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DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2001

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS

UNITED STATES SENATE

ONE HUNDRED SIXTH CONGRESS

SECOND SESSION

ON

H.R. 4690

AN ACT MAKING APPROPRIATIONS FOR THE DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2001, AND FOR OTHER PURPOSES

Department of Commerce
Department of Justice
Department of State
Federal Communications Commission
Nondepartmental witnesses
Securities and Exchange Commission

Printed for the use of the Committee on Appropriations

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DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2001

THURSDAY, FEBRUARY 24, 2000

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

The subcommittee met at 11:02 a.m., in room SD–124, Dirksen Senate Office Building, Hon. Judd Gregg (chairman) presiding.

Present: Senators Gregg and Hollings.

DEPARTMENT OF COMMERCE

OFFICE OF THE SECRETARY

STATEMENT OF HON. WILLIAM A. DALEY, SECRETARY

ACCOMPANIED BY:

LINDA J. BILMES, CHIEF FINANCIAL OFFICER AND ASSISTANT SECRETARY FOR ADMINISTRATION
DEBORAH K. KILMER, ASSISTANT SECRETARY FOR LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS
ELLEN BLOOM, DEPUTY CHIEF OF STAFF
BARBARA RETZLAFF, DIRECTOR, OFFICE OF BUDGET

Senator GREGG. We will begin the hearing of the Commerce, Justice, and State Subcommittee.

I understand Senator Hollings will be coming a little later.

We are honored to have the Secretary of Commerce with us.

Mr. Secretary, rather than our taking your time with opening statements, please proceed with your statement.

OVERVIEW OF SECRETARY DALEY'S STATEMENT

Secretary DALEY. Thank you very much, Mr. Chairman.

Let me say that I am very pleased to be here to present our Commerce Department's budget for the new fiscal year, and let me first thank you, Mr. Chairman, and the members of the subcommittee and all of your hardworking staffs for the support and counsel which you have all given us over the last 3 years. This will be our last visit together, so I look forward to working with the subcommittee, obviously, to make this one of the best ever.

As you know, we are in the longest economic expansion in our Nation's history. As a result, we are in an era of unprecedented budget surpluses. Obviously, our goal is to try to continue this for

many years to come, and we are requesting a budget that covers our everyday chores, from taking the Census to advancing U.S. trade and protecting our marine resources.

But we are also requesting $875 million in new strategic investments that will help us do our jobs better and at the same time prepare us for the future. These investments are not only consistent with President Clinton's priorities, but in my opinion, they reflect many of the priorities of you in Congress.

All told, our budget calls for $5 billion next year, which is down 37 percent from last year's $8.5 billion, but of course, the decline is because the bulk of the work of Census 2000 will be done in the current fiscal year. I might add that we are on track for completing the Census on time.

To complete the work, we are requesting $393 million in fiscal year 2001 for the processing and distributing of the data and also for closing down the hundreds of local Census offices. To be honest, we have prided ourselves in this Department for keeping the lid on our budget, and aside from the Census, our core budget has remained fairly constant at about $4 billion for the last few years.

But the time has come to invest in the future so we can continue delivering high-quality services to the American people. In my opinion, this is a very prudent budget that, despite the increases, will pay dividends in the long run. I would like to briefly highlight some of our proposals.

E-commerce is the growth engine of the future. We have never seen anything like it before. But this revolution is definitely not without challenges. All of us got a wake-up call a few weeks ago that showed how vulnerable the Internet can be to cyber attacks. Obviously, it is smart business to make sure we have tighter security so we can maintain public confidence in the Internet. So we are proposing $76 million to work on this problem.

To fully exploit the Internet's potential, everyone needs to be plugged into the revolution, so we are seeking $175 million to help narrow the digital divide and also help promote e-commerce. This money would be used to increase computer use in the home, to triple NTIA's Technology Opportunities Program, and also to install high-speed Internet technology in rural communities and in the very distressed urban areas.

As we all know, accurate measurement of the economy is an absolutely vital Government function, so we are seeking $29 million for tracking e-commerce growth and for enhancing our statistical infrastructure.

We also want $54 million to promote economic development in our Native American communities; $28 million for minority-serving institutions to help them educate more scientists and engineers; and $10 million as part of a Government-wide effort to revitalize communities throughout the Mississippi Delta.

For NOAA, which makes up the lion's share of our budget, we are requesting nearly $2.8 billion. This includes $376 million in new money for protecting our environment. Much of this supports the President's Land Legacy Initiative, which is one of the greatest efforts to save natural resources since Teddy Roosevelt was President. So we are asking for resources to set up a new Cultural Impact Assistance Fund and increase the grants in our Coastal Zone

Management Program. We are also requesting $60 million so we can honor our commitment to the 1999 Pacific Salmon Agreement.

Predicting the weather and maintaining the largest non-military fleet of satellites in the world are our key priorities, so we are requesting increases in those areas.

This will once again be another banner year for trade. We are requesting $72 million for these programs. Bringing China into the WTO obviously would help us reduce our trade deficit by opening many markets in China that are now closed to U.S. exporters. By granting China permanent normal trade relations and bringing them into the WTO, we would have the opportunity to gain better access to many markets, from agriculture to telecommunications.

As a member of the WTO, China for the first time will have to play by global trade rules. Given the sheer volume of our trade with China and other nations, especially in Asia, we need more resources to remain effective at enforcing our trade laws and agreements that are already on the books. We are requesting $21 million for that purpose.

To be frank, how can we expect the American people to support those of us who agree that more liberal trade is good for us if they see that we are not doing a good job at enforcing and policing existing agreements? We can trust our trading partners, but we must verify that our trade deals are being lived up to.

There is also $16 million for promoting environmental exports and exports by small manufacturers. We are also proposing $30 million to help communities adjust when a plant closes due to trade or other economic shocks.

The last area I would like to mention, Mr. Chairman, is management. Without a doubt, the number one challenge for our Government in the years ahead is to find ways to deliver our basic services more efficiently. Over the past few years, we have made improvements at Commerce, from producing clean financial statements for all of the bureaus to improving security. But in the 21st century, Government must be E-ready. For several years now, we have asked for money to rewire our building with optical fiber so we can be a fully digital Department. With fiber, our network would operate 10 times faster than it does today. Ten years ago, people could wait overnight for an urgent letter, but to get the job done for the taxpayers, people need the information delivered instantly to their computers.

As the first Commerce Secretary of this, the Internet century, and if I may say, the longest-serving Commerce Secretary of this century, I strongly urge the subcommittee to provide the $6 million we need to rewire this building. I believe it is essential to the future effectiveness of the Department.

Finally, we are requesting funds for a number of critical building projects, notably, NOAA and the Census Bureau.

PREPARED STATEMENT

Mr. Chairman, that completes a brief outline of our 2001 budget request. Again, it has been an honor to appear before your subcommittee and to engage with you and your staff, and I would like to thank you once again and also thank the men and women of the Department of Commerce for the support that they have given me

in the last 3 years as we have gone through the budget process; our CFO and all the people who have worked so hard in our budget department not only to get me ready, but to get this budget put together to effectively present to you.

Thank you, Mr. Chairman.

[The statement follows:]

PREPARED STATEMENT OF WILLIAM A. DALEY

Good morning. I am pleased to be here to present the Commerce Department's budget for the new fiscal year.

Mr. Chairman, first I want to thank you, the members of this Subcommittee, and all your hardworking clerks for the support and counsel over these past three years.

This will be our last year together, so I look forward to working with the Subcommittee to make it one of the best ever.

As you all know, we are in the middle of the longest economic expansion in our nation's history. As a result, we are in an era of unprecedented budget surpluses. And I think all of us want this to continue for many years to come.

We are requesting a budget that covers our everyday chores, like taking the Census, advancing U.S. trade, and protecting marine resources. But we also are requesting $875 million in new, strategic investments that will help us do our job better, and prepare for the future.

In my opinion, these investments are not only consistent with President Clinton's priorities, but they also reflect many of your priorities in the Congress.

All told, our budget calls for $5 billion next year, down 37 percent from this year's $8.5 billion budget. Of course, the decline is because the bulk of the work for Census 2000 is being done right now, in the current fiscal year. I might add that we are on track for completing the Census on time, which in no small measure is due to the support of the Congress. For that we thank you.

To complete the work, we are requesting $393 million in fiscal year 2001, for processing and distributing the data, and for closing down local census offices.

To be honest, I have prided myself on keeping a lid on our budget. Of course, we have had to request substantial sums to cover the Census. But our core budget has remained fairly constant at about $4 billion for the last few years.

But the time has come to invest in the future: for promoting exports and enforcing our trade laws, for delivering high quality services, and for helping communities adjust to economic forces.

In my opinion, this is a very prudent budget that, despite the increase, will pay big dividends in the long run.

Let me briefly highlight some of our proposals.

First are investments for accelerating the E-Commerce Revolution. Obviously, E-Commerce is the growth engine of the future. We've never seen anything like it before. In my three years as Secretary, I have watched it grow from hardly a decimal point in world economic statistics, to what will be a trillion dollar business in a few years.

But this revolution is not without its challenges. All of us got the wake up call a few weeks ago that showed how vulnerable the Internet is to cyber attacks. President Clinton's meeting with industry, and your Subcommittee hearing last week, clearly underscore the need for tighter Internet security. While our information economy is strong and resilient, we must work together with the private sector to develop solutions to these problems.

Obviously, it is good business practice to do so to make sure that public confidence in our economy remains.

In our budget, we are proposing $76 million to work on the problem, including $50 million for an institute to begin Internet security R&D. It will be housed at NIST and will involve the private sector.

To fully exploit the Internet's potential, everyone needs to be plugged into the revolution.

So we are seeking $175 million to help narrow the digital divide, and to promote E-Commerce.

We are requesting: $50 million for NTIA to increase computer use in the home; a tripling in NTIA's Technology Opportunities Program to $45 million; and $23 million for EDA to install broadband technology in rural communities and distressed areas, where high-speed Internet access is as vital as good roads and bridges.

As we are often reminded—accurate measuring of the economy is an absolutely vital government function. So we are seeking $29 million for tracking E-Commerce growth, and for enhancing our statistical infrastructure.

Next, we are seeking $54 million to promote economic development in our Native American communities. Turning things around for Native Americans is a key goal of President Clinton's New Markets program.

We also are requesting $28 million in new funding for Minority Serving Institutions to help them educate more scientists and engineers. NOAA and NIST will administer the funding.

Another community struggling to move ahead is the Mississippi Delta region, where unemployment rates are double and triple the national average. We are asking Congress for $10 million as part of a government-wide effort to revitalize this multi-state area.

As you know, NOAA makes up the lion's share of our budget. We are requesting nearly $2.8 billion for NOAA.

Let me highlight a few of the new investments we're requesting. There's $376 million in new money for protecting the environment. Much of this supports the President's Lands Legacy initiative, which is one of the greatest efforts to save our natural resources since Teddy Roosevelt was President.

We will be working on a number of fronts. There's $100 million for a new Coastal Impact Assistance Fund, and a $93 million increase in Coastal Zone Management grants.

Our marine resources are a top priority. Your support on this is extremely important as we negotiate with other nations, and work to protect these resources.

We are requesting $60 million so America can continue to honor its commitment to the 1999 Pacific Salmon Agreement. We also want a $10 million increase for our National Marine Sanctuaries, which is nearly double what we received this year.

In other areas, we request: $12 million to expand efforts to stop declines in a number of endangered species; and $10 million to help fishermen deal with overfished waters.

Predicting the weather and maintaining the largest non-military fleet of satellites in the world are key priorities. We are seeking $100 million to finish modernizing the National Weather Service, and for maintaining our satellite systems.

And we need $28 million as part of a multi-year effort to improve forecasts of El Niño, and other climate events.

In the area of trade, we are requesting $72 million. Despite our past successes in expanding trade, we still have a nagging deficit. Obviously, one of the main reasons for that is our strong economy, and strong demand for imports. But in my opinion, we can do more to help shrink the deficit.

Bringing China into the WTO obviously would help. A quarter of humanity lives in China, but many of their markets are now closed to exporters.

By granting China permanent normal trade relations, we would gain better access to many markets . . . from agriculture to telecommunications. And as a member of WTO, China for the first time will have to play by global trade rules.

To make sure that it does, we also are requesting $21 million to get more aggressive about enforcing our trade laws, and our agreements with other nations. Last year, we did a great job on steel dumping. But given the sheer volume of our exports and imports, we need more resources to remain effective.

To be frank, how can we expect the American people to support us on trade, if they see we aren't doing a good job of policing our agreements?

We can trust our trading partners, but we must verify that our trade deals are being lived up to. So, for the first time, we plan to put trade compliance people in China, Japan, and Korea. This alone will help with about half the trade agreement problems businesses face.

There's $16 million, also, for promoting environmental exports, and exports by small manufacturers. And we are proposing $35 million to help communities adjust when a plant closes due to trade, or other economic shocks.

The last area I want to mention is management. Without a doubt, the number one challenge for government in the years ahead is to deliver services more efficiently. One way of doing that is making government e-ready.

For several years now, we have asked for money to re-wire our building with optical fiber, so we could become a truly Digital Department. With fiber, our network would operate ten times faster than it does today. Ten years ago people could wait overnight for an urgent letter. But to get the job done today, people need the information delivered instantly to their computers.

As the first Commerce Secretary of the Internet Century—and the longest serving!—I strongly urge the subcommittee to provide the $6 million we need to rewire the building. It is absolutely essential.

We also are requesting funds for a number of critical building projects, notably for NOAA and the Census Bureau.

We are very big on other good management practices. In the last two years, we have improved security for our workers, property and information. And for the first time, we have received clean financial statements from all the bureaus. And, we need to continue to implement PTO's reforms passed last year.

And, finally, let me add that as part of a supplemental request, we now have a plan on the table to close down NTIS, which has become outdated by the Internet. In my opinion, our plan would maintain public access to the scientific and technical information NTIS distributes, and minimize the impact a closure would have on federal workers.

Mr. Chairman, that completes my brief outline of our 2001 budget request.

I am prepared to answer your questions.

Senator GREGG. Thank you, Mr. Secretary.

We have appreciated your forthrightness before this committee over the last couple of years and have enjoyed working with you. I think you may be a little premature in your estimation that you will not be before the committee again. There may be other issues that come up that we would love to hear from you on, and hopefully, we will have a chance to do so.

HOME INTERNET ACCESS PROGRAM (HIAP)

I would like to focus initially on all the various initiatives in, for lack of a better word, the e-commerce area. It appears to be sort of a shotgun approach where almost every agency has thrown in a few million and in some cases, tens of millions of dollars, of requests and put "e-commerce" on them. It almost looks like it is an IPO exercise, where you change the company's name and put dot.com behind it and ask for a filing which gets you all sorts of money in the marketplace.

What I would like to do is try to sort out what you are proposing here and especially sort it out in the context of what other agencies are doing to the extent that there is overlap.

Let us begin with the home Internet access proposal which as I understand is $79 million of new grants for home Internet access along with information infrastructure grants. Maybe you could explain that and explain it in the context of the Universal Service Fund which has been set up and is funded by $1 billion already, which deals with schools and libraries, some of which spins off into this area.

INTENT OF HIAP

Secretary DALEY. The $50 million that we are requesting for the home Internet access program is intended to supply low-income families with connections, training, and the support which would be necessary for full involvement in today's information economy.

Senator GREGG. Let me stop you there. I heard the Vice President give a speech in which he said it was a new civil right—a new civil right—that people should have access to the Internet. Is that the policy of the administration, that this is a civil rights issue?

DIGITAL DIVIDE

Secretary DALEY. I think that if you look at what has happened with our society and this divide, what we have phrased the "digital divide," there is no question that there is a growing gap between our races on the accessibility and the use of this extremely important technology for people's futures. There is no question that if

you are not capable of using these technologies—and there are very few, if any, businesses left where you do not need some level of competence at the computer and computer skills—it is going to be very difficult to keep up with the rest of our economy.

Senator GREGG. Are you planning to put physical hardware in homes, or are you planning to educate people?

Secretary DALEY. It is not about putting hardware into homes. We obviously hope that the hardware ends up in the homes, because the fact of the matter is that if there is—one thing that our digital divide study showed was not only that this gap is widening, but where there is accessibility, people will take advantage of that; whether it is in the schools, as the E-rate has given us now in I think 90 percent of the schools, or the libraries, people will take advantage of that.

There is no question that the marketplace is moving toward trying to get——

Senator GREGG. What are you going to do with the $50 million? Are you going to put hardware in the homes?

Secretary DALEY. No. It is going to be a combination of working with community organizations to get training and to get hardware into communities. Whether it is actually put in the home or not, it would seem to me, Mr. Chairman, that that would not be a step within the program, to actually put hardware in the homes.

Senator GREGG. You are going to use it to train people at the local community level in how to teach people?

Secretary DALEY. And have community organizations that can—hopefully, we can bring hardware and capabilities to them, so people can access through those organizations the use of these technologies.

Senator GREGG. Walk me through this. I am a person of low income. How am I going to interface the Commerce Department's $50 million? How are our paths going to cross?

Secretary DALEY. We will interface within an organization at your community level—not with the Department coming into your home or coming face-to-face with you. This is a program that we will work with Government——

Senator GREGG. So this is going to be a new initiative with, like, the CAPS agencies to go out as part of their initiative, which is today basically involved with nutrition and housing; they are now going to, in addition, have an Internet education portfolio?

Secretary DALEY. Many local organizations are already doing that. We had a digital summit and were visited by over 800 organizations, companies and community organizations, civil rights organizations, which very much believed that at the very local level, their organizations have got to be providing for their people the technologies and the training. Basically, we will deal with those organizations.

Senator GREGG. So this is not actually going to get to the low-income person. This is going to get to the bureaucracy that is in existence already that allegedly works with the low-income individuals.

Secretary DALEY. Well, I would say that our goal and our plan would be to get this to the people and not have it lost in between the Department and that low-income person. That is the goal, and

we would hopefully structure it in a way that we would not have that sense when the program is reviewed by you.

Senator GREGG. This is an exploding technology. We do not know where it is going. There are some who would argue that people who have a television set today will have a computer tomorrow and will have Internet access tomorrow. My question is with this dramatic explosion in technology, which we have no idea where it is going to end up—we are just in the infancy stage of it—why do we think that the Federal Government with $50 million is going to be able to accomplish what the marketplace is probably going to accomplish on its own by simply creating the demand and having a technology where the prices are dropping so radically that it is available to most people anyway who have a TV? And most people in America do have a TV even if they are extremely low-income.

Secretary DALEY. As you say, Mr. Chairman, it may end up where your TV is your unit. I doubt it would be the TV that you and I have in our homes today.

Senator GREGG. It probably will be, with a cable box on top of it.

Secretary DALEY. It may be. But it has been pretty obvious that in this explosion, there have been a lot of people left out by the private sector. And to allow that group to grow and to continue to be ignored by the private sector will make this gap and this divide that we have seen over the last couple of years even worse.

Senator GREGG. Unfortunately, there are a lot of people in our society who are left out of a lot of different areas. I would start with education. We have an educational system that is failing a large number of people, and we do have an obligation to try to improve that.

It seems to me to be the creation of a new program the purpose of which is to find a home in order to address a political statement versus a substantive problem. I do not yet hear that there is a program here to back this up that is going to do much more than just send a bunch of money out to a bunch of different advocacy agencies which have in some instances been successful, and in some instances, simply have bureaucratic funding mechanisms. So I have very serious reservations about this, but we can go on to another topic, because, obviously, we may have some disagreement there.

I will turn to my ranking member for whatever statements he wants to make and questions he wants to ask.

Senator HOLLINGS. Thank you, Mr. Chairman.

I am intrigued also by the idea of having a computer as a civil right. The Vice President made that statement just recently at Morgan State in Maryland, and said that every home ought to have a computer. And then we have the Secretary of Commerce come up here and start it.

We believe in the schools and libraries, and we put that program in with respect to the Telecommunications Act of 1996, and we got the education feature to connect every school and every library across America, and we are still working on that. But as far as a civil right, I can take you to places in South Carolina that do not have indoor toilets, or telephones, or TVs, much less a computer. This thing could grow like Topsy.

I will go along with the $19 million to help the small and medium manufacturing firms with technical assistance and e-commerce, or the $10 million for the export initiative targeted at small and medium-sized manufacturers. Those kinds of things are fine, but the other $100 million in here for EDA and some other grants and whatever it is, I am going to be at the end of the phone ringing, saying I want one of those grants—you have a $1 billion program—that is a foot in the door, and I do not know where you stop that, to get everybody a computer and get it all interconnected.

COASTAL IMPACT ASSISTANCE FUND

Specifically, I am mainly interested in NOAA. You are building up a Coastal Impact Assistance Fund, which could really take care of the Coastal Zone Management State grants. In fact, that is the part of the State grants that takes care of an oil spill where you have exploration. But you have $100 million sitting around there, and then you cut the NOAA fleet. We have one vessel in there, and we are supposed to get another one, but you have eliminated that, and you have more or less eliminated NOAA's budget; you just leave it level-funded when we have over 100 lawsuits. Environmental groups are gathering the country around now to shut down the fisheries, and we have all these lawsuits backed up, and we cannot get the information, you cannot get the ships out there, you cannot back up your position. So they have enjoined them, and they are withholding, and what you are really doing is starting the Department of Commerce as a sort of grant program, leaving out the research and the expertise necessary for the fisheries and oceans programs there—as the longest-lasting Secretary of Commerce in this century.

Can't we just transfer that $100 million Coastal Impact Assistance Fund, just sitting down and not doing any drilling, but the environmentalists are drilling us—they are closing down the fisheries. We have all of these lawsuits backed up, and you do not even give us the money to do the work, so we have an incompetent NOAA. So they say, well, let us abolish that anyway. Many a Secretary has come along and tried to abolish NOAA because they do not understand it, and they never really support it strongly. I see that here in this particular budget request.

What is your response?

Secretary DALEY. First of all, Senator, I firmly believe that NOAA is an integral part of this Department. It is not a side thought of mine. I have spent a tremendous amount of time on NOAA issues and on fish issues. There is no question about it. I am sued repeatedly. I do not think there is an amount of money that you could appropriate that would slow down the number of lawsuits that we get, many of which are justified and many of which are not.

DELAY OF NOAA FLEET

We have a strong effort within NOAA to repair the depletion of the fisheries throughout our country, and as you know it is from Alaska all the way down and around and back up to New Hampshire that we have problems with just about every fishery. On the issue of the fleet, we have delayed the second boat because of a

problem on putting the procurement program together with the Navy, and the Navy has backed out on working with us on that second ship, so we have delayed, but we have only delayed the plans for that second ship, and we believe that by the fourth quarter of 2000, the award for the first ship will be done, and hopefully, shortly into next year, we will move forward on the plans. But the only reason the second one is delayed, Senator, is because of the difficulties we had with the Navy as a procurement agent; so we have had to bring it back in.

NOAA LAWSUIT

Senator HOLLINGS. Mr. Chairman, I would hope the committee, rather than starting a new, $100 million Coastal Impact Assistance Fund, with money just sitting around, where we do have these lawsuits and are we not responding to them because we do not have all that fisheries information—we have fisheries responsibilities, as you describe, around the continent, but we are not responding, and we need an additional research vessel rather than starting a new Coastal Impact Assistance Fund, which is the Coastal Zone Management Act's original intent anyway. So we have the money there, and another $93 million, but I just cannot see that.

TOURISM

Jumping to tourism, I see $4.5 million for an—and listen to this one—International Trade Administration's Cultural Heritage Community Development Export Initiative. You have somebody from the Pentagon who has gotten loose in your Department; I can tell you that right now.

Senator GREGG. Does that have an acronym?

Senator HOLLINGS. I do not know. I cannot get that many initials——

Senator GREGG. "ITRAVEL" or "IFLY"?

Senator HOLLINGS. Yes, "ITRAVEL," or whatever the heck it is.

I have just come from a primary, and I spent $5 million trying to get reelected the year before last, and I can tell you that Governor Bush spent $10 million in my State, because I had no time buys, and I did not have any mailings, plus the telephones, so I do not know what $4.5 million is going to do for trade.

NATIONAL TECHNICAL INFORMATION SERVICE (NTIS)

How about the Technical Information Service, NTIS—you have taken $4.5 million out of the Advanced Technology Program to close down a service that is privately rendered up in Vermont. We had that with the rural information band, the WIC Program. In Commerce years back, we had the argument with Barron's that if you paid $1,000 a year, you could get it privately, but we had too many small businesses that did not have $1,000 to subscribe, so we put it in, and the Technical Information Service has worked out extremely well. I know that with the Internet, everybody has advanced, but everybody, as you say in the early part of your request, does not have it. Small businesses do not have it, and many, many others do not have it, and they do not have the infrastructure. So it seems to me that rather than take it out of the Advanced Tech-

nology Program, we could just continue that, Mr. Chairman, rather than closing it down.

Mr. Secretary, would you comment, please?

Secretary DALEY. Senator, obviously, Congress a few years ago changed the structure of that and the focus of it and directed it to be self-sufficient. It then had to become competitive with the private sector, which is very difficult.

NTIS FUNCTIONS TRANSFERRED TO LIBRARY OF CONGRESS

There is no question that there is a public purpose of parts of the NTIS that should be and we have encouraged that they be taken over by another agency, primarily the Library of Congress if that would work. There has been a Library Commission that has made recommendations, and we appreciate the work with them, but the fact of the matter is that for that organization to be competitive the way Congress wanted them to be, they were going to be in violation of the anti-deficiency laws. We took the steps believing that there are functions of that organization that, as I say, should continue, but they should not necessarily continue in the Commerce Department, and that is why we recommended that the important functions that you have stated be moved to somewhere else, but that——

Senator HOLLINGS. To the Library of Congress, to just store the information there.

Secretary DALEY. Basically, that is what their function would be, right, because they cannot compete——

Senator HOLLINGS. The scholars can find it, but I do not believe any businessman has ever been caught over at the Library of Congress.

Secretary DALEY. Well, not too many of them were being caught at our organization when they were being charged—for example, Senator, if I could, the NTIS, when we did our digital divide report, was costing somebody, a general citizen, $20-some if they went to NTIS to get that report, and they could go on the Internet and get it for nothing. That showed that their business plan was somewhat flawed.

IIP VERSUS ATP

Senator HOLLINGS. At the new Institute for Information Infrastructure Protection at NIST, Mr. Secretary, you have research for computer security technology. Why not at the Advanced Technology Program, where you have matching funds? This is an outright grant. You have four universities in it, and the probability is that rather than attracting other universities, they know how to make out the grant applications, they have the expertise, so you are just going to finance it at four universities and not extend it to the other universities, on the one hand; and on the other hand, for the industries that would be getting into it on a maximum basis with new technologies, you have that established program, the ATP, rather than just starting an outright grant of $100 million—excuse me—I think it is $50 million.

Secretary DALEY. It is $50 million that we are requesting, Senator. We believe that NIST, with their expertise and their scientists actively working with the universities and with the private

sector, can be the most efficient way to do this as opposed to through the ATP program. The ATP program has been effective, no question about it, with some long-range, high-risk investments. We believe, based upon not only the incidents of 2 weeks ago, but just an overall feeling, that the security of our infrastructure is most important to be protected; that the NIST scientists and their unique relationship with the private sector and with universities can create a program that will be extremely helpful to the Government long-term. ATP, as we also know, has been a controversial program at times, and you have continued to fund it at a level that we believe is quite adequate. But NIST and their expertise, we believe, for this problem of Internet security, is uniquely qualified.

ELIMINATION OF TEXTILE PROGRAM

Senator HOLLINGS. And on the International Trade Administration, I see that you have eliminated the textile program, but you have put one in for Native Americans. I have worked with the Bureau of Indian Affairs and Native Americans, and that $22.5 million—when you start getting into that Bureau and take a formative program that is more needed now than ever. In the early days, under President Kennedy, we had to have hearings and a finding by the Cabinet that the particular item involved, before the President could take emergency action, was important to the national security. So the Secretary of Commerce, with Defense and State, Treasury and Labor, had Cabinet hearings and findings. In May of 1961, then President Kennedy put his seven-point program out, and that has worked extremely well until you folks came with that white tent and all those Republicans underneath it to ship all the industry down to Mexico. I have lost 33,300 textile jobs. Look at the Bureau of Labor Statistics—it is probably more now; that is an old figure. But in my little State [South Carolina], we have lost 33,300 textile jobs.

Now, the only way that we can sustain an industry important to the national security as was found back under President Kennedy is with this particular cooperative research with private industry and the Government and the textile program. So, rather than eliminate that, I would hope that the $22 million—I will talk to Senator Inouye, and I am sure he can help the Bureau of Indian Affairs get that moving, if that is really what you are interested in—but I would hope we could maintain the textile program.

Do you have any comment on that?

NATIVE AMERICANS

Secretary DALEY. We have not eliminated our textile programs. On the issue of the Native Americans, Senator, as you know, they have had an economic situation that has been unparalleled with any other group of citizens, no question about it. As you mentioned, many of the textile workers in your State and other States have suffered over the last number of years by virtue of not only NAFTA, but by virtue of the global competition which has become extremely fierce in the textile industry. That is something that is real, and we are sensitive to it, and we are attempting to keep the opportunities for those workers in other areas, and as your State has experienced such an explosion in other job opportunities, quite

frankly, that is not equalled or even matched in many other States and surely not on the Indian reservations. Our program with Native Americans is to try to address, through EDA, a horrendous situation where their unemployment and their economic opportunities are much, much less than any group of people, especially those in a State as vibrant as yours, even though that industry, no question about it, has been terribly challenged over the last couple of years.

NATIONAL TEXTILE CENTER

Senator HOLLINGS. Well, I will look at it again, but there is no provision for the National Textile Center or for the T-squared, the one they have at NC State. You did not request any money there.

I will yield, Mr. Chairman, and thank you.

RESCISSION CRITERIA

Senator GREGG. I want to follow up on one of Senator Hollings' questions relative to NOAA. It seems to me that NOAA took a disproportionate hit when the 0.38 percent cut was made across the board, as compared, for example, to Census. I am wondering why, following up on Senator Hollings' concerns about the way the base budget of NOAA has been treated in the budget proposal. I also agree with his concern that the base NOAA budget appears to be getting short shrift here for initiatives which are basically grant initiatives, which I also support, but which I think has to be done in the context of a strong base budget. Why did you, in allocating that cut, hit NOAA so hard in comparison with the Census?

Secretary DALEY. Well, the Census took a hit of about $5 million, as opposed to if it were straight across the board, they would have taken somewhere around $11 million. That, as we all know, is an effort which has been very controversial, one that we believe is moving forward, one that, however, is a massively difficult task to undertake and will be over at the end of this year, the vast majority of it, and to give them a hit of the extra $6 million would have been a difficult thing for them to take—pardon me, I have just been told that it was $16 million, not $11 million, and I apologize.

We did exempt some of our most essential programs like the National Marine Sanctuaries Program, and we cut every other program except the Census by the 0.38 percent that the Congress indicated. It was determined that Census would have to have some flexibility on where to take this money. And then we cut the other earmarks of Congress by about 7.5 percent. There were a number of earmarks in NOAA, and that may be the reason why they took a little larger percent of hits than other bureaus; they have more earmarks and more programs that were susceptible. But we tried to exempt some of our more critical, as I said, programs, like National Marine Sanctuaries and others that we exempted. We had a policy that was really the same and consistent with all the other departments and other actions by Secretaries.

Senator GREGG. I understand that the flexibility was given to you. Actually, I would have taken it out of Census. In fact, Census has a huge amount of money, and I suspect it is going to end up with more money than it needs if it does the program effectively; that would have been the more practical place to apply the cut.

NATIONAL SECURITY COUNCIL

On the critical infrastructure issue, can you give us a little background here? It seems to me that you are basically being a front organization for the National Security Council. A lot of the money that comes to you is being funnelled back to the NSC, and the NSC is managing those dollars.

My question to you is what type of control do you have over these dollars, which are basically under the direction of the NSC, which you are basically getting or desiring to get?

Secretary DALEY. First of all, we believe strongly that we play a unique role in this whole debate of trying to protect our——

Senator GREGG. I accept that. I accept the premise that business would rather deal with you than with the FBI in developing systems for protecting infrastructure. What I do not accept necessarily is the idea that you should be a front organization for the Security Council.

Secretary DALEY. Well, I do not think we are a front organization for them. I think we play a unique role, no question about it, along with our role working closely with the business community. There is, no question, a national security/law enforcement piece to this that is constant, and we all kind of interrelate. So I do not deny that there is a national security role in this——

Senator GREGG. Who is responsible for the funds—who is responsible for the funds under the control of the National Security Council—you or Clarke [ed. Dick Clarke, National Coordinator for Security Infrastructure Protection and Counterterrorism]?

Secretary DALEY. We are.

Senator GREGG. Who is making the decisions on how the money is spent?

Secretary DALEY. We make it in conjunction with Clarke.

Ms. BILMES. Senator, I would just say that out of our $76 million request for CIP [Critical Infrastructure Protection] funding, there is only $3 million in our request which goes to the CIAO [Critical Infrastructure Assurance Office]. We have $60 million at NIST [National Institute of Standards and Technology], $6.3 million at NTIA [National Telecommunication and Information Administration] for our lead agency responsibilities, $2.2 million at PTO [Patent and Trademark Office], $4 million at NOAA [National Oceanic and Atmospheric Administration], and there is a $3.5 million request at BXA [Bureau of Export Administration], of which $3 million goes to the CIAO. So it is a very small portion of our request which is at issue here.

Senator GREGG. Well, there is some disagreement over that, so what I would like to get from you, to the extent that you can get it to us, would be an overlay of different accounts that are being used in your Department which are at the discretion of the National Security Council—not only in your Department, but I would like to get it in all the departments, so we can get a sense of where this money ends up when we give it to you. Does it end up on your desk, or does it end up on somebody else's desk whom we have no jurisdiction over and no oversight control over, which is obviously our concern.

We have a vote on, and I do not want to have you sit here until I come back, but there are a number of other issues which I do feel need some explanation, so we will send you some specific questions on those areas.

I also have reservations about this IIIP [Institute for Information Infrastructure Protection] program, very significant reservations about what its directive is going to be, and how it is going to coordinate, and whether it is going to overlap with other initiatives in other agencies. I do not want to see us get into a situation where we are creating another power center on the issue of terrorism and the issue of cyber crime. I want to make sure everybody is coordinating here—that is a big concern that I have with the budget as presented.

We also have other concerns with NOAA. I happen to agree with your idea on NTIS—although obviously, Senator Hollings has some reservations about it, I think you are making the right move there. And I am not sure where we are going with public broadcasting. It appears that this could be opening the door to a fairly sizable effort, and I would like to get some idea as to what is the projected cost that we are going to be asked to put up in order for PBS to go digital, and what is the contribution that we are going to get from the Corporation for Public Broadcasting to offset this. In other words, are we going it alone, or will there be some matching funds coming out of the Corporation for Public Broadcasting?

Those are some of the issues, and of course, I have a continuing concern with ATP [Advanced Technologies Program]. There appears to be a fairly significant carryover in ATP, and I am wondering why we need any new dollars in that account, considering the carryover that is coming at us.

ADDITIONAL COMMITTEE QUESTIONS

Those are some of the specific issues, and we will probably ask you to respond in writing, or perhaps you and our staff can go over them.

Secretary DALEY. We will cooperate quickly, Mr. Chairman, and we will get the answer to your question on the CIAO and the critical infrastructure funding to you very quickly.

Senator GREGG. I appreciate that.

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

QUESTIONS SUBMITTED BY SENATOR JUDD GREGG

PUBLIC TELECOMMUNICATIONS FACILITIES PROGRAM

Question. Doesn't the request for $79.5 million in new grants for "Home Internet Access" and Information Infrastructure Grants really duplicate what is being done through the schools and libraries program as well as other initiatives throughout the Government?

Answer. Neither program duplicates other Federal initiatives. Each plays a unique role in addressing different aspects of the digital divide.

Home Internet Access

The Home Internet Access program focuses on the issue of affordable access to the Internet. The goal of the program is to increase the number of low-income families that have access to the Internet in their homes. Other Federal programs do focus on the access issue, but with very different approaches. The E-Rate program,

which is administered by the Schools and Libraries Division of the Universal Service Administrative Company, provides affordable access to advanced telecommunications services for all eligible schools and libraries in the United States. The E-Rate provides discounts on telecommunications services, Internet access, and internal connections. This program helps schoolchildren gain access to the Internet in their schools and helps the general public gain access through their local libraries. However, neither the E-Rate nor any other Federal programs attempts to increase the number of low-income families that can use the Internet in their homes.

Technology Opportunities Program

The TOP focuses on a different aspect of the Digital Divide—the issue of nonprofit and public sector applications of the Internet and other emerging telecommunications and information technologies. Through TOP grants, rural and other under served communities demonstrate how to provide better services to their residents. TOP grantees use technology to help police identify suspects, to enable home-bound individuals to receive medical care remotely, to help sick children stay in touch with their classes, to help rural communities develop worker skills, and to help neighborhood organizations prevent urban decline.

For example, in 1997, TOP provided funds for the Virtual Campus of New Hampshire to extend the delivery of online course work, counseling, evaluation and assessment, and training for technical positions in such industries as biotechnology, telecommunications, and electronics. The goal of the project is to apply interactive Internet technology as a means of extending technical education that will lead to productive employment for under served populations in New Hampshire. New Hampshire residents are able to participate in the online courses at access points on our college campuses and four additional pilot sites—a public library, a high school, a public housing complex, and a community outreach center. In addition to access to basic courses, students are able to use the Internet to interact with mentors in a variety of technology-based industries.

The TOP plays a unique role by supporting demonstration projects that serve as national models for other communities to follow. By supporting, evaluating, and showcasing these projects, TOP helps all communities to see what is possible, what works and what doesn't. As a result, when those institutions invest in computers, software, local area networks, and Internet connections, they will be able to do so wisely and efficiently.

NTIA has safeguards to ensure that the TOP does not duplicate the efforts of other Federal programs. Each year, the NTIA Administrator uses the "avoidance of redundancy and conflicts with the initiatives of other Federal agencies" as a selection factor in making final grant award determinations. Program staff consult with staff at approximately 30 other Federal agencies to ensure that TOP grants do not duplicate any of their efforts.

With specific reference to the E-Rate program, note that in the 1999 fiscal year, TOP gave no grants to K–12 schools and only one grant to a public library. In addition, language in the TOP's fiscal year 2000 appropriation places clear restrictions on eligible costs for applicants that are recipients of Universal Service Fund discounts. The statute provides:

> That notwithstanding any other provision of law, no entity that receives telecommunications services at preferential rates under section 254(h) of the Act (47 U.S.C. 254(h)) or receives assistance under the regional information sharing systems grant program of the Department of Justice under part M of Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796h) may use funds under a grant under this heading to cover any costs of the entity that would otherwise be covered by such preferential rates or such assistance, as the case may be.

Finally, a 1999 GAO study confirmed that there were no instances of duplication among any Federal programs, including TOP, that allow educational institutions to use funds for technology investments.

EDA INTERNET ACCESS

Question. Has the Department looked at some of the creative ways states are wiring their towns without a major expenditure of funds? For example, in some states, prison inmates have been wiring schools and facilities. Why should EDA be giving out grants for this purpose? Shouldn't this be a state and local responsibility?

Answer. EDA is just beginning to look at some of the creative ways states and local governments are using to install fiber-optic cable in schools and other facilities. It will give full and fair consideration to various types of proposals that economically distressed communities propose for installing the necessary and appropriate infra-

structure, including equipment, that is needed for the deployment of broadband, high-speed Internet access. Since EDA's program responds to local needs and plans, and given that the primary focus of the e-commerce initiative is to assist distressed communities, and thereby their existing businesses, industries and institutions, become more technologically and globally competitive, EDA anticipates that it will fund a broad array of creative, public-private partnerships that are based on locally-developed strategies and that will assure that America's distressed communities are connected to the Internet.

While the wiring of schools is important, this initiative will be focused primarily on the external infrastructure and facilities that are needed beyond the walls of schools, libraries, etc., in order to connect the whole community, and primarily the businesses of the community, to the global markets of commerce and trade. Given the speciality of this type of construction and equipment, e.g., wireless technology, we anticipate that various type of systems and public/private partnerships will be used to provide broadband deployment in a variety of distressed communities that EDA's program is designed to serve.

Just like other types of infrastructure—water and sewer systems, industrial parks, highways and bridges, port facilities, skill training facilities—state and local governments have the primary governmental interest in their construction, operation and maintenance however, some communities, especially economically distressed communities, can't do it alone, they need help in financing their infrastructure systems because their tax base and general revenues won't support the full funding at the local level.

CRITICAL INFRASTRUCTURE PROGRAM

Question. Can you outline and defend the Department's request for funds in fiscal year 2001 under the Presidential Decision Directives 62 and 63.

Answer. Emerging threats such as weapons of mass destruction (WMD) and cyber attack challenge traditional concepts of national security. Although the Department of Defense plays a key role, the leadership for protecting the Nation from these asymmetric threats rests with civilian agencies such as the Department of Commerce, the Department of Justice, and the Federal Emergency Management Agency because of their authorities and resident expertise. A comprehensive defense demands the participation of many agencies, including those involved in law enforcement, foreign affairs, health and emergency services, and more. The Administration has worked to define, strengthen, and coordinate each agency's contribution to this effort.

Two Presidential Decision Directives (PDDs) provide strategic direction. PDD–62 created a new and more systematic approach to fight the emerging threat of WMD, clarify and coordinate the mission of the U.S. agencies charged with defeating terrorism. PDD–63 called for a national effort to assure the security of critical infrastructures. Both PDDs clarify the roles and responsibilities of the many U.S. agencies involved in the wide range of programs necessary to defend against WMD and protect our infrastructure. The Administration developed more specific guidance for agencies in its "Five-Year Interagency Counter-Terrorism Plan" and its "National Plan for Information Systems Protection" which includes the establishment of the U.S. government as a model of information security, and the development of a public-private partnership to defend our national infrastructures. The PDD–63 missions are of particular concern to the Department of Commerce.

Presidential Decision Directive (PDD)–63

Pursuant to the PDD–63, the Critical Infrastructure Assurance Office (CIAO) was established on May 22, 1998. PDD–63, titled "Critical Infrastructure Protection," directs that a National Plan Coordination Staff (the CIAO) be formed to coordinate the government and industry-wide efforts to implement the provisions of the PDD. The CIAO coordinates the overall effort to write the National Plan for Information Systems Protection (The Plan), helps agencies identify their dependencies on critical infrastructure, conducts coordination on national education and awareness efforts, and assists the national coordinator with legislative and public affairs. Necessary follow-on actions to Version 1.0 of The Plan include the overarching strategy for government and industry cooperation relating to protecting infrastructures, development of a process to identify critical government systems, interdependencies between government systems, and dependencies of government systems on private sector systems.

The CIAO has initiated a partnership and outreach program to engage (1) the critical infrastructure industries as supported by the lead agencies, (2) the business risk management communities, (3) the mainstream business community (including support for the National Infrastructure Advisory Council), (4) state and local govern-

ments, and (5) selected audiences representing the general public, including Congressional staff education. It has also developed a methodology for determining which programs within an agency are critical, determining the interdependencies between agencies, and the dependencies of these programs on private sector infrastructure. This methodology worked successfully in a pilot program in the Department of Commerce, and will be conducted at other agencies in the near future. Further, the CIAO is sponsoring a national education and awareness program targeted toward increasing public understanding and participation in protection efforts. The focus of the program will be to better inform the public about vulnerabilities resulting from interdependent networks, as well as facilitate methodologies to enhance academic opportunities relating to computer ethics and information security.

Question. Can you provide additional information about total funds requested by the administration throughout the Government under the blanket of these presidential directives? Can you point to any law that authorizes these activities?

Answer. There has been much interest expressed in the overall Government-wide efforts to implement the mandates of PDD–62 and PDD–63. With respect to the latter, many Federal agencies have developed their own specific requirements and have submitted funding requests for Critical Infrastructure Protection (CIP) activities accordingly. Overall, funding to combat terrorism has steadily increased over the past four years—up 40 percent to $9.1 billion—while funding for new missions such as WMD preparedness and CIP has doubled in that time. The fiscal year 2001 Budget proposes increases for each of these areas, bringing WMD defense to $1.6 billion and CIP to over $2 billion. These funds enhance ongoing efforts and launch new initiatives to strengthen our ability to deter and respond to attacks. Attached is a matrix reflecting Government-wide CIP funding by Department.

PDD–63 reflects a Presidential decision about how to organize the Executive Branch to respond to critical infrastructure protection. In issuing PDDs, the President relies on his constitutional authority and existing statutory authority. Agencies use existing authorities to carry out activities covered by PDD–63. This decision was validated by the fiscal year 1999 Omnibus Appropriations bill, Public Law 105–277, where Congress appropriated money for this activity.

FUNDING FOR CRITICAL INFRASTRUCTURE PROTECTION BY AGENCY [1]

[In millions of dollars]

Department	Fiscal year—				
	1998 Actual	1999 Actual	2000 Request	2000 Enacted	2001 President's Budget
Agriculture	0.70	1.22	3.10	2.51	17.89
Commerce	9.35	21.81	43.18	17.75	92.10
Education	3.59	4.45	5.23	5.23	2.51
Energy	1.50	3.60	47.22	21.98	45.30
EOP	0.05	0.58	0.48	0.48	0.56
EPA	0.12	0.24	0.08	0.08	2.30
FEMA	.....	.....	0.80	0.80	1.47
GSA	.....	3.00	8.40	.....	15.40
HHS	21.85	14.39	22.11	22.11	27.60
Interior	1.29	1.60	2.65	2.65	1.83
Justice	25.61	54.09	63.80	44.02	45.51
NASA	41.00	43.00	66.00	66.00	61.00
National Science Foundation	19.15	21.42	32.85	26.65	43.85
National Security	974.56	1,185.22	1,314.94	1,402.94	1,458.91
Nuclear Regulatory Commission	.....	0.20	.....	.....	0.25
OPM	.....	.....	13.65	2.00	7.00
Transportation	20.33	24.88	53.50	50.68	99.34
Treasury	22.91	48.89	83.22	76.22	87.03
Veterans Affairs	.....	.....	17.33	17.33	17.39
Grand Total	1,142.00	1,428.57	1,778,54	1,759.42	2,027.25

[1] Includes Protection of Federal Infrastructure and Assistance/Outreach to Private Sector.

NIST/INFRASTRUCTURE PROGRAM

Question. Mr. Secretary, this subcommittee will once again be faced with an extremely tight allocation and we must make sure that in creating new initiatives to protect our Nation's Critical Infrastructure that no duplication in effort occurs.

There are many agencies such as the FBI, NSA, CIA and others who are currently operating information infrastructure programs. Will this I^3P project overlap any current government efforts?

Answer. Institute for Information Infrastructure Protection (IIIP) will not duplicate any government information infrastructure protection programs. The complex, extensive problem of information infrastructure protection requires close cooperation and assignment of responsibilities among several Federal agencies, and a close partnership between the private sector and government. The unique role of the IIIP will be to fund longer-term R&D (typically 3 years to 5 years) to develop solutions for protecting the Nation's information infrastructure against possible future threats, as both the infrastructure and the threats become more sophisticated, complex, and extensive.

No other Federal agency conducts such a program. As noted in the President's National Plan for Information Systems Protection, "in R&D and other key technical areas, neither the private sector market demands nor agency mission objectives fully meet the Nation's requirements." The Institute will help fill this gap by supporting R&D that companies and government agencies will use to develop new products and services to protect America's information infrastructure.

In designing the IIIP, NIST worked closely with President's Committee of Advisors on Science and Technology (PCAST), Office of Science and Technology Policy (OSTP), National Security Council (NSC), and Federal agencies to ensure that IIIP's mission and role complements efforts in other agencies and the private sector, and fills critical gaps in current information infrastructure protection programs. PDD #63 and the National Plan for Information Systems Protection clearly and strongly identify the need for continuing R&D to develop information security solutions to protect the Nation's information infrastructure against current and future threats: "The Federal Government shall, through its research, development and procurement, encourage the introduction of increasingly capable methods of infrastructure protection."

PDD #63 assigns lead responsibility for coordination of R&D to OSTP: "OSTP shall be responsible for coordinating research and development agendas and programs for the government through the National Science and Technology Council." The plan for the Institute was developed in consultation with OSTP and NSC to help meet the Nation's information infrastructure R&D needs. This plan allows I^3P to meets its objectives of working effectively and productively with the many public an private sector organizations concerned with information infrastructure protection.

The IIIP will complement the information security roles of other Federal agencies without duplication. For example, PDD #63 assigns DoJ/FBI with the lead responsibility for law enforcement and internal security, including deterring attacks against critical infrastructures. The IIIP will not have any direct role in law enforcement or deterring attacks, but will fund R&D to develop new generations of information security solutions that DoJ/FBI, other agencies, and the private sector could use to prevent and respond to future cyber-threats.

Question. Could you please explain how duplication will be avoided and how cooperation and information sharing between agencies will work?

Answer. As stated above, NIST designed the IIIP in close consultation with PCAST, OSTP, NSC, and other Federal agencies to ensure that the new Institute will fulfill its mission without duplicating the work of other Federal agencies. An interagency process exists to coordinate existing and planned Federal agency critical infrastructure protection R&D. This process, which has operated for two years, culminates in a coordinated R&D agenda, which will be available to IAP to ensure that the Institute's R&D does not overlap other Federal agency R&D programs. And NIST will continue working closely with Federal agencies, private sector leaders, and the Institute to keep it focused on its core mission and avoid duplication of efforts.

Sharing research results from Institute-supported projects will be crucial to the success of the program, and IIIP will ensure that both Federal agencies and the private sector are fully informed of IIIP information. Classified information (including descriptions of strategic vulnerabilities) will not be publicly shared but will be shared with Federal agencies and other cleared organizations as appropriate.

Question. What types of standards are being discussed and how will establishing standards protect our critical infrastructure? What criteria will NIST use to determine who will receive grants from the Institute?

Standards

Answer. The goal of III is not to develop standards, although III-supported work may lead NIST and other government agencies to develop standards, best practices,

and guidelines for both Federal and private sector information infrastructure protection.

NIST has requested a separate $5 million appropriation ("C.P. Research and Development") to work with the private sector on developing standards, measurements, best practices, and guidelines for various information security applications, including cryptography, security management, best security practices, and security of supervisory systems that control building environments, manufacturing, provision of utilities, and other tasks. The C.P. Research and Development initiative is not directly related to IIIP. However, it is likely that III-funded R&D will become the basis of new standards, best practices, and guidelines developed by NIST, other agencies, and the private sector.

Examples are appended of the types of information security standards and best practices work that NIST conducts for reference. But such work will not be funded by IIIP.

Criteria for project selection

Projects will be funded through merit-based competitions open to U.S. companies, consortia, research institutions, universities, and non-profit organizations. All proposals will be peer-reviewed by teams of information technology and security experts. Proposals will be evaluated on criteria including technical merit, track record of the proposers, fit to the mission and goals of the IIIP, and anticipated impact on National information security.

The Institute will support research in areas that are identified in close consultation with those in the private sector who manufacture, own, operate, and use information technology. The research will be conducted by those best qualified to carry it out, whether they be in private companies, universities, government laboratories, or other research facilities. Given the close and continuing relationship with the private sector that the Institute will have to maintain, the Administration is currently engaged in intensive discussions with representatives from the private sector and academia on the precise organizational structure and operational procedures for the Institute. The private sector Partnership for Critical Infrastructure Security is also providing its recommendations.

IIIP expects that most proposals will be funded for approximately 3 to 5 years, with funding provided on an annual basis contingent upon successful yearly reviews of project progress.

ADDENDUM: EXAMPLES OF NIST INFORMATION SECURITY STANDARDS, MEASUREMENTS, AND BEST PRACTICES.

Recent Work and Ongoing Programs—Key Examples

Security "Best Practice" guidance identification, development, and dissemination.

Provide guidance to other agencies on how to protect their systems against hackers.

Publish guidance documents that aid industry and government in securing their computers.

Identifying trends in the discovery of vulnerabilities in order to guide industry in the prevention of the most common types of flaws.

Creation of a database of threats to public computer systems that points to appropriate countermeasures.

Web site that provides industry and government with computer security information on a broad variety of subjects.

Research and Development Activities—Key Examples

NIST has underway R&D activities designed to enhance the security of the Internet and the national information infrastructure in the following areas: network architectures that resist denial of service and other forms of attack; automated testing of systems and network elements for security flaws; and secure protocols and automated testing methods for both the current and the Next Generation Internet (IPSE).

The Advanced Encryption Standard (ES)

Standardization of interfaces to efficient and secure encryption algorithms to protect e-commerce and government transactions.

Securing electronic commerce activities through Public Key Infrastructure (P.I.) and P.I.-Enabled Applications.

More efficient and effective methods by which to evaluate the security of commercial products against known and emerging threats.

Mobile agent systems to ensure secure use in e-commerce applications.

Advanced access control architectures to allow efficient and effective control of organizational resources.

Use of smart cards to enable higher security in e-commerce applications.

Healthcare Security Project.

NAP Security Specification Tool Project.

NAP Telecommunications Security Project.

Infrastructure Development and Protection

These activities are helping establish the security services needed within the broader national information infrastructure (including the Internet) to combat hacking and other misuse.

Government P.I. Pilots

Validation of commercial cryptographic modules against the NIST Federal standard (over 100 products validated).

Work with industry and government to promote the development of a private sector IT security testing program within the United States.

FedCIRC—Development and piloting the concept and operational requirements for a government-wide computer incident response capability. Now operational under GSA Common Criteria Evaluation and Validation Program.

ATP

Question. ATP carried forward into fiscal year 2000 $24.5 million for grants it could not make in the previous fiscal year. For fiscal year 2001, the Department is requesting an additional $65 million for new grants. Mr. Secretary, what is the status of the funding provided in previous fiscal years earmarked for new grants?

Answer. ATP was not able to award all of the $66 million appropriated for new awards in fiscal year 1999. The balance carried over into fiscal year 2000 and the Conference Report for the fiscal year 2000 appropriation provided that these funds be used for this fiscal year's mortgages. ATP will award $50.7 million in new awards in fiscal year 2000 with its fiscal year 2000 appropriation.

Question. What confidence do you have that the additional funding for grants you are requesting will be expended in the fiscal year it is appropriated?

Answer. The ATP has aggressively expanded its outreach program in fiscal year 2000 to help potential proposers, particularly small businesses, understand the ATP selection criteria and competition structure and how to write a good proposal. As a start, the ATP held its National Meeting in November providing several opportunities to learn more about these issues. It was a huge success with about 1,000 participants. The ATP has also intensified its state outreach effort in fiscal year 2000, engaging the 50 governors, state technology councils, economic development organizations and university research parks. In addition, ATP has revised its outreach materials to improve their clarity. ATP expects to award $50.7 million of new awards in fiscal year 2000 and $65 million of new awarded as requested in fiscal year 2001.

NATIONAL TECHNICAL INFORMATION SERVICE

Question. Mr. Secretary, what is the status of your proposed legislation to cease NTIS operations? What contingency plans has the Department developed in the event that authorization legislation is not approved?

Answer. The Department's proposed legislation has been submitted to Committee and Subcommittee staffs. The proposed bill has not yet been introduced on the floor. We are urging both the Senate and the House to consider passing the legislation in conjunction with our fiscal year 2000 Supplemental Request of $4.5 million in transfer funds from NIST.

If our proposed legislation is not approved, NTIS is mandated to continue its functions and activities as a fee-funded entity. Under this scenario, NTIS would continue to operate, but would struggle to remain solvent.

Question. Mr. Secretary, it has been alleged to us that line offices in ITA are being assessed for funds to cover the costs of the agency's execution direction—despite an appropriations line item for that purpose—could you tell us or report back to us whether this is the case?

Answer. No, this is not the case. All funds to cover the costs of operating ITA's executive direction function (the offices of the Under Secretary, Deputy Under Secretary, Public Affairs, and Legislative and Intergovernmental Affairs) come from ITA's executive direction line item appropriation.

RESEARCH IN SUPPORT OF THE AGENCY'S PROGRAMS

Question. The increases in the fiscal year 2001 budget are not supporting the basic mission of the agency or increased research in support of the agency's pro-

grams, for example fisheries management, a major problem nationwide. Can you comment on any concerns you may have about the failure to increase funding for NOAA's research nationwide?

Answer. The requested funding increases for fiscal year 2001 are within the stated mission goals of NOAA, i.e. environmental stewardship and prediction. In addition, the President's budget request does include increases for research, particularly in climate, mariculture, weather research, and Sea Grant. NOAA's request for fiscal year 2001 will begin to address some areas of critical infrastructure to enable research to continue in the future.

EMPHASIS ON FUNDING PROGRAMS

Question. Is not there too much emphasis on funding assistance programs in specific areas to the detriment of other areas of the country?

Answer. In order to further our environmental stewardship and assessment missions, NOAA strives to allocate funds in a consistent manner to address National and regional needs. Our fiscal year 2001 budget seeks a balance in funding programs by dividing resources equitably across the country, either through a formula-based approach or based on specific needs in the region.

Various assistance programs, such as the Coastal Zone Management Program, address the needs of the majority of eligible coastal states and territories (33 of the 35 coastal states and territories).

NOAA, at times, also acts in response to natural and environmental disasters and directs funds to specific areas of the country. For example, funding is requested as emergency spending in fiscal year 2000 to provide assistance to Connecticut, New York, Florida, North Carolina, Washington, Oregon, and Georgia. Assistance is necessary as a result of recent hurricane and declared fishery disasters. Our fiscal year 2001 request as well includes funds to address the outbreak of harmful algal blooms experienced in specific regions of the country, hypoxia in the Gulf of Mexico, and restoration of the South Florida Ecosystem.

PUBLIC TELECOMMUNICATIONS FACILITIES PROGRAM

Question. Has the Department had discussions with the Corporation for Public Broadcasting (CPB) about digital conversion and how realistic it is to expect all stations nationwide to be broadcasting digitally by 2003?

Answer. NTIA has had continuing discussions with the Corporation for Public Broadcasting about digital conversion. These discussions have addressed the system as a whole but have not addressed the status of individual stations. The Administration's goal and the industry's goals are the same; we want to ensure that all public television transmitters are converted to digital by fiscal year 2003. As a whole, the public television stations are making great efforts to meet the deadline. At this point, it appears that the primary obstacle to meeting the 2003 deadline is the raising of the hundreds of millions of dollars required to complete the process.

PTFP recently received detailed digital conversion proposals from over 100 of the 175 public television licensees. These stations are requesting over $200 million in funds that would be matched by over $260 million in non-Federal funds. The Federal amount requested includes $100 million for fiscal year 2000 and the balance for future years. Based on industry demand for grants, we believe that if funding is available, public stations will be able to meet the FCC's schedule. Congress and the Administration must deliver the Federal share of funding in order to accomplish the conversion in a timely manner.

Question. How much is the Corporation for Public Broadcasting funding the conversion? Is all assistance for equipment conversion expected to come from the PTFP program, or is CPB requesting funds to assist stations?

Answer. The Administration has requesting $450 million for the digital conversion initiative which includes $355 million for PTFP and $95 million for CPB covering fiscal years 1999–2003. Funding through PTFP will primarily be for the basic equipment necessary to pass through and transmit a digital signal. The Administration envisions that funding through CPB will be for digital program production, development, and distribution. CPB has an appropriation of $10 million in fiscal year 2000 that requires authorization from Congress and is requesting $85 million for CPB over fiscal year 2001–2003 as part of the initiative.

QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

BEA'S E-COMMERCE INITIATIVE

Question. Mr. Secretary, it is crucial that policymakers have the most accurate economic data possible. This is particularly the case for budgeting. We use Bureau of Economic Analysis (BEA) data for constructing our baseline. If this data is off, it can have an enormous effect on our numbers.

Here's an example. Last year, there was a notable upward revision to BEA's wage and salary data. If this represents persistent under-measurement, federal tax revenues would be understated by more than $70 billion over the next 5 years. This is enormous.

I'd like to close by making an observation. Yesterday, Chairman Greenspan said spending on economic data is one of the few types of spending he supports unreservedly. I concur and believe it is very important that BEA receives its full budget request this year—for both ongoing operations and its new e-commerce initiative. I believe the potential dividends would be enormous.

I am concerned that BEA's data responsibilities are becoming even more difficult, in light of ongoing changes in our new economy. I understand that you have proposed an initiative to enhance BEA's understanding and measurement of e-commerce. Could you tell me a bit about this?

Answer. In recognition of the growing complexities of the economy, BEA proposed a multi-year project to update and improve its statistical accounts. Due to budgetary constraints, BEA is behind schedule in its plan to update and improve its economic accounts and incorporate e-business into them. As a first step to identifying e-business, BEA will update these accounts. In fiscal year 2001, BEA will develop new Gross Domestic Products (GDP) computer processing systems that fully incorporate recent e-business-related improvements in the GDP accounts. This will include new measures of computer software, new measures of electronic and other banking services, and expanded chain index information. These improvements will provide the infrastructure needed to accurately account for e-business. In addition, BEA will begin to address gaps in key e-business-related components of GDP, gross domestic income, quality-adjusted prices, and international trade, improving its ability to measure e-business and alleviating some of the serious problems plaguing the GDP and other economic accounts.

EFFECT OF NOT FUNDING E-COMMERCE INITIATIVE

Question. What will happen if BEA doesn't get the $3 million in e-commerce funds it has requested for fiscal year 2001?

Answer. In order to maintain the quality of the GDP and trade statistics, BEA would have no choice but to either decrease the frequency at which it reports updates, such as the quarterly GDP data that now is updated every month, or delay the collection and production of other data, such as foreign direct investment data for U.S. and foreign multinationals.

LACK OF INCREMENTAL FUNDING FOR QUALITY IMPROVEMENTS

Question. Since the Boskin Initiative in the early 1990's, has BEA received any incremental funding to allow it to maintain the quality of the GDP statistics in the face of the unprecedented economic growth and the explosion of e-commerce we've seen since then?

Answer. No, BEA has not. Its funding has decreased in real terms since 1993, putting real resources this year at roughly the level provided in 1992. With about 70 percent of its funding going to personnel costs and half the remainder to computer support, BEA is now undergoing a hiring freeze to ward off a projected budget deficit in the current year.

MAINTAINING STANDARDS WITHOUT BUDGET INCREASES

Question. Given that BEA has experienced shrinking real budget resources since 1993, how can it have kept up with the impressive standards of the Department of Commerce as the prototype "Digital Department?"

Answer. In past years, BEA eliminated several lower-priority programs—including leading indicators, pollution abatement and control, and regional projections—and reallocated those resources to its core economic accounts programs. That enabled BEA to continue making progress, albeit at a slower pace than originally expected, in its plan to improve GDP and the other economic accounts. Now only its core programs remain. Although its web-site dissemination of GDP and other data is often praised, that dissemination is not at the state-of-the-art level. For example,

the massive "benchmark revision" release of updated GDP accounts in October 1999 (a once-every-5-years event) revealed critical weaknesses in both the estimation and dissemination software on which BEA relies. The $3 million budget increase for fiscal year 2001 is necessary for BEA to overcome these problems.

FUNDING FOR DATA ON GLOBAL ECONOMY

Question. Demands of the newly globalized economy of the 1990's have brought the need for more economic data. For example, the IMF has promulgated requirements for more-detailed data on international capital flows; and the Bank for International Settlements is calling for more data on financial derivatives. Has BEA been provided funding to respond to those new demands?

Answer. Although, BEA has not been provided with additional funding to respond to those and other calls for new data, BEA has responded by employing its resources to meet the request. This is not, however, a long term response and additional resources will be needed to continue this level of reporting.

EMERGENCY OIL AND GAS LOAN PROGRAM

Question. Last year the Congress enacted the Emergency Oil and Gas Loan Guarantee Program. Applicants were given less than 6 weeks during the holiday season to find a bank and process a loan under the program. Not surprisingly, only 19 companies seeking $56 million were able to complete all of the necessary paper work in this short period of time.

Does the Board intend to modify the regulations in order to attract applications from more small oil and gas producers and service companies?

Answer. As background, the Emergency Oil and Gas Guaranteed Loan Program Act was signed into law on August 17, 1999. The Guarantee Loan Board issued the program regulations 60 days later on October 18, 1999. In recognition of the program's "emergency" designation, the Board established a ten-week application window which ran from October 18, 1999 to December 30, 1999. However, when alerted by outside stakeholders that potential applicants needed more time, the Board twice extended the application deadline, first to January 31, 2000, and then subsequently to February 28, 2000 to allow additional applicants to apply. In total, the application window has been open for over four months. At the close of the February 28 application deadline, the Board had received 23 applications requesting $68.2 million.

Specifically, in current market conditions, the Board has no intention of substantially modifying the program's regulations. The Board will, however, consider amending the regulations if market conditions change and additional application windows are opened. Any such adjustments, however, will be made in keeping with the Congressional mandate to provide support for sound, quality commercial transactions. It is the position of Board staff that the primary challenge for the program is not the content of the current regulations, it is the ability to attract qualified lending institutions.

Question. Is the Board processing the applications received to date and when does the Board expect funding of those applications?

Answer. All applications to the program will be reviewed and processed functionally at the same time. This "batch-processing" approach is set up in order to balance all applications and allocate guarantees based on comparative credit quality. Board staff initiated the review process on the applications when received and expects to have formal responses ready within 60–90 days of the final application deadline. The Board understands the urgency associated with the application requests and will work diligently to respond in a timely fashion.

Question. Why didn't the Board process the applications received by the 1/31/00 deadline?

Answer. All applications will be reviewed and processed functionally at the same time in order to balance all applications and allocate guarantees based on comparative credit quality.

Question. Many small companies have had difficulty identifying banks which are interested in making smaller loans (i.e. less than $25 million)?

Answer. A necessary ingredient to the success of this type of program is the involvement of the funding party, the commercial banks. It became clear to Board staff early into the process that most of the more significant and experienced domestic-energy lending institutions were not interested in participating. This was due to a combination of declared factors, among others: the $10 million loan size limitation; newness of and unfamiliarity with the program (the "fear of the unknown"); a reluctance to deal with any government program; the requirement to retain risk on a

pari passu basis with the government. As a result, it has become very difficult for potential borrowers to find willing and able lenders.

Question. Is the Board willing to simplify the process and assist companies in identifying participating lenders?

Answer. Board staff has attempted to engage the energy lending bank market through industry meetings, face-to-face visits and liaisons through trade associations. Despite these ongoing efforts, there remains a rather clear lack of enthusiasm to participate.

PUBLIC TELECOMMUNICATIONS FACILITIES PROGRAM

Question. Secretary Daley, I am pleased to see that the Administration's fiscal year 2001 budget does not again propose to terminate or significantly reduce funding for the Public Telecommunications Facilities Program (PTFP), which provides grants to public radio and TV stations for equipment. The PTFP program was funded at $15.25 million in fiscal year 1997; Congress provided $21 million for each of fiscal year 1998 and fiscal year 1999, and $26.5 million is approved for this year.

Mr. Secretary, I have been a longtime supporter of the PTFP because it is an important source of funding to rural states like New Mexico. PTFP grants enable local broadcasting stations to provide quality programming to populations that are generally under served.

The budget includes $110.1 million for PTFP for fiscal year 2001, an increase of $83.5 million above 2000. The request represents a quadrupling of the program with the significant increase to assist broadcasters with the purchase of digital equipment as we approach the 2003 conversion date. The Subcommittee approved a $5.5 million increase for this year to assist in this conversion, but also to assist rural broadcasters not yet ready for conversion to digital technology. How is the Department implementing the Committee's guidance for this year?

Answer. NTIA is committed to preserving the current public television services provided by analog stations during the transition to digital technology, especially those stations in rural areas. The program will continue to fund the replacement of obsolete equipment with the current appropriations. Over the past decade, however, broadcast technology has made an almost complete transition to digital. As a result, NTIA's funding of equipment to maintain current services almost always results in the purchase of broadcast equipment which is digital or digital compatible. Current technology also allows stations to purchase a broadcast transmitter which broadcasts both an analog and digital signal. Nevertheless, NTIA continues to support the purchase of pure analog equipment when such equipment is required to maintain existing broadcast service.

NTIA's budget anticipates considerable demand for digital conversion projects during this fiscal year because of the mandatory date for conversion to digital transmission for all television stations. Rural stations, however, lack the large populations to raise the private funds necessary to convert to digital technology. The difficulty in obtaining matching funds for the conversion of stations in rural areas is being addressed by the PTFP program.

To ensure that the needs of rural areas are satisfied, several grant policies for the PTFP program have been revised to assist rural stations and their conversion projects. For example, NTIA grant policy now recognizes that many small (often rural) public television stations will have difficulty in raising local funds for digital television conversion projects. Therefore, as part of the PTFP application process for fiscal year 2000, NTIA will permit small stations to qualify for 67 percent Federal funding for their digital conversion projects. This level of Federal funding is significantly greater than the norm of 40 percent for digital conversion projects funded by the PTFP.

For fiscal year 2000, NTIA instituted the acceptance of multi-year applications for digital conversion projects. The acceptance of multi-year applications will assist smaller public television stations who cannot raise the local portion of their project in a single year or who need more time to complete their digital conversion projects. Multi-year applications will permit stations to spread out their digital conversion project over several years so they can complete their digital conversion projects as they raise local funds.

NTIA is also permitting all stations to include equipment replacement as part of a digital conversion project. This change will help stations to begin their digital conversion projects through phased upgrade of their facilities.

In many rural states, public television stations are operated by state agencies or state universities. Several state legislatures have appropriated funds to assist the public television stations in their state with their digital conversion projects. State funds often must be obligated by the end of the fiscal year, and NTIA has revised

its policies so that state or local matching funds obligated during the current fiscal year for digital conversion will remain eligible for Federal funding in future phases of multi-year projects.

NTIA also set July 1, 1999, the start of many state fiscal years, as the applicable date for which local funds could be expended towards applications submitted for the fiscal year 2000 grant cycle.

NTIA believes that these actions will greatly assist public television stations serving rural areas in completing their digital conversion projects as well as preserving analog service during the transition.

Question. How is the $26.5 million approved for this year being allocated?

Answer. PTFP's grant applications were received in February and awards will be made in September. At this point, it is not possible to anticipate how the funds will be allocated. NTIA does not allocate grant funds, for specific types of projects, until it can review the applications taken as a whole and respond to station needs as contained in their requests. During the most recent cycle, NTIA awarded almost 80 percent of the $21 million in fiscal year 1999 funds to television grants, almost all of which purchased digital equipment. The remaining 20 percent were awarded to radio and distance learning projects.

Question. How much of the $5.5 million increase is being devoted to digital conversion? Was any of this funding used to assist rural broadcasters not yet ready for digital conversion?

Answer. NTIA anticipates that most of the additional $5.5 million will be devoted to digital conversion projects. NTIA will ensure that the needs of rural stations are met to preserve their analog service and help them begin the transition to digital service. The budget increase that is requested and changes to the program's fiscal year 2000 grant round will help stations from rural areas in meeting the digital conversion mandate.

Question. The budget justification documents indicate that the Administration expects the additional $83.5 million "to continue . . . assisting broadcasters with the purchase of digital broadcasting equipment needed to meet the Federal mandate to convert to digital transmission by 2003." Am I correct that the Administration's budget supports the basic PTFP program at approximately the existing level of $26.5 million for the next fiscal year?

Answer. The Administration's request for the PTFP program, both the base program and the additional funds, supports its traditional mandate—to extend public broadcasting service to unserved areas and to strengthen the capability of existing public radio and television stations—and assist stations with the rapid transition to digital formats called for by the 2003 time limit. Over the past decade, broadcast technology has made an almost complete transition to digital. As a result, NTIA's funding of equipment to maintain current services almost always results in the purchase of broadcast equipment which is digital or digital compatible. The additional funds are necessary to ensure that all stations purchase the basic equipment necessary to meet the Federal Communication Commission (FCC) time line for broadcasting a digital signal.

Question. How much does the Administration budget assume will be needed for the administrative costs for the ongoing PTFP program?

Answer. The PTFP program would require $2.5 million to adequately administer the grant program in fiscal year 2001 at the fiscal year 2000 budget level. The fiscal year 2001 budget includes $4.1 million (less than 4 percent of the budget) to administer the PTFP grant program. This level of funding is required as the program expects a large increase (more than 80 percent) in the number of applications to be reviewed and in the ongoing oversight of the grants awarded.

Question. Are those funds included in the salaries and expenses account for NTIA, or are they assumed to come out of the overall $25 million provided for PTFP grants?

Answer. Funds to administer the program are included as a separate line item in the appropriation for the PTFP account. In fiscal year 2000, PTFP was appropriated $26.5 million, which included $1.8 million for program administration. NTIA's salaries and expenses account does not include funding for PTFP's administration.

Question. The Administration again proposes that PTFP work "in coordination with the Corporation for Public Broadcasting (CPB)," on digital conversion. Originally, the Administration proposed that the digital conversion program be funded through CPB. What is the rationale for providing these funds through PTFP rather than the larger CPB?

Answer. For the past several years, NTIA has worked closely with the CPB and other national public broadcasting organizations to assist public television with conversion to digital broadcasting. The Administration initially proposed for fiscal year

1999 that CPB manage the entire digital transition program. The Administration, however, transferred the funding for transmission equipment from CPB to PTFP in the fiscal year 2000 budget to ensure that grants are awarded on PTFP's competitive (need- and merit-based) basis rather than CPB's formula-based allocation.

PTFP has a proven record of assisting public broadcasters with facilities purchases. For over 35 years, the program has funded projects that extended the delivery of public telecommunications services to over 95 percent of the American public and strengthened the capabilities of existing public television and radio stations. Over the past six years, the PTFP program has been funding digital equipment as part of public television's and radio's funding requests.

In the 2001 Budget, the Administration has retained funding for the digital transition program in both the PTFP and CPB budgets for fiscal years 2001–2003. The Administration still expects CPB and PTFP to work together in helping public broadcasting complete the transition.

Question. The budget also proposes advanced appropriations of $110 million in fiscal year 2002 and $87.5 million in fiscal year 2003 for the digital conversion program. Is the Administration's current estimated cost for public broadcasters to make the transition from analog to digital broadcasting the $307.6 million proposed in this budget, or are there other costs associated with this initiative?

Answer. The Administration's budget for public broadcasting's digital conversion initiative includes $307.6 million for PTFP and approximately $85 million for CPB covering fiscal years 2001–2003. The PTFP program has been assisting stations with their digital conversion, and at this stage in the digital conversion process, the additional $392.6 million for Federal support is reasonable. The Administration's initiative estimates that it will cost public television stations over $700 million to meet the FCC's May 2003 time line to begin digital broadcasts. Accordingly, stations will contribute several hundred million dollars to match PTFP's planned funding.

Question. Does the budget request anticipate that PTFP in making grants for digital conversion will include public broadcasting entities other than those participating in the PTFP program?

Answer. All public television stations in the United States are eligible to apply to the PTFP program for Federal matching funds and we anticipate that, over time, all stations will use the PTFP program to assist with their digital conversion.

Question. These grants have been characterized as "competitive," but this year the budget also indicates that these grants will also have to be matched. What criteria does the Department plan to use in making these awards competitively? What is the anticipated matching requirement?

Answer. The PTFP program has always been a competitive grant program that required matching funds from grant recipients for equipment replacement projects. Under its authorizing legislation (47 U.S.C. 390–393), PTFP can award no more than 75 percent of the eligible project costs for equipment projects.

The criteria that the Department of Commerce uses to make awards are contained in the PTFP Final Rules as published in the November 8, 1996 Federal Register (Vol. 61., No. 218, page 57966) as supplemented in the fiscal year 2000 Notice of Availability of Funds published in the December 23, 1999 Federal Register (Vol. 64, No. 246, p. 72225). These documents are made available to all potential PTFP applicants through the Internet or by printed copy.

The process for selecting digital conversion awards can be briefly summarized as follows:

—Digital conversion applications are placed into one of three priority categories based on the availability of a digital public television signal or the cooperative efforts of stations;

—the applications are then reviewed by a panel of at least three peer reviewers on the basis of six evaluation criteria: applicant eligibility, financial and technical qualifications, project objectives, urgency, and participation in the project by minorities and women;

—the program also receives input from: staff and technical assessments, State Single Point of Contact offices, state telecommunications agencies, a national advisory panel composed of representatives of major national public broadcasting organizations, and public comments; and

—NTIA then determines awards by applying selection factors, which include the panel and staff reviews, type of project, priorities, whether the applicant has any current NTIA grants that might affect the proposed project, geographic distribution of awards, availability of funds, whether the FCC is prepared to issue a required authorization and the degree to which the slate of applications, taken as a whole, satisfies the programs purposes as stated in the Final Rules.

The matching requirement is based on a station's ability to raise local funds. In the Notice of Availability of Funds mentioned earlier in this answer, NTIA estab-

lished a three step matching requirement for digital conversion projects. As part of its revisions in the PTFP application process for fiscal year 2000, NTIA will permit smaller stations, primarily in rural areas, to qualify for 67 percent Federal funding for their digital conversion projects if they can demonstrate hardship. These stations must demonstrate that annual cash revenues for the previous four years is less than $2 million or the project costs are greater than the applicant's average annual cash revenue for the previous four years. This level of Federal funding is significantly greater than the 40 percent Federal funding which will be the norm for digital conversion projects funded by the PTFP. NTIA will encourage other stations to reduce their reliance on Federal funds by awarding additional credit on the scores of applications that only request matching Federal funds of 25 percent or less. The Notice of Availability of Funds, however, pledges that NTIA will ensure that there is an acceptable balance between stations that request a 25 percent Federal share and those requesting 40 percent or 67 percent.

QUESTIONS SUBMITTED BY SENATOR ERNEST F. HOLLINGS

CENSUS 2000

Question. Is the Commerce Department taking any steps to get reimbursed from the contractor who made such a grievous error, or at least a reduced rate?

Answer. The Department of Commerce is not taking any direct steps with this incident. The Government Printing Office (GPO) is investigating this incident because the work was performed under a GPO contract issued on behalf the Department. When GPO completes its investigation, we fully expect the GPO will take the appropriate steps, which may include reducing the payments under the contract. GPO recently sent a letter to the contractor requesting a written explanation of why the defect occurred and indicated the Government may reduce the invoice billing.

Question. Is there any quality control system within the federal procurement system to identify this contractor with this major error?

Answer. We have been told that the GPO will take this incident and the results of their investigation into account in considering future print work awards. In a recent letter to the contractor, the GPO requested a written explanation of why the defect occurred and the steps being taken to assure that this problem will not reoccur in future procurements.

Question. Will the same contractor be conducting additional mailings for the census in the future?

Answer. In addition to printing the advance letter, the contractor did complete other Census 2000 printing work, including the experimental forms, the Update/Leave Short Form (Spanish) for Puerto Rico, the Update/Leave Short Form (English), and other language short forms. We have sampled these other products and no similar defects were found. This printer is not scheduled to do any future Census 2000 printing.

QUESTIONS SUBMITTED BY SENATOR DANIEL K. INOUYE

DEPARTMENT OF THE INTERIOR'S MARINE RESOURCE ROLE

Question. The Department of the Interior is continuing its efforts to expand its role in the conservation and management of marine resources. While I appreciate the additional financial resources the Interior Department is willing to dedicate to this effort, particularly in the area of coral reefs, I am concerned about Interior's efforts to exert exclusive jurisdiction over these resources to the exclusion of the Department of Commerce.

For example, the Interior Department is urging the President to issue an Executive Order to extend Interior's jurisdiction around the Northwest Hawaiian Islands, which are part of the Northwest Hawaiian Islands Refuge Complex administered by the Fish and Wildlife Service, out to twelve miles. I understand that the Interior Department is considering superseding the Commerce Department's jurisdiction under the Magnuson-Stevens Act over fishery resources by prohibiting commercial fishing activities in these areas. The Interior Department's proposal has major implications beyond just the Northwest Hawaiian Islands (NWHI). Some would argue that this is the first step toward dismantling the National Marine Fisheries Service (NMFS). I would like to know the extent of your involvement in these discussions and the position you are taking on Interior's efforts to expand its jurisdiction over marine resources.

Answer. There has been ongoing discussions in Hawaii and in Washington D.C. about the Interior Department's interest in extending management authority around the NWHI. NOAA (e.g., Magnuson-Stevens Act, National Marine Sanctuaries Act, and Marine Mammal Protection Act) have serious concerns with the concept, both because it could conflict with Commerce Department's exclusive fishery management jurisdiction under the Magnuson-Stevens Act and because the same conservation objectives can be achieved using the existing authorities of the Department of Commerce and the Management Council. Imposing an additional and potentially conflicting authority for managing living marine resources could negatively impact marine resource access and management.

Both the Department of Commerce and the Department of the Interior are discussing ways to improve management of living resources in the NWHI. For example, the WPFMC is committed to implementing a comprehensive Coral Reef Ecosystem Fishery Management Plan for the NWHI. The plan development process has involved all interested agencies and constituent groups, including the U.S. Fish and Wildlife Service (USFWS). Imposing a different management regime under a new management authority at this time could seriously damage progress towards constituent consensus on the conservation and management of important resources in this area.

Background: The Department of the Interior has responsibility for two National Wildlife Refuges (NWR) in the region. The Northwest Hawaiian Islands NWR was designated in 1909 and consists of 1,766 acres of emergent land and 610,148 acres of submerged lands; Midway Atoll NWR was established initially as an overlay refuge in 1988 to assist the Navy in managing its unique wildlife resources, and transferred to the USFWS in 1996. Midway Atoll NWR includes 1,549 acres of emergent land and 296,820 acres of submerged lands. A significant portion of the refuge submerged lands are within the 0 to 3 mile state jurisdiction. For the most part, the USFWS has not had fishery management expertise or activity in the NWHI. A limited catch and release recreational fishery has been allowed in the Midway Atoll NWR since tourism activities began there. Until recently, USFWS also had very limited coral reef activities in the refuges, but has recently added a coral reef expert to its Hawaii staff and advertised several additional positions.

Under the Endangered Species Act, NMFS has responsibility in the NWHI for the protection of the endangered Hawaiian monk seal and threatened and endangered sea turtles when they are in the water as well as other marine mammals under the Marine Mammal Protection Act. Commercial and recreational fisheries are currently managed under three Fishery Management Plans (FMPs): the Crustacean and Lobster, Bottomfish, and Precious Coral. NMFS, through its Honolulu Laboratory, has been the main scientific presence doing coral reef and fisheries research in the NWHI since the formation of NOAA in the 1970s.

While NOAA exercises fisheries management jurisdiction over managing living marine resources in the three to two hundred mile U.S. exclusive economic zone, NMFS and USFWS have collaborated constructively on a number of non-management related activities in the NWHI. A recent example is the NWHI debris cleanup which was led by NMFS but included significant collaboration by the State of Hawaii, Coast Guard, USFWS, and the Center for Marine Conservation and National Ocean Services (Hawaii Humpback Whale National Marine Sanctuary). NMFS, USFWS and other partners have proposed new joint monitoring activities on reefs in the NWHI in fiscal year 2001. NMFS values this collaborative relationship.

The Marine Mammal Commission, the Monk Seal Recovery Team, and the NMFS Office of Protected Resources have identified a number of issues related to existing and planned fisheries that should be addressed to enhance the recovery of the endangered monk seal and ensure the continued protection of the NWHI outstanding coral reef resources. These include additional no-take reserve areas where fisheries are excluded. NMFS believes that the necessary actions could be taken by the Western Pacific Fishery Management Council under existing authority of the Magnuson-Stevens Act.

ENVIRONMENTAL IMPACT STATEMENT BACKLOG

Question. I am very concerned about the National Marine Fisheries Service's (NMFS) backlog of Environmental Impact Statements (EIS). In some cases, the NMFS's failure to complete EIS's in a timely manner has led to court ordered closures of fishing areas, causing great economic hardship on domestic fishermen.

What is the Department doing to ensure that the most critical of these EIS's are completed? What additional resources are needed to assist you with these efforts?

Answer. Through NMFS, the Department of Commerce is working to complete or revise a number of Environmental Impact Studies, including some for Northeast scallops, west coast salmon fisheries, Alaskan groundfish, and in the western Pacific, along with Environmental Impact Studies for pelagic fish, bottom fish, crustacean fisheries, and coral reef ecosystems. The fiscal year 2001 request continues our current level of effort for these activities.

ECONOMIC ASSISTANCE TO FISHERMEN

Question. What options are available to provide economic assistance to fishermen who are economically harmed by the closures resulting from NMFS's inability to complete EIS's in a timely manner?

Answer. Under programs administered by such Federal agencies as the Economic Development Administration, Small Business Administration, the Department of Labor, impacted fishermen or communities may qualify for various types of economic assistance. NMFS currently does not have programs or funding to provide direct economic assistance to fishermen for losses from a fishery closure due to an incomplete or insufficient Environmental Impact Study.

SHARK FINNING

Question. Similarly, I would like to know what options may be available to assist fishermen who are economically harmed by the Commerce Department's policies which lead to area closures or the prohibition of certain fishing practices, such as shark finning.

Answer. As in the response to the previous question, there are Federal programs within the Economic Development Administration, Small Business Administration, Department of Labor, etc. that could assist fishermen and affected communities as a result of necessary prohibitions on certain types of fishing through loans, job retraining, community planning, or other forms of direct assistance. In addition, the fiscal year 2001 request includes a new $10 million Fisheries Assistance Fund within NOAA that is available to communities around the Nation. The funds would support buyouts and cooperative research and management.

QUESTIONS SUBMITTED BY SENATOR FRANK R. LAUTENBERG

EFFECT OF E-COMMERCE INITIATIVE ON SMALL BUSINESS

Question. Secretary Daley, I understand that you have created a package of new initiatives which are designed to accelerate the e-commerce revolution for our small business owners. Could you elaborate on how this initiative will improve the efforts of America's small business owners to compete in the e-commerce driven economy? Since this initiative covers various bureaus within the Department of Commerce, each bureau that is affected follows:

Census

Answer. The e-commerce market is estimated to be worth more than $300 billion annually. During calendar 2000 the Census Bureau will publish quarterly estimates of retail sales occurring over the Internet. Although there are many large nationwide retailing companies in the United States, it is still a fact that most retailers are small businesses. The Census Bureau data will give small retailers a reliable indication of the magnitude of Internet selling, thereby helping them determine whether they might enter into retailing over the Internet. During calendar 2000, the Census Bureau will also collect data on Internet activities through its annual surveys of retailing, wholesaling, manufacturing, food and accommodations, and the services sector. Results of these surveys will be released in early 2001. While much of the attention to e-commerce has focused on business to consumer activity, it is widely recognized that the largest share of e-commerce will occur in business to business activity. The Census Bureau data will give small businesses benchmark measures of a broad range of e-commerce activities. This information should help small businesses contemplating entering e-commerce craft strategies about how to operate in the Internet world.

Census Bureau plans include a $8.5 million initiative to fund a comprehensive electronic business measurement program. This new program will keep Census economic statistics accurate and relevant, demonstrate to the business community and policymakers that our programs are responding to fundamental changes in our economy, improve the quality of BEA's National Income and Product Accounts, reduce business reporting burden by 5 percent in fiscal year 2002 and 10 percent in fiscal

year 2003, and cut Economic Census data collection and processing costs by $4 million in fiscal year 2003.

Bureau of Economic Affairs

Funding for the e-commerce initiative will enable Bureau of Economic Affairs (BEA) to improve and update its GDP and other economic accounts and to provide a more accurate and comprehensive picture of economic activity, including e-commerce. BEA's national, regional, and international accounts provide business people, as well as governments and households, with the essential economic information they need to make informed decisions. Our initiative will allow us to better monitor and understand the impacts of e-commerce on small businesses, thereby, providing government officials with the information they need to make better policy decisions concerning small businesses.

Minority Business Development Agency

First, the Minority Business Development Agency (MBDA) is demonstrating leadership to the minority business community by using e-business practices in its internal and external operations. Because MBDA has Internet and extranet capabilities, the Agency is able to provide both MBDA staff and the minority business community information resources to function more effectively. In addition, an advanced information technology infrastructure of hardware and software supports electronic communications and transactions among staff, field offices, grantee organizations and the public.

MBDA also is using information technology as the primary mechanism for creating and distributing services to minority businesses. An e-commerce course has been developed for minority executives. Desktop software is available in selected business development centers to provide sophisticated market research.

E-commerce tools that are being made available to support MBDA's e-business practices are:

—The Phoenix-Opportunity databases which provide electronic matching of minority businesses with market opportunities;

—The Virtual Business Centers which are online one-stop information sources for growth industries in aquaculture, international trade, franchising and manufacturing technology;

—The Resource Locator which uses geographic information systems technology to quickly find business development organizations in a local area; and

—The Emerging Minority Marketplace, which is a series of reports, maps and research tools about the fast growing minority population as a lucrative market for minority firms.

Patent and Trademark Office

The Patent and Trademark Office (PTO) supports improvements in our e-commerce economy, including efforts of America's small business owners, by offering free access to patent and trademark information via the PTO web site. PTO currently offers more than two terabytes of science and technology covering all patents issued since 1976 and more than 100 years of marketing creativity covering all pending, registered, abandoned, canceled, and expired trademarks via its web site. In fiscal year 2001, we will begin expanding web site offerings to ultimately provide additional U.S. patent text and image data from 1790 to 1975. One of the primary benefits of this proposal is that the public will have access to the same data base content as patent examiners, thereby, giving individuals the opportunity to search for patent and trademark information themselves. This brings access to patent and trademark information closer to citizens and businesses who need such information to make important business and investment decisions to successfully compete in the global economy.

International Trade Administration

The President's fiscal year 2001 budget for International Trade Administration (ITA) includes an Increasing Manufacturers Exports Through E-Exporting increase request totaling 12 FTE and $10,000,000. ITA's Trade Development (TD) and U.S. & Foreign Commercial Service (US&FCS) units will work together to carry out the programs included in this initiative.

TD's portion of this increase will fund an outreach effort to Small- and Medium-Size Exporters (SMEs) to create an awareness of the opportunities e-commerce presents and to assist them to establish a web-based presence in the international marketplace. This increase will also underwrite e-commerce public/private partnerships under the umbrella of our highly successful Market Development Cooperator Program. Thirdly, this increase will fund the development and maintenance of a web site which will include a comprehensive database of import taxes, tariffs and other

regulatory data to help U.S. manufacturers determine product pricing, anticipate and comply with foreign market entry requirements and expedite international business transactions.

This increase request builds upon pilot work that has been undertaken within base resources. Currently, to assist SMEs to take advantage of e-commerce, TD is working with one of our Market Development Cooperator Program grantees, the Software and Information Industry Association, to plan domestic and international e-commerce outreach efforts. These joint activities will take the form of seminars directed at SMEs that will foster business-to-business exports using e-commerce. Internationally, we plan to conduct a series of trade missions to selected markets, with e-commerce suppliers as the participants. These missions will be coordinated with US&FCS staff at the respective posts.

TD is in the process of developing new market intelligence reports, including Internet use and e-commerce applications, that will review information technology markets in countries in Europe, Latin America, Asia and Southern Africa. These reports will cover key conditions affecting the uptake of e-commerce in overseas markets and identify the best e-commerce export markets for U.S. firms, particularly SMEs. The reports will cover issues such as national cyber laws and regulatory regimes, and highlight potential barriers to electronic commerce, such as network pricing and bandwidth issues.

In order to help SMEs export to countries where English is not a native language, we are working through a contractor to host a multilingual web site that will have company and product profiles of several domestic software and telecom SMEs covered. The first languages will be English, German and Spanish. The site will allow foreign business visitors to register and then contact the companies through specially designated officials at the respective U.S. SMEs. This structure will also allow performance measures to be captured.

ITA is also actively working on a wide range of policy issues aimed at ensuring that unnecessary regulatory requirements do not stifle the growth of e-commerce. This includes active efforts in multilateral fora such as the World Trade Organization (WTO), the Organization for Economic Cooperation and Development (OECD), Asian-Pacific Economic Cooperation (OPEC), the Free Trade Area of the Americas (FTAA), and on a bilateral basis. This policy work will benefit all U.S. firms, especially SMEs.

The US&FCS budget requests will enable ITA and its units to address challenges facing prospective SME manufacturer exporters. The advent of global connectivity and e-commerce have created a new globalized business environment in which any company with an Internet presence is a potential exporter. The objectives of these projects are to reach out to smaller and less-experienced businesses, create an awareness of the export assistance resources available, and assist those firms that have an interest in exporting but require additional business sophistication. These projects use a mix of traditional and web-based outreach strategies to reach new clients and provide them with the information and international context they require, as well as basic "starter" approaches to help them proceed internationally.

National Institute of Standards and Technology

Research indicates that small businesses have not strategically embraced e-commerce. Over 50 percent of all supply-chain participants are small businesses, making it extremely important to trading partners that small firms be capable of using e-commerce technology. Many experts predict that companies will likely fail if they do not strategically transform their business processes to include e-commerce. In addition, a 1999 survey by the National Association of Manufacturers (NAM) revealed that although 80 percent of smaller manufacturers have a web site, 75 percent do not use the Internet for any direct sales. It also noted that over 50 percent of smaller manufacturers use the Internet less than 5 hours a week. This funding initiative will assist small manufacturers adopt e-business by doing the following:

Manufacturing Extension Partnership (MEP) will develop and implement an outreach and adoption program. The MEP outreach program will focus on business-to-business e-commerce—the largest and fastest growing sector of e-commerce, expected to surpass $3 trillion annually by 2003.

The principal focus of the outreach program is the addition of approximately 200 information technology professionals to work at MEP centers throughout America helping small businesses adopt e-business practices. These e-commerce outreach field agents will help small businesses learn about e-commerce opportunities and challenges, and provide hands-on training and assistance, utilizing both internal and external resources, in all aspects of e-commerce, from the basics of Internet communications to designing e-commerce websites to integrating complex information systems. The field agents will help small businesses understand the broad

range of commercial e-business solutions provided by the private sector and make informed and appropriate choices among different private sector solution providers. The additional field agents will help the MEP centers provide a range of services through individual consultations with companies and group seminars and workshops.

To expand the reach and impact of the field agents, MEP will also work with USDA's Extension Service and SBA on its e-commerce outreach program. MEP will develop, produce, and distribute at least 600,000 copies of an e-commerce jump start kit to small businesses across the Nation. The jump start kit will contain fundamental information to help small businesses—many of them struggling with the fundamentals of information technology and not even having Internet access—begin the process of adopting e-business practices. The MEP centers, bolstered by additional information technology field agents, will help the small businesses make the next steps toward e-business success after the companies have become familiar with e-commerce issues through the jump start kits.

MEP will also begin work on a series of e-commerce adoption kits providing more advanced information and e-business solutions. The adoption kits will be focused by industry sector, addressing the specific standards and interoperability issues within that sector for increasing levels of business-to-business e-commerce adoption, creating true supply chain integration.

The combination of jump start and adoption kits for initial broad outreach with the hands-on help from the expanded MEP center staff provides a powerful combination of nationwide coverage and focused individual assistance.

National Telecommunications and Information Administration

The NTIA increase of $2 million is proposed for enhancing the environment of broadband (wireless and wire line) technology. NTIA's Institute for Telecommunication Sciences will provide broadband technology research and standards development to the successful commercialization and widespread deployment of the Next Generation Internet (NGI)—including the economical deployment of broadband capabilities in rural and disadvantaged areas. While the deployment and operation of the NGI will be a private sector responsibility, the U.S. Government has a significant role in the development of the enabling technologies and assuring universal access. As stewards of the Federal spectrum allocation and experts in spectrum- and network-related research, NTIA must provide the tools that support the information and communication needs of our public education, safety and health officials as well as facilitate opportunities for small businesses to compete in the world economy. The Broadband for the Next Generation Internet effort will focus on improving the quality and performance of current services so that advanced Internet, voice, and video services are available for all Americans.

In addition, NTIA's Technology Opportunities Program grants include model projects of how communities are using such networks to build economic strength and to improve their quality of life. These projects provide the opportunities and know-how for small businesses to flourish in the new economy.

DIGITAL DIVIDE

Question. The number of Americans who increasingly use the Internet as an economic and information tool continues to increase. What steps is the Commerce Department taking to narrow the "digital divide" between Americans who enjoy this new and powerful medium and those who continue to be left out?

Answer. The Department of Commerce's Falling Through the Net report, which has gained widespread attention, describes a gap that separates those who have access to telecommunications—through computers, the Internet, and other telecommunication services—and those who do not. It found that those who are low-income, Black and Hispanic, living in rural areas, and single-parent households are less likely to have access to the information tools that are now essential for finding a job, acquiring new skills, starting a small business, or getting lower prices for goods and services.

The Commerce Department is committed to closing the digital divide. The Administration's pro-competitive policies, as advocated in Department of Commerce filings with the Federal Communications Commission, have helped to spur private investment in the infrastructure and new technologies and to reduce the price of computers and the Internet.

The NTIA will produce the Falling Through the Net report on an annual basis ($400,000), so that the digital divide can be monitored over time. In addition, NTIA promotes "universal access" to the Internet through its Technology Opportunities Program ($45 million) and the Home Internet Access program ($50 million), which will assist under served families connect to the Internet. In addition, NTIA will

work with U.S. industry and other public agencies to conduct research and establish standards to support low-cost options for deployment of broadband capabilities in rural and disadvantaged areas ($2 million).

The Economic Development Administration's program ($23 million) to deploy broadband capabilities in distressed areas will provide public works grants to build the infrastructure needed to access the Internet in under served communities.

These programs combined with the myriad of private sector initiatives are helping to close the digital divide.

CHINA—INTELLECTUAL PROPERTY

Question. China may soon ascend to the World Trade Organization and Congress will have to decide whether to grant Permanent Normal Trade Relations to China. Perhaps one of the most important issues affecting American business will be the protection of American intellectual property. What strategies are in place to protect our intellectual property interests as we participate in the new markets of China and other emerging economies?

Answer. We are already preparing for the monitoring and enforcement effort required to ensure China and other trading partners abide by the World Trade Organization (WTO) commitments in intellectual property protection. The President's fiscal year 2001 budget requests Congress to appropriate $22 million for new compliance and enforcement resources at the Commerce Department, Office of the U.S. Trade Representative, Department of Agriculture and other branches of government with enforcement responsibilities. China WTO compliance will be a prominent feature of this enhanced monitoring and enforcement effort.

At the Commerce Department, we plan to triple Commerce's China office in size and to increase our Trade Compliance Center's resources as well. We plan to assign compliance staff to be posted in China, both to work with U.S. businesses and with the Chinese government. We plan an extensive monitoring effort of China's WTO accession protocol. For example, we plan to designate specific individuals in Washington and at our embassy in Beijing responsible for specific parts of the agreement—someone will be responsible for monitoring the intellectual property aspects of the agreement. We will work closely with United States Trade Representative (USTR) and the interagency process, to enhance participation in WTO committees in Geneva overseeing WTO implementation to ensure that when our monitoring effort finds problems, these problems can be acted upon immediately, including initiating WTO consultations or WTO dispute settlement as necessary. All these plans are contingent upon Congressional approval of this part of the President's budget request.

We will involve U.S. exporters, large and small, in our monitoring efforts through trade associations, District Export Councils, our Commerce Department and SBA offices around the country, the U.S.-China Business Council, the American Chambers of Commerce in China, labor organizations, and other non-governmental organizations. We will have a China compliance hotline on the web. This endeavor is intended to identify and resolve every possible compliance violation.

We will continue to use the full range of U.S. trade laws, including Special 301, to ensure that U.S. technology-based and creative industries are guaranteed adequate and effective intellectual property rights protection, and fair and equitable market access, worldwide. Under Special 301, the Executive Branch must identify annually those countries that deny adequate and effective protection for intellectual property rights or deny fair and equitable market access for persons that rely on intellectual property protection. Countries that have the most onerous or egregious act, policies or practices and those that have the greatest adverse impact (actual or potential) must be designated as Priority Foreign Countries. This year's annual review process is currently underway.

In the past, China was identified as a Priority Foreign Country under Special 301, resulting in several Section 301 investigations. Section 301 has also been an effective tool to address unfair Chinese practices affecting U.S. exports of products that rely on intellectual property protection. Before our Intellectual Property Agreements in 1992 and 1995 and the enforcement action in 1996, China was one of the world's largest producers and exporters of pirated products. Today, China has improved its legal framework, and has substantially eliminated the illegal production and export of pirated music and video CDs and CD–ROMS. China's active enforcement efforts continue with a renewed campaign initiated last fall.

China has committed to implement the Trade Related Aspects of Intellectual Property Rights Agreement (TRIPS) immediately upon its accession to the WTO, without a transition period. TRIPS requires that a country make available enforce-

ment measures and sanctions adequate to deter further infringing activity, thus, increasing our leverage for intellectual property rights enforcement.

The United States will strengthen its enforcement capabilities through the multilateral nature of the WTO. The WTO will apply a multilateral review mechanism to monitor the implementation of all of China's commitments, including intellectual property protection. In previous disputes over Chinese compliance with agreements, notably those over intellectual property protection, the United States had to act alone. With China in the WTO, we will be able to work with 134 other members, many of whom will be concerned about the same issues we raise and all of whom will have the legal right to challenge China's implementation practices and seek redress.

QUESTIONS SUBMITTED BY SENATOR BARBARA A. MIKULSKI

DIGITAL DIVIDE

Question. The Commerce Department did an excellent job in showing that a digital divide exists in America. Your report "Falling Through the Net" showed that the digital divide is still widening—especially for those communities that are currently isolated or falling behind. For example, your report showed that 46 percent of white households own computers—only 25 percent of Hispanic household's own computers. What is the role of the Department of Commerce in ensuring that no American is left out or left behind in the new technologically based economy?

Answer. The Commerce Department is committed to closing the digital divide. The Administration's pro-competitive policies, as advocated in Department of Commerce filings with the Federal Communications Commission, have helped to spur private investment in the infrastructure and new technologies and to reduce the price of computers and the Internet.

The NTIA will produce the Falling Through the Net report on an annual basis ($400,000), so that the digital divide can be monitored over time. In addition, NTIA promotes "universal access" to the Internet through its Technology Opportunities Program ($45 million) and the Home Internet Access program ($50 million), which will assist underserved families connected to the Internet. In addition, NTIA will work with U.S. industry and other public agencies to conduct research and establish standards to support low-cost options for deployment of broadband capabilities in rural and disadvantaged areas ($2 million).

The Economic Development Administration's program ($23 million) to deploy broadband capabilities in distressed areas will provide public works grants to build the infrastructure needed to access the Internet in under served communities.

These programs combined with the myriad of private sector initiatives are helping to close the digital divide.

Question. What are your priorities in the budget to achieve this goal?

Answer. The Department of Commerce's priorities to achieve the goal of closing the digital divide include: $50 million for a public/private partnership grant program at the Department of Commerce to expand home access to computers and the Internet for low-income families; $45 million to triple the Department of Commerce's highly successful Technology Opportunity Program which promotes innovative applications of information and communications technology for under served communities; $23 million through programs at the Department of Commerce's Economic Development Administration to accelerate private sector deployment of broadband networks in underserved urban and rural communities; $2 million at NTIA to conduct research and establish standards to support low-cost options for deployment of broadband capabilities in rural and disadvantaged areas; and $400,000 for NTIA to produce the Falling Through the Net survey annually to track the digital divide.

CENSUS

Question. The 1990 census counted only 98.4 percent of the population—this was the first year since 1940 in which coverage did not improve. The undercounting of the minority population was the largest ever. Those who are undercounted include: people with language difficulties; neighborhoods who don't trust outsiders or the confidentiality of the census; people who work more than one job and are rarely home; and non-traditional housing arrangements (extended families, roommates, borders, etc.). What are you doing to ensure that the census reaches those populations that have been undercounted in the past?

Answer. In fact, the problems in 1990 were even more serious. The 1990 Census missed about three percent of residents and double counted or otherwise miscounted almost 1.5 percent for a net undercount of 1.6 percent. From the beginning of the

planning process for Census 2000, the Census Bureau has focused on the vital importance of partnerships with state, local, and tribal governments, along with the crucial partnerships we are able to form at the community and neighborhood level. For Census 2000, we have designed the most robust partnership program in census history in order to reach out to those populations that are often undercounted. The Bureau has now almost 100,000 partnerships in place including, for example, a group of school children in Georgia that have raised their own money to promote the census by renting a billboard.

Because language is perhaps the most challenging barrier for a significant number of those in historically undercounted populations, Census 2000, questionnaires are printed in five languages in addition to English, is the most multi-lingual census in history. We also offer multi-lingual assistance for these five languages over the phone via a toll free number, for those people who need it. Foreign language guides are also available for 49 languages, and questionnaire assistance centers will be located in areas where we expect language to be a barrier to enumeration. Assistance is also available as part of the Telephone Questionnaire Assistance (TQA) program—an easily accessible, customer-friendly service that we believe will be an effective part of our strategy to address the undercount issue in these populations. When we first launched the TQA program it proved to be in higher demand than the Bureau had anticipated, and we did have difficulty managing the volume of calls. This initial difficulty has been overcome.

In addition to unparalleled efforts in the partnership programs, we are instituting the first-ever paid advertising campaign for Census 2000. This effort, designed in partnership with the advertising firm Young and Rubicam and its partners, includes a national media campaign with prime-time television (both broadcast and cable), radio and print media, and outdoor advertising. Through its partners, Young and Rubicam has also designed an advertising effort specifically targeted to historically undercounted populations on the national, regional, and local level. The local effort uses community news outlets, posters, flyers, and mass transit advertising. Further, Census 2000 has designed an early educational message targeted to hard-to-enumerate populations and a second national campaign designed to increase public awareness of the non-response follow-up operation.

SUITLAND FACILITIES

Question. I would like to discuss the condition of the Census and NOAA facilities at the Suitland Federal Center in Maryland. The current condition of these building poses serious health and safety risks for thousands of federal employees. They are ridden with asbestos and there are high levels of lead in the water so that employees have to use bottled water for drinking and don't know if its safe for them to wash their hands.

In addition, these buildings are over 60 years old and have received little maintenance during the past several years. Roof leaks and floods from old pipes are not an uncommon occurrence, and ceiling tiles, possibly contaminated with asbestos fall down on employees desks.

As you know, the Census Bureau employs over 4,000 employees at the Suitland facilities and is the sixth largest employer in Prince Georges County. The Bureau is extremely disadvantaged by having to carry out its work in substandard, unhealthy conditions. Likewise, NOAA's National Environmental Satellite, Data, and Information Service (NESDIS) and its Satellite Operations Control Center, cannot complete their mission within these buildings.

In fiscal year 2000, there was $3 million for NOAA to plan and design a new facility and report language to direct Census to come up with a long-range plan for its facilities. NOAA's budget for fiscal year 2001 includes an advance appropriation for $15 million for fiscal year 2002 when NOAA will be able to begin construction on the new facility. Census' budget for fiscal year 2001 includes $3.3 million to plan and design the rehabilitation of their facilities. Both NOAA and Census have responded separately.

SUITLAND FACILITIES—CENSUS

Question. Do you agree that the current condition of the Census and NOAA facilities at the Suitland Center endanger the health and safety of the federal employees who work there?

Answer. Current conditions at the Federal Center in Suitland, Maryland have deteriorated to the point that constant monitoring is required to be sure that employee safety and health are not endangered. For example:

—Remedial action by GSA has failed to correct the contaminated water sources thus, bottled water is being and will continue to be provided for building occu-

pants. Problems with the water are expected to persist until the entire system is replaced.

—Census is engaging an independent environmental firm to conduct periodic air sampling in problem areas throughout the buildings where antiquated ventilation systems do not provide adequate air circulation resulting in numerous complaints of respiratory problems. Also, microbial problems have been identified in a number of areas as a result of leaking or improperly functioning heating/cooling equipment.

—Ineffective heating and cooling systems have caused extreme temperatures in numerous locations resulting in employee health issues. The extreme temperatures divert employee attention from assigned work resulting in lost productivity. Power outages often result when electric space heaters are used to provide relief to areas where the heating system is inadequate.

—The periodic rupture of water and steam pipes has caused considerable flooding resulting in temporary relocation of employees. The repair and cleaning of affected areas results in further disruption of work and lost productivity.

—A recent sewage pipe leak in one of the buildings could have caused serious health affects from methane gas and/or bacteria from waste, and pigeon infestation has been reported in a number of locations within the buildings.

—The facilities have been subject to repeated flooding during rainstorms because of leaking roofs and poorly drained building expansion joints. The numerous attempts to patch the roof have been unsuccessful and problems will continue until the facility is fully renovated and the roof replaced, not patched.

SUITLAND FACILITIES—NOAA

Yes, we agree the space NOAA occupies at the Suitland Federal Center, Federal Building No. 4 (FB) poses a significant health and safety concern for all Federal employees who work there. The space has significant asbestos problems. In addition to the asbestos concerns, water-testing results confirmed the presence of a harmful substance in the water (coliforms), thereby, warranting the use of bottled water for human consumption. Due to the age of the facility, numerous roof leaks and other building system failures constitute threats to NOAA's critical infrastructure activities housed in the building. DOC, NOAA and GSA are diligently working to assure safe utilization of the building until the replacement building is complete.

SUITLAND FACILITIES—CENSUS

Question. Do you agree that the replacement or rehabilitation of these buildings should therefore be a top priority for the Department of Commerce?

Answer. Yes. GSA publicly stated that remedial action to correct contaminated water sources has failed and that bottled water will remain in the buildings until such time as a new facility/water system is provided.

PCBs recently were detected in machinery, just four months after a GSA survey indicated that the buildings had no equipment containing PCBs.

While these situations are being addressed and pose no immediate hazard, they contribute to an overall sense of unease with the work environment which is shared by managers and employees.

In addition, the necessary removal of asbestos in one of our major buildings has disrupted workplaces, and contributed to low morale. And the Asbestos Management Plan implemented by GSA to prevent further asbestos contamination has seriously impeded our mission by hampering our ability to access telecommunications wiring, install new equipment, and to troubleshoot.

SUITLAND FACILITIES—NOAA

Yes, we agree that the replacement or rehabilitation of these buildings should be a top priority for the Department of Commerce. In fact, both NOAA and GSA have designated this new NOAA building as a high priority with a target completion date of fiscal year 2004. In addition to the obvious health and safety concerns, the operational requirements for the National Environmental Satellite, Data, and Information Service (NESDIS) are not being met. This facility is an impediment to all employees working for NESDIS and its Satellite Operations Control Center, making it difficult for them to complete their mission. The GSA has determined that the construction of the new satellite operations facility is #3 on their priority list.

QUESTIONS SUBMITTED BY SENATOR PATRICK J. LEAHY

Question. Last year, when the Department of Commerce first proposed closing the National Technical Information Service (NTIS), initial cost estimates ranged from $1.35 million to $9.1 million. Now, the Administration has requested $4 million in the supplemental for fiscal year 2000. Can you provide the Committee with an explanation of how you calculated this final figure? Will there be any additional funds required to complete the closure?

Answer. The Administration has requested a $4.5 million supplemental transfer from NIST to NTIS. This figure represents the estimated cost of closing NTIS and transferring the collection of scientific and technical information to the Library of Congress, assuming the Department is allowed to begin the closure and transfer process in midyear. The later in the fiscal year that Congressional approval is given, the less time the Department has for placement of employees while minimizing reductions-in-force. Timely action is needed by Congress for the closure and transfer to be accomplished for $4.5 million and be effective by October 1, 2000.

Question. In the past, I voiced my concerns that the World News Connection paid subscription database service provided by NTIS competed directly with on-line subscription products produced by private companies. I oppose subsidizing a government service which competes directly with services provided by the private sector. However, NTIS also provides the Federal government with the unique service of acting as a clearinghouse for scientific, technical, and other business-related materials. How do you intend to ensure that this important function of NTIS is preserved?

Answer. The Department's proposal will transfer the NTIS collection and bibliographic database to the Library of Congress. In addition, the plan will ensure that Federal government agencies provide the Library with electronic copies of future documents as well as maintain such information on their own web sites for at least three years. The Library will be responsible for the maintenance and upkeep of the collection and bibliographic databases. In addition, the centralized Federal Depository Library System would be continued and actually strengthened under our plan by creating incentives for the chief information officers of each executive agency that produces materials for the scientific, technical, and engineering (STE) collections to notify the archivist and superintendent of documents of the availability of these products. The chief information officer would have to report to Congress on their agency's compliance with these requirements.

Question. I understand that, in the absence of NTIS, Commerce will direct each Federal agency to post its own documents on the web for a period of at least three years. Many Federal agencies are already posting these documents. Do you have an assessment of which federal agencies are equipped to handle the posting of documents on its own web site? How do you intend to ensure that the agencies comply with this directive? How did you arrive at the time of only three years and how will individuals locate documents that have been removed after three years?

Answer. The Department has not conducted an assessment of which Federal agencies are equipped to handle the posting of documents on its own web site. Under our proposal, each agency that produces STE information must supply that information in a timely manner to the Library of Congress for permanent access, and, to the extent possible, must provide that information through a compatible electronic format. In addition, each agency will make its STE information available to the public for at least three years through online dissemination. The agencies' compliance with this directive will be ensured by requiring that each chief information officer of each executive agency that produces materials for the STE collection report annually to Congress on his/her agency's compliance. The Library will be responsible for the maintenance and upkeep of the collection and, thus, would be the source of documents that have been removed from the web site.

E-COMMERCE REVOLUTION

Question. I am pleased to see that the President's budget request includes a $175 million initiative to accelerate the e-commerce revolution. It is my understanding that part of this initiative will be directed towards helping small manufacturers become e-commerce ready. Please provide me with details on how this funding will benefit small manufacturers. The three bureaus that are affected have responded as follows:

NIST

Answer. Research indicates that small businesses have not strategically embraced e-commerce. Over 50 percent of all supply-chain participants are small businesses, making it extremely important to trading partners that small firms be capable of using e-commerce technology. Many experts predict that companies will likely fail

if they do not strategically transform their business processes to include e-commerce. A 1999 survey by the National Association of Manufacturers (NAM) revealed that although 80 percent of smaller manufacturers have a web site, 75 percent do not use the Internet for any direct sales. It also noted that over 50 percent of smaller manufacturers use the Internet less than 5 hours a week. This funding initiative will assist small manufacturers adopt e-business by doing the following:

—Manufacturing Extension Partnership (MEP) will develop and implement an outreach and adoption program. The MEP outreach program will focus on business-to-business e-commerce—the largest and fastest growing sector of e-commerce, expected to surpass $3 trillion annually by 2003.

—The principal focus of the outreach program is the addition of approximately 200 information technology professionals to work at MEP centers throughout America helping small businesses adopt e-business practices. These e-commerce outreach field agents will help small businesses learn about e-commerce opportunities and challenges, and provide hands-on training and assistance, utilizing both internal and external resources, in all aspects of e-commerce, from the basics of Internet communications to designing e-commerce websites to integrating complex information systems. The field agents will help small businesses understand the broad range of commercial e-business solutions provided by the private sector and make informed and appropriate choices among different private sector solution providers. The additional field agents will help the MEP centers provide a range of services through individual consultations with companies and group seminars and workshops.

—To expand the reach and impact of the field agents, MEP will also work with USDA's Extension Service and the Small Business Administration on their e-commerce outreach programs. MEP will develop, produce, and distribute at least 600,000 copies of an e-commerce jump start kit to small businesses across the Nation. The jump start kit will contain fundamental information to help small businesses—many of them struggling with the fundamentals of information technology and not even having Internet access—begin the process of adopting e-business practices. The MEP centers, bolstered by additional information technology field agents, will help the small businesses make the next steps toward e-business success after the companies have become familiar with e-commerce issues through the jump start kits.

—MEP will also begin work on a series of e-commerce adoption kits providing more advanced information and e-business solutions. The adoption kits will be focused by industry sector, addressing the specific standards and interoperability issues within that sector for increasing levels of business-to-business e-commerce adoption, creating true supply chain integration.

—The combination of jump start and adoption kits for initial broad outreach with the hands-on help from the expanded MEP center staff provides a powerful combination of nationwide coverage and focused individual assistance.

Addendum: Examples of NIST information security standards, measurements, and best practices

Recent Work and Ongoing Programs—Key Examples

Security "Best Practice" guidance identification, development, and dissemination:

—Provide guidance to other agencies on how to protect their systems against hackers

—Publish guidance documents that aid industry and government in securing their computers

—Identifying trends in the discovery of vulnerabilities in order to guide industry in the prevention of the most common types of flaws

—Creation of a database of threats to public computer systems that points to appropriate countermeasures

—Web site that provides industry and government with computer security information on a broad variety of subjects

Research and Development Activities—Key Examples

NIST has underway R&D activities designed to enhance the security of the Internet and the national information infrastructure in the following areas:

—System and network architectures that resist denial of service and other forms of attack

—Automated testing of systems and network elements for security flaws

—Secure protocols and automated testing methods for both the current and the Next Generation Internet (IPSec)

—The Advanced Encryption Standard (AES)

—Standardization of interfaces to efficient and secure encryption algorithms to protect e-commerce and government transactions
—Securing electronic commerce activities through Public Key Infrastructure (PKI) and PKI-Enabled Applications
—More efficient and effective methods by which to evaluate the security of commercial products against known and emerging threats
—Mobile agent systems to ensure secure use in e-commerce applications
—Advanced access control architectures to allow efficient and effective control of organizational resources
—Use of smartcards to enable higher security in e-commerce applications
—Healthcare Security Project
—NIAP Security Specification Tool Project
—NIAP Telecommunications Security Project

Infrastructure Development and Protection

These activities are helping establish the security services needed within the broader national information infrastructure (including the Internet) to combat hacking and other misuse.

—Government PKI Pilots
—Validation of commercial cryptographic modules against the NIST Federal standard (over 100 products validated)
—Work with industry and government to promote the development of a private sector IT security testing program within the United States
—FedCIRC—Development and piloting the concept and operational requirements for a government-wide computer incident response capability now operational under GSA
—Common Criteria Evaluation and Validation Program

MBDA

MBDA's request is to expand the Phoenix Database. The Phoenix and Opportunity Databases electronically match minority business capabilities with contract and other opportunities. The Phoenix Database consists of minority-owned firms that register their capabilities online through the MBDA website. The Opportunity Database permits any individual or institution including small manufacturing centers to register procurements or other business opportunities online. The system will automatically match firms with opportunities and provide follow-up tracking. The databases became operational in fiscal year 1998 and are now populated with more than 40,000 firms. For the short history of the system, the results have been positive.

State and local governments have many available opportunities to enrich the business community. MBDA is seeking the participation of these governments to increase the database population of registered opportunities and vendors. By recruiting state and local governments to participate, the accompanying databases containing minority vendors will result in the expansion of the Phoenix database by 250,000 names. MBDA's in-house computer program is designed to permit data entry personnel in MBDA's five regional offices to call and confirm information from these businesses and update the records with electronic mail addresses.

Limited resources and the physical absence of MBDA in many parts of the country have necessitated a system to make accessible business information to the national minority business community.

International Trade Administration

The President's fiscal year 2001 budget for ITA includes an Increasing Manufacturers Exports Through E-Exporting increase request totaling 12 FTE and $10,000,000. ITA's Trade Development (TD) and U.S. and Foreign Commercial Service (US&FCS) units will work together to carry out the programs included in this initiative.

The US&FCS is ITA's first line of outreach to SMEs and provides assistance to SMEs through its network of domestic and foreign offices. Through the 2001 budget requests, the US&FCS is intending to both broaden its outreach and enhance its assistance to SMEs primarily through e-commerce initiatives. The US&FCS works with all SMEs and helps them determine if and where export opportunities exist for their products and/or services.

—E-commerce is the foundation of the US&FCS request because it is a genuinely new and transforming method of service delivery that responds directly to the many historical and structural reasons SME manufacturers do not aggressively pursue international markets. These reasons include: geographic distance, travel costs, additional time and cost perceived for international transactions, dif-

ficulty in identifying and evaluating overseas business partners, perceived risk, habitual focus on the local U.S. market, and cultural barriers and differences.

—E-commerce, is an ideal medium in which to expand services to small and medium-sized businesses and increase exports. E-commerce provides the needed support to the US&FCS's unique global network capacity with an information technology system that provides an expansive and effective client management database, office automation support, and a worldwide electronic mail network that links all field offices and headquarters. The US&FCS website is now being upgraded to include on-line ordering and delivery of products and services, automated market research and trade lead distribution and easier access to counseling and assistance. E-Commerce type products include:

—a virtual trade show, E-Expo, which already has nearly 700 clients and has received 90,000 hits on the Internet from around the world since its launch in September 1999;

—a push technology project to push key market information to 200 SMEs that first provide a customize interest profile of markets and sectors they wish to penetrate overseas;

—Video Gold Keys which allow companies in different countries to communicate on desktop computers. Video Gold Keys offer a low cost, low risk opportunity to meet trade partners overseas, a particularly critical concern for small companies;

—Webcast programs, which are broadcast over the Internet and are designed to target the information needs of U.S. manufacturing exporters. Webcasts can be "on-demand" events—meaning that they are available 24 hours—7 days a week for viewing by interested companies; and

—global satellite video-conferences such as Video Market Briefs and E-Commerce Export Seminars.

—The US&FCS budget request will enable ITA and its units to address challenges facing prospective SME manufacturer exporters. The advent of global connectivity and e-commerce have created a new globalized business environment in which any company with an Internet presence is a potential exporter. The objectives of these projects are to reach out to smaller and less-experienced businesses, create an awareness of the export assistance resources available, and assist those firms that have an interest in exporting but require additional business sophistication. These projects use a mix of traditional and web-based outreach strategies to reach new clients and provide them with the information and international context they require, as well as basic "starter" approaches to help them proceed internationally.

—The US&FCS will host, with assistance from our partners and other units within ITA, a series of conferences to promote export assistance programs and services, disseminate information on how e-commerce is affecting exporting and making it easier for the small manufacturer to communicate knowledge of the benefits of exporting (e.g., greater profits, job creation, increased plant/resource utilization), and instill a global perspective to SMEs.

Our Trade Development unit will fund an outreach effort to small- and medium-size exporters (SMEs) to create an awareness of the opportunities e-commerce presents and to assist them to establish a web-based presence in the international marketplace. This increase will also underwrite e-commerce public/private partnerships under the umbrella of our highly successful Market Development Cooperator Program. Thirdly, this increase will fund the development and maintenance of a web site which will include a comprehensive database of import taxes, tariffs and other regulatory data to help U.S. manufacturers determine product pricing, anticipate and comply with foreign market entry requirements and expedite international business transactions.

TD is in the process of developing new market intelligence reports, including Internet use and e-commerce applications, that will review information technology markets in countries in Europe, Latin America, Asia and Southern Africa. These reports will cover key conditions affecting the uptake of e-commerce in overseas markets and identify the best e-commerce export markets for U.S. firms, particularly SMEs. The reports will cover issues such as national cyber laws and regulatory regimes, and highlight potential barriers to electronic commerce, such as network pricing and bandwidth issues.

In order to help SMEs export to countries where English is not a native language, we are working through a contractor to host a multilingual web site that will have company and product profiles of several domestic software and telecom SMEs covered. The first languages will be English, German and Spanish. The site will allow foreign business visitors to register and then contact the companies through spe-

cially designated officials at the respective U.S. SMEs. This structure will also allow performance measures to be captured.

ITA is also actively working on a wide range of policy issues aimed at ensuring that unnecessary regulatory requirements do not stifle the growth of e-commerce. This includes active efforts in multilateral fora such as the WTO, the OECD, APEC, the FTAA, and on a bilateral basis. This policy work will benefit all U.S. firms, especially SMEs.

EDA INTERNET ACCESS

Question. As part of the $175 million initiative, the Administration proposes to spend $23 million to deploy high speed, broadband Internet access in distressed urban and rural communities. How does the Department intend to distribute those funds among the states and local areas? If there is a competitive grant process, what will be the criteria? Does the Department have any plans to give senior citizen communities priority consideration for funding?

Answer. EDA will implement the e-commerce initiative using its existing Public Works and Economic Development Program authority. All $23 million of the initiative funding will be allocated to EDA's regional offices, for project invitation, selection and distribution, using EDA's existing Public Works allocation formula. Additional factors such as broadband Internet access availability in rural and intercity areas and interest (or lack of interest) by private service providers may also be considered in making this allocation.

Funding will be available to all entities eligible under EDA's current economic distress criteria, based on unemployment, per capita income, and other special need. Special emphasis, however, will be placed on mitigating broadband Internet access gaps as characterized by the "digital divide." Proposals will have to arise out of a local planning process, including processes developed for other Federal programs.

EDA headquarters will set policy for the initiative and, as part of its normal oversight of the regions, review projects selected to make sure they are appropriate for the demonstration, but we do not anticipate a headquarters role in the project selection process itself.

EDA has no plans to give senior citizens priority funding consideration; funding prioritization will be based on existing program criteria (i.e., levels of economic distress) regardless of other demographic characteristics. EDA's programs, including the proposed e-commerce initiative, are geared toward creating long-term economic development opportunities and diversified local economies.

DIGITAL DIVIDE

Question. I understand that the Administration proposes to spend $50 million on a Home Internet Access initiative for a new grants program that would provide low-income individuals and families with access to the Internet and training. Please provide me with details on how the Department intends to implement this program.

Answer. The Administration has proposed a new $50 million Department of Commerce pilot program to expand access to computers and the Internet for low-income families, and to give these families the skills they need to use these new Information Age tools effectively. The goal of the Home Internet Access Program (HIAP) is to increase the number of low-income families that have access to the Internet in their homes.

NTIA will disburse Federal funds as competitive grants to intermediate organizations—non-profit entities; state, local, and tribal governments; and colleges and universities—to develop local programs for providing home-based access to families in need. The grants will require non-Federal matching funds.

This new program will build on the lessons of the highly successful Technology Opportunities Program (TOP). In particular, the HIAP will be designed around two of the hallmarks of the TOP program; locally-driven solutions and public-private partnerships. NTIA's experience has shown that the most creative, innovative, and effective solutions come not from the Federal government, but from local communities. Therefore, NTIA will challenge low-income communities—both rural and urban—to devise solutions that best reflect their circumstances and best meet their needs. NTIA's experience has also shown that strong partnerships and broad community support are key ingredients in sustaining information technology projects. The HIAP will encourage community-based partnerships and partnerships among local organizations, academia, and private industry. In order to demonstrate the local and private sector commitments, NTIA will require applicants to provide matching funds. In keeping with the formulas that have proven successful in the Public Telecommunications Facilities (PTFP) and TOP programs, applicants will be required to provide a 50 percent (1:1) match, unless extraordinary circumstances

warrant a Federal share of up to 75 percent of the total project cost. In addition, NTIA is considering requiring that significant portions of the matching funds come from private businesses and co-payments from the individuals that receive home Internet access.

The list of allowable uses for the awarded funds is still under discussion. As a general guideline, costs must relate to the provision of the hardware, software, telecommunications services, training, and user support necessary to provide effective and efficient Internet access to eligible households. NTIA will also allow grant recipients to expend funds on project administration, evaluation, and reporting of results.

NTIA will not provide direct subsidies to individuals. Because NTIA will encourage communities to innovate and experiment, NTIA will not rule out the possibility that a grant recipient would be allowed to provide direct subsidies. In that event, NTIA would take the necessary steps to ensure that subsidies were used for the purposes of establishing and maintaining home Internet access.

Finally, NTIA will use the data from the Falling Through the Net survey to target the program's resources and as an ongoing performance measurement tool. The survey data will identify the communities and populations most in need of assistance, initially and on an ongoing basis.

SAFE HARBOR AGREEMENT ON PRIVACY

Question. Please provide me with details on the Administration's progress in reaching an agreement with the European Union on privacy and personal data sharing and the implications of this tentative accord for America's businesses. Will this agreement apply to information collected by Web sites? How will this agreement impact trade between the United States and the EU?

Answer. The European Union (EU) Directive on data protection prohibits transfers of personal data to third countries such as the United States unless adequate privacy protection is provided. Because we recognized that disruptions in personal data transfers could have serious implications for commerce between the United States and Europe, we started an informal dialogue with the European Commission two years ago to try and bridge gaps between our different approaches to privacy protection. Working with the Commission, we developed the concept of the safe harbor, under which U.S. companies that wish to would be able to decide voluntarily to participate in the safe harbor and do so by self-certifying to the Department of Commerce.

The U.S. Department of Commerce and European Commission have reached a tentative agreement on implementation of the proposed safe harbor. The agreement bridges the differences between the EU and U.S. approaches to privacy protection and ensures adequate privacy protection for EU citizens' personal information.

We are still working with the European Commission to determine the length of the implementation period and how to properly integrate U.S. national privacy legislation into the safe harbor. The Department of Commerce has requested an adequacy finding for the Gramm, Leach, Bliley Act and the Fair Credit Reporting Act. The Department of Commerce is also consulting officials within the U.S. Government. A meeting with private sector and consumer groups to review the agreement was held on Friday, March 3, 2000. The European Commission is presently consulting with the Member States.

Application to Web Sites

With the safe harbor arrangements, the Department of Commerce is providing guidance for companies that do business in Europe. U.S. Internet companies that collect information from Europe may also rely on this guidance. We have, however, explicitly left open the difficult questions raised by the Internet of jurisdiction and applicable law.

Trade Impact between the U.S. and the EU

With the safe harbor accord we are providing industry on both sides of the Atlantic with the certainty and predictability that is needed to run their businesses. It eliminates the need for prior approval from the appropriate EU Member State to begin data transfers, and is expected to offer a simpler and lower-cost alternative to compliance with the Directive, which should benefit small and medium enterprises in particular. This accord will allow billions of dollars of trade to continue unimpeded by our different approaches to privacy.

SUBCOMMITTEE RECESS

Senator GREGG. Our next hearing is with the Department of Justice on Tuesday at 10 a.m., in SD–192.

I thank you, Mr. Secretary for your time. Have a good day.

Secretary DALEY. Thank you.

[Whereupon, at 11:45 a.m., Tuesday, February 24, the subcommittee was recessed, to reconvene at 10 a.m., Tuesday, March 2.]

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2001

TUESDAY, FEBRUARY 29, 2000

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

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

Present: Senators Gregg, Domenici, Hutchison, Campbell, Hollings, Lautenberg, and Mikulski.

DEPARTMENT OF JUSTICE

OFFICE OF THE ATTORNEY GENERAL

STATEMENT OF JANET RENO, ATTORNEY GENERAL

OPENING REMARKS

Senator GREGG. We will start. I know that Senator Hollings is probably on his way. I am sure he is on his way, as are a number of other members who are going to participate in this hearing. But in order to move it along, so we do not take an overabundance of the Attorney General's time, I think we will begin.

Rather than having opening statements, we would like to hear from the Attorney General.

ATTORNEY GENERAL RENO OPENING REMARKS

Attorney General RENO. What I would like to do is thank you, both of you, and you too, Mr. Morhard. We have done an awful lot in 7 years, Mr. Chairman. And it has been, as I said 2 weeks ago, an opportunity to work together, and I just appreciate your leadership, your constructive opposition to some of my ideas.

I just think we have an extraordinary chance in this country, the next couple of years, and that is for once and for all end the culture of violence in this country. We will never eliminate it, but based on what we have done, I think if we continue we can do that. And I pledge to you, wherever I am, that I am going to be pursuing that effort.

PREPARED STATEMENT

Senator Campbell, I just salute you for your leadership on Indian issues, and I hope we can work together in this session to make some real meaningful difference on the reservations and in Indian country.

So why do you not ask me questions?

[The statement follows:]

PREPARED STATEMENT OF JANET RENO

Mr. Chairman and Members of the Subcommittee, it is a pleasure once again to appear before you to present the President's budget request for the Department of Justice.

This is likely my last appearance before this panel. These hearings have been a model for the oversight process, and I want to take this opportunity to thank you for the partnership you have forged with me, the federal law enforcement community and our state, county, and local counterparts. We have worked together to improve our Nation's justice system and to address the very real crime problems that have plagued our neighborhoods and communities.

Since 1993, funding for Department of Justice programs has grown by 92 percent, including a $3 billion increase for grants to state and local criminal justice agencies. The overall increase in funding has paid for additional federal agents and prosecutors, put cops on the beat in our neighborhoods, expanded prison capacity, provided new crime-solving tools, improved technology, funded innovative approaches to fighting crime, worked to secure our Nation's borders, and helped to train and equip first responders to address the threat of terrorism.

Your commitment to the Department and its programs has had an impact. For the 7th consecutive year, our crime rate has fallen—for every type of crime and in every region of the Nation. Our communities are safer than they were 7 years ago. Yet, there is still much work to be done and new challenges to confront. This morning I would like to leave you with my thoughts about the direction we must take to prepare for these new challenges.

The President's fiscal year 2001 budget request recognizes the need for continued vigilance against crime. It includes $23.4 billion for the Department—an increase of $1.8 billion above fiscal year 2000—to combat gun violence, enhance community law enforcement, curb the cycle of drugs and crime, battle cybercrime, respond to the threat of terrorism, secure our borders, and fund new prisons.

COUNTERTERRORISM AND FOREIGN COUNTERINTELLIGENCE

Preventing terrorism and thwarting foreign espionage are among the most serious challenges facing our Nation today. The Department of Justice is the lead federal agency in the fight against terrorism. Your Subcommittee has worked with us to provide the necessary tools to address this threat and to ensure that the Department is able to carry out this very important responsibility.

In fiscal year 2000, with your support, we established the National Domestic Preparedness Office (NDPO). You also provided significant guidance in the development of a blueprint laying out NDPO's role as a central coordinating office and information clearinghouse for federal assistance programs to state and local communities with the goal of integrating and streamlining government assistance. Our blueprint represents a deliberate, conservative effort that people will understand and support. You also helped us to establish the Office for State and Local Domestic Preparedness Support, within the Office of Justice Programs, and to develop a process for equipping and training state and local first responders to prepare them to handle a terrorist incident.

The fiscal year 2001 budget request builds on the infrastructure that is now in place in the Department to address terrorism and includes a $119.6 million increase to fight terrorism and combat hostile intelligence activities.

We are requesting an increase of $15 million for the Counterterrorism Fund, established in response to the Oklahoma City bombing, bringing the total 2001 request for the Fund to $25 million. This funding is used to address unforeseen expenses incurred in countering, investigating, or prosecuting terrorism; to finance reward payments; and to restore the operational capacities of offices damaged by terrorist acts.

Our fiscal year 2001 request includes funding for some of the most important activities that the FBI will undertake in the future. Included are increases of $35.3

million for the counterterrorism/counterintelligence activities of the FBI. Specifically, we are asking for $19.1 million and 138 positions to enhance the FBI's ability to conduct national security investigations and thwart hostile intelligence services operating in the United States; $3.1 million and 55 intelligence analysts to engage in strategic intelligence analyses; $5 million to continue counterterrorism research and development related to explosives detection and forensic science; $3.5 million for Weapons of Mass Destruction preparedness activities, including $2.9 million for a chem/bio helpline and hotline; $2.9 million to support state and local bomb technician training at the Hazardous Devices School at Redstone Arsenal, AL; $1.1 million to plan and provide security for the 2002 Winter Olympic Games to be held in Salt Lake City; and $600,000 to provide additional contract guard services for 3 additional FBI field offices.

Identifying threats to our national security is a unique federal responsibility, and one which the FBI must be equipped to meet. With your help, I am hopeful that we can come out of this appropriations process leaving the FBI well equipped to meet the challenges terrorism presents.

Assuring that we are able to respond to threats of terrorism whenever and wherever they occur must include providing the FBI with adequate prosecutor expertise in the Criminal Division and the U.S. Attorneys' offices. Balance is critically important in the criminal justice system. The very best agent or investigator will find his efforts thwarted if unable to request and receive specialized legal support in times of crisis. I cannot stress too strongly how important it is that increased resources for law enforcement agencies be accompanied by resources for our important litigation responsibilities as well. Without sufficient litigation support, the system will break down.

The Department's counterterrorism request also includes $185 million for the Office of Justice Program's domestic preparedness efforts, an increase of $33 million. I anticipate that the President will direct the transfer of primary responsibility for the Nunn-Lugar-Domenici Domestic Preparedness Program from the Department of Defense to the Department of Justice, effective on October 1, 2000. In anticipation of this transfer, we are requesting $31 million for the costs associated with providing first responders with classroom training, various levels of practical exercises, and equipment and training aids to prepare for nuclear, biological and chemical incidents. We also request $17 million for OJP's counterterrorism technology programs.

We also request counterterrorism enhancements for OJP of $9 million for a Law Enforcement Training program; $6 million to provide technical assistance to state and local communities for domestic preparedness; $3 million to expand the First Responder Equipment Acquisition program, and $2 million to expand operations at the Center for Domestic Preparedness at Fort McClellan, AL.

We request an increase of $1 million and 10 positions for the Department's Office of Intelligence and Policy Review (OIPR). This office is responsible for reviewing all requests for surveillance or searches under the Foreign Intelligence Surveillance Act. FISA applications have grown by over 80 percent since 1992, and a 1999 amendment to the FISA statute (50 U.S.C. 1801 et.seq.) expanded the types of authorized FISA applications that OIPR must review to include pen register and trap and trace device surveillance.

Finally, for the Criminal Division, we seek increases of $210,000 for the Office of Enforcement Operations to address victim assistance needs related to the Pan Am 103 case and provide the capacity for future terrorist-related victim assistance. In addition, this would allow the Criminal Division to keep pace with witness service demands and would improve its ability for special administrative measures aimed at isolating, for investigative purposes, those indicted and convicted for terrorist-related offenses.

We are seeking $92,000 to support the Criminal Division's Terrorism and Violent Crime Section's work related to the Five-Year Interagency Counterterrorism and Technology Crime Plan, the latest update which I will transmit to you in the next few days. This increase will fund 1 position to provide the coordination and planning that is necessary among the Department and other agencies that participate in the development and annual updates of the Plan.

COMBATING CYBERCRIME

The improvements in information technology and the development and proliferation of the Internet have expanded our horizons, literally putting knowledge at our fingertips and changing the way we think and do business. The Nation's information infrastructure—the banking system, the stock market, the electricity and water supply, the telecommunications network and critical government services—rely on com-

puter networks. These systems are the foundation upon which our society functions; and by virtue of our growing dependence on computers, they are increasingly the target of criminals at home and abroad. As greater numbers of people develop proficiency in manipulating electronic data and navigating computer networks, and as worldwide access to the Internet continues to expand, the opportunity for cybercrime increases rapidly.

Two weeks ago, Director Freeh and I came before you to discuss cybercrime and the recent attacks against popular on-line Internet sites including Yahoo, Amazon.com, ebay, E-Trade and others. As I told you at that time, we need a long-term coordinated strategy to deal with cybercrime. I will work with you to develop and implement a five-year plan that will focus our existing and future resources to react and prevent cybercrimes by forging partnerships that include sharing expertise, training, equipment and technology among federal, state and local law enforcement officials. The strategy must address the challenges we face, both here and abroad. The problems demand personnel and expertise at all levels—in both the investigative and prosecutorial sides—the latest cybercrime fighting equipment, and educating our young people and others about the responsible use of the Internet. And, we must accomplish this in a manner that respects and upholds our cherished privacy and freedoms.

We appreciate your interest in and support for our requests to address cybercrime. In fiscal year 2000, you provided a total of $107.4 million in funding for efforts underway in the Department's Criminal Division, the FBI, DEA, U.S. Attorneys Offices, and the Office of Justice Programs. We seek to establish a permanent cadre of experts dedicated to preventing computer crime and to prosecuting those responsible. In fiscal year 2001, the President's budget includes an additional $37 million to continue the fight against cybercrime. This request will serve as the baseline for future efforts. It will improve our capacity to address the challenges that high technology presents, and it will shape our ability to cope with crime in the future.

Our 2001 request includes cybercrime increases totaling $12 million for the FBI—$11.4 million to expand the Computer Analysis and Response Teams (CART) and to further develop the Automated Computer Examination System (ACES), a software tool that expedites the computer forensics process by scanning files from seized computers to identify known format and executable program files; and $612,000 for personnel to support a joint FBI-Customs Service Intellectual Property Rights Center to enhance our Nation's ability to investigate and prosecute intellectual property rights crimes by sharing information among agencies.

CART teams are the forensic investigators in a computer world. CART personnel provide the specialized expertise needed to extract data from computers and network systems, conduct forensic examinations, and provide on-site support to criminal investigations that require computers as evidence. The FBI has a total of 142 trained CART examiners who supported approximately 2,000 cases during 1999. By 2001, the requirement for forensic examinations is expected to more than double the number required in fiscal year 1999. To keep pace with this expanding workload, we seek an additional $8.6 million and 100 additional CART examiners and $2.8 million to further develop ACES.

For the Office of Justice Programs, the 2001 request includes $15.75 million, including $8.75 million to expand training initiatives at the National White Collar Crime Center for state and local law enforcement and regulatory agencies; $6 million to develop regional forensic computer labs; and $1 million for the Bureau of Justice Statistics to collect computer crime and cyber fraud statistics to measure the magnitude and consequences of computer crime.

Our new initiative to develop regional forensic computer labs recognizes the need to establish computer expertise at the state and local level. It also addresses the need for training and backup resources so that state and local law enforcement can successfully conduct investigations and prosecutions of computer crimes in their jurisdictions. These labs will build on a concept that we have found to be highly successful and one which has, as its foundation, an approach involving partnership and information sharing among federal, national, state and local organizations and agencies. One model that we have for this new program is the Regional Computer Forensic Laboratory in San Diego, California. This lab brings together expertise from state and local representatives and government personnel, including the FBI, and serves as a resource for the San Diego area to solve crimes involving complex computer forensics.

To ensure that there is balance within the system and adequate litigation resources to support our cybercrime investigations, we are requesting additional funding for the United States Attorneys and the Criminal Division.

For the U.S. Attorneys, the fiscal year 2001 budget includes $8 million to investigate and prosecute cybercrimes and to enable the vigorous prosecution of child pornography cases, including those cases involving the use of the Internet. The fiscal year 2001 request will bring total U.S. Attorneys funding availability for cybercrime to $12.7 million.

For the Criminal Division, we seek an additional $586,000 for the Computer Crime and Intellectual Property Section (CCIPS). CCIPS acts as a link for federal, state, local and foreign agencies seeking guidance on how to respond to the threat of cybercrime/cyberterrorism. In addition, the fiscal year 2001 budget includes $560,000 for the Criminal Division to stay abreast of technological changes and developments and to target those who use computers, computer bulletin board systems and computer online services to traffic in child pornography.

We believe our fiscal year 2001 request provides balanced and responsible approaches to addressing this growing threat. The tremendous growth in the Internet and the interconnectivity of our information infrastructure means that Congress, law enforcement, industry and the private sector must all work together as never before. Computers bring the world closer together and create new bonds of understanding. However, they can provide criminals with tools to conceal their identity and greater access to those who seek to cause harm. Crimes perpetrated via the Internet can reach a larger and more accessible pool of victims which can encircle the globe. The Internet has made it easier for wrongdoers to find each other, to congregate, to socialize, and to create an online community of support and social reinforcement for their antisocial behaviors. We welcome your assistance and persistence in this battle for the future.

COMBATING GUN VIOLENCE

The Department's fiscal year 2001 budget includes an increase of $215.9 million to continue our vigorous efforts to pursue those who violate our gun laws and to provide state and local law enforcement with assistance and technology to solve and prosecute gun crimes. Although gun violence has dropped, and gun prosecutions have increased, we must do more to stem the tide of gun violence. Every day, 89 people are shot and killed in America; and every year, in addition to the immeasurable costs of human suffering, gun violence costs the American people $20 billion in medical care, public service, and lost productivity. These costs are unacceptable.

Those who use guns to commit crimes must be swiftly and severely punished. At my direction, United States Attorneys—working within their communities—have put together innovative plans to reduce gun violence. For fiscal year 2001, our budget requests an additional $14.5 million and 163 positions for the United States Attorneys to bolster firearms prosecutions and to build on the successes of pilot projects such as Operation Ceasefire in Boston, MA and Project Exile in Richmond, VA. Last year, you earmarked $7.125 million for intensive firearms prosecution projects. I hope that this year you will provide additional resources to enhance our firearms prosecution projects throughout the country.

Recognizing that the majority of gun prosecutions must occur at the state and local levels, we are requesting $190 million in new funding for the Community Prosecution program. We propose that $150 million of this increase be used to hire or redeploy 1,000 local prosecutors to combat gun violence through intensive local enforcement initiatives.

In addition to punishing those who commit gun crimes, we must do all we can to stop gun violence before it occurs. Our 2001 budget includes an increase of $40 million for programs aimed at preventing gun violence. This includes $10 million for the Office of Justice Programs (OJP) to develop and test "smart gun" technologies; $10 million to be made available within the Byrne Discretionary Grant program to support local media campaigns that help spread the word about gun violence; and an increase of $10 million from within current Juvenile Justice funding to expand innovative Partnerships to Reduce Juvenile Gun Violence. Also within OJP, we are requesting $10 million to reimburse state and local law enforcement agencies for the cost of destroying weapons, rather than reselling them and recouping costs. This is not a "gun buyback" program, but it will help prevent weapons seized or used by law enforcement from being circulated back into the community.

As with fingerprints, every firearm has unique characteristics—a "gun print"—that can be captured, electronically stored and compared to other gun prints through the use of ballistics technology. Ballistics technology enables law enforcement to link one or more seemingly unrelated crimes to a single firearm. At the present time, both the FBI and the Bureau of Alcohol, Tobacco and Firearms (ATF) in the Treasury Department operate separate ballistics imaging systems, but an agreement has been reached to integrate these two systems, using the best features

of each, to establish a single National Integrated Ballistics Information Network (NIBIN). This new system will improve law enforcement's ability to identify crime guns. For fiscal year 2001, the Department is requesting $1.4 million for the FBI to provide the communications infrastructure required to implement NIBIN. In addition, we are seeking $10 million through OJP to provide assistance to help state and local law enforcement input data into their ballistics systems and reduce their backlogs. Funding is requested in Treasury's budget to upgrade state and local ballistics systems.

IMPROVING COMMUNITY LAW ENFORCEMENT

Our 2001 budget continues the Department's commitment to improve community law enforcement efforts and to build closer relationships between law enforcement and the communities they serve.

We seek an additional $740 million for the Community Oriented Policing Services (COPS) program, for a total of $1.3 billion in fiscal year 2001. The COPS request includes an increase of $225.3 million for the Public Safety and Community Policing Grants program, of which up to $50 million will be used to fund law enforcement officers who will work in police/prosecutors' offices. We have also requested $190 million, as I mentioned earlier, to expand funds for community and local prosecutors. I regard the expansion of community law enforcement to include community prosecutors as the single most important lynchpin of further crime prevention.

We request an increase of $220 million, for a total of $350 million, to provide state and local law enforcement with the latest crime fighting technologies, This includes $199 million for the Crime Identification Technology Assistance program; $70 million for upgrades to criminal history records; $50 million to improve forensic labs and to reduce the convicted offender DNA sample backlog; $10 million for crime mapping technologies; $10 million in base funding for National Institute of Justice's (NIJ) Technology Centers; $6 million for regional forensic computer labs; and $5 million for continued base funding for the NIJ DNA Research Development program.

We seek $70 million for community crime prevention programs to address youth and school safety, including $5 million to fund a value-based program between youth and police, $30 million for school-based problem solving partnerships, and $35 million for the Safe Schools/Healthy Students program; $20 million for a police integrity training initiative; $5 million for a COPS police diversity recruitment initiative; and $5 million for citizen problem-solving academies that will provide citizens with tools to work collaboratively with policing agencies.

The Office of Justice Programs supports a number of new, innovative, and exciting programs to assist communities in addressing crime and public safety concerns. I am particularly excited about a pilot project known as the Strategic Approaches to Community Safety Initiatives (SACSI) that is underway in five cities—Indianapolis, IN; Memphis, TN; New Haven, CT; Portland, OR; and Winston-Salem, NC. SACSI experiments with a new way of doing business that makes heavy use of statistical data and information analysis, boosts the U.S. Attorney's role as a community problem solver and uses researchers to serve as navigators to ensure that the crime-fighting approaches taken are supported by the data. In fiscal year 2001, we are requesting an additional $10 million to expand SACSI.

In Indianapolis, under the SACSI umbrella, law enforcement agencies from the federal, state, and local levels came together with community groups to form the Indianapolis Violence Reduction Partnership (IVRP), with the goal of reducing homicides, bringing the community into the problem-solving process and improving communication among federal, state, and local law enforcement. The Indianapolis Division of the FBI, as a participating member of the IVRP, shares intelligence data and provides technical oversight to the state and local intelligence gathering community. The IVRP is an example of the benefits that accrue from SACSI projects involving cooperation, coordination, and collaboration between law enforcement at all levels and the community, as well as the importance of incorporating sound research and analysis into problem-solving. The IVRP team analyzed data for every homicide that occurred in Indianapolis and Marion County, IN in 1997 and 1998, identified common elements and developed a strategy that included community intervention with offenders on probation or parole. Initial results show that homicides were down 36 percent for the first 6 months of 1999, as compared to the same period a year earlier.

I have visited the Indianapolis project, and I can tell you that the work they are doing there holds great promise for the future. SACSI brings community organizations and law enforcement together to create new, effective and lasting relationships across agencies and disciplines, using local data, crime control theory, street level

information, and organizational capacities to attack problems and develop solutions. It is a wise investment.

Other enhancements requested for OJP community law enforcement programs include $15 million for a new Building Blocks initiative to address delinquency and crime; an $8.5 million increase for Weed and Seed; $5 million earmarked for NIJ from within the Drug Courts program and JJ formula grants for dependency courts to address child abuse and neglect; $5 million for the NIJ to conduct family violence research and evaluation; $2 million to develop protocols and guidelines for investigative and forensic sciences; and $1 million to begin developing a new Justice Online Information Exchange system.

For the U.S. Attorneys, we are requesting $3.98 million to support the operations of the D.C. Superior Court by funding investigative resources to augment work performed by the Metropolitan Police Department and $172,000 to expand the Short Term Witness Protection program.

BREAKING THE CYCLE OF DRUGS

One of the most pressing criminal justice challenges we will face as a Nation in the next few years is the reentry of offenders into society upon their release from prison. We have nearly 2 million Americans incarcerated, two-thirds of them in state and federal prisons. This year, nearly 570,000 inmates will return to communities across the country. Unfortunately, many of them will return home with the same problems they had when they entered prison. And as a result, two-thirds of all returning offenders will be rearrested within three years of release. This is unacceptable. We must have programs in place to break the cycle of drug use and its consequences and to provide support services to help these former offenders successfully reenter their communities. Our fiscal year 2001 budget addresses these needs.

Our request includes $75 million for OJP's Zero Tolerance Drug Supervision program. This initiative will provide discretionary grants to states, units of local government, Indian tribes, and state and local courts for comprehensive drug testing and treatment programs. Of the total, $25 million will be devoted to a new Offender Re-entry Grant program, which along with $35 million from the COPS program, will provide a total of $60 million to combine surveillance sanctions and support services in ways that afford increased protection to communities that experience unusually high returns of inmates.

The re-entry grant program addresses a problem that will impact all of us. It will help to manage the reintegration of prisoners into society and to minimize public safety risks while maximizing productive activity. This new program includes funding for re-entry partnerships in our communities that enhance monitoring and follow-up and strengthen support systems. The program includes funding for "re-entry courts" modeled after our highly successful Drug Courts program. The re-entry court would oversee an offender's return to the community after release from prison or jail, while on probation or parole. It would use its authority to apply graduated sanctions and positive reinforcement in much the same way that drug courts do. The message of the court would be—work with us, stay clean, stay out of trouble, get a job, and we will help you in those efforts. But if you come back testing positive for drugs, if you commit further crimes, if you violate the conditions of your release, you're going to face a more serious punishment, every step of the way.

Also included in the fiscal year 2001 request is funding for other drug prevention programs, including $20 million for the Office of Juvenile Justice and Delinquency Prevention's (OJJDP) Drug Prevention Demonstration program; $50 million for OJP's Drug Courts program, an increase of $10 million above last year; $5 million to expand NIJ's Arrestee Drug Abuse Monitoring System (ADAM); $4.5 million for OJP's national demonstration initiative on alcohol and crime; $4.4 million to evaluate OJJDP's Comprehensive Strategy for Serious Violent and Chronic Juvenile Offenders program; and a $2 million increase for the Residential Substance Abuse Treatment program, bringing the total available for this program to $65 million.

In addition to its drug prevention efforts, the Department is requesting a total of $1.73 billion for drug enforcement activities, including an increase of $3.1 million and 18 positions to support DEA's Special Operations Division (SOD) investigations along the Southwest Border and to establish a money laundering/financial investigative unit within SOD. SOD is a multi-agency program aimed at dismantling entire national and international trafficking organizations. It includes participation from the DEA, FBI, IRS, U.S. Customs Service and the Criminal Division in the Justice Department.

An increase of $389,000 and 5 positions is requested to enhance the Criminal Division's international drug money laundering and forfeiture activities and to support

the increasing number of new wiretaps relating to narcotics enforcement arising from initiatives such as SOD.

ENHANCING DETENTION AND INCARCERATION

The Department's detention and incarceration requirements continue to grow. In fiscal year 2001, we are requesting increases totaling $1.1 billion to meet our detention, incarceration, and prisoner transportation needs.

Federal Bureau of Prisons

As a result of tougher sentencing guidelines and mandatory minimum sentences, the abolition of parole, and significant increases in law enforcement, we have seen our federal prison population more than double since 1990. We project that the current population will increase by another 50 percent by 2007. To meet this projected demand for prison bedspace, for the Bureau of Prisons, we are requesting a 2001 appropriation of $4.4 billion and advance appropriations in buildings and facilities for 2002 and 2003. This funding will reduce overcrowding and accommodate future growth, including absorption of D.C. sentenced felons and long-term INS detainees. The request seeks program increases of $874.5 million this year.

For the Salaries and Expenses account, our increases include $80 million and 1,404 positions to activate 4 new facilities. These activations are needed to address the 53 percent overcrowding rate in high security prisons, to house District of Columbia felons, and to add much needed pre-trial detention beds. In addition, we are requesting $13.1 million to open 6 low security facilities; $8.1 million to begin the initial purchase of equipment for 2 federal prison facilities scheduled to activate in the first half of 2002; $84.5 million and oversight positions for an additional 6,000 contract beds (above the current year 6,000 beds for long-term criminal alien detainees and D.C. inmates); and $7.4 million to increase inmate participation in GED, English proficiency, special education and vocational training programs.

For BOP Buildings and Facilities, we request a total of $835.6 million for 2001, including a program increase of $681.3 million for the full construction costs of 6 prisons, 2 associated with the absorption of INS long-term detainees, as well as the site and planning costs for 5 new facilities.

I would call your attention to and ask your support for our proposal to provide advance appropriations for fiscal years 2002 and 2003 to ensure that we have adequate facilities to house an expanding prison population. Advance funding will accelerate and bring certainty to our construction program. We ask that you provide an advance appropriation of $791 million in fiscal year 2002 to fund the construction costs of the 5 facilities for which we are seeking site and planning money in 2001. Similarly, we ask that you provide site and planning funding in 2002 for 5 new facilities, which would require advance appropriations of $535 million for construction in 2003.

Thus, our budget request for the Buildings and Facilities appropriation includes a total of 17 new prisons over the next 3 fiscal years. Without the new prisons in this request, over-crowding will reach an unmanageable 94 percent in our penitentiaries and 74 percent in our medium security facilities by 2007. With this proposed funding, we estimate overcrowding will be reduced to approximately 30 percent system-wide.

Detention Trustee

Our detention requirements are becoming an increasingly large portion of the Department's annual budget request, with funding located in several different appropriations accounts within the Department. In an effort to better manage these growing detention resources, we are proposing to create a Detention Trustee who will report to the Deputy Attorney General and be responsible for managing detention resources within the Department. While we have not moved detention funding from the various components' accounts, it is anticipated that the Detention Trustee would exercise oversight of detention resources and operations. Our budget request includes 6 positions and $26 million in the new Detention Trustee account; $25 million is available without limitation to meet unanticipated costs associated with the care, maintenance, detention and repatriation of illegal aliens held outside the continental United States.

