background about our witnesses. I think members of the audience need to know the credentials our witnesses bring to the table.

Our first witness is the Honorable Deborah Daniels, Assistant Attorney General for the Office of Justice Programs. Assistant Attorney General Daniels was nominated by President Bush and confirmed by the U.S. Senate on September 21 of 2001.

Prior to her work at Justice, Ms. Daniels had a distinguished career in criminal prosecution both on the local and Federal levels, as well as background and community economic development and neighborhood revitalization. She received a BA with honors from DePaul University and was graduated cum laude from the Indiana University School of Law.

Our next witness is Mr. Harley Lappin, who was sworn in as the Director of the Bureau of Prisons on April 4, 2003. He is a career public administrator in the Federal Bureau of Prisons and the sev-

enth director of the Bureau since its establishment in 1930. Director Lappin received a BA degree in forensics studies from Indiana University in Bloomington in 1978 and a Master of Arts degree in criminal justice and correctional administration from Kent State University in Kent, Ohio, in 1985.

Our third witness is Mr. Benigno G. Reyna, who was appointed by President Bush to serve as Director of the United States Marshals Service on October 29, 2001, after a 25-year career in law enforcement. Director Reyna received his Bachelor of Science Degree in criminal justice from the University of Texas-Pan American and received the 2002 Distinguished Alumnus Award from Texas Southmost College. Director Reyna is also a proud graduate of the FBI Academy in Quantico, Virginia.

Our final witness is Ms. Julie Myers, who is the Chief of Staff to Assistant Attorney General Michael Chertoff in the Criminal Division of the Department of Justice. Prior to joining the Department, Ms. Myers was the Deputy Assistant Secretary for Money Laundering and Financial Crimes at the Department of Treasury and served as an Assistant United States Attorney in the Eastern District of New York.

Ms. Myers also worked as an Associate Independent Counsel under Independent Counsel Kenneth Starr on the Whitewater and Lewinsky investigations. Ms. Myers received her bachelor of arts from Baylor University and was graduated cum laude from the Cornell School of Law.

It is good to have each of you with us. We have written statements from all the witnesses on the panel, and I ask unanimous consent to submit into the record their entirety.

Folks, as you all have been previously admonished, Mr. Scott and I comply with the 5-minute rule. When the red light illuminates into your eyes, you know the ice is thin on which you are skating, so wrap at the 5-minute rule.

Your statements have been read and will be reexamined again. It is good to have all of you with us.

I stated to Mr. Forbes and Mr. Scott I have to depart at 3:30, and I will stand relieved at that time. Don't think that my departure is an indication of lack of interest in what we are discussing today. I just happen to be in another meeting.

But it is good to have all of you with us.

Mr. COBLE. Why don't we start, Ms. Daniels, with you.

**STATEMENT OF THE HONORABLE DEBORAH DANIELS, ASSISTANT ATTORNEY GENERAL, OFFICE OF JUSTICE PROGRAMS, U.S. DEPARTMENT OF JUSTICE**

Ms. DANIELS. Thank you, Mr. Chairman.

Chairman Coble, Congressman Scott, Congressman Forbes—

Mr. COBLE. If you will suspend, Mr. Scott very appropriately reminded me that the ice becomes thin when the amber light appears. But we will be flexible.

Ms. DANIELS. May I begin again?

My name again is Deborah Daniels. I am the Assistant Attorney General for the Office of Justice Programs at the Department of Justice. It is a pleasure to be here today to discuss OJP and its efforts to provide Federal leadership in developing the Nation's ca-

capacity to prevent and control crime, administer justice and assist victims.

During the last Congress, this Subcommittee held hearings addressing issues related to duplication, overlapping programs, a lack of coordination among OJP bureaus and offices and a management and organizational structure that had grown cumbersome. These are issues of critical importance to OJP as well as to this Subcommittee.

In 2001, OJP began implementing our agency-wide reorganization in consultation with the Congress aiming for a more effective and efficient organization. We have made great strides in that direction. To guide our improvement efforts, we have developed a comprehensive management plan focusing on how OJP operates as an agency, how we manage the resources appropriated to us by the Congress, how we measure what we do, how we ensure that those resources flow to the communities that need them as quickly and efficiently as possible. Our implementation of the initiatives outlined in the plan is well under way.

As you know, Mr. Chairman, the Administration's fiscal year 2004 budget request for OJP is \$2.185 billion. The funds requested will help States, local communities and organizations across the country maintain their momentum in reducing and preventing crime, controlling drug abuse and trafficking, meeting the needs of crime victims and addressing problems such as gang violence, juvenile crime and domestic violence.

One of the most important initiatives in the President's budget with regard to which this Subcommittee has already been helpful to us is the President's DNA initiative, Advancing Justice Through DNA Technology. DNA offers significant opportunities to ensure fairness in the criminal justice system to help protect citizens and to enhance support for victims of crime. To accomplish these goals, President Bush has proposed a 5-year, \$1 billion effort. The President's initiative is a multi-front approach which will vastly increase the Nation's ability to protect the innocent, convict the guilty and prevent the victimization of many people in this country.

The Administration's commitment to protecting children is clearly seen in the nearly \$33 million request in our budget request for the Missing and Exploited Children's Program and AMBER Alert. As you know, in October, 2002, the President issued a directive to the Attorney General to designate an AMBER Alert coordinator within the Department of Justice. I have been so named. I am honored to serve in that capacity, and we are moving ahead rapidly in our efforts to establish and link local and Statewide alert plans.

We are also pleased for the Congress recently passed and the President signed the Protect Act of 2003. This Act is an historic milestone for our Nation's children and provides enhanced tools and resources which will strengthen our ability to prevent, investigate, prosecute and punish violent crimes committed against children. We owe special things to the Members of the Judiciary Committee and especially to Chairman Sensenbrenner and to you, Chairman Coble, for being instrumental in the passage of this historic legislation.

One particular proposal in the Administration's budget on which we hope to work very closely with this Subcommittee is the Justice

Assistant Grants, otherwise known as JAG program. This is a consolidation of the Local Law Enforcement Block Grant Program and the Edward Byrne Formula Grant Program into a single program distributing funding both to State and local governments.

OJP proposes that the more than 29 Byrne and 7 LLEBG purpose areas be consolidated into a few very broad purpose areas. This will permit States and communities to improve all aspects of their criminal justice and correction systems and particularly will give local jurisdictions more discretion than they currently have under LLEBG. It will also streamline their process for applying for these funds.

Mr. Chairman, OJP is committed to being the premier resource for the justice community. I look forward to continuing our work together with the Subcommittee to ensure that OJP carries out its mission to the best of its ability.

I have submitted my written statement. I appreciate you accepting that, and I thank you again for this opportunity to appear before the Subcommittee. I will be pleased after the testimony to respond to any questions the Members may have.

Thank you very much.

Mr. COBLE. I commend you, Ms. Daniels. You beat the red light. [The prepared statement of Ms. Daniels follows:]

#### PREPARED STATEMENT OF DEBORAH J. DANIELS

Chairman Coble, Congressman Scott, members of the subcommittee, my name is Deborah J. Daniels, and as the Assistant Attorney General for the Justice Department's Office of Justice Programs (OJP), it is a pleasure to be here today to discuss OJP and its efforts to assist State and local communities.

As the subcommittee is aware, OJP provides Federal leadership in developing the nation's capacity to prevent and control crime, administer justice, and assist victims. OJP comprises 5 component bureaus and 2 offices: the Bureau of Justice Assistance; the Bureau of Justice Statistics; the National Institute of Justice; the Office of Juvenile Justice and Delinquency Prevention; and the Office for Victims of Crime, as well as the Executive Office for Weed and Seed, and the Office of the Police Corps and Law Enforcement Education. OJP's Office on Violence Against Women, pursuant to the decision of the Attorney General, will soon be designated as a separate office within the Justice Department.

#### IMPROVING OJP OPERATIONS

First and foremost, Mr. Chairman, it is critically important to all of OJP's leadership to improve how OJP does business. During the last Congress this subcommittee held a series of three hearings, addressing issues of critical importance to the subcommittee, as well as to those of us at OJP. Issues discussed included various duplications of authorities within the statutes governing OJP, overlapping programs and lack of coordination among OJP bureaus and offices, and a management and organizational structure that had grown cumbersome.

During the past decade, OJP has experienced extraordinary growth and change. Since the passage of the crime bill in 1994, OJP added four program offices, expanded its focus from 14 to 43 major budget activities, increased by 1,300% the number of grants awarded annually, and experienced more than a five-fold increase in the total dollar amount of awards administered.

This period of growth greatly increased the ability of OJP to drive and support improvements throughout the justice system. However the piecemeal fashion in which organizational and programmatic changes occurred resulted in a wide range of management challenges.

The clear message Mr. Chairman, was that OJP had to change; and we took this message to heart. Today, all of OJP is working to improve the way we accomplish our mission and serve our customers. Our aim is to make significant changes in the way we operate, making our services both more accessible and more effective. I am pleased to report that great progress has been made toward the accomplishment of these goals.

OJP has begun implementing our agency-wide reorganization. In 2001, we submitted to Congress a reorganization plan for OJP and, consistent with that plan, began the process of re-building OJP into a more effective and efficient organization.

However, Mr. Chairman, the reorganization of OJP is about more than just streamlining, creating efficiencies, and increasing coordination. Through our efforts, we strive to improve OJP's overall responsiveness to the criminal justice field, to States and localities, to individuals, and to the Congress. Any reorganization must also leverage, to the greatest extent possible, Federal funds to ensure effective utilization of taxpayer resources. Moving forward in this manner will allow OJP to forge new relationships of cooperation and trust with our partners in State and local communities, while not neglecting other pressing, and ongoing, needs in the fight against crime. OJP's reorganization will also meet the President's call to Federal agencies to promote "an active but limited government; one that empowers States, cities and citizens to make decisions; ensures results through accountability; and promotes innovation through competition."

Merging the programs and staffs of the Corrections Program Office and the Drug Courts Program Office into the Bureau of Justice Assistance (BJA) consolidated overlapping functions, reduced management redundancy, and improved coordination and communication not only within OJP, but also with the field. We also created the Office of the Chief Information Officer (OCIO), in recognition of the importance of mission-critical automated systems. The swift implementation of the OCIO has transformed OJP's grants process—moving from a labor intensive, paper process to a centralized paperless system through which 84% of our grants are now processed. By the end of fiscal year 2003, we expect to administer all OJP grants electronically.

We have also begun the consolidation of several administrative and support functions into the Office of Management and Administration. In addition, our new Office of Communications will carry out OJP's congressional and public affairs and other information dissemination functions.

Mr. Chairman, we will soon be working to merge the programs, functions, and staff of the Executive Office for Weed and Seed and the American Indian and Alaska Native Affairs Desk into the Community Capacity Development Office (CCDO). The CCDO is an exciting concept which brings into focus one of OJP's core missions—to work with local communities to enhance their capabilities to address crime, substance abuse, delinquency, and domestic violence. Through training and technical assistance, the CCDO will help communities better help themselves—enabling communities to develop solutions and the leadership to implement and sustain solutions to these problems. Weed and Seed will be the flagship program in the CCDO, but we will expand the collaborative, community-driven approach to many other programs.

To guide our improvement efforts, we have developed a comprehensive management plan that identifies and schedules major change initiatives within OJP. It is important to recognize that the management plan focuses on how OJP operates as an agency—on how we manage the resources appropriated to us by the Congress, and how we ensure that those resources flow to the communities that need them as quickly and efficiently as possible. It is also important to recognize that OJP's management plan adds depth and detail to OJP's reorganization efforts. At the core of this plan are four major performance improvement goals.

1. Make OJP the premier source for the various types of information and assistance our customers need;
2. Efficiently manage our resources and ensure top-to-bottom accountability;
3. Create the conditions for our employees to flourish; and
4. Standardize and streamline our processes and automated systems.

And in achieving these goals, OJP's leadership has been guided by several key principles.

1. We will be customer-driven;
2. We will be informed decision-makers; and
3. We will respect and value our employees.

We have already made considerable progress in the development and implementation of OJP's management plan, but much remains to be done. We are not however, without early successes. As I mentioned, we are committed to making OJP the premier source of assistance and information needed by our customers. To that end, we have enhanced our Internet services, making the web more usable and informative for our customers. In 2002, OJP's Bureau of Justice Statistics website alone had more than 3 million hits. We have also instituted data quality guidelines for information we release to ensure the objectivity, utility, and integrity of the infor-

mation. I mentioned that OJP will standardize and streamline its automated systems. This year OJP completed its first Technology Strategic Plan to guide us in identifying and addressing our technology needs. We have also eliminated many administrative requirements for applicants and grantees, in order to allow for the streamlined delivery of financial resources to States and localities.

We are making progress in improving the business of serving our customers. The Bureau of Justice Statistics (BJS) continues to present trends through user friendly tools such as *Key Facts at a Glance*. *Our Guide to Federal Resources for Weed and Seed Communities* will improve sustainability of community-driven efforts by helping to identify other potential resources for funding and training. BJA's *Guide to Grants* will serve as a tool for grantees and will be the model for an OJP Guide to Grants.

Collectively, these actions will move OJP toward greater centralization of management, and improve communication and coordination across components and programs. These actions will also help reduce redundancies in administrative functions. However, the reorganization, streamlining, and other successes that OJP has achieved over the past few years could not have been achieved without the support and assistance of the Congress. That support has been vitally important and very much appreciated. We look forward to working closely with the Congress, and this subcommittee, as we work to improve OJP's service to the State and local community. Only in this way can we be good and responsible stewards of the funds Congress has entrusted to us in the past, and the funds we ask Congress to entrust to us in the future.

#### RESOURCES FOR THE FUTURE

As you know, Mr. Chairman, the Administration's fiscal year 2004 budget request for OJP is \$2.185 billion. The funds requested will help States, local communities, and organizations across the country build upon what we have learned through research and experience about what works in controlling crime. Communities will be able to maintain their momentum in finding ways to reduce and prevent crime, control drug abuse and trafficking, meet the needs of crime victims, and address problems such as gang violence, juvenile crime, and domestic violence.

#### ADVANCING JUSTICE THROUGH DNA TECHNOLOGY

One of the most important initiatives in the President's budget, with regard to which this subcommittee has already been helpful to us, is the President's DNA initiative—*Advancing Justice Through DNA Technology*. The President's commitment to this comprehensive initiative using DNA technology was announced by the Attorney General on March 11, 2003. DNA offers significant opportunities to ensure fairness in the criminal justice system, to help protect citizens, and to enhance support for victims of crime. However, the full potential of DNA technology can only be realized through a concentrated effort that improves current Federal and State DNA collection and analysis systems.

To accomplish these goals, President Bush has proposed a 5-year, \$ 1 billion effort. This includes \$232.6 million in Federal funding in fiscal year 2004. The elements of the *Advancing Justice Through DNA Technology* initiative are:

1. Eliminating backlogs of unanalyzed samples both known offender samples and crime scene samples, including rape kits;
2. Enhancing crime lab capacity on the Federal, State, and local levels through funding for automation;
3. Stimulating research and development of faster and less expensive means of analyzing DNA samples;
4. Training the criminal justice and medical communities to collect and use DNA evidence to maximum effect, while demonstrating sensitivity to victim concerns;
5. Using DNA to protect the innocent by offering post-conviction testing; and
6. Using DNA to identify missing persons.

Most of the funds under the President's initiative would be administered by OJP's National Institute of Justice (NIJ). These funds are intended primarily to assist State and local governments in eliminating their backlogs of crime scene and offender DNA samples, to increase State and local forensic laboratory capacity to carry out DNA analysis, and to advance research to reduce the cost and increase the speed of DNA testing, further enhancing the capability of State and local laboratories to conduct more tests.

## PROTECTING OUR CHILDREN

The Administration's commitment to protecting children is clearly seen in the \$32.986 million request for the Missing and Exploited Children's Program and AMBER Alert. As you know, on October 2, 2002, the President issued a directive to the Attorney General to designate an AMBER Alert Coordinator within the Department of Justice, which he did that same day by appointing me. It is an honor for me to serve in this capacity.

We are also pleased that the Congress recently passed, and the President, on April 30, 2003, signed, the PROTECT Act of 2003. This act is an historic milestone for our nation's children and provides the Federal government enhanced tools and resources, including enhanced resources for the AMBER Alert program, which strengthen law enforcement's ability to prevent, investigate, prosecute, and punish violent crimes committed against children. We owe special thanks to the members of the Judiciary Committee, especially to Chairman Sensenbrenner and to you, Chairman Coble, for being instrumental in the passage of this historic legislation.

OJP's Missing and Exploited Children's Program collects statistics about missing children, and identifies best practices and emerging technical information to keep ongoing training and technical assistance programs current. The program also provides training and technical assistance on a wide variety of child victimization topics, ranging from assisting communities in developing comprehensive response protocols and action plans to specific investigative techniques for front-line law enforcement personnel.

The AMBER Alert program is a voluntary collaboration between police and broadcasters, through which emergency alerts are issued to notify the public about abductions of children. The AMBER Plan was created in 1996 as a powerful legacy to 9-year-old Amber Hagerman of Arlington, Texas, who was kidnaped and brutally murdered while riding her bicycle. Since her tragic abduction and death, the AMBER Alert Plan has been implemented in 39 States nationwide, and has assisted in the recovery of over 50 children.

In the fiscal year 2004 President's budget, OJP has asked for \$2.5 million to continue efforts to establish a coordinated AMBER Alert Network nationwide, as well as to train law enforcement and others in operating it. We are pleased that the Congress provided \$2.5 million in the fiscal year 2003 appropriations bill for these efforts.

## LAW ENFORCEMENT ASSISTANCE

A proposal in the Administration's budget on which we will need to work closely with this subcommittee is the Justice Assistance Grants (JAG) Program, which is a consolidation of the Local Law Enforcement Block Grant (LLEBG) Program and the Edward Byrne Formula Grant (Byrne) Program into a single grant program. Authorized by the Anti-Drug Abuse Act of 1988, as amended, the Byrne program assists States and units of local government in carrying out programs that offer a high probability of improving the operation and effectiveness of the criminal justice system. The States, in consultation with local officials, develop statewide strategies and funding priorities to address their drug and violent crime problems and to improve the functioning of their criminal justice systems, while supporting national priorities and objectives. Since 1996, the LLEBG program has awarded more than 14,000 grants to jurisdictions in all 50 States, the U.S. Territories, and the District of Columbia for the seven legislated purpose areas supporting reductions in crime and improvements in the criminal justice system. This program provides units of local government with funds to underwrite projects designed to reduce crime and improve public safety.

JAG funding would be distributed to both State and local governments. OJP proposes that the more than 29 Byrne and seven LLEBG purpose areas be consolidated into a few broad purpose areas, including:

- Law Enforcement Programs
- Prosecution and Court Programs
- Community-Based and Statewide Prevention and Education Programs
- Corrections Programs
- Drug Treatment Programs
- Planning, Evaluation and Technology Improvement

Under this structure, local jurisdictions would be given more discretion than they currently have because they will be able to use their funding for broader purposes than those available under LLEBG. Under the JAG initiative, cities such as Greensboro, North Carolina or Newport News, Virginia would enjoy much greater latitude

in how and for what purposes they could spend and utilize their local awards, including broader application in such areas as corrections, courts administration, and planning for and responding to terrorism.

CONCLUSION

Mr. Chairman, OJP will continue to support a comprehensive array of demonstration, training, technical assistance, research, statistical analysis, information-sharing, and other programs and initiatives to enhance the capacity of States, local communities, and organizations in preventing and responding to crime. OJP is committed to being the premier resource for the justice community.

I assure you that I look forward to continuing our work together to ensure that OJP carries out its mission to the best of its ability. Thank you again for this opportunity to appear before the subcommittee. I am pleased to respond to any questions that you or the members of the subcommittee may have.

Mr. COBLE. Mr. Lappin.

**STATEMENT OF HARLEY G. LAPPIN, DIRECTOR, FEDERAL BUREAU OF PRISONS, U.S. DEPARTMENT OF JUSTICE**

Mr. LAPPIN. Good afternoon, Mr. Chairman and Members of the Subcommittee. My name is Harley Lappin, the recently appointed Director of the Federal Bureau of Prisons. I am pleased to appear before you today to discuss programs and operations of the Federal Bureau of Prisons.

Let me begin by thanking you, Chairman Coble, and Mr. Scott and other Members of the Subcommittee for your strong support of the Bureau of Prisons.

The Federal inmate population has increased nearly sevenfold in the past two decades, from approximately 25,000 inmates and 41 institutions in 1980 to more than 169,000 inmates and 103 institutions today.

Our fiscal year 2004 budget request totals almost \$4.7 billion: \$4.5 billion for operations and \$224 million for the capital budget. The operating budget will fund all existing facilities as well as new facilities scheduled to be brought online this coming fiscal year.

The rapid growth of the inmate population has led to system-wide crowding of 37 percent over our rated capacity. To address this, we have four new institutions that will be activated by the end of 2003. The activation funding for seven more new institutions is included in the pending fiscal year 2004 budget request.

In addition, we contract with private sector, State and local correctional systems to help cover our capacity needs.

The Bureau confines inmates at institutions at four security levels: minimum, low, medium and high. We have one maximum security prison. We also operate detention centers for pretrial detainees and pre-sentence offenders and Federal medical centers for inmates who require inpatient medical care. We employ a validated classification system in order to place inmates in facilities that meet their security needs.

We have also improved prison design and construction, made many physical plant improvements, and taken advantage of technological developments to further enhance institution security.

Although the obvious features of architecture and technology can help the Bureau maintain safety and security of our institutions, the most important way we ensure security is through direct inmate supervision. We manage our institutions through meaningful communication and constructive interaction between staff and in-

mates, which helps us gather intelligence and encourage positive inmate behavior.

In addition, regardless of the specific discipline in which a staff member works, all employees are correctional workers first. All staff are expected to be vigilant and attentive to the inmate accountability and security issues, to respond to emergencies, and to maintain a proficiency in security matters, as well as in their particular job specialty.

The Bureau helps protect society from criminal activity by encouraging inmates to participate in a range of programs that will help them adopt a crime-free lifestyle upon release. All Bureau institutions offer a variety of educational programs and occupational and vocational training programs based on the needs of the inmates, general labor market conditions, and institutional labor force needs.

While sentenced inmates in Federal correctional institutions are required to work, except for the relatively few number who, for security, education, or medical reasons are unable to do so. Approximately 22 percent of the Bureau's medically able sentenced inmates work in Federal Prison Industries, or FPI, which is our most important correctional program. By statute, FPI's mission is to employ and provide skills and training to the greatest possible number of inmates confined within the Bureau of Prisons, while avoiding capturing more than a reasonable share of the Federal market.

Rigorous research has demonstrated that inmates who work in Federal Prison Industries were 24 percent less likely to recidivate than those who did not and were 14 percent more likely to be employed following release from prison. The studies show that ex-inmates who had the skills and training provided by FPI earned higher wages, providing additional benefits to the community. The research also determined that the FPI programs provide even greater benefit to minorities who are at greater risk for recidivism. FPI operates off sales revenue, rather than appropriated funds, thereby providing no need for additional inmate programs.

Inmates typically have greater health needs than the average citizen. We have extensive medical and mental health programs. We provide comprehensive drug abuse treatment programs to inmates, the cornerstone of which is the Residential Drug Abuse Treatment Program. The treatment program is designed for the approximately 34 percent of our inmate population that has been clinically diagnosed with substance abuse or dependency disorder. A rigorous analysis of the residential drug treatment program revealed that 3 years after release from custody, inmates who completed the program were significantly less likely to be rearrested or to use drugs.

Our religious programs are intended to provide inmates with opportunities to grow spiritually and to strengthen their religious convictions. We have developed a multi-faith-based pre-release pilot program at five facilities for inmates at various security levels. The goal of our program is to reduce recidivism by providing participants with moral and spiritual principles that can guide them in making good decisions.

All of our inmate programs are intended to prepare inmates for successful return to the community. We complement our agency array of programs with a specific release preparation program at

which inmates become involved near the end of their sentence. We strive to place most inmates in halfway houses prior to their release from custody in order to help them adjust to a life in the community and find suitable post-release employment.

Mr. Chairman, this is just a quick overview of our budget, security measures, and a wide range of programs and services that we provide to inmates. I appreciate the opportunity to provide this overview to you and Subcommittee, and I would be pleased to answer any questions you or the Members of the Subcommittee may have.

Thank you, sir.

Mr. COBLE. Thank you, Mr. Lappin.

[The prepared statement of Mr. Lappin follows:]

PREPARED STATEMENT OF HARLEY G. LAPPIN

Mr. Chairman and Members of the Subcommittee:

I am pleased to appear before you today to discuss the programs and operations of the Federal Bureau of Prisons (Bureau). Let me begin by thanking you, Chairman Coble, Ranking Minority Member Scott, and other members of the Subcommittee for your strong support of the Bureau. I look forward to continuing our work with you and the other members of the Subcommittee.

The Bureau continues to effectively meet our mission to protect society by confining offenders in facilities that are safe, humane, cost-efficient, and appropriately secure, and that provide work and other self-improvement opportunities to assist offenders in becoming law-abiding citizens. Earlier this year, we added to our strategic plan a new goal, to enhance our efforts regarding the prevention, disruption, and response to terrorist activities.

POPULATION GROWTH AND RESOURCES

The Federal inmate population has increased nearly seven-fold in the last two decades, from approximately 25,000 inmates and 41 institutions in 1980 to more than 169,000 inmates and 103 institutions today. (Of the 169,000 total, approximately 144,000 are in facilities operated by the Bureau of Prisons, and the remainder are in privately-operated facilities and facilities managed by state and local governments). The growth stems from more Federal investigations, prosecutions, and convictions, and legislation in the 1980s that dramatically altered sentencing in the Federal criminal justice system.

To address this population growth, the Bureau's budget has grown from approximately \$330 million in 1980 to more than \$4.4 billion today. Approximately \$4 billion (91 percent) of the total budget is for daily operations (65 percent salaries and expenses), and funding for prison activations is also included. The remainder of funding (nearly \$400 million) is for capital budget projects, including new construction and modernization and repairs.

The FY 2004 budget request totals almost \$4.7 billion; \$4.5 billion for operations and \$224 million for the capital budget. The \$224 million request funds the ongoing maintenance and repair program at existing, older facilities and one project to construct up to 24 new super secure cells for convicted terrorists (\$23 million). The operating budget will fund 113 existing and requested facilities and will provide for the custody and care of up to 151,400 inmates in Bureau facilities and 28,900 inmates in contract facilities. The Bureau of Prisons relies on the private sector (and state and local governments) to house approximately 15 percent of Federal inmates in privately managed prisons, state and local facilities and community corrections centers.

Like other law enforcement agencies, the Bureau of Prisons has had staff called to active duty in the military and others have left to become Air Marshals or transferred to the Transportation Security Agency. We are taking necessary counter-terrorism measures in order to securely house and manage inmates convicted of terrorist activities. This year, we have incurred unanticipated costs of about \$7 million for counter-terrorism related expenses.

While the Bureau's primary mission is the incarceration of sentenced Federal inmates, the agency provides assistance to the U.S. Marshals Service (USMS) by confining pretrial detainees and convicted offenders not yet sentenced. The Bureau currently confines just under one-third of the USMS prisoner population. The Bureau also assists the Bureau of Immigration and Customs Enforcement within the De-

partment of Homeland Security by confining approximately 2,600 of their detainees in Bureau institutions and contract facilities.

We expect the inmate population to continue to increase by more than 8,000 inmates on average per year for the next few years (and then growth will slow to an average increase of around 5,000 inmates per year) due to ongoing Federal law enforcement initiatives, particularly with respect to drugs, immigration, and weapons offenses. Also, as required by the National Capital Revitalization and Self-Government Improvement Act of 1997, the Bureau now confines all District of Columbia felons sentenced to prison.

#### FACILITIES AND CROWDING

The Bureau confines inmates in institutions at four security levels (minimum, low, medium, and high) and has one maximum-security prison for the less than 1 percent of Bureau of Prisons inmates who require that level of security. The Bureau also operates detention centers (that confine mostly pretrial detainees and presentenced offenders) and Federal medical centers that provide medical care to inmates who cannot be housed in general population facilities.

The rapid growth of the inmate population has led to system-wide crowding of 37 percent above the rated capacity, with the most severe crowding at medium-security and high-security institutions (which are 60 and 53 percent above capacity, respectively). These crowding rates, however, will decrease with the activation of 7 new facilities in 2004, 4 medium-security and 3 high-security prisons (\$252 million). Prison crowding contributes to increased inmate idleness due to an increased demand on programs and services. With the support of Congress, the Bureau is making every effort to ensure that sufficient staff are available in its facilities to provide adequate prisoner supervision and to offset the deleterious effects of crowding on inmate management.

