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DEPARTMENT OF JUSTICE FISCAL YEAR 2000 BUDGET OVERSIGHT

HEARING

BEFORE THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

ONE HUNDRED SIXTH CONGRESS

FIRST SESSION

ON

THE PRESIDENT'S PROPOSED BUDGET REQUEST FOR FISCAL YEAR 2000 FOR THE DEPARTMENT OF JUSTICE

MARCH 12, 1999

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DEPARTMENT OF JUSTICE FISCAL YEAR 2000 BUDGET OVERSIGHT

FRIDAY, MARCH 12, 1999

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The committee met, pursuant to notice, at 9:05 a.m., in room SD–226, Dirksen Senate Office Building, Hon. Orrin G. Hatch (chairman of the committee) presiding.

Also present: Senators Specter, DeWine, Ashcroft, and Kennedy.

OPENING STATEMENT OF HON. ORRIN G. HATCH, A U.S. SENATOR FROM THE STATE OF UTAH

The CHAIRMAN. Well, General Reno, we are happy to have you here today. This happens to be the sixth anniversary of your confirmation, is that right, today?

Attorney General RENO. It is 6 years ago this week that I first appeared before this committee.

The CHAIRMAN. We have had a lot of history. Congratulations. You have been the longest, I think, serving Attorney General, is it, in history?

Attorney General RENO. No. Mr. Wirt was a parttime Attorney General who served for about 11 years.

The CHAIRMAN. I see.

Senator KENNEDY. How does it feel? [Laughter.]

The CHAIRMAN. Don't answer that just yet. [Laughter.]

Attorney General RENO. Senator, I will tell you later what Herbert Brownell said about the job. It was one blank, blank thing after another. [Laughter.]

The CHAIRMAN. I think we can all agree with that. Well, we welcome you to the committee.

The committee is convened this morning to review the proposed budget of the Department of Justice for fiscal year 2000. We are pleased and honored to have the Attorney General, Janet Reno, with us this morning. And as always, we extend to you a warm welcome. I know that this is your third appearance before a congressional committee this week on budget matters, and I have always admired your fortitude. We will certainly try to make this as pleasant as possible.

The focus of the committee's attention this morning is the Department of Justice's fiscal year 2000 budget proposal. With that in mind, it is my hope that we will not diverge too far into other matters that, while crucial and in need of oversight, are not di-

rectly related to the Department's budget and program priorities for the next fiscal year.

The committee will raise other matters of concern at an appropriate time. I already have a commitment from the Attorney General to return to the committee during late April for our annual general oversight hearing. The committee and its subcommittees, including the newly created Criminal Justice Oversight Subcommittee, will continue to hold other hearings on matters of concern regarding the Department's performance.

Indeed, I view today's hearing as the first step in addressing a priority of the committee this year—reauthorization of the Department of Justice. It has been 2 decades since Congress has passed a general authorization bill for the Department of Justice. I view it as a matter of significant concern when any Cabinet department goes for such a long period of time without congressional reauthorization. Such lack of reauthorization produces administrative drift and permits important policy decisions to be made ad hoc through other appropriations bills or special purpose legislation.

However, these concerns are amplified when the department in question is so important to our national life as is the Department of Justice. The Justice Department is entrusted with critical primary responsibility for the enforcement of our Nation's laws. Through its divisions and agencies, including the FBI and DEA, it investigates and prosecutes violations of Federal criminal laws, enforces our civil rights statutes and antitrust laws, and represents every department and agency of the Federal Government in litigation. Increasingly, its mission is international as well, protecting the United States from growing threats of transnational crime and international terrorism. And among the Department's key duties is providing assistance and advice to State and local law enforcement.

The importance of the Justice Department is demonstrated by the growth of its budget in the last 2 decades. In fiscal year 1979, the Department of Justice's budget was $2.538 billion, and represented one-half of one percent of the Federal Government's $559 billion budget. That is back in 1979. In fiscal year 1999, the Department of Justice's budget is more than 7 times greater, an estimated $18.2 billion, representing about one percent of the $1.75 trillion Federal budget.

With respect to the fiscal year 2000 budget, let me state those areas where I believe we agree. While I have programmatic concerns with some of the particulars, I generally support the Department's request for Federal law enforcement activities for fiscal year 2000. Specifically, I believe that the budget proposals for the FBI, DEA, U.S. attorneys' offices and general legal activities include appropriate increases.

Unfortunately, my generally favorable view of this aspect of the Department's budget is more than offset by my concern that the Department is proposing large cuts in Federal assistance to State and local law enforcement. State and local law enforcement assistance programs, funded largely through the Office of Justice Programs, have been a major component of the Department of Justice budget. For fiscal year 1999, OJP funding was appropriated at approximately $4.8 billion, or 23 percent of the Department's $20.8 billion budget.

As in past years, however, the President's budget request for the Justice Department includes questionable programmatic and funding recommendations which, if adopted by the Congress, could put at risk programs vital to the hard-forged partnership between the Federal Government and the State and local governments to combat crime.

Indeed, this budget proposes a $1.248 billion cut in OJP budget authority, a reduction of 24 percent from fiscal year 1999. The President proposes cutting important programs with proven records and initiating other programs which have no records whatsoever. The recent decreases in violent crime achieved by State and local authorities are fragile, and we shouldn't risk this success through unwise budget cuts and the adoption of untested programs.

Let me highlight some of the program cuts that concern me the most: $645 million in truth in sentencing grants, cut; $523 million in local law enforcement block grants, cut; $85 million for criminal alien incarceration, cut; $250 million for juvenile crime and accountability grants, cut; and $50 million in Byrne grants for State and local law enforcement, cut as well.

Eliminating the entire Violent Offender and Truth in Sentencing Incentive Grant program especially concerns me. The truth in sentencing grant program has been a success by any measure, making our streets safer by providing funds to help our States build prisons.

By encouraging States to adopt truth in sentencing laws that require violent criminals to serve at least 85 percent of their sentences, the truth in sentencing grant program has helped to reverse the dramatic reductions in average sentence lengths from the 1950's onward that fueled the crime wave of the 1960's and the crime wave of the 1970's and 1980's. Crime rates only started to fall after lax incarceration trends were reversed through the adoption of truth in sentencing laws by the States.

Indeed, the Justice Department reported in January that 70 percent of prison admissions in 1997 were in States requiring criminals to serve at least 85 percent of their sentence. More significantly, the average time served by violent criminals have increased 12.2 percent since 1993. Of course, these incarcerated criminals cannot victimize innocent people while in prison. With such demonstrated reforms, why would the Clinton administration want to eliminate this program?

While we recognize that we cannot fund prison construction in perpetuity, we must fulfill our commitment. It is important to note that the truth in sentencing program has never been funded at its authorized level. This administration did not fund it at all in fiscal year 1995, the first it was authorized, and it now proposes canceling funding in the last year of authorization. Yet, many States have changed their laws in reliance on the Federal commitment of assistance. We should not break faith with them, nor risk public safety by ending this program now.

Cutting $645 million in prison construction grants is bad enough, but the administration's budget doesn't stop there. This budget also eliminates the highly successful local law enforcement block grant program which, since 1995, has provided more than $2 billion in

funding for equipment and technology directly to State and local law enforcement.

The President also wants to cut by $85 million funding that reimburses States for the costs of incarcerating criminal aliens. And the Clinton budget slashes the entire juvenile accountability block grant, which over the past 2 years has provided $500 million for States and local governments to address the single most ominous crime threat we face—serious and violent juvenile crime.

These proposed cuts are very troubling, and I believe will be viewed skeptically by this committee. I also question other Department proposals to use grant programs for questionable social programs, and to use DOJ funds for purposes I do not believe are authorized by law.

For example, $125 million is proposed for community crime prevention, including ambiguous, "citizen police academies," teaching problem-solving skills in neighborhoods and, "partnering," with local environmental groups to stop illegal dumping by gangs in the inner cities. Thirty-five million dollars is proposed for alternative punishments for criminals up to age 22, including job training, community service programs, and aftercare.

Now, I am not suggesting, of course, that there is no role for prevention or treatment in our fight against crime. In fact, my juvenile crime bill, S. 254, devotes 45 percent of its authorized funding to prevention efforts. However, even if the proposals in this budget are worthy programs—that is, the President's budget—I question whether the Justice Department is the appropriate agency through which most of these programs should be funded. The Attorney General will have an opportunity to respond to this, but one could argue that the Clinton administration is trying to disguise social service programs as law enforcement initiatives.

Another example includes $4.5 million in Byrne funding to provide security assessments and equipment at abortion clinics. I do not believe such purposes are permissible uses under either the discretionary or the formula parts of the Byrne grant program. Again, the Justice Department is not the appropriate agency to regulate such facilities.

Finally, I am concerned that the Department is proposing once again to impose an FBI fee for National Instant Check System, or NICS, background checks under the Brady law. I do not agree with the Department's view that this fee is authorized under current law. More importantly, the proposal is made in the face of very clear congressional opposition, evidenced by the restriction included in last year's appropriations bill. I want to work with the Department to ensure the most fair and effective instant background check possible.

Now, these are just some of the concerns I have with the Department's proposed budget for fiscal year 2000, and I hope to explore these in greater detail during the question period. With that, General Reno, I look forward to your testimony.

Let me turn to Senator Kennedy for any remarks he might have on behalf of the minority.

Senator KENNEDY. Thank you very much, Mr. Chairman. I look forward to the hearing on the Department of Justice budget request. The Department is at the center of our national effort to ef-

fectively administer justice, and I join with those—Senator Hatch and Senator Specter—in welcoming the Attorney General's 6 years of extraordinary service as the Attorney General, and her commitment to public service prior to the time that she was willing to accept this job. I think we are all a better country because of her service.

During the past 6 years, the Attorney General has done an excellent job enforcing the law and implementing programs and policies in all aspects of Federal law enforcement and civil justice. Our goal in 2000 is to see that General Reno and the Department have the tools necessary to carry out their work.

I am particularly concerned about immigration issues. The budget includes $4.27 billion for the Immigration and Naturalization Service, a very small increase, some $300 million increase, over last year. Some progress has been made in reducing the naturalization backlog, but timely adjudication continues to be a problem. Many applicants in Boston and other areas around the country are still waiting 2 years or more to become citizens. I am also concerned about naturalization denial rates. Often, the problem is clerical and occurs because INS does not have the necessary staff to find applicants and notify them of their naturalization reviews. INS needs additional funds to hire staff and to do the job.

In light of these serious problems, it is especially unfortunate that the Senate Appropriations Committee has just recommended emergency legislation that would cut INS naturalization enforcement and border affairs in order to pay for other spending in the bill. It makes no sense to rob Peter to pay Paul. If Congress wants the INS to carry out important functions, then INS needs the necessary funding to do so.

The Department's budget includes a 19-percent increase in funding for the Civil Rights Division, the Nation's chief civil rights law enforcers. The increase is long overdue. The Civil Rights Division implements the Civil Rights Act of 1964, the Americans with Disabilities Act, and many other laws that guarantee equal justice for all Americans. Those who violate the civil rights law must be prosecuted and not allowed to go free.

The Department's budget also contains important provisions to reduce youth gun violence and to develop alternative methods for punishing youth offenders. And I must say I think parents across this country are deeply concerned about the problems of gun violence in schools. I know the General is very, very interested and concerned about this. At the time that we had a bipartisan meeting, Attorney General Reno sat through a long, long morning to hear a number of different recommendations and a number of parents of children that had suffered and had died as a result of gun activity around schools, but also the parents of those that had perpetrated it, and the tragedies and the challenges which they are facing. We can't solve all the problems of juvenile crime just by building more prisons. Instead, we must employ a balanced strategy that focuses on both prevention and punishment.

I look forward to today's hearing and the testimony of the General. Thank you.

The CHAIRMAN. Thank you, Senator Kennedy.

General Reno, we will turn the time over to you for your statement.

STATEMENT OF HON. JANET RENO, ATTORNEY GENERAL, U.S. DEPARTMENT OF JUSTICE, WASHINGTON, DC

Attorney General RENO. Good morning, Mr. Chairman, members of the committee. It is a great privilege and a pleasure to be back before you this morning. We have sometimes taken exceeding issue with each other, we have sometimes disagreed vehemently, but we have worked together on so many issues that were important to this country and it has been a real privilege for me to have that opportunity.

It has been 6 years. I can remember walking into the room wondering what lay before me, and if you had told me, I would have said it was going to be a wonderful opportunity to serve, and it has, and I just appreciate your concern, support, and thoughtful objections.

The CHAIRMAN. I always enjoy your smile when you say that it is a pleasure and privilege to be before the committee. I know that it is a tough job.

Attorney General RENO. Well, my staff, when I say that there is something to be said for oversight, look at me like I am crazy, but truly there is.

The CHAIRMAN. We understand.

Attorney General RENO. And I appreciate your willingness to accommodate my schedule this morning. I look forward to returning at the end of April.

In the interest of time, I request that my full statement be made part of the record.

The CHAIRMAN. Without objection, we will put the full statement in the record.

Attorney General RENO. Mr. Chairman, when I took office, I set out to form a partnership between the Federal law enforcement authorities and State and local officials because for too long I had seen sometimes a one-way street and I thought it important to build a partnership. I also set out to assist communities to develop a capacity to make them self-sufficient so that they had the capacity to deal with crime, which is really a State and local responsibility when we talk of street crime and violent crime.

Mr. Chairman, the Department of Justice has benefited enormously from the infusion of resources over the last 6 years. Our budget has grown by 88 percent since I became Attorney General, and it has produced positive results. It reflects an unprecedented Federal effort to deal with the high level of crime. The extent of that effort is perhaps best illustrated by the increased assets we have made available to State and local law enforcement since 1993, an increase of more than 294 percent.

And, Mr. Chairman, I would like you just to take a look at—I think this chart reflects where we are at, and it was a recognition in 1994 that we needed a massive infusion to help State and local officials pull even and develop the capacity in themselves to combat violent crime.

I don't think any of us envisioned that we would keep that high level of funding, as you said, in perpetuity. When we passed the

1994 Crime Act, we all agreed that it would not become a permanent fixture, and indeed the crime trust fund authorizations reflect a decrease in the year 2000, as I recall.

Federal funding provided through this partnership was never intended to interfere with the primary role of State and local law enforcement, but our budget reflects our continued commitment with levels of funding significantly higher than existed prior to the 1994 Crime Act, but with a recognition that we must target our resources to key areas identified by State and local law enforcement.

The partnership that we have developed, the partnership that Congress has been a part of that so many people in America have participated in, has had an impact. Violent crime is down 6 years in a row. It has dropped over 20 percent in the same period, reaching its lowest levels in a generation.

To continue this positive trend and to reduce crime further, we will need a full arsenal of innovative strategies and programs, from high-tech solutions to community-based prevention programs. By continuing to work together, we have a unique opportunity to really have a substantial, long-term, permanent impact on the culture of violence in this country. There has been a tendency in my experience as a prosecutor to have watched people say, well, we have got the crime rate down, let's turn to other issues. If we keep the focus on this issue, I think we can make a significant difference.

I would like to address the issue of prevention. Mr. Chairman, it is not just a social program. I had a very unusual thing happen to me Tuesday morning. I appeared before the Senate subcommittee on appropriations and the chairman of the Appropriations Committee appeared. I wondered what he would ask me about. We had discussed tribal issues in Alaska. His first question to me was, I am very interested in 0 to 3 and the care that children receive during that period of time and the impact it has on them, and will you work with me and with the Secretary of Education and the Secretary of HHS in addressing the issue so that we can give children a firm foundation upon which to grow?

I have been to mayors' offices, to police chiefs' offices, to sheriffs' offices, and everyone is telling me, look, the responsibility for preventing crime lies in the community, but there are efforts that the Federal Government can undertake that can make a difference. In one community, it may be one project, in another community another project, but it is a community defining itself and developing the capacity to address the problem. It is not social working, it is not a social program. It is common sense.

And what we try to weave in this budget is a budget that looks at prevention from a constructive community-building, crime-fighting point of view—interventions such as the drug court programs which have proven so successful, enforcement, and then aftercare. You can talk about it as a social program, but it makes no sense to send a man from a prison back to the apartment over the open-air drug market where he got into trouble in the first place. With a little bit of extra help, we can get him into a job, we can make him self-sufficient, and we can do an awful lot to make sure that he doesn't return.

So I think there are efforts that we can undertake, developing a comprehensive partnership with communities that give them the

capacity to deal with it long-range. The Department's budget request of $21 billion will help ensure this effort. The $317 million increase reflected in our request will enable us to build on our unprecedented success.

I would like to highlight some of the requests. We are requesting $1.28 billion for a 21st century policing initiative to help communities build upon their efforts under the COPS program. The funding level will help communities to continue to enhance their community policing efforts by hiring, redeploying and retaining law enforcement officers and obtaining access to the latest crime-fighting technologies.

We will expand our efforts to fight cyber crime and terrorism. One of my absolutely most important responsibilities is to make sure that I do everything in my power to ensure that Federal law enforcement has the capacity to face the challenges that you speak of, Mr. Chairman. We are requesting $122.54 million in increased funding effort to expand our efforts to protect the Nation's critical information infrastructure from cyber attacks and to enhance our efforts to combat domestic and international terrorism. We are adding 60 FBI agents to support these efforts.

We are requesting $738.2 million in increased funding to construct, expand, activate, modernize and repair Federal prisons to keep violent offenders off our streets. We are requesting an increase of $133.3 million to continue to fight drugs through interdiction, investigation, prosecution, treatment and prevention.

We are requesting a 19-percent increase in funding for the Civil Rights Division, the largest increase in 9 years This will target our efforts to prosecute hate crimes, enforce fair housing and fair lending laws, and protect the rights of Americans with disabilities. Our request is consistent with the bipartisan budget agreement and reflects the declining resources from the Violent Crime Reduction Trust Fund in the year 2000. It seeks to cement recent gains, targets assistance where more progress is needed, and focuses limited resources on key Federal responsibilities.

I look forward to working with you in this year to make sure that we use our dollars as wisely as possible for all Americans.

The CHAIRMAN. Well, we have your full statement. It is an extensive statement and we will read that with a great deal of interest. Let me just ask a couple of questions. I want to make sure I give other colleagues on the committee enough time to ask questions.

Let me just turn to the Antitrust Division's budget. I understand that the administration is seeking a 16-percent increase for the Division, and the administration justifies this increase by the approximately 30-percent increase in merger filings. Is that correct?

Attorney General RENO. Yes; merger filings increased over 30 percent last year, following increases of 20 percent in fiscal year 1997 and 10 percent in fiscal year 1996.

The CHAIRMAN. Well, this is a substantial increase. I have been aware of the increasing number of merger filings lately and the increasingly higher values of these particular deals. Has the Department looked to see whether the transaction value thresholds in the Hart-Scott-Rodino Antitrust Improvements Act of 1976 which trigger premerger notification—whether they need adjustments for both inflation and their economic impact in today's economy?

Attorney General RENO. Let me check on that for you, Mr. Chairman, and respond to you.

The CHAIRMAN. Well, let me explain where I am coming from here. I am wondering if the Department did not have to review transactions which may not have a significant competitive impact, but, under standards of the Hart-Scott-Rodino bill, must be reviewed. The resources it allocates to those transactions might better be used for more complex transactions that have a real competitive impact on the economy.

Attorney General RENO. It sounds like it is a very good suggestion, and I would like to talk with Mr. Klein and get back to you so that I don't promise something or agree on something that has some ramifications that I am unaware of.

The CHAIRMAN. Sure. Will you get me your views on how the Hart-Scott-Rodino Act can be improved to, first, make better, more efficient use of the Department's resources, and, second, to make sure that only those transactions that would have a clear economic and competitive impact are subject to the review required under our antitrust laws? Will you do that?

Attorney General RENO. I certainly will.

The CHAIRMAN. I also am very concerned because there have been some up here who, as a result of the Microsoft case, have wanted to cut the Department's budget, as though that was an inappropriate case to bring. Of course, in my opinion, it has been very appropriate and it is going to, I think, help to determine where we go on these issues well into the future.

The Department's budget eliminates all funding for the Violent Offender and Truth in Sentencing Incentive Block Grant program. Now, this grant program provides critical funds to help the States build prisons for violent and repeat criminals. Could you tell us why the Department's budget eliminated funding for this important program before its authorization has even expired, and do you believe that building prisons to incarcerate violent and repeat offenders decreases the crime rate in this country?

Attorney General RENO. I feel very strongly about truth in sentencing. I can still remember in the early 1980's writing the governor of Florida to talk about the need for truth in sentencing, that it made a mockery of our criminal justice system when people served only 20 to 30 percent of their sentence because of overcrowding. So I have supported the effort because I think one of the most important things in crime-fighting is for people to know that there will be a fair, firm sentence that fits the crime, and that the person will serve that sentence with appropriate adjustment for prison gain time.

In that regard, Mr. Chairman——

The CHAIRMAN. Well, you have eliminated funding for this.

Attorney General RENO. As I pointed out to you, we have made a massive expenditure to try to bring the States to a standard where they have truth in sentencing. There are still extensive appropriations for States and local governments. But at some point, we have to recognize that the Federal Government cannot continue to fund State correctional facilities, if our principles of federalism are to mean anything.

With crime down by over 20 percent, with 70 percent of the States achieving truth in sentencing, according to the figures that you cited, at some point the States have got to accept the responsibility. And we have got to continue to work together to pinpoint the issues and the efforts where the Federal Government can truly assist the State and local governments to become self-sufficient.

The CHAIRMAN. Well, the Department's budget eliminates all funding for the Juvenile Offender Incentive Block Grant Program. This grant program, which received $250 million in each of the last 2 years, provides funds to help the States implement graduated sanctions for juvenile offenders, to build badly needed juvenile detention facilities and, of course, for drug testing of juvenile offenders as well. This grant is the only Federal assistance to States for accountability and law enforcement programs for juveniles. By contrast, the Government Accounting Office reported last year that the Federal Government provides more than $4 billion annually in programs for at-risk youth. Such programs exist in virtually every cabinet agency.

Now, given this imbalance between accountability and prevention, why did the Department's budget eliminate funding for the Juvenile Offender Incentive Block Grant Program?

Attorney General RENO. What we are trying to do is to fashion a criminal justice system that recognizes that the State and local governments have responsibility for the juvenile justice system. Money has been provided, but they are going to have to continue to provide the operational cost. They are going to have to design a correctional system, both for juvenile justice and for adult offenders, in which the State provides it, not the Federal Government.

We are faced now with a situation where there are limited dollars in the Federal Government that have got to be used as wisely as possible. We are still providing to State and local officials unprecedented amounts of money to deal with the crime problem. This budget reflects the effort to focus the resources where we think they can count on a long-range basis in developing community capacity to deal with the problem itself.

The CHAIRMAN. But juvenile crime is escalating. We are having more and more violent juvenile criminal activity. It seems to me that to eliminate that particular block grant is a big mistake at this time. I mean, you may be able to make the case on some of the other areas.

Attorney General RENO. What we have discovered is that juvenile arrests are now down 3 years in a row.

The CHAIRMAN. They are down, but violent juvenile crime is way up.

Attorney General RENO. No. That has been one of the heartwarming things. At first, I wondered whether it would be a blip on the screen, but juvenile violent crime is down. It is not down sufficient for us to become complacent, but it is down, indicating that what we are doing in terms of a balance of prevention, intervention and enforcement is making a difference. And this budget reflects a thought that the States have the capacity—they know what they need in terms of juvenile justice correctional funding—and that, working together, we can fashion something that truly makes a difference.

The CHAIRMAN. I don't agree with that. I think that to knock out that block grant at a time when we are having an upswing—it has been high; now, maybe it has tapered off a little bit in the last year, but it is still very high for violent juvenile criminals. And I am very concerned about that, and we are hopeful that we can pass a juvenile justice bill this year, with your help, that might help to alleviate some of these problems.

Attorney General RENO. Well, let's work together because we see that crime rate coming down amongst juveniles. We see cities and communities across this Nation taking wonderful steps that provide both for enforcement and prevention. I would love to take you to Boston to see what they are doing there.

Senator KENNEDY. I would, too. [Laughter.]

The CHAIRMAN. Listen, he has taken me to Boston.

Attorney General RENO. Well, I want to take you to Roxbury and Dorcester and let you see what community police officers and community probation officers are doing with the faith community and with others in comprehensive programs that are truly making a difference.

The CHAIRMAN. Well, on this juvenile crime, you know, the prevalence of juvenile crime, according to what we have, continues to be among the greatest criminal justice challenges faced by our Nation and a major concern to every parent. In 1997, juveniles accounted for nearly one-fifth, or 18.7 percent, of all criminal arrests in the United States.

Persons under 18 committed 13.5 percent of all murders, over 17 percent of all rapes, nearly 30 percent of all robberies, and 50 percent of all arsons. Additionally, in 1997, 183 juveniles under 15 were arrested for murder. Juveniles under 15 were responsible for 6.5 percent of all rapes, 14 percent of all burglaries, and one-third of all arsons. Unbelievably, juveniles under 15 who are not old enough to legally drive in any State, in 1997, were responsible for 10.3 percent of all auto thefts.

If you put this in context, consider this. In 1997, youngsters age 15 to 19, who were only 7 percent of the population, committed 22.2 percent of all crimes, 21.4 percent of violent crimes, and 32 percent of property crimes. Although there are endless statistics in our growing juvenile crime problem, one particularly sobering fact is that between 1985 and 1993, the number of murder cases involving 15-year-olds increased 207 percent.

Moreover, even with the recent modest reductions in juvenile crime rates, I believe that there is a strong potential for significant increases in juvenile crime above the already too high rates, as the children of the baby-boom generation are coming into the prime age for criminal activity. Plus, we know that there has been an upswing in gangs across the country, and they are now organized in many respects and they are interstate.

So I am concerned about it, and I want to work with you to try and resolve this. Maybe we can resolve this problem in the juvenile justice bill. I don't know.

Attorney General RENO. Would you come to Boston with Senator Kennedy and myself?

The CHAIRMAN. If he invites me, I guess I will have to come, and with you as well. If you will invite me and take me up there, I think I wouldn't mind seeing that.

Attorney General RENO. Thank you.

The CHAIRMAN. It would be a very good thing for me to do. Well, my time is up.

Senator Kennedy.

Senator KENNEDY. Thank you very much. You are invited, always welcome up there, Orrin.

The CHAIRMAN. We like you in Utah, too, Ted.

STATEMENT OF HON. EDWARD M. KENNEDY, A U.S. SENATOR FROM THE STATE OF MASSACHUSETTS

Senator KENNEDY. Just very, very quickly, we had a period for 2½ years where we didn't have a youth homicide in Boston. It was unprecedented. We have seen a reduction in crimes of violence by juveniles by 30 percent a year over the period of the last 4 years, and it has had a number of components.

First of all, community policing and reaching out in the communities has had a dramatic impact. Then, second, there has been very tough outreach into the gangs, working with the gangs, and separating out those young people that could be salvaged, so to speak, and those that are really the hardcore, and then very tough on the hardcore gang members, very, very effective, tough law enforcement, working with all of the different agencies up there.

It has been very tough in terms of tracking guns. I know we have the toughest gun laws in the country, and we have the fewest crimes committed with guns now in the Nation on this. And there has also been the kind of coordination which has been part of this program of bringing the probation officer with the school superintendent all together and working with the social services in a very, very combined way of targeting the real troublemakers. And it has had a dramatic impact. We always keep our fingers crossed because there is so much still out there in communities and we still have the problems in many communities in my State where there hasn't been that kind of success.

I must just say something. I am just so hit, having spent several days on the floor of the U.S. Senate where we have had all the resistance and reluctance to expend any Federal funds in local communities to deal with the problems of education, and here we are talking about how we are going to get more and more money out there in this area of criminal justice.

Obviously, many of them are justified and I support many, but it doesn't seem to—we have got the problems and we are glad to be a partner with local communities and States to try and deal with this, but evidently that concept isn't shared with regard to education.

Let me ask you, General, on the background checks, as I understand it, in terms of weapons, in this last year the FBI checks have resulted in the denial of 22,290 gun sales. I understand that many of those are as a result of people having—even the routine kind of check has reflected that many people who were trying to buy them had had run-ins with the law. Is that your understanding?

Attorney General RENO. That is correct.

Senator KENNEDY. And I will get just the exact number of the felons on it, so this does have an impact in terms of a minimum waiting period.

Let me also go to the questions on the naturalization issue. With enormous kinds of backlogs that we have, we have seen some additional kinds of funding on this. Part of the problems that we have—we have a 2-year wait in many different communities. Many of these families are moving around, and with the shortness in terms of clerical help and assistance, when they get the notice about an interview, it goes to an old address, not forwarded. And then if there is not a response, they in many instances get cases closed. And so families are waiting for a period of time. It never gets resolved and it does act as an important discouragement for many people.

What will the kinds of cuts now that have some $25 million in rescissions on the naturalization activities—can you tell us what kind of impact that would have in terms of trying to take people that are otherwise qualified, you know, and are just really waiting for the final step to be citizens here? What does it do either to the backlog—you can talk just generally about this.

Attorney General RENO. Let me put it in perspective because this is an area which I am not happy about. As you know, INS focused tremendous attention and its problems were identified with a system that had been in effect since 1982. They focused efforts in 1997 on developing a system that could ensure the integrity of the naturalization process and ensure zero tolerance for the naturalization of any unqualified person.

We not only tried to develop it within-house, but we went to KPMG to ensure an integrity assessment on a regular basis. And in the first quarter of 1998, we developed an A grade from KPMG, as I understand it, with respect to the integrity issue. At the same time, we contracted with Price Waterhouse Coopers to reengineer the naturalization system and to develop a capacity and an automated system that could respond.

We have not met the goals that we set for ourselves, and one of the primary reasons is that INS failed in installing new computer systems, the claims system, to properly prepare itself. It has made changes that allow far better automation connections between those offices that have older systems and the service centers that never had the systems, but there is still a long way to go.

District management has not implemented effective and efficient production management techniques, and so we are addressing that. INS will fully empower site managers in key large districts so that they will be able to make personnel changes to adjust to some of these problems. New production managers will be added to continually monitor, oversee and resolve the problems. And we will continue to have quality control assessments to ensure that the process is working right.

The one thing I am dedicated to trying to do is to make sure we bring this system on the right way, without the questions that were raised 2 years ago, so that people can have confidence in the process. But a person very dear to me is a person who some 10 years ago had their naturalization papers lost and didn't know what was happening or why it was happening and couldn't get an-

swers. I want to try to develop a system that ensures that these cases are processed and the matter completed in less than 12 months, but we are not on the goal.

Senator KENNEDY. Well, I appreciate that, and the extent to which the reviews are taking place are much more extensive than they were in the past, as you illustrated. If we divert resources to this area or, I must say, to the Border Patrol—I wanted to get into that, but the time is moving on—that doesn't seem to me to make a lot of sense.

You have an increase in the civil rights budget, and this is basically because the increase the Justice Department has in the enforcement of the ADA and our 1991 Civil Rights Act and the expanded areas of the responsibility, and the Freedom of Access to Clinic Entrances Act. Could you tell us about how the caseload, the increase in terms of the challenges or the burdens to the Justice Department in those areas, which are all new and I imagine place additional burdens on the Department in terms of trying to deal with these issues—maybe you could just make a brief comment or you could submit the information on that.

Attorney General RENO. I will submit some information to you, but with the Americans with Disabilities Act enforcement, we see so many situations where, if we had the resources, we could do things in a more comprehensive manner. Let me give you an example.

My staff came to me some years ago excited because they had reached a 911 settlement with one city. And I said, what about all the communities of America? The features that assist people with disabilities should be part of it all and we should do it on a more comprehensive basis. I think that this will give us the opportunity. We went ahead and developed a more comprehensive effort with respect to the 911 systems. There is so much that we can do to show people that they don't have to come up with programs that are all-inclusive, and I think we can make a significant difference there.

With respect to fair lending and fair housing issues, it is so important to be able to have the time to sit down with bankers and say we are not asking you to make a bad loan; we are asking you to review your practices to make sure that there is no discrimination in your lending practices. And, again, with additional resources, we can do more in that direction.

I will be happy to submit some specific information to you, Senator, and will do so next week.

Senator KENNEDY. I see the time is moving. Let me just direct your attention to the clinic security problems. We have had a tragedy up in my own State—John Salvi, in 1994, the shooting rampage in Brookline, MA, at clinics which killed two workers; the 1997 bombing in Birmingham, AL, which killed a clinic worker and severely injured Emily Lyons. We have had a number of other kinds of tragedies.

You have got some $4.5 million there to bolster security. Could you speak to that issue about the need for security for those clinics?

Attorney General RENO. Yes; as you point out, there was a situation in Boston; there was the tragedy in Buffalo, in western New

York. It is something that we are very concerned about. We are providing Government support for a review of improvements that can be taken because, first, healthcare clinics' vulnerability to violence is in many ways what we have seen in other situations involving church arsons. They are not facilities that are traditionally the targets of criminal activity, and they are not generally, and should not anticipate having to undertake the review. So I think this will help them. And I think it is very important that we develop the capacity to let people know that this type of violence will not be tolerated.

Senator KENNEDY. Thank you. My time is up. Thank you, Mr. Chairman.