Immigration and Naturalization Service

The Department's request for INS Detention needs includes increases of $92.5 million for 1,000 additional contract beds to detain and remove criminal aliens. This includes 82 new juvenile beds and funding for transportation and to implement detention standards. Also requested are increases of $24.8 million for detention facility construction to continue the multi-year southwest border initiative at critical deten-

tion locations in El Paso and Port Isabel, TX; El Centro, CA; and to improve facilities in Florida. The proposed reauthorization of Section 245(i) of the Immigration and Nationality Act is expected to provide $37.5 million to replace one-time detention resources made available as part of the fiscal year 2001 appropriation, to support the increase in the number of juvenile detention beds, and increase the number of Justice Prisoner Air Transportation (JPATS) movements.

United States Marshals

For the United States Marshals Service, our request seeks an increase of $64.4 million in the Federal Prisoner Detention account to fund costs associated with approximately 9.53 million contract jail days, a 8 percent increase above the 2000 level. The detainee population has grown considerably over the last few years due to significant increases in apprehensions by our growing law enforcement personnel in the FBI, DEA, and INS Border Patrol. In fiscal year 2001 the average daily population is expected to reach 38,531.

In addition to the needs of the Federal Prisoner Detention program, the fiscal year 2001 budget request includes increases of $35.7 million for the U.S. Marshals Service to handle the increased workload generated by staff increases in other federal law enforcement agencies, to provide the personnel and equipment necessary to ensure new courthouses and new courtrooms in existing facilities can open on schedule and with adequate security to handle increased prisoner movements and to increase security in the District of Columbia Superior Court cellblock.

The work of the U.S. Marshals Service is uncontrollable in nature in that the organization must meet the requirements of the federal courts and of our federal investigators and prosecutors. The Marshals Service cannot control the number of threats facing our federal judiciary, nor can it control the number of prisoners that come into its custody.

Office of Justice Programs

Funding is requested, within the Prison Grants program, for the Cooperative Agreement Program ($35 million) and for detention facilities in Indian country ($34 million).

ENFORCING OUR CIVIL RIGHTS LAWS

The Justice Department is our Nation's chief enforcer of civil rights laws. Through the enforcement efforts of the Civil Rights Division, the U.S. Attorneys offices, and the FBI, the Department seeks to protect the civil rights and liberties guaranteed to ALL Americans.

The fiscal year 2001 budget requests a total civil rights enforcement budget of $107.8 million. For the Civil Rights Division, alone, this represents an increase of $16 million for civil rights funding—19 percent more than the fiscal year 2000 enacted level of $82.2 million, and 41 percent more than the fiscal year 1999 enacted level of $69.3 million.

This year marks the 10th anniversary of the Americans with Disabilities Act (ADA). The increased resources will enable the Civil Rights Division to fund new initiatives to further implement the ADA. This funding will also allow the Division to continue prosecuting criminal civil rights cases; promote compliance with our Nation's laws that prohibit discrimination in housing, lending, voting, education, and employment laws; protect the rights of institutionalized persons; and expand investigations and prosecutions of cases involving "pattern or practice" of police misconduct.

The Community Relations Service (CRS) plays a pivotal role in civil rights issues through the delivery of conciliation and conflict resolution services. Included in the request for enhanced civil rights resources is an increase of $2.35 million and 30 positions (15 conciliators and 15 administrative staff) to enable the Community Relations Service to deploy professional conciliators to communities threatened by racial tensions, community conflict, and unrest.

Within the Office of Justice Programs, we are seeking increases totaling $5.9 million for programs addressing police use of force, hate crimes, and for statistical programs that will look at police-initiated traffic stops; felony case processing to determine if there is a disparity in the way a defendant is treated based on their race; and the victimization of people with disabilities.

SECURING OUR BORDERS

The Immigration and Naturalization Service is charged with enforcing immigration laws by securing our Nation's borders from illegal immigration and expediting the legal flow of commerce and people into the United States. The fiscal year 2001 budget request for INS supports the immigration goals and strategies of improving

customer service, facilitating legal immigration while deterring illegal immigration, and removing criminal and other illegal aliens from the United States. The fiscal year 2001 budget request seeks a total of $4.8 billion for immigration-related activities.

For the Border Patrol, we are requesting an increase of $52 million to add 430 new Border Patrol agents. These new agents will bring Border Patrol staffing to more than 9,800 agents by the end of the fiscal year, representing an increase of about 147 percent over the 1993 staffing level of 3,965 agents.

The 2001 request recognizes the difficulties INS encountered in recruiting agents in a tight labor market and seeks an additional $69.9 million for a Border Patrol and Immigration Inspector Pay Reform package. Of the total, $56 million is requested from appropriated resources, and $13.9 million will come from user fees. The initiative would upgrade the journeyman grade levels for the Border Patrol and inspectors from GS–9 to GS–11. It would also modify the overtime provisions for Border Patrol agents, making them eligible for Law Enforcement Availability Pay. We are hopeful that pay reform, coupled with more aggressive recruitment and hiring initiatives, will improve our ability to recruit and retain agents.

Our Border Management request includes an increase of $20 million to support force-multiplying technology efforts by expanding the Integrated Surveillance Intelligence System. This technology provides agents with the ability to monitor the border from remote sites, thus increasing the efficiency and safety of our agents. In addition, $22.3 million is requested for 269 Immigration Inspectors to staff 3 new ports of entry in Texas, to handle increased workload associated with the expedited removal process at land ports of entry, and to provide additional staff at international airports. The Department also plans to dedicate $5 million from the Assets Forfeiture Fund Super Surplus to continue efforts to evaluate the possible integration of INS' IDENT fingerprint system with the FBI's IAFIS system.

For Border Patrol construction, we are seeking an additional $51.3 million to construct and maintain Border Patrol stations and sector headquarters to accommodate the growth that has occurred in the Border Patrol.

In fiscal year 1999, INS met its naturalization goal of completing more than 1.2 million naturalization applications, and the agency is on target to meet its fiscal year 2000 goal of processing 1.3 million applications and achieving a nationwide average processing time of 6–9 months to naturalization.

To support the provision of immigration services, the Department is proposing additional resources totaling $152.3 million. Of this amount, $80 million will be derived from the establishment of a new Premium Processing Fee that will permit business applicants to choose expedited processing of their applications for a $1,000 fee.

Of the total receipts to be generated by this new fee, $25 million will be used to process business applications and to increase our anti-fraud efforts, and $55 million will be deposited into a new Immigration Services Capital Investment Account. This new account will fund immigration service and benefits initiatives, targeting backlog reductions, through system and infrastructure upgrades. The budget also requests $34.8 million in appropriated resources for backlog reduction efforts in other immigration benefit programs and to capitalize the new Capital Investment Account and $37.5 million in receipts derived from the proposed reauthorization of Section 245(i).

We are requesting $10.1 million to strengthen INS' financial management operations by hiring additional staff at INS' Burlington, VT Debt Management Center and the Dallas, TX Finance Center; adding staff to respond to increased demands at the Administrative Service Centers; and to address staffing requirements in the Legal Proceedings program.

When resources are added to INS, they reverberate through other Justice agencies, resulting in increased workload for agencies such as the Executive Office for Immigration Review (EOIR) and the United States Attorneys who must prosecute many immigration cases. To ensure balance in the system, the Department is requesting enhancements for these agencies.

For EOIR, our request includes an increase of $5 million to meet an estimated increase of 10,000 cases in its Immigration Judge caseload and an increase of 1,200 cases in its appellate caseload.

For the U.S. Attorneys, we are seeking an additional $3.8 million and 48 positions to complement enhancements provided to INS over the last 4 years. The increase will permit the U.S. Attorneys to aggressively enforce our immigration statutes by prosecuting illegal aliens, including aliens who, after deportation, attempt to reenter or remain in the U.S. illegally; alien smugglers and smuggling organizations; and those who produce, distribute, or sell false identification.

State and local governments are also impacted by increased federal immigration enforcement. The 2001 budget includes a requested increase of $15 million for the

State Criminal Alien Assistance program (SCAAP) which reimburses state and local governments for the cost of incarcerating criminal illegal aliens. With the proposed increase, total funding for SCAAP in fiscal year 2001 will reach $600 million.

FIGHTING CRIME THROUGH TECHNOLOGY

The increased sophistication in technology has made significant changes and improvements in the way we work and live. Just as society as a whole has become dependent on new technologies, so too has law enforcement. When I came to the Department in 1993, I found a crumbling technological infrastructure, and I have worked hard to improve the tools available to our agents and prosecutors. We have come a long way in the last 7 years, but there is still much to be done.

Our 2001 budget includes an additional $358 million for federal information resources management software and hardware, wiretapping systems, cryptology equipment, DNA collection efforts, on-going research and development projects and data driven crime control strategies.

Communications Assistance for Law Enforcement (CALEA)

The Communications Assistance for Law Enforcement Act of 1994, (Public Law 103–414) authorizes the Attorney General to reimburse telecommunications carriers for costs associated with modifying digital equipment installed before January 1, 1995, in order that court-authorized wiretaps may be performed.

The Department has recently submitted a fiscal year 2000 reprogramming proposing to use up to $100 million in Assets Forfeiture Super Surplus funds to continue reimbursing the telecommunications industry for certain costs associated with modifying their networks. We urge your support of this reprogramming. In addition, for fiscal year 2001, we are seeking an increase of $105 million for the Department's CALEA activities, bringing total funding to $120 million. Recognizing the contribution of CALEA to national security, an additional $120 million for CALEA is also requested in the Department of Defense.

The budget request for the FBI in 2001 includes $2.1 million to test and verify the technical solutions proposed by manufacturers under CALEA.

Drug Enforcement Administration

For DEA, the budget request includes technology enhancements totaling $57.5 million. Included within this total is $56 million and 2 positions to continue deployment and support the operational requirements of DEA's primary office automation infrastructure, FIREBIRD; and $1.5 million to enhance the El Paso Intelligence Center's (EPIC) Information System. The EPIC information system distributes and analyzes sensitive intelligence data on worldwide drug movements and organizations.

Federal Bureau of Investigation

We have made significant improvements in the FBI's automated systems over the last few years. In fiscal year 1999, three new critical information systems became operational. The National Instant Background Check System (NICS), used to perform automated Brady Act background checks for gun purchases, came on-line in November 1998. In July 1999, the FBI's NCIC 2000 and Integrated Automated Fingerprint Identification System (IAFIS) became fully operational. Despite these advancements, there is much that still needs to be accomplished to bring the FBI into the 21st Century in terms of its technology requirements.

For fiscal year 2001, we are requesting a total of $104.7 million for FBI technology initiatives. Our request includes $40.8 million in new funding for the Information Sharing Initiative; $25.3 million and 4 positions for digital collections systems; and $10 million from the Assets Forfeiture Fund Super Surplus to support a multi-year automated information initiative to store and manage lawfully collected electronic surveillance intelligence and evidentiary material among FBI field offices. In addition, $14.3 million is requested to fund the annual lease costs associated with the Justice Consolidated Network's ATM circuits. For counter encryption activities, we are seeking $7 million to provide the tools necessary to intercept encrypted communications, when permitted by court order. And, we are seeking $5.3 million and 5 positions to implement a federal offenders DNA database and $2 million to provide digital body recorders in all field offices.

Narrowband Communications

Federal agencies are required by law to make more efficient use of their radio spectrum, the National Telecommunications and Information Administration in the U.S. Department of Commerce has issued regulations to require all federal spectrum users to narrow by one-half the bandwidth used to transmit radio signals. Our fiscal

year 2001 request includes an increase of $88.6 million to accelerate the necessary equipment upgrades to comply with the new requirements. The Department's narrowband communications account consolidates the needs of all DOJ federal law enforcement agencies to achieve efficiencies of scale in the acquisition of this new technology. Total funding requested for narrowband efforts in fiscal year 2001 is $205 million.

PROTECTING AMERICAN INDIAN AND ALASKAN NATIVE COMMUNITIES

The fiscal year 2001 budget includes $173.3 million to fund the third year of our Indian Country Law Enforcement Initiative begun with the support of this Subcommittee in fiscal year 1999. The request represents an increase of $81.8 million above the fiscal year 2000 enacted level.

Our Indian Country Law Enforcement Initiative will improve public safety for the residents of American Indian and Alaskan Native communities by increasing the number of law enforcement officers on Indian lands, providing equipment, expanding detention facilities, enhancing juvenile crime prevention and improving the effectiveness of tribal courts. While violent crime has declined nationally for the 7th consecutive year, it is on the rise in many Indian communities. American Indians are the victims of violent crimes at more than twice the rate of all U.S. residents.

The Federal Government has unique law enforcement responsibilities in Indian communities. In order to fulfill these responsibilities and to fight violent crime effectively, both the Justice Department and the Department of the Interior's Bureau of Indian Affairs must have a full spectrum of criminal justice resources to promote public safety.

For Indian Country programs within the Office of Justice Programs, the fiscal year 2001 budget request includes $10 million to establish a new Zero Tolerance and Drug Intervention program for alcohol and substance abuse; $15 million for the Tribal Courts program; $20 million for Title V Juvenile Justice incentive grants for local delinquency prevention to serve Indian youth by developing, enhancing, and supporting tribal juvenile justice systems; $8 million for a new Tribal Youth Mental Health and Behavior Problems Initiative; $8 million for a new Indian Alcohol and Substance Abuse Diversion program to develop strategies and services to break the cycle of alcohol and crime; $5 million to establish Sexual Assault Nurse Examiner Units to gather evidence in prosecuting sexual offenders; $6 million for a Tribal Criminal and Civil Legal Assistance program for criminal and civil legal services support and for criminal and legal assistance curriculum development and training at tribal colleges; $34 million within the Prison Grants program for the construction of detention facilities; $2 million for a new Tribal Criminal Justice Statistics Collection program; and $5 million for a new Police Corps program to provide advanced educational opportunities for police in Indian country.

Within the COPS program, we are seeking $45 million for additional law enforcement officers, equipment, and training in Indian Country and $5 million for an Indian Country Forensics Laboratory to augment tribal forensic capabilities.

For Department of Justice agencies, the Indian Country request includes $4.6 million for the FBI to fund 31 victim/witness coordinator positions in Indian Country, contracts for evidence forensic exams, and Safe Trails Task Force overtime costs; $4.7 million and 60 positions for the United States Attorneys to augment current investigative and prosecutorial efforts in Indian Country; and $932,000 to establish a permanent Office of Tribal Justice under the Associate Attorney General.

LEGAL REPRESENTATION, ENFORCEMENT OF FEDERAL LAWS AND DEFENSE OF U.S. INTERESTS

As the Department's responsibilities and caseload continue to expand, we are seeking additional resources to prosecute unlawful activities and protect the interests of the American people in court. As I noted earlier, balance in the criminal justice system is vitally important. Without adequate litigators to handle the caseload that is generated by increased investigative resources, our system breaks down and the interests of the American people are compromised.

The fiscal year 2001 budget includes increased resources to enable the Department to perform its role as the Nation's litigator. Specifically, the request includes a program increase for the Antitrust Division of $20.95 million from fee revenue to provide for the hiring of additional staff. This is critical if merger enforcement is to keep up with the accelerating number and complexity of merger deals being proposed and the rapid technological change currently affecting American markets. It will also help address an increasing number of civil non-merger matters, and handle an expanding international workload, including large global criminal cartels from which the Division has obtained $1.4 billion in criminal fines in just the past two

years. This additional funding will help ensure that America's marketplace remains the most freely competitive and innovative in the world.

For the Criminal Division, we are seeking $1.2 million and 14 positions to support the Division's fight against international crime.

For the United States Attorneys, an increase of $5.74 million is requested to prepare for and defend civil lawsuits against the United States and to promote the effective defense of lawsuits through training and efficient use of resources in order to protect public funds and programs, policy initiatives, and statutes. Congress established the Judgment Fund, a permanent indefinite appropriation, to pay settlements and judgments against the United States. Disbursements from the Judgment Fund are increasing. In 1995, payments from the Fund totaled $300 million. By the end of 1997, nearly $1 billion was paid out of the Fund. The civil defensive litigation of our United States Attorneys helps to prevent losses from the United States Treasury and is a wise investment.

For the Environment and Natural Resources Division, we are seeking an increase of $1.15 million and 8 attorneys to support the Division's efforts to defend federal programs and regulations and $988,000 to expand the Division's civil enforcement caseload.

The 2001 request for the Tax Division includes increases of $2 million to expose and attack the use of illegal tax evasion offshore schemes, prosecute and combat the use of illegal domestic trusts, and provide automated litigation tools.

For the Office of Legal Counsel (OLC), our request includes $93,000 and 1 position to assist OLC in its review of legal documents to implement Presidential decisions or transmit Presidential requests in emergency situations.

The Justice Department strongly endorses the use of alternative dispute resolution (ADR) to resolve conflicts which reduce costly litigation and requests an additional $1.31 million in fiscal year 2001 to promote the use of ADR to resolve conflicts and establish a full operating budget for the Office of Dispute Resolution, and to disburse funding to appropriate litigating components to pay ADR costs. In addition, we are requesting $1 million for the Fees and Expenses of Witnesses appropriation for ADR expenses.

OTHER CRIME-FIGHTING INITIATIVES

In addition to the special initiatives that I have outlined above, the fiscal year 2001 request includes $86.1 million for other important enhancements.

For the FBI, we are requesting $12 million and 48 positions for Health Care Fraud Enforcement; $6.5 million and 4 positions to provide essential training resources to fully utilize the FBI Academy space to provide technical and analytic training to agents and other professionals; $5 million to contract for additional linguist support so that investigators can analyze intelligence in foreign languages; $2.1 million for additional criminal confidential case funds to pay for costs associated with undercover operations; and $1.9 million for environmental and safety related construction efforts at the FBI Academy firing range.

To support our United States Attorneys, the fiscal year 2001 budget includes enhancements of $12.1 million to provide the information technology equipment and staff to support large case document files, e-mail among U.S. Attorneys' offices and other Justice Department components and general office automation needs; and $5 million to support efforts by the U.S. Attorneys to ensure the payment of child support to custodial parents.

An increase of $3.9 million and 24 positions is requested to enhance DEA's financial and resource management oversight functions. In fiscal year 1999 at Congress' direction, the Department undertook a comprehensive budget and financial review of DEA. A report was provided to the Committees on Appropriations in July 1999, which recommended a series of management reforms to be implemented by DEA. This requested increase will ensure that DEA will be able to fund ongoing needs for their federal financial system and become fully compliant with accepted federal financial management practices. Similarly, we are requesting $1.42 million and 32 positions to provide the U.S. Marshals Service with the capability to improve its financial operations, increase financial oversight and policy compliance, and provide daily systems maintenance and support to its accounting system.

In the Office of Justice Programs, we are requesting additional resources totaling $22.3 million for a number of important initiatives, including the Domestic Violence Victims' Civil Legal Assistance program, the Public Safety Officers Dependants Education Assistance program, a new International Crime Research program, a national study tracking the justice system's handling of domestic violence cases; an On-line Collection and Analysis of Information initiative to begin converting paper-based collections of administrative data from state and local units of government to an

Internet-based, paperless collection; and to improve the management and administration of OJP and COPS programs.

Finally, we are seeking an appropriation of $13.7 million to support the mission of the Radiation Exposure Compensation Act, which provides monetary compensation for specific diseases to underground uranium miners, persons who participated onsite in atmospheric nuclear tests or individuals downwind of the Nevada Test site.

CLOSING

As we enter the 21st Century, criminal schemes are more technical and sophisticated than ever. Our response as the Nation's leader in law enforcement must be swift and proportionate. To ensure such a response, we must expand our on-going efforts to improve the performance of our programs and achieve the results that the American people rightfully expect. Soon, you will be receiving a copy of our 1999 Accountability Report, which includes our annual performance report. And, along with our budget request, I have submitted a summary performance plan for the entire Department that highlights the strategies, goals, indicators and resources we will employ to accomplish our mission in fiscal year 2001.

Mr. Chairman, I appreciate the support you have given to me and the Department of Justice over the last 7 years. We have made tremendous progress and I am committed to working with you during the remainder of my tenure as Attorney General to prevent waste and duplication and ensure that we are using our limited federal resources in the best possible manner so that we improve performance, meet our very broad mission, and build on the progress that we have made to date.

Thank you. I look forward to answering any questions you may have.

Senator GREGG. That is very generous of you. We have had our differences, but we have also had our agreements. I have enjoyed working with you, Madame Attorney General. On issues where we have agreed I think we have made great progress. On issues where we have disagreed we have disagreed cordially, and I have appreciated that.

NATIONAL DOMESTIC PREPAREDNESS OFFICE

One of the issues that we have agreed on, clearly, is counterterrorism, and the issue of how we address counterterrorism has been a priority of yours. It has been a priority of mine. It has been a priority of this committee, Senator Hollings, Senator Campbell, for 3 or 4 years now, and I think we have made progress.

But in that vein, we still have a long way to go, as you both know. One of my concerns is about the National Domestic Preparedness Office, which I personally saw as being the opportunity to give the first responders especially a one-stop shopping location. In other words, if you are a State emergency management director, if you are a specialist in terrorism in New York City—which is probably not a good example, because they are way ahead of everybody else—but if you are a specialist in terrorism assigned in some other city that is not yet up to speed, this was to be the office where you could come and be given not only substantive advice but substantive support.

It was also to be the office, and is to be the office, and I do not put it in the past, it is to be the office that coordinates the national effort, to a great degree, brings the various agencies into one central location, and allows us to have an effective coordinated response to our efforts first to get ready to respond to a terrorist event. But if the terrorist event occurs, to be able to handle it.

My concern is that the office seems to be a bit adrift. In fact, having just been started, it does not seem to be up and running yet at a level of strength that it should be. I am a little concerned

that its mission is already being diluted, and I would be interested in hearing your thoughts on where this is going.

Attorney General RENO. First of all, fear not, I am absolutely, unequivocally committed to it. But you quite rightly raised some questions early on and you considered the reprogramming. You wanted us to make sure that we had heard from the stakeholders in the community, and the authorization for it was some time in coming as you satisfied yourself that we were going in the right direction.

It has been 3 months now since you gave the signal. We followed up, as you directed, with the blueprint. And I think the blueprint spells out very clearly where we are and what we want to do.

Senator GREGG. On that point, do you think there is any reason that any of the agencies, whether it is the FBI or anybody else, should not presume that the blueprint is still the managing document for the purposes of national domestic——

Attorney General RENO. The blueprint is the managing document.

Now, in that regard, you made a statement. It is the National Domestic Preparedness Office. And what we saw was that it would be a coordinator. What was the latest equipment? What was the best training? How could we best prepare? A one-stop shop so that they did not have to go different places to find out about different procedures, training, equipment, the latest developments in the whole area.

But it was not meant to be operational in the sense of response in terms of the terrorist act, and we spell that out in the blueprint. But we are committed to it and I want to work with you. We have enjoyed the opportunity to work with you, and I had determined that reprogramming dollars, and you should get the reprogramming request soon, is not a trivial matter. It has taken more time than I had anticipated.

Senator GREGG. I know they are not the physical responding agency, but they are the agency which a State would look to to figure out how to respond.

Attorney General RENO. The way I see the National Domestic Preparedness Office is it would have every bit of information. Here is my overall vision of where we should be going. Every State should have a State emergency preparedness plan, that we should automate and develop a capacity to know where the hospitals are, where the backup hospitals are, what the key assets are, who the key people are, what the major transportation routes are, and everything that should be considered.

This same organization would have the latest information with respect to equipment, what had become obsolete, what had been learned from a recent exercise, and that we would be able to exchange that information in an appropriately prompt manner.

At the same time, what to do is going to depend on how people have planned together at the State and local level; and how to respond, in terms of the particular type of weapon, is going to depend on the facts and circumstances of the time, and that is going to have to be judged by the people on the ground.

CDC, DOD, HHS INVOLVEMENT WITH NDPO

Senator GREGG. So far, as I understand it, neither DOD [Department of Defense] or HHS [Department of Health and Human Services], which have responsibility for a large amount of the chemical attack or the biological attack response capability, certainly CDC [Centers for Disease Control] and the chemical weapons specialist at the Defense Department, have not detailed anyone to the office.

Attorney General RENO. As I indicated, it took some time to get——

Senator GREGG. Do you expect them to detail someone?

Attorney General RENO. I certainly do.

Senator GREGG. And you expect those individuals to have a significant role? I mean, they are not going to be more than just low level folks? They are going to have a role in actually being able to carry some weight?

Attorney General RENO. Here is what we are doing. For example, we met recently in New York with public health experts on the issue of biological weapons, because it has become clear from our stakeholders meetings and from meetings with first responders around the country, that the issue of bioterrorism is a singularly unique problem. We tend or had tended to link bio and chem together, but biological weapons present new issues.

There was concern expressed and I met with the Secretary and her staff and CDC to develop a working relationship between the Bureau and HHS in terms of how we prepare to identify the pathogen involved if there is a biological weapon used, to recognize that, unlike a chemical weapon or nuclear weapon, the dispersion or the distribution of the weapon or the use of the weapon would not be known immediately, and it would begin to be evident in ways that it might be masked as an epidemic of some disease or something like that.

These are issues that we are addressing. And as we develop the information, as we develop it through research and work with academia, this will be made available through NDPO across the nation in a way that can be used by all.

Senator GREGG. I guess my question was more, have you for example, talked to the Secretary of Defense and the head of CDC, to see if they are going to send somebody over to NDPO who has really got some clout?

Attorney General RENO. I have not talked to them yet, because I do not have the thing up and running yet.

Senator GREGG. But you plan to? Is that the intention?

Attorney General RENO. I do.

NDPO FACILITY

Senator GREGG. And the physical location of the facility, where is that going to be?

Attorney General RENO. As we were going through this process, and before you had authorized the NDPO, there was an attempt to rent space. And I think you were somewhat concerned by the increase in the space, and I was concerned.

Senator GREGG. That was actually the House of Representatives.

Attorney General RENO. Then I am mistaken, because I got word that you were concerned. At any rate, I was concerned and there is space at the FBI building, and I think we should use that first and make sure that we use the resources that we have as wisely as possible. And then as necessary, expand it.

Senator GREGG. I do think it makes sense to have it linked to the FBI physically.

Attorney General RENO. You have seen the situation over there. The more I can keep that together around the SIOC—the Strategic Information Operations Center.

Senator GREGG. I think that makes a lot of sense.

Attorney General RENO. And I am trying.

Senator GREGG. If we can help with that, tell us.

I have a lot of other questions but we have a lot of other members here, and so to give everybody an opportunity we will try to limit the first round of questions to 7 minutes or so.

Senator Hollings has arrived. Do you have an opening statement?

DECLINE IN CRIME

Senator HOLLINGS. Madame Attorney General, what happens is that I have watched over the years many an Attorney General come and go. And for some 33, going on 34 years now, crime has risen, except under your administration as Attorney General. So I wanted to note for the record that 7½ years I think in a row that crime rates have fallen.

Is that in your statement?

Attorney General RENO. I make reference to it.

Senator HOLLINGS. Tell somebody you better get it and put it in your statement, because that is a dramatic result. There is no question that it is in every type of crime. And violent crime, in and of itself, has fallen some 24 percent. So I commend you for that and comment you for more or less restoring the integrity of the Attorney General's office.

CERTIFICATION OF MEXICO

Now having given you the good government award, Attorney General Reno, are you going to give Mexico the good government award one more time? I mean, if you are, evidently you have not read this morning's paper. Have you got a subscription to the Washington Post?

Attorney General RENO. Yes, sir. My father taught me never to believe everything I read in the newspaper, and he was a reporter for the Miami Herald for 43 years.

Senator HOLLINGS. I believe you believe the fellow is dead, do you not? The chief of police of Tijuana?

Attorney General RENO. I do.

Senator HOLLINGS. David Dow, the ambassador down there, he said that Mexico was the headquarters for narcotrafficking crime in this world, just as Sicily was for the Mafia. And that is exactly what I am finding. Constantine, the head of the DEA, said last time—I am leading up, of course, to this March certification here in several days—please give your utmost attention to that and let us not play this game that we are on top of it because we have got

a meeting down there, because when you meet with them you are meeting with the criminals.

There is not any question in my mind it permeates everything about that government when, as they said in the morning paper, they take over as the chief of police they send you first a bag of money. And if you do not accept that, then they send you a bag with a gun in it.

When is that certification due, do you know?

Attorney General RENO. My understanding is that the President must make certification decisions by the first of March.

Senator HOLLINGS. Have you made a recommendation?

Attorney General RENO. I do not discuss what I have recommended to the President.

Senator HOLLINGS. Would you recommend to me, and this committee then? What would you recommend about Mexico?

Attorney General RENO. Senator, you know that if I told you that, then it would be in the context of what I was recommending or not recommending to the President and he——

Senator HOLLINGS. Not necessarily. We have had many a Cabinet officer tell us one thing and tell the President another.

Attorney General RENO. Well, I try not to do that, Senator. Can I say something about the credit you gave me?

Senator HOLLINGS. Yes, ma'am.

DECREASED CRIME RATES

Attorney General RENO. You were not here, and I would like to give you some of the credit and the committee some of the credit, and an awful lot of wonderful people all over this country. I am not sure that I should be getting good government awards.

But I do think that the experience that we have had in the last 7 years, as I alluded to earlier with the Chairman, we have an extraordinary opportunity, ladies and gentleman. We can continue our efforts at reducing crime. We can avoid complacency, which is what tends to happen when crime rates go down. We can continue the mixture of efforts of good solid, fair enforcement, intervention, prevention, and aftercare and follow up. And we can once and for all end the culture of violence in this country. This country is still far too violent a nation.

In the time I have remaining—I think this is the last hearing I will probably have before this committee but I will be working with you in the months remaining. I want to do everything I can to continue that effort and to expand it in Indian Country, Senator Campbell. But we have a wonderful opportunity because this committee has been great to work with. You just do it the right way.

Senator HOLLINGS. Well, Chairman Gregg has done an outstanding job and it has been a pleasure to work with him, and I agree with you.

INDIAN COUNTRY

Let me ask you about the Bureau of Indian Affairs, because we just had the Secretary of Commerce up. You can tell when election time comes around, whoopee for the Indians. We have got millions over in the Commerce Department all of a sudden for Indians. And

now we have got an $82 million increase in here for the Indians. That is for a total of $173 million.

And yet you have got the Bureau of Indian Affairs, and they are increasing, it appears to me, for the same thing. Have you checked that out?

Attorney General RENO. Yes, and I am going to tell you on that, Senator, that it is not election time for me. When I was about 10 years old, an old man walked into the yard and he was covered with mud. And he said I see you have two Jeeps and my Jeep is stuck in the mud out in the Everglades, would you come pull me out? And Daddy and I went and pulled him out. And he was a Firestone tire salesman. He had big super balloon tires and he knew the Everglades like the back of his hand. And he had the Sippy Super Suction Snakebite Kit because he had gotten bit so often, and he attached it to the windshield wiper.

About 2 weeks later he called my mother and he said I have got a problem on the Indian reservation, babies are dying and sick. There is an epidemic of something and we do not know what it is, and they need pumps and blankets. And my mother wrote a story that appeared in the paper and got a lot of goods and medicine and the like. And the Indians have been my friends ever since, not just in election time. I do not even know when election time is, in terms of my relationship with the Indian community.

And when I came to Washington, I was concerned that the Federal Government, historically, had not done its job with respect to its trust relationship in Indian Country. As violent crime has come down in the rest of the nation, it has not come down in Indian Country. And I am dedicated to doing everything I can to work with the Bureau of Indian Affairs, to make sure that we do what is right by people in Indian Country.

When you talk about proliferation, I think the Justice Department, respectfully, and I do not mean to be boasting, but I think we know better how to do things from a Federal law enforcement perspective than the other agencies.

Senator HOLLINGS. There was a wonderful doctor named Dr. Arnold Schaefer from Nebraska who headed up the United States Department of Public Health, that did surveys. I happened to ask him about the hunger in America. And he said they had surveys in 32 countries but never in the United States.

So we gave him 5 years and $10 million. And he came back and he had the report that we had 12 million hungry. And working on the thousands of reports that we had over the country to do something about it, the Nixon Administration sent all those reports down to the CDC, Communicable Disease Center in Atlanta, and told them do not communicate. That problem has been solved. We had hunger in the days of Christ. We are going to have hunger in the days when you and I are dead and gone.

And told Dr. Schaefer not to say anything about it and he could get reappointed. But if he said otherwise, he was going to get disappointed. So he did say and he was disappointed, and he went up and got a special study of Indian hunger and study of health. He got it out of the United States Army. It is very interesting how this government works.

But going into the Indian reservations, he found the chief cause for Indian fatality and illness and everything else was alcoholism and diabetes. They had nothing to do.

I got with Senator Montoya and found out, at that particular time, that we were paying out $25,000 for each Indian. Now we have proliferated. Indians have really gotten conjugal here in the last 20 or 30 years because of the casinos. Everybody I run into in South Carolina wants to get up a tribe and open up a casino.

But we have put millions and millions in there, and now you have got crime, and we find the millions we are paying for everything from education, health care, crime control, whatever else, on the reservation, these chiefs somehow take the money and it does not get down. It is like delivering lettuce by way of a rabbit.

We have got to do something about Indian affairs, but I say Mr. Chairman, we cannot get into that. One question about the Border Patrol before my time is up.

BORDER PATROL

Is it the case that they do not have any need for any more Border Patrol agents? I notice that by the request that is made by the INS on the Border Patrol, that they are not asking for any really additional Border Patrol agents. Whereas, you are only going to hire, in other words, 430 when Congress said hire 1,000 new agents down there on the one hand.

And then, as you are looking at up, Attorney General Reno, with respect to the pay, I had a note somewhere where they are going to take them from a GS–7 to a GS–11. That will give them more pay. But then you come around and, instead of giving uncontrollable overtime provision, they lose that pay. So I am trying to check into make sure I am giving them an increase in pay. We are not paying these Border Patrol agents anything, to really speak of. They can get a good job elsewhere. We just underpay and expect everything of them, to risk their lives and otherwise.

Fine, let us put them up to a GS–11, but do not take away the overtime.

Attorney General RENO. Senator, first with your remarks about Indian Country. We are going to do everything we can to make sure our money is well spent. And we are going to do it in a comprehensive way.

And Senator, if you saw some of those young people and the great work that they are doing, you would be really proud. There is such a spirit, and what we need to do is work with them to fulfill our trust responsibilities. I am committed to doing that, and I am committed to doing it in a way that money is spent wisely.

With respect to the Border Patrol, I share your commitment to the issues with respect to the Border Patrol, and to the need to enhance border security. I believe that more agents are needed along the border. But rather than asking just for new agents, the fiscal year 2001 budget request also seeks border technology, which enhances each agent's force along the border.

In addition, INS is having difficulties hiring new agents with the economy as good as it is, and some of these isolated areas where they have to serve, it has been difficult. But we are going to con-

tinue our effort and continue to try to provide a balanced effort of technology and people power along the border.

With respect to the issue of pay reform, we continue to believe that in order to make significant inroads in recruitment and retention, a fundamental change is required. Those changes include upgrades to the GS–11 level, providing eligibility for law enforcement availability pay and recruitment bonuses. I think, from all that I have heard, this will be the package that is, first of all, fairest, and secondly, competitive.

Senator HOLLINGS. Thank you, Mr. Chairman.

Senator GREGG. Thank you, Senator. Senator Campbell?

INDIAN COUNTRY

Senator CAMPBELL. Thank you, Mr. Chairman.

First of all, Attorney General Reno, as this may be the last time you appear before this Committee, I want to commend you on your years of public service.

Anybody that runs for office, or anybody that serves in your capacity, has to take a lot of heat, as you probably know. And you have. So I wanted to thank you for those years and certainly the reduction of crime in America, in my view, has been at least partly—and a good part—related to your efforts and your leadership. So I want to thank you for that.

Senator MIKULSKI. Senator Campbell, I want to be associated with those remarks. I think they were well stated, and I would like to be associated with them.

Senator CAMPBELL. Thank you.

Let me talk maybe about Indians a little bit, since you mentioned it and since our ranking member also mentioned it. You simply cannot turn around things in a culture that has been in the form of a forced dependency for 130 years. If you look at all the numbers, as you know, Madame Attorney General, whether it is unemployment of 60 and 70 percent, with its high school dropout, death by violence, fetal alcohol syndrome, housing, hunger, diabetes, as you mentioned, all of those things. You multiply what is happening in America by anything from four and five up to maybe 10 times, and you get what an average Indian person has to live with on a reservation.

That cannot be fixed in just a matter of days. And it cannot be fixed simply by providing more money without some very clear efficient uses of the money, particularly in self-help programs.

I hope I do not offend any people of color in the room, but I will tell you that I can take you to places in South Dakota where Indians are regularly called prairie niggers in the most vulgar sense you can imagine. And if they go to stores in some towns, they are followed because everybody knows they steal.

So I have no problem at all with the emphasis you have put in trying to help reduce crime on Indian reservations. And I had a couple of questions about it, too.

One, I sent you a letter about half a year ago. It was regarding a poster that had been sent to me from South Dakota advertising "Indian hunting season." I do not know if you remember that or not, but it was really a mean poster. It talked about how you could

go out and kill Indians for sport, how you could hunt them down like jackrabbits or coyotes or something of that nature.

I received the Department response in January indicating you had referred that to the FBI. I was wondering, I have not heard anything from the FBI. Have you heard anything back at all from them about pursuing how that was printed and disseminated?

Attorney General RENO. I have not heard back. One of the things that we have got to make sure that we are careful about is First Amendment issues. We look at all of these issues very carefully, and I was advised that there may be no basis for action.

Senator CAMPBELL. You mean, people can print fliers advocating killing somebody else under First Amendment?

Attorney General RENO. Wait, Senator. And I said what?

Senator CAMPBELL. That is what I would have said.

Attorney General RENO. I said at least we have to follow up to see what the facts are. So we are doing that, and I have not heard what the conclusion is.

Senator CAMPBELL. Well, when Louis Freeh [ed: Director of the Federal Bureau of Investigation] appears before this committee, I will ask him, but I did want to ask you if you had heard anything about it.

Attorney General RENO. Neither of us should really comment on what we found or what the status is.

TRIBAL LAW ENFORCEMENT

Senator CAMPBELL. I appreciate that.

Let me go on then to something else that Senator Hollings did allude to. That is the problem we have with some of the tribes that are on the Mexico border is that, as I understand it, there is much more freedom to move back and forth through holes in the fence on reservations than most people realize in America, and certainly more than any of us would support. I wanted to ask you about that.

Does the Department include tribal law enforcement departments when you are talking about people coming across our borders illegally?

Attorney General RENO. Do you mean tribal law enforcement?

Senator CAMPBELL. Yes. Does the Attorney General's office work with tribal law enforcement to try and decrease that?

Attorney General RENO. To increase tribal law enforcement in dealing with illegal immigration?

Senator CAMPBELL. Yes.

Attorney General RENO. I cannot point to specific instances, but I am sure that the Border Patrol works with tribal law enforcement on a regular basis. What I would like to do, Senator, is make sure that I have an accurate answer for you, in terms of what precisely we have done.

[The information follows:]

TRIBAL ENFORCEMENT

Several Indian reservations are located on or near the border with Mexico. Two of the tribes on these reservations, the Kickapoo Tribe in Texas and the Tohono O'odham Nation in Arizona, have territory adjacent to the border. The Blackfeet Indian Nation in Montana and the Akwesasne/St. Regis Reservation in upper New York State have territory adjacent to the border with Canada. Several other tribes

are located on reservations near the borders but do not own land directly adjacent to the borders.

Law enforcement activity conducted by Border Patrol agents on Indian lands is limited primarily to enforcing immigration laws. Border Patrol agents have authority to access, without warrant, any private lands located "within a distance of twenty-five miles from any external boundary [of the United States] but, not dwellings for the purpose of patrolling the border, to prevent the illegal entry of aliens into the United States" (8 U.S.C. 1357(a)(3)). The authority of Border Patrol agents to go onto private land without permission or without warrant beyond the 25-mile border area is governed by the Fourth Amendment rule against unreasonable searches and seizures. Those reservations with borders passing through them present a challenging working situation for our agents. Border Patrol agents enforce immigration law on borders intersecting Indian lands by coordinating and cooperating with tribal law enforcement.

The Border Patrol has a long tradition of striving to maintain good working relationships with tribal authorities and tribal police departments. Border Patrol agents working in these areas strive to respect Indian lands and authority when entering onto reservations. Reports from the field reflect an overall cordial to good working relationship with their tribal counterparts. Reports from Border Patrol stations along the southern and northern borders indicate that the degree of cooperation between them and the tribal law enforcement in their respective areas depends largely upon the current tribal police chief. Tribal governments, which choose their own police chiefs, often dictate the kind of relationship that will be maintained with U.S. counterparts. The process of building these relationships is an ongoing and time-consuming process for Border Patrol agents. Also, other internal and external factors, not related to law enforcement, often affect this working relationship.

In addition, Border Patrol stations near Indian reservations have received intelligence concerning smuggling of illegal aliens, narcotics, and contraband on these lands. There is growing concern over the amount of such smuggling. Depressed economies, diminished personal opportunities for residents of reservations, and the proximity to the border create an environment that fosters smuggling. With limited manpower and difficulties patrolling on some Indian lands, the Border Patrol faces a continuing challenge in performing its duties and maintaining control in these areas. The Border Patrol will continue to do its part in meeting the challenges caused by sensitive issues and situations beyond its control by continually trying to build and maintain solid working relationships with tribal law enforcement along the borders.

RESOLVING ISSUES IN INDIAN COUNTRY

Senator CAMPBELL. Okay. Well, you got into all kinds of things, and so did Senator Hollings, dealing with a snake bite, alcoholism, and everything else. But there is no question that the alcoholism problem on reservations is high. I know that, even though some of them have what are called dry reservations. And more people get snakebit out of bottles than they do by snakes unfortunately.

When you have a depressed economy, a depressed people, and high alcoholism, you are going to have a lot of escapism through everything from violent crime to you name it, but I know you are aware of that.

Attorney General RENO. But what is happening is very exciting because we had a group come to the Justice Department, at our invitation, to discuss alcohol in Indian Country and determine what would be the appropriate steps to take. The studies that they had done indicated, first of all, that it was not genetic or inherent. And I think everybody should understand that. Much of it arises from a sense of hopelessness. Where can they pursue job opportunities while living in distant reservations, being one of the factors?

What is exciting is that when a tribe comes together, when it has resources, when it can deal with the issue, they are having some success. I think we can build on that and again, working together, make a difference, making sure that Senator Hollings is satisfied

that we are not wasting money. I am very encouraged by what we can do and very encouraged at the spirit of the tribes that we have been working with.

Senator CAMPBELL. Well, I am concerned about it, too, and I am not into wasting money. But unfortunately, a lot of the Federal regulations make it almost impossible for tribes to be able to expand their opportunities, as you probably know. Casinos, in some cases, have done that, but only about one out of ten is really profitable. A number of them have already gone into receivership, as you probably know. The casinos surely are not the answer.

COPS IN SCHOOLS

Let me get away from that, if I can. Let me just ask you about the COPS in Schools program. I introduced the legislation that established the COPS in Schools program. It was signed into law October 27, 1998 by the President. And certainly, I thank Chairman Gregg for really going to bat for that bill, and all the members of this committee who really helped with it.

But I did want, as my last question in this round, to ask you how is the COPS in Schools program going? Because as you know, unfortunately, I introduced it before Columbine and it certainly did not help there. But I understand that more schools are availing themselves to police being resource people in the schools. Do you know how that is working?

Attorney General RENO. I do not have statistics for you. All I have are anecdotes that it is working beautifully. When you have a police officer in the schools whom the kids and the administration and the teachers can work with, it is one of the most effective partnerships that can be built in a neighborhood or a community. And from that, so much more can come after school and in the evening.

Police officers can be key in teaching kids to resolve conflicts without knives and guns and fists. They can become mentors. And they can become problem solvers. When the police officer is trusted in the community, people will come and give him tips that solve some of the more serious crimes.

It is an excellent way, done right, to build a community and bring a community together, rather than split it apart.

Senator CAMPBELL. I would like to know if you can find the number, how many resource officers have been placed. I think this committee would appreciate that number.

Attorney General RENO. You will get that.

Senator CAMPBELL. I know that not many schools were particularly interested before Columbine, and that a number of our schools in Colorado are now.

Thank you, Mr. Chairman, I will relinquish the mike.

[The information follows:]

NUMBER OF RESOURCES OFFICERS PLACED IN SCHOOLS

More than 9,900 COPS officers are working to some capacity in local schools. More importantly, of the 2,200 full-time COPS in Schools officer grants funded to date, over 307 officers have been placed on the beat to work full-time in local schools and an additional 70 are in training.

2001 FUNDING FOR COPS IN SCHOOLS

Senator GREGG. On that point, Madame Attorney General, we cannot find any funds in this budget request that came up for COPS in Schools. This committee funded that aggressively last year but there is no money in here specifically allocated for that. There is $80 million in a general statement for school violence, but that is not specifically to this account.

Attorney General RENO. Let me check on that, Mr. Chairman, and understand exactly where we are at.

More than 9,900 of the 60,000 cops that had been put on the streets, to date, are working in local schools.

Senator GREGG. About one out of six is working in schools as volunteer time?

Attorney General RENO. That is correct.

[The information follows:]

The COPS Office derives authority and funds for the COPS in Schools (CIS) program through the existing Universal Hiring Program. Therefore, within the total amount of hiring funds requested ($422,286,000) in the President's Budget, COPS will continue to provide grants to localities to hire School Resource Officers, according to the demand for these grants.

Senator GREGG. Thank you. Senator Hutchison?

BORDER PATROL

Senator HUTCHISON. Thank you, Mr. Chairman.

Madame Attorney General, the Illegal Immigration Reform Act of 1996 is very clear. It states that the Attorney General, in each of fiscal years 1997, 1998, 1999, 2000, and 2001 shall increase by not less than 1,000 the number of positions for full-time active duty Border Patrol agents in the INS.

This year you requested, in your budget, 1,000. But in fact, the President has come back with 430. In fact, in only one of 5 years did the President actually request 1,000 agents and in none of those years did you actually produce 1,000.

I think the lack of emphasis of this Administration on keeping illegal activity from coming across our southern border is appalling. I share the view of many on this committee about your integrity. But the lack of emphasis on Border Patrol is a lapse for which we are paying dearly.

In fact, it is estimated that $10 billion in illegal drugs has come across our border in the last year. One billion dollars was apprehended. So the other $9 billion is somewhere in our country.

I want to ask you a direct question. We included an amendment in this appropriation bill in language that said if we did not hire 1,000 new Border Patrol agents, as was required, by June of this year that the money would be used for an increase in pay for nonsupervisory agents serving at the GS–9 level to the GS–11 level. I wanted to ask you what is the progress of hiring this year. And do I have your commitment that this pay raise will be made in June if you have not reached the 1,000 goal?

Attorney General RENO. First of all, let me address your earlier comments. I appreciate your comment about my integrity but I think I have just been blamed for all the drugs and the illegal activities. If I am responsible for it, I accept the responsibility.

But I think what we have been able to do in reducing crime might be a good model for what we can do along the borders, both southern and northern. When I came into office I found an agency that had been sorely neglected. It did not have resources. It did not have cars, in some instances, for Border Patrol agents. It did not even have radios in some instances. Others did not have vests.

We have built the Border Patrol significantly in these last 7 years. We have reduced crime in some of the areas along the border, and we have tried to deal with these issues. I think it is important that we look at the whole history and work together to try to address these problems.

BORDER PATROL PAY REFORM VERSUS PAY RAISE

Now with respect to the issue of pay, we have proposed a comprehensive pay reform. I think the best way to do that is to work together to try to develop that. And I will commit to doing that, and I will commit to coming by and talking with you and doing everything we can to do it the right way.

Senator HUTCHISON. Will you comply with the intent of Congress that the GS–9 level will go to GS–11 in June if you do not reach the 1,000?

Attorney General RENO. I would be happy to check and see and come by and tell you what I can and cannot commit to.

Senator GREGG. Senator, on that point could I just get a clarification? Because Senator Hollings asked the same question and I thought it was a good question. Are you offsetting the pay increase from GS–9 to GS–11 by eliminating overtime?

Attorney General RENO. But it is starting in October. It is not June.

Senator HUTCHISON. But Madame Attorney General, our provision last year said if you did not have the 1,000 by June, the money that would not be spent that we allocated for the 1,000 would go for the pay raises. That is for this year. That is in lieu of the October effect of the 2001 budget.

Attorney General RENO. As I have said, my understanding is that that is report language. What we have proposed is a comprehensive pay reform package. What I would like to do is sit down with you, go over what you propose, go over what the comprehensive pay reform package is, and see how we can do it as wisely as possible.

Senator HUTCHISON. Madame Attorney General, it was report language. But the absolute intent of Congress was for the money that you could not spend that is in our budget in June, if you were not going to be able to spend it on hiring new agents, that it would immediately go to the GS–9 increase up to GS–11. Because we know we have retention problems with this level of employee.

And we, as a Congress, directed you to do that. Why would you consider it necessary to wait until October when we have not met the 1,000 goals yet in your administration?

Attorney General RENO. I will be happy to address it and get back to you and see just what should be done. And if I think that the pay reform package best meets the needs of reducing attrition, attracting the best people, maintaining the Border Patrol in the best way possible, I will come talk to you about it.

Senator HUTCHISON. Madame Attorney General, obviously you are not going to——

Attorney General RENO. I am not trying to be obstinate, I just——

Senator HUTCHISON [continuing]. Keep the word today that we have given you clear mandates to keep. I cannot, in my wildest imagination, imagine what could be more important for the expenditure of the funds that we have allocated for hiring 1,000 new Border Patrol agents, if that money is not going to be spent mid-year, that you would not take the step directed by Congress for you to take, which would be a bold statement that border control is important in this administration, when you have all the evidence that illegal drugs and illegal immigration is occurring in droves.

I understand that you are clearly not going to give us your word today.

Attorney General RENO. You do not want me to give you my word today because if I had given you my word, Senator, and I backed off on it, I would want you to really speak sharply to me.

Senator HUTCHISON. How about giving us your word today and keeping it?

Attorney General RENO. What I have found is that it is better not just to react, but to sit down, look at it, come talk to you, hear you, and then tell you what I can and cannot do. And then if I tell you I am going to do something, you ought to expect me to do it.

Senator HUTCHISON. Madame Attorney General, you have been directed by Congress, as of October 1 of last year, that this is a priority, that if you did not have the hiring by June 1, that this is where we believe the money should go to address retention problems in the Border Patrol. It is not like I sprung this on you this morning. This has been part of the bill that you have been living with since last October.

Attorney General RENO. And what I am suggesting is my understanding that that was report language. I would just like to sit down and give you my reasons for it after I have reviewed everything, and then try to do what I say I am going to do.

Senator HUTCHISON. With all due respect, Madame Attorney General, report language is the will of Congress, and I would hope that you would comply with it, even if you will not agree to comply with it this morning.

Attorney General RENO. Well, I am going to do my best to do what I think is right and I am not trying to be obstinate with you. I am just trying not to make snap judgments when we have tried to carefully think about a pay reform package.

And Senator, I bet you do not know any other—you talk about a commitment to border issues. I bet you do not know any other Attorney General that has been to the border as much as I have, or who has tried to back up the Border Patrol as much as I have. They do a great job and we are going to do everything we can to give them the resources, not just on the southern border but the northern border, to do the job.

Senator HUTCHISON. Madame Attorney General, I think the record of this administration is abysmal on our southern border. We have given you a directive for 5 years to hire 1,000 new Border Patrol agents. And when I asked Doris Meissner if we were giving

incentives for Spanish language proficiency, she said no because we have teaching classes in the INS to teach people basic Spanish.

That is outrageous, when we have so many people who would be qualified and could hit the ground running. We did not even test on the border. We required people to go up to Dallas and Fort Worth to have the testing for Border Patrol. These are things that we brought up because we heard it from the base down on the border, where we had the most resources.

I just have to say that I think success in meeting the mandate of Congress to increase Border Patrol by 5,000, when Barry McCaffrey says we need 20,000 and we are not halfway there, I do not think the record stands for itself. I do not think this is a surprise, you have had 6 months to comply with the June 1 deadline to raise the GS–9 to GS–11. And I just hope you will consider it.

Senator GREGG. We are going to have to move on.

Attorney General RENO. Senator, there are 150 percent more agents on board now than there were in 1993.

Senator HUTCHISON. Woefully short.

Senator GREGG. We are on to Senator Lautenberg.

Senator LAUTENBERG. I am going to defer, if I may Mr. Chairman, for one moment that I have promised to Senator Mikulski.

REMARKS OF SENATOR MIKULSKI

Senator MIKULSKI. I thank the Senator from New Jersey.

Madame Attorney General, I have to leave to be with Governor Glendenning, who is hosting a meeting with all of the governors with the members of the Senate. But I could not leave today without thanking you. Thanking you for the outstanding job you have done as Attorney General, the service you have provided to the Nation, the excellent team that you have had working with you, and I do know that we are safer, our streets are stronger, our borders are stronger than when you took office.

So I just wanted to take this opportunity to thank you, wish you Godspeed, and lots of good health.

Attorney General RENO. Thank you very much, Senator. It has been a pleasure to work with you.

Senator GREGG. Senator Lautenberg?

REMARKS OF SENATOR LAUTENBERG

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

Attorney General Reno, I am glad to see you. You and I are in the senior class and we will be graduating with this term. It is kind of the end of our relationship at the U.S. Senate campus.

I know that all of us feel that you leave having compiled an illustrious and distinguished record and I commend you for your tenacity and for your ability to get the job done. The statistics only serve to substantiate the views that we have of the job that you have done. I admire so much the fact that you seem so even-tempered through it all. I am not sure that if some of us were on that side of the table, the volume of response, and perhaps the acidity of the language might have changed. I commend you for that, as well.

GUN VIOLENCE

I want to get onto a question about gun violence. In your statement, you point out the fact that there are still 33,000, approximately, gun deaths a year in this country, far, far too many, and especially if you compare us to other societies around the world. One wonders why we cannot do better there. We keep on thinking, at least I speak for myself here and I am sure for many of my colleagues, I keep thinking that we have seen the ultimate outrage, the ultimate assault on our families and our children and our sensibility. You would think that that would turn into a positive legislative response instead of the old saw that says guns do not kill, people kill. It is so trite and so unbelievable.

And yet, we cannot seem to move sensible gun legislation in this country. The Second Amendment does not say that you can buy an unlimited number of guns or that you can store them any way you want. There are no specifics about what you have to do with the guns, and we have every right therefore, to adopt reasonable gun safety measures even if one said okay, take the Second Amendment as it is. But at least we are going to make sure that if you want to buy one of those things you have to have a background check.

The thing that I have worked on so hard was closing the gun show loophole. Rather than for the gun lobby to come in and say okay, look, this is not going to hurt us. It is not going to do anything to diminish our love of guns or our support for gun ownership. Just common sense. So instead of trying to cooperate, the response is always negative, some ridiculous response that says that we want to take away everybody's gun.

There may be some people who would like to do that, but we know that that is improbable, if not impossible.

I want to ask you this. Do you hear from police officers, Federal law enforcement people, people who are working in the field, people who are out there working to enforce the law, do you hear from them about the gun show loophole?

Attorney General RENO. In these last months and year, I have heard from a whole range of people about the gun show loophole, and I appreciate your leadership in trying to close it.

Senator LAUTENBERG. I thank you. Again, I am still trying to fathom what it is that prevents the gun lobby from simply saying yes, go along with this. Why the urgency to get that gun immediately, especially from unlicensed dealers. You could be a member of the 10 most wanted list, go up to the counter, put your money down, and no one will ask you a question, not one question. With regard to the terrible tragedy at Columbine, Robin Anderson, recently testified before the Colorado legislature that she went with Klebold and Harris to a gun show and they looked for gun dealers who they knew would not ask them one question about who they were or anything like that. She said it was too easy to buy guns.

What in the world can possibly be wrong with background checks at gun shows?

Attorney General RENO. We have kept guns out of the hands of criminals through the checks that have been run. Why they should not be run with respect to gun show situations is beyond me.

THE BRADY LAW

Senator LAUTENBERG. What do you think would happen if law enforcement was limited to even shorter periods for background checks? Let us say 24 hours to conduct criminal background checks on gun buyers? Would that impair their ability to run even the most cursory check?

Attorney General RENO. The Brady Law now currently allows law enforcement up to 3 business days to complete a background check on a prospective gun buyer. This is very important. But it does not mean that all buyers have to wait 3 days.

In fact, about 75 percent of gun buyers wait less than 3 minutes, and 95 percent of all gun buyers have their checks completed in less than 2 hours. But for a very small number of gun buyers, about 5 percent, that 3 days can make a significant difference.

Senator LAUTENBERG. And if we were to reduce that, because I have seen complaints registered by the FBI and by the BATF that if we were to shorten this period—as it is there are a number of people who escape through the loopholes now with shorter periods for background checks, the number of prohibited people getting guns would go up substantially.

In your view, are stronger laws necessary to reduce juvenile crime? Are stronger gun laws necessary? Or is it simply a cultural thing, in your judgment?

Attorney General RENO. I am not sure I understand.

Senator LAUTENBERG. The statements that so often come out are that we should just enforce existing laws, we do not need to create more laws. Does that make sense to you?

Attorney General RENO. Those people suggest, I think, that they would rather see the crime committed and then somebody take action, rather than trying to prevent it from happening in the first place. And I think sensible approaches to the purchase and use of guns can prevent, as we have seen what the Brady Law can do, can prevent guns from getting into the hands of people who are not lawfully entitled to have them.

Senator LAUTENBERG. I close, Mr. Chairman, and thank you for your indulgence, with a statement about the law that I authored to take guns away from domestic abusers and the battle that we had, and the names that I was called. We have stopped about 33,000 people, since that law has been on the books, from getting guns because of spousal abuse. We have the trauma that a child experiences when a mother typically, or a girlfriend, has a gun pointed at their head.

Thank you, Mr. Chairman.

BORDER PATROL PAY RAISE

Senator GREGG. Before I turn to Senator Domenici, I would just like to note that I would like to work with Senator Hutchison, Senator Hollings, and I am sure other members of this committee, on this Border Patrol issue. Should there be a supplemental, I would think we would want to put in the supplemental language directing that the pay raise begins on June 1 and that it not be offset by the overtime issue.

Senator HUTCHISON. Thank you very much, Mr. Chairman, I appreciate that.

Senator GREGG. Senator Domenici?

RIO ARRIBA COUNTY

Senator DOMENICI. Thank you, Mr. Chairman.

Madame Attorney General, first, I want to thank you for the joint effort that you involved your department in with regard to Northern New Mexico and the black heroin scourge that existed in a county up there called Rio Arriba County. As a result of the effort, a very large arrest has taken place of open heroin dealers. The community is much calmer. They are working on some long-range plans. I just hope that whomever you have that is looking at that would continue to look at it and continue to have some cooperation with state, FBI, and other agencies.

I did not bring it to you because I wanted to bring a county in New Mexico to get special attention, but rather it was a county where more deaths were occurring because of black tar heroin, more overdose deaths, than anyplace in America. I thank you for that.

Attorney General RENO. Senator, I thank you for doing it because what we have learned there, as we are learning across the Nation, when we approach something from a comprehensive point of view, whether it be meth getting a toehold in a new community, or something such as what occurred in New Mexico, and go after it in terms of vigorous enforcement, but develop long-range plans that can address treatment issues as well. It can be extremely successful and I thank you for your leadership.

SOUTHWEST BORDER DRUG PROBLEM

Senator DOMENICI. Madame Attorney General and fellow senators, I was asked by the judges from the Federal districts that include California, Arizona, New Mexico, and Texas, to attend a conference they held in Albuquerque, New Mexico. That conference was held because they wanted to discuss and bring to the public attention, and to your attention and other officials, that 30 percent of all of the criminal indictments are taking place in those four States. Of all America, because of the pressure on the drug pushers and the like, those four States are getting 30 percent of the Federal crime indictments and prosecutions.

Clearly, they are not equipped, either at the court level in terms of sufficiency of judges, or the marshal level, or in incarceration on an interim basis by the Marshals Service, to handle such a huge caseload. The more we put pressure on, the more we follow the lead of Senator Hutchison and others, and put more people guarding our borders and making arrests, the more these four districts feel this inordinate pressure from having to try cases beyond their capacity.

I would like very much, since you do have some extra money in the budget, the President asked for some, I would ask you to look at those four areas. It is not New Mexico specifically, but Arizona has a terrible problem, the Texas courts have an enormous problem, so does California. We need somebody looking at setting some priorities.

Otherwise, what is going to happen is we are going to continue to put the pressure on, and then in a couple of years they are going to be saying they cannot try any of them, or they can only try 10 or 15 percent. This is a rather serious problem. I wonder if you know about it? And if you do, are you working on it? And if you do not, would you?

Attorney General RENO. Yes, we do know about it, because we are the ones that have increased the filings. Alan Bersin was the head of the Southwest border, he was my representative down there, and he designed the system. So we initiated it to try to deal with the issues that we share a concern for.

We have got to plan all the way down the line to do it, because, as we are successful in the courts, then we will see an increase in the prison population.

But the other thing we have got to really focus on, as well, is that it is not just the Southwest border, in terms of illegal aliens, in terms of drug smuggling. It is the country, and we have got to make sure that we have got a balance, based on drug related crime, and crime related to illegal aliens.

Senator DOMENICI. I understand that, but I just think it is relevant to our Nation that 30 percent of all of the criminal trials are occurring there. Regardless of what it ought to be, they are there. I do not think they have the capacity to handle them. I hope we will be looking at it, and I hope you will be looking at it.

Attorney General RENO. We have looked at it very carefully, and we are trying to do everything we can.

INDIAN JUDICIAL SYSTEM

Senator DOMENICI. Senator Campbell, I was not here when you spoke of the criminal justice system, or lack thereof, on Indian reservations. I want to tell the Attorney General, I went to Indian Country, in particular Navajo country, to look at their judicial system as part of a 2-day trip to the largest Indian tribe in America.

I would challenge anybody that is concerned about Indian justice and the Indian courts, to go look at what the largest Indian tribe in America has to house its judiciary. We are expecting them to have a court system. We pay a little bit of money for a court system. It is evolving.

Senator Hollings, if you went down there and said where does your Supreme Court sit and where does your District Court sit for jury trials, you would be absolutely amazed at the kind of facilities they have. They are no more symbolic of what justice ought to be and hold something out to people. They are little huts and little buildings that have been added. Jury trials are held in a quonset hut–type facility that, in America, we would immediately say that is exactly the wrong symbol to give about the importance of justice, to have such second-rate facilities.

So I know there is more money in this year's budget for those kinds of things. I wonder if you would just take a look, as you answer some of my specific questions, at what is going to be done in Navajo country with reference to their court system, which I think is in desperate need.

I will submit the other questions as to specifics that I would like to ask, about how you are allocating resources in the court system.

Attorney General RENO. Thank you, and I will get back to you on specifics for Navajo country. But you will see, in our budget request, a significant increase requested for law enforcement in Indian Country.

Senator DOMENICI. We did not get quite what we asked the President. We had a big meeting with him and we got less of an increase, but we got something like a $90 million increase for criminal justice.

[The information follows:]

IMPROVEMENTS TO JUDICIAL SYSTEM IN INDIAN COUNTRY

There is a severe lack of resources for law enforcement in Indian Country. Many of the 1.9 million Indians living on or near Indian lands do not receive even minimal law enforcement services. Indian communities lack sufficient trained law enforcement personnel, have few adequate jails, and face chronic under-funding of their justice systems.

The impact of strengthening tribal justice systems is far-reaching. It benefits Native Americans in Indian Country and raises the level of respect for their adjudicatory role with Indians, non-Indians, and state and Federal judges. Tribal justice systems are essential mechanisms for resolving civil and criminal disputes and family problems arising on Indian lands. Strong tribal justice systems also encourage the development of, and investment in, Indian land by Indians and non-Indians. Moreover, interaction with Federal and state judges on Indian issues will improve communication and coordination between jurisdictions, which are intimately connected, but know very little about each other. Informed decisions by tribal, Federal and state judges are essential in the delivery of justice for Indian people and others residing on Indian lands.

In the 2001 President's Budget request, OJP proposes the following initiatives:

Indian Tribal Courts.—In both 1999 and 2000, $5 million has been appropriated for the Tribal Court Program. In 2001, a $10 million enhancement is requested for this program, bringing the total program level to $15 million. This program is designed to provide resources for the necessary tools to sustain safer and more peaceful tribal communities by focusing on juvenile and family issues, as well as non-traditional approaches to justice, enhancing the administration of civil and criminal justice on Indian lands, and encouraging the implementation of the Indian Civil Act by tribal governments. While promoting greater cooperation among tribal, state, and Federal justice systems, this program assists tribal justice systems to coordinate programs and services within its tribal structure with law enforcement, victims services, treatment providers and others. Tribal Courts also assists with technology development to ensure that tribal justice systems can communicate within the tribal and non-tribal justice community. Just as in other parts of the country, crime has spread on reservations at a rapid rate, thereby increasing the need for criminal adjudication in tribal courts.

Tribal Criminal and Civil Legal Assistance.—$6 million is requested to develop and enhance the legal services provided to Indian tribes through a mix of program funds, training and technical assistance, and program research and evaluation. The $6 million requested will provide for the following:

$4.5 million, for the Tribal Criminal and Civil Legal Assistance Program, will provide Indian tribes, tribal consortia, and private/non-profits legal services organizations serving a reservation-based constituency resources to develop or enhance their capacity to provide criminal and civil assistance.

$1 million, for discretionary grants to the 31 existing Tribal Colleges to create, develop and enhance a 2-year curriculum on paralegal studies, law advocate studies, indigenous justice systems or other areas directly related to criminal and civil legal assistance.

$500,000 will support a variety of activities, such as, training and technical assistance, research and evaluation, and data collection.

RADIATION EXPOSURE COMPENSATION PROGRAM

Senator DOMENICI. My last question has to do with something way over on the other side of the spectrum, the radiation exposure compensation program. Believe it or not, you have a big hand in that also, along with all these other things we are talking about.

We are being asked to put $7.2 million into the radiation exposure compensation trust fund. Will you just generally tell me, why do we need that now? Last April, I would just add, you finalized additional regulations under that exposure act, for which $21.7 million was requested by the administration. Why do we need this urgent amount at this point?

Attorney General RENO. Here is what I understand. We project a trust fund shortfall of approximately $7.2 million, as noted. We requested the $21.7 million. That request assumed implementation of regulation changes and enactment of statutory changes similar to those proposed by the administration in 1997.

Congress appropriated $3.2 million. The $3.2 million appropriation plus carry forward from 1999 and interest provided $11.8 million in availability. Payments of about $19 million are projected, assuming about 228 awards will be approved in the year 2000. The resulting shortfall is the estimated $7.2 million.

The conference report accompanying the fiscal year 2000 Appropriations Act stated that the administration has expanded the number of claimants, through the issuing of regulations when Congress has not chosen to do so through the normal legislative process. No additional funding is provided to cover the claims of the individuals provided for.

Congress took these actions because it mistakenly assumed the Department of Justice modified the regulations in order to circumvent the legislative process. In fact, the modifications did not expand the program beyond Congressional boundaries, nor create a new category of claimant. The changes were made to keep the program in line with the current consensus of medical opinion. Congress delegated to the Attorney General the authority to issue regulations in Section 6 of the Radiation Exposure Compensation Act. Because the regulations carry the force and effect of law, the program cannot legally distinguish those claims that can only be approved under the original regulations, as was suggested in the act, in the report.

Senator DOMENICI. I have about six more specific questions, but I will submit them on that issue. I will just close by submitting three written questions.

We are asking questions about the Government Performance and Results Act of every subcommittee, because there is no use having put that on the books and then not get some actual results, in terms of objective analysis. So I have some questions about that, and also about the expenditures that you have for the first responder training program. It is easy to forget about, but if we have one of these national disasters, we will be asked what happened to the first responder program.

So I am wondering whether you are allocating the money correctly, and I have a few questions on that issue.

Attorney General RENO. Thank you, sir.

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

Senator GREGG. Thank you, Senator.

First responder is a big issue and this committee has tried to be very sensitive to that, and we certainly want to work with the Senator from New Mexico to make sure, if he has got some concerns, that we follow up on them.

ELIMINATION OF MAJOR GRANT PROGRAMS

I want to address quickly here the COPS program, because first off, as I look at the budget as it was presented to us, there are some fairly significant reductions in what this committee has traditionally funded in order of law enforcement to assist local law enforcement agencies.

For example, the local law enforcement block grant is not funded at all. That is a $500 million item. The juvenile accountability incentive block grant is not funded at all, and that is a $250 million item. And the State Prison Grants programs is funded $75 million, and that is a $686 million item. That means you are talking somewhere in the vicinity of $1.3 billion in funding that has traditionally been going to local agencies.

I guess my first question is why did you eliminate those?

Attorney General RENO. First of all, I would like to just take a personal moment to tell you that I am the one, perhaps more so than anybody else, that is not going to forget about first responders. I have a nephew who has been a city of Miami fireman for a year now, and I have seen some of the circumstances. And I will assure that for as long as I am here, I am not going to forget first responders.

With respect to State and local, the juvenile accountability grants and the law enforcement block grant, what we have tried to do, in general terms, is react based on principles of federalism, recognizing—and I think most everybody on the committee would agree—that State and local law enforcement should not be dependent in a permanent way on the Federal Government, but that it should be able to operate independent and perform its functions based on State revenue and State resources and local resources.

Where the Federal Government can play a very important role is addressing emergency situations, addressing new ideas, to try them out, to see if they work. Examples being the drug court, the COPS program, to use the monies as wisely as possible to ensure that we are able to evaluate what is done with the money and make sure that we are spending it as wisely as possible.

COPS BUDGET

Senator GREGG. Let me stop you there. If that is the case, if that is the philosophy behind the cuts, then I guess my question is why give the COPS program a significant increase? The appropriated funds last year for the COPS program were $595 million. You have asked for a $740 million increase in appropriated funds for the COPS program.

The National Police Chiefs Association has made it fairly clear. Now we have reached the 100,000 COPS on the street last May, so the 100,000 commitment has been reached. You talk to the police chiefs, and they will say very bluntly, and in fact I think it is their public policy right now—I may be wrong, but I do not believe I am misquoting it—their public policy is that they do not need more officers on the street funded by the COPS program.

What they need is the technology assistance and the capacity to get the officers already there skilled, through training and technology so that they can fight crime.

So I guess my question is, if your logic is that you should not be undertaking local responsibility, and you view LEA [Law Enforcement Assistance], Byrne grants, and the prison grant program as local responsibility, and if you have local police officers saying what they want for local responsibility is things like LEA and Byrne, which both address the technology and the training issue, then why would you come forward with a request that significantly increases the COPS program, which is putting police officers on the street, which is the ultimate local responsibility?

Attorney General RENO. I have been hearing from some other people, if you have not been hearing, that people still need COPS in order to address the issues.

Senator GREGG. Is this not a local responsibility, COPS? Is not putting a police officer on the street the ultimate local responsibility, which you just said was not an appropriate action for us to pursue in these other accounts?

Attorney General RENO. I think on a permanent basis. But as I said earlier, Senator, we have a chance to end the culture of violence in this country, not to let up until we really turn this around, not let up until we develop a capacity in this nation to deal with violence so that we are on the equivalent with most other large nations in the world, large industrial nations.

We are trying to do it wisely. For Indian Country, that has not had an opportunity, we are trying to address the issues there, which go to personnel needs. For the school resource officers, we are trying to address that through the universal hiring program. We are trying to use it as wisely as we can. And we have also increased technology funding from $230 million in fiscal year 2000 to $350 million in fiscal year 2001. We are working with the International Association of Chiefs of Police, and other police organizations, to make sure that we use the technology as wisely as possible, to avoid duplication, to avoid fragmentation, and to make sure that we are linked in terms of communication, in terms of information exchange, and in terms of the capacity to use DNA for the remarkable tool that it is.

INCONSISTENCY IN FUNDING GRANT PROGRAMS

Senator GREGG. I appreciate all that, but I do not think it gets to the underlying question, which is there is an inconsistency here. Not only are you suggesting that we hire more police officers, above the 100,000 which were originally proposed, but now you are suggesting we start a community local prosecutor's office and we start hiring local prosecutors and police officers.

And yet, at the same time, you are saying we should not be funding LEA, block grants, Byrne grants, and prison grants, which are all part of the continuum of law enforcement. There is a disconnect here.

It seems to me that you are initiating something like 19 new programs under the COPS program, the community investigators, prosecutors.

Attorney General RENO. There is not a disconnect, because what we are trying to do is to show that the experience with community policing can be enhanced and that, as a project for a community, let us look at community prosecution. Let us see what we can do

when a community is given enough resources in a focused way to see what happens when a neighborhood knows who its prosecutor is, knows the judge, knows the police officer, knows the probation officer, and works together with them in building trust to bring a community to a safer situation and to a less divisive situation.

And I am not suggesting the Federal Government should fund the community police officers forever and ever, nor am I suggesting that they fund community prosecutors or community police officers. But these are examples of what we can do to show that something works. Or maybe it will not work and we scrap it.

Senator GREGG. Let me just make this policy point. You have eliminated three of the major funding streams that run to the local police force. You have increased and created a brand new initiative in the area of the COPS program, not only in adding more cops above what was originally requested, but adding this community prosecutors program and 19 other programs on top of that.

And at the same time, you have not funded the Border Patrol. The 3,000 we originally requested is now, I do not know how far behind you are, but you have reached maybe half of that. And we need more than that. We need more than the 3,000. And that is a Federal responsibility. Protecting our borders is a Federal responsibility.

So if you are going to use your logic on LEA and Byrne and State prison grants, we should use it on COPS, and we should probably take all this money that is being proposed here, new program money, and put it into the Border Patrol, which is a Federal responsibility. We are not doing well there and fully fund the Federal Border Patrol. Fund them so that they are adequately paid. GS–11, grade 11 is not even an adequate level.

As a result, I am thinking, and this is just something I am germinating. I am thinking maybe I will accept your LEA numbers and when the police officers come to me and complain I will say, hey, it is an administration decision. Maybe I will accept your Byrne number and when they come to me I may say, hey, this is the administration position. And I may even accept your prison grant program and when the governors come to me, who I am going to see in a few minutes, I will say that was the administration's decision.

At the same time, I may say we are not going to do any of these new programs. We are going to fund the COPS program in the way it was supposed to be. And let us really put some serious money into the Border Patrol where it should be, which is a Federal responsibility, and follow your logic to its appropriate conclusion.

Attorney General RENO. I like the way you take my logic, but I take it a different way. So let us look at it from the point of view of how we can hire the Border Patrol, how we can keep them, how we can train them, how we can deal with it, and I will work with you in every way possible to achieve that.

Senator GREGG. Senator Hollings.

HIRING BORDER PATROL AGENTS

Senator HOLLINGS. Let me, Madame Attorney General, get this record clear because you indicate you intend to hire 1,800 agents this year. Only 430 positions are for the 1,000 authorized and fund-

ed for the year 2000. The money is there, as Senator Hutchison has pointed out. And 600 of those positions are for the positions authorized and funded back in fiscal year 1999. So the remaining 770 positions are for attrition.

How do you justify proposing only to hire 430 for the year 2000 when Congress directed you to hire 1,000? I think that is what other senators want to know and what I would like to know.

Attorney General RENO. What we are faced with is the fact that it is very difficult to find people who want to go out to the border, or go to lonely spots along the border, in a time of very low unemployment, in a time where they can find jobs in other places. We are constantly trying to review our recruiting procedure to see what can be done along those lines.

Senator HOLLINGS. Well, you start them off at a GS–7, at $28,000. That is one of the obvious reasons you cannot get them.

Why they are able to hold on to any of them is this overtime pay, what we call administrative uncontrollable overtime provision. That is fine. But when you try to buck them up to a GS–11 and give them almost $42,000, I am told that you are then going to lose the law enforcement availability pay provisions which eliminates that overtime. In reality, they could actually lose money from the switch, rather than make more money.

Can you look into that, or respond now? Maybe the Assistant [ed: Assistant Attorney General Stephen Colgate] here knows the actual fact, but that is what I am told, that they are going to end up, when it sounds better, they are going to go up to a GS–11, they are going to be eliminating the overtime and so they are not going to get as much.

Attorney General RENO. Senator, my understanding of the pay reform package provides not only for the upgrade to GS–11, not just for the availability pay, but also for a special factor that will adjust for the administratively uncontrollable overtime. I would like for Mr. Colgate to come by and show you just what is involved, so that you will feel comfortable with it.

Senator HOLLINGS. Well, the reality is that we are getting an administration some day that will put in a Marshall Plan for Mexico. There is not any question, Mexico is our friend, our neighbor, our responsibility. We have been going over the same drill year in and year out. They bring in these presidents and the American Enterprise Institute gives them the outstanding industrialists of the year award, and everything else like that, whoopee for NAFTA. And they end up as a fugitive from justice.

The whole thing is crooked. Under NAFTA they are making less pay. We have lost jobs there. It is corporate corruption galore down there, as well as the crime. And so it will continue on. You just smooth over that 2,000 to hire enough Border Patrolmen until you get some basic change in the Mexican government down there. It is going to cost money and it is going to take money that I am willing to spend. But rather than spend it down there to finance Wall Street, because that is what we did when they devalued the peso, the $12 billion went down to Mexico and then back on up to Wall Street and they got no advantage or improvement from it.

ATTORNEY OVERTIME

Talking about the retirement, though, in pay, we have got almost a cancer, I think, in these assistant U.S. attorneys. They have got 9,000 attorneys who have joined in a suit for overtime. Can you tell the assistant U.S. attorneys that they come for public service and not to make money?

We Senators know how to make money. We can get out and make more. I have had two leave my staff in the last year, making $400,000 and $500,000, so we know how to go and make money. We get these bright young folks that come in, they get the experience, they are willing to try cases and everything else, but now we have got almost a tenure. We passed a bad law back in 1988 and gave them tenure and of the thousands of assistant U.S. attorneys, you have got a bunch of them just sitting around and worrying about overtime.

We put in, under the leadership of our chairman here, a ban for 1 year of that overtime pay. I think we ought to make it permanent and maybe repeal that 1988 statute, so we will take away the tenure maybe.

Senator GREGG. That makes sense. Maybe we ought to put them on an hourly basis and ask them to punch in and punch out, if that is the way they approach the job.

Senator HOLLINGS. Well, they are that intelligent. They would know how to punch in and punch out. You would not get any work out of them.

COPS IN SCHOOLS PROGRAM

The school resource officers, Madame Attorney General, that came from the local experience. We found in schools, for example, in my backyard where we had about 800 and all kind of offenses and drugs and what have you, that we hired a deputy sheriff to go out there and teach classes. And then he associated in the afternoon with the athletic program. Before long, he became a sort of a school hero, and instead of 800 potential violators, we had 800 potential enforcers of the law because all they had to do is make a motion and whatever it is, somebody bringing a knife on the campus that did not involve the student to that extent, and it worked. And we put $125 million in it. And now you eliminate it. Why?

Attorney General RENO. My understanding is that the COPS office expects to continue to fund school resource officers through its COPS in Schools program in the year 2001.

Senator HOLLINGS. Well, I am like the chairman, we will have to look at that one.

Attorney General RENO. Senator, it ties in with the whole concept of building a community capacity to deal with crime. And it makes good sense. And it is the partnerships that we are talking about.

Senator HOLLINGS. Thank you.

ATTORNEY OVERTIME

Attorney General RENO. Mr. Chairman, may I just say something? I cannot talk about the overtime litigation, but I can talk about the assistant United States attorneys who serve the people

of this country. They work long hours. They care deeply. They are excellent lawyers. And I have not seen examples of many of them sitting around.

They do a really wonderful job for this country. They are very special. And I cannot let this time go by without acknowledging the great work that they do.

Senator HOLLINGS. I would like to reiterate, they ought to get a job up here in the Senate, and know how to really work.

Attorney General RENO. Senator, from what I have seen, I would praise the Senate staff in the same way.

Senator HOLLINGS. And they are not suing for overtime.

Senator GREGG. Not yet.

Attorney General RENO. You probably would not let them.

Senator HOLLINGS. You have got it.

Senator GREGG. Senator Campbell.

Senator CAMPBELL. Mr. Chairman, now that we know how to really work, I wonder if I could ask Senator Hollings to send me a memo on where these $500,000 jobs are when I get out of here.

GROWING PRISON POPULATION

I read with interest almost all of your testimony, Madame Attorney General, while our other committee people were asking questions. Let me start just by making a small social commentary you have heard me preach about before. I am sure you understand it, too, from reading your testimony.

Our prison population has doubled in 10 years. In your testimony, in fact, you say this year 570,000 people will get out of prison, starting on page 19. You know as well as I do that twice that many will be going into prison. In fact, probably 70 or 72 percent of the ones that get out are going to go back in. A lot of it is related to drugs, and you have alluded to that in testimony and in private conversations, too.

I have said this before, I do not know how we are ever going to reduce that cycle and reduce that supply until we get to what we have talked about. That is somehow we have got to decrease the demand. As long as the demand is there, it will get here some way. It will come in on boats or drop out of airplanes or come through underground like moles or something.

But I am glad you appreciate that because you have mentioned things along that line. I think it is really a sad commentary, and I know that the Attorney General's office is not supposed to be running social programs, but I think it is really a sad commentary that so many communities in America have seen prisons as a form of economic development. We have them competing with each other to see where a prison is located. It just seems there is something wrong with that, when we think of America being the beacon of freedom, and yet we have got more people going into prisons than anyplace in the world, in fact.

But I do not want to pursue that, frankly. My question had nothing to do with that, I just wanted to mention that in commentary.

CYBERCRIME

In the last few weeks we have seen on the news endless stories about these hacking of the web-based businesses. I understand it

has increased a great deal, by roughly 40 percent or so in this last year. I know you and Louis Freeh are working on a 5 year plan to develop some kind of program to combat cybercrime. Your budget this year has $37 million in it to hire 159 prosecutors and launch 10 computer forensic labs around the country. I applaud you for that.

But my question was that, you just mentioned, we are having so much trouble getting people in the Border Patrol, as an example. Is it realistic to believe that we can create and fill 159 new positions on top of the vacancies that already exist? The other part of that question is what are we doing to be more competitive with private firms in order to be able to recruit the type of people that can do this highly technical work?

Attorney General RENO. The answer is exactly what the chairman said at the last meeting that he called especially to address this issue of cybercrime. The greatest single challenge we face is how do we attract people who have the know-how, both legal and technical, to deal with the issue. The administration has addressed it through a scholarship program that is similar to ROTC. For a bachelor's degree you commit to the government for a certain number of years. That will be one way to do it.

It is going to be a very difficult challenge but we are going to do everything we can to meet it. And I will tell you that this, as I told the chairman, is probably one of the most important issues that law enforcement will face for many, many years to come. How we address it now is going to influence how people, I think, react to the Internet. Do they have confidence in it? Do they believe that their privacy can be protected? Do they believe it will work? Do they believe that they will not be victims of it, as opposed to beneficiaries of it?

We are committed to doing everything that we can, but you have touched on what I think is one of the most difficult issues of all.

DIFFICULTIES IN HIRING

Senator CAMPBELL. I applaud you and I wish you well, but I will tell you, when you see our bright young university graduates coming out, that can hire on to engineering firms, with the kind of skills that it takes to be a hacker for $50,000 and $60,000 a year, we are not going to get them to come into government service for $20,000 or $25,000. It is as simple as that.

I think Senator Hollings has brought that up. If we are going to pay the best, we have got to pay the best salaries.

Attorney General RENO. I just want to point out to you, I have been impressed, for example, with FBI agents that I have met. One was a trauma surgeon and decided to become an FBI agent. Another was a newscaster. People, I think, appreciate the opportunity to serve and to serve the people of this country. Fortunately, we have some wonderful people, both in the Bureau and in the Department of Justice, who have the know-how and want to put it to use for the American people.

I would like to suggest something to you all. Some people say to me how can you stand public service when you get cussed at, fussed at, and figuratively beaten around the head. This committee never does it to me. You kind of encourage public service, as far

as I am concerned. You disagree with me on an awful lot and we agree on an awful lot.

But if we could establish a tone where people thought that public service was done the way it is done in this committee, I think we would be a lot further down the line.

Senator CAMPBELL. We have a few surgeons that have given up their practice to come into the Senate, as you know, and the House, and I certainly applaud them. But when you talk about these youngsters, so much depends on how much they are going to get paid, because they have got a life to live and a family to feed, too, in many cases.

I just think that you are going to have difficulty filling those positions unless we offer some pretty big incentives.

Attorney General RENO. Do not let young lawyers hear you say that, because when I graduated from law school I could not find a job that paid very much money. And I was appalled at what my colleagues in law school were receiving when they were hired on Wall Street.

Senator CAMPBELL. If they could see you today.

Attorney General RENO. Well, they had a reception for me and they said you know, we envy you the opportunity at public service. You understand how important and how rewarding it is.

Senator CAMPBELL. Thank you, Mr. Chairman.

Senator GREGG. You certainly, Senator Campbell, touched a very important issue which is how do we adequately compensate for these technology skills that are so critical? Not only to law enforcement, but we see this in the Department of Commerce with NIST and the agencies there. These folks are in great demand, and we are capitalists and a market oriented society, and the government is going to have to react to that, and we are going to have to structure something.

PLAN COLOMBIA SUPPLEMENTAL

My last question to you, Madame Attorney General, deals with this Colombia supplemental. I noticed that of the supplemental that is being requested for Colombia, which is a $1.6 billion supplemental, only something like $3 million of it is under the control of the law enforcement agency responsible for drug enforcement in this country, DEA. I guess my question is to what extent was DEA in the loop on this? To what extent was the FBI in the loop on this? If they were in the loop, why are they not players? Should they not be players in one of the most massive undertakings this country has ever considered in the area of trying to stop drugs in a foreign country, and the production of drugs, which is the responsibility of the DEA and the FBI to a degree?

Attorney General RENO. I checked with Donny Marshall [ed: Administrator for the Drug Enforcement Administration] this morning to make sure that what I say accurately represents what he believes, and he said that he was involved and DEA was involved throughout the considerations. He said he supports the plan. He might have done it differently, but he thinks that the expenditures that are provided for are important. And I think it presents a balanced approach, balanced in terms of investments that have been made before and investments that need to be made now.

Senator GREGG. What is DEA's role? For $3 million out of $1.6 billion, my sense is that it is minor, to say the least.

Attorney General RENO. I think we need to do everything we can to support the Colombian national police, and he and I are committed to doing that. But what we have now is success in terms of arrests in Colombia. We need to work with Colombian authorities to build institutions, to ensure that once the arrest has been made that there are further processes in terms of investigation, prosecution, conviction, appropriate sentence served.

The way the plan is designed is to try to achieve that.

Senator GREGG. I would just say, looking at it as an observer, that if you took $1.6 billion and we were to put it into the Border Patrol, the DEA, and the detention capabilities of INS and the Bureau of Prisons, I think we would have a heck of a lot bigger impact on drugs coming into this country than what is going to happen by spending $1.6 billion to buy six Blackhawk helicopters to be flown around in Colombia.

It just seems to me that it is not the most effective use of our resources, in light of there being a crying need which we have already highlighted here in the area of Border Patrol, DEA, which we have not really gotten into, and detention, which we also have not gotten into.

Senator HOLLINGS. Along that line, Mr. Chairman, Madame Attorney General, we have gotten an experience, and we have got to double check it and make sure. I will never forget under President Carter, as the First Lady Rosalynn was going to go to Colombia and had a little talk all prepared in Spanish and what have you, but they thought the piece-de resistance would be to send two helicopters down there to help them enforce law. I opposed it and opposed it and finally gave in.

The bottom line, the two helicopters went down there and it went to what I guess would be their defense minister, who turned out to be the head of the cartel. Instead, they were telling us how it was going to help. We were going to have such big law enforcement. We were going to have those choppers, we could get up on the mountain, we could just end all drug activity in the country of Colombia.

The fact of the matter is, we facilitated, accelerated, and increased the drug activity. And when you talk of helicopters, you have just got the country of Mexico sending them back, the Huey helicopters. They were too expensive to run, on the one hand, and they could not operate and keep them up and maintain them.

So we have sent a bunch of them down there and we have got a lesson already learned, so we had better be awfully careful how we just find a problem and say put in *x* millions of dollars and that problem is solved. We do not seem to learn anything.

Attorney General RENO. That is one of the reasons, Senator, that in terms of the law enforcement and administration of justice side of the coin, I think we have got to build it carefully. And that we cannot just focus on arresting people if we do not have the capacity to prosecute them, to get them convicted, and to get them imprisoned for a sentence that meets what they did.

Senator HOLLINGS. Thank you, Mr. Chairman.

Senator GREGG. Madame Attorney General, we want to thank you for your courtesy over the years. It has been a pleasure to work with you. You have been generous in your comments, so let us be generous in ours also. I have personally enjoyed very much working with you. I think we have made tremendous strides.

Attorney General RENO. Well, it is not over yet, Mr. Chairman.

Senator GREGG. I noticed you said you did not plan to be here again. We may have you again.

Attorney General RENO. If you do, it will be my pleasure.

Senator GREGG. We have got some issues, especially the Border Patrol and Internet, that we might want to take up with you.

ADDITIONAL COMMITTEE QUESTIONS

In any event, this hearing is completed but there will be questions submitted for the record.

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

QUESTIONS SUBMITTED BY SENATOR JUDD GREGG

COPS PROGRAM

Question. The COPS program reached its goal of putting 100,000 COPS on the street on May 12, 1999, and as originally authorized, the program is scheduled to terminate at the close of fiscal year 2000. How do you justify the program's continuation and expansion when its stated goal has been reached and violent crime rates continue to fall?

Answer. The 21st Century Policing Initiative directs federal resources to the most pressing local law enforcement needs by building on the success of the COPS program and adding up to 50,000 additional officers to the street. It takes the philosophy of community policing to the next level. By engaging the entire community in the fight against crime and funding community prosecutors as well as officers, we are helping create an infrastructure to sustain our progress into the next century. Every major law enforcement group—representing labor and management alike—and the Conference of Mayors strongly supports the continued funding for the COPS program.

With American communities safer than they have been in decades, now is not the time to pat ourselves on the back and go home. Crime is still too high. The continuation of the COPS program would serve to reinforce this progress by funding much-needed officers, vital technologies, innovative crime prevention strategies, and valuable training and technical assistance.

Question. The Administration's new goal is to hire 150,000 officers by 2005. Can you tell me how many officers you believe would be the right number?

Answer. We are focused on funding up to 50,000 additional officers between now and 2005. The demand for COPS grants has not diminished over the last 5 years, and we have no reason to expect that it will do so anytime soon. Just last year, over 250 law enforcement agencies applied for funding for the first time. There are still neighborhoods that have not benefited from the recent drop in crime.

Question. Do you need authorization language for any of the new programs you have requested?

Answer. All of the programs that are requested under the COPS appropriation in the fiscal year 2001 budget request would be authorized with the passage of the Administration's proposed 21st Century Policing Initiative bill.

COMMUNITY PROSECUTION

Question. The President's budget request asks for $200 million to establish a Community Prosecutors Hiring Program. Within that amount there is $150 million to hire 1,000 community prosecutors to target gun-related violence in DOJ-determined "High Gun Violence Areas." What are "High Gun Areas" and how will they be determined?

Answer. Since 1999, a total of $15 million has been appropriated under COPS and administered by the OJP's Bureau of Justice Assistance (BJA) for the Community

Prosecutor Program. In fiscal year 1999, $5 million was appropriated and awards were announced for the planning, implementation, and enhancement of community prosecution programs around the country. In fiscal year 2000, $10 million was appropriated and will be awarded to other jurisdictions for the planning, implementation, and enhancement of their community prosecution programs.

In fiscal year 2001, an increase of $190 million is requested to establish a Community and Local Gun Prosecution Initiative bringing the total funding level to $200 million. These funds are requested under COPS and will be administered by OJP. OJP proposes to make discretionary grants to state, local and tribal prosecutors' offices to increase substantially the number of prosecutors interacting directly with members of the community and to encourage local prosecutors to reorient their emphasis to tough enforcement at a community level. Of the total, $150 million would be used to hire 1,000 gun prosecutors for urban, suburban, and rural communities that are experiencing gun violence. These prosecutors will focus on gun-related crime. High gun violence areas are those areas—whether urban, suburban or rural—which are impacted by gun violence. OJP will reserve funds for jurisdictions with populations of less than 50,000.

Question. How was it determined that 1,000 prosecutors is the right number?

Answer. As a result of the Administration's successful efforts to put an additional 100,000 police officers in communities across the nation, we are experiencing an increase in the prosecutorial workload of the criminal justice system. This burden is largely felt in local communities where prosecution resources are limited. This initiative attempts to bridge the gap by providing additional prosecution personnel at the local level to encourage and facilitate community partnerships to address the unique local criminal problems.

MISSING AND EXPLOITED CHILDREN'S PROGRAMS (MECP)

Question. My first question is whether the current funds appropriated to the MECP are sufficient to carry out all the activities and programs necessary to support missing and exploited children, their families, and the agencies that serve this population?

Answer. Since the Missing Children's Assistance Act was enacted in 1984, OJJDP has maintained a national leadership role in providing training and technical assistance to law enforcement and other service providers involved on the front line in assisting missing and exploited children and their families. This training, for the most part, is not available to law enforcement practitioners through other sources. While current funding is sufficient to maintain existing programs, the significant increase in the numbers of new law enforcement officers on the streets today, and the critical need for informed action and accurate reporting of all categories of crimes against children, funding beyond current levels would allow the MECP to enhance current training and technical assistance programs to reach more law enforcement practitioners. It would also allow expansion of our training and technical assistance program into new areas.

Question. If additional funds were appropriated to the MECP, what types of programs and activities would these funds support?

Answer. Additional funds would provide for the expansion of existing training and technical assistance programs to the field. The Department currently has all training slots for fiscal year 2000 filled. We typically have as many applicants on waiting lists as we have in the actual training programs. Additional funding would allow us to reach many more of these law enforcement practitioners.

Second, additional funding would allow the MECP to expand program offerings into new training areas related to missing and exploited children and their families, including training for law enforcement, parents, prosecutors, and the judiciary on international parental abduction to enhance the United States' response to the recovery and return of these children. The MECP could conduct new research on missing, runaway, and throwaway children as needed, along with research on the growing problem of child prostitution. As many states and localities are adopting child fatality review teams, multi-disciplinary training could be conducted to assist these practitioners in implementing that concept. Additional funding would also assist MECP in increasing the number and quality of related publications and developing new publications in areas such as international parental abduction and hand guides for law enforcement on investigating child homicides.

Question. What would be the cost of these activities?

Answer. Additional funding needed for all activities would be approximately $5 million.

Question. If additional funds were appropriated, would OJJDP commit those funds to the newly formed Child Protection Division with the emphasis placed upon increased training for law enforcement?

Answer. Yes, all activities of the old MECP have already been consolidated into the new Child Protection Division (CPD). Any additional funding would be administered by that Division with an emphasis on state and local law enforcement needs as discussed in our response to the first question.

VOCA LEGISLATION

Question. The Victim's of Child Abuse Act (VOCA) provides funds to support child abuse training programs for prosecutors and judicial personnel as well as funds to support children's advocacy centers. One constituent group that is clearly absent from the legislation is state and local law enforcement. Because state and local law enforcement are integral partners in the effective resolution of child abuse cases, does the Office of Juvenile Justice and Delinquency Prevention believe that state and local law enforcement should be included in the VOCA legislation?

Answer. We believe that the training and technical assistance needs of state and local law enforcement could appropriately be included in the VOCA legislation. In cases of crimes against children, law enforcement responders often "make or break" a criminal investigation of the perpetrator before a prosecutor or judge is even aware of the case. Their initial investigative actions are key to the effective prosecution of the perpetrator and the protection of the child. Their knowledge and ability to effectively investigate crimes against children is at least equal to that same requirement for prosecutors and the judiciary.

Question. If VOCA funds were allocated for training for state and local law enforcement agencies, how would these activities be used in relationship to the current activities that are offered by OJJDP through the Missing and Exploited Children's Program?

Answer. As indicated above, the activities of the MECP have been consolidated, through reorganization, into the new OJJDP Child Protection Division. Additional funding would allow the new CPD to increase the number of offerings of existing training programs to state and local law enforcement and to enhance the overall training effort with the development of needed new programs.

Question. How would OJJDP, the Missing and Exploited Children's Program and the Child Protection Division insure that these funds complemented and supported the current training and technical assistance programs?

Answer. To insure that purpose is met, the Department suggests that language in any amendment to VOCA require that the funds be administered by OJJDP for the purpose of expanding and enhancing missing and exploited children training and technical assistance programs for state and local law enforcement.

QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

RIO ARRIBA COUNTY BLACK TAR HEROIN PROBLEM

Background: Attorney General Reno, I want to begin by thanking you for all that you have done in the last year to help address the black tar heroin problem in northern New Mexico.

It was at the hearing last year that you and I first discussed this issue, and the record will reflect that your response to my request for help was immediate, comprehensive and extremely helpful. On behalf of the citizens of Rio Arriba County, thank you.

Within a few weeks after our discussion here, Senator Gregg was generous enough to hold a field hearing on the issue in Espanola, New Mexico. You sent out your deputy, Laurie Robinson, who did a great job engaging with the state and local leaders and identifying the problems that the community faced in trying to address this problem. I understand that Ms. Robinson will soon depart her post at DOJ, and I wanted to relate to you how much I appreciated her help as well.

Within months, your staff returned to New Mexico and consulted with state and local leaders. They formulated a comprehensive plan to address the problem, which emphasized community-based law enforcement, treatment and prevention. In this committee, we targeted prevention resources for the Boys and Girls Club and an after-school program in Rio Arriba. The State of New Mexico dedicated funds for treatment. And, law enforcement did a great job.

Soon after the field hearing, federal FBI, DEA and ATF agents, along with state law enforcement officials, rounded up more than 50 individuals involved in the drug

trade in northern New Mexico. Indictments were handed down, and there have been numerous guilty pleas already.

News reports out of Rio Arriba County indicate that the streets are quieter, the drug trade has been suppressed, and the community is on its way to healing itself after decades of drug abuse.

Of course, we haven't solved the drug problem in northern New Mexico. I hope that you'll pledge to continue to work with me throughout the remainder of your time at DOJ as the need arises to ensure that Rio Arriba stays on the path toward reducing its drug problem.

Question. I am interested in your Department's recommendation about a second phase of help for the county, including any follow-up prevention or law enforcement efforts we might undertake to make sure that our efforts of the past year do not go to waste.

Answer. At the March 30, 1999, hearing in Espanola, Laurie Robinson, the then Assistant Attorney General of the Office of Justice Programs (OJP), emphasized the importance of government agencies and service providers collaborating with each other, working in partnership with the community, and embracing a balanced and coordinated approach to crime prevention, control and community empowerment. As a result of this hearing, in August 1999, a report was published that outlined a technical assistance action plan to support and sustain efforts to respond to the illicit drug and crime issues in Rio Arriba County. The centerpiece of this plan was the Community Health and Justice Council, which would provide a shared infrastructure of federal, state and county stakeholders in order to provide a unified response to crime and substance abuse problems in Rio Arriba County. In addition, OJP, in partnership with the Substance Abuse and Mental Health Services Administration, the National Institute on Drug Abuse, the National Institute of Corrections, and Project SEARCH, committed technical assistance resources. OJP also committed to fund two drug court extensions, regional drug free coalition building efforts, and a community prosecution planning project.

Phase II of this effort is well underway. The technical assistance response team is scheduled to visit Rio Arriba during mid-May to follow-up on the recommendations outlined in the August 1999 report. The response team has three objectives: (1) assess the status of the Rio Arriba Community Health and Justice Council; (2) conduct follow-up interviews with key government and community stakeholders to reassess their commitment in efforts to address identified substance abuse prevention and treatment needs; and (3) track the status of several OJP initiatives to facilitate implementation of the report's programmatic and technical assistance recommendations.

FIRST RESPONDER TRAINING PROGRAM

Background: The Department of Justice has requested a total of $29 million to support the National Domestic Preparedness Consortium—$15 million for the headquarters at Fort McClellan, Alabama, and $14 million to be shared equally ($3.5 million each) by the four training partners—New Mexico Tech; the University of Texas; Louisiana State University; and the Nevada Test Site. Fort McClellan is again proposed for an increase—$2 million for the purposes of installing a computer system and to provide a student tracking system. The actual training partners are held to a freeze level, while the Administration proposes additional resources for technical assistance, law enforcement training, and research and development.

Question. Ms. Reno, the Office of Justice Programs funds domestic first responder training at several sites of the Domestic Preparedness Consortium. Request for funding for Fort McClellan's program continue to increase, while more first responders are actually being trained at the university sites. Wouldn't the Department maximize the budget by providing more training at the most cost-effective sites?

Answer. Each member of the National Domestic Preparedness Consortium (NDPC), along with the Office of Justice Programs' (OJP) other training partners, have individual strengths of critical importance to the emergency responder community. For example, the New Mexico Institute of Mining and Technology's (NMI) explosives expertise, and the availability of live agent training at the Center for Domestic Preparedness (CDP), both represent unique assets central to a robust, and comprehensive domestic preparedness effort. At each NDPC site, training is offered in the most effective and efficient manner possible given the unique training products provided. When judging the value of this training, the unique nature of members' facilities, assets, and training provided to the emergency responder community must be taken into account. In fact, the emergency responder community has specifically indicated the value of such individual strengths as NMI's explosives exper-

tise, and the CDP's live agent training. In the same manner, all NDPC facilities play a unique and critical role in OJP's overall domestic preparedness effort.

Question. First responder travel is a necessary expense. Heretofore, the Department has deducted travel expenses from funds appropriated to the Domestic Preparedness Consortium, instead of reimbursing first responders from Department of Justice funds. To maximize the funds spent on actual training, would it make sense for the Subcommittee to designate travel funds for first responder use?

Answer. First responder travel is a necessary expense associated with training. These travel expenses, however, are provided for within the training budgets for each of the NDPC members. Student travel is integrated as a component of overall per student training costs. Separating out travel funds for all first responders being trained is an artificial distinction, and would have no real effect other than to complicate the administration of such funds, and create inefficiencies in the development of NDPC member budget plans. Building travel costs into per student training costs allows each NDPC member the flexibility to maximize its resources when developing training and budget plans. Creating a single "first responder travel fund" would cause each NDPC member to have to compete for available travel funds for its students with other NDPC members.

Question. The training of first responders is a primary issue of readiness as the Department of Justice takes the agency lead on counterterrorism for the Federal Government. What has the Department accomplished through the First Responder training initiatives over the past 2 years?

Answer. OJP's first responder training program was initiated with the development of the Firefighter and Emergency Medical Services training course in fiscal year 1997. Since that time, however, programmatic efforts and available funding have increased dramatically. Over the course of the past 2 years, OJP has developed a comprehensive, robust domestic preparedness program, created the Office for State and Local Domestic Preparedness Support (OSLDPS) to administer it, and organized that office and its programs based on recommendations obtained from the state and local emergency response community through a variety of needs assessments and stakeholder conferences. OSLDPS focuses its preparedness efforts in four functional areas: provision of grants to support equipment procurement, training, exercises, and technical assistance. OSLDPS is engaged in a continual outreach effort to the state and local community to elicit feedback and guidance on its program execution. Since 1998, OSLDPS has developed and implemented programs to provide $87.5 million in grants to state and local jurisdictions for the procurement of specialized response equipment and the development of state-wide strategic plans for domestic preparedness; organized a comprehensive training program utilizing existing expertise and national assets to enhance the capabilities of state and local jurisdictions and response agencies in responding to WMD terrorism; undertaken the planning of the TOPOFF exercise, a major national-level WMD exercise; and created a focused technical assistance program to respond directly to the needs of individual jurisdictions.

Question. How many local law enforcement and fire and medical personnel have been trained?

Answer. OSLDPS trains approximately 46,000 students under its Metropolitan Fire and Emergency Medical Services basic awareness training program annually. In 1999, OSLDPS trained 1,156 emergency responders at the CDP and 1,672 at the other NDPC institutions. Further, OSLDPS is working with other training providers, including but not limited to Pine Bluff Arsenal for the provision of equipment sustainment training, the National Sheriffs Association, and the National Guard Bureau.

Question. What is the status of equipping these first responder training teams?

Answer. A key element of OSLDPS' efforts to assist state and local jurisdictions in enhancing their ability to respond to WMD terrorism is the provision of grants for the procurement of critical emergency response equipment. Such equipment will enable fire departments, law enforcement agencies, emergency medical services, and hazardous materials response units to enhance their response capabilities in state and local jurisdictions to incidents of domestic WMD terrorism. Numerous needs assessments have consistently highlighted these jurisdictions' need for specialized equipment in order to meet the requirements presented by WMD incidents. In fiscal year 1998, OSLDPS provided $12 million in grants to 41 local jurisdictions for the procurement of specialized response equipment, including personal protective, chemical/biological detection, decontamination, and communications equipment. In fiscal year 1999, OSLDPS will provide an additional $31 million to 157 local jurisdictions, as well as $33.8 million to the 50 states, for the procurement of such equipment. An additional $8 million will be provided to the 50 states for the development of Three-Year Statewide Strategic Domestic Preparedness Plans, which will guide the

use of future funding. To date approximately 115 of the 157 local jurisdictions receiving grants in fiscal year 1999 have been funded under the fiscal year 1999 County and Municipal Domestic Preparedness Support Equipment Program.

LAW ENFORCEMENT IN INDIAN COUNTRY

Question. Attorney General Reno, the Administration continues to focus on the law enforcement situation in Indian Country, and promotes cooperation between the Bureau of Indian Affairs (BIA) and the Department of Justice agencies. In fiscal year 1999, this Subcommittee provided $88.7 million through various Department of Justice programs to enhance law enforcement in Indian Country, and for this year another $91.5 million. This year, the budget includes an additional $82 million as part of this joint initiative with the Department of Interior and BIA to address public safety on Indian lands. First I'd like to turn to the funding for tribal courts and its implementation. The tribal courts have received $10 million over the past two years. How have these funds been allocated to tribal courts?

Answer. In each 1999 and 2000, $5 million has been appropriated for the Tribal Court Program. This program, which is part of the broader DOJ Indian Country Law Enforcement Initiative, is designed to provide grant resources on a competitive basis to support the development, enhancement and continuing operation of tribal judicial systems. The goal of this program is to provide resources and assistance to tribes to sustain safer and more peaceful communities by focusing on juvenile and family issues, as well as non-traditional approaches to justice, enhancing the administration of civil and criminal justice on Indian lands, and encouraging the implementation of the Indian Civil Act by tribal governments.

The 1999 Tribal Court Program plan was approved in May 1999. The grant solicitation process began in June 1999, and applications were due March 8, 2000. BJA is currently reviewing these applications and expects to begin awarding grants in May 2000.

In 2000, BJA plans to award additional planning, implementation, and enhancement grants, as well as provide technical assistance. Tribes that have completed the planning process (either with BJA assistance or on their own) are eligible for implementation grants in 2000. Tribes that received 1999 planning grant will receive priority for these implementation grants. After Congressional approval of the 2000 plan, BJA anticipates soliciting applications in July/August 2000.

Question. Congress also approved $34 million in each of 1999 and 2000 through the State Prison Grants program to help with the addition of detention facilities in Indian Country. How is the Department expending these funds? What is the analysis of need for these facilities across the nation?

Answer. The 1999 appropriation for the construction of adult and juvenile detention facilities in Indian Country was $34 million. In 1999, OJP awarded the following projects on a competitive basis:

Three Affiliated Tribes of Fort Berthold (ND)	$2,000,000
Native Village of Barrow (AK)	6,000,000
San Carlos Apache Tribe (AZ)	2,158,550
Confederated Tribes of the Colville Reservation (WA)	4,579,550
Pueblo of Zuni (NM)	2,334,000
Northern Cheyenne Nation (MT)	3,482,629
Oglala Sioux Tribe (SD)	1,327,659
Rosebud Sioux Tribe (SD)	6,100,770
Shoshone Paiute Tribe (NV)	2,862,132
Red Lake Band of Chippewa (MN)	574,870
Nisqually Indians (WA)	371,473
Technical Assistance	900,000

For 2000, OJP remains committed to assisting tribal governments in building comprehensive and effective law enforcement and public safety systems to provide the foundation for healthy communities. We believe it is critical to continue to support initiatives that were funded in 1998 and 1999 in order to address appropriately the myriad problems experienced in Indian country including, but not limited to the following: violent crime, domestic violence, child abuse, aggravated assaults, and violent crime strongly correlated with alcohol abuse.

In 2000, $34 million is available on a competitive basis and will be awarded as follows:

—$24 million to tribes that demonstrate the greatest potential for successful development and implementation of their comprehensive crime control strategy and who have determined the most appropriate facility consistent with the

characteristics of their offender population. Of the $24 million, approximately $1 million will be needed for technical assistance.

—$10 million to the Salt River Pima Maricopa Indian Community for construction of an adult/juvenile facility. Salt River submitted an application in response to the OJP/CPO solicitation for proposals for 1999 BIA Designated Tribes, however, resources were not available to fund the project fully. The Attorney General has committed $10 million in 2000 for the construction of a facility.

The need for culturally appropriate correctional facilities remains great throughout Indian Country as demonstrated by the response to the OJP/CPO 1999 Program Guidance and Application Kits. In 1999, OJP received 33 applications requesting a total of $100.3 million. Because of limited funding, OJP was able to fund only 6 of the 33 projects totaling $31.8 million. The total amount of unfunded projects in 1999 was $68.5 million. Furthermore, BIA has done independent assessments in Indian Country that substantiate the need for approximately $180 million in new construction.

Question. The Initiative also has received $75 million to assist Indian tribes and pueblos with the hiring of additional law enforcement officers, to purchase equipment, and to train new and existing officers. What is the status of obligating these funds? How did the Department decide to implement this portion of the initiative?

Answer. In fiscal year 1999, COPS received $35 million for the improvement of law enforcement capabilities on Indian lands. With that funding, COPS developed the Tribal Resources Grant Program (TRGP). With this program, the COPS Office attempted to meet the most serious needs of law enforcement in Indian communities through a broadened, comprehensive hiring program that offered a "menu of options" from salary and benefits for new police personnel to funding for law enforcement training and equipment for new and existing officers. This $35 million program focused on tribal communities, many of which have limited resources and are affected by high rates of crime and violence, and was meant to enhance law enforcement infrastructures and community policing efforts in these communities.

Funding provisions under the TRGP included 3 years of salary and benefits for new police officers, as well as funding for law enforcement training and basic standard issue equipment, ranging from bullet-proof vests and uniforms, to firearms, portable radios and funding for background investigations. Funds were also available for law enforcement training and equipment for existing officers. Training included basic and specialized police training at a state academy or the Indian Police Academy in Artesia, N.M., as well as community policing, grants management, and computer training. Departments were also able to request funding for other types of department-wide law enforcement equipment and technology.

In addition, $7.3 million of the $35 million went toward the CIRCLE Project which was a Department of Justice collaborative effort to assist Indian Tribes. It involved multiple components of the DOJ working together to address the equipment, training, technical assistance, and hiring needs of three specific tribes.

In fiscal year 2000, COPS received $40 million for tribal assistance programs and will award grants under the Tribal Resources Grant Program 2000. This program has been designed with the same parameters as the fiscal year 1999 TRGP.

The funding allocated in fiscal year 1999 has been obligated. The application deadline for the fiscal year 2000 program was May 5, 2000, and funding for fiscal year 2000 will not be obligated until all applications have been received.

Question. A total of $22.5 million was approved for the Office of Juvenile Justice and Delinquency Prevention (OJJDP) for programs to combat tribal youth crime. What is the status of this program? What types of programs does the Department plan to fund with these dollars? What indication is the Department getting as to the nature of this problem in Indian Country and the need for resources?

Answer. In 1999, $10 million was appropriated for OJJDP's Tribal Youth Program. Of this amount, 10 percent ($1 million) was used by OJJDP to support research, evaluation and statistics, and $200,000 to provide direct technical assistance and training for tribal programs. Additionally, $600,000 was designated to support the Comprehensive Indian Resources for Communities and Law Enforcement (CIRCLE) project and $330,000 to support the activities of the Volunteers for Tribal Youth (VTY) program. Through a solicitation and peer-reviewed process, the Tribal Youth Program (TYP) provided funds for comprehensive delinquency prevention, control, and juvenile justice system improvement for American Indian youth to 34 grantees in fiscal year 1999 totaling approximately $7.9 million. Individual grants range from $75,000 to $500,000 for a 3-year project period. Federally-recognized tribes applied directly to OJJDP for grants. Inter-tribal coalitions and Alaskan Native villages were also eligible to apply. OJJDP made funding eligibility determinations for grantees based on the Bureau of Indian Affairs (BIA) tribal service populations numbers.

In 2000, $12.5 million was appropriated for the Tribal Youth Program. Of this amount, 10 percent ($1.25 million) will be to support research, evaluation and statistics, and $250,000 to provide direct technical assistance and training for tribal programs. Additionally, $600,000 has been designated to support the CIRCLE project for a second year. Through another competitive solicitation process in 2000, TYP will provide funds for comprehensive delinquency prevention, control, and juvenile justice system improvement for American Indian youth. The same funding structure, project period and eligibility criteria will be used as in 1999 for TYP. A separate competitive solicitation focusing on mental health and delinquency for American Indian youth will also be issued in 2000, and will have the same funding structure, project period and eligibility criteria as the TYP juvenile justice program.

Provided below are the types of tribal youth programmatic activities funded. A strong cultural component is tied to all of these activities.

—*Category I—Reduce, control, and prevent crime both by and against tribal youth*.—Acceptable activities include but are not limited to: Identification of risk factors; community needs assessments; family strengthening; truancy reduction; drop-out prevention; parenting; anti-gang education for young children; conflict resolution; bullying; child abuse prevention; gang reduction strategies for children and youth; and youth gun violence reduction.

—*Category II—Interventions for court-involved tribal youth*.—Acceptable activities include but are not limited to: Graduated sanctions; restitution; home detention, foster and shelter care; community service; improved aftercare services; teen courts; and mentoring.

—*Category III—Improvement to tribal juvenile justice systems*.—Acceptable activities include but are not limited to: Training for juvenile court personnel, including judges; intake assessments; model tribal juvenile codes; advocacy programs; gender-specific programming; probation services; and aftercare programs.

—*Category IV—Prevention programs focusing on alcohol and drugs*.—Acceptable activities include but are not limited to: Drug and alcohol education; drug testing; substance abuse counseling; peer counseling; family substance abuse counseling.

Nature of the Problem

The 2.3 million American Indians and Alaska Natives in the United States represent just under one percent of the total population, but a recent nationwide Bureau of Justice Statistics (BJS) survey finds that American Indians are victimized by violent crime at a rate more than twice that of the general population. Past testimony by tribal leaders regarding higher rates of homicide and gang violence corroborates information gathered by the FBI, BIA, U.S. Attorneys, and tribal police. Of the 6,002 Indian country cases opened by the FBI between 1994–97, 83 percent were either violent crimes or involved child physical or sexual abuse. Violent crime by juvenile offenders and Indian youth gangs is on the rise in many Indian communities. The number of Indian youth in Bureau of Prisons (BOP) custody has increased by 50 percent since 1994. Given the unique nature of federal jurisdiction in Indian country and the rise in juvenile crime, 67 percent of the youth in the BOP's custody were American Indian, as of December 1998. Demographics may contribute to the problem of juvenile delinquency and violence in Indian country. The median age of American Indians is 24.2 years compared with 32.9 years for other Americans. On many reservations, roughly half of the population is under 18 years of age, again showing the need for increased attention to juveniles within Indian country.

Question. Finally, would the Department please provide the Subcommittee with a summary of the funding proposed to be allocated under the Indian Law Enforcement initiative in fiscal year 2001?

Answer. The following chart provides the requested information.

DEPARTMENT OF JUSTICE FISCAL YEAR 2001 PRESIDENT'S BUDGET—INDIAN COUNTRY LAW ENFORCEMENT INITIATIVE

Component	Item	Request
Federal Bureau of Investigation	31 pos. (victim/witness coordinators) and funds for contracts for evidence forensic exams and Safe Trails Task Force overtime.	[1] $4,639,000
United States Attorneys	60 pos. (33 Assistant U.S. Attorneys, 27 support) to augment current investigative and prosecutorial efforts in Indian country.	[1] 4,699,000
Criminal Division	1 pos. to augment analysis of Indian law enforcement issues	[1] 70,000
Office of Justice Programs	Drug Testing and Treatment Program for alcohol and substance abuse testing and treatment in Indian country.	[1] 10,000,000
	Tribal Courts Program to assist tribal government in the development, enhancement, and continuing operation of tribal judicial systems.	[2] 15,000,000
	Title V Incentive Grants for Local Delinquency Prevention to serve Indian youth by developing, enhancing, and supporting tribal juvenile justice systems.	[2] 20,000,000
	Tribal Youth Mental Heath and Behavior Problems Initiative for youth support services to address the needs of native youth with mental health, behavioral, or alcohol and substance abuse problems.	[1] 8,000,000
	Indian Alcohol and Substance Abuse Diversion Program to develop strategies and services to break the cycle of alcohol and crime.	[1] 8,000,000
	Sexual Assault Nurse Examiner Units for gathering evidence for use in prosecuting sexual offenders	[1] 5,000,000
	Tribal Criminal and Civil Legal Assistance Program for criminal and civil legal services support and for tribal colleges criminal and legal assistance curriculum development and training.	[1] 6,000,000
	State Correctional Grant Program for the construction of detention facilities in Indian country	34,000,000
	Tribal criminal justice statistics collection	[1] 2,000,000
	Office of Tribal Justice to establish a permanent office under the Associate Attorney General	[1] 932,000
	Police Corps Program to provide advanced educational opportunities for police in Indian country	[1] 5,000,000
Community Oriented Policing Services	Grants to Tribes for additional law enforcement officers, equipment, and training. (12 positions, 4.5 FTE).	[4] 45,000,000
	Indian Country Forensics Laboratory to augment tribal forensics capabilities	[1] 5,000,000
TOTAL		173,340,000
(Total Increase)		(81,840,000)

[1] New.
[2] $10 million increase.
[3] $7.5 million increase.
[4] $5 million increase.

RADIATION EXPOSURE COMPENSATION PROGRAM

Background: Last year, the Administration requested $21.7 million for the payment of claims under RECA with the assumption that pending regulations would be finalized and that Congress would enact one of the bills expanding the program. While the regulations did go into effect in April, during conference on the CJS Appropriations bill, the conferees approved only $3.2 million and stated in report language only that no additional funding was provided to cover the claims under the new regulations. Thus, there is now a shortfall of $7.25 million to pay anticipated claims in fiscal year 2000, and the Department of Justice estimates that fund balances will be exhausted in May or June with the effect that approved claims will not be paid.

In addition, the Department tells staff that the fiscal year 2001 budget request of $13.7 million is also insufficient to pay anticipated claims in the amount of $2.3 million needed.

Question. Ms. Reno, you are aware of my longstanding interest in implementation of the Radiation Exposure Compensation Program, which I authored and for which I have sought sufficient funding to fulfill its purpose of compensating those who have sustained injury as a result of the United States open-air nuclear testing and uranium mining activities in the 1950s through 1970s.

In fiscal year 2000, the Congress appropriated $2 million to administer the Radiation Exposure Compensation Program, and $3.2 million for the Radiation Exposure Compensation Trust Fund from which payments are made. At the time, an estimated $8 million was available in the Fund from which to pay approved claims. Yet, my staff tells me there is a shortfall in the Fund to pay anticipated claims in the current fiscal year to the tune of $7.25 million.

Answer. It is important to understand that it is difficult to predict accurately the number of awards and payments that will be made in a given year. The estimates depend upon a variety of factors including, but not limited to: (1) the number and distribution of new filings across the three categories of claimants, (2) the extent to which the applicants meets the eligibility criteria and (3) the pace at which applications are processed. Most of these factors are outside our control. Accordingly, our estimates are subject to change over time.

Question. Will you please explain why the Radiation Exposure Compensation Trust Fund needs an additional $7.25 million in fiscal year 2000 to pay valid claims?

Answer. The 2000 President's budget requested a $21.7 million appropriation for the Radiation Exposure Compensation Trust Fund. The request assumed: (1) implementation of regulatory changes and (2) enactment of statutory changes similar to those proposed by the Administration in 1997. The regulatory changes were implemented in April 1999, but no statutory changes were enacted. Congress appropriated $3.2 million for 2000. This appropriation, plus $8.4 million carried forward from 1999 and estimated interest provide $11.8 million in availability. Payments of about $19 million are projected, assuming about 228 awards will be approved in 2000. The resulting shortfall is estimated at $7.25 million.

The 228 awards projected in 2000 are comparable to the 227 awards approved in 1999. The projection takes into account that the modified regulations will be in effect for a full year, compared to just 5 months in 1999. In particular, awards to miners, who are most affected by the regulatory changes, are expected to increase from 114 in 1999 to 130 in 2000. Awards to downwinders and onsite participants are expected to decline slightly.

Question. Last April the Administration finalized additional regulations under the Radiation Exposure Compensation Act (RECA). Of the $21.7 million requested by the Administration in its fiscal year 2000 budget, how much of the request was associated with the new regulations?

How much was associated with the assumption that Congress would enact changes to RECA through statutory changes?

Answer. When the 2000 President's budget was developed in January 1999, it assumed that: (1) statutory changes would be implemented about April 2000, (2) regulatory changes would be implemented as soon as February 1999, (3) $8.3 million would be carried forward from 1999 and (4) interest would total $563,000. An appropriation of $21.7 was requested to make expected payments of $30.6 million. Of the $30.6 million estimate, about $16 million was associated with the statutory changes and about $14.6 million was associated with the Program under the modified regulations—including a rough estimate that $3 million would be needed in connection with the regulatory changes.

Question. Of your current estimates of the number of claims to be paid in the current fiscal year, can the Department tell the Subcommittee how many are associated

with the changes by regulation? How many claims overall does the Department expect to pay in fiscal year 2000? In fiscal year 2001?

Answer. When approving claims, we do not determine whether the claim also would have qualified under the original regulations. Thus, we do not have an accurate basis upon which to make an estimate of the number of claims paid in 2000 associated with the changes. We have made a rough estimate of the impact of one significant change, which revised the definition of "non-smoker" to include any uranium miner who ceased smoking at least 15 years prior to the diagnosis of a compensable disease. A review of previously denied miner claims indicated that about 317 miners may qualify for compensation valued at $31.7 million under the revised "non-smoker" regulation. In 1999, about 21 miner awards valued at $2.1 million were approved based on the change. The remaining 296 miners who may qualify will likely be processed over the next 2 to 3 years. The number in any given year will depend on when potential applicants choose to apply.

As noted above, the 2000 President's budget estimated payments of $14.6 million in 2000, absent statutory changes. Over a year has elapsed since those estimates were made. Today, 2000 payments are estimated at $19 million (despite availability of $11.8 million). These estimates are considerably higher than projected in the 2000 President's budget, as a result of several, interrelated factors:

—Exclusive of the impact of the regulatory changes, award estimates in the 2000 President's budget were extrapolated from 1998 data trends. The current estimates take into account significant increases from 1998 to 1999: (1) total approvals grew almost 50 percent, from 153 to 227; (2) awards to miners nearly doubled, from 59 to 114; and (3) the overall approval rate rose from 42 percent to nearly 62 percent. One explanation for the higher approval rate is that far more comprehensive data on miner work histories is available now, compared with earlier years of the Program.

—The 2000 President's budget was based on speculation about the impact of the modified regulations; we now have a 10-month history. New filings have more than doubled since the changes were implemented. Beforehand, an average of 22 claims were filed per month in 1999. Afterwards, an average of 46 claims have been filed per month. The growth was likely spurred by outreach efforts surrounding the regulatory changes and publicity concerning several bills to amend the Radiation Exposure Compensation Act. As more and more of the new filings are reviewed in 2000, it is reasonable to expect that the number of claims approved in 2000 will be on par with 1999 approvals.

—When the 2000 President's budget was developed, the proposed regulation to amend the definition of a "non-smoker" was expected to apply only to miners who developed primary cancer of the lung. Subsequently, the final regulation was expanded to also include miners who developed non-malignant respiratory disease. Since the vast majority of awards to miners are based on claims that document non-malignant respiratory disease, this expansion portends additional approvals.

It is unlikely that the level of approvals in 1999 and projected for 2000 will be sustained over the long term. Accordingly for 2001, awards are projected to decline by about 10 percent. Exclusive of the projected 2000 shortfall, payments in 2001 are estimated at $16.2 million—although the budget pending with Congress requests $13.7 million. We expect to approve about 205 awards, but the request level will cover payouts for only 170 awards. Assuming interest of about $200,000, we would need $16.0 million instead of the $13.7 million we are requesting in 2001.

Question. Congress has appropriated more than $200 million to the Trust Fund established under the Radiation Exposure Compensation Act.

How many claims has the Department approved and how much has been spent out of the Trust Fund to pay these claims?

Answer. From the inception of the Program in April 1992 through February 2000, the Department has approved a total of 3,302 claims valued at over $244 million.

Question. What is the current balance in the Trust Fund with which to pay claims during fiscal year 2000? When does the Department estimate that balances available to the Trust Fund will be exhausted and the federal government will no longer be able to pay claims in fiscal year 2000?

Answer. Of the $11.8 million available in the Trust Fund in 2000, as of February 29, 2000, a total of $8.1 million had been paid out or had been committed for awards approved, but not yet paid. Just $3.7 million was available to pay for awards approved in the 7 months remaining in the fiscal year.

The Trust Fund could be depleted in the April to June timeframe. Once the Trust Fund has been exhausted, claims will continue to be adjudicated. Letters will be issued to qualifying claimants stating that, although the criteria for approval have been met, no payment can be made until additional funds have been appropriated.

Question. Would you please provide the Subcommittee with updated information on the number of claims approved for payment from the Trust Fund, the average amount of the claims approved, the number of claims denied, and the general reason for denial of these claims?

Answer. Through February 2000, a total of 3,302 claims were approved—with an average value of $73,983—and 3,500 claims were denied. Claims are denied if one or more of the following eligibility criteria are not met: disease, exposure and identification of the proper party to file a claim. Downwinder and onsite participant claims are most frequently denied for failure to establish a compensable disease. Most uranium miner claims are denied because documentation does not establish exposure to the requisite amount of radiation during the course of underground uranium mining employment.

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

Answer. The following table lists, by category, the total value of the awards approved by the Radiation Exposure Compensation Program, as well as the number of claims and appeals received, approved, disapproved and pending at the end of February 2000.

RADIATION EXPOSURE COMPENSATION PROGRAM APRIL 1992–APRIL 2000

	Value of Awards	Claims Received	Initially Approved	Initially Dis-approved	Appeals Received	Appeals Approved	Appeals Dis-approved	Ending/Pending	
								Claims	Appeals
Childhood Leukemia	$1,100,000	41	22	19	9	.....	9	.....	.....
Other Down-winder	78,070,000	2,898	1,540	1,258	212	22	185	100	5
Onsite Participant	13,431,106	983	180	738	155	15	133	65	7
Uranium Miner	151,691,500	3,269	1,422	1,623	331	101	217	224	13
Total	244,292,606	7,191	3,164	3,638	707	138	544	389	25

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

Answer. With respect to claims for which the primary claimant resides in New Mexico, the Department has approved 396 claims and appeals, with a total value of over $39 million. The following table lists, by category, the value of the awards and the number of claims and appeals received, approved, disapproved, and pending at the end of February 2000.

RADIATION EXPOSURE COMPENSATION PROGRAM—NEW MEXICO APRIL 1992-FEBRUARY 2000

	Value of Awards	Claims Received	Initially Approved	Initially Dis-approved	Appeals Received	Appeals Approved	Appeals Dis-approved	Ending/Pending	
								Claims	Appeals
Childhood Leukemia	$50,000	1	1	.....	.....	.....	.....	.....	.....
Other Down-winder	250,000	18	5	12	2	.....	2	1	.....
Onsite Participant	600,000	34	7	25	6	1	5	2	.....
Uranium Miner	38,134,500	1,076	348	645	117	34	75	83	8
Total	39,034,500	1,129	361	682	125	35	82	86	8

Question. The request for the payment of claims for fiscal year 2001 totals $13.7 million. Is this amount sufficient to pay anticipated claims for that year? Why didn't the Administration request the full amount needed to fund the Program in 2001?

Does this assume that there will be any further changes either regulatory or statutory in the Radiation Exposure Compensation Program?

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

Answer. As noted above, the 2001 request, $13.7 million, is an estimated $2.3 million short of requirements. The Department of Justice prepared its 2001 budget for OMB review prior to the enactment of the 2000 appropriation. The 2001 request was based on an "anticipated" appropriation for 2000. When the OMB budget was prepared, the House mark provided no new funding for the Trust Fund, identifying carryover of $8.3 million that would be available in 2000. The Senate mark was

$20.3 million. The Department believed at the time that the Senate mark was the most likely scenario for 2000 and prepared its OMB request of $13.7 million based on this assumption. OMB approved the full request. While the Department received more funds from OMB during the appeals process, they were only sufficient to fund a limited number of high-priority programs.

The 2001 request assumes that the current RECA statute and the regulations as modified in April 1999 will be in effect; no further changes are assumed.

The following projections are based on the current statute and regulations: In 2000, we estimate that about 539 claims and appeals will be filed and that 378 will be processed. In 2001, we estimate that about 365 claims and appeals will be filed and that 379 will be processed.

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

Answer. No. It is difficult to estimate with certainty the number of claims that might be filed under the Radiation Exposure Compensation Act. The difficulty is compounded because claimants who have been denied compensation are permitted to file up to three times. Further, the Department continues to work to identify potential claimants, and to make information about the existence of the Program readily available to larger numbers of Americans through outreach efforts. For example, last spring we sent notification of the Department of Justice's modified regulations to over 3,200 individuals, including formerly-denied claimants, advocacy groups and attorneys. In November 1999, our website went "on-line," providing information about the Program and making e-mail communication available to the public. This year alone, hundreds of individuals have visited the website.

Interest about the Program has also been generated outside the Department. During January and February 2000, the Public Health Service's National Institute for Occupational Safety and Health (NIOSH) notified approximately 12,000 former uranium miners and their families of the results of two NIOSH mortality studies involving white and Navajo uranium miners. The notification letter included information about the Program. Finally, this summer, several staff members will travel to many of the affected communities to provide information about the Program and the regulatory changes.

EVALUATION OF RESULTS—EXPENDITURES FOR STATE AND LOCAL ASSISTANCE

Background: While it is clear that good evaluation information is difficult to obtain. Each of the tasks involved—measuring outcomes, ensuring the consistency and quality of the data collected, establishing the causal connection between outcomes and program activities, and separating the influence of extraneous factors—raises formidable technical or logistical problems that are not easily resolved. Thus, evaluating program impact generally requires a planned study and, often, considerable limited by their ability to make useful links between budget requests and performance goals and to clearly explain how programs will achieve goals. A number of the Crime Act or the Byrne discretionary grant awards appear to have been made only on the basis of supposed benefit, and little empirical data has been advanced to support the continuation of these programs let alone the expansions proposed in the 21st Policing Initiative.

Question. In the last seven years, the DOJ has awarded billions of dollars for state and local assistance. Beginning with 1993's Police Hiring Supplement program and later the COPS program, and then continuing through such program examples as drug courts and violence against women, the development of many of these programs was permitted on the basis of a deference to the executive branch's initiatives. Nonetheless, there was a clear expectation that these programs would be evaluated. Consistent with this expectation, millions of dollars were directed to the National Institute of Justice to evaluate these programs.

Of these model or experimental programs, what solid evaluation results can you cite that these programs did anything beyond employ consultants? How have results led to program modification or termination, or conversely were used to validate a program so as to lead to its replication?

Answer. The National Institute of Justice (NIJ), in partnership with program offices in the Office of Justice Programs (OJP) and the Office of Community Oriented Policing Services (COPS), has undertaken a broad and varied evaluation agenda involving most program initiatives implemented under the 1994 Crime Act. Some of these projects, such as the COPS National Evaluation, comprise comprehensive evaluations of a major Crime Act Title. Others, such as the Drug Courts evaluation are narrowly focused on one part of a program office's activity. In addition, NIJ uses a research and evaluation strategy designed to capture the outcomes of criminal jus-

tice innovation by local programs funded through Crime Act program offices. Where possible, process information and preliminary findings are used to refine and modify Crime Act programs, and to make recommendations for future changes. A few examples are provided below.

In partnership with the COPS Office, an evaluation of the Chicago Alternative Policing Strategy program found that, on average, citizens in neighborhoods where community policing was implemented improved in their perception of police in comparison to communities without community policing programs. Residents in neighborhoods with community policing were more optimistic about future policing trends and were more satisfied with police responsiveness to neighborhood problems. These results have been replicated in places like Aurora, Joliet, IL and Tempe, AZ, and have been used to make informed modifications to programs, and to further facilitate implementation of effective community policing programs across the country.

The NIJ and COPS cooperated in funding direct analytical support to local police departments through the Locally-Initiated Research Partnership (LIRP) program. LIRP provides another example of how research can be used to directly inform policy and assist in policy development. NIJ and COPS have funded over forty partnerships between police departments and researchers to enhance analytic and strategic planning capabilities in local police departments. Working together, partners identify and analyze local crime issues, and develop strategies to effectively address identified problems. Topics effectively addressed in planning at the local level through the LIRP's program include community policing implementation, domestic violence, unreported crime, crime mapping and analysis, performance evaluation, multi-lingual capability, and the use of the Internet for police/citizen communications.

For instance, the partnership between the Berkeley, CA Police Department and the East Bay Public Safety Corridor Partnership developed a preliminary risk assessment tool for police to use in making decisions about appropriate interventions based on the risk of recidivism. This Domestic Violence Safety Assessment/Supplemental Report is used by the Berkeley Police Department in all domestic violence cases and assists officers in assessing whether a case needs special attention.

A partnership between six sheriffs' offices in the State of Florida and the University of Florida trained sheriffs patrolling neighborhoods in communication skills; established a permanent partnership that allowed the members to identify needs to pursue funding; trained sheriffs on using research to guide practice; evaluated the impact of the training by interviewing citizens and provided police with a guidebook on effective communication practices; and set up a mechanism to expand the research partnership.

In a partnership between Northeastern University and the Boston Police Department, police members were guided through a strategic planning process that resulted in the creation of 16 neighborhood teams to identify salient issues in their areas and develop and implement strategies. Benefits of the partnership included increased visibility of police, greater involvement by community members in controlling crime and disorder, and improved relationships between police and the community.

In cooperation with COPS, NIJ continues to examine a wide range of issues pertaining to the implementation of community-oriented, and problem-solving policing. Research findings have been continuously applied since the beginning of the COPS/NIJ collaboration. For instance, the evaluation of the Boston Ceasefire project documented a way in which researchers and practitioners may work in partnership to develop data-informed strategies to reduce youth gun violence. Through this partnership the Boston group developed strategies that reduced homicide and victimization by 60 percent and serious gang violence in the targeted area became a rare event. As a result, the approach used in the Ceasefire Project is being replicated across the country in cities such as Minneapolis, MN, Baltimore, MD, Los Angeles, CA, Stockton, CA, Lowell, MA, Bronx, NY and High Point, NY.

The success of this research/practitioner partnership approach has prompted further development of similar programs like Strategic Approaches to Community Safety Initiative (SACSI). Currently in five pilot communities, researchers are teaming with local decision makers and practitioners to identify and analyze local problems, develop and implement policies and strategies, and tailor these interventions to crime problems at the local level.

The Drug Court Program Office (DCPO) also has actively encouraged both local drug court evaluation efforts and national research through the NIJ. As another example of research leading to program modification and innovation, research results suggest incentives to be an effective means of reducing drug use. Also, results from a study of the experimental drug treatment/drug court program in the District of Columbia Superior Court demonstrate that sanctions should be consistently and im-

mediately applied in order to enhance their impact. With these findings, drug courts have implemented policies to provide both timely sanctions and incentives as a means reducing drug use and program violations.

To further study the effectiveness of this specialized type of court, NIJ awarded two research grants examining 4 of the older drug courts in the country. First phase reports of these evaluations have been recently submitted and findings show specialized drug courts are working to reduce substance abuse. Both studies examined re-arrest rates of drug court participants. In Portland, OR, the median time to re-arrest for drug court participants was 104 days, compared to 51 days for those who "never entered" and 29 days for those who "never attended" the drug court program. In Las Vegas, NV, the median time to re-arrest for drug court participants was 94 days, compared to 52 days for their counterparts. Analysis over a 12-month period showed that re-arrest rates are lower among drug court participants; and, drug court participants are rearrested later when compared to those not participating in the drug court (who are most often rearrested in the first month). Similar results were also found in a second study indicating that recidivism rates decline and the time to re-arrest increases with drug court participation. Effective program modifications and refinements such as these have been disseminated through educational and technical assistance provided by the DCPO and the National Association of Drug Court Professionals.

As another example, NIJ's evaluation of the Violence Against Women's office funded, Services, Training, Officers, Prosecutors (STOP) program demonstrates the importance of a coordinated community response, and the impact of victims' services as a response to the serious problem of violence against women. Preliminary results show increasing numbers of women victims of violence are being served, and more perpetrators of domestic and sexual violence are being arrested and convicted as a result of STOP programming. Results from a 1999 survey of programs indicate that the percentage of domestic violence victims served increased annually for 85 percent of agencies providing domestic violence data. Similarly, the percentage of sexual assault victims served increased with STOP funding for 86 percent of the agencies providing sexual assault data. In one program site, the U.S. Attorney's Office in Washington, DC increased the rate of cases charged and tried by 76 percent, and dramatically increased the rate of cases resulting in conviction by 324 percent.

Based upon results like these, the Administration has proposed that Violence Against Women Act-II include provisions to promote collaboration, to add specific types of program activities to be funded, to make distribution of funds more flexible, to lengthen the time frame for spending STOP dollars, to expand funding to include sexual assault projects, to promote projects for women from under-served communities, and to develop better data and evaluation systems among other recommendations.

Because measuring and documenting the ongoing program activities and outputs is a priority, NIJ requires all grantees to regularly report on all evaluation efforts. In this way, NIJ helps to facilitate the continuing improvement and refinement of criminal justice practice and policy by striving to provide empirically-based evaluation findings in a timely fashion. In many cases, OJP programs are attempting to alter the very foundation of criminal justice practice, and these program efforts often require a longer time frame for adequate evaluation of outcomes and impact. Since these long-term outcomes are at least as important as short-term effects, many of these evaluations initiated with the Crime Act are on-going.

NIJ recognizes that practitioners and policy-makers need up-to-date evaluation findings and research results. Whenever preliminary findings from these evaluations have become available, NIJ uses dissemination vehicles such as the annual research and evaluation conference, Research in Progress seminars, and Research Preview publications and lectures. In these ways, NIJ strives to inform policy-makers and practitioners while still preserving the integrity of the evaluation design and guarding against forming premature conclusions or promulgating findings not yet supported by the data or the design of the evaluation.

GPRA—MANAGING FOR RESULTS—IS DOJ BUDGET INFORMATION CREDIBLE?

Background: As a key element, credibility of agency performance information is understood through a set of best practices. To be credible, this set must include a clear description of how the agency verifies and validates performance information. We can also recognize credible information if an agency's plan describes data limitations, including actions used to compensate for poor quality or missing data, as well as the implications of data limitations in terms of assessing performance. While it is understood that developing sharp performance information is a difficult process, there is little excuse for lack of reliability of financial information. This is troubling

when, for example, considering the problems with the stewardship of the COPS program and its grant awards.

Question. The credibility of performance information remains a problem since agencies have: (1) offered limited indications that data are reliable; (2) failed to identify the actions needed to compensate for weak data; or (3) neglected to compensate for the impact on implications for decision making caused by weak performance data and protect against these data limits. The DOJ was one of four agencies that GAO has determined to have credible performance information. Congratulations. However, on February 4, 2000 the GAO noted that as required under the Chief Financial Officer's Act, the audit opinion for DOJ's fiscal year 1998 Financial Statement contained the following disclaimer from the auditor: "The auditor does not know if the financial statements are reliable in all material respects."

Given that reliable financial information is the basis for decision making and oversight of performance within any agency, how troubling is this disclaimer? What needs to be done to insure timely, complete, accurate financial information?

Answer. On March 1, 2000, GAO and OMB were notified that DOJ received a "qualified opinion" from the auditors on the fiscal year 1999 DOJ Financial Statement. Of the 10 DOJ entities audited, 9 received unqualified or "clean" opinions, while 1, the INS, received a qualified opinion based on difficulties supporting deferred revenue and intragovernmental accounts payable data. The overall qualified opinion means the auditors, except for the cited INS items, found that the DOJ financial statement presented reliably and fairly, in all material respects, the financial position of the Department. This was a significant improvement in financial data reliability over the fiscal year 1998 disclaimer.

DOJ senior leadership recognizes that reliable financial data is a cornerstone for decision making and accurate performance measurement. The fiscal year 1998 disclaimer was extremely troubling, and DOJ components implemented aggressive and detailed corrective action plans to resolve the weaknesses cited in the audit. While the fiscal year 1999 audit opinion was an improvement over fiscal year 1998, DOJ components will again be implementing detailed corrective action plans to address remaining weaknesses. These plans will be pursued aggressively and monitored closely by the Attorney General and senior component management as DOJ works towards an overall clean opinion for the fiscal year 2000 audit.

GPRA—MANAGING FOR RESULTS—LINKING DOJ COMPONENT BUDGET RESOURCE REQUESTS AND GOALS

Background: In its July, 1999 review, "Agencies Fiscal Year 2000 Performance Plans," GAO commented that most of the annual performance plans do not sufficiently address how agencies will use their human capital to achieve results. Specifically, the report charges that few of the plans explain how the agency will build and maintain the human capital necessary to achieve performance goals. Although recruitment and training are addressed generally by agencies, GAO concluded that the failure to integrate human capital planning with the systematic integration of mission and program planning (one of the characteristics of a high performance organization) is a "very serious omission."

Question. Agency plans to use resources and strategies to achieve performance results are often limited by their ability to make useful links between budget requests and performance goals and to clearly explain how programs will achieve goals. For example, the GAO characterized the failure to strategically develop human capital to achieve results as a government-wide problem.

What strategies has DOJ put in place to develop human capital necessary to achieve results?

Answer. The fiscal year 2001 Summary Performance Plan reflects our efforts in the area. The plan identifies the resources dedicated to the achievement of each strategic and annual goal. This includes human capital as well as the skills those individuals require and the IT systems upon which they depend to achieve stated objectives and targets. The plan also identifies, by annual goal, the significant training required by not only by our staff but others including state and local enforcement regulators and other service providers. This typically includes training in areas of high risk or new technology and includes training in law enforcement; counter-terrorism efforts to respond to terrorist attacks using chemical, biological, or nuclear weapons, referred to as first responder training; and training in missing and exploited children. While these do not focus on individual DOJ staff development (which would be inappropriate for this document) they reflect our role as a federal leader in developing the human capital required to achieve results for these areas. Furthermore, DOJ conducted an informal assessment of our staffing and recruitment and found one area that warranted Departmental oversight; border patrol

agents. As a result, targeted performance was developed for this area and is included in our plan.

In addition, we are revising our DOJ Strategic Plan, which is due to the Congress in September 2000. We will be including strategies to address human capital development in our revised plan.

CASELOADS IN FEDERAL COURTS

Question. Madam Attorney General, 2 weeks ago, I spoke to a group of federal judges in Albuquerque from all 4 Southwest border states—California, Arizona, New Mexico and Texas.

As you must be aware, our border courts are swamped—these 4 districts handle 30 percent of the entire federal criminal caseload pertaining to illegal drugs and illegal immigration.

I understand that the President's Budget requests increases for the U.S. Attorneys, the Marshals Service, and other resources, including for the federal courts.

Does the Department have an overall plan to address these resource needs to be sure that the federal system can handle the increasing caseload that is generated by our investment in law enforcement personnel and equipment?

Answer. The Department is concerned about the rising caseload in the border districts. We have considered these needs in developing our 2001 budget request. For USAs, we are requesting 48 positions (27 attorneys), 24 workyears and $3,844,000 to complement the additional INS resources and to address a projected increase in the number of immigration cases filed. The USMS is requesting $10,345,000 and 194 positions to handle the increased court security and prisoner workload that will result from staffing increases in other law enforcement agencies. The USMS is also requesting 43 positions and $2,063,000 to augment staff in districts where exceptional growth in the prisoner population has eclipsed the growth in the USMS workforce, principally along the Southwest Border.

In addition, the Department's Detention Planning Committee (DPC), which is chaired by the Deputy Attorney General and includes heads of the Department components, is responsible for the Department's Detention Plan. This committee meets periodically to resolve detention issues, and oversees the Detention Plan revisions. The DPC also directs various working groups that address current and future bedspace needs. The Detention plan calls for strengthening coordination of the law enforcement and prosecutorial role in detention to predict more accurately the impact on detention and to identify, track and assess bedspace needs.

We are also requesting $1 million for the creation of a Detention Trustee, who will report to the Deputy Attorney General, to improve our detention management department-wide. The Detention Trustee will focus on four areas: (1) managing the $25 million we are requesting for the detention and removal/repatriation of illegal aliens apprehended outside the continental U.S.; (2) contract management for all USMS and INS contracted detention space; (3) financial management of USMS and INS detention resources; and (4) implementing detention health and safety standards. The Trustee will also ensure that detention needs are considered along with any new enforcement or prosecutorial initiatives.

Question. For example, our federal court in Las Cruces, New Mexico handles 65 percent of all the federal criminal cases in New Mexico, yet it has no full-time sitting judge. It is also in dire need of another Assistant U.S. Attorney, more U.S. Marshals, and more pre-trial and administrative personnel.

Will you pledge that the Department will target a significant portion of these additional resources to the Southwest border courts to help address this backlog?

Answer. As you correctly point out, the Southwest border is the source of a very large percentage of our overall criminal caseload. And when one considers just the immigration caseload, an even larger majority of these cases originate along the Southwest border. In determining the appropriate geographical allocation of new Assistant United States Attorneys, we follow a very detailed, analytical process whereby the competing needs of all the districts are taken into account and the most deserving districts are selected to receive the new resources. Because it is important to safeguard that proven, analytical process, we would not want to commit at this point to a specific geographical allocation, before we have had the opportunity to consider all the facts. However, it is very likely, given the caseload numbers that we have mentioned, that a significant portion of the new attorney positions would be allocated along the Southwest border.

BIENNIAL BUDGETING—TIME-CONSUMING NATURE OF ANNUAL PROCESS

Background: The process to produce an annual budget takes almost 3 years: (1) nearly 1 year to put together the President's budget; (2) another year for Congress

to legislate the budget; and (3) the final year to actually execute the budget. Today, an agency manager is in the process of working on three different annual budgets. That manager is executing the fiscal year 2000 budget, he is preparing testimony and support materials for the fiscal year 2001 budget, and he will shortly begin preparation on the President's fiscal year 2002 budget.

I am very pleased to see that, for the second year in a row, the President's budget supports biennial budgeting and appropriating.

Question. Can you describe the steps involved in the process for developing a President's budget?

Answer. The Department of Justice develops its President's budget in three main parts:

Component Request to the Department:

—Component develops budget estimates and presents them to the Attorney General

—The component request is reviewed by the Justice Management Division and recommendations are made to the Attorney General and Departmental management

—The Attorney General and Departmental management make final decisions for submission to the Office of Management and Budget (OMB)

Departmental Request to OMB:

—The Department provides budget estimates to OMB

OMB provides a passback of approved levels the Department provides OMB with an appeal of the passback levels the Department policy level and OMB management or White House (and, if necessary, the President) negotiate to arrive at budget levels (President's Request) for submission to Congress

President's Request to Congress:

—The Department presents a final budget request to Congress

Question. Congress seems to be constantly working on the budget. Are the agencies and OMB also constantly working on the budget?

Answer. OMB and the Department's budget offices spend a considerable amount of time preparing, formulating, presenting and executing three budget cycles, concurrently, for most of any given fiscal year. At the present time, the Department is developing fiscal year 2002 estimates, presenting the fiscal year 2001 budget to Congress, and executing the fiscal year 2000 appropriation.

The Department's program and policy offices spend the majority of their time implementing programs and projects passed by Congress, and executing the appropriated budget.

Question. Do you think that under the current budget process there is a preoccupation with budget projections and resource allocation as opposed to actually running programs and reviewing how they are operating?

Answer. Program and policy offices within the Department spend the majority of their time implementing programs and projects passed by Congress, and executing the appropriated budget. The budget offices provide an oversight role on all budgetary matters for the programs of the Department. This enables the program and policy offices to manage their programs, within Congressional intent and budget constraints.

Question. Can you describe how your job as the head of a major cabinet department would change if we moved to a system of biennial budgeting and appropriations?

Answer. The Department strongly supports reforms to improve the efficiency and effectiveness of the Federal Government. We believe that biennial budgeting offers a management tool with potential to enhance our performance. The primary benefit to a 2-year budget would be that the Department would be allowed more time to implement and manage projects, and provide long-range planning and oversight of programs. However, in order for biennial budgeting to work, Congress must afford agencies the flexibility to respond to changing and unforseen circumstances that may arise as a result of the time lag between budget years. Mid-cycle reviews would have to occur, with possible supplementals to the appropriations bill. If this process becomes too cumbersome with excessive negotiations and supplementals, then the time saved, essentially, would be lost.

QUESTIONS SUBMITTED BY SENATOR MITCH MCCONNELL

TOBACCO LITIGATION

Question. Price increases resulting from any damage award in the federal lawsuit against the tobacco industry would cause a decline in the demand for cigarettes.

Price increases resulting from the settlement of the state health care reimbursement suits have already led to a 45 percent decline in burley tobacco quota and an 18.5 percent decline in flue-cured tobacco quota. Have you estimated the likely declines in domestic tobacco quotas if the government prevails in the tobacco lawsuit?

Answer. We have not prepared any such estimates. The litigation filed by the Federal Government—*United Sates* v. *Philip Morris, Inc., et al.*—was brought under the Medical Care Recovery Act (MCRA) and the Medicare Secondary Payer Act (MSP) to recover money spent by the Federal Government on smoking-related health care costs, and under the Racketeer Influenced and Corrupt Organizations Act (RICO) to obtain equitable relief, and to prevent and restrain certain unlawful conduct. Issues related to the effect that potential recoveries by the United States may have on tobacco domestic tobacco quotas are not presented by the case.

That does not mean that the concerns of tobacco farmers are not shared by the Administration. Indeed, as the Administration has said on numerous occasions, it is committed to protecting tobacco farmers and their communities. As you know, the Administration fully supported the $5 billion settlement to compensate tobacco farmers, which was agreed to by the states and industry last year. Second, the President signed and supported the fiscal year 2000 Agricultural Appropriations bill, which provides $328 million to compensate tobacco farmers who had quotas reduced in 1999, and we also note that the Agricultural Risk Protection Act of 2000 includes $340 million for tobacco farmers in fiscal year 2001. And in the context of the pending litigation, the Administration supports legislation that would ensure that an adequate portion of any recovery the Department may obtain is used to ensure the financial security of tobacco farmers and their communities.

Question. Have you estimated the economic and other effects on tobacco farmers of a government victory in this lawsuit?

Answer. No. See response above.

Question. Have you estimated the economic effect on communities in which tobacco is grown if the government prevails in the tobacco lawsuit?

Answer. No. See response above.

Question. Please provide any documents relating to your responses to the above questions.

Answer. For the reasons above, the Department has not performed any analyses of the type that you have requested, and therefore has no documents responsive to this request.

Question. The Justice Department's request for $20 million in fiscal year 2000 for tobacco litigation was denied. How is the Department funding its ongoing efforts in that litigation?

Answer. During the appropriations process, Congress made clear that the Department could use existing funding sources to support its litigation effort, which seeks to recover billions of dollars for the American taxpayer. Indeed, Senator Judd Gregg, Chairman of the Commerce, Justice, State Appropriations Subcommittee, stated in a colloquy on the Senate floor on July 22, 1999:

> While the Committee was unable to provide new funding [for the tobacco litigation] as the Administration requested, nothing in the bill or the report language prohibits the Department from using generally appropriated funds, including funds from the Fees and Expenses of Witnesses Account, to pursue this litigation if the Department concludes it has merit under existing law.

In the same colloquy, Senator Durbin stated:

> I think the record is eminently clear that the Department of Justice has the authority to move forward on tobacco litigation without any limitation whatsoever from this legislation.

Accordingly, the Department is drawing on funding sources that it regularly uses to support litigation on behalf of the United States. In particular, the Justice Department is using base funding provided to the Civil Division ($1.8 million) and funds from the Health Care Fraud and Abuse Control account ($4 million), which are used in cases that seek to protect, among other things, the Medicare trust fund. Department funding for tobacco litigation currently planned for fiscal year 2000 totals $5.8 million.

In addition, as the Department has done in other significant cases, we have obtained agreements from three client agencies—the Departments of Defense, Veterans Affairs and Health and Human Services—to reimburse the Department for up to $7.95 million in total. Congress expressly authorized such reimbursements agreements in Section 109 of the fiscal year 1995 Commerce, Justice, State appropriations bill, which stated:

> Notwithstanding 31 U.S.C. 3302 or any other law, in litigation involving unusually high costs, the Department of Justice may receive and retain reimbursement for salaries and expenses, for fiscal year 1995 and thereafter, from any other governmental component being represented in the litigation.

DOD, VA and HHS are being represented in the cigarette litigation; indeed, damages recovered under the theories advanced in the litigation will flow in large measure directly to those Departments for the provision of health care. This approach is consistent with a 1998 Sense of the Congress, where Congress went on record to urge the Attorney General to pursue a federal suit to recover the costs of tobacco-related damages from the cigarette companies. In the Transportation Equity Act for the 21st Century, Public Law 105–178, Congress passed the following language:

> It is the sense of the Congress—(1) that the Attorney General or the Secretary of Veterans Affairs, as appropriate, should take all steps necessary to recover from tobacco companies amounts corresponding to the costs which would be incurred by the Department of Veterans Affairs for treatment of tobacco-related illnesses of veterans.

Congress further expressed its view that funds recovered in such a suit should be used to fund VA health care for veterans made ill by tobacco use.

These agency reimbursement agreements are discussed in more detail in the responses below. If the agency reimbursements are unavailable, and absent any other funds being made available, this litigation could not proceed.

Question. The Justice Department has not requested any money in its fiscal year 2001 budget for tobacco litigation. There is, however, a line-item request for $4 million in the Department of Health and Human Services (HHS) budget in the Public Health and Social Services Emergency Fund. Why is this request in the HHS budget and not in the Justice Department budget?

Answer. The Administration plans to spend up to $26.2 million for tobacco litigation in fiscal year 2001. This estimate is based on anticipated agency reimbursements totaling $12 million, including $4 million from the Department of Health and Human Services (HHS), $4 million from Department of Defense (DOD), and $4 million from the Department of Veterans Affairs (VA). The remaining $14.2 million will be funded out of the Department's base budget request which is pending Congressional approval and the Health Care Fraud and Abuse Control Act (HCFAC) Trust Fund. Specifically, $10.4 million will be allocated from the HCFAC, and $1.8 million will be provided from the Civil Division's base funds. Additionally, we estimate using up to $2 million from the Fees and Expenses of Witnesses appropriation to fund potential expert witness expenses.