For many years, the Bureau has been developing new capacity to meet the demand of its increasing inmate population guided by the following principles: (1) fully utilize and expand existing Federal institutions wherever cost effective and feasible; (2) construct new Federal prisons on surplus or donated property whenever possible; and (3) contract with the private sector and with State and local correctional agencies.

Four new facilities will be in the activation process by the end of 2003: FCI Gilmer, West Virginia; USPs Big Sandy and McCreary, Kentucky; and USP Victorville, California. Activation funding for seven more new prisons is included in the FY 2004 budget request. Once fully activated, these 11 new facilities will provide more than 12,000 additional medium and high-security beds.

#### INSTITUTION SECURITY AND INMATE MANAGEMENT

Although the more obvious features of architecture and technology help the Bureau maintain safety and security of our institutions, the most important way we ensure security is through direct inmate supervision. We manage our institutions through meaningful communication and constructive interaction between staff and inmates. The Bureau believes that this approach ensures accountability, allows us to gather intelligence, encourages positive inmate behavior, and helps the Bureau address inmates' concerns before they become serious problems. In addition, regardless of the specific discipline in which a staff member works, all employees are "correctional workers first." This means that everyone, from secretaries to correctional officers to wardens, is responsible for the security and good order of the institution. All staff are expected to be vigilant and attentive to inmate accountability and security issues, to respond to emergencies, and to maintain a proficiency in security matters, as well as in their particular job specialty. In addition, all Bureau institutions have a comprehensive employee development program, including formal training programs, and mentoring by experienced staff.

#### SAFETY AND SECURITY

The Bureau of Prisons employs a validated inmate classification system to designate inmates to correctional facilities that provide the appropriate level of security and supervision. This system minimizes the likelihood that vulnerable offenders will be confined with predators or that first time non-violent offenders will be confined with sophisticated and dangerous criminals.

In recent years, the Bureau has improved prison design and construction, made many physical plant improvements, and taken advantage of technological developments to further enhance institution security, including the use of closed-circuit video recording equipment to detect and deter illicit inmate activities. In order to control illegal drug use in Federal prisons, institution staff routinely search inmates

and their property. In addition, the Bureau regularly conducts urinalysis on random samples of inmates as well as members of disruptive groups, inmates who are suspected of using drugs, and inmates who have an institutional history of the possession, use, or distribution of drugs. Inmates are subject to disciplinary action if they test positive for a controlled substance or if they refuse to provide a urine sample. The Bureau has experienced significant reductions in assaults (on both staff and other inmates), homicides, suicides, escapes from secure institutions and other serious misconduct over the past several years.

#### INMATE CARE AND PROGRAMMING

The Bureau helps protect society from criminal activity by encouraging inmates to participate in a range of programs that will help them adopt a crime-free lifestyle upon their return to the community. These programs are an essential component of effective inmate management, and they are as important to the security and good order of Federal prisons as fences, daily counts, and searches.

##### *Work Programs*

All sentenced inmates in Federal correctional institutions are required to work, except for the relatively small number who for security, educational, or medical reasons are unable to do so. Most inmates are assigned to institutional maintenance jobs such as a food service worker, orderly, plumber, painter, warehouse worker, or groundskeeper. Due to current levels of crowding, most work details are comprised of more inmates than necessary to accomplish the particular task. Staff must be continually creative to provide sufficient work opportunities. Approximately 22 percent of the Bureau's medically able, sentenced inmates work in Federal Prison Industries, the Bureau's most important correctional program.

*Federal Prison Industries (FPI).* The statutorily defined mission of FPI is to employ and provide skills training to the greatest possible number of inmates confined within the Bureau of Prisons while avoiding capturing more than a reasonable share of the Federal market. FPI directly contributes to public safety by providing inmates with skills necessary to successfully reintegrate into society after release from prison.

Rigorous research has demonstrated that inmates who worked in prison industries were 24 percent less likely to recidivate than those who did not, and were 14 percent more likely to be employed following release from prison than their non-participating peers. This study showed that inmates who returned to the community with the skills and training provided by working in FPI earned higher wages, providing additional benefits to the community. Finally, the research has demonstrated that FPI programs provide even greater benefit to minorities, who are at greater risk for recidivism.

FPI does not receive any appropriated funding for its operations, and by statute must be economically self-sustaining. Operating from sales revenue, rather than appropriated funds, FPI precludes the need for alternative inmate programs, lowering annual prison management costs to taxpayers by hundreds of millions of dollars. Not only does FPI not cost taxpayers any money, it returns substantial amounts of money to the community: 74 cents of every dollar in FPI revenue is spent on purchases of raw materials and supplies from the private sector (in Fiscal Year 2002, this equated to \$502 million, over 62 percent of which was directed to small, women- and minority-owned businesses) and 20 cents on each dollar is spent on staff salaries. The remainder (approximately 6 cents on each dollar) is paid to inmates, and even this money reaches the private sector: inmates are required to pay 50 percent of their FPI earnings to meet court-ordered obligations such as fines, restitution, and child support, and the money they spend in prison commissaries goes to vendors in the community.

In Fiscal Year 2002, inmates working in FPI paid \$3 million for victim restitution, fines, and child support.

The Bureau is getting significantly greater numbers of Federal inmates who are serving more time in prison, are unskilled, undereducated, criminally sophisticated, and physically violent. Virtually all of these inmates will be released back into our neighborhoods at some point and will need work skills if they are to successfully reintegrate into society. FPI creates the opportunity for inmates to work in diversified work programs that teach work skills and a work ethic, both which can lead to viable employment upon release. Moreover, FPI helps meet a U.S. economic need by creating much-needed workers who have developed basic work skills and have the ability to fill entry-level production jobs (as identified by the National Association of Manufacturers as current and long-term needs). With the Bureau inmate population, projected to increase 27 percent by the year 2010, the greatest challenge facing FPI in the future will be its ability to continue to generate the requisite num-

ber of new inmate jobs and thereby help prisoners prepare for a crime-free return to their community after release.

#### *Medical Care*

Inmates typically have greater health care needs than the average citizen. Many offenders have long-standing medical, dental, and psychiatric concerns which either have been neglected in the past, or which have resulted from dysfunctional lifestyles involving drugs or alcohol abuse. The Bureau has developed and implemented several major health services initiatives designed to enhance efficiency and effectiveness of the Bureau's medical care. These include an increased emphasis on managed care and the management of infectious diseases.

Through various cost containment and cost cutting strategies, the Bureau has maintained inmate health care costs below inflation levels over the past 5 years, despite the fact that national health care expenditures have increased an average of approximately 5 percent per year during this period. Unfortunately, in the coming years, the cost of inmate medical care is likely to increase. This increase is attributable primarily to increases in health care costs nationwide, the continually increasing numbers of inmates of all ages who have inordinate health care needs, and steep increases in the cost of pharmaceuticals.

Additional measures to control medical costs are underway. The Bureau is implementing telehealth capability at virtually every institution, whereby a medical professional is able to diagnose and even treat patients from remote locations. The Bureau of Prisons is also restructuring staffing patterns and primary care provider teams, centralizing pre-certification for certain medical treatments, and implementing an inmate co-payment fee system that is expected to reduce unnecessary medical appointments.

#### *Mental Health Treatment*

In addition to substantial medical needs, many inmates are in need of some form of mental health care. Psychologists at Bureau of Prisons facilities offer inmates a range of psychological services and programs that include: initial psychological assessment, crisis intervention, suicide prevention, counseling, individual psychotherapy, and group psychotherapy. Additionally, psychologists offer inmates a number of specialty treatment programs to assist them in gaining greater insight into their specific psychological disorder(s) and in developing the skills needed to successfully overcome their problem(s).

#### *Education Programs*

All Bureau of Prisons institutions offer a variety of education programs and occupational and vocational training programs based on the vocational training needs of the inmates, general labor market conditions, and institution labor force needs. Through all of these programs, inmates gain knowledge and skills that help them become gainfully employed upon release and avoid new criminal conduct. These programs have been shown to significantly reduce recidivism, and the Bureau is committed to addressing the education deficits with which inmates begin their incarceration. At present, just over one-third of all inmates are enrolled in one or more educational classes.

The Bureau requires that, with few exceptions, inmates who do not have a verified 12th-grade education participate in the literacy program for a minimum of 240 hours or until they obtain the GED credential. Non-English speaking inmates are required to participate in an English as a Second Language program until they are proficient in oral and written English. Institutions also offer literacy classes and adult continuing education.

#### *Substance Abuse Treatment*

In 1989, the Bureau designed a comprehensive substance abuse treatment strategy in an effort to change inmates' criminal and substance-abuse behaviors. In the drug abuse education component, inmates receive information about alcohol and drugs and the physical, social, and psychological impact of abusing these substances. Inmates who are identified as having a further need for treatment are encouraged to participate in non-residential or residential drug abuse treatment, depending on their individual treatment needs. Non-residential drug abuse treatment and counseling programs are available in every Bureau institution. Treatment includes individual and group therapy, as well as specialty seminars and self-improvement group counseling programs.

The cornerstone of the Bureau's drug abuse treatment programming is the residential drug abuse treatment program which is provided in 50 Bureau institutions. The treatment is designed for inmates with moderate to serious substance abuse disorders, about 34 percent of the Bureau's population. The residential drug abuse

program is a course of individual and group treatment, lasting 9 months in residential treatment units set apart from the general prison population. Treatment is provided 3 to 4 hours a day, 5 days a week, and follows a cognitive behavioral treatment model. When not on the treatment unit, the inmate spends his or her time in educational programs, work, vocational training, or other inmate programs that are available at the institution. Upon completion of the residential drug abuse treatment program, the inmate must continue his or her treatment in the general population and/or in a community corrections center. This follow-up treatment is essential in preventing and detecting relapse, thereby enhancing community safety.

The Bureau continues to meet the statutory mandate of providing residential substance abuse treatment to all eligible offenders. Based on empirical research regarding the effectiveness of treatment programs, we provide the residential treatment to inmates toward the end of their sentence. Even though we have waiting lists for the programs (primarily the result of the statutory opportunity for a reduction of their prison term) we are able to treat all eligible offenders prior to release.

A rigorous analysis of the residential drug treatment program revealed that 3 years after release from custody, inmates who completed the Residential Drug Abuse Treatment Program were significantly less likely to be rearrested and to use drugs when compared to similar offenders who did not participate in the residential treatment. These findings suggest that the Bureau of Prisons' residential drug abuse treatment programs make a significant difference in the lives of inmates following their release from custody and return to the community. In this way the program furthers the Bureau's mission of protecting public safety.

#### *Other Treatment Programs—Changing Criminal Thinking*

Encouraged by the positive results of the residential substance abuse treatment program, the Bureau has implemented a number of new residential programs for special populations (including younger, high security, and intractable, quick-tempered inmates) who are responsible for much of the misconduct that occurs in Federal prisons. The cognitive restructuring approach used in the drug treatment programs was carried over as the foundation for programs to change the criminal thinking and behavior patterns of inmates. These programs focus on inmates' emotional and behavioral responses to difficult situations. While too early to assess value in terms of reducing recidivism, we have found that these programs significantly reduce inmates' involvement in institution misconduct. In general, a strong relationship exists between institution misconduct and recidivism, so we are hopeful that the full evaluations of these programs will confirm their effect in reducing recidivism.

#### *Programs for Female Inmates*

Recognizing that female offenders have different social, psychological, educational, family, and health care needs, the Bureau continues to design and implement special programs for female offenders. Several facilities operate intensive programs that focus on helping women who have histories of chronic sexual, emotional, or physical abuse by addressing their victimization and enabling positive change.

#### *Religious Programs*

The Bureau of Prisons' religious programs are intended to provide inmates with opportunities to grow spiritually and to strengthen their religious convictions. Bureau institutions schedule services and meeting times for inmates of the approximately 30 faiths represented within the population. Religious programs are led or supervised by staff chaplains, contract spiritual leaders, and community volunteers of a variety of faiths. Chaplains provide and oversee inmate worship services and self-improvement forums such as scripture study and religious workshops and are available upon request to provide pastoral care, spiritual guidance, and counseling to inmates. Inmates may also request spiritual counseling from community representatives. Inmates are able to observe religious holy days and are able to wear and use religious items consistent with both their faith and with the security, safety, and good order of the institution. An alternative diet is available to those inmates whose religious beliefs include special diets.

*Life Connections Programs.* The Bureau has developed a residential faith-based pre-release pilot program for male and female inmates of various security levels. The pilot sites are FMC Carswell, Texas; FCI Milan, Michigan; FCI Petersburg, Virginia; FCI Victorville, California; and USP Leavenworth, Kansas. The program—which is voluntary and open to inmates of any faith—aims to reduce crime and recidivism by providing participants with moral and spiritual principles that can influence their future decisions. There is a growing body of empirical evidence that demonstrates the potency of faith in changing behavior. This model initiative has a strong mentoring component during the pre-release phase and post-prison aftercare

component designed to offer moral guidance and a caring community to help ex-offenders reenter society with hope and responsibility.

*Final Preparations for Release*

All of the Bureau's inmate programs are intended to prepare inmates for a successful return to the community. In fact, immediately upon their admission to Federal prison, offenders are encouraged to begin planning for their eventual release and to start to assume a productive and successful lifestyle. The Bureau complements its array of programs with a specific Release Preparation Program in which inmates become involved near the end of their sentence. The program includes classes in resume writing, job seeking, and job retention skills. The program also includes presentations by officials from community-based organizations that help ex-inmates find employment and training opportunities after release from prison. We also provide mock job fairs at most institutions to instruct inmates in appropriate job interview techniques and to expose community recruiters to the skills available among the inmate population.

*Community Corrections Centers*

The Bureau places most inmates in community corrections centers (halfway houses) prior to their release from custody in order to help them adjust to life in the community and find suitable post-release employment. Inmates in community corrections centers are required to work and to pay a subsistence charge of 25 percent of their income to defray the cost of confinement. Some Federal inmates are placed in home confinement for a brief period at the end of their prison terms. They serve this portion of their sentences at home under strict schedules, curfew requirements, telephonic monitoring, and sometimes electronic monitoring.

NATIONAL INSTITUTE OF CORRECTIONS

The Nation Institute of Corrections (NIC) resides within the Bureau of Prisons and provides technical assistance, training, information services, and policy and program development assistance to Federal, State, and local correctional agencies throughout the country. NIC also provides leadership to influence correctional policies, practices, and operations nationwide in areas of emerging interest and concern to correctional executives, practitioners, and public policy makers. In this time of ensuring responsive and cost-effective government services, NIC stands out as having a proven track record for providing fast, low-cost, customer-oriented services. NIC often pools financial resources with other Federal agencies and staff resources with the Bureau to provide the maximum benefit to State and local corrections and to public policymakers. Through workshops, seminars, technical assistance visits, and information sharing, NIC continues to provide a valuable service to the corrections community.

CONCLUSION

Thank you, Mr. Chairman, for the opportunity to provide this overview of the programs and operations of the Bureau of Prisons. I am very proud of the Bureau staff and the job they do each and every day. Despite our population growth, we are effectively managing our institutions. This concludes my prepared remarks. I would be pleased to answer any questions you or other Members of the Subcommittee may have.

Mr. COBLE. We have been joined by the gentlelady from Texas, Ms. Jackson Lee. Good to have you with us, Sheila.

Mr. Reyna, Katie tells me I mispronounced your surname. It should be Reyna. So we are glad to have you with us.

**STATEMENT OF BENIGNO G. REYNA, DIRECTOR, UNITED STATES MARSHALS SERVICE, U.S. DEPARTMENT OF JUSTICE**

Mr. REYNA. Thank you, Mr. Chairman.

Mr. Chairman, Ranking Member Scott and Members of the Subcommittee, thank you for the opportunity to appear before you to discuss the President's fiscal year 2004 budget request for the United States Marshals Service.

First, please let me express our appreciation to you and the Members of the Subcommittee for your strong support and contin-

ued support of the United States Marshals Service. Your support has given us the ability to successfully perform our core missions of protecting the Federal judiciary, apprehending fugitives, safeguarding Government witnesses and transporting Federal prisoners.

As you stated earlier in the introduction, the United States Marshals Service does play a central role in law enforcement, but the United States Marshal does not only protect courthouses and Federal judges, we protect the integrity of the judicial process, and each day deputy marshals across our great country uphold the rule of law. When we uphold the rule of law, we uphold justice, preserve freedom, defend democracy and safeguard the United States Constitution. By safeguarding our Constitution, we protect the rights of all people.

For fiscal year 2004, we have requested a total of 4,592 positions and \$720.8 million in our salary and expenses appropriation.

As Director, I am aware of the Service's mission to support the Federal courts and other Federal law enforcement agencies; and we recognize that, to a great extent, our workload is generated by others. The efforts of Federal law enforcement to apprehend and prosecute violent criminals and the efforts of the Federal judiciary to rapidly try and sentence individuals have increased.

During fiscal year 2002, the United States Marshals received over 250,000 Federal prisoners into custody; produced prisoners for court and other proceedings over 640,000 times; received 35,500 new Federal felony warrants; cleared 34,000 Federal felony warrants; served an additional 230,000 pieces of judicial process; analyzed and responded to over 500 potential threats to members of the judicial family; accepted responsibility for 244 new protected witnesses and family members into the Witness Security Program; brought the total number of principal witnesses to over 7,400; and disposed of over 21,000 seized properties.

Another important strength of the United States Marshals Service is the strong commitment to work with our Federal, State and local law enforcement colleagues. As former chief of Brownsville, Texas, I can assure you that cooperation and long-term relationships are the best tools for fighting crime and improving the quality of life in our communities.

Last year, in addition to our Federal warrant workload, we assisted State and local law enforcement agencies in clearing over 37,000 State and local warrants. We have many examples of assistance. For example, in March, 2003, two New York City detectives were tragically killed during an undercover operation. The United States Marshal New York and New Jersey Regional Task Force was contacted and immediately dispatched deputy marshals to investigate leads in Pennsylvania and Maryland. Within 2 days, using highly specialized surveillance equipment and investigative techniques, the suspect was captured in Brooklyn.

There are other examples that illustrate the varied law enforcement missions we perform daily in our districts. In Manhattan, several prisoners were being held in a jury box for pre-trial assignment. One of the prisoners attempted to either escape the courtroom and/or attack the judge. As he leapt out of the jury box, he quickly was brought to the ground by deputy marshals in the

courtroom. No one was injured, and there were no further incidents by any of the other prisoners. These types of situations repeat themselves across our country.

Similarly, the Witness Security Program continues to be a vital weapon in the war against terrorism, as well as against drugs and violent crime.

I am proud of the dedication and hard work demonstrated by the men and women in the Marshals Service. In the words of Deputy Attorney General Larry Thompson, "The United States Marshals Service sometimes performs its most critical work outside of the limelight and with little fanfare. Yet its personnel make extraordinary sacrifices on a daily basis to safeguard our courts and our communities."

Mr. Chairman, distinguished Members, I would like to impress upon the Subcommittee that we continually strive to make better use of the resources we have before asking for more. Over the past 15 months, we have streamlined and improved our internal personnel processes.

We have filled over 104 supervisory law enforcement positions. We have hired 215 new deputy marshals last year, the highest single year total in the past 10 years. Our on-board strength today is the highest it has been in 4 years.

Terrorism-related court proceedings require an unprecedented level of protection for all our trial participants due to the risk of terrorist attacks, the public's concern and intense media interest. Our requirement to support terrorism-related court proceedings is widespread and is not limited to Virginia and New York. The workload impact on the Marshals Service is particularly heavy in Florida, California, Oregon, Washington, Illinois, the District of Columbia, New Jersey, North Carolina and Texas.

Mr. Chairman, honorable Members, I know that you are aware of our initiatives to provide increased security in the Eastern District of Virginia where Zacarias Moussaoui is charged as a co-conspirator in the September 11 attacks. The threat levels associated with such trials mandate that additional deputy marshals be assigned to ensure the safety of everyone in the courtroom and transport prisoners to all judicial proceedings.

I hope that I have highlighted some of our accomplishments over the past year. I know that our full text is in the record, and I will be happy to answer any questions you may have.

Mr. COBLE. Thank you, Mr. Reyna.

[The prepared statement of Mr. Reyna follows:]

PREPARED STATEMENT OF BENIGNO G. REYNA

Mr. Chairman, Ranking Member Scott and Members of the Subcommittee, thank you for the opportunity to appear before you to discuss the President's fiscal year 2004 budget request for the United States Marshals. I am pleased to be on the same panel with Ms. Myers of the Department of Justice's Criminal Division, Director Lappin of the Federal Bureau of Prisons, and Assistant Attorney General Daniels of the Department's Office of Justice Programs.

First, let me express my appreciation to you and the Members of this Subcommittee for your strong and continual support of the United States Marshals. Your support has been essential to our ability to perform successfully our core missions of protecting the federal judiciary, apprehending fugitives, safeguarding government witnesses, and transporting federal prisoners.

United States Marshals not only protect courthouses and federal judges; we protect the integrity of the judicial process. Each day, deputy marshals across our great

country uphold the rule of law and thereby uphold justice, preserve freedom, defend democracy, and safeguard the United States Constitution. By safeguarding our Constitution, we protect the rights of all people and the American dream.

This has been our role for over 213 years. We have been an integral part of the American story. But, in order to protect the American dream, we must have justice—justice that is administered with the spirit of fairness, opportunity, and due process—because justice is the foundation of our judicial system.

For fiscal year 2004, we have requested a total of 4,592 positions and \$720.8 million in our Salaries and Expenses appropriation. As Director, I am keenly aware of the Service's mission to support the federal courts and other federal law enforcement agencies. I recognize that, to a great extent, our workload is generated by others. The efforts of federal law enforcement to apprehend and prosecute violent criminals, and the efforts of the judiciary to rapidly try and sentence these individuals, have increased. During fiscal year 2002, the United States Marshals:

- Received over 250,000 federal prisoners into custody;
- Produced prisoners for court and other proceedings over 640,000 times;
- Received 35,500 new federal felony warrants;
- Cleared 34,000 federal felony warrants;
- Served an additional 230,000 pieces of judicial process;
- Analyzed and responded to over 500 potential threats to members of the judicial family;
- Accepted responsibility for 244 new protected witnesses and family members into the Witness Security Program;
- Brought the total number of principal witnesses to over 7,400; and,
- Disposed of over 21,000 seized properties.

Another important strength of the United States Marshals Service is our strong commitment to work with our federal, state, and local law enforcement colleagues. As the former Chief of Police of Brownsville, Texas, I can assure you that these cooperative, long-term relationships are the best tool for fighting crime and improving the quality of life in our communities. Last year, in addition to our federal warrant workload, we assisted state and local law enforcement agencies in clearing over 37,000 state and local warrants. For example, in March 2003, two New York City detectives were tragically killed during an undercover operation. The United States Marshals' New York—New Jersey Regional Task Force was contacted and immediately dispatched deputy marshals to investigate leads in Pennsylvania and Maryland. Within two days, using highly specialized surveillance equipment and investigative techniques, the suspect was captured in Brooklyn. Our ability to cross state lines in pursuit of fugitives was the determining factor in closing this case rapidly. Consequently, New York City Police Commissioner Kelly commended the deputy marshals for their timely assistance in this critical arrest. Also, within the past three weeks, the Marshals Service has tracked down and assisted in the capture of three suspects respectively charged with the murders of law enforcement personnel: a Fairlawn, New Jersey, police officer; a Fulton County, Georgia, deputy sheriff; and, a Youngstown, Ohio, police officer.

There are other examples that vividly illustrate the varied law enforcement missions we perform daily throughout our districts. In Manhattan, several prisoners were being held in a jury box for pre-trial arraignment. One of the prisoners attempted to either escape the courtroom and/or attack the judge. As he leapt out of the jury box, he was quickly brought to the ground by the deputy marshals in the courtroom. No one was injured and there were no further incidents by any of the other prisoners. These types of situations repeat themselves across the country.

Suffice to say, the Witness Security Program continues to be a vital weapon in the war against terrorism, as well as against drugs and violent crime. While I would be happy to discuss current activities in executive session, I can assure you of the Program's critical importance in significant terrorism-related prosecutions which resulted in the successful conviction of individuals involved in terrorist incidents. In fact, intelligence officials and federal prosecutors continue to obtain valuable information as a result of the Program.

I am proud of the dedication and hard work demonstrated by the men and women of the Marshals Service. In the words of Deputy Attorney General Larry Thompson: "The United States Marshals Service sometimes performs its most critical work outside the limelight and with little fanfare. Yet its personnel make extraordinary sacrifices on a daily basis to safeguard our courts and communities."

Mr. Chairman and distinguished Members, I would like to impress upon the Subcommittee that we continually strive to make better use of the resources we have

before asking for more. Over the past 15 months, we have streamlined and improved our internal personnel processes. Specifically:

- We have filled 104 supervisory law enforcement positions, taking an average of 16 weeks from application to selection. Previously, it took an average of 20 weeks to fill one supervisory position. As first level managers, they are critical for the success of day-to-day operations in the field because they provide direction and leadership for over 2,000 deputy marshals.
- We hired 215 new deputy marshals last year; the highest single year total in the past 10 years. Our on-board strength today is the highest it has been in 4 years.
- We maintain a pool of at least 200 candidates for deputy marshals positions.
- We are using workload measures to quantify our staffing needs to determine which districts are in the most need of additional personnel.

We are doing our part to support the Attorney General's goal of transferring positions to support front-line missions. We have done this by moving vacancies from Headquarters support functions to operational areas. Simply stated, the Marshals Service is putting the people where the work is.

Our fiscal year 2004 request includes an increase of 275 positions, including 231 deputy marshals, and \$26.6 million to support the judiciary's need for additional security. Our request addresses this critical need so we may perform more effectively this core mission—the protection of the federal judiciary. The number of federal judges and court locations continue to increase, thereby raising and expanding the level of support we must provide. Since September 11, 2001, heightened security alert levels have resulted in additional judicial security requirements on a daily basis.

Terrorism-related court proceedings require an unprecedented level of protection for all trial participants due to the risk of additional terrorist attacks, the public's concerns, and the intense media interest. Our requirement to support terrorism-related court proceedings is widespread and not limited to Virginia and New York. The workload impact on the Marshals Service is particularly heavy in Florida, California, Oregon, Washington, Illinois, the District of Columbia, New Jersey, Michigan, North Carolina, and Texas.

Mr. Chairman, and Members, I know that you are aware of our initiatives to provide increased security at the courthouse in the Eastern District of Virginia where Zacarias Moussaoui is charged as a co-conspirator in the September 11th terrorist attacks. The threat levels associated with such trials mandate that additional deputy marshals be assigned to ensure the safety of everyone in the courtroom and to transport prisoners to all judicial proceedings. Even when these cases do not lead to trials, we must provide security at all pretrial prisoner and material witness proceedings.

Equally important, we must ensure that all Marshals Service employees are well prepared to perform these important services. These men and women, who dedicate their lives to the profession of law enforcement and, specifically, to the protection of the federal judicial system, need advanced training and state-of-the-art equipment so they can perform their jobs.

Finally, we request \$2 million from unobligated balances in the Working Capital Fund to provide security systems in new courthouse facilities and to upgrade security equipment in facilities where high threat and high profile trials will be held. The funding for this security equipment and renovation will allow us to remedy weaknesses in many courthouse facilities. Security systems reinforce the physical security provided by deputy marshals when producing prisoners for court. Cameras, duress alarms, entry control packages, and other equipment improve the security level within a courthouse. When incidents occur, we are better equipped to record events, monitor personnel and prisoners, and identify situations requiring an immediate, and sometimes a life-saving, response.

I hope that I have successfully highlighted our accomplishments over the past year and described our need for additional resources in fiscal year 2004. I appreciate the time the Subcommittee has provided me and the opportunity to meet with you. This concludes my prepared statement. I am pleased to answer your questions at this time.

Mr. COBLE. We have been joined by the gentleman from Michigan, the Ranking Member of the full Judiciary Committee, and the gentleman from Wisconsin, Mr. Green.

Ms. Myers.

**STATEMENT OF JULIE L. MYERS, CHIEF OF STAFF,  
CRIMINAL DIVISION, U.S. DEPARTMENT OF JUSTICE**

Ms. MYERS. Thank you, Mr. Chairman.

Chairman Coble, Congressman Scott and Members of the Subcommittee, I am pleased today to appear today before you to describe briefly some of the Criminal Division's important work.

I first want to thank the Members of this Subcommittee and Congress as a whole for your strong support of the Division's work to fulfill its broad mandate, especially in our battles against terrorism, corporate fraud and those who endanger and exploit the Nation's children. The USA PATRIOT Act, the Sarbanes-Oxley Act and the Protect Act—the last of which was signed just a few weeks ago—have provided valuable tools that will promote public safety and enhance our national and economic security.