The CHAIRMAN. Let me just follow up on that one question and then I will turn to Senator Specter. The Department's budget, as Senator Kennedy has mentioned, proposes a $4.5 million redirection of Byrne discretionary grants from law enforcement to grants to be used to, "provide security assessments and, where necessary, security improvements to reproductive health clinics."

Have you forwarded to Congress the relevant authorization language for this proposal, and does the Department anticipate this previous law enforcement funding will go directly to these clinics?

Attorney General RENO. I will check and see with respect to the authority, and will clarify for you just what the situation is.

The CHAIRMAN. I don't countenance any violence, no matter where it is, but I don't see where you have the authority to transfer $4.5 million from Byrne to this purpose. I am not against finding authorization language that may help you to make sure that you can take care of these problems, but it is a problem to me.

Attorney General RENO. I understand, Senator, but one of the things that we are seeing in this as well is that oftentimes, for example, in Birmingham, it is the law enforcement officials who are becoming the targets of the devices. And it is something that we have got to look at and make the best judgment we can, and I will work with you. I will get you that information and I would like to try to do everything we can to address the issue in a thoughtful way that satisfies your concerns.

The CHAIRMAN. Well, I would like to do the same, but I want to do it within the framework of the law. So if you will help me there——

Attorney General RENO. I surely will.

The CHAIRMAN. Senator Specter.

STATEMENT OF HON. ARLEN SPECTER, A U.S. SENATOR FROM THE STATE OF PENNSYLVANIA

Senator SPECTER. Thank you, Mr. Chairman. I congratulate you, Attorney General Reno, on your long tenure; very tough job, Attorney General of the United States. I had an opportunity to be district attorney of Philadelphia and have some idea of the problems, but it is only a minuscule idea compared to what you have to do to run the entire Justice Department. I recall visiting you in Dade County back in 1985 after we had passed the armed career criminal bill to try to get it enforced in DA's offices, so that it has been a very distinguished tenure.

There are a great many subjects which I hope to talk to you about today, given sufficient time. The issue of antitrust enforcement is very important. You have asked for more funds and I think you need those funds. The counterterrorism issue as it impacts on the matter of weapons of mass destruction, the gun cases—we have a special task force at work in the Eastern District of Pennsylvania. The deportation issue, on immigration, is very important, a point raising constitutional issues.

We may have some more time today. When you select which day you come, you wisely chose a Friday. Customarily, on your appearance here this dias is filled, if it is not the dais in a bigger room. We have no votes today, so necessarily our colleagues are back in their States. Fortunately, I am very close, so I can be back in the early afternoon and still attend the hearing.

Attorney General RENO. Senator, I just want you to know I didn't choose it to avoid something, and I look forward to coming back for the regular oversight hearing. But I had my Senate and House appropriations subcommittees Tuesday and Thursday, and so this seemed to be the next day that would be available that the chairman suggested. So I am not avoiding your colleagues.

Senator SPECTER. Well, then I congratulate Senator Hatch for his selection of today.

I was interested to hear the comment by Senator Hatch on reauthorization of the Department of Justice. I didn't know that that was a congressional option. We are now considering reauthorization of the independent counsel statute. I understand that is a congressional option. Who knows? We may consider them side by side; one decision will bind everybody.

Let me begin with where I left off when you were here on July 15th and we ran out of time, and I was asking the question about the expansion of the jurisdiction of Judge Starr to the Lewinsky matter. And I raise this issue in an institutional sense because that water is all over the dam now. We have taken it to the nth degree with impeachment proceedings before the U.S. Senate, so what we are looking for is guidance for the future.

And back on July 15th, I had raised the question with you as to why the expansion of Judge Starr was made. And contemporaneously, in mid-January when that was done, I had made a statement that I thought it unwise because of at least the popular perception of a vendetta between the President and Mr. Starr. And I was not criticizing Starr in terms of competency. It was widely misinterpreted that way, but it seemed to me that when Starr had been involved in Whitewater and the FBI trial issue and the travel office, and in the issue involving Mr. Foster, that there would be a widespread public concern about Judge Starr being out to get President Clinton.

And I had asked the question of you and you had responded. Why did you appoint him, Madam Attorney General? Attorney General Reno, "The application speaks for itself." And I went to get the application on the expansion, and it is a very short application and there are only two lines which—two sentences which go to the merits and they are these. "It would be appropriate for Independent Counsel Starr"—this is in your application to the U.S. Court of Appeals, the Independent Counsel Division, "It would be appro-

priate for Independent Counsel Starr to handle this investigation because he is currently investigating similar allegations involving possible efforts to influence witnesses in his own investigation. Some potential subjects and witnesses in this matter overlap with those in his ongoing investigation."

Now, I think this is a closed matter, so that we don't have the problem of a pending investigation. And during the course of the impeachment proceedings, we went very deeply into what Mr. Starr was doing. And the only overlapping witness, to my knowledge, was Mr. Webster Hubbell, where there had been an effort to find him a job with the same company where the effort was made for Ms. Monica Lewinsky.

And looking to the future, I for one believe the independent counsel statute should be retained. It has to be very substantially changed. I think it has to be fulltime. I think it has to be limited in duration. I think the Attorney General has to have perhaps greater control. And I think we need to curtail expansion of jurisdiction, and it is in that context when I inquire as to your use of potential subjects and witnesses in the plural. Were there others which overlapped, in addition to Mr. Hubbell?

Attorney General RENO. I would not comment at this time because I did not come prepared to address the issues of the independent counsel, and would be happy to do so when I return in late April. The reason I cannot comment is that I do not want to do anything that would interfere with the independence of the independent counsel on any matters that he currently has before him. And so I don't think it would be appropriate for me to comment, but I will check between now and the time I return and make any statement that I possibly can.

Senator SPECTER. Well, all right. I would appreciate that, Attorney General Reno. We are having hearings on independent counsel in the Governmental Affairs Committee.

Attorney General RENO. Well, then, you will have me next Wednesday.

Senator SPECTER. Well, I doubt that, but I will try to bring the subject up again at that time and give you a chance to review it. I would doubt that there is any ongoing investigation. I think that if Judge Starr hasn't finished the Monica Lewinsky investigation at this point, it is going to be a surprise to everybody, including Barbara Walters.

Attorney General RENO. I didn't say that.

Senator SPECTER. Well, you said that it might interfere with pending investigations and——

Attorney General RENO. I cannot comment on anything that Judge Starr is doing until I determine what is appropriate, and then I will comment to the extent that I can.

Senator SPECTER. Well, I am not asking you to comment on what Judge Starr is doing. I am asking you to comment on what you did. You asked for an increase in authorization and you said that there were potential subjects and witnesses, in the plural. So I am asking what you did. I am not asking you what Judge Starr did.

Attorney General RENO. All right. I will be happy to answer.

Senator SPECTER. I will return to that later.

We have, it seems like, an endless sequence with the great bitterness which exists between the President and Mr. Starr, with the resignation of Charles Bakaly today, and really surprising that at least according to the news report, FBI agents turned up evidence indicating that Mr. Bakaly had lied in sworn statements denying that he was the source of the report—just really astounding.

So many issues arise on coverup or perjury as opposed to what happens in the first instance. And when we look at the independent counsel reauthorization, we ought to learn from what our experience has been, and that is why I think institutionally it is really important to try to understand it in all the ramifications. But we will return to that when you come to Governmental Affairs.

Let me ask you a question institutionally, Attorney General Reno, about separation of powers and about issues where there are very, very strong differences of opinion. Overall, as I have said before, I think you have done an excellent job as Attorney General on juvenile crime and crime prevention and so many, many issues which have touched the job with great diligence, great perseverance.

One issue where I have had a strong disagreement with your judgment, and I credit your judgment as an honest judgment, and others have, too, is on the issue of appointment of independent counsel in campaign finance reform. That has been a source of just a head-on disagreement between a number of Members of Congress, including me, and the positions which you have taken.

There have been suggestions raised from time to time which I have rejected, and that is to try to deal with the separation of powers with congressional authority, Senate authority, on confirmations, to hold up confirmations, or in the budget process, as we are today. And I can recall in the past disagreeing with Senators who were unhappy with responses by Cabinet officers and cutting their personal accounts. There are a lot of little ways to apply pressure which I frankly have rejected, or in the confirmation process.

When we have had hearings on independent counsel—and I was discussing a mandamus proposal which I have been considering and had some disagreement with the members of the panel citing separation of powers. And they said, well, Senator, why don't you use the authority you have? Why don't you withhold confirming assistant attorneys general, or why don't you use your power to cut the Department of Justice budget?

And those are two ways which the Senate can act in terms of disagreements on separation of powers. And I have always rejected that because I think you need your deputies very badly, and you need your budget. We are talking about increases, and if we have a second round, I want to talk to you about antitrust and some other of the departments. And I know that this is a judgment which I and others in the Senate have to make, and in the Congress have to make. But I would be interested, if you care to express a view on the subject, what you think about it.

Attorney General RENO. I am tremendously proud of the U.S. Senate that it has not done that, that it recognizes that people disagree. And I just think that your position is a thoughtful position. I know the chairman has disagreed with me, and there are issues where we will continue to disagree. There will be situations where

you become provoked and when there is not even a conflict when I determine that the evidence is insufficient to charge somebody, not in an independent counsel situation, and you may think that the evidence is clearly sufficient and I should charge them. Mine is a matter of conscience, yours is a matter of conscience, and we disagree. But if we get into the business of using budget or confirmation to dictate decisions that have got to be thoughtful and careful, it is going to be a sad day. And I am very proud of what you have done.

Senator SPECTER. Well, I agree with you on that, but I may tell you that in the back rooms there are some loud arguments about it. I think the people's business is too important to do that on so many, many items. Emotions run high and tempers flare, but they cool off.

Attorney General RENO. Well, one of the things that I hope—in Miami, I never thought of myself as a Democratic or a Republican. We just did the job. I have stood with Republican sheriffs and Republican DA's in San Diego, CA, as we together worked out problems. I have stood with a Republican DA in Boston and a Democratic U.S. attorney.

I don't think the issues of criminal justice are Republican or Democratic issues. I think they are issues that have got to be resolved with common sense, good judgment, a spirit of nonpartisanship. And I am going to continue to try to do my very best. I think that is what the American people want. And I think that what you all have tried to do is, following your views, you have tried to do that with me and I am grateful.

Senator SPECTER. Well, Madam Attorney General, just one last comment and then I will yield. I agree with you on that totally. I think that if you want to get anything done in the Congress, you have to cross party lines to do it. And sometimes I am criticized personally for doing it too much, but I believe that law enforcement doesn't have a political texture at all. When I talk about independent counsel, there are some on both sides of the aisle who share the views. But I am talking about hard evidence. I know that is what you deal with, and I have had a little experience at it myself.

The CHAIRMAN. Thank you, Senator Specter.

Senator SPECTER. Thank you, Mr. Chairman.

The CHAIRMAN. We will hold a hearing toward the end of April where I am sure you will come fully prepared to answer any and all questions, and there will be a lot of tough questions about the independent counsel statute, and so forth.

I also was very intrigued with the newspaper report on the Bakaly matter, and I think it is to Judge Starr's credit. I think, that it shows, you know, that he is going to do what is right, regardless, and that if there is some wrong there, something that has been done that is improper or wrong, he is certainly going to make sure that that is brought up. So I respect him for that, and we will go into those kinds of matters at that time, in addition to other matters as well. So I know that you will come prepared at that time. But this particular hearing I meant to be basically on the budget, but any Senator can ask any question he or she wants to.

We will go to Senator Ashcroft now.

STATEMENT OF HON. JOHN ASHCROFT, A U.S. SENATOR FROM THE STATE OF MISSOURI

Senator ASHCROFT. Thank you, Mr. Chairman, for holding this oversight hearing, and I want to thank the Attorney General for appearing here today to address the concerns that members of the committee might have. I do think that oversight is one of the most important functions that we have as a Congress in our constitutional system, and I am glad to serve on a committee that takes the responsibility seriously.

As the chairman knows, I have been critical of this administration's record on fighting teenage drug use. All the problems about statistics with crime are interesting and it is easy to select out statistics that one wants, and we all do that. I was looking at the FBI statistics on violent crime per 100,000 inhabitants, and we are still well over 300 percent higher than we were in 1960. And I don't know that we felt inordinately safe in 1960.

So the big, celebrated drop in crime is something we ought to be grateful for, but I don't think it means we ought to quit fighting crime. In juvenile crime, in particular, I don't think we have—we have seen a couple years of decline in juvenile crime, but that doesn't mean that we are down to where we ought to be. And I would just add that in drug use among very young children, we are at high levels of drug use, and I think that is a forecast for real problems in criminal behaviors in the out years.

Since President Clinton took office, we have been, I think, losing the war on drugs. Marijuana use by eighth graders has increased 176 percent. Cocaine and heroin use among 10th graders more than doubled over the same period. These numbers are disturbing, but they are not the biggest problem I have in my State. The biggest threat we have in Missouri may be the biggest threat in the country. It is called methamphetamine. And we have been trying to work together on that and I think that is something we have to seek to work together on even further. It has grown exponentially.

For example, in 1992, DEA agents seized two clandestine meth labs in the State of Missouri. By 1994, that was 14. By 1997, they seized 421 clandestine meth labs. That is a skyrocketing use of a drug which is as destructive, Mr. Chairman, as any drug of which I am aware. It ensnares our children, it endangers all of us.

In 1998, the percentage of 12th-graders who used meth was double the 1992 level. Meth-related emergency room incidents increased 63 percent over that same period. Recent conversations I had with law enforcement officials in my State—and these were just folks who spend their lives on the local level enforcing the law—estimated that 10 percent of the high school students know the recipe for meth, or maybe they know where to get it. That is a very, very troublesome statistic.

In the past two appropriations cycles, we appropriated $11 million and then $24.5 million for the DEA to train local law enforcement in the interdiction and cleanup of methamphetamine labs. Despite these appropriations, the meth problem continues to grow, and I believe that it is time that we addressed this mounting threat through the authorizing process. To that end, I have introduced legislation that would authorize $30 million for these pur-

poses in fiscal year 2000, and additional amounts in each year through fiscal year 2004.

Do you support this effort to direct additional resources to the DEA for the fight against meth, would be, I think, one of my first questions to you.

Attorney General RENO. I agree with you that this is an extremely important issue, and it is for that reason that we early on focused through DEA on the development of a strategy to deal with the issue. I will review your legislation and work with you in every way that I can. Clearly, I think it is important that we have the capacity to respond and that we support State and locals.

With respect to the labs, one of the more difficult issues, because, as you know, Senator, it is not just the dismantling of the labs—they are dangerous and there are all sorts of issues that have got to be——

Senator ASHCROFT. Toxic.

Attorney General RENO. Very toxic and very dangerous.

Senator ASHCROFT. The proposed legislation would include additional resources for education and prevention, targeted specifically at the problem of meth. I want to ensure that while maybe 10 percent know the recipe for meth, I think we need for 100 percent of the young people to know that meth is a recipe for disaster.

Would you support additional resources for education and prevention targeted at methamphetamine?

Attorney General RENO. I would support anything that I can do to get education and prevention programs for young people that keep them out of the way of meth and any other substance.

Senator ASHCROFT. Is it your view that methamphetamine is reaching crisis proportions in terms of your understanding of its growth around the country?

Attorney General RENO. I think anytime you have something that produces these figures that it is a problem that this Nation must organize against, and that is the reason that we have responded in every way that we could to deal with this issue on a comprehensive basis.

Senator ASHCROFT. Do you have a menu of additional enforcement or prosecutorial tools or resources that Congress should provide at the Federal level to improve our fight against methamphetamine?

Attorney General RENO. I think that DEA has the tools. But with your permission, I will talk with Administrator Constantine and make sure that there are no tools that I have neglected.

Senator ASHCROFT. Thank you. The President and the drug czar have recently announced that they hope to cut the rate of illegal drug use by 25 percent by the year 2002, and to cut it in half by the year 2007. Despite those stated goals, your budget does not appear to request any additional DEA or Border Patrol agents for fiscal year 2000 over the level authorized for fiscal year 1999.

How can you improve our performance in the war against drugs without additional agents to curtail the flow? Incidentally, I have been finding out that the cartels to the south have been getting very active in methamphetamine as well.

Attorney General RENO. What we have tried to do in our budget is provide support for the ability of DEA to coordinate its investiga-

tions to develop comprehensive analytical capability, to utilize that in making sure that we go after the key forces that are responsible for making drugs so much a part of the problem that we see in the criminal justice system.

With respect to the Border Patrol, we made a conscious decision because law enforcement authorities have told us over time that when a police agency reaches a situation where 30 percent or more of its force has little experience that you run the risk of an agency that cannot function as effectively as we would wish. Now, a little over 40 percent of the Border Patrol agents have 3 years of experience or less, and we want to try to do is assimilate through proper and appropriate field training and other mechanisms these new agents that have come on board in the last 3 years and make sure that we have them prepared, trained in field training situations, to meet the issues of undocumented aliens, of alien smuggling, and clearly of drugs, including methamphetamine.

Senator ASHCROFT. So your answer is that—I am trying to figure this out. I think you are saying to me that if you had the ability to bring people on and to use them effectively, you would like to. But because of the immaturity of the force in terms of experience, you would be better served not to add additional people at this time.

Attorney General RENO. That is correct.

Senator ASHCROFT. The head of the DEA, Thomas Constantine, has complained that the Nation lacks the will and the resources to win the war on drugs. In particular, he suggested—and I am referring to the USA Today article, I think, that we all read—that the DEA lacks sufficient resources to deal with the multimillion-dollar Mexican drug cartels.

In light of those comments, are you confident that your budget request contains sufficient resources for DEA?

Attorney General RENO. I will be happy to check with Administrator Constantine. I think he would always like to have more dollars whenever he could, as I think probably all Federal agencies would. But I will be happy to check with him and see what specifically he may have in mind.

Senator ASHCROFT. Is it your view that we are winning the war on drugs?

Attorney General RENO. I think we are making some progress, not nearly as fast as I would like. But one of the things that I have learned is that it has got to be balanced. You have got to have punishment, you have got to have prevention, you have got to have intervention that can make a difference. And I am delighted to hear you speak of the need for prevention and education programs.

Senator ASHCROFT. One important front in the war on drugs is interdiction at the borders, obviously. That is a line I have been pursuing. If our agents are to do an effective job, they have to have the right kind of equipment. Do our Border Patrol people or people on the borders have the right equipment to do the job in an effective manner?

Attorney General RENO. That is one of the efforts that we are pursuing with this budget to provide additional technology in terms of sensors, automated capacity to determine when sensors have been tripped, where the trafficking is, where the people are coming

across, so that we can use our resources as wisely as possible to respond in an effective way. So that is a step that this budget proposes.

With respect to the equipment that each Border Patrol agent needs, when I came into office I went down to the border. They didn't have cars. Some of the cars didn't have radios. They didn't have appropriate equipment. And I have made it a concern of mine to try to make sure that they have the equipment they need to do the job. We provide for a package with each FTE, but we are now about to catch up with the force that was already in place and is receiving the new equipment as their equipment becomes subject to replacement.

Senator ASHCROFT. General Reno, thank you very much for your kind attention to the questions I have asked. Mr. Chairman, thank you.

The CHAIRMAN. Well, thank you, Senator Ashcroft. I want to commend you for your efforts to address the methamphetamine problem. As my colleagues and the Attorney General may recall, we passed a bipartisan methamphetamine bill in the 104th Congress, and it is this legislation which I authored which directed DEA to coordinate these enhanced meth lab seizure efforts. Still, we can do more and we can do better. Meth is still a major problem in Utah, and I look forward to working with you, Senator Ashcroft, as our leader in this area, and you, General Reno, as the leader in this administration, against these meth problems because they are really serious problems. I am glad you raised that this morning.

Senator DeWine, we will turn to you at this time.

STATEMENT OF HON. MIKE DeWINE, A U.S. SENATOR FROM THE STATE OF OHIO

Senator DEWINE. Mr. Chairman, thank you very much. Attorney General Reno, thank you for joining us again today. Last year, Chairman Hatch, Senator Leahy and I introduced the Crime Identification Technology Act, which is an omnibus technology bill that authorizes $250 million annually in grants to the States. You strongly supported this bill. In fact, we made some changes that you had specifically requested. This bill was signed into law by President Clinton on October 27, 1998.

However, I frankly, was disturbed to see that in the President's budget the administration only requested $50 million for the Crime Technology Act. You do have requests in for some new programs which have some relevance certainly to technology.

I just wonder why you did not tell us, tell Senator Leahy or the chairman or Tom Daschle, the Minority Leader, who strongly supported this bill or me if there was something else that you wanted incorporated into our bill. We certainly could have incorporated it at that time.

As you know, because we discussed this and you supported this, the idea was to bring some coordination to technology funding, to get the money down to the local community, under a basic umbrella that targets crime technology, while at the same time providing some flexibility to the local community. If you have one State that is doing very well, for example, in DNA, they maybe don't

need the resources in DNA, but they might need them in AFIS or some other form of technology. I have supported this idea for a long time.

Could you please comment on these issues.

Attorney General RENO. I am going to ask Mr. Colgate to correct me at any step that I take, Senator, because I feel strongly about this. We support the Act very vigorously. Our budget contains funding for many new and existing programs that fall within the scope of the Act. Rather than asking for one massive grant program, what we did was focus in the 2000 budget on existing programs, such as the DNA State identification grant program, the criminal records upgrade program, and in funding for new initiatives such as COPS Connect, the DNA sample backlog through NIJ, and the global criminal justice information network, with funding assigned to those DOJ bureaus that had the expertise in the particular area.

These separate funding pots represent our best estimate of what it will take to accomplish the objectives set out in each program. But what you have done is critically important in terms of making sure that we develop a system where we share with the State and local government. And I would look forward to going over this with you in detail, making sure that you are comfortable with the way that we are pursuing this because I think this represents perhaps one of the greatest challenges for law enforcement in the future.

And let me just summarize again, because you and I have had conversations on this. If we develop cyber technology that is costly and expensive, how can we share that with State and locals, while at the same time avoiding a State or local dumping on us and saying, well, we will just use the Federal processes? How can we make sure that communication is established across this Nation between law enforcement groups? What can we do about DNA?

There are just a whole range of issues, and from what I hear from the scientists we are beginning to find new issues that are vitally important. So I am very anxious to make what you have done a reality and would welcome the opportunity to talk with you about it.

Senator DEWINE. Well, I look forward to working with you on anticrime technology. I think we share the common goal. The purpose of the law is to bring more coordination to anticrime technology, programs to allow some flexibility within a broad framework. You and I have talked, on at least two occasions, and have agreed that our national systems and technology programs have to be coordinated, and that they must work with the lead Federal agency. I share your concern.

I was very disappointed when we looked at the budget proposal. We had a real firm agreement about how this law was going to work, and then lo and behold there is just $50 million for the Crime Identification Technology Act which is just a fraction of the total technology dollars available. I am concerned that we are not following the principle that this Congress and the administration, laid down last year. So we will follow up with that.

Attorney General RENO. The total in the budget that is focused on the DeWine act principle is about $350 million. That is just the 1st year. We would like to build on it. We would like to work with

you. We would like very much to have the opportunity to sit with you and say where can we improve, what can we do, because, Senator, you have hit on what I think is one of the key issues that we have got to deal with.

We have got to be able to reach out to labs and get the latest developments in research. We have got to be able to share that with State and locals. We have got to have the flexibility and we have got to make sure that State and locals don't just use the Federal Government's processes in lieu of their own.

Senator DEWINE. We will work with you on it. Let me move to another area that you and I have talked about on many occasions, and that has to do with what used to be called Operation Triggerlock. I have long believed, as you know, that the criminal prosecution of gun-related offenses is absolutely crucial to the quality of life in this country.

I have expressed concern, that the Department had not been pursuing these cases as aggressively as I thought they should. So I am glad to see that your Department is reporting that the prosecution of these gun-related offenses has increased, somewhat.

I wonder if you can provide us with some background such as where in the country those increases are coming from and in what specific type cases.

Attorney General RENO. Let me address that and we will get that information to you. Let me tell you what we are trying to do because we have had these discussions and disagreements, but I don't think anyone would suggest that we haven't really focused on violent crime in this country, violent crime that is primarily gun driven. And I think that, working together, we have made an impact. In one instance, it may be somebody determining that it is a Triggerlock case; in others, it may be a massive case taking out a gang.

As I said earlier, before you got here, I think we have an extraordinary opportunity. We can forge ahead based on the successes we have had and not become complacent, and I think fashioning a program that is based on vigorous enforcement, sound prevention, we can have an impact on the culture of violence in this country, and I think it goes to guns. We are asking all the U.S. attorneys to do what has been very successful in Boston and Richmond, and that is to sit down with their local prosecutor and determine who can best handle particular cases based on what is in the best interest of the community, so that we make sure that all gun cases are reviewed in an appropriate manner and that appropriate steps are taken. There is money in the budget, $5 million, for 40 prosecutors to focus in areas of greatest concern across the country to deal with this issue, and I think it can have an impact.

Senator DEWINE. You will follow up with me, then, in some detail in regard to that particular increase?

Attorney General RENO. Yes, I will.

Senator DEWINE. It is an increase, correct?

Attorney General RENO. I want to check on it and just make sure.

Senator DEWINE. I appreciate that very much. I know that the chairman before I arrived asked some questions in regard to antitrust, but I wanted to follow up on those questions. As you know,

I am the chairman of the Antitrust Subcommittee, and this area is obviously of particular concern to me.

As you are aware, Attorney General Reno, the number of merger filings that the Department of Justice must evaluate under the Hart-Scott-Rodino premerger notification law has increased substantially in recent years. In fact, it seems like every year sets a new record for these merger filings. Has the budget for the Antitrust Division, in your opinion, kept up with the increased workload from these merger filings?

Attorney General RENO. Since the initiation of the fiscal year 2000 budget planning process last spring, the work of the Division has intensified. And you have cited some of the examples of caseload that they are faced with. The budget requests a 16-percent increase. But, as you know, the Antitrust Division is fee funded and if the workload continues to increase, we will be very happy to work with you and others in Congress to address this issue.

Senator DEWINE. Well, it is a concern of mine as I have seen the increase in their workload. And they are not complaining; at least they are not complaining to me. But I am very, very concerned about it and I think it is something that this Congress has to watch to make sure that you do have the resources.

Attorney General RENO. The chairman had a suggestion about the use of what we can do to perhaps revise the law to focus our responsibilities. So there will be a number of areas, but we will be happy to work with you.

Senator DEWINE. I appreciate it. Thank you very much. Thank you, Mr. Chairman.

[The prepared statement of Senator DeWine follows:]

PREPARED STATEMENT OF HON. MIKE DEWINE

Mr. Chairman, thank you for holding this timely and important hearing on the Justice Department's fiscal year 2000 budget. I am particularly concerned about the impact of the President's recommendation on the Federal government's role in assisting state and local communities fight crime. Unfortunately, the President's budget fails to meet our Federal responsibility to support our state and local law enforcement who are on the front lines of the war against crime. The Administration's budget, in essence, punishes state and local law enforcement for their recent successes in reducing crime by cutting over $1.5 billion from local law programs that directly support their efforts. Our communities are relying on our support; we should stand by them.

Our nation must continue efforts that push crime rates down, which I believe will happen if we maintain current law enforcement spending levels generally, and increase spending in critical criminal justice areas in particular. In several troubling respects, this Administration is stepping away from our investment in local law enforcement in its fiscal year 2000 budget. For instance, the President completely guts the Local Law Enforcement Block Grants program for which we appropriated $523 million last year. This is easily one of the most successfully law enforcement programs because it puts resources directly in the hands of our cities and counties.

Similarly, the Administration's budget decimates state prison (violent crime and truth-in-sentencing) grants by cutting $645 million, and cutting more than $85 million from the State Criminal Alien Incarceration Program that reimburse states. In addition, the Administration totally eliminates $250 million program for Juvenile Accountability Block Grants, notwithstanding that youth violence still poses a major threat in our communities. Enforcement of criminal laws means little if there is inadequate accountability within the justice system. These grants help our state justice systems keep up with the still high levels of crimes occurring in our communities every day. We must maintain at least current funding levels for these programs.

Finally, I believe that crime technology is a critical area where we must direct greater resources to continue to reduce crime in our communities. More than twen-

ty-five years in law enforcement has shown me that technology is the future of police work, and essential to pursuing increasingly sophisticated, mobile criminals. State and local governments are at a critical juncture in the development and integration of their criminal justice technology. While the President's budget purports to address states' critical need for crime technology by requesting $350 million, it actually provides little to states for crime technology, and even less for integration into national information systems. We have already invested millions of dollars in these national information systems, whose success requires state participation. Additionally, there is a tremendous need to integrate the patchwork of small Federal programs that *fund* various aspects of anti-crime technology into a single, coordinated funding stream that provides accountability and efficiency, and assists communities to identify critical resources.

To address this need, last year we passed the Crime Identification Technology Act (CITA, P.L. 105–251), to assist state and local law enforcement develop integrated anti-crime technology systems. Despite strong support by the Attorney General and the Administration last year, there is only minimal funding for CITA in the President's fiscal year 2000 budget. I believe that it is crucial that we fully fund CITA, and a number of associations agree, including the International Association of Police Chiefs, National Governors' Association, American Society of Crime Laboratory Directors, the American Academy of Forensic Sciences, the state repository directors of the National Consortium of Justice & Information Statistics, and the National League of Cities.

Last, I would like to congratulate the Department for increasing its gun prosecutions by 14 percent, this past year. As you know, I have believed that criminal prosecution of gun-related offenses are crucial to the quality of life in our country. I have asked this Department to aggressively pursue those who commit crimes that involve guns, and have introduced legislation the last two congresses to do just that. In times of limited federal resources, targeting these individuals makes a great deal of sense. I think it should be a national policy to use the full power of the federal government to go after these guntotting criminals, lock them up, and keep them locked up. I wonder if the $5 million that the Department has requested to sustain its gun prosecution effort is sufficient. I look forward to hearing the Attorney General's comments today.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator. We have still a little bit of time left, so I will go at least one more round. Senator Specter, I think I will turn to you at this time. I will pass myself now and we will go one more round, if you would like.

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

The CHAIRMAN. First of all, General, do you need a break?

Attorney General RENO. No. Thank you, sir.

The CHAIRMAN. If you do, just let me know at any time.

Attorney General RENO. Thank you.

Senator SPECTER. Picking up on what Senator DeWine has commented upon on the antitrust enforcement, I would concur with him on the need for very substantial additional resources. I note the statistics are really surprising—94 mergers in 1980, and by 1998 there were 12,523. And I had an opportunity to sit down with both Assistant Attorney General Joel Klein—and I compliment the Department on Mr. Klein's work—and also FTC Chairman Robert Pitofsky, and I have great concerns as to the so-called merger media.

I think back to what Justice Brandeis commented about worrying about size, and he relied upon Jefferson. Maybe that is a little outdated. I understand the global picture, but I think the kind of really vigorous antitrust enforcement is indispensable. I recall when the main intersection in Philadelphia, Broad and Chestnut, had four banks on four corners. If there had been five corners, there would have been five banks. And now, with the mergers, you can barely find a bank. It is hard to find a local bank.

First Union came in from out of State and had a lot of promises and had been greeted with a lot of conclusions which are very, very questionable—layoffs in areas, and questions about serving minority interests, et cetera. Had Philadelphia been a State instead of a city, the market situation would have precluded the acquisition in that case. And we really have an intersection now of intellectual property versus the monopoly control. We don't want to discourage innovation in intellectual property, but if it has monopoly potential, it is a threat to the consumer's interest.

And there are questions that are raised in the Congress about not funding this increase for antitrust, and quite a number of us are going to be backing you totally on that. So I applaud what your people are doing and I think we have to do more.

One item where you had made a request for a substantial increase was turned down by the administration and that was on the FBI counterterrorism initiatives. You had asked for the administration to include the budget request of $106 million in additional counterterrorism funding for the FBI, and they included only $7 million. That is a matter of gigantic importance which only creeps into public attention to a very, very limited extent.

When I chaired the Intelligence Committee, the legislation came out to revise the 96 separate agencies which are working on weapons of mass destruction. In other words, if you take a look at problems posed by anthrax and other lines of biological warfare, chemical warfare, they are terrifying. And the FBI has done a good job. People don't chronicle when the FBI heads off a potential attack. Those sort of go by the boards on page 16. When there is an attack, of course, it is front-page news.

How may we help you, Madam Attorney General, to just put the money back in in the Appropriations Committee?

Attorney General RENO. Senator, first of all, I want to thank you for your focus on what I think is one of the most important areas that we are dealing in. The monies that were in the budget request included training resources for the national infrastructure protection and computer intrusion field squads, computer analysis and response teams, and technical programs which support training and technology, in-service training and the like.

This is vitally important because wherever I go, people are telling me we need to prepare the FBI for the new age of cyber tools and cyber criminals, and so I share your concern. With respect to weapons of mass destruction, the Bureau is doing a great deal and I think that we are, in conjunction with the FBI lab and other national laboratories around the country, really developing some of the latest technology and research capability possible. However, if I need to direct the FBI to look at its resources, I think we can accommodate the training for agents and analysts. And I think that this is one of my most important functions and I am dedicated to doing it.