Since the enactment of Section 109, the Civil Division has depended heavily on agency reimbursements, particularly for high-stakes cases that require a substantial dedication of resources. Indeed, the Department has relied on this provision to obtain from client agencies more than $338 million for litigation that has a potential liability to the Federal Government of more than $36 billion, and for litigation that could return billions more to the Treasury of the United States. The reimbursements we receive fund personnel, automated litigation support, alternative dispute resolution, and consultant services that are critical to meeting discovery requirements and preparing for trial.

In the case of the Department's litigation against the cigarette companies, *U.S.* v. *Philip Morris, Inc., et al.*, we have received funds from three of the agencies on whose behalf it was brought: HHS, VA, and DOD. The litigation seeks to recover funds that these agencies have paid to cover the costs of treatment for tobacco-related illnesses under programs including: Medicare, the Veterans Health Administration (VHA), the Civilian Health and Medical Program for the VA (CHAMPVA), the Civilian Health and Medical Program for the Uniformed Services (CHAMPUS), TRICARE, and the Federal Employees Health Benefits Act (FEHBA).

The Department of Justice (DOJ) consulted with these agencies during the development of the cigarette litigation. These agencies supported the filing of the suit, and continue to support the litigation in active cooperation with DOJ. In light of the billions of federal dollars spent each year on cigarette-related diseases, we believe that these agencies and the federal taxpayers will recoup their investment in this litigation many times over.

Question. Has HHS provided any funding or support to assist in its prosecution of the tobacco lawsuit in fiscal year 1999 or fiscal year 2000?

Answer. In fiscal year 1999, HHS did not provide the DOJ with any funding to support the cigarette litigation. As in other litigation involving Medicare and other HHS programs, HHS personnel did assist the Department in developing the litigation, primarily by providing the Department with access to relevant HHS informa-

tion. Whenever the Department of Justice litigates on behalf of an agency, we must necessarily work closely with agency staff who have access to relevant information, primarily those individuals involved in the matters at issue in the litigation and attorneys in agency general counsel's offices. In the cigarette litigation, the Department is seeking to recover funds expended by HHS to treat cigarette-related illnesses. As the agency that incurred the costs, HHS possesses the information needed to document these expenditures.

In fiscal year 2000, in addition to the type of assistance outlined above, HHS has reimbursed the Department $2.65 million for costs incurred in pursuing this litigation.

Question. If so, how has HHS provided this assistance to the Department of Justice? Has HHS made any direct payments to the Department of Justice? Have HHS personnel provided support for the Department of Justice? Has HHS retained outside consultants or contractors to provide support?

Answer. See response above. As far as the DOJ is aware, HHS has not hired any outside consultants or contractors to support our litigation efforts.

Question. How much has this support totaled, in time and estimated dollars expended?

Answer. We have no records that would indicate the time or money expended by HHS personnel to assist the Department, other than the reimbursement payment outlined above.

Question. Please provide a detailed breakdown of these expenditures.

Answer. We estimate that we will use the entire fiscal year 2000 reimbursement from HHS for litigation consultants. This year, these services will be aimed primarily at establishing an empirically-sound mechanism for measuring damages. Other than that, we do not have records that would indicate other expenditures by HHS to assist DOJ in this litigation.

Question. What program items in HHS's budget were used to provide funds for tobacco litigation support for the Department of Justice?

Answer. The DOJ does not have information regarding the source of the funds provided by HHS in support of cigarette litigation.

Question. Are there any other funding requests for tobacco litigation in the Administration's budget? If so, please specify the specific budget(s) and the amount(s) of the request.

Answer. There are no funding requests for cigarette litigation in fiscal year 2001 from any sources other than those identified in the response above.

Question. The Administration requested $20 million for fiscal year 2000 for tobacco litigation but apparently requested only $4 million for tobacco litigation in fiscal year 2001. Why the dramatic decrease?

Answer. As outlined in more detail in the response above, the Administration's fiscal year 2001 budget request for cigarette litigation totals $26.2 million.

Question. Do you plan to submit a reprogramming request for fiscal year 2000 for tobacco litigation?

Answer. The Department has no plans to submit a reprogramming request for the cigarette litigation in fiscal year 2000.

Question. Will the Administration seek additional funds for tobacco litigation in the fiscal year 2000 supplemental appropriations?

Answer. The Department has not sought additional funds for the cigarette litigation in the fiscal year 2000 supplemental appropriation.

Question. How much has the Department spent to date on the tobacco lawsuit?

Answer. As of May 9, 2000, the Civil Division had filled 26 positions and spent $3.9 million in connection with the cigarette lawsuit.

Question. Did any of the personnel currently working on the tobacco lawsuit formerly work on any of the criminal investigations of the tobacco industry? Are they able to make use of any of the information gained in those investigations?

Answer. No personnel working on the lawsuit previously worked on any criminal investigation of the tobacco industry. The litigation filed by the Department was developed without any access to information obtained during the course of the Department's criminal investigation against the tobacco industry.

Rule 6(e) of the Federal Rules of Criminal Procedure prohibits any government attorney who is not involved in a grand jury proceeding from having access to that grand jury information absent a court order.

Question. To date has the Department hired any consultants or contractors or counsel to assist the Department in the tobacco lawsuit?

Answer. The Department has entered into contracts to assist the Department in the development of its litigation. Information on one of those contracts, a legal consulting arrangement with the law firm of Robins, Kaplan, Miller & Ciresi, L.L.P. (Robins, Kaplan), is outlined below. Because litigation is currently on-going, and the

Department is relying on consultants to assist in the lawsuit, to provide detailed information on these consultant activities and expertise on the public records could prove damaging to the interests of the United States. Such information would not be available to other parties in the litigation.

In addition, the presiding judge in the cigarette litigation, D.C. District Court Judge Gladys Kessler, has issued an order requiring the parties to pay for the services of a court approved neutral, whose job it is to assist in the development of a pre-trial case management plan. Information on the Department's share of the funding of this court approved neutral is also outlined below.

Question. If so, please provide: the names of such consultants, contractors or counsel; the dates on which they were retained; the terms of their retention, including any caps on the compensation that such consultants, contractors or counsel may receive either in total or on an hourly basis, and the length of time they are expected to be retained; the specialties or expertise that each such consultant, contractor or counsel has, and why this specialty or expertise is required to enable the government to prevail in this case.

Answer. The Department entered into a contract for legal consulting services with the law firm of Robins, Kaplan, Miller & Ciresi L.L.P. (Robins, Kaplan) to provide assistance the Department in the development of our potential litigation against the major cigarette companies. This included assistance in gathering and analyzing evidence, developing potential litigation strategies, and conducting other similar activities. The Robins, Kaplan firm represented the state of Minnesota and Blue Cross-Blue Shield of Minnesota in their litigation against the major cigarette companies.

The contract was entered into on April 5, 1999, and ended on June 30, 1999. Pursuant to the contract, Robins, Kaplan was compensated at the rate of $75 per attorney hour, substantially below the firms' normal billing rates. The total cost paid under this contract, which ended on June 30, 1999, was $50,113.34. This figure includes both attorney time ($28,023.75) and reimbursement of costs ($22,089.59). (The contract had an outside cap on total compensation of $81,670; that cap was not met.)

In addition, pursuant to a court order, the DOJ and the other parties to the current cigarette litigation are paying for the services of a court approved neutral. The parties selected Donald H. Green of Pepper Hamilton, LLP. Retained last January, he is experienced in complex litigation as well as alternative dispute resolution. Mr. Green is assisting the parties in developing a pre-trial case management plan. After the pending motions have been resolved, he will likely be used to assist in planning the discovery phase. He is being compensated at $360 per hour. The Department is paying 50 percent of his hourly rate, or, $180 per hour.

Question. Have any other federal agencies provided funding or assistance to the Department of Justice (including any legal, paralegal, expert or technical services or cooperation by government employees, contractors or others) in connection with the tobacco lawsuit? If so, please identify those agencies, the nature of the funding or assistance, and the estimated cost of providing that assistance.

Answer. Yes. Discovery in the cigarette litigation is likely to involve the production of documents from numerous federal agencies. Judge Kessler has ordered the Federal Government to preserve its tobacco-related documents. In addition, pursuant to the informal discovery process ordered by Judge Kessler, the Department and the cigarette company defendants have begun discussions concerning the scope of documents that the defendants are likely to seek in discovery. Accordingly, federal agencies with such documents have provided assistance to the Department in complying with the court's order and preparing for discovery in the case. In addition, agencies such as DOD), VA, and the Office of Personnel Management (OPM), which have paid for the medical care of beneficiaries suffering from cigarette-related diseases, have assisted the Department by providing the Department access to information necessary to develop the case. Such assistance is regularly provided to the DOJ in other cases. The DOJ does not have any records that would indicate time expended by agency personnel on the litigation.

As discussed in our response to the second question above, the HHS has entered a reimbursement agreement with the Civil Division which will fund up to $2.65 million. In addition, the DOD and VA have entered into agreements with the DOJ to reimburse Justice for a portion of the costs incurred to bring this litigation. Each agency is providing the Department with a reimbursement of $2.65 million. These reimbursements were arranged primarily to fund the fiscal year 2000 costs we estimate in connection with the pretrial phase of the litigation. The Division expects to incur significant expenses for the services of consultants skilled in damage assessment as well as individuals or firms possessing expertise in medical specialities. A portion of our Automated Litigation Support costs arising from discovery activities will also be funded through these reimbursement agreements.

LITIGATION AGAINST FIREARM MANUFACTURERS

Question. The Department of Housing and Urban Development has proposed that litigation be filed against firearm manufacturers on behalf of various public housing authorities. Has the Department of Justice engaged in any evaluation or analysis of the possibility of a lawsuit by the Federal Government or by any recipients of federal funds against firearm manufacturers?

Answer. Following the filing by private parties of several suits against the gun industry, the Department of Justice, at the request of HUD, reviewed possible litigation against the gun industry in late 1998.

HUD is not filing or planning to file litigation, in its own name or on behalf of any agency of the Federal Government, against the nation's gun manufacturers to recover costs spent to address gun-related violence in public housing. DOJ is not filing or planning to file such a suit on HUD's behalf.

The Administration indicated that certain Public Housing Authorities (PHAs) may bring litigation against gun manufacturers. The PHAs are not federal entities, but are separate legal entities organized under state laws that can sue and be sued. For that reason, if the PHAs choose to sue gun manufacturers, the Justice Department would have no role in the litigation. Accordingly, the Justice Department has not expended its resources to examine the merits of such a suit.

Question. How much activity—expressed in time and estimated dollar expenditures—has the Department of Justice devoted to possible litigation against the firearm manufacturers?

Answer. As stated above, the Department has no plans to bring litigation against the firearms industry. As you know, the Administration has engaged in discussions with certain gun manufacturers to discuss policies the manufacturers can adopt to improve the safety of their products, and keep their products from falling into the hands of criminals, and has entered into an agreement with one manufacturer, Smith and Wesson. The Justice Department has always played a leading role in developing the Administration's views on gun policy, and we will continue to do so. Our contribution, however, has been limited to a policy role.

QUESTIONS SUBMITTED BY SENATOR BEN NIGHTHORSE CAMPBELL

METHAMPHETAMINE TRAFFICKING

Question. In Colorado, particularly the Western Slope and Grand Junction, the methamphetamine problem has been described as "beyond crises." Can you please tell the Committee what type of resources the Department plans on devoting to fighting the meth problem? What are your plans for working with the Drug Enforcement Administration (DEA) to fight this problem?

Answer. In fiscal year 2000, the Community Oriented Policing Service (COPS) is providing $1 million to the Rocky Mountain Methamphetamine Initiative in Colorado. This funding will be used for additional law enforcement officers and to train local and state law enforcement officers on the proper recognition, collection, removal, and destruction of methamphetamine. COPS is currently working with DEA and the Bureau of Justice Assistance (BJA) to administer this funding and provide technical assistance, if necessary.

DEA has provided clandestine laboratory safety certification training to 55 state and local police officers and 18 DEA agents in the State of Colorado over the past 5 years. Each of these officers were issued over $2,000 in specialized clandestine laboratory safety equipment. In addition to the 55 Colorado officers who graduated from DEA's 1 week Clandestine Laboratory Safety Certification School, numerous officers have been provided annual clandestine laboratory re-certification training. This training is mandated by the Code of Federal Regulations (CFR—1910.12), and allows the officers to maintain their current certification status. DEA will continue to provide this basic and re-certification training to law enforcement personnel in the State of Colorado, this year and in the years to come.

DEA recently distributed $63,000 to the Denver Field Division for the acquisition of additional specialized clandestine laboratory safety equipment (i.e., air purified respirators, air monitors, nomex fire-resistant ballistic vests, etc.) for DEA special agents and task force officers who participate in clandestine laboratory raids. It is anticipated that another $63,000 in funding for this type of safety equipment will also be provided to the Denver Field Division before September 2000. In addition, DEA recently purchased two new clandestine laboratory safety trucks for utilization within the Denver Field Division.

The State of Colorado will also continue to benefit from programs specifically aimed at addressing the statewide methamphetamine trafficking problem. DEA's

Operation Velocity and Operation Backtrack provide funding and investigative support to the field for methamphetamine investigations, clandestine laboratory investigations, and investigations involving rogue chemical companies that divert methamphetamine precursor chemicals for illegal use. Both of these programs are currently supporting cases in Colorado.

Question. The DEA is planning on opening a new office in Grand Junction, Colorado, which will be an off-shoot of the Glenwood Springs office. What impact will the office have on the Western Slope of Colorado? How many agents should be assigned to that office?

Answer. DEA opened a Post of Duty (POD) in Grand Junction in March 1999, and plans have been approved to upgrade this office to a Resident Office. DEA currently has two special agents in the Grand Junction POD, which is co-located with a state and local HIDTA task force. As part of the Grand Junction upgrade, DEA will move four special agent positions from its Glenwood Springs Office (thereby reorganizing Glenwood Springs to a POD) to Grand Junction in an effort to address drug trafficking issues in the Western Slope region of Colorado more fully.

DEA agents in Grand Junction currently participate in the 14-member Grand Valley Joint Task Force, which includes law enforcement officers from the MESA County Sheriff's Office, the Grand Junction Police Department, and the Colorado Highway Patrol.

The Grand Valley Joint Task Force has investigated 28 cases, resulting in 247 arrests. The following case summaries exemplify the close collaborative relationship between DEA and state and local law enforcement on the Grand Valley Joint Task Force.

—A methamphetamine case which resulted in the arrest of 25 defendants, the seizure of 5 pounds of methamphetamine, 1 kilogram of cocaine and $60,000 in cash. Further coordination with the Immigration and Naturalization Service (INS) resulted in the arrest of nine illegal aliens.

—The intelligence gathered as a result of this case enabled DEA's Los Angeles Field Division to initiate five Title III wiretaps, resulting in the seizure of three methamphetamine laboratories. These seizures were traced to an important Mexican methamphetamine group working along the Southwest border, and led to 7 arrests and the seizure of 41 gallons of methamphetamine solution, the equivalent of 160 pounds of methamphetamine.

The addition of four special agent personnel to DEA's upgraded Grand Junction Resident Office will allow the agency to expand its investigation of major methamphetamine traffickers operating within the Western Slope region and increase the agency's participation in programs like the Grand Valley Joint Task Force.

QUESTIONS SUBMITTED BY SENATOR FRANK R. LAUTENBERG

DRUG TREATMENT/OFFENDER REENTRY PROGRAM

Background: As you know, there are now more than 1.8 million people in our prisons and jails. A recent study indicates that at some point this year the population of prisoners will increase to 2 million.

Studies also show that more than 80 percent of the prison population has some kind of substance abuse problem. But many prisoners are not being treated for their drug problem. According to the Office of National Drug Control Policy, only about 15 percent of all state inmates complete substance abuse treatment before their release. Each year, 500,000 offenders are released without adequate drug treatment.

So we wind up with a cycle of drug use and crime. Prisoners who have not received drug treatment get back on the streets and commit crime.

Madame Attorney General, the Department's budget request includes funding for a number of programs that will help prisoners get drug treatment and assist their return to society. There is $171 million in additional funding for drug treatment programs; $75 million for grants to help states and localities implement drug supervision programs; $65 million for the Residential Substance Abuse Treatment Program; and $60 million for an Offender Reentry Program which will fund partnerships between law enforcement entities and community leaders to better prepare communities to handle inmates reentering society.

Question. How far will these funds go in providing drug treatment to all of the prisoners who need it? If 85 percent of prisoners are not getting drug treatment, we have a long way to go.

Answer. Of the estimated 1.4 million offenders currently housed in our nation's prisons and jails, over 80 percent are substance abusers and, therefore, candidates for some sort of intervention. It is well established that the need for residential sub-

stance abuse treatment outpaces the Federal Government's ability to provide it—for example, during 2000, OJP's Residential Substance Abuse Treatment (RSAT) program estimates it will provide drug treatment services to 20,000 inmates. However, it should be noted that OJP's training and technical assistance activities continue to do much in the way of educating state and local criminal justice agencies on the value comprehensive substance abuse treatment, lessons learned, and best practices.

Recent studies demonstrate that drug-dependent individuals who receive comprehensive treatment decrease their drug use, decrease their criminal behavior, increase their employment, improve their social and interpersonal functioning, and improve their physical health. When compared to substance abusers who voluntarily enter treatment, those coerced into treatment through the criminal justice system are just as likely to succeed.

Moreover, studies suggest that, not only do treatment interventions work, they are cost-effective. In 1994, the RAND Corporation reported that drug treatment is the most cost-effective drug control intervention. Another 1994 study examined CALDATA, a comprehensive drug and alcohol treatment program in California, and concluded that for every dollar invested in drug treatment, taxpayers saved $7. This savings was attributable to decreased use of drugs and alcohol and the resulting reduction in costs related to crime and health care.

One major lesson we have learned is that leveraging the coercive power of the criminal justice system to provide substance treatment and impose sanctions against the offender is effective in breaking the cycle of substance abuse and crime. This is evident in the success of OJP's Residential Substance Abuse Treatment (RSAT) program, which provides formula grants to states for drug testing and treatment, and the Drug Court program, which provides discretionary grant funding for planning, implementing and enhancing of state and local drug courts, which provide specialized drug treatment and rehabilitation for non-violent substance abusing offenders. To help bridge the funding gap, in 2001, OJP requests $75 million to establish the Zero Tolerance and Drug Intervention Initiative, which will provide discretionary grants to state, local and tribal governments to institute comprehensive drug testing and treatment programs. Local and tribal governments are expected to be the largest beneficiaries as very little state funding "flows through" to local and tribal jails. All three of these programs fall under the Administration's "Stop Drugs—Stop Crime" Initiative.

Compounding the problem, are the estimated 500,000 inmates who will return to communities this year. Historically, two-thirds of this population are rearrested for new crimes within three years. Reentry programs, such as the proposed $60 million Community Supervision Initiative: Project Reentry, would provide resources to assist in preparing offenders for transition from prison to the community by addressing critical self-sufficiency issues including substance abuse and mental health problems, and job readiness and placement.

The Department continues to leverage available funding to provide state and locals with the necessary building blocks to implement comprehensive offender drug testing and treatment interventions. By utilizing the federal resources provided, state and local communities can create broad partnerships that use their combined resources to implement comprehensive drug treatment programs and maximize the number of offenders reached.

Question. Also, can you give us some additional information on the Offender Reentry Program? What types of assistance will that program provide?

Answer. The focus of the Offender Reentry Program is to help communities address the public safety challenges posed by state and federal prisoners returning to the community. The Initiative would enable states and local communities to create broad partnerships that will use their combined resources to provide the necessary combination of surveillance, sanctions, incentives, and support services to provide increased protection to both urban and rural communities that experience a high percentage of returning inmates.

In 2001, a total of $145 million is requested for Project Reentry, which will be administered through a joint partnership between DOJ's Office of Justice Programs (OJP), the Department of Labor (DOL), and the Department of Health and Human Services' Substance Abuse and Mental Health Services Administration (SAMHSA). Of this amount, OJP would administer $60 million in program funding, the DOL would target $75 million to develop a broad range of pre- and post-release job training and placement and other programs in the same communities, and SAMHSA would dedicate $10 million in substance abuse and mental health treatment to support these efforts.

Central to OJP's efforts is helping communities ensure that offenders are prepared for their return to communities through adequate planning and monitoring

prior to and following release in such critical areas as employment and substance abuse testing and treatment. Our efforts also focus on helping to prepare communities for returning offenders by supporting the analysis of reentry statistics and development of adequate supervision and support systems. Offender reentry plans would be developed at both the individual and community levels, and would draw upon and coordinate the resources of criminal justice agencies (i.e., institutional corrections, probation, parole, and police) as well as community resources (i.e., employment, treatment, family, business, and faith-based organizations).

Specifically, OJP's $60 million would provide for the following:

The Reentry Partnerships Initiative ($40 million) focuses on developing broad governmental and community partnerships to oversee the development and implementation of offender as well as community reentry plans, including the use of graduated sanctions and incentives and enhanced offender supervision mechanisms to keep offenders on track. Funding could be used to hire community safety officers—community corrections (probation/parole) officers—to work with offenders while still incarcerated and to help supervise offenders in the targeted neighborhoods as well as to hire case managers who would work in partnership with police and community leaders to develop the necessary support network to ensure successful transition to jobs and treatment. Funds could be also used for drug and alcohol testing and treatment, community planning and analysis, developing appropriate progress tracking tools, convening victims panels, and other surveillance and service efforts.

The Reentry Courts Initiative ($10 million) focuses on creating court-based oversight programs for returning offenders that would use the authority of the court not only to develop and monitor offender reentry plans and to apply graduated sanctions and incentives, but also to draw in other essential partners such as community corrections, local law enforcement, and a full range of service providers to help supervise and support the offender reentry process. Patterned after successful drug courts, reentry courts would create judicial oversight of returning offenders to promote positive offender behavior.

The Juvenile Reentry Initiative ($5 million) would help states develop an intensive juvenile transition support program to address the public safety concerns and needs of youth in custody of the juvenile justice system. Local juvenile justice agencies, juvenile correctional agencies, juvenile courts, parole agencies would work in partnership with community-based service providers, law enforcement agencies, and state and local Workforce Investment Boards to develop and implement a comprehensive juvenile reentry program with an emphasis on job training and placement services as well as educational, treatment, and family support.

Research and Development ($5 million) would be used to track the progress of the Reentry Partnerships and Reentry Courts and to improve program content. NIJ would undertake a series of coordinated activities that will inform state and local efforts over time. NIJ would also sponsor research on a range of issues relating to reentry programs, including drug and alcohol testing and treatment outcomes, the ability of transition programs to prepare offenders for return to the community, the effects of family and community ties on job performance and compliance with release conditions, and the attitudes of the business community toward returning offenders as employees. NIJ will evaluate the results of this information as well as a cross section of the projects funded under the joint Justice/Labor/HHS initiatives. These results will be communicated rapidly to participating programs through cluster conferences, information dissemination to the field, and a national teleconference.

DEATH PENALTY

Question. In recent years, a number of death row inmates have used DNA testing to prove that they were innocent. Since 1976, when capital punishment was reinstated, 610 people have been executed. During the same time, 85 people have been found innocent and were released from death row. They were not freed on some technicality, there were freed because DNA evidence proved that they did not commit the crime. So, for every seven executions, one innocent person has been wrongly sentenced to death. That is a very disturbing statistic.

These findings have renewed concerns about the death penalty. The American Bar Association has called for a moratorium on executions. George Ryan, the Governor of Illinois, has announced a moratorium on executions until a study of the death penalty system in that state is completed.

According to the most recent Department of Justice report, there are 19 prisoners facing a death sentence in the Federal Prison System. Are you confident that the federal death penalty system is being administered properly with adequate protections for defendants?

Answer. Yes. Before a decision is made to seek the death penalty, the potential capital case is the subject of extensive Department review, which includes the evidence to support a determination of guilt and the aggravating and mitigating factors. In addition, federal capital defendants have the assistance of highly qualified and experienced counsel at trial and all subsequent stages of review.

CHEMICAL SAFETY INFORMATION, SITE SECURITY AND FUELS REGULATORY RELIEF ACT

Question. I have a question about the implementation of the Chemical Safety Information, Site Security and Fuels Regulatory Relief Act (Public Law 106–40).

This measure was signed into law on August 5, 1999, after significant consultation with the Department of Justice and the Environmental Protection Agency. The law requires the Administration to prepare within 1 year regulations governing the distribution of off-site consequence analysis information, collected pursuant to section 112(r) of the Clean Air Act, or to allow full public access to that information under the Freedom of Information Act. We agreed that the development of those regulations would be informed by an assessment of the increased risk of terrorism due to Internet access to this information and by an interim report designed to inform Congress on the vulnerability of stationary sources to criminal and terrorist activity.

The negotiators were assured by Department of Justice and Administration representatives that this time line could be followed and that the interim site security report would cost approximately $200,000–$500,000. Recently, however, I was informed that the necessary funds are more accurately $7 million and that those funds are not readily available. I am concerned that the interim report produced by August 5, 2000 may not fully discuss the site security issues identified in the law, and that it may instead be a scoping study for the final report due in 2002. Clearly this would be unacceptable. If there is a security threat to the nation's chemical facilities, our constituents would surely want us to spend no more than one year assessing it. I am also concerned that the regulation promulgated under the law may be imbalanced and possibly biased against the public's right to know, including more severely limiting local access to useful information than Congress intended.

Does the Department agree that its responsibility under the law is to produce by August 5, 2000 an interim report with its findings to date, rather than merely to produce a scoping study for the final report?

Answer. The Department of Justice agrees that the Chemical Safety Information, Site Security and Fuels Regulatory Relief Act (Public Law 106–40) requires that the Department submit an interim report that includes, at a minimum: (a) "the preliminary findings" of the 3 year report required by section 3(a)(H)(xi)(I) of Public Law 106–40; (b) "the methods used to develop the findings," and (c) "an explanation of the activities expected to occur that could cause the findings of the report . . . to be different than the preliminary findings." The Department intends to comply with the statute's requirements.

Question. Exactly how much has been accomplished towards completion of the interim report? Has the Department identified funding, through reprogramming or other means, necessary to complete the interim report by August 5, 2000?

Answer. The fiscal year 2000 President's budget did not request, nor did the fiscal year 2000 Appropriations Act contain, any funding to conduct the study upon which the final (3 year) and interim (1 year) reports must be based. The Department submitted to the Congress a request for reprogramming of $750,000 from the Counterterrorism Fund for a contractor to conduct the study. The Senate has objected to this proposal as an inappropriate use of the Fund. Accordingly, although the Department stands ready and willing to undertake the study, we are not able to begin it until a source of funding is identified. The Department is continuing its efforts to identify a source of funding for this study.

Question. Has the Department designated a single accountable individual who will oversee completion of the interim report by August 5, 2000?

Answer. All three of the Department's leadership offices (i.e., the Office of the Attorney General, the Office of the Deputy Attorney General, and the Office of the Associate Attorney General) are involved in oversight of this project. Day-to-day oversight of the contractor who will perform the study and will draft the interim report will be the responsibility of the National Institute of Justice in the Office of Justice Programs.

Question. At what stage of development is the regulation?

Answer. The proposed regulation was published in the Federal Register on April 27, 2000. A public hearing was held on May 9, 2000, and the public comment period will extend until June 8, 2000.

SUBCOMMITTEE RECESS

Senator GREGG. We will be hearing from the Secretary of State, Madeleine Albright, on Thursday at 9:30. Thank you very much.

[Whereupon, at 11:41 a.m., Tuesday, February 29, the subcommittee was recessed, to reconvene at 9:30 a.m., Thursday, March 2.]

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2001

THURSDAY, MARCH 2, 2000

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

The subcommittee met at 9:30 a.m., in room SD–192, Dirksen Senate Office Building, Hon. Judd Gregg (chairman) presiding.

Present: Senators Gregg, Stevens, Domenici, Hollings, Lautenberg, and Mikulski.

DEPARTMENT OF STATE

SECRETARY OF STATE

STATEMENT OF HON. MADELEINE K. ALBRIGHT, SECRETARY OF STATE

Senator GREGG. We can begin the hearing. We certainly appreciate the fact that the Secretary has joined us today. We look forward to hearing her testimony on the State Department appropriations.

I will skip my opening statement.

Senator HOLLINGS. I will skip mine.

Senator GREGG. So we will go right to the Secretary.

Secretary ALBRIGHT. Good morning, Mr. Chairman, Senator Hollings.

Over the past 7 years I have testified before you many times and it has always been a pleasure and I think we have managed to get a lot of work done together. In prior years I have summarized my written statement in order to allow plenty of time for questions but this year, with your permission, I will summarize my summary.

BUDGET REQUEST

The President's budget request for fiscal year 2001 is essentially for current services, with significant increases only for security and U.N. peacekeeping. For State program accounts, we are seeking a little under $3.2 billion, primarily for Diplomatic and Consular Programs. This reflects our successful reorganization and our effort to make effective use of limited personnel resources. It will also enable us to further upgrade our communications and further im-

prove the customer services provided by our Consular Affairs Bureau.

The President's request for Embassy Security and Construction is a little more than $1 billion for the next year and $3.5 billion in advanced appropriations through 2005. These requests are vital and I urge you to support them.

One of the most depressing charts I have seen shows our foreign building appropriations from 1983 until the present. There is a spike at one end to reflect the aftermath of the embassy bombings in Beirut and there are spikes at the other end reflecting the embassy bombings in Africa and our subsequent joint efforts to increase resources, and in between it is a virtual flat line.

Together, we must ensure that such a lull never happens again. Fortunately, with the President's leadership and with your help, we have substantially accelerated the replacement and repair of higher-risk embassies and consulates. We have hired new security personnel, enhanced perimeter security, instituted an effective new surveillance detection program at most of our posts, and taken many other measures. This is good but not sufficient.

As the threats against U.S. interests change, we must ensure our ability to meet them. And these challenges include not only terrorism but also organized crime, drug cartels, money-laundering, cybercrime, and espionage.

SECURITY

In this environment, security must always be a priority and we must respond in a comprehensive manner to threats, both old and new. To this end, I will explore creating the position of Under Secretary of State for Security, Counterterrorism and Law Enforcement. In preparation, I am directing our Assistant Secretary for Diplomatic Security, David Carpenter, to lead a review of the Department's structure for addressing these issues and to make recommendations for a more effective organization. In so doing, he will consult closely with Ambassador Michael Sheehan, our counterterrorism coordinator, and other senior officials.

Our goals, in keeping with the recommendations of the Crowe and Kaden panels, are to clarify lines of authority, improve coordination, and assure that a single high-ranking officer can speak for the Department on security questions.

Senators, as you know, many of the international problems and threats we face require the cooperation of others. One means we use to secure such cooperation is through the United Nations and other international organizations, and I ask your support again this year for our CIO [Contributions to International Organizations] account, which pays our share of the costs of those organizations in which we participate.

U.N. PEACEKEEPING

And I ask your backing for our fiscal year 2001 and emergency supplemental requests for U.N. peacekeeping. As the subcommittee knows, U.N. peace operations provide America with a vital third option between simply walking away from destabilizing conflicts and intervening ourselves. And this year we especially need your support for four relatively new operations.

In the Democratic Republic of the Congo, an observer mission has been authorized to monitor and assist in implementing parts of the Lusaka cease-fire agreement. In Sierra Leone, the United Nations is helping to implement a peace agreement ending a brutal civil war. In East Timor, the United Nations is leading an international effort to maintain order, enable refugees to return and prepare the region for independence. And in Kosovo, the United Nations is a partner with KFOR in laying the groundwork for democracy based on increased tolerance and respect for the rule of law.

Mr. Chairman and members of the subcommittee, I want to emphasize how important it is that you support the President's supplemental and fiscal year 2001 requests for these and other U.N. peace operations. The choice is stark. We can walk away from conflicts and suffering in Africa, the Balkans, and East Timor or we can do our part to address them. No one is asking America to bear the lion's share of the burden in any of these places.

With the subcommittee's help, we have worked hard to make U.N. peace operations more efficient and effective and Ambassador Holbrooke and I are doing all we can to persuade our counterparts to reduce our official assessment for peacekeeping missions. For years we have briefed you monthly on every development related to these operations and the United States has voted for each of them. I will speak plainly. Failure to support this necessary funding request would reduce our international standing at a critical time. It would diminish prospects for peace and democracy in areas that have been ravaged by conflict and where people look to us for help. It would do grave damage to the instrument of U.N. peacekeeping and thereby place even greater pressure on our own armed forces. And it would undermine our diplomatic efforts to reduce U.S. assessments.

So I urge you to support the President's request and help us to help the United Nations preserve and build peace. That is the right vote for our own interests and for the values our citizens cherish.

Before concluding, I want the subcommittee to know that I enthusiastically support the bipartisan initiative now under way to name the State Department building in honor of former Senator and President Harry Truman. This is appropriate because the Truman name is synonymous with strong leadership and strong leadership is what American foreign policy is all about.

PREPARED STATEMENTS

Mr. Chairman, in the weeks ahead I am sure that we will have differences over details, but I very much hope for your support and that of every member of the subcommittee for the fundamental objectives of our budget request. Thank you. Ready for questions.

[The statements follow:]

PREPARED STATEMENT OF MADELEINE K. ALBRIGHT

Good morning, Mr. Chairman and members of the Subcommittee. I am pleased to be here to testify on behalf of President Clinton's fiscal year 2001 budget request for the Department of State and related programs.

Let me begin by thanking this Subcommittee for the strong bipartisan support we have received from you in years past for our operational and security requirements. Because of the terrorist threat, ongoing international political ferment, and the de-

mands of new technology, meeting these needs is an ever-changing and growing challenge.

I recognize that it may be harder back home to justify the costs of a new office building in Tunis or a peacekeeping mission in Kosovo, than a new courthouse or weather facility here in the United States. But this Subcommittee understands that diplomacy is often our nation's first line of defense, and that the personnel in our diplomatic posts serve our citizens broadly and well.

Our Foreign Service, Civil Service, and Foreign Service National personnel contribute every day to America—through the dangers they help contain; the crimes they help prevent; the deals they help close; the rights they help protect; and the travelers they just plain help. They have earned our praise. They deserve our support.

Moreover, our overseas missions host representatives from more than 30 U.S. Government agencies, including from the Departments of Justice and Commerce. These facilities are home to America's team, and should be well-designed, modern and secure.

This year's budget request looks to the future based on lessons from the past. It is primarily a current services budget, but includes significant increases in security and United Nations peacekeeping which I will discuss in detail. And it reflects recommendations contained in two recent reports. The first (the Crowe Report) was issued last winter by the Accountability Review Boards established after the 1998 Embassy bombings in Nairobi and Dar es Salaam, and chaired by Admiral William Crowe. The second (the OPAP Report) was released in November by the Overseas Presence Advisory Panel, chaired by Mr. Lewis Kaden.

Three years ago, when I first testified as Secretary of State, I said that any framework for American leadership must include measures to control the threats posed by nuclear weapons and terror; to seize opportunities for settling regional conflicts; to maintain America as the hub of an expanding global economy; and to defend cherished principles of liberty and law.

I said further that our key alliances and relationships were at the center of that framework. For these are the bonds that hold together the entire international system. When we are able to act cooperatively with other leading nations, we create a convergence of power and purpose that can solve problems and spur progress around the globe.

This framework will continue to guide our foreign policy in the year 2000. Our priorities include an even stronger NATO, with ever more robust partnerships, still open to new members, developing new capabilities and preparing for new missions.

We will promote a healthy, open, and growing world economy whose benefits are shared more widely both among and within nations, and where American genius and productivity receive their due.

We will work in consultation with Congress, our allies, and others to respond effectively to the perils of proliferation and the promise of arms control.

We will focus attention on our complex relationships with Russia and China, adhering to core principles, while seeking to advance common interests.

We will strive with our partners to build peace in Kosovo and integrate all of Southeast Europe—including Serbia, when the time is right—into the continent's democratic mainstream.

We will act resolutely to support peace in key regions such as the Middle East, Central Africa, Northern Ireland and the Aegean.

We will continue our efforts to enhance stability on the Korean Peninsula and to ease tensions in South Asia.

We will strive for even greater cooperation along our borders with Canada and Mexico.

And we will work to strengthen democratic institutions worldwide, including in the four key countries of Colombia, Indonesia, Nigeria and Ukraine.

These and other tasks may seem disparate, but each relates to our vision of a secure and prosperous America within an increasingly stable and democratic world. And each is supported by accounts that fall within the jurisdiction of this Subcommittee.

Accordingly, I ask that you support the President's budget request in its entirety. We need every penny. And I make this request knowing that most of the funds I am asking for will be spent next year or beyond, under a new Administration. So my urging has nothing to do with parties or personalities; but it has everything to do with the success of American foreign policy, and the safety and productivity of those who serve America in our diplomatic posts at home and abroad.

STATE PROGRAMS

Diplomatic and Consular programs

Overall, the President's fiscal year 2001 budget request for direct appropriations for the State Programs accounts is $3.198 billion, primarily for Diplomatic and Consular Programs.

These appropriations, together with various service-related fees, support America's diplomatic presence at more than 250 embassies and other posts in more than 160 countries. These posts provide the eyes, ears and voice for American foreign policy in furthering a panoply of U.S. interests. And they serve as our nation's early warning system against potential crises and threats.

Our fiscal year 2001 budget request reflects the successful integration of USIA and ACDA into the Department of State. I am extremely grateful for the leadership shown and the example set by Under Secretary for Management Bonnie Cohen, Senior Adviser for Arms Control and International Security Affairs John Holum, and Under Secretary for Public Diplomacy and Public Affairs Evelyn Lieberman throughout the restructuring process. The result is a U.S. foreign policy that is more effective, comprehensive and coordinated.

At the same time, I must be frank and say that reorganization does not—at least in the short term—save money. On the contrary, it involves significant administrative costs related to equipment, training and the movement of offices and people. Its fundamental purpose is to improve the overall quality of service we provide to the American people.

We already see benefits from bringing U.S. foreign policy professionals under one roof; integrating arms control, nonproliferation and public diplomacy experts into State bureaus; and eliminating duplication of effort. In the long run, I am sure we will reduce expenditures from what they would have been without reorganization.

Our fiscal year 2001 request for Diplomatic and Consular Programs would enable us to continue operations at current levels, with small increases for enhanced training and improved compliance monitoring of labor and environmental standards. The request for Worldwide Security upgrades in this account is $410 million. Of this, $328 million reflects recurring costs associated with the security improvements initiated after the Africa embassy bombings. The remainder includes $66 million for perimeter security initiatives and $16 million to hire an additional 162 security professionals.

On personnel, Mr. Chairman, we are holding our own. During the past two years, we have been able to hire enough people to replace those who left, but not to recover fully from prior reductions. We appreciate the new positions related to security that were funded, but still find our personnel resources stretched very thin. And we face the challenge of recruiting and retaining outstanding talent in an extremely competitive job market. This is a serious problem, which is related to our overall need to provide adequate levels of compensation, benefits and working conditions for our people.

Training is another area where we are trying to make up for lost time. I was dismayed to learn last year that a substantial number of our personnel taking assignments abroad were doing so without the requisite training. Moreover, crisis management training had been reduced to zero in order to save money. Under Secretary Cohen and her team are working hard to reverse these trends. In April, a new school of Management and Executive Leadership will open. Training is back up. And crisis management has resumed.

Mr. Chairman, as you are aware, our Consular Affairs Bureau performs critical services for our mutual constituency, the American people. And with your help, we are continuing to improve those services.

In the coming year, we will strive to further upgrade our equipment replacement programs, strengthen document integrity, expand public outreach, streamline immigrant visa processing, increase interagency data sharing as we move towards a more seamless border security program, and do even more to ensure the prompt and secure delivery of more than seven million U.S. passports.

As I have pointed out before, the retention of user fees is absolutely critical to the success of our efforts. So I thank you again for legislation allowing the Department to retain Machine Readable Visa fees through fiscal year 2001 and to charge and retain an affidavit of support fee.

I would also like to take this opportunity to urge the Congress to extend and even make permanent the nonimmigrant visa waiver program. This program has provided all the benefits I believe Congress intended, including increased travel, tourism and business. Last year, seventeen million foreign nationals from visa waiver countries contributed an estimated $91 billion to the U.S. economy.

Capital Investment Fund

Our request for the Capital Investment Fund for fiscal year 2001 is $97 million. This amount, when combined with an estimated $63 million in Expedited Passport fees, will support our efforts to continue upgrading our information technology and communication systems. I note here, Mr. Chairman, that since 1997, the percentage of State Department employees with Internet Access has risen sharply, which means that the world's premier foreign policy institution is finally getting on the right side of the "digital divide." We have also retired the last of our outmoded Wang classified systems and generally improved our information technology infrastructure.

Our budget includes $17 million from the Capital Investment Fund to develop and deploy inter-agency information platforms at about 45 overseas posts. This reflects a recommendation from OPAP and will create a single unclassified global communications system to serve all U.S. agencies with an overseas presence. The Department will set the standards for this platform in cooperation with other agencies, but each agency will be responsible for funding its own costs associated with the platform's use.

Mr. Chairman, I would like to elaborate a bit on the OPAP report and our response to it.

As you know, last year, I appointed a panel, chaired by Lewis Kaden, to review our overseas operations and build on the excellent work of Admiral Crowe and the Accountability Review Boards. The OPAP included distinguished representatives from the government and private sector. Its mission was to recommend criteria for the location, size and composition of overseas posts, taking into account factors such as our foreign policy goals, and our security and resource needs.

I am indebted to Chairman Kaden and the members of his Panel for their hard work and for their recommendations, of which I know the Subcommittee is aware. I particularly welcomed the Panel's stress on the urgency of improving our capital plant; the importance of investing in human resources; and the indispensable nature of universal representation, which is our on-the-ground diplomatic presence around the world.

I also agreed strongly with the Panel's focus on the need to assure stronger interagency teamwork under our Chiefs of Mission abroad and the President and Department of State here at home.

At the President's request, I am directing an interagency effort to respond to the Panel's recommendations by assessing whether we have the right mix of staff at our overseas missions. We are beginning with a series of pilot reviews in selected posts to help us develop criteria for a comprehensive review. I have been in touch with my Cabinet colleagues on this matter, Mr. Chairman, and have urged them to engage actively. This project is a major part of our effort to manage effectively, further improve security, and produce a better team effort in meeting the needs of our citizens in the 21st Century.

Before moving on, Mr. Chairman, I want to recall my testimony before you last year in which I said that the Department of State was working hard to prepare for Y2K. That turned out to be an understatement. We made a herculean effort. Although unique in one sense, Y2K was a dramatic example of the kind of technologically-related challenge we may face repeatedly in the years ahead. And I think it is fair to say that the Department passed with flying colors.

We had the job of coordinating the activities of all U.S. agencies overseas. We established a "weather vane" system to detect and try to prevent problems in other countries. We ran a successful worldwide test using the Internet prior to the event. And we were on full alert to respond to crises as the new Millennium dawned.

Although some may now question whether all the preparations were needed, I would much rather respond to those questions than the ones I would be facing if we had failed to act and the worst predictions had come true. I believe we acted wisely and well, and I appreciate the resolute backing we received from this Subcommittee.

Finally, Mr. Chairman, I want you to know that I enthusiastically support the bipartisan initiative now underway to name the main State Department building in honor of former President Harry Truman. I hope you will agree this honor is richly-deserved. President Truman blazed a trail that Administrations of both parties have since followed in exercising strong international leadership in defense of freedom, on behalf of prosperity, and in service to values of democracy and human rights that Americans cherish. His name is synonymous with strong leadership. And strong leadership is what American foreign policy is all about.

Embassy Security, Construction and Maintenance (ESCM)

Our fiscal year 2001 request is $1.079 billion. This reflects our ongoing need to correct deficiencies and improve security in our overseas infrastructure.

Mr. Chairman, I know you agree that we have a responsibility to do all we can to enable personnel in U.S. diplomatic missions to do their jobs both professionally and safely. This cannot occur on the cheap.

One of the most depressing charts I have ever seen shows our foreign building appropriations from 1983 until the present. There is a spike at one end to reflect the embassy bombings in Beirut and the Inman Panel recommendations that followed. There are spikes at the other end reflecting the embassy bombings in Africa and the Crowe report and our joint efforts to increase resources. In between is a virtual flat line.

Together, we must ensure that such a lull in necessary and prudent construction never happens again. Security is an around-the-clock, around-the-calendar proposition. It requires more than a short-term sense of urgency, but rather long-term habits of vigilance and preparation. We need a steady stream of resources and a good, comprehensive plan for investing them in the protection of our people.

Since becoming Secretary of State, I have been constantly concerned with the need to protect the security of both the people who work at our diplomatic missions, and the classified information we handle in America and abroad.

These have been among our highest priorities, and I believe we have made good progress. The 1998 bombings gave added urgency to our efforts. And the appointment of David Carpenter, a career law enforcement professional, as Assistant Secretary of State for Diplomatic Security, has helped us to intensify our security programs on every front.

For example, with the help of this Subcommittee, we have substantially accelerated the replacement and repair of higher-risk embassies and consulates.

We have hired new security personnel, whose ranks had been allowed to decline in earlier years for budgetary reasons.

We have developed a global risk management plan, enhanced perimeter security, hired more local guards, adopted a rigorous escort policy, strengthened computer safeguards, provided thousands of security briefings, and instituted an effective new surveillance detection program at most of our posts. In addition, I recently asked Assistant Secretary Carpenter to perform a top-to-bottom review of the Department's security practices.

Overall, we have made a strong start on implementing the recommendations of the Crowe and OPAP Reports, which focus on protecting those who work in our diplomatic posts.

All this is good, but not sufficient. As the threats against U.S. interests change, we must ensure that the Department of State has the best practices and structures to meet them.

These challenges include, but are broader, than the risk of a terrorist bomb. They include the full range of perils posed by international lawlessness, including organized crime, drug cartels, state and non-state sponsored terrorism, money laundering, cyber-crime, and espionage. Often such threats are linked, as international criminal gangs seek to exploit weaknesses by profiting from a combination of illicit activities.

These challenges pose a substantial and increasing foreign policy threat. They are part of our bilateral diplomatic agenda with virtually every country. They are a major focus of our efforts in regional and global institutions. They affect the kind of work we do, the kind of equipment we must procure, the kind of procedures we must follow, and the kind of facilities we must build. They are a day-to-day preoccupation of mine. And they all fall under the general heading of security against unconventional threats.

In this environment, it is not only prudent but essential to make security considerations a part of everything we do, and to deal with old and new threats in a more comprehensive way.

Accordingly, I will explore creating the position of Under Secretary of State for Security, Counterterrorism and Law Enforcement. In preparation, I am directing Assistant Secretary Carpenter to lead a review of the Department's structure for addressing these issues and to make recommendations for a more effective organization. In so doing, he will consult closely with Mike Sheehan, our Counterterrorism Coordinator, and other senior officials.

Our goal is to find the most effective way to meet the recommendations of the Crowe and Kaden panels that the Department clarify responsibilities, encourage better coordination and assure that a single high-ranking officer is accountable and can speak for the Department on security questions.

In addition, the President is requesting $647.6 million to support the third year of our multi-year effort to construct secure diplomatic facilities. This request includes $500 million to continue our program of relocating posts, where necessary. These funds provide for the design or construction of facilities in Capetown, Damascus, Rio de Janeiro, Sofia and Yerevan. It will also support construction of new on-compound facilities for USAID in Kampala and Nairobi. Further, the request includes $134 million to upgrade perimeter security at other highly vulnerable posts.

I will be frank, Mr. Chairman, and say that the cost of some of our larger projects can produce a bit of "sticker shock." However, I am assured that the costs are justified given security demands related both to the kind and locations of buildings we need; the required use of American contractors; and our desire to build facilities that can support full inter-agency teams. This Subcommittee has been very supportive of building requests in the past. And we would, of course, be happy to brief you in detail on the specifics of the projects included in our budget for next year.

The President is also requesting $3.35 billion in advanced appropriations for the years 2002–2005 to ensure a sustained multi-year construction program for secure new embassies and consulates. I ask your support for these essential requests.

Members of the Subcommittee, given our concerns about security, it would be easy to overlook the non-security related infrastructure needs that are addressed in the fiscal year 2001 request. For example, we still require resources for ongoing maintenance of our facilities and decent housing for our colleagues overseas.

Some of these needs can be met by the sale of existing property. But most cannot. This year's request reflects sound planning to match our most immediate needs with available resources.

Educational and Cultural Exchange Programs

Mr. Chairman, public diplomacy advances U.S. interests by helping others to understand our society, culture and values.

It can also be a very practical tool for influencing events. During the conflict in Kosovo, for example, our Internet Assistance Initiative helped us to manage data generated by the massive humanitarian effort, while also aiding refugees in locating loved ones who had become separated. More recently, we used public diplomacy to warn against a breakdown of the constitutional order in Ecuador.

Since USIA merged with the Department last October, we have benefitted greatly from the unique skills and perspective its employees have brought to our foreign policy.

In fiscal year 2001, the President is requesting $225 million for a key component of our public diplomacy, which is our international exchange activities, including the world-renowned J. William Fulbright Educational Exchange Program.

This request also includes funding for the State Department's International Visitors Program, which has been remarkably successful at identifying world leaders early in their careers.

For example, Korean President Kim Dae-jung visited in 1965 as an opposition parliamentarian, and has often commented on the strong, positive impression he formed of our country during that time. And in 1986, a young British Parliamentarian named Anthony Blair viewed a job training program in West Virginia, visited a family farm in Kansas and studied state politics in Colorado and California.

Other past participants in the program include Chancellor Schroeder of Germany, Prime Minister Jospin of France, President Kuchma of Ukraine, President Demirel of Turkey, President Narayanan of India, President Abdurrahman Wahid of Indonesia, President de la Rua of Argentina, Prime Minister Mocumbi of Mozambique, and both President Sampaio and Prime Minister Guterras of Portugal. All told, more than three dozen current heads of state or government are former participants in the International Visitors Program.

LEADING THROUGH INTERNATIONAL ORGANIZATIONS

Contributions to International Organizations (CIO)

Mr. Chairman, one of the realities of the modern era is that many of the international problems and threats we face as a nation simply cannot be dealt with effectively through our actions and policies alone. Quite often, we will need the help and cooperation of others.

This reality was recognized more than half a century ago when our predecessors led in creating the United Nations and a variety of other international organizations in which our country now participates. Not all of these organizations have been as well-managed or effective as we would like. In a few cases, we have even withdrawn from active membership. But in most cases, our participation has served our national interests and those of our citizens.

The CIO account provides the funds we need to meet our assessments to these international organizations, consistent with U.S. statutory restrictions. The President's request for the coming fiscal year is $946 million.

In 2001, for the first time in years, we are not requesting U.N. arrearage payments for either the CIO or peacekeeping accounts. This reflects the prior appropriation of funds sufficient to fulfill the terms of legislation authorizing arrearage payments tied to certain additional U.N. reforms and changes.

With the Department's strong support, Ambassador Holbrooke and Assistant Secretary Welch are working to gain support within the U.N. and among its members for the reforms required. It is encouraging that one of the conditions for releasing funds was met during the recent General Assembly session, when the U.S. candidate for the U.N.'s budget oversight panel was elected.

As I have said in previous years, I appreciate the Subcommittee's support for an effective and well-managed United Nations, in which the United States is both leading the way and meeting its obligations. We have not yet fully put that combination together, but we continue to move in the right direction.

The CIO account funds U.S. participation in forty-seven international organizations, including the U.N. These organizations contribute in a multitude of ways to our safety and quality of life.

For example, in the U.N. itself, we have a security stake in the multilateral sanctions that help to contain and restrict Iraq's military options. We have a political interest in U.N. efforts to encourage the peaceful resolution of disputes in strategic areas such as the Aegean. We have a legal and moral interest in seeing that those who committed crimes against humanity in Rwanda and the Balkans are brought before the U.N. war crimes tribunal. We have a humanitarian interest in U.N. programs that save children, fight disease, promote human rights and care for refugees.

The U.N.'s many sister organizations perform vital functions, as well. The International Atomic Energy Agency (IAEA) helps protect Americans from the dangers of nuclear proliferation.

The World Health Organization (WHO) helps study, contain and prevent disease and health problems, keeping our own and other societies more secure. For example, WHO works with USAID to slow the spread of HIV/AIDS, which is causing incalculable human suffering and creating new obstacles to development in many countries, especially in Africa and South Asia.

The Food and Agriculture Organization makes trade in agricultural products safer and more predictable, while its disease control programs protect American agriculture from massive potential losses.

The International Labor Organization promotes respect for human rights and core labor standards all over the world. It is a crucial partner in America's effort to ensure that global trade is fair as well as free.

In addition, this account funds our assessments to numerous other institutions, such as the North Atlantic Treaty Organization and the Organization of American States, which contribute to America's leadership and interests in key regions of the world.

International Peacekeeping Activities (CIPA)

I also ask your support for the President's request for $738.7 million for the CIPA Account. This is a substantial, but not unanticipated, increase over the current year. I can think of no other area of foreign policy in which our consultations are as regular and detailed.

We have also learned by experience, Mr. Chairman that, by its very nature, fluctuations in this account will occur as peace operations begin, expand, build down and complete their work. This lack of predictability can be frustrating to budget planners, but there is simply no way to freeze demand for international peacekeeping, no responsible way to set an artificial ceiling on our financial contributions, and no appropriate alternative to judging our interest in such operations on a case by case basis.

The funding level we are requesting for fiscal year 2001, coupled with our supplemental and reprogramming requests for 2000, reflect a level of U.N. peacekeeping activity higher than that of the most recent years, but far below the numbers we saw earlier in the last decade. The current level of just over 14,000 U.N. peacekeepers (excluding civilian police) compares to more than 78,000 in 1993. Next year's requested appropriation for CIPA compares to more than $1 billion in each of fiscal years 1994 and 1995.

The record of U.N. peacekeeping is mixed. Successes in countries such as Namibia, El Salvador and Mozambique must be weighed against failures in Somalia and Rwanda. But both the United Nations and the United States have learned a lot during the past decade about how to plan, organize and manage such operations.

At our insistence, the Security Council now exercises far greater care in authorizing missions, defining mandates, selecting commanders and recruiting troops.

Of course, the United States does not look to U.N. peacekeeping to defend its vital interests, nor can we expect the U.N. to be effective where the decisive application of military force is required. But the rationale for supporting well-conceived and designed U.N. peace missions is compelling.

Under the right circumstances, U.N. peacekeeping can separate adversaries, maintain ceasefires, enable refugees to return home, and create conditions under which political reconciliation may occur.

This provides America with a vital third option between simply walking away from destructive and destabilizing conflicts, and intervening ourselves. U.N. peacekeeping enables us to influence events without assuming the full burden of costs and risks. It lends the weight of law and world opinion to causes and principles we support. And the more able the U.N. is to end or contain conflict, the less likely it is that we will have to deploy our armed forces. Currently, only one out of every forty U.N. military observers is an American, and none of the U.N. troops.

Our CIPA request includes funds to pay our assessments for 14 U.N. peace operations. The majority of these are not new and are either level or declining in size. I would like to focus my testimony on four recently-initiated operations.

The first is in the Democratic Republic of the Congo (DRC). Last week, the Security Council voted to approve a mission consisting of 500 military observers and a protection and support force of about 5,000 troops. These observers will monitor implementation of the Lusaka Ceasefire Agreement, assist with the disengagement of troops at certain locations, and help the newly-created Joint Military Commission develop mechanisms for further implementing the Agreement.

The Security Council continues to insist, with our support, that the deployment of this force depends on the willingness of the parties to cooperate with it, respect its security and grant it access. It is encouraging that the leaders of all the nations involved in the conflict have welcomed the Security Council decision, and pledged their cooperation.

I have described the conflict in the DRC as Africa's first world war. It now involves six countries and Congolese and Rwandan armed rebel groups. To date, compliance with the Lusaka Agreement has been inconsistent. And success of the U.N. peace operation is uncertain. But the purpose of the mission is the right one, which is to create a reliable monitoring mechanism so the parties can begin to overcome their mistrust of one another. Deployment of additional observers would also remove any excuse for the regime in Kinshasa not to cooperate with a National Dialogue aimed at resolving the DRC's internal conflicts.

The DRC is a large country, with vast natural resources, and a strategic location within the heart of Africa. Without U.N. help, it faces the prospect of a prolonged and many-sided war that could spur a humanitarian disaster and possibly renewed campaigns of genocide.

No one is asking America to solve the conflict or intervene to end it. The expanded U.N. mission will not even include U.S. troops. But we are being asked to do our part in supporting the framework for peace embodied in the Lusaka agreement. The cost is significant. But it is far less costly—in blood, treasure and to our interests—than allowing this war to drag on and on.

The second operation I would like to discuss is in Sierra Leone. Here, the U.N. is assisting in the implementation of last July's Lome' Agreement to end a brutal civil war. Stability in Sierra Leone would contribute greatly to West Africa's social and economic prospects. But stability will not be possible without security, which continues to be threatened by rebels who have not yet fully demobilized or disarmed.

Recent problems encountered by U.N. peacekeepers in Sierra Leone should not obscure the progress that has been made. The overall ceasefire between the Revolutionary United Front and the government has held. More than 11,000 combatants—a quarter of the estimated total—have begun the disarmament process. Humanitarian groups are providing assistance in some areas, and we are pressing the rebels to allow these groups greater access to the interior. In Sierra Leone, as in the DRC, the U.N. recognizes it cannot impose peace. The parties must meet their obligations.

Last October, I went to Sierra Leone where I met at the Murray Town Amputee Camp with some of the victims of the war. I was surrounded by women, men and mostly children, who had lost hands, arms, feet or legs to machetes. These are not scars that heal. And the people in the camp are the lucky ones, for they have survived and are receiving at least rudimentary care. Mr. Chairman and members of the Committee, I know if you had been there you would not even have to ask whether America has an interest in preventing more vicious fighting in Sierra Leone.

A third U.N. mission I ask you to support is in East Timor. This is a region where peacekeeping lessons from the past have been applied and responsibilities appropriately shared. Last August, a multinational force led by Australia and Thailand restored order after pro-integrationist forces reacted with violence to the passage of a referendum for independence. The U.N. Transition Administration was then assigned responsibility for overseeing recovery and working with the East Timorese to prepare for their new status.

The United States has a strong political and diplomatic interest in seeing East Timor evolve into a viable and democratic nation. We also have a humanitarian interest in seeing that refugees are able to return safely, the missing are accounted for, and security is maintained.

Last but not least, I urge your continued support for the U.N. mission in Kosovo, a mission performing an extraordinarily difficult but essential task. Here again, lessons from the past are being applied. The military heavy lifting is being handled not by the U.N., but rather by the NATO-led KFOR troops. The job of the U.N. mission is to oversee civilian administration until the people of Kosovo are able to assume that responsibility themselves.

From the outset of the conflict in Kosovo last March, our goal has been to enable the people of this region to live peacefully, democratically, and without ethnic strife. A beginning has been made, but the legacy of authoritarianism and repression cannot be erased overnight.

Further progress in Kosovo is an essential part of our overall strategy, in partnership with our allies, to encourage the integration of Southeast Europe into the continent's democratic mainstream. Nothing would do more than success in this effort to enhance the future stability of Europe, and to reduce the likelihood that American forces may one day again be required to face combat in this region.

In summary, Mr. Chairman, I ask your support for our full fiscal year 2001 request for CIPA. I know it is tempting to try to attach more and more conditions to this account. But I must tell you that withholdings, delays, and refusals to pay for particular operations have a significant cumulative impact on our ability in New York to influence the shape and scope of these operations. Moreover, it is certainly not helpful to Ambassador Holbrooke in his efforts to persuade other countries to reduce our share of U.N. peacekeeping assessments to 25 percent if we are not even paying the 25 percent we acknowledge as our share.

I believe this Subcommittee deserves a great deal of credit for the improvements in the way U.N. peacekeeping decisions are made, and operations planned. So I hope you can now support the important and improved U.N. peacekeeping program you helped to shape.

FISCAL YEAR 2000 SUPPLEMENTAL REQUESTS

In addition to our fiscal year 2001 request, the President is seeking $624.5 million in supplemental appropriations this year to promote peace and stability primarily in Kosovo and Southeast Europe. Of this, $373.6 million is from this Subcommittee's accounts.

The request includes $239 million from the ESCM account to fund secure facility and other construction in Pristina, Sarajevo and Tirana, and to meet other security-related construction needs.

It includes $24 million for enhanced diplomatic, public diplomacy and security activity related to Kosovo and the surrounding region.

It includes $107 million to pay additional assessments for U.N. peacekeeping operations, particularly in Kosovo and East Timor.

And it includes $3.6 million to establish a Fulbright program in Kosovo and to expand exchanges in regional and frontline states.

The substantive justification for most of these funds has been discussed above with reference to the fiscal year 2001 budget, and I will not repeat it here. I will stress, however, how important it is that these supplemental funds be approved.

We have made it clear to our allies and partners in Europe that they must bear the lion's share of assistance to Kosovo and efforts to integrate Southeast Europe. They have agreed and have pledged far more than the United States has towards these goals. But stability in the Balkans is one of the key objectives of U.S. foreign policy at this point in history. We believe it is critical to realizing our vision of a democratic and stable Europe, where wars simply do not happen.

Our presence in the region, in facilities that are adequate, accessible and secure, is indispensable if our goals are to be achieved. At the same time, we must meet our obligations to the U.N. peace missions both in Kosovo and East Timor.

I hope we will have your support for these necessary supplemental funding requests.

CONCLUSION

Mr. Chairman, the annual budget debate in Washington typically revolves around issues that relate to the appropriate role of the federal—as opposed to state and local—governments in such areas as education and health care. But since the days of Thomas Jefferson, the conduct of diplomacy and the protection of our national security have been among the Federal Government's most basic tasks.

These are Constitutional responsibilities that simply cannot be delegated or privatized. It is our job, here in our nation's capital, to formulate plans for protecting American interests, and to come up with the resources to make those plans work.

There is no question that it costs money to counter modern terrorists; calm regional disputes; promote America's economic interests; protect U.S. citizens; and spread the gospel of freedom. But these costs do not begin to compare to the ones we would incur if we stood aside while conflicts raged, terrorists struck, financial turbulence reigned, democracies unraveled and weapons of mass destruction spread unhindered around the globe.

In the weeks and months ahead, I am sure that we will have differences over details. But I very much hope that we will have the support of every member of the Subcommittee for the fundamental objectives of this budget request.

I know that you will act with America's best interests in mind. I feel confident that when you do, you will bear in mind both the many challenges in our future and the best bipartisan traditions of our past. And I look forward to working with you to carry the best of those traditions into the century ahead.

Thank you.

PREPARED STATEMENT OF JACQUELYN L. WILLIAMS-BRIDGERS, INSPECTOR GENERAL, OFFICE OF THE INSPECTOR GENERAL

Mr. Chairman and Members of the Subcommittee: Thank you for providing me with this opportunity to submit a statement for the record on the fiscal year 2001 budget request of $29,502,000, for the Office of Inspector General (OIG). This request funds the activities of the OIG to include audits, investigations, and inspections of worldwide operations and programs of the Department of State (Department) and international broadcasting under the Broadcasting Board of Governors (BBG). I am pleased to discuss the work of my office in the context of OIG's strategic plan.

I have also included with this statement a consolidated list of our reports and memoranda for work in fiscal year 1999. These products are listed under each of our four strategic goals and located in an appendix to this document.

OIG BUDGET

The Office of the Inspector General's fiscal year 2001 budget request is $29,502,000, an increase of 7.7 percent over our fiscal year 2000 enacted level of $27,382,000. This is a modest request that seeks funding for inflationary increases and for 10 security positions authorized and funded in the fiscal year 1999 Emergency Supplemental Appropriation, but for which funding was not included in our fiscal year 2000 appropriation. Our fiscal year 2001 request is only 3.5 percent above our fiscal year 1999 enacted level, which included the funding for these 10 security positions.

The major challenge facing OIG is the erosion of our funding base and the elimination of our fiscal year 1999 Emergency Supplemental Appropriation funding. The lack of adequate budgetary resources jeopardizes our ability to oversee and monitor the Department's use of over $2 billion in security funds appropriated over the past two years.

My office has been virtually straightlined since fiscal year 1996. With the exception of the fiscal year 1999 Emergency Supplemental Appropriation funding, OIG has not received an increase to its annual appropriation since that time. Over the last 5 years we have absorbed the cost of all inflationary increases, as well as the cost of mandatory requirements such as Law Enforcement Assistance Pay and Chief Financial Officer Act audits. This has resulted in a delay or suspension of planned work.

The effective erosion of our budget base could have costly consequences. During fiscal year 1999 OIG received $1 million in supplemental funding for oversight of the Department's nearly $1.5 billion security supplemental. The Department also received an additional $742 million in fiscal year 2000 for more construction and security enhancements. While some of the Department's security supplemental funding

will be spent over the next 5 to 8 years as new embassies are designed and built, less than $170,000 of OIG's supplemental funding remains and this will be fully expended by the end of fiscal year 2000. The Department is moving ahead with planning, and being encouraged by the Congress, to increase new embassy construction from two to three new chanceries at any given time to more than 30. Such a significant investment of the Department's resources should be monitored and overseen by OIG. The loss of our security supplemental funds, however, will make it extremely difficult for us to oversee adequately the expenditure of the Department's security funds.

The $1 million we received in the fiscal year 1999 Emergency Supplemental Appropriation, although insignificant compared to the amounts appropriated for the Department, allowed OIG to expand substantially its program of security oversight inspections and audits. With these funds we were able to recruit and hire 10 senior security specialists and establish a new Security Enhancements Oversight Division to evaluate security in interim facilities and the construction of new embassies overseas. With other personnel funded by the security supplemental, we established an inspection team to conduct limited-scope security inspections in conjunction with our regular post management inspection. These inspections have identified numerous security vulnerabilities that would not have been identified without the addition of security specialists to the inspection teams.

In addition to security inspections, we refocused OIG assets to conduct five audits involving the Department's tracking and use of security supplemental funds. Audits are in progress on two of the Department's highest priority security enhancement programs—the overseas wireless program and the surveillance detection program—which consume approximately $220 million of the security supplemental. However, fiscal year 2000 funding constraints have forced us to curtail and postpone some needed work.

While the increased emphasis on physical security oversight commanded considerable OIG resources during fiscal year 1999, OIG also continued oversight work in other threat areas. We conducted broad fieldwork on counterintelligence awareness to identify continuing vulnerabilities with Foreign Service national (FSN) employee access to unclassified information and telecommunications systems. OIG also completed a comprehensive review of the Department's handling of classified information, an audit that raised alarms about the potential threats from unescorted foreign visitors to the Department well before the discovery of a Russian monitoring device in a seventh-floor conference room.

I strongly believe that the United States Government has received considerable benefits resulting from the initiatives we began with the $1 million in security funds appropriated to OIG in fiscal year 1999. We will continue those initiatives in fiscal year 2000, but the lack of continued funding for at least the new positions funded initially with emergency supplemental funds has forced hard choices and has impacted our ability to sustain the expanded security oversight established in fiscal year 1999.

We have already made hard choices in fiscal year 2000. We have instituted a hiring freeze and have cut back significantly on training and travel for our staff. We have reduced the size and number of our post management inspection teams, and five posts have been eliminated from our upcoming inspection schedule. Travel for our compliance staff has been curtailed, and our inspectors cut short their inspections during the fall inspection cycle.

We have reduced our security audit staff, which increases the amount of time required to complete and limits the scope of our security audits. We have reduced our intelligence oversight staff, which limits the number of post inspections that we can support and limits the scope and increases the amount of time needed to conduct sensitive intelligence audits.

We have deferred or cut back on the scope of some audits with high potential cost savings for the Department. For example, we have deferred reviews of the Department's overseas financial management system, contracting for local guard services, and the overseas purchase card program. We have scaled back our plans to review the FSN payroll system. We will be forced to cut back on our oversight program for Federal assistance to nongovernmental organizations (NGOs); an area with a long history of large amounts of questioned costs. During fiscal year 1999, OIG issued seven reports with questioned costs of approximately $9 million. We believe that, with adequate funding we could save the government as much as $30 million. Unfortunately, we cannot devote the necessary resources to this area.

As the Department's Inspector General, I recognize the need for prudent government spending. Five years of what is effectively a straightlined budget base, however, makes it difficult for OIG to effectively carry out our mandated requirements.

I ask that you provide us the modest increases included in our fiscal year 2001 budget request.

IMPROVED CONDUCT OF FOREIGN RELATIONS

Taken as a whole, OIG activities provide a broad overview of the Department's effectiveness in implementation of foreign policy and use of the full range of diplomatic and public diplomacy tools including international broadcasting. Through the inspections of overseas missions and domestic bureaus and in-depth audits of selected issues, we assessed the conduct of foreign relations, particularly the skills and capabilities of senior management and the availability and use of appropriate structures, authorities, and processes. Examples of OIG work in this area include inspections of Embassy London and Embassy Dublin and reviews of Radio Marti broadcast content, the Border Biometrics program, and intelligence oversight.

In the coming year, OIG will inspect and audit the effectiveness of policy and program formulation and implementation; intelligence reporting and oversight; results monitoring and assessment; and, mission leadership and management.

Post Management Inspections

OIG assesses the implementation of U.S. foreign policy and the diplomatic readiness of Department elements through management inspections of all overseas posts and domestic bureaus and offices. Such inspections address all aspects of post operations including bilateral relations, executive direction and management, the conduct of public diplomacy, consular operations, diplomatic readiness, administrative support, and management controls. Additionally, our embassies are in a unique position as a global platform to address emerging public diplomacy issues. The inspections of Embassy London and Embassy Dublin are two such examples.

Embassy London.—Embassy London represents a unique platform for projecting U.S. views to European and other regional and global audiences. Much is already being made of these possibilities, particularly in the economic and commercial sectors. More can be done, however, to address the emerging global agenda including environmental, science and technology concerns. To be effective in this role, however, the Department must devote greater attention to the qualifications of those assigned to key positions at the Embassy. Multifunctional and public diplomacy skill, familiarity with global issues, and experience in multilateral diplomacy, including NATO and the European Union, must be given greater weight in the assignment process.

Embassy Dublin.—Support for the peace process in Northern Ireland remains the predominant U.S. concern in Ireland. The U.S. presence in Ireland should both reflect the importance the United States attaches to the relationship and be tailored to the tasks that need to be performed to promote the relationship the United States seeks with the Republic beyond the peace process. Embassy Dublin is not now prepared—nor are preparations being made—to assume the much broader responsibilities associated with the future bilateral agenda. To this end, Embassy Dublin should conduct a missionwide review of the resources needed to advance U.S. interests in Ireland in the post-peace process era. USIS Ireland does not, however, have the resources to carry out its public diplomacy role effectively. Core public diplomacy functions are not being performed; outreach tends to be ad hoc, is not guided by a functioning distribution and records system, and is not coordinated missionwide. Without additional resources, opportunities will continue to be lost.

Radio Marti Broadcast Content

Last year we reported on our examination of internal review practices and external oversight procedures to ensure that Radio Marti adheres to the Voice of America (VOA) charter, the U.S. International Broadcasting Act of 1994, and journalistic standards. As part of this review, the BBG, in consultation with OIG, contracted for a panel of independent journalists to evaluate a sample of 1998 Radio Marti broadcasts, to assess whether they adhered to VOA broadcast standards. The independent panelists identified problems with balance, fairness, objectivity, and adequate sourcing that impacted the credibility of the programs they reviewed particularly the live broadcasts. The panelists also identified problems affecting the professionalism of the broadcasts including packaging (e.g., intermingling news and opinion), presenting news stories in a confusing manner, and using poor judgment in the selection of stories. The independent panelists largely confined their comments to journalistic values and did not address the question of whether Radio Marti broadcasts are "consistent with the broad foreign policy objectives of the United States." OIG recommended that the BBG establish policies and procedures so that future evaluations can assess whether the foreign policy requirements of U.S. international broadcasting are being met.

This year, we can report that, in response to our recommendations, the BBG and the International Broadcasting Bureau (IBB) required the Director of the Office of Cuba Broadcasting, to set forth a specific plan of action to ensure that Radio Marti broadcasts meet commonly accepted standards of journalism and the specific requirements set forth in the VOA charter. For example, IBB proposed to establish a training program, fund focus groups to determine public response to programming, and plans to conduct semi-annual program reviews of Radio Marti. In addition, BBG's fiscal year 2000 appropriation requires it to submit to Congress a report on how it will respond to OIG's recommendations on Radio Marti by March 31, 2000. OIG is currently reviewing BBG's draft report and will continue to monitor compliance with our recommendations.

Border Biometrics Program

Border security continues to be a key national interest goal and strategic foreign policy objective for the Department. As we reported last year, the border crossing card (BCC) is designed to be used in lieu of a passport and visa by Mexican nationals who travel frequently across the Mexican border into the United States. Over the years, the BCC became susceptible to counterfeiting and alteration. The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 required that a biometric identifier (such as a fingerprint or handprint) be incorporated into any border crossing identification card. The Department of State and the Department of Justice, Immigration and Naturalization Service (INS), are working to implement the Border Biometrics Program, also known as the Laser Visa Program, by September 2001.

Our inspection of the BCC program (ISP/I–99–12) revealed many problems that jeopardize the timely implementation of the program and compromise its intent to enhance border security. While the Department has complied with the majority of the 13 recommendations resulting from that report, there are two that require assistance from Congress before they can be implemented. The first involves the need for supplemental laser visa card production by the Department. Currently, all cards are produced by INS facilities, which are not able to produce sufficient quantities required by statute. It is my understanding that the Department is seeking approval to fund a pilot project to produce the cards in Mexico City.

The second unresolved recommendation from this inspection relates to the urgent need to expand and upgrade the criminal record databases used to adjudicate laser visas. We determined, in conjunction with our inspection of the BCC program, that the INS Automated Fingerprint Identification System (IDENT) database being used to process laser visa applications is of minimal value. We understand that the Department of Justice subsequently came to the same conclusion and now plans to phase out the IDENT system by merging it into the much larger Federal Bureau of Investigation (FBI) fingerprint database. Creating an electronic abstract, i.e., foreign nationals only, from this huge database for transfer to computer systems compatible with those being used by INS and the Department will be a massive undertaking. Current estimates, we understand, are that it will take 3 to 5 years and cost the Department of Justice as much as $400 million. This new, expanded biometric database would make it possible to begin implementing plans for issuing a new generation of biometric-based, smart card type nonimmigrant visas at all consulates abroad.

Intelligence and Law Enforcement Oversight

Strengthening chief of mission authority over expanding embassy programs has been a key objective under the OIG's strategic goal. The importance of this OIG objective is also reflected in the number of recommendations to enhance ambassadorial authority made by the Overseas Advisory Presence Panel in November 1999. OIG's Intelligence Oversight Division has concentrated its efforts on improving chief of mission oversight and coordination of intelligence and law enforcement activities. In Washington, the OIG has worked closely with both State Department's Bureau of Intelligence and Research (INR) and members of the intelligence community to ensure that new ambassadors as well as deputy chiefs of mission are well trained in their oversight and coordination responsibilities. In response to OIG recommendations made in an earlier review of the bureau's coordination functions, INR significantly improved its new ambassadors' orientation program. In addition, INR, with strong OIG endorsement, published a handbook for ambassadors detailing their full responsibilities for intelligence and law enforcement oversight along with well-considered guidance on how to exercise these responsibilities.

Our oversight reviews conducted over the past year showed that chiefs of mission are well versed in their responsibilities and that overall coordination of activities was working well. OIG made recommendations on how to strengthen oversight and

at two missions we recommended that the Department clarify responsibilities where jurisdictions apparently overlapped. At two embassies, our recommendations established unambiguous chief of mission responsibilities for organizations that had questioned chief of mission oversight authority. OIG has also commended missions where the chief of mission's personal engagement has contributed to such coordination and we have promoted their activities as "best practices." OIG has also continued its close working relationships with other Inspectors General working jointly on such issues.

With the significant expansion abroad of Federal law enforcement activities, OIG has broadened its review of chief of mission oversight of law enforcement and incorporated a detailed study of these responsibilities in each post management inspections. While chiefs of mission are generally discharging their responsibilities well, some were less well prepared for law enforcement oversight than they were for intelligence oversight. OIG reviews have also revealed the need for law enforcement officials assigned abroad to be better trained in their responsibilities to the chief of mission as established in the November 1996 memorandum of understanding between the Secretary of State and the Attorney General and Secretary of Treasury. We have been especially concerned with improving coordination of law enforcement activities at missions where the law enforcement official is not a resident. Two recent oversight reports found uncoordinated law enforcement visits had complicated bilateral relations and jeopardized other liaison contacts. The ongoing implementation of our recommendations has shown that law enforcement objectives can be met without jeopardizing other national interests.

Details of our 19 fiscal year 1999 reviews in this area are summarized in OIG classified semiannual reports.

BETTER ALIGNMENT OF FISCAL AND HUMAN RESOURCES WITH U.S. FOREIGN POLICY PRIORITIES

OIG activities supporting this strategic goal focus on the Department's budget and human resource allocation processes, the mission and bureau performance plan process, and verification and validation of Department performance measures. These activities draw on reviews of performance plans conducted in the course of inspections of overseas missions and domestic bureaus of the Department. In addition, OIG auditors include verification and validation of relevant performance measures in the scope of selected audits.

In 1999, OIG work in this area has included assessments of issues resulting from the consolidation of the Department of State, length of overseas tours of duty, training and career development, staffing for overseas security initiatives, and continued oversight of the Departments' implementation of the Results Act.

Department of State Consolidation

OIG has yet to observe any significant cost reductions or avoidances as a result of consolidation. Such savings may lie in the future, as employee attrition permits a more rational distribution of resources, and as economies of scale (such as may result from consolidated information management systems) become realities.

OIG inspections conducted during the first quarter of fiscal year 2000 found that it is too soon to reach definitive conclusions about the impact of the consolidation of the United States Information Agency (USIA) with the Department of State. We have observed no significant negative impact upon the public affairs activities at our missions abroad. In most cases, public diplomacy already was well integrated with other elements of foreign policy implementation.

From an administrative perspective, the planning for consolidation was a good investment, and resulted in a smoother transition than would have been possible otherwise. Nevertheless, many posts were not well informed on matters affecting former public affairs officers (PAO). For example, there have been instances of confusion regarding whether former PAO's should retain some of the support provided previously as heads of agency, such as dedicated vehicles, etc. At some posts, there have been morale problems among FSN employees who have been moved to different, sometimes lower graded, positions despite "save pay" provisions. In some cases these employees believe they were not fully and accurately informed as to the changes in their positions resulting from consolidation.

Also, we have observed exceptional instances where USIS employees with administrative skills, who could have been reassigned to general administrative duties, instead have remained in public affairs sections, but with fewer responsibilities. In contrast, however, some embassies have made very creative use of former USIS employees, e.g. assigning them to consular section positions where their information and communication skills will be used to good advantage.

Tours of Duty

Several studies conducted by the Department and other groups have recommended increasing the amount of time employees spend in overseas assignments. As you know, OIG also reviewed and reported on the Department's tour-of-duty policies and practices in 1999. OIG recommended that the Department increase the number of 3-year tours and establish 4-year tours. This would enable the officers at a given post to maximize the experience gained in-country in their current position and reduce costs associated with shorter tours. The Appropriations Committees agreed with the OIG report and directed that the Department implement all of the report recommendations no later than January 1, 2000 and report on this issue no later than January 15, 2000.

In its March 8, 1999 comments on our draft report, the Bureau of Personnel stated that "The OIG and a number of others have properly noted that longer tours of duty are more productive and less costly for the Government." The comments went on to note, however, that longer tours would increase difficulties in staffing hardship posts. In its February 7, 2000 response to our final report, the Bureau of Personnel now states that there is little if anything to be gained, either financially or in productivity, from longer tours. We are currently analyzing the Department's responses and await its final report to Congress on this issue. In accordance with various studies done over the past decade, we continue to believe that longer tours represent a best practice among the foreign affairs agencies and that they would have positive financial and productivity impacts for the Department. We look forward to discussing this issue with you and with the Department in the coming months.

Diplomatic Readiness

Department of State leadership professes to believe in training for its officers and staff, but continues to ignore this important function. Consequently, the institution has not demonstrated a serious and sustained commitment to training and career development. For example, only recently has the Department taken tentative steps to put in place a strategic program that integrates work force planning with development requirements. Consequently, many, if not most Foreign Service employees perceive no relationship between training and career advancement (other than foreign language training) and, hence, many seek to avoid training and other developmental experiences as detrimental to their careers. Tying training firmly to promotion, tenure, and assignment would improve the situation dramatically. Until training is seen as a valued commodity, much of the State Department's infrastructure for training, such as its National Foreign Affairs Training Center (NFATC), formerly known as the Foreign Service Institute, will remain a valuable but underutilized resource.

The NAFTC does an impressive job of providing training opportunities for those employees of the Department of State and other agencies who wish to take advantage of them. It is handicapped, however, by the lack of commitment by the Department's top management to training and by an employment culture that consequently does not value training. The inspection of NAFTC found that the training center had developed measurable objectives for training and had done a good job developing performance indicators to track progress. However, OIG recommended that NAFTC develop and implement a plan to obtain feedback from graduates and their supervisors to allow for a more complete baseline of customer satisfaction data. OIG noted that the training center was doing a commendable job in response to the consolidation, but that information management resources should be expanded and some course materials and teacher training should be updated and improved.

Staffing for Overseas Security

The Department is making considerable progress in hiring, assigning, and training new security personnel. The fiscal year 1999 Emergency Supplemental Appropriations authorized and funded 391 new positions to help address staffing shortages in support overseas security, of which 337 were in the Bureau of Diplomatic Security (DS). DS used innovative recruiting methods to successfully hire candidates from liberal arts colleges and universities to fill security officer and security engineer positions and to increase opportunities for minorities. DS has also established a new position, security technician, to maintain and repair technical security systems overseas. All DS positions have been filled, and 105 of the security positions have been deployed overseas. Others are in training or have domestic assignments supporting the overseas positions. Training for regional security officers has been lengthened to include training in bomb detection, the use of the new equipment purchased with the emergency supplemental funds, and new security programs such as surveillance detection.

Oversight of the Government Performance and Results Act of 1993

The Government Performance and Results Act of 1993 (Results Act) requires that agencies set goals for program performance and measure results against those goals to help improve Federal programs and to increase accountability. As noted in OIG congressional testimonies and statements in early 1999, the Department's fiscal year 1999–2000 Performance Plan represents an improvement over the previous version. However, as OIG and the General Accounting Office (GAO) have noted, the plan "does not provide a complete performance picture for all strategic goals." The Department is currently working with Office of Management and Budget (OMB) to develop a plan that provides more complete performance information. In addition, the Department notified GAO in July 1999 that it does not formally prioritize its national interests or strategic goals, since U.S. interests and progress in any one part of the world at any one time may reflect a different order from other parts of the world.

In the past few years, while recognizing shortcomings in its overall strategic planning documents, the Department has emphasized its development and use of post-level planning documents, known as mission performance plans (MPP's) as a communication and management tool. Our ongoing work has found that MPP's can be an important tool for improved communication and coordinated planning among the many agencies present at our embassies. However, the MPP process has lost momentum because headquarters is generally not using the MPP's to set priorities, allocate resources, or measure posts' performance. We plan to work with the Department's strategic planning team over the next few months to streamline the MPP process while keeping the positive aspects of the planning process and the plans themselves.

OIG audits and inspections have also addressed the need for better performance information in the Department in selected areas. An audit on the Department's support of U.S. business abroad (99–CI–021) found performance measures lacking and identified areas on which performance goals could be based including resource statistics, output statistics, professional qualifications, experience and training of commercial officers and foreign national employees, accomplishments, and customer satisfaction. An OIG inspection of the Department's training center (ISP/I–99–16) reported that the center could obtain a more complete baseline of customer satisfaction data by developing and implementing a plan to obtain feedback from the graduates and their supervisors. An ongoing OIG audit of the Department's efforts to reduce trade barriers in the telecommunications industry has found that the strategic and performance plans are not effective in assessing the Department's progress in this area.

The Department agreed to explore more useful telecommunications performance indicators relative to the strategic goal of opening foreign markets and to improvements in the coordination and consistency among the various performance planning and measurement activities. However, the Department also noted the difficulties of establishing measurements and setting universal priorities for this and other program areas.

MORE EFFECTIVE, EFFICIENT, AND SECURE OPERATIONS AND INFRASTRUCTURES

Much of our work under this strategic goal relates to the Department's challenge of ensuring that our personnel and facilities overseas are protected from harm. In addition to our regular operations, OIG will continue this year to provide oversight of the nearly $1.5 billion emergency supplemental appropriations received by the Department for security enhancements overseas. Examples of our work in this area included an interdisciplinary review of the Department's management of the emergency appropriations for worldwide security upgrades, information security worldwide, access to our diplomatic facilities overseas, protection of classified documents at the Department, the Department's program to protect foreign dignitaries and missions, oversight of the Moscow chancery construction, reviews of programs carried out by the Department through various assistance instruments, and real property management and maintenance.

Worldwide Security

Ensuring the safety and security of U.S. personnel and facilities overseas continues to be a paramount concern for the Department. My office has devoted significant time and resources to overseeing the Department's use of emergency supplemental and other funding to enhance security and continues to provide recommendations to the Department to improve security in the immediate and long term.

In 1999 my office established an interdisciplinary team of auditors, inspectors and investigators to provide more effective oversight of the Departments' management of the fiscal year 1999 emergency supplemental appropriations. The objectives of our work are to assess the Department's management controls and systems that account for and manage the emergency funds, recruit and train security and administrative personnel, procure goods and services to enhance security, and evaluate the Department's efforts to strengthen physical security overseas including the rebuilding of Embassies Dar es Salaam and Nairobi.

In the year following the bombing in East Africa, my office evaluated the Department's efforts to protect official Americans at 42 embassies. As can be seen in the following chart, the lack of a 30-meter setback is the most prevalent deficiency we found. However, combined with the lack of anti-ram perimeter walls and windows that have been sufficiently protected, a major, long-term construction effort is required. For those items, such as improving the local guard force or improving the lighting at a chancery, which the Department can do without constructing new chancery, actions are generally underway to correct the deficiency.

	Adequate	Percent	Inadequate	Percent
Setback	9	21	33	79
Perimeter Walls	13	31	28	67
Windows	14	33	27	64
Chancery Walls	16	38	23	55
CCTV/Lighting	21	50	19	45
Compound Access Control	20	48	17	40
Vehicle Inspections	24	57	17	40
Safe Haven	24	57	16	38
Public Access Control	31	74	10	24
Local Guard Force	34	81	6	14

The Department initially questioned the OIG's September 1998 recommendation for a new imminent danger alarm system providing warning for embassy employees to "duck and cover" in the event of a vehicle bomb attack threat. The Department subsequently accepted the recommendation.[1] OIG's embassy inspections contributed to more effective and rapid implementation of the alarms while also stressing the need for timely, frequent duck and cover drills, especially at missions lacking setback. The Department also implemented dozens of other OIG recommendations to minimize security vulnerabilities, details of which are summarized in the OIG classified Semi-Annual Report.

Although a program of sustained capital investment is essential to ensure the security of the diplomatic infrastructure in the future, such a program will not immediately alter the circumstances of personnel overseas. Even a major construction program will leave the majority of missions vulnerable to some threats for several years. My office has attempted to focus on measures that can be taken in the near term to reduce those vulnerabilities.

Our work has found that while the current facilities for Embassies Dar es Salaam and Nairobi are more secure than at the time of the August 7, 1998 bombings, both embassies still faced problems at the time of our May 1999 security evaluation. Embassy Dar es Salaam lacked sufficient emergency electrical power for security systems such as exterior security lights, alarms, and vehicle barriers. My office identified the need at Embassy Nairobi to reduce the risk of exposure presented by the placement of large glass windows in the front of the interim chancery building and provide a secondary exit point from the compound. Subsequent to our inspections, the Department corrected the emergency power problem at Embassy Dar es Salaam and the large glass windows have been replaced at Embassy Nairobi. While these interim facilities are significantly more secure than the previous facilities, they are at best a temporary solution because they are too small to house all official Americans at post. New chanceries are planned for Nairobi and Dar es Salaam. Money has been appropriated and contracts have been signed. The main objective is to build new chanceries that meet security standards and are of adequate size to house all official Americans.

[1] The OIG "duck and cover" recommendation was included in Admiral William J. Crowe's "Report of the Accountability Review Boards on the Embassy Bombings in Nairobi and Dar es Salaam," issued January 1999.

We also found that the Department has established systems that are capable of appropriately accounting for and managing the emergency appropriations that are obligated and liquidated domestically. However, we identified several issues relating to reporting and accounting for the funds that we have recommended that the Department address. Our review of the systems in place to account for the emergency appropriations obligated overseas is ongoing.

Thus far, our findings reveal that, overall, the Department has done many things well. The direct involvement of the Under Secretary for Management and the Security Oversight Board has been instrumental in the Department's effective use of emergency supplemental funds. This senior level attention has provided focus for the overseas security enhancements and fostered coordination among the different bureaus. Our first report of our findings was published in January 2000.[2] Additional reports will be published as we continue our review.

Information Resources and Security

Some of the most difficult security issues to correct deal with information security. In many ways, improving information security may be a bigger challenge than improving physical security because many of the fixes involve the behavior of personnel. To correct identified vulnerabilities requires senior management leadership, technically qualified staff, money, and a desire to do things differently. For example, in our November 1999 audit report on overseas telephone system security, we found that the Department was spending $61 million to upgrade its overseas telephone systems, but was not focusing on improving the security aspect of the systems. Furthermore, the Department needs to establish plans to modernize telephone security overseas and request the resources needed to act on the report recommendations to improve telephone security and protect sensitive information.

OIG has realigned its resources to focus on emerging information technology issues. My office has consolidated its information technology and security efforts and created a single Information Resources and Security Management Division (IRSM) in the Office of Audits. This division will address emerging issues of congressional interest in five areas: information management, telecommunications, information security, information technology human resources, and information warfare.

Access to Diplomatic Facilities Overseas

As part of our review of DS's overall management of card access control systems at overseas posts, our office completed a review of the system in Germany and Luxembourg this last year. The system in these countries was intended to control access to diplomatic facilities, to reduce the cost to DS for the local guard program, and to provide a model for possible worldwide use. Recommendations were made with regard to vulnerabilities identified by our office.

In November 1999, we also issued our report on the bureau's overall management of card access control systems at overseas posts. Several organizational elements of the bureau are involved in managing card access control systems used at U.S. posts abroad. However, no single office or element has been designated with lead responsibility for managing those systems. As a result, important policy requirements were not applied, or were not adequately applied, in the management of those systems. The bureau could significantly improve the management of card access control systems by: designating a single office to be primarily responsible for managing distinct card access system activities, including system planning, installation, administration, and maintenance; assessing the risks, costs, and benefits of using card access control systems before acquiring such systems; acquiring and using only those systems approved by the bureau; and, focusing greater attention on computer security aspects of those systems.

Protection of Classified Documents at State

OIG evaluated the effectiveness of Department policies and procedures for protecting classified documents at the Main Department of State headquarters facility in Washington, D.C. Although the Department has programs in place to evaluate individuals' trustworthiness and need to handle classified information, improvements to enhance the level of security awareness and controls to prevent unauthorized disclosures are needed. The report highlighted the following specific problems:

—very highly classified documents relating to intelligence reporting are not safeguarded in accordance with government regulations;

[2] Office of Inspector General Status Report, "Review of Fiscal Year 1999 Emergency Supplemental Appropriations," (00–OIG–001).

—significant numbers of foreign nationals are permitted unescorted access to the Department—uncleared individuals are not always escorted in areas where classified information is handled, processed, stored, and discussed;
—administrative actions taken to discipline employees are ineffective in correcting poor security practices; and
—unit security officers are not well informed about security requirements and do not have the authority to enforce security requirements.

OIG recommended that the DS be designated as the organization responsible for protecting sensitive compartmented information (SCI) and that the bureau enhance physical and procedural measures required to safeguard such information. DS officials agreed with OIG's findings and recommendations. INR agreed that security policies are not being sufficiently enforced, but did not agree to designate DS as the cognizant security office for the protection of SCI. Additionally, the Department has since issued a notice regarding a visitor escort policy.

The Protective Services Program

OIG evaluated the effectiveness of DS's protective services program. The principal focus of the audit was protection provided to visiting foreign dignitaries and foreign missions in the United States.

DS has successfully defended dignitaries and missions from attack, and client organizations provide positive feedback on DS's performance. However, improvements are needed to enhance the protective services program to correct the following vulnerabilities:

—DS shares its protection responsibilities with the Secret Service and other law enforcement agencies, causing some operational deficiencies and inconsistencies;
—the Department has not systematically determined which foreign dignitaries should receive DS protection in the United States;
—improvements are needed in the process by which DS develops and disseminates threat information to protective details;
—the lack of defined policies and procedures caused inconsistencies in the operation of some details, particularly with respect to preparatory briefings and midnight shifts; and
—effective protection was hindered by low DS staff levels excessive overtime, and inadequate procedures to ensure that agents assigned to protective details were capable of fulfilling all responsibilities.

OIG made recommendations to effect the needed improvements in the protective services program. DS and other Department officials generally concurred with the OIG's findings and recommendations, except for the recommendation to initiate legislative action to centralize all protection activities for foreign missions into DS.

Moscow Chancery

The Moscow Oversight Team (MOT) provides the Inspector General, senior Department officials, and congressional oversight committees with current information on the construction of the secure chancery facilities in Moscow and makes timely recommendations to improve the security aspects and contract administration of the project. Since 1995, MOT has made semiannual onsite evaluations of the project, flagging problems on which the Department could take immediate action, rather than letting the problems escalate. The last onsite evaluation took place in October 1999 and resulted in 21 recommendations addressing master planning for the transition to the secure chancery, counterintelligence, technical security programs, accreditation reporting, and secure warehouse operations. The Department is taking action to correct the deficiencies identified in the report.

During April 2000, MOT will conduct its final evaluation of the secure chancery. This visit is intended to confirm that previously identified security deficiencies have been corrected and to ensure that security is not compromised during the move from the existing office building into the new facility. The move is currently scheduled for May 2000. In addition, MOT will ensure that the procedures and personnel are in place to maintain the extensive security systems in the new chancery.

Broadcasting Facilities

OIG also extended its security oversight to the BBG's engineering components and broadcasting networks which has resulted in recommendations for substantial improvements in security preparedness at overseas as well as domestic facilities. These recommendations have been endorsed by the BBG and corrective actions are under way.

Grants Management and Transfers

The Department annually expends more than a billion dollars for a variety of programs carried out through assistance instruments such as grants, cooperative agree-

ments, and transfers; however, it does not use standardized grant systems, policies, or procedures to manage these programs. Previous OIG audits identified insufficient monitoring and oversight of grantees; unauthorized, unallowable, and unsupported costs; internal control weaknesses; or noncompliance with applicable regulations associated with these awards. For example, OIG found that the handling of a building sale and immediate rental of that same building by a grantee, the Institute for International Education, did not comply with Office of Management and Budget (OMB) requirements, resulting in about $4 million in questioned rental costs over the life of the lease. In other cases, we questioned about $3 million when grantees did not properly document or use Federal funds for authorized purposes. In these cases, the grantees involved were the American Council for Learned Societies ($1.1 million), the Washington Workshops Foundation ($.9 million), and the Institute for International Education ($1 million for indirect cost rates).

The managing and monitoring of the recipients of these funds has become more critical because of OMB guidelines revised in 1996. As a result, the majority of Department's grantees are no longer required to have annual financial audits. Furthermore, ongoing legislative and other governmental initiatives will affect how the Department manages grants and monitors non-governmental organizations in the future. On November 20, 1999, for example, the President signed Public Law 106–107, the Federal Financial Assistance Management Improvement Act, which requires the Department to streamline and simplify the application, administrative, and reporting procedures for Federal financial assistance programs. OIG is working with the Department to establish a common system, including electronic processes, wherein a non-Federal entity can apply for, manage, and report on the use of funding from multiple Federal financial assistance programs.

Improving Real Property Management and Maintenance

A significant open OIG audit recommendation in the area of property resulted from our 1993 audit "Maintenance and Repair of Buildings Overseas" (3–PP–014). The audit recommends the Department develop a system to identify and monitor the worldwide backlog of maintenance and repair deficiencies, including determining an acceptable level for the backlog and periodically updating the backlog for corrective action taken, additional deficiencies identified, and improved cost estimates.

Since 1988 the Department has reported rehabilitation and maintenance of real property overseas as a material weakness in the Federal Managers' Financial Integrity Act Report. Over OIG's stated objections, the Department's Management Control Steering Committee recently closed this weakness on the basis that all conditions had been met with the exception of the backlog which cannot be brought down to zero due to funding issues. Although significant improvements have been made in correcting this weakness, we believe that more needs to be done. The Department needs to better define what is an "acceptable" level for the backlog to rehabilitate and maintain facilities and also provide a baseline that will address the costs to reduce the backlog to an acceptable level. We believe that armed with this information the Department can best identify those properties that may be more prudent for disposal in lieu of the high costs to rehabilitate and provide long-term maintenance. We plan to closely monitor Department efforts in this area.

As I reported in my statement to the Subcommittee last year, my office has continued to advise the Department of excess, underutilized, or obsolete real properties identified in our inspections and audits at overseas posts. The Department evaluated 172 properties that OIG categorized as excess, underutilized, or obsolete at the time of the inspection or audit. Of these, the Department plans to dispose of 65, an additional 17 warrant further study, and the remaining 90 will be the subject of dialogue between the Bureau of Administration's Office of Foreign Buildings Operations (A/FBO) and the regional bureaus. These reviews will be used by the Department to better manage its real property assets.

GREATER ADHERENCE TO FUNDAMENTAL PRINCIPLES GOVERNING PROFESSIONAL AND ETHICAL CONDUCT

OIG is mandated to prevent and detect waste, fraud, and mismanagement. Specific allegations or other information indicating possible violations of law or regulation are investigated by OIG special agents supported by experts from other OIG offices as appropriate. During fiscal year 2001, OIG continues to focus on promoting increased awareness of standards of conduct and accountability among agency and OIG employees, contractors, and other appropriate audiences, including representatives of foreign governments who have requested OIG assistance on this issue. As part of these efforts, results from audits, inspections, and investigations will be highlighted and recommendations made to reduce areas of vulnerability and opportunities for misconduct.

OIG also will work proactively, in consultation with targeted audiences, to improve adherence to standards of accountability by ensuring that employees are informed of and understand the standards specific to their professional and ethical conduct. Accordingly, OIG will work with the foreign affairs agencies to improve their programs for educating employees on standards of accountability and fundamental principles governing programmatic accountability and ethical conduct.

Investigative Process

My office makes every effort to review complaints as quickly and efficiently as possible. Upon receipt of a complaint or allegation regarding fraud, waste, abuse or mismanagement, one of the following actions takes place: a criminal investigation or preliminary inquiry is initiated; the matter is referred to management officials who have the authority and jurisdiction to investigate or resolve the issues; or the matter is filed without action because none is warranted. A preliminary inquiry is initiated when vague, non-specific information is received and a few inquiries are needed to develop more facts to justify a criminal investigation or resolve it. If a preliminary inquiry is opened, special agents have 45 days to develop that additional information or resolve and close the preliminary inquiry.

If a criminal investigation is opened, special agents must present the facts of the case to the appropriate United States Attorney's Office, or other prosecuting authority, within 90 days of the case opening. In the event the prosecution of the case is declined, special agents have 45 days from the date of the declination to close the case, initiate civil proceedings, or commence work on administrative remedies. These policies and procedures were implemented in order to reduce the amount of time it takes to complete investigations, particularly those involving Department employees.

In addition to our efforts to reduce the amount of time to complete employee investigations, OIG has also instituted a policy of issuing Case Notification Letters (CNL) to employees at the conclusion of investigations. Our established policy and procedure requires that at the conclusion of an investigation when no action is anticipated being brought against a subject a CNL will be forwarded directly to the Subject. In rare cases, when the evidence is inconclusive, a CNL may not be provided to the employee. At the discretion of OIG management, it may also be deemed appropriate to forward a CNL to Department officials.

Proactive Outreach Development

The Office of Investigations is developing training for outreach and fraud awareness and prevention. The training will be based on actual cases and tailored to the particular employee group being addressed. Initially, two programs will be developed: one oriented to the needs of contracting officers with A/FBO and the other towards the Bureau of Financial Services (FMP) financial officials. The A/FBO training will cover indicators of contract fraud and will discuss completed criminal cases involving schemes perpetrated against the Department.

Visa Fraud

Each year, millions of individuals apply for passports and visas at the more than 230 U.S. embassies and consulates throughout the world. Attempts to falsify, alter, or counterfeit U.S. visas or passports, or to obtain genuine documents by fraudulent means are a constant problem both within the United States and overseas. In 1999 a majority of work performed by the Office of Investigations was in visa fraud and passport investigations. Statistics representing all investigative cases opened in my office for fiscal year 1999 are indicated in the following table.

FISCAL YEAR 1999 STATISTICS FOR CASES OPENED

Allegation Type	No. of Cases	Percent of Cases
Visa Fraud/Passport Fraud	29	39
Employee Misconduct	11	15
Contract/Procurement Fraud	4	5
False Statements/Claims	8	11
Theft	14	19
All Other	9	12
Total		100

In 1999, the Office of Investigations, working with other U.S. law enforcement agencies, conducted a number of investigations that resulted in criminal charges against individuals and companies who were operating large-scale schemes to provide fraudulent U.S. visas to paying customers. Several of these cases have involved fraudulent H1–B visas, which are issued legitimately only to individuals with particular skills needed by a particular company in the U.S.

One investigation determined that a foreign national living in New Jersey had operated a company for several years that sold fraudulent H1–B visas, which were then used to obtain social security cards. Most of the customers were foreign nationals living illegally in the U.S. After a jury trial, the seller was convicted of multiple felony counts of visa fraud and was sentenced to 55 months in prison. The seller is also subject to deportation after completion of the sentence.

Another investigation developed evidence that an immigration consultant in California had operated companies through which she arranged for numerous foreign nationals to enter the United States on H1–B visas, based upon false certifications that they had entered into contracts for high-skill employment with companies in the U.S. The immigration consultant was indicted on felony charges of visa fraud and alien smuggling and was arrested. An attorney associated with the consultant was also charged. Disposition of these charges is pending. It is anticipated that there will be additional charges against other individuals.

In another investigation, it was determined that individuals in Virginia, Florida, and Kentucky, cooperating with citizens of a Central European country, had conspired to obtain fraudulent visas and to smuggle numerous people into the United States to work on cleaning crews for retail stores. These workers would usually enter the country on tourist visas, obtained based upon false statements. Upon arrival, the workers were frequently provided with fraudulent H1–B visas and then used the visas to obtain social security cards. Several individuals involved in the operation of this scheme have entered guilty pleas to criminal charges in this case, and charges against others are pending. One of the higher level individuals in the operation, a foreign national who resided in Florida, has pleaded guilty to money laundering and has agreed to cooperate in providing evidence against others.

Another investigation in Virginia developed evidence that foreign nationals residing illegally in the United States were being provided with fraudulent H–1B visas. The individuals were then being transported from the New York/New Jersey area to Social Security offices in Virginia in order to obtain social security cards based on the fraudulent visas. Five persons entered guilty pleas to criminal charges. Three of these individuals agreed to voluntary departure from the United States, while the other two agreed to provide information regarding the higher level organizers of this scheme.

In addition to conducting cases involving fraudulent H–1B visas, the Office of Investigations also continued to pursue evidence of other types of visa fraud. An investigation conducted jointly with the INS determined that a naturalized United States citizen living in Hartford, Connecticut had operated a scheme to arrange marriages of convenience for aliens living illegally in the United States, and for others who wanted to come to this country. Immigrant visas were obtained based on documentation of these fraudulent marriages. The principal subject and 10 other individuals were indicted on visa fraud and other charges. The principal subject, after entering a guilty plea, was sentenced to 5 months in prison and a fine. Several other individuals also pleaded guilty and received lesser sentences.

And, finally, in a case that developed recently, an FSN investigator employed by INS at an embassy in Asia was arrested on charges of extortion, based upon evidence that he had solicited payments in return for approving an asylum petition. Approval of this petition would lead to issuance of a visa. The subject was indicted subsequent to being arrested and remains in custody pending resolution of the charges.

This concludes my statement. I look forward to working with your subcommittee in the coming months.

APPENDIX

OIG REPORTS AND MEMORANDA ISSUED FOR WORK IN FISCAL YEAR 1999

MISSION: IMPROVED IMPLEMENTATION OF FOREIGN POLICY

Improved Conduct of Foreign Relations

Taken as a whole, OIG activities provide a broad overview of the Department's effectiveness in the implementation of foreign policy and in the use of the full range of diplomatic and public diplomacy tools including international broadcasting.

Through the inspections of overseas missions and domestic bureaus, and on in-depth audits of selected issues, we assessed the conduct of foreign relations, particularly the skills and capabilities of senior management and the availability and use of appropriate structures, authorities, and processes. In the coming year, OIG will inspect and audit the effectiveness of policy and program formulation and implementation; intelligence reporting; results monitoring and assessment; and, mission leadership and management.

Audits:

Activities Supporting the International Law Enforcement Academy, Budapest, Hungary (99–CI–005)

Department of State Support for U.S. Business Abroad (99–CI–021)

International Law Enforcement Coordination and Oversight (99–CI–027)

Policies and Procedures for Ensuring that Radio Marti Broadcasts Adhere to Applicable Requirements (99–IB–010)

Border Biometrics (Laser Visa) Program (ISP/I–99–12)

American Council of Learned Societies Supporting the Vietnam Fulbright Economic Teaching Program (99–CG–026)

Cyprus Fulbright Commission (USIA–99–CG–017)

Post Management Inspections:

Management Inspections of Embassies and U.S. Information Service:
—Embassy Singapore and USIS Singapore (ISP/I–98–44)
—Embassy Kuala Lumpur and USIS Malaysia (ISP/I–98–01)
—Embassy Tokyo and USIS Japan (ISP/I–99–04)
—Embassy Bujumbura and USIS Burundi (ISP/I–99–07)
—Embassy Lilongwe and USIS Malawi (ISP/I–99–10)
—Embassy Cairo and USIS Egypt (ISP/I–99–11)
—Embassy Jakarta and USIS Indonesia (ISP/I–99–15 and ISP/I–99–02)[3]
—Embassy Tel Aviv and USIS Israel (ISP/I–99–18)
—Consulate General Jerusalem and USIS Jerusalem (ISP/I–99–19)
—Embassy Kathmandu and USIS Nepal (ISP/I–99–21)
—Embassy Colombo and USIS Sri Lanka (ISP/I–99–22)
—Embassy New Delhi and USIS India (ISP/I–99–23)
—Embassy Santo Domingo and USIS Dominican Republic (ISP/I–99–24)
—Embassy London and USIS United Kingdom (ISP/I–99–27)
—Embassy Dublin and USIS Ireland (ISP/I–99–28)
—Embassy Bucharest and USIS Romania (ISP/I–99–29)
Inspections of Embassies only:
—Embassy Kampala, Uganda (ISP/I–99–05)
—Embassy Kigali, Rwanda (ISP/I–99–06)
—Embassy Harare, Zimbabwe (ISP/I–99–08)
—Embassy Lusaka, Zambia (ISP/I–99–09)
—Consulate Lyon, France (ISP/I–99–25)
Compliance Follow-Up Reviews:
—U.S. Mission to NATO, Brussels, Belgium (ISP/C–99–03)
—Embassy Hanoi, Vietnam (ISP/C–99–13)
—Embassy Rangoon and USIS Burma (ISP/C–99–14)
—Embassy Mexico City and Constituent Posts and USIS Mexico (ISP/C–99–17)
—Embassy Moscow and Constituent Posts and USIS Russia (ISP/C–99–20)
Other Office of Inspection Reviews:
—Management Controls for Small Embassies (ISP/I–99–26)
—Border Biometrics Program (ISP/I–99–12)

Inspector General Testimony and Statements for the Record:

Testimony, *Major Management Challenges for the Department*, House Committee on Government Reform, Subcommittee on National Security, Veterans Affairs, and International Relations, February 25, 1999.

Testimony, *Major Management Challenges for the Department*, Senate Committee on Foreign Relations, Subcommittee on International Operations, March 4, 1999.

Statement for the Record, *OIG Budget Request*, House Committee on Appropriations, Subcommittee on Commerce, Justice, State, the Judiciary, and Related Agencies, March 10, 1999.

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[3] The inspection of Embassy Jakarta, Indonesia was bifurcated due to political instability in the region.

BETTER ALIGNMENT OF FISCAL AND HUMAN RESOURCES WITH U.S. FOREIGN POLICY

OIG has built a Results Act component into selected audits, inspections, and security reviews to assess the performance goals and measures. Areas of OIG coverage included overseas security vulnerabilities, financial management, Y2K remediation efforts, telecommunications, and property management. OIG established a plan to review and report on the efforts of the Department and Broadcasting Board of Governors to develop and use performance measures and will verify and validate selected data sources for such measures.

OIG work includes:

—Review of Tours of Duty (99–SP–013)
—Inspection of FSI (ISP/I–99–16)
—Inspection of Consulate Lyon (ISP/I–99–25)
—Consular Fraud Prevention Programs (99–CI–028)

Inspector General Testimony:

—*Nonimmigrant Visa Fraud*, House Committee on the Judiciary, Subcommittee on Immigration and Claims, May 5, 1999.
—*Best Practices and Standards of Performance in an OIG*, Council of the District of Columbia, Committee on Government Operations, May 19, 1999.

More Effective, Efficient, and Secure Operations and Infrastructures

OIG security oversight inspections were expanded to include low and medium threat posts, in addition to those with high and critical threat ratings. The new division of Security Enhancements Oversight is reviewing the fiscal year 1999 Emergency Supplemental Appropriations. In addition to embassy security and Y2K preparedness, OIG post inspections reviewed executive direction, policy implementation, public diplomacy, consular operations, diplomatic readiness, and administrative operations. Audit reviews included export licensing process, law enforcement coordination, consular antifraud programs, and the protection of classified information at the Department. International broadcasting reviews included Radio Marti's adherence to the applicable broadcast standards.

Security Reviews:

Review of Fiscal Year 1999 Emergency Supplemental Appropriations (00–OIG–001)[4]
Security at Embassies Dar es Salaam and Nairobi (SIO/E–99–50)
Protective Services (SIO/A–99–29)
Moscow Oversight Status Reports (SIO/M–99–31, SIO/M–99–31)
Special Documents Program (SIO/Z–99–40)
Card Access Control System in Germany and Luxembourg (SIO/A–99–01)
Protection of Classified Documents at State Department Headquarters (SIO/A–99–46)
Security Audit of Overseas Telephone Security Management (SIO/A–00–01)[5]
Security Inspections:

—Embassy Nassau, The Bahamas (SIO/I–99–01)
—Embassy Sarajevo, Bosnia-Herzegovina (SIO/I–99–17)
—U.S. Diplomatic Posts in the Bureau of Western Hemisphere Affairs (SIO/I–99–18)
—Embassy Madrid, Spain (SIO/I–99–21)
—Embassy London, United Kingdom (SIO/I–99–24)
—Embassy Lisbon, Portugal (SIO/I–99–25)
—Embassy Dublin, Ireland (SIO/I–99–26)
—Embassy Reykjavik, Iceland (SIO/I–99–27)
—Embassy Copenhagen, Denmark (SIO/I–99–28)
—Embassy Zagreb, Croatia (SIO/I–99–34)
—Embassy Kuala Lumpur, Malaysia (SIO/I–99–35)
—Embassy Brussels, Belgium, USMEU, and NATO (SIO/I–99–36)
—Embassy Luxembourg (SIO/I–99–37)
—Embassy Prague, Czech Republic (SIO/I–99–41)
—Embassy Valletta, Malta (SIO/I–99–42)
—Radio Free Europe/Radio Liberty Prague, Czech Republic (SIO/I–99–43)
—Embassy Oslo, Norway (SIO/I–99–44)
—Embassy Stockholm, Sweden (SIO/I–99–45)

Security Follow-Up Reviews:

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[4] The OIG review of the fiscal year 1999 Emergency Supplemental Appropriations was conducted through August 31, 1999.

[5] A major portion of the work that resulted in the "Audit of Overseas Telephone Security Management" was accomplished in fiscal year 1999.

—Embassy Islamabad, Pakistan (SIO/C–99–09)
—Embassy New Delhi, India (SIO/C–99–10)
—Consulate General Hong Kong (SIO/C–99–19)
—Embassy Ankara, Turkey (SIO/C–99–23)
—Embassy Beijing, China (SIO/C–99–30)
—Embassy Santo Domingo, Dominican Republic (SIO/C–99–51)

Year 2000 Information Management Review:[6]

Y2K Interim Memorandum 1 (6/17/98)
Year 2000 Interim Memorandum 2, Analysis of Key Y2K Issues (8/20/98)
Year 2000 Interim Memorandum 3, Analysis of Telecommunications Issues (10/16/98)
Y2K Certification of USIA Systems (2/8/99)
Y2K Readiness of Affiliates Used by International Broadcasters (management letter)

Inspector General Testimony and Statements for the Record concerning Y2K:

Testimony, *The Year 2000 Computer Problem: Global Readiness*, Senate Special Committee on the Y2K Technology Problem, March 5, 1999.
Testimony, *The Year 2000 Computer Problem: Global Readiness and International Trade*, Senate Special Committee on the Year 2000 Technology Problem, July 22, 1999.
Testimony, *The Year 2000 Computer Problem: Global Readiness*, House Committee on International Relations, October 21, 1999.
Statement for the Record, *Year 2000 Computer Problem*, House Committee on Ways and Means, February 24, 1999.
Statement for the Record, *The Year 2000 Computer Problem: Global Readiness*, Senate Special Committee on the Year 2000 Technology Problem, October 13, 1999.

Office of Audits:

Consular and International Programs Division:
—Interagency Review of Export Licensing Process (99–CI–018)
—Consular Fraud Prevention Programs (99–CI–028)
Financial Management Division:
—Florida Regional Center (99–FM–002)
—U.S. Department of State's Consolidated Financial Statements (99–FM–003)
—ICASS Financial Statements Fiscal Year 1997 (99–FM–004)
—Foreign Service Retirement and Disability Fund Financial Statements for Fiscal Year 1998 (99–FM–014)
—Department of State 1997 and 1998 Principal Financial Statements (99–FM–031)
—ICASS Program's 97–98 Financial Statements (99–FM–032)
Property Management and Procurement Division:
—Real Property Advisory Board (99–PP–006)
—Acceptability Review Process Within the Bureau of Diplomatic Security (99–PP–030)
Contracts and Grants Division:
—United States Educational Foundation, Pakistan (99–CG–001)
—National Endowment for Democracy (99–CG–007)
—Indirect Cost Rates Proposed by the Institute of International Education (USIA–99–CG–015)
—Sale and Leaseback Arrangement Proposed by the Institute of International Education (USIA–99–CG–016)
—Review of Planning and Management of Lisbon Expo 98 (USIA–99–CG–019)
—Fiscal Year 1999 Indirect Cost Rate AIT (99–CG–022)
—Malaysian-American Commission on Educational Exchange (USIA–CG–99–024)
—Claimed Costs Under USIA Awards to the Washington Workshops Foundation (99–CG–025)
—Accounting for Increased Visa Fees of the AIT (99–CG–029)
—Nonfederal Audits of Nonprofit Institutions (various desk reviews)
International Broadcasting Division:
—RFE/RL Administrative Practices (99–IB–012)
—Office of Cuba Broadcasting's Administrative Practices (99–IB–023)
Inspector General Testimony:

[6] OIG's Y2K activities extended from fiscal year 1998 through fiscal year 2000.

—*Oversight of Security at U.S. Missions Overseas*, House Committee on International Relations, Subcommittee on International Operations and Human Rights, March 12, 1999.
—*Export Licensing Process for Munitions and Dual-Use Commodities*, Senate Governmental Affairs, June 23, 1999.

GREATER ADHERENCE TO FUNDAMENTAL PRINCIPLES GOVERNING PROFESSIONAL AND ETHICAL CONDUCT

OIG is mandated to prevent and detect waste, fraud, and mismanagement. Specific allegations or other information indicating possible violations of law or regulation are investigated by OIG special agents supported by experts from other OIG offices as appropriate.

Audits:

Report on Inquiry into Former Contractor Allegations (99–PP–008)
Unreasonable Contractor Profit on an Asbestos Abatement Project (99–PP–009)
Report on Inquiry into Contractor Allegations (99–PP–011)
Review of Planning and Management of Lisbon Expo 98 (USIA–99–CG–019)
Inspector General Testimony:
Allegations of Visa Fraud and Other Irregularities at the U.S. Embassy in Beijing, House Committee on Government Reform, July 22, 1999.

EMBASSY CONSTRUCTION

Senator GREGG. Thank you, Madam Secretary. Let me begin where you began, which is the issue of construction of embassies and facilities around the world where we are trying to respond to the various reports we have had. This committee has aggressively pursued a plan of trying to refurbish and rebuild the embassies so that we would have adequate security for our personnel.

I am looking at a chart, and I suspect you do not have it. It is a fairly discouraging chart. It is a chart of construction projects which are going on in approximately 25 different embassies around the world and the funds that have been provided and the funds that are still to be provided. It is a $1.5 billion price-tag and the average price, as I figure it, on these embassy construction projects is somewhere in the vicinity of $90 million. They range from a low of $7 million in Kingston, which is extremely low compared to the average, to the typical construction site cost. Sarajevo is at $100 million, Sofia at $82 million, Abidjan at $86 million, Abu Dhabi at $54 million, Rio de Janeiro at $90 million, Sao Paulo at $103 million, Berlin at $150 million, Beijing at $275 million, Seoul, South Korea at $184 million.

These are stunning numbers, and I do not know what to do about them. I do not suspect that you have much that you can give me that will be constructive to the issues, but how can we be spending what amounts to about $90 million on the average for a physical facility in many countries where you can almost buy the country for that amount? In Sarajevo, $104 million; you must be able to buy most of downtown Sarajevo today for $104 million.

The numbers for the construction costs of these facilities are staggering. I recognize that a lot of this is driven by American law, which is our law, which says that you have to use American contractors. The security needs in Beijing, for example, are unique and we have had serious problems on all sorts of levels in Beijing in trying to build the building. Then the Berlin problem is that our ambassador there seems to have fallen down on his job rather dramatically in his ability to get approvals.

Obviously, this committee is totally committed to trying to make sure that we address the facility needs of the State Department. This has been a priority of ours. But at these prices, we are not going to be able to address a whole lot of facilities.

I have two levels of questions. Can you give us any thought on how we can get some control over these construction costs, number one? And number two, can you give us any thought as to whether or not we can start moving to a hub approach with some of these embassies so that if we are going to build a $100 million embassy in Nairobi, that that can be used as a center and then we build much smaller facilities in the surrounding countries, which do not have as many people or as large an economic impact potentially on our relationship with them?

Secretary ALBRIGHT. Mr. Chairman, I agree with you. When I looked at these costs it was sticker shock. I mean they are remarkable amounts for embassies. And I have gone back to our folks on this to try to explain better why this happens, and there are a number of reasons.

One is that we obviously have to acquire larger pieces of land in order to have the proper setbacks and this can be costly where they are in particular cities.

Also, the security standards now on these buildings, the cost is phenomenal in terms of the kinds of glass you have to use and various things—a lot of it has to do with having secure buildings.

The other, as you pointed out, are things that have to do with our law, that we have to use American contractors and U.S.-origin materials and getting them to places in sealed carriers so that there is no tampering with them. Every part of this is an expensive process.

You and I and other members of the subcommittee, we have talked about the fact that we have a prime responsibility to make sure that our people are safe in these places, and this is what it amounts to. I have asked them to scrub and rescrub these numbers because I had the same feeling you did about it, and all I can tell you is that I am told that this is what it costs.

I think the question we have to answer is how do we make sure that the buildings are the kind that Admiral Crowe says we have to have and that Lou Kaden and his committee say we have to have and be able to afford them?

Now, on the German question, I defend Ambassador Kornblum on this. Part of the problem here is that we have wanted our embassy to be in a prime historic location near the Brandenburg Gate, where it is a little hard to get the proper setbacks when that is their main thoroughfare. So that has been one of the problems.

In each of these cities there is a specific problem that has to be dealt with and we are very happy—happy is the wrong word—we will go through with you what the various costs are and where they are.

On the question of hubs, the Nairobi embassy is, in fact, being rebuilt to serve as a regional hub so that a lot of the technology and things that are necessary for the support of an embassy in the whole region will be done out of there.

We are also trying something different in some places which are American presence posts, the way Ambassador Rohatyn has

thought up in France, where you send one or two people into a city where the structure for them is not that complicated, and yet there is an American presence primarily for business purposes and consular.

I do happen to believe strongly in the concept of universality because while some country may not seem as important as another for one reason or another, ultimately it is important for Americans to be there. And, as you know, the embassy serves as a platform also for a lot of other agencies to serve with us.

What I am doing now is to systematically go through the recommendations out of the Kaden and Crowe reports, to right-size those embassies so that the agencies are all working together and we have the right mix of people in them.

But I agree with you that the cost of the embassies is very high, and I think we have to keep asking ourselves why. My answers are the land, the security, and the fact that we must use American contractors and materials.

Senator GREGG. Well, I appreciate that, and your answer was pretty much the answer I expected to get. I guess what I would like to think about is how we could put some system in place that would give us an independent review of the construction costs by people who are in the construction business. I am thinking of maybe setting up, or I would be interested in your thoughts—setting up a blue ribbon panel that would be a volunteer group who would be specialists in construction—leading architects and leading construction individuals from across the country who do not do international construction, so there would not be conflicts, and have them be a platform where we could get an analysis of whether or not these costs are in the correct ballpark. I mean, we can send GAO in, I suppose, and ask them to look at each one of these embassies, but I am not sure that that is the system.

What I am trying to think of is some systematic way—if we could put in some sort of system in place so that we could get a feel that if there is something that we do not have to do or some way to do this more effectively, we can do it. The big problem here is we have 192 embassies that we have to address or something like that, and at this rate of price, we are simply never going to get them all done. We are going to end up with maybe the high-priority ones being done but unfortunately, the targets end up being places like Abu Dhabi or someplace that we did not expect.

Secretary ALBRIGHT. I think it would be very useful to have a variety of people advising. I think the Secretary of State ultimately needs to have control over decision-making on this.

Senator GREGG. Oh, absolutely.

Secretary ALBRIGHT. But I do think it would be useful. We have American architects designing these buildings, trying to make them fit into their country.

I agree with you that we should develop some system of getting better advice on it.

Senator GREGG. Well, we have this review board that looks at intelligence activities. It is an independent group of private citizens. It is done as volunteers.

Secretary ALBRIGHT. FIPIAC [President's Foreign Intelligence Advisory Board], yes.

Senator GREGG. I am thinking maybe you set up a group like that that looks at embassy security and construction so that you have both the expertise on the security side and the expertise on the construction side. I do not want another level of bureaucracy that makes things take longer and increases costs, but I do want to have somebody we can go to and have an analysis done that is fair and objective as to whether these prices are reasonable and whether we can afford them.

Secretary ALBRIGHT. I think we should look at some mechanism. And if I might at this point explain why we are actually asking for advance appropriations on this, which I know is not one of your favorite activities, because I think that this would help us in terms of letting contracts for a number of buildings at the same time and to try to figure out a longer-range plan for them.

So those two things together, I would be very pleased to work with you on.

Senator GREGG. I am becoming more sympathetic to advance appropriations in this area, actually, which is something I was not.

I want to talk about other issues but I want to turn to my colleagues and give them a chance.

Senator HOLLINGS. Thank you, Mr. Chairman, and I apologize to you and our distinguished Secretary because we have the hearing upstairs on the mergers of these communications folks and I am going to have to leave.

But getting right to the point, the Secretary has far more important things to turn her attention to. What you and I ought to do is just start a hearing on this request and tell them to bring up a carpenter and whoever else it is and go down chapter and verse. We know about construction and we know about costs and we are going to have to vote for it.

You get one of these super-duper panels, it is just like the super-duper panel of Inman and now we have the one of Crowe, and I have seen more waste as a result of it. You go down to Costa Rica, which should not have been a problem at all, but they have the Crowe protection. They have a $1 million wall around the facility down there and an anti-tank trap, and they do not have a tank in Costa Rica.

I have seen us sell off good properties, namely Rio. I fought that for 20 years. We have sold off the finest facility in the world because, well, the capital is going up to Brasilia and so we sell it off. Now we are trying to build a $94 million one. And 200 miles further, in Sao Paulo, we are trying to build a $103 million one. That is not going to happen.

So what we really need to do is you and I can set up a hearing and get our staff to work on it and we can clear up this thing because it is going way beyond these multi-million-dollar facilities and all the things about the setbacks and land. We just sold off Bermuda. We had enough land there to take all the facilities that we needed and the residences and put them on that fine tract. That Bermuda installation was given to us practically, so we sell it and we put the representative there now, the consul, in a facility that we pay $25,000 a year rent.

There is no continuity or grasp for policy that anybody could support, so I will go along with your commission, but that is just pass-

ing the buck. We can get at it, because we are going to have to vote for it right now.

PEACEKEEPING

Otherwise, let us get to the peacekeeping. Madam Secretary, we have nine of them and we are going to add four more; is that right? We have peacekeeping at Golan Heights, Lebanon, Iraq, Kuwait, Western Sahara, Bosnia-Herzegovina, Cyprus, Haiti, Georgia, and Pakistan. We are going to now add Kosovo, Sierra Leone, East Timor, and the Congo.

Two questions. One, there is no peace and otherwise, the policy. When I say there is no peace, it is obvious in certain places where they talk about peace that there is not any. Otherwise, when you get a policy in Kosovo itself, you have a request for a permanent facility there, like we are going to have partitioned, separate Kosovo. I understand the State Department minions heard that Senator Gregg and I were not going to approve it, so you have it over in foreign operations. A permanent facility, yet you talk of a multi-ethnic society under Belgrade.

So we have a mixed policy and we are sending a signal that no, it is not going to be mixed; we are going to have a separate Kosovo.

I could go down the list. Sierra Leone, where we have war criminal tribunals up in Bosnia and places of that kind and yet we take those who help bring about the revolt and we are trying to set them up down there. And when I say no peacekeeping, I just got the release here whereby the rebels took nearly 500 rifles and four armored personnel from the peacekeeping Guinean battalion that was on its way to keep the peace.

I mean this thing is going to get into a national debate and we are going to have to have a national policy. It is all over the lot, $100 million facilities on Inman or Crowe now. And otherwise coming along in Kosovo, I cannot tell what the policy is. Could you respond, please?

Secretary ALBRIGHT. Yes. First of all, let me just describe our Kosovo policy, which is that we won the war, and I think it is now important to win the peace, a peace in which the Kosovars would have self-government with a great deal of autonomy, leaving for later what its final status would be, and where there are institutions in which minority rights are respected.

And what is happening through the UNMIK [ed. United Nations Mission in Kosovo], the U.N. peacekeeping process, is setting up that civilian administration, getting local police trained, getting schools set up, election registration, working on joint administrative bodies where the Serbs and the Kosovars work together.

No one has worked on this will ever tell you that it is easy, but it is necessary. I believe that having stability in the Balkans is important for stability in Europe and, therefore, for the United States.

The facility in Pristina is actually in your bill, but it is important because we are going to be moving Americans into that region to do difficult work for a long period of time.

I would just like to make the following statement about security in the embassies. I know it is a lot of money but I had to go to Nairobi and Dar es Salaam and look at buildings that were com-

pletely destroyed and go and visit families of those who had died and go and visit the Kenyans in hospitals as a result of that. I think we have a responsibility, if we are going to have our people abroad, which I think is a sine qua non, that they are in safe and secure buildings.

Nobody wants to make them gold-plated, and I would welcome you going through this, but I think we do need to understand that life is different and unfortunately, the beautiful embassies that I love that are in the middle of cities are no longer safe. That is the problem.

On the other peacekeeping operations, we are living in a world that no longer is in tight blocks the way it was during the Cold War. There are conflicts everywhere. Some of them are of great importance to the United States because of where they are located geographically and some of them are because of the horrors that can happen in humanitarian ways. I do not know any American who can sit and watch people being macheted to death or starving or in a position where they are killing each other.

And the peacekeeping operations are a great deal for the United States. They are in areas where we do not want to do it all by ourselves and for 25 percent of the cost, with forces primarily from other countries—most of these peacekeeping operations do not have Americans in them—I think we get a very good bargain.

I believe the United States cannot turn its back on what is happening in Congo or in Sierra Leone or East Timor or Kosovo, for that matter.

Senator HOLLINGS. Thank you, Mr. Chairman.

Senator GREGG. Senator Mikulski.

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

And Madam Secretary, I am going to welcome you to this hearing and just say a few—I will submit an opening statement for the record but first of all, I am so proud of you, and I am so proud of the job that you have done, and I certainly hope that the next President retains you as Secretary of State so we can continue the foreign policy leadership we have had.

I will not turn this into a New Hampshire primary but I am——

Senator GREGG. I have been through one. That was more than I needed.

Senator MIKULSKI. I believe you have brought extraordinary competency and experience to your post. You understand the elements that transform the world. Most of all, you have put American values into action. You have used your communication skills here and abroad and you have worked tirelessly to bring security and peace to an ever-changing world. So I think we are very grateful for what you have done.

I will not add to the embassy building discussion. I think cost is a factor, but so is security. You talk about Nairobi and your visits there and where there were the terrible attacks on our embassy.

Many of the Foreign Service officers live in the State of Maryland and I am very conscious of their safety. We often say a grateful nation will never forget when we hand out our flags at those funerals but I feel the way we do not forget is to make sure it does not happen again. Make prudent use of taxpayer funds but know that the real security needs to be maintained.

Let me go to a couple of questions in my time. First of all, I like this pamphlet: "You Probably Never Think of Us." This is great. It should go everywhere, and we want to thank you for that.

WAR CRIMES TRIBUNAL

I would like to ask a question about the issues related to—Senator Hollings raised the peacekeeping issues but I wonder if you could share with me something on the war crimes tribunal because one of the most important aspects is being able to follow up in terms of the U.S. plan to continue to give funds to war crimes tribunals.

Would you share with us your thoughts on that? This is something that the women of the Senate have worked with Senator Specter and Senator Gregg and Senator Hollings on.

Secretary ALBRIGHT. Yes. First of all, I am very proud of the fact that when I was Ambassador to the United Nations, we were able to set up the war crimes tribunal. Originally it was set up for Yugoslavia and then widened to Rwanda. The purpose of it really is that in order for there to be reconciliation ultimately in any of these countries, it is important that individual guilt needs to be assigned so that the collective guilt can be erased.

The tribunals themselves, I think, are operating well in terms of the numbers of indictees and people who have stood trial.

I know that the women in the Senate have been very interested in this. I had formed this very strong caucus when I was ambassador in New York with six other women—we were known as the G–7—in New York and we managed to get women judges on the war crimes tribunal, one of whom was an American, Gabrielle McDonald, because so many of the crimes had been committed against women. When rape was finally seen as a crime of war, that was a very important step forward.

So the war crimes tribunals are now working actively. Trials are going on. They operate in The Hague and they continue to need our funding. I believe they are a very new and important part of how the international system works. I will get you the exact numbers of indictees.

Senator MIKULSKI. Thank you very much. I know this is something again that Senator Specter convened some conversations with the chief judge of the war crimes tribunal. We have really enjoyed the support of the men of the Senate as we have really looked at war crimes in a way that really reflects the brutality that is done to civilians.

CYPRUS

I want to ask another question related to policy. This is an issue that has been going on for many Presidents, which is the Cyprus question. I know when Ambassador Holbrooke took it on as a special envoy, we thought his significant muscular approach to diplomacy would help resolve this issue. And I wonder now—yet there is one more meeting; there is one more process, and yet Cyprus remains divided. I wonder what you think are, number one, the prospects for a settlement, and number two, if there is anything we should be doing to encourage and facilitate that.

Secretary ALBRIGHT. Well, the Cyprus issue has been with us for a long time and one of the peacekeeping operations is the one that is there, UNFICYP [United Nations force in Cyprus]. I think many of you have been to Cyprus and you have seen the island divided by the green line and on one side it looks like technicolor and on the other, black and white.

At the current stage, we have gone back and forth in the kinds of talks that are most useful and it turns out sometimes muscular diplomacy is not the kind that works; sometimes it does. And I think that we are now involved in different kinds of talks, which are proximity talks, under the auspices of the United Nations—they just finished a set in Geneva. There is going to be another set of talks in May in New York. We continue to be facilitators in trying to get a comprehensive settlement.

The United Nations and the parties have agreed not to engage in any public discussion about the talks and I think frankly that is helpful because they are moving forward. We support that approach and we are going to keep working with both parties in this.

Senator MIKULSKI. Do you think we can get this done before the end of the Clinton Administration?

Secretary ALBRIGHT. I wish, but I cannot make a prediction on it because it is one that we all care about a great deal but it depends on how these talks go. We wanted to have 1997 be the year of Cyprus and this is one of those long-running unfortunate conflicts—but we are working hard on this, Senator.

Senator MIKULSKI. Thank you very much. Madam Secretary, I could ask lots of questions. We have a vote. I am going to yield back any time I have in the interest of maybe accommodating Senator Lautenberg.

Secretary ALBRIGHT. Thank you for your kind words, Senator Mikulski.

Senator GREGG. Senator Lautenberg.

Senator LAUTENBERG. I, too, want to issue kind words, Madam Secretary. I join with Senator Mikulski in expressing my admiration for a job extremely well done under very difficult circumstances. And it is not your fault, but it seems that the portfolio continues to expand, both in magnitude and in dispersion. It does not get easier.

One of the things that I think we are obliged to do is to make sure that we take care of the people that we send abroad to represent us, and the CJS Subcommittee funds some of the most important, and often overlooked, elements of the international affairs budget.

The one thing we have to look at, and I really do respect the inquiry of the chairman, in terms of the costs for doing these things because I think it ought to be aired. I do not know that we can come to a conclusion before we really do an in-depth analysis, but I know one thing, that the human values, costs for life, the fathers, mothers, brothers, sisters that we send to represent us I think is not terribly different than those that we send to represent us on the battlefield.

The one thing we do, and I take great pride in it, is we rarely, rarely send our troops anywhere without the infrastructure necessary to protect them, even down to the nutrition, you name it.

And we make mistakes. These are huge, complicated exercises. But the intent is always to provide the best in terms of security that we can.

And frankly, I have to tell you something. I do not see it much different with diplomatic personnel abroad. When we ask people—this is a great personal sacrifice in almost every case. People do it. They do it, I think, zealously, fully committed to their responsibilities, proud to represent their country, but it is a significant personal inconvenience—separation from families, et cetera.

And I think the least that we ought to do is make sure that we do whatever we can to protect their lives and their well-being.

Now, I was recently in Australia and I went through Embassy Row there. By the way, if anyone wants to be an ambassador, that is one incredible place to have to live. It is a very nice embassy facility. But the fact of the matter is that if you look at that Embassy Row and you see the countries represented there, a lot of these structures are what I would call magnificent. And if we want a bare bones American presence in places, I think we have to think of the consequences. We are a great, powerful Nation in the world but it does not mean that we have to throw our money away. And maybe we have to review our policies about what kind of companies we bring in to construct these facilities.

Are there still prohibitions, Madam Secretary, against native personnel for nonsensitive jobs in our embassies?

Secretary ALBRIGHT. Well, we have Foreign Service nationals that work in our embassies who are doing a lot of different work. In terms of the contracting, I think we have to be exceptionally careful, depending upon where we are.

Senator LAUTENBERG. But there are no limitations on the number of——

Secretary ALBRIGHT. Of Foreign Service Nationals——

Senator LAUTENBERG. Yes.

Secretary ALBRIGHT. No. I mean they are some of our best workers.

Senator LAUTENBERG. I thought that for some time we were really trying to shy away from employing local folk because of concerns about security.

Secretary ALBRIGHT. It depends on the job and the country.

Senator LAUTENBERG. Well, in any event, I hope that we will be able, Mr. Chairman, to support these programs. All the questions are legitimate about cost but I remember the Moscow embassy and the not-so-funny joke that happened there when we rebuilt and we rebuilt with the same weaknesses that the original facility had and spent a ton of money.

One cannot deny the threats that come from terrorist activity, be it against our embassies in Dar es Salaam or Nairobi or against important facilities and structures within this country, like in Oklahoma City or the Trade Center. These are very real threats and I do not think we dare take them lightly.

So I encourage you, Madam Secretary, to continue to make the case as you so skillfully do, and the value of these that goes beyond simply and not excluding the dollars and cents side of the thing. So I think the case has to be made for the value of that impression, that marketing facility, that home, that structure that stands as

sovereign American territory. I think we have to be exceptionally careful there.

Mr. Chairman, I ask unanimous consent that my full statement be included in the record and I would ask simply this.

[The statement follows:]

PREPARED STATEMENT OF SENATOR FRANK R. LAUTENBERG

Mr. Chairman, thank you for holding this hearing to aid our consideration of the fiscal year 2001 budget request for the State Department.

The CJS subcommittee funds some of the most important and often overlooked elements of the international affairs budget:

The costs of personnel and operations for the State Department and our embassies and consulates abroad, embassy security and construction, contributions to international organizations and peacekeeping, exchange programs, international broadcasting, and other important organizations such as the National Endowment for Democracy.

The Overseas Presence Advisory Panel, in its excellent report, has made a number of important recommendations to improve State Department operations. I hope you will be able to assure us, Madam Secretary, that you are taking these recommendations seriously and will put many into practice.

America's diplomats are truly our first line of defense, helping to shape the global environment, foster positive changes, and avert conflicts where possible. We need to ensure that our Foreign Service Officers are selected and trained well, at every stage of their careers, and have the tools and resources they need to function effectively.

While I may raise questions focused on areas where I believe we could do better—like training, personnel management, and the effective use of embassy construction funds—I want to assure you at the outset that I believe you have managed the State Department well and I am inclined to support your budget request.

Mr. Chairman, I look forward to hearing from the Secretary and engaging in a thorough consideration of the State Department budget request.

Thank you.

KOSOVO AND BOSNIA

Senator LAUTENBERG. In Kosovo, as in Bosnia, we just cannot seem to establish a multi-ethnic society. The violence between the groups is so obvious. I am concerned about escalation or resumption of military conflict there.

Is there anything more you think we can do to help bring these people together besides simply providing security services?

Secretary ALBRIGHT. I will answer but can I just say one more thing about the diplomats? I think people have a sense that our diplomats are out there in striped pants at receptions. Basically, as I travel around, these are very hard-working people who often live in substandard conditions. When I was in Moldova, our ambassador there was washing dishes in the bathtub.

There are some big, fancy places that are great but there are an awful lot of places that are not. Our diplomats are the first line of defense and I really appreciate your comparing them to the military because I think that they deserve that kind of comparison and that kind of treatment. I invite people to come down and look at our memorial wall in the State Department of the number of diplomats that have died in the service of our country.

On the question of Kosovo, first of all, let me talk about Bosnia because I think that there, there is movement toward increasing multi-ethnic cooperation. The various central institutions are working.

And then as you know, in Croatia, they have just had democratic elections and chose a democratic prime minister. The fact that they

are elected there is going to have an effect on Bosnia because President Tudjman supported the Bosnian Croats in a separatist way so that they would not be part of the federation. What has happened is that President Ejup Ganic and Prime Minister Rachanhar are talking about not supporting them and encouraging them to be a part of the federation, as well as saying that the Serbs that fled out of Croatia would be welcomed back. So that itself sends a very important signal.

In Kosovo, what the civilian administrator is trying to do there is to create more and more of the joint kinds of administrative councils and start registration for elections so that the minorities will be respected in various areas. I think the word multi-ethnic is harder to talk about for Kosovo because the Serbs are really a minority there, so it is a matter of respect for minority rights.

But I think we have to push on projects where they work together or schools where they learn together, and that is the purpose of the civilian implementation and for which we are asking money in the Kosovo supplemental.

Senator LAUTENBERG. I will close with just a reminder. Whenever I hear people ask the question, "Are we to be the policemen of the world?" and "How long will we have to be there?" it is an obvious but sometimes necessary reminder that we are in Japan 50 years later, in Germany 50 years later, South Korea, 50 years later, and we are there for a reason. We are not there because it is fun to serve in these places that far away from home. It is a tough task. But we have an interest, a national interest, in making sure that these areas remain stable.

And so it is going to be. If you are a leader, you are a leader. And when you have a leadership responsibility, you have to fill it in ways that are not always so obvious. And ours, I think, is to make sure that the American presence is there to say we are going to follow through on our commitments.

Once again, my commendation, Madam Secretary. You and I are in the twilight of our careers here but I just heard Senator Mikulski ask you to continue. She may need the permission of the next President, but other than that.

Secretary ALBRIGHT. Thank you, Senator.

Senator DOMENICI. Madam Secretary, it is nice to be with you.

Secretary ALBRIGHT. And with you, Senator.

INTERNATIONAL LAW ENFORCEMENT ACADEMY

Senator DOMENICI. I am going to start with a couple of parochial issues and then move to a couple of others. First, I want to say to you that there is a personal frustration of significant magnitude between your Department, the Justice Department and this Senator regarding the International Law Enforcement Academy, called ILEA. I just want to say, you know, we instructed the State Department that that facility should be placed at the facility in Roswell, New Mexico.

I met with Eric Holder for an hour 5 or 6 months ago and with people from your shop and they were going to work something out. I imagine they were worried about this hearing, so within the last couple of days they have sent me a letter. The letter, as I see it, did not accomplish much. It certainly is not acceptable. But it took

5 months for that letter and they are hounding my office for an answer within hours.

Well, there is no answer other than that is not what we intended and that will not work. I do not expect you to tell me how it is going to work but I just want to remind you that we did struggle up here and we did suggest that it be located there in a complex that is surplus for all intents and purposes, and rather decent. I believe something has to be worked out, and I would just ask you one more time whether you and the Justice Department and Eric Holder as their negotiator could go back to the table and try to get us something that is more acceptable. I hope you would do that and I await your answer.

Secretary ALBRIGHT. I will try, Senator. They have really worked on this and I think that the proposal that they made is one that we thought would go toward meeting what you wanted, that we intend to train U.S. police for U.N. civilian police missions there and anticipate 500 to 700 trainees a year at a cost of $3 to $5 million at that place.

But if this does not meet your——

Senator DOMENICI. It does not.

Secretary ALBRIGHT. Okay.

Senator DOMENICI. I would like very much to consider that today you are saying you will try.

Secretary ALBRIGHT. I will, sir.

Senator DOMENICI. Let me just ask about one more item that is parochial with reference to my State and Louisiana and then I will move away from that.

ANTITERRORISM ASSISTANCE PROGRAM

I would like to raise an issue with you that is not directly under the jurisdiction of this subcommittee, but I will not be able to ask you the question elsewhere. It has to do with the anti-terrorism assistance program. It has been extremely successful in training over 7,000 law enforcement security officials from over 40 countries in techniques and theories of combatting terrorism.

Now, to provide the necessary logistical support and extensive training and the ranges that go with it, Louisiana State University has partnered with their Academy for Law Enforcement and with the New Mexico Institute of Mining and Technology and their expertise in terrorism. I would like to note that the State Department's anti-terrorism assistance program has benefited, from what I can tell, substantially from the infrastructure investments made by these institutions.

Now, will the Department of State continue, if this program is needed, to take advantage of these sites for training under the ATAP program?

Secretary ALBRIGHT. I know that we have benefited, sir, but I cannot answer the question. I will get back to you on it.

Senator DOMENICI. All right. And while we are at it, I will pose two others. What is the current training schedule? And another one: the subcommittee has not yet received the full budget request in the form of budget justification as to what is proposed for ATAP in the 2001 budget. I wonder if we could have that.

Secretary ALBRIGHT. We will get that to you.

Senator DOMENICI. Thank you very much.

WORLD TRADE ORGANIZATION AND CHINA

I wanted to ask a question because I have not heard your views yet and it is obvious around here that it is the basic discussion regarding the WTO [World Trade Organization] and China. With the white paper and the rather startling statements about the right to use force if necessary to bring about reunification in Taiwan, how do you and the President expect Congress to delink trade from this threatening behavior?

Will the administration push a vote on permanent normalizing of the relations with China—this is the second question—if Europeans have not come to an agreement with China? Would you answer the first one first, however?

Secretary ALBRIGHT. Sure. First of all, let me—I think we have to separate out what it is we are trying to do with China. We believe that it is important to engage with them. Even though we disagree on a whole host of issues, they are a major power not only in the region but increasingly globally, and it is essential that we carry on a, as I have called it, a multi-faceted relationship with them. So for national interest reasons, I think it is essential to deal with them.

For economic reasons, we believe that permanent [Permanent Normal Trade Relations] PNTR is important. They have access to our market. We want to have access to theirs and we think that the WTO deal that was negotiated very painstakingly is good for U.S. exports and for our workers and for farm interests. It just seems fair that if they can be in our market, we should be in theirs.

We believe that the timing is important to get this done early. And the truth is that there will at some stage be a European deal and I think that whoever—the way the WTO works, you get the best deal if you are a part of it. And we think that we have a good deal that the Europeans probably will not be able to get beyond, but we should work this on our timing, is the sense that I have.

I know that a lot of people have concerns about the human rights issues in China. We have sponsored a resolution in the U.N. Human Rights Commission to condemn China and I think that that makes our point very clear. I also think that for those who care about human rights, the opening to China through trade and business is another way to make our points known.

On the issue of the white paper, I think that we have made quite clear that the issues between Taiwan and China have to be resolved peacefully. Our concern over what they have said is we reject the use of force as far as dealing with that issue and we think that the Chinese statement is counterproductive to creating the kind of atmosphere which is necessary for cross-strait dialogue to go forward. We have made that point quite clear to the Chinese.

Senator DOMENICI. Let me ask, do you think the white paper states a position regarding Taiwan and the use of force that is different from China's position heretofore?

Secretary ALBRIGHT. They have basically said before that they want to resolve it, that they do not have a lot of time and they

have, at various times, made clear that they have not given up the use of force.

I think part of the issue here is the timing of this—it was difficult to determine why they did this at this time. We see their statement as counterproductive, but we have pressed them on the idea that the resolution of this has to be peaceful.

Senator DOMENICI. I assume you have evaluated the situation on the Hill as being more affected by the statements in the last white paper regarding Taiwan than any other single issue. I think, from what I feel around the Senate, the Senate might have a stronger position toward approving PNTR. There are a few who would be natural to approving it under their normal trade positions that are not doing it, and it is because of the Taiwan situation.

I assume you know that and you know that about the House.

Secretary ALBRIGHT. Yes. I think, Senator, the very important point here, and I know that it is hard to do, is to keep these issues separated. The WTO accession is, we believe, something that works in our favor and is worth doing for the national and economic interests that I have stated. And it brings China into the WTO rule system, allows us to bring trade disputes to that mechanism, and it is an advantage to us.

It does not mean that we are not concerned about Taiwan and, as you know, the Taiwan Relations Act does, in fact—we have obligations in that, which we will continue. But I think for those who are trying to link these subjects, they should be looked at separately.

Senator DOMENICI. I have a series of questions regarding the proposed Counterterrorism and Security Training Center. I will just submit those and if you would answer them, I would appreciate it.

Secretary ALBRIGHT. We shall do that, yes, sir.

Senator DOMENICI. And then regarding the year 2000 across-the-board reduction, albeit small, I have a series of questions for you to answer for the record as to what you actually did in effecting that across-the-board reduction on projects and accounts and I will detail what I would like. I hope you would expedite your answers.

Secretary ALBRIGHT. We shall do that.

Senator DOMENICI. I note the presence of the chairman of the full committee and whatever other questions I have, I will submit for the record.

Secretary ALBRIGHT. Thank you, Senator.

Senator STEVENS. Madam Secretary, thank you very much for your courtesy meeting with me on other matters. I just dropped by to thank you for that courtesy. I have no questions right now.

USIA AND ACDA MERGER

I do think we have some problems because of the merger of USIA [United States Information Agency] and ACDA [Arms Control and Disarmament Agency] in terms of your Department. I hope we can talk about that sometime. It does appear that—let me put it this way—it is something I do not want to get into too deeply right now but your Department has 18,000 employees, a secretary, a deputy secretary, six under secretaries, a counselor, 37 assistant secretaries or assistant secretary-equivalents and 94 deputy assistant secretaries.

Justice, that has four times the budget and seven times the employees, has considerably fewer people on the executive supervisory level than you do. I am not saying that we should mandate any more than a review of it, but I do think that it calls for review to see whether or not that structure that is in State now of such a top-heavy senior policy-maker group is warranted in view of the consolidation of those agencies with yours.

It is something we should look at and not get into any kind of political wrangling about it, I am sure. If you add the additional ambassadors-at-large and special representatives, coordinators and special advisors to that list, it is a considerable number of senior executives in the system, and that has a lot to do with the funding problems of your Department, we think.

Secretary ALBRIGHT. Well, if I might say first of all, on USIA and ACDA coming in, it has been remarkably important and good because having public diplomacy as a part of our daily policy activities has been essential in this world of information exchange.

And in terms of having ACDA inside, I think that as we talk about the threats that face this country, proliferation is the number one threat to us and I think that having ACDA central to the workings of the Department is essential.

In terms of the numbers, we currently have a review process in place for various bureau requests for assistant secretaries and deputy assistant secretaries and we have an internal process of justification for the reasons that you have mentioned.

But in terms of comparing us to the Justice Department, there are now, I think at this moment, 187 countries in the United Nations. This is a large world with many countries and many subdivisions and we need to have officers that are capable of dealing with specific countries.

I would also state that whereas for 50 years we handled the world in terms of the red versus the red, white, and blue, we now have many countries that we must deal with individually and understand them better and I have a problem, frankly, that we often do not have enough Foreign Service officers to do the job.

Then there is another whole thing that is happening. I think there are certain countries or certain functions where we have been legislated to have a special advisor or we need to have a special negotiator.

So I would agree with you that in looking at charts, it looks like a proliferation of top people, but I would be happy to justify them with you because I think that we need them while going through our own process of review, which we are doing.

Senator STEVENS. I am not indicating at all that we are going to take any action through this committee, as far as I am concerned, but I do think that the management structure of the Department is very top-heavy in terms of the division of the money that you have available. I know, and we have spoken about this, that your Department has not had the increases it should have but with that management structure—the money that you do have available is going to the top side too much.

I think you ought to create a process whereby the structure is reviewed and some of those positions are eliminated and put more people into the process of being Foreign Service officers rather than

assistant secretaries. Each of those assistant secretaries has a separate staff and it becomes a management problem, I think, in terms of the money that is available.

Again, I just raise it from the point of view of an examination of the departments covered by this bill. The division of money in your Department, the management is significantly different than the other two.

But I wish you bon voyage and success in your trip.

Secretary ALBRIGHT. Thank you.

EMBASSY SECURITY AND CONSTRUCTION

Senator DOMENICI. I have one last question.

The President's request for embassy security and construction is spread out over fiscal year 2000 to fiscal year 2005 and it totals $4.7 billion. The Crowe Report has a list of recommendations and it states that "The Department should look specifically at reducing the number of diplomatic missions by establishing regional embassies." That is a quote from the report.

While no one, including this Senator certainly, is asking you to dramatically cut corners with reference to security for our diplomats overseas. I am on your side in terms of that. If we are going to err, we ought to err on spending more, rather than less. But this report recommends that we reevaluate all the embassies that we have worldwide and decide which ones we really do need, in light of the suggestions made in the report.

I would just ask, are there ways to reorganize some of the diplomatic efforts? Is that effort moving forward, since the receipt of the report?

Secretary ALBRIGHT. Yes and no. Let me just say this. We have an additional report done by Louis Kaden on overseas presence. That report recommends universality of representation and the importance of right-sizing missions in every part of the world.

As you know, the embassies serve as platforms for other agencies abroad. The right-sizing effort is to try to make sure that we have the right mix of people in various embassies. And I am working with my Cabinet colleagues to make that happen.

We also are looking at regional hubs that would be able to do a lot of the support work, technology being what it is. As Nairobi has been rebuilt, it is rebuilt to be a hub for East Africa and we are looking at cost savings in that regard.

The other innovation that I think is most useful, that Ambassador Rohatyn in Paris has come up with, is to have these presence posts where there are one or two people; for instance, Lyon was the first one he came up with, so that we have some representation there for business purposes.

So we are doing a review of what is the appropriate way to represent America in the 21st century.

SERVICE DELIVERY

Senator DOMENICI. I would just add by way of observation, to the extent that your Department is service-oriented and there are many things beyond service that you do—service to people, service to institutions—the revolution that is occurring in the United States and the world in terms of how productivity has increased in

the delivery of services is clearly known by everyone. That is one of the reasons America is succeeding with such sustained growth—we have high productivity increases in service businesses in America.

I would just suggest that such an evaluation of the service delivery in the State Department might be appropriate, also. It may be that we are not moving ahead fast enough with new technology, as fast as a major international institution in business that has 43 offices and has to serve 26 countries I just suggest that we do not want the State Department to lag behind in terms of increasing the productivity of your workers through innovation.

Secretary ALBRIGHT. I thank you for that, though I have had some of the most fascinating discussions with people who are in the lead in technology, and given the way that our appropriations process works and getting new computers and all that, there is no way that we can keep up with the private sector. It is quite stunning. You know, we just killed our last Wang computer a couple of years ago.

So this is a serious issue and one of the questions that I spoke with one of the CEOs of one of these amazing companies is whether we should not be leasing things or doing something so that we can stay ahead of the curve. But we are trying to use it. Our visa systems are automated. We have websites. We do all the kinds of things we can.

Senator Mikulski pointed this out. I hope you will look at your book in terms of things that we are doing as a service department. Thank you.

Senator DOMENICI. Let me just close by saying some of us are trying to get 2-year appropriation bills. That would help some. For some of the equipment we probably ought to have 5-year budgets, but we are not going to get there. We will have a major argument this year and we might get 2-year appropriation bills and 2-year budgets, which I think add a little bit to the capacity to be flexible.

Secretary ALBRIGHT. Well, we are asking for some advance appropriations in the building part because it makes it easier for us to have multiple contracts and to try to buy land ahead of time and try to take advantage of some of this. That is the reason for asking for that. Thank you.

Senator DOMENICI. Good luck in your trip.

Secretary ALBRIGHT. Thanks a lot.

Senator DOMENICI. Thank you, Mr. Chairman.

Senator GREGG. Thank you, Senator Domenici.

Actually Senator Domenici and Senator Stevens asked two of the questions I was concerned about. So following up on this technology issue, we have in this committee tried to improve the technology capability of the agency. Maybe you can give us an update as to where you think you stand.

Secretary ALBRIGHT. Well, I think that we have made major progress on this in terms of moving things forward. We are working off of the recommendations of the Kaden Report, the OPAP [Overseas Presence Advisory Panel] Report, and trying to apply knowledge management at overseas posts, use of Internet and Internet-like technology, the development of common information

technology platforms. We continue to work on this. We have made progress but we have to make more.

I can get you—I will get Under Secretary Cohen to provide you with some more detailed information.

E-MAIL

Senator GREGG. What is the status of e-mail in the agency? Do you yet have the capacity to communicate with people out in the field?

Secretary ALBRIGHT. We do, but part of our problems always are how do you do this with classified information and how you keep classified and unclassified separate.

Senator GREGG. I understand. Well, we are still very interested in making sure you are on the cutting edge of technology to the extent you can be. So if you have concerns, we need to know about them because I think you will find the committee sympathetic.

Secretary ALBRIGHT. Thank you.

STAFFING

Senator GREGG. I also want to echo what Senator Stevens said about staffing. We looked at this huge chiefs-versus-Indians situation and it does seem like there is an awful lot of chiefs and maybe not enough Indians. You probably need a lot more Indians, a lot more folks out there in the field than what you have, and a fair amount of the costs are being absorbed by the large overhead of the central office.