We think our partnership with you has been extremely productive, and we look forward to continuing it.

The Criminal Division's work is as broad as its mandate. As the Chairman noted, the Division has 19 sections with wide-ranging responsibilities, ranging from everything from coordinating the nationwide prosecution of organized crime, prosecuting Internet fraud and combating public corruption to approving all Federal wiretap applications and overseeing evidence requests to obtain information from our foreign counterparts.

To carry out this mandate, the Criminal Division currently operates on a fiscal year 2003 appropriation of \$129 million. For fiscal year 2004, the President's budget requests \$135.8 million, which would fund a total of 805 permanent positions, including 477 attorneys.

In my oral statement I would like to briefly highlight several key components within the Criminal Division and describe how they reflect the law enforcement priorities within the Administration.

First, terrorism. The attacks of September 11, 2001, fundamentally changed our Nation's law enforcement priorities. As President Bush and Attorney General Ashcroft had made clear, the Department's number one priority is the war on terrorism. The Criminal Division has risen to this challenge, and we serve on the front lines of this ongoing fight. Division-wide, we have reassessed our strengths, restructured our organization and redeployed our staff.

First, working with the FBI and through the joint terrorism task forces, our Counterterrorism Section, or what we call CTS, concentrates its resources on detecting, disrupting and dismantling potential terrorist-related activity throughout the United States and working with our allies to fight terrorism abroad.

The Division's work has been pivotal in helping the Department achieve several major victories on the war on terrorism including dismantling a terrorist cell in Buffalo; convicting would-be shoe bomber Richard Reid; dismantling a cigarette smuggling organization that funded Hezbollah; and some significant indictments, including exploiting narco-terrorist links through the indictments of AUC and FARC members and the indictments of Sami Al-Arian and Zacarias Moussaoui.

Of course, money is the lifeblood of terrorist organizations; and for that reason detecting and preventing terrorism requires an expert understanding of the worldwide movement of money and a

broad overview of evidence collected from various sources around the globe. Both the Counterterrorism Section and the Asset Forfeiture and Money Laundering Section work to detect and disrupt terrorist financing by bringing these skills to bear on these typically far-flung and loosely connected networks of money.

In addition to the litigation sections, the Division's advisory sections ensure nationwide coordination of critical tools to combat terrorism. Since September 11, 2001, the Division's Office of International Affairs has made over 75 treaty or letters rogatory requests involving al Qaeda and other terror-related matters to countries in Europe, Asia and the Middle East. These requests, seeking everything from box cutters to bank documents, have enabled U.S. prosecutors to obtain crucial evidence from across the globe.

In all of our anti-terrorism efforts, we have been aided greatly by the passage of the USA PATRIOT Act.

Next to fighting terrorism, the Division's primary focus has been on uncovering and prosecuting corporate fraud and corruption. For example, in January, 2002, shortly after the collapse of Enron, the Criminal Division created the Enron Task Force, which comprises Fraud Section attorneys and other career department prosecutors. The investigation has been progressing steadily and has already produced substantial results. Here our efforts has been aided greatly by the Sarbanes-Oxley Act of 2002, and we have already used some of the new provisions in the Sarbanes-Oxley Act in the HealthSouth prosecution.

Finally, we are very thankful for all of your help with respect to the Protect Act in protecting our children. The important new Protect Act has enhanced penalties, clarified existing law and included penalties to ensure that convictions lead to serious prison time.

I hope this brief overview of the Criminal Division has been helpful. We appreciate your support and look forward to answering any questions you have.

Mr. COBLE. Thank you, Ms. Myers.

[The prepared statement of Ms. Myers follows:]

PREPARED STATEMENT OF JULIE L. MYERS

INTRODUCTION

Chairman Coble, Congressman Scott, and Members of the Subcommittee—I am pleased to appear today before this Subcommittee to describe briefly some of the important work of the Criminal Division. My name is Julie Myers, and I serve as Chief of Staff of the Criminal Division for Assistant Attorney General Michael Chertoff. I previously served the Department as an Assistant United States Attorney in the Eastern District of New York.

I first want to thank the members of this Subcommittee for your strong support of the Division's work, and especially in some of our core areas: the war on terrorism, fighting corporate fraud, and protecting children. We have worked with Congress, before and since September 11, 2001, to make America more secure while at the same time safeguarding the liberties and rights of all Americans. For example, the USA PATRIOT Act, the Sarbanes-Oxley Act, and the PROTECT Act—signed into law just two weeks ago today—have provided valuable tools that will promote public safety and enhance our national and economic security.

The Criminal Division has nineteen sections with wide-ranging responsibilities, including everything from coordinating the nationwide prosecution of organized crime cases to approving all wiretap applications. My testimony today will briefly discuss some of the unique responsibilities and recent accomplishments of the Criminal Division. First, I will focus on the Division's top litigation priorities and the work of the litigating sections. Next, I will discuss the offices that provide sup-

port and expertise to the law enforcement community through technical advice, training, essential authorizations, and other critical services.

#### LEADING THE WAR ON TERRORISM

The attacks of September 11, 2001, dramatically changed the nation's law enforcement priorities. As President Bush has made clear, and as Attorney General Ashcroft has declared many times, the Department's top priority is the fight against terrorism. The Criminal Division has a central role in this fight. We have risen to the challenge by broadly reassessing our strengths and abilities, and substantively restructuring the Division to reflect the law enforcement and investigative priorities needed to combat terrorism.

The entire Division has responded to this call. Most significantly, the Counterterrorism Section leads the effort for the Division to disrupt and punish potential terrorist-related activity, both in the United States and abroad. CTS serves as both a leader and coordinator in the war on terrorism by: (1) participating in putting terrorists in jail through litigation; (2) disrupting the flow of money to terrorists; and (3) working side-by-side with our allies to disrupt terrorism everywhere. Division prosecutors work with the Joint Terrorist Task Forces (JTTFs); Anti-Terrorism Task Forces (ATTFs); the Federal Bureau of Investigation and other law enforcement agencies; United States Attorneys; state, and local prosecutors; other United States Government agencies; and our counterparts overseas to ensure the most coordinated and effective approach to this effort. Division prosecutors comprehensively review evidence obtained from various sources, monitor and provide support to investigations and cases nationally and worldwide in order to identify and track crime trends, and develop national and international strategies for prevention and prosecution. CTS and other Division prosecutors participate in the development of new mechanisms for information sharing and exchange, such as the Terrorist Threat Integration Center (TTIC), and provide training with respect to such mechanisms.

This work has led to the disruption of significant terrorist activities, including:

- the dismantling of a terrorist cell in Buffalo;
- the conviction of shoe-bomber Richard Reid;
- the dismantling of a cigarette smuggling organization that funded Hizballah;
- the indictments of Sami Al-Arian and Zacarias Moussaoui; and
- the disruption of nine major alien-smuggling networks.

Because money is the lifeblood of terrorist organizations, detecting and preventing terrorism requires an expert understanding of the world-wide movement of money. The Division has been at the forefront of detecting and disrupting terrorist financing. CTS plays a key role in the Department's Terrorist Financing Enforcement Program, which involves two critical and complementary areas: (1) developing intelligence about terrorists and their financial supporters, and (2) combining this intelligence with other evidence to disrupt terrorist financing through aggressive criminal, civil and regulatory law enforcement in United States courts. The Asset Forfeiture and Money Laundering Section (AFMLS) also provides enforcement expertise and leadership to the Financial Action Task Force, an international body dedicated to the development and promotion of sound anti-money laundering practices.

We have also found that the lucrative profits from illegal drug trafficking are being used to finance terrorism. In cooperation with other relevant law enforcement entities, the Division has been pursuing these narco-terrorist links vigorously. For example, on November 12, 2002, the Narcotic and Dangerous Drug Section (NDDS) obtained a superseding indictment in the "FARC" case, involving the largest Colombian terror army, which finances its activities via the production and trafficking of narcotics. The original indictment, obtained in the District of Columbia in March, charged FARC 16th Front Commander Tomas Molina Caracas and six additional individuals with conspiracy to import cocaine into the United States. In June, FARC member Carlos Bolas was located in Suriname and expelled to U.S. custody. In November, the indictment was superseded to include Jorge Birceno Suarez, a member of the controlling "secretariat" and who is generally considered to be the second-in-command. These defendants have been involved in all aspects of the drug trade, from protecting coca fields and labs, to taxing the movement of cocaine base within areas under their control, to selling cocaine to international dealers in exchange for money and arms.

In addition to the FARC indictment, in September 2002, NDDS indicted AUC leader Carlos Castano Gil and two others with various drug trafficking offenses stemming from the shipment of approximately 17 tons of cocaine to the United

States. The AUC is a violent right-wing paramilitary organization which, according to Castano Gil, derives 70% of its income from drug trafficking.

The Office of International Affairs (OIA) has also provided substantial assistance in terrorism-related matters. Since September 11, 2001, the Division has made over 75 treaty or letters rogatory requests involving Al Qaeda and other terrorism matters to countries in Europe, Asia and the Middle East. These requests sought everything from physical evidence, such as box cutters and computer hard drives, to documentary evidence, such as bank and immigration records to witness interviews. OIA also has assisted in the execution of dozens of terrorism-related requests from prosecutors and investigating magistrates in eight foreign countries seeking evidence in the United States for their own investigations.

We have also reorganized by splitting the Terrorism and Violent Crimes Section (TVCS) into two separate sections. The reorganization created the Counterterrorism Section (CTS) to leverage the Division's considerable expertise in investigating and prosecuting terrorists. We also created the Domestic Security Section (DSS) to lead the prosecution of international smuggling operations, along with other responsibilities. This reorganization enabled the Division to shift resources internally, combine similar functions, and re-position the Division to handle the challenges brought by the Department's focus on counterterrorism and national security.

In all our anti-terrorism efforts, we have been aided greatly by the passage of the USA PATRIOT Act. By way of example, one of the most powerful tools against terrorist financing has proven to be the crime of "providing material support" to terrorists, 18 U.S.C. § 2339B. As a result of the legislation, this crime now carries a penalty of up to 15 years and, in some instances, life imprisonment. This statute allows law enforcement to act early, during the stages of planning and development, rather than waiting for terrorist attacks to occur.

#### ENHANCING NATIONAL SECURITY AND PROMOTING PUBLIC SAFETY

The newly-created Domestic Security Section (DSS) has been instrumental in obtaining convictions involving international alien smugglers suspected of having links to terrorists. The Section also is engaged in an ongoing project targeting international smuggling organizations suspected of presenting special national security threats to the United States.

DSS also continues to play a leading role in the Department's efforts to combat violent crime, including overseeing the Project Safe Neighborhoods (PSN) initiative, now being implemented throughout the country, and in prosecuting violent offenders. Pursuant to the Attorney General's recent directive, DSS is helping to enhance PSN efforts nationwide to combat gun trafficking. This will be accomplished by coordinating interstate gun trafficking cases and vigorously prosecuting those who illegally divert guns to criminals.

As part of the Division's significant national security role, the Counterespionage Section (CES) is responsible for many of the Criminal Division's most important and sensitive national security cases and matters. CES has participated in the successful prosecution of several major espionage cases, including Brian Patrick Regan, a twenty year veteran of the Air Force and contract employee of TRW, who attempted to communicate classified information to China and Iraq. Regan was sentenced to life imprisonment.

#### FIGHTING CORPORATE FRAUD

The Division plays a key role in combating corporate fraud. For example, after the collapse of Enron amid allegations of widespread fraud and corruption, the Criminal Division created the Enron Task Force in January 2002. The Task Force's extremely complex investigation has been progressing steadily and has produced significant results. To date, charges have been filed against 17 individuals, three of whom have been convicted, and one organization—Arthur Andersen LLP, which was convicted of obstruction of justice after a jury trial. In addition, two former officers of Enron pleaded guilty to charges in a matter connected to the California energy crisis. Most recently, the former Enron CEO and Treasurer were charged with 109 counts of criminal conduct.

In addition to the Enron criminal proceedings above, the Asset Forfeiture and Money Laundering Section (AFMLS) has brought a number of civil and criminal asset forfeiture and money laundering actions related to Enron, including the criminal forfeitures of \$4,000,000 belonging to former Enron executive Michael Kopper and approximately \$20,000,000 in assets belonging to former Enron CFO Andrew Fastow.

Beyond the Task Force, the Fraud Section currently has 74 corporate fraud investigations and 49 corporate fraud cases (where charges have been brought) pending.

Twenty-six of the 49 cases were opened since the beginning of FY 2003. We think this work is critical to the nation. Our FY 2004 budget request include a request for additional positions to bolster our efforts.

The Department's ability to address corporate fraud has been substantially strengthened by recent legislation and in particular, by the Sarbanes-Oxley Act of 2002. This Act adds new tools to hold white collar criminals accountable and imposes tough, consistent penalties for those who would threaten the integrity of our financial markets. Among other important provisions, the Act imposes new and substantial criminal penalties for securities fraud, attempts or conspiracies to commit fraud, certifying false financial statements, document destruction or tampering, and retaliating against corporate whistleblowers. We have already used one provision of the Sarbanes-Oxley Act in recently obtaining guilty pleas from HealthSouth executives for filing with the SEC a certification that a 10-Q filing was accurate, knowing that it did not fairly represent the financial condition and results of HealthSouth operations. We are confident that the increased penalties will help ensure that white collar thieves will pay appropriately for their actions.

#### PROTECTING OUR CHILDREN

Another top priority of the Department is protecting and safeguarding children. Here, the Division's efforts have expanded dramatically through the efforts of the Division's Child Exploitation and Obscenity Section (CEOS). CEOS serves a unique and critical function in the enforcement of the Nation's obscenity laws and the laws protecting children from sexual predators.

Currently, CEOS has 84 active ongoing investigations and 40 active indicted cases. One case that warrants particular mention is Operation Hamlet, in which the Section cooperated with the former U.S. Customs Service, now part of the Bureau of Customs and Border Protection (BCBP), to target, dismantle and prosecute an international ring of child molesters. Seventy-three child victims were rescued. Thirteen of the 20 active molesters that were identified are in the United States. All but one, who committed suicide, have been indicted and six of those have already been convicted.

In addition to active case work, this past year CEOS enhanced its efforts to deter crime through new and effective use of technology. The Division created the High Tech Investigative Unit, staffed with computer forensic experts, who bring special technological expertise to bear against Internet-based child pornography and obscenity offenders. The Unit is already receiving and reviewing an average of 120 tips per month and has direct access to the Federal Trade Commission's complaint database.

As you know, just a few weeks ago, Congress passed the important new PROTECT Act (Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today Act of 2003), which the President signed into law on April 30, 2003. We believe this Act will lead to greater deterrence, and greater detection, investigation, prosecution and punishment of crimes against America's children. The PROTECT Act created a new provision that defines child pornography to include computer-based depictions that are indistinguishable from those involving real children. We are grateful to Congress for this new provision, and look forward to using it and other PROTECT Act tools.

#### ENSURING PUBLIC INTEGRITY

Just as fighting fraud in the private sector is important, it is equally critical to combat corruption in the public sector. The Division's Public Integrity Section is charged with combating corruption at all levels of government and has recently implemented two important enforcement initiatives: visa fraud and campaign financing fraud.

To help protect our borders, the Section actively investigates and prosecutes U.S. Government officials and foreign nationals who illegally issue visas for entry into the United States. Thus far, the Section has secured the conviction of a Foreign Service Officer for taking bribes, and in concert with the Division's Domestic Security Section and the U.S. Attorneys, secured convictions in a visa fraud scheme at the U.S. Consulate in Nuevo Laredo, Mexico.

The Section has vigorously prosecuted substantial violations of the Federal Election Campaign Act (FECA). The Section has also worked with the U.S. Sentencing Commission to implement the recent FECA amendments, including increased penalties for campaign finance crimes. This spring, the Section convicted an Oklahoma State Senator and a former State Senator running for Congress of illegally funneling more than \$200,000 into the campaign and obstructing the Federal Election Commission's investigation into these illicit contributions.

## COMBATING ORGANIZED CRIMINAL ENTERPRISES

The Criminal Division's Organized Crime and Racketeering Section (OCRS) coordinates the Department's programs to combat organized crime and labor racketeering. In addition, the Section is assisting with the war on terrorism and the rapidly growing and evolving transnational organized crime threats to the United States.

During the past year, the Division has overseen the re-tooling of the Department's organized crime program to make it more nimble, intelligence-oriented and international in outlook. One change includes a more aggressive use of the RICO statute as a key weapon in the fight against terrorism.

## FIGHTING CYBERCRIME AND INTELLECTUAL PROPERTY ABUSES

The Computer Crime and Intellectual Property Section (CCIPS) plays the lead role in countering terrorism and other crime in cyberspace. In areas involving both domestic policy and investigations, the Section works with other offices and the private sector, in keeping with the President's recently-published National Strategy to Secure Cyberspace, to protect the cybersecurity of the United States. This year, the Section has worked with the FBI's newly-created Cyber Division, the Secret Service, and other Federal law enforcement, intelligence, and defense agencies on multi-district and international investigations involving attacks against computer networks, including the October 2002 Denial of Service attack on the root servers that help the Internet to function and the January 2003 SQL Slammer worm which affected thousands of computers worldwide.

CCIPS has also substantially increased its domestic and international prosecution efforts against Internet copyright piracy, aggressively attacking the high-level suppliers that each day distribute millions of copies of pirated software, games, movies, and music to Internet sites worldwide. Internet copyright piracy costs U.S. businesses billions of dollars each year, and the technological sophistication of the organized pirate groups make these some of the most challenging cases to prosecute.

The cornerstone of the Section's current initiative is Operation Buccaneer, a joint undercover investigation with the BCBP that constitutes the largest international crackdown on Internet software pirates ever achieved by U.S. law enforcement. To date, 22 members of the world's leading Internet piracy groups have been convicted of felonies; a majority have been sentenced to the longest prison terms ever imposed for online copyright infringement; and millions of illegal copies of copyrighted movies, games, software, and music have been permanently removed from the Internet.

## PRESENTING EFFECTIVE APPEALS

Our Appellate Section leads the Division's litigation in the circuit courts of appeals and coordinates the Department's criminal appellate practice. Recently, it has successfully appealed the dismissal of an indictment charging the President and the Vice-President of the Salt Lake City Bid Committee for the 2002 Olympic Winter Games with bribery and related offenses. The defendants will now face trial on the reinstated indictment. The Appellate Section also persuaded the Fifth Circuit to overturn an order suppressing the confession of Ernest Avants for the 1966 murder of an African-American sharecropper in Mississippi. Following our successful appeal, Avants was convicted by a jury on civil rights charges.

## TRACKING WORLD WAR II CRIMINALS

The primary mission of the Division's Office of Special Investigations (OSI) is to detect, identify, and take legal action against persons who participated in acts of persecution sponsored by Nazi Germany and its allies before and during World War II. Last year OSI set a new record by commencing 10 new prosecutions against alleged Nazi persecutors who fraudulently gained citizenship to the United States. Since OSI began operations in 1979, 71 Nazi persecutors have been stripped of U.S. citizenship and 57 such individuals have been removed from this country.

## PROVIDING LITIGATION AND OTHER SPECIALIZED SUPPORT

In addition to the work of litigating sections discussed above, the Criminal Division provides specialized and essential support to the law enforcement community through technical advice, training, essential authorizations, policy guidance and development, and other critical services.

*Coordinating International Affairs*

Through the Office of International Affairs (OIA), the Criminal Division works with its foreign counterparts to develop legal assistance relations and partnerships,

as well as to strengthen foreign law enforcement institutions. OIA provides assistance to Federal, state and local prosecutors in obtaining evidence from foreign governments and works to bring terrorists, violent drug traffickers, and other criminals who seek refuge abroad back to the United States to face justice.

OIA's efforts to expand the United States' network of Mutual Legal Assistance Treaties (MLATs) and MLAT cases have directly led to the recovery significant drug proceeds, fraud proceeds, and other dollars, most of it either going to the Asset Forfeiture Fund or directly to victims. Once in place, these MLATs, agreements, conventions and policy initiatives form the basis for exchanging evidence and witnesses that lead to successful prosecutions.

Similarly, the expanding network of extradition treaties forms the basis for retrieving or returning criminal defendants to the country where they can be most effectively prosecuted. In the first seven months of FY 2003, OIA obtained the surrender of 141 fugitives to the United States, and 70 fugitives from the United States; handled over 800 new extradition and mutual legal assistance cases on behalf of Federal, state, and local U.S. prosecutors.

#### *International Development and Training*

In addition to coordinating relationships between our foreign counterparts, the Criminal Division also administers specialized training and assistance programs throughout the developing world. Recently, the Criminal Division's International Criminal Investigative Training Assistance Program (ICITAP) and the Office of Overseas Prosecutorial Development, Assistance, and Training (OPDAT) have been active in reconstruction programs in Afghanistan, Pakistan, and now Iraq. ICITAP and OPDAT have sent a team to conduct an assessment of the Iraqi justice sector. Working under the auspices of the Office of Reconstruction and Humanitarian Assistance, the team will examine the judicial sector, including the laws and institutions, and will develop a plan for long term assistance. ICITAP recently completed a design of an Iraq National Police Assistance Program to implement a decentralized, community-based law enforcement function which will effectively serve and protect the rights and freedoms of the Iraqi people.

ICITAP and OPDAT work closely together to provide extensive and integrated assistance programs throughout the Balkans and as part of Plan Colombia. Other criminal justice assistance programs include institution building assistance to the police in Indonesia, Nigeria, and El Salvador, and institution building assistance to prosecutors in Russia, South Africa and Uzbekistan. The Division implements these international development programs and assessments, funded by the Department of State, to promote police and judicial reform and foster the rule of law in these strategic countries.

#### *Office of Enforcement Operations*

Each year, the Office of Enforcement Operations (OEO) handles thousands of requests from the U.S. Attorneys' Offices and Federal law enforcement agencies to review and approve the use of a variety of sensitive investigative techniques and programs, with many of these techniques instrumental in the successful investigations and prosecutions discussed above. During FY 2002, OEO reviewed over 1,470 requests from the United States Attorneys' Offices to apply for the court-authorized interception of wire, oral, and/or electronic communications. OEO also reviewed close to 300 requests for witnesses to enter the Federal Witness Security Program; processed over 1,800 requests to grant witnesses immunity; and reviewed approximately 1,500 requests from prisoners seeking transfer to their home countries pursuant to the International Prisoner Transfer Program.

#### CONCLUSION

To support its broad mandate, the Criminal Division currently operates on a Fiscal Year 2003 Appropriation of \$129 million. For Fiscal Year 2004, the President's budget requests a total of 805 permanent positions, including 477 attorneys, and \$135.8 million. The budget also includes an enhancement request of four positions to expand corporate fraud investigations and prosecutions.

Mr. Chairman and Members of the Subcommittee—I hope this overview is helpful to your understanding of the important work of the Criminal Division. We are well positioned to continue pursuit of the Department's priorities and to allocate our limited resources as wisely and effectively as possible. I would be pleased to answer any questions that you may have.

Mr. COBLE. Thanks to all the witnesses.

I believe, in view of the significance of this hearing, we probably will have a second round of questions. I think we have many ques-

tions to put to you all. We comply with the 5-minute rule against ourselves as well.

Ms. Daniels, the Administration proposed to consolidate several grant programs into the JAG program. Some local enforcement agencies back in our respective districts have expressed some concern about this consolidation for fear that these grant monies will go directly to the States, and then the locals will be left holding the bag. Can you say anything that would assuage their concern?

Ms. DANIELS. Yes, sir. I am happy to.

The Local Law Enforcement Block Grant Program was created in 1996 after those concerns were expressed in light of the fact that the Byrne Block Grant Program went to the States and local law enforcement didn't feel it was getting sufficient funding directly. We strongly believe that that is very important. So, in developing the concept of JAG, the Justice Assistant Grants, while we want to streamline the process, we also want to respect the need for local law enforcement to receive funding in much the same way they did before. We simply want to make the process easier.

We want to actually expand their latitude, because one of the drawbacks is that the purposes for which they can use the funds are so limited. So Greensburg, North Carolina, Newport News, Virginia, will have a much broader latitude in their use of the funds and we will respect what has been done before and continue to make sure that local law enforcement—

Mr. COBLE. I am glad to hear that, and I want you to be aware of the anxiety that exists back in the local areas.

Mr. Lappin, we conducted a hearing recently regarding assault and rape in prison. I don't think your group was represented at that hearing, but does the BOP collect statistics on prison rape within Federal institutions and what standards does BOP employ for addressing prison rape?

Mr. LAPPIN. Well, sir, we do collect information on a case-by-case basis regarding assaults and rape and physical assaults of a variety of natures; and we can provide that information to you. I don't have the numbers here with me today but certainly can provide that to you subsequent to the hearing.

Our obligation is to provide a safe environment for all inmates. So, in our opinion, one rape, one assault is one too many. So we have to employ strategies and we do so each and every day to preclude that in the prison setting.

Mr. COBLE. Your predecessor told me you all have a system—apparently, a sophisticated system—that is online whereby vulnerable inmates can be protected from assault.

Mr. LAPPIN. Yes, sir. Through staff training and development, we work with our staff in identifying inmates who may be seen as assault victims as well as inmates who are predatory in nature so we can remove those predators from the general population to protect the rest of those individuals.

Mr. COBLE. I made the statement at the hearing to which I refer that I am very concerned about overcrowding, and I think that is probably a more severe problem at the local and State level than it is in the Federal system. But this overcrowding in prisons is a time bomb ticking that I feel will explode one of these days. Do you want to be heard on that?

Mr. LAPPIN. We continue to successfully manage prisons even though we have more inmates in them than they were designed to hold. I think we have done that because of the deployment of a variety of programs like Federal Prison Industries, education to keep those inmates that we determine can function appropriately in a general population active and participating in worthwhile, productive programs; and I think we can continue to do that to a certain degree. We appreciate the fact that the Administration and Congress has afforded us additional funding to build—bring on beds, new institutions, I guess, certainly due to that growing population over the next years.

Mr. COBLE. Are there procedures in place for the marshals to share information or intelligence gathered in the performance of your duties with other DOJ counterparts and the Department of Homeland Security, Mr. Reyna?

Mr. REYNA. Mr. Chairman, the United States Marshal has several members of the Marshal Service and several task forces that share information. In addition to that, obviously every time we have information that comes to our attention we are able to disseminate it to the appropriate agency. As a consumer of information, every time we have submitted a request to our Federal colleagues we have received adequate results and information to support our mission.

Mr. COBLE. My time in the first round has expired. We are glad to welcome the gentleman from Ohio, Mr. Chabot, to join us; and I am pleased now to recognize the gentleman from Virginia.

Mr. SCOTT. Thank you, Mr. Chairman.

Ms. Daniels, what is the status of the reorganization of your department?

Ms. DANIELS. Thank you for asking us that, Mr. Scott.

Actually, we have made great progress in our reorganization. We took to heart the comments of this Subcommittee and others over the years about the level of duplication and overlap and difficulties in management at OJP.

We have at this point—one of the most important things we have done is to begin automating our processes to a much greater degree than ever before. It is part of our reorganization plan that we submitted to the Congress. One of those factors was the creation of an Office of the Chief Information Officer.

We have made great strides. We have 84 percent of our grants actually online now through the grant award process. We are now going to be able to monitor them progress-wise online, and we are starting to roll that out. So we are doing a number of things in that area.

We have combined offices that are similar in nature, such as taking the Drug Courts Office and the Corrections Office and putting those into BGA because they already do similar work.

In other areas, we work together. For example, the Office of Victims of Crime needs to defer to the Office on Violence Against Women on issues that are particular to that office.

Mr. SCOTT. I think it is going to take longer. If we could get a statement from you after the hearing, I would appreciate it.

What is done to make sure that juvenile justice—specifically, juvenile justice research gets the priority it deserves?

Ms. DANIELS. We have spent quite a bit of time on this very issue, and we have spent a lot of time talking to organizations like the Juvenile and Family Court judges because we feel that it is critical that we serve our constituency and make sure that juvenile justice research continues to enjoy a high priority.

As you know, we are looking at making sure that all our research is carefully coordinated; and so, in doing that, though, we want to make sure that everyone is well aware we will continue to give high priority to juvenile justice research and give great respect to the independence of that research, which is critical, of course, to findings in our objective.

Mr. SCOTT. Are you familiar with the Abt research?

Ms. DANIELS. I became familiar with it in the car on the way here, that there was a report turned into NIJ, but I have not yet seen it.

Mr. SCOTT. Do you know when the results will be available? Because I understand they sent the document to you. It is not public until somebody has been able to review it. Do you know when it is going to be available?

Ms. DANIELS. I do not, but we will figure that out and report back to you.