Senator SPECTER. Well, we want to support you on that all the way. On a couple of the other items, I would have liked to have seen you ask for more money. You talk about the gun cases, and that is a matter of colossal importance. Your statement notes 14,000 homicides a year, murders a year, with guns.

The Eastern District of Pennsylvania has put in a new project at a very modest line of $1.5 million, and $800,000 was then added for Camden because guns crossed the river. And there is no doubt about the importance of cracking down on people who violate the law with guns. If you take the courts of the city of Philadelphia, with the long backlogs and the judge shopping and the delays, the Federal court is really in a position to handle those gun cases on an expedited basis.

We have maintained the administration of criminal justice and, with the Federal allocation and judicial selection, a quality of judges in a way that it is vastly preferable to try those cases in the Federal court. U.S. Attorney Stiles is doing a very good job on that, sits down with the local prosecutor. But to the extent that we can funnel gun cases into the Federal courts, it is very much in the interest of public safety. And I note that your Department only asked for $5 million, and I know that you have a lot of lines and it is very difficult to keep track of all those items. But I would ask you take another look at that.

Attorney General RENO. I have taken a very careful look at it because what we have tried to do—and Boston and Richmond are classic examples. In Boston, the U.S. attorney and the DA regulatory meet to figure out who should handle which case to make sure that each case is handled appropriately.

I know from my experience that sometimes it is not the Federal court process, but it is the availability of prisons. And so by the time I left Miami, we were prosecuting a large number of Triggerlock cases in Federal court because I couldn't get the time actually served because of reduced number of prisons in Florida. Florida has addressed that issue, as other States are addressing it. And what we are trying to do is, on a district-by-district basis, make sure that these cases are being handled appropriately. And if we need additional money to do that, we will be requesting it as the need becomes apparent.

Senator SPECTER. Well, when we took a look at Philadelphia, and I talked to Mr. Stiles and got an assessment with the chief judge as to what the courts could handle, I got very deeply involved in it because I used to prosecute gun cases, to my utter frustration, in the city courts, where there was judge shopping and continuances, and you couldn't get the cases to trial.

And when we put up $1.5 million, it was minimal, and I just thought in looking at $5 million nationwide that more resources are necessary because you get a lot of—not to say bang for your buck—you get a lot of leveraging out of prosecuting people who violate the law with guns. Well, let's see how it works.

Attorney General RENO. I would be happy to share information with you, sir.

Senator SPECTER. The other item where I have a question as to the adequacy of the funding is in the drug courts. That is something which we worked on a long time, going back to my days as district attorney in Philadelphia, going back to the early 1970's.

In the 1994 crime bill—and I share your enthusiasm with that bill; that was a very tough bill to get passed out of the Congress because there was so much derision for some of the rehabilitation

programs. That authorized up to $200 million, and you have asked for an increase of $10 million, over $40.

My yellow light is on. There is one other subject I want to touch on. I would appreciate it if——

The CHAIRMAN. Go right ahead, Senator; just go ahead.

Senator SPECTER. I would appreciate it if you would give me your thinking, or an evaluation as to how that is going. The drug court has tremendous potential because they take the people right off the street and move those into rehabilitation, and don't leave them at large where they commit more burglaries and car thefts, and deals with the sellers. So I would like to know the adequacy of that funding. I have been encouraging more counties in Pennsylvania to apply for the drug court funding.

Attorney General RENO. It is so exciting to see the spread of drug courts and to see what has been done. From 1995 to March 31, 1999, the drug court program awarded more than $93 million in grants to approximately 500 jurisdictions. As of February 1, 1999, this has resulted in the implementation of 170 drug courts, out of 344 already currently implemented.

Senator I went to a meeting of drug court professionals, and when I first went to one several years ago there were just maybe 100, 200 people there. This room was full, and the excitement and the interchange between prosecutors and others—prosecutors who had doubted the efficacy of the drug courts—was really exciting, and there was optimism.

I think one of the clear efforts that we must undertake, which we did in Miami with the development of the drug court, was not to spread ourselves too thin, to make sure that we implemented them carefully, thoughtfully. And the one thing that I have fear of is that we will use the drug courts to just push cases to, rather than take the cases and handle them the right way. I would like to see the drug courts avoid some of the descriptions that you just had of how gun cases are handled. Frankly, one of the things that we are exploring and communities are exploring is the development of gun courts in the State court system that will give us the focus that we have with drugs.

Senator SPECTER. Well, I share your enthusiasm. There have to be rehabilitation facilities at the other end of the drug court for the users on immediate rehabilitation so that they are not back on the streets committing more crimes.

The issue of immigration is one which is very touchy. We have had the deportation of those Iraqi dissidents which I asked you about the last time, and there are procedures for using information in courts where the data is not available to those subject to deportation. Senator Simon and I sponsored an amendment which was included in the law which provided some procedural safeguards, but I am interested in your evaluation as to the adequacy of those safeguards, and to the extent you can comment as to what is happening with the deportation with the Iraqis.

Former CIA Director James Woolsey was involved in that matter. He couldn't get access to information, notwithstanding his high-level clearances, and was very critical as to the fairness of those proceedings. I would like your comments to the extent you can make them in this open session.

Attorney General RENO. I can't comment on the specifics of the litigation, but I think I can tell you this, that the Deputy Attorney General and I have both spent a great deal of time on this. The Deputy even as recently as last week met with Mr. Woolsey.

We have reviewed our procedures, have addressed some of the concerns that we had, and what I would like to do is review with the Deputy where we are at in this whole process of review and see if we can make any recommendations to you as to further steps that could be taken that would ensure safeguards.

Senator SPECTER. Well, I would appreciate your doing that because I was very skeptical of where we ended up, notwithstanding the amendment which Senator Simon and I added. And I notice in the recent litigation—and this is a very tough issue because there are a lot of deportation cases and the question of judicial review comes up. And I note in the *Maganna* case that the court, the circuit court, the ninth circuit, ruled that there had to be judicial review, and took up the Suspension Clause.

We don't take up the Suspension Clause very often. I think if you gave a test to Senators or professors, you might have some lack of knowledge about it. But the ninth circuit concluded in *Maganna* that judicial review of executive detention was mandatory because, absent that, it would violate the Constitution.

And one of the concerns I have—and we got very deeply into this in a number of our Supreme Court nominations about people who think that the Congress has the power to take away judicial review. Now, it is very limited with the immigrants, but to that immigrant it is of critical importance. We have had some very lively sessions on the confirmation hearings of Chief Justice Rehnquist, who wouldn't answer questions as to whether the Congress could eliminate judicial review of constitutional issues under the 4th amendment or 5th amendment or 6th amendment. He did say that Congress could not take away judicial review of the first amendment.

But I am interested in your Department's position which has urged the elimination of judicial review under the congressional enactment.

Attorney General RENO. We are meeting just to consider the range of cases; lawyers are meeting today. And let me get the results of that meeting and then respond to you, if I might, based on whatever might be appropriate.

Senator SPECTER. You have got the great statue of Marshall. If people haven't seen it, they ought to go to the Supreme Court just to see the statue of Marshall sitting in that great chair on the ground floor entry, in *Marbury* v. *Madison.* And if there is one thing that America stands for, it is judicial review.

Attorney General RENO. When you come to Washington, not having had exposure to it, there are impressions that you gain one way or the other. One of the people that I have always admired, but I admire more now than ever before, is John Marshall.

Senator SPECTER. For good cause.

The one other subject that I wanted to touch on briefly was the question as to the nomination of Mr. Vega in the Southern District of California. And perhaps that ought to await another day, Mr.

Chairman, if we are going to have confirmation hearings on Mr. Vega.

The CHAIRMAN. I believe we will, so it probably would be good to let that wait.

Senator SPECTER. We have had a spate of newspaper accounts in the past couple days, Madam Attorney General—I am sure you are familiar with them—which have arisen as to what happened with Mr. LaBella.

The CHAIRMAN. You might want to go into that if you want to do it now because we probably are not going to have a hearing, since it is a U.S. attorney matter.

Senator SPECTER. Well, I hope we will, but let me take it up for just a moment or two now.

The matter with Charles LaBella has been a sharp focus, as you know, Madam Attorney General, on the campaign finance reform issue where FBI Director Freeh recommended independent counsel on campaign finance reform, and Charles LaBella, who was brought in as special counsel on that issue.

Mr. LaBella is quoted in the San Diego Union Tribune on February 3, and the matter comes into focus now because the day before yesterday the President submitted the name of Mr. Vega to be U.S. attorney. And from all that I have heard about Mr. Vega, it is positive, and I do not suggest in any way any reflection on Mr. Vega. But there has been a concern which I have raised in correspondence with the President, which I sent to you and also to the chairman, about whether Mr. LaBella was being punished for what he had done by way of recommending independent counsel.

Mr. LaBella is quoted in the San Diego Union Tribune as saying, "When I did not even get a thank you for your services," he said of what he sees as the chill fallout from the Justice Department brass over the work of his campaign financing task force, "I think that crystallizes just how out of favor I was with the Department."

Copley News Service, on March 10, notes the nomination of Mr. Gregory Vega as attorney for San Diego and Imperial Counties, and Mr. LaBella commenting that he got a heads-up from Senator Feinstein's office, and said that, "I am a little disappointed that it went the way it went down after nearly 17 years as a public servant. It is indicative of the way they have treated me since I handed in my report. They are angry with me for taking a stance."

And the question, Madam Attorney General, is was Mr. LaBella bypassed because of his forceful stand in recommending independent counsel for campaign finance reform?

Attorney General RENO. With respect to thanking Mr. LaBella for his service, he hasn't finished his very distinguished service and so I have not had occasion to thank him yet, though I have thanked him personally on a number of occasions and I do intend to do the same for—it was he who said that he wanted to go out there, understanding that I don't control a Senator's recommendation with respect to who might be nominated.

And he has served with distinction in that post. He served with distinction with the campaign finance task force. And I would defer to you gentlemen, since you understand the processes by which Senators choose to recommend. But I can tell you I didn't pass him over.

Senator SPECTER. Well, he was also complaining that he didn't get a telephone call that Mr. Vega was going to be nominated.

Attorney General RENO. Well, I would suggest that, again, the process—and you all know it better than I do—of how a Senator recommends and how it is done, how it is handled—but somebody just told me that he did. I will be happy to check and let you know.

Senator SPECTER. OK, I would appreciate it. He is quoted to the contrary.

Well, Senators do have something to say about U.S. attorneys, but my experience has been that the Senators do not have the final say, that it is obviously a presidential nomination. And I recall a situation for U.S. attorney in Pennsylvania where I had a sharp disagreement with the Department of Justice over a nomination with a Republican administration, my party in power, and the Department of Justice won.

Charles LaBella has been very outspoken on the campaign finance reform issue and there is a natural inference that—or there is a possible inference; let me strike the word "natural." Madam Attorney General, are you prepared to say that Mr. LaBella's recommendation of independent counsel had nothing to do with his replacement as far as the Department of Justice is concerned?

Attorney General RENO. As far as the Department of Justice is concerned, I can tell you that.

Senator SPECTER. Would you be willing to make available to the committee any internal documents you have in Justice with respect to the evaluation of LaBella and the appointment of Mr. Vega?

Attorney General RENO. The evaluation of Mr. LaBella? You mean his personnel sheets?

Senator SPECTER. Well, I wouldn't want to particularize them and I do not want to be intrusive, but there is a question in my mind——

Attorney General RENO. Well, if you will let me know what you would like, I would be happy to try to furnish you anything that is appropriate to be furnished.

Senator SPECTER. Well, what I would like to see is if there are any writings, any memoranda or documents which deal with Mr. LaBella with respect to his recommendations on independent counsel for campaign finance reform, or whether that issue came up in any of the Department of Justice documents which led to the appointment of Mr. Vega.

Attorney General RENO. I will be happy to furnish you anything that I can appropriately furnish you on any matter relating to that. But I would like to talk to you a moment about something. Mr. LaBella may disagree with me, Director Freeh may disagree with me. I don't want "yes" people working with me or for me in the Department of Justice. One of the people I have the highest regard for is Director Freeh, and he continues to sometimes disagree with me.

I can tell you that from my point of view, what I want to have is people who speak their mind, and I am proud of the way they spoke their mind. They ought to be able to speak their mind without any concern whatsoever, and I am going to do my darnedest to see that that policy continues.

Senator SPECTER. Well, Attorney General Reno, I respect what you have just said. The concern that I have is when you have a set of facts where Charles LaBella, who is the heir apparent to be U.S. attorney in the Southern District, comes to Washington at a special appointment to head a task force on campaign finance reform and then has a publicized disagreement with the Attorney General, and then he goes back to California with the expectation of being the U.S. attorney and then someone else is nominated, what effect that has on career prosecutors all around the country. Now, it may be that it is totally coincidental.

Attorney General RENO. For those who are not familiar with the process—and I do not know who is observing this—I think it is important to point out the process. If you were to tell the Senator from Utah that the Department of Justice was sending somebody to the District of Utah with the expectation that that person was to be the U.S. attorney, I think the Senator from Utah would take some exception. He would——

Senator SPECTER. I think Senator Bennett would be perfectly happy about that. [Laughter.]

Attorney General RENO. I wasn't referring to Senator Bennett.

As we are all aware, nobody should have an expectation of being U.S. attorney. That is a process that involves a recommendation by the Senator, and in a number of instances I think both of you have been consulted, although you are of another party, in terms of appointments to the bench. I don't think anybody should anticipate that they are going to be it.

Senator SPECTER. Well, you may be technically correct, but there is a lot of anticipation by a lot of people as to what is likely to happen. And when you have——

Attorney General RENO. Having seen that anticipation——

Senator SPECTER. Let me finish the sentence. When you have Charles LaBella, who is out there as the U.S. attorney, having been appointed by the court, I think it is a human and reasonable expectation. And where there is in the picture a sharp disagreement with the Attorney General over independent counsel on campaign finance reform and somebody else is appointed, I believe that it is not an unreasonable inference that his disagreement with the Attorney General had something to do with it. Now, it might be wrong; the inference might be incorrect.

Attorney General RENO. The inference is plain wrong.

Senator SPECTER. I think that there are a great many people who draw the inference besides Mr. LaBella, and I think that anticipation and expectation are things which have to be taken into account.

Attorney General RENO. I can tell you that I have seen an awful lot of people think they might get it, but not expect that they would. And just think of how you would feel if somebody said the Senator is going to recommend me.

Senator SPECTER. Well, there is a history which I have heard about on Mr. LaBella not being consulted by the Department of Justice on matters that he has as U.S. attorney, contacts that he has made with the Department; that he has been ignored, not by you personally, but by others.

Attorney General RENO. If he has any problem in which he has been ignored, he knows, because everybody knows, you pick up the phone and call me. The number is * * *, and I call ——

The CHAIRMAN. Well, gee, don't give that out, General Reno. [Laughter.]

Senator SPECTER. This is being played on C–SPAN at 3 a.m. There are hardly any people watching.

Attorney General RENO. Ms. Bena is going to get upset with me, but I just want to make clear that that is——

Senator SPECTER. Well, they will all be calling you at 3 a.m., Attorney General Reno, but I know you will be there to take the calls because I know your hours.

But I really, with all respect, don't think that is an adequate answer to think that LaBella——

Attorney General RENO. Well, how would you like the answer to be phrased, because the answer is going to be the same? From my point of view, Chuck LaBella's disagreement with me had nothing to do with who the U.S. attorney is for the Southern District of California. And I can't change that because that is my feeling.

Senator SPECTER. I don't expect you to change it, and I understand your answer and I respect your answer. I am on the other point about having him call you up when he is not consulted by people in the Justice Department and people having ignored him and made his——

Attorney General RENO. I will call him when I get back and see what the problem is.

Senator SPECTER. Well, that is fine, but the calls that he is referring to were some time ago.

Attorney General RENO. Well, I will make sure there is no continuing problem.

Senator SPECTER. Well, it is another historical issue at this point and it is a matter institutionally as to how we handle it in the future. But I think you are going to find, Attorney General Reno, that people are going to be reluctant to come from far-away places for special, controversial assignments. And you say you do not want "yes" people, and I respect your answer, but I think you are going to get a lot less independence with what has happened to LaBella even if there is no connection.

I think the inference arises that a lot of people will conclude, and I think that that is an issue which we have to confront. And that is why I have asked you about it, and you have responded and I accept your responses.

Attorney General RENO. Well, one of the things I am delighted to be able to tell you, Senator, is Chuck LaBella was the first of many who were not afraid to say no, not afraid to disagree. There are more that come after him, and he and the people who come after him are one of the reasons that this Justice Department has the reputation it does.

Senator SPECTER. Well, he thinks he lost his job because of it, and I think a lot of other people think that he lost his job because of it. And they all may be wrong, but if they think that, we need to clear the record.

Attorney General RENO. Senator, a U.S. attorney confirmed by the Senate of the United States after nomination by the President

has a job, and there is a process. If we want to change the process so that the Justice Department chooses the U.S. attorneys, then we can do that. But it is a process that has been developed over time.

Senator I hate to ask you, but I—as I told you, I am going to have to leave.

The CHAIRMAN. Yes. I think, Senator, if——

Senator SPECTER. Well, thank you very much, Attorney General Reno, and if you would follow through as we have discussed, search your files, and if there is any reference to Mr. LaBella with respect to his work on the task force which relates to what happened with the appointment of the U.S. attorney, I would appreciate being informed.

Attorney General RENO. I will do so.

Senator SPECTER. Even if you can't let us have them, I appreciate being informed as to what documents are in existence.

Attorney General RENO. I understand.

Senator SPECTER. Thank you very much, Attorney General Reno.

Attorney General RENO. Thank you.

Senator SPECTER. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Specter.

I just have to say that we traditionally do not hold nomination hearings on U.S. attorney nominees, as everybody knows. But as the Attorney General knows, I do share Senator Specter's concerns. Mr. LaBella, in my opinion, did make a very effective and convincing and compelling public case and written case for the appointment of an independent counsel, and it just happens to be one of the things we pretty strongly disagree on. On the other hand, I think people like Chuck LaBella are the reason why the Justice Department has—one of the reasons why the Justice Department has such a good reputation.

I would just like to ask one or two additional questions, if we can. I will try and finish by about quarter after, which would be about 15 minutes earlier than we said we would. You have to be back at 11:30?

Attorney General RENO. At 11:30.

The CHAIRMAN. Let me just finish with this, then. I will cut my questions short.

In the Department's budget request, under the Office of Justice Programs, the Department also requests $35 million in new money for grants to develop, "alternative methods of punishment for young offenders instead of traditional forms of incarceration and probation." Now, the alternative methods you list include, "education and job training."

Now, you know, I support prevention efforts. I believe we should always try to keep our young people busy and out of trouble. Education funded through the appropriate agency can certainly be an appropriate part of these efforts. In fact, my juvenile crime bill provides for alternative education demonstration projects through the Department of Education. But I am perplexed about how the Department of Justice proposes to fund education for young offenders.

I was one of the prime authors of the Job Training Partnership Act and worked in this area for a long time. Job training is altogether a different matter. Until recently, we had at least 155 different job training programs on the books, at a cost of about $25

billion annually. Last year, through legislation, there was an effort to consolidate these programs.

Now, is the Department of Justice getting into the education and job training business? That is what I am concerned about because we have all of these other areas. And as much as I would like to increase the committee's jurisdiction, I don't think that is our committee's jurisdiction, nor do I think it is really Justice's jurisdiction.

Attorney General RENO. I would like to provide you—I do not have it with me because I did not anticipate that question in that way—what the Department of Justice is doing in the Bureau of Prisons in terms of preparing people to function in a self-sufficient manner when they leave prison.

The CHAIRMAN. I understand you may not be prepared to answer the question at this time. I will allow you to respond in writing.

Attorney General RENO. OK.

The CHAIRMAN. I am concerned that the Department of Justice may be duplicating the work of other agencies and venturing into areas outside of the Department's jurisdiction, such as job training.

Attorney General RENO. What I want to try to do—if a 17-year-old is arrested for auto theft and serves some time and then comes out without a job, without a skill that can enable them to earn a living, he is going to be doing it again. I am not sure—I may not understand your question because education and training have been so key to so many.

The CHAIRMAN. Well, I will submit these questions. We just got the answers last night, but I am concerned that we duplicate programs that are already in existence. Now, look, if it is for helping kids, rehabilitate them while they are in jail, that may be another——

Attorney General RENO. Or not in jail. If it is a person on probation and the—I mean, it goes back to what Senator Specter and I were talking about. The more we can focus on kids that have a chance of getting off on the right foot, the better it is. But let me make sure that I address your concerns.

The CHAIRMAN. Well, I am with you, but make sure you are right on that because that isn't the way I have read it, but maybe I have got it wrong.

Now, just one last issue I want to discuss with you as we get to the next hearing in April is the independent counsel reauthorization. I have drafted a bill that would replace the current Independent Counsel Act. The bill I have drafted is based on the procedure used successfully in the Teapot Dome scandal. It has been carefully drafted to avoid the constitutional challenges and complaints that have plagued the current statute.

Also, I believe that it would be much easier to administer than the current law. And while the bill will be more narrow in scope than the current statute, I believe that it will still be effective in the investigation and prosecution of high-ranking executive branch officials and close associates of the President. As you well know, such investigations by the Department of Justice can create a conflict of interest because the Department of Justice is within the executive branch.

Now, I would like very much and appreciate very much your recommendations in this area. I would like to work with you on it and

I would like to have your opinions on this issue, and I would look forward to meeting with you about that particular issue. I don't want to get into it now, naturally, but I would like to do that.

Attorney General RENO. I would welcome the opportunity to meet with you and I will work with you in every way that I can.

The CHAIRMAN. That would be great. Now, one last thing. When I learned today that Judge Starr had referred to the Department of Justice for further investigation an investigation he had initiated into possible leaks by a member of the Office of Independent Counsel staff, it confirmed what I have said and known all along about Ken Starr. He is a man of integrity and honesty who can be trusted to take swift and appropriate action even when it may involve one or more of his own employees.

Now, his willingness to investigate this particular matter and take the action we have read about, it seems to me serve as evidence of his impartiality and trustworthiness. In addition, his actions with respect to this matter cast great doubt on the assertion by some of the President's political appointees in the Justice Department that Judge Starr should not be trusted and that a broad DOJ-driven investigation into year-old allegations against his office is necessary.

So I just wanted to make that comment because I think that the way he is handling this is typical of the way he has always handled matters, and I think fairly and honestly and in a straightforward manner. And so I watch all of this with great particularity, deference and interest. Naturally, we have differed to a large degree on requests for appointments of independent counsels, and we will get into that the next time. But I just wanted to make that comment today about Judge Starr that he is a man of integrity and decency, and I think this just shows it and points it up one more time.

Attorney General RENO. I appreciate that very much, and I have avoided from the beginning making any comment whatsoever for or against so that if I made comments for and then didn't make a comment, it would not be taken one way or the other.

The CHAIRMAN. I appreciate that. I want you to know that I thought we had until 11:30. That is why I let Senator Specter go on a little longer than normal. But we are going to finish right here at 11:15.

Attorney General RENO. If I weren't coming back, I would——

The CHAIRMAN. I understand. No, no, I don't expect you to do any more. We will submit all further questions in writing, and if anybody has any questions on the committee, we will open it up for all committee members to submit questions in writing as long as they are in by 6 p.m. today. And if you could answer those as quickly as you can, we would appreciate it, so that we at least make this record on the budget.

I want to thank you once again for your cooperation. I hope this hasn't been too unpleasant for you, and the next one, I think, is going to be a wing-dinger of a hearing, at least it looks like it to me.

Attorney General RENO. Well, let me make this suggestion. I bet if you and I work at it, we can get all our disagreements out without it being too much of a wing and too much of a ding.

The CHAIRMAN. Well, I like wing-dinging. [Laughter.]

We don't get too many of them around here. But you are right. We can work together. We can solve most of these problems.

Attorney General RENO. I think we can have spirited discussions without fierceness.

The CHAIRMAN. That is right. Well, yes, you used that term last time with regard to me, and I was just being my normal self and you called me fierce.

Well, it is great to have you with us, and we look forward to seeing you then.

Attorney General RENO. Thank you.

The CHAIRMAN. And we will look forward to continuing to work with you.

So with that, we will recess until further notice.

Attorney General RENO. Thank you.

[The prepared statement of Attorney General Reno follows:]

PREPARED STATEMENT OF JANET RENO

Good morning Chairman Hatch, Senator Leahy, and members of the Judiciary Committee. It is a pleasure to appear before you today to discuss our crime fighting strategy in the context of the President's fiscal year 2000 budget request for the Department of Justice. I appreciate this opportunity to review our plan for building upon the strong foundation that the bipartisan support of this committee has helped established for effectively combating crime and violence nationwide.

For fiscal year 2000, the President's budget includes $21 billion for the Department of Justice—a $317 million increase over last year—to continue fighting crime, combating cyberterrorism, curbing drug abuse, and incarcerating felons.

Since I became Attorney General in 1993, funding for the Justice Department has increased more than 88 percent, and funding for state and local law enforcement has risen by a whopping 294 percent. With these increased resources, we have seen a steady fall in crime. The Nation's violent crime rate has dropped more than 20 percent over the last six years, and our murder rate has fallen to its lowest level in three decades. Our investment is paying off. With your help and support, I believe this positive trend can and will continue into the next century. And I believe our budget blueprint for fiscal year 2000 will keep us on the path for continued success.

For too many years, as a prosecutor in Miami, I saw how gangs, drug trafficking, and violent crime ravaged our neighborhoods. When I came to Washington, I knew that the only way that federal, state and local law enforcement could improve public safety and make a real difference in our communities would be to dramatically change what had become business as usual in the criminal justice system.

And, with the support of the Senate Judiciary Committee and aided by the 1994 Violent Crime Control and Law Enforcement Act, we have done that—changing basic law enforcement practices, uniting federal, state and local crime control efforts, directing new resources for crime control into *effective local efforts,* and working hand in hand with local communities to prevent crime and reduce recidivism. We have been implementing what we know works in a coordinated and comprehensive manner nationwide. These concepts, embodied in the 1994 Act and supported by a bipartisan special six-year federal funding commitment, have changed business as usual.

Ten years ago—with violence associated with drug use on the rise—few would have believed that crime rates could be reduced. Ten years ago, there was no strong, effective federal, state and local partnership or comprehensive strategy to combat crime in our local communities.

Much has changed. Now, six years into the implementation of our comprehensive community-based strategy, crime has dropped to its lowest level in a quarter of a century. Murders alone have fallen by more than ten percent in larger cities and suburban counties. And, after increasing steadily in the mid-1980s through the mid-1990s, juvenile crime arrest rates are down for the third year in a row—a total decline of 23 percent.

While much remains to be accomplished, we can be proud that, working together, we have been reinvigorating anti-crime efforts and catalyzing change nationwide by making significant new resources and tools available for local law enforcement as-

sistance. From new police officers to prison construction, we have provided increased resources to help fight crime in communities across America. We are working with local law enforcement to break up gangs, dismantle drug trafficking organizations, and target violent offenders.

Clearly, our investment over the past six years has paid off and will continue to accrue benefits. But the key to this success, and the key to our future progress is not just more funding or more police, prosecutors, and prisons, or tougher laws on the books. Over the past six years, we have been attacking the crime problem with a new strategy, a new theory rooted in active and involved communities. People used to think that we should leave the problem of crime to law enforcement. We now know that law enforcement, armed with all the resources in the world, can only succeed with the local community's support. In the past six years, our efforts have encouraged communities across this country to rally behind law enforcement as never before to produce the gains that we have seen in the battle with crime.

We have heavily in this systematic and comprehensive approach to attacking crime for six years since the enactment of the 1994 Crime Act. Prior to that legislation, I believe that much of our federal intervention was an immediate response to a crisis situation as opposed to along term strategy. In 1994, when the Crime Bill was enacted, its focus was on building partnerships with our state and local counterparts. Those partnerships were the catalyst for institutional changes at the local level while respecting the independence of state and local law enforcement.

Our fiscal year 2000 budget request of $21 billion for the Department of Justice includes a $317 million increase over last year. This increase will allow us to provide a more highly focused approach to fighting crime at the state and local level, to combat cybercrime and terrorism, to curb drug abuse, to enforce our immigration laws, to improve federal law enforcement efforts in Indian country, and to accommodate the rise in our federal prison population. It is consistent with the Bipartisan Budget Agreement. It proposes to utilize the full amount authorized in the Violent Crime Reduction Trust Fund for crime programs and to adjust to the tapering off of funding envisioned at its inception. It seeks to cement recent gains while allowing us to focus limited resources on key federal responsibilities. By sharpening our focus on federal responsibilities, we assure that we preserve and extend the gains we have realized into the challenges of the next century. This budget allows us to maintain the appropriate balance of federal, state and local responsibilities and to target resources where more progress is needed.

FIGHTING CRIME IN COMMUNITIES

We need a full arsenal of innovation strategies and programs—from high tech solutions to community-based prevention programs—to reduce crime even further. We know that there is no single solution to the crime problem. Our approach must be comprehensive and multi-faceted, combining and interconnecting enforcement, punishment, prevention, and community involvement at the local level. To build on our progress and to fulfill our federal leadership role to help communities across America, our budget proposes to support programs that foster the development of technological capabilities and combine enforcement, prosecution, punishment, prevention, and community involvement at the local level.

Specifically, the budget seeks nearly $1 3 billion for a 21st Century Policing Initiative to help communities like those in Utah and Vermont, among others, build upon their efforts under the successful COPS program. Of this amount, $600 million has been targeted to allow the continued hiring of new police officers—particularly in high crime areas—to address retention in the neediest communities, and to redeploy those who are already employed. Another $350 million will establish a Crime Fighting Technology grant program to address the wide array of telecommunications and forensic science needs of state and local law enforcement—a particularly great need among the lower budget, smaller and rural communities. The initiative also provides $200 million for a Community Prosecution grant program to help restore citizens confidence and involvement in the justice system by helping communities hire, redeploy and train badly needed prosecutors who are stationed in, and work within, the neighborhoods they serve.

Time and time again, I am told by line officers throughout this country that effective law enforcement relies heavily on community involvement with strong prevention at its core. To assist neighborhoods and communities in their efforts to develop and implement comprehensive crime prevention and reduction strategies, another $125 million is included for a Community Crime Prevention Program. Building on existing programs, such as Weed and Seed, this new initiative will fill critical gaps in support for local public safety efforts that current Department funding—both formula and discretionary—cannot fill. The program will also support direct funding

for crime and delinquency prevention programs that utilize promising approaches in preventing and reducing crime and delinquency, and in strengthening partnerships between community groups, schools and criminal justice and juvenile justice agencies in their efforts to fight crime and delinquency.

And, as you are well aware, an essential building block for community safety is peaceful relations. The budget before you includes an increase of $2.13 million for the Community Relations Service (CRS) to improve the delivery of conciliation services to communities threatened with racial unrest and violence.

KEEPING GUNS OUT OF THE HANDS OF CRIMINALS

To help communities keep the crime rate down, and reduce it to even further historic lows, we *must* address the issue of gun violence. Every year, approximately 14,000 Americans are murdered with a gun.

While gun violence may not be a uniquely American problem, it is certainly one in which we stand out. To bring this issue into sharper focus, I want to share with you a statistic that I find truly stunning: From 1992 through 1996, Toronto, Canada experienced exactly 100 gun homicides. In contrast, Chicago, an American city of comparable size, had 3,063 gun homicides during that same time period. Clearly, reducing gun-related injuries and deaths should be a national priority and a central part of any strategy to reduce crime.

The Department's gun strategy involves three important components: prevention, interdiction and enforcement. To complement the additional state and local prosecutors requested in our fiscal year 2000 budget, and the additional Alcohol, Tobacco, and Firearms (ATF) agents included in Treasury's fiscal year 2000 request, we are seeking $5 million to conduct intensive firearms prosecution projects under the leadership of U.S. Attorneys Offices.

Building on the success achieved in reducing violent crime in Boston, Massachusetts and Richmond, Virginia, these funds will be used to hire and dispatch more than 40 federal attorneys to select cities across the country to prosecute criminals who possess guns. Once there, these prosecutors will team up with their local counterparts to develop comprehensive strategies for the prosecution, prevention, and disruption of gun violence in their communities. They will work together to identify those crimes that should more appropriately be brought in federal court. Violent felons, armed drug traffickers, and firearms' offenders will all get the message: Carry a gun and you'll do more jail time.

Another $49 million is requested for three Offices of Justice (OJP) grant initiatives which address the problem of youth and guns. Within this amount, $4 million is requested for the National institute of Justice to support a new Childproof Gun and Gun Detection Technology Program to expand development, testing, and replication of "smart gun" technologies. Once fully developed and tested, these new "smart gun" technologies will allow law enforcement officers' weapons to be more safely and reliably secured and will help prevent accidental deaths to children who have access to firearms.

Also included is $10 million, earmarked within the At Risk Children's Program, for the Prevention and Reduction of Youth Gun Violence. This program, currently being implemented and evaluated in four cities, seeks to reduce juveniles' illegal access to guns and address the reasons they carry and use guns in violent exchanges. Communities participating in the program are required to implement seven program strategies which together represent a comprehensive approach to addressing the prevention, intervention, and suppression of youth gun violence. These new resources will enable the Department to expand this grant program in fiscal year 2000 to 2025 new communities.