Obviously you have responded to that but it remains a concern for not only the chairman of the full committee but for myself. Do you have anything else you want to say on that?

Secretary ALBRIGHT. I know that you have been interested particularly in what is purportedly my office, which it really is not. The Office of the Secretary, for instance, currently has 380 positions but only 17 of them are the ones that are affiliated with me specifically. The Office of the Secretary has increased by three since 1990.

So part of what the numbers are that surround the Office of the Secretary generally is the Operations Center and the Secretariat. Our Operations Center is up 24 hours a day, deals with every single problem that the world has to deal with. We are getting a letter to you that goes into even greater detail on all of this.

Senator GREGG. You do not see that there would be some advantage maybe in reducing senior staff, which as Chairman Stevens mentioned, is very high compared to other agencies, in exchange for getting more junior staff on board, people out in the field?

Secretary ALBRIGHT. I think frankly we need both. All I can tell you is that the under secretaries—I do not know which one you would eliminate and I am asking for a new one or exploring the possibility of an under secretary for security, for all the obvious reasons.

And I think if you look at the list in terms of what needs to be done, these are people that, given the complexity of the issues that now are foreign policy, are highly important. I mean we have to deal with the proliferation and technology issues. We have to deal with the variety of human rights and global issues, such as climate

control. We have to deal with economics on a daily basis and with political issues. We have to manage the department.

So that is what the top layer is and I think the assistant secretaries are then assigned according to functional or regional bureaus.

It is a big world with a lot of problems, and I think we have to make sure we have the right mix. And I do go through this review. We have a corporate board, so to speak, of the top people who are reviewing the issue of the assistant secretaries and the deputy assistant secretaries.

But it is very much on our minds. I mean we are not into proliferation of people, but there clearly is a proliferation of activities and the number of things that now are part of a foreign policy agenda.

Senator GREGG. That is sort of Parkinson's rule, though, right?

Secretary ALBRIGHT. But I think that you would not want us, for instance, not to be involved in negotiations on open skies or on hush kits or biotech food or human rights reports. I mean these are all issues that now are foreign policy issues in one form or another. We did not ask to have export licenses come back to the State Department but now review that on a case by case basis. There is a whole host of technical issues that are now part of foreign policy, and that takes people.

Senator GREGG. It is possible, as Senator Mikulski suggested, that you may continue to be Secretary of State throughout this millennium but assuming you are not and assuming you are heading into your last year, I would be interested—not now but as you reflect on how the Department could be changed, improved, adjusted. I would be interested in that, structurally and operationally. It would be very useful to us to have that sort of reflection.

Secretary ALBRIGHT. I would like to work on that with you. I used to say, and I guess it was kind of presumptuous at the beginning of my term, to say that I was going to be the last Secretary of State of the 20th century. I made that and I actually am the first of the 21st.

I think that what I have been working on very hard with the State Department is to create a department that is ready for the 21st century. We have gone through a lot of changes. I think the reorganization that we did with all of your help has been useful and important and we have to keep the process going. I mean it is not ever a done deal. So I can assure you that we are reviewing it and I will continue to do so.

Senator GREGG. It was Secretary Daley who said he was the longest serving secretary of the 21st century.

TAIWAN AND CHINA

Just one last question for my own personal thoughts and background. What do you see happening—and this is nothing to do with the operational side—what do you see happening with this Taiwan and China situation?

Secretary ALBRIGHT. Well, I think that it is obviously one that we are watching very carefully, but we have made quite clear to the Chinese that we expect the Taiwan situation to be resolved

peacefully. That has been something that they had signed onto and that should not change.

We have obligations under the Taiwan Relations Act. We will obviously continue to carry those out, and in our various dealings with the Chinese, which are quite extensive, make very clear to them that anything but a peaceful resolution of this issue is not acceptable.

Senator GREGG. Well, recent comments by members of the Chinese government appear to be very belligerent toward Taiwan and even toward the United States. Do you view them that way?

Secretary ALBRIGHT. Well, I think that we have to assess the context in which they are being given. We obviously are concerned, but some of it has to do with elections in Taiwan, some with internal issues in China. China is a country that is examining its role in the world. They have had as an agenda to get pieces, by getting Hong Kong and Macau.

Taiwan has been a huge issue to them. It has come up in every single discussion I have had with them over the years. They are clearly much more aggressive about saying that Taiwan is a part of China than they were like 4 years ago. But they know that the only acceptable course here is a peaceful reunification and it has to be through a peaceful dialogue. We have made that point clear.

Senator GREGG. You do not think they would ever use force?

Secretary ALBRIGHT. They know that it would be of the gravest consequence to the United States.

Senator GREGG. Did we miss an opportunity in not agreeing to WTO status for them a year and a half ago when the premier was here?

Secretary ALBRIGHT. I think that there was not an agreement at that stage, but there is now, and I think that we would miss a huge opportunity if we did not give them permanent trading status now because that is the way to make sure that we have access to their markets, that they become a part of the international rulemaking system.

And while there was not a deal, we felt, last year, there is a very good, painstakingly negotiated deal now, and I hope very much that we can get permanent trading status done as soon as possible.

ADDITIONAL COMMITTEE QUESTIONS

Senator GREGG. Well, we appreciate your time, Madam Secretary. It is generous of you to come, and we will continue to work with you on these issues and enjoy that opportunity.

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

QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

INTERNATIONAL LAW ENFORCEMENT ACADEMY (ILEA)

Question. Are you aware that Congress mandated in last year's Foreign Operations bill that the Western Hemisphere ILEA "shall" be located at Roswell? Are you aware that this is the third year in a row that language was included in the Foreign Operations bill?

Answer. I am aware of the language in the fiscal year 2000 Foreign Operations bill directing that the Western Hemisphere ILEA be established at Roswell. I am also aware that in the previous years, as Congress focused on the future of the

deBremmond Training Center and location of the Western Hemisphere ILEA, nonbinding language on this issue was included in the respective Foreign Operations bills and reports.

Question. Does your Department intend to comply with the law? If so, when? If not, why not?

Answer. The Department of State intends to comply fully with the law and has taken concrete steps toward that end. INL funded a Treasury assessment of remodeling deBremmond, conducted by the Office of Artesia Operations (OAO) on January 11, 2000. A comprehensive, although preliminary, report of this assessment has been forwarded to Senator Domenici's office. The Department currently is engaged in productive discussions with members of Congress and their staff regarding Senator Domenici's and Congressman Skeen's detailed proposal to establish an ILEA for the Western Hemisphere in Roswell which would rely on a consortium of academic institutions for technical and administrative support. Once an agreement is reached, the Department is prepared to begin work on the project immediately.

Question. Will you examine this alternative proposal, share it with your staff and ask them to work with us this year in a timely manner to get this problem resolved?

Answer. Department staff and principals have reviewed your proposal and are fully prepared to work hard to get this problem resolved. We believe we are in a position to establish the type of academy in Roswell you describe in your recent proposal. We look forward to hearing from you regarding our proposal to broaden the focus of the academy to include worldwide candidates from all ILEAs around the globe.

Question. In concert with the Department of State, Louisiana State University (LSU) and the Louisiana State Police Academy (LSPA) have used discretionary funds to accomplish estate acquisition and construction activities designed to maintain existing facilities, and to meet the needs of an expanding ATA program. For example, the State of Louisiana has recently purchased 1,400 acres of land at a cost of $3.5 million for installation of ranges for the ATA program. It has provided land and site preparation funds for the construction of a specialized firing range.

NMT has also invested its discretionary funds in the ATA program. It is in the process of a $5 million construction program to provide expanded billeting space for ATA participants. It has spent over $100,000 to upgrade explosives ranges, and to convert explosive ranges to small arms firing ranges. NMT has set aside over 5,000 acres of land to be available for ATA as maneuver space for ATA field training. Lastly, NMT has made available the extensive explosives ranges operated by its Energetic Materials Research and Test Center for use by the ATA program.

The Department of State has also fully supported this cost sharing approach, and used its funds to invest heavily in the training infrastructure for the ATA program. At the LSPA facilities in the vicinity of Baton Rouge, the DOS has invested over $400,000 for the construction of a close combat firing facility ("shoot house"), with the land and site preparation costs paid for by the State of Louisiana.

In short, the benefits by use of the Cooperative Agreement between the Department of State and the state organizations of Louisiana and New Mexico have indeed materialized. The total of the individual investments by each party to the ATA training infrastructure has been funded in a first rate training complex and training program that could not have been funded by a lone participant.

The State Department Antiterrorism Assistance Program has benefited from substantial infrastructure investment made by these host institutions. Will the Department of State continue to take advantage of these sites for training under the ATAP program?

Answer. ATA has financed much of the infrastructure improvements that have been implemented at these host institutions over more than ten years of program training activity. For those not directly financed, ATA has indirectly subsidized their construction through indirect cost rates and by utilizing improvements made by host institutions. The training site of the New Mexico Institute of Mining and Technology (NMT) at Socorro, NM will continue to be the exclusive site for ATA's presentation of the Rural Border Operations course, because it offers a unique rural training environment that cannot be replicated in the Washington, D.C. area.

It should be noted, however, that NMT was already planning to build new billeting to support other training programs supported by DOD and the international scientific community. ATA will not be the exclusive beneficiary of this new construction.

The purchase of a 1,400 acre site in Louisiana was not meant solely for ATA purposes. The existing training facility near Baton Rouge was forced to close due to encroachment of residential areas, and a new site had to be purchased to replace it.

Question. What is the current training schedule?

Answer. The detailed schedule for the balance of calendar 2000 is attached.

[CLERK'S NOTE.—The attachment was not suitable for production in the record.]

Question. The Subcommittee has not yet received the State Department's full budget request in the form of the budget justification documents. What is proposed for ATAP in the fiscal year 2001 budget?

Answer. In fiscal year 2001, the State Department has requested a total of $68 million for the Anti-terrorism Assistance (ATA) program: $38 million for the training program and $30 million for the Center for Anti-terrorism and Security Training.

Question. What is the "Counterterrorism and Security Training Center?" Is it an existing, operating facility or a proposed new center for the State Department?

Answer. The Center for Anti-terrorism and Security Training, or CAST, is a center to be established in the Washington, D.C. area that will bring under one roof the majority of the State Department's Anti-terrorism Training Assistance (ATA) programs, which train foreign officials at 7 different locations throughout the United States. Additionally, it could provide facilities at additional expense for the Diplomatic Security Services' (DSS) in-service training program, which is currently conducted at 5 locations.

Bringing ATA and DSS training together will improve the interaction between DS agents and their foreign counterparts, and it will enhance the ability of both groups to protect more effectively U.S. personnel and facilities overseas. CAST is not an existing facility. The total cost of the CAST, depending on the site selected, will be between $30 million to $50 million.

Question. Where is the State Department currently conducting most of its training?

Answer. The State Department provides training for foreign security officials in anti-terrorism methods under the Anti-terrorism Training Assistance program (ATA) at 7 different locations throughout the United States, including Georgia, Louisiana, New Mexico, Virginia, Washington, D.C., and Oklahoma. The Diplomatic Security Service trains U.S. Diplomatic Security Agents at five different locations in the Washington, D.C. area.

Question. What has changed to drive the relocation of training?

Answer. Several factors are driving the State Department's effort to consolidate its Anti-terrorism Training Assistance program (ATA) under one roof at the proposed Center for Antiterrorism and Security Training (CAST).

The proliferation of terrorist groups and their increasing operational sophistication means the United States must increase its preparedness and capability to combat terrorism abroad. The core mission of the ATA program is to train foreign security services in securing U.S. personnel and embassies in host countries and in protecting Americans living and traveling abroad. This is our first line of defense against terrorism overseas.

To meet these challenges, the State Department needs to increase its ATA training program from approximately 2,000 students per year to about 3,000 students per year. This increase will require the State Department to manage ATA more efficiently and effectively.

ATA training is conducted at 7 locations throughout the United States. The State Department does not have first right use at any of the facilities where it conducts ATA training. As a result, some countries must wait up to two years to receive training at existing locations because training space and facilities are very limited.

Training space is at or near full capacity at the 7 sites currently being used by ATA. DSS cannot accommodate the requirement for adding approximately 1,000 ATA students per year with existing facilities. Moreover, course costs at many of the current ATA training sites include overhead charges and/or tenant fees of up to 20 percent. These costs reduce substantially the number of students the Department can train each year under the ATA program.

The Diplomatic Security Service is also stretched to capacity at its own in-service training facilities in the Washington D.C. area. The State Department therefore proposes to establish CAST in the Washington, D.C. area to train most ATA students and to provide DSS with facilities for in-service training. Training ATA students and DS agents at a centralized facility in the Washington area will result in management efficiencies and cost savings.

CAST also will foster senior-level interaction between foreign security officials and U.S. counter-terrorism and law enforcement officials located in Washington, D.C. This interaction cannot be accomplished while ATA training is dispersed at seven locations throughout the United States outside Washington. This interaction builds political will and strong working relationships between U.S. and foreign security officials, which are crucial to deterring and preventing terrorist attacks, and effectively managing terrorist incidents.

ATA students will also benefit from interaction with U.S. law enforcement agencies and military units which share responsibilities for securing U.S. personnel and embassies overseas. Training ATA students at the CAST in the Washington, D.C. area will allow foreign security officials to interact with Washington agencies, such as DS agents who are responsible for security at U.S. embassies, with Marine Corps Security Detachment units which guard U.S. embassies, and with other agencies responsible for dealing with terrorist threats abroad.

Under ATA's current training facility locations ATA students do not have the opportunity to interact with U.S. law enforcement agencies, who are responsible, like their host-country counterparts, for securing U.S. personnel and embassies overseas.

Question. Can the current providers support more training?

Answer. Through current arrangements, additional instructors can be provided. However current facilities have little remaining capacity.

The Department of Energy's Nonproliferation and National Security Institute (NNSI).—The temporary arrangement with DOE was made to alleviate a facility shortfall until a centralized training facility can be established.

NMT, Socorro, NM.—The facilities at this location are adequate for current and future requirements.

Question. Are you absolutely sure the current training provider(s) cannot provide more training capacity?

Answer. Yes. As previously stated, our primary need is to access dedicated training facilities to meet our increasing training needs. Contractors can provide additional instructors, but existing facilities constrain additional training capacity.

Question. Can you show the proposal will be cost effective by some cost comparison/analysis?

Answer. Because of the combined redundancy of administrative and logistical support resources at the existing training facilities, it will be more cost effective to provide these functions at a centralized facility. Additionally, the maintenance and operation of a single facility (such as utilities, custodial, and overhead), will be more efficient with a consolidated facility.

Question. Do the current site(s) have the capability to conduct training January-December?

Answer. Yes, the current sites have the capability to conduct training year round, weather permitting.

Question. Can the proposed site conduct training January-December?

Answer. Yes, the proposed site will be able to conduct year-round training.

Question. Have your existing training providers failed to provide training because of inclement weather or some other reason?

Answer. Weather can be a problem for all locations. In our experience, there have been rare occasions where training has had to be suspended or delayed.

Question. What is the current community infrastructure support for the training program i.e. community welcome, social activities, local community organization support, police agencies support, shopping and entertainment activities? Compare this with your proposed site. Can you assure us that community support will be enhanced by the relocation?

Answer. ATA has experienced outstanding community support at all training locations. Initial contacts with the state and local community at the consolidated sites under consideration indicate that they are prepared to provide a quality support environment.

Question. Who currently provides instruction for your courses? Who will provide instruction at the proposed consolidated training center? Are you adding Full Time Equivalents (FTEs) for the consolidation proposal? What will you do if the program receives funding cuts in three or four years?

Answer. With the exception of the official government agencies, all training is conducted by contractors. No change is contemplated for the consolidated training center.

Question. Can you compare salaries of support personnel for Baton Rouge and Socorro as compared to your proposed location?

Answer. The majority of ATA costs for support personnel at Baton Rouge, LA and at Socorro, NM are based on existing contractor arrangements. The proposed Washington location will be supported by a combination of existing direct-hire Department of State employees and contractors. By centralizing the ATA program in the Washington area, the State Department will gain cost savings by eliminating the need for some contractor personnel and by consolidating the duties of other personnel. Centralization will also allow ATA to gain cost savings by eliminating redundant administrative costs that are the result of operating 7 centers nation-wide.

Question. We understand that the Department of Justice has a program at Fort McClellan. Using that as a model, have you done any cost comparisons for your pro-

posed site versus the existing sites? I would think that the bottom line for this subcommittee is to get the training, not just new infrastructure to maintain.

Answer. Cost comparisons have been prepared for the Fort McClellan Justice Training Center ($17.9 million) and Indian Head ($23.2 million). This comparison was conducted for training start-up costs only and excluded infrastructure repair costs. The Fort McClellan Justice Training Center (JTC) will require additional investment in infrastructure, which includes repair of water, plumbing, and electricity systems, as well as asbestos abatement and renovation of classrooms and dormitories. Additional capital construction costs are required for specialized training facilities.

Fort McClellan's distance from Washington would prohibit utilization by the Diplomatic Security Service and other agencies, who intend to co-locate their training programs with ATA. ATA could conduct training at the JTC, but ATA capacity and effectiveness would be diminished.

Question. In last year's Consolidated Appropriations Act for Fiscal Year 2000 (Public Law 106–113), the President and the Congress agreed to an across-the-board reduction of 0.38 percent in discretionary programs as part of an effort to ensure that spending in fiscal year 2000 did not dip into the Social Security surplus. We were successful in that effort, but in the process the Department of State had to reduce program spending by $25.4 million in fiscal year 2000.

It appears from the Administration's report on the implementation of the across-the-board reduction that most offices and programs within the Department took a part of the reduction with 60 percent coming from two accounts—Diplomatic and Consular programs (−$10.6 million) and the Contributions to International Organizations (−$4.7 million). Another $2.8 million was taken out of Embassy Security, Construction, and Maintenance.

Madame Secretary, would you please provide the Subcommittee with the program, project, and activity details underlying the across-the-board reductions in each program?

Answer. The International Affairs budget absorbed a total rescission of $86 million, approximately $72 million of which was cut from accounts under my direct purview, including both foreign assistance and State Department operations. Because all of the programs in the International Affairs budget urgently need funding, the 0.38 percent rescission was applied equitably to most accounts. There are a few exceptions where accounts/programs had been a critical part of the final negotiations between the White House and Congress on appropriations bills. These programs were exempted or protected, with cuts made elsewhere within an account to permit this. Those exemptions include: Funding for Wye implementation; U.N. arrears; Funding for embassy security within the buildings and State operations accounts; and Population funding.

The following table reflects the distribution of the across-the-board rescission:

[Dollars in millions]

ACCOUNT	Fiscal Year 2000 Enacted Level	Rescission
International Organizations & Programs (IO&P)	$183.00	0.70
Development Assistance/Child Survival/DFA	1,943.00	8.29
AID Credit Programs	8.50	0.01
AID Operating Expenses	520.00	1.04
Inspector General (USAID)	25.00	0.05
Freedom Support Act (FSANIS)	839.00	3.19
International Disaster Assistance	202.88	0.87
Support for Eastern European Democracy (SEED)	535.00	2.03
Voluntary Peacekeeping Operations (PKO)	153.00	0.58
Economic Support Fund (ESF)	2,815.10	22.91
International Military Education & Training (IMET)	50.00	0.19
Foreign Military Financing (FMF)	4,795.00	6.01
Nonproliferation, Anti-Terrorism, Demining & Related Programs (NADR)	216.60	0.82
Inter-American/African Foundations (appropriated in DA)	[19.40]	[.07]
Migration and Refugee Assistance & ERMA	637.50	2.42
International Narcotics and Crime	305.00	1.16
State Programs	2,903.83	10.92
Educational & Cultural Exchanges	205.00	0.85

[Dollars in millions]

ACCOUNT	Fiscal Year 2000 Enacted Level	Rescission
Other State Programs	63.52	0.26
Security & Maintenance of U.S. Missions	742.18	2.82
Contributions for International Peacekeeping Activities	500.00	1.90
Contributions to International Organizations	885.20	4.70
U.N. Arrearage Payments	351.00	.....
Related Appropriations (e.g., Asia Foundation, NED)	54.38	0.23
Total, Fiscal Year 2000 Appropriations	18,934	.....
Total Rescission	71.95	71.95

Question. What was the maximum reduction taken from any program, project or activity?

Answer. Generally, the 0.38 percent cut was applied equitably to most accounts. In order to accommodate the few exempted accounts/programs, such as Wye implementation and U.N. arrears, cuts were made to other programs within an account to permit this, with no account sustaining more than a 0.81 percent cut.

Question. Did the Department follow the provisions of the Consolidated Appropriations Act that no program, project, or activity could be reduced by more than 15 percent?

Answer. Yes. The rescission was applied to the overall account level, with no account absorbing more than a 0.81 percent cut. There were a few exceptions where accounts/programs were exempted or protected, with cuts made to other programs within an account to permit this. Those exemptions include: Funding for Wye Implementation; U.N. arrears; Funding for embassy security within the buildings and State operations accounts; and Population funding.

Question. Did the Department follow the guidance of OMB that: reductions should be taken from the least critical funding available to the agency; reductions should be considered from funding above the President's request; no reductions should be taken that would require reductions-in-force (RIFs); and agencies should make targeted recommendations rather than across-the-board funding cuts?

Answer. I took OMB's guidance under consideration when I decided how to distribute the rescission. But I did not follow every aspect of the guidance.

First, I do not know of any budget accounts I would call "least critical." All of our funding is urgently needed for pursuing a host of American interests, from fighting narcotraffickers to immunizing children, to negotiating trade agreements to benefit U.S. business.

Second, the overall appropriation for Function 150 was less than the President's request. Moreover, only a very few accounts were increased over the President's request, and these were in areas such as assistance to Southeast Europe, or counter-narcotics assistance, where funding was needed.

For this reason, the 0.38 percent rescission was applied equitably to most accounts under my direct purview, including both foreign assistance and State Department operations. In accordance with OMB's guidance, we took steps to ensure that reductions in operating accounts would not result in RIFs of Department personnel.

There are a few exceptions where accounts/programs were exempted or protected, with cuts made elsewhere within an account to permit this. Those exemptions include funding for Wye implementation; U.N. arrears; funding for embassy security within the buildings and State operations accounts; and population funding.

CHINA AND WTO MEMBERSHIP

Question. How do you and President Clinton expect the Congress to delink trade from China's threatening behavior in the world?

Answer. We cannot predict China's future behavior, but deciding in advance that China will inevitably be a foe is a prescription for a self-fulfilling prophecy. Alternatively, China's integration into rules-based institutions of the international community, such as the WTO, make it more likely that China will become a responsible member of the international community and play a constructive international role in the future.

We appreciate the concern that many members of Congress have with regard to China's intentions toward Taiwan. Senior Administration officials, in Washington

and Beijing, have reinforced our abiding interest in the peaceful resolution of cross-Strait differences. We have said that we reject the use of force or the threat of the use of force to resolve the Taiwan question. We have stated again our policy in the Taiwan Relations Act that we "consider any effort to determine the future of Taiwan by other than peaceful means . . . A threat to the peace and security of the Western Pacific area and of grave concern to the United States." We have urged China and Taiwan to take steps that foster dialogue, reduce tensions and promote mutual understanding. It is obvious that any aggressive military move by China would have a devastating impact on U.S.-China trade and economic relations, in addition to any other consequences.

We have also restored direct dialogue between our two militaries to promote better understanding of our intentions. In December, the Deputy Chief of China's People's Liberation Army General Staff was in Washington for defense consultative talks. In early March, CINCPAC Commander Admiral Blair visited China. We want to use the military-to-military dialogue to ensure that there are no misperceptions of our intentions or our capabilities.

We believe that we must engage with China on important issues of both economic security and national security. In that regard, China's accession to the WTO—one-way concessions opening China's markets to America's farmers, businesspeople and service providers—will be a positive development reinforcing our economic prosperity.

Specifically, with regard to PNTR, the President submitted a bill to Congress on March 8 to extend normal trade relations to China on a permanent basis. The President will certify that when China becomes a WTO contracting party, "the terms and conditions of China's accession to the WTO are at least equivalent to those agreed between the United States and China on November 15, 1999." We are confident that when the bill is considered on its merits, Congress and the American people will realize that it is in the interest of the United States to pass PNTR. Only in this way will we be able to enjoy the full benefits of China's accession to the WTO.

Our broad agenda in China is designed to pursue American interests and to effect change there. Trade and the WTO—along with our resolute across-the-board engagement to ensure American security—will help reinforce trends toward a more open society in China.

Question. Will the Administration push a vote on permanent normal trading status for China if the Europeans have not come to an agreement with China over its WTO membership.

Answer. The President has stated his intention to work with the Congress to extend permanent normal trading status to China as soon as possible. The President submitted a bill to Congress on March 8 to extend PNTR and said he would certify that when China becomes a WTO contracting party, "the terms and conditions of China's accession to the WTO are at least equivalent to those agreed to between the United States and China on November 15, 1999." Whatever final report is sent by the China Working Party Group to the WTO Council in Geneva later this year will therefore only improve our excellent bilateral agreement, which was made public on March 14. Thus, we believe when the bill is considered on its merits, the Congress and the American people will realize that it is in the interest of the United States to pass PNTR. Only in this way will we be able to enjoy the full benefits of China's accession to the WTO.

EMBASSY SECURITY

Question. The President's request for Embassy Security and Construction is spread out over the 2000 to 2005 period and totals $4.7 billion.

The Crowe Report, in its list of recommendations, states "The Department should look specifically at reducing the number of diplomatic missions by establishing regional embassies."

While no one is asking you to cut corners on providing security to our diplomatic overseas, this report clearly recommends reevaluating all embassies and facilities we have world wide and decide which ones we need.

Are there ways to regionalize some of our diplomatic efforts?

Answer. As a follow-on to the Accountability Review Boards chaired by Admiral Crowe, the Overseas Presence Advisory Panel (OPAP)—of which Admiral Crowe was also a member—looked at the possibility of a greater use of regional embassies. OPAP, however, did not itself make a specific recommendation on regional embassies. Instead, the panel concluded that "a universal, on-the-ground overseas presence is more critical than ever to the nation's well-being."

The Department of State strongly concurs with that conclusion. As OPAP confirmed, policy functions are best carried out through face-to-face interaction. We be-

lieve it is critical to retain the general principle of universality, except in limited circumstances.

The Department continues to pursue the regionalization of support functions either overseas (e.g., the Frankfurt Regional Support Center) or in the United States (e.g., the Fort Lauderdale Regional Center, the Portsmouth National Visa Center, the Williamsburg Diversity Lottery Center, and the Charleston Financial Service Center).

Question. I have been a proponent of changing our budget process in Washington so that we move to a two-year budget cycle. My hopes would be that we could concentrate more in the off-year on oversight activities, something that seems to be lacking as we devote more and more time to the appropriations process.

How do you think biennial budgeting would affect the State Department and the spending and operations of the foreign affairs apparatus?

Answer. I am open to exploring the adoption of biennial budgeting practices, and it may yield some benefits for the Department. On the plus side, we would gain a better sense of how much money would be available over a longer period of time (24 months) for managing the Department and our posts abroad. This would likely benefit our planning and management efforts.

However, biennial budgeting would not remove the need for mid-year supplementals in order to respond to unanticipated contingencies. Supplemental requests and budget amendments have become a fact of life in the international affairs area, where we have very little contingency funding to respond to emergency opportunities and threats.

I am more concerned about the level of resources we are appropriated rather than changes in the timing of when funds are appropriated. The biennial concept will not work unless we seek and are appropriated adequate and realistic funding levels for the work we know we must do.

QUESTIONS SUBMITTED BY SENATOR BEN NIGHTHORSE CAMPBELL

INTERNATIONAL EDUCATIONAL AND CULTURAL EXCHANGE

Question. The fiscal year 2001 budget proposed only $3.1 million for overseas advising. The fiscal year 1999 appropriated amount was $3.2 million, and the fiscal year 2000 estimate was only $3.07 million. Overseas educational advising is a network of USIA-supported offices where prospective foreign students interested in American higher education can secure information about pursuing educational opportunities in the United States. These centers are important elements of public diplomacy as they serve as gateways for ensuring a continued flow of students to the United States.

As you know, other countries are competing aggressively to attract international students to their universities, and last year, Prime Minister Tony Blair made an official statement highlighting the U.K.'s plan to capture a larger share of the foreign student market.

Given our nation's interest in maintaining its leading role in attracting foreign students to our universities and institutions, can you tell us why State Department-supported overseas advising centers, which serve as gateways for ensuring the flow of foreign students to the United States, are provided with only level funding?

Answer. We share the view that overseas advising centers make a critical contribution by encouraging students from other countries—often destined to become the future leaders of their countries—to undertake university studies in the United States. These students represent a major source of income to the United States; according to the most recent U.S. Department of Commerce figures, education is the fifth largest U.S. service export amounting to more than $8 billion and resulting in over 100,000 U.S. jobs. Even more importantly, the experiences of these students while they are in the United States inform their understanding of our country, our society, our culture, and our policies for the rest of their lives.

The Administration has attached high priority to educational advising, and to international exchange programs in general, as a tool in support of the Department's conduct of international relations. However, with very limited resources for all international relations activities, we have had to set priorities. The Administration's fiscal year 2001 request for overseas educational advising activities will enable us to sustain these programs at their current levels. We hope in the future to have adequate resources for all of these important programs.

MIAS AND ISRAEL

Question. Can you please provide me an update of how these efforts to assist Israel are proceeding?

Answer. The United States continues to pursue every serious lead to ascertain the fate of IDF MIAs Zachary Baumel, Yehuda Katz and Zvi Feldman.

We deeply sympathize with the pain of all the families of the missing soldiers and with their determination to continue the search for their sons. We will continue our efforts to help them.

We are in close contact with the Israeli Government and the families of the MIAs to help resolve this important issue. The President and I have raised this issue repeatedly with officials at the highest levels in Syria and with senior Palestinian officials.

DEVELOPMENTS IN BELARUS

Question. I remain concerned over violations of the principles of democracy, human rights, and the rule of law in Belarus under the authoritarian leadership of Aleksandr Lukashenka. The opposition in Belarus deserves our support as they seek to overcome the legacy of Communism and authoritarianism and build a democratic society. In a particularly disturbing development, several prominent opposition leaders have simply disappeared.

Lukashenka has undertaken a series of measures designed to suppress Belarus's opposition. Peaceful public protests and demonstrations have been broken up by the authorities and independent opposition newspapers are under constant pressure from the government.

Of the resources available for the NIS countries, why has the Department allocated so little to support those programs aimed at strengthening independent media, human rights, civil society, independent trade unions and the democratic opposition in Belarus?

Are there funds from regional programs that the Department could make available this year for these purposes?

Answer. The Administration places a high priority on democracy-building assistance to Belarus. In fiscal year 1999, over two-thirds of the U.S. Government's $12.36 million Belarus assistance budget was devoted to such programs—over $8 million. A substantial portion of this assistance was provided in the form of small grants directly to non-governmental organizations (NGOs), independent media outlets and other democratically oriented organizations. The remainder supported capacity-building training and exchange programs in areas such as NGO development, political party-building and independent media.

For fiscal year 2000, the U.S. Government's democratic and economic reform programs for the NIS have had to take an overall cut of $120 million due to the underfunding of the Administration's NIS assistance request by 19 percent, increased earmarks, and substantial funding being provided for the Expanded Threat Reduction Initiative (ETRI). As a result, the U.S. Government's Belarus assistance budget is expected to decrease by approximately $4.7 million. However, we are working closely with U.S. NGOs and other donors to ensure that independent media and other advocates for democratic change in Belarus continue to receive the support that they so urgently need. In addition, the State Department's Bureau of Democracy, Human Rights and Labor is in the process of identifying a limited amount of its own funding from its Human Rights and Democracy Fund for use in Belarus.

ANTI-CORRUPTION INITIATIVE

Question. Has the Department developed a strategy for advancing an anti-corruption initiative within the OSCE? Is the Department working with representatives of the business community and other interested NGOs to gain support for such an initiative?

Answer. Yes, the Department has developed a strategy to advance an anticorruption initiative in the OSCE. The Istanbul Summit, at U.S. initiative, directed the Permanent Council to consider how the OSCE can contribute to this issue. On March 3, a strong U.S. interagency team gave a comprehensive presentation on the results of Vice President Gore's February 1999 Global Forum on Fighting Corruption to a working group established by the Permanent Council for this purpose. We are working with the present and prospective Chairmen-in-Office to assure that corruption issues are fully and appropriately examined in OSCE seminars, meetings and its Economic Forum. The Department of Commerce is participating actively in this initiative, and we are consulting with interested NGOs. A member of the board of the U.S. national section of Transparency International was a public

member of our delegation to the 1999 OSCE Review Conference. Corruption is increasingly recognized as a significant challenge to the core purposes of the OSCE, and helping members to control and combat corruption is becoming an important continuing element of OSCE activities.

Question. Is the U.S. working closely with the Romanian Government to advance an anti-corruption initiative within the OSCE framework?

Answer. Yes. On March 28–29, Romania will host a regional forum on fighting corruption to be attended by 15 governments from Central, East and Southeast Europe. All are OSCE members, and we expect their regional meeting will help advance attention to corruption in the OSCE. The U.S. provided some funds to help Romania meet costs of this conference. A strong interagency working-level U.S. team will travel to Bucharest to observe this meeting, and Vice President Gore is sending a message of support. This meeting follows the February 1999 Washington Global Forum on Fighting Corruption, and will help prepare for the Second Global Forum in the Netherlands in May 2001, which the U.S. will cosponsor. Romania also participates in the Anti-Corruption Initiative of the Stability Pact, to whose development the U.S. contributed. Our bilateral assistance programs include significant anticorruption activities. As the prospective OSCE Chairman-in-Office for 2001, Romania has indicated that it will actively promote OSCE attention to problems of corruption. We will continue to consult closely with and support these OSCE activities on this subject.

Question. The FBI has played an important role in promoting cooperation among the countries of southeastern Europe in combating organized crime. This is a matter that has direct implications for law enforcement here in the United States given the extensive network of organized criminal elements, including those located in that region and elsewhere in the OSCE region. How is the Department supporting the Bureau's international operations, including those in southwestern Europe as well as the International Law Enforcement Academy in Budapest?

Answer. The FBI, at State Department request, has participated in U.S. interagency and international assessments of organized criminal activity in Bosnia and Kosovo. Such assessments add to available information needed to address organized crime and its effect on the United States. The FBI has been very supportive of our foreign policy goals in the region and has provided expertise in crime scenes, forensics, and organized crime to assist special investigations in Bosnia and Kosovo.

The FBI serves as the lead U.S. agency at the International Law Enforcement Academy (ILEA) in Budapest and provides a special agent as the resident director. Since opening its doors in 1995, ILEA Budapest has trained over 4,500 criminal justice professionals and law enforcement officers from 26 countries. In addition to providing funding, the Department coordinate support to ILEA Budapest through an interagency steering group, composed of representatives from the Departments of State, Justice, and Treasury, to provide policy guidance and set program priorities. ILEA is funded by the State Department.

OSCE MISSIONS

Question. Has the Department developed a strategy for closing down OSCE missions or are these activities turning into permanent outposts of the OSCE?

Answer. The Department has introduced a proposal at the OSCE to establish a procedure for the orderly transformation and termination of missions. The OSCE Mission mandates are reviewed for extension by the Permanent Council every six months on average. Our goal is to focus attention on the review process, formalize the discussion, and ensure that participating States carefully evaluate whether conditions in the host country have improved sufficiently to warrant a change in Mission size or its mandate.

In June 1999 the OSCE Mission to Ukraine was closed and replaced with a smaller project coordination center. More recently, the OSCE's Skrunda Radar project, which had successfully overseen closure of a highly sensitive former Soviet military installation in Latvia, was shut down in December 1999. The OSCE also reached consensus in March 2000 on reducing the staffing level for the Croatia Mission from 250 to 225, with additional reductions anticipated when further improvements are noted. This action was in direct response to positive declarations and tangible actions taken by the new Croatian government in improving refugee returns and expediting citizenship claims. The U.S. is now exploring how the OSCE can acknowledge progress made by the Baltic States in meeting their OSCE commitments.

Question. Nearly a decade after the OSCE Mission to Estonia opened, what, if any aspects for the Mission's mandate have not been fulfilled?

Answer. The mandate of the OSCE Mission in Estonia calls for the promotion of integration and better understanding between the communities in Estonia. The pri-

mary focus of the Mission is to evaluate the inclusion of the sizeable Russian-speaking minority in terms of citizenship, language usage, social services and employment.

The Government of Estonia has made considerable progress in promoting the social integration of the Russian-speaking minority. It has fulfilled the thirty recommendations made by the OSCE High Commissioner for National Minorities, although implementing legislation remains outstanding in several areas, including language. A national social integration program has been developed but not yet promulgated. We believe a continued OSCE presence is required, in a modified form and for a limited time, to monitor implementation of these remaining issues, and to ensure an accurate, objective assessment of the process of social integration, which affects regional stability.

INTERNATIONAL POLICE FORCE IN KOSOVO

Question. Are our European allies providing their share of resources and personnel to accomplish these and similar tasks in Kosovo?

Answer. Our European partners are providing substantial contributions to the U.N. International Police forces.

According to the U.N., as of March 23, European members of OSCE had pledged 1,645 officers (38.7 percent of the total number pledged) of which 1,145 had already been deployed (42.5 percent of the forces deployed).

To address the lack of judges, UNMIK promulgated a regulation 2000/6, which authorizes the appointment of international judges and prosecutors. UNMIK is now in the process of appointing a small number of international judges and prosecutors. Foreign contributions in this area will remain limited, as the legal experts sought need to have a basic knowledge of FRY law and FRY legal procedures.

As of March 22, only two international judicial personnel were acting in Kosovo (one American and one Swede).

We have urged our European partners to deploy their force more quickly and to consider additional support for police and judicial system.

Question. Can you provide the Committee with a breakdown of commitments of personnel and resources for Kosovo operations by each NATO country and those actually provided?

Answer. Attached is a chart describing pledges and commitments of NATO countries as of March 23.

This chart is based on data provided by the U.N., which change quite often.

CONTRIBUTIONS TO UNIP/KOSOVO [1] FOR NATO MEMBER STATES

Countries	Pledge	Current Strength	Pledge of Special Police [1]
Belgium	5	5	
Canada	100	92	
Czech Rep	6	6	
Denmark	20	26	
France	78	78	
Germany	420	268	
Greece	15		
Hungary	10	10	
Iceland	2	2	
Italy	82	45	
Luxembourg			
Netherlands	50	1	
Norway	25	15	
Poland	25	9	115
Portugal	70	25	
Spain	41	35	115
Turkey	29	49	
UK	60	60	
US	550	489	

[1] Total authorized UNIP forces is 4,718 of which 3,593 CIVPOL and 1,225 Special Police.

UNITED STATES-EUROPEAN UNION HUSHKIT DISPUTE

Question. In April 1999, the European Union passed legislation that would introduce a number of restrictions on the use of aircraft equipped with "hushkit" noise reduction devices within the EU. This regulation raises several major areas of concern for the U.S.—primarily that this initiative will undermine the International Civil Aviation Organizations's (ICAO) role as the premier standard-setting body for aviation technical and environmental matters, and that the proposed regulation is based on a design standard, which discriminates against U.S. manufacturers while it protects European aircraft.

For over two years the U.S. has taken every possible step to express our concerns over this new rule, to no avail. Although they have agreed to delay implementation, the EU has refused to withdraw the regulation. Negotiations have reached an impasse.

Are you considering an Article 84 relief petition at ICAO to counter unfair EU restrictions on the use of "hushkits" for U.S. civil aviation? Have you informed the EU? Where does this stand?

Answer. Negotiations with the EU have reached an impasse. Therefore, the USG decided to initiate a proceeding against European Union member states under Article 84 of the 1944 Convention on International Civil Aviation (the Chicago Convention) to establish that the hushkit regulation violates the Convention, and to force its withdrawal. We filed our case with ICAO on March 14.

We have stated to the EU and to ICAO that we are prepared to agree to a suspension of the Article 84 proceedings if the EU suspends implementation of the hushkit regulation. We are awaiting the EU's response.

Our goal in filing the Article 84 case was to bring this issue back under the purview of ICAO, where it belongs. Noise standards should be negotiated multilaterally, and ICAO is the internationally recognized standard setting body for aviation technical and environmental matters.

We are committed to the development of new noise standards within the ICAO framework and are prepared to work with the EU and other ICAO member states to ensure their implementation.

QUESTIONS SUBMITTED BY SENATOR FRANK R. LAUTENBERG

LIBYA/PAN AM 103

Question. Recent press reports suggest the Administration is considering easing U.S. sanctions against Libya. Would you agree that U.S. sanctions should not be eased until and unless Libya has met all the conditions set out in the U.N. resolution for lifting of sanctions, including payment?

Answer. Consistent with U.N. Security Council resolution 1192, U.N. sanctions against Libya were suspended immediately upon notification by the U.N. Secretary General to the Security Council that the Lockerbie bombing suspects had arrived in the Netherlands for the purpose of trial before a Scottish Court in the Netherlands. Pursuant to UNSC Resolutions 731, 748, 883 and 1192, there are other issues that must be addressed before U.N. sanctions can be permanently lifted. They are: payment of appropriate compensation; Libyan acceptance of responsibility for the actions of its officials; renunciation of support for terrorism; and cooperation with the investigation and the trial.

Along with other UNSC members, we will address the question of lifting U.N. sanctions in accordance with the relevant Security Council resolutions. Permanent lifting of the sanctions would require action by the Council. We believe the Libyan government can and must meet the requirements provided for in the relevant UNSC resolutions. If it does so, we would support lifting U.N. sanctions.

U.S. unilateral sanctions are distinct from U.N. sanctions and, in fact, pre-date the Lockerbie bombing. They were imposed in 1986 by executive order under the International Emergency Economic Powers Act in response to an unusual and extraordinary threat to the national security and foreign policy of the United States posed by the policies and actions of the Libyan Government.

We are not currently considering lifting U.S. unilateral sanctions. In order to do so, we would insist, first, that Libya comply with U.N. Security Council requirements, including the compensation requirement. In addition, we would expect Libya to cease opposition to the Middle East Peace Process, which would be concrete evidence that it has ended its support for Palestinian rejectionist groups, and stop aggravating African regional conflicts.

Given Libya's history of support for terrorist activities and intervention outside its borders, we will proceed with caution.

U.N. DUES

Question. Last year, we adopted the Helms-Biden legislation authorizing payment of part of our U.N. arrears. I, for one, believe the United Nations is critical to advancing U.S. interests and values, so we shouldn't continue to jeopardize our leadership there by making unrealistic demands. How are the conditions in the Helms-Biden legislation being received in New York? What progress have we made in meeting these requirements?

Answer. Our most pressing Helms-Biden issue is revision of the U.N. assessment rate scales. We are working to mobilize the entire U.N. membership in an agenda for comprehensive scale reform aimed at creating a flatter, more objective system. Many Member States share our concern about the anomalies and inequities embedded in the current assessment methodology. Our efforts are focused on getting major players at the U.N. to recognize that financial responsibilities are part and parcel of playing a leadership role at the U.N. While certain of the least developed countries are not in a position to shoulder an additional dues burden, there are many other U.N. Members that can and should pay more. Our proposals address this problem in a transparent and fair way, and are aimed to ensure that all countries with the capacity to pay are contributing their fair share. Along with other senior Department staff, I have been raising this issue with senior foreign officials at every opportunity, and Ambassador Holbrooke and his team have been meeting with 5–6 delegations per day to explain our proposals and urge their support. This is complemented by a similar mobilization for scale reform in capitals through our embassies. Our message seems to be getting across, and while it is too early to predict the ultimate outcome, we are cautiously optimistic about effecting significant change to the assessment system.

We are also making good progress on other Helms-Biden provisions. Last year, the U.S. regained a seat on the U.N.'s Advisory Committee on Administrative and Budgetary Questions, allowing us to participate first-hand in review and recommendations on budgetary and other administrative proposals. There has been progress at the U.N. on program evaluation, one of our major goals. We have also achieved critical successes in three major U.N. specialized agencies—the Food and Agriculture Organization, International Labor Organization, World Health Organization—where zero nominal growth budgets have been adopted, and where we are working with Member States and the organizations' Secretariats to move forward in the areas of internal oversight and program evaluation. There is more work to be done, but we continue to work toward implementation of these reforms which will make these organizations more effective and allow us to pay our arrears, and to do so in a way which enhances rather than erodes our relationships with the organizations and Member States.

OVERSEAS PRESENCE ADVISORY PANEL RECOMMENDATIONS

Question. The Overseas Presence Advisory Panel made a number of excellent recommendations. I understand the Department will soon submit a written report to Congress on how it is following through on those recommendations. I would be grateful if you could give us a preview of what the Department is doing, or plans to do, on the basis of the Kaden panel's report. In particular, what are you doing to strengthen training for Foreign Service Officers at every level, including training in personnel and resource management? What are you doing to ensure that we have the right number of people with the right skills and responsibilities—from State and other agencies—at our overseas posts? How are you planning to strengthen the role of Ambassadors in overseeing U.S. relations with host countries?

Answer. The Department of State's March 14 report to the Congress describes our overall response to the OPAP report's recommendations (copy attached). In answer to your specific questions, we offer the following.

In response to the OPAP report and other management reports written in recent years, State's Foreign Service Institute (FSI) has undertaken a number of new initiatives to ensure that employees have access to comprehensive leadership and management training programs throughout their careers. A major keystone was the creation of a new Leadership and Management School on October 1, 1999. This new school serves as the agency locus for programs covering the gamut of leadership and management skills for the first-time supervisor, for managing crises, leading teams, and managing change, to leading embassies and consulates overseas as Consuls General, Deputy Chiefs of Mission and Ambassadors. FSI also has published the *Leadership and Management Training Continuum,* which provides a blueprint for developing leadership and management skills, identifying which courses are appropriate for each career level and the Civil Service competencies and Foreign Service precepts they address. The *Continuum* has been distributed widely, both domesti-

cally and overseas. Management training modules also are incorporated in courses throughout the FSI curriculum, beginning with the junior officer orientation program and extending through various tradecraft training programs. In addition, leadership skills are emphasized in the DCM/Principal Officer Seminar, Ambassadorial Seminar, and Senior Seminar. A significant portion of our training initiatives are focused on mid-career personnel, preparing them for the senior level responsibilities they must be prepared to assume.

State and other agencies have formed an interagency committee that is looking at how to implement OPAP's right-sizing recommendations. The committee has begun to conduct pilot programs at our missions in the following countries: India, France, Georgia, Jordan, Mexico, Nigeria, and Thailand. The purpose of the pilots is both to make recommendations for right-sizing these missions and to develop decision criteria that can be applied universally. The target date for completion of the pilot program exercise is June 2000. We plan to request additional funding in fiscal year 2002 and beyond to conduct right-sizing reviews and then proceed, on an interagency basis, with recommendations for right-sizing all agencies' staffing at all posts on the schedule proposed by OPAP: half within two years, and the balance in the subsequent three years.

OPAP's recommendations on Chief of Mission authority are commendable objectives which the Department of State will pursue. Given the time required to complete interagency review, coordination, and clearance, however, we will defer new documentation outlining COM responsibility and authority until next year, when it can be carried out as part of the normal transition to the new administration.

REPORT PURSUANT TO SECTION 607 OF THE ADMIRAL JAMES W. NANCE AND MEG DONOVAN FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 2000 AND 2001, AS ENACTED IN THE CONSOLIDATED APPROPRIATIONS ACT FOR FISCAL YEAR 2000, PUBLIC LAW 106–113

REPORT ON OVERSEAS PRESENCE—MARCH 2000

Introduction

Pursuant to section 607 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001, as enacted in the Consolidated Appropriations Act for Fiscal Year 2000 (Public Law 106–113), the Department of State is providing this report on the results of the Department of State's review of the report of the Overseas Presence Advisory Panel (OPAP).

The issues that OPAP addresses are familiar. Well before the report's release, the Department of State was working to adapt our foreign policy institutions to a new era in which the international political landscape has changed, security threats are unpredictable, many federal agencies are represented overseas, and the use of modern technology is essential. We have responded by undertaking an historic reorganization of the foreign affairs agencies, placing increased stress on the protection of our employees and their families, improving training, upgrading communications, emphasizing public diplomacy, and reaching out to groups—such as OPAP—for independent advice.

The Department welcomes OPAP's emphasis on the urgency of improving our overseas mission infrastructure and capital plant, the importance of investing in human resources, and the indispensable nature of universal representation. We strongly agree with the Panel's focus on the need to ensure stronger interagency teamwork under chiefs of mission (COMs) abroad and the President and the Secretary of State at home.

OPAP makes recommendations in eight areas: Security; Right-sizing America's overseas presence; Capital needs; Human resources and training; Information technology; Consular services; Administrative services; and Ambassadorial authority.

This report outlines the Department's response in each area. It also provides supplemental information to address the specific elements required in section 607(b)(2) of the Act.

Although this report reflects only the Department of State's views and actions, OPAP's recommendations affect all USG agencies operating overseas. Improving the effectiveness and efficiency of our overseas operations must be an interagency effort, and will require as well the support of the White House and the Congress.

Security

OPAP fully endorses the recommendations of the Accountability Review Boards (ARBs) that looked at the August 1998 bombings of the U.S. embassies in Nairobi and Dar es Salaam. This includes the need worldwide for approximately $1.4 billion annually over 10 years for sustaining capital improvements, security upgrades, and maintenance.

The Department of State accepted the ARB recommendations after their 1999 release and welcomes OPAP's endorsement of them. We continue to make solid progress toward full accomplishment of the ARB recommendations. We support OPAP's call for a "pro-security culture," including the recognition that security is the responsibility of all employees from every agency and expanded security training for employees and their families.

The President's fiscal year 2001 budget request for the Department of State seeks over one billion dollars for post security initiatives, including $500 million for new diplomatic facility construction (of which $50 million is for USAID), $200 million for additional steps to protect existing buildings from terrorist attack, and $344 million for maintaining and enhancing operational security.

Right-Sizing America's Overseas Presence

OPAP recommends creating a process "to right-size our overseas presence, reduce the size of some posts, close others, reallocate staff and resources, and establish new posts where needed." Right-sizing would be carried out by a new, permanent Interagency Overseas Presence Committee chaired by the Department of State.

The right-sizing recommendations are a critical element in implementing an overarching framework to guide the allocation of interagency staff and resources in U.S. diplomatic and consular posts. The President supported these recommendations in a February 10 statement on OPAP:

> I have asked the Secretary of State to lead a cabinet committee to implement the Panel's recommendations regarding rightsizing. This process will look at the full range of agency staff who serve in U.S. missions abroad, and make recommendations about the appropriate levels and skills with which we should staff our embassies in the new century.

In line with that, State and other agencies have formed an interagency committee that is looking at how to implement right-sizing. As of early March, the committee has begun to conduct pilot programs at the following posts: Amman, Jordan; Bangkok, Thailand; Lagos and Abuja, Nigeria; Mexico City, Mexico; New Delhi, India; Paris, France; and Tbilisi, Georgia.

The purpose of the pilots is both to make recommendations for right-sizing these posts and to develop decision criteria that can be applied universally. The target date for completion of the pilot program exercise is June 2000. We plan to request additional funding in fiscal year 2002 and beyond to conduct right-sizing reviews and then proceed, on an interagency basis, with recommendations for right-sizing all agencies' staffing at all posts on the schedule proposed by OPAP: half within two years, and the balance in the subsequent three years.

Capital Needs

OPAP recommends major changes in the way the U.S. Government builds, renovates, maintains, finances, and manages our overseas diplomatic facilities.

To address the issues raised in the OPAP report, we have established an interagency Overseas Facilities Working Group, chaired by the Department of State. It will identify and implement secure facility solutions for our representatives overseas. The working group's functions are to translate right-sizing decisions into facilities requirements and to examine the resources needed to support the facilities requirements of every agency present at a mission. The working group will serve as a permanent body to address overseas facilities support needs. It will promote improved coordination and cooperation in planning, designing, and constructing or reconstructing new and rehabilitated facilities. It will also explore alternative financing mechanisms, including direct appropriations, capital rent, and the use of working capital funds.

Human Resources and Training

OPAP's recommendations on human resources echo the results of the 1999 "War for Talent" report prepared for the Department of State by McKinsey and Company. The Department continues to pursue a variety of initiatives focused on recruitment, promotion, quality of life issues, and training. For example, to broaden and diversify the pool of Foreign Service Officer candidates, we have implemented a pilot Alternate Examination Program; and we have revised assignment policies for new tandem (i.e., married couple) hires. We have adopted revised time-in-class and time-in-service rules and new language regulations. We are also piloting a 360 degree performance review system to be used in the assignment process. To address Foreign Service spousal employment needs, we have negotiated 126 bilateral work agreements with other countries and have issued new regulations governing home-based businesses overseas.

We have expanded the range of training programs. For example, we have established a School of Leadership and Management Training at the Foreign Service Institute (FSI); we have expanded "distance learning" that permits employees to receive training in the field as well as at FSI; we are providing foreign national employees with more professional training; and we are mounting an outreach program to make other agencies aware of the training we can offer their employees and families as they prepare for their overseas assignments. Further, we agree with OPAP that all employees and their family members—regardless of employing agency—must receive required security training before reporting to post for an overseas assignment.

The President's fiscal year 2001 budget includes $3 million to support OPAP-related training initiatives. Increased training in line with OPAP's recommendations will require additional funding in fiscal year 2002 and beyond.

Information Technology

The thrust of OPAP's information technology (IT) recommendations is to put all overseas USG employees from all agencies on common unclassified and classified computer and telecommunications platforms.

As part of the right-sizing effort, we have established an Interagency Technology Subcommittee, chaired by the Department of State's Chief Information Officer, with membership drawn from those Cabinet Departments that have a significant foreign affairs presence overseas. The subcommittee will propose ways to apply Knowledge Management to facilitate the sharing of vital information at overseas posts, to develop a common IT platform for all agencies at overseas posts, and to apply Internet and Internet-like technology to support interagency collaboration and communication with the public. The subcommittee will define operations requirements, select specific enabling strategies, and identify the funding required to implement those strategies.

In cooperation with the subcommittee, State will conduct an IT pilot at two posts to demonstrate how a common platform would work. We intend to select those two posts from among those which actively participate in the right-sizing effort. The President's fiscal year 2001 budget includes $17 million in support of the recommendation for a common information technology platform. While the Department will establish the appropriate backbone for a common platform, each agency at post will be responsible for purchasing its own equipment.

Consular Services

OPAP recommends increased staffing flexibility covering consular positions to meet surges in service demand; permanent retention by the Department of State of all fee-generated consular revenue, uncoupled from the Department's overall obligation authority; continued improvements in customer satisfaction; and an expanded best-practices program.

We welcome OPAP's proposal that State retain all fee-generated consular revenue. We will discuss the OPAP fee retention recommendation with appropriate congressional members and committees, with a view toward proposing legislation in fiscal year 2002 if practicable.

State is also studying OPAP's recommendation to transfer the control of consular positions overseas from the regional bureaus to the Bureau for Consular Affairs. This is an issue that we have previously considered. There are good arguments both for retaining the current organizational structure and for moving the positions to the control of Consular Affairs. We have not yet made a decision on the final disposition of this recommendation.

The Bureau of Consular Affairs continues to pursue the customer service initiatives and the best-practices program already underway at the time the OPAP report was prepared. We take enormous pride in noting that Consular Affairs is ranked in the top quintile of customer satisfaction by the American public, as tracked by the National Partnership for Reinventing Government Review Initiative. We welcome OPAP's support for these efforts.

Administrative Services

The OPAP report's recommendations on administrative services call for the aggressive use of technology, the regionalization of support functions, and a larger role for foreign national employees.

The Department of State agrees with the thinking underlying these recommendations. The implementation committees looking at right-sizing, technology, and human resources and training will consider each of these recommendations as it affects their portion of the whole in the course of their work.

Ambassadorial Authority

OPAP makes several recommendations related to chief of mission (COM) authority, including reform of the mission performance planning (MPP) process, an enhanced interagency role for deputy chiefs of mission (DCMs), and greater flexibility in the organizational structure of diplomatic posts.

These are commendable objectives which the Department of State will pursue. Given the time required to complete interagency review, coordination, and clearance, we will defer new documentation outlining COM responsibility and authority until next year, when it can be carried out as part of the normal transition to the new administration.

Supplemental Information

This section responds to section 607(b)(2) of the Foreign Relations Authorization Act, fiscal years 2000 and 2001, as enacted in the Consolidated Appropriations Act for Fiscal Year 2000 (Public Law 106–113), which requested specific information not otherwise covered in the report.

Closing diplomatic facilities for security reasons

> "(A) Specify whether any United States diplomatic facility should be closed because—(i) the facility is highly vulnerable and subject to threat of terrorist attack; and (ii) adequate security enhancements cannot be provided to the facility; (B) in the event that closure of a diplomatic facility is required, identify plans to provide secure premises for permanent use by the United States diplomatic mission, whether in country or in a regional United States diplomatic facility, or for temporary occupancy by the mission in a facility pending acquisition of new buildings."

The Department reviews the security situation in individual countries on an ongoing basis and temporarily closes posts as circumstances warrant. Currently operations are suspended at two U.S. embassies for security reasons: Mogadishu, Somalia; and Khartoum, Sudan. The Somalia Liaison Office and Khartoum Embassy Office operate out of Nairobi, Kenya.

Immediately after the 1998 bombings in Nairobi and Dar es Salaam, the Secretary of State commenced a review of the security situation of overseas posts, requesting revised threat assessments and inviting recommendations on security improvements from all chiefs of mission worldwide. Soon thereafter, the Department formed and led interagency security assessment teams. Equipped with technical experts and the most up-to-date information, these teams were dispatched to a carefully selected group of our most vulnerable posts around the world to conduct in-depth security reviews and make specific recommendations. As a result, security at posts worldwide was upgraded immediately and operations at the embassy in Dushanbe were suspended for more than a year. Physical security recommendations were provided on site to officials at all posts visited.

The Department used the 1998–1999 reviews, together with information from State regional bureaus and other sources, in its plans for upgrading or replacing facilities overseas. Funding was included in the fiscal year 1999 emergency security appropriation and the fiscal year 2000 budget to begin this process. As mentioned earlier, the President's fiscal year 2001 budget request for the Department of State seeks over one billion dollars for post security initiatives, including $500 million for new diplomatic facility construction ($50 million for USAID), $200 million for additional steps to protect existing buildings from terrorist attack, and $344 million for maintaining and enhancing operational security.

Exploiting technology for staffing efficiencies

> "Outline the potential for reduction or transfer of personnel or closure of missions if technology is adequately exploited for maximum efficiencies."

The Department has established a CIO level Interagency Technology Subcommittee to examine how best to exploit technology for maximum efficiencies, including potentially permitting the reduction or transfer of personnel. This subcommittee will work closely with the interagency right-sizing committee as it conducts its reviews of overseas staffing.

Regional missions

> "Examine the possibility of creating regional missions in certain parts of the world."

The Department strongly concurs with the OPAP conclusion that "a universal, on-the-ground overseas presence is more critical than ever to the nation's well-being." We continue to pursue the regionalization of support functions either overseas (e.g.,

the Frankfurt Regional Support Center) or in the United States (e.g., the Fort Lauderdale Regional Center, the Portsmouth National Visa Center, the Williamsburg Diversity Lottery Center, and the Charleston Financial Service Center). As OPAP confirms, however, policy functions are best carried out through face-to-face interaction. We believe it is critical to retain the general principle of universality, except in limited circumstances.

Special Embassy Program

> "In the case of diplomatic facilities that are part of the Special Embassy Program, report on the foreign policy objectives served by retaining such missions, balancing the importance of these objectives against the well-being of United States personnel."

The Special Embassy Program (SEP) is designed to permit the United States to maintain a limited presence in locations where policy priorities and resource limitations preclude the need or justification for a larger embassy. This is not to say our presence in these places is unimportant. SEP posts advance important foreign policy priorities, consistent with the strategic goals outlined in the International Affairs Strategic Plan and reflected in each post's Mission Performance Plan (MPP) and available resources.

There are currently 56 SEP posts. After the demise of the USSR, it was the policy of the Administration to open new posts in the region immediately. Fourteen of the SEP posts fall into this category—places where we may have only three or four policy objectives (compared to the 10 or more at most larger posts) but which are in some ways more critical than those at larger posts. These are not the only SEP posts with limited but important objectives. The SEP list includes Wellington, New Zealand; Reykjavik, Iceland; Luxembourg; Vientiane, Laos; and Doha, Qatar, for example.

American staffing levels at SEP posts range from one position (Grenada) to 31 (Yerevan), with a limit of 35 U.S. Direct-Hire positions, including both State and other agencies. While some of the SEP posts are small because of the hardship and danger, many are small because of limited objectives. Where danger and hardship are an issue, tours may be unaccompanied, to minimize exposing larger numbers to security risks.

American Presence Posts

> "Examine the feasibility of opening new regional outreach centers, modeled on the system used by the United States Embassy in Paris, France, with each center designed to operate—(i) at no additional cost to the United States Government; (ii) with staff consisting of one or two Foreign Service officers currently assigned to the United States diplomatic mission in the country in which the center is located, and (iii) in a region of the country with high gross domestic product (GDP), a high density population, and a media market that not only includes but extends beyond the region."

Since the release of the OPAP report, the Department has opened three more American Presence Posts (APPs) in France in addition to Lyon: Bordeaux, Lille, and Rennes. We also have completed the congressional approval process to open an APP in Toulouse. We have opened these posts through shifting personnel and funding from the Embassy in Paris, and providing for the requisite additional funding. Our experience to date is that the practical requirements of opening an APP preclude the possibility of doing so at no additional cost to the US Government.

The U.S. mission in France is one of the pilot posts the interagency right-sizing group will look at this spring. Over time, we anticipate that this effort will examine candidates for APP status in other countries as well.

Conclusion

The OPAP report addresses a number of serious, long-standing issues with how the USG operates at American embassies and consulates abroad. Some can be addressed in the short term. Indeed, in many cases the Department already had initiatives underway prior to the report's release. A long-term commitment of resources, however, is essential if we are to improve the way the U.S. Government operates overseas. The Department of State's commitment by itself will be insufficient. Achieving the changes and improvements the OPAP report proposes will require the active involvement of the White House, the Congress, and all other departments and agencies. We are confident that we have put in place the initial framework that will permit us, as part of the larger interagency and USG-wide effort, to address the full range of OPAP initiatives over the next several years.

Question. It seems like every year we face a challenge for funding for the NED [National Endowment for Democracy]. In my view, in the post-cold war world, with so many nations in flux, and so many opportunities to foster democracy, human rights and the rule of law, we have more need than ever for the NED. Would you agree?

Answer. Absolutely. The NED plays a critical role in supporting grass roots democracy groups around the world.

I have been close to NED for a number of years—in the past as a Board member of both NED itself and of NDI. I am very familiar with the important work it does in carrying out its principal mandate of democracy-building.

Through its four core grantees, NED is able to build upon and expand the linkages between these organizations and their counterparts overseas. Without the funding these core grantees receive from NED, they would be unable to carry out many of their activities overseas. The focus of these programs is on the democracy-building national interest of the United States.

Let me also note that the core grantees contribute approximately $7 million to the NED-funded programs they carry out.

QUESTIONS SUBMITTED BY SENATOR BARBARA A. MIKULSKI

Question. What progress has been made in securing Israel's position in the Western European and Others Group [WEOG] and in becoming eligible to serve on the U.N. Security Council?

Answer. Israel's exclusion from the U.N.'s regional group structure is unfair and inconsistent with the principle of sovereign equality of member states enshrined in the U.N. Charter. Correcting this injustice remains a priority for the Administration. Participation in the regional group structure is a critical element in any member's effective participation in United Nations activities. Consequently, Administration officials, including the President and Vice President, have repeatedly engaged the other members of WEOG to bring this issue to closure.

Enormous progress has been made and was reported in detail recently to the Congress in the annual report on this issue. We have secured EU agreement on Israeli participation in the WEOG at the expert and political director levels. We now plan to coordinate in New York and capitals with the other WEOG members to finalize the implementing details that will allow Israel to assume its rightful place as a participant in the regional group structure. Throughout these efforts, we have coordinated closely with appropriate Israeli authorities and will continue to do so.

We hope to bring this matter to a successful conclusion within the next several months and will keep the Congress informed of our progress.

Question. I understand that member countries of the Western European and Others Group need to agree unanimously on Israel's ability to join the group. What is the Administration doing to address Malta's objection?

Answer. Decisions within the WEOG are made by consensus. The Administration has made numerous interventions with all WEOG members to bring the issue of offering Israel temporary membership in the Group. The Administration was successful in its efforts with the EU and is now working to bring this issue to closure with the remaining WEOG members.

Like some other WEOG members, Malta raised concerns regarding the need to agree on the modalities for Israel's participation as a temporary WEOG member. Working closely with the appropriate Israeli authorities, we are fully confident that mutually acceptable conditions will be agreed upon shortly to address those concerns.

SUBCOMMITTEE RECESS

Senator GREGG. The next subcommittee hearing will be on March 7 at 10 a.m. We will have the FBI, DEA, and the INS.

Secretary ALBRIGHT. Thank you very much, Mr. Chairman.

[Whereupon, at 10:50 a.m., Thursday, March 2, the subcommittee was recessed, to reconvene at 10 a.m., Tuesday, March 7.]

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2001

TUESDAY, MARCH 7, 2000

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

The subcommittee met at 10:03 a.m., in room SD–192, Dirksen Senate Office Building, Hon. Judd Gregg (chairman) presiding.

Present: Senators Gregg, Stevens, Domenici, Hutchison, Campbell, Hollings, Inouye, and Lautenberg.

Also present: Senator Kyl.

DEPARTMENT OF JUSTICE

IMMIGRATION AND NATURALIZATION SERVICE

STATEMENT OF DORIS MEISSNER, COMMISSIONER

Senator GREGG. We will begin the hearing. We appreciate everyone's attendance. We thank Commissioner Meissner.

I will not be doing an opening statement. Did you have an opening statement?

Senator HOLLINGS. No, thank you, Mr. Chairman.

Senator GREGG. Then we will go directly to your statement, Commissioner.

INS COMMISSIONER MEISSNER'S OPENING REMARKS

Ms. MEISSNER. Good morning. Thank you, Mr. Chairman, Senator Hollings, members of the subcommittee, for the opportunity to appear before you today to discuss the President's fiscal year 2001 budget request for the Immigration and Naturalization Service.

Over the past 7 years we have forged a very productive partnership that has allowed us to build a more effective, more efficient INS. At times, we have had our differences but we have never lost focus on our shared goal: strengthening the enforcement of immigration laws at our borders and in the Nation's interior while improving the delivery of services to legal immigrants.

It has been an honor to serve as the Commissioner of the Immigration Service during this time of remarkable growth and rapid change and to work with this committee and the Congress to address the challenges that have been created by this growth and by these changes. Together we have achieved unprecedented success

in both enforcement and services, making today's INS vastly different from the agency of 7 years ago and not merely a bigger agency but also a better one, much, much better. That is because this Administration and Congress have worked diligently since 1993 to reverse decades of neglect that left the Nation's immigration system in disrepair and INS unable to fulfill its responsibilities to the American people.

Our shared commitment to improving INS has been backed with an unparalleled influx of resources and investments that we have maximized by supporting the new resources with comprehensive, coherent strategies.

Nowhere is this more evident than in the area of border management, especially along the Southwest border. The fiscal year 2001 budget will enable INS to solidify and continue to build on this foundation. Our $4.8 billion budget request is more than triple our 1993 funding level. It will add 1,305 new positions, allowing INS to grow to more than 33,100 positions by the end of fiscal year 2001, or almost double our size in 1993.

BORDER PATROL

Of the $532.2 billion that is requested for new initiatives in fiscal year 2001, more than $160 million would go to strengthen the Border Patrol. Nearly a third of the new personnel would be Border Patrol agents, whose ranks we are seeking to expand by 430 at a cost of $52 million. Another $50.3 million will support new Border Patrol construction requirements, while $20 million will be spent to continue deploying the remote video surveillance systems.

Additionally, we are seeking $40.9 million to implement a comprehensive pay reform package for Border Patrol agents that would address salaries, overtime, and other critical compensation issues. We are committed to moving this package forward because it will both compensate current agents in a manner consistent with their expanded duties and enhance INS's ability to retain and recruit the Nation's best and brightest for the Border Patrol. It has the added benefit of being a better value than the existing pay structure, which is important to this committee, as well as to taxpayers.

Under Chief Gus de la Vena's leadership, this $160 plus million investment in the Border Patrol will be as sound as it is substantial. His experience and vision have been pivotal in transforming the Border Patrol into not just the biggest uniformed Federal law enforcement agency, but also one of the best. This is illustrated most clearly by our record in restoring the rule of law to some of the most chaotic areas along the Southwest border.

In 1993, there was no comprehensive plan for controlling our 2,000-mile frontier with Mexico. As a result, illegal immigrants and illicit drugs crossed the border relatively undeterred while legal traffic entering the country encountered interminable delays at ports-of-entry. We have responded by developing a multi-year Southwest border strategy to establish and maintain a border that works, one that thwarts the illegal entry of people and contraband while facilitating the flow of legal immigration and commerce.

To support our strategy, we have been deploying record numbers of new personnel. By the end of the current fiscal year, for example, we expect to have about 9,000 Border Patrol agents on-board

or almost 135 percent more than in 1993. We have backed these new agents with substantial state-of-the-art equipment and technology.

Our aim was to gain control of traditional illegal immigration corridors along the border with Mexico, beginning in El Paso and San Diego. More recently, we are seeing the impressive results of Operation Rio Grande in South Texas and New Mexico, and Operation Safeguard in Arizona. During the first 2 years of Operation Rio Grande, apprehensions in Brownsville fell by more than 160 percent and the number continues to decline, falling another 45 percent so far this fiscal year.

Operation Safeguard has produced similar results, with apprehensions in Nogales, once the busiest illegal crossing corridor in the State, falling 32 percent last year and another 44 percent in the first quarter of this year. We are now focussing on the Douglas Nocho corridor, where the number of agents increased by nearly 25 percent in 1999.

Effective border enforcement also includes ports-of-entry, where we are requesting $22.4 million to hire 269 additional immigration inspectors, as well as $28.9 million to institute pay upgrades from GS–9 to 11 for all inspectors, as well. This will, among other things, allow us to more fully integrate enforcement activities at ports-of-entry with our efforts between those ports. This link has been vital to the success of our Border Patrol strategy and it will be strengthened with the opening of three new ports-of-entry in Texas this year, which these new positions will support.

The enforcement strategy we have been fielding extends to the Nation's interior, where last year we began implementing enforcement priorities that concentrate on removing criminal aliens and investigating alien-smuggling and other criminal violations. I look forward to working with you to refine the strategy further and to build a northern border strategy based on a foundation of interagency cooperation and bi-national coordination.

We also need to further strengthen our capacity to detain and remove aliens who have committed serious criminal offenses. Since 1994, the number of criminal aliens in INS detention has quadrupled to more than 12,000, while the number of criminal aliens we have removed from the country reached 63,000 last year, more than double the number removed in 1994. We are requesting additional personnel and facilities to build on these successes in fiscal year 2001, as well.

IMMIGRATION SERVICES

With regard to immigration services, we have demonstrated that given the resources, we can develop effective strategies here too, and produce impressive results. These improvements have strengthened the balance that is needed between our service and our enforcement functions. Our top priority has been revitalizing the Nation's citizenship program and with your considerable support, we began by restoring integrity to the naturalization procedures.

Then, last year, we began reducing a historically high application backlog. Having completed more than 1.2 million naturalization applications, double the number in 1998, we have fulfilled our com-

mitment to cut the average processing time in half, reducing it from an average of 28 months to an average of 12 months. This year we expect to cut that wait time in half again, returning to the standard of 6 months, where we are committed to stay.

To sustain this success in naturalization and to replicate it in other service areas in fiscal year 2001, the budget proposes a new Immigration Services Capital Investment account. This account, separate from our Examinations Fee account, would mark the first time that INS would have a fund earmarked strictly for infrastructure improvements and reducing application backlogs.

For fiscal year 2001, the $127 million provided by the Capital Investment account and the $807 million from our examinations fee account would allow us to maintain the 6-month processing time for naturalization applications that we expect to achieve this year. We would also be able to process 600,000 adjustment of status applications, double the number we completed last year.

Some of the funding for the new account would come from a direct appropriation and some from a proportion of the requested reauthorization of a permanent 245(i) adjustment of status program. However, the largest contribution, $55 million, would be generated by a newly proposed Premium Service Fee for business-related applications. This voluntary $1,000 fee would guarantee business processing within 15 days, except for certain complex cases, such as the EB–5s. We are confident that this new fee would create a win-win-win situation for all concerned; that is, businesses, legal immigrants and American taxpayers.

Since 1993, we have witnessed the highest numerical level of immigration in our Nation's history and INS has faced extraordinary demands to modernize and grow. These demands show no sign of abating. Our task now is to consolidate the gains of the past 7 years, complete the work yet unfinished, and leave the Nation's immigration structure in a sound condition. I look forward to working with you and the Congress to achieve this.

PREPARED STATEMENT

Thank you very much, Mr. Chairman, and I am happy to answer your and the subcommittee's questions.

[The statement follows:]

PREPARED STATEMENT OF DORIS MEISSNER

INTRODUCTION

Thank you Mr. Chairman, Senator Hollings, and Members of the Subcommittee for the opportunity to appear before you today to discuss the President's fiscal year 2001 budget request for the Immigration and Naturalization Service (INS). It's important to view this last INS budget request made by the Administration as building upon the accomplishments achieved during the last seven years. With this budget, the Administration will have increased INS funding by 219 percent since fiscal year 1993. Congress' support and their investment of resources have enabled INS to strengthen the Nation's immigration system—from how we enforce the immigration laws to how we deliver services to our customers.

I would like to convey to the Subcommittee my thanks. It has been an honor and privilege to serve as the Commissioner of INS, and to work with this committee at a time of real growth and change. Our joint efforts have played a major part in changing the way that Americans think about immigration. Major corridors along our Southwest border are quiet as a result of our determination to stem the flow of illegal migration. Equally as important, the United States is welcoming unprece-

dented numbers of new, eligible immigrants to our shores to join us in building this great nation.

It is critical that we continue to build on this success. The President's fiscal year 2001 budget request for INS continues a multi-year border enforcement and service improvement strategy. In total, the fiscal year 2001 request is $4.8 billion, composed of $3.266 billion in appropriated accounts and $1.544 billion from fees. This budget represents an 11-percent ($523.2 million) increase over fiscal year 2000 and adds 1,305 new positions, allowing INS to grow to more than 33,100 positions by the end of fiscal year 2001. With this budget, we continue our commitment to improving customer service, facilitating legal immigration, deterring illegal immigration, and removing criminal and other illegal aliens from the United States.

ENFORCEMENT

The Administration appreciates the support and resources Congress has provided during the past seven years which have enabled INS to expand its immigration enforcement programs.

Border Enforcement

In the past seven years INS has achieved more in the area of border enforcement than had been achieved in decades. These achievements are a testament to the strategic approach to address the enforcement problems on the Southwest border. Prior to 1993, no comprehensive plan existed to control the 2,000-mile Southwest border. Ill-equipped Border Patrol agents and Inspectors were at times overwhelmed by aliens who stormed the border and ports-of-entry. Illegal immigrants often came freely into the country, undeterred by the federal officers who were charged with controlling their access to the United States. Additionally, legal traffic entering the country was subjected to interminable delays at ports-of-entry due to the low level of staffing at these ports.

To bring integrity and safety to the Southwest border, we developed a comprehensive, multi-year strategy, based on the concept of a border that works; one that deters illegal migration, drug trafficking, and alien smuggling, while facilitating legal migration and commerce. To achieve the goals of this strategy, the Administration requested and received high levels of personnel and resources.

The President's fiscal year 2001 budget continues to build on what we have achieved. It includes $164.2 million and 699 new positions to enhance INS' border management strategy. It strengthens enforcement efforts by funding 430 additional Border Patrol agents—more than double the fiscal year 1993 level. These additional Border Patrol agents will be critical to our efforts to expand integrity and safety to the borders, thereby improving the quality of life in border communities. In an environment of budget constraints and clear limitations, this budget reflects an increase in new agents that is achievable, while focusing on pay reform to enable INS to recruit and retain agents. The increase of 430 agents will bring the number of agents up to approximately 9,000, which represents a 127 percent increase over the fiscal year 1993 level of 3,965 agents.

INS has worked extremely hard over the last few years to meet the challenges of hiring and retaining Border Patrol agents. A strong economy, offering opportunities in the private sector, has enticed many who may have considered a career in the Border Patrol. Retention is affected when experienced veteran Border Patrol agents leave, attracted by the private sector or by other opportunities in law enforcement offering more lucrative financial rewards. After impressive hiring successes in fiscal year 1997 and fiscal year 1998, averaging 1,020 net new agents per year, in fiscal year 1999, INS was able to hire 1,126 new Border Patrol agents—a net increase of 369 new agents after attrition.

We have taken action to address recruitment and retention problems. In January 2000, INS implemented a signing bonus program where new recruits are paid two thousand dollars upon the successful completion of the Border Patrol Academy training program. Through our National Recruitment Program (NRP) we are advertising extensively via the Internet, through the use of "banner ads," and the placement of job postings on various Internet sites such as monsterboard.com, Jobs4Police.com, JobDirect.com and JobTrak.com. In addition, there are 200 Border Patrol recruiters who conduct local and targeted recruitment in every state. These teams are responsible for attending local college and military recruitment fairs, conducting open houses, and placing local ads and public service announcements. Through the NRP, the Border Patrol will attend over 500 recruiting events this year.

To recruit new agents, improve retention, and reduce attrition, the President's fiscal year 2001 budget proposes upgrading the journeyman level Border Patrol agent position from a GS–9 to a GS–11. This upgrade recognizes that the nature of Border

Patrol work has evolved to the point that agents routinely use advanced technology in the performance of their duties, just as investigators and intelligence agents do. The President's fiscal year 2001 budget seeks $40.9 million to fund this element of pay reform for Border Patrol agents, as well as change overtime compensation so it is more consistent with other Federal law enforcement agencies.

Border Patrol agents are assisted and made more effective by investments in state-of-the-art technology. Technological improvements have played a key role in the success of INS' enforcement and facilitation functions.

The fiscal year 2001 budget requests $20 million to expand the deployment of Remote Video Surveillance Systems, the camera portion of the Integrated Surveillance Intelligence System (ISIS). The ISIS system extends the efficiency and effectiveness of the line-watch Border Patrol Agents on both the Northern and Southwestern borders. Where deployed, the system detects illegal aliens and drug smugglers, thus permitting agents to respond to incursions knowing in advance what awaits them. The ISIS system with night and day surveillance cameras, used in conjunction with ground sensors, is linked to central controller centers so that Border Patrol agents can be dispatched with more strategic information about targets. False alarms are reduced, and officer safety and law enforcement effectiveness are increased immensely. In locations in Arizona, New Mexico, and Texas, this technology has had a dramatic effect on border control and management and increases the safety of officers who must respond to incursions. The proposed combination of new Border Patrol agents and surveillance technology will permit INS to gain control over larger portions of the border.

In fiscal year 2001, INS is also requesting $50.3 million to support new Border Patrol construction. This request will provide $41.7 million for the construction of ten Border Patrol facilities. An additional $4.5 million is being requested for the planning, site development, and design work required for construction of seven new facilities in future fiscal years. The record increases in Border Patrol staff have far outpaced INS' ability to provide adequate housing. These resources will allow us to continue to address space requirements and accommodate the growth in Border Patrol while providing our staff with safe and humane facilities.

The fiscal year 2001 budget also maintains INS' focus on facilitating legal immigration by funding an additional 269 Immigration Inspectors, a 62 percent increase over the 1993 level. As a result of the dual focus on enforcement and facilitation, INS has been able to enhance its enforcement capabilities while reducing wait times for those seeking to cross the border legally at ports-of-entry. The positions included in the President's budget will enable us to staff, and meet established inspection times at new international airport terminals that are scheduled to be fully operational during fiscal year 2000 and fiscal year 2001. The positions will also support new port-of-entry openings in fiscal year 2000 in Eagle Pass, Los Tomates, and Laredo in Texas, and ensure that INS will be sufficiently staffed for peak travel times in the primary inspection lanes at these new ports. Additionally, 28 of these positions will handle increased workload at land border ports related, in part, to the expedited removal process.

The President's fiscal year 2001 budget also seeks $28.9 million for an upgrade for Immigration Inspectors of the journey level from GS–9 to GS–11. This reform recognizes the increased knowledge requirements and enhanced authorities and responsibilities of each inspector's position imposed by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. These responsibilities include the ability to remove aliens attempting illegal or fraudulent entry in to the United States. Pay reform for Immigration Inspectors will put INS in the strongest position to recruit new inspectors and retain experienced ones.

The border management strategy has proven that deterrence really works. We have implemented the strategy, corridor by corridor along the Southwest border—including Operation Hold the Line in El Paso, Operation Gatekeeper in San Diego, Operation Safeguard in Tucson, and Operation Rio Grande in McAllen and Laredo. Initially, these operations produce a higher level of apprehensions. This phenomenon is a direct result of the increase in agents and technology deployed. However, as the operation becomes fully implemented and the Border Patrol gains control, the deterrent in that area leads to a sharp decline in apprehensions. The benefits from these operations are clear: Operation Gatekeeper in the San Diego Sector realized a decrease in apprehensions from 44 percent of total apprehensions along the Southwest border in fiscal year 1993, to 12 percent in fiscal year 1999, a twenty-five year low; Operation Hold the Line in El Paso produced a decline in apprehensions as a percentage of the total along the Southwest border from 24 percent to 7 percent during this same time period. Moreover, our border operations have also contributed to enhancing the quality of life for those who live along the Southwest

border, as evidenced by falling crime rates in Laredo, Brownsville, San Diego, and elsewhere.

Our strategy to control the border has been extended to the McAllen Border Patrol Sector, the home of Operation Rio Grande. Apprehensions in the sector declined by 14 percent in January 2000 from those in January 1999, and are on target to reduce total apprehensions for fiscal year 2000 in the sector by 22 percent from fiscal year 1999's level. Projected declines in apprehensions for fiscal year 2000 from fiscal year 1999, at specific stations in the McAllen Sector are as follows: Brownsville Station, the heart of Operation Rio Grande, was down 46 percent for the month of January 2000, and is down 47 percent for the fiscal year; Port Isabel Station was down 40 percent for the month and 35 percent for the fiscal year; Harlingen Station achieved a 36 percent decrease for the month and is experiencing a 35 percent decrease for the fiscal year; and Kingsville Station, which covers the Sarita Checkpoint, and which was once the busiest corridor for alien traffic in the McAllen Sector, was down 20 percent for the month and is down 31 percent for the fiscal year. At the same time, Mercedes, McAllen, and Rio Grande City, which are upriver from the main targeted area, are all showing increases in apprehensions indicating that there is a very noticeable shift of alien traffic due to Operation Rio Grande.

Furthermore, in the McAllen Sector, apprehensions of Other Than Mexicans (OTMs) seem to also be decreasing. McAllen encountered 813 OTMs in December, but only 569 in January. This number is significant because December has historically been a slower month than January.

One area of concern in the McAllen Sector is in narcotics trafficking and interdiction. We have been making record seizures and are 36 percent above the value of narcotics seized in fiscal year 2000 for the same period in fiscal year 1999, even though the number of cases remains almost the same. In fiscal year 1999 we realized an all time record year for narcotics seizures in the McAllen Sector, and it appears 2000 will be even higher. We remain optimistic that we can have an impact on the narcotic traffickers by forcing them to move out of the area or, preferably, change occupations.

In June 1998, INS launched a Southwest border-wide public safety initiative designed to educate migrants about the severe dangers associated with illegal crossings and to assist those who are in danger. The initiative was developed in cooperation with the Mexican government and state and local officials in border communities. In fiscal year 1999, Border Patrol rescue efforts saved 1,042 persons in 200 rescue incidents. This initiative realized a 21 percent decrease in drowning deaths and a 41 percent decrease in heat-related deaths when comparing fiscal year 1999 to fiscal year 1998.

Under Operation Safeguard, Tucson Sector has been concentrating its efforts in certain targeted zones in the Douglas and Nogales areas. In the first quarter of fiscal year 2000, compared to the last quarter of fiscal year 1999, targeted zones in Nogales experienced an overall 44 percent decrease in apprehensions. Attempted entries have also declined during the period in these targeted zones.

In developing and implementing our border management strategy, we have always sought to integrate the activities between the ports-of-entry with those at the ports. We recognize that facilitation of legal cross-border traffic of people and goods is vital to the nation's economy. However, these ports are also the potential entry points for criminals and contraband. Thus, INS seeks to work cooperatively with other Federal agencies, and in so doing has achieved impressive results.

In fiscal year 1999, Immigration Inspectors encountered more than 525 million applicants for entry into the United States (115 million at the northern land border, 319 million at the southern land border, and 91 million at air and sea ports-of-entry). Currently, there are more than 4,900 Immigration Inspectors staffing America's ports-of-entry. More than 500 of these inspectors are located on the Northern border, 1,485 are located at ports along the Southwest border, and 3,044 are located at air/sea ports throughout the United States.

Over the last five fiscal years, the total number of people applying to enter the United States at its ports-of-entry has risen approximately 9 percent. In the course of inspecting these applicants, we have identified a 20 percent increase in the amount of document fraud. We have also increased enforcement actions, such as vehicle seizures 100 percent while increasing alien smuggling apprehensions at the ports 117.5 percent.

In August 1998, the Attorney General and the Secretary of the Treasury launched the Border Coordination Initiative (BCI). The BCI is a comprehensive effort by Federal agencies to create seamless immigration and narcotics enforcement through facilitation processes at and between border ports of entry, from Brownsville to San Diego, over the next five years. Currently, the BCI involves INS and the U.S. Customs Service. However, during fiscal year 2000, we intend to involve other Federal

agencies including the Coast Guard, the Department of Agriculture, the Federal Bureau of Investigation, and the Drug Enforcement Administration. In fact, the U.S. Coast Guard now has a full-time BCI Coordinator who is working with INS and U.S. Customs Service counterparts.

None of these accomplishments would have been possible without the continued support of the Subcommittee.

Interior Enforcement

Interior enforcement is an essential complement to the Administration's overarching immigration enforcement strategy. INS' formal Interior Enforcement Strategy was presented to staff of the Appropriations Subcommittee in January 1999. The Strategy established the following priorities: identify and remove criminal aliens and minimize recidivism; deter, dismantle and diminish smuggling or trafficking of aliens; respond to community reports and complaints about illegal immigration and build partnerships to solve local problems; minimize immigration benefit fraud and other document abuse; and block and remove employers' access to undocumented workers. And, as you requested, we are rewriting and resubmitting the interior enforcement strategy to focus on alien removals as the end outcome measure. We have drafted an Addendum which clarifies the Subcommittee's requested changes to the strategy.

Detention and Removal of Illegal Aliens

We have enhanced our ability to identify and disrupt criminal enterprises that engage in egregious violations of human rights and immigration law and strengthened our capacity to detain and remove aliens who have committed serious criminal offenses. The number of criminal aliens in detention has quadrupled from about 3,300 in 1994 to more than 12,000 today, while the number of criminal aliens removed doubled from 30,000 in 1994 to 62,800 last year.

The President's fiscal year 2001 budget requests $78.9 million to increase detention space in fiscal year 2001 by 1,000 average daily state and local detention bed spaces. These resources are required to continue to comply with the mandatory detention requirements of IIRIRA. The request includes 25 Deportation Officers, 67 Detention Enforcement Officers, and 17 support positions to sustain the 1,000 average daily bed spaces.

In fiscal year 1999, INS utilized 442 high cost average daily juvenile bed spaces. The President's fiscal year 2001 budget requests $8.5 million to fund 120 critically needed juvenile detention bed spaces nationwide, bringing our average daily juvenile bed level to 562 bed spaces in fiscal year 2001. These resources will also fund detention vehicles and other support equipment, as well as seven Deportation Officers, three Detention Enforcement Officers, and one Procurement Analyst to manage the cases, transport the detainees, and implement removals of these alien juveniles.

In fiscal year 1999, INS increased its use of the Justice Prisoner and Alien Transportation System (JPATS) to move aliens to available detention space and to remove them from the United States. JPATS, created in 1995 by the U.S. Marshals Service and INS, is an air transportation system to transfer or repatriate federal prisoners and detainees. The President's budget for fiscal year 2001 includes $10 million to fund an increase of more than 16,000 air movements. In fiscal year 1999, INS utilized 60,000 air movements to relocate, remove, and repatriate aliens. INS plans to increase to 72,000 movements in fiscal year 2000 so that INS can progress toward its projected need of 85,000 total air movements in fiscal year 2001.

INS has begun to implement a set of detention standards in some of the largest state and local facilities from which it rents detention beds. The President's fiscal year 2001 budget requests $8.6 million, 40 Deportation Officers, 37 Detention Enforcement Officers, and three Procurement Officers to continue to implement this program into 100 more of these state and local facilities, and maintain a minimum level of standards for INS detainees. Through this initiative, we will be able to provide the same standards to our detainees who are housed in State and local facilities that we provide to our detainees who are housed in INS facilities. Our initiative to establish and maintain a set of minimum services for detainees originates with a fundamental belief held by INS, the Department of Justice, and public interest groups that INS should provide a minimum of proper and humane treatment for its detainees.

The President's fiscal year 2001 budget requests $8 million for 18 Deportation Officers and 32 program specialists to improve INS' use of the National Crime Information Center (NCIC) system, an FBI-operated database used to track criminals. INS is required by the NCIC covenants to enter the qualifying records related to wanted criminal aliens and deported felons into the NCIC database and maintain

the active records on a regular basis. With the tremendous growth in the number of records that qualify for entry, INS has been hard pressed to enter all of those records qualifying for entry within the mandated 24-hour period. Included in this initiative are resources for alien detention, the installation of NCIC terminals and connections at INS District offices, detention vehicles, travel costs, and alien removals. The additional staff that is part of the request will allow INS to better coordinate the daily use of NCIC, validate the quality of records, confirm the accuracy of the data, respond to "hits" on INS records in NCIC, and take custody, transport, detain and remove aliens apprehended by other law enforcement agencies.

The request for detention facilities construction is $26.8 million. Of this, $10.4 million will enable INS to expand the Port Isabel SPC in the Rio Grande Valley with completion estimated in fiscal year 2002. An additional request for $9.5 million will expand the administration and court facilities at the Krome SPC in Miami; $.8 million is requested to upgrade the San Pedro SPC in Los Angeles. The request includes $4.1 million for the planning, site development, and design work required to support three detention projects scheduled for future construction. Finally, we are requesting an additional $2 million to provide for repair and alterations at other existing INS detention facilities.

The removal of criminal and other deportable aliens is the first priority of INS' comprehensive Interior Enforcement Strategy, and serves as a key performance measurement of the strategy. In fiscal year 1999, we continued to emphasize removing deportable aliens from the United States, achieving 178,168 final order removals (62,838 criminal removals and 115,330 non-criminal removals of which 89,267 were expedited removals).

INS removed a total of 19,798 criminal aliens through the Institutional Removal Program (IRP) in fiscal year 1999, an increase of approximately 46 percent over fiscal year 1998. As you know, the IRP involves identifying, processing, and obtaining a decision on deportable inmates prior to their release from Federal, state and local institutions. The IRP's facilitation of the prompt removal of deportable inmates once their criminal sentences are complete saves resources that would otherwise have to be used by INS to keep the criminal aliens in its custody through the entire legal process. INS also obtains orders on, and removes, an additional 4,326 criminal aliens within one day of release from institutions. These "fast-track" and traditional IRP removals totaled 24,124 in fiscal year 1999. Our IRP removal goal for fiscal year 2000 is 25,700 criminal aliens; we are well on our way to achieving this goal—during the first quarter of fiscal year 2000, the IRP reported 5,763 removals.

In fiscal year 1999, we removed 10,055 criminal aliens from the Federal IRP (9,179 obtained their orders in pre-release hearings, 876 received their orders within one day following release). We are now working with the Bureau of Prisons to increase the efficiency of the Federal program in order to improve the number of aliens who receive a final order before, or on the day after, release from Federal prison. Additionally, by December 31, 1999, INS had completed installation of 15 of the 20 video teleconferencing sites approved by Congress. These sites are expected to play a significant role in speeding up removals.

Additional tools used to maximize the efficiency of the IRP program include full use of administrative removal and reinstatement of prior orders of removal. These types of proceedings can be completed without a hearing before an Immigration Judge, reducing the time needed to process an alien for removal. As a result of these tools, there is an expectation that the average length of stay in detention will decrease giving INS the capacity to detain more criminal aliens.

Investigations

I am pleased to report to the Subcommittee that INS accomplished higher than planned numbers of large-scale criminal cases in fiscal year 1999. We presented seven major inter-regional smuggling cases and 1,967 principals for prosecution, 378 large-scale fraud cases and 636 principles for prosecution, and 182 criminal cases against employers of unauthorized aliens.

As you directed, INS established Quick Response Teams (QRT), in fiscal year 1999, to work with law enforcement officers at the State and local level in areas specifically identified as having a growing illegal immigration problem. QRTs are made up of special agents and detention enforcement officers deployed to INS District Offices and selected cities to coordinate detention and removal operations. The teams are not independent organizations within INS, but are part of the present organizational enforcement structure. We expect to see the dividends from the investment in QRTs during fiscal year 2000. Indeed, with the opening of the first QRT office on September 1, 1999, there has been a progressive increase in the number of requests for assistance from State and local law enforcement agencies. Additionally, the number of apprehensions made by QRTs has increased each month since

September. In Savannah, Georgia, and in Raleigh-Durham, North Carolina, QRTs have already responded to local law enforcement calls, in separate incidents, leading to the arrests of two illegal aliens from Mexico who were each wanted there for murder; one was removed and transferred to Mexican custody, the other is pending removal. Additionally, at least three criminal cases have been accepted for prosecution including individuals being prosecuted for fraudulent document vending, alien smuggling, and re-entry after deportation of an individual with a prior narcotics conviction.

As of January 31, 188 of the 200 QRT officers have been selected with 161 having entered on duty at their QRT locations. Four of the new QRT facilities have been opened with the remaining 26 in the construction process. All of the QRT locations are staffed by a sufficient number of officers, and many are responding from temporary office space to requests for assistance by local law enforcement agencies.

The QRT training program is underway with the fifth training class currently in session at the Federal Law Enforcement Training Center in Glynco, Georgia. It is anticipated that the majority of QRT training classes will be completed by April with a final class for the outstanding selections to take place in July. There will be nine, two week sessions. All QRT officers will attend. Additionally, several officers who supervise QRTs from District offices will also attend the training sessions. The two-week training session contains training on professionalism, enforcement authorities, QRT mission and objectives, self-defense techniques, updated computer training, media training, and constitutional law.

IMMIGRATION SERVICES

To sustain the efforts and successes of Immigration Services in fiscal year 2001, INS' budget estimates $807 million for the Examinations Fee Account, funded solely through the collection of fees from applicants. It also projects $127.3 million in a new account, the Immigration Services Capital Investment Account (ISCIA). With these resources, INS projects tentative goals of completing 1.05 million naturalization applications and 600,000 adjustment of status applications in fiscal year 2001.

The fiscal year 2001 budget proposes a voluntary Premium Service Fee of $1,000 for business cases, which will guarantee a decision to approve, deny, or notify the petitioner that additional documentation or information is required within 15 days. This fee will not apply to complex cases such as EB–5s. This voluntary fee will provide businesses with an option to expedite the regular processing of business cases which currently take from 60 days to more than one year, depending upon the form type and the service office. INS is unable to meet the demand for expeditious service to the business community without adversely impacting work on relative petitions and document applications. The Premium Service Fee will ease this situation and enable INS to address both the business and immigrant communities' needs for INS service. We see this voluntary fee as a "Win-Win" solution for all concerned, that is, businesses, immigrants, and the American taxpayer.

INS estimates that for fiscal year 2001, the proposed Premium Service Fee could generate approximately $80 million in additional revenue. Of the $80 million generated, about $25 million would be dedicated to providing both the expedited service for businesses, and benefit fraud deterrence. The remaining $55 million would be applied to backlog reduction and capital investment items, such as infrastructure improvements, that will benefit all of INS' customers and help reduce the applications backlog.

The primary purpose for establishing the ISCIA account is to address ongoing infrastructure needs that are not currently covered by application fees. This marks the first time INS would have a dedicated fund, separate from the Examinations Fee Account (which is funded solely through application fees) that draws on other funding sources to pay for key service related initiatives. The ISCIA will be funded a total of $127.3 million from three sources. The first source would be $55 million from the voluntary Premium Service Fee (just discussed); the second source would be $34.8 million in direct appropriations; and the third source would be $37.5 million from the re-authorization of a permanent 245(i) adjustment of status program. The Administration estimates that the re-authorization of the 245(i) adjustment of status program, which provides relief for some immigrants already in the U.S., to be $75 million. The budget proposes that half of the 245(i) receipts would support immigration services with the remaining used for detention purposes.

The funding in the ISCIA would be used solely for funding infrastructure improvements and addressing immigration benefit backlogs. Initiatives would include supporting systems upgrades, enhancing fingerprint storage and retrieval, and supplying more status information to customers through mechanisms such as INS' new nationwide toll-free information phone service.

The resources requested for Immigration Services in the President's fiscal year 2001 budget will enable INS to continue to build upon its success in the area of services.

Naturalization

In fiscal year 1999, INS achieved its goal of naturalizing more than 1.2 million new American citizens. This was a 105 percent increase over the number of applications completed in the previous fiscal year. The agency is on track to meet its fiscal year 2000 goal of completing 1.3 million naturalization applications. If naturalization applications are received as projected in fiscal year 2000, INS will meet its commitment to cut the nationwide average application processing time down to six to nine months by the end of the year.

In fiscal year 1994, INS had less than 300,000 pending naturalization applications and receipts totaled less than 600,000 during the fiscal year. Over the next four years, INS received almost five million applications, and approached two million pending applications by the end of fiscal year 1998. Last year, INS reduced the number of pending cases by 500,000 and halved the national average projected processing time for naturalization cases from 28 months to 12 months.

During this period of tremendous growth, INS has faced the challenges of unprecedented increases in workload while adding staff and improving the integrity of the naturalization process. To meet these challenges, INS began to re-engineer the way it was doing business—one that focused on three areas: integrity and standardization, backlog reduction, and communication.

Since 1997, INS has ensured the integrity of the naturalization process by establishing Naturalization Quality Procedures (NQP). INS established Quality Assurance positions in the field to institute quality in every District office. INS authorized 121 quality assurance analyst positions in fiscal year 1998, putting at least one quality assurance professional, who reported to both Field Operations and the Office of Internal Audit, in each District office.

In fiscal year 1998 and fiscal year 1999, INS focused on improving the fingerprint program. INS standardized methods of making fingerprints thereby reducing rejection rates and turnaround times. INS, through the introduction of Application Support Centers (ASCs), collocated fingerprint offices and mobile routes and established fingerprint locations that are convenient to customers and provide high quality prints. Before ASCs, the FBI rejected up to 40 percent of the fingerprints submitted by INS for background checks and response times sometimes exceeded 60 days. In fiscal year 2000, the reject rate has plummeted to 5 percent and turnaround time is less than 21 days.

INS has improved the process further by shifting preliminary review and processing of files to the Service Centers in order to allow officers more time to adjudicate cases. In this direct mail approach, all naturalization cases are sent first to a Service Center where Immigration Information Officers conduct a complete file review prior to shipping cases to the District offices for interviews.

INS has also worked hard to develop an automated case tracking system for nationwide distribution. INS' CLAIMS-4 system, which began operation in some INS offices in fiscal year 1999, now allows for standardized case tracking of naturalization cases and is being installed across the Service.

INS has been looking for new ways to achieve significant backlog reduction throughout fiscal year 1999 and fiscal year 2000. To achieve this, INS field offices and Service Centers have developed individual goals, plans, and accountability standards required to reduce the backlog of naturalization cases and now adjustment of status cases. INS staff increased from 1,401 adjudication and naturalization field positions in fiscal year 1994 to 2,517 positions in fiscal year 2000.

Expanded contacts with its customers and the community will ensure INS can provide better service. INS has implemented a nationwide National Customer Service Center (NCSC), in Corbin, Kentucky, that provides 24-hour automated service and access to Customer Service Representatives and Immigration Information Officers Monday through Friday (naturalization applicants may now use the NCSC to notify INS of a change of address). INS has expanded its relationships with immigration advocates, local officials, and community-based organizations.

Timely delivery of accurate information is critical to INS and was sorely missing in the past. In order for INS to perform its missions effectively, personnel must have complete and up-to-date information whenever an individual becomes the focus of a benefit or enforcement activity. INS officially dedicated a National Records Center (NRC) on February 25, 2000, as a part of the Immigration and Naturalization Services Records and Processes Improvement Design Project (RAPID). The NRC will help move INS' records and information delivery service and management into the 21st century. The NRC will benefit both INS' internal and external customers by

improving data integrity and electronic database quality, consolidating and accounting for all paper holdings, giving customers a single place to go for files, centralizing records support operations, and controlling records processes and the maintenance of electronic data. The Center became operational and started receiving files from the more than 80 File Control Offices on November 15, 1999, and expects to take delivery of the last of the over 20 million files, truly becoming INS' central records repository, by the end of fiscal year 2001.

Finally, INS has utilized the Internet and published a guide in order to assist applicants with questions on the naturalization process. INS' naturalization website and pamphlet, "A Guide to Naturalization," have provided accessible but comprehensive information on eligibility for naturalization and the application procedures to the public. INS now provides readily available information on how to apply for naturalization, an eligibility worksheet, and access to automated tests for history and civics. Customers are better served by increasing the information available and by eliminating the need for many applicants to stand in line at a field office.

Adjudications

INS has also positioned itself to take on other immigration benefit caseloads, particularly adjustment-of-status (I–485) applications and reduce unacceptable backlogs. In fiscal year 2000, the agency plans to complete 500,000 adjustment of status applications—a 67 percent increase from the number of applications completed during the previous fiscal year. INS is also addressing the need to replace the several hundred thousand Alien Registration Receipt Cards ("green cards") that will expire this year by developing new procedures to reduce INS field office workload and applicant wait time for replacement cards. INS has made great strides in achieving solid results with the resources provided by Congress in fiscal year 1999 and fiscal year 2000.

Our goal and emphasis has been to provide maximum value. We intend to capitalize on our successes and intensify our focus on service. Although many re-engineering efforts are still "in progress," they have already brought about many qualitative improvements in the delivery of services. This trend will continue as re-engineering efforts mature.

Re-engineering, innovation, and use of smart technology solutions are essential management concepts that INS has embraced to continue its pursuit to provide the best level of customer service. During fiscal year 1999, INS introduced a new Internet site to the public. The new site allows users to: (1) receive answers to the most frequently asked questions, (2) currently download most INS forms, with all of them on line within the next few months, (3) receive sample naturalization test questions, and (4) provide the latest news via immigration press releases. In fiscal year 1999, INS recorded 4.5 million Internet user interactions. In fiscal year 2000, INS is averaging 500,000 downloaded forms per month, and 550,000–650,000 user sessions per month at an average on-site time of 19 minutes per session.

PROFESSIONALISM AND INFRASTRUCTURE

For fiscal year 2001, INS requests $10.1 million to continue improving the institutional development and infrastructure needed to sustain the enormous growth in the workforce over the last seven years. In 1993, 30 percent of our positions were "support positions" and 70 percent were "mission positions." Now, our "support positions" are only 24 percent of the total. We must increase support positions and infrastructure if we are to adequately support core missions.

Included in this initiative is a request for 50 positions (34 attorneys and 16 support personnel) to address understaffing in the Legal Proceedings Program. The program provides the full range of legal support for the Service, including representing INS before the Immigration Courts and the Board of Immigration Appeals. In addition, our attorneys (1) represent the Service in labor-related cases, including Equal Employment Opportunity, Merit Systems Protection Board, and Federal Labor Relations Act matters, (2) represent the Service in tort claims filed against the agency, (3) represent the Service in contested naturalization and denaturalization hearings, (4) provide legal assistance in the formulation and implementation of regulations, (5) advise and represent the Service in special interest and other sensitive cases, (6) issue legal opinions in novel and complex matters, (7) provide legal advice to the Commissioner and other INS officials, (8) provide training on immigration law to agency officers, and (9) represent the Service in employer sanctions and conveyance seizure litigation. The success of the Service is intrinsically tied to the effectiveness of its legal representation.

The lack of a sufficient number of INS attorneys has coincided with a dramatic increase in both the number and the percentage of aliens granted relief from removal by Immigration Judges. According to statistics provided by EOIR, the number

of aliens granted relief from removal increased by 414 percent between fiscal year 1994 and fiscal year 1999.

INS is also requesting 60 positions to support Financial and Debt Management Services. Plainly put, these are positions for the people who pay our bills, administer bond receipts, and ensure deposits are promptly made and accounted for. They are essential to the administration of this agency and will help us improve our overall financial management performance, including ensuring we receive an unqualified audit opinion on our financial statements.

In 1996, the Department of Justice's Management Division issued a report which in part stated that "the overall decline in INS' staffing in almost every major administrative activity suggests a disturbingly weak administrative infrastructure which has been hard pressed to support the agency's mission effectively." With your help and support, we can begin to address this serious shortcoming.

RESTRUCTURING

Over the past few years, the Administration worked in a close and bipartisan manner with Congress to improve INS' operations. In the same vein, the Administration today remains committed to addressing systemic problems, particularly those related to INS' dual and inter-related missions of service and enforcement. These systemic problems include competing priorities, insufficient accountability between field offices and headquarters, overlapping organizational relationships, and lack of consistent operations and policies.

The Administration's principles for a successful restructuring are that immigration enforcement and service missions must have separate and clear lines of authority at all levels, from the field to headquarters, and that the immigration agency must be led by a single executive with the authority and resources to integrate immigration policy, standards, and management operations.

This single executive, appointed by the President and confirmed by the Senate, is essential to maintain an appropriate balance between enforcement and services, while ensuring a coherent and coordinated national immigration policy. To be effective, this official must have the statutory authority and appropriate staff to direct operations and supervise key integration and oversight functions, such as legal counsel, financial management, policy, and communications.

CONCLUSION

The fiscal year 2001 request will ensure INS has the personnel and tools needed to carry out an effective immigration strategy. I look forward to continuing to work with the Subcommittee. With your support, we can carry forward the improvements made and continue to address problem areas and ensure the agency's integrity. I want to work with you as we continue our mutual efforts to make this nation's immigration system the best that it can be.

This concludes my formal statement on the fiscal year 2001 budget request for INS. I would be happy to answer any questions which you, Mr. Chairman, and Members of the Subcommittee may have.

NATURALIZATION BACKLOG

Senator GREGG. Thank you, Commissioner. I appreciate your testimony.

You went through a little bit on the illegal alien issue and the citizenship issue, Citizenship USA, which was a disaster, as we all know, and which you have attempted to correct.

I guess my question is where do we stand on the backlog? You did mention that briefly but give us a full explanation of where we stand on the backlog. And can we expect, as we go into this next election cycle, that we are going to see another huge explosion of citizens being registered without having been adequately vetted?

Ms. MEISSNER. Well, you made reference to the procedures in the naturalization program. That was and continues to be our most important objective; that is, the integrity of the naturalization process, the quality assurance procedures that we have put into place and the continuing validation that those quality procedures are working.

We have established quality assurance and integrity in naturalization that has been validated by outside audits three times, and continues to be validated by ongoing audits.

Our efforts to reduce the backlog began last year. It is a 2-year backlog reduction effort in naturalization. We completed 1.2 million naturalization applications last year and reduced the waiting time from more than 2 years to what is now an average of 1 year. The second year of that backlog reduction, which has been supported with funding by the Congress last year and this year, is under way. We are on track with this year's naturalization production goals. Every office has a production plan. It is carefully monitored in connection with the proper procedures being used, and we expect that we will eliminate the backlog this year.

Senator GREGG. My question was, are we going to see a huge bubble, as happened before the last presidential election, coming out of your office in new citizens being registered who have not been adequately vetted?

Ms. MEISSNER. We have no expectation that there will be any change in the numbers from what I have presently given you. We have no reason to believe that there will be a bubble of applications. In fact, the numbers of applications being filed are declining. We set our production goals 2 years ago and are holding to those goals and have no intention to change them.

Senator GREGG. So we can anticipate that at least in this presidential election we are not going to have an effort by the immigration agency to deliver us a large new group of citizens who end up being felons?

Ms. MEISSNER. There will be no alteration from the plans that we are presently explaining to you and there will be no diminution in attention paid to the integrity of the naturalization process.

Senator GREGG. Well, that wasn't the case during the last presidential election, Commissioner, and we certainly hope that it will not be repeated. We will take you at your word at this time, but we are going to monitor that very closely because we do not have a whole lot of confidence, quite honestly, in your agency on this issue.

CRIMINAL ILLEGAL ALIENS

Now, I also understand, and we have experienced this a fair amount, that a number of people have been released from prison or from detention that have gone on to commit crimes—illegal aliens. What is the status of the illegal aliens that have been released from detention who have been convicted or are presently expected to be charged with committing crimes?

Ms. MEISSNER. We are operating under mandatory detention requirements that were passed in the 1996 immigration law. When we have criminals, aliens who have committed crimes, we are mandated to detain them and we do detain them. Somewhere between 60 and 80 percent of our bed space is devoted to criminal aliens, in conformance with those requirements.

We hold them until we can return them to their country. Those who we cannot return, and there are some from countries such as Vietnam, Cambodia, Laos, Cuba, where their countries will not take them back, we work aggressively with those countries to get

them to accept return. In fact, we have a delegation right now in Southeast Asia negotiating with the Vietnamese to begin to accept their nationals in return.

When we release people from detention, if they commit other crimes or if they are returned to their country and somehow manage to get back to the United States, we again would apprehend them, detain them. Recidivism is a problem. There is no question that recidivism for criminals is a problem not only in the immigration system; it is a problem across the board in law enforcement. But our first priority in enforcement away from the border is criminal aliens—arresting and returning criminal aliens. Those numbers continue at a very steep level of increase.

Senator GREGG. How many criminal aliens then, just so I can get a sense of the numbers that we are dealing with here, have you released?

Ms. MEISSNER. I would not be able to give you a number of criminal aliens that we have released. We release people only when they have completed their sentences, when we are returning them, or when they have shown that they are not a danger to the community or a danger of flight.

Senator GREGG. Well, of the criminal aliens released, how many have been arrested again in the United States?

Ms. MEISSNER. That is a number that we are analyzing right now. When that number is complete and that analysis is complete, I will be happy to provide it to you. I do not have it with me.

Senator GREGG. Well, can you give us a ballpark?

Ms. MEISSNER. The question is how many have committed crimes after we have released them?

Senator GREGG. That is correct.

Ms. MEISSNER. We have looked at a sampling in order to determine what the incidence of criminality of recidivism, repeat recidivism is, and I can get that number for you. As I say, I do not have it.

What I can tell you is that we have——

Senator GREGG. Well, are we talking 100? Are we talking 1,000? Are we talking 5,000, 10,000, 50,000?

Ms. MEISSNER. Overall in the criminal justice system, close to two-thirds of the people who are released from prison commit subsequent crimes.

Senator GREGG. Well, not if they are illegal aliens, they do not. If they are illegal aliens, they are not theoretically released back into our culture.

Ms. MEISSNER. No, they are returned to their country and we have, as I said, doubled the number of people, criminal aliens, that we have returned to their country. Our primary objective with criminal aliens is to return them. But it is also the case that some do re-enter and some commit subsequent crimes.

Senator GREGG. And my question is what is that number? A small number? A large number? What are we dealing with here?

Ms. MEISSNER. I think that it is a substantial number and it is consistent with the behavior of criminals released in other circumstances. In other words, the fact that one is an illegal alien does not substantially reduce or increase the possibility for subsequent criminality.

Senator GREGG. I do not really think that is a very good excuse though, for the management of the individual, to be very honest with you. That does not seem to me to be a way to excuse the activity, but I will be interested in hearing what the number is.

[The information follows:]

REPORT ON CRIMINAL ALIENS WHO COMMIT CRIMES AFTER RELEASE

On February 28, 2000, the attached summary on criminal aliens released from detention was provided to the House Judiciary Committee in response to its subpoena on criminal aliens released from INS detention. The attached report was also provided to the Senate Committee on Appropriations on March 8, following the Commissioner's testimony before the Committee.

Following the initial release of this summary, INS initiated a limited review of the physical alien files (A-files) pertaining to some of the aliens included in the reported population. Based on a preliminary review of these A-files, discrepancies between the data contained in the INS database and information contained in the physical A-files became apparent. Upon further review, it was determined that the methodology used to identify responsive cases from INS' databases may have inadvertently included non-criminal alien data in the document responses and analysis submitted to the committee.

The Department has contracted with KPMG for a review of the methodology used in retrieving the data. On April 19, 2000, INS and Justice Management Division held an introductory meeting with the KPMG contractors assigned to the project to initiate the review. The project's Statement of Work provides that KPMG will: review the methodology that INS previously implemented in its initial data collection; make recommendations for improving the methodology if appropriate, and validate the results of any subsequent data analysis by the INS following the accepted methodology. Following this meeting, the KPMG contractors initiated their assessment of the initial methodology used by the INS. This review is ongoing. At this time, given the ongoing review of possible recommendations to improve the methodology, the INS cannot determine when any subsequent data run will be completed and when the results of the analysis will be available. The Department is aggressively approaching this review and hopes to obtain the results within 3 months. This time line, again, will be determined by the requirements of the methodology for the subsequent data analysis, which have not been recommended by KPMG at this time. The INS will provide monthly status reports to the Appropriations Committees of the House and the Senate on the KPMG review.

FEBRUARY 28, 2000.

IMMIGRATION AND NATURALIZATION SERVICE RESULTS OF HOUSE JUDICIARY COMMITTEE SUBPOENA ON CRIMINAL ALIENS RELEASED FROM DETENTION

The Department of Justice has gathered and analyzed the immigration and criminal records of certain groups of aliens in connection to a subpoena from the Committee on the Judiciary. The first group of these records relates to criminal aliens that were released from Immigration and Naturalization Service (INS) detention and either returned to the community or given an order of voluntary departure. The second group of records relates to aliens that were admitted to the United States through primary inspection at an airport.

Recidivism is one of the most serious problems in enforcement. This exercise resulted in a 37 percent rate of recidivism for criminal aliens released from INS custody. While the rate varies greatly for specific populations, the findings from this project are in keeping with general recidivism rates. The INS release criteria attempt to minimize this risk whenever possible. The INS has increased detention capacity greatly over the last five years and focused efforts on removing criminal aliens and border enforcement. To this end, the INS removed approximately 245,000 criminal aliens between October 1994 and May 1999. In addition, we are attempting to maximize the amount and quality of information that an officer on the ground has to make a determination with regard to release, including through IDENT/IAFIS interconnectivity.

The Department's response to this subpoena relied heavily on the Immigration and Naturalization Service and the Federal Bureau of Investigation (FBI). The INS worked with the Bureau of the Census to develop methodologies for answering questions raised by the subpoena; the methodologies were reviewed and approved by the General Accounting Office. The U.S. Customs Service assisted with data for the airport admissions.

Aliens released from detention

Between October 1, 1994 and May 31, 1999 the INS had over 300,000 criminal aliens in detention. During this period the INS released 35,318 criminal aliens from custody. The Department and INS place the highest value on protecting public safety. Criminal aliens may be released under several conditions; including after an immigration judge sets bond for an alien or orders release on recognizance or supervision, after review of the case by INS indicates that the alien is not a flight risk or danger to the community and the detention space is needed for more serious criminals, on an order of voluntary departure, or because an immigration judge granted some form of relief to the alien or terminated the proceedings against the alien.

A search of INS databases indicated that the INS had FBI numbers, indicating an arrest history, on 23,295 of the released aliens. The INS did not have FBI numbers on the remaining 12,023 aliens. The FBI produced criminal histories (rap sheets) on the aliens with FBI numbers who had an update on their rap sheet after the date of release from INS detention. Those 18,454 histories were reviewed by INS investigative officers who determined that 8,658 aliens were arrested for a crime after release from INS detention. The officers checked the histories for the disposition of the most serious subsequent crime. As agreed with the Committee, those crimes and dispositions have been classified into the discrete categories of violent crimes, drug-related crimes, and non-violent crimes. Violent crimes include homicide, assault, sexual assault, kidnapping, and robbery. The criminal histories often do not distinguish between levels of a crime, e.g., between homicide and attempted homicide. Assault includes crimes ranging from simple assault to aggravated assault with a deadly weapon.

The following table summarizes the type of crime and the disposition of the case if known. Only the most serious crime is included in this table; some aliens had multiple charges or arrests on multiple dates.

	Total	Nonviolent	Drug	violent
Total arrests	8,658	4,412	2,870	1,376
Convicted	4,264	2,270	1,489	505
No disposition	4,394	2,142	1,381	871

Since a large proportion of the rap sheets provided by the FBI did not include information on the disposition of the case, INS agreed to draw a random sample of 116 of the cases without a known disposition. The purpose of the sample was to develop an estimate of the number of convictions. The INS officers traced the records of the sampled cases to determine disposition. The results indicated 72 cases with convictions, 24 cases still pending and 20 cases with dismissals, nolle pros, or acquittal. Therefore an estimate of the number of convictions among the cases without disposition is 2,709 plus/minus 379. The estimate of cases still pending is 903 plus/minus 318.

The arrest rate among the 23,295 aliens for whom the Department had FBI criminal histories is 37.2 percent. The number of convictions (including the estimate from the sample) is 6,973 plus/minus 379. The rate of arrest and conviction among the 23,295 aliens is 30 percent plus/minus 1.6 percent.

There is considerably less information about the 12,023 aliens for whom the INS did not have FBI numbers. The INS drew a random sample of 400 cases from the records of these aliens. That sample was investigated by the INS' Law Enforcement Support Center (LESC). Using name and date of birth checks, the LESC found 67 possibly responsive records; an arrest rate of 16.8 percent plus/minus 3.6 percent. However, the Department believes that this lower arrest rate is attributable to the uncertainty and difficulty in using only name and date of birth checks with this population. Therefore, the Department believes that the arrest and conviction rates among these aliens is the same as the rates among those aliens that had FBI numbers.

The INS compiled the records of subsequent actions taken by the INS after the initial release from detention. Of the 8,658 aliens who were arrested after release, 3,396 were removed from the United States at least once and there were a total of 4,646 removals among these aliens indicating multiple removals of some aliens (2,767 aliens were first removed after the arrest and 629 aliens were removed before the arrest and had illegally reentered the United States).

Aliens admitted through primary inspection at airports

The INS worked with the Customs Service to develop a list of the approximately 19 million aliens admitted through airports in fiscal year 1998. The list contained information on name, date of birth, and date of entry. Because the list was too large to investigate every admission, the Department and the Committee agreed that an exploratory sample of the admissions would be investigated. The INS drew a simple random sample of 10,000 aliens. The names and dates of birth of these aliens were processed by the FBI using a "sounds-alike" system for determining name matches. After eliminating records that did not match the name and date of birth exactly, the INS determined that 4 aliens among the 10,000 had a criminal history with convictions before and after entry.

The small number of ineligible admissions uncovered by this sample indicates that a more complex sampling strategy would be needed to obtain an estimate for the entire population of admissions with a reasonable level of precision. The samples would need to be larger and they will need to be executed over long periods of time.

CAPITAL INVESTMENT ACCOUNT

Senator GREGG. You mentioned that you have a new fee system you are going to put in place to capitalize this capital investment account. A capital investment account you plan to use for the purposes, as I understand it, of capital activity but also for the purposes of actual operating activity in the area of approving various items, such as citizenship papers and visas? Is that what you were going to use this for?

Ms. MEISSNER. This is a proposal, in the budget, to recognize that processing fees, the fees that we get from applicants, along with capital investment are extremely important if we are to provide the service that is necessary.

The capital fund would be intended primarily for capital investment in automation, new phone capabilities, case tracking, and additional service center capabilities. It would also be used for backlog reduction in the adjustment of status.

Senator GREGG. You are going to fund this with a fee that people will have the option of paying if they want to get their approvals done in a more prompt way?

Ms. MEISSNER. Yes, our proposal is that we would have a voluntary fee for business applications that, according to our estimates, would generate about $80 million, of which $25 million would be put into additional staff to be able to handle business applications within 15 days. The remaining $55 million would be devoted to infrastructure so that we can accelerate the level of technology, automation and backlog reduction from what we are able to do with the current fee structure.

Senator GREGG. So essentially you are going to tell an applicant that if they are willing to pay $1,000, they can get their application processed in 15 days but if they are not willing to pay $1,000, it may never reappear?

Ms. MEISSNER. No, that is not correct. The premium fee would be along the lines of expedited service that one gets from Federal Express or from the Passport Office. The idea is to provide 2-week turnaround service for business applicants who are willing to pay the $1,000 and add the staff that would be required to do that. It would not take away from the attention given to the non-$1,000 payers. What it would do is make money available that would allow for upgrading the entire infrastructure of the services area

of the INS's work so that all applicants would be able to get better service over the longer term.

At the present time, we are simply unable to make the infrastructure improvements as quickly as we need them, from the fees that are paid with our applications.

Senator GREGG. But the actual cost of doing this 15-day event would be about a third of what the fee is going to be.

Ms. MEISSNER. That is correct. The fee would pay for the 15-day turnaround, but would also provide a revenue source that would improve the processing for everybody over a 2-to 3-year period.

Senator GREGG. Senator Hollings.

NATURALIZATION BACKLOG

Senator HOLLINGS. Thank you, Mr. Chairman.

Ms. Meissner, the record, having a 2-year backlog in naturalization is not a success. We have had a 232 percent increase in your budget and we were supposed, by the millennium—everybody kept talking about the millennium and now that we are here, they do not even mention it—by the millennium we were supposed to be rid of the backlog and we are still talking about a 2-year backlog.

BORDER PATROL

But let me ask specifically about the Border Patrol. Now, we authorized 1,000 agents and I have looked at your budget here and you really only provide for 430. You talk the talk but do not walk the walk. You talk about 1,800, but 600 of the agents that we were supposed to have hired last year; now you are talking really of 1,800 but only employing 430 for this year, so we are substantially behind on this Border Patrol.

And we all know up here with respect to the economy and the high employment, it is not as easy, but the military goes to the high schools. You could go to the high schools in New Mexico and you can get some good Spanish-speaking high school graduates and put them on overnight, send them to Charleston to the school or the school there in New Mexico. But I find that in the schools, the classes are cut back from 29 to 20. You are cutting back on the classes.

You are talking about the great successes and how they are all coming on but we did that talk last year and we ended up 600 shy. Now you are talking about 1,800 this year and really asking for only 430.

What gives? Cannot we get some people employed?

Ms. MEISSNER. Well, we, as you know, have had a very aggressive hiring program for 5 or 6 years. We met our hiring goals for 4 years in a row. It has been a very aggressive effort.

Last year, fiscal year 1999, we faltered. We ran into a labor market that was very unyielding for us. As a result, we have made a wide series of changes that have increased our applicant pool substantially. We are continuing to increase the applicant pool. But we did fall behind last year and we need to make that up.

The applicant pool is now 30 percent more than it was last year at this time. We have attracted between 11,000 and 12,000 more people as qualified applicants as we have put these changes into place. We began in January to offer a hiring bonus, as well as to

make some alterations in the scoring of our tests so that we have widened the number of eligible people that we can attract. We have a pay reform package proposal in this budget that we hope to be able to move forward with, which will create additional ability to retain people in the Patrol, as well as recruit. So this has been a major effort of very high priority to the Service.

The class schedules have been filled so far but we have a very, very ambitious trajectory coming in the next 6 months that we need to be able to meet. We will do everything that we can.

Senator HOLLINGS. How can you call that an ambitious trajectory when you are cutting back from 29 to 20? You are going in the other direction. You talk about the aggressiveness, how you are going to bring them in at a GS–11 rather than a GS–9, but then you cut down the overtime pay. So the amounts that they would get initially paid, then they cut back on overtime, so they are not getting any more, so that is not aggressive.

Ms. MEISSNER. No, actually the overtime proposal that we are making increases the salary for the Border Patrol and it creates a greater amount of overtime that counts toward retirement than the current system. So it is a much more advantageous system for the GS–9s that are currently in the Border Patrol that are the working level.

CHARLESTON CASE

Senator HOLLINGS. Ms. Meissner, I have a question on a case that we had down there in Charleston. This young student at the College of Charleston, her mother won the immigration lottery. I understand your staff was informing you about it. I have been almost to the top, the next person under you on this particular case, and what happens is they win the lottery and they then have to apply within a year and she applied and her application was misplaced, lost for 3 months. The agent admitting to the 3-month loss then asked for the expedited treatment by the INS to get her in under the terminal date of October 18 and that was totally ignored. So the agent, knowing it was lost and asking for expedition, which would have easily had her processed and admitted, instead, she got it in 18 days later and, as a result, now her entire family is here from the Ukraine but she is going to be shipped back to the Ukraine.

In contrast, for example, her sister was in the Ukraine. The State Department handled it there and her sister got in. And through no fault of her own, she is appearing before the judge here and trying to explain this but she is getting no cooperation.

Can you help us in this particular case?

Ms. MEISSNER. I have just become aware of this case and I will take a look at it and I will do everything that I possibly can. If I could get back to you on that, I would appreciate it so that I can become familiar with it.

Senator HOLLINGS. Please get back to us. Do everything you can. Just correct your mistake, the department's mistake, not hers.

Ms. MEISSNER. I do understand. I do understand the issue.

[The information follows:]

STATUS OF THE CHARLESTON CASE

There have been discussions with Senator Hollings' staff on this matter. The Immigration and Naturalization Service (INS) is currently in the process of researching this case. Once the case is completely researched, INS will provide the Senator's office with the full details of the agency's findings.

Ms. MEISSNER. Senator, if I could just say though on the naturalization point that you made earlier, the backlog reduction program that we presented to the Congress was always a 2-year backlog reduction program for naturalization. Last year was the first year. We met the goals. This year is the second year. We intend to meet the goals this year and that will complete the backlog reduction. But that is what was always foreseen and that was what was shared with the Congress and the way in which the funding was provided.

Senator HOLLINGS. Thank you, Mr. Chairman.

Senator GREGG. The tradition of this committee is that we recognize people in order of arrival, except whenever the chairman of the full committee is nice enough to join us and we recognize him upon his arrival. So I recognize the chairman.

MISSING PERSON

Senator STEVENS. You are very kind. I do have another meeting going on, and I came over specifically for one question and I would like to put one question, in the record.

Ms. Meissner, I learned only yesterday about a young Upik person, a young man from Chukotka in Russia who was arrested in Nome, Alaska, while visiting relatives in Gambell. He was placed in an INS facility in Seattle. His name is Vladimir Skhaug'e. He was listed as Vladimir Schaulir. He had family in Gambell and corresponded with them until 1999. At that time he told his family he was asking for asylum. In the spring of 1999 the family lost contact with him and was told through a lawyer who they contacted that he had been sent back to Russia. Since then, neither his family in Alaska nor his family in Russia has heard from him. They do not know if he was released to Russia, to whom he was released or if he was released at all.

On behalf of the committee, I would like to ask for this family what is the status of his person? I have his number from the INS service. If he was sent back to Russia, when was he sent? To whom he was released? What authorities, that is—and is there is any other relevant data that may help find this young man? He, admittedly, came to our country illegally but it was because he had family in our State, and they are very worried about him. I would appreciate it very much if you could get us a reply.

[The information follows:]

On September 5, 1997, Mr. Skhaug'e was arrested by local law enforcement authorities in Nome, Alaska for public drunkenness. He was subsequently interviewed by INS officers. During that interview, it was determined that Mr. Skhaug'e had overstayed his visitors visa. He was subsequently charged for violation of Sec. 237a(1)(b) of the Immigration and Nationality Act. He was transferred to INS in Seattle, Washington, where he was presented for deportation proceedings.

On December 9, 1997, Mr. Skhaug'e was ordered deported by an Immigration Judge. He appealed this decision to the Board of Immigration Appeals (BIA). On October 6, 1998, the BIA dismissed Mr. Skhaug'e's appeal and ordered him deported.

On January 28, 1999, Mr. Skhaug'e was deported to Russia through the port of Anchorage, Alaska, on Aeroflot Airlines to Moscow (Aeroflot Flight No. 854). Since

he was in possession of a valid passport and his medical or criminal problems were not sufficient to warrant counselor notification or any special arrangements with Russian officials, Mr. Skhaug'e was escorted only as far as the port-of-entry in Anchorage where he was placed on the flight to Russia.

Senator STEVENS. I will submit some questions for the record if I may.

Senator GREGG. Certainly.

Ms. MEISSNER. I will be happy to follow up on that. Thank you, Senator.

Senator GREGG. Senator Campbell.

ILLEGAL IMMIGRATION VIA COLORADO

Senator CAMPBELL. Thanks, Mr. Chairman.

Madam Commissioner, it was noted with interest the statistics you gave, the drop in statistics in the illegal immigrants in Bisbee, Nogales and several other places, but my view is that that does not mean they are still not coming.

The problem I think we face is when you add agents and you add pressure in Texas and California and Florida, they just go the path of least resistance, and our State is becoming one of the paths of least resistance.

On January 24th a load of 17 illegal immigrants were packed into a van, that crashed on a lonely road in a valley in Colorado, killing three. Just a day after that another van loaded with, I believe, 22 illegal immigrants, crashed in Southern New Mexico, killing one. So clearly some of these lightly traveled roads are becoming major conduits for illegal immigrants.

I know you are aware of that and you have assigned more agents to Colorado, but in doing so, a strange kind of phenomenon has started. Maybe you are already aware of it but your agency is going to expand in Durango, Grand Junction, and Glenwood Springs, Colorado. I note with interest in those town's newspapers that groups are forming to oppose this increased INS presence. I never thought I would see the day when people form in some kind of concerted effort, saying that we should not allow the INS to expand in their communities. I thought we were all on the same side of this and would like to see a reduction in illegal immigration.

The people that are opposing the INS coming into Grand Junction, Durango, and Glenwood Springs seem to be in two factions. One is the people that need workers—the ranchers and the farms and small businesses and so on that cannot get workers at a time when there are so many jobs out there. And the other group, has some racial overtones. They are saying that we should not expand the INS because they are going to add more pressure just to people of Hispanic origin.

I would like to know your thoughts on those two things that I had never seen before the last couple of years and also your intentions. Are you intent to expand the offices in those communities?

Ms. MEISSNER. Absolutely. Those resources are very important and they have been needed in these areas for exactly the reasons that you are describing. They are seeing some changing patterns and we are seeing smugglers resorting to far more dangerous tactics, putting people at risk in rickety, unsafe vehicles in large numbers, and there have been too many of the kinds of highway disas-

ters that you are describing. We need to confront that and we need to——

Senator CAMPBELL. Well, I am on your side on this. I think you ought to expand it and I appreciate you doing that, but I would like to know how the INS is going to react to some of those concerns that seem to be coming up in the communities.

Ms. MEISSNER. These community concerns do arise and I think that it is very important that we be able to address them and open the kind of dialogue with communities that we have been very engaged in in many parts of the country. I think the border communities in particular understand how aggressively we try to keep lines of communication open.

In this particular case with these new resources that you are getting in Colorado, as well as similar ones in other parts of the country, I think we need to clarify with local law enforcement and with the communities what the respective roles of local law enforcement and INS enforcement are, how we will be able to reduce criminality and abusive practices in their communities, what kind of cooperation we are able to give. I think a lot of it is dialogue and public education.

Senator CAMPBELL. Do you have some kind of an outreach program?

Ms. MEISSNER. Absolutely.

Senator CAMPBELL. You have been through this before in other towns?

Ms. MEISSNER. Yes, but I am glad that you raised it with me. I am sure that our people, locally, are aware of this but I will make certain that they are pursuing the outreach in the way that we expect.

INDIAN RESERVATIONS

Senator CAMPBELL. I would appreciate that.

Just one other related question, too, and that is in Arizona and New Mexico, particularly Arizona, we have some Indian reservations that are right on the border, as you know. I have had people tell me that they pretty much go back and forth any time they want through holes in the fence from Mexico onto some of the reservation ground.

How does your agency interact with tribal officials? In fact, some of them tell me that it is their relatives who go back and forth.

Ms. MEISSNER. Well, Indian reservations are a very special area, as you know. I mean they are sovereign and they span the border, both on the United States-Mexico border and, in some cases, on the United States-Canadian border. We work with tribal officials as closely as we can. I would have to tell you, though, that Indian reservations tend to be a source of enforcement difficulty.

Senator CAMPBELL. Has there been an increase in the number of illegal aliens coming through reservation border ground?

Ms. MEISSNER. Yes. And obviously Native Americans have specific documents that they are able to use in order to move back and forth. We increasingly will find ourselves having to work in much closer coordination with these areas as other parts of the border become more carefully controlled, to prevent this from being a weak spot.

Senator CAMPBELL. Thank you.
Thank you, Mr. Chairman.
Senator GREGG. Senator Domenici?

MEXICAN IMMIGRANTS

Senator DOMENICI. Thank you, Mr. Chairman.

You know, recently there has been a number of articles about where the immigrants from Mexico who are coming across our border are going, in spite of your efforts, in spite of our money, by the hundreds and hundreds of thousands, and it is most interesting.

For those who thought they would stay over in Arizona or New Mexico or even Texas, what a surprise. They are found all over the South now. We have some communities in the Carolinas, in Georgia where the addition of Mexican immigrants is skyrocketing. The immigrants are not there by the hundreds; in some medium-sized communities in the South there are thousands.

Frankly, I am not here to tell you that we know how to stop that, that we have some magic that we want to impose on you through our appropriation process. It is my guess that if the census were accurate, and I do not believe it will be, that we would find that over the last 5 or 6 years—I do not want to say a sieve—but I really believe there has been little impact on Mexican immigrants coming to the United States and finding a place to stay and go to work. Frankly, the employers in America are using them, working them, paying them, and they are sending huge amounts of money back to Mexico.

I do not know when it will reach a point where it is just too many and too much, but it is getting close. I mean America has almost lost control of its borders.

Senator CAMPBELL. If my friend would yield just a moment, the accident, the wreck with the 17 illegal aliens that I talked about that was in Colorado, they were on their way to Florida. The authorities questioned them and they had come up through New Mexico. There was little resistance, but they were all heading for Florida and had jobs waiting for them on farms.

Senator DOMENICI. I just want to make the point. I have three specific questions but, frankly, it would appear to me that some very, very high-level discussions between Mexico, even though they are sovereign and everybody acknowledges that, and the United States about this issue would be in order. With a border the size we have, there is no way the Border Patrol is going to keep this from happening.

I tell you, when it comes to enforcing our laws that we have put on the books, all of the border agencies are having difficulty managing the process. I do not know why that is. Maybe it is just too massive a job. But you have been trying for a number of years to get your agency under control and maybe it is a little better today, maybe a lot better than it was 4 years ago, but any outside observation is that it has a long way to go in terms of just accomplishing what we want it to accomplish. None of us—I am not convinced that if we were doing it perfectly—know how to prevent massive immigration from Mexico, so long as they are so poor and there are so many opportunities in this country. It is just one of the most at-

tractive human instincts that is taking place that it is hard for us to consider because none of us have been in that position.

DETENTION ISSUES

Now if you want to comment on that you are welcome to, but I want to talk about what is happening on the border. It appears to me that everything on the border, from the Federal district courts to where the U.S. Marshals have facilities to incarcerate people waiting for trial are all so overloaded that it is almost to a situation of emergencies. I want to just talk about one and that has to do with how are we incarcerating the illegals that we arrest that are either awaiting trial or awaiting deportation. I would ask you if you would supply the committee for the record with an entire analysis of the border and how much capacity we have and where we are putting these people in jail.

I want you to know that in my State we are not very rich and we do not have a lot of jobs. Still some of our rural counties have high unemployment and the immigrants understand that. They are not staying in those areas, other than for agriculture. They are going to your State. They are going over to the other States near you. They are going to Georgia. They are going to Colorado.

I think we have to know who we are putting the burden on, what local governments we are putting the burden on for incarceration and jail. I am going to stay right on that, and I want to tell you one county in New Mexico with a community called Deming, the county of Luna, which is very poor. They spent $350,000 last year housing people for the Federal Government in the areas of which I am speaking.

Now, we need some relief. We either need the government to build some detention facilities, or they have to reimburse these poor counties along the border that are housing them. You have $78 million in your budget for that kind of activity, to either reimburse and/or build some interim facilities.

Now I think with the crisis being what it is that we need to know from you, and I ask the chairman if we could ask—about the game plan for using that $78 million. Where are you going to put it? Who is going to benefit? How are we going to help counties like Luna? I am sure there are counties and cities in Arizona. If we are going to appropriate that money, we need to know what you are going to do with it, and I would ask that you tell us in detail how you are going to use that on the border to alleviate the situation. Is that a fair question, Mr. Chairman?

Senator GREGG. Absolutely.

Senator DOMENICI. It may take a little time but I really think we ought to know, and maybe we do not have enough money at $78 million to do the job.

[The information follows:]

DETAINING ILLEGALS AWAITING TRIAL OR DEPORTATION

The total Immigration and Naturalization Service (INS) Detention and Deportation (D&D) enacted budget for fiscal year 2000 is $878.6 million, which is used to detain, remove, and deport aliens. Funding is also used to support the 18,535 average daily detention beds within the D&D program. The D&D program uses Service Processing Centers, contract facilities, joint INS/Bureau of Prisons federal facilities, and state/local facilities to detain those aliens subject to deportation, exclusion or

removal proceedings who are likely to abscond, or whose freedom at-large would clearly present a danger to public safety and security until they are ready for removal.

INS is requesting $119.5 million in additional program funding for the D&D program in fiscal year 2001, which includes $82 million in appropriated funds. These resources will be used as follows:

—*$16 million to enhance the National Transportation System*.—This funding, including $5.6 million in the Breached Bond Detention account, will fund 16,000 additional domestic and repatriation Justice Prisoner and Alien Transportation System Fund (JPATS) movements, thus enabling the INS to fund a total of 85,000 JPATS movements in fiscal year 2001.

—*$8 million to Enhance Juvenile Bed Space*.—Funding of $3 million will provide 11 additional full-time Juvenile Coordinators in 11 districts. This initiative, when fully implemented in fiscal year 2002, will result in the removal of 190 additional juvenile aliens supported by 38 average daily beds funded with Salaries and Expenses resources. In addition, $5 million from the Breached Detention account will increase the number of juvenile detention beds by 82 beds in fiscal year 2001.

—*$52 million to Increase Funding for State and Local Bed Space*.—This initiative will facilitate the removal of an additional 10,000 illegal aliens. It will also add 1,000 new detention beds enabling INS to reach an average annual funded bed level in fiscal year 2001 of 19,702.

—*$9 million for Detention Standards for Intergovernmental Service Agreements (IGSAs)*.—Because INS is compelled to rapidly expand IGSA utilization in a vast and varied number of non-Federal facilities, INS cannot rely on obtaining IGSA bed space that is always completely compliant with INS' detention standards. This funding is requested to continue the implementation plan funded in fiscal year 2000 in which the INS will administer, implement and maintain detention standards with a dedicated staff and funding for upgrading IGSA facilities.

—*$8 million to Improve Utilization of the National Crime Information Center (NCIC)*.—This funding will be used to expand NCIC data entry to address a serious backlog of inputting INS's Criminal Alien Records into the Nationwide database. These resources will also be used to improve and expedite INS capability to locate aliens on the Wanted Persons File and the Deported Felon File, track stolen property, and obtain criminal history records.

—*$27 million to Maintain the fiscal year 2000 Detention-Bed Level*.—The fiscal year 2000 appropriation provided a considerable enhancement for the Detention program, $26 million of which was funded by one-time recoveries from the Violent Crime Reduction Fund. The budget request proposes the use of $27 million from 245(i) receipts to replace the $26 million available in fiscal year 2000. Without these resources, INS would have to reduce its number of detention beds by almost 1,000.

Additionally, in the fiscal year 2001 President's Budget, the Office of Justice Programs is requesting $600 million for the State Criminal Alien Assistance Program (SCAAP). SCAAP is a payment program designed to provide federal assistance to states and localities for the costs of incarcerating certain criminal aliens who are being held as a result of state and/or local charges or convictions. States and localities with correctional facilities that incarcerate, for 72 hours or longer, persons accused or convicted of either a felony or 2 misdemeanors that occurred prior to or resulted in the current custody, are eligible to apply for SCAAP funding.

CAPITAL INVESTMENT ACCOUNT

Senator DOMENICI. Secondly, I do want to criticize your national budget a little bit. You know, the President of the United States had the latitude to put an awful lot of new programs in his budget. I do not think he is going to get very many of them, and I am not talking about whether we will increase education spending; that is a different issue. The President has scores of brand new programs in his budget.

Now why in the world do we have to charge businesses a bonus to get expedited treatment at the border, this new thousand dollar club? I am not for that. Frankly, I think it is an admission that we are not doing our job right, unless you can convince me that it

is not. I think we ought to improve the entire process, not just that for a businessman who desperately needs it, and we ought to cut that huge waiting time down some way.

Secondly, any user fees that the President puts on on the border and then uses in this budget seems to me you have to make a great case for user fees or they should not be put on. I mean if you have brand new programs you are starting, why do you not pay for the border activities of this Nation before you start new programs? I think it is a very simple and fundamental question. I know where I come down and I frankly believe I could convince 75 Senators that before we start new programs we have to beef up your programs. We have to make sure you have the money you need.

BORDER PATROL RECRUITMENT

Now on the recruitment, could I ask a question? Are you now recruiting, working hard to recruit people who are bilingual, Hispanics, Mexican-Americans who speak two languages? It would appear to me that if that is not a big part of it, it is a shame and I would be surprised if you are not doing that but I would like to know. Is it successful? How do you measure it? Would you answer that one, please?

Ms. MEISSNER. Shall I go back to the first one on detention?

Senator DOMENICI. Just answer that last one.

Ms. MEISSNER. Okay. Absolutely, bilingual recruitment is very fruitful for us. We talked last year about doing recruitment closer to the border and that is among the changes that we have made. We are doing substantial testing now in border communities all along the border—Harlingen, Laredo, El Paso, Las Cruces, Tucson—and we are finding very substantial numbers of bilingual people that are applying.

In fact, more than a third of the Border Patrol is Hispanic. We are the largest Hispanic employer in the Federal Government. Recruiting in border communities, where our work is well known and where there are high numbers of Hispanic residents, is a very productive recruitment source for us.

Senator HUTCHISON. Could I interrupt for one second on that point?

Senator DOMENICI. Certainly.

Senator HUTCHISON. Are you giving bonuses for people who are already proficient in Spanish?

Ms. MEISSNER. We do not give bonuses for people who are already proficient in Spanish. What we have done is changed the point scoring on the testing that we do for qualified applicants. Among the changes that we have made is that those who speak Spanish and have language facility now get extra points toward qualification for the Border Patrol, which widens the pool of applicants of bilingual people that is available to us. That is working very well.

DETENTION

Senator DOMENICI. Thank you for that.

Now would you go back and respond if you care to——

Ms. MEISSNER. May I respond on the detention point in particular?

Senator DOMENICI. Yes.

Ms. MEISSNER. Detention has been of extreme importance to the INS. We began this buildup with about 6,000 detention spaces. We are now up to 18,000. It has been a very substantial growth in bed space. This budget has in it money for another 1,000 bed spaces. And we actually house close to 300,000 people in those bed spaces every year because of the turn-over that takes place.

Now the vast share of that growth has been in reimbursements to State and local facilities because we use State and local facilities widely throughout the Southwest. When we run out of space in a place like Deming and our space that is available to us to reimburse in New Mexico is quite small, we house people in El Paso and in other places in Texas where we have a considerable amount of space that we reimburse.

Our needs for detention do exceed what is available, but we also have made very, very substantial growth. In fact, it is greater growth than in most of the other occupational areas of the Service. I will look at the Deming situation to see whether the proper reimbursement is taking place because we do reimburse regularly.

PREMIUM PROCESSING FEE

Ms. MEISSNER. Now on the business fee, all of our adjudications processing is based on fees that applicants pay. All we are suggesting here is that we have a voluntary higher fee in order to make capital available for infrastructure that will create a better base and more automated mechanism for all of our application processing.

We also are asking for some appropriated funding. We are asking for a mix of a premium fee and appropriated funding and another penalty fee in order to put together the bundle of money that is needed to really move this agency to a modern processing regime. We have had such a struggle to try to put into place because the only source of revenue that we have had has been the fee money until the last 2 years when the Congress did appropriate money for naturalization backlog reduction. We can show you the results from that appropriation. We have made our targets and we will make them this year.

REIMBURSING COUNTIES FOR INCARCERATIONS

Senator DOMENICI. Mr. Chairman, might I make the point and ask both you and Senator Hollings to consider it, as we prepare to mark up? I really believe we ought not let the Federal Government impose on any county, not only on the border but anywhere in the country, county or city jails—we should not be burdening them with our incarceration needs without reimbursing them. When it gets to be as big a burden as it is for some of these counties—I mean they are giving up hope on us.

The United States Marshals, let me tell you, they are having difficulty because they are the ones in charge of these prisoners and they are having an awful hard time because they do not even know where to take them sometimes. I will tell you there are marshals that have to drive 100 or 150 miles with these prisoners because we do not have facilities. I think we ought to pay some real atten-

tion to that because that is an absolutely unrealistic burden on local facilities.

Senator GREGG. We will be happy to look at that. I would note to the Senator that we put a large amount of money into the SCAAP program. Last year I think we put $650 million in the SCAAP. It goes back to the States, and they can use it, basically, as an unfettered block grant. A lot of the States, unfortunately, do not use it to reimburse the local communities for illegal alien incarceration but rather, use it for local law enforcement or anything else they want to use it for.

So maybe we should put some restrictions on the SCAAP money, that the first call on the SCAAP money must be to reimburse local communities who bear incarceration burdens as a result of taking illegal aliens. So we might want to put some restriction on the SCAAP money.

Senator DOMENICI. I am willing to look at it.

Senator GREGG. I do not know what New Mexico does, but I do know that California uses this essentially as a block grant and as a result, I am not even sure that the money ends up in the illegal alien account in California. I think it ends up in the general law enforcement account.

Senator DOMENICI. Thank you.

Senator GREGG. Senator Hutchison.

BORDER PATROL AGENTS

Senator HUTCHISON. Thank you, Mr. Chairman.

Mr. Chairman, first and foremost I want to thank you and Senator Hollings for being so supportive of the efforts that we have made on this committee to stick to our commitment and our priority to increase the number of Border Patrol agents.

The head of the drug czar's office, Barry McCaffry, has urged us to go toward a goal of 20,000 Border Patrol agents in our country. Congress has responded to that by trying to have 1,000 new agents each year and yet we only have 7,700 Border Patrol agents on the Southwest border and the administration has requested funding for 1,000 only once since we have passed the law in 1997.

Now I think that is appalling, and I know that Commissioner Meissner has tried to go with the 1,000, but the administration has come back each year with less than 1,000 and unfortunately, this year is one of those, where there are 430 in the Border Patrol agent hiring category.

I am very concerned that in a conversation I had with the Attorney General last week before this committee she indicated that it was an option to increase the pay, the level from GS–9 to GS–11 if we did not hire the number of Border Patrol agents, the 1,000, by June 1.

I do not consider that an option. I consider it a mandate. The language in last year's appropriations bill was very clear. It was not a choice; it was a mandate. And the reason that it was a mandate is because this committee has had to get narrower and narrower in directing the administration on the issue of Border Patrol agents because we have tried to give general guidelines; we have given them money; we have done everything we know how to do. And finally last year we said if the money is not spent for more

Border Patrol agents, it has to be spent upgrading the pay for the people who are there, because we know we have a retention problem. So I thank the committee for the support but I have to say I am very disappointed in this year's budget.

I want to ask you, Commissioner Meissner, if there is any question that you are going to give the increases on June 1 that are provided for in this committee's bill from last year, if there is any question that you are going to give those raises on June 1, as mandated by Congress.

Ms. MEISSNER. We understand the language to be a mandate and we understand the language to require those upgrades if the hiring has not been completed to the level that the budget calls for.

In this budget that the Administration has put forward, we have asked for the funding to cover those upgrades, so it is in the funding proposal for 2001. We consider it very important for, as you said, both retention and recruitment and in recognition of the complexity of the work that the Border Patrol carries out.

We believe it is also extremely important that that upgrade be done in the context of an overall overtime reform. We appreciated your time in talking about this yesterday. I hope that we can work with you and with the committee to do both the upgrade and the overtime reform because that is better for the agents and better for the taxpayer, ultimately, if we can put together the entire package.

Senator HUTCHISON. Well, let me say that the Attorney General did call me yesterday and she said it is their intention to comply with that language, as well. And I do not think we can count on some kind of supplemental that will change the law. Perhaps there will be one, but I do not think we can count on it.

So I am going to just ask you to start looking for the best way to assure that those raises go into effect on June 1, as we have directed and as both you and the Attorney General have said you believe is the law that you are required to implement.

I want to work with you on the pay reform that you described to me yesterday. As I understand it, it looks quite reasonable and I do hope that we can enact that October 1, but not in lieu of the June 1 relief that would give our agents the absolute understanding that we appreciate the hard job they are doing and we want them to be compensated as other law enforcement agents are that have similar responsibilities.

So we will work on October 1 but not in lieu of June 1. So we just have to work through that in the best way that we can to make sure that that retention is the goal, June 1, as we put in the law last year.

Secondly, I want to say I am pleased that you are now testing on the border, which is a suggestion that we made to try to increase the pool of applicants, and I am glad that that is working.

I would also just ask you to look at something that we have talked about before and that is bonuses for Spanish language proficiency. I would like for you to look at whether you could save money for hiring Spanish teachers and put that into recruitment bonuses for people who are proficient in Spanish and might be better able to hit the ground running on the Border Patrol.

And last but not least, I just want to say that Senator Kyl had to leave. He was here because, of course, he is very concerned

about the increase in activity on the Arizona border. Half of the drugs and illegal immigrants coming into the United States from Mexico flow through Texas, chiefly from McAllen, Laredo, and Del Rio sectors. Two of Mexico's four biggest drug cartels—the Gulf and the Juarez cartels—operate directly across from communities in Texas.

So we cannot let up. Four hundred thirty new agents is not enough. It is not sufficient, and I do not want to micromanage your agency and neither does Senator Gregg and neither does Senator Hollings, nor does Senator Campbell and nor does Senator Domenici or Senator Kyl, but we are frustrated because we have been very clear in the mandates. And I think the agency has been hampered by an administration that is putting its priorities elsewhere and by a lack of creativity in recruiting and retaining.

So I hope that we can continue to work together because we are not succeeding. And as long as we have a continued influx of illegal immigrants, and we have just heard stories that are unacceptable, I would associate myself with Senator Domenici's remarks regarding incarceration of illegal immigrants and the cost to my State, just as Senator Domenici's State. It is unacceptable. We have got to step up to the plate with the Federal responsibility to have the integrity of our borders. That is one of the very few purely Federal responsibilities that we have and we are not meeting the test because we have an administration that is looking at other things that are not a Federal priority, that are State priorities.

So I would just ask you to relay to the President and to the Attorney General that we want to do the Federal job that we are responsible to do and that is have integrity on our borders so that illegal drugs do not go through these cartels into all parts of our country and so that we get control of illegal immigration on our borders. We are giving you the resources to do it, and we just ask you to please adhere to the mandates that we have given this agency and go forward with 1,000 new Border Patrol agents and start making up for lost time in not putting enough front-line Border Patrol agents on our borders all the way across, to stop this flow of illegal activity.

Thank you, Mr. Chairman.

Senator GREGG. Thank you.

We do have Director Freeh and Acting Administrator Marshall still to testify this morning. Are there other folks who have further questions?

EQUIPMENT FOR BORDER PATROL

I did have one point I wanted to make, Commissioner, following up on what Senator Hutchison just said. This committee last year was very specific about wanting money spent on new equipment for the Border Patrol. The committee has been informed by the chief of the Border Patrol that they do not intend to spend the money on the equipment that the committee directed them to.

If that occurs, this committee is going to take that very seriously and there may be no chief of the Border Patrol anymore, or at least funded by this committee. But I can assure you that the directives of this committee in the area of equipment, in the area of hiring Border Patrol, in the area of enforcing our borders, are going to be

complied with. We do have the final say in this exercise and the fact that this administration has flaunted the desire of Congress to beef up the Border Patrol, beef up its capability to take action on the border and has ignored the efforts of this Congress to try to increase Border Patrol activity is something that we take very seriously.

So we are less than impressed with the response of the Border Patrol to our request.

Ms. MEISSNER. Senator, could I please respond to that?

Senator GREGG. Yes.

Ms. MEISSNER. The question of technology for the Border Patrol is essential. Technology is absolutely essential. We have said from the outset that our efforts with the Border Patrol have to be a combination of people, equipment, and technology. We have asked for technology in every budget; the committee has been very generous in funding technology. We stand by that and we want to put as much money into technology as we possibly can.

The earmark that the committee made last year of $22 million for technology is an earmark that we will comply with. I think that the conversations that took place at the staff level, we were talking past each other. We need the technology, and we will identify the technology. We gave you a report last year, and we would like to update it based on more information that we have at the present time. I think that what we want to be able to do is work with you on the best kinds of technology and technologies that we know work and are effective. It is particularly important as we go into the more remote areas, which is the case now on the southern border and will be the case as we accelerate on the northern border.

So I would hope that I could provide you with the understanding and the clarification, here, that our commitment to technology is unfailing. I have strong confidence in the chief's judgment on the overall direction of the Border Patrol, as well as the kind of technology that is helpful and that our agents use effectively. If we could please work together on this, I think that we can come up with a technology package that meets everybody's needs and the Congress's wishes.

Senator GREGG. That would be good. This committee has been committed to funding an expansion of the Border Patrol not only in personnel but in detention capability and in facilities and in equipment, and we are totally committed to continuing to fund that. We intend to aggressively fund that but when we fund it, we do expect the money to be spent on those efforts and not to be put into other functions.

So we would be happy to work with you on that and hope that we can reach a common purpose.

Ms. MEISSNER. I hope so and I believe we will be able to. I appreciate that.

Senator GREGG. Thank you.

Senator DOMENICI. Mr. Chairman, could I submit two questions in writing?

Senator GREGG. Certainly.

Senator GREGG. Thank you, Commissioner.

FEDERAL BUREAU OF INVESTIGATION

STATEMENT OF LOUIS J. FREEH, DIRECTOR

DRUG ENFORCEMENT ADMINISTRATION

STATEMENT OF DONNIE R. MARSHALL, ACTING ADMINISTRATOR

REMARKS OF SENATOR GREGG

Senator GREGG. We are going to turn now to and hear both Acting Administrator Marshall of the DEA and Director Freeh. We will ask them both to appear before the committee at the same time to expedite their time so that we do not unnecessarily hold them up.

First let me welcome Administrator Marshall. This is his first appearance before the committee, and we appreciate his stepping into the shoes of Administrator Constantine. We know that he will continue the excellent job that has been done at DEA.

Of course it is always a pleasure to have Director Freeh before the committee.

Again, I have no opening statement. Do you have an opening statement?

Senator HOLLINGS. No, thank you.

Senator GREGG. And to expedite your time, gentlemen, if you want to submit your statements and go to questions, that would be great. Or if you want to make your statements, that is fine, also. We will begin with you, Director Freeh.

OPENING STATEMENT OF FBI DIRECTOR FREEH

Mr. FREEH. Senator, I will just make a very brief statement with your kind invitation.