Mr. SCOTT. I am delighted to see that you are following through on the DNA analysis. That is something that Virginia takes great pride in being a leader in. So if there is anything we can do to promote that effort, particularly getting rid of the backlog in many States in DNA analysis—

I know New York has a particular problem where they have a lot of samples that have not been analyzed and you have a lot of cases that should be solved, a lot of cases that you can coordinate—you know, that are related to each other. That work is not being done merely because of a backlog in DNA analysis. Anything we can do to help you in that we would be delighted to.

Ms. DANIELS. We appreciate that, sir; and Virginia has been a leader in that regard.

Mr. SCOTT. Mr. Chairman, if we are going to have a second round, I will yield back at this time.

Mr. COBLE. The gentleman from Wisconsin.

Mr. GREEN. Thank you, Mr. Chairman.

Mr. Lappin, myself and a number of other Members of this Subcommittee and the full Committee have a great interest in prison industries. Section 811 and 819 of the Defense Authorization Act has generated a lot of confusion out there, and it appears as though the Department of Defense has not uniformly applied its requirements. Results of comparability studies are not being provided to Federal Prison Industries, and there is a lot of confusion out there, to the point where we are seeing factories closing down and jobs being lost and all the benefits that Federal Prison Industries can provide being lost. What are your plans to try to deal with these problems?

Mr. LAPPIN. Well, sir, I would agree with your assessment in that regard. Federal Prison Industries is one of our most important inmate programs as it certainly teaches job skills and work habits that improve that individual's ability to retain and certainly gain employment upon release.

We have felt the impact of 811 and 819. In part, we believe, as you mentioned, some confusion exists because rules have not yet been issued which has resulted in that confusion, confusion for what contracting officers are obligated to do. In fact, in some cases, the impression that mandatory source has actually been eliminated.

As you mentioned, the result, the—as a result of those changes, we have had to close four factories, four textile—I am sorry, four furniture and one textile. Absorbed the staff jobs into the Bureau, but we lost about 400 inmate-related jobs. We continue to see the impact because through April this year our net corporate earnings for FPI are 62 percent below plan.

We believe that if the rules are published that a lot of that confusion will go away; and, in fact, once they are published and understood by the contracting officers, we will then be able to see a shift in the way FPI is going at the present time, because we will be offering more opportunity to compete for jobs that currently we don't believe we are competing for.

Mr. GREEN. Do you have any sense of when those rules are going to be published?

Mr. LAPPIN. It is my understanding it is in the not-too-distant future. It should be fairly soon. It is my understanding that we are currently working on them and hopefully published in the near future.

Mr. GREEN. Any guidance as to what the near future means?

Mr. LAPPIN. No, sir. I certainly don't know.

Mr. GREEN. Ms. Daniels, what steps are being taken by OJP to ensure that ineffective grant projects do not continue to be funded?

Ms. DANIELS. I appreciate the question, Congressman.

Our ability to evaluate programs is somewhat limited, unfortunately, just by the nature of the appropriations process and the limits on the dollars that we are permitted to spend on evaluation. Nonetheless, we are doing everything we can through partnerships with other agencies of Government, working with the Council on Excellence in Government, working with private foundations to try to do as much as we can in the way of identifying of what really works and what we have in the way of scientific evidence. We want to make that information available. And to the extent that we are funding anything of a discretionary nature and we get evidence that it doesn't work, one of my top priorities is to stop doing it. So we are committed toward that end.

Mr. GREEN. Speaking of your discretionary programs, every year, of course, Congress passes a lot of earmarks. What impact are earmarks having on your discretionary programs?

Ms. DANIELS. Well, Congressman, to be frank, the evaluation is just one aspect of the limitations on our ability to exercise discretion. We are limited in our ability to respond to emerging issues. We have had many requests for assistance we have not been able to grant, in fact, because at this point there is \$150 million in Byrne discretionary money and about \$89 million in juvenile justice discretion money for 2003, 200 percent of which is earmarked. So it is very difficult for us to respond at all. However, we at least try to work with those recipients to use those funds for the most useful purposes that will further justice.

Mr. GREEN. Thank you, Mr. Chairman.

Mr. COBLE. I thank the gentleman.

The gentlelady from Texas.

Ms. JACKSON LEE. Thank you very much, Mr. Chairman, for holding this hearing and the Ranking Member as well and for the presence of the Ranking Member of the full Committee.

Let me thank the new Director of the Federal Bureau of Prisons, and I have a series of questions. I understand that there will be a second round.

But I do appreciate you returning my call last week, and I hope we will be able to pursue the issues that we raised, and I will raise some others as well.

Let me thank the other witnesses.

I would like to pursue a line of questioning that has come to my attention and is extremely serious in our State; and I would ask two things, Mr. Chairman. I would ask to submit into the record an article that says, DeLay Backs Federal Aid to Track Down Walkouts, dated May 13, 2003. Ask unanimous consent for submission of this article into the record.

Mr. GREEN. [Presiding.] Without objection.

Ms. JACKSON LEE. Thank you very much.

[The information referred to follows:]

May 14, 2003, 11:18AM

## **DeLay backs federal aid to track down walkouts**

**By KAREN MASTERSON and ARMANDO VILLAFRANCA**  
**Copyright 2003 Houston Chronicle**

WASHINGTON -- House Majority Leader Tom DeLay said Monday he wants federal authorities to pursue Texas Democrats dodging a vote on a plan he authored to increase Republican seats in Congress.

The Sugar Land Republican told reporters that bringing in either U.S. marshals or FBI agents is justified because redistricting is a federal issue, involving congressional seats.

"If it is legal for them to do so, I think it would nice for them to help out the Texas Rangers and the Texas troopers," DeLay said.

Spokesmen for the Justice Department and FBI indicated those agencies likely would have no reason to assist the state officers in apprehending the Democrats whose absence has deprived the state House of a quorum needed to do business.

The state officers who are in charge of rounding up the runaway lawmakers, meanwhile, were accused Tuesday by some Democrats and their relatives of heavy-handed tactics .

"Once our wives tell them they don't know where we are, that should be the end of it and once they know where we are that should be the end of it," said Craig Eiland of Galveston, one of 51 Democrats holed up in an Ardmore, Okla., motel.

He and others there said state House Speaker Tom Craddick, R-Midland, used Texas Department of Public Safety officers to intimidate their families and staffs.

Eiland said a Texas Ranger questioned nurses late Monday night at the University of Texas Medical Branch-Galveston neo-natal intensive care unit, where Eiland's premature twins are patients. The Ranger later went to Eiland's home to question his wife.

By then, Eiland said, Craddick already had announced that most of the missing Democrats were in Ardmore.

"(The Ranger) was doing what he was instructed to do by the speaker and it was unnecessary and over the line," Eiland said.

DPS spokeswoman Teela Mange said she could not explain why family members were questioned if authorities knew where the legislators were.

State House rules call for the arrest of members who act deliberately to block quorums, but the action carries no civil or criminal sanctions.

A spokesman for DeLay suggested Tuesday that U.S. marshals or FBI agents might escort the Democrats to the Texas border, where Texas law enforcement officers would take the Democrats directly to the Capitol.

A Justice spokesman said Tuesday he knew of no role for the department.

FBI spokesman Bill Carter said he was unaware of any request for that agency to assist. "I don't know of any authority that would allow us to even contemplate getting involved," Carter said.

Craddick denied being involved in any effort to get federal authorities to bring the legislators back across state lines. He said that action was taken by the DPS, which has set up a "war room" in the Capitol for coordinating efforts to corral the legislators.

Spokesman Bob Richter said Craddick only was doing what he was mandated to do as speaker.

But Democrats continued to complain of harassment Tuesday.

Democrats charged that Jacksonville Democrat Chuck Hopson's wife was followed Monday by the DPS from Austin to Jacksonville, and that a senior staff member of Austin Democrat Elliott Naishtat was told by a state trooper that withholding information was a felony offense.

Denise Pickett, the wife of El Paso Democrat Joe Pickett, said she received a call on her cell phone about 8 p.m. Monday from her 17-year-old daughter, who reported that officers were at the Pickett home questioning her about her father's whereabouts.

When she arrived back home, she said officers emerged from the front door.

"I have a lot of respect for police officers so I was just trying to answer their questions as well as possible," she said. "However, reflecting back I do wish I would have asked them, 'What are you doing in my house without my being there?'"

Chronicle reporter Michael Hedges contributed to this story from Washington and R.G. Ratcliffe contributed from Austin. Armando Villafranca reported from Austin.

Ms. JACKSON LEE. And I would like to submit a letter to Attorney General Ashcroft dated May 13, 2003, sent by a number of Members of the Judiciary Committee. I would like to ask unanimous consent to have that submitted into the record.

Mr. GREEN. Without any objections.  
[The information referred to follows:]

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ONE HUNDRED EIGHTH CONGRESS

Congress of the United States  
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COMMITTEE ON THE JUDICIARY

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May 13, 2003

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The Honorable John D. Ashcroft  
 Attorney General of the United States  
 U. S. Department of Justice  
 950 Pennsylvania Ave., NW  
 Washington, DC 20530

Dear Attorney General Ashcroft:

We are writing as Members of the House Judiciary Committee (and a Member of Congress from the State of Texas), about a troubling situation that has come to our attention. We have been informed that State officials have sought Federal intervention regarding the decision of duly elected members of the Texas legislature who have indicated to the Texas House leadership that they would be absent from Floor sessions beginning on May 12, 2003.

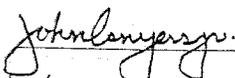
We raise immediate objection against any State legislator being detained by the Federal Bureau of Investigation, the Department of Justice, and/or any other Federal agencies in this case. We believe the legislators' Constitutional rights would be violated if such actions were taken. Since there is no Federal nexus or question and there are no grounds for the Federal government to intervene in this instance, any action by the Justice Department would seem purely political.

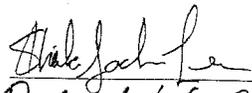
Please advise us on what authority any Federal intervention would be based, and what precedent, if any, exists for Federal action in such a case involving sensitive constitutional and separation of powers issues.

The Honorable John D. Ashcroft  
Page 2  
May 13, 2003

We would appreciate your response on this time sensitive matter by close of business tomorrow. Thank you.

Sincerely,

  
\_\_\_\_\_  
Linda J. Sanchez

  
\_\_\_\_\_  
Robert Wepler

cc: The Honorable F. James Sensenbrenner, Jr.  
Chairman, Committee on the Judiciary

Ms. JACKSON LEE. Let me cite for the witnesses statements made in a *Houston Chronicle* article dated May 13, 2003, and I have a line of questioning.

Washington dateline: House majority leader Tom DeLay said Monday he wants Federal authorities to pursue Texas Democrats dodging a vote on a plan he authored to increase Republican seats in Congress. The Sugar Land Republican told reporters that bringing in either U.S. Marshals or FBI agents is justified because redistricting is a Federal issue involving congressional seats.

His further quote says, if it is legal for them to do so, I think it would be nice to help out the Texas rangers and Texas troopers.

Let me pose first a question to Mr. Reyna. Do you have directions to go to any part of Texas or any other State to secure the arrest and to put in custody any members of the Texas legislature?

Mr. REYNA. Congresswoman, the United States Marshals Service is not involved with any of that matter going on in Texas.

Ms. JACKSON LEE. Do you have any instructions to engage in any Federal intervention on that matter?

Mr. REYNA. No, ma'am, we do not.

Ms. JACKSON LEE. Do you know if any of your marshals have been dispatched in that direction for the purposes of securing the arrest and/or custody of these individuals?

Mr. REYNA. No, ma'am. The United States Marshals Service is not involved with that matter in Texas.

Ms. JACKSON LEE. Would it be within your authority to do so?

Mr. REYNA. We would get direction from the Department of Justice, and the Department of Justice would have to give us guidance on that, and we have not been given any guidance on it and received no word from the Department of Justice. So we are not involved in that process.

Ms. JACKSON LEE. Are you familiar with any of the provisions of the PATRIOT Act? Do you know whether or not you have any directions under the PATRIOT Act to arrest these particular members?

Mr. REYNA. No, ma'am. We have no instructions or directions in that process—to be involved in that process.

Ms. JACKSON LEE. We have a letter that was submitted as indicated, and I would appreciate your response in writing. We asked for the Attorney General to provide us with an immediate response today. We have not heard from him, and so you can consult with his office. We would like to have an appropriate response, because certainly your office was suggested as one of those that might be so engaged.

I appreciate your answers here on the record, but I am concerned, and I want to make sure that we have gotten the full response, and I appreciate your kindness in your answers.

Ms. Myers, let me raise these questions with you. I recognize that we do not have a representative here from the FBI, but I want to pose the question whether any jurisdiction would ensue under the PATRIOT Act or do you have any knowledge of any instructions through the Criminal Justice Division to intervene in a State action in Texas to secure the arrest and/or custody of these 53 Texas Democratic legislators.

Ms. MYERS. Congresswoman Jackson Lee, I am not aware of any such involvement and certainly the Criminal Division has not had any involvement.

Ms. JACKSON LEE. Do you know if you have any direct requests from any majority leader of the House of Representatives on this issue?

Ms. MYERS. I am not aware of any.

Ms. JACKSON LEE. And do you have any knowledge of any inquiry to any U.S. Attorneys that may be in the State of Texas and elsewhere to provide assistance in the arrest of these individuals?

Ms. MYERS. I do not. But let me say I am the Chief of Staff for the Criminal Division, so I am most knowledgeable about things involving the Criminal Division, and to that I am sure there is not.

Ms. JACKSON LEE. I will conclude, Mr. Chairman, by simply saying this. I would appreciate we will have a second round to be able to pose to Ms. Myers any justification under the PATRIOT Act that might reach into domestic Texas legislators who have not been accused of any criminal wrongdoing as to whether the PATRIOT Act would be legitimate criminal jurisdiction or Federal jurisdiction for intervention.

Finally, I would just say that we don't have any knowledge of the misuse of Federal law enforcement officials being utilized like this since Nixon when he tried to utilize the FBI and CIA for political purposes. We would appreciate a response. I understand that you have not directly been posed the question by this letter, but I think it is appropriate to be able to get this information on the record.

I thank the distinguished Chairman for yielding to me.

Mr. COBLE. [Presiding.] The gentlelady's time has expired.

The gentleman from Michigan.

Mr. CONYERS. Thank you, Mr. Chairman.

I welcome our witnesses today. We have the leader from the Criminal Division, the Marshals, Bureau of Prisons, Office of Justice Programs; and they make a request, total of \$7.3 billion for this authorization. The total Department of Justice request is \$23.3 billion, and there is—means that there is a considerable amount of money, \$16 billion, that is not accounted for. Could I ask my friend, Mr. Coble, Chairman, how we exert your authorizing inquiry over the other agencies and this amount of money?

Mr. COBLE. If the gentleman would yield, I don't have an answer to that.

Mr. CONYERS. Then could we—let us see—this is \$23 billion here. We will meet on that. We don't want to take up your valuable time, ladies and gentlemen. Are these increases in authorization requests? Are they decreases? Are they what you had in the previous year? Can each of you explain which direction we are going to in this regard?

Ms. DANIELS. Congressman, if you want to take us in chronological order, ours is a decrease from our existing—not authorization, but our existing appropriation.

Mr. CONYERS. How much?

Ms. DANIELS. Our appropriation for 2003 is about \$4.3 billion, and we are requesting \$2.185 billion for the Office of Justice Programs in 2004. Part of that is because the Office for Domestic Preparedness has moved to the Department of Homeland Security.

Mr. CONYERS. So that has taken some of your jurisdiction and personnel resources.

Ms. DANIELS. Correct.

Mr. CONYERS. How much did you ask for?

Ms. DANIELS. That is what we asked for, sir—oh, you mean in 2003?

Mr. CONYERS. What are you seeking—what was your—this is what you are asking for right here. You don't really know what you are going to get.

Ms. DANIELS. Correct. In the President's budget 2004, we are asking for \$2.185 billion.

Mr. CONYERS. And you are at \$135 million now.

Ms. DANIELS. No, sir.

Mr. CONYERS. \$2.1 billion.

Ms. DANIELS. In 2003 enacted, I guess we ended up with—they are excluding the crime victims fund. I think we are at about \$3 billion.

Oh, I know what it was. The difference there is the Homeland Security Office for Domestic Preparedness. So, without that, in 2003, we are at about \$3.2 billion.

Mr. CONYERS. All right.

Mr. LAPPIN. Yes, sir. The Bureau of Prisons is requesting 4.7 billion, which is an increase over fiscal year 2003. I don't know the exact number for FY 2003, but it is probably about the \$4.2 billion range. This is solely driven by the increase or additional beds coming on line in the Bureau of Prisons. We anticipate about 9,500 inmates in 2004.

Mr. CONYERS. Is it true that you are at record highs of people that are incarcerated in our Federal prison systems?

Mr. LAPPIN. We just hit 169,000 inmates this year. This is certainly the most inmates we have ever had incarcerated in the Federal Bureau of Prisons.

Mr. CONYERS. And are there any plans or projections for additional buildings?

Mr. LAPPIN. Yes, there is. We have funding for the activation of four institutions in the 2004 budget.

Mr. CONYERS. Four?

Mr. LAPPIN. Four. And are requesting funding for another seven. Actually, we are bringing on four this year, sir, and another seven—requesting funding for another seven next year. Those are not new facilities. Those are facilities that have completed construction and will be in the activation phase.

Mr. CONYERS. So, you could provide us the names of those facilities and locations, and the amounts you have set aside for each one?

Mr. LAPPIN. We can provide you an activation update of facilities that are going to activate this fiscal year and next fiscal year and a timeline for those, sir.

Mr. CONYERS. What about the U.S. Marshals? What is your direction in terms of funding?

Mr. REYNA. Thank you, Congressman. Our total request for fiscal year 2004 is for a total of 4,592 positions and \$720.8 million. We are requesting additional positions to do protective operation within the judiciary. And that is our—

Mr. CONYERS. But is that more or the same or less?

Mr. REYNA. We have—our total program change equals to 1,473,000.

Mr. CONYERS. You are asking for \$1.3 million additional?

Mr. REYNA. Well, our requested total is for 720.8 million, although our base for 2004 was \$719,333,000.

Mr. CONYERS. So you are only asking for a little bit more—

Mr. REYNA. We have some base reductions to that, sir, yes.

Mr. CONYERS.—am I right?

Mr. REYNA. Yes. Our total is \$720,806,000.

Mr. CONYERS. And that is just only a little bit more from the last authorization.

Mr. REYNA. Well, our appropriations for 2003, which is direct appropriations, only were \$676,051,000.

Mr. CONYERS. So you are asking for that much more? You subtract the 6—156 million figure from the 720.8 million, we would know how much more you are asking for, right?

Mr. REYNA. Yes, sir.

Mr. CONYERS. Okay.

Mr. COBLE. The gentleman's time has expired.

And I didn't respond specifically to your question as far as dollars and cents. Other Subcommittees are conducting hearings with other components of justice, and you will recall at our first hearing we had ATF, DEA, and FBI, which is probably a good portion of it. So I don't think any of us will know until probably all of these hearings have been concluded.

But let us start a second round, if we may.

And, Ms. Myers, let me ask you. You indicated that, in your testimony, you mentioned that the Counterterrorism Section of the criminal division helps with the war on terrorism by disrupting the flow of money. In disrupting the flow of money to terrorists, does your section work with Treasury Department and the State Department? And what other agencies or departments, if any, are involved? (A), and (B), explain how this section works with the FBI and other Federal agencies to disrupt terrorism.

Ms. MYERS. Thank you, Chairman. The Counterterrorism Section works with the FBI and other law enforcement agencies in its terrorist financing program. Within the Counterterrorism Section, there is a terrorist financing task force, a group of dedicated prosecutors who are knowledgeable about the way that terrorist financing works, and they serve as the lead on these terrorist financing prosecutions. They also approve nationwide all the terrorist financing prosecutions.

Of course, the Counterterrorism division, in conjunction with the FBI, works with other agencies such as the Treasury Department, the Department of State, and the new Department of Homeland Security. And just recently, for example, we found some new energies in working with the new Department of Homeland Security; in that, the Operation Greenquest is going to merge into the work that's done by the FBI and the JTTFs. And we think that this is a great success and allows us to really coordinate things much better as we are trying to do all the time.

Mr. COBLE. I thank you.

Mr. Lappin, I represent a district that is heavily concentrated in textiles and furniture, and I have always had the fear that your group cuts into that private enterprise in an obvious way. I am not adverse to rehabilitation, I am not adverse to training inmates, but I like to strike some sort of balance whereby the private furniture and the private textile manufacturers don't suffer detriment. Do you appreciate my concern?

Mr. LAPPIN. I certainly do, Mr. Chairman. And I think you used the perfect word, and that is, we need to strike a balance. We are and will continue to be very sensitive to the impact the Federal Prison Industry has on small businesses. Obviously, we realize when we get business, it takes business away from somewhere else, but hopefully we can find that balance to allow us to continue to employ inmates in the Federal Prison Industry, along with improving their skills and abilities, and hopefully in the end, reducing recidivism and their success upon return to the community.

I think the Federal Prison Industry Board is also very sensitive to this issue, and in fact, if you are not aware, recently passed six resolutions to help strike that balance. Those six resolutions will have some negative impact on the Bureau of Prisons; however, we feel as though it allows us time to reprogram our existing factories which as we have mentioned, many of which are predominantly furniture, textile, and electronics, to other program or other product lines. What we need, sir, is time to make that shift.

We will continue to be sensitive to small businesses. But I would also like to mention that as part of the Federal Prison Industry, they spend about \$500 million a year on products and services, and 62 percent of that is spent on our customers certainly are small businesses. So we are returning to the community, too, in regard to supporting small businesses through where we purchase from and who we purchase from in the Federal Prison Industry.

Mr. COBLE. Okay. I thank you for that. Let me ask you one more question before my time expires. And you may want to respond to us in writing, Mr. Lappin. I am concerned about the utilization of private prisons. I am told that many private prisons have vacant spaces that are probably not being utilized. And I would be glad to hear from you even—well, my time is about to expire, but initially now and then in writing if need be. And I realize you don't have jurisdiction over the State facilities, but what would you think about expanding that proposal to the State and local institutions?

Mr. LAPPIN. Yes, sir, we can respond in writing. But let me just first say that we are probably the largest customer of private beds. We have 16,000 inmates in private correctional facilities, and we anticipate in the next few years we will continue to utilize those individuals for housing detention inmates primarily and low security criminal aliens, as we have in the past.

We feel that is a perfect option to assist us in balancing our growing population. We also have done a survey of the States to see if there are beds available. A few States have contacted us. Unfortunately, many of the institutions they offer up to us are rather old and in disrepair, and we really have to do an assessment if that is really the best deal for the taxpayers. But we will follow up with you.

Mr. COBLE. And respond to us.

Mr. LAPPIN. Absolutely.

Mr. COBLE. And I see my time has expired. I am now pleased to recognize the gentleman from Virginia.

Mr. SCOTT. Thank you.

Mr. Lappin, we are releasing a lot more prisoners now than we have been in the past. I think about 10 or 20 years ago we were releasing about 200,000, and now it is up to about 600,000 in the United States, State, Federal, and local prisoners being released. What difference does a provision of transitional services make on the rate of recidivism?

Mr. LAPPIN. We believe it has a critical impact, Congressman. As I mentioned earlier, or as the Chairman mentioned, our mission in the Bureau of Prisons is to safely house inmates. But, in addition to that, our mission is to provide opportunities for inmates to grow, to learn job skills, educate themselves. And certainly the research we have done have shown a significant impact, positive impact on recidivism rates as it applies to inmates participating in Federal Prison Industry, which as I mentioned in my testimony, 24 percent reduction.

Mr. SCOTT. Have you done a cost benefit analysis to see whether or not you save so much that you save more than the cost of the program on education and some of the other transitional services?

Mr. LAPPIN. We may have those figures, sir. I don't have them with me. We have done some research on, as you mentioned earlier, drug treatment where we are seeing very positive results as a result of inmates participating in drug treatment. And you also mentioned, sir, our dilemma with PELL grants and education. And we realize the dilemma the Congress went through in restricting that for prisoners, especially when law-abiding citizens have difficulty of their own gaining those resources. But we continue to see great benefits from that. We have focused more so on occupation.

Mr. SCOTT. For those who have had an opportunity to get a college education when they were in prison, did their recidivism rate go down?

Mr. LAPPIN. Sir, I don't have those statistics with me, but if we do, we can certainly provide them to you after the hearings.

Mr. SCOTT. The numbers that I saw were, those who had access to a PELL grant virtually never came back; and obviously those that did come back at a rate of about 50 percent, which has a huge cost benefit.

You changed the rules recently on halfway houses. How has that affected your ability to provide transitional services?

Mr. LAPPIN. Well, we certainly continue to see that as a high priority in transitioning inmates into the community. Reentry is critical, and halfway houses are an important aspect of that. The impact on us is that we have just been sending inmates for less time than we have in the past. We are still sending about 70 to 75 percent of the inmates who are eligible to the community through a halfway house. Our focus now is to target on that little 25 percent who are a little tougher to place because of personal—because of violence in their background, because of mental health issues. But those are truly the ones we need to focus on more because their entry needs are as great.

So it has impacted us a little bit in that we are sending inmates for a little shorter time, but we are still sending the same percentage of inmates.

Mr. SCOTT. The Chairman asked you about the prison rape bill. Has the Department taken a position on that?

Ms. DANIELS. I would be happy to respond to that, Congressman. Actually, my principal deputy testified before this Subcommittee last week on that, or 2 weeks ago, I think, on that subject. And our position is of course that this is a critical problem within prisons and something that we want to work diligently on, and we have pledged to work very closely with members of the advocacy community as well as Members of the Subcommittee, and to try to develop something. This impacts our JP in one way. One is the statistical end of things, and we are already developing a way to collect baseline data and then be able to measure changes.

And we also want to try to develop a workable incentive program and a way to help, at least from our standpoint, the State prisons. We don't obviously fund anything in the Federal system, but the State prisons, in resolving these problems.

Mr. LAPPIN. And, sir, we too agree that some assessment of the issue would be helpful. We only caution that how that assessment takes place be looked at very carefully so that we don't come back maybe with some recommendations and send us in the wrong direction at greater expense to the taxpayer.

Mr. SCOTT. Thank you. I just have a few seconds left. I would like to ask Ms. Myers, are you familiar with the Feeney amendment to the Protect Act?

Ms. MYERS. Yes, Congressman.

Mr. SCOTT. Does that de novo review on the appellate level apply to all sentences, or just to the child and sex abuse context?

Ms. MYERS. Congressman, it is my understanding that the de novo review provision that you are referring to does apply in certain instances to kinds of appeals on certain kinds of departures across a wide spectrum of cases.

Mr. SCOTT. All cases?

Ms. MYERS. Yes. In all types of certain departure cases. So it wouldn't be all appeals or all—it is my understanding that even all departure appeals. But it would be certain types of departure appeals that are specifically enumerated within the amendment.

Mr. SCOTT. Namely, downward departures.

Ms. MYERS. And upward departures, Congressman, yes.

Mr. SCOTT. Would be reviewed de novo?

Ms. MYERS. Congressman, it is my understanding, although I am not an expert on the Feeney amendment, that it applies to just those instances where there is either a departure that is not specifically enumerated or there is an issue about the extent of the departure. Just one moment.

Congressman, I have just been refreshed by my counsel here. In all departure cases, the decision would be reviewed de novo, but both up and downward departures. So if a judge departed upward a particularly violent criminal, the defendant would then be able to appeal that.

Mr. SCOTT. Thank you.

Mr. Chairman, I think there was some confusion during the consideration of the bill that the Feeney amendment only applied to child sex abuse cases, and now we are hearing that it applies to all sentences. Thank you.

Mr. COBLE. I thank the gentleman.

The gentlelady from Texas.

Ms. JACKSON LEE. Thank you very much, Mr. Chairman.

I am going to pose some questions that I am going to ask kindly for them to be responded to in writing, unless I have some time afterwards.

Specifically to Ms. Daniels, again, thank you for your testimony. We, over the years on this Committee, have worked very extensively on juvenile justice issues, prevention of juvenile crime. I am concerned about the fact as to whether or not your aid department under the Department of Justice will put in place sufficient resources to continue research and maintain the priority status on the issue of juvenile justice research. And, will it be done by qualified experts in the field?

I would like to see whether or not there is an opportunity to include research on the literal collapse of Children's Protective Services around the Nation. This is not to say that we don't have some very hard-working individuals in the Children's Protective Services, but I think from New Jersey to Florida to Texas and other places we have seen some tragic incidences occurring. I would like to see whether we and the Justice Department and the Justice Judiciary Committee can be helpful in those areas. And so I am going to leave that with you.

With respect to Mr. Lappin, let me explore this question of a shorter period of time in the halfway houses, and how that has negatively impacted the transition that we would like. If you could quickly give me that answer, as well as one of the criticisms in both State and Federal prison has been the lack of professional development for the Federal corrections officers and/or State corrections officers. What have you done to enhance professional development and compensation for those correctional officers? Can you give me two quick answers on that, please?