One third piece addressing the problem of youths and guns is a $35 million request in grants for states and units of local governments to develop alternative methods of punishment for young offenders instead of traditional forms of incarceration and probation.

National Instant Check System (NICS): What you will not find in this budget is money to operate the Brady Law's National Instant Check System (NICS)—a critical component of our gun strategy that went into effect on November 30, 1998. In its first 12 weeks of operation, the NICS processed checks for more than two million gun transfers. Of these checks, the states that have agreed to serve as partners with the FBI in conducting background checks—we call them "Points of Contact" or "POCs", processed 990,364. While we do not yet have solid numbers for denials that the state POCs made, we do know that the FBI checks resulted in 22,290 denials of gun transfers. This means that more than 22,000 persons who should not have guns did not get them as a direct result of the National Instant Check System

(NICS). Clearly, the effective operation of the NICS is a very important priority and essential to our efforts to reduce gun violence.

Funding for the National Instant Check System (NICS) does not appear in the fiscal year 2000 budget request because we are proposing that the operational costs of the NICS be funded through a user fee to be paid by gun purchasers. As you know, Section 621 of the fiscal year 1999 Department of Justice Appropriation Act prohibited the Federal Government from charging a fee. Understandably, many states have found it politically difficult to continue imposing a state user fee for background checks when the Federal Government performs the checks free of charge. This prohibition has had the effect of discouraging states from serving as point of contact for NICS checks, and has pushed more workload to the federal level.

A federal user fee, therefore, makes sense from both a public safety and an appropriations' viewpoint. Background checks by POC states are generally more thorough because criminal justice records at the state level tend to be more complete and readily available. And, from an appropriations point view, the costs to the Federal Government rise as states discontinue their participation as POCs.

COMBATING CYBERCRIME AND TERRORISM

Our growing dependence on cyber networks makes us vulnerable to the destruction of or intrusion into those networks. We must be prepared to fight this new cyber threat with new tools.

Last year, we were able to establish the National Infrastructure Protection Center (NIPC) to deter, detect, analyze, investigate and provide warnings of cyber threats and attacks on critical infrastructure. Since computers are essential in our day-to-day lives, they play a large role in the crime that is perpetrated—not only cyber terrorism, but also other types of illegal intrusions, including fraud schemes and the dissemination of child pornography.

In order to improve our ability to deal effectively with computer crimes, we *must* raise the general level of computer competence among agents, prosecutors, and investigators—aggressively training our current staff to have the requisite expertise for these types of investigations and hiring computer experts, where necessary. Our fiscal year 2000 budget request includes funding for these vital efforts.

Specifically, the fiscal year 2000 budget request for the Department of Justice includes $122.6 million in counterterrorism/cybercrime program increases. For the FBI, we are seeking $45.7 million to add 60 agents and support staff to create 12 additional cybersquads to identify, investigate, and prevent threats and unlawful acts targeting the critical infrastructure of the United States, including illegal intrusions into government computer networks, protected civilian computers, and the national information infrastructure. We are also seeking 79 computer forensic analysts for the FBI's field offices and Headquarters.

For the U.S. Attorneys, we are seeking $7.3 million and 87 positions to develop a global response to cyber attacks and to help prosecute the increased number of cases involving computer and high-tech crimes. Increasingly, attorneys are confronted with cases involving sophisticated computer use by terrorists and other criminals. More prosecutors with an understanding of computer technology are critically needed. Nearly $2 million is included for nine additional Criminal Division attorneys to help resolve unique issues raised by emerging computer and telecommunications technologies, litigate cases, provide litigation support to other prosecutors, train federal law enforcement personnel, and coordinate international efforts to combat computer crime.

The Department's fiscal year 2000 request also includes $27 million for the Counterterrorism Fund to reimburse federal departments and agencies for costs incurred in support of countering, investigating, or prosecuting domestic and/or international terrorism. And, another $38.5 million is included to expand the Office of Justice Program's domestic preparedness efforts by supporting the new domestic training center in Alabama, and by purchasing additional equipment to protect first responders and detect chemical or biological weapons. This increase is in addition to the $135 million in funding provided in fiscal year 1999, bringing the total funding available for First Responder domestic Preparedness grants to state and local governments to $173.5 million in fiscal year 2000.

DRUG TRAFFICKING AND DRUG ABUSE

Our budget request seeks to step up our efforts to control the flow of illegal drugs and cut down on demand, with an increase of 2.5 percent over fiscal year 1999, including growth in direct federal, state and local assistance. With these increased funds, the Department of Justice will have a budget of nearly $8 billion to fight drugs next year. This funding level will enable us to better coordinate investigations

and hire additional criminal attorneys to prosecute complex, international drug trafficking cases. And, on the drug prevention side, the funds will be used to expand the drug court program; implement proven programs that help prevent our young people from turning to or continuing to use drugs; and step up our efforts to drug-test and mandate inmate treatment so they don't return to using drugs as soon as they are released from prison.

Drug Law Enforcement: Specifically, resources for the Drug Enforcement Administration (DEA) will grow to $1,469 billion, including $22 million in program enhancements. Within this amount $9 million is targeted to augment the Special Operations Division—which supports major federal drug enforcement strategies, including the Southwest Border, the Caribbean Corridor Strategy, and the Methamphetamine Strategy; and $13 million will be used to accelerate Phase II of its FIREBIRD office automation project. FIREBIRD provides access to DEA's investigative databases, containing intelligence information on alleged criminal activity which enhances DEA's ability to more efficiently and effectively conduct complex drug investigations.

In the same way that drug traffickers use sophisticated technology to manage their drug empires, drug law enforcement must have the tools to expand its capabilities and keep pace with an ever-changing world. In addition, the fiscal year request includes $1.13 million for the Criminal Division (CRM) for its support of DEA's Special Operations Division. These monies will enable CRM to increase efforts devoted to prosecuting the complex cases that result from these drug investigations and support the processing of Title III wiretaps. Because the war on drugs and international crime as a whole have expanded beyond the borders of the United States, the Division's request includes two attorneys to be placed overseas, in Asia and the Middle East.

Zero Tolerance Drug Supervision Initiative: A $112 million increase is provided to fund a $215 million initiative to promote drug testing and treatment. Recent studies have confirmed that our fight against drugs must include efforts to break the cycle between drug use and criminal activity. A report released by the National Center on Addiction and Substance Abuse at Columbia University, which draws heavily from national data compiled by the Department's Bureau of Justice Statistics, found that 80 percent of people serving time in our state and federal prisons were either high at the time they committed their crimes, stole property to buy drugs, violated drug or alcohol laws, or have a long history of drug or alcohol abuse. And, parolees who continue to use drugs are much more likely to commit crimes that will send them back to jail.

The findings are clear: we must stop the revolving door and break the cycle between drugs and criminal activity. To do this, we've included $100 million to establish a Drug Testing and Treatment Program that will provide discretionary grants to states, local governments, state and local courts, and Indian tribes. These grants will support programs to implement comprehensive drug testing policies and establish appropriate interventions to illegal drug use for criminal and juvenile justice populations. I strongly believe that systemic drug testing is an important tool for criminal and juvenile justice agencies concerned with controlling drug abuse among offender populations. And, when compared to substance abusers who voluntarily enter treatment, those coerced into treatment through the criminal and juvenile justice systems are just as likely to succeed.

Preventing Juvenile Drug Abuse: Our request also includes $20 million for the Juvenile Justice Drug Prevention Demonstration Program that began two years ago. designed to develop, demonstrate and test programs to convince young people that drug use is risky, harmful, and unattractive, the fiscal year 2000 budget request will fund up to 280 new program sites, reaching approximately 1,000 middle school students per site.

DETAINING AND INCARCERATING FELONS

As we investigate and prosecute more criminals, the federal felon population continues to grow. The number of federal detainees has increased annually by an average of 13 percent over the past decade, and by even more in the past few years. And, the federal prison population has increased by 142 percent over that same time period. Even though meeting this demand for additional detention and prison bedspace is costly, it cannot be ignored. The Department's fiscal year 2000 budget seeks $738 million in increased resources to meet this mandatory requirement.

Specifically, our request for the Federal Prison System includes $607.5 million to construct three new prisons—2 of which will add capacity for District of Columbia felons—and to cover the startup costs incurred in connection with the construction of six more, including three that will add capacity to house long-term, non-returnable INS detainees—a population that has been steadily growing over the last few

years. Finally, the request includes resources to activate five other facilities to address the 28 percent overcrowding rate systemwide.

These funds will also allow us to meet the conditions of the National Capital Revitalization and self-government Improvement Act of 1997, which requires that at least 2,000 District of Columbia sentenced felons be housed in contract facilities by December 31, 1999. However, because the original Request for Proposal (RFP) to fulfill this requirement was modified to accommodate more stringent security requirements, there is the possibility for a short delay in the actual transfer of these sentenced felons from the D.C. Department of Corrections to BoP contract facilities. If these delays are realized, reimbursements for this population will occur between the Bureau of Prisons (BoP) and the D.C. Corrections trustee. This action should not, however, affect the closure date for the Lorton Correctional Complex.

For the United States Marshals Service (OSMS), our request includes $119.6 million to fund the costs associated with approximately 8.87 million contract jail days, 2.1 million above the anticipated fiscal year 2000 base level. The detainee population has grown considerably over the last few years due to significant increases in apprehensions by our growing law enforcement personnel at the FBI, DEA, and the INS Border Patrol. As a result, we are reaching a crisis situation in paying for bedspace to house detainees awaiting trial. Indeed, for fiscal year 1999 we will be facing a shortfall in the Federal Prisoner Detention account. I am attempting to address our shortfall from within existing Department resources. And, we have engaged a firm to develop a model that should enable us to better predict our future detention needs.

We are also requesting a $10 million increase for the Cooperative Agreement Program (CAP), providing a total of $35 million, to enable the USMS and the INS to obtain detention space in cities and towns where detainee populations are large and detention facilities limited.

In addition to the needs of the Federal Prisoner Detention program, the fiscal year 2000 budget request includes nearly $27 million in increased funding for the U.S. Marshals Service to handle the increased workload generated by staff increases in other federal law enforcement agencies, and to provide the personnel and equipment necessary to ensure that new courthouses and new courtrooms in existing facilities can open on schedule and with adequate security.

In many ways, the Marshals Service work is uncontrollable since the Marshals' organization must meet the needs of the Judiciary and our investigators and prosecutors. The Marshals do not control the number of threats that judges may be confronted with, nor do they control the number of prisoners coming into their custody. I have had the Department review USMS spending in 1999 and believe that the Marshals Service must be fully funded in fiscal year 2000 if it is to have a chance at fulfilling its mission.

INS CENTRAL AMERICAN DETENTION SHORTFALL EMERGENCY SUPPLEMENTAL

Exacerbating the already untenable situation we face with limited detention bedspace and funds to cover the costs of housing the alien detainee population in state and local jails, the mass destruction left in the wake of Hurricane Mitch resulted in the suspension of all alien removals to Honduras, Nicaragua, El Salvador and Guatemala during the two months immediately following the Hurricane. While limited controlled removals have begun, the pace remains slow. In addition, limited detention bedspace means that INS is unable to accommodate large numbers of illegal border crossers, particularly those from Central America. If this situation continues, INS is concerned that many more people will attempt to illegally cross the border. As a result, it is estimated that $80 million will be necessary *in fiscal year 1999* to support these increased detention requirements.

On February 16, 1999, the President submitted the fiscal year 1999 Emergency Supplemental for Central American Disaster Relief which includes the $80 million for INS detention requirements I have just described. I appreciate the swift action Congress is taking to address these emergency requirements. Without these additional monies, our detention crisis will only become moreangerous and unmanageable.

IMMIGRATION

Beginning in 1994, the Administration, with the strong backing of Congress, embarked on an unprecedented effort to strengthen our ability to control the flow of illegal immigration into this country. This effort has included doubling the size of the Border Patrol, adding more than 1,900 Immigration Inspectors to better facilitate the flow of legal travelers and identify those seeking entry illegally, and establishing an interior enforcement strategy that works in concert with our efforts along

the border. We continue to deploy field-tested, effective technologies, and we have struck accords with other agencies, such as the U.S. Customs Service, enabling our philosophy of "enforcement through deterrence" to successfully evolve. The fiscal year 2000 budget request continues this aggressive effort, but also reflects important management considerations that can no longer be ignored.

Specifically, no funding is requested to increase the number of Border Patrol agents in fiscal year 2000. The request continues Border Patrol staffing at the fiscal year 1999 level of nearly 9,000 agents, a 122 percent increase from the fiscal year 1993 level of 3,965 agents, and allows us the time to ensure that we sustain the professionalism and integrity of our Border Patrol agents.

In March 1995, I committed to having 7,281 Border Patrol Agents on board by the end of fiscal year 1998. We have met and exceeded this figure. Today, we have on board 8,040 Border Patrol agents. Our initial projection for fiscal year 1999 end of year strength was 8,947. However, I am concerned that the difficulties we are currently experiencing in recruitment may leave us short of this level.

The high proportion of new agents make it necessary that they be allowed sufficient time to integrate into the Border Patrol corps in order to safeguard the highest standards of law enforcement professionalism for this new workforce. Law enforcement experts indicate that it is very risky to allow an agency's overall ratio of inexperienced to experienced agents to exceed 30 percent. When it does, the agency will find it difficult to maintain performance, professionalism and integrity.

Some municipal police departments have struggled with significant corruption and performance problems when they have greatly expanded their uniformed force in a short amount of time. INS cannot guarantee that it will not have the same problems. In a recent study, it was determined that the percentage of Border Patrol Agents having two years or less service as of July 18, 1998, was almost 39 percent compared with October 2, 1993, when only 15 percent of Border Patrol Agents had less than two years of service. It is essential that the large numbers of new Border Patrol agents be given time to assimilate and to gain critical and valuable experience.

The fiscal year 2000 budget maintains the Administration's commitment to *border control* with its request for $50 million to increase force-multiplying surveillance technology which, through the Integrated Surveillance Intelligence System (ISIS), provides the capability to monitor the border from remote sites. ISIS will relieve Border Patrol Agents from having to go to sites needlessly, thus increasing their effectiveness while giving the Border Patrol time to raise experience factors to acceptable levels.

In addition, the fiscal year 2000 request includes $6 million for new border inspectors in Texas; $20 million in increased funding to transport and remove aliens in INS custody and to increase detention space; and, $70.6 million to plan and construct new detention facilities, new Border Patrol Stations, and Sector Headquarters space.

TARGETING CRIME IN INDIAN COUNTRY

A February 1999 Bureau of Justice Statistics Survey found that American Indians are victimized by violent crime at a rate more than double the general population. Recognizing this severe problem, the fiscal year 2000 budget includes $124 million to fund the second year of our Indian Country Law Enforcement Initiative, begun last year. Using funds appropriated in fiscal year 1999, the Department has been working closely with the Department of Interior to address the critical need for better law enforcement in Indian Country and to find new ways to deliver resources to tribal communities in the most efficient manner. To that end, the Department, through its grant programs, is encouraging tribal communities to work together through intertribal or regional cooperation so that we can have the greatest impact with current resources. The Department is also developing a model project on three reservations—the CIRCLE Project—to assist tribal leaders in developing a comprehensive plan to address their communities' problems. I hope that this project will serve as a model for future, comprehensive efforts to improve public safety in Indian Country.

To build on the efforts we began with fiscal year 1999 resources, the fiscal year 2000 request includes $45 million for the hiring, equipping, and training of Indian Country law enforcement officers through the 21st Century Policing Program; $34 million for the construction of badly needed corrections facilities; $10 million for alcohol and substance abuse treatment in Indian Country as part of the new Drug Testing and Treatment Program; $20 million in At-Risk Youth Initiative funds to assist Indian tribes to prevent and control delinquency, improve their juvenile justice systems, and improve coordination and cooperation between tribal governments,

federal agencies, and other organizations serving Indian youth; $5 million to continue the Tribal Courts Program; $5 million from the Police Corps Program to increase the number of police in Indian country with advanced education and training; $2 million to conduct a national census of tribal criminal justice agencies and related statistical activities to improve the Nation's understanding of crime and the administration of justice among Native Americans; and, $3.2 million and 26 assistant United States attorneys to investigate and prosecute crimes in Indian Country where Federal law enforcement is the only avenue of protection for victims of such crimes.

DEPARTMENT LITIGATION

The Department's fiscal year 2000 budget request includes $59.5 million in program increases for the litigating divisions of the Department of Justice. As responsibilities and caseloads continue to increase, these additional resources are critical to the Department's ability to prevent, investigate and prosecute unlawful activities.

Within these increased resources, $21.7 million is included to provide payments of claims expected to be approved under the Administration's proposed amendments to the Radiation Exposure Compensation Act; and, $9.55 million from pre-merger filing fees is requested for the Antitrust Division to maintain its criminal enforcement program and to meet its statutory requirements related to reviewing and investigating the increasing number of mergers.

For the Civil Rights Division, we have included $8.23 million to expand efforts to prosecute hate crimes, step up the enforcement of fair housing and fair lending laws, and protect the rights of Americans with disabilities. Another $20 million is included for the Civil Division: $5 million to investigate and prosecute the *Columbia/HCA* matters, where fraud has been alleged in virtually every aspect of the largest health care conglomerate in the United States; and, $15 million for tobacco litigation. Like the states, the federal government has expended considerable resources to combat tobacco-related illnesses, incurring significant expenses through Medicare, CHAMPUS, the Veteran's Administration, the Department of Defense, and the Indian Health Service. With these new resources, the Civil Division will aggressively pursue claims against responsible third parties to recover such expenses. In addition, $5 million is requested to cover the cost of anticipated expert witnesses in the tobacco litigation.

For the U.S. Attorneys, we are seeking $5 million to handle an expanding defensive civil caseload for tort litigation, employment discrimination, Social Security disability, and prisoner litigation. Also, another $5 million is requested to implement the provisions of the Child Support Recovery Act of 1996 and the Deadbeat Parents Punishment Act of 1998.

OTHER JUSTICE DEPARTMENT INITIATIVES

In addition to the special initiatives I have outlined thus far, the Department's fiscal year 2000 budget includes $171.25 million for other important program enhancements. These include funding communications, to respond to Congressional concern regarding the timeliness of Office of Inspector General investigations, and to improve FBI intelligence collections and management capabilities.

Information Resources Management: Specifically, $80 million in additional funding is requested to improve the information sharing abilities of the Department and to upgrade much needed legal and management tools. Within this amount, we are seeking an additional $38.8 million to continue to move forward with the FBI's Information Sharing Initiative (ISI), which supports the FBI's overall information technology, specifically its Information Collection and Analysis Strategy critical to the success of FBI operations; and, $37 million for Legal Activities Office Automation (LAOA) to upgrade critical legal and management tools within the Department.

Narrowband Communications: Another $56.6 million is requested to accelerate the conversion of the Department's wireless radio communications to narrowband operations, and to support the Wireless Management Office within the Justice Management Division as directed by Congress.

Federal Bureau of Investigation: And, $14.5 million in additional funding is included for FBI law enforcement services, including the federal offender DNA database, improved connectivity between state and local crime labs and the FBI, and to begin equipping the new FBI laboratory. Also, $5.8 million is requested to improve FBI intelligence collections and management capabilities.

Office of Justice Programs: In addition, within total funding for the Office of Justice Programs, $7.75 million will be used for new civil rights and hate crimes initiatives. Of this amount, $5 million is included to create civil Rights Enforcement partnerships that will provide competitive grants to help build the capacity of states to

address specific enforcement issues within their jurisdictions by hiring additional staff, primarily prosecutors.

Office of the Inspector General: The fiscal year 2000 budget request includes $7.5 million in increased funding for the Office of Inspector General (OIG), $5 million of which would replace with direct appropriations a reimbursement agreement with the INS for audit, inspection, and investigative oversight that has been in place since fiscal year 1992. This will provide a more streamlined and efficient means of providing funding for the OIG and will eliminate the need for future reimbursements between the OIG and INS for fee-related work. The $2.5 million in requested program enhancements would fund 31 new positions in the OIG's Investigations and Review Unit. These enhancements are essential to enable the OIG to effectively address record numbers of misconduct allegations while reducing its average case closure rate to 180 days.

U.S. Trustee: The fiscal year 2000 request also includes an increase of $4.9 million to meet the ever-increasing number of bankruptcy filings, as well as to provide the U.S. Trustees with new capability for word processing, database management, communications, file-transfer, and security.

CONCLUSION

Mr. Chairman, I thank you for this opportunity to address some of the many issues that confront the Department and look forward to working with you—and the entire Judiciary Committee—in addressing the concerns that we share.

[Whereupon, at 11:16 a.m., the committee was adjourned.]

APPENDIX

QUESTIONS AND ANSWERS

RESPONSES OF ATTORNEY GENERAL JANET RENO TO QUESTIONS FROM SENATOR HATCH

Question 1. I asked if the Department of Justice has considered whether the transaction value thresholds in the Hart-Scott-Rodino Antitrust Improvement Act of 1976 needed adjustments for both inflation and economic impact in today's economy. Essentially, I was asking how the Act can be improved to make more efficient use of the Department's resources and ensure that only those transactions that have a clear and competitive impact are subject to the review. You responded: "It sounds like a very good suggestion, and I would like to talk with Mr. Klein and get back to you so that I don't promise something or agree on something that has some ramifications that I am unaware of." Now that you have had an opportunity to speak with Mr. Klein, please respond.

Answer. Assistant Attorney General Klein and his staff have been working closely with yours on potential Hart-Scott-Rodino (HSR) reform. The Federal Trade Commission (FTC) is also part of the working group, and that progress is well underway at the staff level.

While, at first blush, adjusting or indexing HSR reporting thresholds for inflation may appear to be an attractive alternative, such indexing could have unintended consequences for antitrust enforcement. The Anti-Trust Division, the Office of Legislative Affairs and your staff are working together to consider such concerns as well as reform options.

Antitrust enforcement policy has been refined and improved in the years since enactment of the HSR Act in 1976, and has come to recognize that size alone is not an adequate predictor of a merger's competitive effects. Large mergers can be competitively benign; competition and consumers can also be adversely affected by relatively small mergers. Raising HSR thresholds may cause antitrust enforcers to miss some of these transactions. Higher thresholds could also encourage parties to undertake anticompetitive transactions that are now deterred by the knowledge that HSR premerger notification would be required. We also need to understand the impact such reform could have with respect to particular types of geographic and product markets.

If higher HSR thresholds did in fact cause anticompetitive transactions to escape HSR review, antitrust enforcers would spend additional resources to find out about—and then investigate—those transactions. It may well be significantly more costly—not only to the government but to the parties and, most importantly, consumers—to investigate and remedy those anticompetitive transactions than it would be utilizing HSR as a premerger investigative tool. An efficacious remedy may also be more difficult or impossible if assets have already been combined.

These are some of the considerations that should be taken into account in considering budget neutral adjustments to HSR thresholds. The Department understands HSR reform is of great interest to you. We will continue to work closely with you, your staff and the FTC on HSR reform issues.

Question 2. I asked whether you forwarded to Congress the relevant authorization language for the proposed redirection of Byrne discretionary grants to security measures for reproductive health clinics. Furthermore, I asked if the Department anticipates that this law enforcement funding will go directly to such clinics. You said: "I will check and see with respect to the authority, and will clarify for you just

what the situation is." Now that you have had an opportunity to speak with your staff, please respond.

In fiscal year 2000, $4.5 million is requested to combat the growing number of bombings, arson, and murders associated with health clinics, as well as other incidents of violence extending well beyond legitimate protest activities. This safety measure would build on efforts of the Attorney General's Task Force on Violence Against Health Care Providers and threat assessment criteria developed by the U.S. Marshals Service, as well as consultation with leading experts, including those working within other Office of Justice Programs (OJP) agencies on related issues.

Through existing authorities of the Edward Byrne Memorial State and Local Assistance Program, the Bureau of Justice Assistance (BJA) can provide funding for clinic security assessments and security training for law enforcement and clinic employees. Specifically, authority is provided by 42 U.S.C. 3760(b) and 42 U.S.C. 3751(b)(26). Section 3760(b) delineates eligibility under Byrne, and specifies non-federal public or private agencies, institutions, organizations, or individuals as eligible entities. Section 3751(b)(26), which is Byrne grant purpose area #26, allows Byrne funding to be used for the development and implementation of antiterrorism training programs and programs to procure equipment for use by state and local law enforcement authorities. The OJP General Counsel has interpreted this provision to allow Byrne funding to be used to pay for security assessments and training for law enforcement and clinics, and can pay for equipment for law enforcement only. Existing authorities, therefore, do not allow BJA to provide security equipment to health clinics, even if the equipment is provided through private security contractors.

In order to provide equipment to security contractors for use at health clinics, additional appropriations language was included in the 2000 budget to broaden existing authorities. *The Department of Justice will not provide any funds directly to clinics.* The 2000 President's budget included the following proposed appropriation language which will allow contractors purchases to be provided to clinics:

> * * * and $4,500,000 to provided increased security at health care facilities * * *

If proposed language and requested funding is enacted for 2000, BJA will provide:

Security Assessments—Discretionary grants will be made to private security experts to assess the vulnerabilities in clinic operations and recommend ways to address them. Security assessments of 250–300 clinics will be made at an average of $5,000 per assessment This represents 10 percent of all clinics nationwide.

Equipment Enhancements through Security Contractors—Priority will be given to nonprofit clinics determined to be highly vulnerable by the security assessments. OJP will only consider providing funds for security equipment to clinics where a security assessment has demonstrated the need for such equipment.

Question 3. The Conference Report for the Omnibus Appropriations Act for fiscal year 1999 contains the following language:

> The conference agreement also includes the expectation that the office consider funding a proposal by the Drug Resistance Education (DARE AMERICA) for pilot programs in middle schools particularly at risk to test the recently agreed upon strategies resulting from consultations between the DARE program and prevention experts to improve the effectiveness of this program. The office is directed to work with directly with OJP, which is familiar with DARE, on this grant program.

I understand that the Office of Community Oriented Policing Services (COPS) is reviewing DARE's proposal for $5 million for its Middle School Campaign. Could you advise the Committee of the status of DARE's application for this sum.

Answer. The Department of Justice is deeply concerned with the dangers of drugs and the threat they pose to our nation's youth. Recently we teamed up with the Office of National Drug Control Policy to strengthen community-based coalition efforts to reduce youth substance abuse. That program is called the Drug-Free Communities Support Program and $8.7 million will go to 93 sites under this initiative. Keeping young people off drugs is a high priority for this Administration.

The Conference Report called for the creation of a COPS Methamphetamine/Drug "Hot Spots" program. The COPS Office would use $35 million for state and local law enforcement programs to combat methamphetamine production, distribution and use, as well as to provide the Drug Enforcement Administration with funding to assist state and local law enforcement with cleaning up clandestine methamphetamine laboratory sites. The Conference Report then listed a series of projects designated to receive specific funding amounts under this program—a total of $31.4 million in "earmarks." That left the COPS Office with $3.6 million to use to devise its own

methamphetamine/drug hot spots program. The funding for the DARE initiative, as contemplated in the Conference Report, would come from this remaining funding.

In fiscal year 1998, the COPS Office awarded $5 million in grants under the COPS Methamphetamine Initiative to six jurisdictions to establish innovative, community policing strategies to combat methamphetamine distribution and use. Many communities, particularly in the Midwest, have already expressed a strong interest in receiving funding to target methamphetamine in the current fiscal year. To help meet this need, the COPS Office is planning to implement a similar—methamphetamine grant program in fiscal year 1999 with the remaining $3.6 million.

As required by the Conference Report, the COPS Office did consider DARE's proposal. DARE will be eligible to submit a request for $500,000 of the $3.6 million in methamphetamine funding, leaving $3.1 million for a new COPS methamphetamine/drug hot spots program.

Question 4. I am concerned that the Department's budget asserts authority to charge a fee for National Instant Check System background checks pursuant to the Brady law. Once again, the Administration proposes to collect a transaction fee from dealers for each Instant Check transaction, citing for its authority a provision from the fiscal year 1991 CJS appropriations law (Pub. L. 101–515; 28 U.S.C. 534 note).

This provision states that the FBI may establish and collect fees to "process fingerprint identification records and name checks for non-criminal justice, non-law enforcement employment and licensing purposes * * * A Brady check, of course, is neither an employment nor licensing purpose. Congress's views on the matter are clear. The fiscal year 1999 omnibus appropriations bill included a specific prohibition on these fees during fiscal year 1999.

Please explain how the Department plans to fund the NICS system absent these fees and how you can ensure that such checks are made in a fair and effective manner?

Answer. The FBI's authority to charge a fee for NICS checks is based upon Public Law 101–515 (which can be found at the notes to 28 U.S.C. §534), enacted as part of the 1991 Department of Justice (DOJ) Appropriations Act, which authorizes the FBI to "establish and collect fees to process fingerprint identification records and name checks for non-criminal justice, non-law enforcement employment and licensing purposes." When this law was enacted, it was recognized that the costs of providing name check and fingerprint identification services are considerable, and could affect adversely the FBI's basic law enforcement function. For this reason, Public Law 101–515 expanded the FBI's authority to charge fees.

Prior to Public Law 101–515, the FBI had been limited to charging fees only in cases involving employment and licensing purposes. Public law 101–515 expanded that authority to cover all requests for "other than law enforcement purposes." See FBI Authority to Charge User Fees for Record Check Services. Thus, it added the general fee category of "non-criminal justice" purpose. NICS checks fall into that category because, like employment and licensing background checks, they are part of a general, regulatory clearance process: they are performed to determine a person's eligibility to receive a firearm; they are not performed to investigate suspected criminal activity.

As you point out, the Omnibus Appropriations Act for fiscal year 1999 prohibits the FBI from charging a fee for NICS checks. Because of the prohibition on a federal user fee, we have been funding NICS checks performed by the FBI through appropriations this year. As you recognize, we have not requested appropriations for NICS checks in fiscal year 2000. Instead, the Department's fiscal year 2000 budget deletes the prohibition on the FBI's ability to charge a user fee for background checks. We believe that a user fee provides the best way to fund NICS for at least two reasons.

First, funding NICS through continued additional appropriations will be extremely costly to taxpayers. The FBI required significant additional appropriations to cover the cost of doing checks for fiscal year 1999, and if there is no user fee the cost to the Bureau will be even greater in fiscal year 2000 and subsequent years because the volume of FBI checks will increase significantly. If the FBI continues to perform NICS checks without charging a fee, we believe that states will cease to perform checks as points of contact (POCS) for the system because the states won't be reimbursed for their costs and will leave it up to the FBI to do the work. When the federal fee was denied for fiscal year 1999, a number of states advised us that the prohibition on a user fee would prevent them from remaining as POCS. Indeed, since the Omnibus Appropriations Act for fiscal year 1999 prohibited the fee, Colorado ceased performing checks as a POC based on the fee prohibition. And because there is currently no federal user fee— or any real prospect for reimbursing states for the cost of doing checks—a number of states, including Florida, and South Carolina, have informed us that they will be forced to stop serving as POCS. Fewer

state POCS means many more FBI checks which will have to be funded through annual appropriations. (State POCS are currently handling roughly one half of the NICS checks in the country.) Taxpayers will be forced to shoulder this cost for firearms background checks even though the FBI charges job applicants and others a user fee for similar background checks.

Second, an FBI user fee—which will make it much more likely that states will continue to serve as POCS—benefits public safety and may also result in lower overall costs. If there is a federal user fee, states can continue to serve as POCS, and will conduct the checks charging their own user fee, which is usually lower than the FBI's cost for a check. More importantly, having states serve as POCS enhances the thoroughness and efficiency of the checks. State POCS have access to state records that are not accessible to the FBI, such as mental health records. And state POCS have familiarity with their own state laws and record systems to enable them to complete background checks quickly and accurately.

The user fee previously proposed by the FBI was published in the Federal Register on August 17, 1998, and included a NICS fee in the amount of $14.00. The fee was based upon the actual cost of performing the checks as estimated at that time. More recent estimates were expected to result in a lower fee, if the fee had been implemented. The amount of the fee was determined by using the standard method of calculating Federal fees prescribed by Office of Management and Budget Guidelines. The categories of costs covered by the fee include wages and compensation, appeals, furniture and supplies, travel and training, hardware and software maintenance, miscellaneous, and contractor costs. Further details of the cost analysis are set forth in the proposed rule at 63 Fed. Reg. 43893.

Question 5. The Department's budget proposes $80 million in funding to convert Department of Justice (DOJ) communications systems to narrowband communication systems as required by the National Telecommunications and Information Administration Organization Act. I have concerns over the proposed off-set, which the budget proposes to be derived from a fee assessed on commercial broadcasters for their use of analog channels.

(a) Could you provide additional details regarding this proposed fee, such as which broadcasters would be affected and the expected amount of the fee?

Answer. The Administration proposes that all commercial broadcasters compensate the public for use of the analog channels by paying a nominal fee, which would average $167,000. This fee would be adjustable for viewing population and other factors. A broadcaster is exempt from the fee upon surrendering its analog channel to the Federal Communication Commission (FCC), the current deadline is 2006. The fee would be imposed by the FCC.