Senator Hollings, good morning.

My statement is well prepared. I do not want to take any of the committee's time to repeat it. Let me just make several points.

SUPPORT OF THE FBI'S MISSION

First of all, let me thank you, Mr. Chairman and Senator Hollings and this committee, for what has really been historical and extraordinary support for the FBI's mission. I know that, first-hand since September of 1993, in all the areas where we protect our country and the people who live here, as well as around the world, whether those be counterterrorism issues, organized crime issues, drug trafficking issues, pedophiles on the Internet, terrorists, or espionage, this committee particularly has given the FBI and the country the tools, the technology to make those assets force-multipliers, as the spies and terrorists have done with technology. And your particular support and attention to infrastructure issues, to tools and skills, to analytical capabilities has been absolutely out-

standing and I want to just thank all the members of the committee for that.

We face a lot of challenges ahead of us. After 6½ years leading the FBI, I guess my greatest concern is not the quality of the people who serve our country. We have, as you know, over 99,000 young men and women who have applied to be FBI agents and we are honored and delighted with that. Most of them are qualified to perform the job. I am glad that I was an FBI agent in 1975. I do not think I could get into the FBI right now. I would not hire me if I were applying in the competitive pool that we have, that we are really blessed with.

So we are always going to have the people. We have the individuals dedicated to the things that are critical to protect our democracy and our values. I am not worried about that. I am worried about the technology. I continue to be concerned about our competency to work in the venues where we now work, which are computer venues, and high-tech venues. There are analytical worlds where we find ourselves, with people able to do the job but not in every case the tools and technology. And, as I said, I am extremely thankful to this committee for the support that you have given us.

I guess my message, finishing up my sixth year is that we cannot fall down on the technology job, that those tools and skills that you have given us have a short shelf-life. Technology and software in some cases, as you know, gets rewritten every 18 months. So we cannot stop or fall down on the job of technology support, or tools and skills and the analytical and technical ability to do our job. I am very concerned for that and I just would make that my theme and that is certainly reflected in our initiatives.

Of the eight initiatives that we asked for consideration for the 2001 budget, really only three of them are operational: counterintelligence, counterterrorism, and a violent crime initiative. The other five go to infrastructure, investigative support, technology, analytical ability, and Law Enforcement Services. I think that is the margin that we have to maintain if we are going to stay active and competent in the 21st century.

PREPARED STATEMENT

So thank you very much and I would be pleased to answer any of your questions.

Senator GREGG. Thank you, Director.

[The statement follows:]

PREPARED STATEMENT OF LOUIS J. FREEH

Good morning, Mr. Chairman and members of the Subcommittee. Once again, I am pleased to discuss the fiscal year 2001 budget request for the Federal Bureau of Investigation (FBI). It is a privilege to be joined by Donnie Marshall, the Acting Administrator for the Drug Enforcement Administration, and Doris Meissner, the Commissioner for the Immigration and Naturalization Service.

The work of the FBI, whether it is catching criminals, drug traffickers, terrorists, and spies; providing training, investigative assistance, and forensic and identification services to our law enforcement partners; or developing new crime-fighting technologies and techniques, is made possible by the strong support of this Subcommittee. On behalf of the men and women of the FBI, I thank you.

OVERVIEW OF FISCAL YEAR 2001 BUDGET REQUEST

For fiscal year 2001, the FBI is requesting a total of $3,280,749,000 and 25,635 permanent positions (10,752 agents) for its Salaries and Expenses and Construction appropriations. This request includes direct program increases totaling 360 new positions, including 65 new agents, and $165,692,000 for eight budget initiatives: Counterintelligence; Information Collection, Management, and Analysis; Training; Investigative Support; Counterterrorism; Violent Crimes; Technology/Cyber Crimes; and Law Enforcement Services.

In addition to direct funded resources, the fiscal year 2001 budget request assumes a total of 3,586 reimbursable positions (1,076 agents) and 3,453 workyears. For fiscal year 2001, the Administration is proposing to implement a user fee to pay for the costs of operating the National Instant Criminal Background Check System (NICS). The FBI estimates that the NICS program will require a total of 642 positions and workyears to operate, at a cost of $71,552,000, which would be provided by fees. This amount includes funding to implement a program of notifying appropriate State or local law enforcement when an ineligible person attempts to purchase a firearm. Under the auspices of the Interagency Crime and Drug Enforcement (ICDE) program, the FBI would be reimbursed for a total of 981 positions (592 agents) and $112,468,000 for FBI drug and gang-related task force investigations and operations. Pursuant to the Health Care Insurance Portability and Accountability Act of 1996, the FBI will receive $88,000,000 in fiscal year 2001 to fund 776 positions (445 agents) for health care fraud enforcement.

COUNTERINTELLIGENCE

Despite the fall of the Iron Curtain and the emergence of democracy in many of the countries formerly under the rule of communism, the threat posed to U.S. national, military, and economic security from foreign countries remains significant. Investigations in this area have become more complex as the focus of foreign intelligence services have expanded from traditional Cold War traditional military-related targets to new areas, including technology, intellectual property, and economic activity. The FBI continues to work closely with the intelligence community to identify and reduce the presence of hostile intelligence services in the U.S. To keep pace with the changing counterintelligence threat to the U.S., the FBI is proposing a counterintelligence initiative that would provide an additional $19,115,000 and 138 positions (63 agents) for this mission-critical area.

INFORMATION COLLECTION, MANAGEMENT, AND ANALYSIS

To be successful, the FBI must have the capacity for collecting, storing, managing, analyzing, and disseminating case and intelligence information on a timely basis to its own investigative personnel, as well as other federal, State, and local law enforcement and the intelligence community. Existing systems and capacities must be upgraded to meet increased investigative demands. New technologies also present opportunities for making for effective and timely use of case information and intelligence currently being collected. For fiscal year 2001, the FBI is requesting a total of $74,227,000 and 74 positions to enhance its information collection, management, and analysis capacities.

Digital Collection Systems.—Since 1968, the Congress has provided the FBI and other federal law enforcement agencies with authorities that can be used under certain conditions during investigations of criminal activities to conduct electronic surveillance, including the interception of voice and data communications. Authorities governing the conduct of electronic surveillance in national security investigations were passed by the Congress in the Foreign Intelligence Surveillance Act. These authorities carefully balance each citizen's Fourth Amendment rights under the Constitution with law enforcement's mission to protect national security and maintain public safety.

For fiscal year 2001, the FBI is requesting an increase of $25,300,000 and four positions to begin a multi-year project for replacing existing analog-based collection systems in each of its 56 field offices with new digital collection systems. The new digital systems will use both off-the-shelf commercial and specially-developed technology. Digital technology presents the means for obtaining higher quality and clearer recordings, which, in turn, will allow the FBI to improve the processing, translation, dissemination, and analysis of materials. New digital systems would also be compliant with digital-based solutions being implemented by the telecommunications industry under the Communications Assistance for Law Enforcement Act (CALEA) of 1994. Within a few years, analog access to conduct court-authorized intercepts of communications will disappear.

Additionally, the fiscal year 2001 budget proposes an allocation of $10,000,000 from the Department of Justice Assets Forfeiture Fund Super Surplus, if available, for a multi-year initiative for storing, archiving, and managing lawfully collected electronic surveillance intelligence and evidentiary materials. This database would facilitate integration of electronic surveillance data with the FBI's Information Sharing Initiative.

Information Sharing Initiative.—The underlying information technology infrastructure of the FBI is not adequate to meet either the present-day or near-term information technology needs and capacities of the FBI's criminal investigative and national security programs. To establish the requisite information technology infrastructure and develop the data processing, analysis, and dissemination capacities considered essential to satisfy criminal investigative and national security requirements, the Information Sharing Initiative strategy was developed.

To date, Congress has supported the FBI by making $80,000,000 available for investment in the Information Sharing Initiative strategy, including $20,000,000 in fiscal year 2000 and $60,000,000 in fiscal year 1999. Consistent with Congressional instructions, none of these funds have not been obligated. The FBI continues to consult with the Congress to obtain the necessary concurrence for the Information Sharing Initiative strategy. The fiscal year 2001 budget proposes an investment of $60,000,000 for the Information Sharing Initiative, consisting of $20,000,000 in base funding and $40,000,000 in new funding. Additionally, $838,000 is requested to hire 15 new computer specialists to support equipment installation and operations.

Language Services.—FBI investigations are increasingly affected by international criminal activities and emerging criminal enterprises and alliances that transcend national boundaries. The FBI's success in preventing international crime groups from establishing criminal operations in the U.S., as well as investigating those criminal activities that do occur, depends upon the capability to translate both foreign language conversations recorded during court-authorized electronic surveillance and records, documents, and other materials obtained during the course of an investigation.

In addition to employing a cadre of translators, the FBI uses the services of contract linguists for short-term, mission-critical criminal and national security investigations. Contract services are especially critical for supporting an increasing number of FBI cases involving less commonly spoken languages. The FBI has not been able to translate all of the recorded audio conversations and documents it has obtained during investigations. To provide more timely translation services for investigations, the fiscal year 2001 budget proposes an increase of $5,000,000 for contract translation services.

Intelligence Analysts.—The FBI Strategic Plan recognizes the key role and importance of intelligence in each of its criminal investigative and national security programs. To maximize the use of existing intelligence resources and to develop the necessary integrated intelligence capacity needed for the future, the FBI recently consolidated criminal and national security intelligence analysts under the management of the Investigative Services Division at FBI Headquarters. An aggressive initiative to enhance FBI analytical capabilities, the Intelligence Capabilities for the Millennium (ICAP-2000), is being undertaken to establish standardized core skills and competencies and to develop a training curriculum for analysts. In addition to enhancing the capabilities of existing analysts, there is a need for additional analysts to support investigators at the field level with case, or tactical, intelligence and national program managers at FBI Headquarters with strategic intelligence.

To improve its analytical capabilities, the fiscal year 2001 budget proposes an increase of $3,089,000 to hire 55 new Intelligence Research Specialists (IRS) for national security investigations. Twenty eight (28) IRSs would be allocated to FBI field offices to assist case agents through the development of tactical analysis and 27 IRSs would be assigned to FBI Headquarters to support national program managers through the development of strategic analysis.

TRAINING

The FBI's ability to respond to the difficult and complex challenges from crime, threats of terrorism, and hostile intelligence services, requires a well-trained workforce that possesses the skill sets needed to be effective in their jobs. The importance of training in today's law enforcement environment is further heightened by the rapid pace of technological change and the changing scope of the FBI's investigative mission. In April 1999, the FBI adopted a comprehensive policy for the continuing development and training of FBI employees that emphasizes the importance of training and continuous learning. Under this new policy, all FBI Agents and support employees are now required to obtain the equivalent of no fewer than 10 hours

of developmental training annually, and over a 3-year period, not less than 50 hours of developmental training. The FBI will use traditional "classroom" training at the FBI Academy, distance learning, specialized training from vendors, and computer-based, interactive technology to assist employees in satisfying this requirement. For fiscal year 2001, the FBI proposes increases totaling $8,395,000 for training programs, technology, and firearms range modernization.

FBI Academy Training.—The FBI's primary training venue is the FBI Academy, located at Quantico, Virginia. With the recent opening of the Justice Training Center, the FBI has regained approximately 20 percent of the Academy's dormitory capacity that was previously allocated for the Drug Enforcement Administration. This equates to being able to provide one-week of training to an additional 7,000 FBI employees. To make full use of the training and dormitory capacity of the FBI Academy, an additional $2,800,000 is required to pay for the travel of 7,000 additional FBI students. Without this additional funding, the FBI will not be able to use the FBI Academy at its full capacity level.

Interactive Multi-media Courses.—Not all FBI training requirements can be satisfied with one approach to training. Rather, a combination of classroom, distance-learning, and computer-based, multi-media instruction packages are needed to meet the varying needs and schedules of both training programs and individual students. Technology-based training methods provide an opportunity to deliver training to employees with a high degree of effectiveness, yet at a substantial cost savings over traditional "on-site" training.

The FBI believes interactive, multi-media technology offers the potential for meeting training needs in several areas, particularly through self-paced courses on core topics such as informant development, interviewing and interrogation, and case management. An initial CD–ROM based multi-media course, "Interview and Interrogation," has proven very successful and has been incorporated into the New Agent training curriculum. The course is also used by more experienced field agents to refresh their knowledge and skills. The FBI has made copies of the course available to all federal, state, and local law enforcement. Funding totaling $1,500,000 is requested to prepare four additional interactive, multi-media courses on the topics of Informant Development, Basic Criminal Investigation, Leadership and Management, and Ethics.

Development of Analytical Capabilities.—The FBI cannot achieve the goals of its strategic plan without a substantial improvement in the skills and expertise of its existing analytical cadre. All investigative program managers have cited weaknesses in analytical capability as a key shortfall in their ability to undertake proactive investigations and identify emerging groups and crime trends. To correct these shortfalls and assure quality analysis, all FBI analysts must achieve a high standard of professional skill and expertise.

In recognition of this situation, the FBI has begun a multi-year initiative, the Intelligence Capabilities for the Millennium (ICAP-2000), to overhaul the existing analytical infrastructure. The development and implementation of a comprehensive, standardized training program is a central component of this effort. For fiscal year 2001, an increase of $1,000,000 is requested for analytical training programs. This funding will allow the FBI to provide analysts with basic training in FBI investigative programs and techniques, analytical thinking, briefing techniques, report writing, and critical analytical technologies, such as telephone analysis. Additionally, analysts would be afforded advanced training in specialized areas and substantive issues, such as money laundering, narcotics trafficking, denial and deception techniques, and foreign area studies, that will enhance individual areas of expertise and knowledge.

Specialized Training.—FBI criminal and national security investigations often depend upon the use of sophisticated technical equipment, systems, and techniques that gather evidence of illegal activities and/or intelligence information on planned activities. Each FBI field office requires specially trained personnel—Technically Trained Agents and Electronic Technicians—who support the use of these systems and techniques during investigations and surveillances.

The current complement of Technically Trained Agents is being stretched thin by both increasing operational requirements and the loss of experience due to recent retirements, reassignments, and promotions. Additionally, due to the fast-pace of changes in technology, both Technically Trained Agents and Electronic Technicians require an on-going program of technical instruction. This specialized instruction is provided at both the Engineering Research Facility located at the FBI Academy and through commercial sources. An increase of four positions and $1,195,000 is requested in fiscal year 2001 for FBI Technically Trained Agents and Electronic Technicians training programs.

FBI Academy Firearms Range Modernization.—With the support of the Congress, the FBI has undertaken a plan to modernize the FBI Academy Firearms Ranges. The existing ranges need modernization to increase capacity, minimize environmental impact, and improve the safety of FBI and Drug Enforcement Administration firearms training. With funding previously provided, the FBI has completed an environmental assessment, developed a master plan for the project, and completed architectural engineering and design. Remaining funding available will also allow us to compete a contract for construction of three 25-yard all-weather ranges, a stress obstacle course, and lead abatement.

For fiscal year 2001, an increase of $1,900,000 is requested to continue the FBI Academy Firearms Range Modernization project. This funding would allow the FBI to continue lead abatement and construct an ammunition storage facility. This facility would replace two existing, makeshift storage facilities that do not comply with existing Department of Defense safety standards, which is a requirement due to the location of the ranges at the U.S. Marine Corps Base, Quantico.

INVESTIGATIVE SUPPORT

The Investigative Support budget initiative address increased funding requirements for the daily basic operational requirements of field investigators and FBI Headquarters. The fiscal year 2001 budget proposes increases totaling $20,534,000 for four key items: telecommunications services, criminal case operations funds, digital body recorders, and program management support for implementation of the Communications Assistance for Law Enforcement Act (CALEA) of 1994.

Telecommunications Services/ATM Circuits.—The FBI operates a telecommunications infrastructure that was designed in 1991 to support the Systems Network Architecture (SNA)/token ring network. This network currently serves over 600 separate FBI locations and has been maintained with few changes. This design is ill-suited to supporting electronic case files that, under the proposed Information Sharing Initiative (ISI), will include imaged documents, video/voice segments, and intelligence analyses. To satisfy the requirement for increased bandwidth for transmitting images, video, and voice, the FBI is migrating to the Asynchronous Transmission Mode (ATM) adopted by the Department's Justice Consolidated Network (J-CON).

For fiscal year 2001, the FBI is requesting an increase of $14,334,000 to begin the acquisition of ATM circuits to support its telecommunications network. For fiscal year 2001, the FBI intends to provide ATM circuits for key network concentration sites, large field offices, FBI Headquarters, the FBI Academy, the Clarksburg, West Virginia, fingerprint card processing center, and larger resident agencies. The migration to ATM circuits is being staged with the implementation plan for the ISI project.

Criminal Case Funds.—The FBI Strategic Plan recognizes the importance of gathering, analyzing, and disseminating intelligence and of focusing investigative efforts against criminal activities with a regional, national, or international nexus. Information supplied by informants and cooperating witnesses often serves as the predicate for these types of major, long-term investigations. Criminal organizations of the type, scope, and complexity investigated by the FBI have both the illicit wealth and intense loyalty (maintained by fear of violent reprisal) that frustrate traditional law enforcement investigative efforts. To counter this challenge, the FBI requires funding for a range of case operational costs, such as the lease of telephone lines to conduct court-authorized interceptions of communications, the rental of off-site space, lease of covert vehicles, witness protection expenses, and covert travel by undercover agents, informants, and cooperating witnesses.

For fiscal year 2001, the FBI requests an increase of $2,100,000 for criminal case operating funds and the purchase of information.

Digital Body Recorders.—Audio recordings of conversations between or among subjects of a criminal investigation and informants, undercover agents, or cooperating witnesses often provide clear evidence of an individual's involvement in illegal activities. These recordings are made in strict compliance with existing guidelines and statutes. The evidence obtained from consensual-monitoring is used extensively in court to demonstrate the complicity of a person in a criminal activity. The investigative environment in which this investigative technique is used presents a high risk to the personal safety of the person wearing a recording device. New digital technology allows for much smaller and less conspicuous devices, as well as improvements in recording clarity and capacity. Additionally, digital devices are less susceptible to commercially-available countermeasures technology used by criminals to detect the presence of these devices.

The FBI is requesting an increase of $2,000,000 to replace existing analog body recorder devices with newer digital devices.

CALEA Implementation Support.—The Attorney General has delegated to the FBI responsibility for managing the implementation of the CALEA. The FBI has adopted a three-phase approach toward achieving CALEA compliance. Phase One consists of working with telecommunications manufacturers and carriers to describe law enforcement's technical capability and capacity-related electronic surveillance needs. Phase Two consists of resolving and finalizing the legal and regulatory issues regarding implementation. Phase Three consists of ensuring CALEA compliance by working with carriers as solutions are deployed, assisting carriers as Systems Security and Integrity rules and procedures are adopted, and seeking enforcement against carriers for noncompliance. These phases remain consistent regardless of the specific telecommunications technology being pursued. The FBI's current focus is on achieving the deployment of CALEA solutions for wireline, cellular and broadband Personal Communications Systems (PCS) technology.

By fiscal year 2001, emerging technologies service providers of Enhanced Specialized Mobile Radio, two-way paging, and Mobile Satellite Service will have grown and possibly exceed the number of cellular and PCS carriers today. These technologies fall within the scope of the CALEA and require adherence to law enforcement technical and capacity requirements. The fiscal year 2001 budget request includes an enhancement totaling $2,100,000 for CALEA implementation support activities, including support for the Law Enforcement Technical Forum, facilities operations, and travel related to consultation, standards, regulatory, and solution development activities.

COUNTERTERRORISM

The United States continues to face a serious, credible threat from terrorists both abroad and at home. The number of groups and individuals capable of carrying out a terrorist act has increased over the past several years. Of particular concern to the FBI are groups and individuals for which political or religious beliefs constitute sufficient motivation for carrying out a devastating terrorist act.

To deal effectively with domestic and international terrorism, the FBI must concentrate on both prevention and response. The FBI's counterterrorism strategy is focused upon five inter-related elements to build and maintain an operational capacity for identifying, preventing, deterring, and investigating terrorist activities. First, the FBI must have the capacity to respond to acts of terrorism committed in the U.S. and abroad when those acts are directed against the U.S. government or its interests. Second, the FBI must have the capacity to receive, react to, and disseminate counterterrorism information. Third, the FBI must develop its internal capacities to support proactive counterterrorism programs and initiatives. Fourth, the FBI must have the capacity to establish and maintain sound and productive relationships with other domestic and foreign law enforcement and intelligence counterparts. Fifth, the FBI must have the capacity to use all of the necessary assets and capabilities of the FBI and other U.S. government agencies to support and initiate complex investigations and operations against domestic and international terrorists and terrorist organizations. For fiscal year 2001, the FBI is requesting increases totaling $13,100,000 to improve and enhance existing counterterrorism initiatives.

Weapons of Mass Destruction Preparedness.—At the forefront of U.S. government counterterrorism planning and preparation efforts is the threat of chemical and biological terrorism. Internationally, there is credible intelligence that terrorist organizations are attempting to acquire a capability for weapons of mass destruction. Domestically, a growing number of individuals acting alone and splinter elements within extremist groups have obtained or attempted to develop and employ chemical, biological, or radiological materials. Within the spectrum of terrorist threats, the FBI continues to believe the actual threat of a chemical or biological terrorist attack to be low; however, the consequences of such an act could be devastating. To continue on going efforts to prepare for a terrorist event using weapons of mass destruction, the FBI is requesting an increase of $3,500,000.

The National Domestic Preparedness Office (NDPO) was established to serve as the focal point for federal efforts in support of the State and local emergency responder community. The NDPO, which is managed by the FBI and is staffed by representatives from other federal agencies and State and local detailees, is organized around six program areas: planning, training, exercises, equipment/research and development, information sharing and outreach, and public health and medical services. For fiscal year 2001, an increase of $563,000 is requested by the FBI for NDPO principal stakeholder and functional area conferences.

Funding is proposed in the fiscal year 2001 budget for the Department of Justice to assume responsibility for several activities currently being performed by the Department of Defense under the auspices of the Domestic Preparedness Program. The budget proposes that the NDPO assume responsibility for the Chemical and Biological Helpline which provides emergency responders and planners across the United States with information on a non-emergency basis to plan, mitigate, and prepare for the effects of a chemical or biological terrorist incident. The cost of assuming helpline operations is $731,000. Additionally, the Weapons of Mass Destruction Operations Unit within the Counterterrorism Division at FBI Headquarters would assume responsibility for the Chemical and Biological Hotline operated by the National Response Center. The hotline receives incident information and provides technical assistance during a suspected or actual chemical or biological incident. The cost of assuming hotline operations is $2,206,000.

2002 Winter Olympics Preparation.—The 2002 Winter Olympic Games have been designated a National Special Security Event. Consistent with responsibilities for intelligence collection and crisis management contained in PDD–39 and PDD–62, the FBI is working with the United State Secret Service and other federal, State, and local law enforcement and consequence management agencies to plan for security and public safety issues for the 2002 Winter Olympic Games that will be hosted by Salt Lake City, Utah.

For fiscal year 2001, the FBI requests increases totaling $1,100,000 for 2002 Winter Olympic Games preparation. This funding will support planned interagency training exercises, the acquisition of telecommunications and related equipment for a joint interagency operations/intelligence center, and specialized cold weather equipment.

Hazardous Devices School.—The Hazardous Devices School is the only formal domestic training school for State and local law enforcement to learn render safe and bomb disposal operations. Located at Redstone Arsenal, Huntsville, Alabama, the school is managed by the FBI Laboratory. The Hazardous Devices School is the only location where bomb technicians receive basic training and certification in accordance with standards established by the National Bomb Squad Commanders' Advisory Board. After receiving initial certification, technicians are required to be recertified every three years.

For fiscal year 2001, there is a need to train 1,335 students at the Hazardous Devices School. To provide that level of training, the FBI requires an increase of $2,900,000.

Counterterrorism Research and Development.—In fiscal year 1998, the Congress made available $10,500,000 to the FBI under the Attorney General's Counterterrorism Fund to initiate several research and development activities, including $5,000,000 for explosives detection and counterterrorism projects, $2,500,000 for data exploitation projects, $1,000,000 for cyber training curriculum development and training at the FBI Academy, and $2,000,000 to establish a partnership with the Southwest Surety Institute.

For fiscal year 2001, the FBI requests an increase of $5,000,000 to continue and expand counterterrorism research and development projects initiated with fiscal year 1998 funding.

VIOLENT CRIMES

The focus of the Violent Crimes budget initiative for fiscal year 2001 is on improving federal law enforcement services in Indian Country. Native Americans and others living in Indian Country are not sharing in the decline in violent crimes that is occurring in countless other American communities. The homicide rate in Indian Country remains three times greater than the national average. Crimes against children, including sexual and physical assaults, continue to plague Indian Country. Youth gangs present a threat to public safety. Drug trafficking is becoming a major problem. Thirty-two FBI field offices have some degree of investigative responsibility in Indian Country, ranging from exclusive jurisdiction—19 field offices—to concurrent federal and state jurisdiction. For fiscal year 2001, the FBI is requesting an increase of $4,639,000 and 31 Victim/Witness Specialists to improve its services to Indian Country.

Safe Trails Task Forces.—The FBI has adapted its successful Safe Streets Task Force concept to maximize the use of limited FBI, local, tribal, and Bureau of Indian Affairs staffing to address significant violent crime problems in Indian Country. The first Safe Trails Task Force was established in 1995 by the Phoenix Field Office to work on the Navajo Nation in Arizona. Presently, the FBI sponsors 10 Safe Trails Task Forces in Gallup, New Mexico; Carson City, Nevada; Green Bay, Wisconsin; Flagstaff, Arizona; Monticello, Utah; Riverton, Wyoming; Rapid City, South Dakota;

Tucson, Arizona; Phoenix, Arizona; and Glasgow, Utah. These task forces are staffed by 31 FBI Agents, 2 Bureau of Indian Affairs criminal investigators, 49 tribal police officers, and 19 local police officers.

In some areas, an obstacle to full-time participation by a local or tribal law enforcement agency is a lack of funding for overtime and related costs. For fiscal year 2001, the FBI requests an increase of $634,000 for the overtime costs of State and local law enforcement participation on FBI-sponsored Safe Trails Task Forces.

Indian Country Forensic Examinations.—The investigation and successful prosecution of crimes committed in Indian Country depends, first, upon investigators identifying and collecting evidence at crime scenes and, second, the timely examination and analysis of evidence. To address a growing workload of forensic examinations resulting from Indian Country investigations, and to improve the timeliness of results of forensic examinations to investigators and prosecutors, the FBI entered into a contract with the Arizona Department of Public Safety Laboratory for the examination of evidence collected at Indian Country crime scenes by agents assigned to our Phoenix Field Office. This arrangement has proven highly effective and successful.

For fiscal year 2001, the FBI proposes to expand this program to include three additional field offices—Salt Lake City, which covers Utah, Idaho, and Montana; Minneapolis, which covers Minnesota, South Dakota, and North Dakota; and Albuquerque, which covers New Mexico. The estimated annual cost for these three additional contracts is $1,405,000.

Indian Country Victim/Witness Services.—Among the most significant obstacles for the FBI and other law enforcement investigating crimes in Indian Country is overcoming the reluctance of Native American victims and witnesses to cooperate in the criminal justice system. Cooperating with the criminal justice process can often present a hardship to Native American victims living in Indian Country. Victims and witnesses of violent crimes in the Indian Country often live long distances from the offices and courtrooms of government attorneys, magistrates, and judges, where they must appear as participants in the judicial process. For example, a resident of the Turtle Mountain Indian Reservation must travel 600 miles round-trip to testify before a Federal Grand Jury in Minot, North Dakota. A child sexually abused on the Fort Peck Reservation in Montana must be transported 350 miles to Billings for a medical examination and evaluation. Victim/witness services, such as assistance with transportation, overnight lodging, and preparation of impact statements for sentencing, which are readily available to many citizens in urban, suburban, and rural communities are not accessible to those living in Indian Country.

Through its Victim/Witness Assistance Program, the FBI is working to build confidence and cooperation in Indian Country. Presently, the FBI employs four Victim/Witness Specialists who are assigned to resident agencies covering Indian Country. While few in number, these individuals are contributing in a positive way. An FBI Victim/Witness Specialist in Billings, Montana, has helped the U.S. Probation Office implement an adult and juvenile sex offender treatment program on three area Indian reservations. She is also assisting the Crow Sex Offender Registration committee draft tribal legislation to register all sex offenders on the reservation. Victim/witness specialists assist FBI Agents by assisting in arranging for medical treatment, trial preparation, transportation to/from trials and other proceedings, and securing services to which they are entitled. For fiscal year 2001, the FBI requests an increase of $2,600,000 to hire 31 additional Victim/Witness Specialists for assignment to FBI Resident Agencies serving Indian Country.

TECHNOLOGY/CYBER CRIMES

In recent years, technological advances have fundamentally changed the way of life in this country. Computers and networks allow millions of individuals to access on a daily basis a broad range of information services, databases, commerce, and communications capabilities that were previously unavailable. A combination of reduced cost for computer technology and increased storage capacity allows the accumulation, storage, and management of large amounts of information by individuals on personal computers and peripheral devices. Most FBI investigations, especially those in organized crime, drug trafficking, crimes against children, white-collar crime, counterintelligence, and counterterrorism are encountering the use of computer technology to facilitate illegal activities. As a result, the FBI must develop the investigative and forensic capacities and capabilities to deal with the use of computer technology by criminals and others to commit crimes or undermine national security.

For fiscal year 2001, the FBI's Technology/Cyber Crimes budget initiative proposes increases totaling 108 positions (2 agents) and $18,983,000 to enhance exist-

ing capabilities in three cybercrime fighting areas: data forensics, counterencryption, and Intellectual Property Rights investigations.

Data Forensics.—One of the fastest growing demands from investigators and prosecutors is for assistance by the FBI Laboratory Computer Analysis and Response Team (CART) program for forensic examination of evidence obtained from computers and computer storage media. The data forensic process has three distinct phases: (1) acquisition, which involves recognizing and seizing electronic data of an evidentiary value from a computer, computer storage media, or computer network; (2) examination, which is the process of documenting the evidence, then locating, identifying, and extracting the pertinent data; and (3) presentation, which requires the formatting of relevant and technical evidence for use by investigators and prosecutors.

The FBI's capacity for performing CART examinations is not keeping pace with the demand for CART assistance. In fiscal year 1999, the FBI was only able to satisfy 1,900, or 54 percent of the 3,500 requested CART examinations, resulting in a backlog of 10.1 months. By fiscal year 2001, the FBI projects the demand for assistance will increase to 6,000 requests. Compounding the growth in the number of requests for assistance is a significant increase in the amount of data to be examined. Recently, hard disk drives have nearly doubled in storage capacity annually, from 4.3 gigabytes in 1997 to 8.4 gigabytes in 1998 to 17 gigabytes in 1999. It is expected that hard disk drives of between 60 and 80 gigabytes will be available by the end of 2000. As the capacity of storage media grows, the amount of time needed to perform forensic examinations also increases. Without additional CART examiners and data forensics examination tools, the FBI will be unable to provide support to field investigators and prosecutors.

Building a CART program capacity that will be able to deal with the demand for data forensics will require a commitment that includes hiring, training, and equipping additional examiners. To initiate such a commitment in fiscal year 2001, the FBI is requesting $8,571,000 to hire, train, and equip 100 new CART examiners for assignment to field offices (83 positions) and the FBI Laboratory (17 positions).

Additionally, the FBI is requesting an increase of $2,800,000 to continue the development of the Automated Computer Examination System (ACES). ACES is used by CART examiners to automatically scan and review personal computer files for their format and type. Computer operating systems and applications software are continually upgraded and modified by industry. Similarly, the FBI must be able to upgrade ACES to keep pace with these changes, otherwise, ACES will lose its value as a forensic technique. The FBI intends to provide ACES to all FBI field offices, as well as other federal, State, and local law enforcement as part of an effort to build data forensics capacities at all levels of law enforcement.

Counterencryption.—The widespread use of digitally-based technologies and the expansion of computer networks incorporating privacy features and capabilities through the use of cryptography presents a significant challenge to the continued ability of law enforcement to use existing electronic surveillance authorities. The FBI is already encountering strong encryption in criminal and national security investigations. In 1999, 53 new investigations encountered encryption. The need for a law enforcement cryptanalytic capability is well documented in several studies, including the National Research Council's 1996 report entitled, "Cryptography's Role in Securing the Information Society." The report recommends high priority be given to the development of technical capabilities, such as signal analysis and decryption, to assist law enforcement in coping with technological challenges.

The Administration supports the enhancement of a centralized law enforcement capability within the FBI for engineering, processing, and decrypting lawfully intercepted digital communications and electronically stored information. For fiscal year 2001, the FBI requests an increase of $7,000,000 to further develop an initial operating capability that will allow law enforcement to obtain plain text and meet the public safety challenges posed by the criminal use of encryption. With this funding, the FBI intends to work with existing national laboratories and other government agencies to ensure all existing resources are used in executing processing functions. This approach will prevent duplication of effort. Additionally, the FBI plans to acquire necessary computer hardware, software tools, technical expertise, and services to develop capacities in four counterencryption program areas: (1) analytical engineering; (2) signal analysis research; (3) counterencryption deployment; and (4) industry-assisted technology transfer.

Intellectual Property Rights.—Currently, the U.S. is the world leader in the development of creative, technical, and intellectual property. The U.S. economy is increasingly dependent on the production and distribution of intellectual property. Intellectual property right infringement includes both violations of the Economic Espionage Act as well as traditional copyright and trademark violations. A growing per-

centage of intellectual property right violations now have an Internet element. Web sites can be accessed that allow individuals to distribute and download pirated materials, resulting in substantial losses to U.S. companies that invest millions of dollars in product development.

For fiscal year 2001, the FBI is requesting an increase of 8 positions (2 agents) and $612,000 to help staff an interagency Intellectual Property Rights Center. The center, which is expected to become operational in 2000, was conceived by the FBI, Department of Justice, and United States Customs Service, to improve the coordination of intellectual property rights investigations and to enhance the exchange and analysis of intelligence on these types of activities. All government agencies having responsibility for intellectual property rights matters, including the Office of the U.S. Trade Representative, the Patent and Trademark Office, and the Copyright Office, will be invited to participate.

LAW ENFORCEMENT SERVICES

For fiscal year 2001, the FBI is requesting an increase of 5 positions and $6,699,000 for its Law Enforcement Services budget initiative.

Federal Convicted DNA Offender Database.—All 50 states have enacted legislation that requires blood samples to be taken from felons convicted of various qualifying offenses. DNA profiles from these blood samples are entered into the Combined DNA Identification System (CODIS). Presently, individuals convicted of comparable offenses in federal courts, military courts, and the District of Columbia are not required to submit blood samples. Consequently, these populations of violent criminals who may be released back into our communities, including those convicted of sexual assaults against children, are not in the CODIS. As a result, when a law enforcement agency compares DNA recovered at a crime scene against CODIS, the database will not contain samples from persons who may be logical suspects because DNA profiles from federal, military, and District of Columbia offenders are not available.

Funding totaling $5,335,000 and 5 positions are requested to implement the Federal Convicted Offenders DNA Database, which was authorized by the Anti-Terrorism and Effective Death Penalty Act of 1996. Implementation of this database requires clarifying legislative authority, which has been submitted to the Congress by the Department of Justice. This funding would allow the collection and processing of DNA samples from an estimated 20,000 individuals currently incarcerated after being convicted in federal, military, and District of Columbia courts of qualifying offenses.

National Integrated Ballistics Identification Network (NIBIN).—In December 1999, the FBI and the Bureau of Alcohol, Tobacco, and Firearms (BATF) entered into a Memorandum of Understanding for joint agency implementation of the NIBIN, a single federal ballistics imaging system. NIBIN will combine the best features of the BATF Integrated Bullet Identification System and the FBI DRUGFIRE system. Under the provisions of the agreement, the FBI is responsible for the nationwide NIBIN communications network and connectivity between system sites and the national network. BATF is responsible for NIBIN hardware and software development and installation, training, security, maintenance, user protocols and support, and quality control. This joint, integrated approach to ballistic imaging will benefit all federal, state, and local law enforcement agencies by ending the competition between systems and providing law enforcement with enhanced crime-fighting technology from the FBI and BATF.

Under the agreement, BATF will replace existing DRUGFIRE systems, subject to the availability of funds. BATF plans to replace 10 DRUGFIRE units in 2000, 73 in 2001, and 68 in 2002. During the transition period, the FBI will continue to support DRUGFIRE systems not yet replaced and NIBIN communications requirements. For fiscal year 2001, the FBI requests an increase of $1,364,000 for NIBIN connectivity. The FBI is using its existing nationwide Criminal Justice Information Services—Wide Area Network (CJIS-WAN) as the communications backbone for NIBIN.

RELATED DEPARTMENTAL FUNDING REQUESTS

Mr. Chairman, I would like to highlight several requests for funding included within other Department of Justice programs that are considered important to FBI initiatives and programs.

Telecommunications Carrier Compliance Fund.—Within the General Administration appropriation, a total of $120,000,000 is proposed for the Telecommunications Carrier Compliance Fund (TCCF). These funds, along with another $120,000,000 proposed by the Administration under the Department of Defense, will support on-

going efforts to implement the Communications Assistance for Law Enforcement Act of 1994 (CALEA).

In September 1999, the FBI, Department of Justice, Ameritech Services, Inc., and Nortel Networks, Inc. entered into the first software right-to-use license agreement covering one wireline switching platform. Additionally, a license fee for three other switching platforms was agreed to by Nortel Networks. Under the right-to-use agreement, Nortel Networks will grant a CALEA software license to other carriers at no charge for all switches of the same platform type installed or deployed before January 1, 1995. The FBI and the Department of Justice have reached an informal agreement, subject to the availability of funds, with AG Communications, Lucent Technologies, Motorola, and Siemens relative to nationwide right-to-use licenses. When considered cumulatively, the switching platforms of these five manufacturers account for approximately 90 percent of the historic lawfully-authorized electronic surveillance activity conducted by federal, state, and local law enforcement.

State and Local Bomb Technician Equipment.—Within the funding proposed for the Office of Justice Programs (OJP), $10,000,000 is included to continue an FBI Laboratory-managed program of equipping State and local bomb technicians. Congress provided a similar amount for this program in the fiscal year 2000 appropriation. In fiscal year 1999, the Department of Justice provided $25,000,000 from the Working Capital Fund for the effort. Continuation of funding for this program will ensure State and local bomb squads are properly equipped to deal traditional improvised and explosive devices, as well as the initial response to devices that may be used by terrorists or others to release chemical or biological agents. This initiative compliments the State and local bomb technician training and accreditation program that the FBI Laboratory provides at the Hazardous Devices School, Redstone Arsenal, Alabama.

Grants for NIBIN, DNA Backlog Reduction, and Regional Data Forensic Laboratories.—Also, requested under Community Oriented Policing Services (COPS) program is $10,000,000 for grants to reduce the backlog of ballistic evidence in state and local agencies for entry into the NIBIN system, $15,000,000 for grants to reduce the backlog of DNA profiles for entry into the FBI's national CODIS database, and $6,000,000 for grants to establish regional data forensic laboratories. These proposals are related to several on-going FBI Laboratory initiatives for improving State and local crime-fighting and forensic capabilities.

LEGISLATIVE PROPOSALS

Mr. Chairman, the fiscal year 2001 budget requests includes two general provisions proposed by the FBI, including: danger pay authority and foreign cooperative agreement authority.

Danger Pay.—Section 109 would extend to the FBI the same authority that the Drug Enforcement Administration (DEA) currently enjoys for authorizing danger pay for personnel assigned to high risk overseas locations. For the FBI, this is both a pay equity issue for FBI Agent assigned to DEA Country Offices and a recognition of the increased threat facing FBI personnel performing extraterritorial investigations in foreign locations due to our counterterrorism responsibilities. At times, FBI personnel are deployed to overseas locations where, due to the nature of our work, they face a threat or hostile environment that does not always extend to all members of the United States diplomatic team in a particular country. This authority would allow me to address those situations. This authority has been requested by the Administration in each of the past three budgets.

Foreign Cooperative Agreements.—Section 110 would allow the FBI to credit to its appropriation funding that is received from friendly foreign governments for that country's share of joint, cooperative projects with the FBI. This authority would facilitate projects with friendly foreign governments, especially in support of our national security mission. The authority was first proposed by the Administration last year, was adopted by the House, but did not make its way into the final Conference bill.

SUMMARY

Mr. Chairman, the budget proposed for the FBI for fiscal year 2001 addresses several of the critical resource needs identified through our Strategic Planning process. These important investments will allow the FBI to meet the investigative and technological challenges we face as the FBI enters the 21st Century. These investments will also enable us to develop the core competencies that will allow us to be successful in investigating crimes, protecting national security, developing and sharing technical and forensic expertise, and working better with our State, local, and international law enforcement partners.

Congress, and this Subcommittee in particular, has been extremely generous of its financial support for the FBI over the past several years. Our successes in the field, whether they be preventing pedophiles from luring children over the Internet, to bringing terrorists from foreign lands back to the U.S. to stand trial for their actions, to protecting our nation's critical infrastructure from cyber attacks, to fostering greater cooperation with foreign law enforcement through new Legal Attaché Offices, were made possible because of your support for the FBI. As we look forward to fiscal year 2001, I am hopeful that we can continue to depend upon your support.

Again, I thank you for this opportunity to appear before the Subcommittee.

STATEMENT OF ACTING ADMINISTRATOR DONNIE R. MARSHALL

Senator GREGG. Administrator?

Mr. MARSHALL. Mr. Chairman, Senator Hollings, committee members, thank you very much for the opportunity to appear here. This is my first budget hearing before this committee. As you know, I have been nominated for the position of Administrator and I will be attending Senate confirmation hearings, so I hope that it will not be my last appearance before this committee.

I want to thank the committee, as Director Freeh did, for your support. We have had some outstanding successes over the years in DEA and I know that those successes would not have been possible without the support of this committee and each and every one of the members here.

DRUG TRAFFICKING PATTERNS

As I assume the leadership of DEA, I want to ensure that DEA maintains and enhances our effectiveness as the only drug law enforcement agency that focusses solely on the drug problem. In so doing, I want to ensure that DEA is in a position to undertake a greater degree of intelligence-driven targeting, and that we maintain our ability to adapt to the changing drug trafficking patterns in this country. One of the trends that I would like to discuss very briefly is the changing pattern of drug trafficking in this country.

We see that the organizations that control the drug trafficking into our country are too often headquartered outside the United States, beyond the reach, traditional reach, at least, of U.S. law enforcement. They have to have operatives in this country and they do send operatives into each and every city, town, community in this country in order to import their drugs and their violence.

One particular change that we have seen in a recent study—actually DEA has noticed this trend for a couple of years now and it is confirmed now by a recent study by the Center on Addiction and Substance Abuse at Columbia University—is the invasion of drugs into smaller and medium-sized cities across this country.

The CASA study showed that drugs are just as available in small towns today in America as they are in larger towns and it also showed that eighth-graders, in particular those in rural America, are 79 percent more likely to use methamphetamine, 75 percent more likely to use crack cocaine, 52 percent more likely to use cocaine, and 26 percent more likely to use marijuana than their big-city eighth-grade peers.

Now what this means is that DEA has to also adapt to these changing demographics in order to have the maximum impact on the criminal organizations that are operating in this country. And in order to ensure that adaptability, one of the first things that I

did upon assuming the position as Acting Administrator was to begin to establish a 5-year strategic plan, which would allow us to readily adapt to changing situations, which would allow us to institute greater intelligence-driven targeting, which would allow us to target the leadership of all these organizations and which would allow us to most effectively use our limited resources to investigate, indict, arrest, and convict the leaders of these organizations.

In my complete written statement for the record I have outlined a number of successes that we have had in the last couple of years. I hope that the committee members will have a few minutes to review those successes. I will not go into them in the interest of time.

BUDGET INITIATIVES

We have three budget initiatives in our request this year. The first is the Intelligence Initiative and that is in keeping with my goal and my desire to conduct greater intelligence-based targeting of the major drug trafficking organizations. The second initiative is our Domestic Enforcement Initiative and I think that will go a long way toward allowing us to better tactically attack the drug-trafficking organizations, particularly with regard to the Southwest border and with regard to financial investigations. And finally, the third initiative that we have submitted is an Infrastructure Initiative. A good portion of that goes to enhance our Firebird system, which is basically the carrier for all of our intelligence systems and our administrative information systems.

PREPARED STATEMENT

I hope that we can get the support of the committee on those initiatives and again I want to thank you for your past support. In the interest of time I will conclude my formal statement and we can move to questions and answers if it pleases the committee.

[The statement follows:]

PREPARED STATEMENT OF DONNIE R. MARSHALL

Mr. Chairman, Members of the Subcommittee: I appreciate the opportunity to appear before you today to discuss the fiscal year 2001 budget request of the Drug Enforcement Administration (DEA). Before providing the committee with an overview of our agency operations and summary of our fiscal year 2001 budget request, I would like to take this time to express my sincere gratitude for the ongoing support of this Subcommittee and entire U.S. Senate. Without your support, DEA could not continue to effectively meet the growing challenges posed by increasingly sophisticated and dangerous international drug trafficking organizations which operate with impunity throughout the global community. Your ongoing efforts work to send a message to these traffickers that their assault on the citizens of this nation will not be taken lightly and that we will continue to fight to ensure that our streets remain safe for generations to come.

MISSION AND APPROACH

The mission of the Drug Enforcement Administration (DEA) is to enforce the Controlled Substances laws and regulations of the United States and to bring to the criminal and civil justice system those organizations involved in the growing, manufacturing and/or distribution of controlled substances destined for the United States. The DEA also recommends and supports non-enforcement programs aimed at reducing the availability of illicit controlled substances on both domestic and international markets. To accomplish this mission, DEA works with international, federal, and state and local law enforcement partners to target and immobilize the organizations of major drug traffickers operating at all levels of the drug trade.

Because DEA is the only single-mission federal agency dedicated to drug law enforcement, the agency has, over the years, developed the ability to direct resources and manpower to identify, target and dismantle drug organizations headquartered overseas and within the United States. DEA's strategy to successfully accomplish these goals is straightforward, requiring that the agency's resources and manpower be focused on all three levels of the drug trade: the international, national/regional and local levels. Each of these categories represents a critical aspect of the drug continuum which affects communities across the nation.

The 9,000 dedicated men and women of the DEA are committed to improving the quality of life of the citizens of the United States. The agency directs and supports investigations against the highest levels of the international drug trade, their surrogates operating within the United States, and those traffickers whose violence and criminal activities destabilize towns and cities across the country. These investigations are intelligence-driven and frequently involve the cooperative efforts of numerous other law enforcement organizations.

DEA's strategy to successfully impact drug trafficking at all levels of operation is flexible and reflects the constantly-changing nature of the drug trade. In concert with the Department of Justice and the Office of National Drug Control Policy (ONDCP), DEA has crafted an innovative and effective program to keep pace with developments and shifts in the drug trafficking spectrum and bring both national and international drug traffickers to justice.

DRUG TRAFFICKING THREAT TO THE UNITED STATES

The heads of the most powerful drug trafficking organizations impacting the United States today are based in Mexico and Colombia. Believing they are safe from the U.S. justice system, they tightly control their operations by directing a large number of surrogates who carry out orders on U.S. soil. These operatives are responsible for the vast majority of the cocaine, heroin, methamphetamine and marijuana trafficking taking place in U.S. communities. Surrogates answering to drug lords based in Mexico also produce methamphetamine, both in that nation and in the U.S., particularly in California. These producers and traffickers are responsible for over 75 percent of the methamphetamine that is available in U.S. communities today.

Traffickers based in Mexico pose a significant threat to the United States because of their power, influence and dominant status in the drug trade. Where at one time traffickers from Colombia controlled the vast majority of cocaine trafficking, traffickers from Mexico today are responsible for transporting cocaine into and throughout U.S. markets. The heads of organizations based in Colombia rely almost entirely on traffickers from Mexico to transport and distribute cocaine while they direct operations from the safety of their headquarters in Cali or Bogota. In one recent case entitled Operation Millennium, the director of a powerful Colombian organization wrongly believed that by distancing himself from his organization's U.S. operations, he would make himself immune from indictment.

The major organizations based in Mexico—the Arellano-Felix organization, the Amezcua Contreras brothers, the Amado Carillo Fuentes group and the Caro Quintero organization—all have a demonstrable negative impact on the United States. The leaders of these groups are routinely indicted in U.S. judicial districts for drug trafficking offenses committed on U.S. soil.

In recent years, these traffickers have become more prominent in the drug trafficking trade within the U.S. They are responsible for manufacturing methamphetamine in Mexico and California and trafficking it to cities such as Des Moines, Boise, Atlanta and Salt Lake City. Major organizations based in Colombia and Mexico also rely on surrogates from Mexico to move multi-ton quantities of cocaine across the United States, including locations on the East Coast.

While traffickers from Mexico have a direct impact on drug trafficking trends in the United States, it is important to note that many major traffickers are still operating from Colombia where the cocaine and heroin trade are centered. The large-scale production of Colombian heroin has created major U.S. markets for this high quality product. In 1998, the latest year for which we have statistics, South American heroin comprised 62 percent of the heroin seized by federal authorities and analyzed by DEA's Special Testing and Research Laboratory. Cocaine production has also increased dramatically since 1994, and it is possible that Colombian cocaine yield may be as much as three times that of previous estimates.

None of the major drug traffickers headquartered overseas could operate without the assistance of national and regional drug trafficking organizations which are responsible for trafficking huge quantities of drugs into U.S. communities. These organizations are comprised of a network of operatives who transport, store and dis-

tribute drugs throughout the United States and whose activities are directed by drug lords based in foreign countries. In many cases, national and regional drug trafficking organizations are comprised of numerous cells whose directors are responsible for specific tasks such as communications, financial matters and/or logistics. These cell heads are sent to the United States for a period of time to carry out the business mandates of the top drug lords and are given specific tasks to accomplish. The national and regional drug syndicates have infiltrated many states and communities, bringing with them the crime and violence once limited to major urban areas. A survey of recent DEA investigations revealed that over 400 investigations stemming from Operations Reciprocity and Limelight involved drug traffickers from foreign countries who had set up operations in various cities across the United States.

Local violent drug trafficking organizations also operate across the United States and are responsible for eroding the quality of life in many American communities. Previously centered in major urban areas, violent drug trafficking groups are now part of the landscape in smaller cities and rural areas. Fueled in large part by methamphetamine production and trafficking, violent drug trafficking organizations are now affecting the crime rates in smaller cities such as Spokane, Washington and Cedar Rapids, Iowa. While these local, violent groups appear to be unrelated to the large international drug trafficking organizations headquartered overseas, it is important to note that all of the cocaine and heroin that is trafficked by these groups is produced overseas and transported to the United States for eventual distribution on the local level.

DRUG ABUSE IN AMERICA—THE CHANGING DEMOGRAPHICS

Although drug abuse among young people increased significantly over the past decade, recent statistics indicate that this trend may be stabilizing. Even with this positive trend, there continues to be sobering news brought to our attention daily regarding the state of drug use in smaller cities and rural areas, fueled by the proliferation of methamphetamine production and trafficking, and the increased availability of cheap, high-purity heroin from Colombia.

Although there has been a decrease in violent crime in major cities due to vigorous law enforcement efforts, similar reductions in the violent crime rates of smaller cities, suburban and rural areas have not been realized. In fact, many smaller cities are now confronting the same problems that larger urban areas faced a decade ago. While 1998 violent crime rates decreased (−9.5 percent) in cities having populations between 250,000 and 999,999, significantly smaller decreases took place in suburban counties (−5 percent) and rural areas (−2 percent). Between 1997 and 1998, violent crime rates actually increased in a number of mid-sized communities.

A recent reported released by the Center on Addiction and Substance Abuse at Columbia University (CASA), indicates that eighth graders living in rural America are 79 percent more likely than their urban counterparts to use amphetamines, including methamphetamine. They are also 75 percent more likely to use crack cocaine, 52 percent more likely to use cocaine and 26 percent more likely to smoke marijuana than young people in major urban locations.

The report also states that according to recent surveys, it is as easy for young people in rural areas and small cities to obtain drugs as it is for their urban counterparts. Additionally, from 1990 to 1998, smaller cities experienced significantly more drug violations than larger cities; for instance, cities with populations of 25,000 to 50,000 people had three times as many drug violations as larger cities. In cities with fewer than 10,000 residents, the level of drug violations was six times higher than that found in larger cities.

The media has reported the tragic results of increased drug use in cities like Plano, Texas Orlando, Florida and Elkton, Maryland. Smaller cities are generally unable to meet the demands for social services and treatment placed on them when a methamphetamine or heroin epidemic hits. Additionally, law enforcement agencies are often unprepared to address the full range of issues associated with methamphetamine lab cleanups and investigations.

In the end, all three facets of the drug trafficking trade—the international, national/regional and local levels—are interrelated and interdependent. As these different echelons of the drug trade in each of these levels work together, it is essential that our nation's the law enforcement response address all three of these levels simultaneously.

DEA'S STRATEGY

In order to meet the enormous challenges posed by internationally-based narcotics traffickers and their surrogates within the United States, DEA has developed an ef-

fective five-year strategic plan which makes use of the agency's unique skills and limited resources to achieve the maximum impact against international, national/regional and local drug traffickers through the use of intelligence-driven investigations.

DEA's strategy takes into account the current drug trafficking situation affecting the United States and identifies the characteristics and vulnerabilities of all three levels of the drug trade, responding to each of these levels simultaneously:

International Targets.—This category is comprised of trafficking organizations based in foreign countries that are the primary source of supply for their surrogates within the U.S. Through DEA's International Operations program and the efforts of the agency's Special Operations Division (SOD) and numerous field divisions throughout the country, DEA effectively targets these organizations and their members.

National/Regional Targets.—These organizations operate domestically throughout the United States and are responsible for distributing drugs from international and domestic sources to U.S. communities. In many cases, these groups report directly to major drug lords overseas. They also operate on a national or regional basis, supplying several markets. The vast majority of DEA's cases fall into this category and investigations against members of these organizations are generated and supported by every DEA office in the United States.

Local Initiatives.—Criminal organizations operating at the local level generally deal in smaller quantities of drugs and are responsible for providing these drugs to users within the United States. Through local enforcement initiatives such as the Mobile Enforcement Team (MET) program, DEA works with state and local counterparts to identify and immobilize these organizations and to arrest the most violent members of these groups.

Using this strategy, DEA has successfully targeted significant traffickers and organizations in each of these categories. Over the past several years, major cases tied to each of these categories have resulted in the arrest of thousands of major violators.

International targets

Operation Millennium.—Less than one month after the successful conclusion of Operation Impunity, an operation aimed at the highest level of the drug trade operating within the U.S., an important international law enforcement operation made headlines. Operation Millennium, a one-year operation designed to dismantle a Colombian-based transportation consortium believed to be responsible for supplying between 20 and 30 tons of cocaine per month to the United States and Europe, resulted in the arrest of more than 30 drug traffickers and money launderers, including alleged high-profile trafficker Alejandro Bernal Madrigal, and Fabio Ochoa. The operation also resulted in the seizure of over 13,000 kilograms of cocaine. Critical to the success of the operation was the unprecedented level of cooperation between DEA, the Colombian National Police, the Fiscal General of the Republic of Columbia, the U.S. Attorney's Office in Miami and the Justice Department's Criminal Division.

Operation Juno.—Initiated after the seizure of approximately 386 kilograms of liquid cocaine concealed in a shipment of frozen fish destined for the United States, Operation Juno, which began in September 1996 and concluded in August 1999, was unique in that for the first time in drug enforcement history, the U.S. government set up an undercover brokerage firm to aid in intercepting drug dollars destined for the Colombian black market. Operation Juno resulted in over 40 arrests, the seizure of $10.0 million and warrants against 59 bank accounts at 34 U.S. banks and 282 accounts at 52 foreign banks. Monies in these targeted accounts were believed to total another $16.0 million. The investigation also resulted in the seizure of 3,601 kilograms of cocaine and 106 grams of hashish oil.

Operation Columbus.—Concluding in October 1999, Operation Columbus was a multi-national, regional enforcement effort involving Colombia, Venezuela and Panama, and the island nations of the Caribbean. This operation focused on air, land and maritime interdiction, eradication and clandestine airstrip denial. The final arrest and seizure statistics for Operation Columbus were unprecedented for this region, resulting in more than 1,290 arrests, as well as the seizure of 900 kilograms of cocaine and nine kilograms of heroin. Over 38 weapons, 26 vehicles, 27 vessels, three laboratories and one aircraft were also seized. In addition, 1,097 metric tons of marijuana were eradicated. In the end, Operation Columbus struck a solid blow against the operations of Caribbean-based drug trafficking groups.

National/regional targets

Operation Impunity.—This two-year international investigation concluded in September, 1999, and resulted in the arrest of 109 individuals, including three major drug trafficking cell heads, linked to the Mexican-based Amado Carillo Fuentes organization. The operation was coordinated by DEA's Special Operations Division (SOD) which headed a combined investigative center involving the DEA, U.S. Customs Service, FBI and IRS. Besides substantially hindering the trafficking organization's ability to move cocaine and other drugs into, and around, the United States, Operation Impunity succeeded in seizing $19.0 million in U.S. currency, another $7.0 million in assets and well over 12,434 kilograms of cocaine and 4,800 pounds of marijuana.

Operation Heartland.—Beginning in October 1997, this investigation targeted the Martin Chavez Organization, a multi-pound methamphetamine and marijuana importation and distribution operation that was responsible for transporting marijuana and methamphetamine from Mexico into the United States via the Juarez/El Paso, Texas corridor to the Oklahoma City, Oklahoma area. Over the next several years the scope of this investigation spread to include DEA offices in Fresno (California), El Paso (Texas), Dallas (Texas) and Des Moines (Iowa). Information obtained as a result of the investigation resulted in the seizure of 47 pounds of methamphetamine, 525 pounds of precursor chemicals, 1,378 pounds of marijuana, $47,500 in U.S. currency and the arrest of 22 individuals. Additional indictments were anticipated, including one for Chavez—currently a fugitive.

Mario Ibarra Sanchez Investigation.—The Mario Ibarra Sanchez Organization was in charge of transporting and distributing large quantities of methamphetamine, amphetamine, heroin and cocaine for trafficking organizations operating in both Mexico and the United States. On November 11, 1998, DEA conducted an investigation, in conjunction with several state and local law enforcement agencies, that resulted in the issuance of nine federal search warrants and 10 federal arrest warrants against members of the Sanchez organization. Those arrested included the cell leader and a significant methamphetamine laboratory operator based in Mexico. The investigation ultimately resulted in the seizure of 65.5 pounds of methamphetamine, 30.4 pounds of black tar heroin, 106.3 pounds of amphetamine, 154.0 pounds of cocaine and $156,600 in U.S. currency.

Omaha, Nebraska RET Deployment.—In September 1999, the Des Moines Regional Enforcement Team (RET) deployed to Omaha, Nebraska to assist in a methamphetamine investigation. A court-authorized wire intercept was initiated on two cellular telephones utilized by the targeted organization. As a result of these efforts, the Omaha District Office, along with the Des Moines RET, identified individuals in Juarez, Mexico; El Paso, Texas; and Los Angeles, California, who were directly linked with the transshipment of cocaine, marijuana and methamphetamine to Omaha, Nebraska, for distribution purposes. On October 20, 1999, a Federal Grand Jury in Omaha, Nebraska indicted 19 individuals, 17 of whom were arrested. This indictment included the arrest of the primary targets, along with others, effectively dismantling the targeted organization in Omaha. Additionally, this investigation resulted in the seizure of six kilograms of cocaine; one pound of methamphetamine; 200 pounds of marijuana; and, $22,000 in U.S. currency. Evidence gathered during the intercept of telephones utilized by the targeted organization continues to be exploited for use in investigations in California, Texas, Nebraska, and Mexico.

Operation Trinity.—In October 1997, DEA, FBI, Customs and DOJ initiated Special Enforcement Operation Trinity, a joint strategy designed to target the primary domestic trafficking organizations that are controlled by criminal leaders in Colombia, Mexico and the Dominican Republic. The primary phase of Operation Trinity concluded on September 25, 1998; no new investigations were accepted after July 1998. At this time 220 cases were still active. Preliminary figures for all Operation Trinity investigations include over 1,260 arrests, with drug seizures totaling 12.8 metric tons of cocaine, 63,370 lbs. of marijuana, 3,178 lbs. of methamphetamine, 127 lbs. of heroin, 108 lbs. amphetamine and over 137,600 pseudoephedrine tablets. Asset seizures from the case total over $59.2 million in U.S. currency, $1.2 million in assets and 132 vehicles.

Operation META.—Operation META, which concluded in December 1997, targeted a major U.S. methamphetamine-trafficking organization that was supplied by the Amezcua-Contrera group from Mexico. This investigation combined the efforts of DEA, FBI, other federal agencies and state and local agencies from 17 U.S. cities in nine different states. It resulted in the arrest of 121 members of the trafficking ring and the seizure of 133 pounds of methamphetamine, 1,765 pounds of marijuana and 1,100 kilograms of cocaine. During the META raids, agents discovered and dismantled three methamphetamine labs that were each capable of producing more than 300 pounds of methamphetamine at a time. Operation META seizures were

especially important because they alerted the law enforcement community to the growing methamphetamine problem in the United States.

Southern Frontier.—In recent years, DEA has undertaken several successful operations in support of the agency's Southern Frontier Initiative. Operation Zorro II, Operation Reciprocity and Operation Limelight, each of which relied extensively on numerous court-ordered wiretaps that were coordinated and monitored by area law enforcement, collectively resulted in the arrest of 156 individuals and the seizure of over 22,000 kilograms of illegal drugs and over $35.0 million.

Local initiatives

Mobile Enforcement Team Program.—As a response to the overwhelming problem of drug related violent crime which has plagued communities and neighborhoods across the United States, DEA's Mobile Enforcement Team (MET) program was created in early 1995 as a means of dismantling drug organizations by securing the conviction and incarceration of those individuals dealing drugs and causing violence in these communities. Recent examples of MET program successes include the following:

—*Phoenix, Arizona*.—From July 1998 until March 1999 the Phoenix Field Division MET worked closely with the Northern Arizona Street Crimes Task Force in targeting the Colimas and Costillo drug-trafficking organizations. The Colimas organization was responsible for supplying street-level dealers with multiple-pound quantities of methamphetamine. The Costillo organization, a polydrug trafficking group, had a reputation for extreme violence; some of its members had criminal histories, which included armed robberies, home invasions, assault, sex crimes, and child abuse. Using confidential sources, the MET was able to successfully infiltrate these two organizations and severely disrupt their operations. The nine month deployment, resulted in the seizure of seven operational and three dismantled methamphetamine labs, 44 grams of heroin, 22 pounds of marijuana, 500 dosage units of LSD, 40 weapons, 18 motor vehicles, and $16,292 in U.S. currency. In addition, The MET secured 86 arrests, including the arrests of two primary targets: Jose Francisco Colimas and Ricardo "Duke" Castillo.

—*Brownwood, Texas*.—At the request of local police, DEA's Dallas Division MET deployed to Brownwood, Texas from October 1998 to March 1999 in an effort to combat narcotics-related violence problems within this community. The five month deployment resulted in 22 federal indictments and 19 state arrest warrants. The initial sweep resulted in 38 arrests (20 federal and 18 state). In response to the operation, the Brownwood District Attorney stated, "This DEA MET deployment was significant in getting important drug dealers off the street and making a major impact in the community. This is a perfect example of what happens when all parties cooperate and collaborate towards a common goal."

—*Warren, Ohio*.—At the request of the local police chief, DEA's Detroit Division MET deployed to Warren, Ohio from January to May 1999 in an effort to target a significant increase of crack cocaine trafficking and related violence within this community. The primary deployment targets were members of a violent drug distribution organization operating in Warren. This five month deployment resulted in the arrest of 16 individuals (11 arrested on state charges that include mandatory sentences upon conviction); the execution of six search warrants; and, the seizure of 650 grams of crack cocaine. In addition, $8,100 in U.S. currency was seized, along with nine weapons including two semi-automated handguns with laser sights and seven rifles. In addition, the primary targets of this deployment were also arrested.

FISCAL YEAR 2001 BUDGET REQUEST

In an effort to support DEA's evolving drug strategy through both ongoing and developing agency operations, in fiscal year 2001 we are requesting additional programmatic resources through three primary budget initiatives: our Domestic Drug Enforcement Initiative, Intelligence Initiative, and Infrastructure initiative.

Funding requested through DEA's Enforcement Initiative includes 18 positions (11 Special Agents) and $3.1 million for the agency's Special Operations Division. SOD-coordinated investigations enable DEA and its drug law enforcement counterparts to attack the command and control infrastructures of major drug trafficking organizations at their most vulnerable point—their lines of communication. In order for these organizations to operate effectively within the global community, extensive coordination and communication between all echelons of their operations is required. DEA's main weapon in thwarting the communications infrastructures of these organizations is the use of Title III wiretap investigations. As DEA addresses

emerging drug threats, requests for Title IIIs and intelligence assistance are expected to increase dramatically. In order to meet these requests, DEA requires additional resources for SOD investigations along the Southwest Border and for SOD's Financial Investigations program. Enhancements requested for fiscal year 2001 include nine positions (six Special Agents) and $1.671 million to coordinate additional multi-division Title III investigations along the Southwest border and nine positions (five Special Agents) and $1.429 million to establish a Money Laundering and Financial Investigations Section within SOD, providing DEA with national oversight and coordination on Title III money laundering investigations.

DEA requests a total of $1.5 million through the agency's Intelligence Initiative. Intelligence driven investigations represent the best means of quickly and efficiently targeting, investigating and dismantling major drug trafficking organizations. Our Intelligence Initiative focuses exclusively on providing DEA's intelligence program with the tools necessary to address all facets of the agency's investigative requirements. Further development of DEA's drug intelligence and information sharing capabilities is vital to efforts to maximize federal, state, and local anti-drug assets. The resources requested through this initiative will provide DEA with additional support for drug intelligence operations through further development of DEA's El Paso Intelligence Center Information System (EIS). This system, which collects, distributes and analyzes reported data on worldwide drug trafficking trends and drug organization operations, is critical in the facilitation of information sharing with other federal, state and local law enforcement agencies.

Finally, DEA requests a total of 26 positions and $59.957 million through the agency's Infrastructure Initiative. DEA's dynamic enforcement and intelligence missions continue to place great demands on the agency's key operational support programs. As such, critical investments in technology for projects such as the agency's FIREBIRD office automation system and financial management system are essential to the successful performance of drug law enforcement. In fiscal year 2001 DEA is requesting two positions and $55.908 million to fully support the Operations and Maintenance (O&M) and Technology Renewal requirements of the agency's FIREBIRD office automation system and 24 positions and $3.957 million to enhance the agency's financial and resource management oversight capacity. Without these additional resources, DEA will not be able to continue to effectively provide necessary support for the growing number of Special Agents, Intelligence Specialists and Task Force Officers working actively to identify, target and dismantle drug trafficking organizations around the globe.

This concludes my presentation of DEA's fiscal year 2001 budget request. I would be happy at this time to take any questions the Committee Members may have regarding DEA operations, programs or requested budget enhancements.

METHAMPHETAMINE REQUEST

Senator GREGG. Yes, thank you, Administrator. I appreciate that.

In looking over your budget specifically, I notice there was not a request for methamphetamine initiatives, which has been a fairly high priority of this committee and, I thought, of the agency over the last few years.

When you submitted your request to OMB, was there a methamphetamine request in there?

Mr. MARSHALL. Senator, we have enjoyed, with your support, funding increases in methamphetamine issues over the last several budget years, and this year we did submit a request for an additional, I believe it was 187 positions and $43.7 million to target methamphetamine issues in this country, to provide clandestine laboratory clean-up, and training to other law enforcement agencies. The Department of Justice supported this request and submitted it to OMB.

Senator GREGG. How many was that?

Mr. MARSHALL. 187 positions, 108 special agent positions, $43.7 million.

Senator GREGG. And that was eliminated by OMB, I presume?

Mr. MARSHALL. That is my assumption, sir.

FUNDING FOR OTHER DEA INITIATIVES

Senator GREGG. I have to tell you, I looked at your budget and I said something is missing here. What other requests of significance were eliminated?

Mr. MARSHALL. Well, DOJ approved a heroin initiative and money-laundering initiative, a Special Operations Division initiative, a bit larger initiative on our infrastructure and our intelligence and I would be able to submit all of the details of those for the record if you would like.

Senator GREGG. I would appreciate that. What would be the appropriate amount that was involved in those accounts?

Mr. MARSHALL. It looks like one initiative was on the order of $75 million, another initiative on the order of $32 million, and another on the order of $76 million.

Senator GREGG. These were all for the purposes of fighting the drug war?

Mr. MARSHALL. Yes, they were.

[The information follows:]

DEA FISCAL YEAR 2001 UNFUNDED BUDGET REQUEST

Total Enhancement Request

513 positions (248 special agents) and $185,257,661.

Includes items requested in DEA's fiscal year 2001 OMB budget request as well as selected items from DEA's fiscal year 2001 Congressional request.

None of the individual items requested in this document should be provided to DEA if it would require a reduction to the agency's existing base program resources.

Initiative I: Strategic Domestic Enforcement

Total includes: 412 positions (242 special agents) and $75,839,464 to implement DEA's Strategic Domestic Enforcement Initiative, a comprehensive, multi-faceted enforcement approach designed specifically to combat the surrogates of major drug trafficking organizations operating within the U.S. and their command and control centers based throughout the world.

—187 positions (108 special agents) and $43,706,839 to comprehensively target methamphetamine production and trafficking organizations operating in the United States. Resources will be used to increase DEA's investigative capabilities, enhance training efforts and provide the funding necessary to safeguard America's communities from the potential health and environmental threats posed by clandestine laboratories.

Total includes: 169 positions (104 special agents) and $17,807,392 to enhance domestic methamphetamine enforcement efforts; 10 positions and $21,845,000 for clandestine laboratory cleanup; and 8 positions (4 special agents) and $4,054,447 to enhance DEA's clandestine laboratory training program.

—85 positions (50 special agents) and $8,852,274 to combat drug trafficking organizations operating along the United States' Southern Frontier, including the Southwest Border and the Caribbean Corridor.

—85 positions (51 special agents) and $8,930,029 to target major heroin trafficking organizations operating in the United States and fund the completion of DEA's five year heroin enforcement plan.

—32 positions (20 special agents) and $3,385,454 to strengthen DEA's program management functions and field enforcement capabilities in the field of drug related financial investigations and money laundering. The request will fund the establishment of two Regional Financial Investigations Groups (RFIG's) based in New York and Los Angeles.

—23 positions (13 special agents) and $10,964,868 to support DEA's Special Operations Division (SOD) operations.[1]

Total includes: 4 positions (3 special agents) and $926,336 for SOD related methamphetamine enforcement efforts; 7 positions (4 special agents) and

[1] A total of 18 positions (11 special agents) and $3.1 million is provided for SOD in the President's fiscal year 2001 budget submission. The remaining SOD program requirement is 23 positions and $10.965 million.

$1,094,509 for SOD related Latin America and Caribbean enforcement efforts; 9 positions (6 special agents) and $1,351,885 for SOD related Europe and Asia enforcement efforts; and 3 positions and $7,592,138 to provide critical linguist support of Title III investigations through the Interagency Crime and Drug Enforcement (ICDE) program.

Initiative II: Intelligence

Total includes 76 positions (44 Intelligence Specialists) and $32,778,627 to provide vital investigative support in identifying, developing, and exploiting the information and intelligence necessary to enhance the effectiveness of drug law enforcement.

—10 positions (3 special agents; 5 Intelligence Specialists) and $4,937,000 to develop an Academy for Drug Intelligence (ADI) that will provide criminal and drug intelligence analytical training to federal law enforcement agencies and where appropriate, state, local and foreign agencies.

—2 positions and $12,371,866 to accelerate the installation of DEA's MERLIN intelligence system into the agency's remaining domestic division, district and resident offices.[2]

—5 positions (4 Intelligence Specialists) and $6,447,785 to enhance DEA's Narcotics Enforcement Data Retrieval System (NEDRS) project in support of the agency's Special Operations Division.[3]

—54 positions (40 Intelligence Specialists) and $5,314,311 to provide dedicated intelligence staff and support to High Intensity Drug Trafficking Areas (HIDTA), which are playing a major role in interagency drug law enforcement cooperation throughout the United States.

—$600,000 to meet expanded federal, state and local participation in DEA's National Drug Pointer Index (NDPIX) information system.[4]

—$1,800,000 to operate, maintain and enhance DEA's El Paso Intelligence Center's (EPIC) Information System (EIS).[5]

—$750,000 to continue the conversion of DEA's investigative records to an electronic format by the end of 2001, thereby allowing direct, desktop access to the agency's complete investigative records.

—5 positions and $557,665 to expand DEA's Computer Forensics Program, working to heighten DEA's intelligence collection and case support activities and allow the agency to better identify and target major drug violators.

Initiative III: Infrastructure

Total includes 25 positions (14 Technical/Clerical) and $76,639,570 to provided critical support to DEA's enforcement operations.

—4 positions and $30,100,000 to achieve full deployment of DEA's FIREBIRD office automation system by the end of CY 2001 and establish sufficient infrastructure funding to support the system at expanded levels.[6]

—$16,000,000 to address DEA's Permanent Change of Station (PCS) requirements.

—$10,500,000 for the purchase of a twin-engine plane for DEA's Mexico City Country Office and a twin-engine helicopter to support DEA operations in the Bahamas.

—15 positions (3 special agents) and $1,477,294 to enhance DEA training programs and infrastructure at the newly completed Justice Training Center at Quantico, Virginia.

—$3,878,000 to enhance DEA's laboratory equipment base and refresh the agency's equipment inventory in line with accepted industry standards.

—4 positions and $1,403,732 to fully implement an Automated Fingerprint Identification System (AFIS) in DEA's field drug laboratories.

—2 positions and $13,380,544 to enhance DEA's Personnel Security Section to ensure compliance with all of the agency's background investigation requirements.

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[2] $2.0 million of this total is requested by DEA for MERLIN in its revised Plan Colombia submission.

[3] $2.5 million of this total is requested by DEA for NEDRS in its revised Plan Colombia submission.

[4] If the requested $600,000 for NDPIX is provided, DEA asks that this funding be recurred in the outyears.

[5] A total of $1.5 million is provided for EPIC EIS in the President's fiscal year 2001 budget request for DEA. The remaining EIS program requirement is $1.8 million. DEA asks that if provided, this funding recur in the outyears.

[6] A total of 2 positions and $56.0 million is requested for DEA's FIREBIRD system in the fiscal year 2001 President's budget request. DEA's remaining FIREBIRD program deployment requirement is 4 positions and $30.1 million.

COLOMBIA SUPPLEMENTAL

Senator GREGG. In the proposal that came to us, the Colombia supplemental, which was a $1.6 billion initiative, the purpose of which was to send helicopters to Colombia and do other things within Colombia to eradicate drug activity, I noticed that the DEA role in that was about $3 million. Is that right?

Mr. MARSHALL. By my count it is something on the order of between $5 and 6 million.

Senator GREGG. Of the $1.6 billion?

Mr. MARSHALL. Yes, sir.

Senator GREGG. I guess the question arises, and you may not want to answer this but I would be interested if you do and I understand if you do not, but as the premier drug-fighting agency, as the people primarily charged with the portfolio of addressing fighting drugs, how can you have an initiative where we are going to spend $1.6 billion and end up with your agency representing less than one-half of 1 percent of the dollars being spent?

Mr. MARSHALL. Well, there are some other funding items in this plan for the Department of Justice and I understand that about $40 million is going to the Department of Justice. Those are for such things as multilateral investigations, prosecutors, victim witness programs, and training for the judiciary. We are currently discussing with the Department of Justice how DEA can access some of that money.

We did get, I think, the couple of main things that we wanted in this bill, and that was to support our intelligence operations, targeting operations in the country of Colombia with the Colombian National Police. I do support Plan Colombia. I do recognize that the Colombian National Police in our bilateral investigations with them have been a critical component of our successes overseas. They have been wonderful allies and we need to continue to support them and we have to find ways to continue to work these multilateral investigations.

So I would hope that in the future we could find ways to enhance our relationship even more, beyond the $40 million that is in Justice appropriation for Colombia.

Senator GREGG. I understand that but I am just thinking in the order of priorities. It appears that about $200 million of the requests which you prioritize for fighting drugs did not come forward. And yet we received a $1.6 billion supplemental for fighting drugs in Colombia and most of that is going to flow to some defense contractor, who is going to sell them some helicopters. From my standpoint I am not sure we get the return that we get when we give your agency the support it needs; for example, methamphetamines, which is something that is a really high priority for States like Missouri and Colorado, and I suspect New Mexico. The problem has not really gotten as severe in the Northeast as it has in the West, and it is certainly significant.

Senator Hollings?

Senator HOLLINGS. Can I question both of them?

Senator GREGG. Yes.

DRUG TRAFFICKING IN MEXICO

Senator HOLLINGS. Mr. Marshall, that is the main thing. Are drugs on the increase or decrease in Mexico?

Mr. MARSHALL. Well, I think that right now the traffic through Mexico accounts for the vast majority of drugs coming into this country from foreign sources. I would have to say that it is on the increase at this point.

Senator HOLLINGS. Well, bless you. I backed Constantine and now I would be delighted to back you because I think you speak the truth. It just amazed me that the administration at the first of this month certified Mexico on the decrease, that they are fully cooperating with the United States, and Constantine just told the New York Times we know who the leaders of the cartel are and everything else, but we cannot get any cooperation to bring them to justice. They shoot or kill the chief of police at Tijuana. We are digging up bodies over there at Juarez and Matamares and other places. It just gets worse and worse and yet we keep certifying it as a wonderful thing.

This place here in Washington is Alice in Wonderland. We call a deficit a surplus. Thirty years we have said that Taiwan was not sovereign but a part of China. Now we threaten to defend it as sovereign. The freedom to buy an office is the freedom of speech and a deficit is a surplus and an increase is a decrease, according to the White House.

FBI-CIA COORDINATION

Mr. Freeh, let me ask you about the coordination that you have with George Tenet and the CIA because I have investigated on the Hoover Commission both the FBI and the Central Intelligence Agency and they were extreme competitors, jealous, arresting each other, spending a lot of time, money and agents spying on each other to get the case first and everything else like that.

That is why I sort of hesitate going over to Prague, Seoul, Santo Domingo, Nairobi, Amman, and Bucharest. Do you have a good working relationship with the Central Intelligence Agency?

Mr. FREEH. Senator, we have an excellent relationship not just on the director-to-director level but on the institutional and operational levels. You are absolutely right. That is not a historical phenomenon. In fact, it is a recent development, I would say within the last 5 or 6 years. I cannot think of better cooperation.

If I could go into some details, perhaps not at this session, but talk about some of the operations which have been directed against subjects like Usama Bin Laden and Kasi—who was brought back to the United States for the murder of CIA employees. During the recent events over the millennial period, the FBI and the CIA operated in lock-step around the world, to the benefit of our country and our friends. We are very, very pleased with that and I do not think you will find a better relationship institutionally or individually.

We have a lot of FBI officials who are over at the CIA in key decision-making positions. George Tenet has some of his senior officers at the FBI with line authority in counterterrorism programs. We have a regular series of liaisons and coordinations between our

chiefs of station overseas and our legal attachés. The chiefs of station will tell you that they need the legal attachés presence to supplement their mission, which is one mission, the mission of protecting the country. I do not think you will find that coordination working better in terms of fugitive cases, preventing cases in terms of terrorism, finding people, bringing them back here, and sharing information. I am very pleased with the relationship.

Senator HOLLINGS. It is a practical problem because those who are willing to give us information in that world are not necessarily Sunday school teachers. If you have a terrorist who has given us information, who rules? Do you arrest him, get him, or do we keep getting the information from the terrorist?

Mr. FREEH. With respect to terrorism, the first objective is to prevent an act of terrorism, and second, to apprehend and bring the individual back. We have brought back people like Shirosaki, who committed crimes against the United States nearly 15 years ago. We have brought back 12 major terrorism fugitives into the United States in the last 4 years so they can be prosecuted here. It is our primary objective to find them, bring them back here and have them taken to a court of justice.

CRIME PROBLEM IN SOUTH KOREA

Senator HOLLINGS. Do you have terrorists or Mafia activity out of Seoul, Korea? I see some of the places there that I understand, but I am rather surprised that you have that kind of activity coming out of Seoul, Korea that would require a legate.

Mr. FREEH. We have several cases, cases around the United States where Korean-Americans and Korean nationals are involved in organized criminal enterprises. That is not a new phenomenon. We have a huge amount of economic crime and fraud, which has connections between Korea and the United States. There is a very strong overlap of jurisdictional interest in not only organized crime areas but white collar crime areas—fraud areas, and smuggling, including the smuggling of drugs and narcotics, which Mr. Marshall could talk about. So there are a lot of things that occupy us together.

Just to go back to your earlier question about the necessity for agents overseas, there are only 113 FBI agents overseas. That is to cover literally the world. And the return the United States gets on that investment is immense. In fact, just in today's papers you will see two stories. One is the successful result of an FBI investigation in Thailand which located a fugitive, a man who had been convicted over 10 years ago for two rapes in the State of Minnesota, arrested because of the FBI's presence and activities overseas, and who will be brought back to serve the rest of his sentence.

Also, in the People's Republic of China, arrests were made as a direct result of the FBI activity of people who are charged with the murder of five people in Boston several years ago.

So this is the kind of reach and capacity that the FBI's very small presence gives us overseas.

[Subsequent to the hearing, the following clarification was provided:]

CLARIFICATION ON AGENTS OVERSEAS

The FBI currently has 35 active Legal Attaché offices overseas on every continent except Antarctica. These offices are within our U.S. embassies. As of March 16, 2000, the 35 offices were staffed by 154 FBI employees, of which 90 are agents.

In a March 29, 2000, letter to the Hill, the FBI proposed a reprogramming/reallocation of resources to increase the Legal Attaché presence overseas to 186 FBI employees, of which 112 would be agents.

Senator HOLLINGS. Thank you very much.

Thank you, Mr. Chairman.

FBI LABORATORY MODERNIZATION

Senator GREGG. Senator Domenici.

Senator DOMENICI. Thank you, Mr. Chairman.

Director Freeh, I want to commend you on a couple of things that have been accomplished in the last few years; one, the modernization of your crime laboratory with the new director that, incidentally, you personally chose. For those who wonder what kind of a person the FBI chose to be the director of their crime laboratory and turn it around and put it back where it is world renown, he chose a former director of Los Alamos National Laboratory, a physicist.

Senator HOLLINGS. Oh, I thought it was a Chinaman.

Senator DOMENICI. No, a physicist, and he has done a great job and, frankly, it is just the right kind of work for him. I never did look at him that way but they did in terms of his great scientific prowess and organizational ability. I think he has been a real asset, and I assume you think your laboratory is doing much better, right?

Mr. FREEH. It is, Senator, thanks to him and the support we have gotten here. The accreditation was very important but his scientific leadership, which we have never had before in 90 years, is really well felt.

HEROIN PROBLEM IN NORTHERN NEW MEXICO

Senator DOMENICI. To both of you I want to thank you for some work you did, your predecessor did and the FBI did, along with other Justice Department people, in a very poor county in my State named Rio Arriba County where we were leading the United States by far in per capita overdose deaths from black tar heroin. Up in this poor part of New Mexico black tar heroin had almost taken over. There were families involved in it for two or three generations and the overdose deaths in our hospitals were the highest in America. A real effort was put forth jointly and 50 people were arrested. They are all, many of them, pleading guilty day by day, and we could not have done that if you had not indicated an interest after we called it to your attention.

I am sure things are still going on there because the communities are getting a lot more interested in positive things so I want to, on the record, thank the Federal Government. That effort was a good one. Both of you told your groups to get involved, they did and did a great job. Thank you for that.

I want to submit some questions to you with reference to counterterrorism and some other things. I do not want to ask them

now but I am sure that you and your people will answer them and we will read them.

NATIONAL LABORATORY PROTECTION

I want to focus just a minute on Wen Ho Lee from a different perspective. The Wen Ho Lee situation and the entire evaluation of the laboratory system, the nuclear weapons laboratory system that ended up with the indictment of Wen Ho Lee clearly indicated that the FBI offices that are close to the laboratories of Los Alamos and Sandia, two of the biggest, that those FBI offices were very undermanned for a long period of time. As a matter of fact, much of the resources were turned to drugs instead of anti-terrorism and crime in the laboratories.

Now you recognized that during the investigation and without details, could you assure us that you have fixed that situation? I mean if you are going to police an institution that has great American secrets that, if stolen, could be dangerous, you have to be in a position to do that at Los Alamos, Sandia, and Lawrence Livermore National Laboratories, I would assume. I assume you have come to that conclusion and are doing something about it?

Mr. FREEH. Yes, Senator, we have come to that conclusion and we are doing something about it. In addition to the 60 agents which this committee, directed to be allocated to the major national laboratories, particularly the weapons laboratories, that has been done. Those people are present. They also have the analytical support necessary, both in the field and headquarters, to support that effort.

The other response, which is perhaps more important in terms of long-term significance is the counterintelligence structures within the Department of Energy and the laboratories, which I think by everybody's concession were fairly well broken for some period of time, despite many efforts, including your own, to build that up over many, many years.

The counterintelligence structures now within the Department of Energy, we are very, very pleased to not only observe them but to participate with them. A lot of the counterintelligence officers, including Mr. Curran, who is the departmental director, are former FBI counterintelligence specialists. The resources and the organization that have been put into that structure, we think are very, very formidable.

The other changes that you and your colleagues have made with respect to the organization of the department I think are also part and parcel of strengthening not only counterintelligence capabilities but preventing compromises.

We ask for in the 2001 budget an increase, one of the few personnel increases we do ask for, is in the area of counterintelligence—personnel, analytical ability, technology. All of that will be applied and as long as we all pay attention to that situation, it will not fall again into disrepair.

Senator DOMENICI. Thank you very much.

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

IMPROVING THE BORDER PATROL

Senator GREGG. Senator Hutchison.

Senator HUTCHISON. Thank you, Mr. Chairman.

I would like to ask both of you if you believe that the Border Patrol and the DEA and the FBI are working together in an optimal way in sharing information and in coordinating, where necessary. Clearly, Border Patrol is supposed to be for illegal immigration control but because that is so often the same operation that includes illegal drugs, it has become a dual function. But the question is have they been able to undertake the dual function effectively in your opinion? And if not, or even if so, how could that be improved?

Mr. MARSHALL. From the DEA standpoint, I think for the most part they have been able to undertake the dual function effectively. And the reason I believe that is, is because we have had an onging dialogue with the Border Patrol in terms of what our working relationship should be and who handles what particular issues. When they make a seizure of drugs, we have agreements worked out for when DEA pursues the investigation, when the case should be referred to Customs or when, the Border Patrol themselves actually handle the initial investigation.

In some cases we have actually exchanged personnel and co-located our offices. I believe that what we have done is provide a broad framework on how we generally interact between the two agencies. We also have given our, Special Agents in Charge for DEA the leeway to adapt those guidelines as necessary. And I think for the most part we do have a very productive, workable relationship.

Senator HUTCHISON. So you are saying that there are not jurisdictional problems, but are there also ways that there could be a more effective use of both agencies?

Mr. MARSHALL. Well, I think, when you are talking about two large organizations like this, that there is always room for improvement but from my perspective, I believe the relationship is working very well.

CREATION OF BORDER PATROL ENFORCEMENT ORGANIZATION

Senator HUTCHISON. Well, let me just say this. Some of us have talked—Certainly Senator Gregg has been very creative in this area but we have talked about whether there should be a Border Patrol enforcement organization where instead of having two different agencies—the DEA and the Border Patrol—that there would be one enforcement agency that would combine the functions.

Do you have any opinion about whether that would be more effective or if it would create problems that we are not seeing?

Mr. MARSHALL. Well, it may fix some coordination problems. My impression would be that it may fix coordination problems particularly between the Border Patrol and Customs. It also may create other problems.

Again I think on balance, we have an effective working relationship with both of these agencies and we believe that we are able to get through most of these problems fairly easily.

IDENT-IAFIS INTERGRATION

Senator HUTCHISON. Director Freeh, I know that FBI is less front-line in this area but I know there is coordination with information. Do you have any views on whether there could be a more

effective Border Patrol agency in some way coordinating better or perhaps creating a different agency?

Mr. FREEH. You know, I think there are certainly some significant things we can do under existing structures and jurisdiction to improve the overall efficiency and capability of the government. I mean one aspect is fingerprint identification, which this committee has paid particular attention to. INS has an IDENT system which is distinctly different than the FBI's IAFIS system. Remarkably, these two systems grew up at the same time.

We are now in the process, under this committee's directive, to study the integration of those two systems so the two-finger identification, which is done by a Border Patrol agent, can have some relevance to the 34 million prints that we have in our IFIS database. That connection is not currently available within the Department of Justice. We are looking at that now. There are four studies that are being done at a cost of $5 million and we are confident that integration can be made. That will be an extraordinary improvement in our ability to protect the borders of the country and determine who should come in and who should not come into the United States.

Also, there are a lot of things we can do under existing structures, short of combining and reforming agencies, which, in my experience, is very disruptive.

Senator HUTCHISON. Combining is very disruptive?

Mr. FREEH. Yes, combining two separate agencies would be, I think, very disruptive.

Senator HUTCHISON. And you think trying to work within the structures we have now and doing the things that you have just said are being done is the better approach than to try to have one single more enforcement-oriented agency?

Mr. FREEH. Yes, that would be my recommendation.

Senator HUTCHISON. Thank you, Mr. Chairman.

Senator GREGG. Senator Lautenberg.

REDUCING THE CRIME AND VIOLENCE RATES

Senator LAUTENBERG. Thanks, Mr. Chairman.

My apologies for not having been here to hear the testimony of these widely respected witnesses. I commend you, including Ms. Meissner, for the job that has been done in getting the crime rate down to the lowest point since 1973. The violent crime is at its lowest rate since 1993. The murder rate is down 25 percent since 1993.

Director Freeh, you and I have a soft spot for New Jersey, this is not to suggest that you put more resources into New Jersey, but I know the people at the agency there and they are very cooperative, they work hard and diligently. There is a project under way now, as I am sure you know with the BATF to get a common file on ballistics information.

So I think that everybody deserves a measure of credit for having reduced the crime and violence rate.

GUN SHOW CHECKS

There is one loophole, however, that you and I have discussed and you know very well that I have been an advocate of closing the

gun show loophole, which permits unlicensed dealers to sell guns without background checks. If Usama-Bin-Laden got into the country, he could go up to one of those dealers and buy a gun and would not get asked a question. No one would be checking his background or anything like that. That is how outrageous it is.

As a matter of fact, I was reminded by my staff this morning of an incident that is going around right now that the NRA has accused me of wanting to shut down gun shows. They took it, they said, from a transcript of a press conference we had on denying children access to guns in the household. We watched the transcript today and it is very specific. It says "Close the gunshow loophole." In their memo, their bulletin is out there saying Lautenberg wants to close gun shows. So they are always ready to distort these things to make a point.

And I would ask you this. You are aware that we have prevented some 470,000 people from getting guns under Brady. And you know that I was the author of the law to prevent guns from falling into the hands of domestic spousal abusers. That domestic violence gun ban has prevented 33,000 abusers from getting guns.

So Director Freeh, what might be the effect of having this gun show loophole that permits people to buy guns, no questions asked. Recently we heard the testimony of Robin Anderson, the young woman who in Colorado appeared before the legislature there and testified that she went around with Harris and Klebold, the two fellows who committed the murders. She said she helped them go around a gun show to find gun dealers that would not ask any questions.

Can you tell us if you see an effect of having this loose purchase of guns in terms of our trying to fight crime and cut down on violence?

Mr. FREEH. Senator, my very strong view is that the more information, the more authorized information we are allowed to have in that database, the better job we are going to do protecting people. You cite the instant check background system which this committee has funded. Of the 11 million checks, 100,000 were disallowed. Not only are there over 3,000 violators of domestic violence orders; there are over 2,700 fugitives.

So obviously the more information in that database, the better job we will have protecting people. It is like the Federal DNA database, which is one of our requests for the next year. We would like to include in there—we need authorization from the Congress, in addition to some funding—we would like to include in there 20,000 convicted felons in the Federal system who relate, in some cases, directly to our crimes against children program. We would like to have them in the database. Not having them in the database is a huge deficit in terms of our ability to protect people.

Senator LAUTENBERG. Is it not also true that the FBI, with regard to background checks, has released some data that say that some people escaped being prohibited from getting guns because there was not sufficient time to check their background?

Mr. FREEH. I think the figures show more than several cases in that category.

Senator LAUTENBERG. Last year it was something like 1,100, wasn't it?

Mr. FREEH. I can get you the numbers but it is a significant number.

[The information follows:]

FIREARM RETRIEVALS

Transactions exceeding the three business day time limit were caused by the lack of arrest dispositions being available in the automated state criminal history records. During the period November 30, 1998, through February 23, 2000, there were 4,683 occasions where information was received after the three business days demonstrating a purchaser was prohibited, and it was determined that the firearm had been transferred to the purchaser, thus necessitating local law enforcement or BATF having to retrieve the firearm(s) from the person(s) purchasing the firearms.

The FBI, through Point of Contact conferences, Advisory Policy Board meetings, Clerk of Court conferences, and letters to state representatives hold discussions to stress the importance of states keeping complete and updated criminal records to provide to the National Instant Criminal Background Check System (NICS). Based on the first year of operation, it is clear that the ability of the NICS to stop prohibited persons from acquiring firearms would be improved by: More time to complete checks when records are not electronically available; a means to help states with the cost of performing as a Point of Contact state; a means to assist state courts with the costs of seeking disposition information; and additional funds for National Criminal History Improvement Program to improve NICS ability to obtain final disposition information.

When the FBI determines that Federal Firearms Licensee (FFL) has already transferred the firearm to an individual determined by the NICS to be a prohibited person, the FBI notifies both the BATF and local law enforcement where the firearm was sold (or where the purchaser lives, if different), that a prohibited person received a firearm.

USER FEE FOR GUN CHECKS

Senator LAUTENBERG. Another thing that has come up; that is the question of whether or not people who go through the national instant checking system should not have to pay a fee for that process. I very much favor it. There are 11 million requests. Is that 11 million requests a year or that have gone on since——

Mr. FREEH. Since it was inaugurated.

Senator LAUTENBERG. Since the system was established. And I know that if you want to apply for a license, fishing license, et cetera, you pay a fee.

Mr. Chairman, I think we ought to be recovering some of the costs that these users put upon us. I do not know whether you discussed that in your testimony but if you have, then we will not hold the rest of the committee, but if you have not, would you give me a comment on that, please?

Mr. FREEH. Certainly. The system requires funding next year of approximately $72 million, which includes the 642 employees who work exclusively on these background checks. The administration's proposal, of course, again asks for a user fee. I really do not have a strong position on that. What we need in the FBI is the funding and the funding source is a matter, certainly, within the decision-making of the Congress and the Administration. I pay license fees for licenses in several States, including New Jersey, and that is a commonly accepted method to raise appropriate revenues for enforcement purposes. But I really do not have a view on it. We just certainly would hate to see this program not get funded, given the remarkable success that it has had.

GUN RETRIEVAL NOTICES

Senator LAUTENBERG. I did not place enough reliance on my staff because as I look down here I see that between November 30, 1998 and June 15, 1999, the FBI failed to block about 1,700 gun sales to prohibited purchasers—criminals—because it did not have enough time to conduct the background checks. So the FBI then had to issue gun retrieval notices and law enforcement people had to try to track down the weapons that these people had bought through an insufficient system.

WAR CRIMES ASSISTANCE

Director Freeh, the FBI has contributed considerable expertise in forensic medicine to support investigations from U.N. War Crimes Tribunals in former Yugoslavia and people travel to Bosnia and Kosovo to help identify and preserve evidence of war crimes and crimes against humanity.

Now, that is an important role for the FBI in helping to achieve justice. How can we assure that the agency is ready to support the existing war crimes tribunals for Yugoslavia, Rwanda, and similar investigations in other parts of the world? Is that a responsibility that we can take and complete?

Mr. FREEH. It is a very grave responsibility and I think, of the many decisions I have made in almost 7 years, that was probably one of the ones that I am most proud of. We sent, as you very graciously described, two enforcement teams to Kosovo, approximately 60 personnel per team, to work under absolutely horrific conditions. In fact, we were the largest team representing all of the countries that did contribute some resources. Our team went there and on two separate occasions did, in the words of the chief prosecutor, Carla del Timbel, an absolutely extraordinary job identifying dozens of victims, excavating sites. In one particular case, the agents excavated a well where 18 members of a family ranging from 2 years of age to 90 years of age were murdered and thrown in. We received reimbursement for all of those activities from the State Department, except for our personnel costs.

I think the United States needs to have that capability. I think we should be available and anxious to supply that type of very unique forensic experience whenever required. We do not need and have not asked for a particular funding source for that but I would ask for leave of the committee, as we did before we made these deployments, to allow us to undertake those missions where requested. I cannot think of anything more important for the FBI to do.

Senator LAUTENBERG. Thank you very much.

Mr. Chairman, I would ask unanimous consent to put my full opening statement in the record.

Senator GREGG. Certainly.

[The statement follows:]

PREPARED STATEMENT OF SENATOR FRANK R. LAUTENBERG

I want to thank Director Freeh, Commissioner Meissner, and Acting Administrator Marshall for appearing before the Subcommittee today.

Each of our witnesses has important crime-fighting responsibilities, and I want to commend them for their respective roles in helping to make our streets safer. The

overall crime rate is the lowest it has been since 1973. Violent crime is down 27 percent since 1993.

The murder rate is down more than 25 percent since 1993. In my home state of New Jersey, crime is at its lowest level since 1972. The hard work of our FBI, DEA, and Border Patrol agents has made a significant difference, and we appreciate your leadership on that front.

Of course, there is still much work to be done. I am particularly concerned about the gun violence that continues to take a terrible toll on our nation. Every year, more than 30,000 people are killed. Each day, the lives of 13 children are cut short by gun fire.

The situation would be much worse without the National Instant Criminal Background Check System (NICS) which helps to keep guns out of the wrong hands. Since it went into effect in 1994, the Brady law has stopped more than 470,000 criminals and other prohibited purchasers from getting guns.

That number includes 33,000 domestic violence abusers who were prevented from getting guns as a result of the Domestic Violence Gun Ban I authored. Director Freeh and all of the FBI agents who work so hard on that system deserve our thanks.

We should support the NICS system by allowing the FBI to charge a user fee. There is no reason why American taxpayers should subsidize gun ownership. If you want to buy a gun, you should bear the cost of showing that you are legally permitted to own it.

Drug-trafficking also continues to be a major problem. Cocaine, heroin, marijuana, and methamphetamine flow too easily into our country, particularly across the Mexican border. Coordinated efforts between your agencies and state and local law enforcement, such as the Southwest Border Initiative, are a good step forward in trying to stop drug-trafficking.

And there are other challenges we must grapple with in the 21st century. We must continue to be vigilant against terrorism both domestic and international.

Additionally, advances in computer technology have made all of our lives easier, but have also provided new opportunities for criminals. We need to provide appropriate resources so that law enforcement can keep pace with cyber-criminals.

On the issue of immigration, I am proud of our country's legacy as a land of opportunity and sanctuary for people around the world. Certainly, we need to have immigration policies that provide an orderly system for people coming to the United States, but our policies should always be guided by compassion so that we do not cause additional hardship for families who are already in desperate circumstances.

Again, I thank Director Freeh, Commissioner Meissner, and Acting Administrator Marshall for appearing before us today. I look forward to hearing about their budget requests for fiscal year 2001, and discussing those requests during the question and answer period.

Senator GREGG. Did you have further questions?

Senator LAUTENBERG. No.

NATIONAL DOMESTIC PREPAREDNESS OFFICE

Senator GREGG. When can we expect to get the reprogramming for the NDPO?

Mr. FREEH. We should have it at the Department of Justice, I am told, within a week, Senator, and up here immediately after that, as soon as it clears through OMB [the Office of Management and Budget].

[The information follows:]

The National Domestic Preparedness Office reprogramming was submitted to Congress on March 31, 2000.

Senator GREGG. What is the status of the State and local advisory groups?

Mr. FREEH. The State and Local Group Advisory has not been fully constituted or assembled. It is being done now as we speak, now that the NDPO has the authorization to proceed, and I hope to have that up as quickly as possible. It is a critical element obviously to that function being credible.

ADDITIONAL COMMITTEE QUESTIONS

Senator GREGG. Well, as you know, it is very important and, hopefully, it can be done as soon as possible.

Mr. FREEH. I pledge to do it as quickly as I can.

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

QUESTIONS SUBMITTED BY SENATOR JUDD GREGG

USER FEE INCREASE

Question. Once again the Administration is requesting a $2.00 fee increase in the Immigration User Fee. Congress rejected the same request last year because the INS failed to provide the justification.

Can you provide the justification that would warrant an increase?

Answer. In March 1997, the INS Office of Budget conducted a comprehensive review of the Immigration User Fee Account (IUFA) to develop and utilize a more consistent and reliable cost accounting methodology for determining the adequacy of the current fee. The study found that the current user fee of $6.00 was adequate to cover costs through fiscal year 1998, but because of increasing costs, from the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 mandates among them (such as expedited removals and automated entry/exit control system), the revenues collected (new receipts) in fiscal year 1999 were not sufficient to cover all of its operating costs. Carry forward funding from fiscal year 1998 was used to make up for the shortfall in funding.

To recover a portion of the increasing IUFA costs, the Administration proposed to lift the User Fee exemption from cruise ship passengers. In fact, the Administration first proposed lifting the exemption in fiscal year 1995. Fiscal year 2000 Congressional action did not remove the exemption for cruise ship passengers, which translated into costs of approximately $20 million without any offsetting cruise ship receipts for every year the exemption remains in effect.

Fiscal year 1999 Conference action permanently transferred $29.5 million in requirements from base Salaries and Expenses funding to the IUFA. The combined impact of not lifting the cruise fee exemption and transfer of the $29.5 million over two years has adversely affected INS' ability to cover its base operations. As a result, INS has been forced to cover its IUFA operating costs by relying on carry forward revenue. Relying on carry forward revenue in fiscal year 1998 and fiscal year 1999 creates a very cautious spending environment for the IUFA in fiscal year 2000 and establishes deficits in the outyears.

Question. What are the costs associated with the Inspection process that warrant a $2.00 increase?

Answer. The fiscal year 2000 financial plan for the User Fee Account is predicated upon a reprogramming notification that is currently pending. The reprogramming requests an increase from the fiscal year 2000 IUFA authorized level of $446,151,000 to $487,000,000, representing an increase of $40,849,000 or 1.1 percent over the fiscal year 1999 budget. With the reprogramming of these funds, INS will temporarily preempt a potentially severe reduction in airport-related services in fiscal year 2000. Even with the approval of the fiscal year 2000 Immigration User Fee Reprogramming, Immigration User Fee program costs will continue to far exceed new revenues. During fiscal year 2000, prior year carry forward funds will be almost depleted, leaving an estimated $4,889,000 to carry forward into fiscal year 2001. This is insufficient to cover services that the INS must provide for fees already collected. Hence, in fiscal year 2001 and beyond, the solvency of the account will be in jeopardy.

The fiscal year 2001 budget request includes language that would increase the current Immigration User Fee for air passengers (and transoceanic cruise passengers) by $2.00, to $8.00, and would lift the cruise ship exemption (affecting nearly 99 percent of cruise fee passengers) and institute a $8.00 cruise ship fee. The cruise fee would be collected from passengers whose journey originates in Mexico, Canada, the United States, a territory or possession of the United States, or any adjacent island to the United States. The proposed cruise ship fee would not apply to immigration inspection at designated ports-of-entry of passengers arriving by Great Lakes international ferries or Great Lakes vessels on the Great Lakes and connecting waterways, when operating on a regular schedule. Revenue from both of these fee increases is assumed in the fiscal year 2001 President's budget request.

In fiscal year 2001, a total budget of $529,103,000 is requested for the Immigration User Fee Account (IUFA). This spending level includes two enhancements: (1) upgrading of the journey grade of Immigration Inspector positions from GS–9 to GS–11 and (2) hiring of 154 new Immigration Inspectors to staff the opening of new international airport terminals including a new terminal at San Francisco.

Without an increase in the fee and elimination of the cruise ship exemption, INS may be forced to reduce services in fiscal year 2001. The likely result of this service reduction would be longer waiting times at airports and an inability to carry out certain airport-related initiatives in the Inspections, Detention and Deportation, Intelligence and Data and Communication Programs.

Question. INS has virtually the same process for air passengers that it had in 1987 when the fee was first established.

Rather than ask for a fee increase, what actions has INS taken to redesign its work process or to reduce the costs of your operation?

Answer. The inspection process has been updated and modernized through the use of technology that allows for facilitation of bona fide travelers and identification of malafide travelers. Advance Passenger Information is being used by Passenger Analysis Units to screen passengers in advance of their arrival thus allowing for the increased identification and apprehension of immigration violators and recidivist travelers and the facilitation of bona fide travelers. This initiative has been undertaken with the cooperation of the airline industry. Regrettably, neither the quantity nor quality of the data currently provided is sufficient to allow radical redesign of the present process without introducing unacceptable risks to national security.

The cost of developing, refining and implementing new technology for facilitation of travel has exceeded the monies generated from the current user fee. Expansion of international airports has necessitated an increase in staff and use of technology to maintain the current level of services.

Question. INS has suggested that the increase in passenger volumes will increase the need for additional program funding. Why? If passenger volumes are increasing, then, as a matter of course, shouldn't the amount of money paid in the form of user fees increase in direct correlation?

Answer. Despite a projected increase in passenger volumes, the additional revenue will not be sufficient for the INS to recover the cost of statutorily-mandated User Fee activities. Two factors are responsible for this situation.

Increasing passenger volumes affect both sides of the revenue and expenses equation. Rising passenger volumes also contribute to higher cost requirements. More passengers will mean that a greater number of inspectors will be needed as well as higher overtime requirements to maintain existing processing standards. Higher passengers volumes may also mean a greater number of passengers who might have to be detained, and these detention costs are very costly to the account.

In addition, the account is required to fund services for which no revenue is generated. The current user fee of $6.00 continues to offset the costs required to inspect millions of cruise and air passengers that are presently exempt from paying the user fee. Resources are expended to conduct these inspections which would otherwise generate additional revenue to help offset the costs attributed to the workload. In addition, costs have been transferred from the Salaries and Expenses account—$29.5 million was shifted to the User Fee Account in fiscal year 1999 alone.

The IUFA has relied on carry forward amounts for the past three fiscal years to cover its base operations, it is expected that severe program reductions are imminent. For these reasons, INS requests an IUFA fee increase for air passengers of $2.00, to $8.00, and requests that the cruise ship exemption be lifted and replaced with legislative language that would institute a $8.00 cruise ship fee.

Question. INS has proposed to reduce services at ports of entry if their User Fee increase request is not granted. Air carriers collect, collate and transmit data required by the INS on an increasing percentage of passengers arriving in the United States on behalf of the INS. Airports provide facilities at no costs to the inspecting agencies. The airlines and the airports supplement INS staff at ports of entry with personnel to direct and control passenger traffic, provide translation services and law enforcement security for the federal inspection facilities. These are costs directly borne by the airline industry.

Why does the INS seek to penalize the airline industry, when it should be seeking to work in partnership to develop better, faster and safer ways of inspecting individuals entering the United States?

Answer. The INS seeks to work with the airline industry, not to penalize it, both to facilitate legitimate travel and to address fraud and other abuses. We have established a Carrier Affairs Office to provide training to the industry, we have entered into Memoranda of Understanding to mitigate fines, and we work in partnership with the industry in many joint working groups.

The INS has no immediate plans to reduce inspection services, however the current fee will soon be unable to keep pace with the costs incurred in performing inspections services at the nation's air and sea facilities. Congress has noted in recent comments on the INS account that it faces a crisis due to costs exceeding receipts, the recurring use of carryover to meet annual requirements, and the inability to satisfy long-term resource requirements. Lacking an adjustment in the existing fee level, the unfavorable balance between revenues and operational demands will eventually result in degradation of airport services. Impact on INS operations may include: reduction in the ability to meet the Congressionally-mandated 45-minute wait time; inability to staff newly-constructed airport facilities; reduced INS participation in anti-smuggling operations; and reduced INS/United States Customs Service enforcement work on Passenger Analysis Units and the scripted Advance Passenger Information project to intercept criminal aliens.

Question. Many suggestions have been made by the airline industry to improve the efficiency and effectiveness of current INS procedures to avoid the need to increase the User Fee. These include (1) reviewing the current pre-clearance and pre-inspection programs to analyze their impact on staffing efficiencies; (2) allowing domestic blocking of certain low-risk international flights which would relieve the impact of traffic at "peak" times; (3) reviewing existing program and regulations requiring the collection and transmission of passenger data to explore opportunities to further automate existing programs such as the Advance Passenger Information System (APIS) and INSPASS; and (4) combining border management initiatives to reduce the number of personnel required to maintain an effective border management program, including cross training, shared data opportunities and the exploration of risk based inspection procedures.

Has INS considered any of these suggestions in reviewing their budget for this year? If not, why not?

Answer. (1) The use of pre-clearance and pre-inspection processes has limited utility. Internal INS reviews have indicated that these procedures are not cost effective in all instances. Additionally, establishment of new locations to conduct such operations is subject to agreement on the part of host countries to allow U.S. law enforcement activity in their territory and agreement with affected airports to make adequate facilities available. Both of these conditions have created barriers to the expansion of this program.

(2) The systematic bypassing of Federal Inspection Service (FIS) agencies by airlines by allowing domestic blocking of certain flights would be an open invitation to fraud and smuggling. The INS experience has indicated that organized smuggling groups are very adept at adapting their operations to perceived weaknesses in the INS and other FIS agency screening processes. A clear example of this was seen in the 1990's when large numbers of passengers with no documents arrived at certain U.S. airports where inadequate detention facilities were available.

(3) The INS realizes that the airline industry supports the APIS and INSPASS systems. We are conducting a thorough review of the current procedures in place. Once this review is complete, we will be in a better position to consider other procedures and the future of the program.

(4) The INS is working closely with other FIS agencies and with the Federal Aviation Authority, the U.S. Coast Guard, and other groups to ensure that there is a seamless and efficient process for travelers as they enter the United States while maintaining the security of our borders. Data is already shared among FIS agencies and additional opportunities to coordinate our operations more closely are constantly being explored through initiatives such as Port Quality Improvement Committees and Passenger Analysis Units.

INSPASS

Question. INSPASS was first implemented in 1993—seven years ago. Five years later, according to the INS Internet site, INS processed 222,000 people through it, or less than one-third of 1 percent of arriving passengers.

Is this true?

Answer. Yes. INSPASS is still a pilot program. Although popular with the industry, the INS is still addressing a number of important issues, some of which were identified by the Department of Justice's Office of the Inspector General in its draft report of July 1999. More importantly, the INS is conducting a full review of the role of automated inspections in general and INSPASS in particular to determine whether these processes offer cost effective alternatives to traditional staffed inspections.

Question. In the February 16, 2000, Federal Register notice on the status of the Immigration User Fee Account, INS suggested that INSPASS was a measure that

was being used to expedite the inspection process. Where the program is in place, the expedited service is working well. Yet INS is asking once again for over 150 more airport inspectors and requesting to increase inspector pay by $29 million, but no where does INS say that they are going to make things easier, faster, or better for the traveling public, especially returning US citizens.

If this is true, why has INS under-funded the program for the last several years?

Why are no expansions of this program included in this year's budget request?

If INSPASS is not the right technology, is INS developing something new? If not, why not?

Is there a reason why Congress shouldn't mandate the installation of INSPASS units at all U.S. airports?

Answer. For the past 2 years, the INS has been considering an INSPASS regulation that would charge a fee to cover funding if this process becomes part of our standard operating procedure at airports. This would fund the program in part. In addition, in 1999 the Department of Justice Office of Inspector General (OIG), as a consequence of its recent audit, recommended the INS not expand the INSPASS to additional locations until significant and expensive revisions could be made in the enrollment and validation system components. More recently, a complete analysis of system benefits and costs has been undertaken so that a better-informed decision may be made.

The INS recognizes that current INSPASS technology may no longer be the right technology but the INS does not have the funding available to leverage newer technology. A congressional mandate requiring installation of INSPASS systems at all major airports would not be helpful without the appropriation of funds to develop an alternative technology for use in the INSPASS process and the appropriation of funds for deployment of the systems after development has been completed.

Question. Back in November 1998, the airline industry was told that Honolulu, Seattle and Dulles were the next sites to be developed. To date, only Dulles has come on line—even though the equipment has been bought for Honolulu and Seattle.

It is now March 2000. What is the delay in having the program installed at Honolulu and Seattle?

What about future sites that were originally promised, such as Dallas/Ft. Worth, Newark and Houston?

Answer. For fiscal year 2000, INS does not have the necessary funding to support and maintain the systems at Honolulu and Seattle and to concurrently address the OIG's recommendations on improvement and enhancement of the system before expansion. Currently, there are no plans to expand to additional sites; until the INS has completed its assessment of the INSPASS concept and current technology; until adequate funding has been identified; and until the INS has fully complied with the OIG's recommendations.

SERVICE ENHANCEMENTS

Question. Most airlines today provide INS with Advance Passenger Information data.

How does INS use this information to aid the processing of passengers?

Why is INS the only Federal Inspection Agency still requiring a primary inspection or examination for every passenger entering the United States?—despite the Advance Passenger Information provided by the airline?

Answer. The provision of data to the INS and other Federal Inspection Agencies itself does not address fraud, counterfeiting, misrepresentation, false claims or the use of documents by look-alikes. Examining every arriving passenger at primary inspection points to ensure proper documentation and review of travel documents for imposters and possible fraud is necessary to maintain the security of the United States and prevent the entry of terrorists and others who are inadmissible by statute.

The information is used to expedite the processing of bona fide air travelers substantially by eliminating the need for an inspector to perform a full primary computer query and as an enforcement tool by providing ports-of-entry with advance notification of arriving passengers who are the subjects of lookouts.

The INS, by agreement with the other FIS agencies, conducts the initial primary inspection for all agencies. This allows both the U.S. Customs service and the Animal and Plant Health Inspection Service to employ alternative inspection processes to achieve their missions.

Question. The INS intercepts only about one maleficent claim to U.S. citizenship for about every 10,000 passengers examined.

What is INS doing to accelerate U.S. citizen clearance?

Does INS measure clearance times for U.S. citizens only—and, if not, why not?

Answer. The INS has experimented with Accelerated Citizen Examination (ACE), an oral declaration of citizenship by U.S. citizens on selected arriving flights. This has been useful but lacks an adequate mechanism to address risks fully. Also, passport readers have been installed at the major airports and returning U.S. citizens with passports and lawful permanent residents with resident cards are processed quickly. Additionally, the INS has experimented with fully automated inspections using the INSPASS process that is used mostly by U.S. citizens.

Clearance times are collected at each site and are used to determine staffing levels at each location. INS is mandated to clear all flights within 45 minutes, and those flights that are participants in the API program are being cleared within 30 minutes. During the first two quarters of fiscal year 1999, 97.1 percent of all flights were cleared within the required 45 minutes.

Question. Many airlines today use electronic tickets and self-service devices (SSD's) to enable passengers to complete the check-in process without having to see an agent.

Is INS looking at similar technology for processing frequent flyers?

Answer. The INS Passenger Accelerated Service System (INSPASS) is an automated system that can significantly reduce immigration inspection processing time for authorized travelers. INSPASS combines automation with a hand geometry biometric image to validate the claimed identity of an individual. Eligible frequent travelers may enroll in the program at any INSPASS enrollment office.

Arriving at a port-of-entry, the traveler proceeds to an INSPASS inspection queue. There, the person inserts a card issued to them at enrollment to an INSPASS kiosk, similar to automated bank teller devices. Responding to messages on the kiosk's touch-screen display, travelers are prompted to enter their flight number (certain persons only) and to place their hand on a hand geometry reader. Screen prompts are used to achieve correct alignment of the hand with the hand reader. The kiosk software automatically compares the live scan of the traveler's hand geometry biometric to the image captured at enrollment. If the traveler's identity is validated by this comparison, an I–94/receipt of his inspection is printed by the kiosk that directs the traveler to proceed to U.S. Customs inspection. If this check is not successful, a screen message refers the traveler to an immigration inspector in a nearby inspection booth. Processing time of 15 to 20 seconds are typical, and times as low as 11 seconds have been observed at existing INSPASS kiosks.

Automated inspection kiosks are not staffed. There are presently over 45,000 active participants. More than 300,000 admissions have been made at INSPASS kiosks since 1995. Immigration inspectors have conducted more than 10,000 compliance checks of INSPASS admitted persons with no fraud found.

INSPASS is operational at nine international airports: Detroit, Los Angeles, Miami, Newark, New York City (JFK), San Francisco, Washington, D.C. (Dulles), Toronto, and Vancouver.

STAFFING

Question. INS uses a Work Analysis Model (WAM) to allocate inspector staffing.

Are all airports staffed at the same percentage of the WAM?

Answer. INS attempts to maintain all airports at roughly the same percentage of the WAM. However, yearly traffic growth or decreases at some airports can significantly alter the percentages from one year to the next. Another factor, which impacts on our ability to maintain equitable percentages, is the availability of new staff. If we do not receive airport staffing increases, we are not able to maintain an equitable staffing percentage at airports that are experiencing substantial growth. Therefore, airports may be roughly be staffed at the same percentage in one year and not in the next, due to the above mentioned factors.

Question. How does INS ensure that all airports have their fair share of inspector staff?

Answer. We use the Workforce Analysis Model (WAM) to assist us in the deployment of new resources. The model attempts to move all ports as close to the service-wide percentage as possible.

Question. What percentage of all airports inspectors are part-time during the summer peak?

Answer. The use of part-time inspectors, that is, the use of other than permanent fully-trained professional officers as inspectors, is problematic for the INS. This practice developed before the introduction of user fees as an expedient to meet the need for staffing when air traffic growth was outstripping the ability of the INS to address this growth through the normal budgetary process. This practice has continued at a small number of airports and seaports to address unique circumstances,

including minor increases in traffic during certain high travel periods. Currently the INS has approximately 300 part-time inspectors available to work out of a total user fee funded workforce of 3,084.

Question. What is INS doing to maximize the use of part-time inspectors to cover high volume periods?

Answer. The INS is considering whether it truly serves the best interests of the traveling public, the airline industry, and the nation to continue relying on less than fully-trained professional officers to deliver critical inspection services. Though an analysis of use patterns we have determined that the greatest use of part-time inspectors occurs at locations where traffic volume doesn't fully warrant the use of full time inspectors, for example, at locations where flights are not scheduled on a daily basis. We are trying to identify how to meet the staffing needs of these locations in an efficient manner without the undue reliance on part-time officers.

QUESTION SUBMITTED BY SENATOR TED STEVENS

ANCHORAGE DISTRICT OFFICE EXPANSION PROJECT

Question. I am told that the Immigration and Naturalization Service has experienced an explosion in growth over the past few years and that many of INS' physical locations are inadequate for the needs of the districts. In my state, the owner of the building the INS uses in Anchorage has been holding space vacant for an INS expansion for 2 years. The INS currently occupies the 1st and 3rd floors while the 2nd floor remains vacant. The owner of the property has been loyal to the INS and appreciates their commitment to Alaska, however, she cannot be expected to hold an entire floor of her building vacant while INS headquarters sits on the district's request for additional space. It hinders the INS' ability to do their jobs effectively in Alaska and it is causing a financial hardship on a local property owner who is committed to working with INS.

What is the INS doing to address the problem of inadequate spacing and physical resources for those Districts that have had significant growth recently and when can we expect INS to approve the space request for the Anchorage Office so that we can put this property owner's uncertainties aside?

Answer. Since fiscal year 1996, the Immigration and Naturalization Service has experienced a dramatic increase in hiring. This increase has generated a significant increase in office space requirements. Currently, there are over 120 space actions in the Lease Acquisition Program, requiring over $136 million to complete. The INS has developed a priority list for all space requirements, based on various criteria. The Anchorage District Office expansion project is included on this unfunded priority list. Based on current funding levels, it is expected that the Anchorage District Office expansion project will be initiated in fiscal year 2003.

QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

OPERATION AND MAINTENANCE CENTER FOR INS ISIS SYSTEM

Question. Director Meissner, the Administration has proposed $38 million in the President's budget for continued procurement and deployment of the Integrated Surveillance Intelligence System (ISIS).

This force multiplying technology has been helpful in deterring illegal border crossings and has increased the safety of Border Patrol officers who respond to these crossing incidents.

I understand that this $38 million request will fund the deployment of approximately 100 new ISIS sites along the border.

What is the current state of the ISIS system along the southwest border?

Answer. The Remote Video System (RVS) component of the Integrated Surveillance Intelligence System (ISIS) began initial deployment in May, 1998. To date, 91 RVS sites have been deployed operationally, 8 of which are located in New Mexico, 38 in Arizona, 44 in Texas, and 1 in California.

Question. Does the INS have the resources it needs to continue deployment of this system?

Answer. There are sufficient resources to proceed with approximately 60 more ISIS RVS installations during fiscal year 2000. We have a multi-year deployment plan, however the number of deployments in fiscal year 2001 and beyond is contingent upon future funding levels. As the ISIS system grows, a greater amount of its funding must be devoted to operations and maintenance, therefore, the requested funding is critical for the continued growth of the system.

Question. When do you expect that the ISIS system will be completed along the southwest border?

Answer. Based on site locations defined during the initial 1996 RVS Requirements Survey, a preliminary estimate of 353 RVS were identified for the southwest border. Of these, 91 RVS installations have been completed to date. Dependent upon the level of funding received, it is anticipated that the remaining 262 sites will be installed by the end of fiscal year 2003. It is noteworthy that wherever RVS systems have been deployed and become operational, sector requirements for RVS sites have changed significantly. As the word of the success of the RVS systems spreads, more requirements for systems are identified. For example, one southwest sector indicated an increase from an initial number of 75 sites to 330 sites. In order to update and formalize these requests, a new RVS survey will be implemented in third quarter of fiscal year 2000 to establish a new requirements baseline.

Question. Would the INS benefit from a centralized Operations and Maintenance Center for this system in the southwest?

Answer. Due to increased funding since 1996, U.S. Border Patrol inventories of infrared camera, night vision, sensor, and other types of equipment have grown substantially. This equipment is utilized to effectively monitor the integrity of U.S./Mexican and U.S./Canadian national boundaries for purposes of border control. The increase in magnitude of new equipment and the influx of new technology mandates the establishment of an optimal operational maintenance schedule for these systems. Presently, Operation and Maintenance (O&M) for ISIS RVS systems is being accomplished primarily through the use of contract personnel. U.S. Border Patrol technical personnel at facilities in the San Diego and El Paso sectors perform infrared camera maintenance. Analysis indicates that a better, more cost effective maintenance posture can be attained with the establishment of a single consolidated center to respond to and service the entire southwest border rapidly and efficiently.

The establishment of an O&M Center would mean an immediate release of presently assigned facility personnel back into the U.S. Border Patrol technician pool. In addition, there will be an improvement in maintenance operations and control, and establishment of a single repair depot for infrared and thermal cameras, low light Color Cameras, Night Vision devices, Sensors, and Microwave communications equipment. Also, a Calibration and Standards Center, which is not presently available, could be established.

The O&M Center will reduce repair turnaround time for IR cameras from 3 months to only days, will allow Mobile Technical Units to be deployed to augment the support personnel and assist the sectors as designated and for emergency situations. (These Mobile Technical Units are fully equipped assistance vehicles manned by engineering and technical personnel.) This O&M Center will also serve as: 24 hour ISIS Help Desk Center; Training and Testing Center for INS and U.S. Border Patrol agents and technical personnel; Replacement Facility for equipment storage and staging that would negate the need for each sector to order from many different vendors; Data Collection and Reporting Facility enabling centralized collation of equipment repair histories and maintenance information; and, Consolidated Inventory Tracking and Records Keeping Center for the U.S. Border Patrol.

With establishment of the O&M Center centralized O&M funding will occur. This mechanism will allow streamlining of maintenance funding processes and provide clear audit trails for U.S. Border Patrol technical programs. It will allow economies of scale cost savings and benefits for U.S. Border Patrol maintenance programs and will serve as a Center of Excellence facility for the Department of Justice.

Question. How is the system maintained currently?

Answer. The ISIS system is currently being maintained primarily by contract personnel employed by International Microwave Corporation, the primary vendor and installer, and with the use of extended warranties. U.S. Border Patrol technical personnel have received training to provide lower echelon maintenance on the system, as well.

Question. How much would a centralized O&M facility cost?

Answer. Initial costs for startup of a centralized maintenance facility are estimated to be in the $1.5 to $2.5 million range. Follow up costs, once the Center is fully equipped and operational, and is performing the functions and activities outlined and delineated above, are estimated to be approximately $7 million per year.

At present, O&M for ISIS RVS systems is accomplished primarily through the use of contract personnel. Although a training program to ensure in-house maintenance competency for U.S. Border Patrol technical personnel has been established, the increase in magnitude of new electronics equipment to assist the U.S. Border Patrol in its border control mission, coupled with the overall shortage of available technical support personnel, clearly indicates a need to augment the technical work force through the use of contract personnel. Additionally, two separate maintenance facili-

ties, both manned by scarce U.S. Border Patrol technical support personnel, are being utilized to maintain the Border Patrol's Infrared camera inventory. Consolidation of these three functions into a single O&M Center, centrally located to best service the southwest border, would benefit INS by the immediate release of the technical personnel back to U.S. Border Patrol, cessation of duplicate activities, release of the existing facilities, an increase in the types and classes of technical services and maintenance activities able to be provided to the U.S. Border Patrol, and cost savings enabled by avoiding duplication of efforts.

Question. How does the Border Patrol monitor ISIS sites to determine when repairs are needed?

Answer. A 24-Hour ISIS Help Desk has been established to respond to calls for repairs and other types of assistance required by the U.S. Border Patrol to maintain operational status. U.S. Border Patrol personnel familiar with ISIS equipment are trained to operate it, log any equipment malfunction or failure, and notify the ISIS Help Desk directly or through their appropriate chain of command. Once noted, an analysis and appropriate response is made. This response could range from simple telephonic assistance to assignment of technical or engineering personnel to effect repairs.

DETERMINING RESOURCE NEEDS FOR DEPORTATION PROCEEDINGS

Background: In its January 2000 options review, GAO recommended that INS consider developing a workload analysis model to help the INS determine resource needs for completing IHPs on all eligible aliens, and giving priority to completing the IHPs for aliens serving aggravated felonies.

GAO estimates that hundreds of those releasees were serious felons, who should have been placed in removal proceedings while in prison and taken into INS custody upon release. Some of these releasees were subsequently rearrested for new crimes, including felonies.

GAO concluded that even when INS determined that an alien was potentially deportable and should be placed into removal proceedings, INS did not complete the IHP for at least half of such cases in each year. As a result this failure to complete the IHP before prison release, INS incurred substantial avoidable detention costs estimated at $40 million annually.

Question. The INS' Institutional Hearing Program (IHP), now called Institutional Removal Program, is the main vehicle used by the Department of Justice for placing aliens who are incarcerated in state and federal prisons into deportation proceedings so that they can be deported expeditiously upon release from prison. GAO has determined that, during 6-month periods in 1995 and 1997, INS failed to identify nearly 2,000 potentially deportable aliens before they completed their prison sentences, resulting in their release into communities across the United States before their risk to public safety was determined. This also has resulted in substantial detention costs that could have been avoided.

What strategies has INS put in place to resolve the IHP failure?

Answer. As noted in the question, the first data collection period that the General Accounting Office (GAO) used to evaluate the Institutional Removal Program (IRP) was January through June 1995. This was five years ago, before INS had even implemented most of the enhanced IRPs. The more recent data collection period was three years ago, January through June 1997. Although most of the enhanced IRPs were in place at that time, we were not seeing the full benefits because inmates processed up front were, for the most part, still serving their sentences. Since that time, INS has made significant improvements in the IRP.

One major strategy employed by INS to improve the IRP focused on elimination of an interview backlog. The backlog consisted primarily of inmates who were already in prison serving sentences when enhanced IRPs were implemented, and who were not, therefore, interviewed by INS at intake. Backlogs in the major state IRPs were eliminated last year.

We have also improved our work measures to reflect the work done in the IRP more accurately. In addition to the traditional IRP removals (aliens who received an order of removal while incarcerated), we now count criminals whose removal was ordered on the day of, or the day after release from incarceration. The IRP removal statistics shown below are indicative of the improvements we have made.

	Order Prior to Release	Order w/in 1 Day of Release
Fiscal year:		
1998 IRP Removals	13,545	1,345
1999 IRP Removals	19,842	4,335
2000 IRP Removals (4 months)	6,814	1,559

LAW ENFORCEMENT IN INDIAN COUNTRY

Question. How much of the proposed $82 million increase in Indian law enforcement funding will go to the FBI?

Answer. The FBI is requesting $4.639 million for Safe Trails Task Force overtime, contracts for forensic exams and 31 victim witness specialists.

Question. Two of the FBI initiatives—the Safe Trails Task Forces and the Victim Witness services have been key to your efforts in Indian Country. What have the 10 Safe Trails Task Forces accomplished in the 2 years they have been operating in Indian Country (one is in Gallup, New Mexico)?

Answer. The first Safe Trails Task Force (STTF) was implemented in the Flagstaff Resident Agency of the Phoenix Field Office to work on the Navajo Nation in Arizona in 1994. Currently there are 11 STTFs based in Gallup, NM; Carson City, NV; Green Bay, WI; Rapid City, SD; Phoenix, AZ; Flagstaff, AZ; Tucson, AZ; Monticello, UT; Glasgow, MT; Lander, WY; and Bend, OR.

These STTFs have successfully obtained numerous indictments and convictions in Indian Country (IC). The following chart details the 1999 accomplishments of the eight STTFs that were operating during the entire year. Not included are task forces started during 1999, which do not have full-year statistics.

Location of Task Force	1999 Information and Indictments	1999 Arrest and Locates	1999 Convictions
Gallup, NM	57	58	49
Carson City, NV	12	10	4
Green Bay, WI	9	10	4
Rapid City, SD	2	2	1
Flagstaff, AZ	71	87	28
Tucson, AZ	7	20	12
Monticello, UT	6	155	9
Glasgow, MT	7	2	7
TOTALS	171	344	145

The STTFs have allowed law enforcement agencies in IC to avoid duplication and thereby maximize the use of limited FBI, tribal and Bureau of Indian Affairs (BIA) personnel resources to investigate significant IC violent crime problems of mutual concern and responsibility. The STTFs ensure that violent crime cases in IC are approached in a shared and cooperative effort in spite of complex jurisdictional issues inherent in IC. The STTFs also enable tribal criminal investigators to learn FBI investigative practices that can be applied in non-STTF matters.

Question. What will the FBI accomplish with the $4.6 million and 31 Victim Witness Specialists that you have requested in the fiscal year 2001 budget? Is this a key part of the federal effort to enhance law enforcement in Indian Country? Why?

Answer. The $4,639,000 will be used by the FBI to contract forensic examinations for Indian Country (IC) in 3 more states ($1,405,000), hire and train 31 Victim Witness Specialists (VWS) who will be assigned to IC Resident Agencies (RAs) ($2,600,000) and provide overtime for state, local and tribal police officers assigned to Safe Trails Task Forces (STTFs) ($634,000). These are all key parts of the federal effort to enhance law enforcement in IC.

The FBI has criminal jurisdiction in IC for major crimes under the IC Crimes Act (18 U.S.C. 1152), the IC Major Crimes Act (18 U.S.C. 1153) and the Assimilative Crimes Act (18 U.S.C. 13). Thirty-two FBI field offices have some degree of investigative responsibility in IC, ranging from exclusive federal jurisdiction—19 field offices—to concurrent federal and state jurisdiction. The Violent Crime Control and Law Enforcement Act of 1994 expanded federal criminal jurisdiction in IC in such areas as guns, violent juveniles, drugs and domestic violence. Because of the FBI's

unique responsibility in IC, enhancements are key to improving federal law enforcement's efforts in IC.

Contract Forensic Exams.—Violent crime cases for which the FBI has jurisdiction in IC (e.g., murder, aggravated assault and sexual assault of adults and children) involve biological evidence requiring forensic examinations, the results of which are often needed before arrests are made and indictments obtained. The FBI Laboratory cannot currently provide timely turnaround for forensic examinations of evidence from IC violent crime cases. At times this results in IC cases being dismissed because of the Speedy Trial Act. Although the Laboratory's cadre of qualified examiners is expanding, it will likely remain insufficient to provide acceptable turnaround time for all IC cases until at least 2002.

As a result, many FBI IC field offices send evidence to either commercial or state laboratories for examination. The FBI entered into a contract with the Arizona Department of Public Safety (AZ DPS) in April 1998 for examinations of IC cases for the Phoenix field office. This contract was necessary because the state legislature had ordered the laboratory to stop performing examinations in federal cases without payment for services.

The additional funding will allow the FBI to enter into contracts with state labs to examine IC forensic evidence for Minneapolis, Albuquerque and Salt Lake City field offices. Phoenix and these 3 field offices cover 77 percent of the FBI's work in IC. With these contracts, the FBI will be able to ensure a uniform level of forensic service that meets Speedy Trial Act requirements for its major IC offices.

Victim Witness Specialists.—FBI special agents currently provide victim witness services in IC. However, because their primary responsibility is to conduct investigations, they rarely can provide more than minimal assistance. Because of this, the FBI requests 31 VWS for its Victim Witness Assistance (VWA) Program to work in 26 RAs to better address the needs of the victims of violent crime in IC. For most of IC, federal law enforcement is the only protection that victims have from violent crime. Violent crime rates in IC are significantly higher than in the rest of society. Since sexual/physical abuse of children is one of the largest crime problems in IC, a high percentage of the victims in IC are children. Many children in IC are either victims of, or witnesses to, the most horrible violent crimes imaginable—homicides, rapes and aggravated assaults. Due to severe alcoholism in IC, many victims suffer from fetal alcohol syndrome or other serious mental health needs. They also live in the most impoverished conditions in the United States. As a group, residents in IC also have one of the lowest education levels in the United States. As a result, these victims and witnesses need help to understand the judicial process and to be available for court proceedings.

Many families in IC reside away from population centers and do not have reliable means of transportation to travel the lengthy distances to the offices and courtrooms of government attorneys, magistrates and judges in which they must appear as participants in the judicial process. Currently, the agents provide the transportation. The VWSs will be able to provide this service, allowing the agent to spend more time on investigations.

Other duties of a VWS in IC include, but are not limited to, social service referrals, providing transportation to medical facilities, and emotional support follow-up. In most cases, the VWS assists the link between the FBI and the United States Attorney's Office.

A VWS can also enhance the FBI's ability to communicate and develop rapport with the Native American community. With a trained VWS, the FBI has the ability to bridge the gap between the social, legal and investigative issues relevant to Native Americans. With 31 VWSs assigned to IC RAs, a Native American victim will have more information about the investigation and the overall legal process.

Safe Trails Task Force.—STTFs are key to federal efforts to ensure that violent crimes in IC are approached in a shared and cooperative effort, in spite of complex jurisdictional issues inherent in IC. When tribal or BIA officers work together with FBI agents in STTFs, all parties benefit tremendously. The FBI agents receive credibility and legitimacy on the reservation, because they are in an STTF with Native American officers. The FBI agents are more effective and safer in IC when they work with tribal/BIA officers on STTFs because they can benefit from the Native American officer's knowledge of the local community and culture. The tribal and BIA officers benefit because they learn FBI investigative techniques and procedures. Because tribal, BIA, and FBI investigators all grow professionally from the STTFs and STTFs maximize the use of limited resources, the STTFs serve to enhance law enforcement services in IC.

However, in some areas of IC, an obstacle to the full-time participation of tribal law enforcement officers on STTFs is the lack of tribal financial resources to pay overtime to its investigators. For some tribal law enforcement agencies, diverting

limited financial resources to pay overtime to a full-time STTF participant decreases the resources available to the agency to provide other necessary policing services to the tribal community it serves. In order for the FBI and tribal law enforcement agencies to take advantage of pooling limited personnel resources, funding to pay overtime for tribal criminal investigators to participate full-time on the STTFs is critical.

Question. A third component of the FBI program in Indian Country is support of forensic examinations. The request of $1.4 million would add three additional field offices, including one in Albuquerque. What have these offices contributed to improving law enforcement in Indian Country?

Answer. The $1,405,000 request would allow the FBI to contract with accredited state and local laboratories to conduct forensic examinations for Indian Country (IC) cases from the FBI's Minneapolis, Salt Lake City and Albuquerque field offices. The FBI already has a contract with the Arizona Department of Public Safety Laboratory to conduct forensic examinations for IC cases from the FBI's Phoenix field office, which is the FBI's second largest IC field office.

The Minneapolis, Salt Lake City and Albuquerque field offices are, respectively, the FBI's first, third and fourth largest IC field offices. Together, they accounted for 61 percent of the FBI's IC cases opened between fiscal year 1994 and fiscal year 1999. Out of a total of 8,620 FBI IC cases opened between fiscal year 1994 and fiscal year 1999, Minneapolis opened 3,032 cases (35 percent); Salt Lake City opened 1,285 cases (15 percent) and Albuquerque opened 952 cases (11 percent). If the Phoenix field office is included, these 4 field offices opened 77 percent of the FBI's IC cases during this time period. Because these 4 field offices do the majority of the FBI's investigations in IC, they are in the greatest need of contracts for forensic services in order to comply with Speedy Trial Act requirements and provide adequate service for IC.

With respect to improving law enforcement in Indian Country, the Minneapolis, Salt Lake City and Albuquerque field offices operate Safe Trails Task Forces (STTFs). These STTFs have been successful in maximizing the use of limited FBI, tribal, Bureau of Indian Affairs (BIA) and local personnel and resources to target violent felonies in IC.

Additionally, the Minneapolis, Salt Lake City and Albuquerque field offices sponsor training for tribal, BIA and local officers working in IC. These classes include Law Enforcement Safety and Survival, Crime Scene Processing, Crimes Against Children, Basic Death Investigations, and Advanced Death Investigations.

All three field offices have increased personnel resources dedicated to IC investigations. Between 1997 and 1999, the FBI's Minneapolis field office added 12 agents while the Salt Lake City and Albuquerque field offices each added 9 agents to IC work.

The Salt Lake City Division hired two victim witness specialist with funding from the Department of Justice's Office for Victims of Crime. These specialists provide victim witness assistance on Indian reservations in southern Utah and south-central Montana.

Question. Finally, would the Department please provide the Subcommittee with a summary of the funding proposed to be allocated under the Indian Law Enforcement Initiative in fiscal year 2001?

Answer. Homicide and violent crime rates on Indian lands are rising, even as crime rates in the rest of the country fall. The fiscal year 2001 budget proposes an additional $82 million to fund public safety programs on Indian land. The money is to be used to increase the number of fully trained and equipped police officers in Indian country; improve the quality of the criminal justice system, including courts and detention facilities; enhance substance abuse programs; and combat tribal youth crime. Budget highlights include:

Office of Justice Programs

$10,000,000 for OJP's Indian Tribal Courts Program, bringing total funding to $15 million. This increase will fund many new grants to plan, maintain, and enhance tribal courts.

$10,000,000 for the tribal portion of OJP's Zero Tolerance Drug Supervision Program. This initiative will provide discretionary grants to tribes for comprehensive drug testing and treatment programs and to implement graduated sanctions for individuals within the criminal justice system.

$8,000,000 for an Indian Alcohol and Substance Abuse Diversion Program. Of this amount, $6.5 million will be used for grants to support tribal detention or probation-based projects to divert offenders who abuse alcohol and drugs to detoxification and halfway houses. Currently, many tribal criminal justice systems have minimal referral services available for court-mandated activities. The remaining funding will be

used for training, technical assistance, research, evaluation, and data collection efforts.

$8,000,000 to provide 57 Indian tribes with resources to develop or enhance programs to address tribal youth with mental health, behavioral, or alcohol and substance abuse problems. Additional funds will pay for a variety of training, technical assistance, research, evaluation, and data collection efforts.

$6,000,000 for Tribal Criminal and Civil Legal Assistance. Of this total, $4.5 million will be used to provide Indian tribes, tribal consortia, and private/non-profit legal service organizations serving a reservation-based constituency with the resources to develop or enhance their capacity to provide criminal and civil legal assistance. Another $1 million will be used to provide discretionary grants to the 31 existing Tribal Colleges to create, develop and enhance a two-year curriculum on paralegal studies, law advocate studies, indigenous justice systems or other areas directly related to criminal and civil legal assistance. The remaining funding will be used for training, technical assistance, research, evaluation, and data collection efforts.

$5,000,000 to fund sexual assault nurse examiner (SANE) units in Indian Country, which will gather the evidence necessary for prosecuting sexual offenders. This funding will be used for a pilot project that would establish SANE units at 10 tribal sites.

$2,000,000 to conduct a national census of tribal criminal justice agencies and related statistical activities. These efforts will offer a systematic understanding of how criminal matters are adjudicated and disposed of on Native American lands.

$12,500,000 for Title V Incentive Grants for Local Delinquency Prevention (an increase of $7.5 million) and the Police Corps Program (an additional $5 million). These funds will support tribal juvenile justice systems and will provide additional training for tribal police officers.

Community Oriented Policing Services

$5,000,000 for funding, training, and equipping additional Tribal uniformed officers (for a total of $45 million).

$5,000,000 for grants to tribal authorities to improve their general forensic capabilities. This is part of the COPS request for crime fighting through technology.

United States Attorneys

$4,699,000 and 60 positions (33 attorneys) to support innovative, community-based strategies aimed at reducing overall violent crime, violent gangs, and juvenile crime on Indian reservations.

Federal Bureau of Investigation

$2,600,000 to hire and equip 31 Victim Witness Specialists (VWS) who would be assigned to resident agencies on or near Indian Country. The specialists will identify and assist all victims and witnesses of federal crimes in which the FBI is the primary investigative agency.

$1,405,000 for contracts with 3 accredited, full-service state crime laboratories to conduct forensic exams on Indian Country evidence gathered in the Minneapolis, Albuquerque and Salt Lake City field offices, which have accounted for 61 percent of Indian Country cases in the past 5 years.

634,000 for overtime for tribal, state and local full time non-federal law enforcement officers on 10 to 12 Safe Trails Task Forces (STTFs). In many areas, a significant obstacle to participating on STTFs is the limited budgetary resources of tribal agencies to compensate officers for overtime.

General Administration

$932,000 and 8 positions within the Office of the Associate Attorney General (OASG) to institutionalize the Office of Tribal Justice (OTJ) as an integral, ongoing component of the Department. The Justice Department has significant responsibilities towards Indian Country, supporting the development of strong tribal law enforcement, tribal courts, and institutions of self-government.

Criminal Division

$70,000 and 1 position to assist the Criminal Division in continuing its role in developing the Presidential Initiative to Improve Law Enforcement in Indian Country and to ensure that the Justice Department will have an effective voice in law enforcement and policy matters in Indian Country.

COUNTERTERRORISM TECHNOLOGY R&D—FBI

Question. Director Freeh, in your testimony on page 12 you highlight the $10.5 million Congress appropriated in the fiscal year 1998 Commerce, Justice, State, and

the Judiciary Appropriations bill to initiate several counterterrorism research and development programs, including a partnership with the Southwest Surety Institute. The fiscal year 2001 budget includes a requested increase of $5 million to continue and expand these projects.

Director Freeh, can you provide the Subcommittee with a status report on what the FBI has accomplished through its counterterrorism R&D program which the Congress funded at $10.5 million in fiscal year 1998?

Answer. The 1998 Justice Appropriations Act provided the FBI with $10.5 million from the Attorney General's Counterterrorism (CT) Fund for counterterrorism research and development (R&D). The funding was applied to the following programs:

—$2 million was designated for a cooperative agreement with the Southwest Surety Institute (SSI) for the development and delivery of training courses to degree students and for counterterrorism-related operational and support services at consortium institutions. Under this agreement, 12 task-orders were agreed to between the FBI and SSI. SSI either has completed or is scheduled to complete all of these projects by September 2000.

—$5 million was allocated for explosives detection/forensic science. The FBI initiated 17 CT R&D projects with the Department of Energy (DOE) and 11 CT projects with industry and academia in a variety of explosives detection and forensic science areas. Please see the attached chart, Status of FBI Laboratory Counterterrorism Research and Development Projects, for a summary of the counterterrorism projects that were funded with 1998 CT Fund resources.

—$2.5 million was used for the development of data exploitation tools. The FBI utilized $1.3 million to develop the Automated Computer Examination System (ACES). ACES provides a standardized computer evidence tool to scan thousands of files for identification of known format and executable program files. As of March 1999, ACES development was completed and FBI examiners began training with the system. The remaining $1.2 million was utilized to develop systems and techniques for conducting Title III and Title 50 interceptions on computer networks.

—$1 million was designated for developing training programs to provide investigators in the FBI and other federal, state, and local law enforcement personnel, with the training and expertise needed to detect and prevent computer intrusions. Funding is being utilized to secure the assistance of industry and academic experts to design and help deliver these programs, and for expenses associated with the training sessions.

Question. What initiatives currently underway does the FBI plan to continue if Congress approves the $5 million requested to continue and expand these projects?

Answer. The FBI would like to begin Phase II efforts for the following R&D projects that were initially funded in 1998: Explosives Damage to Metal; Handheld Explosives Detector; Standoff Explosives Detection by Microwaves; 3-D Imaging and Ranging; Serial Number Restoration; Trace Botanical Analysis; Statistical Treatment of Class Evidence; Institutional Knowledge Preservation; Fluorescent Superglue; Mitochondrial DNA Sequencing; and Facial Reconstruction. Please see the attached chart for additional information on these projects.

STATUS OF FBI LABORATORY COUNTERTERRORISM RESEARCH AND DEVELOPMENT PROJECTS

[As of April 25, 2000]

Project	Description of Deliverables	Deliverable Due	Status
MANPADS Expert Forensic System.	Integrated Resource Database and Investigator's Guidelines.	4/99	Delivered.
Handheld Ion Mobility Spectrometer.	Handheld Ion Mobility Explosives Detector	4/99	Delivered.
Explosives Damage to Metals	Metallographic Examination Procedures for Explosives Debris.	9/99	Delivered.
Standoff Explosives Detection by Microwaves.	Proof of Principle Microwave-Based Explosives Detector	1/00	Delivered.
3-D Imaging and Ranging	Handheld Crime Scene 3-D Measurement and Imaging System.	1/01	On-Target.
Serial Number Restoration	Metallographic Non-Destructive S/N Recovery Methods	9/99	Delivered.
Elemental Profiling of Metals as Evidence.	Laser Ablation ICP/MS Metal Fragment Analysis Procedures	9/00	On-Target.
Statistical Treatment of Class Evidence.	Enhanced ''Match'' Criteria Statistical Procedures	6/00	On-Target.

STATUS OF FBI LABORATORY COUNTERTERRORISM RESEARCH AND DEVELOPMENT PROJECTS—Continued

[As of April 25, 2000]

Project	Description of Deliverables	Deliverable Due	Status
Enhanced Trace Evidence Discrimination.	Fiber Dye Identification Methods by Capillary Electrophoresis.	6/00	On-Target.
Small Robotic Vehicle Evaluation	Small Haz-Mat Crime Scene Robotic Vehicle	9/99	Delivered.
Solid Phase Micro Extraction	Solid Phase Micro Extraction Field Test Kit and Procedures	4/99	Delivered.
Trace Botanical Identification	Grass Stain ID using Hypervariable Chloroplast DNA	9/00	On-Target.
Degradation of Drugs in Embalmed Tissue.	Identify Post-Mortem Drug/Formaldehyde Reactions	9/00	On-Target.
Automation of MtDNA	Laboratory Robotics for Automated MtDNA Analysis	3/00	Delivered.
Crime Scene Reconstruction	3-D Video Crime Scene Documentation Software	6/00	On-Target.
Active Thermography for S/N Restoration.	Thermal Imaging Equipment for Serial Number Restoration	5/00	On-Target.
Veterinary Science Resources	Compilation of National Veterinary Resources	9/99	Delivered.
Institutional Knowledge Preservation.	Subject Matter Expert-Tacit Knowledge Preservation	6/00	On-Target.
Vulnerability Attacks Research	Study of Vulnerability Attacks	3/00	Delivered.
Rapid DNA Profile Identification	Raman Spectral Database of Hazardous Materials	6/00	On-Target.
Sem X-Ray Spectral Database	SEM X-Ray Spectral/Digital Image Database Software	12/99	Delivered.
Raman Spectral Database	Raman Spectral Database of Hazardous Materials	12/99	Delivered.
Development of Distance Learning Modules.	Crime Scene Management Web-Based Training	2/00	Delivered.
Latent Fingerprints in Blood	Chemical and Spectral Enhancement of Bloody Latents	12/99	Delivered.
Flourescent Cyanoacrylates	Polymerization Studies and Colored Superglue	9/99	Delivered.
Database of 5,000 MtDNA Sequence.	Database of 5,000 MtDNA Samples	9/00	On-Target.
Facial Reconstruction	Computerized Facial Reconstruction Software	6/00	On-Target.
First Responder Web-based Training.	Contaminated Individuals/Evidence Handling	1/00	Delivered.

Question. What are the new areas of R&D that will be addressed with the $5 million in appropriations?

Answer. If the $5 million is appropriated in fiscal year 2001, the FBI would initiate new projects in the following areas:

Polymer Sensors for Explosives.—A private industry R&D initiative has discovered that the ability of polymers to fluoresce is inhibited in the presence of an explosive molecule. To date, this effect occurs on polymers when in the presence of as few as one explosive molecule among a trillion other molecules (i.e., one part-per trillion sensitivity). This R&D effort would pursue forensic and law enforcement uses of the technology.

Explosives Yield Computer Modeling from Observed Physical Damage.—During the development of explosives to be manufactured, current engineering computer models predict explosive damage to materials surrounding their detonation based upon a known explosive charge. When investigating the terrorist or criminal use of explosives, computer models that can predict the explosive charge based upon the damage to materials surrounding the detonation are needed. This effort may address this need and be suitable for inclusion in existing Technical Support Working Group (TSWG) efforts.

Soil Profiling by Molecular Technology.—The forensic identification of soil may be enhanced through the identification and characterization of the molecular deoxyribonucleic acid (DNA) present from plant, insect, or animal life even if the soil has been exposed to biological or chemical warfare agents. This project would further examine this theory.

Field Instrument Evaluation.—The Department of Energy has developed portable analytical instrument technology for use in the analysis of hazardous materials at crime scenes. This project would further identify, adapt and modify such instrument needs for the law enforcement community. Examples of items to be evaluated include the ability to conduct hand held molecular DNA analysis and portable gas chromatography.

Robotic Vehicle Enhancements.—Phase I of this effort delivered a small "Rattler" robotic vehicle. Phase II of this project would be a related, but new effort to enhance the sensor, mobility and manipulative capabilities of small robotic vehicle(s). This

project would focus on vehicles developed by the Sandia National Laboratory for the survey, sensing and collection of physical evidence from hazardous crime scenes.

Digital Image Evidence Authentication.—The FBI's Questioned Documents Unit (QDU) currently incurs a $500 per day cost to develop forensic images on 70 mm film. The QDU would prefer to replace its film images with digital images, but the proper authentication of digital images or recovered digital data requires precise protocols and rigorous storage requirements in order to authenticate they have not been tampered with. This effort would explore digital watermarking and steganography as means to authenticate digital photographs.

Spectral Characterization of Toners and Ink.—This project would develop a valid procedure for the spectral comparisons of colored toners and inks used to produce forgeries of secure documents.

Taggant Development.—The tagging, tracing and marking of documents and other valuable items is often a challenge in certain special operations. This project would examine two private industry R&D initiatives, which have developed new chemicals to deal with this problem. The first initiative uses compounds know as upconverting phosphors to mark inks, toners, papers, chemicals, and even explosives for later identification. These compounds require simple, but specific detection methods. The second initiative proposes to develop a series of photoreactive dye-polymers, which can be incorporated into paper or the toner of ink cartridges and can change spectroscopic properties if exposed to the bright light of laser scanner or photocopy machines.

Automated Forgery Detection.—This effort would provide for testing, evaluation, analysis, and a report on technologies available for automated forgery detection of ransom and bank robbery notes.

Computer-Aided Hair Microscopy.—The microscopic comparisons of hair samples require considerable experience and is time consuming. As an analysis aid, this project would explore digital video capture and microscopic video image comparison methods in order to reduce the number of non-matched hair specimens.

Robotic Manipulator Arms.—This effort would develop robotic tactile manipulator arms and 3-D visions systems. The FBI accepted delivery of prototype robotic platforms designed by the U.S. Military in 1998 and a small robot from Sandia National Laboratory in 1999 for testing hazardous crime scene materials. Though the robots offer maneuverability with precise control, light-weight tactile manipulator arms (like those developed for tele-surgery) are needed for this task. The development of 3-D vision systems would enable the robot operator to work at a safe distance from the crime scene without experiencing vision deficits.

Daubert/Frye Database.—This project would develop an automated means of collecting, storing, and evaluating data related to traditional class evidence (hairs, fibers, toolmarks, etc.) for court cases. The forensic association (matching) of traditional class evidence is increasingly being challenged due to recent judicial rulings.

National Automotive Image Database.—This project would examine the potential to connect a search engine to an auto image warehouse to assist law enforcement in enhancing witness descriptions when developing automobile identifications. The Wieck Corporation operates an image warehouse in support of the automotive industry and provides vehicle images to trade publications and the media.

DNA Chip Design Evaluation.—The Massachusetts Institute of Technology proposes to evaluate the design criteria necessary for the adaption of commercial micro-DNA technology for forensic applications in decreasing the time required for sequencing mitochondrial DNA (mtDNA) and analyzing molecular DNA samples.

3-D Facial Modeling from 2-D Photos.—The recognition of individuals in 2-D photos, surveillance, or video tapes may be enhanced through the use of 3-D facial reconstruction from the 2-D image. This Phase I effort would explore and demonstrate a number of techniques for this 3-D image.

Automation of DNA Processing.—This project would enhance, improve and extend an unattended, automated, robotic method for the analysis of mtDNA and molecular DNA. Automation of DNA analysis would assist in the rapid, high priority efforts to identify victims of terrorist events.

Question. Do you anticipate utilizing the expertise of the Southwest Surety Institute in the second round of funding for these R&D Activities?

Answer. The cooperative agreement entered into between the FBI and SSI is a task-order contract that is valid for a 5-year period, 1998–2003. The FBI continues to work with SSI to identify additional task-orders suited to the expertise of the consortium and, subject to the availability of funding, will draw upon the resources and capabilities of SSI.

The selection of initial R&D projects in 1998 was based upon responses to a broad agency announcement issued by the FBI Laboratory. None of these initial projects were tasked to the SSI. Many of the projects proposed for funding under the $5 mil-

lion request would continue work started by national laboratories and other entities. New projects proposed were selected from among those submitted in response to the 1998 broad agency announcement and will be based upon specific proposals from national laboratories and other entities.