Mr. LAPPIN. Well, let me take the enhancement of the professionalism of the correctional officers in the Bureau of Prisons. We take training very highly. Our staff receive enormous training each and every year, and it is not just one-time training. There is a mandatory requirement of 40 hours of training each and every year above and beyond some other developmental training geared toward dealing effectively with inmates, certainly on code of conduct issues and treatment and so forth. So we pride ourselves on the fact that our employees are well aware of how to manage themselves within the correctional setting, how to deal effectively with inmates. And we continue to provide that training on a daily basis.

Ms. JACKSON LEE. So that is in-house. Do you provide outside professional development opportunities?

Mr. LAPPIN. There are outside professional development opportunities. Of course, with close to 35,000 employees, it reduces the amount of that we can provide. But whenever opportunities are available, we certainly try to provide outside training for our employees.

Ms. JACKSON LEE. What about compensation? How have you kept up with compensation as it relates to inflation, as it relates to cost of living, as it relates to the need to be competitive?

Mr. LAPPIN. For our employees?

Ms. JACKSON LEE. Yes. And particularly those corrections officers that are maintaining the order in the prison and detention centers.

Mr. LAPPIN. We continue to look at career development paths that progress employees up through the GS scale. We also certainly utilize the increased funding and high cost of living areas to try and compensate our employees. And again, hopefully by our additional training and the opportunity to get additional skills, they will qualify for higher paying jobs as they move through their career in the Bureau of Prisons.

Ms. JACKSON LEE. Let me encourage you to be as supportive of this concept as possible. And if you could give me in writing sort of a 5-year look of where compensation was 5 years ago and where it is today.

Mr. LAPPIN. Yes.

Ms. JACKSON LEE. Might I conclude on your questions by simply saying, I have a great interest in making sure that we rehabilitate prisoners, no matter what system they are in. And I might encourage you to look for opportunities when inmates are trying to be closer to family members; or inmates, unfortunately, may have an inmate relative; that any time we can encourage inmates to look to the future and rehabilitate themselves, that it is a positive action that the Bureau can take as long as it is within the context of keeping order.

And I would encourage that kind of cooperative spirit. Tragically, there are relatives in the system, and there are times when those relatives can be helpful to each other in a positive way. And I thank you very much.

Mr. LAPPIN. Thank you, ma'am.

Ms. JACKSON LEE. Mr. Reyna, let me pursue quickly the professional development issue with respect to you. Let me say that we have had great pleasure in the U.S. Marshals in the State of Texas, the last one I worked with Art Contreras and certainly the one now. Could you just quickly say, are you working on professional development for the U.S. Marshals encouraging retention, better retention?

Mr. REYNA. Congresswoman Jackson Lee, we are obviously very interested in developing a career path and certainly professional development for our employees. And it is accomplished through a series of things. First of all, this year I am pleased to report that we have promoted a significant number of personnel into supervisory positions. We also are in the process of increasing our level of training, and certainly the United States Marshal Service obviously follows the grade pay scale within the Department of Justice. And—

Ms. JACKSON LEE. Mr. Reyna, that bell is a frightening bell. May I get you to respond with the rest of it in writing, please, so that I can get to Ms. Myers before my time is out? I apologize for that, but I see the Chairman moving up in his seat.

Let me just—Ms. Myers, how much of the \$135.8 million is for terrorism fight that you are requesting?

Ms. MYERS. Well, Congresswoman Jackson Lee, a significant portion of the money is for our activities that involve terrorism. Every section works on terrorism activities. I would be happy to respond in more detail in writing to you on that particular—

Ms. JACKSON LEE. In terms of the percentage?

Ms. MYERS. In terms of the percentage.

Ms. JACKSON LEE. Then let me finish this line of questioning as I said I would pursue. Would any of the \$135.8 million, in your estimation, be utilized to pursue State legislators who are in the process of acting out a civil action of not having a quorum in the State legislature?

Ms. MYERS. Congresswoman Jackson Lee, I have no knowledge of the Criminal Division having any involvement in that or being instructed in any way.

Ms. JACKSON LEE. And do you have any knowledge of the PATRIOT Act again being utilized in that instance with Texas State legislators?

Ms. MYERS. Congresswoman Jackson Lee, I have no knowledge of the PATRIOT Act being utilized in that way.

Ms. JACKSON LEE. I would appreciate it if I could also get that in writing. And if I would—knowing that you are representative, but just to put on the record again that I have—we have written the Attorney General to get a direct response on those questions.

Ms. MYERS. We look forward to providing a full response in writing with the other components outside the criminal division.

Ms. JACKSON LEE. I thank the Chairman for his indulgence.

Mr. COBLE. Mr. Green, any questions for you, sir? I thank you, sir.

I thank the witnesses for your contribution and your testimony today. The Subcommittee very much appreciates it. This concludes the oversight hearing on the reauthorization of the Department of Justice criminal law enforcement agencies. The record will remain open for 1 week. Thank you again for your cooperation. The Subcommittee stands adjourned.

[Whereupon, at 3:23 p.m., the Subcommittee was adjourned.]

## A P P E N D I X

### MATERIAL SUBMITTED FOR THE HEARING RECORD

PREPARED STATEMENT OF THE HONORABLE SHEILA JACKSON LEE,  
A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. Chairman and Mr. Ranking Member, I am eager to hear testimony from representatives of the Bureau of Alcohol, Tobacco, and Firearms (ATF), the Federal Bureau of Investigation (FBI), and the Drug Enforcement Administration (DEA). Each of these federal agencies shoulders an enormous burden, a unique burden, to prevent crime and keep Americans safe from foreign and domestic threats.

#### THE FEDERAL BUREAU OF INVESTIGATION

The FBI is on the front lines of investigating possible terrorist activity. After the events of 9/11, and the subsequent passage of the Patriot Act, the FBI has been given additional powers to conduct its investigative efforts. Those powers include the authority to intercept wire, oral, and electronic communications, the authority to conduct roving surveillance under the Foreign Intelligence Surveillance Act of 1978, the authority to seize voice mail messages, and the authority to obtain additional intelligence information from internet service providers.

All of these additional powers are useful tools in our efforts to achieve national security and to prevent future terrorist attacks. However, these additional powers grant FBI agents broad discretion in their investigations and open the door to potential abuses of discretion. It is unacceptable for FBI agents, or any law enforcement agent, to engage in discrimination, racial profiling, or violations of civil liberties in the name of investigating possible terrorist activity. I am adamantly opposed to any FBI agent violating the rights and/or civil liberties of American citizens or lawful immigrants.

Since 9/11 we have seen a drastic increase in racial profiling of individuals of Arab or South Asian descent, Muslims, and Sikhs. While national and local statistics are scarce, there are numerous anecdotal accounts show how Arabs, Muslims, and Sikhs have endured racial profiling. For example, in the months following September 11th, a new type of racial profiling has developed: "driving while Arab." Arabs, Muslim, and Sikhs across the country were subjected to traffic stops and searches based in whole or part on their ethnicity or religion.

For example, on October 4, 2001 in Gwinnett, Georgia an Arab motorist's car was stopped, he was approached by a police officer whose gun was drawn, and he was called a "bin Laden supporter" all for making an illegal U-turn. In another example, on October 8, 2001, two Alexandria, VA police officers stopped three Arab motorists. The officers questioned the motorists about a verse of the Koran hanging from the rear view mirror, and asked about documents in the back seat. The police officer confiscated the motorists' identification cards and drove off without explanation. He returned 10 minutes later, and claimed he had had to take another call.

While these incidents were by police officers and not FBI agents, they are indicative of the type of discrimination and violations of rights that can occur when law enforcement authority is unchecked. We must be certain that the FBI protects the lives of American citizens without infringing on the rights of Americans. I hope that the testimony by the FBI's representative will put my concerns to rest.

#### THE DRUG ENFORCEMENT ADMINISTRATION

While the DEA's mission is not directly related to homeland security and preventing terrorist attacks, their responsibility to control drug trafficking is equally important to the safety and stability of all American communities. The United States is still faced with heavy drug importation. Furthermore, there are growing concerns that the purity of available narcotics is getting worse, a situation that will

contribute to higher rates of addition. The DEA must also deal with decreased assistance from other federal law enforcement agencies as approximately 400 FBI narcotics agents are reassigned to fight the war on terrorism.

While I acknowledge the additional pressures on the DEA in the post 9/11 era, it is still critical that the agency operate efficiently and professionally. I am concerned by recent accounts that the DEA has been criticized for lack of management, failure to report its progress in reducing illegal drug availability, and failure to develop reasonable long-term goals. The war on drug trafficking and drug use by American citizens, particularly our children, must be waged with the same passion as our war on terrorism. I look forward to hearing the testimony of the DEA on their progress in fighting the war on drugs.

THE BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS

The ATF, like the DEA, has a critical role in ensuring the safety of American citizens. Gun trafficking plagues our streets and jeopardizes the lives and safety of our communities and our children. I recently opposed legislation in the full Judiciary Committee that grants immunity to gun manufacturers and dealers when weapons they manufactured or sold are used in criminal acts. I offered amendments to the gun liability bill to exempt from the scope of the bill those lawsuits brought by or on behalf of minors who were injured or killed by negligently transferred guns, and lawsuits against the sellers of machine guns, semi-automatic assault weapons, and large capacity ammunition feeding devices.

Children are likely to play with guns and assault weapons have been banned by Congress because they are inherently dangerous. For these reasons and many others, I strongly believe that the ATF has perhaps the most important law enforcement role when it comes to protecting the American public. I am very interested in hearing the testimony from the representative from the ATF to hear more about their efforts to control the illegal distribution of guns in our communities.

Thank you, Mr. Chairman and Mr. Ranking Member.

RESPONSE FROM RICHARD J. HANKINSON TO QUESTIONS  
SUBMITTED BY THE SUBCOMMITTEE



U.S. Department of Justice  
Office of Legislative Affairs

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Office of the Assistant Attorney General

Washington, D.C. 20530

August 12, 2003

The Honorable Howard Coble  
Chairman  
Subcommittee on Crime, Terrorism,  
and Homeland Security  
Committee on the Judiciary  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

Enclosed please find responses to questions posed to the Department following the appearance of Mr. Richard J. Hankinson, Deputy Director, Bureau of Alcohol, Tobacco, Firearms, and Explosives, before your Subcommittee on May 6, 2003. We trust that this information will prove useful to you. Please do not hesitate to call upon us if we may be of additional assistance in connection with this or any other matter.

Sincerely,

A handwritten signature in cursive script that reads "William E. Moschella".

William E. Moschella  
Assistant Attorney General

cc: The Honorable Bobby Scott  
Ranking Minority Member

**QUESTIONS SUBMITTED FOR THE RECORD BY  
THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES**

**HEARING BEFORE COMMITTEE ON THE JUDICIARY  
SUBCOMMITTEE ON CRIME, TERRORISM AND HOMELAND SECURITY**

**MAY 6, 2003**

1. The Safe Explosives Act required that background checks be performed on individuals seeking permits to possess explosives. Who is performing these background checks? Is ATF utilizing the resources of the FBI? If the FBI is not being utilized, do you believe it necessary to have two agencies performing background checks within DOJ?

**ANSWER:** The Safe Explosives Act mandates that the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) conduct a background check on individuals seeking license or permits to receive explosives. ATF utilizes FBI databases, such as the National Crime Information Center (NCIC), the National Instant Check System (NICS), and the Integrated Automated Fingerprint System (IAFIS) to conduct background checks on individuals seeking permits to possess explosives.

2. Since this transfer, how is the coordination effort with the Federal Bureau of Investigation working?

**ANSWER:** The ATF is very pleased to be officially a member of the Department of Justice law enforcement community. We have always enjoyed an excellent working relationship with the Department of Justice, including the FBI, over the years, and we look forward to that relationship continuing. Indeed, ATF continues to support various important investigations throughout the nation. These efforts include Joint Terrorism Task Forces, the Eric Rudolph investigations, the Sniper Investigation, the September 11, 2001, terrorist attacks, the Oklahoma City Bombing, the 1993 World Trade Center bombing, and the TWA Crash, to name a few. The FBI has also been very helpful in NICS checks of explosives licensees.

3. Given your new authorities and the transfer to Department of Justice, is your overall budget request adequate to meet your needs?

**ANSWER:** Yes.

4. The implementation of the Safety Explosives Act has created some confusion between the duties of the Department of Transportation [DOT] and the ATF with regards to regulation of explosives. Is it the intention of ATF to regulate in any aspect of the transportation of explosives? Is there an effort to coordinate to avoid duplication? How can this type of confusion be avoided in the future? Is there a need for Congress to clarify each agency's authority in this area?

**ANSWER:** Prior to the passage of the Safe Explosives Act, transporters, such as truck and railway drivers, were prohibited from transporting and possessing explosives, if they fell under one of the prohibited categories listed in 18 U.S.C. § 842(i). These included categories such as convicted felons and unlawful drug users. The Safe Explosives Act merely added three new categories of prohibited individuals, including certain aliens, U.S. citizenship renunciates, and military dishonorable dischargees. While ATF has never taken the position that it regulates the commercial transportation industry, or required background checks for permits for commercial transporters, implementation of the new ATF restrictions called for closely coordinated interpretations and rulemaking action among the agencies. ATF would not agree that there is "confusion" between DOT and ATF regarding their respect responsibilities in implementing the Safe Explosives Act.

In accordance with 18 U.S.C. § 845(a)(1), the prohibitions of section 842(i) do not apply to aspects of the commercial transportation of explosives that are regulated by DOT and that pertain to safety. After the passage of the Safe Explosives Act, the Department of Justice advised that DOT needed to publish regulations explicitly in order to trigger this exception. As a result, DOT and the Department of Homeland Security (DHS) published interim rules and a Federal Register notice exercising authority under section 845(a)(1) in February, May and June of 2003. The rules and notice effectively exempt from the six prohibited categories found in 18 U.S.C. § 842(i) the transportation, shipment, receipt, and possession of explosives incident to, and in connection with, the commercial transport of explosives by motor carrier, water, air, and rail. The Department of Justice worked closely with DOT and DHS in drafting these rulemakings. We continue to work closely with these agencies on matters concerning the transportation of explosives. The Department does not believe that there is a need for Congress to clarify each agency's authority in this area but would not object to adding DHS to the exception contained in section 845(a)(1).

5. The President requested that ATF perform a study on the efficiency and effectiveness of a nationwide ballistics imaging database last year. When can Congress expect to receive the results of that study?

**ANSWER:** The Department of Justice has commissioned the National Academy of Sciences, with assistance from the National Institute of Standards and Technology, to conduct a comprehensive study of the technical feasibility of a national ballistics database system. ATF is assisting in this endeavor. The National Academy of Sciences has estimated that the study will take 30 months to complete.

6. Are there procedures in place for ATF to share information or intelligence gathered in the performance of your investigative or regulatory duties with other DOJ counterparts and the Department of Homeland Security?

**ANSWER:** ATF has always maintained an excellent reputation for its willingness to share information. However, we are always striving to improve on intelligence and information gathering and sharing.

Strategically, we have elevated the intelligence and information functions in the agency from the division level to the directorate level. As of May 2003, the new office, known as the Office of Strategic Intelligence and Information (OSII), is led by an Assistant Director and a Deputy Assistant Director. The purpose of this new office is to place increased emphasis on the collection, analysis, and dissemination of intelligence/information.

The integration of information and intelligence under the supervision of one chain-of-command improves the effectiveness and efficiency of intelligence production for the consumer (ATF special agents, inspectors, and analysts and to other federal, state and local agencies). The finished ATF product is available to the consumer either directly through ATF systems connectivity or indirectly through ATF liaison, and representation in federal agencies, and state and local task forces, mostly in "real time."

Currently, ATF has employees detailed to the Central Intelligence Agency, the Defense Intelligence Agency, DHS, the FBI National Joint Terrorism Task Force, the FBI Counterterrorism Division, all 66 Regional FBI Joint Terrorism Task Forces, the Interpol General Secretariat - France, the U.S. National Central Bureau Interpol - Washington, DC, the El Paso Intelligence Center, the National Drug Intelligence Center, the Treasury's Financial Crimes Center, the High Intensity Drug Trafficking Area Intelligence Centers and Task Forces, and many other state and local task forces, on some of which ATF serves as the lead agency. Further, ATF has an agreement with the National Security Agency (NSA), which places an NSA representative in the ATF OSII on a full-time basis.

Finally, key ATF personnel sit on various committees of national law enforcement and intelligence associations such as the International Association of Chiefs of Police and Major Cities Chiefs Association, both of which are oriented to the state and local level. Through participation in these fora, information is exchanged to help develop more effective strategies to deal with potential threats.

7. What are the top priorities of your agency currently? What additional tools would be helpful to the ATF to perform its duties?

**ANSWER:** The top priorities of the Bureau of Alcohol, Tobacco, Firearms and Explosives are to prevent acts of terrorism, reduce the number of violent crimes committed in the United States, and protect the American public. ATF is working closely with the Department to prevent erosion of agent and inspector resources and ensure we can effectively carry out our mission.

8. How can Congress further assist the ATF in performance of its duties?

**ANSWER:** To pursue certain large-scale criminal investigations effectively, ATF needs statutory authority to utilize funds obtained in the course of investigations (e.g., through undercover purchases). This so-called "churning" authority would help offset the expense of these complex and expensive investigations and would provide ATF with the same authorities as the Federal Bureau of Investigation and the Drug Enforcement Administration.

ATF is also working with the Department to consolidate further explosives training and to improve our ability to meet the demand from state, local, and international law enforcement organizations for explosives training.

9. There have been a lot of questions about how ATF intends to implement the Safe Explosives Act. What has ATF done to notify individuals and corporations about these changes? What is the expected turnaround time for receiving and approving an application?

**ANSWER:** Shortly after the enactment of the Safe Explosives Act, ATF: issued press releases; held conference calls/meetings with explosive industry and trade groups; conducted industry seminars; printed and distributed notification signs for explosives distributors to post at sales points on their premises which contained information on the Safe Explosives Act; published industry regulations in the Federal Register; created information websites; worked with representatives from (the then) INS, DOT, FBI and other appropriate agencies; shared information with educational institutions that conducted training in proper explosives usage; and distributed several open letters to explosives distributors and users.

The Safe Explosives Act mandates that ATF process explosives applications within 90 days. While ATF believes this to be a reasonable time in which to process explosives applications, the Bureau has made every effort to issue licenses/permits as soon as possible. All new explosive applications received by May 10, 2003, where no derogatory information was disclosed concerning the applicant, employees or safe/secure storage, were issued and distributed prior to the final effective date (May 24, 2003) of the Safe Explosives Act.

RESPONSE FROM ROGELIO E. GUEVARA TO QUESTIONS  
SUBMITTED BY THE SUBCOMMITTEE



U.S. Department of Justice  
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

July 2, 2003

The Honorable Howard Coble  
Chairman  
Subcommittee on Crime, Terrorism  
and Homeland Security  
Committee on the Judiciary  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

Enclosed is the corrected transcript of the testimony of Mr. Rogelio Guevara, Chief of Operations, Drug Enforcement Administration, Department of Justice, for the hearing held before your Subcommittee on May 14, 2003, concerning reauthorization of the Department of Justice. Also enclosed are responses to questions from Representatives Goodlatte and Scott.

If we may be of further assistance, please feel free to contact this office.

Sincerely,

A handwritten signature in cursive script that reads "William E. Moschella".

William E. Moschella  
Assistant Attorney General

Enclosures

**Question from Representative Goodlatte**

**It has come to my attention that several federal law enforcement organizations, namely the Bureau of Immigration Enforcement, the Drug Enforcement Administration (DEA) and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), plan to establish permanent offices in the northwestern region of Virginia and/or the eastern portion of West Virginia.**

**What is the time frame in which the DEA office is to be established?**

**I is my understanding that the DEA is considering placing a permanent office in Martinsburg, West Virginia or Winchester, Virginia. Is the DEA also considering other locations within the Shenandoah Valley for its office? Why or why not?**

**Answer:**

There are no immediate plans to open a permanent field office in Martinsburg, West Virginia. The presence of the Drug Enforcement Administration (DEA) in Winchester, Virginia is longstanding, and the Special Agents assigned there are involved in numerous investigations in the Harrisonburg area. DEA intends to continue this level of support in the Harrisonburg area.

The Washington Division of the DEA opened the Winchester, Virginia Post of Duty (POD) in July 1997 and staffed this post with two Special Agents. The area of responsibility of the Winchester POD includes the counties of: Frederick, Clark, Warren, Shenandoah, Rockingham, Page, and Augusta. During 2000, in response to the drug threat in the region, the Washington Division assigned an additional Special Agent to the Winchester POD. All three Special Agents work cooperatively with area state and local drug task forces including the Northwest Virginia Regional Drug Task Force and the Rockingham County-State Police-Harrisonburg Police Department (RUSH) Task Force.

DEA is committed to targeting the highest level of drug violators operating in the Shenandoah Valley. Despite limited DEA resources at the Winchester POD, close cooperation between state and local task forces and local jurisdictions has produced significant results. Continued cooperation and successful drug enforcement investigations throughout this region are expected to continue.

**Questions from Rep. Bobby Scott****1. Please provide an evaluation of the cost effectiveness of treatment vs. enforcement for drug use reduction**

The Drug Enforcement Administration (DEA) has not conducted nor has it analyzed an evaluation comparing the cost effectiveness of drug treatment to drug enforcement. We consider these two elements part and parcel of an integrated national drug control strategy and view both enforcement and treatment as critical to effectively confronting the problems posed by illicit drug availability and abuse. DEA supports the President's balanced strategy of interdiction and enforcement, coupled with prevention and treatment, as the essential elements for reducing both the supply and demand associated with illegal drugs in this country. DEA firmly believes both supply and demand reduction programs must be carried out, and the implementation of either element in the absence of the other will not bring about the desired results.

Enforcement, prevention, and treatment are interdependent, and current drug strategy incorporates all three. This year the strategy makes it a goal to expand access to substance abuse treatment and commits new resources to helping all those who need treatment get it. DEA fully supports helping drug users overcome their dependence on drugs. Treatment of addictions not only heals the drug user, it restores families, renews productivity, and also contributes to reducing the overall demand for drugs in this country.

DEA particularly endorses drug treatment courts. Last year, we coordinated a resolution accepted by the International Association of Chiefs of Police supporting drug treatment courts and advocating these courts' role in combating drug abuse. Drug treatment courts are a good example of the new balanced approach to fighting drug abuse and addiction. These courts are given a special responsibility to handle cases involving drug-addicted offenders through an extensive supervision and treatment program. Drug court programs use the varied experience and skills of a wide variety of law enforcement and treatment professionals: judges, prosecutors, defense counsels, substance abuse treatment specialists, probation officers, law enforcement and correctional personnel, educational and vocational experts, community leaders and others—all focused on one goal: to help cure addicts of their addiction, and to keep them cured.

What makes drug treatment courts so different is that graduates are held accountable for staying in the program. Judges keep people in incarceration if treatment fails. It is this combination of law enforcement with treatment that has made drug treatment courts successful. Law enforcement plays an especially important role in the beginning of the process because it often triggers treatment for people who need it. Most people do not volunteer for drug treatment. It is more often an outside motivator, like an arrest, that gets—and keeps—people in treatment. In fact, the criminal justice system serves as the largest referral source for drug treatment programs.

That fact illustrates the interdependence of drug treatment and enforcement. DEA continues to focus on its mission of dismantling and disrupting the source of supply by making the drug trade more costly, more difficult, and more risky. The importance of supply reduction cannot be overstated. History has shown that where drugs are easily available, they are abused. I believe that our recent experience with methamphetamine and Ecstasy enforcement demonstrates that supply influences demand. This phenomenon is most clearly highlighted by our observations of Ecstasy, a drug whose ready availability at "Rave" functions and other social settings has definitely contributed to dramatic increases in use.

Our current policy that balances prevention and enforcement of our laws with treatment has kept drug use outside the scope of acceptable behavior in the United States. To put it in perspective, less than 16 million Americans use illegal drugs. Contrast that to the fact that there are 66 million tobacco users and 109 million alcohol users. Drug use still remains unacceptably high, and there remains much work to do, especially with new challenges like methamphetamine and Ecstasy. But strong enforcement of our laws keeps most people from using drugs, disrupts the supply of drugs, creates risks for traffickers, and often helps those who have become addicted to drugs get the treatment they need.

Although DEA has not evaluated the relative costs of treatment versus enforcement, the Office of National Drug Control Policy (ONDCP) has published statistics that you might find to be helpful. In 1997, the average cost to incarcerate an inmate in a Federal prison was \$23,542. See "Drug Treatment in the Criminal Justice System," ONDCP Drug Policy Information Clearinghouse, March 2001, [www.whitehousedrugpolicy.org/publications/factsht/treatment/index.html](http://www.whitehousedrugpolicy.org/publications/factsht/treatment/index.html); National Drug Control Strategy, 2000 Annual Report, at 63. In contrast, the average cost per treatment episode was \$2,941 between 1993 and 1995. See "Drug Treatment in the Criminal Justice System," *supra*, citing "The Cost and Benefits of Substance Abuse Treatment: Findings from the National Treatment Improvement Evaluation Study," Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Treatment, National Evaluation Data Service, August 1999.

**2. How has the agency responded to the need for increased security to prevent agency firearms being lost, stolen or misused?**

DEA agrees that it is extremely important to prevent DEA-issued firearms from being lost, stolen or misused. In order to prevent firearms from being lost or stolen, DEA instituted a new weapons inventory program in September 2001. Under the program, DEA requires a custody card (DEA Form 17) to be completed for every DEA-issued weapon. The custody card is then used to conduct an inventory of DEA weapons. As of [insert date], DEA achieved a 100 percent current accounting of all DEA weapons. DEA also distributed teletypes to all field divisions on September 18, 2002 and February 24, 2003, to provide guidance to field offices on how to maintain a reliable accounting of DEA weapons.

In addition, DEA places a high priority on firearms safety, and the Agency has taken concrete steps to assure that firearms are handled in a manner consistent with DEA policy. Gun safety locks for use on unattended weapons are issued with every DEA handgun. DEA Agents Manual Section 6122.42 states that all Special Agents are responsible for the security of their firearms, and on December 3, 2002, DEA's Office of Inspections sent a teletype to all field divisions to communicate DEA's commitment to firearms safety. DEA anticipates that these measures will reinforce to field personnel the importance that DEA management places on firearms safety.

Finally, DEA maintains a policy that holds DEA Special Agents accountable for the negligent handling of firearms. DEA Agents Manual Section 6122.13 establishes a liability assessment process under which DEA investigates and makes determinations of negligence in situations involving the loss, theft or destruction of firearms. On July 25, 2002, DEA distributed a teletype to all field divisions which reiterated the process set forth in DEA Agents Manual Section 6122.13.

PREPARED STATEMENT OF THE HONORABLE SHEILA JACKSON LEE,  
A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Thank you, Chairman Coble and Ranking Member Scott for convening today's oversight hearing on the reauthorization of the Department of Justice's Bureau of Prisons, Office of Justice Programs, U.S. Marshals Service, and Criminal Division.

I firmly believe that the Department of Justice should receive the full support of Congress and should be properly funded to provide essential protection for the American people. The missions of the various branches of the Department of Justice are even more important since September 11, 2001. This important federal agency must have our full support to adequately carry out its mission.

My support of the Department of Justice, and all agencies that are part of homeland security and public safety, does not mean that I believe these agencies should not adhere to strict standards and be asked to live up to lofty goals. The Bureau of Prisons, the Office of Justice Programs, the U.S. Marshals Service, and the Criminal Division must comport themselves with expert efficiency.

BUREAU OF PRISONS

According to their website, the Bureau of Prisons' (BOP) mission is, ". . . to protect society by confining offenders in the controlled environments of prisons and community-based facilities that are safe, humane, cost-efficient, and appropriately secure, and that provide work and other self-improvement opportunities to assist offenders in becoming law-abiding citizens."

I applaud the BOP for setting such high goals but I am concerned about whether those goals are actually being attained. For example, this subcommittee recently held a legislative hearing on H.R. 1707, the Prison Rape Reduction Act of 2003. We heard accounts of the scourge of rapes in our federal prisons, the spread of HIV/AIDS and hepatitis, and the physical and psychological impact on inmates in particular minors.

We are all aware that America's prisons are dealing with an overpopulation problem that has reached epidemic proportions. As of May 8, 2003, in the 102 BOP institutions alone there were 169,572 inmates. One reason why the prison population is high is recidivism caused by failure to rehabilitate offenders. We need reform of our prisons and justice system to vastly increase the numbers of one-time offenders. If our goal is truly rehabilitation, we must do more to treat the root of the problem, and not just the symptoms.