Revenues are projected to be $200 million per year through 2005, for a total revenue stream of $1,200 million. Revenues would be raised by the FCC through appropriations law, but the receipts would meet needs identified by the Department of Justice (DOJ), Treasury, and others, to include:

- $80 million for planning grants, technical assistance, and demonstration grants to assist in the development of public safety wireless (radio) systems at the state and local level that are compatible with Federal wireless systems.
- $20 million for pilot projects,— guidelines, and technical assistance to help state and local government develop interoperable and compatible computer systems as part of the Global Criminal Justice Information Network.
- $80 million for law enforcement bureaus within DOJ to convert to the Federally-mandated, digital narrowband standard.
- $15 million for law enforcement bureaus within Treasury to convert to the Federally-mandated, digital narrowband standard; and
- $5 million to support law enforcement in remote areas managed by the Bureau of Indian Affairs, Department of Interior.

Question (b). How does the Department propose to comply with the conversion requirements if Congress declines to approve the proposed fee?

Answer. The Department does not have a "fallback" remedy for meeting the Congressional mandate requiring all Federal users to narrow, by one half, the bandwidth they use to transmit radio signals. The Department's first approach, and perhaps only recourse, would be to seek funding through the appropriation process. The only other alternative for funding the narrowband requirement would be to divert resources from the Department's base funding, thereby reducing available FBI and DEA investigation resources, U.S. Marshals Service resources for prisoner handling and court security, INS resources for immigration enforcement, and BOP resources for incarceration.

Question 6(a). How will funding for the $35 million Certainty of Punishment Program be used?

Answer. In fiscal year 2000, the Administration proposes a $35 million Certainty of Punishment Program under Part C of the Juvenile Justice and Delinquency Prevention Act of 1974. This program, which will be administered by the Office of Juvenile Justice and Delinquency Prevention (OJJDP), will provide grants for state, local, and tribal governments to develop alternative methods of punishment for young offenders, including juvenile firearms violators, instead of traditional forms of incarceration and probation. Such methods would ensure certain punishment for young offenders and promote reduced recidivism, crime prevention, and assistance to victims, particularly for young offenders who can be punished more effectively through programs that provide alternatives to probation and incarceration.

This program will support a number of alternatives, including the development of juvenile gun court dockets to help reduce the strain on juvenile courts and ensure swift, certain and appropriate punishment. Juvenile gun courts will provide early intervention and greater accountability for juveniles charged with low-level weapons offenses that have not resulted in serious physical injury. Related educational and training programs will equip juveniles involved in these offenses to recognize and use non-violent means to settle disputes, promote their self esteem, and effectively deliver the message that gun violence hurts victims, their families, and the entire community. The Certainty of Punishment Program could support the use of juvenile gun courts as the point of coordination for the implementation of a community-wide, comprehensive plan to address juvenile gun violence and accountability.

Judges, prosecutors, police officers, probation officers, defense attorneys, and community members routinely voice their concerns about the length of time it often takes juvenile offenders to be processed and adjudicated in the juvenile justice system. After being arrested, many youth are detained for long periods in detention facilities prior to court proceedings, while other youth are released from custody to the community for even longer periods of time pending their hearing. Certainty of Punishment Programs could help to address these concerns.

Question (b). What is the Department of Justice currently doing in the Bureau of Prisons in terms of preparing people to function in a self-sufficient manner when they leave prison?

Answer. The Bureau of Prisons operates institutions that are safe, secure, and humane, and that provide appropriate opportunities for inmates to prepare themselves to remain crime-free after returning to the community. Each Bureau facility offers the following programs and services. The depth and breadth of several of these programs and services will vary based upon the characteristics and needs of the specific inmate population at each institution.89work programs

All medically-able inmates in federal correctional institutions are required to work. Most inmates are assigned to an institutional job such as food service worker, orderly, plumber, painter, warehouse worker, or groundskeeper. Inmates earn from 120 to 400 per hour in these institutional jobs.

Approximately 25 percent of the Bureau's medically-eligible, sentenced inmates work in Federal Prison Industries (FPI) factories. They gain job skills through specific instruction related to factory operations for products and services, such as metals, furniture, electronics, textiles, and graphic arts. Inmates earn from $0.23 to $1.15 per hour working in FPI.

Inmates are encouraged to meet their family and financial obligations with their earnings. The Inmate Financial Responsibility Program (IFRP) requires inmates to make payments from their earnings to satisfy court-ordered fines, restitution, and other monetary judgments. Inmates who began serving a period of incarceration on or after January 1, 1995, are subject to a cost of incarceration fee, which is part of the IFRP. Inmates in Federal Prison Industries work assignments who have court-ordered financial obligations must pay 50 percent of their earnings to the IFRP. The majority of this money goes to crime victims or victim support organizations through the Crime Victims Fund in the Department of Justice.

A high school diploma or General Educational Development (GED) certificate is required for all inmate work assignments above the entry level (lowest pay level) in either institutional jobs or Federal Prison Industry jobs.

EDUCATION, VOCATIONAL TRAINING, AND JOB TRAINING

The Bureau offers a variety of programs for inmates to acquire literacy and marketable skills to help them obtain employment after release from prison. All institutions offer literacy classes, English as a Second Language classes, parenting classes, wellness education, adult continuing education classes, library services and recreation activities.

The Bureau's mandatory literacy standard requires that inmates who do not have a 12th-grade education, through either a verified high school diploma or a General Educational Development (GED) certificate, participate in the literacy program for a minimum of 240 hours or until they obtain a GED certificate. 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 offer a wide range of occupational and vocational training programs based on the vocational training needs of the inmates, general labor market conditions, and institution labor force needs. An important component of the Bureau's occupational training program is on-the-job training, which inmates receive through institutional job assignments and through work in FPI. The Bureau facilitates post-secondary education in vocational and occupational areas. Traditional college courses are also made available to inmates; however, inmates are required to pay for these courses.

Parenting classes assist inmates with maintaining family ties and parental bonds during incarceration. Recreation and wellness activities encourage healthy life styles and the development of healthy habits. Institution libraries carry a variety of fiction and nonfiction books, magazines, newspapers, and reference materials. Inmates also have access to legal materials and services to conduct legal research and to prepare legal documents.

RELEASE AND EMPLOYMENT PREPARATION

The Bureau's Release Preparation Program includes classes in a number of areas, such as resume writing, job seeking, and job retention skills. The program also includes presentations by officials from community-based organizations that assist ex-inmates in finding employment and training opportunities after release from prison. The Bureau places appropriate inmates in halfway houses prior to their release from custody in order to help them adjust to life in the community and secure viable post-release employment. Some inmates will be eligible for a release gratuity, release clothing, and/or money to cover the cost of transportation to their release destination.

The Bureau's Inmate Placement Program provides additional post-release employment assistance to inmates. Many institutions hold mock job fairs to instruct inmates inappropriate job interview conduct and to expose community recruiters to the skills available among inmates. Qualified inmates may apply for jobs with companies that have posted job openings. The Inmate Placement Program helps inmates prepare release portfolios which include a resume; education certificates, diplomas, and transcripts; and other significant documents needed for a successful job interview.

PROGRAM BENEFITS

A long-term research study entitled the Post Release Employment Project has found that inmates who participated in vocational training or worked in Federal Prison Industry programs showed much better adjustment in the institution, were significantly less likely to become involved in new criminal behavior after their release, and earned more money after release than inmates who had similar criminal histories, but did not participate in these programs. A recent update of these findings showed that when these inmates were identified as much as 8 to 12 years after their release, those who had participated in industries work or vocational training programs were 20 percent less likely to be recommitted to federal prisons than the comparison group of inmates who had no such training.

Question (c). What else is the Department of Justice doing in the Office of Justice Programs in terms of preparing people to function in a self-sufficient manner when they leave prison?

Answer. The Prison Industry Enhancement Certification Program (PIECP) is a program that promotes efforts to further the involvement of the private sector in correctional industry programs. PIECP is not a traditional grant program, but rather a certification program administered by the Bureau of Justice Assistance (BJA). The mission of the program is to promote the expanded use of prison industries as an effective correctional program so that employment opportunities may be offered to the largest practical percentage of the incarcerated population at any given time. In addition, the program develops, educational curriculums that provide advanced training for each of the specialized management disciplines involved in correctional industries.

The PIECP was created by Congress in 1979 to encourage states and units of local government to establish employment opportunities for prisoners that approximate private sector work opportunities. The program is designed to place inmates in a

realistic working environment, pay them the local prevailing wage for similar work, and enable them to acquire marketable skills to increase their potential for successful rehabilitation and meaningful employment upon release. A total of 50 jurisdictions may be certified under PIECP. Each certified program must be determined by the BJA Director, to meet statutory and guideline requirements. By Summer 1999, 40 of the 50 PIE certificates will have been awarded. See the addendum.

The PIECP exempts participating agencies from certain federal restraints placed on the marketability of prison-made goods by permitting the transport of such goods in interstate commerce and the sale of such goods to the Federal Government in amounts exceeding the $10,000 maximum normally imposed on such transactions. Many participants find the program an effective way to address idleness among ever-increasing prison populations and a cost-efficient method for providing inmates with marketable job skills.

REVISED PROGRAM GUIDELINE

The PIECP Federal Guideline has been revised and was published in the Federal Register on April 7, 1999 at 64 F.R. 17000. The Guideline was modified to improve self-monitoring among PIECP participants and to provide clarification through the use of threshold tests on issues such as what constitutes production versus service. The Guideline also provides clarity in areas such as wages, benefits, and displacement.

PHENOMENAL GROWTH SINCE 1995

In the first 16 years of the program, approximately 112 inmate jobs per year were created. Since 1995, the rate of new inmate PIECP jobs has been about 333 per year. Today, almost 70 percent of the states, three counties, two correctional youth authorities and a state jail industries board hold PIE certification authority.

PROGRAM CERTIFICATION PROCESS AND TECHNICAL ASSISTANCE

Interested jurisdictions may request a PIECP application from BJA or the Correctional Industries Association (CIA). Applicants must provide written proof that they meet all mandatory program, criteria, including copies of legislation and/or administrative rulings as appropriate. Upon review and approval of an application, BJA will formally notify the jurisdiction that it has been certified to participate in the program. Certified jurisdictions agree to enforce program requirements. Certification can be terminated if a jurisdiction is determined to be out of compliance with any of the mandatory program criteria or if the certification is unused for six months or more.

The CIA has been selected by BJA to provide technical assistance services to the program. The CIA assists BJA primarily by: conducting field reviews of PIECP participant operations to assess whether the program requirements are being met; providing help with the PIE Certification Application process; and, giving substantive assistance when there is difficulty in achieving compliance with program requirements.

The CIA provides additional technical assistance by: responding to specific requests from participating jurisdictions for information and guidance; providing program information to government agencies, private sector companies, academics, professional business and labor organizations, and others interested in the Program; offering periodic training to program participants; and helping to shape program policy through the development of program guidelines, quarterly program data summaries, and other documents in response to program needs.

PRISONS AT WORK DEMONSTRATION PROGRAM

The Prisons at Work initiative is a small investment that will result in vast economic, social, and safety benefits by helping states put their prisoners to work. Almost half a million prisoners return to America's communities every year. Recent studies have demonstrated a strong and consistent connection between prison employment and continued employment after release and have confirmed the causal link between employment and reduced recidivism. Therefore, prison employment programs will prepare inmates for meaningful re-integration into communities, particularly in inner-city, poor neighborhoods.

In fiscal year 2000, $6 million is requested to begin a multi-year demonstration project that will concurrently employ two strategies: a model "Prison at Work" and a "Model Industry" innovations grant program to substantially increase inmate employment in multiple sites.

Of the $6 million:

- $3 million is for "Prison at Work." The National Institute of Justice will work intensively with three State prisons to remove barriers to employment and to increase the number of inmates employed (may include management analysis and reformation, legislation development, or structural changes and technological advancements).
- $2 million is for 10 "Model Industry" grants to test innovative prison employment experiments within state prisons. Grants will require that prisons demonstrate new production methods, target new portions of their inmate populations, support prison operation needs, develop restorative approaches for neighboring communities, or test new market approaches. Each grant will include an evaluation component, and lessons learned from these innovations will be incorporated in "Prison at Work" sites.
- $1 million is for evaluation and program support, of which $500,000 will be used for multi-site evaluation of "Prison at Work," $300,000 will be used for technical assistance, and $200,000 will be used to disseminate model information and findings from evaluations.

No sites have been pre-selected for this program and grants will be awarded on a competitive basis.

Addendum: Certified PIE Programs

(date certified) [*inactive* in brackets] * * denotes counties involved

Alaska Department of Corrections (5/89)
Arizona Department of Corrections (3/91)
California Youth Authority and Adult Corrections (8/85) * *
Colorado Department of Corrections (1/90)
Connecticut Department of Corrections (1/89)
[Delaware Department of Correction (7/92)]
Florida Department of Corrections (4/95)
Hawaii Department of Public Safety (10/92) * *
Idaho Department of Correction (7/86)
Indiana Department of Correction (7/92)
Iowa Department of Corrections (8/89)
Kansas Department of Corrections (7/86)
Louisiana Department of Public Safety and Corrections (1/94)
Maine Department of Corrections (10/88) * *
Maryland Dept. of Public Safety and Correctional Services (8/92)
Minnesota Department of Corrections (11/85)
Missouri Department of Corrections (3/89)
Montana Department of Corrections (1/94)
Nebraska Department of Correctional Services (10/87)
Nevada Department of Prisons (8/85)
New Hampshire—Belknap County (1987)* *
Strafford County (10/88) * *
[New Mexico Corrections Department (11/86)]
[North Carolina Department of Correction (5/93)]
North Dakota Department of Corrections (4/99)
Ohio Dept. of Rehabilitation and Correction (10/95)
Oklahoma Department of Corrections (7/87)
Oregon Department of Corrections (3/89)
South Carolina Department of Corrections (12/87)
South Dakota Department of Corrections (1/91)
Tennessee Department of Correction (1/91)
Texas—Texas Department of Criminal Justice (2/93)
[Texas Youth Commission (1/97)]
[Red River County Corrections Dept. (7/92)1* *
Utah Department of Corrections (12/85)
[Vermont Department of Corrections (1/93)]
Virginia Department of Corrections (3/95)
Washington Department of Corrections (3/87)
Washington State Jail Industries Board (12/98)
Wisconsin Department of Corrections (1/93)

RESPONSES OF ATTORNEY GENERAL JANET RENO TO QUESTIONS FROM SENATOR LEAHY

Question 1. The Department filed court papers on March 8, 1999, defending your oversight authority to investigate allegations of misconduct by special prosecutor Kenneth Starr. You note in those papers that "inherent in your removal power" is the authority to investigate and assure that the independent counsel is competently performing his or her duties in a manner that comports with the law. The Department also states that "the ability to determine the pertinent facts is a prerequisite to responsible and effective exercise of that authority." Would full and complete access to independent counsels' expenditures help the Department fulfill its oversight responsibility of independent counsels?

Answer. Yes, in appropriate circumstances that information would be helpful to an investigation, including but not limited to an investigation into an allegation that an independent counsel committed waste, fraud and abuse that may constitute good cause for removal, or where the information may be relevant to an issue otherwise being investigated.

Question 2. Congress' ability to conduct vigorous oversight of independent counsels is frustrated by Congress' inability to get answers to fundamental and specific cost questions. The General Accounting Office provides general reports on total expenditures. For example, the latest GAO report, dated September 1998, indicates that Mr. Starr spent close to $500,000 over a 6-month period for "investigators and other specialists," in addition to the agents detailed from the FBI and the IRS. The GAO report does not identify who these investigators or specialists are, where they operated, what each was paid, how many Mr. Starr hired or for what general or specific purpose. The Administrative Office of the Courts (AO) is statutorily responsible for disbursements to independent counsels, but is legally barred from disclosing this information.

By contrast, the Department is obliged by law to "pay all costs relating to the establishment and operation of any office of independent counsel," to report to Congress "on amounts paid during that fiscal year for expenses of investigations and prosecutions by independent counsels," and to grant requests by independent counsels for assistance in carrying out their functions, including access to records and files, the use of resources and personnel, and the detailing of prosecutors, administrative personnel, and other employees of the Department to the staff of the independent counsel.

(a) Please explain how the Department's policy and practice of delegating to the AO all responsibility for maintaining records of expenditures by independent counsels is consistent with the Department's own statutory responsibilities.

Answer. The Department is currently responding to your March 4, 1999 letter, and believes that response will fully answer this question.

Question (b). The Attorney General has advised me that she "cannot" provide information about expenditures by independent counsel Starr. To clarify, is the Department's inability to respond to questions about specific expenditures by independent counsels due to a matter of policy or due to any statutory prohibition?

Answer. The Department is currently responding to your March 4, 1999 letter, and believes that response will fully answer this question.

Question 3. Please respond to the following questions and, if the Department is unable to respond, please advise me who can provide the information requested regarding the Office of Independent Counsel Kenneth Starr (OIC).

Answer. The Department is currently responding to your March 4, 1999 letter, and believes that response will fully answer this question.

Question 4. To avoid further delays in CALEA compliance, should Congress resolve the ongoing dispute between the Department and the telecommunications industry and make the determination whether certain punch-list items being requested by the Department are simply too expensive?

Answer. In short, no. The FCC has already tentatively concluded that five of the nine capabilities in dispute are indeed required by CALEA. With respect to your concern over the expense of individual capabilities, the Department believes that Congress considered that possibility by incorporating the "reasonably achievable" provision into section 109 of CALEA. In those instances where a carrier may not be able to comply with CALEA, the legislation allows those carriers to petition the FCC to determine whether compliance with the assistance capability requirements of CALEA is "reasonably achievable."

Furthermore, the Department and the FBI remain sensitive to the fact that, based on the individual architecture of telecommunications equipment and the services made available by that equipment, not all manufacturers will be able to meet

all technical requirements in the same way. The Department and the FBI understand that reality. Finally, based on contract discussions with one manufacturer, the cost of *all* the "punch-list" items represented less than 20 percent of the cost of their proposed solution. We do not believe the "punch list" is prohibitive relative to cost.

Question 5. The Attorney General has estimated that "[i]n excess of $2 billion would likely be needed" to cover the costs of modifying equipment to comply with the surveillance capability sought by the Department. Telecommunications carriers estimate that the costs associated with the punch-list items being requested by the Department for both the wireless and wireline industry are in excess of $5 billion. (a) If estimates by either the Attorney General or the industry are correct, would the FCC exercise its discretion appropriately if it were to determine that CALEA compliance is not reasonably achievable due to the costs associated with compliance?

Answer. The estimate you refer to was written to highlight the potential increase of government reimbursement liability if the January 1, 1995, reimbursement eligibility date was changed. Many in the telecommunications industry would have the Congress change the January 1, 1995, reimbursement eligibility date so that the burden of deploying the vital capabilities of CALEA would shift to the Government.

The $500 million estimate was based on what the Department and the FBI believed to be the "cost" of implementing CALEA for priority equipment that was deployed on or before January 1, 1995. Over the course of the past several years, neither the Department nor the FBI has been given cost information by the industry. Rather, manufacturers of telecommunications equipment have been sharing "catalog price" information. Specifically, the "catalog price" that manufacturers would like to charge their customers, the carriers.

It is important for me to mention that the Department has learned that manufacturers of telecommunications equipment typically give their best customers very large discounts from their catalog prices, namely in the 85 to 90 percent range. The Department does not believe that any of the figures bandied about takes this into consideration.

In addition, recent contract discussions, which are protected by a non-disclosure agreement, reflect a *significant discount* in the development of CALEA solutions, relative to the cost figures released to the public.

With respect to the ongoing disputes over the specific surveillance capabilities required by CALEA, the FCC is in the process of resolving the issue. As allowed for under CALEA, the Department and the FBI have petitioned an industry technical standard as deficient. To date, the FCC has tentatively concluded that five of the nine capabilities in dispute are indeed required by CALEA. The Department is pleased with the FCC's process thus far.

Question (b). In the event that compliance is not reasonably achievable due to the costs, the law directs that equipment, facilities, and services will be deemed to be in compliance unless the government provides funds to pay for compliance. If the FCC determines that CALEA compliance with the punch-list items is not reasonably achievable due to the costs, is the Department prepared to seek additional authorization and appropriations to pay for compliance?

Answer. I believe it is vital that the-telecommunications industry develop capabilities that are consistent with the provisions of existing electronic surveillance statutes, namely Title III of the Omnibus Crime Control and Safe Streets Act of 1968 as amended by ECPA and CALEA, provisions you authored, working closely with the Department and Bureau to ensure the law has kept up with changes in technologies.

The "punch-list" represents a small, but vitally important, set of capabilities to law enforcement. The "punch-list" capabilities are grounded in existing electronic surveillance legislation. Industry claims that the "punch-list" capabilities will drive up the cost of CALEA implementation tenfold are in direct contradiction to information we have received from manufacturers. While the information shared by manufacturers is sensitive and subject to non-disclosure (at the request of the industry), the Department can tell you that for some manufacturers, the level of effort associated with the development of these capabilities represents less that 20 percent of their total effort and we appreciate your understanding of our pending policy matter.

Question 6. If the federal government wants to recover its costs for tobacco-related diseases, the appropriate avenue to do that is a federal lawsuit, not a raid on the multi-state tobacco settlement. To the extent you are able in a public forum, please provide an update on the Department of Justice's litigation plan against the tobacco industry.

Answer. As you know, the Department concluded in December that the United States had viable grounds to pursue recovery for federal health care costs arising from tobacco use, and is currently evaluating the best approach for such as lawsuit. We previously have identified several statutory bases for such lawsuits, including the Medical Care Recovery Act (MCRA), 42 U.S.C.A., sec. 2651, *et seq.*, and the Medicare Secondary Payer Act (MSPA), 42 U.S.C. § 1395y(b). These are not the only bases that the Department is considering for a potential lawsuit. Since this process is on-going, however, we cannot provide additional information at this time.

Question 7. The Department's budget includes over $500 million to construct more detention facilities to detain individuals who are awaiting deportation, often for non-violent crimes that may have occurred many years ago. (a) How, if at all, are the mandatory detention requirements enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 responsible for the Department's request for funds for additional detention facilities?

Answer. The fiscal year 2000 request for the Bureau of Prisons Buildings and Facilities Appropriation contains $20 million for site and planning costs for three facilities to assume the non-removable criminal alien population from the Immigration and Naturalization Service (INS). These INS detainees are deportable criminal aliens whose countries have refused to issue travel documents allowing for their return. The mandatory detention requirements, which were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, are not the primary reason for this request, but will result in INS having more space for housing mandatory aliens by taking the long-term, non-returnable aliens out of INS detention space and putting them in BOP facilities..

Question (b). Are the mandatory detention requirements of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 an effective crime prevention strategy and use of Department funds?

Answer. The Department believes that the mandatory detention provisions of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 are too broad and in some cases require the detention of individuals who either pose no danger to the community nor a risk flight. This is particularly the case for lawful permanent residents, convicted of minor crimes in the distant past. In such cases, mandatory detention is not an effective use of Department resources.

Currently, INS is examining legislative proposals to provide for the expansion of the Attorney General's discretion to release aliens from custody by amending section 236(c) of the Immigration and Nationality Act. A limited expansion of release authority would provide the Attorney General with enhanced flexibility in determining how to use limited detention space. While detention of aliens convicted of crimes is a top priority, it is also important to detain some non-criminals in order to provide a deterrent to prospective illegal border crossers, and to support enforcement efforts across the southern land border, and in INS' interior enforcement operations.

Question (c). Would the Department support a change in federal law to return greater discretion to immigration adjudicators and federal judges to determine which individuals are a threat to their community or are likely to flee if not detained?

Answer. The Department would support a change in federal law to return greater discretion to the Attorney General (and immigration officers to whom she might delegate her authority) to determine which individuals are a threat to their community, or are likely to flee, if not detained. This discretion should rest with the Attorney General. Currently, almost all criminal aliens must be detained under INA section 236(c) during their immigration proceedings.

The Department would like to work with Congress on the issue of an amendment to section 236(c) expanding the Attorney General's authority to release from custody low-risk aliens who have been lawfully admitted to the United States, cannot be removed, or are cooperating with a criminal investigation. Release would only be allowed where the alien demonstrates, by clear and convincing evidence, that he or she does not pose a danger to the public, or is not a flight risk. This limited expansion of release authority would provide the Attorney General enhanced flexibility in determining how to best use limited detention space.

Question 8. The Department has requested $9.63 million and 13 positions to develop technological capabilities to obtain access to plain text in investigations where encryption is encountered. At the same time, the Department and the FBI are seeking additional positions and funding for the National Infrastructure Protection and Computer Intrusion Program (NIPCIP), the Computer Analysis and Response Teams (CART), and for Network Data Interception. (a) Please explain fully the function and responsibilities of the agents assigned to each of these programs.

Answer. The counter-encryption program, the network data interception program, and the Computer Analysis Response Teams (CART) are technical support programs that provide investigative and forensic tools and services to the NIPCIP, other FBI field agents, and other law enforcement agencies. The relationship of these programs to investigations can be explained in the following example. An investigation determines that the Internet is being used by a suspect for criminal activity. The FBI obtains a court order to conduct an electronic surveillance of the suspect's account. To conduct this intercept, the FBI requires the capability of the network data intercept program so that the service to other network users is not affected by the court authorized intercept. While collecting the information from the suspects account, the FBI discovers that the suspect uses encryption to hide or mask illegal activities. The counterencryption program will allow the FBI to gain plain-text from the encrypted communications. The investigation proceeds and an arrest warrant is issued. The FBI arrests the suspect and conducts a lawful search of the suspect's residence, at which time several computers are found. The CART program provides the FBI with the capability of examining the computers, hard drives, and related storage media in order to identify and analyze the evidence. Again, if the computer files are encrypted, the counter-encryption program can help gain plain-text access. Each of these techniques represents a critical set of highly specialized tools needed by the FBI to conduct investigations committed against, or facilitated by, computers, networks, and related technology.

The purpose of the counter-encryption initiative is to ensure the FBI and other law enforcement agencies can counter encryption schemes used by criminals, terrorists, and others committing illegal acts to thwart lawfully-authorized Title III interceptions. This initiative will provide the law enforcement community with the technical capability to analyze and process signals, conduct protocol analysis, encryption recognition, data format and compression technique identification, and decryption. This will be accomplished, in part, by providing equipment and technical assistance to law enforcement agencies.

The network data interception initiative focuses on ensuring the FBI's ability to collect, pursuant to Title III or Foreign Intelligence Surveillance Act (FISA) authority, evidence and/or intelligence from data networks (including the Internet) in support of criminal law enforcement and national security investigations. Due to the complex technology involved, network intercepts can be very difficult and require specialized techniques. Network intercept assistance is provided, as needed, by a small group of technically-trained agents and engineers assigned to the FBI Laboratory. This funding will allow the FBI to examine existing, emerging and future data network communications technologies, conduct research, and develop solutions to ensure the ability to perform court-authorized electronic surveillance on network technologies.

This is accomplished, in part, by long-term and strategic efforts to develop data network communications interception and collection equipment, industry liaison to provide awareness of law enforcement's electronic surveillance requirements, and the provision of onsite field support and expertise.

CART provides primarily a forensics function, facilitating the search, seizure and examination of magnetic and optical media recovered from computers pursuant to law enforcement searches and seizures. In doing so, CART examiners participate in searches, catalog items of evidence, examine items of evidence, and testify in court. CART, which serves all investigative programs, provides services through a headquarters element in the FBI Laboratory and a network of field examiners located throughout most of the FBI field offices. Currently, field agents trained as CART examiners perform these duties on a part-time basis. Due to increased demand for these services, the fiscal year 2000 budget proposes 79 full-time, non-agent examiners.

Question (b). Discuss how each of these programs is coordinated with functions and activities of each other.

Answer. The CART, counter-encryption, and data network intercept programs are all managed by the FBI Laboratory, Engineering Research Facility. As a result, programs are able to coordinate efforts, share technology and techniques, and avoid duplication of effort.

NIPCIP squads are managed by the NIPC. NIPC is a headquarters component that maintains close coordination with the FBI Laboratory, which it depends on for technical and forensic services.

Question (c). Discuss how each of these programs is coordinated with the functions and activities of the Field Computer Investigations and Infrastructure Threat Assessment (CITA) Squads and the Computer Investigations and Infrastructure Threat Assessment Center (CITAC).

Answer. In February 1998, the Attorney General authorized the expansion of the FBI's Computer Investigations and Infrastructure Threat Assessment (CITAC) into a Governmentwide National Infrastructure Protection Center (NIPC). The FBI's former Computer Investigations and Infrastructure Threat Assessment (CITA) squads are now called National Infrastructure Protection and Computer Intrusion (NIPCI) squads.

The technical investigative support programs of the FBI Laboratory coordinate activities with the NIPC through established (formal) liaison contacts as well as through continual day-to-day operational contacts. This ensures that activities associated with the development or procurement of technical and analytical tools are not duplicated. Technical investigative support to field investigative squads are provided through established technical advisors within each field office. The technical advisor and/or field CART examiner coordinates delivery of technical investigative capabilities to the various field investigative squads, including the computer crimes squads, and serves as a technical advisor to the field investigative squad.

Question (d). Discuss how, if at all, these programs will assist other federal law enforcement agencies and state and local law enforcement agencies

Answer. Each of these programs supports state and local law enforcement agencies in a number of ways. For example, CART provides technical expertise and guidance to state and local law enforcement agencies with regard to computer media examinations. The FBI, along with state and local agencies, is establishing a pilot regional computer forensics laboratory in San Diego, California to serve the southern California area. The FBI Laboratory also provides equipment and technical expertise to state and local law enforcement to support the interception of wire and electronic communications in state and local cases (pursuant to Departmental Order 890–80—Guidelines and Procedures for the Loan of Electronic Surveillance Equipment to State and Local Law Enforcement by the FBI) as well as in support of joint federal/state/local cases.

Question 9. Is the encryption funding request included in or part of the "$122.55 million in increased funding to combat cybercrime and support Department's counterterrorism efforts?"

Answer. Yes, the encryption request is included within the FBI's portion of the Department's request to combat cybercrime and support counterterrorism efforts.

Question 10. The Department requests $55 million to establish the Crime Lab Improvement Program to make grants to state and local governments to improve their investigative and analytic capabilities. Does this program include funding for DNA testing? If so, does the Department have any guidelines or requirements for DNA testing by the states with federal funds?

Answer. Yes, of the $55 million Crime Lab Improvement Program (CLIP) initiative, $15 million is specified for DNA purposes. All agencies receiving support under this program are required to sign a document ("Statutory Assurance") ensuring compliance with quality assurance and proficiency testing standards for DNA analysis established by the FBI's DNA Advisory Board under Section 14131 of Title 42 of the United States Code, and ensuring that DNA identification data will be made available only for law enforcement/judicial purposes or, if personally identifiable information is removed, for population databases, research/protocol development, or quality control purposes.

Question 11. Please summarize the privacy safeguards that the Department follows in conducting DNA testing and any recommendations the Department has to improve those privacy safeguards.

Answer. There are well defined privacy safeguards with respect to DNA testing. Information maintained in the Combined DNA Index System (CODIS) may only be disclosed in accordance with the DNA Identification Act of 1994 (*See 42 U.S.C. 14131–14134, 3796kk-6):*

(A) to criminal justice agencies for identification purposes related to law enforcement;

(B) in judicial proceedings, if otherwise admissible pursuant to applicable statutes or rules;

(C) for criminal defense purposes, to a defendant who shall have access to samples and analyses performed in connection with the case in which such a defendant is charged; and

(D) if personally identifiable information is removed, for a population statistics database, identification research and protocol development purposes, or for quality control purposes.

Laboratories participating in National DNA Index System (NDIS) and/or receiving federal grant funding are required to certify their compliance with the above criteria. System wide standards have been established to ensure that only reliable and compatible profiles are contained in the NDIS files. These include quality assurance (QA) standards for performing forensic DNA analyses. Currently, pursuant to the DNA Act, the "Guidelines for a Quality Assurance Program for DNA Analysis" are the standards for QA in forensic DNA-typing laboratories. Additionally, a designated state official must certify that all current and new CODIS users meet external proficiency testing standards as required by the 1994 Act. It is important to note, the FBI DNA profiles, which are a set of DNA identification characteristics (the particular chemical form at the various DNA locations which permit the DNA of one person to be distinguishable from that of another person) are not analyzed for physical characteristics. After analysis, the FBI returns DNA evidence to the contributor with instructions for storage.

Question 12. One important privacy protection would be to ensure the destruction of DNA samples collected from convicted offenders after they have been tested and entered into the database. After all, the law enforcement interest is in indexing the DNA profiles, not in storing genetic material. (a) Do you agree? (b) Is that the current federal practice, and is it the practice of states receiving federal grants?

Answer. Yes, the FBI's primary interest is in DNA profiles. However, current practice and technology requires the retention of some sample genetic material to confirm positive "hits." The 1994 DNA Identification Act requires that these samples are used for law enforcement purposes only. However, once a "hit" is generated by the database, another sample is tested to verify that "hit." Therefore, this process requires that some of the blood from the original sample be stored for possible future reference by law enforcement personnel for law enforcement purposes only. Other states that participate in the national DNA database program operate in the same manner. Also, the technology to develop DNA testing is constantly changing. When the CODIS database was established, samples were tested using Restriction Fragment Length Polymorphism (RFLP) technology. Today, Polymerase Chain Reaction (PCR)/Short Tandem Repeats (STR) technology is used to type the samples. Since RFLP DNA profiles cannot be compared to the PCR/STR DNA profiles, the retained sample permits profiling using the newer technology. In the future, the technology will most assuredly change again. Therefore, storage of offender samples eliminates the need for relocating an incarcerated or released offender for additional samples.