FBI DEVELOPMENT OF DOMESTIC TERRORISM DIVISION

Background: The development of terrorism as a major threat and the need to meet it with increased funding and personnel has provided a solid budgetary base for the Bureau that promises to continue developing. While it is reasonable to consider such incidents as Oklahoma City and the 1996 Atlanta Olympic games as domestic terrorism, the Bureau has used this rationale to take over the investigations of scores of crimes that are just that—crimes—with no hint of a greater plot for domestic violence. Meanwhile, the Bureau's failure with respect to the investigation of Chinese spying on the nation's nuclear labs or its insistence—despite significant evidence to the contrary—that TWA Flight 800 was a terrorist incident rather than a mechanical failure, gives pause to the idea that we should continue to endorse the Bureau's expansion of the Division, or even its reorganization into "spy-catching and domestic terrorism" functions. As Dan Thomasson wrote (11/17/99-W. Times): "The concern in law enforcement . . . is that a large number of agents now will have nothing more to do than to seek out potential terrorism and deal with it no matter under whose bed they believe they have found it." The FBI must provide parameters to define the problem and appropriate actions; otherwise, permitting the Bureau to justify anything it does under the guise of preventing it is too sweeping a concession of power.

Question. In November, the FBI announced that it would separate the functions of counterintelligence and anti-terrorism, placing each under an assistant director who would first report to the Bureau's deputy director and then to you—the Director. Missing from the announcement was a useful definition of what constitutes domestic terrorism. This permits the Bureau to now enter into any case, no matter how small, and in practical terms means that hundreds of agents can now enter into any number of crime scenes that once belonged to a variety of agencies. Worse, this could create circumstances in which the Bureau's agents, in the name of counter-domestic terrorism, poke into the activities of any organization deemed subversive, no matter how innocuous it really was.

What constitutes the Bureau's definition of domestic terrorism? Has the Bureau established clear guidelines about the decision was made to into a case it has deemed one of domestic terrorism?

Answer. The FBI defines terrorism as ". . . the unlawful use of force or violence against persons or property to intimidate or coerce a government, the civilian population, or any segment thereof, in furtherance of political or social objectives." The FBI further categorizes terrorism as either domestic or international, depending on the origin, base, and objectives of the terrorist organization. In this context, domestic terrorism is the unlawful use, or threatened use, of force or violence by a group or individual based and operating entirely within the United States or Puerto Rico without foreign direction and whose acts are directed at elements of the U.S. Government or its population, in the furtherance of political or social goals.

Effective March 1, 1973, jurisdictional guidelines were adopted by the Attorney General and published in the United States Attorney's Bulletin on April 13, 1973 governing investigations of violations of the federal explosives control statute found in Title 18, Sections 841–848. These guidelines clarified jurisdiction for the FBI, the Bureau of Alcohol, Tobacco and Firearms, and the U.S. Postal Inspection Service. The guidelines state that the FBI will exercise primary jurisdiction over all Section 844 violations perpetrated by terrorist/revolutionary groups or individuals unless otherwise directed by the Department of Justice.

In connection with the execution of investigative activities, the FBI refers to these existing guidelines to govern decisions to initiate investigations of domestic terrorists and to manage crisis incidents involving terrorist attacks. These guidelines provide guidance for all investigations by the FBI of crimes and crime-related activities. This means that all white collar, drug, violent crime, organized crime and domestic security/terrorism investigations must conform to these guidelines, while investigations involving foreign counterintelligence and international terrorism matters are subject to separate guidelines. Specifically, the Attorney General's Guidelines on General Crimes, Racketeering Enterprise and Domestic Security/Terrorism Investigations serve as a means to ensure that FBI investigations are performed with care to protect individual rights and confined to matters of legitimate law enforcement interest.

FIRST RESPONDER TRAINING

Background: Director Freeh, I continue to believe that our federal law enforcement agencies must push to train as many first responders as we can. These are our local law enforcement, fire, and emergency medical personnel who are likely to be first on the scene of a terrorist attack.

As the lead agency for counter-terrorism efforts by the Federal Government, you are critical to the coordination of our federal efforts in this regard. I am most familiar with the Nunn-Lugar-Domenici program which is training state and local responders in 120 major cities, and the National Domestic Preparedness Consortium headquartered at Fort McClellan, Alabama, which is working with training partners to expand this effort to other cities and towns.

Question. Could you provide the Subcommittee with your assessment of federal efforts to prepare state and local law enforcement and emergency personnel to respond to potential terrorist attacks?

Answer. Significant accomplishments have been made with respect to preparing state and local law enforcement and emergency personnel to respond to potential terrorist attacks. The FBI, in conjunction with other federal agencies such as the Department of Defense, Federal Emergency Management Agency, the Justice Department's Office of Justice Programs, and others, will continue to provide state and local emergency personnel with the resources necessary to fully prepare and respond to terrorist attacks.

The Hazardous Devices School (HDS), managed by the FBI's Bomb Data Center, is the only formal domestic training school for state and local law enforcement to learn safe and effective bomb disposal operations. The purpose of the HDS is to prepare civilian public safety bomb technicians to locate, identify, render safe, and dispose of improvised hazardous devices, including those containing explosives, incendiary materials and materials classified as weapons of mass destruction (WMD). In 1998, 838 state and local bomb technicians were trained, along with 1,467 in 1999. The HDS anticipates training over 1,450 state and local bomb technicians in 2000.

In addition, the Interagency Board for Equipment Standardization and Interoperability, which is co-chaired by the FBI and Department of Defense, and staffed and supported by federal, state and local emergency responders, has created, and annually updates, a standardized equipment list to assist responders in determining what type of equipment is needed to adequately prepare for and respond to WMD incidents.

Question. How many local law enforcement and fire and medical personnel have been trained?

Answer. Since 1997, the Office of State and Local Domestic Preparedness Support (OSLDPS), Office of Justice Programs (OJP), which is the lead federal agency for providing training to civilian emergency responders, has trained approximately 45,000 students under its Metropolitan Fire and Emergency Medical Services basic awareness training program. Additionally, since 1998, OSLDPS has trained nearly 5,000 emergency responders at the National Domestic Preparedness Consortium institutions. Of this total, approximately 2,125 have been trained at the Center for Domestic Preparedness CDP, 1,720 at Texas A&M, 520 at New Mexico Tech, 275 at Louisiana State University, and 270 at the Nevada Test Site. Further, OSLDPS is working with other training providers, including but not limited to, Pine Bluff Arsenal for the provision of equipment sustaining training, the National Sheriffs' Association, and the National Guard Bureau.

Training the nation's public safety bomb technicians at the Hazardous Devices School (HDS) is one of the FBI's priorities. In 1998, we trained 838 state and local bomb technicians, 1,467 in 1999, and we plan to train over 1,450 in 2000. The FBI has been able to increase the output of HDS, hire more instructors, provide additional courses (including the Weapons of Mass Destruction course), and provide equipment to bomb technicians upon their certification through funding provided by Congress since 1998. Our future training is dependent upon continued support of the HDS. The FBI's $2.9 million request for the HDS would provide permanent base funding to replace one-time enhancements from the Attorney General's Working Capital and Counterterrorism Funds.

Question. An important part of readiness is not only the training but the equipping of these forces. What has the Federal Government achieved with regard to equipping these teams with the tools they need to respond to a variety of potential attacks?

Answer. Through the OSLDPS' Equipment Grant Program, state and local jurisdictions have been provided with federal funds to equip emergency response teams with the equipment necessary to respond to a WMD incident. In addition, as touched upon above, the Interagency Board for Equipment Standardization and

Interoperability has created and annually updates a standardized equipment list to assist responders in determining what type of equipment is needed to prepare adequately for and respond to WMD incidents. Such equipment will enable fire departments, law enforcement agencies, emergency medical services, and hazardous materials response units to enhance their response capabilities in state and local jurisdictions to incidents of domestic WMD terrorism. Numerous needs assessments have consistently highlighted these jurisdictions' need for specialized equipment in order to meet the requirements presented by WMD incidents. In fiscal year 1998, OSLDPS provided $12 million in grants to 41 local jurisdictions for the procurement of specialized equipment, including personal protective, chemical/biological detection, decontamination, and communications equipment. In fiscal year 1999, OSLDPS provided an additional $31 million to 157 local jurisdictions, as well as $33.8 million to the 50 states, for the procurement of equipment. A further $8 million will be provided to the 50 states for the development of Three-Year Statewide Strategic Domestic Preparedness Plans, which will guide the use of future funding.

Last year, the FBI was provided a one time increase of $25 million through the Working Capital Fund to equip state and local bomb technicians. To date, $22,038,371 has been obligated to purchase SRS–5 Search Suits [$5,927,200], X-Ray equipment [$9,289,852], multi-gas and lower limit detectors [$4,400,000], computers and printers [$1,200,000], and CABO–LE databases and upgrades [$1,221,319] for each certified bomb squad across the country.

The suits are utilized to provide balanced protection for personnel performing improvised explosive device searches as well as chemical/biological explosives hazards. The detectors are useful in identifying low vapor pressure and highly volatile, toxic organic compounds such as nerve agents and pesticide residues. Portable X-Rays provide real-time, in-place diagnostic examinations of suspected explosive devices. The computers and databases will allow all accredited bomb squads access to Law Enforcement On-Line to discuss specific problems, receive law enforcement updates, and access to the FBI's Bomb Data Center publications and statistics on-line. The databases serve as a CD–ROM format reference tool for chemical and biological warfare and terrorist threats.

Question. What is the Department doing to fully utilize existing facilities and expertise in First Responder Training for Weapons of Mass Destruction?

Answer. The FBI continues to use the Hazardous Devices School, which is located on Redstone Arsenal, Huntsville, AL, to train state and local bomb technicians. The facilities were originally used to store supplies for the Army, however, when the FBI took over bomb-related training for civilians in 1971, the Army allowed the FBI to use those facilities for classroom training. The FBI uses the facilities while reimbursing the Army for overhead and maintenance costs.

In addition, the Office of Justice Programs is utilizing existing training institutions through the National Domestic Preparedness Consortium (NDPC) to provide a range of WMD training courses to state and local emergency responders. NDPC members include Louisiana State university, New Mexico Institute of Mining and Technology, Texas A&M University, Nevada Test Site, and the Center for Domestic Preparedness. Training courses include direct delivery awareness level training for law enforcement and fire and Emergency Medical Services personnel, to advanced-level specialized courses taught at the Consortium sites involving the use of live chemical agents, explosive materials, and other unique training assets.

Question. What more should the Federal Government be doing to prepare for potential terrorist incidents? Does the Administration's cybercrime initiative address this issue?

Answer. The recent terrorist interdictions in Washington State, and Vermont, as well as events in Jordan, Pakistan, and other countries, underscore the continued vulnerability of the United States to terrorism, both at home and abroad. This continuing threat, as well as the events surrounding the millennial period, has indicated areas in which the FBI's counterterrorism capabilities must be improved. Specifically, these needs include:

—Strengthening FBI international and domestic law enforcement partnerships.

—Closing the technology gap that exists between terrorists and law enforcement agencies by improving the FBI's capacity to provide technical support to counterterrorism investigations requiring court-approved interception of communications. The FBI must also expand and accelerate its conduct of counterterrorism-related research and development projects.

—Improving FBI intelligence collection, analysis, and dissemination capabilities by enhancing its translation capacities and the FBI's ability to process applications for surveillance and searches authorized by the Foreign Intelligence Surveillance Act. Training for intelligence analysts is also needed to enhance case-level tactical analysis for investigators. Moreover, the FBI's corps of trained sur-

veillance specialists must be expanded so that more field offices have an organic capacity to monitor the activities of terrorists.

—Strengthening the FBI's operational capabilities by ensuring that agents are adequately equipped to address Olympic safety, security, and critical incident response requirements. Finally, as the FBI has been targeted by terrorist threats, several field office locations require additional guard services to ensure the existence of a safe work environment for all FBI employees.

The FBI's 2001 cybercrime initiative as presented in the President's 2001 budget submission addresses this issue. In the 2001 cybercrime initiative, the FBI requests 100 positions (83 field and 17 FBIHQ) and $11,371,000 for the Computer Analysis Response Team. In addition, the FBI requests $7,000,000 for counter-encryption technology. These enhancements are designed to help the FBI deal with the current and future projected backlog of computer forensic examinations, and to counter the use of encryption by criminals and terrorists to conceal evidence of criminal communications and information. Since timely computer investigations provide significant information pertinent to critical national security investigations, and since the Attorney General's Five-Year Counterterrorism and Technology Crime Plan identified the development of decryption capability to facilitate the use of evidence in court as a top requirement, it is clear that the President's 2001 cybercrime initiative does take significant steps to improve our nation's capability to respond to and investigate terrorist incidents.

RIO ARRIBA COUNTY BLACK TAR HEROIN PROBLEM

Background: Judge Freeh, Mr. Marshall—I want to begin by thanking you for all that you and your agencies have done in the last year to help address the black tar heroin problem in northern New Mexico.

Judge Freeh, you and I discussed this issue privately last year, and the record will reflect that your response to my request for help was immediate, comprehensive and extremely helpful. On behalf of the citizens of Rio Arriba Country, thank you.

Mr Marshall, your predecessor, Tom Constantine, was equally responsive. I am sure that in your work as the Deputy Administrator, you were aware of the problem in new Mexico as well.

Soon after the field hearing Senator Gregg held in Espanola, New Mexico on this issue last year, federal FBI, DEA and ATF agents, along with state law enforcement officials, rounded up more than 50 individuals involved in the drug trade in northern New Mexico. Indictments were handed down, and there have been numerous guilty pleas.

News reports out of Rio Arriba County indicate that the streets are quieter, the drug trade has been suppressed, and the community is on its way to healing itself after decades of drug abuse.

Of course, we haven't solved the drug problem in northern New Mexico. I hope that you'll pledge to continue to work with me throughout the remainder of your tenures to ensure that Rio Arriba stays on the path toward reducing its drug problem.

Question. I am interested in your recommendations about a second phase of help for the county, including any follow-up enforcement ideas to make sure that our efforts of the past year do not go to waste.

Answer. The FBI and DEA remain committed to addressing the drug problem in Northern New Mexico through joint sophisticated and comprehensive investigations with state and local authorities. A continued commitment to combine resources of federal, state and local agencies is critical to achieving long-term success in addressing the larger organized crime and drug problem in Northern New Mexico, including Arriba County.

Currently, the FBI, DEA and state and local law enforcement are involved in two projects. The first effort focuses on a metropolitan area serving as a trans-shipment point for heroin being smuggled by the Naryit Mexico trafficking organization. The second effort centers on another Northern New Mexico locale, like Rio Arriba, where both heroin and cocaine trafficking and consumption are an entrenched crime problem.

Intelligence efforts will continue to monitor any resurgence of drug activity in Rio Arriba and all counties in New Mexico. Through the continued collection, analysis and dissemination of criminal intelligence, all law enforcement agencies will be able to better assess and monitor the drug trafficking patterns. The exploitation of criminal intelligence among all agencies will allow investigators the ability to devise and employ efforts to combat any detected upsurge of heroin trafficking.

DEA is currently researching the feasibility of deploying the El Paso Field Division Mobile Enforcement Team (MET) into Rio Arriba County. The MET would put

approximately 10 DEA agents, plus state and local officers in the area for a concentrated 60-day period. During that time, the MET would target, disrupt and/or dismantle a specific drug organization responsible for the distribution of heroin in Rio Arriba County. This response will send the message to traffickers and citizens that DEA will remain vigilant in Rio Arriba County.

The El Paso Field Division also will send the Division Demand Reduction Coordinator and Training Officer into Rio Arriba County to determine how DEA can be most effective in reducing the demand for narcotics and helping local citizens cope with the continuing effects of drug abuse and addiction. DEA has scheduled a Basic Drug Investigation School for state and local officers. This school will be held in New Mexico during the third quarter of 2000, and approximately 10 state and local officers from the Northern New Mexico Region have been invited to attend. In an effort to better serve the area of Northern New Mexico, DEA is exploring the feasibility of stationing two Special Agents in Santa Fe, New Mexico.

QUESTIONS SUBMITTED BY SENATOR DANIEL K. INOUYE

FBI TRACKING OF JEWELRY THEFT

Background: You received three letters from jewelers in Hawaii expressing concern about this growing trend. A letter was sent to the Director on February 3, to request information on the federal efforts to protect this industry. A response has not yet been received. This is an effort to bring this issue of concern to your constituents to the Director's attention.

Question. This fall, a number of national publications published articles about the growing trend of increased robberies and violence committed against retail jewelers and traveling jewelry salespeople. According to reports, there are criminal gangs who threaten this industry. It is my understanding that the average loss in this type of crime is $355,000. Is your agency tracking these crimes?

Answer. In 1992, the FBI developed the Jewelry and Gem (JAG) initiative to combat the increasingly violent victimization of jewelry retailers and traveling salespersons. As part of this initiative, the FBI's Major Theft/Transportation Crimes Unit (MT/TCU) established a computerized JAG database of jewelry thefts/robberies as reported to the FBI by its field offices, law enforcement agencies and the jewelry industry. Since jewelry theft gangs travel throughout the United States to locate and victimize retail stores and traveling salespersons, the database was developed to assist law enforcement in linking seemingly disparate crimes involving similar modus operandi and suspect descriptions. Through this database, located at FBI Headquarters, the FBI collects and analyzes reports of jewelry thefts nationwide and disseminates information to federal, state and local law enforcement agencies to assist in their investigations. The JAG database is also used to calculate yearly jewelry theft statistics produced by the FBI.

In analyzing jewelry theft data from the past few years, the FBI has not observed a significant change in either the frequency or character of crimes committed against "on-premises" jewelry retailers. This is consistent with crime data compiled by jewelry industry security representatives which show no significant change in the number of jewelry retail robberies from 1998 to 1999, nor the percentages of robberies involving physical contact or injury. Moreover, according to industry statistics, there was a decrease in dollar losses associated with on-premises retail thefts/robberies from 1997 to 1999 ($117.5 million to $57.6 million).

In contrast, over the past few years, there have been substantial increases nationwide in both the frequency and levels of violence associated with thefts/robberies of traveling salespersons, particularly in metropolitan Los Angeles, Chicago and Miami. Jewelry industry statistics show a 35 percent increase in the number of "off-premises" thefts/robberies of traveling salespersons nationwide from 1998 to 1999 (240 reported cases to 323), with a dollar loss increase during this period from $32.6 million to $61.5 million. In 1999, the average loss sustained by traveling salesperson victims was $358,307. Significantly, FBI data show that, for all incidents involving traveling salespersons, there was a 30 percent increase in the level of violence from 1998 to 1999.

Generally, the character of criminality against traveling salespersons has changed over the past few years from a distraction/larceny modus operandi to a violent, confrontational style that often involves sophisticated surveillance, multiple armed subjects and physical assault. These crimes are believed by the FBI to be almost exclusively committed by organized South American Theft Groups, often composed of illegal aliens using false identification.

FBI EFFORTS TO COMBAT THIS CRIMINALITY

Question. Can you describe for me your efforts to combat this growing trend?

Answer. In addition to creation of the JAG database, which the FBI recently demonstrated at the International Association of Chiefs of Police Conference in Charlotte, North Carolina, the FBI maintains regular and close contact with the Jewelers' Security Alliance (JSA) and other industry representatives. Together with the JSA, the FBI has periodically sponsored regional conferences and training specifically related to jewelry theft investigations, including strategy and coordination conferences of law enforcement agencies investigating particular jewelry theft groups. Further, the FBI conducts regular in-service training for special agents and local investigators involved in major theft matters, with particular blocks of instruction on jewelry and fine art theft.

Consistent with its Major Theft National Investigative Strategy, the FBI has established a multi-agency Safe Streets-style Task Force concentrating on jewelry theft in Los Angeles, the metropolitan area that has experienced the highest number of jewelry thefts/robberies and incidence of violent confrontations. Ad hoc task forces are developing in other FBI field offices to address this problem.

VICTIM WITNESS ASSISTANCE PROGRAM

Background: The FBI's Victim Witness Assistance Program was established to ensure FBI conformity with the federal victims rights law. The addition of 31 trained victim and witness specialists (VWSs) will enable the FBI to increase the type and quality of services provided and give the FBI the ability to bridge the gap between the social, legal and investigative issues relevant to Native Americans who are not accustomed to participation in the federal judicial system.

The Federal Government is primarily responsible for investigating major crimes in Indian Country. Last year the Bureau of Justice Statistics issued a disturbing report that the rate of violent victimizations among American Indians aged 12 or older was more than twice the rate for the entire nation.

With 31 VWSs assigned to Indian Country, more Native American victims will have more information about the investigation and the overall legal process. Liaison within reservations communities would be strengthened, cases presented for prosecution would be much stronger and the entire judicial system would perform more effectively as a result of the involvement of trained VWSs.

In addition, the 31 VWSs would allow for agent time that is currently being used to provide victim and witness assistance to be returned to investigative work. For instance, many families in Indian Country reside away from population centers and do not have reliable means of transportation to travel lengthy distances to participate in events that require victim or witness attendance. Currently, in most instances, it is the FBI agents who provide the transportation. The VWS is capable of providing these services, thus allowing the FBI agents to focus their attention on conducting other investigations.

Question. You have requested funding for 31 victim witness specialists (VWSs) for the FBI's Victim Witness Assistance Program pursuant to the Indian Country Law Enforcement Initiative. Why is there a special need in Indian Country?

Answer. Unlike urban centers, Indian Country (IC) presents a situation where high levels of poverty, a lack of public transportation and extreme rural isolation converge. The result is victims and witnesses of violent crime in IC rarely have reliable transportation and often live long distances from the offices and courtrooms of the government attorneys, magistrates and judges in which they must appear as participants in the judicial process. FBI special agents have traditionally provided transportation. It is not unusual for an agent working in the Minot, ND, Resident Agency (RA) to travel more than 700 miles round trip to transport a victim of a crime on the Turtle Mountain Indian Reservation to Fargo, ND, to testify before the grand jury. A child sexually abused on the Ft. Peck Reservation in Montana must be transported 350 miles to Billings for a medical examination and evaluation necessitating making arrangements for an overnight stay, lodging and meals—logistics which seem insurmountable to a parent or care giver who does not often leave the reservation. As a result, it is the agents who have been providing the transportation and making the lodging arrangements.

IC is a unique part of the United States. Cultural differences such as IC residents being unfamiliar with the operations of a bank and thus unable to cash a reimbursement check for witness expenses are not unusual. The VWS provide a bridge between victims or/and witnesses and the predominate cultures surrounding the reservations.

The intent of the recent Presidential Initiative for the enhancement of law enforcement in IC was to increase the delivery of law enforcement services in IC. As

more investigative matters are initiated with the addition of law enforcement resources, greater numbers of victims and witnesses also become part of the process. It is critical that the proper personnel, both investigative and victim witness, are in place to accomplish the goals of the Presidential Initiative. In addressing the need for additional investigative resources, a greater need for victim witness resources has naturally been created.

The FBI currently has 4 VWSs assigned to Indian Country, two of whom are funded through DOJ's Office of Victims Crime. These VWSs have helped the FBI in its commitment to overcome IC mistrust of the Federal Government through the building of positive relationships. The VWS in the Billings, MT, Resident Agency, represents the FBI at Crow and Northern Cheyenne Child Protective Team meetings, and is an active member of the Crow Sex Offender Registration committee. Because of her work, the Native American community is beginning to view the FBI as having not only an investigative function but expressing a genuine concern for the victims.

HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM

Background: Hawaii was designated a High Intensity Drug Trafficking Area (HIDTA) last June. Given the obvious problem of drug use in Hawaii that lead to this designation, this question is designed to bring the drug problem in Hawaii to the attention of your colleagues on the Subcommittee. Your wish list will include a request for funds to fight clandestine methamphetamine labs in Hawaii. Despite this HIDTA designation, a grant request from Hawaii for Byrne Discretionary grants to fight clandestine labs was rejected.

Question. The Office of National Drug Control Policy has designated 31 areas as HIDTAs where federal, state and local agencies are working together to reduce the harmful impact of drug trafficking. Can you share with the Subcommittee your thoughts on the effectiveness of this program and DEA's role in this effort?

Answer. The mission of the HIDTA program is to reduce drug trafficking activities in the most critical drug trafficking areas of the country, thereby lessening the impact of these areas on other regions of the country. The HIDTA program strengthens America's drug control efforts by intensifying the impact of drug control agencies through the development of partnerships between federal, state and local drug control agencies in designated regions and by creating effective systems for them to synchronize their efforts.

Since the original designation of 5 High Intensity Drug Trafficking Areas in 1990, the HIDTA program has expanded to 31 areas of the country, including 5 partnerships along the Southwest Border. The Drug Enforcement Administration (DEA) has traditionally played a critical role in the success of the HIDTA program and will continue to do so in the future. To date, DEA has over 280 Special Agent positions dedicated to the HIDTA program.

The 31 established HIDTAs act as a significant force multiplier for drug law enforcement efforts across the United States. In recent months, DEA and the FBI have been working with ONDCP to develop policies and guidelines to standardize the mission, functions, management, and infrastructure of the individual HIDTA intelligence components.

DEA does not currently provide intelligence analytical support for the HIDTA program. However, the agency has developed plans for the addition of DEA intelligence personnel to HIDTA Intelligence Centers by fiscal year 2002. The addition of these personnel will work to bring an interconnected national intelligence network to the HIDTA's as well as effective DEA intelligence programs to support HIDTA efforts. With an infusion of DEA intelligence analytical resources, guidance, and experience, the HIDTA intelligence program will become part of the nationwide effort to develop effective mechanisms for the collection and sharing of intelligence information, which can be applied in the enforcement arena.

Question. Last June, Honolulu, Hawaii was designated a High Intensity Drug Trafficking Area. Has there been a significant reduction in drug related crime since this designation? What has been done since the HIDTA designation to combat this problem? What can you recommend be done to improve the effectiveness of this program?

Answer. On June 15, 1999, the Hawaii HIDTA was formally approved and provided partial funding through the fiscal year 1999 appropriation. According to ONDCP, first year expenses for HIDTAs are largely associated with programmatic administrative start-up costs, with little emphasis placed on operational results. This being the case, it is too early to comment upon the Hawaii HIDTA's effectiveness and/or any reduction in area drug related crime. Statistics from established

HIDTAs throughout the United States have historically indicated a reduction in drug related crimes following implementation of HIDTA programs.

ONDCP reports that with the resources thus far provided for the Hawaii HIDTA, a Hawaii HIDTA Director has been hired; Budget, Intelligence and Facilities Subcommittees have been established; liaison has been established with other HIDTAs on the West Coast by visiting several existing HIDTAs in order to gain insight on proper and successful management techniques; an updated drug threat assessment has been conducted enabling the identification of current drug trafficking trends and organizations; joint training on the latest drug interdiction techniques, technology, and legal issues is being conducted with all participating HIDTA law enforcement agencies; and acquisition of a Hawaii Airport Task Force site at or near the Honolulu International Airport, in conjunction with the Hawaii HIDTA, is in process.

ENFORCEMENT OF THE ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT

Question. In last Sunday's Washington Post, there was an article about the enforcement of the Illegal Immigration Reform and Immigrant Responsibility Act. I would like to submit the article for the record. The article examines an unintended consequence of our immigration reform efforts whereby children adopted from other countries by American families are being deported to the countries of their births because of criminal convictions that occurred when the adopted children are adults. These individuals who are eligible for naturalization are being deported to countries where they have no relatives and often have no language skills.

I am concerned by this article and would like to better understand the extent of this problem. How many children were admitted to the United States for the purpose of adoption last year? How many legal permanent residents were deported last year who had been admitted into the United States for the purpose of adoption?

Answer. During fiscal years 1997 and 1998, 12,596 and 14,867 orphans were adopted abroad respectively. The INS does not track the number of people deported for criminal convictions who were originally admitted to the United States as adopted orphans.

Question. I would also like to know whether the INS tracks children admitted to this country for adoption and to what extent the INS encourages parents to naturalize their adopted children?

Answer. The INS does not track the activities of children admitted to this country for adoption. The INS does publish information regarding the naturalization process in a publication called "A Guide to Naturalization." The information is also available on the INS' web site. INS is also very active in holding special naturalization ceremonies for adopted children such as the ceremonies held by the Buffalo District Office near the Fourth of July each year.

Question. I would also like to ask you about the proposed rule 1991–99 which would authorize the collection of fees by private organizations for fees levied to fund the INS student-tracking system. I know that a request has been made to delay implementation of this regulation until the Congress can act to remove this requirement. If you are not disposed to delay the implementation, what support services do you intend to provide to the private groups charged with collecting government fees?

Answer. The INS recognizes that proposed rule 1991–99 has raised serious concerns in the academic and exchange program communities. As you know, section 641(e) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 provides that "an approved institution of higher education and a designated exchange visitor program" collect and remit the proposed fee to the Attorney General. The proposed rule follows the statutory language and recognizes these two groups of institutions as designated fee collectors. The INS believes that the most effective way to address the concerns raised by some Members and the regulated community is through a legislative amendment. In order to facilitate this effort, the INS and the Department of State are working jointly to finalize suggested amendments to the statutory language. The concerns of the Members, as well as those of the educational institutions, will be taken into consideration as INS drafts the amendment.

The INS seeks to provide a rule that best serves all those affected in the most reasonable manner. Until the INS has achieved that goal, and anticipating congressional action on this issue, the INS will suspend the publication schedule for the final rule.

QUESTIONS SUBMITTED BY SENATOR BARBARA A. MIKULSKI

EXTERNAL AUDIT OF ADMINISTRATIVE AND OPERATIONAL PERFORMANCE

Question. Has the INS had an external audit of administrative and operational performance during your tenure? If so, please submit an executive summary of the findings (by date) stating what you learned and the actions you have taken. If not, why not and what have your internal analysis demonstrated?

Answer. Both the Department of Justice's Office of Inspector General (OIG) and the General Accounting Office (GAO) have conducted reviews and audits of administrative and operational performance of INS. In total, they have issued over 100 final reports relating to the INS. The OIG's reports included 691 recommendations, of which 111 remain open. The GAO reports contained 88 recommendations, of which 26 are open. The materials related to these reports are very voluminous. Therefore, we have attached a list of the final reports and ongoing reviews. We have also included a discussion of the highlights of the reviews that are of high interest to the agency. Should there be particular interest on any of the reports, we would be pleased to supply further information on any of the materials.

OFFICE OF INSPECTOR GENERAL REVIEWS

Since January 1991, the OIG has issued 101 final reports relating to INS. These final reports contained over 694 recommendations of which INS has taken the necessary action to close 559. The OIG's coverage has been extensive, and has covered several administrative functions and many INS programs. The OIG currently has 10 ongoing audits or inspections within the Service.

The INS Collection of Fees at Land Border Ports of Entry: The OIG initiated this audit because of two separate OIG investigations into the theft of fee monies at land Ports of Entry had identified significant discrepancies in the management controls over fee collections. The February 2000 audit confirmed that controls and procedures currently in place allow opportunities for loss or theft of fee monies without detection at each step in the fee collection process. Consequently, INS managers could not determine the total amount of fees that should have been collected based on the applications processed.

Voluntary Departure: Ineffective Enforcement and Lack of Sufficient Controls Hamper the Process: The OIG conducted an assessment in July 1999, on how INS district officers and the Executive Office for Immigration Review immigration judges implement voluntary departure. The OIG report found weaknesses in conducting criminal history checks, tracking alien departures, and overall enforcement of voluntary departure orders.

Fingerprint and Biographical Check Services Provided by the Federal Bureau of Investigation (FBI) to the Immigration and Naturalization Service: The OIG reported in March 1999, that INS did not reconcile payments against its requests for fingerprint and name checks conducted by the FBI. This occurred because INS had no system to track and account for all of the fingerprint and biographical check requests submitted to, or the results received from, the FBI. As a result, during fiscal year 1996 and fiscal year 1997, INS paid approximately $7 million for unclassifiable and duplicate fingerprint cards, processed incomplete or inaccurate fingerprint checks for thousands of INS applicants, and did not detect a potential FBI underbilling of approximately $800,000. For name checks, the audit identified approximately $220,000 that INS incurred unnecessarily for duplicate requests. However, the audits also identified over $230,000 for services rendered by the FBI but not charged to the INS. This latter amount is offset by about $563,000 of charges not supported adequately by the FBI.

Follow-up Review INS Management of Automation Programs: The OIG reported in March 1998, that INS has not managed its automation program adequately. As a result, the OIG initiated a follow-up review. The July 1999 report determined that INS still did not manage its automation programs adequately during fiscal years 1995 to 1997. Specifically, (1) estimated completion dates for some automation projects had been delayed without explanations for the delays, (2) costs continued to spiral upward with no justification for how the funds are spent, and (3) projects were nearing completion with no assurance they will meet performance and functional requirements.

OFFICE OF INSPECTOR GENERAL REPORTS

Date	Report Title	Rept. No.	No. of Recs	No. Open
02/18/00	Border Patrol Efforts Along the Northern Border	I–2000–04	2	1
02/10/00	The Immigration and Naturalization Service Collection of Fees at Land Border Ports of Entry.	00–05	12	11
10/14/99	Year 200 Efforts at the Immigration and Naturalization Service	00–01	4	0
09/29/99	Inspection of Cruise Ship Exemption	I–99–13	0	0
09/23/99	INS Annual Financial Statement Fiscal Year 1998	99–27	25	18
08/30/99	INS and Executive Office of Immigration Review Affirmative Action Program	99–23	4	1
08/08/99	Follow-up Review; INS Management of the Automation Programs	99–19	17	14
05/14/99	Non-Tax Delinquent Debt in the DOJ Performed at the Request of the PCIE	99–16	1	0
04/12/99	INS' Selection of Advanced Card Technology	99–08	2	2
03/31/99	Fingerprint and Biological Check Service Provided by the FBI and the INS	99–13	5	5
03/31/99	Inspection Memorandum Report: Review Contract COW–6–C–0038 of the Vera Institute of Justice.	I–99–04	0	0
03/31/99	The Potential Fraud and the INS' Efforts to Reduce the Risks of the Visa Wavier Pilot Program.	I–99–10	3	0
03/31/99	Voluntary Departure: Ineffective Enforcement and Lack of Sufficient Controls Hamper the Process.	I–99–09	5	5
03/31/99	INS' Timeliness in Inspecting Passengers Arriving at U.S. Airports	99–10	11	9
03/01/99	Sale and Leaseback of Detention Facilities	99–07	2	1
02/12/99	Accuracy of Adjudications and Naturalization Data in the Performance Analysis System of the INS.	99–03	3	1
09/30/98	Naturalization Fingerprint Process	I–98–27	0	0
09/22/98	Inspection of Border Patrol Drug Interdiction Activities on the Southwest Border.	I–98–20	10	1
09/14/98	Asset Forfeiture Program Management Letter Report Fiscal Year 1997	98–24	0	0
09/14/98	Asset Forfeiture Program Management Letter Report Fiscal Year 1996	98–23	0	0
09/14/98	Immigration and Naturalization Service Annual Financial Statement Fiscal Year 1997.	98–22	29	6
09/01/98	The Department of Justice's Joint Automated Booking System Laboratory	98–28	0	0
08/11/98	Follow-up Inspection of the Management of Delivery Bonds in the INS	I–98–18	6	2
07/31/98	The Immigration and Naturalization Service's Customer Management Information System (CMIS).	I–98–19	1	1
07/07/98	Controls Over Certificates of Naturalization (Phase II)	I–98–14	8	3
05/29/98	Property Management and Financial Statements	98–14	1	0
03/31/98	Inspection of Immigration Officer Training	I–98–07	3	1
03/31/98	INS Refugees, Asylum and Parole System	98–11	5	0
03/25/98	INS Management of Automation Programs	98–09	12	0
03/24/98	Review of the INS' Automated Biometric Identification System	I–98–10	8	1
02/19/98	Controls Over Certificates of Naturalization (Phase I)	I–98–02	5	0
01/26/98	Asset Forfeiture Program Management Letter Report Fiscal Year 1995	98–03	1	0
12/12/97	Ammunition Storage at INS Facilities	I–98–05	2	0
08/01/97	INS Annual Financial Statement Fiscal Year 1996	97–22A	23	5
05/09/97	Immigration User Fee Remittances	97–17	3	0
09/30/97	Violent Crime Reduction Trust Fund Management Letter Report Fiscal Year 1995.	97–15B	6	0
03/31/97	Violent Crime Reduction Trust Fund Annual Financial Statement Fiscal Year 1995.	97–15A	13	0
03/01/97	INS's Workforce Analysis Model	97–10	7	5
09/04/97	Monitoring of Nonimmigrant Overstays	I–97–08	4	4
01/28/97	Administratively Uncontrollable Overtime (AUO) in DOJ	97–09	4	2
01/07/97	Contracting for Detention Space	97–05	3	0
01/07/97	INS Replacement of Resident Alien Identify Cards	97–06	6	0
01/03/97	Fuel Purchases by BOP, FBI, and INS	97–03	1	0
01/02/97	Selected Financial Transactions for Operation Alliance INS Imprest Fund, El Paso, Texas.	97–04	4	3
9/96	Status of Immigration and Naturalization Service's Financial Management Corrective Action Plan as of June, 30, 1996.	96–22	0	0
09/30/96	INS Document Fraud Records Corrections	I–96–09	1	0
08/19/96	American Express Charge Card Use in DOJ	I–96–10	0	0
08/16/96	INS Border Patrol Management of Aviation Operations	96–20	8	0
05/31/96	Inspection of Efforts to Combat the Harboring and Employment of Illegal Aliens in Sweatshops.	I–96–08	4	0
05/28/96	INS Forecasting for the Fee Accounts	96–13	7	0

OFFICE OF INSPECTOR GENERAL REPORTS—Continued

Date	Report Title	Rept. No.	No. of Recs	No. Open
03/29/96	Inspection of DOJ Drug Free Work Place	I–96–07	4	0
03/29/96	Inspection of INS' Deportation of Aliens After Final Orders Have Been Changed.	I–96–03	5	2
2/96	Status of Immigration and naturalization Service's Financial Management Corrective Action Plan as of September 30, 1995.	96–04	0	0
10/17/95	Inspection of the Influx of New Personnel	I–96–01	0	0
09/27/95	Inspection of the INS Background Reinvestigation Program	I–95–09	3	0
09/26/95	INS Select Enforcement Activities	95–30	7	1
08/18/95	Administration of Disciplinary Action in INS	I–94–01	0	0
09/15/95	Organized Crime Drug Enforcement Task Force Operations in DOJ	95–31	0	0
07/27/95	INS Operations Jobs Pilot	95–25	4	0
06/30/95	Inspection of the Systematic Alien Verification for Entitlements Program (SAVE) in INS.	I–92–20	10	0
03/30/95	Procurement Activities for the US Border Patrol Air Operations	95–12	7	0
03/30/95	Cash Collections at Districts and Ports in INS	95–10	7	0
03/30/95	INS Passenger Accelerated Service System Pilot Program	95–08	9	0
11/28/94	Audit of INS Breached Bond Detention Fund Annual Financial Statement for Fiscal Year 1993.	95–3A	5	0
11/28/94	INS Fee Accounts and Breached Bond Detention Fund Management Letter Report for Fiscal Year 1993.	95–2B	31	0
11/28/94	Audit of INS Fee Accounts Annual Financial Statement Report for Fiscal Year 1993.	95–2A	13	0
10/25/94	Process for Imposing Visa Fines in INS	I–93–15	4	0
08/12/94	Accounts Receivable of the INS Fee Accounts	94–30	4	0
06/23/94	INS Employment Authorization Document Program	I–94–07	10	0
06/02/94	Fee Related Contract Activities in INS	94–24	0	0
05/27/94	Case Hearing Process in the Executive Office of Immigration Review	I–93–03	0	0
04/26/94	INS Collection of Carrier Fees	94–22	5	0
04/15/94	Ammunition Purchases by DOJ Bureaus	I–93–04	2	0
04/11/94	INS Enroute Inspections	94–19	8	1
03/31/94	INS' National Automated Immigration Lookout System II	I–93–08	11	0
02/16/94	Alien Fingerprint Requirements in the INS	I–93–13	2	0
10/27/93	INS Fee Accounts Annual Financial Statement Report Fiscal Year 1991	93–01A	16	0
09/30/93	Inspection of the Management of Delivery Bonds in the INS	I–92–25	21	0
09/30/93	INS Preinspection of US Bound Travelers Program	93–16	3	0
09/30/93	Land Border Inspection Fee Program	I–93–02	0	0
09/29/93	Injury and Disability Compensation Program within the DOJ	I–92–23	0	0
09/23/93	Cash Collections at Service Centers in the INS	93–20	16	0
09/17/93	Fee Accounts Management Letter Report Fiscal Year 1992	93–14B	11	0
09/01/93	Computer Risk Analysis and Contingency Planning	93–17	5	0
07/27/93	Immigration Services and Special Benefits for Which Fees Have not Been Established.	93–15	4	0
06/29/93	INS Fee Accounts Annual Financial Statement Fiscal Year 1992	93–14A	14	0
04/22/93	Controls over Funds and Valuables of Aliens	I–92–26	12	0
03/31/93	Database Controls at INS	93–11	6	0
03/31/93	Transit Without Visa Program in INS	I–92–27	6	0
03/26/93	Procurement Activities	93–08	24	4
01/26/93	Inspection of Detention Facilities in INS	I–92–18	5	0
12/21/92	Controls Over established User Fee Accounts in the INS	93–03	6	0
12/10/92	INS Fee Accounts Management Letter Report Fiscal Year 1991	93–01B	11	0
07/31/92	Security of Controlled Documents and Stamps at INS	I–91–13	2	0
01/31/92	Overtime in the INS Inspection Program	92–1	5	0
12/23/91	Employee Assistance Program within DOJ	I–92–02	2	1
03/29/91	Value Engineering Program in the DOJ	91–08	7	0
09/23/91	Immigration and Naturalization Firearms Policy	91–15	27	0
09/17/91	Training for Inspectors in INS	I–91–15	7	0
07/17/91	Security of Controlled Documents and Stamps in INS	I–91–13	2	0
02/25/91	INS Phoenix District	I–91–07	13	0
02/05/91	Fiscal Year 1989 INS Financial Closeout	91–05	13	0
01/07/91	INS Blaine Sector	I–91–06	21	0
	Total Recommendations		691	111

OIG Reviews in Progress

OIG Draft Reports

Audit of I–94 Computer Security. Announcement Date: 4/08/99. Draft Date: 5/11/00.

Inspection—Review of Automated Inspection Systems (SENTRI). Announcement Date: 8/30/98. Draft Date: 4/14/00.

Ongoing OIG Reviews

Audit of Property Management II. Announcement Date: 3/05/99.

Audit of the Immigration and Naturalization Service Institutional Removal Program. Announcement Date: 3/25/99.

Audit of Deferred Inspections at Airports. Announcement Date: 6/1/99.

Audit of the Immigration and Naturalization Service's Pre-clearance Operations. Announcement Date: 6/1/99.

Audit of the Immigration and Naturalization Service's Airport Detention Facilities. Announcement Date: 6/1/99.

Audit of Fiscal Year 1999 Annual Financial Statement of the DOJ. Announcement Date: 6/9/99.

Inspection of the Immigration and Naturalization Service's Inspection Activities at Sea Ports-of-Entry. Announcement Date: 6/22/99.

Inspection of the Carrier Affairs Program. Announcement Date: 6/22/99.

Follow-up Inspection of Influx of New Personnel. Announcement Date: 11/16/99.

Inspection—INS' Document Fraud Records corrections (Follow-up). Announcement Date: 3/08/00.

Inspection—INS' Anti-Smuggling Units. Announcement Date: 4/25/00.

Inspection—Retrofitting of Border Patrol Vehicles (Bastrop, TX). Announcement Date: Supplemental to Follow-up Inspection of Influx of New Personnel.

Fiscal year 2000 OIG Workplan

Audit of Cash Collections Within the DOJ.
Audit of INS/Department of State Data-share Project.
Fiscal Year 1999 Financial Statement Audits.
Audit of INS Management of Privatization.
Audit of INS Procurement Management.
Inspection of INS' Complaint Process.
Inspection of Transit Without Visa Program (Follow-up).
Inspection of Treatment of Children Held in INS Custody.

General Accounting Office Reviews

In January 1991, the General Accounting Office issued its report, *Immigration Management: Strong Leadership and Management Reforms Needed to Address Serious Problems*. Since then, GAO has published 98 subsequent reports related to immigration policy, operational matters, and management issues. Twenty-six of these reports contained recommendations for corrective actions, most of which are being or have been implemented.

Since January 1, 1995, the GAO has increased its coverage of INS operations. Major GAO reports issued during the past year have focused on the Attorney General's strategy to deter illegal entry into the U.S., Southwest Border strategy enforcement activities, employee corruption on the Southwest Border, and INS initiatives to increase the number of new Border Patrol agents, as directed by the Illegal Immigration Reform and Immigration Responsibility Act of 1996.

Fourteen GAO reviews of INS activities are in progress, including a review of the processing of aliens' applications and petitions for immigration benefits, information technology practices, the H1–B non-immigrant visa program, alien smuggling, and the admissions of aliens who may be eligible to be granted asylum.

INS Management: Follow-up on Selected Problems [GAO/GGD–97–132]. This report continues GAO's previous analyses on INS management issues. In 1991, GAO reported that INS was experiencing severe management problems in a variety of areas. The 1997 report concluded that, although INS had made progress in addressing some management problems, many management issues still required attention. Specifically, the GAO pointed out that INS employees needed clear guidance on implementing the immigration laws by issuing updated policies and procedures manuals and by establishing clear channels of communication within the INS organizational structure. The report also noted that INS had selected a new financial management system without focusing first on conducting an analysis of its business processes.

Since the issuance of that report, INS has made considerable progress in addressing GAO's' concerns. An Office of Restructuring, established in the Office of the Commissioner in response to both Administration and Congressional initiatives, is addressing among other issues, these GAO concerns. With regard to the new financial system, the INS has continued to refine system implementation plans in a way that mitigates risks and implements the system in an incremental manner. In July 1999, the INS developed a revised implementation plan that extends the planning horizon out to fiscal year 2001.

Southwest Border Strategy Enforcement Activities. The report states that INS is continuing to implement the Southwest border strategy by allocating additional personnel, increasing the time Border Patrol agents spend on border enforcement activities, and attempting to identify the appropriate quality and mix of technology and personnel needed to control the border. The report also states that data on the interim effects of the strategy continue to be limited. Finally, the GAO reiterates the recommendation in its original review of the Southwest border strategy [1]—that a comprehensive and systematic evaluation of the strategy would help provide information about its effectiveness. This follow-up report concludes that the studies funded by INS are too limited at this time to make a comprehensive and systematic evaluation of the strategy's effectiveness.

Illegal Aliens: Significant Obstacles to Reducing Unauthorized Alien Employment Exist. This report is the second of six planned reports on the Attorney General's strategy to deter illegal entry into the U.S. and focuses on employment issues related to unauthorized aliens. The report concludes that the INS faces significant obstacles to reducing unauthorized alien employment because the process can be circumvented or easily thwarted by fraud. The GAO made two recommendations to the INS relating to outreach programs for employers and clarifying the criteria for opening investigations suspected of criminal activities.

Border Patrol Hiring: Despite Recent Initiatives, Fiscal Year 1999 Hiring Goal Was Not Met. This report points out that INS initiatives to increase the number of new Border Patrol agents as legislatively mandated did not meet the overall goal of increasing agents on board by not less than 1,000 in each fiscal year from 1997 through 2001. The report notes that although the recruitment program yielded increases in fiscal years 1997 and 1998, the increase of only 369 agents in fiscal year 1999 caused the Service to experience a net hiring shortfall for the three-year period ending September 30, 1999. The report included one recommendation for the Department suggesting that the INS survey why applicants are withdrawing from the hiring process at key junctures late in that process.

GAO REPORTS ON INS

Date	Report Title	Rept. No.	No. of Recs	No. Open
12/17/99	Border Patrol Hiring: Despite Recent Initiatives, Fiscal Year 1999 Hiring Goal Was Not Met.	GGD–00–39	1	1
10/19/99	Immigration Benefits: Second Report Required by the Haitian Refugee Immigration Fairness Act of 1998.	GGD–00–25R	.....	.....
07/30/99	Aviation: Issues Associated with the Theft of Stock Used to Create Airline Tickets.	RCED–99–219	0	0
06/23/99	Welfare Reform: Public Assistance Benefits Provided to Recently Naturalized Citizens.	HEHS–99–102	0	0
06/07/99	Crime Technology: Federal Assistance to State and Local law Enforcement.	GGD–99–101	0	0
05/10/99	Illegal Immigration: Status of Southwest Border Strategy Implementation.	GGD–99–44	0	0
04/21/99	Immigration Benefits: Applications for Adjustment of Status Under the Haitian Refugee Immigration Fairness Act of 1998.	GGD–99–92R	0	0
04/14/99	Acquisition Reform: Review of Selected Best-Value Contracts	NSIAD–99–93-R	0	0
04/02/99	Illegal Aliens: Significant Obstacles to Reducing Unauthorized Alien Employment Exist.	GGD–99–33	2	1
03/30/99	Drug Control: INS and Customs Can Do More to Prevent Drug-Related Employee Corruption.	GGD–99–31	4	4
03/26/99	Visa Issuance: Issues Concerning the Religious Worker Visa Program	NSIAD–99–67	0	0
03/24/99	INS Budget: Overhiring and Decline in Revenues Have Created Fiscal Stress.	AIMD–99–129	0	0

[1] Illegal Immigration: Southwest Border Strategy Results Inconclusive; More Evaluation Needed, GGD 98–21, December 1997.

GAO REPORTS ON INS—Continued

Date	Report Title	Rept. No.	No. of Recs	No. Open
12/31/98	Child Support Enforcement: Issues in Establishing an Instant Check System for Child Support Orders.	AIMD–99–43R	0	0
10/16/98	Criminal Aliens: INS' Efforts to Remove Imprisoned Aliens Continue to Need Improvement.	GGD–99–3	0	0
09/30/98	Firearm Safety Locks: Federal Agency Implementation of the Presidential Directive.	GGD–98–201	0	0
09/10/98	H–2A Agricultural Guestworker Program: Experiences of Individual Vidalia Onion Growers.	HEHS–98–236R	0	0
09/28/98	INS User Fee Revisions: INS Complied with Guidance but Could Make Improvement.	GGD–98–197	1	1
09/03/98	Drug Control: Information on High Intensity Drug Trafficking Areas Program.	GGD–98–188	0	0
07/22/98	Immigration Statistics: Guidance on Producing Information on the U.S. Resident Foreign-Born.	GGD–98–155	0	0
06/30/98	Federal User Fees: Some Agencies Do Not Comply with Review Requirements.	GGD–98–161	0	0
06/09/98	Immigration Statistics: Information Gaps, Quality Issues Limit Utility of Federal Data to Policymakers.	GGD–98–164	5	5
06/09/98	Immigration Statistics: Status of the Implementation of National Academy of Sciences' Recommendations.	GGD–98–119	0	0
05/28/98	Assessment of Contractor's Review of INS' Analysis of a Random Sample of Recently Naturalized Aliens.	GGD–98–131R	0	0
03/31/98	Financial Audit: 1997 Consolidated Financial Statements of the United States Government.			
01/19/98	Budget Issues: Inventory of Accounts with Spending Authority and Permanent Appropriations, 1996.	OGC–98–23	0	0
12/11/97	Illegal Immigration: Southwest Border Strategy Results Inconclusive; More Evaluation Needed.	GGD–98–21	1	1
12/01/97	H–2A Agricultural Worker Certification Program	HEHS–98–20	1	1
11/19/97	Illegal Aliens: Extent of Welfare Benefits Received on Behalf of U.S. Citizen Children.	HEHS–98–30	0	0
11/05/97	Customs and Border Patrol: Resources Needed for Reopening Rail Line from Mexico-U.S. Border into the United States.	GGD–98–20	0	0
09/30/97	Customs Service: Information on Southwest Border Drug Enforcement Operations.	GGD–97–173	0	0
09/30/97	Departments of Justice and Treasury's Pre-Seizure Planning and Seized Business Management.	GGD–97–19R	0	0
09/30/97	Federal Labor Relations: Survey of Official Time Used for Union Activities.	GGD–97–182R	0	0
07/22/97	INS Management: Follow-up on Selected Problems	GGD–97–132	7	4
07/17/97	INS Employment Verification Pilot Project	GGD–97–136R	0	0
07/15/97	Criminal Aliens: INS' Efforts to Identify and Remove Imprisoned Aliens Need to be Improved.	T–GGD–97–154	6	4
06/30/97	Relocation Travel: Numbers and Costs Reported by Federal Organizations for Fiscal Year 1991-Fiscal Year 1995.	GGD–97–119	0	0
06/27/97	Subscriptions and News Clippings: Expenditures and Related Information Reported by Federal Organizations.	GGD–97–99	0	0
06/16/97	Internet and Electronic Dial-up Bulletin Boards: Information Reported by Federal Organizations.	GGD–97–86	0	0
06/04/97	INS Criminal Record Verification: Information on Process for Citizenship Applicants.	GGD–97–118R	0	0
05/22/97	Hong Kong's Reversion to China: Effective Monitoring Critical to Assess U.S. Nonproliferation Risks.	NSIAD–97–149	0	0
05/20/97	Alien Applications: Processing Differences Exist Among INS Field Units.	GGD–97–47	6	6
05/01/97	Multilateral Organizations: U.S. Contributions to International Organizations for Fiscal Year 1993-Fiscal Year 1995.	NSIAD–97–42	0	0
04/11/97	U.S. Currency: Treasury's Plans to Study Genuine and Counterfeit U.S. Currency Abroad.	NSIAD–97–04	0	0
03/10/97	Hispanic Employment Best Practices	GGD–97–46R	0	0
01/06/97	Foreign Physicians: Exchange Visitor Program Becoming Major Route to Practicing in U.S. Underserved Areas.	HEHS–97–26	0	0

GAO REPORTS ON INS—Continued

Date	Report Title	Rept. No.	No. of Recs	No. Open
10/21/96	Vietnamese Asylum Seekers: Refugee Screening Procedures Under the Comprehensive Plan of Action.	NSIAD–97–12	0	0
03/14/96	Border Patrol: Staffing and Enforcement Activities	GGD–96–65	0	0
02/26/96	Federal Fugitives: More Timely Entry on National wanted Person File is Needed.	GGD–96–64	3	0
12/11/95	INS' Efforts to Develop and Implement an Information Technology Investment Strategy.	AIMD–96–26R	6	0
11/29/95	INS Border Crossing Cards	GGD–96–25R	0	0
09/26/95	Illegal Immigration: INS Overstay Estimation Methods Need Improvement.	PEMD–95–20	1	1
09/18/95	Cuba: US Response to the 1994 Cuban Migration Crisis	NSIAD–95–211	0	0
08/21/95	Law Enforcement Support Center: Name Based Systems Limit Ability to Identify Arrested Aliens.	AIMD–95–147	7	0
07/25/95	Illegal Aliens: National Net Cost Estimates Vary Widely	HEHS–95–133	0	0
06/08/95	INS: Information on Aliens Applying for Permanent Resident Status	GGD–95–162FS	0	0
05/02/95	Federal Fugitive Apprehension: Agencies Taking Action to Improve Coordination and Cooperation.	GGD–95–75	0	0
03/10/95	Border Control: Revised Strategy is Showing Some Positive Results	T–GGD–95–92	0	0
03/07/95	Information Integrity: Using Technology to Determine Eligibility to Work and Receive Benefits.	T–AIMD–95–99	0	0
02/08/95	INS: Update of Management Problems and Program Issues	T–GGD–95–82	0	0
02/02/95	Welfare Reform: Implication of Proposals on Legal Immigrant's Benefits.	HEHS–95–58	0	0
10/05/94	INS: Management Problems and Program Issues	T–GGD–95–11	0	0
11/28/94	Illegal Aliens: Assessing Estimates of Final Burden on California	HEHS–95–22	0	0
12/29/94	Border Control: Revised Strategy is Showing Some Positive Results	GGD–95–30	0	0
12/22/94	INS Fingerprinting of Aliens: Efforts to Ensure Authenticity of Aliens' Fingerprints.	GGD–95–40	2	0
11/27/94	Equal Employment Opportunity: INS' Equal Employment Opportunity Program.	T–GGD–95–41	0	0
07/07/94	INS Drug Task Force Activity: Agencies Supportive of INS Efforts	GGD–94–143	0	0
05/11/94	Nonimmigrant Visas: Use of Visas by Alien Artists, Entertainers, and Athletes.	NSAID–94–147	0	0
04/12/94	INS User Fees: INS Working to Improve Management of User Fee Accounts.	GGD–94–101	2	1
12/10/93	Border Management: Dual Management Structure at Entry Ports Should End.	T–GGD–94–34	0	0
10/05/93	INS' EEO Progress in DC/LA	GGD–94–10R	0	0
09/29/93	Benefits for Illegal Aliens: Some Program Costs Increasing, but Total Cost Unknown.	T–HRD–93–33	0	0
08/05/93	Illegal Aliens: Despite Data Limitations, Current Methods Provide Better Population Estimates.	PEMD–93–25	6	2
07/15/93	Assessing EEO Progress at INS	GGD–93–54R	0	0
06/30/93	Immigration Enforcement: Problems in Controlling the Flow of Illegal Aliens.	T–GGD–93–39	0	0
06/30/93	Customs Service and INS: Dual Management Structure for Border Inspections Should be Ended.	GGD–93–111	1	0
06/16/93	INS Corrective Action Against Special Agents	GGD–93–46R	0	0
05/17/93	Information on Black Employment at INS	GGD–93–44R	0	0
04/26/93	Intercountry Adoption: Procedures are Reasonable, but Sometimes Inefficiently Administered.	NSIAD–93–83	6	0
03/30/93	Immigration Issues: Making Needed Policy and Management Decisions on Immigration Issues.	T–GGD–93–18	0	0
10/26/92	Nonimmigrant Visas: Requirement Affecting Artists, Entertainers, and Athletes.	NSIAD–93–6	0	0
08/05/92	Border Patrol: Southwest Border Enforcement Affected by Mission Expansion and Budget.	T–GGD–92–66	0	0
06/25/92	Immigration Control: Immigration Policies Affect INS Detention Efforts.	GGD–92–85	1	0
04/28/92	Immigration and the Labor Market: Nonimmigrant Alien Workers in the United States.	PEMD–92–17	0	0
04/09/92	Refugees: US Processing of Haitian Asylum Seekers	T–NSIAD–92–25	0	0

GAO REPORTS ON INS—Continued

Date	Report Title	Rept. No.	No. of Recs	No. Open
04/08/92	US Customs Service: Concerns About Coordination and Inspection Staffing on the Southwest Border.	T–GGD–92–29	0	0
04/03/92	IRCA-Related Discrimination: Actions Have Been Taken to Address IRCA-Related Discrimination, But More is Needed.	T–GGD–92–21	0	0
01/23/92	Immigration Control: The Central Address File Needs to be More Accurate.	GGD–92–20	0	0
01/10/92	Immigrant in Indiana: Northwest Indiana Compared to Other Parts of the State.	GGD–92–32FS	0	0
11/27/91	U.S.-Mexico Trade: Survey of U.S. Border Infrastructure Needs	NSIAD–92–56	0	0
09/23/91	Refugee-Related Issues in Turkey and the Soviet Union	T–NSIAD–91–35	0	0
07/11/91	Soviet Refugees: Processing and Admittance to the United States has Improved.	NSIAD–91–245	0	0
07/10/91	Efforts to Improve Reception of Foreign Visitors at U.S. Airports	T–NSIAD–91–42	0	0
06/24/91	Immigration Management: Actions Being Taken, But Problems Remain.	T–GGD–91–48	0	0
05/16/91	U.S.-Mexico Trade: Concerns About the Adequacy of the Border	NSIAD–91–228	0	0
04/24/91	Immigration Management: Strong Leadership and Management Reforms Needed to Address Serious Problems.	T–GGD–91–23	0	0
03/28/91	Border Patrol: Southwest Border Enforcement Affected by Mission Expansion and Budget.	GGD–91–72BR	0	0
03/21/91	Refugee Assistance: U.S. Contributors for the 1980s	NSIAD–91–137	0	0
03/08/91	International Trade: Easing Foreign Visitors' Arrivals at U.S. Airports	NSIAD–91–6	0	0
01/24/91	Financial Management: INS Lacks Accountability and Controls Over its Resources.	AFMD–91–20	0	0
01/23/91	Immigration Management: Strong Leadership and Management Reforms Needed to Address Serious Problems.	GGD–91–28	15	0
12/11/90	Drug Interdiction: Funding Continues to Increase but Program Effectiveness is Unknown.	GGD–91–10	0	0
09/27/90	Information Management: Immigration and Naturalization Service Lacks Ready Access to Essential Data.	IMTEC–90–75	3	0
08/06/90	Immigration Services: INS Resources and Services in the Miami District.	GGD–90–98	0	0
07/18/90	Foreign Visitor Facilitation	T–NSIAD–90–56	0	0
06/27/90	IRCA Anti-Discrimination Amendments of 1990	T–GGD–90–51	0	0
06/27/90	Federal Appropriation for State Legalization Impact Assistance Grants	T–HRD–90–43	0	0
05/25/90	Criminal Aliens: Prison Deportation Hearings Include Opportunities to Contest Deportation.	GGD–90–79	0	0
05/09/90	Soviet Refugees: Processing and Admittance to the United States	NSIAD–90–158	1	0
04/11/90	Refugee Program: The Orderly Departure from Vietnam	NSIAD–90–137	0	0
03/30/90	Immigration Reform: Employer Sanctions and the Question of Discrimination.	T–GGD–90–31	0	0
03/29/90	Immigration Reform: Employer Sanctions and the Question of Discrimination.	GGD–90–62	0	0
	Total		88	26

GAO Reviews in Progress

GAO Draft Reports

U.S. Mexico Border: Better Planning, Coordination Needed to Handle Growing Commercial Traffic (711420). Announcement Date: 11/5/98. Ongoing GAO Reviews.

Software Change Control Process (511685). Announcement Date: 2/4/00 (entrance not yet held).

Use of the MD 600N Helicopter as a Patrol Aircraft by the San Diego Border Patrol (1836421). Announcement Date: 2/1/00.

Haitian Refugee and Immigration Fairness Act of 1998 (3rd review) (183637). Announcement Date: 1/21/00.

INS' Processing of Aliens' Applications & Petitions for Immigration Benefits (183640). Announcement Date: 12/3/99.

Enforcement of Legal Provisions Relating to Tax-Motivated Expatriation (268910). Announcement Date: 12/6/99.

Federal Agencies' Training Programs (410506). Announcement Date: 11/19/99.

INS' Information Technology Practices (511176). Announcement Date: 11/10/99.

Efforts of Commonwealth of Northern Mariana Islands to Improve Immigration and Customs Procedures (182082). Announcement Date: 9/21/99.

H1–B Nonimmigrant Visa Program (205503). Announcement Date: 8/31/99.

INS Fee Deposit Practices(183636). Announcement Date: 8/30/99.

Alien Smuggling (183630). Announcement Date: 5/13/99.

Extent to which Federal Funds and Other Federal Resources Were Used to Support the Olympic Games in Los Angeles, Atlanta, and are planned for Salt Lake City (240348). Announcement Date: 3/16/99.

Admissions of Aliens Who May Be Eligible to Be Granted Asylum (183628). Announcement Date: 2/25/99.

Admissions of Aliens Who May Be Eligible to Be Granted Asylum (183627). Announcement Date: 2/25/99.

NATURALIZATION BACKLOGS

Question. What is the current backlog of cases at the Vermont Service Center? Please specifically state the number with an analysis of the backlog by center.

Answer. A table of data[2] listing the total volume of cases currently pending at all of the service centers is attached. This table also breaks out by service center the volume of cases currently pending for the major benefit programs, including Applications to Adjust Status (Form I–485), Immigrant Petitions for Alien Workers (Form I–140), Petitions for Alien Relatives (Form I–130), Petitions for Non-immigrant Workers (Form I–129), and Applications for Naturalization (Form N–400).

Question. What is the current backlog of cases at other service centers?

Answer. Information on pending case volumes for all service centers is contained in the attached data table.

Question. What are the average processing times at the Vermont Service Center?

Answer. For applications and petitions that are processed to completion at the service centers, the filing date of the oldest pending application or petition is listed in the attached data table. Naturalization applications are filed with the service centers but processed to completion at the district offices after interviews. The projected processing time for naturalization applications is listed by district office in a separate table.

Question. What has been the growth of petitions filed with the INS Service Centers in the past 7 years? Provide the number of petitions, by type, by center, in each year.

Answer. The attached data table lists the volume of applications and petitions received at the service centers in total and for the major benefit programs for fiscal year 1993 through fiscal year 2000 to date.

[2] Performance Analysis System data through the end of March, the most recent data available.

SERVICE CENTER WIDE GROWTH IN RECEIPTS—MARCH 2000

	Pending as of March 2000	Oldest Application or Petition	Fiscal Year							
			2000TD	1999	1998	1997	1996	1995	1994	1993
Servicewide:										
Total Applications	2,337,507		1,901,775	3,795,701	3,457,507	3,299,213	2,845,555	2,298,766	2,278,110	2,224,300
I–485 (All)	334,513		164,304	201,917	127,134	120,370	38,592	29,498	24,215	60,016
I–140	57,738		42,842	78,786	67,319	68,580	60,621	50,947	46,156	49,898
I–130	389,762		217,895	370,535	568,936	612,961	544,047	507,465	564,793	636,576
I–129	110,083		369,737	494,210	375,082	301,731	260,266	263,062	292,318	252,235
N–400	622,914		199,315	724,989	594,568	629,773	442,608	1,308	2,849	10,635
California SC:										
Total Applications	828,576		437,133	1,084,950	960,550	977,225	802,787	593,710	579,770	564,911
I–485 (All)	30,957	Dec. 1998	13,315	13,882	19,298	20,327	1	23	918	10,601
I–140	26,416	Apr. 1999	10,227	22,190	14,370	16,208	14,074	12,206	11,935	14,521
I–130	178,846	Jan. 1998	70,864	124,352	203,394	207,868	171,516	172,043	187,709	228,449
I–129	36,159	Feb. 2000	82,298	112,752	73,165	62,348	60,737	62,394	67,285	48,879
N–400	193,135		63,229	274,568	210,924	226,021	140,982	0	0	0
Nebraska SC:										
Total Applications	543,957		517,243	847,494	762,908	645,098	556,772	546,537	536,794	491,885
I–485 (All)	189,650	Aug. 1998	83,053	87,271	21,761	13,790	0	4	879	11,572
I–140	10,449	July 1999	7,407	13,283	11,457	13,262	13,550	14,307	13,087	11,831
I–130	57,186	Jan. 1999	43,036	59,966	90,209	84,525	69,540	69,077	75,412	77,706
I–129	16,488	Feb. 2000	56,815	89,783	70,274	62,277	59,462	80,334	87,441	76,241
N–400	107,752		36,267	111,702	83,449	67,553	37,014	1,308	2,849	10,635
Texas SC:										
Total Applications	344,208		428,918	821,665	704,461	684,109	569,044	485,439	431,519	485,716
I–485 (All)	39,936	Dec. 1998	37,979	59,370	42,647	45,213	25,109	17,502	10,612	13,941
I–140	552	Jan. 2000	8,616	13,194	13,683	12,540	7,576	2,732	127	471
I–130	65,721	Dec. 1997	43,752	80,594	116,739	139,612	108,936	125,269	119,461	141,202
I–129	15,228	Feb. 2000	100,204	94,820	66,940	43,652	25,833	7,541	67	1,516
N–400	127,674		40,342	135,533	92,365	124,978	107,875	0	0	0
Vermont SC:										
Total Applications	620,766		518,481	1,041,592	1,029,588	992,781	916,952	673,080	730,027	681,788

I–485 (All)	73,970	Sep. 1998	29,957	41,394	43,428	41,040	13,482	11,969	11,806	23,902
I–140	20,321	Sep. 1999	16,592	30,119	27,809	26,570	25,421	21,702	21,007	23,075
I–130	88,009	Jan. 1999	60,243	105,623	158,594	180,956	194,055	141,076	182,211	189,219
I–129	42,208	Feb. 2000	130,420	196,855	164,703	133,454	114,234	112,793	137,525	125,599
N–400	194,353		59,477	203,186	207,830	211,221	156,737	0	0	0

PROJECTED PROCESSING TIME—MARCH 2000

District	I–485s			
	Total for Last 3 Months Completions	Average of Last 3 Months Completions	Pending	Projected Processing Time
Central Region:				
Chicago	5,114	1,705	47,317	28
Dallas	3,151	1,050	26,931	26
Denver	1,470	490	8,400	17
El Paso	1,501	500	15,132	30
Helena	232	77	1,369	18
Harlingen	1,114	371	12,288	33
Houston	1,580	527	43,857	83
Kansas	1,904	635	3,547	6
Omaha	348	116	4,797	41
San Antonio	1,306	435	10,447	24
St. Paul	737	246	2,568	10
Eastern Region:				
Atlanta	3,240	1,080	21,851	20
Baltimore	1,919	640	2,999	5
Boston	6,512	2,171	14,458	7
Buffalo	910	303	1,272	4
Cleveland	877	292	4,344	15
Detroit	1,681	560	5,520	10
Miami	11,193	3,731	48,698	13
Newark	5,083	1,694	26,028	15
New Orleans	1,569	523	8,793	17
New York City	12,110	4,037	86,280	21
Philadelphia	2,193	731	5,568	8
Portland, ME	321	107	264	2
San Juan	596	199	4,244	21
Washington, DC	1,148	383	12,661	33
Western Region:				
Anchorage	169	56	229	4
Hawaii	645	215	1,099	5
Los Angeles	20,578	6,859	110,560	16
Phoenix	2,966	989	30,502	31
Portland, OR	1,859	620	4,773	8
Seattle	1,991	664	5,002	8
San Francisco	10,687	3,562	70,736	20
San Diego	2,913	971	26,884	28
Servicewide Total [1]	137,916	45,972	1,003,931	22

[1] Servicewide totals include Service Center data.

PROJECTED PROCESSING TIME—MARCH 2000

REGION	DISTRICT	I–485 Comps for the Last 3 Mos				I–485 Pending 3/1/2000
		1/1/2000	2/1/2000	3/1/2000	Sum	
COR	CHI	1,509	1,800	1,805	5,114	47,317
COR	DAL	960	976	1,215	3,151	26,931
COR	DEN	412	437	621	1,470	8,400
COR	ELP	298	520	683	1,501	15,132
COR	HEL	58	72	102	232	1,369
COR	HLG	404	413	297	1,114	12,288
COR	HOU	554	461	565	1,580	43,857

PROJECTED PROCESSING TIME—MARCH 2000—Continued

REGION	DISTRICT	I–485 Comps for the Last 3 Mos				I–485 Pending 3/1/2000
		1/1/2000	2/1/2000	3/1/2000	Sum	
COR	KAN	576	544	784	1,904	3,547
COR	OMA	87	136	125	348	4,797
COR	SNA	592	351	363	1,306	10,447
COR	SPM	287	233	217	737	2,568
EOR	ATL	847	1,132	1,261	3,240	21,851
EOR	BAL	523	664	732	1,919	2,999
EOR	BOS	2,362	2,333	1,817	6,512	14,458
EOR	BUF	257	343	310	910	1,272
EOR	CLE	449	265	163	877	4,344
EOR	DET	508	357	816	1,681	5,520
EOR	MIA	2,283	3,946	4,964	11,193	48,698
EOR	NEW	1,556	1,699	1,828	5,083	26,028
EOR	NOL	229	761	579	1,569	8,793
EOR	NYC	2,352	4,511	5,247	12,110	86,280
EOR	PHI	818	690	685	2,193	5,568
EOR	POM	50	169	102	321	264
EOR	SAJ	114	165	317	596	4,244
EOR	WAS	456	274	418	1,148	12,661
WOR	ANC	89	62	18	169	229
WOR	HHW	242	218	185	645	1,099
WOR	LOS	6,228	7,459	6,891	20,578	110,560
WOR	PHO	899	889	1,178	2,966	30,502
WOR	POO	594	647	618	1,859	4,773
WOR	SEA	725	640	626	1,991	5,002
WOR	SFR	3,401	3,214	4,072	10,687	70,736
WOR	SND	975	934	1,004	2,913	26,884
Total				40,608		669,418
		I–485 Comps at SC				
COW	ESC	407	1,029	1,817	3,253	
COW	NSC	683	1,713	3,135	5,531	
COW	SSC	5,652	6,039	6,896	18,587	
COW	WSC	185	299	444	928	
Subtotal				12,292		
Total				52,900		

I–485 PENDING AT SC

RDATE	REGION	DISTRICT	Expr1
01–Mar–00	COW	ESC	73,970
01–Mar–00	COW	NSC	189,650
01–Mar–00	COW	SSC	39,936
01–Mar–00	COW	WSC	30,957
Subtotal			334,513
Total			1,003,931

N–400s Projected Processing Time—March 2000

[In months]

District	*Projected Processing Time*
Central Region:	
Chicago	18
Dallas	12
Denver	11
El Paso	11
Helena	8
Harlingen	11
Houston	21
Kansas	9
Omaha	20
San Antonio	8
St. Paul	10
Eastern Region:	
Atlanta	13
Baltimore	6
Boston	10
Buffalo	7
Cleveland	18
Detroit	16
Miami	18
Newark	12
New Orleans	14
New York City	11
Philadelphia	12
Portland, ME	20
San Juan	9
Washington, DC	11
Western Region:	
Anchorage	13
Hawaii	8
Los Angeles	10
Phoenix	14
Portland, OR	11
Seattle	7
San Francisco	15
San Diego	11
Servicewide Total [1]	12

[1] Servicewide totals include Service Center data.

Note: Projected Processing Time: Projected processing times are computed based on the current level of pending applications and the average level of completions during the last 3 months. This measure may not correlate to future waiting times actually experienced by applicants since projected processing times are computed based on past completion levels, and do not consider the effect of planned improvements on completions. Projected processing times may vary significantly from month to month and from the average waiting time.

PROJECTED PROCESSING TIME—MARCH 2000

REGION	DISTRICT	N–400 Comps for the Last 3 mos				N–400 Pending 3/1/2000
		1/1/2000	2/1/2000	3/1/2000	Sum	
COR	CHI	3,645	4,291	5,690	13,626	79,600
COR	DAL	3,760	1,720	1,734	7,214	28,460
COR	DEN	1,026	883	850	2,759	10,006
COR	ELP	1,494	1,168	1,511	4,173	14,892
COR	HEL	205	99	124	428	1,176
COR	HLG	773	783	1,994	3,550	13,148
COR	HOU	2,642	2,580	2,297	7,519	53,330
COR	KAN	451	914	602	1,967	5,924
COR	OMA	50	233	348	631	4,156

PROJECTED PROCESSING TIME—MARCH 2000—Continued

REGION	DISTRICT	N–400 Comps for the Last 3 mos				N–400 Pending 3/1/2000
		1/1/2000	2/1/2000	3/1/2000	Sum	
COR	SNA	1,434	742	1,759	3,935	10,937
COR	SPM	299	686	765	1,750	5,584
EOR	ATL	1,974	2,344	2,630	6,948	29,119
EOR	BAL	1,270	1,488	1,980	4,738	9,297
EOR	BOS	3,538	3,844	1,930	9,312	30,332
EOR	BUF	459	663	775	1,897	4,199
EOR	CLE	383	372	476	1,231	7,217
EOR	DET	955	1,280	528	2,763	14,837
EOR	MIA	6,927	3,446	5,071	15,444	93,042
EOR	NEW	4,330	5,076	6,540	15,946	65,702
EOR	NOL	645	740	688	2,073	10,014
EOR	NYC	20,512	17,782	18,000	56,294	201,873
EOR	PHI	1,006	990	1,601	3,597	14,152
EOR	POM	27	42	27	96	644
EOR	SAJ	126	440	233	799	2,376
EOR	WAS	1,092	1,347	1,766	4,205	15,278
WOR	ANC	60	99	72	231	986
WOR	HHW	663	419	310	1,392	3,801
WOR	LOS	5,991	24,706	33,144	63,841	204,717
WOR	PHO	1,799	2,072	2,141	6,012	28,061
WOR	POO	676	701	609	1,986	6,967
WOR	SEA	1,501	1,505	1,535	4,541	11,172
WOR	SFR	8,939	9,534	11,888	30,361	149,868
WOR	SND	2,390	2,435	2,888	7,713	29,152
Total						1,160,019

		N–400 Comps for Last 3 Mos at SC			
COW	ESC	0	0	0	0
COW	NSC	1	40	1	42
COW	SSC	0	0	0	0
COW	WSC	0	0	0	0
Total					42

N–400 PENDING AT SC

REGION	DISTRICT	3/1/2000
COW	ESC	41
COW	NSC	10,173
COW	SSC	0
COW	WSC	0
Total		10,214
Total		10,214

INFORMATION TECHNOLOGY INFRASTRUCTURE

Question. Have you (INS) performed a systems analysis to identify what operating and administrative procedures and equipment each office needs?

Answer. From an information technology (IT) standpoint, INS has conducted systems analyses of office automation requirements at each site worldwide. Between

1995 and 1998, INS accomplished the Technology Infrastructure Project (TIP). During this project we established state-of-the-art office automation capabilities and network connectivity for INS employees at over 800 INS locations worldwide. IT infrastructure covers the gamut of IT capability from the personal computer on the employee's desk through the servers, routers, local area network (LAN), and the wide area network (WAN).

The TIP process consisted of close coordination with the appropriate personnel at each site and completion of the following steps:

—*Initial Information Gathering*.—A questionnaire was sent to each site that collected information including the number of people at the site, the number of floors the site covered, and the IT equipment currently in use. The questionnaire also identified user needs, network upgrades and any mission-critical system in use.

—*Pre-Site Survey*.—The information provided in the questionnaire was then given to a pre-site survey team that visited the site and did an onsite physical security assessment and a telecommunications assessment. The team also identified any physical building issues, and remodeling and furniture requirements. From this information, a site-specific Implementation Plan was developed that included LAN and cable plant design, facilities requirements, application requirements, office automation requirements, a training plan, and a post-deployment support plan.

—*Acquisition & Logistics*.—With the information provided in the Implementation Plan, an Acquisition Plan was developed and resulted in procurement of the equipment, communications, and support services required for installation.

—*Site Preparation and Modification*.—Furniture and space modifications were accomplished to include installation of additional electric outlets, completion of environmental control modifications, completion of structural or building modifications for cable plant, ordering and installation of locally controlled communications lines, and resolution of security issues.

—*Cable Plant Installation*.—The cabling components were installed.

—*Hardware and Software Integration*.—Servers and workstations were configured to site-specific requirements to include user IDs, work groups, print queues, communications capabilities, and windows configuration. The equipment was tested to ensure component interoperability, software interoperability, and LAN/remote access communication capability. In addition, a guide was drafted for the local system administrator that provides complete information on the equipment and system installed. Additionally, all equipment was recorded in the INS Asset Management Information System.

—*Hardware and Software Installation*.—Upon arrival onsite, the installation team reviewed and tested the cable plant installation, received shipments from the Integration and Test facility, completed setup of the training facility, installed and tested computer room components, upgraded equipment, installed and tested workstations and printers, migrated or rehosted office automation applications and text and data files, updated the Implementation Plan and the inventory, completed acceptance testing, and determined disposition of excess equipment. Post-installation documentation was also completed during this phase.

Upon completion of the TIP initiative, INS instituted a very similar process for deployment of mission and business-related applications used service-wide. We work closely with application developers to identify the effect that deployment of the application will have on the infrastructure. We test each application to assess the impact it will have on workstations and servers, and the impact of the additional traffic on the LAN and WAN. We also identify system upgrades that will be required to support the application. At that point, we begin coordination with the sites to which the application will be deployed and follow a process very closely aligned with the TIP process to accomplish deployment of the application.

And finally, in order to keep INS in step with the extraordinarily dynamic information technology industry, we have instituted a "refresh" initiative that, once again, mirrors the TIP process. This initiative focuses on upgrading the sites with the oldest infrastructure so they can be fully integrated with the newer technology being deployed not only by the program offices to support newer applications, but also as part of the Modular program that provides workstations and infrastructure support for the increasing INS employee population.

TECHNOLOGY INTEGRATE

Question. What is the agency's plan to update and integrate the technology throughout the agency? What is the time line for this plan?

Answer. INS recognizes the need to upgrade immediately and eventually replace CLAIMS 3, the main case management system in use at the four service centers for all but naturalization applications. The Immigration Services Division (ISD) is finalizing a 3-step process to upgrade and integrate its technology. This initiative also includes analysis of office equipment requirements.

In the first phase of this process, ISD installed new file servers at the service centers to improve and standardize the operation of CLAIMS 3 at all four centers in August 1999. ISD is currently in the process of upgrading these servers to ensure peek performance and upgrading the CLAIMS 3 software.

In the second phase of this process, ISD has conducted an infrastructure study of technology at the service centers. The purpose of this study was to identify standard system configurations for the four service centers, including cabling, servers, software, hardware, and printer needs. This study was completed in mid-April 2000, and identified approximately $11.5 million in replacement costs.

In the final phase of this process, ISD has begun to plan development of a replacement case management system for deployment to all service centers and district offices. This project is expected to take 3 to 5 years to implement.

In addition to the initiative to upgrade and replace CLAIMS 3, INS is near the end of its effort to deploy CLAIMS 4, the replacement case management system. CLAIMS 4 tracks only naturalization applications, and currently does not integrate this function with any other case management system. INS began converting all offices to CLAIMS 4 in fiscal year 1998. CLAIMS 4 has already been deployed to all four service centers, and will be deployed to all district offices but the Los Angeles District by the end of fiscal year 2000. ISD expects to complete deployment of CLAIMS 4 to the Los Angeles District Office by December 2000.

SUBCOMMITTEE RECESS

Senator GREGG. Thank you, gentlemen. We appreciate your time.

Mr. FREEH. Thank you, Mr. Chairman.

Senator GREGG. We appreciate your efforts.

[Whereupon, at 11:58 a.m., Tuesday, March 7, the subcommittee was recessed, to reconvene subject to the call of the Chair.]

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2001

TUESDAY, MARCH 21, 2000

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

The subcommittee met at 10 a.m., in room S–146, the Capitol, Hon. Judd Gregg (chairman) presiding.

Present: Senators Gregg and Stevens.

FEDERAL COMMUNICATIONS COMMISSION

STATEMENT OF WILLIAM E. KENNARD, CHAIRMAN

ACCOMPANIED BY ANDREW FISHEL, DIRECTOR, OFFICE OF THE MANAGING DIRECTOR

Senator GREGG. I think we are all set to get started here, and we welcome the Chairman of the FCC. It is always a pleasure to have him before the committee.

I am going to forego opening statements and, Chairman, you are welcome to say whatever you wish.

Mr. KENNARD. Thank you very much, Mr. Chairman. As always, it is a pleasure to appear before you and before this committee. I very much appreciate this opportunity to present for you today the FCC's fiscal year 2001 budget proposal.

I wanted to outline a summary of our budget estimates and give you an update on the activities of the Commission, particularly with regard to the implementation of the Telecommunications Act of 1996. I will also present you with a clear picture of our accomplishments during the past year and what we anticipate our agenda to be for the next year.

The last time I appeared before this committee, as you may recall, I presented you with a blueprint for the FCC for the 21st century, and I also want to present you today with a report card, if you will, on my efforts to implement that blueprint.

But before I discuss those items in detail, I wanted to take a moment and thank you and this subcommittee for the support that you have given the FCC during my tenure as Chairman. You, in particular, Mr. Chairman, have been very, very supportive of our mission. You have a great understanding of the role of the FCC in this changing telecommunications environment and, frankly, the

importance of the sector to our economic growth. And so I wanted to emphasize how much we appreciate your support of our agency.

We are very much involved in a transitional period in telecommunications today. We are transitioning the agency from an era of monopoly regulation to an era of competition. It has been a very exciting undertaking, and we are well on our way to making that transition.

I would like to briefly outline our funding needs for the next fiscal year. We are not requesting funds for any additional staff at the FCC. Our staffing levels have remained constant throughout my tenure. We are requesting a 2001 budget of $237,188,000. That includes FTEs to be funded from both the direct appropriations and our auctions resources. That amount, $237 million, represents a $27 million increase over the fiscal year 2000 appropriation. That is a 13 percent increase. Most of that is attributable to uncontrollable cost increases, and when you break it down, most of the increase is attributable to rent, salary, and increases for our information technologies program.

Most of those funds will come from regulatory fees. The total amount to be collected from regulatory fees would increase from approximately $185 million in fiscal year 2000 to $200 million in fiscal year 2001.

As you are aware, the FCC also has requested authorization to use $5.8 million in excess regulatory fees from previous years to support our fiscal year 2000 information technology needs.

Now I would like to give you a brief update on the FCC's activities and what is happening in the marketplace generally. We have worked very, very hard during my tenure to implement the Telecommunications Act of 1996. The Act has played an important role in helping us transition to a more competitive marketplace. Congress gave us some very important tools to make that transition.

On the fourth anniversary of the Act, in February of this year, I presented a report on the telecommunications sector, which I would like you to have. Basically, it surveys what is happening in each of the areas of the telecom sector, and as you will see in that report, all of the economic indicators are way up. We are seeing tremendous growth in every sector of this business. We have seen just in the last year to 18 months the ".com" explosion as Americans wake up to the power of the Internet in their lives. And it is very interesting when you look back at the period of time when the 1996 Act was being debated and written in 1995. Another seminal event happened that year, and that was the decision by the National Science Foundation to allow commercial use of the Internet. And those two events taken together—the passage of the Act and the privatization, if you will, of the Internet—really is responsible for this explosion in competition and technology.

We are now entering what I believe to be a very, very exciting period as we move into the broad band Internet age, as people want more and more high-speed access to the Internet.

When I woke up this morning, I was listening to WTOP radio, and I heard an advertisement for high-speed Internet access, and it was sort of interesting to me to hear terms that were so arcane and inside our little world here in the Beltway like DSL and T1 lines being advertised and entering the public lexicon. And I think

that that really shows how much change we have seen just in the last 5 years or so.

The next challenge, of course, is to get to a point when people are not talking about bandwidth per se; that is, that when Americans have so much bandwidth in their lives that it becomes just as commonplace as the dial tone or a 110-volt electric outlet. And that is really our goal, to keep this investment pouring into our networks, both wireless and wireline, so that Americans have as much bandwidth as they need, and at the same time, of course, making sure that those networks are built out ubiquitously so that people in rural areas and in inner-city areas get access. We also must ensure that there is a safety-net, universal service, so no one is left behind.

I am pleased to report that this year many of the uncertainties surrounding the implementation of our Act has settled down. The courts have settled most of the jurisdictional challenges to our implementation of the Act, and we are really moving into a period now where a lot of investment is flowing. This year is going to be an exciting year for wireless. The Internet will move to a wireless platform this year as more and more people access the Internet over little networked wireless devices like Palm Pilots. That in my view will democratize the Internet and make it accessible to more and more people at higher speeds. So that is going to be exciting, but it also creates a great responsibility on our agency to manage the spectrum so that there is sufficient bandwidth available for those wireless devices.

I also wanted to give you today a report card on the implementation of our strategic plan which I presented to you 1 year ago. This basically gives a status report on our progress in meeting the challenges that we set out for ourselves in that strategic plan.

PREPARED STATEMENT

So, again, Mr. Chairman, I am delighted to appear before you today and give you this status report, and, again, thank you for your continuing support of the agency and its mission.

[The statement follows:]

PREPARED STATEMENT OF WILLIAM E. KENNARD

Mr. Chairman, Ranking Member, and members of the CJSJ Subcommittee, I appreciate this opportunity to appear before you today to discuss the Federal Communications Commission's (FCC) fiscal year 2001 Budget. Today I will provide you with a summary of our fiscal year 2001 Budget Estimates, discuss the ongoing changes initiated by the Telecommunications Act of 1996, and present you with a clear picture of our accomplishments during the past year, our agenda for the current year, and outline plans for the future. At this time, I would also like to announce that I am releasing today my Report Card on Implementation of the Draft Strategic Plan—"A New FCC for the 21st Century."

PARTNERSHIP FOR THE FUTURE

Before I discuss our budget and goals with specificity, I would like to take a moment to thank this Subcommittee for its support during my tenure as Chairman of the FCC. Because of your efforts and the outstanding work of your staff, the FCC has been able to forge ahead with its efforts to upgrade its facilities and improve its ability to serve the public. I recognize that in the past you have supported funding for the FCC that exceeds even the Administration's requests. Your determination to provide sufficient funding demonstrates a special commitment to America's future. Let me emphasize that I share this commitment.

We stand together on the front step of the third millennium—ready to venture up and swing open the door to our future. If the past is prologue, this next century will see accelerating and phenomenal change. Just as our ancestors living at the turn of the last century could never have imagined zooming along a vast array of super concrete byways and computer highways, we have not yet begun to imagine the achievements of our descendants.

We all play a critical role in determining what new goals will benefit our children and our children's children. Communications technology is the engine of their century. It is the basis for fueling the economy, encouraging invention and bringing the world closer together. We all want our legacy to be one of investment in this future. We all want to be remembered for giving the next generation an edge in the future.

The Federal Communications Commission is poised to assume its role as market facilitator in building the infrastructure of the future. Our primary mission is to promote competition in communications, protect consumers, and support access for every American to existing and advanced communications services.

In five years, we expect the U.S. telecommunications markets to be characterized predominately by vigorous competition that will greatly reduce the need for direct regulation. The advent of Internet-based and other new technology driven communications services will continue to erode the traditional regulatory distinctions between different sectors of the telecommunications industry.

Congress gave us the Telecommunications Act of 1996, and in doing so, cemented a partnership for establishing a new pro-competitive, deregulatory model for communications policy. Now it is time to reassess our core policy functions, structure and processes, and fund the changes that will shape our future. New competitors and technological innovation currently are transforming telecommunications markets. History has shown that markets that have been highly monopolistic often do not naturally become fully competitive. History also has shown that domestic markets that have been protected from foreign competition do not naturally become open to global competition.

As I said, the past is prologue. Nevertheless, we can always alter the remainder of any story and create our own future. We must work together to promote competition, open markets, and increase technological innovation. We must continue to protect and empower consumers as they navigate the new world of telecommunications. Together we can achieve the twin goals of the 1996 Act: a fully competitive marketplace and access for every American to current and future advanced communications services.

Pursuing these strategic objectives will require the identification of clear goals and the continued execution of my Draft Strategic Plan, "A New FCC for the 21st Century." As we accomplish our transition goals, we will set the stage for a competitive environment in which communications markets look and function like other competitive industries. We turn to you for your support again this year to help us continue to transform our agency, adapt to new and emerging technologies, and ensure that future generations will benefit equally from these changes.

AN AFFORDABLE FUTURE: THE FISCAL YEAR 2001 BUDGET REQUEST

The FCC as we know it today will be very different both in structure and mission as we evolve to meet the challenges of the future. Increased automation and efficiency will enable the FCC to streamline its licensing activities, accelerate the decision making process, and allow the public faster and easier access to information. The FCC will be a "one-stop, digital shop" where form filing and document-location are easy and instantaneous. The FCC will continue consolidation along functional lines so that its structure is more consistent with convergence.

In order to follow through on this agenda, the FCC will require a fiscal year 2001 budget of $237,188,000 and a staff ceiling of 1,975 full-time equivalent (FTEs). This includes FTEs to be funded from appropriations and auctions resources. These numbers reflect a total increase of $27,188,000 or approximately 13 percent over the fiscal year 2000 Appropriation. Uncontrollable cost increases to fund proposed government-wide pay raises, rent increases and other inflationary increases constitute 47 percent of the total requested increase in funds. Specifically, our request includes $6.8 million for mandatory salary and benefit increases, $5.1 million for increases Rent and Operating Fees, and $.9 million for Consumer Price Index adjustments in contract services.

Programmatic increases to accomplish the Commission's comprehensive information technology strategic plan initiatives comprise the remaining portion of the requested funds for fiscal year 2001. This amounts to $14.4 million for information technology (IT) enhancements. Since the automation enhancements will directly benefit the industry served by the Commission, this increase should be paid for by

an increase in regulatory fees. Approximately 80 percent of the requested IT funding increase will be used for maintenance and life cycle replacement of our existing systems. The remaining 20 percent or $3 million will be used to promote competition through better tracking of consumer issues and complaints and better manage the use of the nation's airwaves in the public interest. Without adequate automation funding, the Commission will be unable to carry out its basic functions of awarding licenses to applicants for communications services, overseeing the implementation of new services for the public, and reviewing and updating existing rules and regulations. In view of the importance of these services to the economy of the United States, this investment in technology is critical.

The total amount to be collected from regulatory fees would increase from $185,754,000 in fiscal year 2000 to $200,146,000 in fiscal year 2001. As you are aware, the FCC also has requested authorization to use $5.8 million in excess regulatory fees from previous years to support our fiscal year 2000 IT needs.

PAST ACCOMPLISHMENTS BUILD A SUCCESSFUL FUTURE

The telecommunications industry in the United States is, to date, a great success story. We have worked hard to implement the 1996 Act and effectuate the changes necessitated by a continually evolving marketplace. We have promoted competition across converging technologies and throughout the telecommunications marketplace.

When I began my tenure as Chairman, we had to finish writing new rules to comply with the 1996 Act and the Supreme Court still had to pass on major sections of the law. Reports of the 1996 Act's premature death were rampant. Persistence paid off. We worked together to properly implement the 1996 Act, and with your support, we managed to make the telecommunications marketplace more viable and better equipped to face the future.

As a result, the world is not the same as it was in 1996. The telecommunications industry has grown since then, creating 230,000 new jobs and generating $57 billion more revenues. Revenues in communications services, which include all telephone services, radio, cable and broadcast television, and certain other services, have grown by $7 billion from 1996–1998, a growth of 17 percent in real terms. That figure does not include the rapid growth in sales of communications equipment—telephone headsets, central office switching equipment, etc.—where revenues have grown $26 billion, 24 percent, between 1997 and 1999. With the growth in output, employment in the communications equipment and services industries has grown by $.2 million during the past four years.

During the past year, the FCC's staff has strived to implement common sense rules and programs to enhance the industry's growth, and defend those rules already in place. From wireless auctions to broadcasting and international, our staff has handled more applications and more public participation in telecommunications issues than ever before. Our aggressive implementation of the 1996 Act is generating new classes of competitors, new industries and lower prices.

Making a More Competitive Environment

Our most important work has been in realizing the goals of the 1996 Act to achieve competition and universal access to new services. To that end, we adopted rules and initiated rulemakings to eliminate barriers to entry in domestic telecommunications markets. The FCC implemented the local competition provisions of the 1996 Act, including: (1) revised unbundling rules in response to the Supreme Court remand in Iowa Utilities Board; (2) strengthened collocation rules; and (3) pricing flexibility which also included a Notice of Proposed Rulemaking on whether competitive local exchange carrier access rates should be regulated. We also expect to complete action on two Access Reform Proceedings during the second quarter of this year.

The FCC approved Bell Atlantic's application under section 271 of the 1996 Act to provide long distance service in New York after determining that New York's local service markets are open to competition. During the past month, the FCC negotiated a consent decree to address Bell Atlantic's problems processing its competitors' orders. This enforcement action promotes local competition by ensuring that consumers will have additional choices and lower rates through expanded local competition.

We also initiated proceedings to gather information on (1) the status of deployment of advanced telecommunications capabilities; and (2) the deployment of broadband facilities and the development of local competition. The FCC's staff forged ahead with determined speed to complete rulemakings on advanced services in the areas of loops, LATAs, DSL resale, and line sharing.

Benefits to consumers in the long distance and local phone markets are an important achievement and priority. Domestic long-distance rates dropped nearly 56 per-

cent in real terms since 1984, saving consumers about $200 billion. Some companies are offering services for as low as five cents per minute.

On the international front, we are less than two years into the implementation of the WTO Agreement and the FCC's August 1997 Benchmarks Order and we have already started to see dramatic results. These policies have increased liberalization, privatization, and competition, which have led to significantly lower international accounting rates. In turn, that has led to lower international calling rates. In 1996, the year just prior to Benchmarks and the WTO, the average price of an international long distance call originating from the United States was 74 cents per minute. By 1998, it fell by 25 percent to 55 cents per minute, and finally to the current average of less than 55 cents per minute. By the time that Benchmarks is fully implemented in 2003, we expect to see much deeper reductions in international calling rates. Moreover, prices on competitive routes have fallen even more dramatically. For example, rates on the U.S.-U.K. route are as low as 10 cents per minute.

Sometimes success is measured not so much by what we do, as what we decide not to do. The FCC's "hands-off" policy toward the Internet has helped fuel tremendous growth in this industry. Over 40 percent of American households have Internet access. In 1998, the U.S. Internet economy was a $633 billion market, accounting for nearly 8 percent of the nation's economy and 4.8 million jobs. Electronic commerce, which will be 90 percent business-to-business, is projected to be a trillion-dollar activity in the next three to five years.

Accessible Services for All Americans

We want everyone to have a piece of the Internet's potential, which is why we have established a framework and funding mechanism for ensuring that all of our country's schools and libraries are connected and that rural health care has access to information technology. We also have worked to ensure that those individuals living on Native American lands will likewise reap the benefits of this new technology.

When the FCC's staff was not busy passing and implementing rules that would enhance the delivery of telecommunications services to the public or upgrading our systems and eliminating backlogs, we were working with Congress to study cutting edge issues like rural broadband rollout. We participated with rural Senators in two special hearings, here in Washington and in North Dakota, to study rural broadband rollout technologies and encourage their implementation throughout the United States.

We also convened the Federal-State Joint Conference on Advanced Telecommunications Services (Joint Conference) on October 8, 1999, to further the vision of section 706 of the Telecommunications Act of 1996. Patterned on a resolution by the National Association of Regulatory Utility Commissioners (NARUC), the Joint Conference joins federal and state forces to encourage the deployment of advanced telecommunications services to all Americans.

Safeguarding the Integrity of the Auctions Process

One of our most important accomplishments during the past year is the judicial recognition of the integrity of the auctions process in the NextWave case. The Second Circuit has demonstrated that the application of common sense—the very same common sense displayed by this Subcommittee and the Senate Budget Committee—ensures that the auctions process will be a workable method for licensing the spectrum in the future.

I cannot emphasize enough the importance of the Second Circuit's holding in this case. Auctions will play an especially critical role in ensuring that sufficient spectrum is available to meet the needs of the growing digital economy. We have witnessed an explosion of telecommunications services since auctions began. In 1993, there were 15 million wireless phones in America. Today, there are 80 million. We have seen subscribership increase four-fold and the average wireless bill drop by 40 percent during this period. Moreover, wireless is taking over parts of the Internet. Already we are able to use portable devices like laptops and Palm Pilots to accomplish tasks that once required us to remain hooked to a hard line tether. Wireless represents mobility and access for new groups of people.

Over the past six years we have completed 24 auctions with over 1,800 qualified bidders participating. Most of these bidders were qualified and worked hard to bring service to the public. Unfortunately, there are those who tried to obtain the spectrum and then not pay a fair price for it. If we want to build upon our past auctions successes; we have to ensure that the system is fair and predictable. That is why I support using the legislative process to prevent future abuses of the auctions system. I commend this Subcommittee for its past efforts in this regard and I respectfully request that you again consider language that would prevent bankrupt licenses from using the bankruptcy court to shirk their obligations to the American taxpayer.

Addressing the Influx of Transactions

The increasing number of licensees and changing market forces have dramatically increased the number of transfer/assignment applications processed at the Commission. Some bureaus have experienced extreme growth in the number of applications processed during the past four years and most of the bureaus saw a significant increase in the number of applications processed. The Wireless Telecommunications Bureau approved 23,889 license transfers in 1996. In 1999, this number jumped to 40,879. The Mass Media Bureau's Audio Division processed 3,869 license transfer applications in 1996 and 4,951 in 1999. In the last year prior to passage of the 1996 Act, Audio Services only processed 1,866 transfer and assignments.

Most of these transfers have been processed quickly and efficiently, with little fanfare. Recently, the FCC has been faced with the challenge of how to facilitate the review of major transactions while ensuring that the public interest is met in an era of increasing consolidation and convergence. Some have been more complex and deserving of a hard look to protect the interests of the American consumer—SBC/Ameritech, MCI/Worldcom, Airtouch/Vodafone, Direct TV/Primestar—all of these mergers consumed Commission resources, but were worth the careful study. In the end, our job is to protect the consumer and under the 1996 Act that you passed, promote competition. We would be remiss in our duty to you and the American public if we did not expend the time and effort that it takes to ensure that these mergers comply with our statutes and rules.

Responding to congressional calls for improving the system for handling mergers, I directed FCC General Counsel Christopher Wright to assess the Commission's merger review process, and hire appropriate staff for addressing concerns raised by the crush of applications and their growing complexity. The result is a Transactions Team, which has already initiated the process for improving the way that we handle mergers. The Transaction Team has moved fast to address the concerns of the public, licensees and Members of the House and Senate. Already, the Transactions Team has identified areas of concern and moved to find workable policy solutions. They are working to ensure that our merger review process is transparent, efficient and predictable. They have established a web page and held a public forum on March 1, 2000.

Improving licensing processing—whether for transfers and assignments or applications for service—has been a key ingredient of our work during the past year. We are nearing completion on the implementation of a Universal Licensing System that provides streamlined electronic filing capabilities for most wireless services. Now potential licensees can obtain their applications and a wide range of other forms over the Internet, and file them back within minutes.

Electronic filing capabilities also are available in the other bureaus as well: Common Carrier, International, and Mass Media. All routine common carrier Local Access Transport Area modifications are now immediately placed on public notice and are accessible electronically through the Commission's Digital Index. We also implemented an electronic tariff filing system that permits incumbent ILECs to submit federal tariffs and associated documents via the Internet.

Meeting Daily Challenges with Innovative Solutions

The need for a fast response to increased use of telecommunications services means that the FCC must find new and innovative solutions to a broad range of problems. For instance, just last week, the Commission released new rules to confront the issue of the rapid telephone number consumption by allocating telephone numbers in a more efficient, predictable and orderly fashion. Competition in telecommunications markets is partially dependent upon fair and impartial access by all telecommunications carriers to telephone numbers. After careful study, we adopted new policies to reduce the need for new area codes, avoiding the inconvenience, costs and confusion associated with changes in area codes for consumers and businesses.

While our work during the past year is too voluminous to print here in detail, I would like to highlight a few special projects. In the past year, the FCC has:

—*Technology Advisory Council*.—Established as a means by which a diverse array of recognized technical experts selected from a variety of interests such as industry, academia, government, citizens groups, etc. can provide advice to the FCC on innovation in the communications industry.

—*Public Safety*.—National Coordinating Committee, CALEA, and E911: ensured that our public safety and law enforcement bodies had the tools necessary to ensure our safety throughout the country.

—*Assistance to other Nations*.—Set out in great detail the way our country's telecommunications system is regulated and made this available to other countries that are in the process of establishing independent telecommunications systems.

—*Helped Disabled Americans*.—Adopted rules to ensure access for persons with disabilities under Section 255, and increased access to the communications network by the 54 million Americans with disabilities.

—*Restructuring of FCC*.—Redesigned the Commission to establish two new "one-stop-shopping" bureaus—Enforcement and Consumer Information Bureaus—rather than having their responsibilities spread throughout the Commission.

—*Y2K*.—With the determined coordination of Commissioner Michael K. Powell, the FCC assisted the rest of the country in ringing in the new millennium free of computer glitches and ready to correct any that did occur.

BACK TO THE FUTURE

We have worked hard in the past year to bring the Commission into the present, and our pace will not slacken during the current year. I am releasing today a Report on the Implementation of the Draft Strategic Plan that we submitted to Congress in August 1999. My goals were to create a model agency for the digital age, promote competition in all communications markets, promote opportunities for all Americans to benefit from the communications revolution, and manage the electromagnetic spectrum in the public interest. Since introducing the plan, we have met with a wide range of interested parties to effectively gauge the response to our goals. We spoke with experts from academia, consumers, industry representatives, state and local government representatives and many of your staffs to discuss the future and our mutual goals. My first priority in the coming year is to continue keeping the promises outlined in the Strategic Plan.

Be assured that we will continue to move toward a digital agency—a user-friendly and electronic environment where consumers and licensees alike feel comfortable communicating directly with the agency via online services or old-fashioned phone calls. This goal is our first one in our Implementation Report Card, and I know that success in this area is a certain sign that we are using our funding wisely and appropriately.

Our aspirations for the future do not end there, because we are, after all, an agency dedicated to serving the public in a variety of ways. We have a wide range of futuristic goals in our Report Card, and I intend to work hard to follow through on the report's promises. Let me plot out what I call the ABC's of our current goals for the year.

First, "access." The E-Rate program is bringing its second successful year to a close, and now provides connectivity for one million public school classrooms. This program is a down payment on our children's futures, and on the skills needed to keep our high-tech economy going. One of my highest priorities is to funding E-rate program to wire the nation's rural and urban schools and libraries to the Internet. I want to continue promoting access to the digital tools and services for the 54 million Americans with disabilities [video description, TTY Access, TRS]. This year, the Commission adopted EO rules to help shatter glass ceilings and pave the way for the employment of more women and minorities at radio and television stations. The Commission also has issued a Notice of Inquiry on the public interest obligations of digital television licensees. We hope that this Notice will initiate a national dialogue on how America's broadcasters can best serve the public in the transition to digital television.

Second, "broadband rollout." The Commission will continue its active role in speeding the delivery of high-speed Internet access to every business and home in America. We will take all necessary steps to keep the nation's broadband infrastructure open to competition. We will track the deployment of broadband in the marketplace to maximize the use of this new technology. We will auction new spectrum to bring innovative services to the marketplace and the wireless web to consumers.

As part of the broadband rollout, The 706 Joint Conference is holding six field hearings in coming months to gather information on the status of deployment of advanced telecommunications capability to all Americans. These field hearings will focus on two goals in particular. First, the Joint Conference will seek information on to what extent data is available at the state level on the status of deployment of advanced services. Second, the Joint Conference will seek examples of "best practices" of successful deployment in communities. Some communities have found creative ways to bring high speed Internet access to areas that were previously underserved. For example, a community may speed deployment by bringing many potential users of advanced services together, thereby aggregating demand to increase their buying power. A compilation of creative efforts, or best practices, will provide guidance to communities in other states to speed deployment of advanced services.

We have set up Federal-State Joint Conference field hearings in a variety of locations: Anchorage Alaska on April 12, 2000; South Sioux City, Nebraska on April 19,

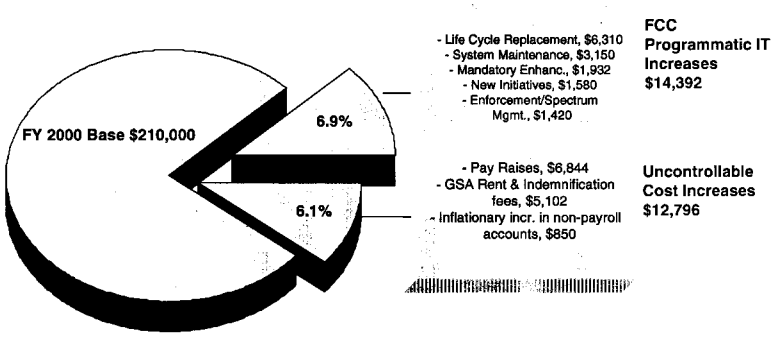
2000; Lowell, Massachusetts on May 22, 2000; Miami, Florida on June 9, 2000; and Cheyenne, Wyoming on June 23, 2000. When I think about these locations, I cannot somehow think about the convergence of the past, present and future of our country. It is somehow fitting that Lowell, Massachusetts, which saw the advent of the industrial revolution, will host a field hearing to discuss the future of telecommunications technology.

Finally, let me address the "C" in my ABC's, "competition." This Subcommittee has my commitment to continue working toward full and open competition. I will encourage the protection of consumers by giving them the information they need to navigate an increasingly complex telecommunications marketplace. I personally will review the findings of the Transaction Team to ensure that all mergers now pending and filed in the future will receive fast, efficient and flexible handling. We will make DTV compatible with the nation's cable networks. We will reform access charges to make more equitable phone billing and pricing practices. We will promote competition in local and long-distance markets that will give consumers lower rates, better services, and more choices.

CONCLUSION

Together, and with full funding of our request, we will work toward implementing the Strategic Plan—"A New FCC for the 21st Century" to create a faster, flatter, more functional agency in an era of convergence. I appreciate your support for making this plan a reality, and also for supporting our request to use excess regulatory fees from past years to meet this year's IT needs. It is time to transform the FCC into a paperless, electronic agency. More importantly, it is time to ensure that the future includes providing access to communications services to all Americans. I believe that we share the same concerns and goals about the future. Together, we can ensure that our third millennium telecommunications infrastructure is a proud legacy.

FY 2001 Budget Estimates to Congress, $237,188,000
Incremental Increases to Base
(Dollars in Thousands)



FY 2001 Request: $237,188
1,975 Ceiling FTEs

Net Requested Increases $27,188 (13%)

Distribution of Budget Authority:	FY 2000	FY 2001	Net Increases to B/A
Direct Appropriation	$24,246	$37,042	$+12,796
Regulatory Fees (Offsetting Collections)	$185,754	$200,146	$+14,392

FY 2001
Information Technology Funding Increase
(Dollars in Thousands)

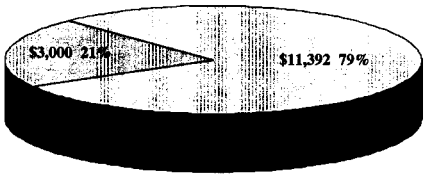
Total $14,392

Improved and New Systems

- Model Agency: Digital Age
- Competition in Markets
- Spectrum Managment

Current Systems Support

- Life-cycle Replacement
- Mandatory Enhancement
- Maintenance of Systems



Federal Communications Commission
FY 2001 Budget Estimates to Congress
$237,188,000

FY 2001Revenues Generated by the FCC:

$3,587,000,000

$237,188,000
- $200,146,000
(Regulatory Fee Offsets)
$ 37,042,000
Net FCC Cost to the U.S. Treasury

To the U.S. Treasury:

$3,559,000,000 Spectrum Auctions

$26,000,000 Licensing Fees

$2,000,000 Fines and Penalties

NET FCC Benefit to the U.S. Taxpayer:

$3,587,000,000 (Total FCC Revenues) - $37,042,000 (Net FCC Cost) = $3,549,958,000

Senator GREGG. Thank you, Mr. Chairman. I appreciate your testimony and appreciate the work you have been doing and your Commission has been doing in this really incredibly important area for America's future. You represent the cutting edge of the prosperity of our Nation, obviously, and our capacity to be successful as a Nation is in large part going to be defined by our success in technologies which you oversee. I strongly support your efforts to minimize regulation of the Internet. I think that has been a very appropriate approach.

There are, however, some issues that I just want to take up with you. First is your resource situation. Do you have enough resources to do the job at the FCC? Is your budget request that you sent to

us adequate? Did OMB [Office of Management and Budget] reduce it in any way that you felt was inappropriate? And if so, tell us.

EXCESS REGULATORY FEES

Mr. KENNARD. Well, from where I sit, we can always use more resources. Our major challenge right now—and this is something that you have been quite supportive of—is our efforts to get funds released from excess regulatory fees that we have collected. As you are probably aware, in prior years we collected about $5.8 million in excess regulatory fees, which we were anticipating being able to use for this fiscal year. And, of course, you were very supportive in allowing us to reprogram those fees, but we have some discussions ongoing with the House to see if we can get those funds released.

Looking forward to 2001, we believe that the amount of money that we are requesting will be appropriate. It will be a stretch, particularly given the anticipated filing of a number of applications by the Bell companies to get into long distance this coming year, and also with increased numbers of merger applications. But I believe we can make do.

TECHNICAL STAFFING LEVELS

Senator GREGG. How about staffing? Are you finding it difficult to maintain technical staff, as some of our other agencies are? Or are you not finding that to be a problem as a result of the pay levels?

Mr. KENNARD. It is very difficult. It is particularly difficult for the FCC because some years ago we were able to attract lawyers and economists and engineers who could easily double or triple their salaries by going into the private sector. Now they are getting offers to go into the private sector and not just double or triple their salaries. They are being offered stock options to make them multimillionaires. And it is very difficult to compete in that economy.

Senator GREGG. Is there anything this committee can do to assist you in that area?

Mr. KENNARD. Well, we have certainly watched with great interest the efforts of Chairman Levitt of the SEC to try to address this problem, and I would be very pleased to have a discussion with you about how we might stem the outflow of staff into the private sector by being able to pay them more.

Senator GREGG. Well, we are interested in pursuing those avenues. I feel strongly that our Federal regulatory agencies, which are technically oriented such as yours, need to have staff that are technically capable. If you have staff that don't understand the technologies that they are supposed to regulate, you end up with a problem.

Mr. KENNARD. We would be delighted to have some further discussions with you on that.

Senator GREGG. We sure would be open to that.

C-BLOCK LICENSES

There are a number of issues which this committee has paid some attention to, one of which is the spectrum auction issue and the C-block specifically. Can you give us a brief summary of where that stands?

Mr. KENNARD. Certainly. We are still involved in attempting to allow the FCC to re-auction the C-block licenses that are currently in the bankruptcy court. We are awaiting a decision by the Second Circuit Court of Appeals which hopefully will allow us to proceed with a re-auction of the C-block licenses in the summer.

Again, I want to tell you how much we appreciate the support that you have given us in this effort, the opportunity to appear before you in the Senate Finance Committee a few months ago, and also the work of your staff in supporting our efforts to be able to reclaim these licenses that rightfully belong to the American public and have them re-auctioned. It is very, very important.

Senator GREGG. Just to put this in perspective, the company that originally won this bid agreed to pay $4.3 billion. Is that correct?

Mr. KENNARD. Yes.

Senator GREGG. And that company then paid approximately $500 million as a down payment?

Mr. KENNARD. That is correct.

Senator GREGG. And then it filed bankruptcy.

Mr. KENNARD. Yes.

Senator GREGG. And in the bankruptcy, its creditors and as part of its reorganization plan, it alleged it should own the spectrum which it had won with the bid without further funds being paid.

Mr. KENNARD. That is correct.

Senator GREGG. So instead of $4.3 billion, the attempt was to buy the spectrum for $500 million.

Mr. KENNARD. An additional $500 million, right. They were seeking to have the bankruptcy court write down—in effect, write down their debt to a total of about $1 billion.

Senator GREGG. Then the bankruptcy court, on appeal, it was determined that the FCC and the American taxpayer owned the spectrum, and that it was not an asset of the bankruptcy court or of the bankruptcy estate, correct?

Mr. KENNARD. That is right.

Senator GREGG. So now it is back in your hands under the decision of—was it the Second Circuit?

Mr. KENNARD. Yes. Actually, the bankruptcy court. The determination of the bankruptcy court was appealed to the Second Circuit, and the Second Circuit affirmed the FCC's regulatory authority to reclaim the licenses after the default.

Senator GREGG. Which is reasonably logical since it is the taxpayers' asset, and I don't believe any private citizen has the right to take the assets of the Government.

Mr. KENNARD. Exactly right.

Senator GREGG. I mean, that is almost black letter law, as I recall. You can't have adverse possession against the Government or bankruptcy possession against the Government.

So presently the taxpayers own it, and as I understand it, there has been a request to stay the auction again by the original bankrupt estate, correct?

Mr. KENNARD. Yes, that is right. The company called NextWave, which is what I call the bankrupt licensee, is still fighting our efforts to reclaim the licenses in the Second Circuit. They have gone back to the bankruptcy court where they have been able to get favorable rulings, and the bankruptcy judge stayed our July auction.

We went to the Second Circuit. The Second Circuit allowed us to go forward and prepare for the July auction pending the outcome of a Writ of Mandamus, which is still pending before the Second Circuit. We hope to get a ruling soon.

But it is really important that we go ahead with this July auction, not just because of what is happening just in the C-block and the ability to reclaim for the American taxpayer the value of those licenses but, more importantly, for the auction process. It is very important that when people come before the FCC and promise to pay for a license that belongs to the Federal Government that they pay. Otherwise, that license should be reclaimed. It belongs to the American public.

Senator GREGG. Now, I understand that the bankrupt estate, NextWave, has offered, at least publicly through advertising, to pay the full $4.3 billion now. However, if it goes back to auction, would you presume that $4.3 billion would be the price that the American taxpayers would get for this?

Mr. KENNARD. I expect that the American taxpayers would get significantly more than that in a re-auction, and I base that on a couple of things.

One, over the pending months of this bankruptcy proceeding, another company known as NexTel, not to be confused with NextWave, was prepared to make a hostile tender offer for NextWave, to buy its principal asset, which is the licenses, and was prepared to pay $8 billion for those licenses.

We have also seen some reports out of Wall Street from analysts who follow the wireless industry that have estimated that in a re-auction these licenses would be sold for anywhere from $6 to $10 billion. So we think that the money, which would be a windfall to NextWave if they were able to retain these licenses, rightfully belongs to the American public.

Senator GREGG. So we are talking here about somewhere between $2 and $5 billion that the taxpayer would lose if NextWave was allowed to come in and pay its original price, which it was unwilling to pay to begin with and went into bankruptcy court to try to reduce to $1 billion.

Mr. KENNARD. That is correct.

Senator GREGG. So we are not talking small change.

Mr. KENNARD. No. This is real money.

Senator GREGG. This is real money and significant amounts of dollars, obviously. So when we see an ad in the newspaper that says that they are willing to pay $4.3 billion and that that is great generosity on their part, what they are really saying is they are willing to come in and pay $4.3 billion, turn it around and make maybe a $4 billion profit.

Mr. KENNARD. That is correct.

Senator GREGG. All at the expense of the taxpayer.

Mr. KENNARD. Correct.

SPECTRUM CAP

Senator GREGG. Now, in the auctioning of spectrum, there is this issue of designated entities and the spectrum cap. Do you anticipate that the FCC will take any action to grant waivers in the area of the cap or spectrum capacity?

Mr. KENNARD. It is hard for me to say at this point. We have a number of petitions before us seeking waivers of the spectrum cap and also waiver of the designated entity rule, and I really haven't decided yet. I want to study the record and talk to a number of people both inside and outside the agency before I make a determination.

Senator GREGG. Wouldn't it increase considerably the number of bidders participating if neither of those limitations were in place?

Mr. KENNARD. That is probably true, but we would have to balance that against the statutory mandate in Section 309(j) of the Act which gives us auction authority to ensure that there are opportunities for participation by small businesses. So it is going to be a balancing act that we are going to have to look at.

Senator GREGG. When we are talking these dollars, we are really not talking small business, are we?

Mr. KENNARD. No, and that is going to be one of the considerations, clearly.

Senator GREGG. You were talking about——

Mr. KENNARD. I think we are talking smaller versus larger. I think that is where it breaks out.

Senator GREGG. You know, when you get over $1 billion, I am not sure—small business is something in New Hampshire. When you are over $1 billion, you are not dealing with many companies in New Hampshire.

Mr. KENNARD. Well, we hope to have some bidders from New Hampshire as well, Mr. Chairman.

LOW-POWER FM RADIO SERVICE

Senator GREGG. If you do, it will be interesting.

The low-power license issue—National Public Radio, I see, has put in a complaint about this question, which is interesting. As you know, I personally have some concerns about this. Maybe you could tell us your thoughts on this.

Mr. KENNARD. Certainly. Well, Senator, first of all, the goal of having a low-power FM radio service is to meet the tremendous demand by nonprofit organizations to access the airwaves and speak to their communities, and there has been a huge outpouring of interest in this rulemaking from churches, from schools, from universities, from governments.

We believe that a low-power FM radio service can be accommodated without causing harmful interference, and we have watched the debate closely here in the Congress and, of course, before the FCC, and, frankly, there has been a lot of misinformation that is swirling around this issue—misinformation by incumbent broadcasters who are creating all sorts of horror stories that low-power FM is going to create lots of destructive interference.

We at the FCC are charged by you with policing the airwaves against interference, and during my tenure as Chairman, I have shut down more pirate radio stations operating illegally than any Chairman in history. So I have a record of and a commitment to making sure that there is not harmful interference on the airwaves. We have an expert engineering staff. We have done the studies. We have determined that we can have a low-power FM service without causing destructive interference.

Now, it may cost some additional competition to incumbents, but based on the Telecom Act, competition is a good thing. We ought to have more voices over the airwaves. So I would invite the opportunity to meet with you and your staff and present to you our technical studies so that we can demonstrate that low-power FM is not going to create the sort of interference nightmare that some of the incumbents have been saying.

And having practiced before the FCC 12 years before I came to the FCC almost 7 years ago, I have seen a history of incumbents trying to frustrate the introduction of new voices and new technologies. And if we buy into these arguments that we should never have more voices on the airwaves, we will be playing into the same scare tactics, the same fears that were brought to the FCC to try to stop cable television in the 1970s and even to stop the direct broadcast satellite industry in the 1980s and 1990s.

Nobody wants competition in their backyard, but these are small, nonprofit groups. They are not even going to be competing for advertising revenues. So this should not be seen as a threat to the incumbent commercial broadcast industry. This should be seen as a complement.

And I am aware of the concerns of National Public Radio. I have met with their president, and NPR, of all organizations, they understand the need for more nonprofit voices on the airwaves. And we will try to assure them that this service is not going to create destructive interference to their members. And I am confident that we can do that, and I would like the opportunity to try to convince you as well.

Senator GREGG. We are joined by the chairman of the committee.

Senator STEVENS. Good morning.

Mr. KENNARD. Good morning, Mr. Chairman.

Senator GREGG. Does the chairman want to ask some questions?

Senator STEVENS. Go right ahead.

MERGERS

Senator GREGG. What is the status of monitoring mergers that might affect the Internet? Are you doing anything in that area such as MCI, Sprint?

Mr. KENNARD. Yes, that particular merger is still pending before us. That is not a merger per se that I would say affects the Internet. It really has to do with the merger of two long-distance companies and whether that merger is in the public interest. And we are in the midst of developing a record on that and will probably be deciding soon.

Senator GREGG. Mr. Chairman?

Senator STEVENS. Thank you. I am sorry to be a little late and to have missed your statement, Mr. Chairman.

Senator GREGG. That is quite all right.

Senator STEVENS. I had to attend a little convention that is meeting here.

UNIVERSAL SERVICE

You and I have had talks about universal service.

Senator GREGG. Yes.

Senator STEVENS. And you know how I feel about those funds, that they are ratepayer funds. That concept really was developed following an initiative of Senator Inouye and myself when we tried to find some way to average the costs of telephone service to Alaska and Hawaii. But the interstate rate pool came out, and it really was a system that was developed by the carriers to provide ubiquitous service, and it worked.

I was surprised to find that there is a growing feeling that these funds should be deposited in the Treasury. That would be the same as calling them a tax. They have not been a tax, and I think we have all opposed such a tax. As a matter of fact, if that happens, we set such a precedent that we are liable to have to start taxing the Internet and a lot of other things and none of us wants that. I think we want to find some way to work out an arrangement so that we can have support from whoever provides telephony for the service to those areas which cannot really afford it. I have talked to Steve Case [chairman of AOL] and Mr. Levin [chairman of Time Warner] had a meeting at the Commerce Committee. They agreed, and they are willing to work on such a concept for all developing communications.

But what do you believe? Do you believe these should go in the Treasury? Do you think they were tax monies?

Mr. KENNARD. No, I don't. As you point out, universal service has been very successful for our country, vital to our telephone networks, and for decades it has been administered by a non-Federal entity, the National Exchange Carriers Association, through a system of inter-carrier transfers with the funds being held outside the Treasury. And that system has worked very well for our country for decades.

I think the confusion arose after the enactment of the 1996 Act when the Office of Management and Budget included the universal service fund as part of the United States budget as Federal funds. We are working closely with the Congressional Budget Office and OMB and Treasury to try to get a clarification on this because we feel that the system has worked well for decades as classifying these as non-Federal funds. We hope that Treasury and OMB will confirm to us, notwithstanding this confusion in the 1996 Act, that the fund can continue to be administered in the present manner as non-Federal funds outside of the Treasury.

Senator STEVENS. Well, I think all of us from rural areas would applaud you on that stand. I hope that we get a decision from them that makes sense. I want you to know I stand ready to take whatever action is necessary to preserve the independence of that fund because I think that is the only way it can work. It is a business judgment of what is needed and not a tax that could ever be increased and diverted off into other areas.

Now, we had some disagreement about what happened in terms of the schools and libraries, but that has worked, and it really hasn't expanded the demand. I think we have sort of buried our hatchet on that one. We believe it was necessary, and it is now something totally ingrained in the system. But to have it become a tax and be treated as a tax, it will affect the conduct of this committee in many ways if it continues.

Mr. KENNARD. Well, you would be a very powerful ally in this effort, Mr. Chairman, and I would appreciate your help on this.

Senator STEVENS. I would be pleased to help in any way that you think we can help, and I know I speak for Senator Inouye, too. Our States have benefited from this concept, and we are now in the 21st century with everyone else. We want to go ahead with everybody else. And I was really pleased to have the commitment of AOL/Time Warner that they would work with us and make certain that this concept would not be lost with whatever develops in the future.

SECTION 271 PETITION

This is not really my bailiwick, necessarily, but you have put fines now on Bell Atlantic for the failure to comply with your decision regarding their 271 petition, as I understand it. This was for failing to switch local customers to their competitors in New York, as I understand it.

Mr. KENNARD. Yes, sir.

Senator STEVENS. Were those actions that led to the fines pending before the 271 petition was approved?

Mr. KENNARD. No. This was an issue that arose shortly after the filing—the grant of the 271 application. We had been monitoring throughout the pendency of the application the way that Bell Atlantic had established a system to cut over lines and to provide lines for DSL. And the action that we took recently was a recognition that the platform for provisioning these lines to competitors was not as stable as we would like. And so we imposed some fines for the inability of Bell Atlantic to get into compliance on time, and we are monitoring them closely to make sure that this platform stabilizes. If it doesn't stabilize, then more action may be warranted.

Senator STEVENS. Well, I understand the Department of Justice has raised concerns about SBC in the Texas region, and they have, I believe, an application pending. Don't you think that should be a condition of the granting of the 271 petition to comply with the 1996 Act before they get the 271 approved?

Mr. KENNARD. Well, I assure you, Mr. Chairman, that the FCC is not going to grant a 271 application unless we can be assured that the market is open and competitors have meaningful access to compete. And, of course, that is what we are grappling with right now with the SBC application to determine whether that record demonstrates that SBC has sufficiently opened its market to competitors. We haven't made a decision yet.

Senator STEVENS. I am pleased to hear you say that. I hear people criticizing the 1996 Act all the time, but I think it is working.

Mr. KENNARD. So do I.

Senator STEVENS. And I think that the way it works is through effective enforcement, and so I congratulate you.

LOW-POWER READING SERVICES

I was visited the other day by members of the blind community from my State, and they had some questions about the low-power FM issue. Are you conducting tests to see that the low-power reading services that are made available to the blind and visually impaired are not interfered with by local signals?

Mr. KENNARD. Well, before authorizing the low-power FM service, our engineers conducted tests. There were also tests submitted in the record, and the FCC was able to determine, before voting on that new service, that it would not cause harmful interference to any incumbent service, including the radio reading service.

Senator STEVENS. Well, it is my understanding they are going to use low-power for their reading services and that they feel that they are being interfered. But, in any event, I hope that you are looking into that. I am hearing from public radio they don't really like the low power. Is there a conflict coming there that we don't understand?

Mr. KENNARD. I believe that there is a lot of fear because this is a new service, and I am confident, though, that once these stations are licensed and people actually begin living with them in their communities, a lot of this fear will dissipate.

We have had low-power stations in this country in the past, and we know that they can co-exist with full-power stations. This is not a new experimental technology. We have been living with the FM band for many, many years in this country. Now, we know how those signals propagate. We know how low-power stations operate. And I am confident that once these stations get licensed and people start to listen to them and enjoy them, they will realize that they can co-exist in harmony with other stations.

Senator STEVENS. How are they themselves going to be monitored so that they don't interfere with existing signals?

Mr. KENNARD. They will be monitored like any other broadcaster. They will have a license, and they will have to operate consistent with the parameters of their license; and if they don't, they will have to——

Senator STEVENS. But you have to have a listening post within the parameter of their low power, and I understand that is not going to be possible.

Mr. KENNARD. To have—I am sorry, sir.

Senator STEVENS. You have to have a listening post within the parameters of the low power to know whether they are interfering, don't you?

Mr. KENNARD. No, they will be operated just like the full-power FM stations. They will have a license. They will have to operate within their licensed parameters, and if they don't, then it is an enforcement issue. And the FCC has field offices that periodically monitor different radio markets to make sure that everyone is abiding by the rules, and they will be treated just the same as full-power stations.

Senator STEVENS. My last question. I know that Senator Gregg has got a bill on that, as a matter of fact, dealing with low power.

Senator GREGG. Yes. We have discussed it.

Senator STEVENS. You have already. Sorry for coming in late.

Senator GREGG. No. It is good to go over it again.

CROSS-OWNERSHIP RULES

Senator STEVENS. This last one is sort of a strange one to bring up with you in some ways, but I come from a State that almost all of its local newspapers have now been acquired by people who live outside of our State, and much of the over-the-air media, cable media, is still owned by local people.

As the newspapers started to fail, I believe that the cross-ownership ban led to their demise as a local influence because they were sold off. I don't know if you saw this enormous article in the Wall Street Journal about the cross-ownership ban.

Mr. KENNARD. Yes, I did see that.

Senator STEVENS. I understand that you are proceeding with rulemaking on this. Is that correct?

Mr. KENNARD. Well, we have——

Senator STEVENS. Cross-ownership.

Mr. KENNARD. We have existing cross-ownership rules, and under the Telecom Act, we are required to review those rules every 2 years, and we are in the process now of reviewing all of our ownership rules in that context.

Senator STEVENS. Well, I urge you to go to rural America and review it. I think it has always been reviewed in the megapolis areas where there are enormous newspapers and enormous chains. It is my feeling that local newspapers have gone practically underground because they did not have the ability to move out and have cross-ownership in their area. There is still a deep feeling, as the article points out, by some Members of Congress against it. But as we see what has developed as we get into more and more competition within the media, no one could have dreamed of what we have got now. The people who have the local cable television or radio stations have a great interest in having another outlet for their capabilities, and there is a savings to be had in merging the newsrooms of local TV and the local newspaper. I think this cross-ownership ban has hurt rural America. I would urge you to really get some people to study that so that we can see if you can't modify it in the megapolis areas, or at least give some leeway in rural America so that we can have the continued local ownership of these things. You know, it is a strange thing when you start losing the page in the papers that covers Boy Scouts and Girl Scouts and other things. All everybody ever reads is the bad news from the rest of the world instead of the good news from home. We would very much like to see some leeway or local ownership in rural America if it cannot be modified as a whole.

Mr. KENNARD. We will certainly look at that, Senator.

Senator STEVENS. It is nice to see you, and I want to extend to you and the chairman of the subcommittee another invitation to come up and conduct a little marine research this year.

Mr. KENNARD. It would be delightful. Thank you very much.

Senator STEVENS. Thank you very much.

Senator GREGG. Thank you, Mr. Chairman.

Mr. KENNARD. Thank you.

ADDITIONAL COMMITTEE QUESTIONS

Senator GREGG. Thank you. Get us some ideas, if you have some, on the staffing.

Mr. KENNARD. We certainly will.

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

QUESTION SUBMITTED BY SENATOR TED STEVENS

Question. More and more of my colleagues are talking about your review of mergers or imposing a time limit on your ability to review them. What are you doing to address these concerns? What pending mergers do you have that have been reviewed for over six months and when can we expect them to be resolved?

Answer. In the years since passage of the 1996 Amendments to the Communications Act, there has been a substantial increase in the number of mergers among companies holding licenses or authorizations issued by the FCC. The FCC must approve the transfers of these licenses and authorizations under the public interest standard set forth in the statute. In response to the increased burden of more numerous applications, the importance of the FCC's review to implementing the purposes of the Communications Act, and concerns expressed by Congress, applicants, and the public, the FCC has taken several steps to explain and improve its process for reviewing applications and requests relating to mergers.

—At the direction of the Chairman, a Transactions Team has been established within the Office of General Counsel with the responsibility to ensure that the agency's review process relating to proposed mergers is efficient, consistent, transparent, and predictable.

—The Team collected information within the agency, met with members of the Communications and Antitrust Bar and with representatives of public interest groups, and held a Public Forum on March 1, 2000, during which it presented and asked for comment on proposals to make the process more transparent and speedy while maintaining fairness and ensuring sound results.

—Those steps include a proposed timeline for reviewing merger-related applications that identifies the stages and mechanics of the review process and is calculated to complete processing in even the most complex cases within 180 days of public notice of the application, as long as applicants provide the necessary information and do not substantially revise the application at a late stage.

—The Transaction Team also established a site on the world wide web that contains more detailed information on its purpose, activities, and proposals and through which the public can obtain specific information on the status and progress of applications related to specific major mergers. The Transaction Team site may be reached easily from the FCC home page at http://www.fcc.gov.

—Comments on the proposals were due March 28, 2000, and are currently being reviewed.

—Web pages applying the proposed timeline to specific mergers have been established for two major recent proposed mergers—MCIWorldcomm/Sprint and AOL/TimeWarner as examples and experiments.

—The Transactions Team is also taking steps to facilitate coordination among the various Bureaus at the Commission that have jurisdiction over different types of licenses and authorities that may be involved in a single transaction, and to increase coordination and minimize with other governmental agencies (primarily the Department of Justice and the Federal Trade Commission) that have jurisdiction over the transactions under the antitrust laws.

—As to implementation, many of these steps can be taken without the need for or delay associated with formal rulemakings, and are being implemented, at least on an experimental basis, as soon as practical with respect to pending transactions, to the extent that they appear to provide greater efficiency, transparency, and predictability. The Transaction Team expects to provide constant information on its progress on its web page, and will periodically provide reports and public notices of significant changes or revisions. After appropriate experience has been gained, a rulemaking may be considered to implement changes that have proved valuable and successful.

The mergers with related applications that have currently been pending before the FCC for more than six months generally involve special circumstances, and the Commission expects to address them expeditiously. For example, applications related to the proposed merger of Bell Atlantic and GTE, although originally filed in

late 1998, were put on hold at the request of the applicants until the end of January, 2000, so that the applicants could develop a proposal to bring the transaction into compliance with Section 271 of the Communications Act. The January proposal has since itself been revised and is currently being discussed by the applicants, the Commission, and other parties in an effort to resolve these issues. Applications relating to the proposed merger of AT&T and Media One, which were originally filed in July of 1999, were substantially revised in late November, 1999. Applications relating to the proposed Sullivan Broadcasting Co. Inc./Sinclair Broadcasting Group, Inc. merger pending before the Video Services Division of the Mass Media Bureau were substantially modified in November, 1999, upon the effective date of new agency rules, and are heavily contested.

Applications relating to a significant number of proposed transactions (approximately 25) involving holders of radio station licenses have been pending for over six months. The proposed mergers to which these applications relate generally would significantly increase concentration in local radio markets and present special problems arising from a combination of the relaxation of absolute numerical limits on ownership in the 1996 Act and the Commission's definition of the "market" in these situations. These levels of concentration raise concern about competition and diversity, and several of these transactions are under investigation by the Department of Justice. The FCC has devoted substantial time to address the underlying issues and anticipates taking action to address these issues within the next two months. In the meantime, the Commission is undertaking to address and resolve, to the extent it can, the circumstances of particular cases that have been pending for an extended time.

QUESTIONS SUBMITTED BY SENATOR ERNEST F. HOLLINGS

Question. The FCC recently determined that the local phone market in New York is open to competition and granted Bell Atlantic authority to enter the long distance market in New York. Since that time, Bell Atlantic has entered a consent decree with the FCC agreeing to pay fines because it has not been able to provide service to its competitors as required under section 271. What actions can the FCC take to ensure that Bell Companies do not provide substandard service after obtaining section 271 authority? What processes does the FCC have in place that will allow it to effectively enforce its section 271 orders? While the FCC has used fines as an enforcement tool, what other enforcement tools are at the FCC's disposal to ensure quick compliance with section 271?

Answer. The Commission has various options available to it to ensure that Bell Operating Companies ("BOC" or "BOCs") maintain the openness of their local markets to competition following the Commission's grant of authority to provide in-region interLATA service under section 271 of the Communications Act of 1934, as amended. The Commission is committed to aggressive, fair and rapid enforcement of the post-entry requirements using all means at its disposal. As the Commission previously stated in authorizing Bell Atlantic's section 271 application, "[s]wift and effective post-approval enforcement of section 271's requirements . . . is essential to achieve Congress's goal of maintaining conditions conducive to achieving durable competition in local markets."[1]

Section 271 includes specific language allowing the Commission to take enforcement action to ensure that a BOC continues to comply with the requirements of section 271 following Commission approval. The Commission is authorized to take such action if, at any time after approval of the application, the Commission determines that a BOC "has ceased to meet any of the conditions required for such approval."[2] After "notice and an opportunity for hearing," the Commission may: (i) issue an order to such company to correct the deficiency; (ii) impose a penalty on such company pursuant to title V; or (iii) suspend or revoke such approval. The Commission has determined that section 271's hearing requirement does not require formal, trial-type evidentiary proceedings before an administrative law judge.[3] Rather, the Commission has stated that a paper proceeding is sufficient to satisfy this requirement.

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[1] *Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act To Provide In-Region, InterLATA Service in the State of New York*, CC Docket No. 99–295, Memorandum Opinion and Order, FCC 99–404, (December 22, 1999), at ¶ 446 (*Bell Atlantic New York 271 Order*), *appeal pending sub nom. AT&T Corp.* v. *FCC* (D.C. Cir. filed Dec. 27, 1999) (No. 99–1538).

[2] 47 U.S.C. § 271(d)(6)(A).

[3] *Bell Atlantic New York 271 Order* at ¶ 450.

The strongest enforcement mechanism available to the Commission is found in section 271(d)(6)(A)(iii), which authorizes the Commission to suspend or revoke section 271 approval. If the Commission determines that a BOC has ceased to meet any of the market opening conditions specified in section 271, the Commission could elect to issue a "stand-still" order prohibiting the BOC from enrolling additional subscribers for its interLATA service and from all marketing and promotion of interLATA service. Such a stand-still order would effectively freeze the BOC's interLATA subscriber base as of the date of the order and could remain in effect until such time as the record is sufficiently clear that the BOC has fully corrected the problem. In extreme cases, it also could revoke the BOC's authority to provide interLATA service altogether.

Additionally, the Commission may assess forfeitures against non-compliant BOCs in accordance with section 271(d)(6)(A)(ii). Such a penalty would be assessed by the Commission pursuant to Title V of the Communications Act. Section 503(b)(1)(B) allows the Commission to assess a forfeiture penalty against any person who has willfully or repeatedly failed to comply with any of the provisions of the Communications Act or any rule, regulation or order issued by the Commission. The Commission, upon determining that this type of enforcement action is warranted, could elect to issue a notice of apparent liability to the allegedly non-compliant BOC and allow the BOC to respond in writing, in accordance with section 503(b)(4), or conduct a formal forfeiture hearing before an administrative law judge in accordance with section 503(b)(3). The amount of any such forfeiture penalty is limited by section 503(b)(2)(B) which provides that a common carrier may be liable for a forfeiture penalty not to exceed $100,000 for each violation or each day for a continuing violation, except that the total forfeiture amount for a continuing violation shall not exceed $1,000,000.[4]

A third section 271 enforcement avenue available to the Commission allows the Commission to issue an order requiring a non-compliant BOC to correct any deficiencies pursuant to section 271(d)(6)(A)(i).

In addition to its section 271(d)(6) enforcement powers, the Commission continues to have its pre-existing enforcement powers, including its authority under sections 206–209 of the Communications Act. For example, the Commission maintains the ability to resolve formal complaints filed by competitors affected by the allegedly non-compliant BOC's actions and, among other things, to award damages if warranted. Pursuant to section 271(d)(6)(B), the Commission is required to review formal complaints properly alleging section 271 violations within 90 days.

In order to evaluate the post-grant performance of BOCs that have received section 271 authorization, as well as to initiate or recommend enforcement action where appropriate, the Commission's Enforcement Bureau has established a section 271 enforcement team. The primary functions of the team are: (1) to review complaints and other information from interested persons regarding post-grant "backsliding" by BOCs whose applications are approved; (2) to undertake or recommend swift and effective enforcement action where appropriate; and (3) to act as the point of contact within the Commission for persons wishing to provide information regarding possible "backsliding" by BOCs. The team is headed by the Deputy Chief of the Enforcement Bureau and includes senior attorneys and auditors from the Enforcement Bureau as well as the Common Carrier Bureau.

One of the core objectives of section 271 as well as the entirety of the Telecommunications Act of 1996 is to increase significantly the competition in the local telephone markets. The Commission has various mechanisms available to it to ensure that the BOCs, after gaining section 271 approval, maintain the openness of their local service markets. The Commission is committed to the vigorous and efficient enforcement of the conditions of the BOC entry into the interLATA market and will not hesitate to utilize the tools at its disposal to accomplish this objective.

Question. In Congress, we have heard from a number of licensees who are frustrated by the amount of time it takes the FCC to conclude its review of mergers. What is the FCC doing to ensure greater transparency and efficiency in its merger review process? When will the FCC implement its proposed merger review guidelines? What if any mergers have been pending before the FCC for more than 6 months?

Answer. In the years since passage of the 1996 Amendments to the Communications Act, there has been a substantial increase in the number of mergers among companies holding licenses or authorizations issued by the FCC. The FCC must approve the transfers of these licenses and authorizations under the public interest

[4] Due to inflation adjustments, the maximum for each violation or each day for a continuing violation is now $110,000 and the maximum total forfeiture amount for a continuing violation shall not exceed $1.1 million.

standard set forth in the statute. In response to the increased burden of more numerous applications, the importance of the FCC's review to implementing the purposes of the Communications Act, and concerns expressed by Congress, applicants, and the public, the FCC has taken several steps to explain and improve its process for reviewing applications and requests relating to mergers.

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The mergers with related applications that have currently been pending before the FCC for more than six months generally involve special circumstances, and the Commission expects to address them expeditiously. For example, applications related to the proposed merger of Bell Atlantic and GTE, although originally filed in late 1998, were put on hold at the request of the applicants until the end of January, 2000, so that the applicants could develop a proposal to bring the transaction into compliance with Section 271 of the Communications Act. The January proposal has since itself been revised and is currently being discussed by the applicants, the Commission, and other parties in an effort to resolve these issues. Applications relating to the proposed merger of AT&T and Media One, which were originally filed in July of 1999, were substantially revised in late November, 1999. Applications relating to the proposed Sullivan Broadcasting Co. Inc./Sinclair Broadcasting Group, Inc. merger pending before the Video Services Division of the Mass Media Bureau were substantially modified in November, 1999, upon the effective date of new agency rules, and are heavily contested.

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and anticipates taking action to address these issues within the next two months. In the meantime, the Commission is undertaking to address and resolve, to the extent it can, the circumstances of particular cases that have been pending for an extended time.

Question. In the merger review context, there have been legislative proposals to curtail the FCC's public interest review authority. I am a strong supporter of the FCC's public interest authority. In your opinion, why is it important that the FCC maintain its public interest authority?

Answer. The FCC's authority and responsibility to review applications related to proposed mergers under the public interest standard is particularly important in the context of today's communications industry. Since the 1996 Act, the industries licensed by the FCC have experienced a wave of consolidation that is unprecedented, at least since AT&T constructed its monopoly position in the early development of telephone service that led to decades of regulation. The FCC provides the only forum in which applications related to these mergers (which have generated a substantial amount of interest and comment from the public) can be reviewed in the context of a public proceeding, governed by the Administrative Procedure Act, with a written decision explaining the results.

The public interest standard applied by the FCC in its review has a long pedigree as a useful and flexible device for such review. Although flexible, the standard is not without content. To the contrary, the FCC's recent decisions in major merger cases have tied the standard to the provisions of the Communications Act and the agency's regulations implementing that Act. The standard is not limited to remedying specific violations of the Commission's existing rules, however, and this provides important flexibility. Innovation in these industries is occurring at a frantic pace. Businesses and markets are changing rapidly as new technologies replace old and brush aside old models. This innovation is both the product and the source of healthy competition, which allows the agency to reduce and avoid direct government regulation. But the threat posed by innovation to existing firms can create strong incentives to take defensive steps to block competition or raise barriers to innovation or market entry. Mergers can both promote efficiency and competition and make defensive actions easier. The public interest standard allows the FCC in a public proceeding to examine the impacts of proposed mergers, and determine whether the merger will promote or endanger the goals of the Communications Act. Those goals include not only enhancing (not merely preserving) competition, but also maintaining diversity and encouraging the rapid and broad deployment of new technologies to all Americans. The advantages of a flexible public interest standard anchored in the express policies of the Communications Act over fixed rules that often require years to propose and adopt are readily apparent in the rapidly changing environment of today's communications industries. It is difficult enough to keep up with challenges of rapid change today even with the public interest standard. Without this standard, efforts to protect and preserve the goals of the 1996 Communications Act in an era of rapid consolidation would be severely impaired.

Question. Many countries made WTO commitments to open their telecommunications markets to foreign competition. But several countries appear to be having difficulty fully implementing their WTO commitment. For example, U.S. carriers recently highlighted implementation problems with Mexico, Canada, South Africa, Peru, and Japan. What steps have the FCC affirmatively taken to enforce open markets abroad? Please provide specific examples of problems, solutions, and resulting behavior.

Answer. The FCC has a unique role to play in the process of ensuring that foreign markets are open to U.S. telecommunications companies, as many countries look to the FCC as a model independent regulator and to the FCC's regulations as models for the introduction of competition into telecommunications markets. The FCC's activity in promoting competition in other countries generally falls into two categories: (1) engaging in discussions with and providing technical assistance to foreign telecommunications regulatory bodies; and (2) providing input for U.S. government comments in select critical proceedings of foreign telecommunications regulatory bodies.

The FCC has extensive and regular contact with telecommunications regulators and other government officials around the world. These contacts take the form of formal bilateral meetings, informal talks and side discussions at various international meetings. Through its International Visitors Program, the FCC has hosted approximately 400 officials from 100 countries in 1999 alone. These contacts provide the FCC an opportunity to offer technical assistance to countries seeking to introduce competitive reforms as well as to urge the resolution of specific problems. We highlight below FCC efforts to establish contacts and address competitive concerns in the specific countries about which you inquire.

Mexico

The FCC has a long-standing working relationship with the Mexican telecommunications regular, Comisión Federal de Telecomunicaciones (Cofetel), characterized by ongoing discussions on a variety of issues of concern to the United States, including: establishing cost-oriented interconnection rates; issuing regulations to allow resale in Mexico; preventing anti-competitive actions by the dominant carrier, Telmex; issuing dominant carrier regulations that would apply to Telmex; and creating a transparent, nondiscriminatory universal service program.

Chairman Kennard discussed these issues with his Mexican counterpart, Mr. Jorge Nicolin, the Chairman of Cofetel, during a recent visit to the United States by Mr. Nicolin. Chairman Kennard also expressed concerns with Mexican policies to Mr. Nicolin's predecessor and to the Chairman of Telmex, Mr. Carlos Slim Helu. Chairman Kennard recently participated in a panel at the recent Latin American Telecommunications Summit (LATS) on interconnection at which Mexican regulators were present. FCC staff have had frequent contact with their counterparts at Cofetel, including meetings in July 1999 that focused on universal service issues. At that meeting, an FCC expert presented U.S. concerns with Mexico's universal service program. Adoption of a non-discriminatory, transparent universal service program is critical to Mexico's plans to adopt cost-oriented interconnection rates. In addition, FCC staff have frequent contact with Cofetel staff at various meetings of the regional organization, Inter-American Telecommunications Commission (CITEL).

Cofetel has taken some important steps towards addressing concerns raised by the FCC, although much work remains to be done. On March 28, 2000, Cofetel announced that they would be issuing dominant carrier regulations that will apply to Telmex, the former monopoly provider of telecommunications services in Mexico. CITEL, under the direction of FCC staff working as a rapporteur, has adopted "best practice" guidelines for interconnection. These CITEL best practice guidelines provide valuable and influential guidance to countries throughout Latin America, including Mexico, on an issue of critical importance to promoting competition.

Germany

The FCC has frequently engaged the German telecommunications regulator, Regulierungsbehoerde für Telekommunikation und Post (RegTP), in discussions on issues of concern to the United States regarding the German telecommunications regulatory framework, including: excessive licensing fees; the transparency of cost data; and controlling the anti-competitive billing and collection practices of the dominant carrier, Deutsche Telekom.

Chairman Kennard raised these issues in a meeting with Chairman Scheurle of RegTP in September 1999. FCC experts also held two days of tutorials for RegTP in April 1999 on a variety of topics of concern to new entrants. In November 1999, an FCC economist worked with RegTP staff on cost modeling issues and the use of protective orders to safeguard proprietary data while still providing opportunity for public scrutiny and comment. In March 2000, the U.S. government, with FCC participation, held bilateral negotiations with RegTP and the German Ministry of Economics. FCC staff have also met with officials from Deutsche Telekom (DT), the former monopoly provider of telecommunications services, to discuss issues of competition, resale, interconnection and regulatory transparency. The FCC has also engaged the European Commission on competition issues in Germany and elsewhere in Europe. Finally, the FCC coordinated the submission of U.S. government comments in the 1999 EU Communications Review as well as the EU consultation on unbundled local access.

RegTP has issued a number of important pro-competitive decisions addressing such issues as number portability (April 1998), pre-selection (June 1998), interconnection pricing (May 1999) and leased lines (September 1999). In February 1999, RegTP required a one-third reduction in the rates charged by Deutsche Telekom for competitors to use DT's unbundled local loop connections. In December 1999, RegTP announced a nearly 25 percent decrease in interconnection rates and expressed plans to lower further interconnection rates this year. In March 2000, RegTP announced that they will be reviewing and, if appropriate, adjusting their high licensing fees. Finally, the European Commission is closely reviewing German telecommunications regulatory policy and may recommend changes this year.

Canada

AT&T has recently raised concerns regarding the universal service funding obligation on competitive long distance carriers in Canada. The Canadian telecommunications regulator, the Canadian Radio-television and Telecommunications Commission (CRTC), denied a petition from AT&T and others requesting that the method-

ology used to determine universal service obligation be modified. This issue is presently pending on appeal before the Canadian Cabinet. CRTC also has indicated that it plans to review the methodology in the near future. The FCC assisted the Office of the United States Trade Representative (USTR) in drafting a letter to the CRTC raising potential concerns with the Canadian universal service program. The FCC and USTR are closely monitoring the ongoing CRTC and Cabinet review of the universal service program and based on the results of this review, will determine whether additional action is warranted.

In addition to cooperating with USTR to address concerns about Canada's universal service program, the FCC has met with Canadian officials on a number of occasions to discuss competition issues. The most recent of these meetings was in September 1999, when Chairman Kennard and senior staff met with senior officials of the CRTC to discuss a broad range of telecommunications issues and to promote cooperation between the two commissions.

South Africa

The FCC has long had a close working relationship with the South African Telecommunications Regulatory Authority (SATRA). To formalize that relationship, Chairman Kennard signed a work plan with SATRA in August 1999, in which the FCC agreed to provide SATRA technical assistance in matters of telecommunications regulatory policy. On several occasions since, FCC staff have met with key officials from Telkom South Africa, the Independent Broadcasting Authority and the South African Department of Communications to discuss a wide range of issues, including telecommunications regulation, broadcast regulation, satellite issues, spectrum allocation, numbering and competition policy.

AT&T has recently raised the concern that Telkom, the dominant carrier in South Africa, refuses to provision circuits to AT&T, in violation of a SATRA directive. FCC staff have participated in several videoconferences with South African government officials in an effort to resolve this situation. In addition, FCC staff will provide input into the submission of U.S. Government comments in the current SATRA regulatory proceeding that could contribute to a resolution of this issue.

Peru

Bell South has recently raised a concern with the high level of local interconnection rates charged by the dominant carrier, Telefónica de Peru. The FCC has worked with the Peruvian telecommunications regulator, Organismo Supervisor de Inversión Privada en Telecomunicaciones (OSIPTEL) since its inception on a series of issues relating to the introduction of competition. With the introduction of full competition in Peruvian telecommunications late last year, OSIPTEL must now ensure that interconnection rates are cost-based. OSIPTEL is looking to the FCC for guidance in meeting this obligation. In addition, Chairman Kennard recently signed a work plan with OSIPTEL in March 2000, in which the FCC agreed to provide OSIPTEL technical assistance in telecommunications regulatory policy matters.

At the recent meeting of the Latin American Telecommunications Summit (LATS), Chairman Kennard met with Chairman Kunigami of OSIPTEL as well as other top Peruvian officials to discuss the Bell South complaint. Kennard also held an in-depth seminar with one quarter of the staff of OSIPTEL on issues relating to interconnection and the establishment of an independent, effective regulator. We are hopeful that our ongoing dialogue with key individuals at OSIPTEL will result in a reduction in interconnection costs in that market. FCC staff have recently met with Peruvian officials to discuss tariff regulation, market entry and competition issues, benchmark issues and international simple resale (ISR).

Japan

The FCC has had numerous regulator-to-regulator discussions with the Japanese Ministry of Posts and Telecommunications (MPT) on a broad range of regulatory issues of key concern to the United States, including dominant carrier regulation, interconnection, universal service and competition policy. The FCC has also met with representatives from Keidanren, a major Japanese business organization which advises MPT, to discuss issues such as regulatory independence and safeguards against anti-competitive behavior. Recently, a major focus of talks has been on the high interconnection rates in Japan of the dominant carrier, Nippon Telegraph and Telephone (NTT). The FCC participated in recent deregulatory talks with Japan, hosted by USTR. Interconnection issues were a major topic of those talks.

Japan recently committed to reducing its interconnection fees to a cost-oriented level by 2003. The FCC will continue to engage its counterparts at MPT on interconnection issues and other competition policy concerns.

Israel

Through a series of bilateral meetings, the FCC urged the Israeli government to end a discriminatory policy that imposes a higher access fee on international calls to and from the United States. Recently, Israel committed in a letter to the United States to eliminate this discriminatory practice by December 31, 2001.

Question. Tribune recently announced plans to purchase the Los Angeles Times Mirror. This acquisition if approved, will result in Tribune owning television stations and newspaper properties in the same market in violation of the FCC's broadcast newspaper crossownership rules. The integrity of the broadcast crossownership rules will be undermined by this merger if the FCC does not act to ensure that the merger complies with its broadcast-crossownership rules. The FCC adopted its newspaper cross ownership rule in 1975 and the rule was upheld by the Supreme Court in 1978. I have been a strong supporter of this rule because it ensures that the public receives diverse information by preventing major media outlets from being owned by the same entity. I believe the FCC should implement its cross ownership rule with respect to the Tribune-Times Mirror merger and correct the procedural rule that suggests that the FCC wait until a renewal application is filed prior to considering the issue.

Please advise me of what steps you intend to take to deal with this problem so that the substance of the cross-ownership rule will not be undermined by the FCC's oversight with respect to properly updating its procedural rules. When will the FCC conclude a proceeding to bring the Tribune-Times Mirror merger into compliance with its broadcast-newspaper cross ownership rules and close the procedural loop hole in its rules?

Answer. In the Second Report and Order in Docket 18110, 50 FCC 2d 1046 (1975), the Commission stated that the newspaper/broadcast cross-ownership rule it was adopting in that proceeding would apply to new ownership patterns however created, whether by initial application and construction or by acquisition. In cases where a daily newspaper was acquiring a local broadcast station, the Commission would be able to act promptly with regard to the prohibited combination as part of its consideration of the assignment application that would have to be filed by the newspaper's owner and the seller of the broadcast property. However, because the Commission does not regulate newspapers, it would have no similar opportunity to assess the merits of the proposed merger in cases where the broadcast licensee was purchasing a local daily newspaper. Accordingly, in the Second Report and Order the Commission determined that if a broadcast station licensee were to purchase one or more daily newspapers in the same market, it would be required to dispose of its stations there within 1 year or by the time of its next renewal date, whichever is longer. If the newspaper is purchased less than a year from the expiration of the license, the Commission continued, the renewal application may be filed, but it will be deferred pending the sale of the station, if necessary, until the year has expired. At the time this provision was adopted the license period for broadcast stations was three years. Accordingly, in cases where the broadcast licensee acquired a local daily newspaper, it would have at the least one year in which to divest or, at most, three years.