OFFICE OF JUSTICE PROGRAMS

The Office of Justice Programs (OJP) is responsible for a variety of criminal justice programs including several that are of particular interest to me: juvenile justice, violence against women and crime prevention related to homeland security. OJP assumes the important responsibility of preventing and controlling crime. I am a firm believer in eliminating crime before it starts. I applaud OJP's efforts to cooperate with many federal agencies to rebuild neighborhoods, control gang activity, and prevent drug trafficking.

With these objectives are commendable there is a need to get results. There is still high incidence of drug trafficking, gang membership, juvenile crime, and violent crime. For example, according to the Bureau of Justice statistics in my home state of Texas in 2000, there were 122,155 violent crimes. Of which, 77,306 were aggravated assaults, 35,348 were robberies, and 8,169 were forcible rapes. These numbers need to decline. I look forward to hearing the testimony from the Office of Justice Programs to hear we can reduce these high crime rates.

U.S. MARSHALS SERVICE

The U.S. Marshals Service also serves a vital and multi-faceted role in crime prevention. Although primarily responsible for protecting the Federal courts and ensuring the effective operation of the judicial system, the U.S. Marshals also transport, apprehend, and arrest federal prisoners. The Marshals Service pursues and arrests 55 percent of all federal fugitives. Given this expertise, the U.S. Marshals may also be relied on to protect our homeland. I look forward to the testimony from the U.S. Marshals service in that regard.

THE DEPARTMENT OF JUSTICE—CRIMINAL DIVISION

Finally, the Criminal Division of the Department of Justice is also a multi-faceted criminal justice organization with a homeland security segment. Within the many organizations of the criminal division is a counterterrorism and domestic security

section. The Criminal Division also handles cases related to child obscenity and international crime.

The many criminal areas investigated by the Department of Justice Criminal Division and the other agencies we are hearing testimony from today are prime possibilities for discrimination and violations of civil liberties. For example, within each of these organizations there are disparities in minority hiring.

In the U.S. Marshal, for instance, 35 of the current 94 Marshals are women or minorities, and there are currently lawsuits pending against the Marshals regarding discrimination, although women and minorities do comprise a substantial portion of the leadership committees within the Marshals. There also needs to be a greater effort in racial sensitivity training.

We also need to do more to hire more minorities and women in the Department of Justice. For example, a recent OPM study found that while African-Americans generally exceeded their relevant civilian labor force representation in 16 federal executive departments, less than 16% of those employed by the DOJ were African-American. And while the DOJ consisted of 37.7% women, that number was over 9% unrepresentative of what it should have been based on hiring practices of women in the civilian work force.

As we consider reauthorizing these various agencies, we must ensure they are not guilty of violating civil liberties in the course of their duties. Racial profiling is one example of an unacceptable criminal investigation technique. Racial profiling is a very serious problem in our criminal justice system. Although African-Americans make up only 14% of the population nationwide, they account for 72% of all routine traffic stops.

An ACLU analysis of Maryland State Police data showed that 73% of cars stopped and searched on Interstate 95 between Baltimore and Delaware from January 1995 through September 1997 were those of African-Americans, despite the fact that only 14% of those driving along that stretch were Black. Moreover, police found nothing in 70% of those searches. Similarly, in Florida, 70% of the persons stopped on I-95 were African-American, even though they made up less than 10% of the driving population. Data also shows that Hispanics are similarly targeted disproportionately by law enforcement agencies across the nation.

Once again, I thank the Chairman and Ranking Member for convening this important oversight hearing. Likewise, I thank our distinguished panel of witnesses for their testimony.

RESPONSE FROM THE HONORABLE DEBORAH DANIELS TO QUESTIONS  
SUBMITTED BY THE SUBCOMMITTEE



U.S. Department of Justice  
Office of Legislative Affairs

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Washington, D.C. 20530

August 14, 2003

The Honorable Howard Coble  
Chairman  
Subcommittee on Crime, Terrorism,  
and Homeland Security  
Committee on the Judiciary  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

Enclosed are responses to questions posed to Assistant Attorney General Deborah Daniels, arising out of her appearance before the Subcommittee on May 14, 2003, concerning reauthorization of the Justice Department. We hope that these responses are helpful to the Subcommittee. Please do not hesitate to call upon us if we may be of additional assistance. The Office of Management and Budget has advised us that from the perspective of the Administration's program, there is no objection to submission of this letter.

Sincerely,

A handwritten signature in cursive script that reads "William E. Moschella".

William E. Moschella  
Assistant Attorney General

cc: The Honorable Bobby Scott  
Ranking Minority Member

*QUESTIONS FOR DEBORAH J. DANIELS  
ASSISTANT ATTORNEY GENERAL  
OFFICE OF JUSTICE PROGRAMS  
Following May 14, 2003 Hearing*

**1. In an oversight hearing held by this Subcommittee last year a number of concerns about the administration of programs at OJP were raised including duplication, lack of coordination of programs, and ineffective performance measures. What steps has OJP taken to address these concerns? Specifically, what steps have you taken to improve the performance measures of grant programs?**

As I said in my testimony, we've taken to heart the message that OJP needed to improve in these areas, and all of OJP is working to improve the way we accomplish our mission and serve our customers. The steps that we have taken to improve coordination and eliminate duplication in OJP programs are outlined in the responses to questions 7 and 8 relating to OJP's priorities and reorganization efforts.

To improve performance measures in our grant programs, in March 2002 we put forward a standard policy for including outcome performance measures in all grant solicitations issued from that time forward. This requirement is meant to satisfy the Government Performance and Result Act (GPRA), as well as OJP's desire to hold grantees accountable for results and ensure that taxpayers' dollars are spent on programs that produce verifiable, desired results.

In their applications, applicants must designate performance measures that are based on individual grant program objectives and anticipated results. Applicants must outline a system for collecting and measuring the results of program activities, which must be verifiable and accountable. To accomplish this, each applicant must develop mechanisms for collecting performance data and insuring that these data can be audited and verified. Data is expected to be collected and reported each fiscal year and applicants who fail to address performance measurement data collections in their applications are not considered for a grant.

The following are some of the types of performance measures required for OJP grant programs. For the Internet Crimes Against Children Program, applicants (and therefore grantees) are required to collect and report performance data on the number of electronic forensic examinations conducted and the number of investigations conducted by the ICAC task force to help determine the task force's effectiveness in combating Internet crime.

The Enforcement of Underage Drinking Laws Discretionary Grant Program (EUDL) requires participating communities to meet some very specific measures, such as reducing the percentage of 16-20 year-olds using or attempting to purchase alcohol compared to youths in comparable communities; adopting at least one institutional or public policy related to underage drinking; and implementing at least two compliance check operations for at least 90 percent of off-premises alcohol outlets per year.

Holding grantees accountable to specific performance standards and putting an emphasis on national scope evaluations of our larger programs are but two of the ways that we are working to improve the effective use of tax dollars. Although we are still early in the evaluation process, we will continue to keep the Subcommittee apprised of progress in making all OJP grant programs accountable.

**2. It has been brought to the Subcommittee's attention that the Community Oriented Policing Services (COPS) funded an evaluation of itself through a cooperative agreement that gave the agency control over the study's finding and conclusions and therefore, its objectivity and independence is questionable. What steps does the National Institute of Justice (NIJ) take to ensure the objectivity and independence of the evaluation that it funds?**

This Administration is committed to ensuring that NIJ is insulated from any political or programmatic pressures in its research and development agenda that would compromise NIJ's reputation for being an objective source for reliable, factual criminal justice information. The independence of NIJ's field research is a key aspect of its ability to produce and provide reliable, objective, and useful research for criminal justice professionals, state and local law enforcement officials, and policymakers at federal, state, and local levels.

As part of its strategic planning process, NIJ has identified high priority research, development, and evaluation needs of the field, with the goal of contributing significantly to enhancing the administration of justice and improving public safety across the nation. The priorities inform decisions about the scope of future work and the dissemination of NIJ-sponsored knowledge and technologies in each of the following research portfolios: law enforcement/policing; justice systems; corrections, investigative and forensic sciences (including DNA); counterterrorism/critical incidents; crime prevention/causes of crime; violence and victimization; drugs, alcohol, and crime; interoperability, spatial information, and automated systems; and program evaluation. At the same time, NIJ strives to maintain the flexibility to respond to emerging needs and to consider the merits of individual projects that may contribute to other worthwhile goals.

With regard to specific research projects, NIJ makes its selections competitively, and its research has been and continues to be conducted by some of the most prominent and well-respected researchers in the field of criminal justice and criminal justice technology. Solicitations for proposed research projects are well-publicized on OJP's Web site. All proposals received are reviewed by qualified external peer reviewers. Based on peer review ratings of the quality of each proposal, its anticipated value to the field, agency priorities, and available funding, the NIJ Director selects the best proposals for funding.

Once an award is made, NIJ staff closely monitor the progress of the project. Monitoring of research and evaluation grants in NIJ requires strictly adhering to federal regulations with respect to Protection of Human Subjects, as well as Protection of Privacy and Confidentiality of Data gathered. When the project is completed and submitted to NIJ, the results are reviewed both internally and again by qualified peer reviewers. Results are then often published in peer-

reviewed journals or the academic press or made available to the field via the Internet. In addition, NJ disseminates noteworthy research results with national implications as NJ publications that are widely distributed to targeted audiences.

**6. The President has proposed a DNA initiative to address the backlog of DNA cases. What impact do you believe this initiative would have if it were enacted?**

We fully support the President's goal of realizing the full potential of DNA technology to solve crime and protect the innocent. The President has proposed \$232.6 million in federal funding in FY 2004 for his initiative, *Advancing Justice Through DNA Technology*, and calls for continuing this level of funding for five years – a total commitment of over \$1 billion.

Under the President's initiative, the Attorney General will improve the use of DNA in the criminal justice system – especially in federal, state, and local forensic laboratories – by providing funds, training and assistance to ensure that this technology reaches its full potential. The President's initiative promotes using DNA to solve crime. When used to its full potential, DNA technology will permit the criminal justice system to identify criminals quickly and accurately. More crimes will be solved and fewer persons will be mistakenly accused or convicted of crimes if the criminal justice system is provided with the necessary funding, technology, and assistance it needs to reap the benefits of DNA technology. Specifically, the initiative proposes the following:

**Eliminating Backlogs:** The initiative provides funding to eliminate, within five years, the current backlogs of unanalyzed DNA samples for the most serious violent offenses – rapes, murders, and kidnappings – and for convicted offender samples not yet tested.

**Strengthening Crime Laboratory Capacity:** The initiative provides funding to improve the analysis capacity of federal, state, and local crime labs so they can process DNA samples efficiently and cost-effectively and help prevent future backlogs.

**Stimulating Research and Development:** The initiative provides resources to stimulate innovative research in order to develop, among other things, more rapid and less costly methods of DNA analysis and the ability to analyze smaller and more degraded samples.

**Providing Training:** The initiative provides training on the collection and use of DNA evidence to the wide variety of professionals involved in using DNA evidence in the criminal justice system – police officers, prosecutors, defense attorneys, judges, forensic scientists, medical personnel, victim service providers, corrections officers, and probation and parole officers.

**Using DNA to Protect the Innocent:** Under the President's initiative, the Attorney General will advance the use of DNA technology to protect the innocent from wrongful prosecution. The initiative supports providing access to post-conviction DNA testing in appropriate circumstances for state or federal inmates who may have been wrongly

convicted, and establishes a grant program to assist states in providing post-conviction testing.

**Using DNA to Identify Missing Persons:** The events of September 11, 2001 demonstrated on a national scale the potential for anguish when the remains of a missing person go unidentified. In order to help provide closure for families of missing persons, the President's initiative provides education and outreach to medical examiners, coroners, law enforcement officers, and victims' families on the use of DNA to identify missing persons.

**7. What are the top priorities of your agency currently? What additional tools would be helpful to OJP to perform your duties?**

OJP's priorities are, of course, the priorities set forth by President Bush in his FY 2004 budget proposal and in other Administration directives. Our top policy priority is the implementation of the President's DNA Initiative that would benefit the criminal justice system now and for years to come. In response to the President's Management Agenda, to congressional direction, and our own wish to make OJP a more effective and efficient organization, we are moving forward with OJP reorganization, which is outlined in the answer to the following question.

In the short term, we are working across the agency to complete processing of the 7,000 plus grants that OJP makes annually, and to complete as many as possible by the end of August. Our automated Grants Management System has allowed us to process these grants more quickly and accurately than ever before. We have reduced the grant processing cycle time by over a third from the former so-called "redbook" (paper process) average of almost three months. Application information is now available from the desktop instead of the filing cabinet and progress can be tracked electronically. By converting to this fully automated system, we expect our agency will be able to do even better next year.

For the long term, on April 14, 2003, we rolled out the new OJP Management Plan, which identifies key improvement initiatives, and places those initiatives within a framework that defines where we are going as an organization in the next five years. Although it is likely that OJP's improvement initiatives will change in the next few years, its goals should remain constant. OJP's Management Goals are the following:

- Customers and Stakeholders Goal: Make OJP the premier source for cutting edge techniques, tools, training, research, and information to improve the justice community, consistent with national policy goals;
- Management and Infrastructure Goal: Efficiently manage resources to ensure accountability across OJP and consistency with national policy goals;
- OJP Personnel Goal: Create the conditions for OJP personnel to perform to their potential; and
- Process and Technology Goal: Standardize processes and modernize information systems to ensure that we and our partners can easily interact with each other.

OJP is already working on these goals in many areas and the Management Plan identifies 11 cross-OJP initiatives that were in progress as of March 2003. OJP has dedicated resources to accomplishing these goals and is making progress toward defined objectives. OJP has established teams to work on three initiatives, including knowledge management, new approaches to program assessment, and business architecture. We have also established an Executive Steering Committee to provide oversight for these efforts.

Also among our priorities, and a high personal priority, is the AMBER Alert Program, for which I am the National Coordinator. We held the first National AMBER Alert Training Conference in Dallas, August 3-5, bringing together teams from all 50 states, the territories, and the District of Columbia to discuss ways to ensure nationwide coverage of AMBER Alert plans and best practices in operating the AMBER Alert system. The PROTECT Act, which was passed earlier this year, has brought a nationwide focus to AMBER Alert and will allow us to improve this already effective system. I will be happy to keep the committee apprised of progress with the AMBER program.

We appreciate the support we have received from this Subcommittee and Committee and from the Appropriations Committee in helping develop our reorganization efforts, and would look forward to working with you as we continue to reshape the agency in a way that allows us to provide service to state and local law enforcement and communities even more effectively.

**8. Last Congress you testified before this Subcommittee that you were taking steps to restructure and reorganize OJP. What steps have you taken since that time toward that goal?**

OJP is working to improve the way we accomplish our mission and serve our customers. Our aim is to make significant changes in the way we operate, making our services both more accessible and more effective. Great progress has been made toward the accomplishment of these goals.

OJP has begun implementing our agency-wide reorganization. In 2001, we submitted to Congress a reorganization plan for OJP and, consistent with that plan, began the process of rebuilding OJP into a more effective and efficient organization.

However, the reorganization of OJP is about more than just streamlining, creating efficiencies, and increasing coordination. Through our efforts, we strive to improve OJP's overall responsiveness to the criminal justice field, to states and localities, to individuals, and to the Congress. Any reorganization must also leverage, to the greatest extent possible, federal funds to ensure effective utilization of taxpayer resources. Moving forward in this manner will allow OJP to forge new relationships of cooperation and trust with our partners in state and local communities, while not neglecting other pressing, and ongoing, needs in the fight against crime. OJP's reorganization will also meet the President's call to federal agencies to promote "an active but limited government; one that empowers states, cities and citizens to make decisions; ensures results through accountability; and promotes innovation through competition."

**Already Implemented:**

- Merged the programs and staffs of the Corrections Program Office and the Drug Courts Program Office into the Bureau of Justice Assistance (BJA) thus consolidating overlapping functions, reducing management redundancy, and improving coordination and communication not only within OJP, but also with the field.
- Created the Office of the Chief Information Officer (OCIO), in recognition of the importance of mission-critical automated systems. The swift implementation of the OCIO has transformed OJP's grants process-- moving from a labor intensive, paper process to a centralized paperless system through which 84% of our grants are now processed. By the end of fiscal year 2003, we expect to administer all OJP grants electronically.
- Enhanced our Internet services, making the Web more usable and informative for our customers. Instituted data quality guidelines for information we release to ensure the objectivity, utility, and integrity of the information.
- Completed our first Technology Strategic Plan to guide us in identifying and addressing our technology needs. We have also eliminated many administrative requirements for applicants and grantees, in order to allow for the streamlined delivery of financial resources to states and localities.

**In Progress:**

- Consolidation of several administrative and support functions into the Office of Management and Administration.
- Revamping the Office of Communications to carry out OJP's congressional and public affairs and other information dissemination functions.
- Developing and now implementing a comprehensive management plan that identifies and schedules major change initiatives within OJP. At the core of this plan are four major performance improvement goals.
  - Make OJP the premier source for the various types of information and assistance our customers need;
  - Efficiently manage our resources and ensure top-to-bottom accountability;
  - Create the conditions for our employees to flourish; and
  - Standardize and streamline our processes and automated systems.

**Immediate Future:**

- Merging the programs, functions, and staff of the Executive Office for Weed and Seed and the American Indian and Alaska Native Affairs Desk into the Community Capacity Development Office (CCDO). Weed and Seed will be the flagship program in the CCDO, but we will expand the collaborative, community-driven approach to many other programs.
- Giving local jurisdictions greater discretion and flexibility in using their law enforcement assistance funds. With congressional approval, we would merge the Byrne Law Enforcement Assistance Grant Program and the Local Law Enforcement Block Grant Program into a single Justice Assistance Grant (JAG). JAG funding would be distributed to both state and local governments. The 29 Byrne and seven LLEBG purpose areas would be consolidated into a few broad purpose areas, including:
  - Law Enforcement Programs
  - Prosecution and Court Programs

- Community-Based and Statewide Prevention and Education Programs
- Corrections Programs
- Drug Treatment Programs
- Planning, Evaluation and Technology Improvement

**9. How can Congress further assist OJP in performance of its duties?**

We are grateful for the support of this Committee and others as we at OJP seek to fulfill our mission to provide federal leadership in developing the nation's capacity to prevent and control crime, improve the criminal and juvenile justice systems, increase knowledge about crime, and provide service to crime victims. Two initiatives that require congressional action and that we would very much like to see adopted are the previously discussed President's DNA Initiative, which is of the highest priority, as well as the change in the law enforcement block grant programs, as proposed in the President's FY 2003 and FY 2004 budget proposals.

As discussed in the response to the prior question, the President proposed that the Justice Assistance Grant (JAG) Program replace the Edward Byrne Law Memorial Law Enforcement Formula Grant Program and the Local Law Enforcement Block Grant (LLEBG) Program, both of which are administered by OJP's Bureau of Justice Assistance. JAG would maintain the current equitable division of funds between states and local recipients, but would also give states and local jurisdictions greater flexibility. JAG would have fewer purpose areas than the 29 currently authorized under the Byrne Formula program, but the purpose areas would be broader, giving grantees freedom to respond quickly to pressing crime problems, including terrorist threats. Under JAG, every initiative now funded through Byrne and LLEBG would continue to be eligible for funding, and states, cities, and counties that currently receive funds through the program would also remain eligible. JAG would help us correct a serious problem in the Byrne and LLEBG programs – the lack of coordination between the states and local communities that receive these funds. A single, closely coordinated funding mechanism would give us the ability to expand, without the duplication inherent in separate grant programs, the technical assistance in strategic collaborative planning that state and local entities tell us they want and need.

We believe that adoption of the JAG Program would open the door to more resources, not less. While total funding for JAG may be less than what Congress has typically allocated for the two programs, JAG would produce more resources by eliminating the programs' redundancies and promoting collaboration and resource sharing between states and local communities and among communities regionally.

RESPONSE FROM HARLEY G. LAPPIN TO QUESTIONS  
SUBMITTED BY THE SUBCOMMITTEE



**U.S. Department of Justice**  
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

August 14, 2003

The Honorable Howard Coble  
Chairman  
Subcommittee on Crime, Terrorism,  
and Homeland Security  
Committee on the Judiciary  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

This is in response to your letter of June 6, 2003, in which you requested that the Bureau of Prisons (BOP) answer several questions following Director Harley Lappin's recent testimony before the Subcommittee. We are pleased to provide the attached responses to your questions, as well as answers to questions from other Members of the Subcommittee to be included as part of the hearing transcript. In addition, we have enclosed a copy of a report titled, "The Comparative Costs and Benefits of Programs to Reduce Crime" by the Washington State Institute for Public Policy. This report is being provided in response to a question posed by Representative Scott. We have also enclosed a copy of the Bureau's program statement titled "Sexual Abuse/Assault Prevention and Intervention Programs" in response to your question about standards the BOP employs for addressing prison rape.

Thank you for your continued support of the Bureau of Prisons. We look forward to working with you and the other Members of the Subcommittee on the many issues that affect the Bureau. The Office of Management and Budget has advised us that from the perspective of the Administration's program, there is no objection to submission of this letter.

Sincerely,

A handwritten signature in black ink that reads "William E. Moschella".

William E. Moschella  
Assistant Attorney General

Enclosures

cc: The Honorable Bobby Scott  
Ranking Minority Member

**Issue:**

The Inspector General (IG) report from January 2003 indicates that the Bureau recorded more than 2,800 positive tests for drug use by inmates each year from 1997 to 2001. The IG report made several recommendations to assist in preventing drugs from entering prisons including limiting personal property staff are permitted to bring into institutions, searching staff, and random staff drug testing. What action has the BOP taken to implement these recommendations? Do you intend to make this a priority?

**Answer:**

We have made significant progress in reducing the use of illegal drugs in our prisons, but there is still room for improvement. Over the past 6 years, we have reduced the positive test rate for random drug tests from over 2 percent to less than 1 percent, at a time when our inmate population has doubled. However, the presence of any illegal drugs in our facilities is not acceptable. We will continue our efforts to eliminate illegal drugs, as well as to assist inmates in overcoming their drug addiction in order to return to our communities drug free.

There are 15 recommendations in the final IG report. We have formally responded to three recommendations, and the balance of our responses are due to the IG in July and December 2003. Of the three recommendations to which we have formally responded, we have agreed to revise policies regarding non-contact visiting, searching of visitors, training of staff on drug interdiction, and use of canines from outside law enforcement agencies. In addition, we have established national database programs for all visitors, volunteers, and contractors to enable timely sharing of information between institutions.

With regard to the IG recommendations you specifically reference (i.e., limiting personal property staff are permitted to bring into institutions, searching staff, and random staff drug testing), we are currently developing policy to restrict the size and content of property staff bring into our facilities, and we implemented a program of drug testing for staff in March 2003. We plan to monitor the success of these two measures and our implementation of the other recommendations to interdict drugs in BOP facilities prior to making a decision on the recommendation to search staff and their property when entering our institutions.

Overall, we are committed to enhancing our policies and procedures to further deter the introduction of drugs into our facilities, as well as to provide high-quality treatment programs to inmates. Some of the recommendations made by the IG would be very costly to implement. We want to respond to these recommendations very thoughtfully, ensuring the changes we commit to make are done wisely, using our resources prudently, and achieving the desired results.

**Issue:**

Concerns have been raised regarding the meals that are being provided to prisoners whose diets are limited by the rules of their religion. The concern is that the meals being provided do not meet any nutritional standards. What is the Bureau's policy on religious diets? How does the BOP ensure these prisoners' nutritional needs are being met?

**Answer:**

Inmates in several of the approximately 30 faith groups represented within the Federal inmate population require some sort of dietary accommodations. For other inmates, their personal beliefs and religious motivations affect their dietary preferences. All religious dietary restrictions are accomplished through the Bureau's Religious Diet Program which consists of two distinct components.

The first component allows inmates to meet their religious dietary needs through self-selection from the main serving line (that always includes a no-flesh option when meat is served) and access to the salad/hot bar (as available). The no-flesh alternative is also available to inmates who may wish simply to avoid meat for other, non-religious reasons.

The second component is for inmates who require religious certification of prepared food (Kosher food). For these inmates, the Bureau provides foods that are certified by a nationally recognized religious certification authority and are served in sealed individual containers. The certified food menu has been analyzed by a Registered Dietitian using the Recommended Dietary Allowances established by the Food and Nutrition Board of the Commission of Life Sciences and has been confirmed to meet all recommended daily nutritional allowances. The menu averages over 3,100 calories daily with limited fat and cholesterol.

**Issue:**

Recently, articles and reports from experts have pointed out that the prisons in the United States have become the new breeding ground for Islamic extremists in the United States. In one case, it was reported that a Muslim cleric employed in the prisons for 25 years was preaching extreme Islam both inside and outside the prison and had ties to the 1993 World Trade Center bombers. What standards does the Bureau use to ensure that our prisons are not being used to spread Islamic extremism and terrorism? Are background checks performed on these individuals? What additional tools does the BOP need to prevent these persons from entering the prisons?

**Answer:**

The practice of the Islamic faith is active in the Bureau of Prisons with approximately 9,500 traditional Muslim inmates. This number represents approximately 5.5 percent of the population. The rate of Muslim inmates within the inmate population has remained relatively constant in recent months.

Immediately after we became aware of the concerns surrounding the Muslim cleric you refer to in your question, we investigated the matter and terminated our contract with that individual for the convenience of the government. We also interviewed each of our 231 staff chaplains and reviewed the files of all religious contractors and volunteers to determine if there were any documents, information, or communications that indicated a contractor was condoning, supporting, or encouraging violence or other inappropriate behavior in our institutions. Our reviews revealed no evidence that terrorist philosophies are spreading in Federal prisons. Through our continuing efforts, as described briefly below, Federal prisons are not breeding grounds for radicalization or the recruitment of terrorists.

All full-time staff, including chaplains of all faiths, have pre-employment background checks and security clearances and follow-up background checks conducted every 5 years. All contractors and volunteers have criminal history background checks completed before admission to an institution. Bureau staff have recently begun collecting additional personnel data on all volunteers and contractors, and this data is reviewed against FBI records that include persons of interest or known terrorist suspects. In addition, all contractors must have lived in the United States for 3 of the last 5 years, even if they are United States citizens.

Bureau policies require that all chaplains, chaplaincy contractors, and volunteers present a letter of endorsement from a verifiable certifying religious organization. Among other things, endorsement includes an assurance that the applicant has no legal or moral barriers to congregational ministry, and is suitable to present religious information and doctrine to the inmate population.

We have also increased our vigilance in all areas where inmates gather for prayer, study, and other group activities. Staff are required to maintain a level of visual and auditory awareness of programs being presented, the inmate participants, and the content of the presentation.

All chaplains are strictly prohibited from using their position to condone, support, or encourage violence or other inappropriate behavior. Emphasis must remain centered on the inmates' personal journey to wholeness and toward an integration of faith with other parts of their lives.

**Issue:**

**What are the top priorities of your agency currently? What additional tools would be helpful to the Bureau of Prisons to perform your duties? How can Congress further assist the Bureau of Prisons in performance of its duties?**

**Answer:**

The Bureau's top priorities are (1) operating safe and secure institutions and (2) helping to maintain public safety by providing programs that will help inmates successfully reintegrate into society after release from prison. With regard to the first priority, the subcommittee could assist the Bureau of Prisons by supporting the funding requested in the FY 2004 budget, that will fund daily operations and allow us to activate (staff and equip) newly-constructed institutions. The activation of these institutions will help us reduce the severe crowding levels that we are experiencing, particularly in our medium and high-security institutions.

Regarding the second priority, Federal Prison Industries (FPI), which is one of our most important correctional programs, continues to face significant challenges. While we support reform of the statutes governing FPI, we feel it is important to strike a balance between the competing interests. Federal agencies should be able to procure quality goods and services at fair prices through

competition. However, the Attorney General must have the authority to maintain adequate work opportunities at Federal prisons. Such opportunities provide inmates with the skills they need to reintegrate into society and are an important prison management tool. In addition, FPI is a self-sustaining program and helps the Bureau maintain sufficient inmate work in BOP facilities at no cost to the taxpayer.

The BOP has other correctional programs and services designed to prepare inmates for a successful return to the community as productive, law-abiding citizens. These activities provide incentives for inmates to develop personal responsibility; activities can be withdrawn when necessary to teach inmates that there are consequences for irresponsible behavior.