The National Commission on the Future of DNA Evidence is currently examining whether maintaining cellular samples from convicted offenders is necessary or appropriate as part of their work in the area of privacy issues surrounding biological sample collection and databanking. The Commission expects to make recommendations to the Attorney General concerning privacy issues by August 1999.

Question 13. By statute, the federal DNA database may only contain information on DNA samples taken from convicted offenders, crime scenes, and unidentified human remains. Currently, Louisiana takes DNA samples from everyone charged with a crime, and other states have authorized or are considering a similar program. What assurances do you have that states will not use federal funds to create their own DNA databases for arrestees?

Answer. The Louisiana State statute requiring collection from all arrestees of enumerated crimes will go into effect in September 2000. To our knowledge, no other states have done more than consider collecting from all arrestees. The National Institute of Justice's (NIJ) DNA Laboratory Improvement solicitations require applicants to conform to CODIS standards. Solicitations for grant funding under this program will specifically advise as to the prohibition of the use of federal funds for the development of state-specific DNA databases of arrestees.

Question 14. What assurances do you have that states accepting federal grants for DNA testing, and any private laboratories used by such states, adhere to quality control standards, including blind external proficiency testing? To what extent does the federal government monitor the quality of state DNA testing?

Answer. As mentioned in question 10 above, all agencies must sign a document of compliance. Likewise, any private labs contracted will be required to adhere to the same quality control standards for DNA analysis as state and local labs. NIJ monitors the quality control standards of its grantees through its evaluation program and the Bureau of Justice Statistics (BJS) survey, which queries labs about their adherence to national standards. In addition, NIJ actively participates in national forensic science forums in which public labs describe and discuss their analytical methods. In effect, the courts are the ultimate monitors of DNA quality control standards, as any analysis conducted not in compliance with DNA Advisory Board

standards will be ruled as inadmissable. NIJ, at Congressional direction has conducted a thorough examination of the feasibility of blind proficiency tests for DNA laboratories and will share the results within a year.

Question 15. Just as DNA testing can be a powerful tool for proving guilt it can also be a powerful tool for proving innocence. Yet convicted offenders are often unable to obtain the genetic crime scene evidence that could prove their innocence, with states arguing that they have already exhausted their state and federal post-conviction appeals. (a) Would the Department support conditioning the grant of federal funds for DNA testing upon certification by the state that it will upon request by a convicted offender, provide reasonable access, for the purpose of DNA testing of any genetic crime scene evidence collected in his case? (b) If not, please explain in detail, your reasons for not supporting such a proposal.

Answer. Awards are already conditioned in that manner The statutory assurance document referenced in Question 10, specifically states that DNA samples shall be made available "for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which the defendant is charged." In addition, the National Commission on the Future of DNA Evidence, for which NIJ is the executive secretariat, is recommending a series of post-conviction guidelines to the Attorney General, which include access to both public and private labs for post-conviction DNA testing.

Question 16. Although the national DNA database is open for business, it currently contains no federal offender DNA samples. What is the Departments timetable for collecting testing, and indexing such samples.

Answer. The FBI Laboratory projects an initial workload of 15,000 samples from currently incarcerated offenders and an additional workload of 5,000 new offender samples per year that will require analysis for the FBI's Federal Convicted Offender DNA Database (FCODD). Draft legislation submitted to the Congress would require the FBI to begin obtaining samples, from the current population of Federally convicted offenders, 180 days after the bill's enactment.

Question 17. What conditions, if any, does the Department intend to attach on its grants for DNA testing (beyond those already prescribed by statute)? In particular, do you anticipate requiring states, when possible, to prioritize their testing of DNA samples by release date?

Answer. The National Commission on the Future of DNA Evidence is currently considering recommendations prioritizing convicted offender sample analysis. NIJ will provide copies of the Commission's recommendation to every laboratory in the program and encourage all grantee labs to adhere to the Commission's recommendations.

Question 18. Under the Rules Enabling Act, 23 U.S.C. §2072, the Supreme Court may prescribe standards for attorney conduct governing attorneys in and before the Federal courts. Do you agree that the Rules Enabling Act is an appropriate process for the Federal courts to develop ethical rules for Federal practitioners? If not, please explain.

Answer. The Standing Committee on Rules of Practice and Procedure of the Judicial Conference the body responsible under the Rules Enabling Act for the development of rules governing federal courts, has in fact created a committee to consider the development of such standards. The first meeting of the committee was yesterday (May 4, 1999). The Department supports and is participating in the work of the Committee, which will consider what, if any uniform rules, we appropriate. As you know, the Department believes that ethics rules must be clear and predictable especially in the area of contacts with represented parties, and that those rules must account for the legitimate needs of law enforcement. We will continue to work with the Judicial Conference and others on these issues.

Question 19. One of the issues raised by Title VIII, section 801 of last year's Omnibus Appropriations Act ("Ethical Standards for Federal Prosecutors") is whether it states the appropriate choice-of-law rule for attorneys practicing in and before Federal courts. What is the Department's view on this issue? In particular, how would the Department compare section 801's choice-of-law rule with the ABA's model rule on choice of law (Rule 8.5 of the ABA Model Rules of Professional Conduct)? Is there another variation that would be helpful to the Department?

Answer. Section 801 does not contain a choice of law rule. Section 801 requires Department attorneys to comply with "State laws and rules, and local Federal court rules, governing attorneys in each State where such, attorney engages in that attorneys duties, to the same extent and in the same manner as other attorneys in that State." The Department is very concerned that the vague language of Section 801 will result in the needless litigation about what rules apply to particular conduct.

American Bar Association (ABA) Rule 8.5, which has been adopted in only a few states, generally provides that the rules that govern conduct are those of the court in a pending proceeding. This would be a significant improvement over Section 801.

Alternatively, a rule providing that Department attorneys are governed by the rules of their duty stations—i.e., all Assistant U.S. Attorneys in a district are governed by the same rules would also be helpful. We we very interested in working with the Committee to address the problems caused by Section 801.

Question 20. It Is my understanding that the Immigration and Naturalization Service (INS) intends to share its proposed Reorganization Strategy for the INS with Congress within the next month. My request for detail information concerning how this will impact the current INS offices and employees in Vermont, which has been relayed by my staff to the INS, has, to date, been unanswered. Please provide me with the following information as soon at it is available: (a) How will the proposed Reorganization Strategy impact personnel at the following INS offices in Vermont or which have jurisdiction over Vermont? In particular, please provide me with detailed information regarding positions (including title and pay grade) in each of these offices are targeted to be eliminated or altered and what new positions (including title and pay grade) are scheduled to be created by this Reorganization Strategy.

1. All of the Border Crossing Stations and Ports of Entry in Vermont.
2. The Swanton Border Patrol Sector encompassing Vermont and parts of New Hampshire and New York.
3. The INS Sub-Office in St. Albans, Vermont.
4. The District Office with jurisdiction over Vermont in Portland, Maine.
5. The Eastern Service Center in St. Albans, Vermont.
6. The Eastern Regional Office in South Burlington, Vermont.
7. The Administrative Center in South Burlington, Vermont.
8. The Law Enforcement Support Center in South Burlington, Vermont.

Question (b). How will Reorganization Strategy impact the location, office structure, funding, and other resources at the following INS offices in Vermont or which have jurisdiction over Vermont? In particular, please provide me with detailed information regarding any proposed efforts to relocate any of these offices, or divisions or programs within these offices, either within Vermont or to another State.

1. All of the Border Crossing Stations and Ports of Entry in Vermont.
2. The Swanton Border Patrol Sector encompassing Vermont and parts of New Hampshire and New York.
3. The INS Sub-Office in St. Albans, Vermont.
4. The District Office with jurisdiction over Vermont in Portland, Maine.
5. The Eastern Service Center in St. Albans, Vermont.
6. The Eastern Regional Office in South Burlington, Vermont.
7. The Administrative Center in South Burlington, Vermont.
8. The Law Enforcement Support Center in South Burlington, Vermont.

Answer. In April 1998 the Administration announced its intention to pursue fundamental structural change in INS tc provide improved performance and increased results for those who depend on the nation's immigration system. The new proposal, described in the document, *Framework for Change,* would restructure INS immigration services and enforcement functions into two separate chains of command, yet retain these functions within one agency to provide the coherence needed to effectively administer U.S. immigration laws.

The INS Restructuring Team is currently finishing a design proposal that provides information, including costs, about this new structure for the agency. This proposal will be provided to members of Congress and their staff for discussion in early May and we will be pleased to discuss the impact of the proposal on all INS offices. Information requested on the specific impact on positions in each office will not be available until detailed implementation planning is completed, but we will call your staff to arrange a briefing.

It is important to note, however, that the restructuring under consideration would have minimal impact on most INS employees. Where there are changes in office mission, existing offices will receive priority consideration for the new functions. This approach will keep costs to a minimum and also reduce the impact on employees.

The Restructuring Team has kept employees informed about restructuring events through several different communication methods. In response to specific questions about the impact on employees, a set of guidelines, *Restructuring, Human Resources Principles,* (attachment #1) was developed and distributed in December and again in January.

RESPONSES OF ATTORNEY GENERAL JANET RENO TO QUESTIONS FROM SENATOR GRASSLEY

Question 1. Last year, Congress provided funding for the DARE program to expand their effort with middle school booster programs. While DARE is an important drug prevention program in elementary school, more recent studies indicate that the effort needs to be extended. I firmly believe that drug prevention must be reinforced as young people advance through elementary, middle, and senior high school. This new middle school program was to include a revised curriculum that would be developed with the help of well-known drug prevention researchers. I understand that almost all of DARE's financial support comes from states and local communities, and that less than one percent of the overall DARE budget comes from the federal government.

I understand that DARE has submitted to the COPS Office a request to start this worthwhile middle school program in school districts across the country at a cost of $5 million. What is the status of this DARE funding request? Does the Justice Department intend to make drug prevention in middle schools a priority?

Answer. The Department of Justice is deeply concerned with the dangers of drugs and the threat they pose to our nation's youth. Recently we teamed up with the Office of National Drug Control Policy to strengthen community-based coalition efforts to reduce youth substance abuse. That program is called the Drug-Free Communities Support Program and $8.7 million will go to 93 sites under this initiative. Keeping young people off drugs is a high priority for this Administration.

With regard to the DARE program and its funding proposal, as you know, the Conference Report for the Omnibus Appropriations Act for fiscal year 1999 called for the creation of a COPS Methamphetamine/Drug "Hot Spots" program. The COPS Office would use $35 million for state and local law enforcement programs to combat methamphetamine production, distribution and use, as well as to provide the Drug Enforcement Administration with funding to assist state and local law enforcement with cleaning up clandestine methamphetamine laboratory sites. The Conference Report then listed a series of projects designated to receive specific funding amounts under this program—a total of $31.4 million in "earmarks." That left the COPS Office with $3.6 million to use to devise its own methamphetamine/drug hot spots program. The funding for the DARE initiative, as contemplated in the Conference Report, would come from this remaining funding.

In fiscal year 1998, the COPS Office awarded $5 million in grants under the COPS Methamphetamine Initiative to six jurisdictions to establish innovative, community policing strategies to combat methamphetamine distribution and use. Many communities, particularly in the midwest, have already expressed a strong interest in receiving funding to target methamphetamine in the current fiscal year. To help meet this need, the COPS Office is planning to implement a similar methamphetamine grant program in fiscal year 1999 with the remaining $3.6 million.

As required by the Conference Report, the COPS Office did consider DARE's proposal. DARE will be eligible to submit a request for $500,000 of the $3.6 million in methamphetamine funding, leaving $3.1 million for a new COPS methamphetamine/drug hot spots program.

Question 2. Last time you appeared in front of the Judiciary Committee, I submitted some questions regarding the financial management of the Drug Enforcement Administration. I realize that responses to these questions were finally delivered to the Committee Thursday night, just prior to your most recent testimony, but even so, an eight-month wait for a response is hard to understand. Of course, it is better than the 17 months the INS needed to respond to three simple follow-up questions I submitted following a May, 1997 hearing of the Caucus on International Narcotics Control (answers were received October, 1998).

Can the delay in response be attributed to a lack of resources to handle such inquiries? Does the Department of Justice lack sufficient personnel and resources to respond to such inquiries in a timely manner? If this is the case, what additional resources would be necessary to enable the Department to respond to Congressional inquiries in a timely manner?

Answer. The delays experienced by the Committee are unacceptable. However, I would point out the Department's Office of Legislative Affairs has been operating

under a personnel cap, imposed by the Appropriations Committee, for 4 fiscal years. During that time, the level of oversight of the Department has increased, thus placing greater demands on a staff with an already exhaustive workload. Lifting the personnel cap and fully funding this function of the Department would improve the Department's ability to respond to your inquiries.

Question 3. I would like to take this opportunity to follow up on some concerns I have had about the fiscal accountability of the Drug Enforcement Administration. It is my understanding that you believe the new audit system begun for fiscal year 1998, the Federal Financial System, should be able to produce financial statements that will be acceptable to those auditors. An outside audit of the DEA should be complete by now, based on previous years' performance. Will you please provide copies of the most recent agency audit?

Answer. DEA's fiscal year 1998 audit has been completed in draft, but is not yet available for release. Once this report becomes final, DEA or the Departments Office of the Inspector General will provide a copy for Congressional review.

Question 4. As pointed out during the hearing, the Budget request for the DEA assumes that the DEA will not conduct any more cases next year than they will in 1999, will not prosecute any more drug pushers in 2000 than are prosecuted in 1999, will not seize any more clan labs than the number seized in 1999. Iowa, like much of the nation not on the East Coast, is experiencing a dramatic increase in the use and domestic production of methamphetamine. Last year in Iowa, for instance, 257 more clan labs were seized than in 1997. And if the present pace of seizures continues, Iowa is again on track to top last year's total. If the DEA budget does not take into account the expected higher lab activity, or an increase in the number of drug pushers, or doesn't anticipate any higher level of case activity next year, is there another agency that we should look to who will take the lead in domestic counter-narcotics activities?

Answer. The Department of Justice (DOJ) is committed to combating the real and dangerous threats posed by drug trafficking and production in the United States (U.S.), particularly with regard to methamphetamine. Overall increases in methamphetamine use and the amount of clandestine laboratory (clan lab) activity in the U.S., particularly in hard hit Midwest states like Iowa, is a major concern. The DEA is an acknowledged leader in methamphetamine drug enforcement and has taken many steps, such as Mobile Enforcement Team deployments and clan lab training programs, to combat the drug threat at the national level.

In its fiscal year 1999 appropriation, DEA received an additional 100 Special Agents to target methamphetamine traffickers and clan lab operators in the U.S. These resources were further augmented through the establishment of two Regional Enforcement Teams that are designed to provide DEA with a more mobile response for attacking the overall drug threat; certainly DEA's RET program will be an invaluable tool for drug enforcement. These fiscal year 1999 enhancements, in conjunction with resources received for methamphetamine enforcement in DEA's fiscal year 1998 and 1997 budgets are being put to good use, as already evidenced by DEA's impressive increases in clan lab seizures, arrests and drug seizures.

In fiscal year 2000, the Department's approach will be to fully implement DEA's fiscal year 1999 personnel resources through full hiring and implementation of fiscal year 1999 enhancements. This would be augmented in the Congressional budget process through the expansion of DEA's Special Operations Division (SOD) and FIREBIRD programs.

The SOD program, which focuses on coordination, information exchange and intelligence dissemination, is designed to act specifically as a "force multiplier" in drug enforcement by allowing agencies to act collectively and cohesively against specific targets. Providing SOD with the additional technical, operational and administrative support resources requested in DEA's fiscal year 2000 budget are essential to the program's ability to keep pace with rapid changes in communications technology, and foster a heightened level of investigative cooperation and integration in America's overall approach to drug law enforcement. SOD is actively participating and supporting numerous methamphetamine investigations, particularly against organizations based in Mexico and major domestic targets. Through its access to the latest, real time intelligence, this unique and innovative program will allow the Federal Government to maximize its existing investigative resources against the methamphetamine threat.

Furthermore, DEA's request includes additional resources for the FIREBIRD computer network, a project that also expands DEA's capabilities. Once fully deployed, this project will effectively link all DEA field offices world-wide into one global computer network; a mechanism that will provide DEA Special Agents with access to the latest case information and intelligence, and support additional communication

services such as e-mail and instant messaging. This heightened level of communication and information exchange is already allowing DEA to better coordinate regional and national investigations and significantly ease the burden.

By expanding critical infrastructure programs and fully implementing fiscal year 1999 initiatives, I am confident that DEA will be an effective force in counter narcotics efforts in the next millennium. The Department has already begun development of its fiscal year 2001 initiatives and, certainly the Department will be evaluating DEA's resource requirements at that time to ensure that America's counter drug efforts are funded at adequate levels.

Question 5. It is my understanding that the budget request for DEA assumes a transfer of funds of $106.3 million from the Organized Crime and Drug Enforcement Task Force (OCDETF) account to the central account for the DEA. While this increases the bottom line for the DEA it does not allow them to provide any additional services or give them any additional resources. Can you please provide further explanation of the decision to eliminate the OCDETF account? What kind of effect will this change have on the program? Are there any processing costs or savings that are a result of this shift?

Answer. Currently, the Interagency Crime and Drug Enforcement (ICDE) appropriation account reimburses Department of Justice components for their participation in the nine Organized Crime Drug Enforcement Task Forces (OCDETF). The President's fiscal year 2000 budget provides for the elimination of the ICDE appropriation account and the transfer of all resources to the participating Departmental components.

The proposed funding structure will reduce the paperwork burden of the participating agencies as they will no longer be required to enter into reimbursable agreements and prepare billings in order to have access to resources earmarked for this program. Internal controls will be created to ensure that funding earmarked for OCDETF will be spent appropriately. The state and local reimbursement program as well as policy coordination and leadership will still be managed by the Executive Office. In recommending this action, the Department is attempting to improve the efficiency of participating agencies.

Having the funds appropriated for the components is not a new idea. Although the appropriation started out with a consolidated budget, from 1985 to 1990 components received the OCDETF funds as part of their direct budgets. In 1990, Congress opted for a consolidated appropriation. In 1996, Senate Report 104–139 recommended that resources be provided to the participating agencies budgets to help keep administrative costs to a minimum, among other reasons.

While the source of funding will change under this request, there will be no change in the operation of the Task Forces or in the function of the Executive Office. The participating agencies will receive, as a transfer, the amount of funding they would have received through the reimbursable agreement. Since fiscal year 1998, funding for the three Treasury Department agencies (the Bureau of Alcohol, Tobacco and Firearms, the Internal Revenue Service, and the U.S. Customs Service) and the U.S. Coast Guard has been provided not through reimbursement from the, ICDE appropriation, but rather from separate appropriation accounts. This change in the source of funding has not diminished the participation of law enforcement personnel from these agencies in OCDETF investigations. There is no reason to believe that there will be any diminished involvement by Department of Justice agencies simply because funding is now directly provided within each agency's appropriation.

The accomplishments of the OCDETF program continue to demonstrate that a coordinated, multi-agency attack on major drug trafficking organizations represents the most effective and efficient utilization of varied law enforcement expertise. In fiscal year 1998, there were 1,356 OCDETF investigations initiated, an 88 percent increase over the previous year and more than in the two previous fiscal years combined. The number of indictments filed and the number of defendants charged was also significantly higher during fiscal year 1998: 3,149 indictments were returned against 9,159 defendants, an increase of 35 percent and 23 percent, respectively, over fiscal year 1997. Data for fiscal year 1999 to date indicates that the unprecedented accomplishments of 1998 will be matched and possibly exceeded.

Question 6. I understand from the United States Attorney in Iowa that the FBI field office in Omaha, Nebraska, has experienced a decrease in agents assigned to the office, although no official announcement has been made that the strength of the office is to be reduced. Does the FBI intend to replace agents who have retired or have been reassigned from this office?

Answer. The agent staffing level for the FBI field office in Omaha, which covers both the states of Nebraska and Iowa, was recently set at 63 for Fiscal Year 1999, a reduction of 6 from the previous year. At the present time, the on-board agent

staffing level for the Omaha Field Office is 68. Agents retiring or reassigned from the Omaha Field Office will not, for the most part, be replaced until the office reaches its revised staffing level for Fiscal Year 1999. Replacement of departing agents with specialized skills, such as technically-trained agents, pilots, and copilots, are evaluated separately to ensure the office is not left without these types of specialists. As a general policy, the FBI does not make public announcements on staffing levels for individual field offices.

Field office staffing levels are assessed and established on an annual basis. Each Special Agent-in-Charge is asked to submit his/her staffing requirements for each of the FBI's investigative and other field programs (Foreign Counterintelligence, Security Programs, International Terrorism, Domestic Terrorism, National Infrastructure Protection/Computer Intrusion, Organized Crime/Drugs, Organized Crime Drug Enforcement Task Forces, WhiteCollar Crime, Violent Crime, Training, and Applicant). Field office requests for agents generally exceed the levels authorized by Congress in annual appropriations. Individual field office staffing requirements are reviewed by program managers at FBI Headquarters, who make recommendations based upon crime problems identified, program priorities, and the number of agents available for allocation. Individual program manager recommendations for each field office are compiled to arrive at an overall field office staffing recommendation. These overall recommendations are then reviewed by a resource management board, which includes executive managers from the FBI's Deputy Director's office and the Criminal Investigative and National Security Divisions. Board recommendations are submitted to the Deputy Director and the Director for approval.

Following approval by the Director, each Special Agent-in-Charge is notified of his/her agent staffing level for the fiscal year by respective investigative and other field programs. Special Agents-in-Charge are also given an explanation of why and in what areas changes were made from the previous, staffing level. With respect to the Omaha Field Office for Fiscal Year 1999, program managers recommended increases for Violent Crimes and National Infrastructure Protection/Computer Intrusions and decreases for International and Domestic Terrorism and White-Collar Crime. From within the total number of agents made available, the Special Agent-in-Charge has the discretion of allocating those agents among headquarters city (Omaha) and resident agencies located in other Nebraska and Iowa cities. The Special Agent-in-Charge also has the discretion to reassign agents among headquarters city and resident agencies to facilitate an equitable distribution of workload and ensure priority investigations are being addressed.

During the operating year, FBI Headquarters does make adjustments to field office staffing levels based upon emerging crime problems and significant investigations that developed subsequent to the setting of staffing levels. The Special Agent-in-Charge for the Omaha Field Office has submitted a request for additional staffing and that request along with requests submitted by other FBI field offices, is being considered.

RESPONSES OF ATTORNEY GENERAL JANET RENO TO QUESTIONS FROM SENATOR BIDEN

Question 1. The Byrne State and Local Law Enforcement Assistance program has been a highly successful means of providing grants for reducing drug demand, assisting law enforcement, supporting court and corrections systems, and promoting crime prevention. What is the rationale for cutting the funding request for this important program with a proven track record by 20 percent, from $505 million in fiscal year 1999 to $400 million for fiscal year 2000?

Question 2. Local Law Enforcement Block Grants are another significant source of support to states and local governments for a variety of crime reduction purposes, including hiring and training law enforcement officers and support personnel, establishing, and supporting drug courts, and establishing cooperative crime prevention programs in communities. In fiscal year 1999, this program was funded at the level of $523 million; the Department's funding request for it for fiscal year 2000 is zero. What is the justification for this?

Answer. With regard to the fiscal year 2000 funding levels for the Byrne State and Local Law Enforcement Assistance Program and the Local Law Enforcement Block Grant Program, the Administration developed a budget request within the funding caps set under the Balanced Budget Act. To stay within the caps, we had to make choices about using limited funding to its best advantage. The fiscal year 2000 budget includes a 24 percent decrease in overall state and local law enforcement assistance funding, consistent with the fiscal year 2000 authorization levels in the 1994 Crime Act for state and local enforcement assistance. Our budget re-

quest uses the limited funding we have available in fiscal year 2000 for state and local assistance to help communities combat crime and to bolster the technological capabilities of law enforcement in a way that focuses on specific weaknesses that the law enforcement community has told us exist. We do not believe that there was ever any intent to fund all the programs authorized in the 1994 Crime Act, forever. As a result, we put together a package of state and local assistance that builds on successful programs to target specific needs.

Question 3. In last year's Appropriations bill Congress provided funding through the Community Oriented Policing Services Office for the DARE program to expand DARE's efforts related to middle school "booster" programs. This is just the kind of expansion of the DARE program to reach more middle school children with its anti-drug message that is needed, and reinforces DARE as one of the best examples of Community Oriented Policing in the country.

- Based on last year's funding level of $5 million, do you expect that the curriculum to be used in this initiative will be completed in time for the next school year, and how many schools (and students) do you expect that $5 million to reach?
- Do you intend to continue to fund this kind of expansion on the DARE programs in the future?

Answer. The Department of Justice is deeply concerned with the dangers of drugs and the threat they pose to our nation's youth. Recently we teamed up with the Office of National Drug Control Policy to strengthen community-based coalition efforts to reduce youth substance abuse. That program is called the Drug-Free Communities Support Program and $8.7 million will go to 93 sites under this initiative. Keeping young people off drugs is a high priority for this Administration.

First, let me give you an update on this funding request. The Conference Report for the Omnibus Appropriations Act for fiscal year 1999 called for the creation of a COPS Methamphetamine/Drug "Hot Spots" program. The COPS Office would use $35 million for state and local law enforcement programs to combat methamphetamine production, distribution and use, as well as to provide the Drug Enforcement Administration with funding to assist state and local law enforcement with cleaning up clandestine methamphetamine laboratory sites. The Conference Report then listed a series of projects designated to receive specific funding amounts under this program—a total of $31.4 million in "earmarks." That left the COPS Office with $3.6 million to use to devise its own methamphetamine/drug hot spots program. The funding for the DARE initiative, as contemplated in the Conference Report, would come from this remaining funding.

In fiscal year 1998, the COPS Office awarded $5 million in grants under the COPS Methamphetamine Initiative to six jurisdictions to establish innovative, community policing strategies to combat methamphetamine distribution and use. Many communities, particularly in the Midwest, have already expressed a strong interest in receiving funding to target methamphetamine in the current fiscal year. To help meet this need, the COPS Office is planning to implement a similar methamphetamine grant program in fiscal year 1999 with the remaining $3.6 million.

As required by the Conference Report, the COPS Office did consider DARE's proposal. DARE will be eligible to submit a request for $500,000 of the $3.6 million in methamphetamine funding, leaving $3.1 million for a new COPS methamphetamine/drug hot spots program.

Finally, given the COPS Office's decision on the amount of funding DARE will receive, it is uncertain how many schools or students the DARE Middle School program would reach. In its original proposal, DARE anticipated providing training to 825 police officers. The proposal did not provide a timetable for when the Middle School curriculum would be implemented. The Administration has not requested funding through the COPS program for DARE in fiscal year 2000.

RESPONSES OF ATTORNEY GENERAL JANET RENO TO QUESTIONS FROM SENATOR SPECTER

Question 1. What is the Department's position on the recent Supreme Court decision denying certiorari on several petitions involving judicial review of immigration cases?

Answer. In *Reno* v. *Goncalves,* No. 98–835, *INS* v. *Magana-Pizano,* No. 98–836, and *Reno* v. *Navas* No. 98–996, the Justice Department took the position in the Supreme Court that Congress had precluded judicial review of the Attorney General's statutory determination that Section 440(d) of the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA) had made certain criminal aliens ineligible for

discretionary relief from deportation, even if those aliens were already in deportation proceedings on the date AEDPA was enacted. The Justice Department also took the position that this congressional preclusion of judicial review of the Attorney General's decision regarding the reach of the statute was constitutional. The Department also argued, however, that Congress had not precluded judicial review of constitutional challenges to Section 440(d) of AEDPA, even at the behest of criminal aliens who were otherwise precluded from raising non-constitutional challenges to their deportation orders. On March 8, 1999, the Supreme Court denied the government's petitions for a writ of certiorari from adverse court of appeals decisions in the *Goncalves* and *Navas* cases and remanded the *Magana-Pizano* case to the Ninth Circuit for further consideration in light of the Court's decision in *Reno* v. *American-Arab Anti-Discrimination Committee,* 119 S. Ct. 936 (1999). The Attorney General has been meeting with Justice Department lawyers to evaluate the impact of the denials of certiorari in *Goncalves* and *Navas.*

Question 2. Please provide the status of pending 6 Iraqi secret evidence cases and procedures for dealing with these type of cases.

Answer. The Department will be responding to this issue under separate cover.

RESPONSES OF ATTORNEY GENERAL JANET RENO TO QUESTIONS FROM SENATOR KOHL

Question 1. Would you please describe the role of the law enforcement agencies of the Department of the Treasury and their responsibilities within the Five-Year Interagency Counter-terrorism and Technology Crime Plan—how do they work with the Justice Department?

Answer. The Five-Year Plan is an interagency effort. The Department of the Treasury, including its component law enforcement agencies, played a significant role in the development of the Five-Year Plan. Treasury law enforcement agencies participated in all of the Working Groups which developed strategies, approaches, and action items for inclusion in the Five-Year Plan. These Treasury representatives ensured that Treasury agency programs were appropriately included in the Five-Year Plan. Since the Five-Year Plan is a living document to be updated annually, Treasury will have the responsibility to carry out certain actions and report back on progress in these programs for future updates of the Five-Year Plan.

Question 2. Could you describe the current status of the Metropolitan Medical Response System program and how communities work with each other—and the Justice Department—in response to a major emergency situation.

Answer. Significant progress has been made in developing Metropolitan Medical Response System (MMRS) capabilities in twenty-seven cities. Those cities have developed comprehensive response plans and are in the process of purchasing equipment to enhance their response capabilities. An additional twenty cities have been targeted for the development of MMRS in fiscal year 1999. In the event of an incident, the on-site commander would coordinate the utilization of the resources of the MMRS, which have a law enforcement component, with other available resources, including FBI resources.

Question 3. Would you be willing to look at these programs and see whether they should be replicated across the country?

Answer. The Department will be happy to look into the two Wisconsin prevention programs, "Families and Schools Together" and "Safe and Sound," to see if they should be considered for replication across the country.

RESPONSES OF ATTORNEY GENERAL JANET RENO TO QUESTIONS FROM SENATOR DEWINE

During the Attorney General's testimony on Capitol Hill, Senator DeWine stated that the Department reported that the prosecution of gun-related offenses had increased "by 14 percent" and that he wanted to know whether that figure was correct. The Attorney General stated that she would check to make sure that figure was correct and follow-up on the Senator's request.

Question 1. "I am glad to see the Department is reporting that the prosecution of these gun-related offenses has increased, I believe, by 14 percent, according to your reports * * * Is that figure correct"?

Answer. According to statistics generated by the Administrative Office of the United States Courts (AOUSC), gun-related offenses are included in the "weapons and firearms" category. Cases commenced in this category in fiscal year 1998 increased by 14.4 percent from fiscal year 1997. (*See* attachment #2, Table D–2, *U.S.*

District Courts—Criminal Cases Commenced, by Major Offense, During the Twelve-Month Periods Ended September 30, 1994 Through 1998, p.212). The number of defendants charged with a weapons or firearms offense during the same time period increased 11.4 percent. (*See attachment #3, Table D–2, U.S. District Courts—Criminal Defendants Commenced, by Major Offense, During the Twelve-Month Periods Ended September 30, 1994 Through 1998,* p.215).

The AOUSC classifies all federal defendants into "most severe offense" categories based on the statutory charge that would result in the longest prison sentence if the defendant was convicted. For example, the AOUSC would classify a defendant convicted of both a drug and firearms offense as a drug offender if the conviction on the drug offense exposed the defendant to a longer prison sentence then the firearms offense

Unlike AOUSC classification, the Department of Justice's Executive Office for United States Attorneys (EOUSA) classifies all defendants charged with a firearms offense as Project Triggerlock defendants regardless of whether the firearms charge exposes the defendant to the longest prison sentence, if convicted. Statistics generated by EOUSA for "Project Triggerlock" firearms prosecutions in fiscal year 1998 do not show an increase from fiscal year 1997. (*See* attachment #4, *United States Department of Justice, Project Triggerlock; Summary Report, October 01, 1996—September 30, 1997,* and *Summary Report, October 01, 1997—September 30,1998*).

Question 2. "I wonder if you can provide us with some background on that figure, such as where in the country those increases are coming from and in what specific type cases."