Subsequently, however, Section 307(c) of the Communications Act was amended to extend the license term for broadcast stations to eight years. The Commission, to date, has not changed its retention policy with regard to broadcast stations' acquisitions of local newspapers to take into account this expanded license term. The Tribune/Times Mirror merger demonstrates that this policy is in need of review. Under the existing policy, Tribune will be able to maintain at least three local newspaper/broadcast combinations—combinations which our rules provide are contrary to the public interest—until the relevant broadcast station licenses come up for renewal in six or seven years. If the newspaper/broadcast cross-ownership provision is to remain a vital part of our ownership rules, it seems clear that the extended period of common ownership now permitted as a result of unrelated changes to broadcasters' license terms should be remedied. Accordingly, I intend to discuss with my colleagues what action might be appropriate to address this anomaly.

QUESTIONS SUBMITTED BY SENATOR DANIEL K. INOUYE

Question. I would like to commend the FCC for generally supporting the important universal service mandates found in Section 254(g). The Commission's continued adherence to these statutory mandates is vital to ensure that all Americans—including those in noncontinguous or remote areas—benefit from increased competition in the provision of interexchange telecommunications services. What is the status of proceedings dealing with the rate integration mandates of Section 254(g)?

Answer. The Commission's commitment to principles of geographic rate averaging and rate integration is reflected in orders dating from at least 1972. Congress codified these principles for the first time in 1996 by amending the Communications Act of 1934 to include section 254(g). The Commission promulgated rules to implement section 254(g) in its August 1996 First Report and Order on geographic rate averaging and rate integration. Under these rules, carriers generally are obligated to use the same basic rate structures and to offer the same general calling plans to all of their customers for interstate long-distance services, regardless of the U.S. state, territory, or possession in which the customers are located, or whether they are in rural or urban areas. Thus, interstate long-distance calls of similar distance, duration, and time of day should cost the same for all of a carrier's customers. Carriers accomplish this by "averaging" their interstate long-distance rates between low-cost (often urban) areas and high-cost (often rural) areas, and by "integrating" off-shore points such as Hawaii, Alaska, Puerto Rico, and the Virgin Islands into their domestic rate schedules.

Because the Commission had implemented a geographic rate averaging and rate integration policy through its orders before the 1996 Act, carriers already were obligated to provide averaged and integrated rates in all states, Puerto Rico, and the U.S. Virgin Islands at the time of the August 1996 order. In light of Congress' codification of the policy, however, the Commission began with the August 1996 order to ensure that all U.S. territories and possessions with more than de minimis amounts of telecommunications traffic were rate integrated. The Commission has determined that no further steps are required to ensure implementation of rate integration for U.S. territories or possessions other than Guam, the Northern Marianas, and American Samoa. Although rate integration is not yet fully implemented in Guam and the Northern Marianas, the Commission observed in a July 1997 order that subscribers already were enjoying substantially lower rates than they experienced prior to the 1996 order. The Commission's efforts to integrate American Samoa require it to address a variety of issues, including: (1) privatization of the government run telephone company and its division into separate local and long-distance entities; (2) provision of equal access arrangements to interstate long-distance providers; (3) participation of American Samoa in the North American Numbering Plan; and (4) inclusion of the local telephone company in the National Exchange Carrier Association (NECA). American Samoa's rates were fully integrated into the NECA tariffs as of July 1, 1999.

In construing section 254(g), the Commission has held that that a carrier must integrate its rates for a particular service across all its affiliates. The Commission also has held that rate integration now applies to all interstate, interexchange services, including those offered by satellite and Cellular Mobile Radio Service (CMRS) providers. In October 1997, the Commission stayed the affiliate rule as applied to CMRS carriers, and in April 1999 the Commission sought comment on how to implement the rate integration requirement for CMRS. The Commission intends to issue an order addressing these issues in August 2000. In the meantime, a challenge to the Commission's conclusion that rate integration applies to CMRS providers is pending before the United States Court of Appeals for the D.C. Circuit, with argument scheduled for April 2000. Also at issue in the appeal is application of the affiliate rule to wireline carriers.

Question. In the context of the FCC's efforts to reform the interstate access charge system, the possible geographic deaveraging of interexchange rates charged to end-users has been raised. What steps do you contemplate to assure that any reform of the interstate access charge system will not undermine Section 254(g)'s geographic averaging requirements or lead to unreasonable disparities in the interexchange rates charged to consumers in urban areas and those in remote or non-contiguous areas?

Answer. The Commission is currently considering adoption of a proposal made by a coalition of local and long-distance companies (the "CALLS proposal") that would permit local telephone companies to deaverage the flat monthly subscriber line charge (SLC) paid by end users on a limited basis. Nothing in the CALLS proposal permits interexchange carriers to charge higher rates to customers in rural or high cost areas, as prohibited by section 254(g). Further, the CALLS proposal would place absolute caps on the SLC and expand universal service giving all carriers, including competitive carriers, explicit interstate universal service support for providing service in higher cost areas. According to proponents of the CALLS proposal, the SLC caps and the expanded explicit universal service support would help to assure that consumers in rural, insular and high cost areas continue to have access to telecommunications and information services that are reasonably comparable to those services provided in urban areas, and at reasonably comparable rates. The Commis-

sion will keep universal service principles in the forefront in evaluating the CALLS proposal.

Question. I would like to commend the Commission for its attention to the need for securing DBS and DTH service for Hawaii, notwithstanding that the process has not gone as swiftly as was expected. It is my understanding that the Commission's rules and rulings require DBS operators such as EchoStar and DirecTV to provide DBS service to the State of Hawaii. For example, the rules obligate EchoStar and DirecTV to serve Hawaii from their newer orbital positions and satellites that were authorized after January 1996. Would you advise the Committee when the Commission expects its licensed DBS operators to actually begin providing service to the State; what actions the Commission [is] considering to ensure that this service is initiated expeditiously; and what steps are contemplated to assure that the State of Hawaii receives DBS and DTH (Direct-To-Home) services like those received in the Continental United States, as these services evolve?

Answer. The Commission recognizes the importance of establishing DBS as a competitor to cable in the multi-channel video programming distribution market in the state of Hawaii and has worked hard to ensure that DBS service providers include Hawaii in their service plans. By way of background, in the 1995 Revision of the Rules and Policies for the Direct Broadcast Satellite Service, Report & Order, 11 FCC Rcd 9712 (1995) (DBS Auction Order), the Commission adopted geographic service obligations for the state of Hawaii which require DBS licensees licensed after January 19, 1996 to provide service to Hawaii as well as Alaska upon commencement of operations, where technically feasible. In its DBS Auction Order, the Commission found that service to the state of Hawaii is technically feasible from the 110° W.L. and 119° W.L. orbital locations (both of which can provide full CONUS coverage) and that all four western DBS orbital positions (148, 157, 166 and 175 degrees W.L.) offer appropriate platforms for such service. In 1998, the Commission initiated a Notice of Proposed Rulemaking addressing the DBS rules and, among other things, requested comment on its geographic service rules.[5]

Specifically, we asked if there are other steps the Commission should take to ensure delivery of service to Hawaii and Alaska. This proceeding is still pending. Additionally, the International Bureau has had discussions with representatives from the states of Hawaii and Alaska and other interested parties concerning this issue. The International Bureau met EchoStar in late April 2000. Additionally, the International Bureau will meet DIRECTV and representatives of Hawaii and Alaska in June 2000 to discuss the issues involved and to determine the actual extent of DBS service to these states.

Based on our current information, the following describes our understanding of DBS service provided in Hawaii. EchoStar Satellite Corporation, which operates the DISH Network, is authorized to provide service from the 110°, 119°, and 148° orbit locations and currently has satellites at the first two locations. DIRECTV is authorized to provide service from the 119° W.L., 110° W.L. and 101° W.L. orbit locations. EchoStar filed a letter on December 17, 1999, informing the Commission of its plans to provide service to Alaska and Hawaii from its satellites located at 110° W.L. and 119° W.L. The Commission put this filing on public notice and has received comments. In its letter, EchoStar states that the EchoStar 5 satellite that was launched in September 1999, has recently commenced partial operations after undergoing successful in-orbit testing and that EchoStar is in the process of bringing its full capacity on line. EchoStar states that Hawaii will have at least fifty video channels in addition to targeted local channel offerings provided from this satellite located at 110° W.L. EchoStar was granted temporary authority to move its EchoStar 4 satellite to 119° W.L. where EchoStar asserts that it will enable residents of Hawaii to receive enhanced service from that location. EchoStar states that from the 119° W.L. location it will be able to provide more than 60 channels of core cable type programming to Hawaii and Alaska. EchoStar states that it also intends to serve Hawaii from its 148° W.L. orbit position when it launches a new satellite to that location. EchoStar's original plans to serve the State of Hawaii from 148° were delayed due to technical problems as described in its request for declaratory ruling. According to DIRECTV, it expects to serve Hawaii in the near future but has not announced a specific date.

The Commission is committed to ensuring that DBS providers serve the states of Hawaii and Alaska. To that end Commission staff is working on a number of projects to meet this objective. The staff will carefully consider all comments filed in the EchoStar proceeding, the Notice of Proposed Rulemaking, and the outcome

[5] *In the Matter of Policies and Rules for the Direct Broadcast Satellite Service*, Notice of Proposed Rulemaking, 13 FCC Rcd 6907 ¶ 34 (1998).

of the meetings with representatives of Hawaii and Alaska and DBS operators to determine whether DBS providers are meeting their geographic service obligation.

QUESTIONS SUBMITTED BY SENATOR FRANK R. LAUTENBERG

Question. I believe that we must do all we can to address the digital divide between those of us who enjoy the benefits of electronic commerce, and those who remain outside of these opportunities. Specifically, I would like to know how many schools the E-Rate program has connected to the Internet over the past year and what impact the Internet has had on students?

Answer. In *Internet Access in U.S. Public Schools and Classrooms 1994–99*, the National Center for Education Statistics (NCES) estimates that, between October 1998 and October 1999, approximately 5,752 public schools gained access to the Internet. According to NCES, 89 percent of all public schools, or approximately 85,322 public schools, had at least one connection to the Internet in 1998. By 1999, 95 percent of all public schools, or approximately 91,074 schools, had gained access to the Internet, a 6 percent net increase. The NCES report also notes that some 300,000 classrooms were newly connected to the Internet during this same time period. While not all of these gains are attributable to the schools and libraries universal service support mechanism (also known as the E-Rate), I must observe that over $2 billion has been disbursed to public schools for internal connections purposes in the program's first two funding years (November 1998 to June 2000).

For evidence of the effect Internet connections have had on students, I draw your attention to a publication produced by the Education and Library Networks Coalition (EdLiNC), entitled *E-Rate: Connecting Kids & Communities to the Future*. This publication contains numerous stories of communities that have benefited from the program. In Aniak, Alaska, for example, the Kuspuk School District has been able to wire all of its school buildings and install satellite-based Internet connections at every school as a result of the $41,000 in first year funding that it received through the E-Rate program. Thus, the Yupik Eskimo children residing in the district's eight villages, none of which are accessible by road, can now utilize the Internet's resources. Another example comes from the Houston Independent School District, which received $19.6 million in E-Rate funding in the program's first year. Houston ISD used this funding to help develop a network for its various campuses and create an exchange of information between local schools in math and science. A final example comes from New Jersey, where the Atlantic County Library System received $100,000 in E-Rate funding to connect half of the county's public and private schools and 20 libraries with flat-rate access to the Internet.

Question. Chairman Kennard, you are aware that Congress continues to debate the merits of Permanent Normal Trade Relations for China. The President has identified PNTR as key to creating opportunities for American businesses and American workers. I would like for you to comment on the potential impact PTNR will have on the American telecommunications industry. For example, how will PNTR and the WTO legal framework protect the intellectual property interests of the American telecommunications industry?

Answer. You have asked for my comments on the potential impact that granting "permanent normal trade relations" (PNTR) to China would have on the U.S. telecom industry. As I'm not an expert on trade matters, I rely on my colleagues William Daley and Charlene Barshefsky to comment on the general issue of PNTR and China. I can tell you that experts at the FCC have looked at the deal that USTR negotiated with China and believe that it offers significant commitments in the areas of value-added and basic services. With regard to the issue of IPR, about which you have specifically asked, I must confess that it is not an area in which the FCC has expertise. I believe it would be more appropriate to address your question to the Patent and Trademark Office (PTO) or to USTR.

Question. Access to telecommunications opportunities are a cornerstone of your tenure at the FCC. Low-power FM radio and broadcast EEO rules attempt to increase the accessibility Americans have to the airwaves or to the industry. Could you evaluate the FCC's progress thus far on these two initiatives?

Answer. The Commission has made great progress in authorizing a new LPFM service and implementing its new EEO rule. On January 20, 2000, the Commission issued a Report and Order authorizing two new classes of noncommercial LPFM service designed to serve very localized communities. The new rules adopted by the Commission limit LPFM to LP 100, with power from 50–100 watts and a service radius of about 3.5 miles; and LP10, with power from 1–10 watts and a service radius of about 1 to 2 miles. The rules impose station separation requirements between new LPFM and existing radio stations on co-, first and second adjacent and

intermediate frequency (IF) channels. The Commission opted not to impose third adjacent channel separation requirements because the engineering data and tests in the proceeding demonstrated that 100 watt LPFM service will not cause unacceptable levels of interference to existing radio stations separated by three channels. A 20-kilometer buffer has been added to the separations for protecting co-channel and first adjacent channel full-service stations. This buffer will provide increased protection and flexibility for existing and subsequently upgraded full-power FM radio facilities. Eligibility for new LPFM facilities is limited to noncommercial entities. The Report and Order stated that a noncommercial service will be the best way to bring additional diversity to broadcasting and serve local community needs in a focused manner with LPFM service.

—With respect to the licensing process for LPFM, on March 17, 2000, the Mass Media Bureau announced that 100 watt LPFM applications will be accepted in a five-stage national filing window. A copy of the Public Notice is attached. Further information on LPFM may be easily obtained from the FCC home page at http://www.fcc.gov. The fifty states, the District of Columbia, and the remaining jurisdictions have been divided into five groups, and all LPFM applicants proposing to locate transmitters in a particular state or jurisdiction must file in the five-day filing window for that state or jurisdiction. The order in which the five different groups will be opened for applications was determined on March 27, 2000 by lottery. The first group consists of Alaska, California, District of Columbia, Georgia, Indiana, Louisiana, Maine, Mariana Islands, Maryland, Oklahoma, Rhode Island, and Utah. A copy of that Public Notice listing the states and jurisdictions comprising each group and the order in which the groups were placed by the lottery is attached. The Commission expects to issue a Public Notice announcing the first five-day filing window for the first group of states and jurisdictions at the end of April, thirty days before the first day of the filing window, which will be at the end of May. For additional information, please refer to http://www.fcc.gov.

With respect to EEO, on January 20, 2000, the Commission adopted new equal employment opportunity (EEO) rules that reaffirm the Commission's long-standing anti-discrimination rule and require broad outreach to all qualified job candidates for positions at radio, television and cable companies. The Report and Order prohibits discrimination on the basis of race, religion, color, national origin or gender. The effective date for the new EEO rules is expected to be April 17, 2000, assuming that the Commission receives by that date OMB approval for the information collection requirements contained in the rules. The new rules respond to the D.C. Circuit Court of Appeals decision in 1998 in *Lutheran Church Missouri Synod* v. *FCC (Lutheran Church)*, which held that certain aspects of the Commission's previous broadcast EEO outreach requirements were unconstitutional.

The new rules require broadcast licensees and cable entities to widely disseminate information about job openings to all segments of the community to ensure that all qualified applicants, including minorities and women, have sufficient opportunities to compete for jobs. The new rules do not require broadcasters to hire any particular applicant. The Commission also amended its EEO rules applicable to cable entities, including multichannel video programming distributors, to conform them, as much as possible, to the broadcast EEO rule.

The Report and Order gives a broadcaster significant flexibility in designing its EEO program. Broadcasters may implement two supplemental recruitment measures: (1) sending job vacancy announcements to recruitment organizations that request them; and (2) selecting from a menu of non-vacancy specific outreach approaches, such as job fairs, internship programs, and interaction with educational and community groups. Alternatively, if a broadcaster or cable entity believes it can accomplish broad outreach without these supplemental recruitment measures, it may design its own outreach program and must maintain records concerning the recruitment sources, race, ethnicity and gender of applicants so it can monitor the effectiveness of its outreach efforts. The Report and Order continues to allow religious broadcasters to establish religious belief or affiliation as a job qualification for all station employees.

As in the past, broadcast stations with fewer than five full-time employees and cable entities with fewer than six full-time employees will not be required to demonstrate compliance with the EEO program requirements. However, all other broadcasters must place an annual EEO report in their public file detailing their outreach efforts and must file a Statement of Compliance every second, fourth and sixth year of the license term certifying compliance with the EEO rule. In addition, all television stations and radio stations with more than 10 full-time employees must submit their annual EEO reports to the Commission midway through the license term and at renewal. At these times, the Commission will review the station's outreach

efforts. Cable entities will be required to submit their annual EEO public file reports as part of the supplemental information required by statute to be filed every five years.

The Commission also reinstated the requirement that broadcasters file annual employment reports, which was suspended by the Commission following the *Lutheran Church* decision and retained the requirement that cable entities file annual employment reports. The Commission will use the information in the annual employment reports only to monitor industry employment trends and prepare reports to Congress.

PUBLIC NOTICE—DA 00–621, MARCH 17, 2000

FCC ANNOUNCES FIVE-STAGE NATIONAL FILING WINDOW FOR LOW POWER FM BROADCAST STATION APPLICATIONS

The Mass Media Bureau announces the establishment of a five-stage national filing window for 100 watt low power FM (LPFM) applications. The five-stage filing window approach is designed to ensure the expeditious implementation of the LPFM service and to promote the efficient use of Commission resources.

The FCC has divided the fifty states, the District of Columbia, Puerto Rico and the remaining jurisdictions into five groups, each comprised of ten states and at least one other jurisdiction. All LPFM applications proposing to locate transmitters in a particular state or jurisdiction must file in the filing window for that state or jurisdiction. Applicants in states and jurisdictions in each of the five groups will be permitted to file LPFM applications during a designated five-day filing window.

The five groups are as follows:

I: Connecticut, Illinois, Kansas, Michigan, Minnesota, Mississippi, Nevada, New Hampshire, Puerto Rico, Virginia, Wyoming.

II: American Samoa, Colorado, Delaware, Hawaii, Idaho, Missouri, New York, Ohio, South Carolina, South Dakota, Wisconsin.

III: Alabama, Arkansas, Guam, Kentucky, Massachusetts, Montana, Nebraska, New Mexico, North Carolina, Pennsylvania, Washington.

IV: Arizona, Florida, Iowa, New Jersey, North Dakota, Oregon, Tennessee, Texas, U.S. Virgin Islands, Vermont, West Virginia.

V: Alaska, California, District of Columbia, Georgia, Indiana, Louisiana, Maine, Mariana Islands, Maryland, Oklahoma, Rhode Island, Utah.

On March 27, 2000, the FCC will select through a random process the first application group. The selection will be held on March 27, 2000 at 10:00 a.m. in the Commission Meeting Room, 445 12th St. S.W., Room TW–C305.

The dates of the first filing window will be announced by Public Notice at least 30 days prior to the first day of the window.

The order of the filing windows in which the four subsequent groups' applications will be accepted will also be determined on March 27, 2000. Tentatively, filing windows will follow each other at three-month intervals. However, the Bureau may reduce or increase the amount of time between filing windows as we gain experience with this new service and filing approach. The dates of the four subsequent filing windows will be announced by Public Notice at least 30 days prior to the first day of each window.

The composition of each group is designed to ensure the equitable distribution of LPFM station licenses in three ways. First, every part of the country is represented in each group. Every state or jurisdiction will have a one in five chance of being selected for the first filing window. Second, each group is balanced by market size in that each group contains several of the top fifteen markets. Finally, all of the states in each group are separated geographically, thus eliminating the potential for conflicting proposals across state lines.

By the Chief, Mass Media Bureau.

NEWS

MARCH 27, 2000.

FCC LOTTERY TODAY DETERMINES ORDER FOR ACCEPTING APPLICATIONS FOR LOW POWER FM RADIO STATION LICENSES

ACTUAL DATES OF FILING WINDOWS TO BE ANNOUNCED IN LATER PUBLIC NOTICE

Washington, DC—The FCC today held its low power FM lottery to determine the order in which it will accept applications for this new radio service.

The lottery determined that the applicants from the following group of states will be the first to be accepted: Alaska, California, District of Columbia, Georgia, Indiana, Louisiana, Maine, Mariana Islands, Maryland, Oklahoma, Rhode Island, Utah.

The Commission will take applications during a five-day filing window that will be announced in a subsequent Public Notice to be issued at the end of April, 30 days prior to the first day of the filing window, which will be at the end of May.

As he kicked-off the lottery process, FCC Chairman William E. Kennard, said, "Today we begin a process that offers access to the airwaves to many Americans—such as members of schools, churches, minority groups, public safety agencies, volunteer fire departments and other local community groups. I look forward to the FCC's soon receiving applications from many groups that, through these short-range, low power radio stations, will have a voice to serve their local communities."

Commissioner Gloria Tristani said, "My grandfather, the late U.S. Senator Dennis Chavez, taught me that one of the most important things we can do as public servants is to give a voice to the voiceless. That's why low power radio is so important."

The Commission will be accepting applications in five groups. Evenly divided within those five groups are the 50 states, as well as U.S. possessions and territories.

The following is the order, also determined by lottery today, for processing applications from applicants in the remaining state groups:

No. 2.—Connecticut, Illinois, Kansas, Michigan, Minnesota, Mississippi, Nevada, New Hampshire, Puerto Rico, Virginia, Wyoming. (Public Notice July 2000; filing window: August 2000).

No. 3.—American Samoa, Colorado, Delaware, Hawaii, Idaho, Missouri, New York, Ohio, South Carolina, South Dakota, Wisconsin (Public Notice October 2000; filing window: November 2000).

No. 4.—Arizona, Florida, Iowa, New Jersey, North Dakota, Oregon, Tennessee, Texas, U.S. Virgin Islands, Vermont, West Virginia (Public Notice January 2001; filing window: February 2001).

No. 5.—Alabama, Arkansas, Guam, Kentucky, Massachusetts, Montana, Nebraska, New Mexico, North Carolina, Pennsylvania, Washington (Public Notice April 2001; filing window: May 2001).

The actual dates for the filing windows in each state grouping will be announced in subsequent Public Notices.

SECURITIES AND EXCHANGE COMMISSION

STATEMENT OF ARTHUR LEVITT, CHAIRMAN

ACCOMPANIED BY JAMES M. McCONNELL, EXECUTIVE DIRECTOR

INTRODUCTION

Senator GREGG. Mr. Chairman, we welcome you to the committee. We will forego opening statements on our part, and you tell us what you wish.

OPENING REMARKS

Mr. LEVITT. Just briefly, we face today a confluence of extraordinary forces, market growth, and the development of online trading, market structural changes which provide enormous challenges for the Commission. We believe that the increased funding in the President's budget will give us the kinds of resources we need in a number of areas, including disclosure operations, examinations, and technical infrastructure.

There are really two areas that dominate the Commission's agenda: the impact of the Internet, which is evolving today, and the extraordinary losses in terms of personnel that the Commission is experiencing. It is bad enough to lose them to the private sector, but we are losing them to other financial regulatory agencies. And at this time, when we have merged these functions, it becomes particularly difficult for our people who must work closely with the Fed and the Comptroller's Office and other financial regulators to see staff there earning more money, and the consequence of that is we are losing staff to them.

PREPARED STATEMENT

With respect to Internet fraud, we see new kinds of fraudulent schemes emerging. We are asking for a minimal amount more than this year; the $12.5 million we received in fiscal year 2000 was a very important first step. We hope to use our resources effectively. So aside from fixed costs in our IT program, we are requesting a small increase in Internet funding. In general, this is the thrust of what we are about, and I would be glad to answer any questions that you might have.

[The statement follows:]

PREPARED STATEMENT OF ARTHUR LEVITT

Chairman Gregg, Ranking Member Hollings, and Members of the Subcommittee: I appreciate this opportunity to testify in support of the Securities and Exchange Commission's (SEC or Commission) fiscal 2001 budget. When I spoke before you last year, I described a market environment that was characterized by unprecedented volume, tremendous growth, increasing complexity, and globalization. I also indicated that the SEC would need multi-year increases in budget and staffing to meet these demands. These same forces and the increasing use of new technologies continue to dominate our markets and needs today.

Recent advances now permit a variety and combination of services that blur the distinction between markets, intermediaries, and service providers. Electronic Communication Networks (ECNs) are challenging traditional trading floors. The nation's stock exchanges are considering shedding their long-held membership status. Online trading is empowering retail investors. Institutional trading has increased the demand for greater liquidity, anonymity, and even new trading venues. Market participants are demanding more: twenty-four hour trading, immediate execution of orders, and lower costs.

It is against this backdrop that the President's fiscal 2001 budget request seeks an appropriation for the SEC of $422.8 million, 12 percent above the Commission's fiscal 2000 spending level of $377 million. This $422.8 million request will fund 3,037 staff years, an increase of 77 staff years (2.6 percent) over our current staffing levels. Our funding request covers $15.6 million in mandatory and inflationary expenses, $15 million to reinstitute special pay authority, $10 million for information systems, and $5.2 million for new staff. Additional staffing for our law enforcement activities will better enable us to detect and take action against fraudulent securities activity on the Internet and other online information services, as well as respond to continued growth and change in electronic forms of communication.

Assuming we are able to retain the necessary staff in fiscal 2001, this request will provide the Commission with the resources necessary to responsibly fulfill our mission of protecting investors and maintaining our markets' integrity. In particular, it will allow the Commission to:

—continue combatting fraudulent conduct on the Internet;
—provide effective oversight of the increasingly complex activities of regulated entities, including examining on-line and day trading activities;
—further implement a formal inspection cycle program of the increasing number of alternative trading systems;
—continue focusing on financial accounting frauds, earnings management practices, and developments in domestic and international accounting, independence, and auditing matters;
—meet the anticipated workload stemming from the increasing number of mergers resulting from the convergence of the gas and electric markets and the globalization of the utility industry;
—update and improve prospectus requirements for variable insurance products;
—develop a tailored disclosure document for unit investment trusts; and
—strengthen its technological infrastructure to support the agency in its three most rapidly growing areas: electronic forms, document and records management, and market data and analysis tools.

In requesting the funding to support these activities, however, I must focus on two specific areas that are dominating the Commission's agenda: the Internet and our inability to retain qualified staff. Without bringing these factors into our discussion of the SEC's budget needs, I believe we would fail to give a clear picture of how we plan to meet the challenges that lie ahead, including protecting investors and maintaining the integrity of our markets.

THE CHALLENGES OF THE INTERNET

The Internet is having a profound effect on the way investors participate in the capital markets and on the Commission. By the end of this year, there will be nearly 5.5 million domestic online brokerage accounts[1], with 20 million expected by 2003.[2] During the first quarter of 1999, nearly one in six equity trades was placed through online brokerage accounts. For retail investors, the percentage of trades executed via the Internet is even higher. A November 1999 report by SEC Commissioner Laura S. Unger notes that more than one in three trades by retail investors are effected online.[3] These numbers will only increase as a greater percentage of investors avail themselves of the economies of online trading.

Moreover, the Internet has changed the way investment research is conducted. The Internet affords retail investors easy access to all kinds of information, both fact (real-time stock quotes, SEC filings, and corporate news releases) and opinion (newsgroup or message board postings, Internet mailing lists, analysts' reports, website discussions, and chat rooms). Entire Internet communities—some with their own celebrity spokespersons—have grown up around particular industries, tech-

[1] See Adam Zagorin, *Taking Stock Scams Offline,* Time Magazine, March 13, 2000.
[2] See Rebecca Bickman, *What now? The growth in online investing heralds all sorts of changes in the near future,* Wall St. Journal, June 14, 1999.
[3] See ONLINE BROKERAGE: KEEPING APACE OF CYBERSPACE, Report of Laura S. Unger, Commissioner, U.S. Securities and Exchange Commission, November 1999. This Report is available online at http://www.sec.gov/oursite/wotsacro.htm.

nologies or issuers, providing an incubator for investment ideas, and a forum for competing viewpoints. One of the most popular Internet message board services, for example, has over 13.2 million investment-related messages available for its patrons' viewing.[4]

INTERNET AND SECURITIES FRAUD

While the Internet has brought significant benefits to investors, it also has created significant dangers for the unwary. The Internet, coupled with the greatest bull market in history, has brought millions of relative novices to the markets, while also providing simple, effective, and anonymous ways for unscrupulous people to defraud them. A single mass e-mail, or "spam," sent through the click of a mouse, can more easily and cheaply reach investors than hundreds of cold calls from an old-fashioned boiler room. The use of digital media also can lend fraudulent material an air of credibility. Someone with a home computer and knowledge of computer graphics can create an attractive, professional-looking website, rivaling that of a Fortune 500 company.

In the earliest days of the Commission's Internet fraud program, the frauds that prevailed online were simply electronic versions of scams that had long been conducted through paper newsletters, mass organizational meetings, and orchestrated telephone solicitations. Principal among these were: stock manipulations, offerings frauds, and illegal touts. We continue to witness these scams, particularly manipulation, with too great a frequency on the Internet. For example, on March 2, 2000 the Commission brought a settled manipulation case against several Washington, D.C. area law students. We allege that one of the students created a website that he used to drive up the short-term price of four stocks. According to the complaint, the student inflated the short-term price for each stock by as much as 700 percent. By trading in advance of his stock recommendations, the student generated over $345,000 in total profits for himself, his mother, three of his law school classmates, and two of his friends.

As the Internet has evolved, however, so too has Internet fraud. New fraudulent schemes have begun to emerge, such as: momentum trading websites, day trading recommendation websites, recommendation scalping, imposter message board frauds, and messages that appear to be misdirected. These scams often result in sizable investors losses. One purported pyramid scheme offered through the Internet, for example, raised more than $150 million from over 155,000 investors before the Commission shut it down. In another action, a popular online stock touter, whom the Commission recently charged with improperly trading ahead of his stock recommendations to the detriment of his subscribers, maintained a website with 3,800 paying members.

SEC APPROACH

The Commission's ongoing program to fight Internet securities law violations is a team effort, in which every Division and Office plays a significant part. Since it is charged with uncovering, investigating and litigating Internet cases, however, the lead role in combatting online fraud is played by the Division of Enforcement. The SEC brought its first Internet enforcement action in 1995. While the amount of any fraud is impossible to quantify with precision, based on our surveillance and the number of complaints we receive, Internet securities fraud is on the rise. To date, the Commission has filed approximately 120 Internet actions—most in the last two years—alleging securities law violations by hundreds of persons and entities.

In July 1998, as a result of the Internet's growing importance and the rising incidence of Internet fraud, a formal Office of Internet Enforcement ("OIE") was created within the Enforcement Division. OIE began serving primarily as a coordinator of the Commission's Internet program and as a liaison with other regulatory and criminal law enforcement agencies at the federal, state, and local levels.

Between the spring of 1999 and the present, OIE has grown from three to 13 attorneys, with experience and expertise in a wide variety of areas pertinent to Internet enforcement. OIE's current functions include:

—identifying areas for surveillance and conducting surveillance,
—analyzing the complaints we receive from our online Enforcement Complaint Center ("ECC"),
—formulating investigative procedures,
—coordinating Internet initiatives,
—conducting staff and outside law enforcement training,
—engaging in special projects,

[4] See http://www.siliconinvestor.com (viewed March 14, 2000).

—ensuring staff compliance with federal communications privacy statutes and applicable laws, and

—working on Internet matters for the entire Commission.

Alongside OIE is the so-called "Cyberforce"—approximately 240 Commission attorneys, accountants, and investigators nationwide—whose purpose is to conduct regular Internet surveillance. Cyberforce members dedicate a portion of their work week to surfing the Internet, developing leads for potential enforcement cases. The Cyberforce also participates in coordinated surveillance projects both within the SEC and with other federal agencies, such as the law enforcement "surf days" orchestrated over the past three years by the Federal Trade Commission.

COMMITTEE RESPONSIVENESS

With the vital support of this Committee and Chairman Gregg, the Commission has made immediate strides in its Internet initiatives. In November 1999, the Commission received a fiscal 2000 appropriation that provided an additional $7 million over our request which supplemented a reprogramming of an additional $5.5 million specifically to combat Internet fraud. These funds are being spent both to augment the staff investigating online securities law violations and otherwise studying aspects of the electronic marketplace, and to supplement and improve the technological systems that support those staff members. Already the Commission has turned these dollars into tangible additions to its Internet program. We have created 92 positions for our Internet fraud program with these funds. Seventy-five of these positions have been assigned to our Division of Enforcement and 17 have been assigned to aid other offices and divisions in their Internet-related efforts. In addition, staff currently is evaluating contractor proposals to provide technological assistance in our surveillance of the Internet, in response to a request for proposals that we issued in January.

Most of the new Enforcement staff will spend all of their time investigating and prosecuting Internet fraud. Among these 75 positions, 23 have been allocated to our headquarters in Washington, D.C. and the remaining 52 positions to our regional offices throughout the country. The 17 positions allocated to the other divisions and offices will be used for a variety of purposes, including bolstering our inspections and examinations of regulated entities operating online, developing policies for the securities industry's use of the Internet, and furthering investor education and assistance. These additional resources no doubt better equip us to prosecute Internet-related securities fraud and keep the Internet safe for investors.

As the Commission enters the new millennium, profound changes are drastically reshaping the securities industry, and compelling the agency to reassess traditional approaches to its mission of investor protection. In order to fulfill that mission, the SEC must be forward-looking, strive to anticipate issues and challenges, and welcome new ideas and new strategies for meeting those challenges. The $12.5 million we received in fiscal 2000 for combatting Internet fraud was a critical first step in this direction. We intend to build on our past achievements, refine those practices that continue to serve us well, and introduce new methods that will make us even more responsive to changes in law and technology. Equally important, we intend to work responsibly with the resources we have been given. For this reason, aside from fixed costs and our information technology program, we have requested only a minimal increase above our fiscal 2000 level to fund our Internet activities in fiscal 2001. We also are requesting only a small increase in Internet funding because we cannot do more without being able to retain and recruit staff, which brings me to the second issue we would like to discuss today.

STAFFING CRISIS

The SEC is in the midst of a serious staffing crisis. On February 24, I wrote a letter to you, Committee Chairman Stevens, Ranking Member Byrd, and the Congressional leadership alerting you to our inability to retain staff. This problem goes to the very heart of the agency's ability to oversee the nation's growing securities markets and to protect America's savers and investors. In the last two years, the Commission has lost 25 percent of its attorneys, accountants, and examiners. (In fiscal 1999, we lost 13.5 percent of our attorneys, 16.8 percent of our accountants, and 9.9 percent of our examiners.) Our overall attrition rate was 13 percent—nearly twice the government-wide average, and our largest regional office alone lost a devastating 20 percent of its attorney workforce.

The Commission is losing staff before they become fully productive because we cannot pay them enough. In a world where first-year associates are routinely making six-figure salaries in Washington, D.C. law firms, the salaries the SEC can provide simply are not competitive to attract and retain a sufficient number of talented

professionals to reduce high turnover, let alone to fill open positions. While we fully recognize that the SEC cannot match the higher salaries offered by brokerages, law firms, self-regulatory organizations, and other securities-related businesses, something needs to be done to narrow the pay gap and reduce the turnover problems we face.[5] Practically every day at least one of my senior managers comes to me expressing his or her frustration in not being able to keep tomorrow's leaders.

EFFECT ON THE COMMISSION

Our current level of turnover and inability to attract qualified staff is threatening our ability to oversee the nation's securities markets and to respond in a timely manner to the changing events and innovations in our markets by:

—hampering our ability to bring cases to trial and disrupting the continuity we need when pursuing cases;
—hindering us from responding to changing markets in a timely fashion, including through targeted de-regulatory efforts;
—limiting our institutional memory, which is a crucial component of our long-term effectiveness as a regulator; and
—lowering employee morale, which in turn reinforces the staffing crisis.

We also become less productive. SEC staff work hard and well to handle the Commission's increasing, and increasingly complex, workload. The time that our managers and senior staff can devote to this workload is, however, reduced by the time it takes to recruit and train new staff. The SEC conservatively estimates that it takes approximately two years for new staff to become fully productive. During this period, new staff are actually a drag on the efficiency of the agency because they are still moving up the learning curve. If these staff leave just as they become fully productive to the agency, we do not recover our substantial investment in training them. That is a loss not only for us, but also for the investing public and our markets.

RETENTION EFFORTS

Over the past several years the Commission has explored virtually every available approach to keeping staff longer. In 1992, we petitioned and received from the Office of Personnel Management the authority to pay the majority of our attorneys and accountants approximately 10 percent above their base pay. While special pay was a step in the right direction, it proved to be a short-term solution. This is because staff that receive special pay do not receive the government-wide locality increase each year, which means that their special pay becomes less valuable over time (it is now almost entirely superseded by locality pay) and hence becomes less effective as a retention tool. In addition to our special pay authority, which the President's fiscal 2001 budget requests the funds to reinstate, the Commission has used retention allowances and economist special pay to help alleviate our retention problem. While all of these tools have proved somewhat effective when targeted to specific staff and situations, we believe they are incapable of providing the broad relief that we need to combat the Commission's losses and treat all staff fairly.

RECRUITMENT

The SEC also is facing a problem recruiting attorneys and accountants. We have used recruitment bonuses where possible, but have not met with much success. A typical first-year associate in a top-tier New York or Washington D.C. law firm makes at least double the salary of a comparable staff attorney at the SEC. The costs of three years of law school leave most graduates entering the job market with significant amounts of student loan debt. It is not difficult to understand why the private sector looks so appealing.

Our problem is even worse for accountants, who need to be experienced when they walk in the door. This is of particular concern in an era where financial fraud and earnings management has been on the rise. Experienced accountants are difficult to find and expensive to hire because their ability to analyze complex financial statements is highly prized. We do not have the luxury, if you can call it that, of being able to take someone directly out of school. The Commission has attempted to ameliorate this problem by developing an "in-service" placement program that allows certain Securities Compliance Examiners to be reassigned as accountants if they meet specific criteria, but even this effort has fallen short. In fact, last year

[5] The Commission recently contracted for a study comparing the significant disparity between SEC salaries and what the private sector offers for the same line of work. We would be happy to share the results of that study if you think it would be helpful in highlighting the magnitude of our problems.

only 46 percent of our available accountant positions were filled. The Commission needs the ability not only to keep staff longer, but also to bring them to the Commission in the first place.

PARITY WITH THE BANKING REGULATORS

Another real concern the Commission has about staff salaries is the effect of the landmark Gramm-Leach-Bliley Act of 1999 ("GLBA"). By allowing securities firms, banks, and insurance companies to affiliate with one another, GLBA requires increased coordination of activities among all the financial regulators. Even more so than in the past, Commission staff will work side-by-side with their counterparts from the banking regulatory agencies, like the Federal Reserve, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation ("FDIC"). However, we cannot match the salaries that these regulators pay.

Since all of the federal banking regulators are exempted from the standard government-wide pay schedule established under the civil service laws, they are able to provide their staffs with appreciably more in compensation and benefits than we can. While the maximum salary for a second-year attorney at the SEC, for example, is $66,000, an FDIC attorney with similar levels of experience, technical skills, and responsibilities can be paid as much as $91,000. This is a significant drain on morale. It is difficult to explain to SEC staff why they should not be paid at similar levels, especially when they are conducting similar oversight, regulatory, and examination activities. It is one thing for staff to make salary comparisons with the private sector, but quite another for them to see their government counterparts making anywhere from 24 to 39 percent more than they are. Moreover, the Commission has already seen several staff leave to take positions with these agencies, primarily because of pay. Unless we are put on equal footing, this trend will continue and most likely intensify.

Given the complexities of our markets and the new business affiliations we are likely to see, the SEC believes it is most beneficial to have all the financial regulators working together from the same starting point. Towards that end, the Commission believes that providing our staff with pay comparable to the banking regulatory agencies would significantly help in extending the tenures of key employees and help the Commission attract sufficient staff in the first place.

THE AGENCY AND ITS STAFF

The SEC should be a place where highly motivated people come to perform public service and hone their skills, both before entering the private sector and after a stint in the private sector. Such career paths speak highly of the Commission's professionalism and the industry's regard for the agency and its staff. However, the Commission should be able to keep staff for a minimum of three to five years before they leave, and show existing staff how much their efforts are valued. The SEC can ill afford to have its future walk out the door. Moreover, we need to ensure that the Commission has the staffing resources to meet the significant regulatory challenges that lie ahead as technology in general, and the Internet in particular, continue to re-shape our markets.

PROPOSALS TO PROVIDE RELIEF

The President's fiscal 2001 budget request includes $15 million to reinstitute 10 percent special pay for certain attorneys and accountants. As I stated before, we previously had this authority and used it in conjunction with recruitment bonuses, retention allowances, and other retention tools. However, we do not believe that bringing back special pay will be sufficient to resolve our staffing problem. A legislative solution that would provide the Commission with the same pay authority as the banking agencies is vital. I have been discussing our need for pay relief with the Banking Committee and the Administration. I hope we can all work together to attract and keep the best possible professionals at the SEC. I cannot emphasize too strongly the importance of this issue as it relates to our mission of protecting investors and ensuring market integrity.

CONCLUSION

The Commission applauds the support that this Committee has given us to respond to the changing face and form of our nation's securities markets. Our fiscal 2001 request for $422.8 million will go a long way toward enabling the Commission to fulfill its mission of protecting investors and maintaining the integrity of our markets as they continue to dramatically change. In addition, we are dedicated to making the Internet a safe medium for investors and are grateful for the support

that this Committee has given us in helping pursue this objective. At this time, our most significant challenge is to ensure that the Commission maintains the skills, abilities, and expertise necessary to address the tremendous and competing demands presented by the industry with which we work. For this reason, we look forward to working with you to obtain the fiscal 2001 funding level we need and the pay authority essential to keeping the people necessary to fulfill our mission of keeping our nation's securities markets the safest, fairest, and most liquid in the world.

INTERNET FRAUD

Senator STEVENS. I have got to get back.

Senator GREGG. Go ahead.

Senator STEVENS. May I just ask one question? That is, how much of this is allocated to Internet fraud? I think we are all hearing more and more about that.

Mr. MCCONNELL. We have a total in the year 2000 of $12.5 million, and new money was added. That is in our base for 2001. But that is only sort of the tip of the iceberg. We have about 200 staff people or more that are working on Internet cases.

Mr. LEVITT. And a special division within the Enforcement Division that does nothing but Internet cases. That has grown from just a handful to approximately 14 full-time employees.

Senator STEVENS. Is it well known that you have some remedy for people who may be injured, that you will investigate it and bring some of those people to justice?

Mr. LEVITT. I think we have brought 170 Internet-related cases, so that I think word is getting out there. I can't say that we can convince the public that we have total control of this because we are experimenting with new kinds of technologies to surveil the Internet. Our people are gaining experience, but there is so much of it out there that the best way to approach it, we believe, is to try to identify the kinds of cases that represent the greatest amount of fraud and bring them and publicize them aggressively.

Senator STEVENS. Do you think this is the kind of thing that compels a beef up of the Better Business Bureaus at the local level? I don't know anyone out my way who is watching fraud. I don't think our local district attorneys and only fraud enforcement people have the capability to keep track of Internet fraud.

Mr. LEVITT. We see the greatest amount of interest and help in this coming from the State securities regulators. They are beginning to focus on this aggressively, and working with them we feel is a very constructive way of helping the public.

Senator STEVENS. I have to get out of here, but keep us informed. We are on the Commerce Committee together. I think we would like to get involved in that. Internet fraud is going to get bigger and bigger because there are just too many people who really don't know too much about computers trying to get into the Internet business. We are very interested in that.

Thank you very much, Mr. Chairman.

RESOURCES FOR INTERNET FRAUD ENFORCEMENT

Senator GREGG. Thank you, Mr. Chairman.

Let me reinforce the chairman's comments. As far as I am concerned—and I am sure this whole committee is concerned—we want to give you all the resources you need in order to adequately

address the Internet, or anything else you have to address. In my opinion, resources should not be an issue with your agency, not only because you generate a huge amount of fees, which means you are running a fairly considerable surplus with the Treasury, but second because, as we have discussed before, the integrity of the capital markets is critical to the prosperity of this Nation. So you tell us what you need, and we will try to meet those requests.

PAY PARITY FOR SEC STAFF

Mr. LEVITT. I really appreciate your continuing support of this effort. Our greatest, our most compelling need at this point is the ability to get pay parity for our employees, and it has been so frustrating in terms of the way the process works. We have to bring on board not just this committee but also the House Commerce Committee, also the White House, and meanwhile we have employees watching every bit of testimony, every nuance of staff members in these different agencies that impact this decision. And in the meantime, they are being seduced by offers from other financial regulators as well as from the private sector.

Senator GREGG. Well, it is my understanding that we are going to have in our bill a package that your agency is developing to address pay parity. We are just going to put it in the bill and appropriate and authorize around that.

I don't think you are going to have any problems on the Senate side on this issue. Maybe there are issues on the House side. Maybe there are issues at the White House. As far as I am concerned, this is critical. We may use your package as a demonstration because there are other agencies similar to yours, such as the FCC, that have the same problem.

We have tried to address a different approach with the FBI, for example. They have very serious problems over there with keeping technology personnel.

SEC'S FISCAL YEAR 2001 BUDGET REQUEST TO OMB

The chairman asked you about Internet fraud. You have obviously got a division that is up and running. When you put your request into OMB, was there any adjustment of the request in this area, or are you getting what you think you need?

Mr. MCCONNELL. They reduced it slightly to accommodate the special pay rate increase. They reduced the staffing slightly to accommodate that. But it was by and large as we requested.

Senator GREGG. Maybe you could get us the numbers that you are actually requesting.

ELECTRONIC MARKET DEVELOPMENT

Do you expect the New York Stock Exchange and the NASDAQ to merge? If so, what does that mean?

Mr. LEVITT. I don't see the likelihood of that occurring in the short term. The NASDAQ appears intent with going ahead with their private placement. If you asked me to look ahead over the course of the next 5 years, I think it is a distinct possibility that major U.S. markets, in an effort to combat what I believe would be

growing electronic markets all over the world, will very seriously consider formal affiliations of one kind or another, in my judgment.

Senator GREGG. Do we need any securities law restructuring to address this electronic market development?

Mr. LEVITT. I think the market itself will bring about these changes. I am just hopeful that the kind of arcane governance structure that our two major markets employ with using—needing membership votes, with an ownership structure that in many instances is not even in the industry, I hope that they can be persuaded that they have to reinvent themselves to compete against profit-making enterprises that can adjust to change with greater flexibility and shorter time frames. If they don't, I think there is a real chance that our major markets could lose a substantial part of their order flow to new electronic markets and new exchanges that are developing all over the world.

Senator GREGG. Would you give me an example of an electronic exchange that you see represents a potential out-year threat?

Mr. LEVITT. Well, I think some of the electronic markets that are applying to us for exchange privileges—Archipelago is one. There are three electronic markets that want to become exchanges here in this country. There are some springing up in Europe. We read today in the paper about three major European markets that will be restructured as for-profit operations. Frankly, I think the for-profit model is far better able to compete than the membership model. They are focusing on the right things. They are allowing market forces to operate in a way which will stimulate competition and innovation. And I wish our markets could think and operate in that fashion. It is very difficult.

Senator GREGG. This won't affect registration, will it?

Mr. LEVITT. I don't think so. I think that that is a different issue. Registration will be impacted by accounting rules, whether we are able to embrace and harmonize the accounting rules which will enable more companies and foreign domains that have different accounting structures to list on U.S. exchanges. We are doing everything we can to force that to happen.

THE INTERNET AND FILING REQUIREMENTS

Senator GREGG. To what extent is the Internet being used as a disclosure vehicle in the area of filing requirements with the SEC?

Mr. LEVITT. I think the Internet on balance is an enormously positive vehicle to inform investors, to provide information of all kinds to enable companies to use it to raise capital themselves. We are going to see more of that, used as a trading device where customers can develop their own strategies. Our own EDGAR system will enable companies to file for offerings.

On the other side, of course, it provides a vehicle for fraud, and, in my judgment, the best way to arm American investors is not necessarily to think that regulation alone can do that, but to try and educate investors to be wary of the dangers of this, and, in a market as heated as our present market is and where investors are becoming much more emotional than intellectual about their decisions, that task is a huge task.

INTERNATIONAL ORGANIZATION OF SECURITIES COMMISSIONS

Senator GREGG. Is there a formally structured international relationship between the various securities and exchange commissions around the world, the key ones, Hong Kong and Europe?

Mr. LEVITT. There is a formal organization called IOSCO, the International Organization of Securities Commissions, which over the years has become more and more like a United Nations. Because of that, we have formed an organization or an informal gathering of Tokyo, the United Kingdom, Germany, Italy, France, and Hong Kong that meets generally on a quarterly basis. What is really important about that is that if there is a systemic problem that develops anyplace in the world, I know that I can trust my Hong Kong counterpart and my Tokyo counterpart knows that he can trust me, and that exchange of information is about the best thing we can do to protect against systemic problems. That is going on, and I think it is a very effective protection for not just our markets but for the globalized markets that have developed.

DECIMALIZATION

Senator GREGG. How successful have the exchanges been in getting ready for a cyber event of a terrorist type?

Mr. LEVITT. Well, a major cyber event coming down the pike is decimalization, and I think the industry, having come through the year 2000 successfully, is probably going to be ready for the July target date. The NASD [National Association of Securities Dealers, Incorporated] has asked us to delay that because of the unprecedented volume they are experiencing. The New York Stock Exchange has told us that they probably will be ready. I think it would be confusing to American markets to allow one of them to convert to decimals and the other not, so we are in the process now of surveying the markets to determine when all of them will be ready to move to decimalization, which I think is a critically important factor to be accomplished as quickly as possible. It would save American investors money.

SEC PREPAREDNESS FOR CYBER ATTACKS

Senator GREGG. How about the potential for a cyber attack which was meant to disrupt the exchanges, a terrorist type of attack?

Mr. LEVITT. All of the exchanges have security programs and backups. Some use so-called tiger teams to test for vulnerability. I believe that more work has to be done, but I think that, having run one of those institutions myself, I know that they are focusing resources on that and developing backups, which I think is critically important.

Senator GREGG. Are they coordinating with the cyber infrastructure efforts that are going forward on the Government level, such as the FBI?

Mr. LEVITT. Yes. Yes, they are.

Senator GREGG. So that is a coordinated effort?

Mr. LEVITT. Yes.

SECTION 31

Senator GREGG. Is there anything you want to tell us about Section 31, or should we just omit that?

Mr. LEVITT. Well, the various recommendations on Section 31 have to run the gamut, as you know, of getting through this committee and through administration approval and trying to coordinate with the bill that Senator Gramm has introduced and the bill that will emerge from the House Commerce Committee.

We are trying to be sensitive to all of the concerns that various parties have as this bill plays out, so we are not waving a flag at this point, not charging ahead. We are trying to work with all elements and trying to preserve pay parity, which appears to be an element of all proposals.

CONCLUDING REMARKS

Senator GREGG. Anything else?

Mr. LEVITT. Just to express my deepest and most sincere appreciation for your sensitivity and your understanding and your willingness to focus on the needs of American markets and investors.

Senator GREGG. Well, you do a wonderful job for us, and we appreciate it. And you have a superb agency, and we want to make sure it stays that way. So whatever we can do to help, we are willing to put our oar in the water.

Mr. LEVITT. Thank you very much.

Senator GREGG. Thank you, Mr. Chairman.

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

QUESTIONS SUBMITTED BY SENATOR FRANK R. LAUTENBERG

Question. Mr. Chairman, the Internet has revolutionized the way Americans invest in our capital markets. Over the past year, traditional brokerages have transformed their businesses from telephone consultations between brokers and investors to online investing where the mouse and the computer modem have become the method for trade. What steps have you taken to reassure online investors that they will be protected from dishonest brokerages and fraudulent trading operations?

Answer. The brokerage industry clearly has embraced digital technology. A November 1999 report by Commissioner Laura S. Unger estimated that over 160 brokerage firms offered their customers the ability to trade securities online;[1] Internet experts have predicted that half of all retail trades will be executed online by the end of next year.[2] The Commission generally views the evolution of the brokerage industry and its adoption of new technology as positive developments, providing investors greater, more cost-effective access to the capital markets. The Commission is mindful, however, that the ease of access offered by online trading creates potential dangers for novice investors. The Commission is working diligently to keep apace of the ongoing changes in the industry, and to protect investors from these pitfalls.

As a part of this effort, we have taken steps to gather information about online brokerage firms and their practices. Between April and June of 1999, the Commission's Office of Compliance Inspections and Examinations (OCIE) conducted 38 special-purpose examinations of online brokerage firms. At the time of this sweep, the 38 firms represented about 25 percent of the online brokerage industry. The staff selected for examination a cross-section of the industry, including major brokerage houses and small boutique firms. These examinations gave the staff a comprehen-

[1] See ONLINE BROKERAGE: KEEPING APACE OF CYBERSPACE, Report of Commissioner Laura S. Unger of the Securities and Exchange Commission, November 1999, at pp. 3–4 (citing research of CS First Boston and U.S. Bancorp Piper Jaffray).

[2] Ibid. n. 4 at p. 125 (citing research of Forrester Research, Inc.).

sive picture of how online firms operate and the problems they and the investors who use them face. The examinations also enabled the Commission's staff to identify areas of potential regulatory concern.

Similarly, from October 1998 through September 1999, OCIE conducted an examination sweep of 47 registered broker-dealers providing day-trading facilities to the public. Findings from this day-trading sweep are published in the Commission's "Report of Examinations of Day-Trading Broker-Dealers," dated February 25, 2000, which was recently presented to the Senate Permanent Subcommittee on Investigations by OCIE's Director Lori Richards. While the day-trading sweep did not reveal widespread fraud,[3] examiners found some indications of significant regulatory violations that warranted referrals to the Commission's Enforcement Division. These referrals related to potential net capital, margin and lending disclosure violations, and have already resulted in several enforcement actions, including actions against All-Tech Direct and Investment Street Company. The cease-and-desist proceedings against these two day-trading firms charged violations of federal margin lending provisions.[4]

In addition to identifying regulatory violations, we also have detected fraud in the form of false advertising. Certain firms have overstated the successes their clients have enjoyed, in an effort to entice new clients to trade through them. Last month, the Commission filed and settled civil fraud charges against David A. Rudnick and his company, DynamicDaytrader.com, an Internet website that provided real-time stock recommendations to day-traders on a subscription basis. The Commission's complaint alleged that Rudnick and his company violated the antifraud provisions of the federal securities laws by, among other things, posting significantly inflated claims of investment returns on stocks the site recommended. The Commission obtained an injunction against further violations of the antifraud provisions by Rudnick and his company, as well as disgorgement of $40,107 in subscriber membership fees plus prejudgment interest and a $15,000 civil monetary penalty against Rudnick's company. We think this case, and others like it, sends a strong message that the Enforcement Division will take quick and decisive action to halt activities intended to deceive online investors.

The Commission's Enforcement Division continues to monitor, investigate and, where appropriate, prosecute perpetrators of all types of online investment fraud, including frauds perpetrated by individuals and entities outside of established firm structures. For example, the Commission recently sued a group of individuals who reaped illegal profits by improperly trading in advance of online recommendations.[5] Through statements published on the stock recommendation site Fast-Trades.com, the defendants manipulated the price of several featured securities, leaving investors with serious losses. The Commission in settlement obtained a final judgment permanently enjoining the scheme's principal architect from further manipulative conduct, and a cease and desist order barring four other defendants from future violations of the federal antifraud provisions.[6]

As I have often said, the best defense against this kind of online fraud is a well-educated investor. Consequently, we have enlisted our Office of Investor Education and Assistance in an agency-wide effort to spread the word on the risks presented by online investing. The SEC's popular Internet website[7] contains a wealth of information on this topic.[8] In addition, we have incorporated discussions of day-trading and online trading into the numerous Investor Town Meetings at which members of my staff and I discuss investment topics with the public. One such meeting recently was held online, giving everyone with a computer the opportunity to attend and hear the Commission's cautionary discussion of the potential dangers of Inter-

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[3] "Report of Examinations of Day-Trading Broker-Dealers," Office of Compliance Inspections and Examinations, U.S. Securities and Exchange Commission, February 25, 2000 at p.2.

[4] In the Matter of All-Tech Direct, Inc., et al., Admin. Proc. File No. 3–10150 (February 22, 2000); In the Matter of Investment Street Company, et al., Admin. Proc. File No. 3–10151 (February 22, 2000).

[5] *SEC* v. *Douglas W. Colt*, Civil Action No. 1:00CV00423 (D.D.C. March 2, 2000).

[6] In the Matter of Kenneth Terrell, et al., Admin. Proc. File No. 3–10154 (March 2, 2000).

[7] http://www.sec.gov.

[8] The Commission's website contains a number of useful resources for investors seeking to educate themselves about the benefits and hazards of online trading. Among these are transcripts of talks by Chairman Arthur Levitt, Jr. concerning "Plain Talk About On-line Investing" (May 1999) and "On-line Trading" (January 1999) (both available through the Enforcement Division's web page of Internet-related announcements, http://www.sec.gov/enforce/intrela.htm), as well as the Office of Investor Education and Assistance's informative web page concerning "The Internet and Online Trading," available at http://www.sec.gov/consumer/jneton.htm (updated September 30, 1999).

net investing. Ultimately, the best way to protect online investors is by helping to educate them, and we continue to work aggressively toward that goal.

In summary, the Commission intends to keep abreast of the latest innovations in electronic brokerage, to monitor firms that conduct online operations, to assess the risks presented to investors and, where regulatory or enforcement action is warranted, to move decisively to address wrongdoing.

Question. Over the past year, several organizations and Wall Street have made an effort to increase access to capital for minority owned businesses and financial services firms. What efforts do you think will be most effective at increasing opportunities for minorities in the securities industry?

Answer. The SEC believes that the primary key to increasing opportunities for minorities in the securities industry is education; in particular, promoting the benefits of investing and careers in the securities industry. Towards this end, the Commission has pushed Wall Street firms to mentor students, increase recruitment activity at colleges and universities with large minority enrollments, increase business activity with minority owned firms, and provide financial services in under serviced areas. The Commission intends to keep this issue in the forefront and develop new initiatives to attract minorities to the securities industry.

SUBCOMMITTEE RECESS

Senator GREGG. If there is nothing further, the subcommittee will stand in recess.

[Whereupon, at 10:58 a.m., Tuesday, March 21, the subcommittee was recessed, to reconvene subject to the call of the Chair.]

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2001

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

DEPARTMENTAL WITNESSES

[The following testimonies were received by the Subcommittee on Commerce, Justice, and State, the Judiciary, and Related Agencies for inclusion in the record. The submitted materials relate to the fiscal year 2001 budget request for programs within the subcommittee's jurisdiction.]

THE JUDICIARY

PREPARED STATEMENT OF JOHN G. HEYBURN, II, CHAIRMAN, COMMITTEE ON THE BUDGET, JUDICIAL CONFERENCE OF THE UNITED STATES

INTRODUCTION

Mr. Chairman and Members of the Subcommittee, I want to thank you for giving me the opportunity to testify on the judiciary's fiscal year 2001 budget request. It is a pleasure to return for my fourth appearance before you and the other members of the subcommittee.

With me today are Judge Robert C. Broomfield of the United States District Court for the District of Arizona, who is also a member of the Budget Committee; Leonidas Ralph Mecham, Director of the Administrative Office of the United States Courts, and a member of the Judicial Conference Executive Committee; and Judge Fern Smith, the Director of the Federal Judicial Center, who is appearing before you for the first time. Last year the Chief Justice and Board of the Federal Judicial Center selected her to succeed Judge Zobel as Center Director. Judge Smith has been a federal district judge since 1988.

Before addressing our fiscal year 2001 request, I would like to first express my sincere appreciation to you, Mr. Chairman, the Members of the Subcommittee, and your dedicated staff, for the thoughtful consideration you have given the judiciary's budget requests and other needs throughout the year.

BUDGET OVERVIEW

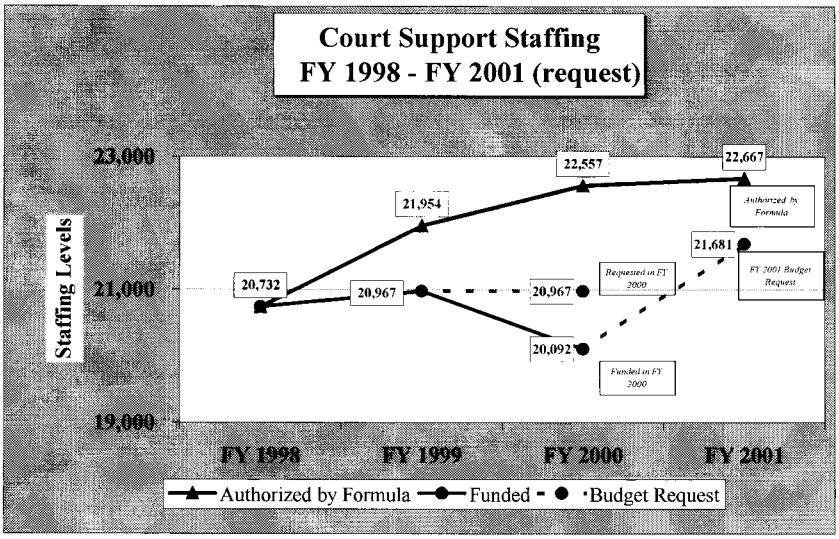
The judiciary's fiscal year 2001 budget is a very modest request considering rising caseloads. We request a $363 million increase in obligations, or 8.5 percent over the fiscal year 2000 level. The majority of the request ($258 million or 6.0 percent) funds base adjustments to continue current operations. The remainder ($105 million or 2.5 percent) would provide some additional resources to courts experiencing workload increases, especially those on the southwest border, which are in a crisis situation. A detailed explanation of our fiscal year 2001 request is included as an Appendix.

The courts have experienced a dramatic increase in overall workload, particularly in the criminal area over the last four years.

—Criminal filings increased 28 percent;

—Criminal defendants filed increased 23 percent;
—Criminal Justice Act representations increased 21 percent;
—Pretrial services reports to the courts increased 24 percent; and
—Offenders under supervised release increased by 12 percent.

However, as the following chart indicates, because of funding constraints, funded court support staff required to handle this tremendous growth in workload has actually declined during this period. At a time when Congress continues to provide more resources to the Department of Justice, overall funded court staff are declining by 3 percent from 20,732 work units in fiscal year 1998 to 20,092 in fiscal year 2000. For fiscal year 2001, we are asking Congress to provide for a funded court support staffing level of 21,681. This is only 5 percent above fiscal year 1998 funded levels, a very modest increase when compared to the 28 percent increase in criminal filings. The majority of the staffing increase is for probation and pretrial services officers to handle the growing criminal workload, especially on the southwest border.

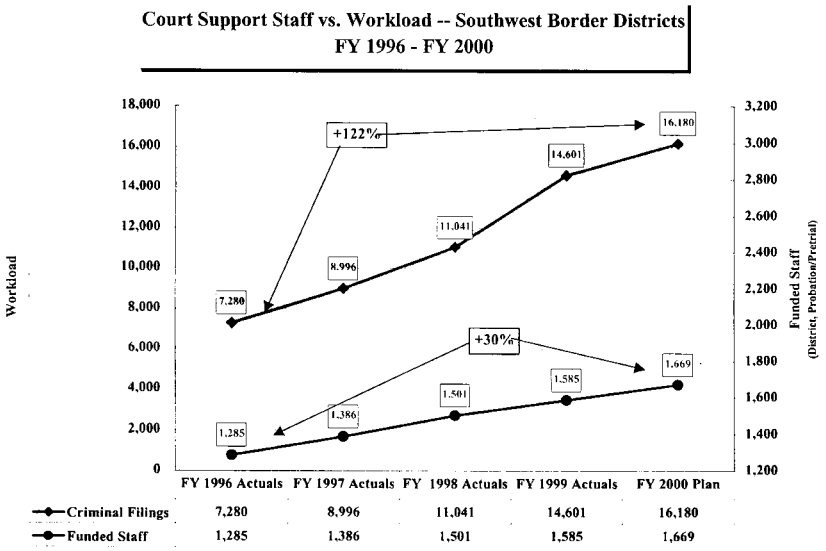


SOUTHWEST BORDER CRISIS

We need additional funding for all courts experiencing growing workloads. Those funds are most needed along the southwest border. The districts of Arizona, California Southern, New Mexico, Texas Western, and Texas Southern have experienced an explosion of criminal workload over the past few years. These increases are attributed to increases in law enforcement resources at the border. Over the last five years, the number of border patrol agents increased by 99 percent; INS agents, 93 percent; and DEA agents, 155 percent.

Not surprisingly during that time period, the criminal caseload in the five border districts, mostly drug and immigration cases, has exploded, increasing by 122 percent. Criminal case filings in these border courts, as a percentage of total criminal cases filed, have steadily increased each year from 16 percent of the national total, to the current level of 27 percent. As the following chart indicates, total criminal case filings in the five border courts have more than doubled, from 7,280 to 16,180.

Since 1996, workload has risen over 4 times faster than funded staff.



The workload on the southwest border is directly affected by increases in the resources of the Department of Justice (DOJ). For fiscal year 2001, DOJ has requested even more FBI, DEA, and INS personnel, as well as a 3 percent increase in U.S. Attorney staff. Even if Congress provides DOJ with no additional increases in personnel, the workload will still remain at extraordinarily high levels in the courts along the border.

Because of limited funding availability, overall funded staffing levels declined in the last two years. Nevertheless the Judicial Conference took unprecedented steps to recognize the dramatic and disproportionate increase in workload along the southwest border. For the past two years, we have made across-the-board cuts to nationwide court allotments in order to provide some immediate, albeit partial, relief to these five border districts and other courts with extraordinary workload growth.

These staff increases for the border districts were not without cost. During the period when funded staff for the southwest border courts grew by 11 percent, the remaining courts throughout the country had to operate with a 4 percent reduction in funded staff. I would note that total workload outside the southwest border was not declining—there was a 12 percent increase in criminal caseload during this time. Some districts experienced much more dramatic increases. For example, criminal filings in Utah increased 84 percent, Illinois Southern increased 82 percent, Iowa increased 49 percent and Kentucky Eastern increased 33 percent. Our judicial system cannot continue to operate effectively by "robbing Peter to pay Paul", particularly where doing so does not fully address Paul's needs.

Over the past several years the Congress has chosen to make enforcement of our drug and immigration laws a high priority. The law enforcement personnel you have funded are doing their jobs as evidenced by the explosion in the criminal caseload. We now have an imbalance in the system that only Congress can address.

The long-term solution is to fully fund the judiciary's modest budget request for fiscal year 2001. Under our system of distributing funds to the courts according to work measurement formulas, a fully funded budget will direct available resources to the southwest border courts, which are experiencing the greatest workload growth. This will allow courts to staff up to a level that will:

—allow probation and pretrial services officers to adequately supervise federal offenders and defendants, including conducting substance abuse screening, and prepare thorough reports that form the basis for federal sentencing. Along the southwest border, probation officers have reduced their supervision of criminal felons released from prison in order to write the presentence reports required

for criminal trials. Presentence defendants are being supervised by telephone rather than personal visits because of the crushing workload.

—decide civil and bankruptcy cases in a more timely manner. In civil cases there has been a 12 percent increase in the median time from filing to disposition over the last few years.

—avoid delays that result in increased costs for private citizens and the government.

U.S. Marshals

Another serious problem along the southwest border is the shortage of deputy U.S. marshals and detention space. While these resources are not part of our budget request, we know that the Department of Justice is requesting a modest eight percent increase for the Marshals Service and a 13.8 percent increase for federal prisoner detention. I would ask that you give that request every consideration.

We are concerned about the level of security on the southwest border. In many instances you will find a group of 10 or 12 prisoners being escorted into a courtroom by 1 or 2 deputy marshals. This is a tragedy waiting to happen. The marshals in these districts must be provided additional resources.

In addition, the lack of adequate space is creating considerable problems for the marshals, our probation and pretrial services officers, and federal defenders. The lack of space is resulting in the release of some individuals awaiting trial who might otherwise be detained. This jeopardizes public safety. Those who are detained are often placed in facilities hundreds of miles away, creating access problems for attorneys and security and transportation problems for the marshals. Additional detention space, closer to the courts, is sorely needed.

DEFENDER SERVICES

Resource needs in defender services are directly related to criminal filings and dramatic workload increases, especially along the southwest border, apply to this account as well. The defender services appropriation fiscal year 2001 requested increase of 9 percent in obligations is consistent with the 9 percent increase requested in the salaries and expenses account.

In addition to the $16 million in inflationary increases for salaries and expenses, a $10 million net increase is needed to handle a workload increase of 3,700 representations. This increase is partially offset by a projected reduction in the average annual cost-per-representation due to a change in the overall case mix, which will result from a higher number of less expensive immigration cases.

A critical component of the defender services request is $11 million to increase the hourly rates paid to private panel attorneys from $70 per hour for in-court time and $50 per hour for out-of-court time to $75 per hour for both in and out-of-court time. This $75 per hour rate was authorized fourteen years ago. While we appreciate the $5 per hour rate increase that Congress approved for fiscal year 2000, it is only the second such increase in fifteen years. Despite your good efforts, I am compelled to point out that the current rates still do not even cover average overhead costs for a lawyer.

The urgent need for this rate increase is evidenced by the statement of Chief Justice William H. Rehnquist, who for the second year in a row, is raising the issue in his Year-End Report on the Federal Judiciary. In the 1999 Year-End Report, the Chief Justice states, "Inadequate compensation for panel attorneys is seriously hampering the ability of courts to recruit and retain qualified panel attorneys to provide effective representation." The Chief Justice "* * * respectfully ask(s) Congress to make adequate compensation for panel attorneys a high priority, and to fund the Defender Services appropriation at a level sufficient to pay the $75 rate." I am here to emphasize that request.

COURT SECURITY

Providing adequate security for all citizens who enter courthouses is of utmost concern to the judiciary. The fiscal year 2001 request includes a seven percent increase for court security. In addition to inflationary increases, $2.3 million is requested for 72 additional court security officers, primarily for new or renovated facilities; $2.3 million is requested to replace outdated security systems and equipment; and $3.9 million is requested for the first year of a four-year program to acquire narrowband capable digital radios, as mandated by the National Telecommunications and Information Administration Organization Act.

COST CONTAINMENT

As you know, Mr. Chairman and members of the subcommittee, the judiciary takes very seriously its responsibilities to use the resources Congress provides in the most efficient manner possible. For the last several years we have undertaken a judiciary-wide effort to find ways of doing more with less. The Optimal Utilization of Judicial Resources Report that we sent to your subcommittee in February is a compilation of our initiatives. I would just like to summarize some of the major efforts we have underway.

—The use of technology has contributed significantly to the judiciary's ability to do more with less. The judiciary is following a multi-year plan to equip courtrooms with a variety of technologies, which can result in reduced trial time and lower litigation costs. The distance learning program continues to expand through the use of the Federal Judicial Television Network and video conferencing technology.

—Containing rent costs of court facilities remains one of the judiciary's highest administrative priorities. A comprehensive management assessment of its space and facilities program should be completed later this year. This independent review will evaluate the effectiveness and efficiency of the judiciary's facilities program and make recommendations for future facilities planning, budgeting, and management.

—In September, the judiciary completed a year-long study of the use of judicial officer resources. The study identified ways to improve management of available resources that might mitigate future requests for additional Article III judgeships. The recommendations include sharing information among courts and chief judges, more effective use of visiting judges, and providing assistance to courts with particularly high workloads.

CONTRIBUTIONS OF THE ADMINISTRATIVE OFFICE

The work of the Administrative Office of the United States Courts is critical to the judiciary's functioning effectively. The Director of the Administrative Office serves as the chief administrative officer for the federal courts. The agency provides a broad range of management, program, and administrative services to the courts. It supports the Judicial Conference of the United States and its network of committees in determining judiciary policies, and it implements those policies on behalf of the Conference.

An important Administrative Office responsibility is supporting, coordinating, and implementing the Judicial Conference's numerous efforts to reduce costs and manage resources most efficiently. The various cost containment efforts I just summarized, as well as all of those listed in the Optimal Utilization Report, are only possible because of the efforts of the Administrative Office. Without the Administrative Office, the savings and cost avoidance initiatives of the judiciary would not have materialized.

In the interest of continuous service improvement, the Administrative Office is currently conducting or overseeing, in connection with Judicial Conference committees, an unprecedented number of strategic studies of judiciary programs and operations. In addition to the space study mentioned previously, an expert consulting firm is considering the future information technology needs of the courts, how the judiciary can take advantage of new technologies to meet these needs, and how the judiciary can best organize and manage resources to carry out its information technology program.

An independent study of the court security program will consider whether there are ways to provide adequate security to the judiciary more efficiently or effectively, and outside experts will conduct a strategic assessment of the probation and pretrial services system to make recommendations to ensure the future quality and success of these important programs. Work measurement studies have been completed recently and the results are being used to develop new staffing formulas for the appellate, district, and bankruptcy courts, as well as probation and pretrial services offices.

The fiscal year 2001 budget request for the Administrative Office is a seven percent increase in obligations over this year, less than what is requested for the courts. In addition to inflationary increases, $1.4 million is requested to bring the Administrative Office back to the level of service funded in fiscal year 1999. In order to devote as many resources as possible to continue staffing at the level necessary to support the courts, last year the Administrative Office took sizeable cuts in critical non-personnel programs. Funding is needed for deferred contractual services in support of core Administrative Office financial and information technology systems, such as the Central Accounting System and Data Communications Network. In ad-

dition, staffing will be restored to provide the courts with technical assistance in the probation, pretrial services, and court administration programs. These staff will assist the courts in improving program operations.

I urge the Committee to fully fund the Administrative Office's budget request. The Administrative Office is not a "Washington headquarters" agency. It is integral to the judiciary's ability to do its core work. The judiciary could not continue to function effectively without the support provided by the Administrative Office. A very modest increase in funding for the Administrative Office will ensure that the Administrative Office can continue to provide program leadership and administrative support to the courts, and lead efforts for the courts to operate efficiently.

FEDERAL JUDICIAL CENTER

In 1999, the Center provided education to over 37,000 in the judicial system, and over 90 percent of them used no travel funds. I want to recommend strongly that the Subcommittee approve full funding of the Center request. It is only 7.8 percent over the 2000 level and, if granted, would put the Center only slightly over its high-water mark early in the 1990s. The request is limited to the normal adjustments to the base budget except that the Center is not even requesting inflationary adjustments for travel, and for eight positions to help provide education through the Federal Judicial Television Network, which the Center manages for the entire judicial branch, and through the judicial branch's intranet, the J-Net.

The work that the Center does is absolutely essential to the judicial system and to the public. The Center's expertise was key to the success of the recent conference of federal judges along the Mexican border to search for solutions to the crisis in their courts. We count on the Center to keep us informed of statutory developments, and how the appellate courts are interpreting statutes, such as those governing prisoner litigation.

The Center, as Judge Smith can explain, is working closely with the U.S. Sentencing Commission to avoid duplication of effort while keeping judges and probation officers informed about guideline developments, including through jointly sponsored satellite broadcasts. As we get more cases with complicated scientific and technical evidence, we rely on the Center to provide us the tools we need to help manage this litigation.

Finally, the Center has long been a leader in helping courts adopt less expensive alternatives to traditional litigation when appropriate, and is using its alternative dispute resolution expertise to help implement the 1998 Alternative Dispute Resolution Act.

SENTENCING COMMISSION

Because the U.S. Sentencing Commission is not testifying before the subcommittee, I would like to say a few words in support of its appropriation request. You may recall that throughout the appropriations process for fiscal year 2000, there was substantial uncertainty as to the financial requirements of the Commission because there was a complete absence of voting commissioners. As a result, the Commission's budget was reduced to $8,468,000 for fiscal year 2000, an 11 percent decrease from fiscal year 1999 and the lowest appropriation for the agency since fiscal year 1994. As I am sure you know, a full complement of seven voting commissioners was appointed in November 1999, and the agency is fully operational once again.

The new commissioners face an extraordinarily heavy workload due to the extended absence of commissioners. During that period a significant backlog of crime and sentencing related legislation accumulated that must be addressed by the Commission. These items cover a wide range of criminal conduct of great concern to Congress and others, including intellectual property infringement, sexual offenses against children, firearms offenses, crimes committed by electronic means, and methamphetamine trafficking offenses. The newly minted Commission has made addressing these items its first priority, however it is severely hampered by staffing shortages that have gone unaddressed. A de facto hiring freeze instituted during the absence of commissioners, coupled with the agency's normal attrition rate, has reduced the current staffing levels by 20 percent from that of fiscal year 1998.

With this background in mind, the Commission requests funding of $10,600,000 for fiscal year 2001, the same as requested last year. The Commission requests adequate funding merely to restore its staffing and operations back to a level that approximates fiscal year 1998, the last year in which it had a fully functioning Commission. Without these additional resources, the Commission and its staff will be unable to respond adequately to all of its statutory responsibilities.

JUDGES' COLA

I wanted to touch very briefly on the issue of cost of living adjustments (COLA) because I know it is one that will be addressed by the congressional leadership. We are grateful that Congress approved a COLA for 2000 for Members of Congress, senior executive branch officials, and judges. The Judicial Conference strongly endorsed a COLA for 2000 and continues to support one for 2001. We are hopeful that Congress will allow the mechanisms of the 1989 Ethics Reform Act to work, and that all top government officials will be provided a COLA in fiscal year 2001.

It is important that such a pay adjustment be allowed to occur. The judiciary is deeply concerned about the growing disparity in pay between the federal and private sectors. Recent media reports indicate that on the east and west coasts, top law school graduates can almost immediately earn salaries comparable to the pay of members of Congress and district judges, and that many lawyers no more than several years out of law school can find jobs with successful law firms at salaries higher than the Speaker of the House and Chief Justice. The upward trajectory of associates' salaries reflects increasing competition among businesses for the best and the brightest. This past fall, the Congressional Budget Office concluded that the pay and benefits of members of Congress, judges, cabinet officers, and members of the Senior Executive Service are less generous than those of executives at large and medium sized private firms. If the pay gap between the federal government and other employers continues to widen, the judiciary and the political branches may find that they are unable to compete for the most talented individuals.

CERTIFYING OFFICER

There is one final issue I would like to address before concluding my remarks. It is not a funding issue, but rather a substantive issue that affects the way the judiciary manages its resources. In our budget request, we have included as a general provision, statutory language that provides court personnel the authority to manage their fiduciary responsibilities in the same way as the Executive Branch.

Under current law the clerk of the district court, as disbursing officer, is personally liable for the propriety of payments made for all the court units in the judiciary. However, since the district clerk is the only person now liable for the propriety of payments, all paperwork for all payments must be forwarded to the district clerk. This is very inefficient. With the legislative change that we are proposing, other key officials in the courts can become certifying officers. This is necessary because with budget decentralization and the new accounting system that is being implemented nationwide, each court unit head (e.g., bankruptcy clerk, chief probation officer, circuit librarian) will have the ability to make his or her own payments. These officials would certify and be held liable for payments being proper in their respective offices, just as the district clerk is now. This authority will eliminate a substantial volume of paperwork that otherwise has to be forwarded to the district clerk for each payment.

CONCLUSION

Mr. Chairman and members of the subcommittee, this concludes my statement. I would be pleased to respond to any questions you may have.

APPENDIX

SUMMARY

The fiscal year 2001 appropriation request for the Courts of Appeals, District Courts and Other Judicial Services totals $4,217,821,000, an increase of $452,075,000 over our fiscal year 2000 appropriation level. In addition to appropriated funds, the judiciary utilizes other funding sources to supplement our appropriations. Included in these sources of funding are fee collections, carry forward of fee balances from prior years, and the use of no-year funds. When all sources of funds are considered, the increase in obligations for fiscal year 2001 is only $355,878,000 or 8.7 percent.

Of the $355,878,000 increase in obligations, 72 percent ($256,922,000) is adjustments to the fiscal year 2000 base primarily associated with inflation, pay increases and GSA rental payment increases. The remaining 28 percent ($98,956,000) is needed to respond to increased to requirements for security, magistrate judges, federal defender offices, and to fund additional court staff required to process growing workload. The request for the principal programs are summarized below.

SALARIES AND EXPENSES

The salaries and expenses of circuit, district, and bankruptcy courts and probation and pretrial services offices account for most of our request. A total of $3,712,374,000 is required for this activity, $306,535,000 over fiscal year 2000 estimated obligations. Funding totaling $211,078,000 is expected to be available from other sources including fee collections and carry forward balances to offset the S&E requirement. This leaves an appropriation need of $3,501,296,000, of which $2,602,000 is to be derived from the Vaccine Injury Trust Fund.

Over 71 percent of the $306,535,000 increase ($216,644,000) is needed to fund adjustments to the fiscal year 2000 base for pay increases for courts support staff ($118,967,000); pay increases for judicial officers ($22,414,000); GSA space rental costs ($63,216,000); inflationary increases for operating costs ($10,718,000); information technology increases ($13,062,000); and reductions in non-recurring costs (−$11,733,000).

The remaining 29 percent ($89,891,000) will fund 9 additional magistrate judges and their staff ($3,764,000); 1,255 FTEs to return court staffing to fiscal year 1999 service levels ($82,670,000); and space alterations required to install courtroom technologies ($3,457,000). The additional magistrate judges are needed to provide an effective, yet less costly, way of providing help to Article III judges to handle the growing volume of civil and criminal cases facing the courts. The additional court staff will allow the courts, particularly probation and pretrial offices, to process the courts' growing workload. The alteration funds will allow courtroom technologies equipment to be installed in existing courtrooms.

DEFENDER SERVICES

A total of $444,068,000 is required for the Defender Services program to provide representation for indigent criminal defendants in fiscal year 2001. Of this amount, $440,351,000 is requested in direct appropriations, and $3,717,000 is expected to carry forward from fiscal year 2000. The total requirements for fiscal year 2001 are $37,086,000 or nine percent over the fiscal year 2000 projected obligations of $406,982,000.

Most of the increase ($36,486,000) is needed for adjustments to the fiscal year 2000 base for inflationary and workload increases. Included in these adjustments is an increase of the non-capital hourly panel attorney rate to $75 for all districts beginning April 1, 2001. Also included is a $9,700,000 net increase associated with a workload increase of 3,700 additional representations in fiscal year 2001.

The remaining increase ($600,000) will fund the start up costs of two new federal defender organizations. The Congress and the Judicial Conference have urged the judiciary to establish more federal defender organizations as an alternative to using panel attorneys in districts where this would be appropriate.

FEES OF JURORS AND COMMISSIONERS

For the Fees of Jurors program, a total of $60,821,000 is required. The total requirement for fiscal year 2001 is $2,179,000 lower than the estimated fiscal year 2000 obligations. This reduction is the result of a projected decrease in juror days.

COURT SECURITY

For the Court Security program, a total of $215,353,000 is required. This is a $14,436,000 increase over estimated fiscal year 2000 obligations. Adjustments to base include increases of $5,971,000 for inflationary and contractual cost increases; funding to annualize the costs for 120 new court security officers (CSOs) partially funded in fiscal year 2000; increased hourly rate payable to CSOs; and a reduction for non-recurring fiscal year 2000 equipment expenditures.

The remaining increase of $8,465,000 includes funding 72 additional CSOs to provide a security presence in existing, new and renovated facilities housing a full-time judicial officer ($2,267,000); providing narrowband capable digital radios ($3,910,000); and upgrading security systems and equipment at probation and pretrial offices ($2,288,000).

PREPARED STATEMENT OF LEONIDAS RALPH MECHAM, DIRECTOR, ADMINISTRATIVE OFFICE OF THE U.S. COURTS

INTRODUCTION

Mr. Chairman and Members of the Subcommittee, it is an honor to once again testify before you on the budget requirements for the Administrative Office of the

U.S. Courts (AO). Chairman Gregg, it has been a privilege to work with you, Mr. Hollings and all of the members of this subcommittee.

I would like to take a moment to recognize the excellent staff work you receive on this subcommittee. While your staff does keep us on our toes, their questions and suggestions are always well thought out, appropriate and appreciated. I believe we have benefitted from their scrutiny and hopefully the budget products we have developed in turn have assisted you as well.

I would also like to thank you for your efforts to provide an increase to the AO for fiscal year 2000. Although modest in size, given the fiscal difficulties that you faced last year we fared much better than many agencies and for that I am appreciative. I know administrative functions are easy targets in times of fiscal constraint. The fact that you saw fit to increase the budget of the AO indicates that you recognize that our role is vital to the operations of the entire judiciary.

60TH ANNIVERSARY

1999 marked the 60th anniversary of the AO and gave us an opportunity to reflect on how the role of the AO has changed over this relatively brief period of time in our history. From its beginnings where it provided services to a population of approximately 2,500 to one that now numbers more than 30,000, the AO stands beside the courts to provide necessary resources and program support to fulfill its critical mission. Sixty years after its origin, the AO has become a model for foreign judicial systems wishing to establish their own administrative support system.

The AO was created in 1939 to eliminate the separation of power issues raised by the Department of Justice's handling the judiciary's administrative needs. Sixty years later, judicial independence and service continues to be the guiding principles that govern and influence AO operations. Whether launching a new accounting system or developing the latest spending plan, we remain focused on ensuring that the judiciary is equipped to perform its proper and necessary role in our system of government.

ADMINISTRATIVE OFFICE BUDGET REQUEST

The AO's request for fiscal year 2001 totals $71,350,00 in direct obligations. This represents an increase of $4,924,000 or approximately 7 percent over anticipated fiscal year 2000 direct obligations. The AO's budget request for fiscal year 2001 essentially provides for current services with modest increases to restore AO operations to its fiscal year 1999 levels. This is consistent with the funding request for the courts and will allow the AO to keep up with its ever increasing workload. Eighty percent of the requested increase is necessary to fund uncontrollable adjustments to base such as pay and benefit increases and inflationary changes. Although we are grateful that you were able to provide the AO a modest increase for fiscal year 2000, the increase was not sufficient to fully fund program operations at their continuing service level.

Much of the increase requested will be devoted to improving the services provided to the courts. We will provide more technical support to probation and pretrial services programs, court administration programs, and the development of automated systems which support court administrative functions. We will focus on conducting program and efficiency reviews that will assist the courts in areas such as securing witness protection materials; electronic monitoring; creating pretrial services offices in the courts; developing new case management programs and systems; improving financial management; and developing strengthened contracting procedures and regulations.

SOUTHWEST BORDER

The AO's role in the judiciary does not stop at administrative support. We are affected by everything that impacts the courts. For example, the tremendous workload increase in districts along the southwest border that you have been hearing so much about, and will continue to hear much about, has also had an impact on the AO's workload. It falls on the AO to try to stay ahead of the curve and assess and—to the extent we can—lessen the havoc created in the courts. No office within the AO is immune from involvement. Our Statistics Division must make a special effort to keep track of the new U.S. attorneys that are added to the border districts so that they can predict how many additional cases will be brought and when we should expect to see them. The people in finance must carefully review the judiciary's financial situation and develop a way to provide these areas with financial resources to assist with the crisis while at the same time balancing the needs of the other 89 judicial districts, most of whom are also seeing workload increases. Our court services section has had to come up with ways to help in the short term by devel-

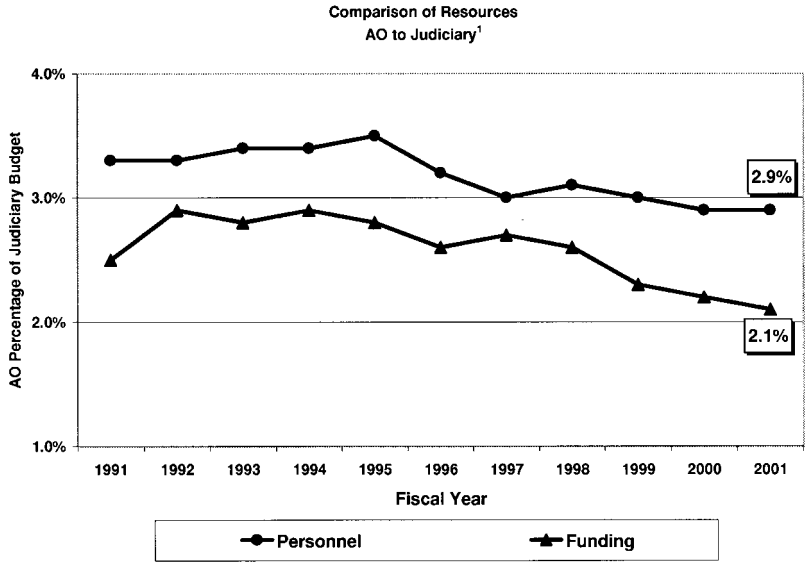
oping and managing a system that would allow judiciary staff from other districts to take short-term assignments in these districts to ease some of the workload burden while it tries to find long-term solutions. And our judges program has come up with ways to assist the judges by taking advantage of technology and having judges in other districts handle some cases through videoconferencing or through visiting arrangements.

This is just an example of how the AO must be responsive to judiciary concerns. It is an agency-wide effort, but it drains resources from what is already a staff that is stretched very thin from years of increasing workload without commensurate increases in staff.

AO RESPONSIBILITIES

One of the primary responsibilities of the AO is to provide staff support and counsel to the judicial conference and its committees. In addition, the AO provides a broad range of legislative, legal, management, administrative, and program support services for the federal courts. We are responsible for collecting data and preparing over 100 different statistical tables. In addition to developing the judiciary's budget request and national financial plan we assist almost 400 court units with developing and executing their individual spending plans. We process all personnel and payroll actions—almost 400,000 in 1999 alone—and manage the benefit program for over 30,000 judiciary employees. We are engaged in several major studies designed to improve court operations. We are responsible for all national automation applications and manage the development of new ones, which may number 15 or more at any one time. We inform, educate and audit the courts on judicial conference policies and other operating procedures.

I am fortunate to have a staff of hardworking people who are dedicated to the role of the judiciary in our system of government. However, we do all of the work I mention, and a tremendous amount more, with a modest amount of people. The consequence is that a vast amount of knowledge on specific judiciary topics is vested, in many cases, in only one individual. This situation keeps us holding our breath and hoping retirements or lucrative offers from outside the AO do not rob the AO of its knowledge base. This point is made clear in the following chart, which shows how the AO's resources, both funding and staffing, have been declining for the past three years, with our 2001 request reflecting a 10 year low.



[1]Reflects combined AO-direct and reimbursable staffing and funding compared to total judiciary staffing and funding levels

The AO continues to be a model of efficiency, when compared to other administrative support organizations. AO staffing as a percentage of judiciary staffing is less

than 3 percent, while the staff in the Department of Justice's Management and Administration accounts represents more than 5 percent of DOJ total staff.

ACCOMPLISHMENTS

For the past several years, the funding received by the judiciary has not allowed the courts to grow to the level required to keep pace with their increasing workload. Because of this, the AO has been increasingly called upon to help in developing new systems and programs for the courts that will allow them to continue to provide quality services in spite of the fact that workload increases faster than resources. The AO is continuing to work at improving services to the courts and to the public.

The federal judiciary accomplishes its constitutional mission with a small portion of the nation's budget and resources, less than two-tenths of 1 percent. Increasingly tight funding demands have required the AO to make more efficient use of existing resources. By taking advantage of new technologies, improving communication, and placing increased emphasis on long range planning and budgeting, the AO continues to be innovative in providing support services to the judiciary. I would like to take a few minutes to describe some of our accomplishments as well as some ongoing activities and efficiency efforts that the AO has coordinated. Additional examples of our economy and efficiency efforts is contained in our annual report entitled "Optimal Utilization of Judicial Resources."

Resource Management

The constrained funding the judiciary has experienced over the past several years has strengthened our resolve to take a longer-term view of our resource needs and to consider the future impact of today's financial and programmatic decisions. The AO is spearheading a number of initiatives that focus on ensuring that our future programs achieve the judiciary's goals in a cost-effective way.

Long-Range Planning and Budgeting.—The AO has been working with Judicial Conference committees to strengthen the connections between program planning and budgeting to identify strategic planning issues, and to analyze their future impact on the Judiciary's mission, operations, and resource needs. In February 1999, the Conference's Executive Committee established a new long-range planning group, made up of Conference committee chairs, to consider planning needs and issues. The group meets semi-annually. Topics covered in the 1999 sessions included assessing past and future trends in the judiciary's workload, budget, and personnel.

AO staff are assisting the Conference committees with identifying strategic issues and identifying and analyzing possible courses of action in order to recommend new approaches and policies. Strategic issues will be addressed within the context of the judiciary's core values and mission in addition to considering economy and efficiency.

Work Measurement Initiative.—For twenty years, funding needs for court support staff have been determined based upon staffing formulas. These formulas provide an objective means to consider workload factors, such as the number of cases filed, and equitably determine the amount of staff funding needed in each district. While the current formulas, which were developed in the early 1990s, have worked very well in determining the staffing resource increases or decreases needed from year to year, they have become outdated and do not address the impact changing times have had on staffing needs.

Under the overall leadership of the Judicial Conference Committee on Judicial Resources, the AO is updating the formulas. New staffing formulas for allotting funds to the courts are being developed that will reflect new work requirements, the impact of technology, and changes in work processes that have been implemented in recent years. After the new formulas are completed, work changes and resource requirements will continue to be studied so that formulas can be revised regularly to reflect new work or operational changes.

Financial Management Improvement Program (FMIP).—In 1999, the AO introduced the FMIP. This program is aimed at: elevating the overall financial skills level of AO and court personnel; providing an ongoing training program for the courts in appropriations law, budget decentralization, and internal controls; designing financial process improvements and assisting the courts in implementing them; modernized automated financial systems such as our new accounting system and the Criminal Justice Act payment system replacement; and, updating and maintaining financial policies contained in the Guide to Judiciary Policies and Procedures.

Major Studies

The AO is committed to developing, refining, and providing the best possible support to court programs. Agency staff were engaged in several major studies in 1999 aimed at improving court operations. Although the studies themselves are being

performed by outside contractors, a lot of AO staff resources are required in the development and awarding of the contract, as well as providing information to and working as a liaison between the contractors and the courts. I am confident that the results of these studies will be better service to the courts and the taxpayers.

Space and Facilities.—In 1999, the AO contracted with Ernst & Young to conduct a comprehensive program and management assessment of the judiciary's space and facilities program. The main purpose of this study is to evaluate and develop recommendations on the effectiveness and efficiency of the space and facilities program. The study will address: organizational relationships, roles and authorities; long-range planning process; courtroom needs; U.S. court design guidelines; facilities management policies; and, funding and budget mechanisms. Ernst & Young will recommend strategies for achieving program objectives, improving processes, and containing costs.

Probation and Pretrial Services.—The AO has received proposals from a number of outside contractors in our efforts to conduct a comprehensive assessment of the probation and pretrial services system. The assessment will address a number of important issues raised by a confluence of increasing responsibilities, changing federal criminal populations, and constrained budgets. The broadest issue is whether there are ways to accomplish the system mission more effectively through changes in functions, policies, management systems, processes, organization, assignment of responsibilities, resources, operational approaches, statutes, or regulations.

Information Technology Program.—The AO also is involved in a study to assist the judiciary's rapidly expanding information technology program. The assessment will focus on: the judiciary's short and long-range information technology needs and objectives; projected changes and enhancements in information technology in the marketplace and how best to position the judiciary's information technology program to take advantage of new technologies to meet current and future requirements; and, alternatives for organizing and managing resources to carry out the judiciary's information technology program effectively.

Court Security.—Meeting the security needs of the judiciary is a vital but increasingly costly requirement. Although it comprises slightly less than 5 percent of total judiciary expenditures, court security has been the fastest growing component of the judiciary's budget. The AO contracted for an independent assessment of how security services are provided to the judiciary. The study will review: exterior and interior physical security of federal courthouses and multi-tenant facilities; the need for after-hours or 24-hour security coverage; courtroom security during civil and criminal proceedings; the court security officer program, including contract administration, staffing formulas, and wage determination procedures; alternative approaches of providing guard services; and the need for background checks on judiciary employees.

The proposed study will determine if there are alternative ways to provide adequate security to the judiciary more efficiently and more effectively.

Training Needs.—In 1998, the AO, Federal Judicial Center and U.S. Sentencing Commission jointly contracted with a private consulting firm to assess training needs for the judiciary and AO employees. The contractor is analyzing, documenting and prioritizing training needs, and it is preparing a training plan that will serve as a road map for the development of future training programs. The final training plan and a comprehensive report will be presented to the Committee on Judicial Resources for consideration in June 2000. This is the first comprehensive study of training needs undertaken by the judiciary.

Communication Improvement—Use of Technology

As court responsibilities and caseload expand, the growth rate of the AO has not kept pace with the judiciary as a whole. This has forced us to identify creative and at times non-traditional approaches to work and to strengthen existing lines of communication with the courts and the public through a variety of media, as well as reaching out through informational and training programs.

J-Net.—For internal communications, the judiciary uses an "intranet". The AO maintains a site on this intranet, called the "J-Net", which is helping to achieve savings in paper and postage costs as it disseminates greater amounts of information in place of paper documents. The site is visited more than 5,000 times weekly by judiciary employees looking for reports, statistics, manuals, and other documents. More than 140 court units now have some type of information published on the J-Net, which was redesigned in 1999 to provide easier access to court information.

Internet.—The AO manages and coordinates policies and procedures related to Internet access. Dissemination of court information to the public via the Internet saves time and money. Many courts receive fewer calls regarding office hours, directions to the court house, and questions concerning local rules. The judiciary also

uses the Internet for research and acquisition activities. The AO also maintains an Internet site which contains statistical information, proposed changes to the federal rules, employment information and more.

FJTN—Training and Education.—The Federal Judicial Television Network (FJTN) is the judiciary's nationwide broadcast network. The FJTN currently broadcasts to approximately 270 court locations and will eventually be available in 285 locations. The FJTN became an integral part of the judiciary's training efforts in 1999 through its distance-learning programs. One of the greatest benefits of the network is the ability to reach a multitude of sites. Live broadcasts also are using "push-to-talk" capability, which allows viewers to ask questions during the broadcast.

AO staff are converting training programs traditionally offered in a classroom setting to a format using the television network. The FJTN has allowed the AO to deliver high-quality training programs to a larger audience at reduced costs compared to traditional classroom instruction. The AO now broadcasts over 80 hours of live and taped educational and information programming per month to sites throughout the judiciary. Our partners, the Federal Judicial Center and the U.S. Sentencing Commission, combine to broadcast an additional 50 hours per month. Recent programs that have been broadcast include: Federal Retirement Benefits for Court Personnel; Security for Judiciary Computer Users; Introduction to Case Management and Electronic Case Filing; and Pretrial Services Investigations and Reports Training.

CONCLUSION

Mr. Chairman and members of the subcommittee, I hope I have met my goal of impressing on you the wide array of responsibilities vested in the AO. Our role goes far beyond administrative support. Although we are not a headquarters office, we must be knowledgeable of all of the judiciary's operations. For every issue that affects the judiciary, every new piece of legislation that expands federal jurisdiction, every Administration initiative that impacts federal law enforcement, every congressional request for information, there is some person at the AO who must quickly master the subject and render expert advice. I am proud of our record of accomplishment and service to the courts and the American public. I plan on doing everything in my power to continue not only to this by granting the modest increase I am seeking for fiscal year 2001.

PREPARED STATEMENT OF HON. FERN M. SMITH, DIRECTOR, FEDERAL JUDICIAL CENTER

Mr. Chairman and Members of the Subcommittee: My name is Fern Smith. I have been a U.S. district judge since 1988 and director of the Federal Judicial Center since July 1999, following my selection by the Center Board to succeed Judge Rya Zobel.

The Center is grateful for the 1.2 percent increase it received this year, especially in light of the tight circumstances confronting you.

This statement summarizes our 2001 request and then describes our work in these areas:

1. Using distance learning technology to provide education to the federal courts.
2. Helping the southwestern border courts and other courts develop education to attack critical problems.
3. Helping judges implement statutes on prisoner litigation and other matters.
4. Analyses of federal court structure and procedures.
5. Cooperation and coordination with the U.S. Sentencing Commission.
6. Education and research to implement ADR programs.
7. Helping courts manage complex scientific and technical lawsuits and other aspects of modern federal litigation.

2001 REQUEST: TO ENHANCE EDUCATIONAL TECHNOLOGY

We request an appropriation of $19,337,000, a 7.5 percent increase in obligations for adjustments to base and for eight automation and video positions in order to expand the reach of our training programs through greater use of educational technology. Granting the full 7.5 percent increase would produce a 2001 appropriation just 2 percent over the Center's 1992 appropriation, the highest granted to date. The eight positions we request are the same positions that Judge Zobel sought last year.

I have reviewed the request closely to assure myself that the request is responsible and well-grounded.[1]

We request no increase in travel funds—no programmatic increase and not even the standard inflationary increase. We anticipate Center travel spending in 2000 to be 40 percent, or $2.1 million, less than in 1995. Likewise, the number of participants in our travel-based programs continues to decrease—by roughly a third since 1995.

Although our spending for travel-based education has declined sharply, our training population is increasing. FTEs in the courts have increased by 15 percent since 1995, and the courts are seeking funds in 2001 for 1,255 additional, much needed court staff. Personnel hired pursuant to these requests, particularly the almost 700 probation and pretrial services officers, will need FJC orientation training and then continuing education throughout their careers. Furthermore, as explained throughout my statement, the courts' training needs are themselves becoming more complex because the work of the courts is becoming more complex.

We are thoroughly committed to distance education for the great bulk of our training: Over 90 percent of the participants in Center training use little or no travel. But distance education still requires resources, including personnel sufficient to do the job.

Four of the eight positions we request are to rebuild our video staff, which operates the Federal Judicial Television Network (the FJTN) and produces educational videos. The FJTN began broadcasting in 1998; last year it broadcast over 1,400 hours. The Center video staff operates the FJTN teletraining studio, which we built, programs the transmission to the satellite uplink, and produces and disseminates the monthly broadcast schedule. We manage the network not just for Center broadcasts (including those we produce with the Sentencing Commission) but also for those of the Administrative Office, allowing operational efficiencies and saving resources elsewhere in the judicial branch.

However, even with the major responsibility of running the network for the third branch, our video staff must continue to design, film, and edit the educational videos that increasingly make up parts of the Center's FJTN broadcasts. It must also continue to produce videos essential for our judicial orientation programs and for court use in local educational seminars.

Operating the network and continuing to produce educational videos have imposed a serious strain because we have been able to increase our video staff only by one and a half positions, extracted from other personnel sources. Four additional positions will allow us to update our judicial orientation videos, some of which are almost ten years old, meet demands for additional videos, and consider broadening the FJTN broadcast day to accommodate the western time zones.

We also request four positions to expand other Center technology-based educational services. Satellite broadcasts, while important, are only one of the non-travel education technologies now used for education in both government and business. The four automation positions we request will let us expand the number of on-line computer conferences we provide the courts, place more interactive training tools on the J-Net (the federal judiciary's internal intranet), convert to the web our training tutorials that are now on CD–ROM and computer disc, and develop inventory, ordering, and distribution services for Center educational publications and videocassettes.

CENTER SERVICES AND ACTIVITIES

To help put our request in perspective, the rest of my statement describes the range of Center services and activities, all of which promote a more efficient and effective federal court system. By way of overview, in the 1999 calendar year, the Center

—provided 906 educational programs for more than 37,000 federal judge and court staff participants, either directly or through Center educational materials used in courses arranged by individual courts and taught by court employees. These are employees the Center has trained to lead the courses in addition to their regular duties. The great majority of this education and training involved little or no travel.

[1] The Center's 2001 request was unanimously approved by the Center Board, which the Chief Justice chairs. I have also discussed our request with the Judicial Conference's Committee on the Budget, the Administrative Office, and with the Sentencing Commission. A joint Judicial Center-Administrative Office committee was created several years ago to coordinate plans and avoid duplication or even its appearance.

—completed, primarily for committees of the U.S. Judicial Conference, 23 major research and evaluation projects, continued work on 31 others, and responded to many other requests for short-term research assistance.
—produced or updated 53 educational programs for live or videotaped satellite broadcast or distribution on videocassette.
—broadcast more than 1,400 hours of educational and informational programs from the Center and from the Administrative Office over the FJTN.
—completed 8 curriculum packages and training guides.
—answered some 2,000 information requests from judges, court staff, and others.
—hosted seminars or briefings for almost 430 judges and officials from some 70 countries.

A more detailed discussion of our activities follows.

Using distance learning technology to provide education to the federal courts

In 1999, over 90 percent of the participants in Center-sponsored educational programs, and in locally sponsored training events that employ Center materials and services, used distance education methods, including satellite broadcasts. Distance education saves time and money while meeting proliferating education and training needs throughout the courts. Asynchronous distance education—that is, education available on demand from the Web or videocassette—provides education when the judge or court employee needs it to help resolve a new and special problem. As these educational needs become more diverse, and as judges and staff become ever busier, the importance and cost effectiveness of web-based training, manuals, and various forms of video education becomes all the more apparent. We use numerous needs assessment methods to determine how distance education can increase federal court productivity and efficiency.

Federal Judicial Television Network

The FJTN has been operating for almost two years from Center-operated studios, in the Thurgood Marshall Building, that now broadcast to over 270 federal court locations that the Administrative Office has equipped with satellite antennas. The quality of FJTN operations testifies to the skill of the Center video staff, especially given the strain I described above. The Center's reputation has spread outside the judicial branch. Representatives from the private and public sector (most recently the Justice Department) have visited the Center's FJTN operations to learn how to develop similar satellite networks.

This month we will broadcast nine new programs and eight programs that were broadcast in earlier months. These programs will be rebroadcast several times during the month so that judges and court staff can use them at times that suit their schedules.

The Center's programming on the FJTN enhances the knowledge and skills of court personnel on subjects that are difficult to accommodate through traditional methods, at least in the large numbers broadcast technology allows for. Center programs have helped many probation and pretrial services officers learn basic occupational Spanish, learn how to reduce the risk of recidivism by channeling defendants and offenders to education and employment opportunities, and learn how to deal with substance-abusing defendants and offenders by understanding the scientific bases for dependency and their ramifications. One program, for example, featured Dr. Alan Leschner of the National Institute on Drug Abuse describing Advances in Drug Abuse and Addiction Research. An annual FJTN orientation for new federal law clerks provides them consistent, nation-wide instruction on their ethical responsibilities and teaches them economy in drafting. Most of these programs are interactive, allowing users to participate in the programs through the "Push-to-Talk" microphone technology, as well as through faxes and call-ins.

Center FJTN broadcasts also help local court managers use training effectively. Recent broadcasts have provided managers information on how to use the concept of "competencies" in human resource management and court training and how to use "structured on-the-job training" techniques.

The Center broadcasts its FJTN video magazine Court to Court several times a year to inform court managers of economies devised by colleagues around the country. Court to Court was a finalist in the national "Telly Awards" competition for non-network video programs, as was a Center program that explains judicial procedures to court interpreters.

We are replacing anecdotal information with better estimates of the viewership of FJTN programs—original broadcasts, rebroadcasts, and those that court personnel tape for later viewing. Since July, we have conducted a sophisticated viewership study designed by Center survey research experts using randomly selected samples of FJTN downlink sites. This project will yield data to help deter-

mine the FJTN's most economical uses. Once the project has yielded sufficient data to merit reporting, we will gladly make them available.

Videoconferencing

The Center also makes extensive use of two-way videoconferencing for meetings and for training programs for small numbers of participants. Since 1998, Center personnel have managed over 100 videoconferences for the Center and a like number for the Administrative Office. The Sentencing Commission has also used this service, as have some federal courts.

Web-based education

The Center is using its website extensively to provide education and information to the courts and to promote access to our resources by the general public. In September 1998, the Center, in collaboration with the Administrative Office, produced the first web-based interactive tutorial for the judicial branch. It helps court staff prepare reimbursable work authorizations (RWAs) for facilities renovation, repair, and building services. It is a multipart application with an on-line self-testing tutorial on all aspects of creating and managing an RWA as well as tools to create, file, and archive them. We had earlier developed a tutorial to teach court personnel the rules of civil procedure, and now also have a more extensive tutorial on the bankruptcy rules. In addition, through its website the Center sponsors moderated on-line computer conferences—a form of asynchronous distance education—that participants join from their desks. We have sponsored 52 such conferences since 1997.

FJTN broadcast schedules, program descriptions, and written materials for some programs are available on-line, often weeks before they are available in print. Many Center publications and other educational products are on line.

We have recently redesigned our website to make it the most complete and accessible research and educational resource available to federal court personnel. Training specialists in courts throughout the country can use this site to take advantage of the experiences of their colleagues in other courts and circuits. The site identifies trainers in other courts who have dealt with particular problems and allows users to pose questions to them, view other courts' training events databases, and obtain electronic copies of resource materials that others have developed. An operations exchange group lets managers and employees pose or answer questions or locate resources about court operational issues.

For the public, the Center's Internet site includes 50 Center publications. Last month we opened our Federal Judicial History website, which the Center developed pursuant to its statutory mandate to conduct and encourage programs on the history of the federal courts. This electronic reference source about the development of the federal judicial system is the most comprehensive such resource available in any form, providing users ready answers to many of the most frequently asked questions about the history of the federal courts. The biographical database of federal judges is the first complete list of life-tenured judges who have served since 1789; its query feature yields answers to many questions about those who have served on the federal bench and about the changes in the make up of the federal judiciary over its 200 year history and in more recent times. The Landmark Judicial Legislation section includes 21 of the most important statutes determining the organization and administration of the judiciary, with essays describing congressional deliberations. The site also lists all chairmen of the Senate and House Judiciary Committees since 1813.

Training products for in-court use

The Center makes available over 50 self-study guides, computer-assisted instructional programs, and "training packages" that it has designed for court managers to use in building training into their human resource programs. In 1999, over 15,500 participants in locally sponsored programs used these resources, in-district with no or minimal travel. A few examples of the subjects available for local court education are:

—a video-based program to help clerk's office personnel understand how to assist lawyers and the public without giving advice of a legal nature;
—programs to help court managers and staff increase productivity through modern business practices of process improvement, quality service, and team-based management;
—training packages with desk references to help probation and pretrial services officers make financial sanction recommendations and work with mentally-disturbed defendants and offenders;
—a computer-assisted training program on a Center-developed statistical model that helps probation officers determine the likelihood of recidivism during an offender's term of supervision.

Helping the southwestern border courts and other courts develop education to attack critical problems

The Center provides judges and court managers the education and training resources they need to develop their own knowledge and skills in critical problem areas, as well as develop the knowledge and skills of the court staff that report to them. The Center works regularly with numerous advisory committees and ad hoc planning groups to determine what judges and court personnel need and to provide training programs, curriculum packages, video broadcasts and cassettes, and on-line services that meet those needs in the most cost effective manner. Here are some specific examples:

The Southwest Border Conference

Illegal immigration and drug importation have created a crisis in federal courts along the Mexican border in the Fifth, Ninth, and Tenth Circuits. Last May, Fifth Circuit Chief Judge Carolyn King asked the Center to help design a workshop where federal judges in her circuit could learn from each other techniques to cope with the extraordinary crush of litigation and to discuss candidly the costs and benefits of various measures that judges have developed. The workshop was expanded to include the border district judges in the Ninth and Tenth Circuits and held last month in Albuquerque, with a keynote address by Senator Domenici. As one judge put it, this meeting let "the frontline soldiers in our war on border crime" share ideas on how to deal, and how not to deal, with the changing contours of border court problems.

This workshop was a coordinated effort by the judicial branch. The Administrative Office arranged funding, and Center education experts worked with the planning committees of judges of the three circuits to design a program of maximum benefit, based on our experience in designing all manner of practical educational exchanges for judges that save the courts both time and money.

Electronic case filing

As courts convert from paper to electronic filing, they must prepare the bar for this change. At the request of one of the courts that is preparing to receive filings electronically, the Center developed on-line tutorial, in collaboration with that court, to show attorneys how to file pleadings and other case-related materials electronically. We are developing a similar tutorial in collaboration with a bankruptcy court. Both tutorials will be available as templates for other district and bankruptcy courts.

Helping bankruptcy courts' public information functions

Many people who seek to use the bankruptcy process are unfamiliar with it, especially those not represented by counsel. Bankruptcy clerical personnel face substantial burdens in answering the questions posed by these potential users, many of whom do not speak English. To help the bankruptcy courts' clerical personnel, the Center is creating a combined video-print information package in English and other major languages that each bankruptcy court may use to provide much of the information that the court staff would otherwise have to provide on a person-by-person basis.

Helping judges implement statutes on prisoner litigation and other matters

Educational programs are needed to help judges and court staff stay abreast of both the responsibilities that Congress gives them and the evolution of case law interpreting that legislation.

Criminal cases and prisoner litigation

The 1996 Prison Litigation Reform Act and Anti-Terrorism and Effective Death Penalty Act created new requirements for federal judges in reviewing lawsuits filed by prisoners objecting to the conditions of their confinement as well as habeas corpus petitions filed by prisoners seeking review of their convictions. Also, Congress has authorized the death penalty for a growing number of federal crimes, which has created a complex set of procedural challenges to ensure a trial that is fair both to the government and the defendant.

Starting with a pre-FJTN, 1996 satellite broadcast, the Center has made a major effort to help judges and court staff with the effective management of prisoner civil rights, habeas corpus and death penalty litigation. For example:

—Nine Center programs last year for district and magistrate judges included a total of over 30 hours of instruction and analysis about the two 1996 statutes and related subjects. And at the request of the Third Circuit, the Center conducted a two-day program devoted entirely to capital habeas cases in the cir-

cuit; in addition to federal judges, nearly 200 prosecutors, defense counsel, and state judges attended at no cost to the Center.

—The Center also broadcast an FJTN update on the Prison Litigation Reform Act, with special emphasis on sections governing exhaustion of remedies, filing fees and costs, termination and stays of prospective relief, attorney's fees, physical injury requirement, three strikes provisions and screening requirements.

—Later this year, the Center will release, probably through its website, the first part of a two-part resource guide for judges on managing death penalty litigation. Part 1 deals with federal prosecutions; part 2 provides guidance on federal habeas review of state death penalty cases. Both will help judges manage the costs of death penalty litigation.

Early this summer the Center will broadcast a two part program for federal judges on managing federal death penalty cases, tapes of which will serve as ready references for judges assigned such cases.

These efforts build on the death penalty litigation clearinghouse that the Center has maintained for several years, through which federal judges assigned death penalty cases may obtain copies of pretrial orders, jury charges, and other documents developed by judges who have handled these cases, along with audio and videotapes of Center educational programs.

—We have assisted the Administrative Office in evaluating the Judicial Conference's Criminal Justice Act supervising attorney pilot project to help courts manage CJA responsibilities. Next year, the Center will present to the relevant committees of the Judicial Conference our analysis of this project's impact.

The Center's Manual on Recurring Problems in Criminal Trials, now in its fourth edition, is a standard reference work for judges on the appellate case law governing criminal proceedings. It is heavily used for training federal prosecutors as well. The Justice Department has printed 7,000 copies of the 4th edition and distributes it in its classes.

Other case law updates on the FJTN

The Center uses the FJTN and traditional judicial seminars to keep judges informed about new appellate case law, knowledge that is essential for an efficient judicial system. Each July, our FJTN review of the U.S. Supreme Court term alerts judges and their clerks to the decisions most likely to affect federal judges' daily works. Last month we broadcast our first bankruptcy law update, which followed an earlier FJTN program on agricultural bankruptcies and regional FJTN circuit bankruptcy law reviews.

Analyses of federal court structure and procedure

Center research analyzes the impact of statutory and rules provisions to help the courts, Judicial Conference committees, and in some cases Congress, determine whether to consider alternative approaches.

The Center works closely with the Judicial Conference Standing Committee on the Rules of Practice and Procedure, and with the four Advisory Committees, to analyze the operation of the rules and help the committees determine where amendments may be needed to promote more efficient and fair litigation. Recent analyses included studies of document-production burdens, an analysis of district and appellate practices that require disclosure of financial interests of parties in federal cases, and a study of five states' court procedures for court-ordered mental examinations of defendants in capital cases. We will soon present information on the use of special masters in complex civil litigation to the Judicial Conference's Advisory Civil Rules Committee.

The Center completed an evaluation of digital audio recording technology for the Court Administration and Case Management Committee, a technology now approved by the Conference as a method for taking the official court record.

The Center will release this year a source book of case-management procedures used in the thirteen federal appellate courts, in response to the observation in the judicial branch's Long Range Plan that "the processes by which appeals are actually decided in each circuit are generally not well known, and they have not been sufficiently studied." A conference of chief circuit judges and circuit executives, arranged by the Center and held last week in connection with the meeting of the Judicial Conference, allowed exchange of information about chief circuit judges' court and circuit management practices. This conference was similar in purpose to the conferences that the Center regularly presents for chief district judges and chief bankruptcy judges.

Ninth Circuit structure

The Center provided research and analysis for the statutory Commission on Structural Alternatives for the Federal Courts of Appeals. The commission pre-

sented its legislative recommendations late in 1998 for changes in the Court of Appeals for the Ninth Circuit and in appellate structure generally. This year, the Center published the Commission's working papers so that Congress and other interested parties can readily review the underlying Judicial Center data, and other materials, with which the Commission worked and that helped shape its recommendations.

Cooperation and coordination with the U.S. Sentencing Commission

Congress, in creating the Sentencing Commission, directed it to work with the Center to avoid duplication of effort in training and research. Commission representatives have long been an integral part of the faculty for our orientation programs for new federal judges and probation officers. We have worked with the Commission, the Judicial Conference Criminal Law Committee and its staff, and the U.S. Bureau of Prisons, to arrange periodic sentencing policy institutes as one means for the Commission to get the views and experiences of federal judges about the guidelines, which they apply on a daily basis. To help the Commission use the FJTN to broaden its educational reach, the Center has included Commission components in its own broadcasts, including Perspectives, the Center's periodic FJTN educational news magazine for probation and pretrial services officers.

Shortly after the new commissioners were sworn in this year, the commission chair, Judge Diana Murphy, Commissioner John Steer, and top commission staff met with top management of the Center to ensure continued close coordination. Earlier this month, the FJTN broadcast the first of three joint Center-Commission programs on the Sentencing Guidelines. Sentencing and Guidelines: Departure Analysis explained statutes, decisions, and guidelines provisions concerning departures, provided a "departure roadmap" of the Supreme Court's case law departure analysis, and presented hypothetical fact patterns to illustrate upward and downward departures within the Guidelines. The Center and Commission will continue their FJTN partnership and explore additional uses of the FJTN, as well as use of the videoconferencing equipment for informal hearings.

Education and research to implement ADR programs

The 1998 Alternative Dispute Resolution Act directs each federal district court to provide alternative dispute resolution (ADR) to every civil litigant. Since the late 1970s the Center has played the leading role in helping federal courts implement mediation, arbitration, and other alternative methods to reduce the time and cost of litigation and to improve the process. Recent examples include our sourcebooks on ADR in district and appellate courts, which tell federal courts how other courts are using ADR techniques, and analyses of several trial and appellate level ADR methods. The Center also provides judicial education in alternative dispute resolution techniques to federal trial judges, and this year agreed to make future mediation training programs we provide for U.S. magistrate judges available to the Court of Federal Claims special masters who adjudicate claims under the statutory National Vaccine Injury Compensation Program.

Given the 1998 ADR Act's call for the Center to help in implementing the statute, shortly after passage we broadcast an FJTN program to familiarize courts with the Act and its requirements. Last December, we presented a conference for the statutorily required ADR administrator in each district court. Because of the Center's reputation in the ADR area, the highly regarded Hewlitt Foundation, which has long promoted alternative means of resolving disputes, provided the funds for this conference through a donation to the statutory Federal Judicial Center Foundation.

To further help the courts in implementing the 1998 Alternative Dispute Resolution Act, the Center will publish a guide for judges to help them select and manage cases in ADR.

Helping courts manage complex scientific and technical lawsuits and other aspects of modern federal litigation

Orienting new judges to their roles and responsibilities is a core Center function. For a federal judge, however, learning is a continual process. Rapid changes in science and technology, in particular, are affecting the courts' work.

Judicial education about science and technology

The Supreme Court, in *Daubert* v. *Merrell Dow Pharmaceuticals* (1993) and its progeny, and *Markman* v. *Westview Instruments, Inc.* (1996), has greatly expanded federal judges' responsibility to assess the reliability of scientific evidence offered in federal litigation, including but not limited to patent cases. Judicial education in these areas is often most effective when judges meet face to face with faculty and colleagues, as they did at Center programs last year on intellectual property and on developments in human genetics and other scientific topics.

Distance education, however, is also important in this kind of education. Thus, the Center is publishing this year the second edition of its Reference Manual on Scientific Evidence (with a Foreword by Justice Stephen Breyer). The Manual, which will be available on our Website (and to private publishers) to facilitate access by attorneys, will help bench and bar deal with scientific and technical evidence efficiently and effectively.

We are also working with the Board of Editors of the Center's Manual on Complex Litigation to produce a fourth edition of this standard reference work. The new edition will take account, among other things, of the changes created by recent case law and other developments in class actions and mass tort litigation. A basis for this work is the three expansive analyses of the mass torts phenomenon that the Center provided the Judicial Conference's Advisory Committee on Civil Rules and its Working Group on Mass Torts. These analyses formed a large part of the materials in the Working Group's report to the Chief Justice.

Private publishers, of course, may produce their own versions of Center publications for sale to the public and the bar. The Center encourages these sales, along with sales through the Government Printing Office, because pretrial and trial proceedings are likely to be more efficient when bench and bar have access to the same basic reference material. One of the leading legal publishers recently reported that the top ten titles that it sells to federal agencies include its editions of the Center's Manual for Complex Litigation and Reference Manual for Scientific Evidence.

Finally, later this year we will broadcast a six part series on science in the courtroom. The first three parts will deal with the scientific principles of DNA research and their application in patent cases. The second three parts will be about toxicology and epidemiology and their application in mass tort cases.

Court-appointed experts

At the request of the American Association for the Advancement of Science, the Center is evaluating the Association's demonstration project that provides the names of scientists and other professionals to serve as court-appointed experts. To help the Judicial Conference evaluate the results of funds it provided for a national panel of court-appointed scientists in the national breast implant litigation, the Center has recently completed a detailed analysis of the process and suggestions for improving it.

Assessing the effect of technology on the litigation process

Technology increasingly pervades the work of the federal courts. Two Center projects are helping the courts adapt to these changes. One project involves how the pretrial discovery process copes with information stored in electronic records, many in archaic and unreadable formats. The Center is documenting the extent of this problem, so that the Rules Committees can consider whether rules changes are in order.

A second project covers the increasing use by attorneys of computer simulations, video depositions, and other technology for presenting evidence. Recognizing the Center's reputation with federal judges, the not-for-profit National Institute for Trial Advocacy (NITA) offered in January to work with the Center to prepare, for Center dissemination, a manual for judges describing various courtroom technologies and identifying how to permit their use in ways that are consistent with fairness and efficient case management. (NITA, headquartered at Notre Dame Law School, was founded almost thirty years ago by judges and litigators to promote ethics, candor, civility, and judicial economy in litigation.) This manual is part of a larger Center project to identify how electronic evidence technologies are used and to examine whether the current procedural and evidence rules are adequate to handle this development. It will join some ten other Center manuals that provide judges ready reference for problems that confront them.

Education about international and foreign law and management of transnational litigation

The Center, pursuant to statute, has long provided briefings and occasional seminars for judges of foreign countries on United States law and practice. (Center appropriations are not used for the direct costs of these programs.) Foreign interest in U.S. legal institutions is a product of the globalization of law, commerce, and crime, as is the specific interest of many foreign judges in creating an agency like the Federal Judicial Center.

By the same token, and at a growing pace, events outside our borders are influencing litigation in federal courts, and such influence will grow. For example, treaties to which the United States is a signatory are part of the body of law that federal judges apply. As U.S. treaty obligations grow, judges will need to know about them. Additionally, the globalization of both commerce and crime brings foreign par-

ties and agents into federal litigation. These entities will have varying levels of familiarity with, and willingness to embrace, federal judicial procedural rules and norms. Litigation over intellectual property is only one example of this development. Judges also report increasing difficulty in gaining access to evidence and witnesses on foreign soil.

These challenges of transnational litigation, however, will not affect federal courts uniformly. Judges will vary considerably in their need for education to manage and decide cases involving foreign parties and extra-territorial law. As with other new problems, however, when they need help, they will need it quickly—not once a seminar is scheduled. This is another area in which educational technology will help us meet varying judicial education needs. The Center is exploring how to adapt its growing familiarity with asynchronous judicial education to provide individual judges education to deal effectively with transnational litigation at the time the need arises.

Mr. Chairman and Members of the Committee: Thank you again for your continued support of the Center and your encouragement for our development of the full range of educational technologies. You have played an important role in helping the personnel of the federal courts stay current in a rapidly changing world. I would be pleased to try to answer any questions you may have, either during the hearing or by written submission.

PREPARED STATEMENT OF HALDANE ROBERT MAYER, CHIEF JUDGE, UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

Mr. Chairman, I am pleased to submit my statement to the Committee for this court's fiscal year 2001 budget request.

Our 2001 budget request totals $19,533,000. This is an increase of $2,688,000 over the 2000 approved appropriation of $16,845,000. Forty one percent of the requested increase, $1,089,000, is for mandatory, uncontrollable increases in costs. The remaining increase of $1,656,000 is for funding of additional positions and renovation of our courtrooms.

Request for Program Increases

$1,656,000 of our fiscal year 2001 request would cover the costs of five statutorily authorized positions for technical assistants for the court's legal staff, four additional positions for the office of the Clerk of Court, and funding to upgrade the Federal Circuit courtrooms. Further justification for these increases follows.

Funding for Five Technical Assistants ($600,000).—The court is requesting five technical assistants in addition to the three now working in the Office of the Senior Technical Assistant and the positions provided in our fiscal year 2000 budget. Under the provisions of 28 U.S.C. § 715(d) the court may appoint technical assistants equal to the number of judges in regular active service. The five technical assistants requested here, plus those currently on board, will give the court one technical assistant for each active judge position.

The technical assistants do research and assist the court and all of its judges in addressing technical aspects of appeals, maintaining consistency in precedential opinions, and otherwise fulfilling the court's mission. Technical assistants must have not only a law degree but also a background in science or engineering because of the significant number of highly technical intellectual property appeals handled by the court. This court has exclusive jurisdiction over patent appeals from district courts and the Patent and Trademark Office. These appeals often are most difficult and time consuming, and involve complex issues at the forefront of biotechnology, computer engineering, pharmacology, and other areas of science and engineering.

Funding for additional positions in the office of the Clerk of Court ($156,000).—The court also is requesting funds to hire four full-time positions in the Clerk's Office. These positions are needed to keep pace with the court's growing jurisdiction and increasing caseload. There is now only one secretary in the Clerk's Office. Another secretary position is needed to assist the chief deputy clerks and to insure that secretarial functions for the entire office, now exclusively provided by the secretary to the Clerk, are available whenever required. A systems manager position is needed because the complexity of the Clerk's database management system has grown beyond the competence of the nontechnical staff to maintain as extra duties. Two deputy clerk positions are needed, one position for a calendar/deputy clerk to alleviate the calendar functions now performed by the chief deputy clerk as an extra duty, and one position for a records manager to develop a records management system now required to keep pace with the large increase in the permanent records

which the court has accumulated since its creation, and which must be maintained and preserved.

Funding for Courtroom Renovations ($900,000).—The court is requesting $900,000 for use to update the three Federal Circuit courtrooms. This courthouse opened in 1967. With the exception of replacement carpet, there have been no renovations or upgrades performed in our courtrooms.

The funding will be used to update courtrooms, furniture, renovate counsel rooms, and upgrade the security of the Judges' benches. Funds also will be used to improve electronic capabilities in the three courtrooms. The courtrooms' lighting fixtures require upgrading and modernization, and the courtrooms need to be rewired for computer use, modern recording equipment, and improved technology. This is a one-time cost and would be reflected as a nonrecurring expense in our 2002 budget request.

I would be pleased, Mr. Chairman, to answer any questions the Committee may have or to meet with Committee members or staff about our budget requests.

PREPARED STATEMENT OF GREGORY W. CARMAN, CHIEF JUDGE, UNITED STATES COURT OF INTERNATIONAL TRADE

Mr. Chairman, Members of the Committee: Thank you for allowing me this opportunity to submit this statement on behalf of the United States Court of International Trade, which is a national trial-level federal court established under Article III of the Constitution with exclusive nationwide jurisdiction over civil actions pertaining to matters arising out of the customs and international trade laws.

The Court's budget request for fiscal year 2001 is $12,506,000, which is $535,000 or approximately 4.5 percent more than the $11,971,000 provided for in the fiscal year 2000 appropriation. The request will enable the Court to maintain current services and provide funds for pay adjustments for judicial officers and court personnel, and inflationary increases in travel costs, rent, postage, contract rates, supplies, equipment, services, telephone usage and acquisition of law books.

I would like to specifically point out that the Court is only requesting, as it has for over five years, standard inflationary adjustments to base. The Court has relied on vacancies and savings from its conservative approach to spending to provide for implementation of important new initiatives, including technological upgrades.

The Court's fiscal year 2001 request includes funds for finalizing and supporting the reorganization plan of the Case Management Section that was initially developed and implemented in fiscal year 2000. The reorganization specifically addresses three goals of the Court's Long Range Plan: ensuring that the judges, members of the bar and the public are provided with quality assistance by the staff; increasing efficiency and reducing opportunities for delay in case processing and management; and implementing the Case Management and Electronic Case Files System (CM/ECF) of the Administrative Office of the United States Courts. To this end, the fiscal year 2001 request includes funds for filling vacant positions and for maintaining and supporting several projects from fiscal year 2000, specifically: a networked record management and tracking system for all case records; a new switched 10/100/1000mbps LAN infrastructure network; video conferencing; and a new laser system that allows for more reliable and faster access to the DCN. The fiscal year 2001 request also includes funds for the support and maintenance of the Court's security system upgrades, implemented in fiscal years 1999 and 2000.

In fiscal year 1996, the Court made the decision to deposit funds into the Judiciary Information Technology Fund (JITF) to address the long-term technology needs of the Court and to establish a viable network infrastructure. Funds were deposited into the JITF in fiscal years 1996, 1997, 1998 and 1999.

In fiscal year 1999, the Court developed a five-year plan to support the Court's future needs and to harness technology to enhance its services to the Court family, the bar and the public. The plan includes several new projects: the implementation of the Administrative Office's Case Management and Electronic Case Files System (CM/ECF) that will create a seamless electronic environment by combining an integrated case management system with electronic filing, document imaging and scanning; the replacement of the Court's present CD–ROM tower, which is used for legal research, with a higher capacity model; the replacement of older category 3 wire with enhanced category 5 wire and the installation of additional data tap runs for public access terminals; the design and acquisition of a new phone system that will improve and expand the Court's telecommunications system; the implementation of a Court Intranet Web server to facilitate sharing of Court information and expand in-house training in the utilization of automation and technology; and the acquisition of an automated comprehensive management software package for library ac-

quisitions, cataloging and circulation. The Court anticipates that these systems will be fully operational by the end of fiscal year 2004. The continuation of fiscal year 2000 projects and the implementation of these new initiatives will enable the Court to continue to build its needed infrastructure and operate efficiently and effectively in the 21st Century.

I would like to reaffirm that the Court has always been conservative in its appropriation requests and will continue, as it has in the past, to conserve its financial resources through sound and prudent personnel and fiscal management practices.

The Court's "General Statement and Information" and "Justification of Changes," which provide more detailed descriptions of each line item adjustment, were submitted previously.

If the Committee requires any additional information, we will be pleased to submit it.

PREPARED STATEMENT OF DIANA E. MURPHY, CHAIR, UNITED STATES SENTENCING COMMISSION

INTRODUCTION

Mr. Chairman, members of the Committee, thank you for the opportunity to submit a statement on behalf of the United States Sentencing Commission's fiscal year 2001 appropriation request. As you know, on November 15, 1999, a full complement of seven voting commissioners was appointed to the Commission, and I am proud to serve as Chair of this important agency. We take our new responsibilities so seriously that we met the day after our appointment in Washington, D.C., for two days and adopted a very ambitious agenda we hope to accomplish this amendment cycle.

As a group, we bring a great deal of experience and several different perspectives to our new job. We look forward to strengthening the good working relationship with Congress and others in the federal criminal justice community. Among the seven voting and two non-voting members of the Commission, five of us are federal judges, three of us have prosecutorial experience, two of us have criminal defense experience, two of us formerly were police officers, several of us have had prior experience working as congressional staff, and one of us has spent a number of years as general counsel for the Commission.

Our appointment ended an extended and unprecedented period of more than a year, during which time the Commission was without any voting commissioners. Unfortunately, these vacancies have had the effect of significantly decreased appropriations for the Commission and have created staffing shortages that have gone unaddressed. During the appropriations process for fiscal year 2000, there was substantial uncertainty as to the requirements for the Commission due to the commissioner vacancies. As a result, the Commission's budget was reduced to $8,468,000 for fiscal year 2000, an 11 percent decrease from fiscal year 1999 and the lowest appropriation for the agency since fiscal year 1994.

Regrettably, the cutback comes at a time when the agency bears an extraordinarily heavy workload due to the extended absence of commissioners and the many legislative directives that await Commission implementation. During that period, of course, the Commission could not fulfill its most important ongoing statutory responsibility under the Sentencing Reform Act, that is, to update and promulgate amendments to the sentencing guidelines for federal offenders. As a result, a significant backlog of crime and sentencing related legislation has accumulated that must be addressed by the new Commission.

In light of the circumstances we face, the Commission requests an appropriation of $10,600,000 for fiscal year 2001, the same as requested last year. This funding level is the bare minimum necessary to enable the Commission to restore staff levels to that of fiscal year 1998, the last year the agency had a fully functional Commission in place, and to fulfill all of our many statutory responsibilities. Without an adequate budget, we cannot effectuate the will of Congress as expressed in a number of important legislative items that await Commission implementation. Since our November 15, 1999, appointment, we have undertaken a very full agenda in this abbreviated amendment cycle, addressing many legislative directives and circuit conflicts in guideline interpretation. We are hard at work and hope that Congress will reaffirm its belief in the mission of the Commission and its confidence in us by restoring the Commission's funding to an adequate level.

RESOURCES REQUESTED

The Commission's budget request is for $10,600,000. The Commission now has 20 percent less staff than in fiscal year 1998, and nearly 70 percent of the requested

increase ($1,487,000) is for restoration of personnel. More than 30 percent of the requested increase ($595,000) would fund adjustments needed to pay employees to continue current operations; these are mandatory adjustments in salaries and benefits and slight inflationary increases ($78,000) in some non-personnel expense categories.

The amount needed to restore our ability to function effectively is made up of "Adjustments to Base."

—$595,000 is requested for pay and benefit cost adjustments

—$78,000 is requested for inflationary increases for non-personnel operating expenses

—$1,487,000 is requested for restoration of personnel

—($28,000) for one less compensable day.

The requested amount is an increase of $2,132,000 from the Commission's fiscal year 2000 appropriation, but that appropriation was an anomaly from previous years and came at a time when the Commission had no voting commissioners. In terms of total obligations, the agency has a funding level of $9,553,000 for fiscal year 2000 by combining the appropriations with remaining carryover money earmarked for this fiscal year. Compared to this figure, the fiscal year 2001 request represents an increase of only $1,047,000 (approximately 11 percent) over resources available in fiscal year 2000.

JUSTIFICATION

Sentencing Reform Act Requirements

The Commission was created under the Sentencing Reform Act of 1984 as a permanent, independent agency within the judicial branch. Congress gave the Commission a dual mission. The most urgent at the time was to establish federal sentencing policies and practices that (i) serve four purposes of sentencing: just punishment, adequate deterrence, protection of the public from further criminal conduct, and rehabilitation of offenders; (ii) provide certainty and fairness in sentencing; and (iii) avoid unwarranted sentencing disparities among similarly situated offenders.

The Commission was organized in October 1985, and in just 18 months, established the first comprehensive set of determinate sentencing guidelines ever created for the federal judicial system. The federal sentencing guidelines became effective on November 1, 1987, for offenses occurring on or after that date, and since their implementation have been used to sentence more than 400,000 defendants. The Commission believes that the federal sentencing guidelines have advanced the goals of Congress as expressed in the Act by providing certain, fair, and markedly more uniform punishment for similar offenders, which in turn has strengthened the ability of the criminal justice system to combat crime.

The Sentencing Reform Act also assigned to the Commission another mission critical to the federal criminal justice system: to serve as an expert agency on federal sentencing matters. To fulfill this ongoing mission, the Commission was given continuing responsibility and authority in many areas, including—

(1) establishing sentencing policies and practices that assure that the purposes of sentencing are met, that provide certainty and fairness in meeting those purposes of sentencing, that avoid unwarranted sentencing disparities while maintaining enough flexibility for individualized sentences when those are warranted, and that reflect advancements in our knowledge of human behavior as it relates to the criminal justice process;

(2) developing means to measure the effectiveness of sentencing, penal, and correctional practices in meeting the purposes of sentencing;

(3) promulgating and updating sentencing guidelines for federal offenders;

(4) monitoring the performance of probation officers regarding sentencing recommendations, including application of the guidelines;

(5) issuing instructions to probation officers concerning the application of the guidelines;

(6) establishing a research and development program within the Commission to serve as a clearinghouse and information center for information on Federal sentencing practices;

(7) consulting with federal courts, departments, and agencies in developing, maintaining, and coordinating sound sentencing practices;

(8) systematically collecting data from studies, research, and the empirical experience of public and private agencies concerning the sentencing process;

(9) publishing data concerning the sentencing process;

(10) systematically collecting and disseminating information concerning sentences actually imposed on more than 55,000 cases sentenced in the Federal district courts each year (and on about 1,000 appellate decisions on sentencing) and the relation-

ship of those sentences to the factors judges are required to consider under 18 U.S.C. § 3553(a);

(11) systematically collecting and disseminating information regarding the effectiveness of sentences imposed;

(12) conducting seminars and workshops around the country to provide continuing studies for people engaged in the sentencing field;

(13) conducting periodic training programs for judicial and probation personnel and other persons connected with the sentencing process;

(14) studying the feasibility of developing guidelines for juvenile offenders;

(15) making recommendations to Congress on changes that might be made to statutes relating to sentencing, penal, and correctional matters that would help to carry out effective, humane, and rational sentencing policy;

(16) holding hearings and calling witnesses to assist the Commission in the exercise of its powers and duties;

(17) recommending any changes in prison facilities that may be necessary because of the sentencing guidelines; and

(18) performing any other functions necessary to permit federal courts and others in the federal criminal justice system to meet their responsibilities in the sentencing area.

Newly Appointed Commissioners Face Critical Backlog of Legislation

Although the Commission staff was able to carry out many of these important statutory duties during the extended absence of voting commissioners, the agency could not amend the sentencing guidelines to implement recently enacted crime and sentencing-related legislation. As a result, the newly appointed Commission faces a significant backlog of legislation that waits review and implementation by the agency. The newly minted Commission has made addressing these items its first priority for the current guideline amendment cycle, which ends May 1, 2000.

The legislative matters that await Commission action cover a wide range of criminal conduct that is of great concern to Congress and other members of the federal criminal justice system:

—*Intellectual Property Offenses*.—In response to the No Electronic Theft ("NET") Act of 1997, the Commission released a staff report on the NET Act and recently requested and received public comment on three alternative proposals that would amend the copyright and trademark infringement guideline to ensure that the guideline is sufficiently stringent to deter such offenses and that it provides for consideration of the retail value of the infringed item. The Commission continues to analyze and develop possible amendments to the guideline and, pursuant to the Digital Theft Deterrence and Copyright Damages Improvement Act of 1999, must promulgate a temporary emergency amendment in response to the NET Act by April 6, 2000.

—*Telemarketing Fraud*.—In response to the Telemarketing Fraud Prevention Act of 1998, the Commission promulgated temporary amendments to the guidelines that provide for three separate sentencing enhancements for fraud offenses that involve mass marketing, a large number of vulnerable victims, and the use of sophisticated means to carry out the offense. The Commission must review and repromulgate the emergency amendments as permanent amendments by May 1, 2000, or they will expire by November 2000.

—*Telephone Cloning*.—In response to the Wireless Telephone Protection Act of 1998, the Commission recently released a staff report on cell telephone cloning and requested public comment on proposed options for amending the guidelines to provide an appropriate penalty for these offenses.

—*Identity Theft*.—In response to the Identity Theft and Assumption Deterrence Act of 1998, the Commission recently released a staff report on identity theft and requested public comment on amending the guidelines to provide an appropriate penalty for each offense under 18 U.S.C. § 1028 (relating to fraud in connection with identification documents).

—*Protection of Children*.—In response to the Protection of Children from Sexual Predators Act of 1998 and certain provisions of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1998, the Commission has recently released a staff report on sexual offenses against children and requested public comment on a number of options for amendments to the guidelines pertaining to certain sexual abuse offenses and distribution of child pornography. Possible amendments being considered include an enhancement for use of a computer in connection with a sexual abuse offense against a minor and misrepresentation of an offender's identity in connection with such an offense.

—*Methamphetamine Trafficking*.—Although the Methamphetamine Trafficking Penalty Enhancement Act of 1998 contains no directive to the Commission, the

Commission recently released a staff report on methamphetamine trafficking and requested public comment on an amendment to the guidelines' drug quantity table that would account for the increased penalties for manufacturing, importing, or trafficking in methamphetamine imposed by the Act. The Act reduced by one-half the quantity of methamphetamine required to trigger various mandatory minimum sentences in the drug statutes.

—*Firearms Offenses*.—In Public Law 105–386, Congress amended 18 U.S.C. § 924(c) to create a tiered system of sentencing enhancements, (each with a mandatory minimum and presumed maximum) in cases in which a firearm is involved in a crime of violence or drug trafficking offense. The pertinent minimum sentence in that tiered system is dependent on whether the firearm was possessed, brandished, or discharged. The Act also changed the statutory definition of "brandish." These legislative changes will require a number of amendments to the guidelines, including amendments that incorporate the tiered statutory sentencing scheme into the guideline pertaining to Section 924(c). In response to this new legislation, the Commission recently released a staff report on firearms offenses and requested public comment on a number of proposals for amending the guidelines. The Commission also is undertaking a longer term comprehensive examination of the firearms and explosives guidelines to make them more internally consistent with other similar guideline provisions and to generally improve their operation.

Circuit Conflicts.—In addition to these legislative items, a large number of conflicts among the United States Circuit Courts of Appeal regarding interpretation of the guidelines accrued during the absence of voting commissioners. In *Braxton* v. *United States*, 500 U.S. 344 (1991), the United States Supreme Court unanimously acknowledged that the Commission has the initial and primary task of eliminating conflicts among the circuit courts with respect to statutory interpretation of the guidelines. Accordingly, the Commission has set addressing a limited number of the most significant conflicts as another priority for the current guideline amendment cycle.

This amendment cycle the Commission is working on circuit conflicts regarding (i) the circumstances for which a court may downward depart from the sentencing guideline range for aberrant behavior; (ii) whether the enhanced penalties in § 2D1.2 (Drug Offenses Occurring Near Protected Locations or Involving Underage or Pregnant Individuals) apply only when the defendant is convicted of an offense referenced in that guideline or, alternatively, whenever a defendant's relevant conduct included drug sales in a protected location or involving a protected individual; (iii) whether the enhancement in the fraud guideline for violation of a judicial or administrative order, injunction, decree, or process applies to falsely completing bankruptcy schedules and forms; (iv) whether sentencing courts may consider post-conviction rehabilitation while in prison or on probation as a basis for downward departure at resentencing following an appeal; and (v) whether a court can base an upward departure on conduct that was dismissed or uncharged as part of a plea agreement.

Other Crime Legislation.—In fiscal year 2001, in addition to completing any carryover items from the items listed above, the Commission hopes to expand its policy development to include responding to other crime legislation pertaining to nuclear, chemical, and biological weapons, specifically the Chemical Weapons Implementation Act of 1998, and the sense of Congress expressed in the National Defense Authorization Act for Fiscal Year 1997. The Commission is planning to conduct a comprehensive review of the guidelines pertaining to importing and exporting nuclear, biological, and chemical weapons to determine whether any amendments to the guidelines are warranted. The Commission hopes to complete this work in 2001.

Economic Crime Guidelines.—Also in fiscal year 2001, the Commission hopes to complete a comprehensive reassessment of the economic crime guidelines that was begun by the last Commission. Economic offenses account for more than a quarter of all the cases sentenced in the United States federal district courts. The prior Commission had received from the Federal Judiciary and the Department of Justice testimony and survey results that indicated that the sentences for these offenses were inadequate to punish appropriately defendants in cases in which the monetary loss was substantial. After approximately one year of data collection, analyses, public comment, and public hearings, the Commission developed a comprehensive "economic crime package" designed to revise the loss tables for fraud, theft, and tax offenses in order to impose higher sentences for offenses involving moderate and large monetary losses. Related amendments would consolidate the theft, fraud, and property destruction guidelines and clarify the definition of loss for selected economic crimes. Working in conjunction with the Criminal Law Committee of the Judicial Conference, the Commission conducted a field test of the proposed loss definition by

surveying federal judges and probation officers and applying the new definition to actual cases. Among the findings from the field test, more than 80 percent of the judges stated that the proposed loss definition produced results that were more appropriate than the current definition.

The Commission expects that the groups interested in the economic crime package (e.g., the Department of Justice, the Criminal Law Committee of the Judicial Conference, and the American Bar Association) will renew their recommendations that this package be a top priority for 2001. Accordingly, the Commission has planned an Economic Crimes Symposium in October 2000 to further advance sentencing policy development and knowledge with respect to economic crimes.

Restoration of Personnel Needed to Meet Statutory Duties

Fulfilling all of the agency's responsibilities has been extremely difficult recently because of the absence of voting commissioners for more than one year, which has had the unfortunate effect of decreased appropriations and have created staffing shortages that have gone unaddressed. Beginning in the first month of fiscal year 1999, the Commission was without any voting commissioners and this status continued through the first quarter of fiscal year 2000. In anticipation of a significant reduction in funding as a result of this unfortunate status, and the uncertainty about when the vacancies would be filled, the Acting Staff Director for the Commission determined it prudent to institute a de facto hiring freeze. The hiring freeze, coupled with the agency's normal attrition rate, has reduced the current staffing levels from that of fiscal year 1998 by twenty percent.

The Commission has coped with the austere budget and staffing shortages in large part by extending deadlines for policy development projects beyond the annual guideline amendment cycle ordinarily used by the Commission to timely implement crime legislation. In so doing, the Commission has been able to maintain its routine training, research, monitoring, and publications schedule throughout the year. However, this was a short-term measure that was made possible only by the anomaly of not having any voting commissioners for more than one year. Now that a full complement of commissioners is in place, policy development deadlines can no longer be prolonged and, in fact, must be shortened in order to address the backlog described above in a timely manner.

While the commissioners work to reduce the backlog of unimplemented crime legislation and to consider the policy development reports prepared by staff, the human resource needs of the agency will increase as the routine annual amendment cycle is reestablished, new policy initiatives are identified by the reconstituted Commission, and new crime legislation is enacted by Congress. Indeed, there is pending legislation relating to juvenile justice, firearms offenses, and certain drug offenses, which, if enacted, would require significant Commission resources to implement. In order to become a fully functional agency that performs all of its statutory functions in an exemplary manner, a restoration of personnel is necessary, particularly in the following areas:

Reestablishment of Statutorily Required Research and Monitoring Functions

The Commission maintains a comprehensive, computerized data collection system which forms the basis for its clearinghouse of federal sentencing information. This comprehensive database is the basis for the Commission's monitoring and evaluation of guidelines application, for many of its research projects, and for responding to the hundreds of data requests received from Congress and other criminal justice entities each year.

In fiscal year 1999, the Commission received court documents for more than 55,000 cases sentenced under the Sentencing Reform Act between October 1, 1998, and September 30, 1999. For each case, the Commission extracts and enters into its comprehensive database more than 260 pieces of information, including case identifiers, sentence imposed, demographic information, statutory information, the complete range of court guideline application decisions, and departure information.

The Commission also tracks final opinions and orders, both published and unpublished, in federal criminal appeals. The Commission gathered information on more than 6,000 appellate court cases in fiscal year 1998 and now has an appeals dataset containing information on more than 38,000 appeals. Information captured in this database includes district, circuit, dates of appeal and opinion, legal issues, and the court's disposition. The appeals database informs the Commission regarding the frequency with which specific guideline issues are appealed, informs Congress and the criminal justice community about court action related to the guidelines, and enables the Commission to identify and, where appropriate, resolve circuit conflicts pertaining to application of the guidelines.

The Commission continues to see a substantial increase in the number of cases sent to the agency that must be entered into its comprehensive database. The current data entry organizational structure and physical facilities were designed to accommodate approximately 35,000 to 45,000 cases annually. However, for the past three years, the agency has received more than 50,000 case files, with a projected caseload of 56,000 for fiscal year 2001. Funding for three vacant data entry positions is requested to process these cases. In addition, the Commission requests funding to fill a key vacancy, the Chief Data Quality Analyst position, and to provide for an additional junior Data Quality Analyst position, in order to preserve the integrity of its comprehensive database.

The Commission continues to advance its statutorily directed research and information dissemination. Each year since the inception of the guidelines, the Commission has published an updated Guidelines Manual and an Annual Report and accompanying Sourcebook of Federal Sentencing Statistics which serve to inform and advance knowledge of sentencing in the criminal justice community. In recent years, the Commission launched two new publications, Guide to Publications and Resources and The Year in Review, and continued to add a variety of publications and sentencing data to its popular Internet web site.

Working with the American Society of Criminology, the Commission recently prepared and presented a number of research papers on important topics of current interest such as federal and state counterfeiting offenses in the computer age, federal sentencing practices for immigration offenses, prison verus alternative confinement, and the effects on federal sentencing of the changing mix of policies, crimes, and criminals. Commission staff have identified a number of future research projects that for consideration, including an analysis of sentence proportionality under the guidelines, the violent offense guidelines, the effectiveness of criminal history assessment within the guidelines, classifying offender function in drug trafficking offenses, patterns in offender recidivism under the guidelines, and the effectiveness of offender incapacitation under the guidelines.

The ability of the Commission to continue its important research, however, is imperiled by a depletion of its research staff. During this recent period of attrition, a significant portion of the intermediate tier of researchers and all of the lower tier research associates left the agency. Thus, the Commission requests funding to fill three Research Associate and three Junior Research Associate positions, as well as the critical position of Director of Research. Without the funding necessary to fill these key positions, the agency's ability to critically analyze sentencing patterns and practices, to respond to inquiries about the effectiveness of sentencing policies, and to assess the impact of proposed guideline amendments and new sentencing related legislation will be severely limited.

Maintaining the Agency's Statutory Commitment to Sentencing Education

The Commission continues its commitment to providing high quality training and assistance to judges, prosecutors, probation officers, and defense attorneys as required by the Sentencing Reform Act. In 1999, Commission staff provided training on the sentencing guidelines to more than 2,500 individuals at 47 training programs across the country, including ongoing programs sponsored by the Commission, the Federal Judicial Center, the Department of Justice, the American Bar Association, and other criminal justice agencies. The Commission also maintains a telephone HelpLine service to answer case-specific guideline application inquiries from federal judges, probation officers, prosecuting and defense attorneys, and law clerks. The Commission responds to approximately 250 such inquiries each month. If the Commission is not provided sufficient funding to restore personnel in other areas of the agency, its quality of training will suffer because its training staff may have to be utilized for more pressing projects as they arise.

To further expand the availability of training and information sharing, the Commission has joined the Federal Judicial Center and the Administrative Office of the U.S. Courts in launching a satellite television network to provide cutting-edge programming on sentencing-related issues to an even broader audience. The Commission makes a regular contribution to a news series for probation and pretrial services designed to update officers on important information regarding the Commission and its activities. In 2001, the Commission plans to increase its involvement in the delivery of training via the television network as a cost-effective means of supplementing its existing training efforts.

As part of its efforts to reach out to organizations that are not yet familiar with the organizational sentencing guidelines' emphasis on compliance, self-policing, and crime reporting, the Commission and the Ethics Officer Association (EOA) in 1999 jointly sponsored a series of day-long regional forums about implementing these guidelines. The EOA is a non-profit peer organization comprising ethics and compli-

ance officer representatives of for-profit and non-profit organizations. Its primary objective is to share "best practices" for ethics and compliance programs among members through peer-to-peer networking, library services, and educational efforts. The Commission tentatively has scheduled an Organizational/Corporate Guidelines Symposium in October 2001 to advance further its efforts in this important area.

Informing Congress

Each year the Commission also informs Congress's legislative deliberations by responding to hundreds of congressional requests for assistance. These inquiries, both written and oral, include requests for federal sentencing and criminal justice data, analyses of proposed legislation, explanations of guideline operation, technical assistance in drafting legislation, and Commission publications and resource materials.

With a full complement of new commissioners in place, the agency expects its overall activity will intensify, and requests from Congress and the public will greatly increase. As a result, the Commission needs to improve its congressional liaison activities and requests two positions for this effort.

Rebuilding Administrative Support

Beginning in fiscal year 1996, the Commission began a long range software upgrade to the automation system used to maintain its sentencing database. This work is substantially complete. During the recent period of attrition, however, the agency's lead programmer retired, leaving a contractual relationship with Oracle Corporation as the only guard against a systems failure. If a major failure should occur, it would cause a work stoppage involving approximately 30 data entry employees, possibly over an extended period of time. Therefore, the agency requests funding to hire an automation technician/programmer as well as a lower level database administrator to maintain the new system.

Also as part of its statutory duty to serve as a clearinghouse of sentencing related information, the Commission maintains a highly specialized collection of sentencing related literature that has been built up over the past ten years. That important collection has gone unattended (other than by intermittent temporary services) since the the agency's librarian and assistant librarian resigned during the period with no commissioners. The agency requests funding to fill these two positions in order to maintain the integrity of its collection.

Other administrative positions that require filling include a support position shared by two offices, the Legislative and Public Affairs Offices, and a personnel specialist in the Human Resources Office.

Filling all of these requested positions would not require revising the Commission's full time equivalency ceiling of 108 employees. Rather, the Commission merely seeks the restoration of funds for currently existing but vacant positions.

SUMMATION

In sum, the Commission is asking for sufficient funding so that we can perform our many statutory obligations and fulfill our important role in combating crime by maintaining an effective, certain, and fair sentencing system.

INDEPENDENT AGENCIES

THE ASIA FOUNDATION

PREPARED STATEMENT OF WILLIAM P. FULLER, PRESIDENT

Mr. Chairman: Thank you for the opportunity to submit testimony supporting The Asia Foundation's fiscal year 2001 budget request. The Foundation is grateful for the support that the Congress and this Committee have provided over the years.

I appreciate the opportunity to outline The Asia Foundation's programs and our future plans to meet the challenges and opportunities facing Asia. We believe that our programs demonstrate how a small, independent organization can advance American interests in the Asia-Pacific region.

We are pleased that the Administration has endorsed the work of The Asia Foundation by requesting an appropriation of $10 million for fiscal year 2001. This modest increase would enable the Foundation to resume program activities that were reduced as a result of the substantial budget cuts which the Foundation sustained beginning in fiscal year 1996. Most importantly, the increase would enable the Foundation to expand its support to Asian organizations that are positioned to play key roles in regional democratic and economic reform efforts.