The Bureau's core correctional programs (including FPI) have been shown by rigorous research to have positive benefits for Federal inmates. Recidivism rates are significantly lower for inmates who were involved in education, vocational training, industrial work programs, and residential substance abuse treatment as compared to their non-participating peers. In addition, inmates who completed the residential drug treatment program were less likely to return to drug use after release. Encouraged by the positive results of the residential drug abuse treatment program, we have implemented a number of new residential programs for special populations, including younger offenders, high-security inmates, and intractable inmates who do not have substance abuse disorders. As with the residential drug treatment program, each of these "offshoot" programs was developed with an evaluation component to ensure the program meets the goals of promoting positive behavior. We will continue to expand programs that, through sound research and evaluation, demonstrate a positive result. We request the Subcommittee's continued support for programs and activities that help inmates prepare for a successful return to the community after release.

**Issue:**

**What is the status of the Office of the Federal Detention Trustee operating as an independent entity within the Department of Justice?**

**Answer:**

The Office of the Detention Trustee is a DOJ agency separate from the Bureau of Prisons. We believe this question should be directed to that Office.

**Issue:**

Ranking Member Conyers asked for a comparison of the Bureau's FY 2003 and FY 2004 budgets, along with an activation update including names, locations, and costs of facilities coming on line.

**Answer:**

The FY 2003 budget for the Federal Prison System totals \$4.4 billion. Approximately \$4 billion (91 percent) of the total budget is for daily operations (65 percent for salaries and benefits), with the remainder for capital budget projects including new construction, modernization, and repairs.

The FY 2004 budget request is almost \$4.7 billion; \$4.5 billion for operations and \$224 million for the capital budget. The operating budget will fund 113 existing and requested facilities and will provide for the custody and care of up to 151,400 inmates in BOP facilities and 28,900 inmates in contract facilities. The Bureau of Prisons will house approximately 16 percent of Federal inmates in privately-managed prisons, State and local facilities, and community corrections centers.

**Projects and Status**

<u>Name of Project</u>	FY 2004	FY 2005
	Projected Activation Costs (\$000)	Projected Activation Costs (\$000)
FCI Victorville, CA (Medium)	\$40,610	(\$133)
USP Hazleton, WV (High)	40,587	134
FCI Williamsburg, SC (Medium)	38,054	1,682
FCI Forrest City, AR (Medium)	38,771	(559)
FCI Herlong/Sierra, CA (Medium)	41,165	(879)
USP Cansan, PA (High)	40,599	121
FCI Yazoo City, MS (Medium)	0	47,019
FCI Bennettsville, SC (Medium)	0	49,208
USP Terre Haute, IN (High)	12,192	26,694
USP Coleman, FL (High)	0	40,305
USP Tucson, AZ (High)	0	19,695
<b>TOTAL</b>	<b>\$251,978</b>	<b>\$183,287</b>

FCI = Federal Correctional Institution

USP = U. S. Penitentiary

Once fully activated, these 11 new facilities will provide more than 12,000 additional beds.

**Issue:**

**Representative Bobby Scott requested a cost/benefit analysis of work programs, education programs, and drug treatment programs.**

**Answer:**

A recent study released by the Washington State Institute for Public Policy (2001) evaluated the costs and benefits of numerous crime prevention programs. Their calculations included (1) program costs, (2) the net benefit to the taxpayer of reducing recidivism by lowering costs for arrest, conviction, incarceration, and supervision, and (3) the net benefit by avoiding the cost of crime victimization and improving quality of life. The study was based only on valid evaluations of crime prevention programs (including the Bureau's studies of prison industries/vocational training and residential substance abuse treatment) and made adjustments based on the strengths and weaknesses in methodologies in order to ascertain the best estimate of costs and benefits. The study reported benefit-to-cost ratios for each category of programs.

Essentially, for each dollar spent on a program:

- correctional industries programs save up to \$6.23.
- vocational education programs save up to \$7.13.
- substance abuse treatment programs save up to \$2.69.
- adult basic education programs save up to \$5.65.

Costs and savings will vary somewhat from jurisdiction to jurisdiction; however, there is no reason to believe that similar benefits would not be gained in other jurisdictions. A copy of the full report is enclosed.

**Issue:**

**Representative Sheila Jackson Lee requested an overview and analysis of employee compensation in the Bureau over the last 5 years.**

**Answer:**

The BOP continues to explore all available initiatives to recruit and retain the best and most qualified work force. Many of these initiatives involve compensation matters which we strive to improve in conjunction with the Department of Justice (DOJ) and the Office of Personnel Management (OPM).

In the last 5 years, the number of areas affected by locality-based comparability payment areas have increased from 28 to 32 and the locality pay adjustments for Houston have increased from 11.96 percent to 20.53 percent. Through DOJ and OPM, the Bureau provides input to the Federal Salary Council and the President's Pay Agent regarding locality-based pay adjustments for areas with BOP facilities.

The Bureau provides special salary rates for a variety of positions at locations that experience recruitment and retention difficulties. In certain circumstances, special salary rates can be established up to 30 percent above the maximum rate for the grade. Each year, we review the need for continued use of special salary rates and we provide the Department of Justice with requests for adjustments as appropriate. In the last 3 years, the Bureau has received special salary rates for nurses at four medical referral centers and for pharmacists at one medical referral center.

The BOP uses special rates (which are higher than regular general schedule rates) for all law enforcement officers in grades 3 through 10. We also continue to make use of special pay adjustments for law enforcement officers (similar to a locality-based pay adjustment) in the locations where this benefit still exists.

The BOP applies Federal Wage System schedules for each institution's respective wage area using a method that was established by the Department of Defense and reviewed and validated by DOJ and OPM last year. In addition, several BOP institutions have received approval to establish increased minimum rates for hard-to-fill Federal Wage System positions. We assess the need for increased rates each year and have continued to receive authority for the increase for each wage area since they were established.

We also use supervisory pay differentials for General Schedule employees who supervise Federal Wage System employees who are in a higher pay category. These supervisors can receive up to 3 percent more than their highest-paid Federal Wage System subordinate.

In recent years, we have increased our use of recruitment bonuses, relocation bonuses, and retention allowances. In the past few years, we have offered recruitment bonuses ranging from 8 percent up to the maximum allowable 25 percent (equaling an amount of over \$25,000 in some cases). We have offered relocation bonuses of up to \$10,000 to recruit in locations where positions are hard-to-fill. Also in the past few years, we have used retention allowances of between 4 percent and 25 percent. Our employees have

received retention allowances ranging from approximately \$1,000 to over \$20,000. In 1999, the Bureau established a group retention allowance program for retirement-eligible Wardens to ensure these positions remained filled with the most competent and qualified staff.

The Bureau uses appointments above the minimum rate for candidates who either have superior qualifications and would forfeit income if hired at basic entry level pay rates or who have a unique combination of education and experience that meet a special need.

Under the Physician's Comparability Allowance and the Dentist's Comparability Allowance programs, medical officers and dentists can be granted an allowance of up to \$30,000 per year, based on the qualifications of the provider and a commitment to work for the Bureau for a 1-year or 2-year period.

Employee benefits such as health and life insurance, paid sick and annual leave programs, guaranteed pension plans for retirement, as well as the options of long-term care insurance, tax-exempt contributions to the Thrift Savings Plan, and flexible spending accounts for medical expenses and child care costs enhance the overall compensation packages available to BOP staff.

These direct compensation and related measures are extremely helpful and, in combination with other work-life improvements such as compressed work schedules and leave-sharing programs, help us in our effort to recruit and retain the high-quality staff necessary for the BOP to accomplish its mission.

**Issue:**

**Chairman Coble requested information on the standards the BOP employs for addressing prison rape and statistics on prison rape within Federal institutions.**

**Answer:**

The BOP collects data on all forms of sexual misconduct. Sexual misconduct covers a broad range of behaviors, ranging from indecent exposure, making sexual proposals, and touching of certain areas of the body for sexual gratification, up to and including sexual assault or rape. These incidents include acts by inmates toward staff or other inmates. Over the past 12 months, there were 1,686

incidents of sexual misconduct in Federal prisons (this excludes privately-managed prisons and contract facilities). Among these incidents, there were no sustained cases of rape or forced sexual assault. We believe these numbers are quite impressive given a population of approximately 145,000 inmates in BOP institutions.

The Bureau ensures institution security and prevents assaults of any kind through a combination of the classification of inmates based on risk factors, direct staff supervision, security technologies, and the physical design of our institutions. Our classification system ensures that inmates are placed in facilities that meet their security needs. The classification system considers a combination of factors that indicate if an inmate is a potential risk to public safety in general or a potential risk to the safety of any individuals in particular. We are able to manage our population and ensure safety and security by confining high-risk inmates in facilities with the appropriate security measures and levels of supervision that these inmates require and by separating inmates who are a potential threat to one another.

In addition, we encourage constructive interaction and frequent communication between staff and inmates. Our agency requires staff to be available to inmates and to be receptive to the inmates' concerns. Experience has proven that having sound relationships and an understanding with inmates is one of the best security tools we have. Good communication is an excellent way to gather information about potential problems and to address issues of concern before they escalate to misconduct or assaultive behavior. We have also found that our use of cameras and closed-circuit video recording equipment serves as a deterrent to misconduct and assaults within our institutions.

The Bureau of Prisons has an extensive policy on sexual assault prevention and intervention (a copy of which is attached). Our program addresses the safety and treatment needs of inmates who have been sexually assaulted and provides for disciplinary action and prosecution of assailants. The program includes procedures for employees to follow in the event of an alleged assault or the detection of an assault and protocols for ensuring the safety and protection of the victim. The program requires all employees to receive training annually on recognition of the physical, behavioral, and emotional signs of sexual assault; the referral process; and prevention and response techniques. The program provides education and information to the inmates regarding the definition of sexual

misconduct, sexual assault prevention strategies, the availability of treatment, treatment options, and the course of action to follow is a sexual assault takes place.

While one rape or sexual assault is too many, we believe we have a variety of effective programs and policies in place to minimize the risk and respond appropriately when incidents occur.

RESPONSE FROM BENIGNO G. REYNA TO QUESTIONS  
SUBMITTED BY THE SUBCOMMITTEE



U.S. Department of Justice  
Office of Legislative Affairs

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Washington, D.C. 20530

August 7, 2003

The Honorable Howard Coble  
Chairman, Subcommittee on Crime,  
Terrorism, and Homeland Security  
Committee on the Judiciary  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

Please find enclosed responses to the questions posed to Benigno G. Reyna, Director of the United States Marshals Service, following his testimony before the Subcommittee on May 14, 2003. We appreciate your support of the men and women of the Marshals Service and for the opportunity to discuss the Marshals' 2004 budget request.

If we may be of further assistance on this or any other matter, please do not hesitate to contact this office. The Office of Management and Budget has advised us that from the perspective of the Administration's program, there is no objection to the submission of this letter.

Sincerely,

A handwritten signature in cursive script that reads "William E. Moschella".

William E. Moschella  
Assistant Attorney General

Enclosure

cc: The Honorable Bobby Scott  
Ranking Minority Member

**Questions for Benigno Reyna  
Director  
United States Marshals Service**

**1. Since September 11, 2001, a great deal of emphasis has been placed on the protective duties of the U.S. Marshals. Has this emphasis on your protective role affected your ability to apprehend fugitives?**

The United States Marshals Service (USMS) has two core missions: securing the judicial process and the apprehension of fugitives. Although it is true that more emphasis has been placed on protective duties since September 11<sup>th</sup>, the USMS has continued to excel in the area of fugitive apprehensions as well. In fiscal year (FY) 2001, the USMS cleared 61,553 Federal, State and local fugitive warrants. In FY 2002, the USMS cleared 69,488 Federal, State and local fugitive warrants, an increase of 13% over FY 2001. For FY 2003, we project that we will clear 76,017 fugitive warrants, a potential increase of 9.4% over FY 2002.

Fugitive apprehension is critical to maintaining the judicial process. The USMS has enhanced its fugitive apprehension mission with special training and the use of state of the art technology. We have established an expertise in the location and apprehension of fugitive felons and have developed operational programs with Regional Fugitive Task Forces, Cooperative Fugitive Task Forces, and International and Foreign Fugitive Programs. In addition, we have expanded Electronic Surveillance Programs, liaison activities with multiple agencies, information sharing projects, and formal agreements with other Federal, State and local agencies for assistance with their fugitive cases.

**2. You have requested an increase of 275 positions, including 231 deputy marshals for FY 2004. Is this exclusively to address the need for additional security or are there other areas that merit additional personnel?**

The requested positions will provide judicial and courtroom security to ensure the safety of judicial officials, courtroom participants, the general public, and add additional personnel resources to our fugitive apprehension mission. Additional personnel are necessary to enhance security during terrorist-related and other criminal court proceedings, increase staffing along the northern border, ensure that new judgeships have an adequate number of deputy marshals present to secure criminal court proceedings, allow new and renovated courthouses to open with adequate security personnel, and assist in the apprehension of dangerous criminals.

**3. What are the top priorities of your agency currently? What additional tools would be helpful to the Marshals to perform their duties?**

The USMS's top priorities are protection of the judicial process, apprehension of fugitives, courthouse security and upgrading the information technology infrastructure. The priorities are reflected in the President's FY 2004 Budget where the USMS has requested 275 positions, 164 FTE, and \$26,599,000 for judicial security. Escalating security alert levels since September 11<sup>th</sup>, the growing number of terrorism cases, and increased prisoner workload have resulted in the need for additional judicial security. Also, \$2,000,000 has been requested from the Department of Justice (DOJ) Working Capital Fund Unobligated Balance Transfer (WCF UBT) for courthouse security equipment. The installation and maintenance of electronic security systems in USMS-controlled space is required to meet security standards and reinforce the security provided by deputy marshals when producing prisoners for court proceedings. Finally, \$28,508,000 has been requested within the DOJ Legal Activities Office Automation (LAOA) appropriation to continue upgrading the USMS network and office automation infrastructure. The upgrades will allow the USMS to share law enforcement data (PTS/WIN, fingerprints, photos) with other federal agencies and transmit data more rapidly within the USMS.

**4. How can Congress further assist the Marshals in performance of its duties?**

Support of the proposed President's FY 2004 Budget will assist the USMS in performing mission critical duties. Moreover, providing new positions without location designation will give the USMS the hiring flexibility it needs to place personnel where the work is. This is the most efficient way for the USMS to complete its dual mission of protection of the judicial process and fugitive apprehension.

**5. Some have suggested that administrative subpoena power might be helpful to the Marshals. Do you believe such authority is necessary? Why? How would you use this authority?**

(See Question 7.)

**6. Why do you feel court orders do not sufficiently address these issues?**

(See Question 7.)

**7. If you had administrative subpoena authority, how would you ensure this power would not be abused?**

(Questions 5 through 7 are addressed inclusively):

Time is critical in fugitive investigations. Fugitives routinely facilitate their flight by the use of aliases, false identification, frequent travel, and other evasive means. While many law enforcement agencies possess the authority to issue administrative subpoenas to obtain information necessary to further their investigations, the USMS relies upon the time consuming process of securing court orders to obtain the same types of information. USMS investigations are initiated based on existing judicial orders, whereas other agencies seek to establish a case on the sole basis of probable cause.

The USMS seeks administrative subpoena authority that would be delegated through the Attorney General to the USMS to aid in the apprehension of dangerous and violent fugitives. The granting of this authority would further the congressional mandate of section 6 of Public Law 106-544 (which authorized the establishment of permanent fugitive apprehension task forces to be directed and coordinated by the USMS), by allowing the USMS to conduct a relevant investigation pursuant to a legitimate purpose, obtain information that is not within its possession, and fulfill the requirements of a court order. Thus, our investigators would use this essential law enforcement tool in apprehending dangerous fugitives in a significantly more timely manner.

Currently, the USMS must complete an affidavit and appear before a judge to explain why certain records are essential for locating a fugitive. The time-intensive process of seeking court orders for routine information often stalls an investigation for days or weeks at a time. Since the window of opportunity to apprehend an elusive fugitive may be measured in minutes or hours, delays can render entire avenues of investigation fruitless, reduce the effectiveness of sensitive investigative techniques, and result in a missed chance to make an arrest of a violent fugitive, thereby giving the felon additional opportunities to commit criminal acts.

Fugitives pose numerous and costly problems for our Nation. Most important, fugitives threaten the safety of the Nation's citizens. Many fugitives, particularly those wanted for drug offenses, present an enhanced danger to society as they continue to commit crimes, furthering their criminal enterprises, while concurrently evading arrest.

During fiscal year 2002, the USMS received 35,500 new federal felony warrants. In addition, the USMS assisted state and local law enforcement agencies in closing 37,000 warrants during fiscal year 2002. The USMS projects it will receive approximately 42,000 federal warrants during fiscal year 2003.

Administrative subpoena authority is not new to federal law enforcement. It has existed for years to help authorities investigate drug offenses, child abuse, child pornography and health care fraud.

The authority we seek for the USMS is fundamentally narrower because it applies only to someone who has been accused of committing a felony by complaint, information, or indictment; has been convicted of committing a felony and flees or attempts to flee from or evade the jurisdiction of the court.

The authority sought by the USMS is limited only to requiring the production of documents, records and other tangible things. Administrative subpoena authority would not authorize Deputy United States Marshals to enter a home or business to conduct a search. Administrative subpoenas would be served on the person charged with responding to it -- there would be no secret confiscation of documents. Citizens would have the right to ask a court to quash a USMS administrative subpoena so they would not be compelled to respond to a subpoena they believe is burdensome or otherwise inappropriate until after a judge has decided the issue. Finally, each subpoena must be approved by senior supervisory personnel within the USMS or other Department of Justice components.

**8. What do you believe the role of the Office of the Director and Deputy Director should be in working with the 94 U.S. Marshals?**

The USMS is the oldest federal law enforcement agency in the United States. The procedures for selecting the United States Marshals have changed little over the past 214 years. Since its establishment in 1969, the Office of the Director, which includes the Deputy Director, has provided necessary and essential oversight and transition guidance of the USMS throughout the 94 judicial districts located in the United States and its territories.

As with other federal law enforcement agencies, the Office of the Director is the conduit between the Administration and the 94 Marshals and their district personnel. Additionally, the Office of the Director leads the USMS through the challenges associated with emerging law enforcement issues, participation and coordination on Homeland Security initiatives and the maintenance of core missions in an efficient and cost effective manner. Further, the Office of the Director develops objectives, plans, and sound strategies that ensure fiscal responsibility, equitable distribution of resources among districts based on growth indicators and promotes higher levels of performance by developing and building successful internal and external working relationships that foster a positive and professional organization-wide working environment. Finally, the Office of the Director ensures that the policies, guidelines and priorities of the President, Congress and the Attorney General are followed consistently throughout the districts by providing guidance, oversight and direction that is coordinated with the Department of Justice.

RESPONSE FROM JULIE L. MYERS TO QUESTIONS SUBMITTED BY THE SUBCOMMITTEE



U. S. Department of Justice

Office of Legislative Affairs

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Office of the Assistant Attorney General

Washington, D.C. 20530

August 14, 2003

The Honorable Howard Coble  
Chairman  
Subcommittee on Crime, Terrorism and Homeland Security  
Committee on the Judiciary  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

Please find enclosed the Department's responses to questions posed to Ms. Julie L. Myers, Chief of Staff of the Criminal Division, following her testimony before the Subcommittee on May 14, 2003. We hope that this information is useful to you.

Thank you for your attention to this matter. If we may be of further assistance, please do not hesitate to contact this office.

Sincerely,

  
William E. Moschella  
Assistant Attorney General

Enclosure

cc: The Honorable Bobby Scott  
Ranking Minority Member

Responses to Questions for  
Julie Myers  
Chief of Staff  
Criminal Division  
US Department of Justice

Subcommittee on Crime, Terrorism and Homeland Security  
Committee on the Judiciary  
United States House of Representatives

May 14, 2003

**1. Another office in the Division is the Office of Special Investigations, which is charged with detecting and investigating individuals who took part in Nazi-sponsored acts of persecution abroad before and during World War II. How many Nazi fugitives remain at large?**

While it is impossible to know how many Nazi criminals remain at large in this or any other country, the Office of Special Investigations (OSI) believes that there are at least scores of such individuals in the United States. Indeed, the unit has more than a hundred persons under investigation, in addition to the 20 individuals currently being prosecuted by OSI in federal courts around the country. Last year, OSI commenced ten new prosecutions, the highest single-year total recorded in the unit's 23-year history.

**How many attorneys work for OSI?**

OSI currently employs 10 line attorneys to handle all of this complex investigative and prosecutorial work, as well as related judicial assistance and other matters. (The unit's director and deputy director are also attorneys.) In total, OSI has a staff of 32.

**Is this the only mission for the Office?**

In addition to its core denaturalization and removal (deportation) work, OSI is responsible, in coordination with personnel from the Department of Homeland Security (DHS), for preventing former Axis persecutors from entering the United States. To date, OSI's efforts have blocked attempts by more than 160 European and Japanese WWII suspects to gain entry. The unit has also borne a major portion of the U.S. Government's investigative efforts to trace the disposition of gold, artwork, books and other assets looted by the Nazis. At the present time, OSI is devoting considerable resources to implementing the Nazi War Crimes Disclosure Act of 1998, by helping to lead an inter-agency effort to locate, declassify and disclose millions of pages of classified documents in Government possession that pertain to Nazi war criminals. Finally, OSI is extensively involved in providing investigative assistance to foreign governments that are pursuing Nazi criminals.

**Should this Office's mission be expanded?**

Despite confidence that the personnel at OSI can handle a variety of challenging assignments, no decision has been made on the possibility of expanding its mission in the future.

**2. How are the Counterterrorism Section and other Division prosecutors participating in the development of new mechanisms for information sharing and exchange. Specifically, how are they participating in the new Terrorist Threat Integration Center (TTIC)?**

As recipients of information about international terrorism that may be pertinent to prevention and disruption of terrorism, the Counterterrorism Section (CTS) seeks to disseminate pertinent threat information to prosecutors in the field through CTS Regional Anti-Terrorism Coordinators and the Anti-Terrorism Task Force (ATTF) Coordinators located in each U.S. Attorney's Office. Together, CTS prosecutors and Assistant U.S. Attorneys (AUSAs), drawing on the resources of the Joint Terrorism Task Forces, determine an appropriate disruption plan, which may involve investigation and criminal prosecution or some other appropriate remedy. In addition, CTS participates in the designation of foreign terrorist organizations and the terrorist financing enforcement actions that rely on these designations, drawing on intelligence provided both by the FBI and the CIA.

CTS and the Criminal Division as a whole are also involved in the administration of laws and the development of guidelines to facilitate information sharing and exchange – including those significant reforms to the Foreign Intelligence Surveillance Act (FISA) information-sharing provisions made by Sections 218 and 505 of the USA PATRIOT Act, as well as the Section 203 PATRIOT Act reforms that permit additional sharing of information from law enforcement to the U.S. intelligence community. In addition, the Criminal Division has participated in the drafting of Attorney General Guidelines and other procedures developed to implement these provisions. These changes will make TTIC more robust. CTS has also been engaged in the design and implementation of training of federal prosecutors in U.S. Attorneys' Offices nationwide, as well as the FBI supervisory agents with whom they work, on the changes in law and procedures that mandate such information sharing.

**3. You testified that the Asset Forfeiture and Money Laundering Section provides: enforcement expertise and leadership to the Financial Action Task Force, an international body dedicated to the development and promotion of sound anti-money laundering practices. Who are the members of this task force? How exactly does the task force promote anti-money laundering practices, for instance, does the task force issue guidelines or reports?**

The Financial Action Task Force on Money Laundering (FATF) was established at the G-7 Economic Summit in Paris in 1989 in response to mounting concern over money laundering. Today it is an intergovernmental body comprised of legal, financial and law enforcement experts from 33 jurisdictions whose purpose is the development and promotion of policies, both at the national and international levels, to combat money laundering. The members today are: Argentina, Australia, Austria, Belgium, Brazil, Canada, Denmark, the European Commission, Finland, France, Germany, Greece, the Gulf Cooperation Council, Hong Kong, Iceland, Ireland, Italy, Japan, Luxembourg, Mexico, the Netherlands, New Zealand, Norway, Portugal, the Russian Federation, Singapore, South Africa, Spain, Sweden, Switzerland, Turkey, the United Kingdom and the United States. There are also regional FATF - style bodies throughout the world that have adopted the policies and principles of the FATF, such as the Caribbean Financial Action Task Force (CFATF), the Asia Pacific Group (APG), the del Grupo Accion Financiera Internacional - Sud (GAFI-SUD), the ESAAMLG (Eastern and Southern Africa Anti-Money Laundering Group), and the MONEYVAL Committee of the Council of Europe. The United States, principally through the Departments of the Treasury, Justice and State, actively participates in the FATF. Attorneys from the Asset Forfeiture and Money Laundering Section represent the Department of Justice at the FATF and the FATF - style regional bodies.

FATF promotes sound anti-money laundering practices through the issuance of its Recommendations. In 1990, in an effort to devise the measures that should be taken to combat money laundering, FATF issued Forty Recommendations that set out the framework for anti-money laundering efforts covering the criminal justice system and law enforcement, the financial system and its regulation, and international co-operation. The Forty Recommendations have been recognized, endorsed, or adopted by many international bodies, including the United Nations, the International Monetary Fund (IMF), and the World Bank, as the international standard to fight against money laundering. Furthermore, the FATF issues guidance notes, best practices papers, interpretive notes, and provides information about money laundering trends.

Following September 11, 2001, FATF convened an emergency plenary meeting in Washington, D.C. on October 29-30, 2001, and expanded its mission to include countering terrorist financing adopted Eight Special Recommendations to counter terrorist financing. Recognizing that money laundering techniques have become increasingly sophisticated, FATF undertook a review over the past year to update its Forty Recommendations and Eight Special Recommendations to ensure that they remain the leading international anti-money laundering standard. During its plenary meeting in Berlin from June 16-20, 2003, FATF approved and released the revised Recommendations.

FATF also promotes anti-money laundering practices by monitoring the implementation of the Forty Recommendations by member countries through peer reviews and mutual evaluations and annual self assessment exercises. The peer reviews consist of an on-site visit conducted by a team of three or four selected experts from the legal, financial and law enforcement fields from other member governments. The purpose of the visit is to prepare a report assessing the extent to which the evaluated country has moved forward in implementing

an effective system to counter money laundering and to highlight areas in which further progress may be needed. Currently, FATF has agreed to a pilot project with the IMF/World Bank to utilize a common methodology to assess compliance with the FATF Recommendations for the world's anti-money laundering and counter-terrorist financing systems. Members found to be out of compliance with the FATF Recommendations are pressed by their peers to take action to tighten their anti-money laundering systems. Such countries are asked to deliver a progress report at plenary meetings on how they are addressing deficiencies. Further action can include a letter from the FATF President or sending a high-level mission to the non-complying member country. FATF can apply Recommendation 21, which entails issuing a statement requiring financial institutions to give special attention to business relations and transactions with persons, companies and financial institutions domiciled in the non-complying country. As a final measure, the FATF membership of the country in question can be suspended.

In 1999-2000, the FATF began the process of identifying jurisdictions throughout the world with serious deficiencies in their anti-money laundering regimes. Through the Non-Cooperative Countries and Territories (NCCT) initiative, the FATF has encouraged jurisdictions identified as being non-cooperative to implement comprehensive and effective anti-money laundering measures, while providing assistance and support to those countries to remedy their deficiencies. FATF has monitored the progress of the compliance of NCCT jurisdictions and has applied approved the application of counter-measures against recalcitrant countries where necessary.

**4. How are you coordinating with the Department of Homeland Security's law enforcement operations?**

In general, the Criminal Division interacts closely with DHS criminal law enforcement and intelligence functions when they impact or generate investigations and prosecutions dealing with terrorism, immigration, and narcotics prosecutions. The Criminal Division also works with the DHS on a number of additional fronts, including transition issues, policy and legislative issues relating to immigration enforcement, civil immigration issues relating to detainees of interest, and witness security issues.

Most prominently, in the area of terrorism-related immigration matters, CTS recently worked with the DHS Bureau of Immigration and Customs Enforcement's (BICE) National Security Law Unit on national security matters. CTS also works with Customs on terrorist financing matters, most recently on the protocols to combine the criminal investigative efforts of DHS and the FBI. In addition, the Domestic Security Section (DSS) works with BICE, the Bureau of Customs and Border Protection (CBP), and the Coast Guard on a variety of criminal immigration matters, including the targeting significant alien smuggling organizations who present special security threats to the United States, and working with foreign countries to stop aliens who come or travel through those countries.

Most of the Criminal Division's other components also work with DHS's diverse law enforcement operations. Criminal cases dealing with narcotics smuggling, arms export, money laundering, intellectual property, child exploitation, and commercial fraud, among others are developed and prosecuted with the help of ICE, CBP and the Coast Guard. Furthermore, the Office of Special Investigations, the Office of International Affairs, and the Office of Enforcement Operations also work closely with BICE on immigration-related matters dealing with extradition and witness security.