Answer. We have attached AOUSC's tables which breaks down their figures by Judicial District and Circuit. (*See* attachment #5, Tables D–3, *U.S. District Courts—Criminal Cases Commenced, by Offense and District, During the Twelve-Month Period Ended September 30, 1997 and 1998,* as well as Tables D–3, *U.S. District Courts—Criminal Defendants Commenced, by Offense and District, During the Twelve-Month Period Ended September 30, 1997 and 1998.*)

The AOUSC does not break down their statistics by type of offense. Accordingly, we have attached Department of Justice's Triggerlock figures which provides data on specific federal firearms offenses. (*See* attachment #6, table entitled, *Requested Firearms Sections, Counts Charged, Calendar Years 1996–1998,* and accompanying footnotes.) This is the same material that we provided to Senator Sessions on March 10, 1999, pursuant to his request. In addition, the AOUSC data is available on the Internet at *www.uscourts.gov.*

RESPONSES OF ATTORNEY GENERAL JANET RENO TO QUESTIONS FROM SENATOR KYL

Question 1. In the Department of Justice fiscal year 2000 budget, $35 million is requested to fund a youth gun court program. Please explain in greater detail how this program will work and be administered. For example, will repeat youth offenders or violent juveniles be allowed to participate in the program? If one of the program's goals is to reduce juveniles' illegal access to firearms, how will this goal be measured?

Answer. The Administration has learned from its ongoing Partnership to Reduce Juvenile Gun Violence program that successful efforts to reduce juvenile gun violence require a multidisciplinary approach that includes the active participation of a variety of public agencies and community organizations. Research shows that a significant number of youth are expelled from school for carrying guns. Many, who state that they carry guns out of fear, do not fit the typical profile of a violent youth offender, and many practitioners, including judges, prosecutors, police officers, probation officers, and school officials, do not believe these youth need to be incarcerated.

In fiscal year 2000, the Administration proposes a $35 million Certainty of Punishment Program under Part C of the Juvenile Justice and Delinquency Prevention Act of 1974. This program, which will be administered by the Office of Juvenile Justice and Delinquency Prevention (OJJDP), will provide grants for state, local, and tribal governments to develop alternative methods of punishment for young offenders, including juvenile firearms violators, instead of traditional forms of incarceration and probation. Such methods would ensure certain punishment for young offenders and promote reduced recidivism, crime prevention, and assistance to victims, particularly for young offenders who can be punished more effectively through programs that provide alternatives to probation and incarceration, and that include a range of graduated sanctions.

This program will support a number of alternatives, including the development of juvenile gun court dockets to help reduce the strain on juvenile courts and ensure

swift, certain and appropriate, punishment. Certainty of Punishment programs will provide early intervention and greater accountability for juveniles charged with low-level weapons offenses that have not resulted in serious physical injury. Related educational and training programs will equip juveniles involved in these offenses to recognize and use non-violent means to settle disputes, promote their self-esteem, and effectively deliver the message that gun violence hurts victims, their families, and the entire community. The Certainty of Punishment Program could support the use of juvenile gun courts as the point of coordination for the implementation of a community-wide, comprehensive plan to address juvenile gun violence and accountability.

Judges, prosecutors, police officers, probation officers, defense attorneys, and community members routinely voice their concerns about the length of time it often takes juvenile offenders to be processed and adjudicated in the juvenile justice system. After being arrested, many youth are detained for long periods in detention facilities prior to court proceedings, while other youth are released from custody to the community for even longer periods of time pending their hearing. Certainty of Punishment programs could help to address these concerns.

As a general rule, we do not develop specific program requirements, such as determining who is eligible for services, until a program is funded. Thus, at this juncture, we cannot provide information as to who would be eligible to participate in Certainty of Punishment programs, including gun courts. Some programs, such as drug courts, specifically exclude violent offenders, but not repeat offenders.

All of our programs solicitations request grant fund applicants to demonstrate a commitment to measuring outcomes and progress. We would look to individual jurisdictions to tell us how they would propose to measure outcomes, such as reduction in juvenile access to illegal firearms. Their applications are then rated and ranked by outside peer reviewers, who would weight the caliber of proposed measurement tools. Further, we are committed to monitoring all grant programs and would expect to maintain oversight of any program funded to ensure it has sufficient benchmarks to measure program outcomes.

RESPONSES OF ATTORNEY GENERAL JANET RENO TO QUESTIONS FROM SENATOR SESSIONS

Question 1(a). As you know, last year the Local Law Enforcement Block Grant program received a $523 million appropriation. Since the Local Law Enforcement Block Grant program allows localities the flexibility to assess their own crime problems and to utilize resource in the way cities determine best address their crime problems, I would like to know: Is the Clinton Administration's decision to zero-out this program a reflection of a belief in this Administration that the Department of Justice in Washington D.C. is better able to determine how local communities should allocate their resources to combat crime than the communities themselves are?

Answer. The Administration developed a budget request that is within the funding caps set under the Balanced Budget Act. To stay within the caps, we had to make choices about using limited funding to its best advantage. The Fiscal Year 2000 budget includes a 24 percent decrease in overall state and local law enforcement assistance funding, consistent with the fiscal year 2000 authorization for state and local enforcement assistance in the 1994 Crime Act. Our budget request uses the limited funding available in fiscal year 2000 for state and local assistance to help communities combat crime and to bolster the technological capabilities of law enforcement in a way that focuses on specific weaknesses that the law enforcement community has told us exist. We do not believe that there was ever any intent to fund all the programs authorized in the 1994 Crime Act forever. As a result, we put together a package of state and local assistance that builds on successful programs to target specific needs. We believe in a mix of formula funds to states for pass through to localities combined with targeted discretionary grant programs to respond to needs identified at the local level by our constituents.

Question (b). Given the existing Local Law Enforcement Block Grant Program's fiscal year 1999 appropriation of $523 million allows for local expenditures on a variety of initiatives to fight crime and enhance public safety, including the hiring of additional police officers and the paying of overtime for officers, how is the Administration's proposal to zero-out this program while also proposing a new $600 million grant initiative to be spent solely on employing new officers not an attempt to limit local decision making in crime control?

Answer. The 21st Century Policing Initiative contained in the fiscal year 2000 budget addresses the most pressing law enforcement needs and builds on the suc-

cess of the COPS program. It will continue the progress local law enforcement has made in reducing crime by putting more officers on the streets, building the technological infrastructure of law enforcement, and expanding community policing. America's police chiefs and sheriffs have called on us to help them continue this progress.

The Department must respectfully disagree with the characterization that the $600 million hiring program limits local decision making. In fact, the COPS program has expanded the options available to local agencies to fight crime by providing them with personnel and equipment resources they need to implement community policing. The funding goes directly to the police and sheriff's departments whether it is a small community or a large one. And the communities use the officers in a manner that best fits local needs. The communities develop their own community policing strategies.

Question 2. General Reno, in defending the excessive cuts made to State and Local law enforcement programs by the Clinton Administration in the DOJ Budget Proposal, you have been quoted as saying that "I don't think state and local law enforcement should become too dependent on federal law enforcement, and there is a point where we draw the line." Assuming this statement is accurate, how can you reconcile this sentiment with the Administration's plan for a $600 million expansion in the COPS program, which makes local law enforcement hiring a matter of federal concern?

Answer. The COPS program does not make local hiring a federal concern. The program leaves all of the hiring procedures to local decision makers. COPS grants provide start up funding to help law enforcement agencies implement community policing strategies. Police chiefs and sheriffs have told us time and time again that the COPS program's approach of federal assistance with strong local control has been extremely successful in expanding community policing and reducing crime.

Question 3(a). In my time as a U.S. Attorney in Mobile, I gained an appreciation for the important contributions that the Mobile chapter of the Boys and Girls Club of America plays in local efforts to reduce problems associated with Juvenile Crime. *Do you share the same belief that I have about the importance of the crime prevention efforts of the Boys and Girls Club of America play in the lives of children?*

Answer. Yes; preventing delinquency and reducing youth violence is a high priority for the Office of Justice Programs (OJP), and we have been a strong supporter of the efforts of the Boys and Girls Clubs of America (B&GCA) for several years. Since 1991, OJP has provided over $118.4 million in direct resources to B&GCAs throughout the country. The Club in Mobile received $1.67 million during this time period.

Question (b). The $523 million in funding the Local Law Enforcement Block Grants Program received in fiscal year 1999 included $40 million allocated for the Boys and Girls Club of America. President Clinton has decided to zero-out fiscal year 2000 funding for the Local Law Enforcement Block Grant, however, which seems to place future funding of the Boys and Girls Club in question. Why has the Administration decided to place further funding for this children's program in jeopardy?

Answer. As you know, since 1997, the Local Law Enforcement Block Grant (LLEBG) Program appropriation has included an earmark for the Boys and Girls Club of America: $20 million in fiscal year 1997, $20 million in fiscal year 1998 and $40 million in fiscal year 1999. In addition OJP has provided other funding for B&GCs activities through the Byrne and Juvenile Justice programs. OJP will continue to support B&GCAs through these additional programs.

In addition, OJP's fiscal year 2000 request includes funding for a variety of prevention programs, which seek to reduce youth violence and delinquency.

- The Office of Juvenile Justice and Delinquency Prevention has requested $95 million to continue its Title V Program, which will provide resources to help ensure safer communities by assisting state and local governments, public and private agencies, organizations, and institutions in the prevention, reduction, and treatment of juvenile violence and delinquency through demonstration and replication programs. Title V programs include mentoring, underage drinking prevention, school safety, youth gun violence reduction and drug prevention programs.
- The Executive Office for Weed and Seed has requested $33.5 million to continue its community-based Operation Weed and Seed program, which emphasizes youth-oriented programs such as mentoring, truancy prevention, conflict resolution, jobs for at-risk youth, and anti-gang programs.

Question 4. Can you explain for me why the President has decided to eliminate a $250 million Juvenile Justice Accountability Block Grant program which is tai-

lored to allow States to competently and comprehensively address the problem of juvenile crime in America, and which contains the only Federal money that is dedicated to juvenile law enforcement?

Answer. We have not requested funding for this program in fiscal year 2000. Based on the limited amount of funding authorized for state and local assistance programs in the fiscal year 2000 budget ($3,925,286,000 which is a decrease of $1,247,759,000 from the fiscal year 1999 appropriation), we decided to focus funding on discretionary grant initiatives where we feel we can make the greatest impact per dollar spent. It should be noted that the Juvenile Accountability Incentive Block Grant (JAIBG) funds several purpose areas that we intend to fund on a discretionary basis in our fiscal year 2000 request. These include the Certainty of Punishment Program (for which we have requested $35,000,000), drug courts for juveniles (which can be funded under the Drug Courts Program, for which we requested $50,000,000), school violence (for which we are requesting a total of $75,000,000 in two different COPS programs), hiring prosecutors and others to ensure the expeditious administration of the juvenile justice system (we propose to expand COPS hiring, funded at $365,000,000, to include probation and parole officers as part of our police hiring program, and prosecutors will be funded through our $200,000,000 community prosecutors program), and establishing interagency information systems (something we will encourage in our $20,000,000 Global Criminal Justice Information Network Initiative).

Question 5. Could you explain to me why President Clinton has submitted a crime proposal that: (a) Proposes to spend millions of dollars on creating "partnerships with local environmental groups"?

Answer. Generally, with regard to the Local Law Enforcement Block Grant, the Juvenile Accountability Block Grant, and Violent Offender Incarceration and Truth-in-Sentencing programs, the Administration had to develop a budget request that is within the funding caps set under the Balanced Budget Act. To stay within the caps, we had to make choices about using limited funding to its best advantage. Our budget request does not really trade-off one grant program for another, but instead uses the limited funding for fiscal year 2000 for state and local assistance to help communities prevent and combat crime and to bolster the technological capabilities of law enforcement in a way that focuses on specific weaknesses that the law enforcement community has told us exist. As a result, we have put together a package of state and local assistance that builds on successful programs to target specific needs.

Specifically, the Administration is requesting $125 million for the Community Crime Prevention Program, which proposes to develop and implement strategies to support programs that engage the entire community in preventing and fighting crime and delinquency. Many community-based efforts could be funded under this program, such as efforts to identify and combat illegal dumping by organized crime or gangs. Indeed, it is well established that there is a high correlation between environmental degradation and other forms of social and community deterioration, including crime. Moreover, new research underscores the link between lead exposure and early brain development, as well as children's school readiness and delinquency. For all of these reasons, environment groups can be an important part of a community-based strategy to reduce and prevent crime.

Question (b). Zeroes-out the Violent Offender Incarceration and Truth-in-Sentencing Incentive Grants which allow States and local law enforcement agencies to build, expand and improve their jails, while funding grant programs to allow abortion clinics to upgrade their property?

Answer. In fiscal year 1999, $720.5 million was appropriated for the State Prison Construction Program. Of this amount, $25 million is available for the Cooperative Agreement Program (CAP), $420 million is available for the State Criminal Alien Assistance Program (SCAAP), and the remainder, $530.5 million is available for the Violent Offender Incarceration/Truth-In-Sentencing (VOI/TIS) Grant Programs. We will be continuing funding for CAP and SCAAP in the fiscal year 2000 budget request. We are requesting $34 million for VOI/TIS to fund construction of correctional facilities on Indian Tribal Lands.

In 1994, when the Violent Crime Control and Law Enforcement Act was passed, which authorized funding for this program, crime rates were higher than they are today. The violent crime rate has now fallen to its lowest level in a generation. Therefore, the need for state and local governments to construct new prisons to house violent offenders is not as great as it once was, and states now must ensure that they have the funds to operate these facilities. Operational funds are disallowed under VOI/TIS. The fiscal year 2000 budget focuses on providing funding for federal prisons, with much of the money being used to pay for the costs of hous-

ing District of Columbia felons, for whom the federal government (the Federal Bureau of Prisons) now has responsibility, and the remainder used to address the burgeoning federal prison population.

In addition, the funding provided to the states under TIS was intended to be used as leverage to persuade them to adopt truth-in-sentencing policies, by providing them with the funding to increase their prison capacities. As of 1998, 28 states have adopted truth-in-sentencing policies, and we believe that we have done as much as we can to encourage states to enact these laws under TIS. VOI/TIS was never intended to be a permanent source of funding for state and local prison construction.

With regard to health clinic security, the Administration's request for $4.5 million to combat the growing number of bombings, arsons and murders associated with health clinics, as well as incidents of harassment and minor violence extending well beyond legitimate protest activities builds on efforts of the Attorney General's Task Force on Violence Against Health Care Providers and threat assessment criteria developed by the U.S. Marshals Service, as well as consultation with leading experts, including those working within other OJP agencies on related issues.

Question (c). Eliminates the Juvenile Justice Accountability Block Grant, which would allow for controlled substance testing for juveniles in the juvenile justice system, while proposing to spend millions of dollars to combat underage drinking and investigate the link between underage drinking and crime?

Answer. As mentioned above, the Juvenile Accountability Incentive Block Grant (JAIBG) program funds several purpose areas that we intend to fund on a discretionary basis in our fiscal year 2000 request, including the Certainty of Punishment Program, drug courts for juveniles, school violence, and hiring prosecutors and other personnel to ensure the expeditious administration of the juvenile justice system. Further, the discretionary program for drug testing, interventions, and sanctions would accomplish many of the purposes of JAIBG and would be available to those involved with juveniles, as well as adults.

IMMIGRATION AND NATURALIZATION SERVICE RESTRUCTURING OFFICE

HUMAN RESOURCES PRINCIPLES

Introduction

As discussed and promised at the annual conference in October, this document for all INS employees provides general guidelines about employee issues related to the current restructuring planning. It is intended to address employee concerns about the potential impact of implementing restructuring plans in the next few years.

It is important to stress that specific information about how each employee might be affected by INS restructuring is impossible to provide at this time. The final proposed implementation plan for the new INS organization will not be completed until March 1999 and then needs to be approved by Congress. Individual employee-related effects from restructuring cannot be determined until all decisions have been made and the impact of all changes is known. When these details are available, more information will be provided to employees.

It is also important to emphasize that this restructuring is not based on a goal to downsize INS, or achieve specific dollar savings. There is no overall objective to reduce employment or achieve dramatic savings through implementation. While some positions may be eliminated through this restructuring, new ones will likely be created. The goal is to improve agency performance, so that we can better accomplish our mission of reducing illegal immigration and providing timely, accurate, and courteous immigration services.

Human resources principles

The INS leadership commits to the following human resources principles.

1. *We believe INS employees are the most important resource available to this agency and the nation in effectively administering immigration laws and policy.* The welfare of the work force is an overarching concern as we consider restructuring options and make decisions on implementation planning.

2. *We will take all possible steps to ensure employment for INS employees whose jobs may be affected by restructuring.* In implementing approved restructuring plans, we will use maximum flexibility in current Federal human resources laws, regulations, and procedures to *minimize* any adverse impact on employees. The goal is to accommodate employees affected by restructuring through all available means. We will work *with* employees regarding individual situations and circumstances to the extent that they are not beyond agency control.

3. *Reform that improves INS overtime compensation and related employee benefits is a high priority and an integral part of the restructuring project.* Ongoing efforts to improve current overtime compensation and related employee benefits will be coordinated with restructuring proposals to ensure a comprehensive reform package for INS employees that builds professionalism and rewards performance.
4. *Establishing clear career paths is a core goal of restructuring.* Strengthened career opportunities is critically linked to improving agency performance and is an essential element of restructuring.
5. *We will participate with the INS Union Councils in partnership efforts focused on restructuring.* Communication and participation by union representatives has already begun and will be ongoing throughout restructuring to ensure active union involvement and to address issues of concern.
6. *We will keep employees informed regarding the progress of INS restructuring.* Information will be provided through traditional and non-traditional communication methods. Our goal is to maintain ongoing communication with all employees on all matters pertaining to restructuring.
7. *We value the opinions of employees and seek wide involvement from all parts of the agency on all subjects pertaining to restructuring.* The INS Restructuring Office invites all employees to ask questions and submit ideas, feedback to proposed options, or any other comments throughout the duration of the project. Our cc:Mail address is Restructuring, PWC. It has been established to receive inquiries and information from employees. A separate home page for INS restructuring will be set up shortly. The Restructuring Office will try to respond to all inquiries on a timely basis and provide periodic reports covering employee concerns.

Table D-2.
U.S. District Courts—Criminal Cases Commenced, by Major Offense (Excludes Transfers), During the Twelve-Month Periods Ended September 30, 1994 Through 1998

Nature of Proceedings and Offense	1994	1995	1996	1997	1998	Percent Change 1998 Over 1997[2]
TOTAL	44,678	45,053	47,146	49,655	57,023	14.8
PROCEEDINGS COMMENCED BY						
INDICTMENT	23,869	25,202	26,728	28,925	34,424	19.0
INFORMATION—INDICTMENT WAIVED	6,712	7,439	7,948	8,848	9,788	10.6
INFORMATION—OTHER	9,274	8,023	7,993	7,113	7,981	12.2
REMANDED FROM APPELLATE COURT	126	173	169	129	82	-36.4
REMOVED FROM STATE COURT	20	37	34	11	20	81.8
REOPENED/REINSTATED	51	41	56	60	96	60.0
APPEAL FROM U.S. MAGISTRATE JUDGE	136	124	111	108	101	-6.5
JUVENILE DELINQUENCY PROCEEDINGS	60	88	150	171	207	21.1
CONSENT BEFORE MAGISTRATE JUDGE	1,661	1,680	1,709	1,880	1,906	1.4
RETRIAL ON MISTRIAL	27	49	57	77	62	-19.5
RETRIAL—REMAND FROM APPEALS COURT	83	114	114	110	97	-11.8
VIOLATION NOTICE	2,415	2,070	2,076	2,223	2,259	1.6
OTHER[1]	244	13	1	-	-	-
GENERAL OFFENSES						
HOMICIDE TOTAL	195	295	344	348	384	10.3
MURDER—FIRST DEGREE	113	237	297	298	323	8.4
MURDER—SECOND DEGREE	49	7	12	14	15	7.1
MANSLAUGHTER	33	51	35	36	46	27.8
ROBBERY, TOTAL	1,520	1,240	1,365	1,453	1,448	-.4
BANK	1,468	1,168	1,291	1,384	1,392	.6
POSTAL	35	43	36	29	32	10.3
OTHER	17	29	38	40	24	-40.0
ASSAULT	563	561	540	527	629	19.4
BURGLARY—BREAKING AND ENTERING, TOTAL	139	63	65	78	89	27.1
BANK	79	8	-	2	-	-
POSTAL	21	22	20	25	19	-24.0
INTERSTATE SHIPMENTS	4	7	1	1	-	-
OTHER	35	26	44	42	70	66.7

Table D-2. Cases (September 30, 1998—Continued)

Nature of Proceedings and Offense	1994	1995	1996	1997	1998	Percent Change 1998 Over 1997[1]
LARCENY AND THEFT, TOTAL	3,337	3,432	3,674	3,299	3,590	8.8
BANK	360	221	231	233	250	7.3
POSTAL	332	320	365	363	431	18.7
INTERSTATE SHIPMENTS	227	174	202	155	171	10.3
OTHER U.S. PROPERTY	1,839	2,012	2,075	1,812	1,937	6.9
TRANSPORTATION, ETC., OF STOLEN PROPERTY	210	308	329	265	270	1.9
OTHER	369	397	472	471	531	12.7
EMBEZZLEMENT, TOTAL	1,575	1,368	1,284	1,172	1,397	19.2
BANK	707	734	665	594	750	26.3
POSTAL	248	243	268	261	302	15.7
OTHER	620	391	351	317	345	8.8
FRAUD, TOTAL	7,098	7,414	7,633	7,874	8,342	5.9
INCOME TAX	800	744	745	802	689	-14.1
LENDING INSTITUTION	1,338	1,289	1,212	1,145	1,291	12.8
POSTAL	1,222	1,409	1,176	1,125	1,104	-1.9
VETERANS AND ALLOTMENTS	5	-	-	3	2	-
SECURITIES AND EXCHANGE	42	30	31	46	64	39.1
SOCIAL SECURITY	213	242	286	335	563	68.1
FALSE PERSONATION	40	33	28	32	30	-6.3
NATIONALITY LAWS	27	82	111	158	292	84.8
PASSPORT FRAUD	161	235	226	205	267	30.2
FALSE CLAIMS AND STATEMENTS	1,468	1,477	1,692	2,031	1,959	-3.6
OTHER	1,782	1,873	2,126	1,992	2,081	4.5
AUTO THEFT	335	267	232	189	182	-3.7
FORGERY AND COUNTERFEITING, TOTAL	1,093	1,001	987	1,156	1,346	16.4
TRANSPORTATION OF FORGED SECURITIES	60	12	-	1	-	-
POSTAL FORGERY	52	9	2	-	2	-
OTHER FORGERY	403	283	260	230	215	-6.5
COUNTERFEITING	578	695	725	925	1,129	22.1
SEX OFFENSES, TOTAL	359	412	623	690	777	12.6
SEXUAL ABUSE	259	261	285	305	308	1.0
OTHER	100	151	338	385	469	21.8

Table D-2. Cases (September 30, 1998—Continued)

Nature of Proceedings and Offense	1994	1995	1996	1997	1998	Percent Change 1998 Over 1997[1]
DRUGS	11,369	11,520	12,092	13,656	16,281	19.2
MISCELLANEOUS GENERAL OFFENSES, TOTAL	12,414	11,114	10,462	10,386	10,856	4.5
BRIBERY	283	190	152	168	174	3.6
DRUNK DRIVING AND TRAFFIC	7,080	5,214	5,045	4,974	4,982	.2
ESCAPE[3]	739	697	723	587	564	-3.9
EXTORTION, RACKETEERING, AND THREATS	509	713	557	572	617	7.9
GAMBLING AND LOTTERY	80	26	16	24	22	-8.3
KIDNAPPING	68	81	116	99	150	51.5
PERJURY	93	85	99	87	126	44.8
WEAPONS AND FIREARMS	3,112	3,621	3,162	3,184	3,641	14.4
OTHER	450	487	592	691	580	-16.1
SPECIAL OFFENSES						
IMMIGRATION LAWS	2,595	3,960	5,526	6,677	9,339	39.9
LIQUOR, INTERNAL REVENUE	2	3	2	2	-	-
FEDERAL STATUTES, TOTAL	2,084	2,403	2,317	2,156	2,363	9.6
AGRICULTURE/CONSERVATION ACTS	247	401	313	267	333	24.7
ANTITRUST VIOLATIONS	43	38	31	34	25	-26.5
FOOD AND DRUG ACT	46	55	48	48	47	-2.1
MIGRATORY BIRD LAWS	39	27	48	22	42	90.9
MOTOR CARRIER ACT	11	12	7	8	6	-
NATIONAL DEFENSE LAWS	95	85	62	73	55	-24.7
CIVIL RIGHTS[4]	70	73	73	59	77	30.5
CONTEMPT	74	69	81	77	80	3.9
CUSTOMS LAWS	88	97	110	97	125	28.9
POSTAL LAWS	182	202	152	165	152	-7.9
OTHER	1,189	1,344	1,392	1,306	1,421	8.8

[1] PERCENT CHANGE IS COMPUTED ON 10 OR MORE CASES.
[2] 1994 AND 1995 DATA INCLUDE FILINGS FOR WHICH FELONY WAIVERS HAVE NOT BEEN SIGNED.
[3] INCLUDES ESCAPE FROM CUSTODY, AIDING OR ABETTING AN ESCAPE, FAILURE TO APPEAR IN COURT, AND BAIL JUMPING.
[4] THESE INCLUDE CASES REMOVED FROM STATE COURTS UNDER PROVISIONS OF THE CIVIL RIGHTS ACT, 28 U.S.C. 1443.

Table D-2.
U.S. District Courts—Criminal Defendants Commenced, by Major Offense (Excludes Transfers), During the Twelve-Month Periods Ended September 30, 1994 Through 1998

Nature of Proceedings and Offense	1994	1995	1996	1997	1998	Percent Change 1998 Over 1997[1]
TOTAL	62,054	63,986	66,896	69,437	78,287	12.7
PROCEEDINGS COMMENCED BY						
INDICTMENT	40,238	42,866	45,267	47,461	54,525	14.9
INFORMATION—INDICTMENT WAIVED	7,270	8,222	8,712	9,571	10,457	9.3
INFORMATION—OTHER	9,528	8,307	8,276	7,463	8,302	11.2
REMANDED FROM APPELLATE COURT	157	209	193	143	97	-32.2
REMOVED FROM STATE COURT	24	37	36	11	21	90.9
REOPENED/REINSTATED	71	43	66	75	146	94.7
APPEAL FROM U.S. MAGISTRATE JUDGE	138	125	124	114	101	-11.4
JUVENILE DELINQUENCY PROCEEDINGS	77	116	190	218	245	12.4
CONSENT BEFORE MAGISTRATE JUDGE	1,696	1,727	1,738	1,918	1,932	.7
RETRIAL ON MISTRIAL	32	62	74	90	80	-11.1
RETRIAL—REMAND FROM APPEALS COURT	117	173	137	142	114	-19.7
VIOLATION NOTICE	2,433	2,083	2,082	2,231	2,267	1.6
OTHER[2]	273	16	1	-	-	-
GENERAL OFFENSES						
HOMICIDE TOTAL	330	389	446	432	474	9.7
MURDER—FIRST DEGREE	225	322	395	379	404	6.6
MURDER—SECOND DEGREE	64	7	14	16	22	37.5
MANSLAUGHTER	41	60	37	37	48	29.7
ROBBERY, TOTAL	1,826	1,436	1,635	1,745	1,714	-1.8
BANK	1,748	1,339	1,539	1,653	1,638	-.9
POSTAL	54	57	50	39	45	15.4
OTHER	24	40	46	53	31	-41.5
ASSAULT	651	625	594	568	690	21.5
BURGLARY—BREAKING AND ENTERING, TOTAL	178	86	91	93	115	23.7
BANK	101	8	-	2	-	-
POSTAL	24	31	21	29	25	-13.8
INTERSTATE SHIPMENTS	9	12	1	2	-	-
OTHER	44	35	69	60	90	50.0

Table D-2. Defendants (September 30, 1998—Continued)

Nature of Proceedings and Offense	1994	1995	1996	1997	1998	Percent Change 1998 Over 1997[1]
LARCENY AND THEFT, TOTAL	3,978	4,081	4,393	3,927	4,267	8.7
BANK	414	245	287	293	291	-.7
POSTAL	459	424	516	460	625	35.9
INTERSTATE SHIPMENTS	392	318	371	309	321	3.9
OTHER U.S. PROPERTY	1,957	2,166	2,189	1,924	2,054	6.8
TRANSPORTATION, ETC., OF STOLEN PROPERTY	357	512	523	440	418	-5.0
OTHER	399	416	507	501	558	11.4
EMBEZZLEMENT, TOTAL	1,697	1,449	1,392	1,279	1,505	17.7
BANK	734	759	706	621	790	27.2
POSTAL	251	248	272	263	306	16.3
OTHER	712	442	414	395	409	3.5
FRAUD, TOTAL	9,340	10,173	10,628	10,410	11,130	6.9
INCOME TAX	931	850	847	873	766	-12.3
LENDING INSTITUTION	1,656	1,688	1,581	1,573	1,723	9.5
POSTAL	1,877	2,420	2,195	1,741	1,677	-3.7
VETERANS AND ALLOTMENTS	6	-	-	3	2	-
SECURITIES AND EXCHANGE	67	53	53	103	142	37.9
SOCIAL SECURITY	232	288	332	397	620	56.2
FALSE PERSONATION	44	33	28	33	31	-6.1
NATIONALITY LAWS	28	85	115	161	298	85.1
PASSPORT FRAUD	167	245	234	221	289	30.8
FALSE CLAIMS AND STATEMENTS	1,718	1,733	1,912	2,251	2,166	-3.8
OTHER	2,614	2,778	3,331	3,054	3,416	11.9
AUTO THEFT	514	452	360	382	310	-18.9
FORGERY AND COUNTERFEITING, TOTAL	1,561	1,388	1,436	1,711	1,896	10.8
TRANSPORTATION OF FORGED SECURITIES	96	18	-	1	-	-
POSTAL FORGERY	70	11	4	-	2	-
OTHER FORGERY	530	341	307	268	265	-1.1
COUNTERFEITING	865	1,018	1,125	1,442	1,629	13.0
SEX OFFENSES, TOTAL	385	436	673	720	804	11.7
SEXUAL ABUSE	271	274	295	309	312	1.0
OTHER	114	162	378	411	492	19.7

Table D-2. Defendants (September 30, 1998—Continued)

Nature of Proceedings and Offense	1994	1995	1996	1997	1998	Percent Change 1998 Over 1997[1]
DRUGS	21,922	22,929	23,861	25,885	29,472	13.9
MISCELLANEOUS GENERAL OFFENSES, TOTAL	13,898	12,852	12,208	11,981	12,524	4.5
BRIBERY	394	262	222	238	235	-1.3
DRUNK DRIVING AND TRAFFIC	7,094	5,216	5,055	4,977	4,988	.2
ESCAPE[3]	842	760	795	638	612	-4.1
EXTORTION, RACKETEERING, AND THREATS	975	1,382	1,158	1,101	1,206	9.5
GAMBLING AND LOTTERY	166	49	26	33	31	-6.1
KIDNAPPING	139	137	220	195	251	28.7
PERJURY	122	110	133	97	151	55.7
WEAPONS AND FIREARMS	3,695	4,436	3,986	3,988	4,441	11.4
OTHER	471	500	613	714	609	-14.7
SPECIAL OFFENSES						
IMMIGRATION LAWS	2,953	4,471	6,185	7,328	10,147	38.5
LIQUOR, INTERNAL REVENUE	3	3	6	8	1	-
FEDERAL STATUTES, TOTAL	2,818	3,216	3,068	2,968	3,238	9.1
AGRICULTURE/CONSERVATION ACTS	310	530	407	348	450	29.3
ANTITRUST VIOLATIONS	88	48	44	47	37	-21.3
FOOD AND DRUG ACT	65	72	63	63	56	-11.1
MIGRATORY BIRD LAWS	48	49	107	34	86	152.9
MOTOR CARRIER ACT	13	12	12	10	7	-
NATIONAL DEFENSE LAWS	150	110	102	99	82	-17.2
CIVIL RIGHTS[4]	105	136	115	136	166	22.1
CONTEMPT	84	86	87	85	94	10.6
CUSTOMS LAWS	154	161	197	172	212	23.3
POSTAL LAWS	192	214	158	175	157	-10.3
OTHER	1,609	1,798	1,776	1,799	1,891	5.1

[1] PERCENT CHANGE IS COMPUTED ON 10 OR MORE CASES.
[2] 1994 AND 1995 DATA INCLUDE FILINGS FOR WHICH FELONY WAIVERS HAVE NOT BEEN SIGNED.
[3] INCLUDES ESCAPE FROM CUSTODY, AIDING OR ABETTING AN ESCAPE, FAILURE TO APPEAR IN COURT, AND BAIL JUMPING.
[4] THESE INCLUDE CASES REMOVED FROM STATE COURTS UNDER PROVISION OF THE CIVIL RIGHTS ACT, 28 U.S.C. 1443.

Run Date: 26-FEB-99

UNITED STATES DEPARTMENT OF JUSTICE
PROJECT TRIGGERLOCK
Summary Report
October 01, 1996 - September 30, 1997

DESCRIPTION	TOTAL	PERCENT
Indictment/Information:	3,555	-
Defendants Charged:	4,634	-
Charge Information		
Defendants Charged under 922 (g) w/o enhanced penalty:	1,663	35.89
Defendants Charged under 922 (g) with enhanced penalty under 924 (e):	184	3.97
Defendants Charged under 924 (c) :	1,570	33.88
Defendants Charged under both 922 (g) & 924 (c) :	331	7.14
Defendants Charged under 922 (g) & 924 (c) & 924 (e) :	24	.52
Total defendants charged under 922 (g) and 924 (c) :	3,772	81.40
Defendants charged with other Firearms violations :	862	18.60
Total Defendants charged:	4,634	100.00
Dispositions during the specified date range:		
Defendants Convicted:	3,233	78.24
Defendants Acquitted:	62	1.50
Defendants Dismissed:	837	20.26
Total:	4,132	100.00

UNITED STATES DEPARTMENT OF JUSTICE
PROJECT TRIGGERLOCK
Summary Report
October 01, 1996 - September 30, 1997

Sentencing Status

Defendants Pending Sentencing :	1,311
Defendants Sentenced During Specified Date Range :	3,299

Sentencing Information During Specified Date Range

Prison Sentences :	28,525 years
Average Prison Sentence :	109 months
Number Sentenced to Life or More than 15 years :	645
Sentenced to prison :	3,137
Sentenced w/o prison or suspended to 0 time served :	162

Table D-3.
U.S. District Courts—Criminal Cases Commenced, by Offense and District (Excludes Transfers), During the Twelve-Month Period Ended September 30, 1997

Circuit and District	Total	General Offenses							
		Homicide	Robbery	Assault	Burglary	Larceny	Embezzlement	Fraud	Weapons and Firearms
TOTAL	46,655	348	1,453	627	70	3,290	1,172	7,674	3,184
DC	662	2	8	4	-	56	14	139	114
1ST	1,801	6	17	14	-	54	25	151	83
ME	137	-	1	2	-	5	5	19	39
MA	347	2	12	7	-	30	12	66	25
NH	143	-	1	2	-	7	-	23	7
RI	99	-	-	1	-	6	2	17	10
PR	275	4	3	2	-	6	6	34	11
2ND	3,464	8	50	29	-	169	87	984	219
CT	222	1	5	-	-	8	9	64	38
NY,N	496	-	5	5	-	24	15	120	14
NY,E	1,089	6	11	6	-	37	13	260	53
NY,S	1,232	1	9	13	-	63	36	416	61
NY,W	357	1	16	2	-	35	10	103	20
VT	68	-	2	-	-	3	2	19	13
3RD	2,417	22	66	24	1	256	89	595	168
DE	129	-	3	2	-	15	5	37	17
NJ	811	2	25	4	-	149	27	227	43
PA,E	828	2	17	7	-	40	32	182	70
PA,M	292	2	11	7	-	29	9	76	13
PA,W	242	-	6	1	1	15	15	76	12
VI	226	17	2	3	-	7	1	18	6
4TH	6,044	36	156	78	9	609	115	725	494
MD	649	2	41	9	-	44	13	90	108
NC,E	756	3	15	13	5	136	8	52	23
NC,M	283	2	42	1	-	11	11	48	25
NC,W	350	4	19	5	-	20	15	61	29
SC	691	1	28	-	2	36	31	167	58
VA,E	2,896	23	6	40	1	334	23	204	167
VA,W	281	1	4	6	-	17	7	58	38
WV,N	132	-	2	1	-	5	1	16	17
WV,S	206	-	2	4	1	6	6	31	31

Table D-3. Cases (Continued)

Circuit and District	General Offenses (Continued)					Special Offenses			
	Forgery and Counterfeiting	Drug Laws	Traffic	Escape	Other	Immigration Laws	Agricultural Acts	Postal Laws*	Other
TOTAL	1,156	13,856	4,974	587	2,520	6,877	267	165	1,726
DC	84	186	-	3	16	19	-	6	19
1ST	16	356	6	11	60	81	3	6	61
ME	-	50	-	5	9	4	-	-	7
MA	9	81	1	5	16	27	1	6	23
NH	4	72	-	-	19	2	-	-	6
RI	-	37	-	-	5	16	-	-	5
PR	5	115	3	1	11	32	2	-	40
2ND	75	1,014	67	31	246	317	1	30	164
CT	2	47	-	1	16	10	-	-	21
NY,N	6	83	65	3	20	116	1	2	14
NY,E	29	471	-	6	75	53	-	5	64
NY,S	36	282	2	16	110	117	-	21	39
NY,W	4	103	-	1	22	16	-	2	21
VT	4	26	-	2	5	5	-	-	5
3RD	62	941	3	27	138	174	8	16	125
DE	6	22	-	-	4	4	1	-	4
NJ	25	276	-	6	51	11	4	6	51
PA,E	16	162	2	8	46	24	2	3	31
PA,M	3	79	1	8	17	6	1	3	16
PA,W	6	69	-	3	12	1	-	3	18
VI	-	31	-	-	6	128	-	-	3
4TH	132	1,568	1,316	59	359	60	40	11	257
MD	13	89	51	2	30	14	5	-	29
NC,E	7	177	214	4	36	2	19	-	49
NC,M	14	94	-	7	14	4	-	3	7
NC,W	16	128	3	8	31	1	1	-	9
SC	41	221	7	9	18	2	2	2	9
VA,E	23	618	1,040	16	201	31	10	3	129
VA,W	12	104	2	2	11	6	3	1	13
WV,N	-	64	-	2	7	-	-	2	15
WV,S	6	90	1	9	9	-	-	-	9

Table D-3. Cases (Continued)

Circuit and District	Total	General Offenses							
		Homicide	Robbery	Assault	Burglary	Larceny	Embezzlement	Fraud	Weapons and Firearms
5TH	5,849	6	106	42	4	347	195	1,262	319
LA,E	271	-	12	3	-	21	10	53	26
LA,M	116	1	6	-	-	9	9	47	9
LA,W	294	-	1	2	1	85	15	45	14
MS,N	126	-	3	1	-	3	3	22	11
MS,S	221	1	9	2	1	11	12	45	11
TX,N	748	2	29	5	1	74	21	185	76
TX,E	393	1	7	3	-	15	2	60	54
TX,S	1,785	2	15	17	-	14	14	195	51
TX,W	2,886	1	24	9	1	115	19	640	67
6TH	3,184	9	160	20	5	398	180	579	310
KY,E	311	-	11	1	2	6	15	62	19
KY,W	532	1	11	3	-	245	14	35	25
MI,E	812	-	85	6	1	22	36	103	101
MI,W	203	3	9	3	-	9	19	50	24
OH,N	416	-	32	1	-	25	50	129	36
OH,S	321	-	6	1	-	46	18	94	15
TN,E	294	2	20	1	1	14	9	32	30
TN,M	154	2	17	3	-	11	6	22	18
TN,W	339	1	19	2	1	16	13	52	42
7TH	1,609	1	64	13	1	95	60	374	176
IL,N	479	-	45	3	-	27	37	163	30
IL,C	238	-	9	2	-	4	7	17	23
IL,S	171	-	4	-	-	9	4	15	18
IN,N	218	-	6	1	-	12	9	58	39
IN,S	199	-	2	2	-	8	5	43	28
WI,E	220	-	15	4	-	27	9	54	31
WI,W	107	1	3	1	1	6	9	24	9
8TH	2,814	60	96	63	22	103	58	444	263
AR,E	239	-	5	-	1	6	9	55	30
AR,W	111	2	5	2	2	5	6	22	7
IA,N	159	-	4	-	-	2	3	20	25
IA,S	159	-	7	1	-	4	4	19	21
MN	308	8	29	3	1	8	16	58	31
MO,E	493	1	19	4	-	16	14	109	62
MO,W	270	2	7	1	-	17	13	63	33
NE	301	1	10	4	-	23	6	32	16
ND	153	13	4	14	1	6	3	23	19
SD	413	35	6	34	17	16	14	43	19

Table D-3. Cases (Continued)

Circuit and District	General Offenses (Continued)					Special Offenses			
	Forgery and Counterfeiting	Drug Laws	Traffic	Escape	Other	Immigration Laws	Agricultural Acts	Postal Laws*	Other
5TH	124	2,490	43	116	174	1,492	16	6	178
LA,E	12	58	-	2	12	9	3	-	19
LA,M	1	16	-	1	5	5	-	-	7
LA,W	10	75	1	3	19	1	1	1	20
MS,N	11	52	-	2	5	2	-	-	5
MS,S	6	78	3	1	24	2	3	-	14
TX,N	27	119	14	15	40	113	-	-	27
TX,E	14	203	-	5	17	10	2	-	10
TX,S	23	718	8	48	23	623	3	4	34
TX,W	20	1,149	16	39	28	727	4	1	37
6TH	108	869	90	48	183	52	18	11	146
KY,E	7	140	-	10	19	7	-	-	10
KY,W	8	58	46	13	32	4	1	-	34
MI,E	33	201	-	8	28	5	5	1	28
MI,W	5	38	1	1	22	7	2	1	8
OH,N	18	75	-	4	20	7	-	5	18
OH,S	15	63	2	1	11	7	-	3	17
TN,E	5	138	1	4	21	2	3	1	10
TN,M	5	51	-	1	8	3	1	-	6
TN,W	14	85	36	3	24	7	6	-	14
7TH	48	436	34	28	97	35	7	28	74
IL,N	17	87	-	2	32	3	2	18	22
IL,C	5	99	27	6	15	11	1	2	8
IL,S	1	87	3	2	10	8	-	-	10
IN,N	8	49	-	3	15	4	-	4	10
IN,S	2	67	2	5	15	3	-	-	7
WI,E	6	43	-	4	6	4	3	2	12
WI,W	9	24	2	6	4	-	1	-	6
8TH	54	536	48	29	264	123	47	1	71
AR,E	11	84	-	3	20	1	4	-	10
AR,W	4	31	8	1	11	-	2	-	3
IA,N	1	79	-	-	5	16	-	-	4
IA,S	1	76	-	2	10	9	-	-	3
MN	9	109	-	3	15	7	3	1	9
MO,E	11	146	33	4	27	6	25	-	16
MO,W	9	94	1	4	15	1	-	-	10
NE	3	131	2	2	37	26	1	-	7
ND	1	22	-	3	27	23	1	-	3
SD	4	82	4	7	97	34	11	-	8

Table D-3. Cases (Continued)

Circuit and District	Total	General Offenses							
		Homicide	Robbery	Assault	Burglary	Larceny	Embezzlement	Fraud	Weapons and Firearms
9TH	12,494	126	450	134	16	572	201	1,500	437
AK	177	1	7	2	1	24	5	16	9
AZ	2,003	74	32	24	5	31	13	466	69
CA,N	713	2	38	8	-	30	16	130	36
CA,E	936	3	33	7	1	77	16	133	36
CA,C	1,201	4	137	17	-	79	31	353	66
CA,S	3,303	2	48	25	-	39	20	111	22
HI	1,291	4	21	5	3	91	12	29	7
ID	103	5	2	3	1	4	4	16	11
MT	432	13	6	16	4	12	9	51	19
NV	264	9	24	7	-	7	11	84	24
OR	582	4	70	1	-	28	14	44	44
WA,E	299	3	9	1	-	6	2	17	41
WA,W	913	2	16	17	1	136	37	71	32
GUAM	155	-	7	1	-	7	7	30	16
NMI	32	-	-	-	-	1	-	5	1
10TH	3,040	50	75	59	6	222	68	321	201
CO	539	6	15	24	2	57	18	74	33
KS	344	3	6	2	-	32	15	53	55
NM	978	31	20	13	2	6	4	25	33
OK,N	165	1	6	-	-	11	14	61	20
OK,E	69	1	1	1	-	6	-	11	4
OK,W	456	-	1	3	-	89	5	49	19
UT	378	4	20	6	1	17	10	41	20
WY	119	5	2	10	1	4	5	16	17
11TH	6,336	19	182	46	6	429	120	667	356
AL,N	341	2	7	2	1	44	6	67	25
AL,M	222	1	10	3	1	46	6	21	9
AL,S	230	-	17	2	-	5	2	29	25
FL,N	284	1	11	1	1	21	14	25	39
FL,M	1,075	5	47	14	-	46	23	232	93
FL,S	1,331	2	38	6	1	35	31	146	66
GA,N	868	3	34	6	2	62	21	114	71
GA,M	1,837	2	11	5	-	85	6	25	25
GA,S	351	3	6	3	-	85	9	26	15

Table D-3. Cases (Continued)

Circuit and District	General Offenses (Continued)					Special Offenses			
	Forgery and Counterfeiting	Drug Laws	Traffic	Escape	Other	Immigration Laws	Agricultural Acts	Postal Laws*	Other
9TH	170	2,637	1,461	124	434	3,847	92	43	320
AK	1	46	35	2	2	9	5	-	12
AZ	18	540	-	23	80	578	15	-	33
CA,N	8	57	14	13	26	257	-	5	69
CA,E	3	167	7	24	27	349	18	1	32
CA,C	72	158	-	8	45	162	1	31	37
CA,S	16	1,079	-	18	22	1,860	3	2	34
HI	2	97	933	2	58	13	-	-	14
ID	3	11	1	1	9	12	7	-	11
MT	2	53	119	5	50	29	29	-	15
NV	6	58	2	8	11	24	2	-	5
OR	10	99	-	13	18	212	5	1	19
WA,E	4	107	1	2	15	75	4	-	12
WA,W	16	103	347	4	61	42	2	3	23
GUAM	6	46	2	1	4	25	-	-	2
NMI	-	16	-	-	6	-	1	-	2
10TH	52	819	428	39	152	452	21	6	71
CO	11	146	55	14	21	50	3	2	12
KS	7	115	8	4	14	14	1	-	13
NM	8	306	217	9	31	249	6	3	10
OK,N	11	23	-	2	15	-	-	-	9
OK,E	1	34	-	-	5	-	-	-	2
OK,W	9	85	144	5	23	8	1	1	13
UT	2	82	1	2	31	127	2	-	7
WY	3	26	-	2	13	4	6	-	5
11TH	231	1,796	1,461	74	392	234	14	2	222
AL,N	29	91	22	4	24	3	3	-	11
AL,M	20	60	24	8	8	1	-	-	2
AL,S	12	110	-	2	19	1	1	-	5
FL,N	4	115	15	14	16	2	1	-	4
FL,M	63	354	2	21	45	77	2	-	51
FL,S	46	671	-	9	54	75	5	1	111
GA,N	36	169	70	13	174	64	1	1	20
GA,M	7	186	1,271	1	15	7	-	-	9
GA,S	12	60	77	2	37	4	1	-	9

*OBSTRUCTING MAIL, MAILING NONMAILABLE MATERIAL, AND OTHER POSTAL REGULATIONS.

Table D-3.
U.S. District Courts—Criminal Cases Commenced, by Offense and District (Excludes Transfers), During the Twelve-Month Period Ended September 30, 1998

Circuit and District	Total	General Offenses							
		Homicide	Robbery	Assault	Burglary	Larceny	Embezzlement	Fraud	Weapons and Firearms
TOTAL	57,023	384	1,448	629	89	3,590	1,397	8,342	3,641
DC	800	1	7	3	-	39	12	95	91
1ST	1,015	4	35	12	1	46	15	195	110
ME	141	-	8	3	1	3	3	33	31
MA	360	1	12	2	-	26	9	90	41
NH	142	-	1	-	-	5	2	25	8
RI	120	1	3	1	-	2	1	22	16
PR	243	2	1	6	-	10	-	25	14
2ND	3,546	9	54	17	2	175	88	1,012	203
CT	215	1	4	1	-	5	12	71	24
NY,N	512	-	3	7	1	43	16	98	9
NY,E	1,083	6	8	6	1	35	15	263	43
NY,S	1,326	1	13	11	-	68	41	472	91
NY,W	300	-	22	2	-	21	3	91	21
VT	110	1	4	-	-	3	1	17	15
3RD	2,695	11	76	35	3	253	100	567	159
DE	120	-	9	3	-	9	9	28	17
NJ	1,004	2	22	12	-	166	23	218	39
PA,E	648	2	12	9	-	42	31	152	56
PA,M	288	1	10	4	-	22	6	59	25
PA,W	258	1	15	2	2	4	27	74	11
VI	377	5	8	5	1	10	4	36	11
4TH	6,481	41	107	85	15	663	109	695	655
MD	542	4	40	13	1	46	9	60	91
NC,E	841	3	19	26	9	192	5	60	36
NC,M	305	-	71	-	-	6	7	47	55
NC,W	333	8	16	5	-	17	9	55	43
SC	771	1	21	2	1	28	29	214	81
VA,E	3,105	24	14	35	2	346	24	169	255
VA,W	261	1	4	4	-	13	10	45	56
WV,N	110	-	-	-	-	6	3	16	17
WV,S	213	-	2	-	2	9	9	29	21

Table D-3. Cases (September 30, 1998—Continued)

Circuit and District	General Offenses (Continued)					Special Offenses			
	Forgery and Counterfeiting	Drug Laws	Traffic	Escape	Other	Immigration Laws	Agricultural Acts	Postal Laws*	Other
TOTAL	1,346	16,281	4,982	566	2,628	9,339	333	152	1,876
DC	54	120	-	-	40	5	-	3	18
1ST	23	338	3	4	81	78	7	2	72
ME	-	41	-	-	12	3	1	-	2
MA	12	108	1	2	23	20	2	2	18
NH	1	63	-	1	28	3	1	-	4
RI	7	45	-	-	1	18	-	-	3
PR	2	81	2	1	17	34	3	-	45
2ND	110	1,032	31	33	231	333	4	23	189
CT	10	35	-	2	24	7	1	2	16
NY,N	5	104	29	5	21	146	3	1	21
NY,E	29	481	-	5	75	50	-	-	66
NY,S	56	285	2	17	92	105	-	17	55
NY,W	4	77	-	3	17	21	-	2	16
VT	6	50	-	1	2	4	-	-	6
3RD	71	778	4	29	152	330	6	11	110
DE	7	29	-	-	1	3	-	1	4
NJ	22	338	-	8	64	31	3	1	55
PA,E	20	206	2	8	43	33	2	8	22
PA,M	8	99	1	9	23	9	-	-	12
PA,W	12	80	-	3	9	1	1	1	15
VI	2	26	1	1	12	253	-	-	2
4TH	162	1,767	1,349	37	363	85	34	4	234
MD	12	120	60	5	41	11	4	-	25
NC,E	7	206	182	4	29	9	13	1	40
NC,M	10	85	-	4	8	9	-	-	3
NC,W	18	110	-	-	29	4	4	-	15
SC	71	240	4	7	58	4	2	1	15
VA,E	31	767	1,103	6	171	44	11	-	103
VA,W	6	86	-	2	15	4	-	1	14
WV,N	1	47	-	2	6	-	-	1	11
WV,S	6	106	-	7	14	-	-	-	8

Table D-3. Cases (September 30, 1998—Continued)

Circuit and District	Total	General Offenses							
		Homicide	Robbery	Assault	Burglary	Larceny	Embezzlement	Fraud	Weapons and Firearms
5TH	9,206	14	121	43	2	413	120	1,258	443
LA,E	259	1	15	1	-	23	14	43	14
LA,M	147	-	7	-	-	4	11	59	14
LA,W	294	-	5	3	-	85	13	40	13
MS,N	97	1	5	1	-	3	3	15	12
MS,S	243	2	23	3	-	8	10	35	32
TX,N	936	2	36	7	-	109	40	214	100
TX,E	386	-	5	3	1	12	7	55	48
TX,S	3,112	5	10	5	-	33	16	270	108
TX,W	3,734	3	15	20	1	136	6	527	102
6TH	3,836	16	188	49	2	454	228	673	355
KY,E	409	-	9	5	-	14	19	63	32
KY,W	579	1	13	8	1	231	25	32	31
MI,E	646	1	36	16	-	34	35	134	95
MI,W	261	6	15	6	-	19	28	56	12
OH,N	552	1	42	3	-	39	51	157	45
OH,S	463	-	11	2	-	55	28	117	26
TN,E	322	5	11	2	1	16	15	32	51
TN,M	165	1	8	-	-	10	15	27	32
TN,W	431	1	10	7	-	36	12	55	31
7TH	1,984	8	96	14	1	101	106	395	165
IL,N	509	-	44	5	-	41	49	179	20
IL,C	300	-	14	4	1	10	14	36	27
IL,S	374	1	4	2	-	5	6	34	28
IN,N	301	1	6	-	-	16	8	54	43
IN,S	191	2	7	1	-	7	5	18	28
WI,E	204	4	16	1	-	16	12	48	12
WI,W	105	-	5	1	-	6	12	26	7
8TH	2,119	66	113	101	42	117	94	478	338
AR,E	273	1	9	2	1	11	10	43	30
AR,W	153	1	9	2	-	10	3	18	13
IA,N	155	-	9	-	-	5	2	27	17
IA,S	251	1	13	-	-	7	9	20	30
MN	332	16	27	2	-	6	18	65	50
MO,E	553	1	16	-	-	14	13	88	84
MO,W	370	2	13	5	-	26	13	55	42
NE	387	2	13	4	-	16	10	40	35
ND	199	19	4	14	8	8	4	27	19
SD	446	13	-	72	33	14	12	95	18

Table D-3. Cases (September 30, 1998—Continued)

Circuit and District	General Offenses (Continued)					Special Offenses			
	Forgery and Counterfeiting	Drug Laws	Traffic	Escape	Other	Immigration Laws	Agricultural Acts	Postal Laws[a]	Other
5TH	147	3,478	39	139	266	2,954	19	12	121
LA,E	15	83	1	1	13	19	2	2	12
LA,M	2	34	-	2	10	1	1	1	1
LA,W	10	81	2	2	9	6	1	-	17
MS,N	3	36	-	-	8	1	3	-	6
MS,S	9	69	1	1	15	6	3	2	24
TX,N	45	146	1	25	27	141	-	1	42
TX,E	7	166	3	13	18	32	1	-	15
TX,S	23	1,263	7	49	53	1,205	7	2	16
TX,W	31	1,593	14	36	52	1,143	1	4	59
6TH	138	983	187	63	239	101	46	21	206
KY,E	13	182	-	18	22	12	2	1	17
KY,W	13	92	43	3	33	1	1	-	51
MI,E	28	187	-	4	29	11	1	4	31
MI,W	11	60	-	-	18	17	2	2	9
OH,N	23	102	-	8	43	8	-	5	25
OH,S	30	118	2	7	29	5	-	3	30
TN,E	7	103	-	1	26	3	35	1	13
TN,M	3	43	-	3	7	4	1	5	4
TN,W	10	96	62	19	22	40	4	-	26
7TH	73	687	37	23	94	160	6	25	74
IL,N	19	62	-	1	28	11	4	19	27
IL,C	12	122	25	9	7	7	2	-	10
IL,S	4	133	4	1	12	132	-	-	8
IN,N	8	126	-	1	17	2	-	6	13
IN,S	8	70	4	8	17	5	-	-	11
WI,E	11	78	-	-	7	3	-	-	4
WI,W	10	24	4	3	6	-	-	-	1
8TH	74	1,100	54	29	262	132	30	3	96
AR,E	16	111	-	2	17	3	-	-	17
AR,W	10	66	1	-	10	4	-	1	5
IA,N	-	71	1	1	6	12	-	-	4
IA,S	5	135	-	1	11	12	3	-	6
MN	7	93	1	11	22	7	1	-	6
MO,E	13	202	50	2	17	8	20	1	24
MO,W	11	163	1	3	21	1	-	1	13
NE	7	195	-	1	17	41	2	-	6
ND	5	20	-	6	37	21	1	-	8
SD	2	48	-	2	104	23	3	-	7

Table D-3. Cases (September 30, 1998—Continued)

Circuit and District	Total	General Offenses							
		Homicide	Robbery	Assault	Burglary	Larceny	Embezzlement	Fraud	Weapons and Firearms
9TH	14,167	145	362	162	15	667	338	1,849	487
AK	261	-	5	4	3	20	20	50	9
AZ	2,919	91	26	37	4	42	21	569	81
CA,N	651	1	20	4	-	30	91	105	39
CA,E	907	2	11	12	-	68	21	130	22
CA,C	1,351	8	86	18	-	101	30	365	62
CA,S	3,817	3	38	23	-	19	25	209	22
HI	712	3	14	16	-	64	11	23	9
ID	155	13	3	3	2	5	9	19	8
MT	354	9	2	17	2	14	14	25	18
NV	522	7	38	7	-	18	10	103	55
OR	727	1	81	6	3	40	27	55	88
WA,E	387	3	17	2	-	21	10	33	31
WA,W	1,078	4	21	12	1	210	46	114	31
GUAM	279	-	-	1	-	15	3	40	12
NMI	47	-	-	-	-	-	-	-	-
10TH	3,442	63	78	47	4	281	68	367	239
CO	523	10	19	22	-	39	7	75	35
KS	374	2	7	3	-	27	8	58	55
NM	935	34	24	5	3	5	4	37	36
OK,N	171	4	6	3	-	13	14	42	23
OK,E	68	2	1	-	-	2	6	10	5
OK,W	580	6	6	1	-	139	8	84	28
UT	647	3	15	6	1	49	13	47	28
WY	144	2	-	7	-	7	5	14	29
11TH	7,040	16	174	52	2	381	126	767	396
AL,N	348	4	8	5	-	44	13	46	32
AL,M	213	-	3	5	-	52	5	17	14
AL,S	199	-	11	2	-	9	4	19	23
FL,N	318	1	22	4	1	21	12	31	33
FL,M	1,259	-	44	5	-	32	17	348	64
FL,S	1,392	1	41	13	-	54	34	151	126
GA,N	664	8	28	7	1	49	18	103	46
GA,M	2,368	-	12	7	-	79	13	25	25
GA,S	287	2	5	4	-	41	10	27	33

Table D-3. Cases (September 30, 1998—Continued)

Circuit and District	General Offenses (Continued)					Special Offenses			
	Forgery and Counterfeiting	Drug Laws	Traffic	Escape	Other	Immigration Laws	Agricultural Acts	Postal Laws*	Other
9TH	229	3,439	807	104	480	4,571	127	35	359
AK	4	49	39	-	7	25	15	-	11
AZ	26	667	-	13	105	1,165	13	1	38
CA,N	10	98	44	11	22	91	1	17	69
CA,E	5	114	14	19	23	429	13	2	22
CA,C	74	196	3	3	54	280	1	11	59
CA,S	10	1,564	-	24	24	1,799	2	3	52
HI	8	136	328	-	63	15	3	-	19
ID	1	20	11	2	9	17	24	-	9
MT	3	41	91	3	44	25	28	-	18
NV	22	74	-	9	30	134	2	-	13
OR	14	114	-	5	14	248	15	-	16
WA,E	17	94	-	3	12	129	4	-	11
WA,W	26	175	277	11	56	70	2	-	22
GUAM	9	48	-	1	4	143	2	-	1
NMI	-	29	-	-	13	1	2	1	1
10TH	71	853	351	46	169	689	27	5	87
CO	16	130	57	19	28	36	3	4	23
KS	16	138	7	3	14	16	5	-	15
NM	6	307	116	6	39	302	1	-	10
OK,N	13	25	-	4	17	2	-	-	5
OK,E	4	26	-	-	7	-	3	-	2
OK,W	6	80	167	6	29	7	2	-	11
UT	4	110	1	6	22	316	8	-	18
WY	6	37	4	1	13	10	5	1	3
11TH	196	1,776	2,209	68	322	298	27	9	221
AL,N	30	86	31	5	16	-	3	4	21
AL,M	17	58	23	3	11	2	-	1	2
AL,S	9	100	-	2	14	-	-	-	6
FL,N	4	104	33	11	24	2	2	1	12
FL,M	61	450	2	19	50	124	4	1	38
FL,S	59	624	-	13	90	84	13	1	108
GA,N	19	141	59	12	78	75	4	1	15
GA,M	3	152	1,997	1	26	6	1	-	13
GA,S	14	61	64	2	13	5	-	-	6

*OBSTRUCTING MAIL, MAILING NONMAILABLE MATERIAL, AND OTHER POSTAL REGULATIONS.

Requested Firearms Sections[1] Counts Charged Calendar Years 1996-1998[2]			
Title 18 USC[3]	1996	1997	1998
0922(d)[4]	17	25	10
0922(d)(1)	20	13	24
0922(g)[5]	683	752	603
0922(g)(1)	1213	1366	1550
0922(g)(2)	30	30	23
0922(g)(3)	46	69	129
0922(g)(4)	1	4	5
0922(g)(5)	72	96	107
0922(g)(6)	0	0	2
0922(g)(8)	3	18	22
0922(g)(9)	0	21	56
0922(q)[6]	4	5	8
0922(s)[7]	0	0	1
0922(t)	0	0	0
0922(u)	52	51	25
0922(v)(1)[8]	16	4	4
0922(x)(1)[9]	9	5	6
0922(x)(2)	27	3	8
0924(c)(1)[10]	1987	1885	1763
"Brady"[11]	46	26	21

Prepared: March 9, 1999

1. The information contained in this chart is compiled from the Executive Office for United States Attorney's (EOUSA) Triggerlock Database. This database is separate from the Case Management System (CMS) used by EOUSA for all other caseload information. Periodically, each United States Attorney's Office collects and sends, by hard copy, data regarding newly opened gun-related cases (or updates of pending gun-related cases) to EOUSA. The data is input manually into the Triggerlock Database. Because so much of this process is manual, the possibility of data input errors or a failure to report all Triggerlock cases exists. EOUSA does not make changes to the data provided by the districts and information submitted for entry into the Triggerlock Database is not uniform. While some districts provide data through their case management systems, others provide information obtained from the Clerk of Court's office or the docketing clerk, on a monthly basis through the form of indictments, convictions, judgments, etc. These other resources may not be able to track charges to the subsection level. Similarly, the docketing clerk may only transmit the lead charges, or the clerk may include only the section of the code and not the exact subsection. All of the above variables contribute to differences between data reported and actual indictments. In addition, these variables contribute to differences between the numbers in Triggerlock Database and other case tracking systems.

2. The numbers within the Triggerlock database are subject to change as the districts continue to update the status of their respective cases. Unlike the CMS, districts may submit new Triggerlock cases or updates to pending cases at any time, including other fiscal years. Therefore numbers for any given time frame should not be considered final. Similarly, an indictment superseding a previous fiscal year's indictment will overwrite the original indictment date when input into the Triggerlock Database. This will cause an increase in the current reporting period and a decrease in the previous reporting period.

3. You have requested data for selected charging provisions within Title 18, United States Code §§ 922 and 924(c). However, some districts report their cases under the other penalty subsections of § 924. For instance, "Brady" violations may be reported under 18 U.S.C. § 922(a)(6) or 18 U.S.C. § 924(a)(2). Similarly, Drug Free School Zone cases may be reported under 18 U.S.C. § 922(q) or under the sentencing provision of 18 U.S.C. § 924(a)(4). Youth Handgun Safety Act violations under 18 U.S.C. § 922(x)(1) and (x)(2) may instead be listed under the sentencing provision 18 U.S.C. § 924(a)(6) and its subsections. Violations of the various subsections of § 922(d) and (g) may be listed under the penalty provision of § 924(a)(2).

4. 18 U.S.C. § 922(d) has nine specific subsections. Section 922(d) is not a charge itself. Instead, violations of § 922(d) are set out in subsections 922(d)(1) through 922(d)(9). Some districts do not report which subsection was implicated. Thus the cases listed under § 922(d) could be any of the nine subsections.

5. 18 U.S.C. § 922(g) has nine specific subsections. Section 922(g) is not a charge itself. Instead, violations of § 922(g) are set out in subsections 922(g)(1) through 922(g)(9). Some districts do not report which subsection was implicated. Thus the cases listed under § 922(g) could be any of the nine subsections.

6. Violations of 18 U.S.C. § 922(q) are reported by the districts in various ways, including reference to 922(q), 922(q)(1), 922(q)(2) and 922(q)(2)(A). This number combines the data for these sections into 922(q) since only 922(q)(2)(A) is a charging provision.

7. 18 U.S.C. § 922(s) is the provision of the Brady law establishing the interim system background checks prior to November 30, 1998. Charges related to violations of the Brady law

cases may also be reported under 18 U.S.C. § 922(a)(6), 18 U.S.C. § 922(t) or 18 U.S.C. § 924(a)(2) or (a)(5).

8. Violations under 18 U.S.C. § 922(v)(1) are reported by the districts in various ways, including reference to § 922(v) or § 922(v)(1). This number combines the data for these subsections into § 922(v)(1) since only § 922(v)(1) is a charging provision.

9. Districts may report violations of theYouth Handgun Safety Act (YHSA) under 922(x)(1), 922(x)(2), 18 U.S.C. § 5032 or the penalty provision of 18 U.S.C. § 924(a)(6) and its subsections.

10. Violations of 18 U.S.C. § 924(c)(1) are reported by the districts in various ways, including reference to § 924(c), (c)(1) and (c)(2). This number combines the data for these subsections into 922(c)(1), since only 924(c)(1) is a charging provision. The number of 18 U.S.C. § 924(c) prosecutions has been negatively affected by the Supreme Court's restrictive definition of "use" of a firearm in Bailey v. United States, 516 U.S. 137.

11. As the districts provide data, they are asked to designate if a case implicates the Brady Law. Brady cases may be charged under 18 U.S.C. § 922(a)(6), 18 U.S.C. § 922(s) or (t), or under the penalty provision of 18 U.S.C. § 924(a)(2) and (a)(5).

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