**2. What are the challenges the Criminal Division faces after September 11, 2001 terrorist attacks?**

The events of September 11, 2001, ushered in a new era in the Department's approach to the threat of terrorism. The Attorney General indicated that preventing future acts of terrorism is the Department's first priority, and the United States Attorneys and the Criminal Division have adjusted our organizational structures and approaches better to address that threat. The Criminal Division separated the violent crime responsibilities that resided in the Terrorism and Violent Crime Section and combined them with related responsibilities elsewhere in the Division into a new Domestic Security Section. The newly reorganized CTS can better address the increased emphasis on litigation and criminal prosecution necessary on to prevent terrorist activity.

The reorganization of CTS has also been consistent with the reorganization of the U.S. Attorneys' offices. In October 2001, the Attorney General directed each U.S. Attorney to create an ATTF and to designate an AUSA as an ATTF Coordinator. CTS divided the judicial districts into six regional groups and created corresponding Regional ATTF Coordinators who provide litigation and other liaison services for the ATTF coordinators in the field. The challenge lies in keeping open the lines of communication between prosecutors and managers in the field and their counterparts in Departmental headquarters and ensuring that useful and accurate assistance flows from CTS to prosecutors in the field.

CTS has expanded its litigation operations so that we now are actively involved in numerous criminal terrorism investigations and prosecutions around the country in cooperation with the U.S. Attorneys. We provide a wide range of assistance in such matters, including trial preparation and presentation, CIPA review and other discovery related services, and document management.

CTS has also led the effort to open terrorism intelligence files for limited use in criminal investigations and prosecutions. CTS faces a continuing challenge in ensuring that all informational resources available to government entities, including classified intelligence, are available to criminal investigators and prosecutors. CTS is currently completing nationwide training for hundreds of FBI agents and ATTF coordinators to ensure they are ready and able to identify and use all available sources of information.

Further, CTS plays a pivotal role in the designation of foreign terrorist organizations under the Antiterrorism and Effective Death Penalty Act and in designation of specially designated global terrorists named pursuant to the International Emergency Economic Powers Act. CTS faces an ongoing challenge in meeting the demands of coordinating the designation process, reviewing intelligence, producing and reviewing evidentiary designation packages, and assisting the Civil Division with any resulting litigation.

Finally, CTS has created a Terrorism Financing unit headed by a coordinator, which maintains close contact with and provides guidance to the FBI's Terrorist Financing Operations Section (TFOS) and other similar entities, such as the Customs Service's Operation Green Quest.

SEXUAL ABUSE/ASSAULT PREVENTION AND INTERVENTION PROGRAMS,  
U.S. DEPARTMENT OF JUSTICE, FEDERAL BUREAU OF PRISONS



U.S. Department of Justice  
Federal Bureau of Prisons

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# Change Notice

DIRECTIVE AFFECTED: 5324.04  
CHANGE NOTICE NUMBER: 5324.04  
DATE: 12/31/97

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1. PURPOSE AND SCOPE. To update the Program Statement pertaining to Sexual Abuse/Assault Prevention and Intervention Programs
  2. SUMMARY OF CHANGES. This Program Statement broadens the definition of sexual abuse/assault to include instances of staff-on-inmate sexual abuse/assault and to present more detailed mental health treatment protocols for victims of sexual assault.
  3. ACTION. File this Change Notice in front of the Program Statement Sexual Abuse/Assault Prevention and Intervention Programs.

/s/  
Kathleen M. Hawk  
Director



U.S. Department of Justice  
Federal Bureau of Prisons

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## Program Statement

OPI: CPD  
NUMBER: 5324.04  
DATE: 12/31/97  
SUBJECT: Sexual Abuse/Assault  
Prevention and  
Intervention Programs

1. PURPOSE AND SCOPE. To provide guidelines to help prevent sexual assaults on inmates, to address the safety and treatment needs of inmates who have been sexually assaulted, and to discipline and prosecute those who sexually assault inmates.

Research indicates that a small percentage of individuals express aggression and seek to dominate others through violent sexual behavior. Forceful and pressured sexual interactions are among the most serious threats to inmate safety and institutional order. Victims may suffer physical and psychological harm, and could be infected with a life-threatening disease.

Consequently, each institution is required to have a Sexual Abuse/Assault Prevention and Intervention Program that includes several major elements:

- a. prevention,
  - b. prompt and effective intervention to address the safety and treatment needs of inmate victims if an assault occurs, and
  - c. investigation, discipline, and prosecution of assailant(s).
2. PROGRAM OBJECTIVES. The expected results of this program are:
- a. Effective procedures to prevent sexually assaultive behavior will be operative in each Bureau institution.
  - b. The medical, psychological, safety, and social needs of victims of Sexual Abuse/Assault will be promptly and effectively met.
  - c. All allegations of Sexual Abuse/Assault will be promptly and effectively reported and investigated.

d. Assaultants, once identified, will be controlled, disciplined, and/or prosecuted.

3. DIRECTIVES AFFECTED

a. Directive Rescinded

PS 5324.02 Sexual Assault Prevention and Intervention Programs, Inmates (2/2/95)

b. Directives Referenced

PS 1210.17 Office of Internal Affairs (8/4/97)  
 PS 1330.13 Administrative Remedy Program (12/22/95)  
 PS 1351.04 Release of Information (12/5/96)  
 PS 1380.05 Special Investigative Supervisors Manual (8/1/95)  
 PS 3420.08 Standards of Employee Conduct (3/7/96)  
 PS 3906.16 Employee Development Manual (3/21/97)  
 PS 5180.04 Central Inmate Monitoring System (8/16/96)  
 PS 5270.07 Discipline and Special Housing Units (12/29/87)  
 PS 5290.10 Intake Screening (8/11/97)  
 PS 5310.12 Psychology Services Manual (8/13/93)  
 PS 5500.09 Correctional Services Manual (10/27/97)  
 PS 6000.05 Health Services Manual (9/15/96)

4. STANDARDS REFERENCED

a. American Correctional Association 3rd Edition Standards for Adult Correctional Institutions: 3-4268, 3-4380-1, 3-4386

b. American Correctional Association 3rd Edition Standards for Adult Local Detention Facilities: 3-ALDF-3E-08, 3-ALDF-4B-02-1, 3-ALDF-4F-03

c. American Correctional Association 2nd Edition Standards for Administration of Correctional Agencies: 2-CO-3C-01, 2-CO-4F-01

d. American Correctional Association Standards for Adult Correctional Boot Camp Programs: 1-ABC-3D-06, 1-ABC-5A-01-1, 1-ABC-4F-07

5. DEFINITION. For the purposes of this Program Statement, the following definitions apply:

a. Inmate-on-Inmate Sexual Abuse/Assault. One or more inmates

engaging in, or attempting to engage in a sexual act with another inmate or the use of threats, intimidation, inappropriate touching, or other actions and/or communications by one or more inmates aimed at coercing and/or pressuring another inmate to engage in a sexual act. Sexual acts or contacts between inmates, even when no objections are raised, are prohibited acts.

b. Staff-on-Inmate Sexual Abuse/Assault. Engaging in, or attempting to engage in a sexual act with any inmate or the intentional touching of an inmate's genitalia, anus, groin, breast, inner thigh, or buttocks with the intent to abuse, humiliate, harass, degrade, arouse, or gratify the sexual desire of any person. Sexual acts or contacts between an inmate and a staff member, even when no objections are raised, are always illegal.

6. PROGRAM COORDINATION. Preventing sexual abuse/assault, intervening when sexual assaults do occur, investigating allegations of sexual assault, and disciplining/prosecuting perpetrators of sexual abuse/assault involves the coordinated efforts of several institution departments (e.g., Correctional Services, Psychology Services, Health Services, Legal, Unit Management, Religious Services, etc.). Each Warden shall assign one staff member, ordinarily an Associate Warden, overall responsibility for ensuring that all elements of this Program Statement are met in a coordinated, interdisciplinary fashion. Specific program elements include:

- a. educating and training staff and inmates,
- b. safeguarding, assessing, treating, and managing sexually assaulted inmates, and
- c. investigating, disciplining, and/or prosecuting perpetrators of sexual assault.

7. PREVENTION. All staff and inmates are responsible for being alert to signs of potential situations in which sexual assaults might occur.

a. Screening and Classification. All inmates entering the Bureau are screened consistent with applicable Health Services, Psychology Services, and Case Management policy. When an inmate reports having been a victim of sexual abuse/assault and expresses a willingness to participate in treatment, staff shall refer the inmate to Psychology Services. Psychology Services staff shall assess the inmate's need for treatment and discuss available treatment options when appropriate. The results of this discussion should be documented in the Psychology Data System (PDS).

Preventing sexual abuse/assault also suggests that staff should attempt to identify sexually assaultive inmates. In fact, care must be taken to identify and document any history of sexually assaultive behavior. Accordingly, during intake screening procedures, staff shall review available documentation (e.g., judgment and commitment orders, criminal records, presentence investigation reports, Central file data, etc.) for any indication that an inmate has a history of sexually aggressive behavior. Staff shall refer any inmate with a history of sexually abusive behavior to Psychology Services staff for an assessment and possible treatment. The results of this assessment along with any treatment recommendations and the inmate's motivation to participate in treatment should be documented in the PDS.

b. Staff Training. All staff shall be trained to:

- (1) recognize the physical, behavioral, and emotional signs of sexual assault;
- (2) understand the identification and referral process when an alleged sexual assault occurs; and
- (3) have a basic understanding of sexual assault prevention and response techniques.

For new employees, a discussion of sexual abuse/assault prevention and intervention shall be part of Introduction to Correctional Techniques training and should include a review of the Bureau's sexual abuse/assault policy and staff responsibilities to prevent and report sexual assaults. For existing staff, more extensive information about the program shall be included as a part of Annual Refresher Training. The Chief Executive Officer shall designate one staff member each year to conduct this training session.

In addition to Annual Refresher Training, specialized training should be made available to staff who are likely to be most involved in the treatment or management of sexually assaulted inmates (e.g., Health Services staff, Psychology Services staff, unit management staff, lieutenants, etc.). This specialized training may be offered by Bureau employees or consultants from the community who are especially knowledgeable regarding issues pertaining to sexual abuse/assault and may be included as part of larger training programs offered to these disciplines at the Management Specialty Training Center in Aurora, Colorado or other designated locations.

c. Inmate Education. As part of the institution's Admission and Orientation Program, a staff member the Warden designates shall include a brief, candid presentation about the Sexual Abuse/Assault Prevention and Intervention Program, including:

- (1) how inmates can protect themselves from becoming victims while incarcerated,
- (2) treatment options available to victims of sexual assault, and
- (3) methods of reporting incidents of sexual abuse/assault (including a discussion of filing an administrative remedy directly to the Regional Office when the issue is considered sensitive in accordance with the Program Statement on the Administrative Remedy Program.)

This presentation shall also include information on services and programs (counseling, sex offender treatment) for sexually assaultive or aggressive inmates. Each inmate shall also receive an information pamphlet summarizing key elements of this presentation.

Where inmates do not participate in the formal A&O program (e.g., WITSEC cases or high security/high profile cases placed in SHU), the Warden shall designate a staff member to insure that the information pamphlet on the Sexual Abuse/Assault Prevention and Intervention program is appropriately disseminated.

8. PROMPT AND EFFECTIVE INTERVENTION. Staff sensitivity toward inmates who are victims of sexual abuse/assault is critical. Staff shall take seriously all statements from inmates that they have been victims of sexual assaults and respond supportively and non-judgmentally (see the Sexual Abuse/Assault Crisis Intervention Protocol (Attachment A)). Any inmate who alleges that he or she has been sexually assaulted shall be offered immediate protection from the assailant and will be referred for a medical examination as well as a clinical assessment of the potential for suicide or other related symptomatology.

a. Referral. Using Attachment A as a guide, staff shall provide services to victims and shall conduct investigations of sexual abuse/assault incidents. Information concerning the

identity of an inmate victim reporting a sexual assault, and the facts of the report itself, shall be limited to those who have a need to know in order to make decisions concerning the inmate-victim's welfare and for law enforcement/investigative purposes.

When a staff member(s) is alleged to be the perpetrator of inmate sexual abuse/assault, the Warden shall be advised immediately. The Warden shall refer the incident directly to the Office of Internal Affairs (OIA) and OIA, in turn, shall refer the matter to the Office of Inspector General (OIG). The Warden may also refer the matter to the FBI (or other appropriate law enforcement agency). The timely reporting of all incidents and allegations is of paramount importance.

When an inmate(s) is alleged to be the perpetrator, it is the Special Investigative Supervisor's (SIS) responsibility to ensure that the incident is promptly referred to the appropriate law enforcement agency having jurisdiction. For other circumstances (e.g., sexual abuse/assault while on writ or in a CCC), appropriate law enforcement officials should be contacted.

(1) Normal Business Hours. During normal business hours, staff shall promptly advise the Operations Lieutenant of any inmate who has been, or claims to have been, sexually assaulted. The Operations Lieutenant or designee shall immediately provide for the inmate's physical safety and ensure that the inmate is promptly referred to appropriate Health Services and Psychology Services staff for examination and treatment. The Operations Lieutenant shall also ensure that the SIS, Captain, Associate Warden, and Warden are notified.

(2) Non-business Hours. During the evening and night shifts, when the potential for sexual assaults is greater, staff shall immediately notify the Operations Lieutenant, who shall notify the SIS, Health Services staff, the Duty Officer, and the Chief Psychologist or on-call Psychologist. Correctional Services staff shall immediately provide for the physical safety (e.g., separating the assailant from the victim) of the inmate who reports being sexually assaulted. Health Services and Psychology Services staff shall promptly inform the Duty Officer of their initial findings and treatment recommendations.

(3) Medical Report of Injury. When an assault is reported, Health Services staff shall encourage the inmate to complete an Inmate Injury Assessment and Follow-up form (BP-S362) as required by the Health Services Manual.

b. Services. At a minimum, the following services should be available to all inmates who claim to be the victim of a sexual abuse/assault during their incarceration. These services should be provided in an environment that meets both the inmate's safety and therapeutic needs.

- (1) Medical. Examination, documentation, and treatment of injuries arising from an alleged sexual assault, including testing for HIV and other Sexually Transmitted Diseases (STD).
- (2) Mental Health Services. Crisis intervention, assessment of treatment needs, documentation of evaluation and treatment needs, psychiatric referral, and/or other treatment options including referral to community mental health resources in his or her release area.
- (3) Social. Family support and/or peer support should be provided, when available and appropriate. Unit and Psychology services staff should be sensitive to family concerns if the inmate-victim notifies relatives or friends of the assault.
- (4) Protective. Staff consultation and/or action to prevent further assaults should be considered (e.g. closer supervision, protective custody, transfer, etc.)

c. Responsibilities. All staff are responsible for immediately referring cases of sexual abuse/assault when they become aware of them to the appropriate medical, psychological, and correctional staff. All staff are also expected to handle allegations of sexual abuse/assault sensitively and non-judgmentally. Additionally, staff in specific institution departments have more defined roles:

- (1) Unit Team staff, particularly the Unit Manager, Case Manager, Correctional Officer, and Counselor, shall closely monitor and supervise any inmate who has been sexually assaulted. This may include additional team meetings, application of Central Inmate Monitoring policies, and the careful review of security and housing assignments.

Additionally, unit staff are to refer inmates who have committed sexual assaults to Psychology Services staff for an evaluation and possible treatment (which may be impacted in part by pending disciplinary or legal actions). Refusal to participate in treatment, when it is determined to be necessary, must be documented by Psychology Services staff and placed in the medical section of the Inmate Central File.

- (2) Psychology Services staff shall offer appropriate care, which may include mental health evaluation and counseling, support services, and follow-up care/tracking. Competency issues of the victim may need to be addressed.
- (3) Chaplaincy staff shall offer support and pastoral care, when requested by the victim.
- (4) Correctional Services and Legal staff shall coordinate such matters as evidence and witness testimony collection and corroboration and consultation on administrative and disciplinary issues.

9. INVESTIGATION AND PROSECUTION. If an inmate alleges sexual assault, a sensitive and coordinated response is necessary.

a. Appropriate referrals shall be made to OIA, OIG, and the FBI.

b. Appropriate staff shall preserve the crime scene and collect information/evidence in coordination with the referral agency and consistent with evidence gathering/processing procedures outlined in the Special Investigative Supervisor's Manual.

c. Based on such factors as availability of in-house expertise and general security considerations, the Warden may use either a staff physician (see the Health Services Manual, Sexual Assault) or a contracted clinical care service to examine the victim. The results of the physical examination and all collected physical evidence are to be provided to SIS staff. Appropriate infectious disease testing, as determined by Health Services staff, may be necessary. Part of the investigative process may also include an examination of and collection of physical evidence from the suspected assailant(s).

10. TRANSFER OF INMATES TO HOSPITALS/OTHER INSTITUTIONS

a. In institutions where Health Services staff are not trained or certificated in sexual assault evidence gathering, the inmate should either be examined at the institution by trained health care professionals from the local community or be transported to a local community facility that is equipped (in accordance with local laws) to evaluate and treat sexual assault victims (see Attachment A, Medical Transfers for Examination and Treatment).

b. If necessary to sustain life and/or stabilize vital functions, Health Services staff shall make emergency referrals to an appropriate community or Bureau medical center for inmates seriously injured as a result of a sexual assault.

11. TRACKING SEXUAL ASSAULTS. The major purpose of the Bureau's Sexual Abuse/Assault Prevention and Intervention Program is to protect inmates in Bureau custody. Monitoring and evaluation are essential to assess both sexual assault levels and agency effectiveness in reducing sexually abusive behavior. Accordingly, the SIS must maintain two types of files.

a. General files which includes data on:

- (1) the victim(s) and assailant(s) of a sexual assault,
- (2) crime characteristics, and
- (3) formal and/or informal action(s) taken.

b. Investigative files which are opened following any allegation of sexual assault which include copies of:

- (1) all reports,
- (2) medical forms,
- (3) supporting memos and videotapes, and
- (4) any other evidentiary materials pertaining to the allegation.

The SIS shall maintain these files chronologically in a secure location. Each SIS shall maintain a current listing of the names of sexual assault victims and assailants along with the dates and locations of all sexual assault incidents occurring within the institution on his or her computerized incident index system.

The SIS shall give inmate sexual assault assailant(s) and victim(s) involved in a Bureau sexual assault incident a specific STG SENTRY assignment. Access to this SENTRY assignment shall be limited to those staff who are involved in the treatment of the victim or the investigation of the incident. The STG SENTRY

assignment will allow administrative, treatment, and SIS staff the ability to track inmates across the system who have been involved in a sexual assault either as a victim or as an assailant.

Based on STG SENTRY data, the Intelligence Section, Correctional Programs Division, Central Office shall report annually the number of sexual assaults occurring within the Bureau.

12. INSTITUTION SUPPLEMENT. Each institution shall publish an Institution Supplement within 90 days from the effective date of this Program Statement. Since the risk and likelihood of sexual abuse/assault vary greatly by the mission and security level of each institution, staffing resources fluctuate across institutions, and the availability of specialized, community-based services (e.g., rape crisis/trauma units within medical centers, clinics, and hospitals) differ among communities, the Institution Supplement shall reflect the unique characteristics of each institution, and specify how each institution shall comply with this Program Statement.

Each Institutional Supplement shall be submitted to the appropriate Regional Office for review and approval. Regional reviewers from Correctional Services, Correctional Programs, Psychology Services, Health Services, and the Regional Counsel shall ensure that each institution:

- a. specifies procedures for offering immediate protection to any inmate who alleges that he or she has been sexually assaulted;
- b. specifies local response procedures (including referral procedures to appropriate law enforcement agencies) to be followed when a sexual assault occurs;
- c. establishes procedures to involve outside agencies in sexual abuse/assault prevention and intervention programs, if such resources are available;
- d. designates specific staff (e.g., psychologist, Associate Warden, appropriate medical staff, etc.) to be responsible for staff training activities;
- e. specifies how the safety needs of the victim will be protected over time;
- f. specifies which Associate Warden is responsible for insuring that staff are appropriately trained and respond in a

coordinated fashion when an inmate reports an incident of sexual abuse/assault;

g. designates a specific staff member to be responsible for inmate education regarding issues pertaining to sexual assault; and

h. specifies how medical staff will be trained or certified in procedures for examining and treating victims of sexual assault in institutions where medical staff will be assigned these activities.

/s/  
Kathleen M. Hawk  
Director

**SEXUAL ABUSE/ASSAULT CRISIS INTERVENTION PROTOCOL**

This protocol is intended to serve as a guideline for staff in the management of sexual assaults. Some procedures may not be applicable or feasible for implementation at a particular institution. In most circumstances, these procedures should be followed as closely as possible.

**I. VICTIM IDENTIFICATION (all staff)**

- A. The following are primary ways staff learn that a sexual assault has occurred during confinement:
1. Staff discover an assault in progress.
  2. Victim reports an assault to a staff member.
  3. An assault is reported to staff by another inmate, or is the subject of inmate rumors.
  4. Medical Evidence.

While some victims will be clearly identified, most will probably not come forward directly with information about the event. In some circumstances, staff may hear of an inmate being threatened with sexual abuse/assault or rumored to be a victim. Some victims may be identified through unexplained injuries, changes in physical behavior due to injuries, or abrupt personality changes such as withdrawal or suicidal behavior.

- B. The following guidelines may help staff in responding appropriately to a suspected victim:
1. If it is suspected that the inmate was sexually assaulted, the inmate should be advised of the importance of getting help to deal with the assault, that he/she may be evaluated medically for sexually transmitted diseases and other injuries, and that trained staff are available to assist.
  2. Staff should review the background of a suspected victim, and the circumstances surrounding the incident, without jeopardizing the inmate's safety, identity, and privacy.
  3. If staff discover an assault in progress, the suspected victim should be removed from the immediate area for care and for interviewing by appropriate staff.
  4. If the suspected victim is fearful of being labeled an informer, the inmate should be advised that the

identity of the assailant(s) is (are) not needed to receive assistance.

5. The staff member who first identifies that an assault may have occurred should refer the matter to the institution's Operations Lieutenant or SIS.

## II. PROCEDURES FOR STAFF INTERVENTION AND INVESTIGATION

The following procedures may apply for reported or known victims of sexual assault. If the inmate was threatened with sexual assault or was assaulted on an earlier occasion, some steps may not be necessary.

### A. Early Intervention Techniques (all staff)

1. It is important that all contact with a sexual assault victim be sensitive, supportive, and non-judgmental.
2. It is not necessary to make a judgment about whether or not a sexual assault occurred.
3. Identify the inmate victim(s) and remove them from the immediate area;
4. Alert medical staff immediately and escort the victim to the Health Services Unit for a medical evaluation as soon as possible. If necessary, medical staff shall refer the victim to a local emergency facility.
5. Appropriate staff shall coordinate other services to do follow-up (e.g. housing, suicide assessment).
6. To facilitate evidence collection, the victim should not shower, wash, drink, eat, defecate or change any clothing until examined.
7. A brief statement about the assault should be obtained from the inmate. (The victim may be in shock, and unable to give much detail. It is important to be understanding and responsive. Opportunities to secure more details will occur later.)

8. Following medical evaluation/treatment, the victim may need to be reassigned to protective custody or to another secure area of the facility. Ensure that the alleged assailant(s) is not located in the area.

**B. Collect Evidence from Victim - (Correctional Services-SIS staff)**

1. Be sure to use HIV infection precautions and procedures. Contact medical staff to determine how to preserve medical indications of sexual assault. In the crime scene area, look for the presence of semen that can be used as evidence. For example, blankets and sheets should be collected.
2. Use standard evidence collection procedures (photographs, etc.) identified in the SIS Manual.

**C. Collect Evidence from Assailant - (Correctional Services-Health Services staff)**

1. Identify the assailant if possible and isolate the assailant, whenever possible, pending further investigation.
2. Use standard evidence gathering procedures identified in the SIS Manual.
3. Report the incident to the appropriate law enforcement agency.
4. If institution medical staff attempt to examine the alleged assailant, findings should be documented both photographically and in writing. A written summary of all medical evidence and findings should be completed and maintained in the inmate's medical record. Copies of this written summary should also be provided to the SIS and appropriate law enforcement officials.

**III. MEDICAL ASSESSMENT OF VICTIM - (Health Services staff)**

- A. If trained medical staff are available in the institution, render treatment locally whenever feasible.
- B. If the alleged victim is examined in the institution (see the Health Services Manual, Sexual Assault) to determine the extent of injuries, all findings should be documented both photographically and in writing. An original Inmate Injury Assessment and Follow-up form (BP-S362) should be filed in the inmate's medical record. A copy of BP-S362 should be provided to the SIS or appropriate law enforcement official.
- C. If deemed necessary by the examining physician, follow

established procedures for use of outside medical consultants or for an escorted trip to an outside medical facility.

- D. Notify staff at the community medical facility and alert them to the inmate's condition.
- E. When necessary, conduct STD and HIV testing.
- F. Refer the inmate for crisis counseling as appropriate.

**IV. MEDICAL TRANSFERS FOR EXAMINATION AND TREATMENT -  
(Correctional and Health Services staff)**

- A. If determined appropriate by the institution physician and if approved by the Warden or designee, the inmate may be examined by medical personnel from the community. A contractual arrangement may be developed with a rape crisis center or other medical service if available in the community and should be utilized to enhance institution medical services as deemed appropriate by institution medical staff and the Warden. The contract should provide for clinical examination, for assessing physical injuries, and for the collection of any physical evidence of sexual assault. It should also allow for contract medical personnel to come into the institution and for the escorting of inmates to the contract facility (e.g., crisis care center, medical clinic, hospital, etc.).
- B. Escorting staff should treat the victim in a supportive and non-judgmental way.
- C. Information about the assault is confidential, and should be given only to those directly involved in the investigation and/or treatment of the victim.

**V. MENTAL HEALTH SERVICES - (Psychology Services)**

- A. Psychology Services or other mental health staff shall be notified immediately after the initial report of an allegation of sexual abuse/assault of an inmate.
- B. Any alleged victim(s) shall be seen, within 24 hours following such notification, by a mental health clinician to provide crisis intervention and to assess any immediate and subsequent treatment needs.
- C. The findings of this initial crisis/evaluation session shall be summarized in a written format within one week of the initial session and, once completed, shall be placed in the appropriate treatment record, with a copy provided to the Clinical Director and other staff responsible for oversight of sexual abuse/assault prevention and intervention procedures.
- D. Additional psychological or psychiatric treatment, as well as continued assessment of mental health status and treatment needs, shall be provided as needed and only with the victim's full consent and collaboration. Decisions regarding the need for continued treatment and/or assessment shall be made by qualified clinicians according to established professional standards, and shall be made with an awareness that victim(s) of sexual abuse/assault commonly experience both immediate and delayed psychiatric and/or emotional symptoms.

If the victim(s) choose to continue to pursue treatment, the clinician will either provide appropriate treatment or facilitate referral of the victim(s) to the appropriate treatment option(s) including individual therapy, group therapy, further psychological assessment, assignment to a mental health case load and/or facility, referral to a psychiatrist, and/or other treatment options. Pending referral, mental health services shall continue unabated. If the victim(s) chooses to decline further treatment services, he or she shall be asked to sign a statement to that effect.

- E. All treatment and evaluation sessions shall be properly documented and placed in the appropriate treatment record to ensure continuity of care within, between, or outside Bureau facilities.
  - F. Should the victim(s) be released from custody during the course of treatment, the victim(s) will be advised of community mental health resources in his/her area.
- VI. MONITORING AND FOLLOW-UP - (Psychology and Health Services staff)**
- A. Arrange with the unit team and Correctional Services to place the inmate in appropriate housing.
  - B. Monitor the physical and mental health of the victim and coordinate the continuation of necessary services.
  - C. Dispense medication, provide routine examinations and STD and HIV follow-up.
  - D. Conduct post-crisis counseling and arrange for psychiatric care if necessary.
  - E. Psychology staff should watch for reaction stages and provide support as needed during critical stages.
  - F. Determine the risk of keeping the victim at the same facility where the incident occurred.
- VII. RELEASE PREPARATION AND CONTINUING CARE - (Psychology and Unit Management staff)**
- A. Psychology staff shall ordinarily determine the need for aftercare and transitional treatment services, and notify the Case Manager of their recommendations.
  - B. The willingness of the victim to participate in treatment in the community should be determined.
  - C. For those cases that will use continuing care services, efforts to facilitate them should begin about 12 months prior to their release.
  - D. If CCC services are used, mental health counseling and other transitional services that facilitate the victim's healthy reintegration into the community and family may be necessary.

PS 5324.04  
12/31/97  
Attachment A, Page 7

- E. The responsibilities of the victim in the treatment process should be identified.
- F. Arrangements should be made through the U.S. Probation Office for psychological, medical, or other support services in the victim's release district.
- G. The victim should be encouraged to participate in support groups in the community.