OVERVIEW

Let me put the work of the Foundation into context. Asia is the most rapidly changing region in the world, and one in which the U.S. has a diverse range of political, economic and security interests. As the region recovers from the recent economic crisis, continued governance reforms and the establishment of predictable legal systems are essential for sustained growth and open trade and investment. At the same time, the region faces increased security concerns, including tension on the Korean Peninsula; the possibility of conflict between India and Pakistan; strained relations between China and Taiwan; and the potential for domestic instability in Pakistan and Indonesia. The dramatic emergence of democracy in Indonesia, constitutional reform efforts in Thailand, and the recent election in Taiwan underline the opportunities and challenges facing those who support democracy.

We believe that The Asia Foundation, building on its 46 years of on-the-ground experience, is well positioned to advance U.S. interests in a complex and dynamically evolving region. In the recently enacted State Department bill, The Asia Foundation was authorized to be funded at a level of $15 million for fiscal year 2001. This action was a vote of confidence in the Foundation's performance and underlines the magnitude of needs and opportunities facing the region.

In the past the Committee has praised and encouraged the Foundation's grantmaking role and we remain faithful to that mission. We make strategic, sequential grants to steadily build the capacity of key institutions, develop leaders, and move critical policies forward. Foundation assistance supports training, consultancies, technical assistance, and seed funding for new organizations—all aimed at promoting reform, enhancing Asian capacity, and strengthening relations with U.S. institutions.

No other American nonprofit organization working in Asia can match the Foundation's years of on-the-ground experience and breadth of contacts. The democratic development processes underway in several countries in Asia—including Thailand, the Philippines, Korea, Taiwan, and most recently Indonesia—is in part the fruit of the investments that the Foundation has made over time in support of individuals and institutions committed to reform. Democratic leaders who benefitted from Asia Foundation grants in earlier years include the President of Indonesia, the newly-elected Vice President of Taiwan, the Korean Ambassador to the U.S. (also a former Prime Minister of Korea), and the Speaker of the Mongolian Parliament.

THE ASIA FOUNDATION'S UNIQUE CONTRIBUTION: THE INDONESIA EXAMPLE

An example of the value of The Asia Foundation's sustained involvement in the region is Indonesia. The Foundation is acknowledged by both the Administration and many members of Congress as the leading American organization presently active in Indonesia. Over the years the Foundation has supported hundreds of non-governmental organizations (NGOs), formal government institutions, and future leaders. With the fall of President Suharto, the Foundation was ready to immediately undertake activities to address the needs of new reformers in government. Program activities included support for the design and implementation of a massive voter education campaign prior to the parliamentary election; assistance to large Muslim organizations and coalition groups for inter-ethnic and inter-faith programs that aim to avert community conflict, and support for human rights and legal aid organizations.

Many of the investments made in human resource development over the years have proved particularly important. These include relationships established with President Abdurrahman Wahid and Attorney General Marzuki Darusman—both former Foundation grantees. The Foundation's Representative, a specialist on Indonesia and Islam, served as a resource to the U.S. government as plans were shaped to provide support to Indonesia through USAID and other agencies.

But it was its appropriated funding that made it possible for the Foundation to quickly initiate programs supporting democratic reforms and to provide support for conflict resolution in troubled areas such as Aceh and Irian Jaya; for human rights and legal aid in East Timor prior to and following the referendum; and for important seed grant funding for new NGOs in a rapidly changing political environment. The following examples of Foundation program support for key Indonesian organizations provide a sense of the scale of its election programs and its capacity to deliver. The Foundation supported

—training and development of the largest contingent of domestic election monitors—over 123,000 in 26 provinces;

—the creation of a national network of 200 NGOs, including Islamic and other religious organizations, which helped provide voter education information to the public; and

—the publication of 23 million voter education booklets and leaflets; production of 2,000 radio and television broadcasts, and the design and distribution of over 500,000 training manuals for election monitors.

These programs reached an estimated 115 million voters and were credited with contributing to a free and fair election.

Looking ahead, the Foundation's program plans for Indonesia include an increased focus on law and legal reform as areas of critical importance to national political and economic development. In addition, the Foundation will continue to support efforts to reform policies affecting small and medium-scale enterprise development, the sector of the Indonesian economy that is so vital for employment. The Foundation will also continue to support human rights and conflict resolution in troubled areas of the country.

THE ASIA FOUNDATION'S CORE OBJECTIVES

As illustrated by the preceding examples of Asia Foundation investment and program impact in Indonesia, the Foundation's overall core objectives are central to U.S. interests in the Asia-Pacific region. The Foundation's priorities remain consistent:

—*Democracy, Human Rights and the Rule of Law*.—Strengthening democratic institutions and encouraging the development of an active and informed non-governmental sector; advancing the rule of law; and upholding fundamental rights, including protection of women.

—*Open Trade and Investment*.—Supporting open trade, investment, and economic policy reform at the regional and national levels;

—*International Relations*.—Promoting regional and international dialogue on security, regional economic policy, and environmental and human rights issues aimed toward more cooperative relations in the region.

The following examples illustrate the ways in which Foundation programming in key areas contributes to sustainable impact and the advancement of U.S. interests in the region.

Democracy and Human Rights

The Asia Foundation has supported the development of democratic institutions and civil society and efforts to advance public understanding and enforcement of human rights. For example:

—The Foundation has contributed to the development of parliaments in 16 countries in Asia through technical assistance, training members and staff, facilitating interaction with the nongovernmental sector, and developing parliamentary capacity to scrutinize budget proposals and other executive functions in Thailand, Mongolia, and Indonesia.

—The Foundation is the single largest supporter of the nongovernmental sector in all of the Asian countries in which we operate. In the last five years, we have supported over 1,000 local NGOs to make essential contributions to a vibrant civil society and to encourage public participation, transparency, and accountability in the policymaking process. Foundation support has contributed to the establishment of new NGOs that have quickly made a mark, such as Thailand's Women and the Constitution Network, which played a critical role in ensuring that the new Thai Constitution included provisions for increased public participation in rights enforcement and public policy making. It has also contributed to the formation of an NGO network in Pakistan, which includes over 50 community based organizations that mobilize citizens to improve governance and social service delivery.

—With the trend toward devolution of political and administrative powers to the sub-national level, local governance and decentralization programs are a priority for the Foundation. Examples of Foundation support include training and public education on village elections in China; improvements in the capacity of local elected officials in Indonesia to conduct budget analysis and draft legislation on taxation and revenue generation; and strengthening the role and accountability of locally elected bodies in Bangladesh in financial management, public accounting, and community needs assessment.

—The Foundation has supported the development of human rights organizations throughout the region. Examples include human rights awareness, education, and monitoring programs in Indonesia, Cambodia, Thailand, the Philippines, and Sri Lanka. Foundation support for the regional Working Group for the Establishment of an ASEAN Human Rights Mechanism promotes public dialogue on the importance of establishing regional standards and institutional mechanisms to promote and protect human rights.

With a $10 million appropriation, the Foundation would strengthen and expand its programs in local governance and human rights. New local governance initiatives would include training for village council members in Cambodia; fiscal management training for provincial and local assemblies in Indonesia; devolution programs and public hearings on decentralization in Pakistan; and reform efforts which aim to improve the transparency, accountability, and responsiveness of public institutions in Korea. Additional funding would also allow the Foundation to expand its human rights programming, including the development of more effective human rights education methodologies and increased collaboration among human rights organizations at the regional level.

Law

In a recent speech at a conference on "Democracy and the Rule of Law in a Changing World Order" at the Library of Congress, Senator Orrin Hatch urged: "As we support programs developing the legal institutions necessary for the rule of law . . . [w]e must have the foresight to commit the time and resources necessary to achieve these ends." He praised The Asia Foundation for its contribution to this effort and for the value of its sustained presence on the ground in Asia: "For example, The Asia Foundation is America's preeminent non-governmental organization in this field. With support from Congress, it has established on-the-ground programs necessary to nurture rule of law institutions throughout Asia."

The Asia Foundation is committed to the development of sound and predictable legal systems. Foundation grants and technical assistance support improved judicial administration, legal education and professional development, community legal assistance programs, alternative dispute resolution, and law reform. The following examples illustrate the scope of Foundation legal programming:

—In China, where the government faces increased external and internal pressure to reform the legal system and adopt international compliance standards, the Foundation was one of the earliest supporters of legal reform efforts. Since 1998, the Foundation has supported Chinese efforts to improve the performance of local government institutions and processes by regularizing administrative procedures and creating greater scope for citizen participation and redress. Other programs target the grassroots and policy levels to work toward more responsive administrative regulations, and support efforts to develop laws and regulatory provisions for the delivery of legal aid and popular legal education.

—In the Philippines the Foundation has supported a variety of legal and judicial reform efforts. We presently support the efforts of alternative law groups to monitor and report on judicial performance, undertake legal advocacy on juvenile justice, conduct family court reform studies and alternative dispute resolution, and promote the continued development of public interest law.

—With Foundation support, the Ministry of Justice in Sri Lanka has established community-based Mediation Boards that operate in most districts of the country. The Boards hear over 100,000 cases per year. Mediation has proven time and cost effective, helping to reduce pressure on an overburdened formal court system.

In the coming year the Foundation plans to promote law reform efforts in Indonesia through support to the new National Law Commission, the Consortium for National Legal Reform, and other public and private institutions established under the new government. A $10 million appropriation will enable the Foundation to expand its legal program initiatives in other parts of the region, including implementation of constitutional reforms in Thailand; enterprise and other commercial law reforms in Vietnam, and legal literacy in Bangladesh, Cambodia, China, Indonesia, Mongolia, Pakistan, the Philippines, Sri Lanka, Thailand, and Vietnam. The Foundation also plans to expand its regional counter-corruption activities.

Open Trade and Investment

The Asia Foundation's economic programs support the development of policies and institutions needed for open trade and investment. In particular, they help address the political and governance factors that contributed to the regional economic crisis.

—In Indonesia, Foundation support enabled the Jakarta Stock Exchange to launch a corporate governance program to toughen financial disclosure requirements for listed companies.

—Foundation support for policy reforms affecting Indonesia's small and medium enterprise (SME) sector in Indonesia includes unprecedented participation by SME owners in discussion of regulatory and other problems in fourteen provinces; studies of the costs and distortions imposed by levies, licenses and fees; and provision of information about credit.

—In the Philippines, the Foundation supported two milestone activities in the field of information technology: a study on the challenges facing partnerships between Philippine and American high-tech firms; and a widely-distributed policy publication "Breaking Barriers: Liberalizing the Philippine Information Technology Industry."

—In Cambodia, a Foundation program helped women market vendors in Phnom Penh to obtain small loans and more effectively engage with local regulatory authorities in reducing intimidation and collection of arbitrary fees and improving sanitary and other working conditions in the crowded markets.

—The Foundation also supported regional organizations such as APEC and the private sector Pacific Economic Cooperation Council (PECC) that are committed to open trade. For example, in cooperation with PECC the Foundation supported workshops on regional economic monitoring; training in banking supervision for central bank officials in cooperation with the San Francisco Federal Reserve Bank and other institutions in the region; and studies on the role of competition policy and corporate governance.

Programs plans for fiscal year 2001 include a series of roundtable discussions and studies in Vietnam on measures to speed up Vietnam's economic development and economic integration; expansion of SME policy reform initiatives in Indonesia, Bangladesh, Sri Lanka, and Korea; and cooperation with China's Development Research Council on law reforms that will facilitate more rapid development of new enterprises. The latter is expected to cover improvements in corporate governance, accountability and transparency, and better legal protection of property rights.

International Relations

The Asia Foundation's programs in international relations reflect the unique capacity of the Foundation to promote increased understanding of different cultural and foreign policy perspectives through regional and international dialogue. Foundation programs advance and complement more formal diplomatic efforts in the fields of democratization, human rights, regional economic policy, and security concerns, and help to strengthen human resources and institutional capacity in the field of foreign policy. For example:

—In cooperation with the Asia Center at Harvard University, the Foundation supports a series of trilateral meetings in Japan, and China. The meetings promote greater mutual understanding of regional security issues among participating nations.

—The Foundation supports fellowships for mid-level officials of China's Ministry of Foreign Affairs to study at the Fletcher School of Law and Diplomacy, the Johns Hopkins School of Advanced International Studies (SAIS).

—The Foundation will continue its support for the Council for Security Cooperation in the Asia Pacific (CSCAP) as a useful vehicle for Track Two dialogue on evolving regional security structure.

—As part of its support for regional human rights initiatives, the Foundation will continue to host annual meetings of an informal working group of human rights practitioners. The meetings provide an opportunity for participants to explore common issues such as impunity and to develop plans for the use of information technology to facilitate exchange between human rights organizations and promote regional advocacy initiatives.

—Through its "America's Role in Asia Project," the Foundation is bringing together a diverse group of distinguished American and Asian foreign policy specialists to consider America's future role in the Asia-Pacific region.

In the coming year, the Foundation hopes to undertake several activities. These include a fresh program of support for U.S.-China dialogue and exchange programs; cross-straits exchanges to promote greater dialogue and mutual understanding between China and Taiwan; a bilateral conference to discuss the future of the U.S.-Indonesia relationship since the installation of the new government in Jakarta; and meetings in Seoul between U.S. and South Korean officials on policies concerning the Korean Peninsula. With a $10 million appropriation, the Foundation will expand regional and sub-regional activities focusing on security, economics, and human rights issues.

CONCLUSION

As the preceding examples of our work emphasize, the Foundation is a field organization that supports local Asian groups and projects, while at the same time maintaining close links with the U.S. foreign policy community. Working through 13 offices in the Asia Pacific region, including China, Hong Kong, and Taiwan, the Foundation strengthens the capacity of local institutions and supports reform efforts. Through our offices, we identify and establish relationships with creative, reform-

minded individuals who seek to advance the same goals and interests to which we are committed.

The Foundation is first and foremost a grant-making organization. We are efficient, maintain a low overhead, and ensure that the majority of our resources are dedicated to financial and technical support projects in Asia. We are not a research organization or academic institution, nor are we Washington based.

An appropriation of $10 million will allow the Foundation to undertake programs to address key development challenges and opportunities. Public funding is essential to our mission for many reasons. While the Foundation remains committed to expanding private funding, the flexibility and reliability that public funding lends to the Foundation's efforts is critical. As an organization committed to American interests in Asia, we can only be successful if potential private donors understand that the U.S. government continues to support our efforts in the region.

Furthermore, private funding is almost always tied to specific projects (as are the USAID funds for which the Foundation competes) and does not replace public funding, either in scale or flexibility. The Foundation does not solicit or accept private funds that might compromise our fundamental commitment to support U.S. interests in Asia. Moreover, the flexibility afforded by U.S. government appropriated funds enables the Foundation to quickly respond to fast-breaking developments and program opportunities, as demonstrated by our 1999 support for electoral and other democratization initiatives in Indonesia. It also enables the Foundation to work in countries such as China and Pakistan that are of high priority to the U.S. but where USAID and other official U.S. assistance agencies do not operate. The Asia Foundation continues to be a model of public-private partnership and a resource which complements official foreign policy efforts.

In closing, Mr. Chairman, I have cited a few examples of the many Asia Foundation program activities that we consider central to U.S. economic, security, and other interests in a region of vital importance that will continue to experience change in the years ahead. We believe that our programs merit a $10 million appropriation for fiscal year 2001, consistent with the President's request.

As you and your colleagues know, budget constraints have resulted in significant reductions in the Foundation's annual appropriation since fiscal year 1996 and the Foundation has received static funding for the last three years. Even the requested level of $10 million is below the $15 million the Foundation was appropriated for a decade prior to fiscal year 1996. We have worked hard to manage our budget, reduce staff and expenditures, and increase our efficiency, as well as to diversify our funding sources. We have maintained our regional presence through our 13 offices in Asia, and ensured that the maximum possible amount of appropriated funds are dedicated to on-the-ground program activities. Nevertheless, this constrained level of funding has precluded the Foundation from meeting the needs faced in the region as described. Additional funding is necessary. I assure you that if the Congress appropriates the full $10 million request, the Asia Foundation will use those funds efficiently and effectively in undertaking the critical program activities that I have described.

NONDEPARTMENTAL WITNESSES

DEPARTMENT OF JUSTICE

PREPARED STATEMENT OF THE NATIONAL, COORDINATED LAW-RELATED EDUCATION PROGRAM

Dear Mr. Chairman: I am Lee Arbetman, the Coordinator of the National, Coordinated Law-Related Education Program. I am submitting this testimony on behalf of Youth for Justice, the National, Coordinated Law-Related Education Program (LRE). We respectfully request the Subcommittee's appropriations support for fiscal year 2001 at a level of $1.9 million, the same level of funding that LRE received for fiscal year 2000.

LRE/Youth for Justice is committed to involving young people in each state directly in identifying and implementing solutions to this nation's epidemic of violence. The program's approach is to teach young people about the law so that they can lead their lives within the law. In the last decade, the National Program has reached millions of at-risk children and trained thousands of teachers, juvenile justice counselors and law enforcement officials.

Law-Related Education, despite its name, has nothing whatsoever to do with legal or pre-legal training. The National, Coordinated Law-Related Education Program has a proven record of success in juvenile delinquency and violence prevention. Law-related lessons reach at-risk children and juvenile offenders in school and juvenile justice settings in both urban and rural environments. Youth for Justice meets its goals by developing and maintaining strong, viable LRE centers in each state. The National Program leverages a tiny federal investment, $1.9 million in fiscal year 2000, many times over in private sector and state and local money and in in-kind support from the criminal justice and juvenile justice communities.

The program has two components. The first component of the program is Intervention. This part of the program operates primarily in various kinds of juvenile justice facilities. In settings ranging from detention centers to training schools and after-care, Law-Related Education Programs help youth develop problem-solving, conflict resolution, and communication skills in the context of engaging lessons that focus on personal responsibility.

The second component, Prevention, operates primarily in elementary and secondary schools. When you visit a school involved in this program, you are very likely to see a teacher, a judge, a lawyer, the town's police chief, a law student or a probation officer working with a class of students. In some of the best Youth for Justice classrooms, police officers co-teach with classroom teachers on a daily basis.

Your home state of New Hampshire continues to be a national leader in adopting Law-Related Education for use as both a prevention and intervention program. Approximately 12,000 students and 140 teachers benefited from LRE's 1999 Fall Conference. In 1999, 250 attorneys and judges visited 20,000 students in 208 schools throughout the state as part of the Lawyer in Every School program. In addition, forty-one teams of students competed in the expanded 1999 New Hampshire Mock Trial Competition.

Through the State of Hawaii's association with the National Program, the Hawaii State Judiciary and non-profit Hawaii Friends of Civic and Law-Related Education have expanded Parents and the Law (PAL), a program providing legal information to teen and at-risk parents. Last year, PAL reached over 450 at-risk parents at twenty-seven sites including schools, corrections settings, and social service agencies. Assistance from the National, Coordinated LRE Program will also benefit the state's efforts to curb youth violence in school settings. Through program funding, the Hawaii State Judiciary staff have received training and materials to implement a three-part curriculum devised to stem violence and hate speech in Hawaii's public and private schools.

The State of Kentucky is another national leader in the adoption of LRE programs. During the last fiscal year, approximately 89,500 juveniles from the Kentucky juvenile justice system and the Kentucky school system participated in LRE programs. Of the approximately 46,000 juveniles entering the Kentucky juvenile jus-

tice system during the last fiscal year, half of those juveniles participated in Law-Related Education programs. In addition, every judicial district in Kentucky has a fully operational LRE court diversion program.

South Carolina continues to build upon its already extensive LRE program. For example, South Carolina worked with the Governor's Community Youth Councils to introduce the idea of using LRE programs in non-traditional settings including after-school programs. South Carolina also hosted a statewide safe schools conference and plans to hold its next Youth Summit in April. High school students attending the Youth Summit will focus on a variety of issues such as school violence, hate crimes, and teen suicide. South Carolina also plans to expand its regional middle school mock trial competitions and will host this year's National High School Mock Trial Championships.

On December 3, 1999, Vermont held another successful Youth Summit at the Vermont Law School in South Royalton, with more than 100 students and teachers participating. Presenters included many professors and students from the Law School. The interactive topics included Drafting Curfew Laws and the Fourth Amendment.

Mr. Chairman, thanks to the continued commitment of this Subcommittee, Youth for Justice, the National, Coordinated Law-Related Education Program has built a vital, cost effective program serving the needs of youth throughout our nation. This program:

—Involves young people in every state in identifying and implementing solutions to the nation's epidemic of violence;
—Promotes research-based educational programs that strive for safe, disciplined and drug-free schools and communities;
—Teaches young people acceptable ways to resolve conflicts;
—Fosters constructive attitudes towards authority figures, such as parents, teachers and police officers;
—Provides young people with meaningful opportunities to serve their communities;
—Promotes understanding of and reasoned commitment to the rule of law along with tolerance for varied points of view in a free and diverse society; and
—Helps young people understand the democratic process and develop the critical thinking, decision-making, and problem solving skills to enable their full participation in that process.

LRE/Youth for Justice uses technology as a cost-effective way to expand its reach by providing up-to-date information to the LRE field. For example, LRE has posted a planning guide for its Youth Summits on the World Wide Web as well as free competition mock trials. The National LRE Program also provides technical assistance to state LRE centers to demonstrate how they can use technology to link teachers and community volunteers throughout the state.

Youth for Justice is committed to providing leadership in the national effort to stop the outrage of violence committed by and perpetrated against this nation's youth. We have the capacity to involve young people directly in helping to identify and implement solutions. With the support of Congress, Youth for Justice is refocusing all programs to reflect the nation's growing concern about violence committed by and against young people in our schools and communities.

—Law-Related Education focuses on violence prevention. Last Spring, thousands of young people from both the school and juvenile justice settings again gathered with public officials to participate in Youth Summits designed to help develop public policy to help prevent violence by and against youth. During this fifth season of summits, thousands of young people are taking a close look at the problem of violence by and against youth.
—Law-Related Education is an extraordinarily effective prevention program, but it is also an extraordinarily effective intervention program—Law-Related Education reaches juvenile offenders in school settings as well as halfway houses, detention centers, and other non-school settings.
—While Law-Related Education targets at-risk children, it does so not just in urban settings but also in suburban and rural environments.

THE NATIONAL LAW-RELATED EDUCATION PROGRAM

The National, Coordinated Law-Related Education Program is comprised of five not-for-profit corporations, each of which is recognized nationally and internationally as a leader in the field of law and civic education: The American Bar Association's Special Committee on Youth Education for Citizenship; the Center for Civic Education; the Constitutional Rights Foundation; Street Law, Inc.; and the Phi Alpha Delta Public Service Center. By combining their expertise and experience as

teachers, school administrators, juvenile justice professionals, attorneys and professors, these five organizations have successfully administered a nationwide program in which they have:

—Established and maintained an effective network of delinquency prevention law and citizenship projects in all fifty states, the District of Columbia and Puerto Rico, so that accurate information and effective materials can be efficiently distributed and widely used without costly replication of research and development efforts;

—Provided training and technical assistance to the state projects in this network so that federal funding effectively leverages public and private funding appropriate to each state;

—Established innovative law and citizenship programs for at-risk youth in urban, rural and suburban communities;

—Developed and field-tested quality, research-based curricular materials for children—kindergarten through grade twelve—in public and private schools, juvenile detention centers, after-school programs and court-related diversion programs;

—Organized special initiatives on violence prevention, drug prevention, juvenile justice and urban education, publishing materials and sponsoring training events nationwide; and

—Mobilized thousands of volunteers with expertise in law, public policy, drug and alcohol abuse prevention, juvenile justice and other areas.

We at the National, Coordinated Law-Related Education Program acknowledge with pride the participation of dozens of organizations and thousands of individuals from the education, legal, law enforcement, judicial and juvenile justice organizations. The Program has had assistance from the executive branch and strong bipartisan support in Congress for the outstanding delinquency prevention programs and materials it has developed and implemented.

In addition, it is a particular source of satisfaction to note that similar partnerships have been developed in most of the states participating in this network. A small amount of federal support has provided the impetus to attract funding from local organizations, agencies and foundations as well as large numbers of volunteer hours. One important goal of this Program is to continue to provide the support and technical assistance necessary to enable all of the states to build their own public/private partnership networks, effectively leveraging a small amount of federal assistance to build strong, well-funded local and state programs.

EVALUATIONS OF LAW-RELATED EDUCATION

For the past two decades, researchers have consistently reported that law-related curricula and instruction make a positive impact on youth, when compared with traditional approaches to teaching and learning law, civics and government.

The Office of Juvenile Justice and Delinquency Prevention has noted that evaluations of Law-Related Education Program have been "encouraging . . . confirming the previous findings that such education serves as a significant deterrent to delinquent behavior". *Eighth Analysis and Evaluation of Federal Juvenile Delinquency Programs*, U.S. Department of Justice, OJJDP, p. 60 (1985). The *Twelfth Analysis and Evaluation of Federal Juvenile Delinquency Programs* published in 1988 similarly states, "[A] national study suggests that Law-Related Education, when properly implemented, can reduce the tendency to engage in delinquent behavior."

A 1993 study of a Law-Related Education diversion alternative in Kentucky's Designated Court Worker Program showed both improved perceptions of the police and a low recidivism rate (10.5 percent after one year).

A review of the research in Law-Related Education and related fields (including scholarly papers, dissertations, journal articles and book chapters) conducted by Dr. Jeffery W. Cornett and published on April 1, 1997 in monograph form concludes that LRE programs have a positive effect on student knowledge about law and legal processes, and about individual rights and responsibilities. In addition, the report concludes that there is evidence that LRE programs have a positive influence on student attitudes and behavior. Research studies indicate that effective LRE programs have improved juveniles' attitudes toward the justice system and toward authorities. Research findings also indicate a link between particular LRE programs and youth who, as a result of Law-Related Education, exhibit more law-abiding behavior and commit fewer delinquent acts.

In 1998, the National, Coordinated Law-Related Education Program released impact data from demonstration programs in Los Angeles, Chicago and Washington, D.C. showing the positive effect that Law-Related Education can have on the highest at-risk youth. This data was the culmination of a three-year effort to test the

impact of Law-Related Education on at-risk youth in the most challenging environments.

In Santa Clara, California, the Fresh Lifelines for Youth (FLY) program, which incorporates Law-Related Education, Mentoring, and Social Needs Assessment, has been found to have a significant impact on the behaviors of at-risk youth. At-risk youth, ages 12–17, are referred to the program by a probation officer, juvenile court, school officials, or a neighborhood accountability board. The program strives to improve knowledge, problem-solving skills, attitudes, and behaviors. A recent evaluation of forty FLY participants found that the participants' negative behaviors decreased by 75 percent while their positive behaviors increased by 32 percent. Participants' skills regarding problem solving, critical thinking, and managing conflict also significantly improved.

The National Program has a unique and remarkable record of achievement. Continued support for the National, Coordinated Law-Related Education Program is crucial for the following reasons:

—First, without congressional support it is clear that Law-Related Education will die.

—Second, the federal government and, in particular, the Congress, has made a substantial investment over more than a decade in the creation of a National, Coordinated Law-Related Education network and infrastructure including coordinating organizations in every state.

—Third, only a national program will undertake national initiatives that benefit the entire country, such as national training; national technical assistance; state financial assistance; new program and curriculum development such as Law-Related Education's highly successful and acclaimed Youth Summits; and the replication of successful state programs and the avoidance of unsuccessful pilot programs.

—Fourth, federal money is seed money used to sustain a national program which raises approximately seven times the federal support through state legislative support, private donations and in-kind support.

For all of these reasons, the National, Coordinated Law-Related Education Program is seeking earmark support at the $1.9 million level.

We thank you, Mr. Chairman and the members of this Subcommittee, for your support over all these many years and we ask for your continued support.

PREPARED STATEMENT OF THE NATIONAL CONSORTIUM FOR JUSTICE INFORMATION AND STATISTICS

Dear Chairman Gregg: The Membership Group of SEARCH submits this testimony seeking appropriation support for our National Technical Assistance and Training Program in the fiscal year 2001 Byrne discretionary program appropriation for the Bureau of Justice Assistance (BJA), U.S. Department of Justice (DOJ). The National Technical Assistance and Training Program received an appropriations earmark in fiscal year 2000 in the amount of $1.5 million. We respectfully submit this testimony to request funding at the $2 million level for fiscal year 2001.

SEARCH is a nonprofit criminal justice organization governed by a Membership Group comprised of one gubernatorial appointee from each of the 50 states, the District of Columbia, Puerto Rico and the U.S. Virgin Islands. For over 30 years, we have dedicated our efforts to assisting state and local justice agencies combat crime and administer justice through the effective and responsible use of information and identification technologies.

SEARCH's National Technical Assistance and Training Program provides no-cost assistance to all components of the state and local criminal justice system with respect to the development, operation, improvement and/or integration of all types of justice information systems. This significant program not only helps state and local agencies work more efficiently and effectively through the use of advanced information technology, but it also creates the foundation for a national information infrastructure for justice systems.

SEARCH is experiencing an explosive growth in demand for the program. In 1999, we provided a 30 percent increase in the number of technical assistance efforts as compared to 1998. We expect to experience at least an additional 30 percent increase in technical assistance provided in 2000. There are a number of reasons for this demand, including the success of grant programs such as the Edward Byrne Memorial State and Local Law Enforcement Assistance Program and the Local Law Enforcement Block Grants Program, which have provided seed money for justice information systems automation and integration. Also impacting the demand for SEARCH technical assistance and training services is the critical need of the na-

tion's criminal justice agencies to share complete and accurate information quickly, which is manifested in their efforts to integrate and connect justice information systems.

We want to commend BJA and its fine, professional staff. Working in partnership with SEARCH, BJA has provided strong, national leadership to create opportunities for information systems training and technical assistance for state and local criminal justice officials.

Technical Assistance Program

SEARCH provides technical assistance via written correspondence, telephone consultations, electronic mail, and/or through an Internet Web site, and when the needs of agencies require, SEARCH provides technical assistance on-site or at our National Criminal Justice Computer Laboratory and Training Center in Sacramento, California.

In-house Technical Assistance

Under fiscal year 2000 funding, SEARCH will respond to hundreds of telephone calls and emails requesting assistance. The nature and scope of in-house technical assistance varies considerably, but can involve the following: providing technical consultations on the planning, implementation or operation of automated systems, such as network configurations, software installations and technical innovations; conducting in-depth research; making referrals to appropriate resource providers; and answering questions on a wide range of justice automation topics.

SEARCH has also taken advantage of the Internet to expand the reach of its technical assistance program. SEARCH's Web sites are specifically designed so that justice agencies can immediately access information on a variety of technical issues related to justice information management. The Web sites offer virtual libraries of information to justice practitioners, including published articles, documents and white papers; references to other justice agencies using particular technologies; interactive discussion forums where practitioners can share information with peers and experts; databases of technology acquisition documents such as requests for proposals; and links to other justice technology resources and information.

On-site Technical Assistance

The Technical Assistance Program also provides on-site assistance to agencies throughout the nation that are predominantly nonautomated or lagging in automation, or that have special automation needs. Since the program's inception, SEARCH has provided technical assistance to scores of agencies in every state, representing all components of the criminal justice system. The majority of technical assistance is completed within one month, consists of site visit(s) by staff, and concludes with the issuance of a formal report setting forth findings and recommendations.

Selected Examples of Assistance

The following illustrates just a few examples of SEARCH technical assistance in the past year and the broad range of agencies receiving assistance.

New Hampshire.—SEARCH provided input on and review of software applications under consideration by Cheshire County as part of its plans to upgrade its jail information management system. The county had called the system review meeting in part to explore the possibility of participating in a joint jail management system procurement. Representatives of Merrimack and Belknap counties also participated in the meeting. In addition, SEARCH reviewed the request for proposals (RFP) prepared by the Cheshire County House of Correction for a new automated system. This activity was a follow-up to technical assistance SEARCH provided earlier in 1999 to the New Hampshire Administrative Office of the Courts and State Police on a project to integrate the information systems of all criminal justice system participants in the state.

Alaska.—SEARCH helped the State Department of Public Safety by reviewing its summary needs assessment document—which addresses a migration plan for the Department's law enforcement and repository applications—and issuing a report of findings and recommendations. SEARCH also helped the University of Alaska-Fairbanks with forensic computer issues and the Anchorage Police Department with identifying users on a multiuser, multichannel Internet chat network.

Colorado.—At the request of the Board of Executive Directors of the Colorado Bureau of Investigation (CBI), SEARCH conducted several site visits to assess the current information technology status of CBI. Staff is helping the CBI design a series of management reports to assess critical performance measures of key systems and resources. Staff also conducted a preliminary assessment of the CBI fingerprint identification capability in order to assist CBI in achieving greater efficiency in this

area. Staff also assisted the Denver District Attorney's Office on cybercrime issues relating to on-line fraud and tracking email and Internet addresses.

Hawaii.—SEARCH worked with the Hawaii Criminal Justice Data Center in the Attorney General's Office to assist in organizing for statewide integrated systems development. The long-term integration effort will include the systems used by state and local courts, corrections, law enforcement, prosecution, probation, parole and community supervision agencies. SEARCH provided recommendations regarding general planning issues and approaches.

Kentucky.—SEARCH is working with state agencies in Kentucky on planning for statewide integrated justice information systems. At the request of Kentucky's Chief Information Officer and state justice officials, SEARCH met with the Uniform Criminal Justice Information System Committee to develop the concept for statewide integrated justice systems and is establishing project "next steps." At the local level, SEARCH provided information to the Jefferson County and Louisville police departments regarding their efforts to plan for a new records management information system that is integrated between the departments and with other city and county agencies. Staff also provided guidance to the State Police on Internet crime investigation issues.

Maryland.—The Baltimore Criminal Justice Coordinating Council has sought SEARCH's assistance in efforts to develop a strategic plan for integrated information systems.

New Jersey.—SEARCH visited the Millville Police Department to assist in its efforts to upgrade hardware and software, implement mobile computing, upgrade radio systems, integrate a crime mapping system, and tie into the state Automated Fingerprint Identification System (AFIS). SEARCH made recommendations for improvement, and helped the Department define the scope of and objectives for the project. As part of a long-term assistance project, SEARCH is also working with the New Jersey Department of Law and Public Safety on a major systems design, development and implementation plan. SEARCH has reviewed an RFP, and will assist in developing a formal business plan, reviewing technical documentation and automation solutions, and reviewing—and making recommendations on—network security plans. In other assistance, SEARCH helped the Rockland County Sheriff's Department with software issues, and provided information on hard drives to the New Jersey State Enforcement Board.

New Mexico.—SEARCH is a member of an Office of Justice Programs (OJP) "Technical Assistance Response Team" for Rio Arriba County. OJP is working to create an infrastructure to support a "balanced and comprehensive approach to reduce substance abuse and control associated crime" in this target area. SEARCH is scheduling site visits to the justice agencies in the jurisdiction as part of an expected long-term technical assistance effort. In addition, SEARCH is working with the Bernalillo County Metropolitan Criminal Justice Coordinating Council on its effort to integrate justice systems within the county and the City of Albuquerque, as well as integrating those local systems with state and federal justice agencies. SEARCH also assisted the New Mexico Attorney General's Office with an Internet fraud case and provided information on federal justice funding legislation to representatives of the University of New Mexico Justice Information Sharing Project.

South Carolina.—The State Law Enforcement Division, which is interested in establishing a computer crime analysis unit, contacted SEARCH for assistance. SEARCH provided the agency with assistance regarding task force and laboratory operations, software requirements and other issues involved in setting up such a unit. SEARCH also helped the agency by reviewing specifications for forensic computers and providing advice on hard drive issues.

Texas.—SEARCH made several site visits to Tarrant County as part of an effort to integrate justice information within the county, regionally and with state justice systems. SEARCH also helped the El Paso County Sheriff's Department with hard drive issues; the El Paso County District Attorney's Office with hard drive and email trace information for a child pornography case; the FBI's Houston Field Office with tracing an Internet Provider address; and the state with issues related to local-to-state AFIS connectivity. In an upcoming assistance, SEARCH will assist with developing a strategic plan for migrating the Harris County integrated justice information systems to a Web-based system.

Vermont.—In an upcoming weeklong site visit, law enforcement investigators in Vermont will attend SEARCH's "The Investigation of Computer Crime" training course, which is designed to provide participants with an understanding of computer technology, its application to criminal endeavors, and the issues associated with investigating computer crimes. In addition, representatives of Vermont State law enforcement, corrections and court agencies, and an organization representing local

prosecutors and sheriffs, received SEARCH training on strategies for successfully planning and implementing integrated justice information systems.

Integration Technical Assistance

There is a pressing need to provide more extensive, long-term assistance to states and/or agencies within states to address the technically complex and sophisticated planning, design and implementation issues associated with developing integrated or consolidated information systems within and between justice agencies; and to assist these jurisdictions in developing state-, county- or citywide plans for justice information systems and technology and criminal records improvements. In response, SEARCH provides a limited number of agencies with technical support for extended periods of time, including multiple on-site visits, research and, oftentimes, complementary training sessions. During such a project, SEARCH often works with a variety of justice agencies, including police departments, courts, and prosecutor, probation, parole, corrections and other case management agencies.

This type of on-site assistance typically involves helping a state or agency establish an automated justice information system; evaluate and plan for statewide integration of existing systems; or enhance, expand or implement a computerized criminal history repository program. SEARCH is providing such long-term technical assistance to agencies in Arizona, Arkansas, California, Iowa, Massachusetts, Michigan, Minnesota, Montana, Nebraska, North Carolina, Virginia and Wisconsin and, as previously noted, in New Hampshire, Hawaii, Kentucky and Texas. In fiscal year 2001, SEARCH expects to provide on-site technical assistance to more than 40 justice agencies.

National Training Program

Since its inception, SEARCH's National Technical Assistance and Training Program has trained more than 22,500 criminal justice officials from every state in the use of computers and other information technologies. In fiscal year 2000, SEARCH will train more than 2,000 state and local criminal justice officials across the nation, both on-site at agencies and at SEARCH's National Criminal Justice Computer Laboratory and Training Center in Sacramento, California. In Spring 2000, SEARCH will implement a mobile training center that uses a variety of laptops and other mobile equipment to provide our training at more sites nationally.

Training courses focus on the development, use and implementation of information technology in justice agencies, including investigating computer crime; techniques for seizing and examining microcomputers as evidence; and conducting Internet crime investigations (both basic and advanced courses). During fiscal year 2000, SEARCH also developed two new courses: The Investigation of On-line Child Exploitation and Basic Local Area Network Investigation.

Staff from justice agencies in Alaska, Colorado, Hawaii, Maryland, New Hampshire, New Jersey, South Carolina and Texas were among those who attended our training this fiscal year. SEARCH conducted our "Investigation of Computer Crime" course in a number of states, including Colorado, and is scheduled to do so this Spring in Texas and Vermont. In addition, in fiscal year 2000, SEARCH held a first-of-its-kind combined technical assistance/training exercise for attendees of our "Advanced Internet Investigations" course. During the exercise, attendees undertook a full penetration attack to test the security of a large state automated justice system.

National Cybercrime Training Partnership

During the past four years, the Computer Crime Unit of the DOJ, in conjunction with the National White Collar Crime Center, has conducted a federal-level project to define how to best train and equip the nation's criminal justice investigators and prosecutors to deal with computer crime. The organizing agencies invited SEARCH and other key justice agency training organizations to participate in a series of meetings to discuss the mission and functional objectives of computer crime training for state and local justice practitioners. The Partnership continues to identify needs; develop new, advanced training courses; and set standards for national justice training courses in the area of curbing computer crime.

Technical Assistance and Training Program Materials

SEARCH's National Technical Assistance and Training Program also includes the preparation, publication and national dissemination of materials and reports that assist criminal justice agencies in acquiring and using computers and other information technology. For example, SEARCH publishes quarterly Technical Bulletins that identify and evaluate information systems and technologies that have existing or potential application in criminal justice management.

Conclusion

Without question, federal support for the National Technical Assistance and Training Program makes a vital contribution to the war on crime. For a modest federal investment, leveraged many times over by state and local funds, a critical contribution is made to the ability of state and local criminal justice agencies to provide—and to share—timely, accurate and compatible information for use in apprehending, prosecuting and sentencing offenders.

Accordingly, we respectfully request that the Subcommittee act to ensure fiscal year 2001 funding of SEARCH's National Technical Assistance and Training Program. We thank you, Mr. Chairman, the members of your Subcommittee and the Subcommittee staff for your continued support.

PREPARED STATEMENT OF THE NATIONAL RECREATION AND PARK ASSOCIATION

Dear Mr. Chairman: We write to share the views of the National Recreation and Park Association on selected fiscal year 2001 appropriations for the U.S. Department of Justice. We respectfully request that this statement be included in the record.

The National Recreation and Park Association is a not-for-profit organization of some 25,000 citizens, professionals and public and private institutions involved primarily with public park and recreation systems and services. These individuals and agencies provide an array of prevention and intervention discretionary time activities for children and youth from all backgrounds and circumstances, including and especially those in high-risk environments. Many recreation services also emphasize specialized programs that focus on gang and substance abuse prevention, development of employment skills, and tutoring and mentoring, in addition to traditional recreation programs. Because of their multidisciplinary, community-based approach, recreation services reach many individuals often alienated from other settings or providers.

The Department of Justice, particularly the Office of Juvenile Justice and Delinquency Prevention (OJJDP), administers several authorities that could potentially aid local park and recreation agency efforts to deter youth from behaviors or circumstances that put them at risk. Local park and recreation agencies, whose principal mission is creative programming during non-school hours and vacation periods, are generally eligible for OJJDP funds and use Title II B and Title V grants to provide recreation-as-prevention programs. With the reauthorization of the Juvenile Justice and Delinquency Prevention Act still undetermined, the continued availability of these funds through the appropriations process is critical.

RECOMMENDATIONS

While local public park and recreation services are supported principally by local general funds, many public recreation-as-prevention programs are stronger today because of activities aided by federal and state funds. We urge increased national investment in public community-based crime prevention efforts that positively engage children and youth.

Because the JJDPA has expired, "authority" for funds and setting of priorities rests principally with the respective appropriating committees. This process appears to encourage the practice of earmarking funds for specific organizations or projects, at least some of which have narrow impact and serve a limited number of youth. Earmarked funding for the Office of Juvenile Justice and Delinquency Prevention escalated from $18 million in fiscal year 1999 to some $38 million in fiscal year 2000. This practice makes it increasingly difficult to fund the most innovative programs, which would likely be discovered in an open competitive process. The department and OJJDP should be given discretion to support projects with the highest probability of success. Assistance should be sufficiently flexible to allow states and localities to address conditions specific to their environments. We encourage the Subcommittee to give priority to competitive funding for effective and innovative youth development and prevention initiatives.

The President's budget request for fiscal year 2001 includes $272 million for juvenile justice programs, including level funding for Title II B formula grants to the states—$89 million—and for Title V incentive grants for local delinquency prevention programs—$95 million. We urge the Subcommittee to consider additional funds for prevention and formula grants to reflect the growing understanding that prevention is a key element of a balanced approach to reduce crime. Fiscal year 2001 appropriations for discretionary grants and formula grants should be commensurate with documented needs. As with reauthorization, funding for prevention programs should be given priority and not diminished in favor of punitive programs and ini-

tiatives. We recommend that the Congress invest at least $250 million in Title V programs.

Furthermore, programs funded by public fiscal resources should be available principally through competitive public processes with local recipients having the authority to pass through funds to private providers when the scope and quality of services will be enhanced and when service efficiencies will result. Increasingly, it seems, the appropriations process provides direct appropriation of public resources to certain private entities. We urge the Subcommittee to reconsider this practice, emphasizing instead public services and public-private partnerships. Public recreation agencies are among the most aggressive of all local service providers in terms of outreach and collaboration, and the enclosed publication, *Promise and Progress: Recreation and Police Partnerships for Youth*, highlights several local actions that illustrate this point.

WHY INVEST IN PUBLIC RECREATION?

Recreation-as-prevention programs should be considered central components of crime prevention strategies. Public recreation professionals and citizen volunteers are on the front lines, with over 85,000 public park and recreation sites in some 5,000 municipal and county systems, and another 20,000 state and interstate sites.

Public recreation services typically focus on the age cohort most prone to crime—youth ages 10 to 17—during the hours when crime peaks—between 3 and 8 p.m. The services and sites counter the combined impact of boredom and the too-frequent absence of positive, caring role models. They are effective alternatives to more costly actions typically associated with adjudication and incarceration, and often lead to many positive secondary benefits (i.e. health promotion, community building and social development). Notwithstanding this record of achievement, many public programs cannot be expanded or go unfunded because of financial constraints. In these situations, federal assistance and support are critical.

The following examples illustrate how principally local and state public funds have been invested in resources and services yielding direct community benefits.

—In Bowling Green, Kentucky, the Parker Bennett Community Center has partnered with the local housing authority to serve high-risk youth ages 6–16. Students at Parker Bennett Elementary School who have participated in the community center's supervised programs have increased their state aptitude (KERA) scores 45 percent.

—In 1997, the recidivism rate for all of the diversion programs offered through the Phoenix, Arizona, Parks, Recreation and Library Department's At Risk Youth Division was 14.2 percent (six months) and 22.4 percent (one year). Program administrators anticipate further reductions with changes to the city's recreation-based Curfew Diversion Program.

—In 1993, the City of Charlotte and Mecklenburg County, North Carolina, Park and Recreation Department developed an array of programs and activities for people who reside in various shelters and others referred from Travelers Aid. Since July 1993, more than 9,000 people have participated in the programs and activities, 30 percent of who have been children.

—In Cincinnati, Ohio, city and federal officials directly attribute a 24 percent drop in the number of criminal incidents to the Winton Hills late-evening recreation initiative.

—Project PRIDE in Santa Ana, California, supplements education and human services with traditional recreation activities to "teach young people the skills they need to remain gang free, drug free and in school." City administrators estimate the annual cost per person at $41.67, based on an average of 12,000 participants in five programs.

—Some 8–10 youth each month are diverted from the juvenile court system through the Street Outreach Program in Olympia, Washington. The success of the program relies heavily on the public recreation agency's staff.

—The KIDCO Program in Tucson, Arizona, responds to the growing number of "latchkey" kids. It serves over 3,000 children and youth and has recently contributed to a 52 percent decrease in reported crime.

We believe our recommendations are sound and well within the nation's fiscal capacity to address. I have asked Barry Tindall, director of Public Policy, and Heather Sidwell, policy associate, to be available to you to provide additional information or to answer questions. Both may be reached at 202/887–0290.

PREPARED STATEMENT OF THE CITY OF GAINESVILLE, FLORIDA

Mr. Chairman: On behalf of the City of Gainesville, Florida, I appreciate the opportunity to present this written testimony to you today. The City of Gainesville is seeking federal funds in the fiscal year 2001 Commerce, Justice, State and Judiciary Appropriations bill to assist with an innovative Joint Communications Technology Project the City is undertaking to improve public safety.

Joint Communications Technology Project

The City of Gainesville is seeking $5.4 million for a joint communications technology project to enhance public safety. The goal of this effort is to facilitate communication between our urban area public safety agencies through the use of system-wide communications software and technology upgrades. The City and Alachua County have initiated a joint communications system for the future. The impact for the entire region is considerable, since this county serves as the regional center for much of rural north Florida's medical care, disaster management, and criminal justice services.

The agencies involved in this project are: Alachua County Government (14 internal user agencies), Alachua County Sheriff (includes Corrections Facility and Civil Division); Cities of Gainesville (8 internal user agencies), Archer, Newberry, High Springs, Alachua, LaCrosse, Waldo, Melrose, Hawthorne, and Micanopy; School Board of Alachua County, Santa Fe Community College, University of Florida, Gainesville-Alachua County Airport Authority, Gainesville Regional Transit and Gainesville Regional Utilities (electric, gas, water, wastewater, telecommunications).

To continue the Joint Communications Technology Initiative to the next step requires the purchase of enhanced software and new equipment. The urban area public safety agencies will need the following:

—Mobile Lap Top Computers/Data Terminals for urban area public safety agencies ($4.8 Million)
—Crash Reporting Software for urban area law enforcement agencies ($120,000)
—System-Wide Communications Software ($200,000)
—Geographical Information System (GIS) Software and WEB Software ($280,000).

In order to meet the needs of our urban area public safety agencies, a three-phase project is proposed.

Phase I

During this phase the agencies would purchase sufficient lap top computers for installation in each operational vehicle. Included with the purchase of the lap tops will be a mount for installation, installation cost, a wireless communication device, and network system software. Additionally, the Gainesville Police Department will initiate a new WEB page in preparation for mapping software for the Internet. The goals of Phase I will be to (1) Equip all public safety vehicles with lap tops that can communicate with the department's communication software, (2) Establish an in-office GIS system, (3) Create a mapping resource to be used by management to effectively deploy resources.

Phase II

During this phase the urban area law enforcement agencies would purchase additional software and conduct extensive training to use the mobile lap tops to write police incident and crash reports. The goals of this phase will be to add the second use of report writing to the utilization of the lap top computers and to incorporate additional "data layers" from partner agencies into the GIS system.

Phase III

During this phase the law enforcement agencies would purchase additional GIS software to allow the mobile lap tops the capability to enter and use the GIS information provided by the multiple user agencies. Also during this phase, we would develop a method of displaying the appropriate GIS information (Crime Maps) over the Internet for use by other governmental agencies and the public.

The need for the addition of lap top computers to this system is partially driven by the Federal Government's "re-farming" of radio frequencies through the Federal Communications Commission. Due to this "re-farming" and the high cost of radios, law enforcement agencies will no longer have radios mounted in department vehicles. Radios "mounted" in vehicles traditionally have a much higher wattage output and therefore are more reliable and robust than portable radios. Additionally, portable radios can be lost or damaged during emergency incidents. This creates a critical need for an alternative means for officers to be able to communicate with the dispatch center. Mobile lap top computers with the additional communication and software components can become the secondary means of communication utilizing

the infrastructure currently being developed for the Alachua County Joint Communication Center.

The use of lap top computers can fulfill the critical need for a second communication device, and at the same time help accomplish several other public safety objectives, including in-car computer aided dispatch, automated report writing and the use of a GIS (Crime Mapping, etc.).

Result #1 Mobile Computer Aided Dispatch

Utilizing lap top computers as in-car computer aided dispatch terminals significantly increases public safety officers' communications ability. Computers used in this manner can perform many important tasks.

First, the computers can send and receive information between the officer and the dispatcher, including calls for service. Non-emergency calls are forwarded from the dispatcher to the appropriate unit without the need to transmit the information verbally over the radio, thus saving "air-time" for use in emergency situations. This also improves the reliability of the information communicated and virtually prevents the need for the information to be repeated. This also decreases the need for additional dispatchers even when the number of calls for service increases.

Secondly, officers and supervisors can find the location of other officers and check on their current status. This eliminates the need for officers to request this information from a dispatcher and gives all members of the agency a complete picture of the availability of officers for calls for service. Officers can also refer to information about calls that have not yet been dispatched in addition to information regarding previous calls for service.

Third, officers can communicate vehicle-to-vehicle. The computers can be used to send messages from one officer to another. This also eliminates the need for officers to waste "air-time" for less important transfer of information.

Fourth, law enforcement officers can conduct FCIC/NCIC checks on wanted persons and stolen vehicles without having to tie up a dispatcher. This allows officers to check a large number of persons and vehicles, which will significantly increase the number of people who are arrested for warrants and the number of recovered stolen vehicles. A single dispatcher can only handle 1 request at a time, while the computer system, can handle numerous request all at the same time.

Result #2 Mobile Automated Report Writing

Area law enforcement officers currently hand write law enforcement reports that are manually filed. A small portion of that report is then entered into a computer database at some later date. This method of capturing the information for reports is antiquated and causes a number of problems.

Problem #1.—The time lapse between when a report is started and the time that is entered into the computer makes the information less useful than it would be if it were immediately entered. This time lapse prevents any practical analysis of the information to be used for effective management of resources.

Problem #2.—The information in a report can only be retrieved by removing the report from a file folder. Record's personnel spend an enormous amount of time copying, retrieving and re-filing reports. In fact, copies of each report that is generated by law enforcement personnel must be made for other parts of the department, including crime analysis, detectives, intake, etc. before the report can even be filed. Reports must also be copied for other agencies including the State Attorney's Office, the Public Defender and private attorneys. Reports are also generated for private citizens and law enforcement personnel who are going to court. Whenever a copy of a report is requested, a records technician must hand search for the report, copy it, and then return the report to the file. Normally the entire report is copied and forwarded, even if the person only needed a specific portion of the report. This time spent on requesting reports and completing those requests is a wasted resource. Once filed, electronic reports could be forwarded to anyone electronically and could be printed by any department member anywhere in the department.

Problem #3.—The amount of storage space required to house all of the completed law enforcement reports is immense. As a result, for example, reports are only kept at the police department for 3 years. The reports are then removed from the file one at time by a records technician. The reports are then re-filed in a new folder and transported to a storage warehouse. Any report over three years old, must be retrieved from a storage company warehouse. This storage company is located several miles from the police department and must be accessed several times a month, further wasting valuable resources. Electronically filed reports take up virtually no space at all and can be electronically backed up for security purposes and stored on some form of optical disk. This would eliminate the need for an entire room to store reports.

Problem #4.—Handwritten reports that require duplicate information must each be completed one at a time. Electronic reports can be created that will take the captured data and fill in the data on subsequent or additional report forms. Therefore when a person is arrested an officer would only be required to enter the suspect's personal information 1 time. Today, an officer might be required to enter the information on several report forms, including the original report, a sworn affidavit, a vehicle tow sheet, a forfeiture request, an ATF firearms report, etc. Thus filing the reports electronically would save the officers significant time needed to complete a report.

Problem #5.—Many handwritten reports are nearly illegible and have numerous spelling and grammatical errors. Some of the current report forms are also 4 or 5-part NCR paper. Usually only the first one or two copies of the NCR forms are legible. Filing reports electronically would drastically reduce the number of spelling and grammatical errors, it would allow officers to easily correct errors in reports, and it would eliminate the need for NCR paper.

Result #3 Geographical Information System (GIS)

For years Law Enforcement Agencies have tracked crime using pin maps to geographically show where crimes were occurring. This method of tracking crime has become impractical and too time-consuming for all but the smallest of law enforcement agencies. The advent of computerized geographical information programs, like "ArcView" has enabled law enforcement agencies to return to the pin map method of displaying crime patterns, but in a much more effective manner. Additionally, mapping programs can contain several hundred data layers that can be utilized by numerous public and private agencies. The following objectives are examples of how a GIS system will enable us to use the information immediately entered on mobile lap top computers.

—*Electronic Pin Maps*.—Once a GIS system is established, all reports that are generated will be mapped in several formats. Maps will be generated for calls for service. This enables agencies to properly decide where to deploy their limited resources. Electronic pin maps also can be made time sensitive as well as location sensitive. Officers working various shifts can identify hot spots by time and location. A hot spot during the day, may not be a hot spot at night, or visa versa. Additional maps can be generated for UCR (Unified Crime Reports) crimes, Crime Analysis identified crimes, and calls verified by Florida State Statutes. Information that is not immediately available is of little or no use when it is entered at a later date.

—*Management of Resources Utilizing Computer Statistics*.—Many law enforcement agencies have begun to use a method of management which utilizes crime data. Law Enforcement supervisors are being held accountable for the level or increase in crime in their assigned geographical area. The Gainesville Police Department has begun the process of dividing the City into districts. Each District Commander will be held responsible for the criminal activity and the utilization of resources in that geographical area. GIS information will be used to manage the department's limited resources.

—*WEB Mapping*.—Sharing the information gathered in an effective manner is another key component to this process. Many of the Law Enforcement Agencies in Alachua County currently have a WEB site on the Internet. In the future, crime maps developed by the GIS system will be used to display maps over the Internet. Maps will be made available to other law enforcement and governmental agencies and the public at large.

—*Integration with other Agencies*.—In order for a geographical information system to be truly effective, it requires the cooperation of several agencies. GIS systems with hundreds of layers of data can be a useful tool for all the cooperative agencies. Law Enforcement personnel will be able to view maps and aerial or satellite photographs of any given area of the city. Crime data and analyses can be placed on top of those maps and/or photographs at specified points that will be available to all users. Law enforcement personnel will provide numerous layers of data to the system and will in return be able to access the layers from other agencies. Alachua County already has begun the process of developing a GIS and the Gainesville Police Department is currently working with the University of Florida to develop a method of converting data to a format used by "ArcView".

In closing, federal support is critical for this initiative. It is our hope that the Subcommittee will give our request every consideration throughout the fiscal year 2001 appropriations process.

PREPARED STATEMENT OF THE ALACHUA COUNTY BOARD OF COMMISSIONERS, ALACHUA COUNTY, FLORIDA

Mr. Chairman: Thank you for allowing the Alachua County Board of Commissioners to present written testimony before your Subcommittee regarding the County's Comprehensive Management of Drug-Involved Offenders Initiative. Alachua County is seeking $2.5 million to develop a comprehensive, coordinated approach to the management of substance-abusing and addicted offenders in the community.

The County's Public Safety Coordinating Council which convenes regularly to address ways to manage the local jail population, anticipates that in the next few years, Alachua County, like many other communities, will be faced with the need for additional jail space. Prior to building costly jail beds, Alachua County would like to fully realize all possible alternatives.

A comprehensive plan to manage substance involved offenders is an innovate approach that could prove to be an effective keystone to alleviating jail overcrowding by reducing recidivism rates and the incidence of drug-related crime. Current treatment sources are inadequate to meet the needs of this population. This pilot project includes a cost-benefit analysis to compare the long-term benefit of a comprehensive treatment model versus an incarceration/incapacitation model. The impact for the entire region is considerable since the County serves as the regional center for much of north Florida's medical care and criminal justice services.

Alachua County has many advantages which makes it an ideal site for this pilot program. The County has long served as a model and a resource for criminal justice alternative programs in the State of Florida. Many Florida pretrial release and alternative sentencing programs consulted with Alachua County's Court Services Department as they developed similar services for their counties. The Alachua County Drug Court was one of the first 25 Drug Courts in the nation and has also served as a model for their Florida Drug Courts. Court Services Department staff are active in state-wide organizations that provide a network to exchange information and share innovations. Alachua County was also recognized as a leader by the Florida State Legislature's Advisory Council on Intergovernmental Affairs in its 1993 report, *Intergovernmental Relations in Local Jail Finance and Management in Florida—A Comprehensive Report*. Further, the community linkages in Alachua County and the array of programs provided under one umbrella in Alachua Court Community Services Department provide a unique opportunity to demonstrate the impact of a comprehensive effort.

Alachua County has supported innovative alternative methods of managing offenders for almost 25 years. The County currently funds a Department of Court Services which includes a comprehensive array of alternatives including: Pretrial Services; County Probation; Community Service; Drug Court; Work Release Facility; and A Residential Treatment Program for Drug Addicts.

In fiscal year 1999, these programs completed more than 7,700 pre-trial release investigations, monitored more than 1,000 defendants on pre-trial release, supervised 1,100 probationers and coordinated more than 3,500 cases where community service work has been required by the Court. In addition, the Drug Court will treat and monitor 100 addicted offenders per day, the Work Release Program will house 50 sentenced offenders and/or pretrial defendants per day. Metamorphosis, the County's residential treatment program, will serve 17 volunteer and court ordered addicts each day in a therapeutic community.

In addition to the Court Services programs, Alachua County had 280 individuals being supervised by the Florida Department of Corrections on drug offender probation during fiscal year 1998. A "snap shot" of individuals arrested in a one-month period between July 1998 and August 1998, shows that 36 percent of the 231 felony defendants who were not released at first appearance were in custody in Alachua county on drug related charges.

A coordinated continuum of services targeting substance abusing offenders across the criminal justice spectrum would further reduce the incidence of drug-related crime throughout the County. The program will include continuing judicial supervision of nonviolent offenders with substance abuse problems and administration of sanctions and services including: (1) mandatory drug testing during any period of supervised release or probation; (2) substance abuse treatment; (3) probation or supervised release which could include prosecution, confinement, or incarceration for noncompliance with the program's requirements; and (4) offender management and aftercare services to prevent relapse, such as vocational job training, job placement and housing placement.

The County has an existing array of programs which could serve as the framework of a comprehensive system. There is strong support for alternative programs within the judiciary and from other local criminal justice officials. The County also

has a long-standing history of cooperation among agencies. In addition, the University of Florida is located in the community and could serve as a partner in evaluating the success of this program. The expected benefits are national, and could hopefully be replicated at reasonable cost.

We hope that your Subcommittee will find Alachua County's Comprehensive Management of Drug-Involved Offenders Initiative worthy of your support. Thank you for your consideration.

PREPARED STATEMENT OF THE CITY OF MIAMI BEACH, FLORIDA

Mr. Chairman: Thank you for giving the City of Miami Beach the opportunity to submit testimony before your subcommittee regarding a critical law enforcement technology initiative. The Miami Beach Police Department is seeking federal funding in order to acquire available technology for the purpose of providing a significant enhancement in the delivery of public safety services to the community. The unique status of the City of Miami Beach as an international destination has taxed the Miami Beach Police Department's ability to provide public safety services to residents and visitors utilizing the typical funding sources available to a medium sized municipality. Funding assistance would be utilized to acquire the following technology:

—Equip every officer in the field with wireless enabled laptop computers. Officers would have immediate access to both strategic and tactical crime analysis enabling them to provide directed community based policing services to residents. Enhanced communications would also enable a coordinated tactical deployment and response to disaster and other emergency events. The efficiency of field officers would be significantly improved providing residents and visitors with increased public safety services.

—Develop and acquire the infrastructure necessary to provide real-time, online public access to crime reports, crime statistics, crime maps and other such information to residents in order to develop a closer partnership and a coordinated community-police response to crime at the neighborhood level.

—Develop the local infrastructure to provide enhanced two-way crime/suspect analysis and information exchange with law enforcement agencies throughout the State of Florida utilizing the existing statewide Criminal Justice Network (CJNET). With the acquisition of this capability, the ability of criminals to successfully victimize residents and avoid detection by crossing jurisdictional boundaries will be significantly reduced.

The City is seeking $1 million in federal support through the fiscal year 2001 Justice Appropriations Bill, under its COPS Technology Assistance account, Office of Justice Assistance account, or any other program account within the Department of Justice that might be appropriate for funding this project.

We hope you will find this critically important project worthy of your support.

Thank you for your consideration.

PREPARED STATEMENT OF THE CITY OF NEWARK, NEW JERSEY

NEWARK SPORTS AND ENTERTAINMENT PROJECT

Mr. Chairman and members of the Subcommittee, thank you for giving us the opportunity to submit testimony about a project under your jurisdiction that is critical to the people of Newark, New Jersey. Newark is truly at a crossroads: we are a City with all of the problems of many major urban centers, but we are also a City with vast potential. We have begun to turn the corner—there is a renewed vitality and sense of optimism in Newark.

A major economic development initiative that will create a professional sports and entertainment complex in downtown Newark is being planned by a consortium of private businesses, nonprofit representatives and the City administration. As this new economic development initiative is evolving from preliminary to concrete plans, there is a unique opportunity for an important downtown facility linked to a key transit hub. The synergy of a major occupant that is committed to investment in community development and opportunities for upgrading the center city retail and economic environment makes this an attractive and singular proposal.

This project will use the attraction of a major league sports franchise to locate a state-of-the-art arena as a key cornerstone for development. The mission of this project is to harness the momentum initiated by the successful 1997 opening of the acclaimed New Jersey Performing Arts Center (NJPAC), and 1999 opening of Newark's minor league baseball stadium, and create a vibrant, state of the art sports

and entertainment district in downtown Newark. It will be a catalyst to the evolving creation of a vibrant downtown corridor—as development continues with strong anchors, integrating several elements. These include NJPAC, the Gateway complex of modern office buildings, the refurbished Newark Penn Station, a waterfront development along the Passaic River which is under construction by the U.S. Army Corps of Engineers, and a minor league baseball stadium where the Newark Bears began to play last summer. A new light rail system is in final design, and will ultimately be the spine along which these projects are arrayed.

The Newark Sports and Entertainment Center master plan includes development of approximately 1.4 million square feet of office space. The preliminary plan consists of a covered multi-purpose sports arena with 19,000 seats, ancillary parking, a new television production and broadcast complex, up to 2 million square feet of new commercial and retail space, including hospitality facilities. The sports and entertainment center will provide superior access to a broad customer base, create sizable, measurable, bankable fiscal benefits for the taxpayers of New Jersey, and will, consistent with the commitment of the New Jersey State Plan, "steer development from environmentally sensitive zones and back into urban areas." As the project creates a destination location—which will create new incremental spending—it will help to revitalize New Jersey's oldest and largest city and establish a new sports paradigm linking professional athletes to the youth of the state.

The Newark Sports and Entertainment Center is expected to draw nearly two million people to the city each year. The estimate includes those attending sporting events, family entertainment shows like the circus, concerts and other attractions. In addition, the development of the Newark Sports and Entertainment Center will act as a catalyst to the increased demand for and opening of restaurants, shops, hotels and small service businesses that meet the needs of patrons. Local corporations, small businesses, city residents, and local employees are expected to benefit from the Newark Sports and Entertainment Center through improved quality of life, better entertainment and retail options for is current workforce, and improved job opportunities. Although the direct and indirect employment to be gained from this project is still the subject of further analysis, it can safely be estimated that at least 5,000 jobs in construction, ancillary services and direct employment will be created.

A unique aspect and public benefit of this project is the establishment of a foundation to benefit inner-city youth in New Jersey. Community Youth Organization (CYO) has been formed by the largest investor in the ownership group of the NJ Nets. CYO will be a partner in the profits of the team, and is committed to investing its profits in children, people and businesses in Newark. This significant contribution responds to a documented need for activities that help at risk youth. The NJ Nets already sponsor a wide variety of community programs, including the Sprite Junior Nets League, Kids Stuff, basketball-court renovation programs, and a host of other charitable and holiday events. The proposed sports and entertainment center will likely include educational forums as well as television studios available for youth tours and programs.

The total population of the region in a 25-mile radius of Newark—excluding New York—is 5,088,656, and includes New Jersey's five most populous cities. In an approximate 10 mile radius of Newark, the population is 2.1 million with a median family income of $54,683. This contrasts with Newark's population of 265,000 and median income of half that of residents in the 10 mile radius.

Currently approximately 100,000 workers are located in Newark. A recent survey of Newark's mid-day population found 266,000 local residents, 52,000 non-resident workers and 24,000 non-resident students. The six colleges and universities in the city have over 45,000 students and faculty. Newark is also home to major corporations, including Prudential Insurance, Continental Airlines, Blue Cross/Blue Shield of NJ and Public Service Electric and Gas. This concentration of people with discretionary income for entertainment and dining will be encouraged to use this significant purchasing power in the City of Newark.

Fully one-quarter of the population of the country either lives within, or is easily accessible to Newark. We are only 8 miles west of New York City, within 100 miles of Philadelphia, and only a four hour drive or 1 hour flight away from Boston and Washington. Our location is enhanced by ready access to transportation connections, via rail, sea, air and nine major interstate and state highways. Newark's Penn Station, a stop on the Northeast Corridor for Amtrak as well as New Jersey Transit trains and buses from throughout the State, is only a short walk from the proposed sports and entertainment complex. There is an additional rapid and inexpensive rail connection to New York City via the train system known as the PATH. Newark International Airport, the ninth largest airport in the U.S. and one of the fastest growing in the country, serving 31 million passengers each year. It is now extremely

close to downtown via automobile or bus, and will soon be directly accessible by a rail connection to the airport monorail system.

Newark, however, also suffers from an unusually high number of tax exempt properties as the host community for the aforementioned large publicly operated facilities including six colleges, public hospitals, a major airport, ocean cargo handling and major water and waste management operations. The dearth of ratables has posed and hardship of the residents and homeowners of Newark. The city will immediately benefit by the presence of the Newark Sports and Entertainment Center, as it will pay property taxes on land that is currently city-owned or underutilized.

The ownership group for a major league sports franchise has indicated the ability to contribute approximately $200 million of private funds toward the anticipated $300 million project cost. The gap in financing will be filled with a combination of tax-exempt revenue bonds (subject to debt limits), user fees and grants related to the job generating abilities and economic development potential of the project. The City plans to use proceeds from parking and hotel taxes to subsidize the project.

Public funds are expected to be utilized for site acquisition and off-site infrastructure improvements. The project area includes a large tract of vacant land and underutilized buildings which is under consideration for declaration as an "Area in need of Redevelopment" under the Redevelopment statutes of the State of New Jersey. This Committee's endorsement of an allocation of $15 million in funding through the Economic Development Administration for site acquisition and project construction is respectfully requested.

The consideration of this committee is deeply appreciated. Newark, New Jersey is looking forward to your support of this exciting project and its innovative partnership.

PREPARED STATEMENT OF THE CITY OF GAINESVILLE, FLORIDA

Mr. Chairman: On behalf of the City of Gainesville, Florida, I appreciate the opportunity to present this written testimony to you today. The City of Gainesville is seeking federal funds in the fiscal year 2001 Commerce, Justice, State and Judiciary Appropriations bill to assist with the following innovative projects the City is undertaking: (1) an East Side Community Recreational Facility for recreational and other programs and services to serve at-risk youth and their families and a substantial population of low income citizens in the surrounding area; and (2) the Depot Avenue Project to enable economic redevelopment in a downtown setting, including also improving stormwater treatment, developing park facilities, enhancing alternative transportation and restoring an urban wetland.

East Side Community Recreation Center Project

The City of Gainesville is seeking a funding strategy for a multi-purpose community-based recreational facility on the east side of our city. The site for this project is in one of our highest poverty and minority-populated areas. Once completed, the center will provide a wide range of programs and opportunities to at-risk youth and their families. It will also provide needed facilities and services for the substantial population of low-income elderly in this area of our community, as well as to all our community.

This is a public/private initiative estimated to cost $2.2 million. Funding has been received or pledged in the amount of $1.5 million. The initiative is being led by a grassroots partnership of business leaders, community leaders, professionals and interested/concerned citizens who have organized themselves as the East Gainesville Park Development Group.

The public agencies involved in this effort include the City of Gainesville, Alachua County, the School Board of Alachua County, and the University of Florida. So far, the project has received considerable financial support or pledges from the City, the County, and private individuals. The University of Florida has pledged to provide coaches and mentors. Additionally, the School Board of Alachua County has expressed an interest in this facility to help meet its own recreational facility shortfalls.

The plan for this project is based on the need to provide recreational facilities for families and on the desire to provide our youth with such advantages as leadership skills, team participation skills, and computer skills as well as opportunities to participate in physical and mental exercise, arts and crafts, and social activities, and to receive mentoring and after school tutoring. The educational component will include after school tutoring sessions, computer, anger management, life skills, and teen parenting and pregnancy prevention classes. Parental involvement will be encouraged for all activities.

The facility will be sited on a 36-acre parcel of land zoned for park use. The site amenities will include a multipurpose building (estimated at 6,500 square footage in area), serving as a learning resource center and community center. The facility will house the computer lab with computers promised by IBM, and rooms for after school homework and tutoring. Accommodations for indoor recreational and cultural programs will also be provided. The active outdoor amenities will include an interactive water fountain play area, playground and tot lot, picnic areas, two softball fields, two soccer/football fields, three basketball courts, one-quarter mile track, three-quarter mile jogging/fitness trail, one-quarter mile interpretive nature boardwalk and a concession facility. The City of Gainesville will own and operate the park and improvements.

Depot Avenue Project

The Depot Avenue Project is intended to enable economic redevelopment in a downtown setting, to extend park facilities, to support alternative transportation, to improve stormwater treatment, and to restore a small urban wetland in Gainesville. Funding for this project are being pursued on several fronts. Gainesville is working in partnership with the U.S. Environmental Protection Agency through the Brownfield Pilot Program and the Sustainable Communities Program; the U.S. Housing and Urban Development Agency through the EDI Program; the Florida Department of Environmental Protection through the Brownfield Pilot Program; the Florida Communities Trust through the Preservation 2000 Program; the Florida Department of Transportation through the Transportation Enhancement Program; the St. Johns River Water Management District for technical support; the City of Gainesville's Regional Utilities contamination cleanup program; and the City of Gainesville's Stormwater Management Utility Program.

The project includes:

Depot Avenue.—The reconstruction of approximately two miles of Depot Avenue from SR 331 to US 441. The project is intended to address current safety and capacity issues and includes the construction of two travel lanes, turn lanes, curbs, sidewalks and landscaped medians. Depot Avenue is located adjacent to the existing Depot Avenue Rail-Trail, which is an 8 foot wide asphalt trail. It alternately connects residential areas, commercial areas, and industrial land uses along its length. The redesign of the road will address these varying conditions and will also provide for the involvement of the neighborhood residents it serves.

Depot Avenue traverses Gainesville from west to east, approximately one-half mile south of, and parallel to, SR 26 (University Avenue). Its western terminus is at the eastern edge of the campus of the University of Florida and its associated student housing development, and its eastern terminus is at SR 331 in Southeast Gainesville. It skirts the southern edge of downtown Gainesville at its mid-point, and its intersection with SR 329 (Main Street) is considered to be the southern "gateway" to Downtown. (Estimated cost is $4 million.)

Transportation Center.—The City of Gainesville's RTS Transportation Center is located on the north side of Depot Avenue directly south of the core of Downtown Gainesville. The Transportation Center is a multi-modal transportation hub for the Regional Transit System, Greyhound, Amtrak and the Bicycle Commuter Facility. (Estimated cost is $3 million. Partial funding, $1.2 million has been provided by the Federal Transit Agency. Therefore, the City is seeking $1.8 million to complete this project.)

Historic Depot.—On the south side of Depot Avenue across from the Transportation Center is the Old Gainesville Depot, which has been recently acquired by the City for restoration. The Old Gainesville Depot was built in 1907, and was placed on the National Register of Historic Places in 1996. The City of Gainesville was founded as a rail hub linking Fernandina Beach on the east coast of Florida to Cedar Key on the west coast in the mid-1800's and uses a train symbol as its official seal. (Fully funded through state and local sources.)

Stormwater Park.—The City's proposed 22-acre Stormwater Park will serve as the stormwater management facility for the Depot Avenue Project as well as a large portion of the central downtown area. This facility will remove existing contamination, provide for full treatment of stormwater to the property owners in the service area and eliminate the need for future redevelopment in the central area to provide on-site stormwater treatment facilities. Additionally, the stormwater basin is envisioned to provide treatment for some of the underground petroleum plumes that exist in the area. (Total estimated cost is $10 million for construction. Land acquisition is being jointly funded by the Florida Communities Trust and the City of Gainesville. Design services are jointly funded by the U.S. EPA, Florida DEP and the City of Gainesville. Partial funding is available from the City's stormwater utility and the Florida Department of Transportation.)

In closing, federal support is critical for each of these initiatives. It is our hope that the Subcommittee will give our requests every consideration throughout the fiscal year 2001 appropriations process.

PREPARED STATEMENT OF THE AMERICAN PUBLIC POWER ASSOCIATION

The American Public Power Association (APPA) is the national service organization representing the interests of over 2,000 municipal and other state and locally owned utilities throughout the United States. Collectively, public power utilities deliver electric energy to one of every seven U.S. electric consumers (about 45 million people), serving some of the nation's largest cities. The majority of APPA's member systems are located in small and medium-sized communities in every state except Hawaii.

We appreciate the opportunity to submit this testimony in support of fiscal year 2001 appropriations for the Federal Trade Commission and the Antitrust Division of Justice.

The electric power industry is in the midst of sweeping and dramatic change, with a record number of proposed mergers, increasing significantly in the last two to three years. The industry experienced little competition in the past, except for franchise competition between investor-owned utilities (IOUs) on the one hand and publicly and cooperatively owned utilities on the other. During this transitional period—as this important, closely regulated industry moves towards increased competition—sufficient resources are necessary so that the two federal antitrust agencies can adequately perform merger assessments.

The Department of Justice Antitrust Division and the Federal Trade Commission play a critical advisory role along with the Federal Energy Regulatory Commission (FERC) with respect to antitrust monitoring and enforcement in the electric utility industry.

Important lessons have been learned through the deregulatory experiences of the airlines, cable, and telecommunications industries. As the electric power industry begins the transition from regulation to competition, those lessons must inform the policies and process that will guide, and ultimately determine, the structure of a deregulated electric power industry. There is no need to start at the bottom of the deregulation learning curve, or to repeat the mistakes made in other industries.

Mergers among electric utilities are likely to have a profound effect on the development of competition in the electric industry. In fact, because utility mergers will determine the basic structure of the electric power industry, they actually have the potential to define (or preclude the development of) the competitive landscape. The recent wave of electric utility mergers certainly will increase concentration in the industry, as the number of firms that are legally and practically capable of providing electric service declines through consolidation. Largely for the same reasons, the structural impacts of such mergers will likely be permanent. What is not known is whether mergers of incumbent electric utilities and/or other wholesale power suppliers, collectively or individually, are on balance procompetitive or anticompetitive. Specifically, there are a number of unknowns about electric utility mergers:

—Whether an increase in concentration will produce associated efficiencies;

—Whether any efficiencies that do result will be passed on to consumers in the form of lower electric rates, or instead be passed on to shareholders, or used to build diversified empires;

—Whether an increase in concentration will simply serve to fortify existing market power to exclude new entrants, drive out new entrants through price competition and mergers, purchase existing competitors, or gouge consumers.

As the mixed deregulatory experiences of other industries demonstrate, these are not questions that can be accurately answered in the absence of actual market data. The pressure placed on DOJ's Antitrust Division and the FTC will be enormous as we search for the answers to these and many more questions.

We are at a critical juncture in the history of our antitrust laws. After a full generation of decline, antitrust enforcement is making a comeback. In response to the unprecedented wave of mergers that has overtaken the U.S. economy in the last few years, the Administration recently proposed substantial increases in the budget of the Justice Department's Antitrust Division and the Federal Trade Commission. The restructuring of many industries, the concurrent revolution in international trade and international competition policy, and the emergence of serious competitive problems in the evolving high tech industries have also made the task of antitrust enforcement more challenging and requiring a larger commitment of resources. Robert Pitofski, Federal Trade Commission Chairman, recently pointed out during a speech to a group of antitrust lawyers, that with the business community's request

for a level of restructuring never asked for before, his department has seen a tripling of FTC merger reviews.

Moreover, the wave of mergers has made antitrust enforcement a great bargain for the public. Since funding for the Antitrust Division and FTC comes out of a special fund consisting of fees paid by companies applying for merger approval, antitrust enforcement pays for itself. Under the Administration's budget proposal, no money comes from the General Fund of the Treasury. In addition, criminal and civil penalties attained by the agencies bring millions of dollars into the Treasury, and consumers are saved untold millions by the agencies' successes in promoting and maintaining competition.

APPA supports the Administration's fiscal year 2001 budget request of $134 million for the Antitrust Division, an increase of $25 million over the fiscal year 2000 funding level, and $166 million for the Federal Trade Commission, an increase of $40 million or nearly 35 percent over fiscal year 2000 requested levels.

We urge you to approve the Administration request.

PREPARED STATEMENT OF THE CITY OF NEWARK, NEW JERSEY

Mr. Chairman and members of the Subcommittee: Thank you for giving me the opportunity to submit testimony about a project under your jurisdiction which is critical to the people of Newark, New Jersey. Newark is truly at a crossroads: we are a City with all of the problems of many major urban centers, but we are also a City with vast potential. We have begun to turn the corner—there is a renewed vitality and sense of optimism in Newark. But we are also still ravaged by the problems associated with the illegal drug trade.

The Newark Police Department has developed an innovative program, called Operation NITRO—Narcotics Interdiction To Reduce Open-air Drug Markets—to address the complex issues associated with the sale of drugs and their effect on the City of Newark. It is a narcotics enforcement augmentation program designed to improve the quality of life by reducing the incidence of illegal drug trafficking through aggressive anti-crime operations. A supplemental federal allocation of $2 million is respectfully requested to meet the specialized facility and equipment needs for the ambitious and important project summarized herein.

It is well established that drugs drive crime! The COMSTAT process—Newark's computerized statistical tool—has revealed that an estimated 80 percent of the crime in Newark is drug related. The communities' primary issues are the open street sales, violence associated with the drug trade, and the proliferation of weapons and their use by drug enforcers during street robberies. Inherent in the drug trade is the violent nature of the criminal element associated with trafficking. A significant portion of the drug traffickers have been identified as having violent criminal histories, and most have previously failed to appear in court to answer for their crimes. The single most significant impact law enforcement can have toward reducing the illegal drug trade is through a sustained presence; dismantling criminal enterprises by targeting the infrastructure and profit associated with drugs.

Operation NITRO is a concentrated effort designed to address long-term operations through collaborative strategies with identified outcomes and interim measures. It is a Department element composed of carefully selected and specially trained police officers and supervisors using covert, non-traditional means to suppress drug-related street crime. The synergy of enforcement and apprehension operations will result in a valuable, encouraging and worthwhile contribution to public safety.

Elements include proactive street-level narcotics enforcement; search warrants for mid and upper-level drug trafficking networks; asset seizure through civil enforcement; neighborhood problem solving through community interaction; special drug courts to provide differential treatment for offenders; enhanced involvement from the corrections community to enforce probation and parole violations, and high visibility fear reduction. These efforts will produce a synergistic effect in dealing with persistent offenders by effecting arrests, empowering residents, seizing assets, and controlling the environment conducive to crime. The citizens of Newark will be reassured that crime control and quality of life are paramount issues for the Newark Police Department.

The enforcement segment consists of non-uniformed officers being placed into areas where the incidence of narcotics trafficking is greatest. Teams of officers will conduct stakeouts, surveillance, buy/bust operations, search warrants, and street-level enforcement tactics. The apprehension segment consists of teams of uniformed officers stabilizing neighborhoods by conducting follow-up operations in response to intelligence and leads garnered from outside sources, arresting persons wanted on

outstanding warrants, and community empowerment via focus groups and neighborhood interaction.

Each of these tactics will be used in response to particular crime/victim/location patterns. The primary source of information will come from the community, bolstered by crime and quality of life data supplied the Performance/Crime Analysis Unit to the COMSTAT process. Secondary sources will be outside agencies (e.g., Essex County Prosecutor's Office, FBI Fugitive Task Force, other law enforcement agencies) and informants. Each will provide specific, detailed data on the types of crimes and perpetrators sought. The primary goal will be to reduce the incidence of drug-related street crime through the effectuation of quality arrests.

The elements of Operation NITRO combine to formulate a cohesive plan, which takes into account the range of Police staffing, facilities, equipment, and outreach needs. Detailed plans have been devised for:

—*Organization and Administration*.—The administrative structure and organizational placement, including staffing levels.

—*Deployment and Tactics*.—Deployment strategies and street tactics, also, the integral nature of Crime Analysis and the data supplied via COMSTAT.

—*Confrontation and Arrest*.—Guidelines for confrontations between NITRO personnel and uniformed members of the Department. Emphasis will be placed on plainclothes recognition, quick identification and the actions to be taken by both the challenging officer and the challenged officer.

—*Facilities and Equipment*.—The physical location and equipment needs of the program.

—*Special Considerations*.—The methods for maintaining integrity of team members, and legal issues will be explored, including the issue of entrapment. Also, program advertising and public support.

—*Implementation*.—A project time line depicting implementation and milestones.

NITRO will perform two primary functions: plainclothes street surveillance of identified hot spots, and uniformed operations. Officers can assume disguises to adapt to the landscape in order to provide themselves with the anonymity and freedom of movement to pursue identified or suspected drug dealers undetected, and maintain watch unnoticed at probable crime locations. These tactics are designed to result not only in quality arrests but also in the interruption of drug transactions and the prevention of injury to citizens. Care must be taken, however, to avoid the hazards inherent in this type of work.

Two or three modules will generally be assigned to high-incidence neighborhoods within the four commands. Target Zones (TZ) will be established based upon the crime analysis data. All operations will take place within the TZ under the direction of the module supervisor. Specific deployment tactics will further be determined by the scope of the problem in an identified neighborhood. The success of each operation depends, to a great deal, on the imagination and resourcefulness of the module personnel. When a narcotics operation is put in effect, each module will have a minimum of eight members. All members will be encouraged to use their skills in their apprehension efforts, but are reminded to use only those tactics which would be considered constitutionally legal. Considerable classroom instruction and role playing should be conducted on entrapment and other constitutional issues. Careful planning, adequate communication, proper role playing and an efficient back up team are also required. Though potentially hazardous, these operations are a most rewarding means of apprehending street criminals and reducing the incidence of crime.

An emerging concept that should be employed to produce lasting solutions is a crime control feature known as crime prevention through environmental design (CPTED). CPTED principles employ engineers and urban planners to permanently alter the landscape in an effort to redesign a neighborhood. Such measures include rerouting traffic, establishing flow control (one-way streets), permanently curbing streets and vacations. Preliminary discussions have taken place with the Department of Engineering who have been very cooperative in assisting the Police Department with this endeavor.

The element of plainclothes surveillance requires officers who are highly skilled in the art of observing suspicious or out-of-the-ordinary circumstances. Surveillance tactics are instituted once observations of this sort are made, and may last anywhere from a few minutes to several hours. Similarly, buy/bust operations, reverse operations and long-term undercover operations necessitate patience and the investment of time if the results are to be productive. Training in surveillance will be conducted to provide officers with the proper skills for conducting these delicate matters. This approach will increase the likelihood of arrest, the probability of prosecution for a felony, the chance of a felony conviction, and the length of the term for those sentenced.

In an effort to fulfill their objective of effecting high quality arrests while maintaining a low injury rate, NITRO will promulgate guidelines for confrontation and arrest. The primary focus is to prevent injuries arising from narcotics operations, and mistaken identity issues. Because of the size, diversity, and youthful nature of the Department, many experienced officers and inexperienced officers are unfamiliar with each other. Since safety is paramount, the need to quickly identify plainclothes personnel cannot be overstated. As part of the required training, a series of safety precautions will be discussed to alleviate most of the problems associated with confrontations.

There are two special considerations of the utmost importance to NITRO administrators: legal defensibility of operations and integrity. The primary legal concern for the Police Department is the legal defense of entrapment. If procedures excessively lure or seduce suspects in their conduct as decoys, an apprehended criminal may have the defense of entrapment. In brief, entrapment will be a valid defense where criminal intent in the mind of the accused was implanted there by the officer, and where active police conduct encouraged the crime. The NITRO Task Force will provide extensive training, literature, and role playing to avoid these mishaps. Detailed tactical guidelines will be promulgated as part of the operating procedures governing the unit.

As with any plainclothes police operation, the susceptibility of corruptive practices by officers and supervisors is possible. Operation NITRO will pride itself on being corruption-free with a reputation for bribery arrests. NITRO administrative personnel will set the perspective for the team by personal example. A great deal of energy will be channeled into integrity control, and ethics will be the major thrust for the integrity campaign. NITRO will constantly be on guard to prevent its members from participating in shakedowns, abusing their authority, engaging in brutality, using racial/ethnic slurs while effecting arrests, and other illegal or improper practices. Complaints will be monitored and RAMS reports will be generated quarterly to audit the team.

While the plans for a corruption-free environment are ambitious they are not meant to unduly restrict the effectiveness of the team by creating paranoia in personnel. Nor are they meant to curtail the activities or initiative of creative officers. The element of undercover integrity testing is an option that should be discussed at length with the Police Director and the Division Commander of Internal Affairs.

Advertising and public support for any Police Department initiative are critical to the program's success. The Newark Police Department will publicize Operation NITRO through radio and cable TV public service announcements, handouts and posters placed throughout the city in all police Districts, public and private schools, public libraries and at community meetings. The Citizen's Police Academy will be utilized to promote this initiative by focusing upon direct contact with the community. The advertising campaign will augment the establishment of Community Advisory Councils (CAC). CAC's are intended to foster a cooperative and positive police/community partnership. Working together, the police and the community will design strategies specific to local neighborhoods and create a no-tolerance attitude towards illegal drug activity.

The assistance of this committee in enabling the implementation of this comprehensive project will be deeply appreciated by the citizens of Newark, New Jersey. The improvement of the quality of life in our neighborhoods which will be brought about by Project NITRO will aid in the renaissance of our City. We thank you for your consideration.

IMMIGRATION AND NATURALIZATION SERVICE, FEDERAL BUREAU OF INVESTIGATION, AND DRUG ENFORCEMENT ADMINISTRATION

PREPARED STATEMENT OF THE NATIONAL BORDER PATROL COUNCIL OF THE AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

The National Border Patrol Council, representing approximately 9,000 employees, appreciates the opportunity to present its views concerning appropriations for the U.S. Border Patrol for the forthcoming fiscal year.

NEW BORDER PATROL AGENTS

Illegal immigration remains out of control, and is a serious concern for most Americans. Unfortunately, the Administration's budget proposal for fiscal year 2001 fails to take this problem seriously, requesting only 430 additional Border Patrol Agent positions, even though the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 mandated the addition of 1,000 new agents for next fiscal

year. The National Border Patrol Council urges that the full complement of new Border Patrol agent positions be funded.

PAY REFORM

The Administration's pay reform package consists of four major parts: (1) Upgrading the Border Patrol journeyman agent grade from General Schedule (GS) grade 9 to grade 11; (2) replacing the current overtime system, Administratively Uncontrollable Overtime, with Law Enforcement Availability overtime, and the elimination of Fair Labor Standards Act overtime; (3) Paying Special Salary Rates to all Border Patrol agents in General Schedule grades 5 through 11 to supposedly offset the loss of FLSA overtime; and (4) paying a $2,000 hiring bonus to new Border Patrol agents.

The National Border Patrol Council supports upgrading the journeyman pay level for Border Patrol agents. Currently, only about one-third of the workforce is at the GS–11 level. Although the average agent currently achieves this level within three years after entering on duty, this time frame would be longer if attrition were not as high and if fewer new agents were being hired. The proposed accelerated and automatic promotion process should enhance retention. Serious consideration should also be given to upgrading other critical occupations within the Border Patrol, such as Detention Enforcement Officers and Law Enforcement Communications Assistants.

The payment of a hiring bonus is also supported by the National Border Patrol Council, although it believes that the I&NS should exercise the authority granted under 5 U.S.C. §5754 to pay retention allowances of up to 25 percent of base pay to existing employees, who are leaving the Border Patrol at an alarming rate.

The National Border Patrol Council strongly opposes the overtime provisions of the Administration's pay reform proposal, which would increase the overtime hours and reduce the overtime earnings of all Border Patrol law enforcement personnel, greatly exacerbating an already unacceptably high attrition rate. Although labeled as "pay reform," certain provisions of the Administration's proposal represent a giant step backward, removing deserving employees from the coverage of the Fair Labor Standards Act and causing them to work more overtime hours for less pay. Although the proposal is being promoted as a benefit for such employees by placing their overtime pay on par with that of criminal investigators, it fails to mention that the provisions would not grant basic pay parity, leaving Border Patrol agents one to two grades ($7,777 to $16,659 per year) behind criminal investigators, and Detention Enforcement Officers even farther behind.

The current Administratively Uncontrollable Overtime (AUO) system is designed to compensate Border Patrol employees for all unscheduled overtime hours worked, and is paid at a rate of 25 percent of basic pay (assuming an employee averages 9 or more hours of AUO per week). This is augmented by Fair Labor Standards Act (FLSA) overtime, which roughly makes up the difference between the 25 percent and time and one-half. Overtime payments under the FLSA help reduce incentives for agencies to force employees to work large amounts of overtime by requiring them to fairly compensate employees for all overtime hours worked. The proposed Law Enforcement Availability (LEA) overtime is also 25 percent of basic pay, and is designed to compensate employees for 2 hours of overtime per day, but provides absolutely no compensation for hours in excess of that amount. Under LEA, all overtime hours that are not scheduled in advance of the administrative workweek are considered unscheduled overtime. Unlike AUO, LEA allows agencies to schedule overtime that is within their administrative control. Even those overtime hours that are scheduled in advance of the administrative workweek under LEA are paid at a rate far below time and one-half, as such overtime payments are limited by statute at time and one-half the rate of a GS–10 step 1 (unless it would cause the employee to be compensated at less than their hourly rate of pay, in which case they are compensated at their hourly rate.) For employees receiving AUO, FLSA roughly makes up the difference between this amount and true time and one-half.

The proposed Special Salary Rate of about 10 percent would only result in parity with the current compensation of employees if they work 10 or fewer hours of overtime per week. Employees who work more than 10 hours of overtime per week would receive less money than they currently receive for working such hours. Most Border Patrol law enforcement personnel in fact currently work more than 10 hours of overtime per week. It is also important to note that the Special Salary Rates would not apply to GS–12 Border Patrol pilots or to Detention Enforcement Officers at any pay grade. These employees would receive thousands of dollars less each year, yet would be required to work more overtime hours.

Furthermore, unless the Attorney General raises the Special Salary Rates every year by an amount equal to the locality increases received by other employees, Border Patrol employees receiving such pay would lose money, as employees can only receive the greater of a Special Salary Rate or locality pay increase, but not both. In light of the fact that the I&NS and Attorney General have failed and refused to provide a foreign language bonus of 5 percent to Border Patrol employees since the passage of the Federal Law Enforcement Pay Reform Act of 1990, it is highly unlikely that the Attorney General would provide annual Special Salary Rate increases.

It can readily be seen that the proposed overtime compensation system would provide a major incentive to managers to force employees to work large amounts of overtime. In fact, since the passage of the original LEA statute, Criminal Investigators assigned to the Border Patrol have seen a marked increase in the number of overtime hours they actually work, in addition to countless hours they are required to be available for work.

FOREIGN LANGUAGE DIFFERENTIALS

Although the Federal Law Enforcement Pay Reform Act of 1990 (Public Law 101–105) authorized agencies to pay a foreign language differential of up to five percent of basic pay to any law enforcement officer who possesses and makes substantial use of one or more foreign languages in the performance of official duties, the I&NS continues to refuse to pay its employees for such skills. It should therefore be compelled to include such payments in its budget. Foreign language award payments should be directed to be included with regular salary payments on a bi-weekly basis in order to ensure that the money is not diverted to other purposes.

DISCIPLINARY ACTIONS

The provision authorizing and directing the Attorney General to impose disciplinary action pursuant to policies and procedures applicable to employees of the Federal Bureau of Investigation for certain violations should not be applied to bargaining unit employees, who are covered under the Civil Service Reform Act of 1978. In this regard, it is noteworthy that the I&NS' proposed implementation of such policy for the current fiscal year excludes members of the Senior Executive Service, the very group whose actions gave rise to this language. Moreover, the proposed implementation also defines "department leadership" to include all members of the Senior Executive Service within the I&NS, which includes numerous field managers.

TRANSFER OF FUNDS BETWEEN PROGRAMS

The proposal to allow the Attorney General to transfer funds between the "Enforcement and Border Affairs" and "Citizenship and Benefits, Immigration Support and Program Direction" programs is ill-advised, and should be eliminated.

OVERTIME LIMITATIONS

The National Border Patrol Council supports the proposal to leave the annual overtime cap at $30,000, but allow for exceptions in circumstances where the Commissioner determines that enforcing the overtime cap would harm enforcement or service activities.

VEHICLES

The National Border Patrol Council also supports the proposal to allow the use of funds without limitation (within the limits of the Enforcement and Border Affairs appropriation) for equipping, maintaining, and making improvements to the infrastructure and the purchase of vehicles for police-type use.

FACILITIES

The $51 million proposed for construction, repair, renovation and maintenance of Border Patrol facilities is inadequate, as many of the existing facilities were only designed to accommodate a fraction of the employees currently assigned to such offices.

PERCENTAGE OF SUPERVISORS

The I&NS continues to ignore the recommendation of the National Performance Review to reduce by half the percentage of its employees who are supervisors, and intends to expend significant amounts of money hiring large numbers of additional supervisors. This wasteful plan will considerably decrease the number of personnel

available to actually enforce our nation's immigration laws. Accordingly, the I&NS should be directed to comply with the aforementioned recommendation.

PREPARED STATEMENT OF LOCAL 511, PROFESSIONAL EMPLOYEES OF THE IMMIGRATION AND NATURALIZATION SERVICE OF THE AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

PRELIMINARY STATEMENT

Local 511, professional employees of the Immigration and Naturalization Service (INS), American Federation of Government Employees (AFGE), respectfully requests that Congress provide an additional appropriation in the amount of $10 million to upgrade the salaries of the INS attorneys and fund the INS attorney payroll budgetary shortfall occasioned by insufficient funding of established attorney positions.

NECESSITY FOR AN ADDITIONAL SALARY APPROPRIATION

It is imperative that the INS attorneys secure long overdue and well-deserved salary increases because it has become very difficult for the INS to attract and retain attorneys qualified with the requisite specialized knowledge to effectuate Congressional mandates and to handle the ever-increasing complexity of the immigration laws and process. Each year, the INS loses out on qualified employee candidates to the private sector, other Federal agencies and other legal divisions within the Department of Justice, primarily because of the discrepancy between INS salaries and the salaries paid to attorneys by such sector, agency and/or division. On average, the INS is compelled to offer both entry level and experienced attorney positions to about three candidates before the position is filled. Clearly, this evidences the fact that the candidates deemed to be the most qualified by the INS are seeking positions elsewhere. Further, the INS continuously loses its most experienced, well-trained personnel, the attorneys most able and effective in handling the sophisticated litigation envisioned by much of the recent legislation. The INS, Office of General Counsel, has approximately 500 attorneys. In the last nine years, approximately 316 out of the 500 attorneys resigned from the INS. Statistically, this represents almost 65 percent of the agency's legal team. The long-term effect of such a high attrition rate on the agency's effectiveness in fulfilling its mission is incalculable.

Over the last four years, there have been sweeping changes in Immigration Law. A salary increase for INS attorneys is a necessary corollary to the substantially increased knowledge requirements and responsibilities required of INS attorneys in the enforcement of such new legislation. The increase is essential as incentive to attract and retain qualified, competent attorneys specializing in Immigration Law, experienced in the more sophisticated Immigration Law enforcement, so as to enable the Service to implement the comprehensive immigration reforms set forth in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as well as the Congressional mandates enunciated in other related immigration laws.

BACKGROUND

What we do

INS attorneys provide a full range of legal support, including core responsibilities for representing INS before the Immigration Courts and the Board of Immigration Appeals (BIA). INS attorneys support expanded enforcement activities, increased arrests, criminal alien removal programs, Institutional Removal Programs, anti-smuggling efforts, conveyance seizures, expedited removal proceedings and mandatory detention and removal of illegal aliens. The attorneys also administratively impose civil liabilities upon employers who employ unauthorized, illegal aliens in the United States.

In addition to these core responsibilities, INS attorneys handle sensitive "special interest" litigation. Special interest litigation involves cases that are brought to the attention of INS Headquarters through a request for the initiation of proceedings by the FBI or other law enforcement agencies. There are several different types of cases within the special interest immigration category including: (1) "terrorist" cases or other cases in which the law enforcement agency desires to have the alien removed from the United States such as when the alien is a fugitive from another country; (2) "national security" cases as defined under the Immigration and Nationality Act (INA); (3) "terrorist-related" cases, where the alien is not charged with being a terrorist but is believed to be involved in terrorist activity; and (4) "high profile" cases which are cases that are likely to generate national media or congres-

sional attention such as the *Elian Gonzalez* case. INS attorneys handling these cases are specially trained and often, require upgraded (Top Secret) security clearance because of their use of classified information. Of significance, is the fact that they coordinate their litigation with other law enforcement agencies and branches of the Government so as to assist in the removal of aliens that are believed to be involved in terrorist activity, national security issues and/or crimes committed in other countries. This type of litigation benefits not only the individual law enforcement agencies but the United States on a national level as well.

Another major category of cases now handled by INS attorneys, are Federal denaturalization cases. In appropriate instances, INS attorneys prepare and institute proceedings in the United States District Courts to seek the denaturalization of citizens who obtained their very precious naturalized citizenship and corresponding benefits through illegal procurement or procurement by willful concealment or misrepresentation of a material fact. The INS attorneys handling these cases work in conjunction with the United States Attorney's Offices and the Office of Immigration Litigation, from whom they receive very specialized training.

In recent years, Congress has changed the face of Immigration Law. In 1996 alone, the Immigration Laws were changed twice in the form of the Antiterrorist and Effective Death Penalty Act of 1996 and, again, as the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. By the adoption of this legislation, Congress sought to protect and secure our borders against the flow of illegal immigration and the accompanying problems such as crime, drug trafficking, alien smuggling and increased demand on social services and local law enforcement agencies.

In addition to increased Border Patrol personnel, the law also provided for stepped up enforcement by INS attorneys, more specifically, new provisions were enacted regarding the removal of illegal immigrants—especially the criminal aliens—already in the country as well as to speed the removal of illegal immigrants who arrive at our airports and streamline the process for deporting those who are apprehended. Due to Congressional emphasis on lowering crime, lowering the cost of imprisoning illegal immigrants and providing greater public safety, INS attorneys involved in the prosecution and enforcement of immigration laws, are now required to have specialized knowledge in state and Federal criminal laws, as well.

Furthermore, Congress has recently enacted legislation such as the Nicaraguan Adjustment and Central American Relief Act of 1997, which together with the amended Federal Regulations to Article 3 of the United Nations Convention against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment and stepped up assertion of the International Religious Freedom Act, have served to further expand the role of INS attorneys in the removal of illegal immigrants as well as the need for specialized, sophisticated knowledge of Immigration and other related areas of the law.

Pay discrepancy

The U.S. Army Manpower Analysis Agency recently completed a comprehensive review and documented the inadequate staffing needs in part, of the INS attorneys, in a 600-page report. The resources provided by Congress provide funding and positions for only a portion of the total documented attorneys needed to accomplish the task.

In addition to the amounts contained in the INS budget to remedy the serious understaffing of the Legal Proceedings Program, an additional appropriation is sought to upgrade the salaries of the INS attorneys. This appropriation is essential to provide competitive salaries in order to attract and retain qualified, competent attorneys specializing in Immigration Law, so as to enable the Service to implement the comprehensive immigration reforms set forth in the new and increasingly complex immigration laws.

In the Office of General Counsel, INS, there are only two SES positions. The remainder of the approximately 500 attorneys positions fall within the GS–905 category and are paid salaries within the GS–11 through GS–15 range. Shockingly, the average INS attorney salary is Grade 14, Step 3, or $70,381. Even more shocking is the fact that the General Counsel Budget only provides funding for attorneys at an average of Grade 14, Step 1, or $65,983. This causes a significant annual payroll budgetary shortfall in the amount of approximately $4 million (for which part of the requested additional appropriation is sought).

The INS attorney salaries are not competitive with salaries in the private sector, other Federal agencies and/or divisions within the Justice Department, and/or with the United States Attorney's Offices. That the INS attorney salaries are not comparable to the private immigration bar, is evident from the Equal Access to Justice Act, 28 U.S.C. Section 2412. Private attorneys who handle immigration proceedings, in appropriate cases, are awarded fees in the amount of approximately $134.31 per

hour or $279,000 per year based upon their "specialized knowledge". ($125.00 per hour statutory cap adjusted by the current Consumer Price Index for urban consumers as of October 1999, to $134.31 per hour.) This rate may be adjusted upward for those attorneys deemed to possess "even more specialized knowledge". Thus, the INS attorney salaries that average about $70,381 are well below the market rate of their counterparts in the private bar.

The salaries of INS attorneys, particularly, non-supervisory senior attorneys are also not comparable to that of other Federal agency attorneys such as experienced BIA Attorney-Advisors or the United States Trustees, who are funded for and average salaries in the GS–15 range. The salary range for GS–15 for 2000, is $77,614 through $100,897, this is well above the average INS attorney salary. Similarly, the INS salaries are below the other senior litigation positions within other divisions of the Justice Department as well. The salary range for attorney positions in the following Department of Justice Divisions are funded for and average within the GS–15 range: Anti-trust; Criminal; Civil; Civil Rights; Environment and Natural Resources and the Tax Division.

Finally, the United States Attorneys and Assistant United States Attorneys, who are not paid on the GS Scale, also make substantially more money than INS attorneys. The United States Attorneys are paid on their own pay scale that ranged for 2000 to a maximum of $122,400. It should be noted that INS attorneys assist the United States Attorney's Offices by preparing litigation reports and, in some instances, by sitting second chair in the United States District Court immigration litigation cases. In addition, INS attorneys are now handling much of the work traditionally handled by the Assistant United States Attorneys in the area of judicial denaturalization. A few years ago, there was some consideration given to shifting INS attorneys to the United States Attorney's pay scale. However, to date, no initiatives have been made in this regard.

CONCLUSION

On Monday, February 7, 2000, the Administration released the proposed budget of the United States Government for fiscal year 2001. The proposed budget included a request for pay reform to upgrade the salaries of Border Patrol and Inspections, in acknowledgment of increased knowledge requirements and enhanced responsibilities. This same rationale would easily support pay reform for the INS attorneys, who along with their other aforesaid duties, advise and assist the Border Patrol and Inspections units.

Accordingly, for all these reasons, we respectfully request that Congress provide an additional appropriation in the amount of at least $10 million to upgrade the salary of INS attorneys and fund the INS Attorney payroll budgetary shortfall. The details of any enabling legislation could be addressed between us at a later, mutually convenient date.

Mr. Chairman, we look forward to working with you and the other members of the subcommittee on fiscal year 2001 CJS Appropriations Bill. If you have any questions, please feel free to contact the Local 511, c/o Janice Montana, Chair, Salary Committee, by telephone at 973–645–3091 or in writing at 76 B Troy Drive, Springfield, New Jersey 07081.

PREPARED STATEMENT OF THE NATIONAL IMMIGRATION AND NATURALIZATION SERVICE COUNCIL, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

On behalf of the members of the American Federation of Government Employees, and its National Immigration & Naturalization Service Council, and on behalf of my 16,000 colleagues in the Immigration and Naturalization Service (I&NS) I would like to thank you for scheduling this hearing. I am pleased to be able to provide testimony regarding the proposed fiscal year 2001 budget for the Immigration & Naturalization Service.

INS' law enforcement and service responsibilities continue to grow more complex. The Service continues to process ever more quickly the increasing numbers of applicants for admission to the United States. We have reduced backlogs and adjudicated more applications for benefits under the Immigration & Nationality Act, and we arrest and deport more criminal aliens, and make more drug seizures every year. We perform all these missions in an environment growing ever more dangerous and contentious with a workforce that is not growing as fast as the workload it faces. Despite these facts the men and women of the I&NS care deeply for the country they serve and the mission they are charged to perform.

We have a number of concerns regarding the Administration's budget proposal for the I&NS. We believe that insufficient resources are directed toward enforcement

of the I&NA in the interior and at the ports of entry, and that additional Inspectors need to be hired to insure Inspector safety especially on the land borders where officers are frequently forced to work alone.

We are also concerned because the Administration seeks no additional funding for its interior enforcement programs. Interior enforcement is the Service's red headed stepchild. INS is presently filling only one of every two vacancies in its Investigations Program. The Administration seems to see no need for additional Investigations resources. The Administration also proposes no increases in resources for its Deportation Program. The Administration is proposing steps to address its inability to hire sufficient Border Patrol Agents. We applaud those actions. But the need for increased staff does not end at the border. We must remember Immigration enforcement does not end at the Border, and effective enforcement and service programs demand that sufficient support personnel also be hired. We also believe that additional adjudicators needed to be hired to continue to eliminate backlogs in the adjudications programs and insure the appropriate care is taken in the exercise of the Service's adjudications functions.

I&NS faces great difficulty in filling certain positions, particularly in the Border Patrol. Similarly, I&NS Inspections is not properly graded and many Inspectors seek positions in other branches of the Service. The Administration is now attempting to address pay disparities and while we fully support the Administration's proposal to provide funding to increase the full performance grade level for Immigration Inspectors and Border Patrol Agents to GS–11 we have concerns regarding certain aspects of the Service's other Pay Reform Proposals. We have analyzed the agency's other pay reform proposals as they will impact Border Patrol Agents, Pilots, Deportation Officers and Detention and Deportation Officers and we find that they are flawed. We oppose the Administration's overtime pay reform proposals. While the grade related proposals improve pay for entry level Border Patrol Agents and Inspectors the overtime related proposals will decrease pay for more senior pilots, deportation officers and Border Patrol Agents. Cutting the pay of senior officers will not make these occupations more attractive.

The loss of income will average some $4,500 for Deportation Officers and Detention and Deportation Officers, who I represent, for example. The negative impact on other officers will be similar or greater. Clearly, the Administration's "pay reform" proposals need to be reworked lest they totally demoralize INS' law enforcement workforce. It makes no sense to offer some employees a hiring bonus while cutting compensation for overtime others are required to work as a result of staffing shortages.

We know that the Congress is concerned about improving morale and training for all of INS' officers and in improving INS overall effectiveness. Nonetheless we believe it counterproductive to reduce compensation provided employees because they are required to work overtime. The administration's proposals to change the way employees are compensated for overtime work amount to nothing more than asking them to work more hours for less money.

One important aspect of pay reform not addressed in the Administration's budget proposal is the law enforcement officer status of Immigration Inspectors. In addition to the pay reform proposal for Immigration Inspectors now proposed by the Administration, we urge the Committee to support extension of law enforcement retirement coverage to Immigration Inspectors, as part of Inspections Pay Reform.. A proposal now pending before the Congress would accomplish this.

Briefly, H.R. 1228 would expand the provisions of Section 8336(c), Title 5, U.S. Code to cover Immigration Inspectors. The hazardous duty retirement provisions of that statute provide that officers working in certain occupations may retire at age 50 with twenty years of service under the Civil Service Retirement System, or at any age after 25 years of service if they are covered under the Federal Employee Retirement System. The early retirement provisions are intended to promote the maintenance of a young and vigorous workforce in the covered occupations. Employees covered under the statute contribute toward their pensions at rates higher than do non law enforcement employees. The law also provides for mandatory retirement at age 57 for employees who have completed twenty years of covered law enforcement service. Real pay reform for INS Inspectors must address both pay and retirement issues, as the Administration itself now recognizes.

Thank you for this opportunity to submit this testimony for the record.

DEPARTMENT OF COMMERCE

PREPARED STATEMENT OF THE AMERICAN INDIAN HIGHER EDUCATION CONSORTIUM

INTRODUCTION

Mr. Chairman and Members of the Subcommittee, on behalf of this nation's 32 American Indian Tribal Colleges, which comprise the American Indian Higher Education Consortium (AIHEC), we thank you for the opportunity to share our fiscal year 2001 funding requests regarding the United States Departments of Commerce, Justice and State.

Under the Department of Commerce programs, we will address five specific areas:

—We request that the Subcommittee fully support the President's Budget Request of $45 million for the Technology Opportunities Program (TOP) to help in narrowing the Digital Divide in Indian Country.

—We request that some funding for the New Markets initiative be specifically directed to the Tribal Colleges to complete a five-year technology infrastructure strategic plan with a detailed cost assessment. This critical step in planning will allow the Tribal Colleges to further address the much-needed economic development issues of tribal communities.

—We strongly urge support of a new $28 million program designed to build math, science and technology capacity at Tribal Colleges and other Minority Serving Institutions.

—We urge Subcommittee to support the Economic Development Administration's efforts to address the chronic unemployment and poverty in our reservation communities and to include report language that would foster partnerships between the EDA and the Tribal Colleges.

—We request support and expansion of the Internal Trade Administration (ITA) initiative to help Native Americans enter new markets and increase cultural heritage tourism as part of their communities' economic development plans. Tribal Colleges often serve as the tribal archive and community centers and are a logical catalyst for attaining the economic development goals of both the ITA and tribal communities.

Under the Department of Justice programs, we request that the Subcommittee fully support and build upon the President's budget recommendation of $1 million for a Tribal College Law Enforcement Training Initiative. This program would support training for law enforcement curricula—especially important to the Tribal Colleges due to the high rate of crime on American Indian reservations. Specifically, we request that this project be increased to a level of $5 million.

This statement will cover two areas: First, it will provide some background on the Tribal Colleges and second, it will provide justifications for the above funding requests.

BACKGROUND ON TRIBAL COLLEGES

In the 1960s, dismal statistics concerning the American Indian experience in education brought tribal leaders to the realization that only through local, culturally-based education could many American Indians succeed in higher education and help bring desperately needed economic development to their isolated and underserved communities. The Tribal College movement began more than 30 years ago as a very sound and well thought-out solution to this problem. In the late 1960s and early 1970s, the first Tribal Colleges were chartered by their respective tribal governments, to be governed by boards of local tribal people. These first colleges were started, with little money and a lot of determination, in abandoned and even condemned government buildings and old trailers, using three-legged desks, wood crates for shelves and typewriters with missing keys. In 1972, the first six fledgling tribally-controlled institutions came together to form the American Indian Higher Education Consortium. Today, AIHEC is a cooperatively sponsored effort and integral support network for 32 member institutions in the United States and one in Canada.

Tribal Colleges and Universities now serve more than 25,000 students from more than 250 federally recognized tribes and are located in 12 states. Tribal Colleges offer primarily two-year degrees, with some colleges offering four-year and graduate degrees. Together, the colleges represent the most significant development in American Indian education history, promoting achievement among students who would otherwise never know educational success. All of the Tribal Colleges are fully accredited, with the exception of four institutions that are accreditation candidates.

Despite our successes, Tribal Colleges remain the most poorly funded institutions of higher education in this country, and although conditions at some have improved

substantially, many of the colleges still operate in trailers, cast-off buildings, and facilities with crumbling foundations, substandard and exposed wiring and leaking roofs. In spite of such a fragile existence, Tribal Colleges are bringing advanced technology to Native communities and partnering with high technology firms to build an American Indian information technology workforce. For example, Diné College, serving the Navajo Nation in Arizona and New Mexico, has joined Coconino Community College and Grey Hills High School in a partnership with IBM to develop, prepare, and retain an American Indian workforce in jobs related to the high tech/computer industry. But programs such as this represent only a first step. In response to a recent query from the Senate Indian Affairs Committee, AIHEC surveyed the Tribal Colleges to determine the status of technology infrastructure at the nation's Tribal Colleges. The results revealed that the 21 responding colleges estimated a cost of $4,650,000 to be brought up to speed with current technology. Expanding this average indicates that the 32 colleges in the United States would require a minimum of $8,000,000 to be brought safely into the first phase of the new technology era.

Our core operations funding, which is authorized under the Tribally-Controlled College or University Assistance Act and funded through the Department of Interior appropriations bill, remains grossly inadequate. Despite an increase in our appropriation of $4 million in fiscal year 2000, the Tribal Colleges' appropriation of $3,433 per Indian student (ISC) is dramatically less than the average per student revenue of mainstream two-year institutions and falls far short of the authorized level of funding currently $6,000 per Indian student. In addition, due to the location of the majority of Tribal Colleges on federal trust territory, states have no obligation and in most cases, do not fund the Tribal Colleges. In fact, most states do not even fund the institutions for the non-Indian students who attend our colleges. The non-Indian enrollment at the Tribal Colleges is approximately 20 percent.

Tribal Colleges serve as a vehicle to accomplish what centuries of paternalism and outside experimentation have failed to do: We are enabling American Indians to succeed and regain self-sufficiency. Paramount to achieving this goal are the innovative teaching philosophies of the Tribal Colleges, and the fact that our graduates live and work on the reservations and impact others by giving back to their communities serving as role models and leaders. This "ripple effect" can be seen in increased community pride, the increased importance of succeeding in elementary and secondary school, and in Tribal College graduates implementing creative and effective solutions for their communities' problems. Today, approximately one in five American Indians live on a reservation. Past federal policies of relocation and neglect of these trust territories have left once proud Indian communities in abject poverty. The logical alternative to this lose-lose situation is demonstrated by the Tribal Colleges. Through the Tribal Colleges and Universities American Indian communities are being effectively developed, residents can move off the welfare rolls and into gainful employment, lowering taxes for all Americans while providing critical services to these historically under served areas. It would be tragic not to expand the modest investment in, and capitalize on, the human resources that will help open new avenues of economic development specifically through enhancing Digital Opportunity and thereby narrowing the Digital Divide.

JUSTIFICATIONS

Given the needs outlined above and the reality of an ever-expanding Digital Divide, the Tribal Colleges request support for the following programs and initiatives within the Department of Commerce.

Technology Opportunities Program (TOP).—We urge you to support the proposed $45 million funding level for the Technology Opportunities Program (TOP). This program is designed to promote access and the necessary infrastructure to bring high tech opportunity to all Americans. The TOP program is ideally suited to helping the Tribal Colleges meet the needs of their isolated rural communities through innovative technology. Lac Courte Oreilles Ojibwa Community College (LCOOCC) in Hayward, Wisconsin, plans to submit an exciting TOP proposal this year on behalf of several Tribal Colleges. LCOOCC proposes upgrading the existing satellite link system to a supercomputing grid that would create a wide area network for as many as 12 Tribal Colleges, initially. Students, faculty and staff at these colleges would be able to access software and the Internet on a high performance T1 line. The success of this promising proposal to bring high tech capability to Indian Country depends in part on the Tribal Colleges' ability to fully participate in programs such as TOP. A substantial barrier to full participation is matching requirements. We request report language in the appropriations bill that would waive the program's matching requirement for the Tribal Colleges.

New Markets Initiative.—In 1999, the Department of Health and Human Services (DHHS) funded an initial assessment of the current technology capacity at the Tribal Colleges and Universities. The results of the study, released last September, were eye opening. Nearly one-third of the Tribal Colleges were found not to be Y2K ready. The results also clearly identified critical areas of technology infrastructure enhancement as a top priority.

Funding for a Tribal College—New Markets Initiative would assist the Tribal Colleges turning the Digital Divide into "Digital Opportunity" for the isolated communities where most colleges are located. To begin accomplishing this goal, our institutions would engage in a two-step process. The first step would be the development of a comprehensive 5-year technology infrastructure plan and cost assessment of its implementation, which began last year with the DHHS Y2K study. The second step would focus on convening a national, high-level meeting of public and private sector organizations interested in promoting Internet connectivity for Indian Country. Participants would include private industry, foundations, federal agencies and other partners who could assist Tribal Colleges in securing funds from a wide array of sources to bring digital opportunity and economic development to Indian Country. We urge the Subcommittee to direct the Department of Commerce to work with the President's Board of Advisors on Tribal Colleges and Universities to convene this important meeting.

This process of partnering with the private sector is already underway at some Tribal Colleges. For example, Salish Kootenai College (SKC) in Pablo, Montana has an "Internet access partnership" with BigSky Net, a regional Internet provider. Under the agreement, SKC permits BigSky Net to house Internet server equipment on its campus, and in return, SKC students and faculty get unlimited Internet access at no cost (except for a monthly T–1 data connection fee from Pablo to Kalispell, Montana). Additional funding would enable more Tribal Colleges to participate in such programs and partnerships, further enhancing our efforts to meet the goals of our collective missions: to bring higher education and economic development to tribal communities.

Building Math, Science and Technology Capacity at the Tribal Colleges and other Minority Serving Institutions.—The Commerce Department is proposing a program to spur the interest of minority students in the field of science critical to the mission of the National Oceanic and Atmospheric Administration (NOAA) and the National Institute of Standards and Technology (NIST). We urge you to support the full funding of this $28 million program designated for Minority Serving Institutions.

Economic Development Administration (EDA).—The EDA is charged with providing assistance to economically distressed areas and regions to alleviate conditions of ongoing unemployment and underemployment. Contributing to the economic development of American Indian reservations is an essential goal of the Tribal Colleges. We strongly support the commitment of the EDA to strengthen its efforts to assist American Indian tribes by providing capacity building and developing finance and infrastructure projects needed to enable our communities to be more effective and competitive in economic development efforts, as stated in the fiscal year 2001 budget recommendation sent to Congress. We request report language that will expand this program to include partnerships with Tribal Colleges to enable our institutions to further address the chronic unemployment and poverty that plague reservation communities.

International Trade Administration (ITA).—The ITA has targeted Native American Economic Development as a priority in fiscal year 2001. The ITA intends to assist Native Americans in their efforts to use cultural heritage tourism as part of economic and community development plans. The Tribal Colleges are currently pursuing partnerships with USDA, US-AID, Interior and the private sector to bolster international programs, tourism, trade, and outreach to other indigenous peoples. For example, Haskell Indian National University, Lawrence Kansas, recently received a partnership grant from US-AID to work in the Altai (Siberia) region of Russia. The Native American economic development program of ITA could partner with the Tribal Colleges to enhance the work that has already been started by the Tribal Colleges.

Department of Justice—Office of Tribal Justice.—Tribal Colleges play an intricate part in the education system that supports tribal justice on Indian reservations. Nearly one-third of the Tribal Colleges currently offer justice related programs. The President's budget recommends $1 million to support tribal law enforcement and law related education and training at the Tribal Colleges. We urge the Subcommittee to build upon this recommended level and create a $5 million Tribal College Law-Related Education Initiative.

Existing nationally certified law enforcement programs at Tribal Colleges, such as United Tribes Technical College in Bismarck, North Dakota, offer specialized cur-

riculum that provides a stronger educational foundation and promotes a heightened sense of awareness. These curricula require students to take courses in psychology and sociology and classes in administration. One model program is at Fond du Lac Tribal and Community College in Cloquet, Minnesota, that offers both Associate of Applied Science and Associate of Science degrees in Law Enforcement. The Fond du Lac programs can be completed in two years and incorporate direct field experience and a multicultural environment into its coursework better preparing graduates for working in the field.

We believe that the additional funding to the Tribal Colleges for tribal law enforcement and law-related education and training will allow our institutions to continue and expand on-going programs of training better law enforcers, legal personnel, court and judicial staff, and tribal government officials in a manner that meets state and national standards while, addressing important and unique cultural needs.

CONCLUSION

In light of the justifications presented in this statement and the overwhelming evidence that without an insurgence of educational and technology centered opportunity the Digital Divide will widen in rural America, we urge the Subcommittee to increase funding for Tribal Colleges to help bring economic development to Indian Country. Fulfillment of AIHEC's fiscal year 2001 request will strengthen the mission of our colleges and the enormous, positive impact our institutions have on our communities and will help ensure that we are able to properly educate and prepare thousands of American Indians for the workforce of the 21st century. Without Tribal Colleges to serve as the means for moving from welfare to work, much of the reform accomplished by the Congress will fail throughout Indian Country. As demonstrated in these remarks, Tribal Colleges have been extremely responsible with the federal support they have received in the last 19 years. It is important that the Federal Government now capitalize on its investment. As the 1997 Carnegie Report on Tribal Colleges stated, "Now, as strongly as ever, we repeat our conviction that Tribal Colleges deserve continued support. Their value has been proven, but their vision is not yet fulfilled" (Native American Colleges: Progress and Prospects, Carnegie Foundation for the Advancement of Teaching, 1997). Our institutions have proven themselves to be a sound federal investment, and we ask for your continued support.

Thank you.

PREPARED STATEMENT OF THE ALACHUA COUNTY BOARD OF COMMISSIONERS, ALACHUA COUNTY, FLORIDA

Mr. Chairman: Thank you for allowing the Alachua County Board of Commissioners to present written testimony before your Subcommittee regarding a major economic initiative for which the County seeks your support under the Department of Commerce Economic Development Administration.

Alachua County is seeking federal funds to assist with expanding its collaborative neighborhood revitalization program. This collaborative program includes the Alachua County Community Services Department, Office of Code Enforcement, Alachua County Sheriff and Alachua County School Board. The Alachua County Commission requests $2.3 million in federal funding to expand this successful revitalization model to other neighborhoods. The process would include additional community needs assessments, increased educational, training and job readiness opportunities, mobilization of community resources and community empowerment for sustainability of neighborhoods throughout Alachua County. The funding will also support additional Sheriff's deputies at a level needed to provide adequate and intensive law enforcement, and community policing activities to the expanded Partner areas. Following is a background on this initiative.

In 1993, the Sheriff's Office made a request to the Board of County Commissioners for assistance due to the spiraling crime rate in southwest Alachua County. The Sheriff's Office reported that 57 percent of its 911 calls came from an area that had only 3.2 percent of the population. This area was identified as consisting of the five following neighborhoods: Clayton Estates, Majestic Oaks, Tower Oaks, Cedar Ridge and Sugarfoot. In addition to the disproportionately high crime rate, it was determined that there were inadequate community services, a high percentage of absentee landlords, a lack of concern by most residents, in concert with the physical appearance of the neighborhoods steadily deteriorating.

In fiscal year 1994, the Alachua County Commission provided funding for a Program Manager to staff the Partner's for a Productive Community (PPC) Program.

The PPC was launched as a strategic planning effort based on three goals: to establish neighborhood-based services, to develop public/private partnerships and to focus on prevention. The success of this project depended upon the coordinated efforts of the Sheriff's Office, the Courts and the Department of Community Services. The objectives of the Sheriff's Office were to reduce the number of calls from the area and to develop trusting relationships with the residents interested in improving their community. The objectives of the Courts were to help with the swift prosecution of cases brought forth and to increase personnel in key areas. The objectives of the Department of Community Services through a Program Manager were to develop and implement a needs assessment, to assess social services needs in accordance with the results of the assessment, to develop a community council comprised of owners, tenants and property managers. This project would be a multi-agency strategy to stabilize, revitalize and sustain these five neighborhoods.

Community Improvements

Since fiscal year 1995 accomplishments include: free community day care for 75 children, 30 community day care slots, eight in-home day care slots, establishment of a medical clinic provided by the Alachua County Health Department, the creation of 30 new jobs by the Early Progress Center, reduction in 911 calls from 57 percent to 14 percent of total calls, the overall increase in property values for four of the five neighborhoods. The provision of seasonal recreation programs for children in the targeted communities by the Y.M.C.A. In 1996 the PPC received the National Association of Counties' Achievement Award in recognition for distinguished and innovative contributions to improving and promoting county government. Additionally, an award was received from the League of Women Voters for outstanding community service.

New activities include community forums on landlord and tenants issues, welfare reform and subjects determined to be germane in the effort to educate and revitalize this community. Steps have been taken to establish 4–H Clubs in the communities to provide positive learning and character building experiences for youth. It is also being proposed to implement adult literacy classes, computer training, General Education Diploma preparatory training and a One Stop Program to provide employment opportunities. A community health fair was conducted with numerous agencies involved in providing immunizations for area children as well as the dissemination of information on health and safety issues. Three major and three mini neighborhood cleanups were completed. Through diligent efforts of the Office of Codes Enforcement, Alachua County government has reduced the number of abandoned and vandalized buildings from five to two.

The sustaining factor within this community is the formally organized Partner's for a Productive Community Council. The Council is the guiding force that deals with issues and determines unmet needs. It has become incorporated and has received a donation of space (estimated to be worth $5,000.00 per year) which will house the organization as well as the Center for Community Services.

Finally, in December 1999, Alachua County received Official Recognition (OR) from the Executive Office of Weed and Seed for two of the neighborhoods being served by the Partners for Productive Communities Program. There is no funding associated with this recognition. This OR will further strengthen the long-term efforts to improve the quality of life in these neighborhoods.

We hope that the Subcommittee will find this critically important project worthy of your support. Thank you for your consideration.

PREPARED STATEMENT OF THE AMERICAN SOCIETY OF MECHANICAL ENGINEERS

Mr. Chairman and Members of the Subcommittee: The National Institute of Standards and Technology (NIST) Task Force of the Council of Engineering, and the Council on Codes and Standards, of the American Society of Mechanical Engineers (ASME International), is pleased to have this opportunity to provide written testimony on the fiscal year 2001 NIST budget request.

ASME is the premier organization for promoting the art, science and practice of mechanical engineering in the world. It conducts one of the world's largest technical publishing operations, holds some 30 technical conferences and 200 professional development courses each year, and sets many industrial and manufacturing standards. This testimony represents the considered judgment of the ASME NIST Task Force and the Council on Codes and Standards, and is not necessarily a position of ASME as a whole.

Mechanical engineers have a long-standing professional interest in the engineering, technology, development, and innovation that influence the economic well being

of the nation. The ASME NIST Task Force and the Council on Codes and Standards have worked with NIST and thus recognize NIST as one of the key government agencies that contributes to the development and application of technology.

ASME has long supported the mission of NIST, which is to promote U.S. economic growth by working with industry to develop and apply technologies across a broad spectrum of areas appropriate for the civilian industrial sector, and to develop and maintain world class capabilities in metrology and standards. NIST's technical programs are unique because they foster government and industry cooperation through cost-sharing partnerships that create long-term investments based on engineering and technology. These programs are aimed at providing the technical support necessary to our nation's future economic health.

Measurement and Standards

The fiscal year 2001 budget request would provide $332.3 million for the Measurement and Standards Laboratories, a 17 percent increase over the current fiscal year. The Task Force supports this increase. The laboratories provide U.S. industry with critical technical information through their work in developing new measurement methods, testing techniques, data evaluation, and standards. NIST laboratories also serve as the U.S. reference point for measurements with counterpart organizations throughout the world. The fiscal year 2001 appropriation for the Measurement and Standards Laboratories will support further development of critical measurement technologies, methods, and services needed by the U.S. to promote technological progress, improve products and services, and enhance international competitiveness.

The Department of Commerce, working through NIST, continues to provide essential support to the private sector's efforts to assist federal agencies in meeting the provisions of The Technology Transfer and Advancement Act of 1995 (Public Law 104–113), which requires the federal government to use private sector voluntary consensus standards. In some cases, this has proven to be a challenging enterprise for both the standards development organizations and the federal agencies. Although the process of converting from government standards to voluntary consensus standards is well underway, we continue to look to NIST and the congressional oversight committees to encourage this effort and to monitor the progress made to date.

The ASME continues to support NIST's efforts to elevate U.S. participation in the international standards development process. Such efforts must include continuing support for U.S. representation on the international standards bodies (ISO and IEC). Without adequate representation on these bodies, the nation's trade interests will be severely compromised.

For the laboratories to continue developing and providing the state-of-the-art measurements that underpin U.S. industrial performance, NIST requires facilities that will enable it to deliver the best possible measurement system. The Task Force supports the request of $35.9 million for the critical repair, maintenance, and safety upgrades at NIST's facilities in Maryland and Colorado.

Extramural Programs

The fiscal year 2001 budget request would provide $339 million for NIST's Extramural programs. These programs are true public/private partnerships that require cost sharing by the private sector and focus on investments that are expected to provide broad-based benefits to the economy. These on-going programs, the Advanced Technology Program (ATP) and the Manufacturing Extension Partnership (MEP), are merit-based, and closely evaluated. The Task Force believes that the ATP and MEP are good for the nation's economic well being and the health of the U.S. science, engineering, and technology enterprise. The ATP provides cost-shared funding to industry for high-risk research and development projects with potentially broad-based economic benefits for the United States. The Task Force supports the President's request for $175.5 million in fiscal year 2001 for ATP to promote industry's ability to undertake technologically challenging initiatives that have broad economic promise. When combined with anticipated carryover and prior year recoveries, the request will permit approximately $65 million for new awards in fiscal year 2001.

The ASME NIST Task Force also supports the $114.1 million request for the MEP, which will permit NIST to continue providing the federal share of funding needed to support an existing network of centers serving smaller manufacturers in all 50 states, the District of Columbia, and Puerto Rico. With its fiscal year 2001 base funding, MEP will work to increase the capabilities and effectiveness of MEP centers, collect and evaluate performance and impact data, and further develop the electronic networking and information capabilities of the MEP system to strengthen communications.

Cooperative technology programs such as the ATP and MEP have been catalysts in bringing government, industry, and universities together to enhance the economic competitiveness of the nation. These programs are needed to improve the transfer of new discoveries in science and engineering to innovative technologies, global quality practice, and profitable manufacturing capabilities on the shop floor.

New Initiatives

The fiscal year 2001 NIST budget request also contains a number of initiatives that recognize the nation's economy is being driven in large part by recent advances in information technology (IT), which today provides an essential foundation for the nation's economic growth and national security. However, this critical IT infrastructure could leave the nation vulnerable to disruptions caused by natural disasters, human error, equipment failures, and purposeful attacks.

The fiscal year 2001 NIST budget request reflects NIST's participation in the recently launched National Plan for Information Systems Protection. The Task Force supports the budget request for $60 million in new funding to protect the nation's critical information infrastructure. Of the total amount, $50 million would be allocated to fund the launching of the Institute for Information Infrastructure Protection (I^3P), a public-private partnership program to support research and technology development to protect critical information and telecommunications infrastructures from attack or other failures. An additional $5 million would allow NIST to develop new measurements, standards, test methods and guidelines to better protect IT elements of the nation's critical infrastructures (e.g., security engineering and system architecture, advanced cryptography through a Critical Infrastructure Protection (CIP) Research and Development effort). The remaining $5 million would enable NIST to strengthen the security of federal computer systems to resist attempted cyber-terrorism and to recover from security breaches and to make that expertise available to other federal agencies through the formation of a CIP Expert Review Team.

Current forecasts indicate that business-to-business e-commerce transactions will continue to grow rapidly. This trend will have broad economic impact by lowering production costs and raising productivity throughout the economy. Businesses are increasingly using e-commerce for a wide range of critical processes throughout the supply chain. The continued growth of these practices will require new infrastructural tools and capabilities. The Task Force supports the request for $14 million in new funding to collaborate with the private sector to build the new infrastructure for an e-commerce economy.

The Task Force also supports the request for $46.3 million to expand the technology horizon through the development and measurements and standards needed to promote active pursuit of long-range opportunities to ensure that the U.S. economy will benefit from the next major wave of technological advances. This budget proposal would fund initiatives in nanotechnology and combinatorial science, two areas with bright prospects for rapid progress and the potential to deliver significant returns to the U.S. industrial and national economies.

The fiscal year 2001 NIST budget request also includes $15.5 million to fund a three-pronged approach to increase the number of highly skilled scientists and engineers through increased partnerships with minority-serving institutions and expansion of the NIST/National Research Council Postdoctoral Research Fellowship Program. The Task Force supports this effort to provide a continuous supply of technical expertise and well-trained people that are vital to the continued success of a national economy driven by high-tech successes.

Thank you for your consideration of our views on the fiscal year 2001 NIST budget request.

LETTER FROM KEVIN KLOSE, PRESIDENT AND CEO, NATIONAL PUBLIC RADIO

FEBRUARY 24, 2000.

The Honorable JUDD GREGG,
Chairman, Commerce-Justice-State Subcommittee, Senate Appropriations Committee, 146A Capitol Building, Washington, DC.

DEAR CHAIRMAN GREGG: Thank you for the opportunity to comment on a fiscal year 2001 appropriation for the Public Telecommunications Facilities Program (PTFP) at the National Telecommunications and Information Administration (NTIA), part of the U.S. Commerce Department. On behalf of National Public Radio (NPR) and the hundreds of public radio stations it represents, I respectfully submit this letter and attached statement for the hearing record.

Each week, nearly 20 million Americans listen to the programming offered by public radio stations. Since its founding exactly 30 years ago this week, NPR and its Member stations have become an indispensable source of news, information, cultural and educational programming in this country. Critical to the success of public radio is the PTFP program.

With sufficient resources, public radio stations nationwide will be able to enhance their technical infrastructure, thus enabling stations to better serve the American public. Furthermore, as public broadcasting expands into the digital universe, NPR and its Member stations are eager to work with you to encourage the continued growth and survival of public radio and television. But without active support by Subcommittee Members, those resources may remain beyond the grasp of our Member stations. The time for reinvestment in public broadcasting is now.

Public broadcasters support the Administration's request for a $110 million federal appropriation for PTFP. This recommendation is further outlined in the attached supporting statement.

Public broadcasters seek a fiscal year 2001 $110 million PTFP funding level to maintain and expand existing service. PTFP support is essential to the vital role public stations play in their communities. PTFP is a matching grants program for public broadcasting stations, radio reading services for the blind and other non-profit telecommunications entities. All PTFP dollars go directly to local stations, assisting them in the purchase of equipment to extend their signals into un-served and under-served areas, replacement of outmoded equipment and upgrade of facilities. It is an excellent public-private partnership.

Public broadcasters urge the Subcommittee to appropriate $110 million to PTFP for the conversion to digital broadcasting. Public broadcasting faces a daunting challenge in its conversion to digital technology. The estimated cost to the entire public broadcasting industry is $1.7 billion. Public radio stations are facing an estimated $70 million in digital broadcast-related costs: an estimated $11 million to help stations defray tower dislocation costs and maintain analog broadcasts and $60 million to assist in public radio's own conversion to digital transmission standards.

With additional funding for PTFP, public broadcasters nationwide will be supported in their efforts to sustain local programming, encourage community discourse, and present ideas while adapting to the rapidly evolving digital world. Public radio is one of the best sources of local programming in light of the consolidation in the radio marketplace.

Again, thank you for your long-standing commitment to our nation's public broadcasters and the citizens and communities they serve.

Sincerely,

KEVIN KLOSE,
President and CEO.

PREPARED STATEMENT OF THE NATIONAL PUBLIC RADIO

INTRODUCTION

NPR is a private, non-profit corporation that produces and distributes award-winning programming such as Morning Edition®, All Things Considered®, Performance Today®, Car Talk® and Jazz Profiles®. NPR is also a membership organization comprised of noncommercial, educational radio stations that are locally licensed and controlled. Moreover, Member stations design their own formats—combining locally produced programming with offerings from NPR and other programming sources. Each station's format is crafted to provide the best service for its respective community.

Thank you for the opportunity to comment on the Public Telecommunications Facilities Program (PTFP). PTFP distributes federal grants to public stations that must be matched by the local community. Congress has invested in the construction and upgrade of local public broadcast facilities through PTFP since 1962 and it is the only capital grants program for public broadcasting stations. The fundamental element underlying federal support is the importance Americans place on public broadcasting programming and services.

PUBLIC BROADCASTING ACCOMPLISHMENTS THROUGH PTFP

The Program Links Rural & Un-served Areas With the Greater Community.—PTFP especially benefits rural areas and states like Kentucky, Alaska, New Mexico and Colorado where topography or sheer size makes it difficult for people to receive a public radio signal. Translator/booster facilities, or auxiliary broadcast facilities, typically serve sparsely populated areas that often lack a sufficient economic base to support a full service station. These facilities are usually established only as a

result of the community's desire to receive first or additional public radio service, and are funded through federal and/or state grants or as a result of modest capital campaigns funded by the future listeners. In rural and other under-served areas, with relatively fewer radio and television signals available, translators have a heightened meaning to public radio listeners.

According to the Commerce Department, the 1998 and 1999 grants to public radio stations included projects expanding American's access to public radio to more than 628,000 people who presently do not receive any such signal. Communities to receive a first public radio service because of the 1999 grants include Cape May, New Jersey; Jackpot, Nevada; and Mojave, California.

For instance, KNAU–FM in Flagstaff, Arizona and the Grand Canyon Association (a private, nonprofit group dedicated to providing information about the Grand Canyon) received a 1999 PTFP grant to bring service to Grand Canyon, Arizona. A 3,000-watt station will be established, capable of producing local programming. The new station will cover an 8,000 square mile area, including part of a Native American reservation, and bring public radio service to 4,300 permanent residents and nearly five million visitors each year. The community does not have the economic base to support a full station. The 3,000-watt station will bring the outside world to Grand Canyon via KNAU–FM, as well as provide an outlet for local programming.

PTFP Will Permit Replacement of Translators with Full Powered Origination Service.—As expressed by the Subcommittee and the Congress, there is a need to better serve rural and other under-served areas as well as un-served communities. PTFP funding can assist stations in converting their secondary translator/booster facilities to primary full powered facilities capable of local producing programming. As a result of these upgrades, rural and under-served communities will be able both to receive and to produce locally responsive programming.

PTFP Assists in Maintaining and Upgrading the Existing Infrastructure.—Sustaining the public broadcasting system is a key PTFP goal, and the replacement of aging, obsolete equipment is a critical concern for stations. Public radio is in need of continued financial support because the infrastructure is aging and in many cases obsolete. Much of the equipment is old and must be replaced. Unfortunately, much of the equipment is so old that replacement parts are no longer available. For instance, public radio station KCAW–FM in Sitka, Alaska, received a 1999 grant for $29,700 to replace a failing 18-year old transmitter. The typical life-span of a transmitter is 12–15 years.

Similarly, KRWG–FM in Las Cruces, New Mexico received a 1999 grant for nearly $14,000 to replace an old, worn-out studio-to-transmitter link (STL) and audio processor with a digital STL and compatible digital processor. The grant will allow KRWG–FM to continue serving approximately 263,000 people.

A $27,895 PTFP grant will enable New Hampshire Public Radio to improve the broadcast quality of the state network by replacing the obsolete and failing transmitter at repeater station WEVH–FM in Hanover. The project will also replace recording and playback equipment at WEVO–FM in Concord. New Hampshire Public Radio serves a population of over 900,000 people.

The PTFP program also support radio reading services that help combat the isolation of blind and elderly disabled people nationally. The radio reading services predominantly rely on public radio's FM subcarrier channels. In 1999, a grant was made to extend the service area of the Iowa Radio Reading Information Service (IRRIS) in Des Moines, Iowa. The project will acquire satellite up-link and downlink equipment to enable IRRIS to provide its service to Iowa City, Cedar Falls, and Sioux City, Iowa. The grant will also purchase a supply of the special receivers needed by the visually handicapped in those communities to utilize the service. About 1,000 visually handicapped people will receive service in the added communities.

A significant increase in the PTFP appropriation is necessary to enable public radio to meet the challenges posed by an aging infrastructure and expanding service to un-served and under-served areas.

DIGITAL CONVERSION

Today's new technology will soon become tomorrow's standard operating equipment. Public radio and television can realize its future through the assistance of a $110 million PTFP appropriation. In fact, this increase in federal support through PTFP will greatly enhance the success of local stations to attract state and private funders necessary to convert radio and television stations to a digital standard.

Public Radio's Digital Future.—Digital radio transmission technology promises to deliver compact-disc-quality sound free of interference to listeners. Digital produc-

tion and transmission conversion will enable public radio stations to produce and deliver programming using a far more efficient process than exists today. It may allow listeners and users to experience a variety of new services such as the ability to search program formats, scan selective programs as well as read music lyrics and song titles.

The FCC has initiated a rulemaking to permit public comment on the various digital radio standards being proposed. The frontrunner standard in the U.S. is In-Band, On-Channel (IBOC). This conversion is expected to take place in the near future.

Public radio stations are already converting their production facilities to digital because analog equipment and parts are being phased out in the radio industry. Digitizing stations increases operational efficiency and decreases operating costs. For instance, WKYU–FM in Bowling Green, Kentucky has four personal computer-based digital workstations, digital editors and DAT machines. The digital workstations allow for a more efficient and money-saving process to edit programming.

Also, PTFP funding for digital production equipment mean that stations will not have to rely as heavily on real-time evening, weekend and overnight staff. Stations can eliminate the need to purchase and store audio-tape. In sum, these efficiencies are realized through PTFP.

PTFP Will Ameliorate Impact Of DTV Transition On Public Radio.—Public radio stations face significant challenges and opportunities afforded by the digital revolution. A federal mandate directing television stations to convert to digital will affect public radio stations as well.

Nearly 40 percent of NPR member stations lease space on television-owned towers. As television stations convert to digital, they are adding new digital transmitting antennas to their existing towers that enable them to launch digital broadcasts. Meanwhile, television is also required to maintain their existing transmission equipment on towers so as to continue an analog service. In many cases, the additional television equipment will force public radio stations off shared towers.

DTV-related costs to radio are estimated to exceed $11 million. In large part, the actual costs will depend on the actions of other commercial and public television and radio stations. Nevertheless, PTFP grants act as critical catalysts, helping stations raise the matching funds from their communities to pay for new towers and other capital needs.

Public Television Must Meet A Year 2003 Digital Deadline.—Public television is currently making the transition to digital television (DTV). It is a daunting challenge to meet the congressionally mandated conversion to DTV by 2003. The stakes are high for public television: any station that does not make the conversion deadline will be forced to surrender its license—essentially to go off the air. PTFP will assist television in its digital conversion.

CONCLUSION

A $110 million PTFP appropriation is critical to public broadcasting and its listeners. Public radio needs Subcommittee Members' support for PTFP to address the myriad analog and digital needs of both public radio and television. Again, your support will ensure that PTFP is adequately prepared to meet present and future challenges.

PREPARED STATEMENT OF THE UNIVERSITY OF MIAMI

Mr. Chairman, I thank you and the Members of the Subcommittee for this opportunity to submit a statement for the Record on behalf of my colleagues at the University of Miami and its Rosenstiel School of Marine and Atmospheric Science.

Founded in 1925, the University of Miami is the largest private research university in the Southeastern United States and the youngest of 23 private research universities in the nation that operate both law and medical schools. Through its 14 colleges and schools, 1,915 faculty instruct 13,715 students in more than 110 areas of undergraduate study and 162 disciplines for graduate study.

The Rosenstiel School is recognized as one of the premier academic oceanographic research facilities in the world and ranked among the top six nationally (by number of faculty, funded research volume, and graduate program size). Located on a 16-acre tract on Virginia Key in Miami's Biscayne Bay, the Rosenstiel School provides the only subtropical marine research facility in the continental United States, and is adjacent to and coordinates daily with the national NOAA lab and research facility.

The Rosenstiel School because of its unique location—the Gulf Stream is immediately offshore; just to the south lies a vast expanse of the only living coral reef off the shores of the continental United States; and just to the east the Florida-Bahamas Carbonate Platform—is a unique resource for the nation, as well as for Florida and the southeast region.

There are close to 100 recognized scientists, researchers, and educators at the Rosenstiel School who collaborate closely with other Florida institutions and whose distinct expertise is vital in addressing critical national, regional, and Florida natural, environmental, and climatic challenges.

First, Mr. Chairman, I salute you and the Committee for your continuing leadership and commitment to programs especially helpful to Florida. Everyone in Florida applauds your continuing interest and support for the South Florida ecosystem project, for NOAA's investment in ocean observation and coastal zone monitoring, and for NOAA's improved forecast capability for severe storm and hurricane landfall. Respectively, these projects seem to be leading to a new understanding of the Everglades-Florida Bay relationship and health, improving the health and safety of Florida's coastal communities, and improving NOAA's general forecasting capability.

Also, Mr. Chairman, your and the Committee's interest in projects seeking to improve our understanding of coral reef habitats as well as the health of coral reef communities is having a dramatic impact on South Florida's tropical reef system and is especially noteworthy.

The Rosenstiel School of Marine and Atmospheric Science has long been recognized as a major national research institute focusing on the living coral reef as a unique and critical national and international resource, critical to the vitality and health of the marine life and coastal marine environment of Florida and the southeast. Florida's coral reefs are the only living coral reefs off the continental United States. The environmental, climatic, and man-made challenges to and stress on these precious resources are extensive. To preserve and protect our reefs requires the organization and coordination of the broadest range of talent and resources.

The Rosenstiel School has committed to a major investment of its resources and seeks to enlist a broad range of Florida, regional, and national expertise to coordinate the most advanced and productive research that will ensure the protection of living coral reefs. The Rosenstiel School is seeking to continue and expand its National Center for Atlantic and Caribbean Coral Reef Research begun in fiscal year 1999, a parallel to the Hawaii-based and focused effort. Together, these centers will provide a balanced, focused, critical scientific mass brought to bear on these precious, unique, and vanishing natural resources.

Coral reefs are the only ecosystems on Earth constructed entirely by the secretions of a complex assembly of marine animals and plants. They are economically important resources for humans as sources of food, medicinals, building materials, and coastal protection. They are especially invaluable, in our increasingly crowded world, for the spiritual relief they provide the millions of people that journey to visit them each year. Unfortunately, changes in water quality due to coastal development, environmental changes potentially related to global climate change, and overexploitation of coral reef fisheries resources, are contributing to world-wide coral reef deterioration at an alarming pace, especially in the Caribbean region. U.S. coral reefs in Florida are down-stream of the entire Caribbean coral reef system, and are thus dependent on Caribbean reefs for larval recruits and maintenance of fisheries stocks. Florida reefs could also be affected by pollutants released into marine waters by other nations in the region, and from our own rivers via discharges into the Gulf of Mexico.

The National Center seeks to coordinate U.S. coral reef policy and research, and assemble major national and international initiatives pertaining to coral reefs. The Center fosters organization and collaboration within the U.S. scientific community, leads the development of a new level of understanding of the processes and environmental conditions necessary for the establishment, survival, and sustainable use of coral reef ecosystems for the public. The initial focus is on problems faced by coral reefs in Florida and U.S. possessions in the Caribbean region (Puerto Rico and the U.S. Virgin Islands), and also to coordinate these efforts with those of coral reef researchers within the Caribbean region, in recognition of the importance of larger scale relationships between coral reef systems within the Inter-America Seas.

This Center invites nation-wide participation of scientists with expertise in coral reef research, and involves scientists from related disciplines. In addition, scientists from Federal and State agencies with coral reef research interests, such as the NOAA Florida Keys National Marine Sanctuary, EPA, and USGS are anticipated to participate. The specific functions of the National Center for Atlantic and Caribbean Coral Reef Research are:

—To identify major gaps in our knowledge of coral reef function that impair our ability to conserve and manage coral reefs, and to provide leadership in organizing the scientific community to develop research initiatives to close these gaps;
—To work with agency and legislative representatives, as well as private sources, to develop the funding basis needed to execute the research initiatives;
—To interact with managers at the local to national levels, in order to facilitate the transfer of information from the scientific to the managerial communities;
—To provide accurate, but non-technical, syntheses of information to the public so that they can be better informed about important management issues about coral reefs.

We seek to continue the effort to establish a targeted and broadly constructed southeastern regional focus that can parallel and complement the well-funded and structured approach the Congress has established in the state of Hawaii. The long-term implementation strategy would involve all of the core Florida institutions and agencies already working, along with the Rosenstiel School, on one or more components of the overall reef challenge.

For fiscal year 2001, we seek $3.5 million through NOAA for the National Center for Atlantic and Caribbean Coral Reef Research housed at the University of Miami Rosenstiel School of Marine and Atmospheric Science. Joined by colleagues at Nova University in Fort Lauderdale on the Atlantic coast, and at the University of South Florida in Tampa on the Gulf coast, this public-private enterprise will bring together in an unprecedented way multi-disciplinary research from across Florida to study this important aspect of our state and region. The effort represents an investment for the future health and well being of the economically and esthetically beautiful tropical reef system.

Mr. Chairman, we understand fully what a difficult year this will be for you and the Committee. However, we hope that you can and will accede to our request to support the National Center for Atlantic and Caribbean Coral Reef Research. The results of the Center's work will make important contributions to the national effort to save our endangered coral reef communities.

Thank you.

PREPARED STATEMENT OF THE NATURE CONSERVANCY

Mr. Chairman, I appreciate the opportunity to submit testimony on the fiscal year 2001 budget for the National Oceanic and Atmospheric Administration (NOAA).

The Nature Conservancy is an international, non-profit organization dedicated to conserving biological diversity. Our mission is to preserve the plants, animals, and natural communities that represent the diversity of life on Earth by protecting the lands and waters they need to survive. We have more than a million individual members, more than 1,500 corporate members, and programs in every state and in 20 nations. We have protected more than 11 million acres within the United States and Canada, and have helped local partner organizations preserve millions more overseas. Additionally, we own the largest private system of nature preserves in the world.

Since 1950, The Nature Conservancy has maintained a strong focus on land-based habitats. However, in the past decade, we have recognized the gap created in our mission by not focusing on critically important and productive marine habitats, particularly shallow-water habitats such as estuaries, coral reefs, mangroves, and seagrass beds that are heavily affected by human activities. We are aware that coastal areas and oceans contain biodiversity rivaling tropical rain forests. Yet as a nation we have focused little attention on their conservation.

As a result, The Nature Conservancy is escalating its focus on near-shore marine sites using the sound science, strong public and private partnerships, ecosystem approach, and site-based conservation that has proven effective throughout our fifty-year history of working on the land. We are cooperating with public and private partners to develop a "conservation blueprint" that will identify the terrestrial and marine sites, at several scales, that if conserved will protect the nation's full array of plants, animals, and natural communities for the long-term.

Several NOAA programs have proven especially successful at combining effective management, good science, and community involvement to achieve tangible and lasting conservation results. These programs will also facilitate the process of conserving many sites identified by the Conservancy's conservation blueprint. These programs include: National Estuarine Research Reserve System, National Marine Sanctuaries, Habitat Restoration, Coral Reef Conservation, and Salmon Recovery.

National Estuarine Research Reserve System

National Estuarine Research Reserves exist in Alabama, Alaska, California, Delaware, Florida, Georgia, Maine, Massachusetts, Maryland, Mississippi, New Hampshire, New York, New Jersey, North Carolina, Ohio, Oregon, Rhode Island, South Carolina, Texas, Virginia, Washington, and Puerto Rico. These twenty-five "living laboratories" have achieved success on a modest budget. However, National Estuarine Research Reserve System (NERRS) funding levels have not kept up with needs created by additional sites, acres, and responsibilities.

Appropriate funding for the NERRS ($12 million for operation; $8 million for procurement, acquisition, and construction) will ensure that the system continues to receive national-level coordination and vision. It will also permit reserves to implement baseline management, research, education, and stewardship activities within surrounding communities; acquire land and conservation easements to buffer impacts of development; and expand the number of sites in the future. Finally, the funding will enable each reserve to update ecological profiles, establish graduate fellowships, and provide technical training to coastal decision-makers.

As manager of more than 1,300 preserves across the nation, we appreciate and support the request to increase NERRS funding to strengthen management, improve research, and increase community involvement. Estuaries serve as "nature's water treatment system," providing flood control, storm damage protection, recreation, and habitat for species to spawn, nurse and live. The Conservancy is actively working in several reserves from Great Bay in New Hampshire to Apalachicola Bay in Florida and Kachemak Bay in Alaska. We know first hand that the NERRS has successfully implemented science programs to inform communities about how coastal ecosystems function, how humans affect them, and methods for improving their condition.

National Marine Sanctuaries

The Nature Conservancy supports NOAA's request for $35 million to fund the National Marine Sanctuary Program. The $10 million increase in funding would build upon baseline operational improvements made at sanctuaries over the past several years—and would guarantee continuity and enhancement of the program's successful educational, community outreach, research and monitoring, cultural resource management, and resource damage response efforts. Additional funding would also expand enforcement and technical capacity. Management plans could be updated and science programs would be improved at existing sanctuaries, and "new frontiers" in the deep ocean would be explored. Finally, part of the increase would fund a nationwide study to better understand the socioeconomic importance of marine sanctuaries.

National Marine Sanctuaries embody some of the world's most diverse and extraordinary ecosystems. The twelve sanctuaries established since 1972 protect 18,000 square miles of ocean waters. They aid in the recovery of endangered marine animals; increase knowledge of the ocean through research; and enlarge a stewardship ethic among citizens. Where appropriate, uses such as recreation, commercial fishing, and shipping are also often encouraged.

The Conservancy's most extensive experience with this program has been with the Florida Keys National Marine Sanctuary, established to stem threats to the ecological health of the coral reef ecosystem. In cooperation with the state of Florida and an Advisory Council (representatives from commercial and recreational fishing; the dive and boating industries; public interest organizations; scientific and educational organizations; and the public) the Sanctuary developed and is implementing a comprehensive management plan. The plan focuses on solutions for problems related to stormwater runoff, inadequate sewage treatment, marinas, live-aboards, landfills, hazardous spills, and pesticides. In just two years, it is showing promising results.

Habitat Restoration

Coastal ecosystems are powerful drivers of the United States economy, with more than 180 million people visiting the coasts annually. Tourism, recreation, fishing, and other industries require healthy coastal habitats and clean waters. Yet harmful algal blooms, polluted beaches and waters, contaminated shellfish beds, and diseased coral reefs are signs that human activities are degrading valuable coastal resources.

The Nature Conservancy strongly supports NOAA's coastal habitat restoration and conservation efforts. $4 million for Fishery Habitat Restoration would ensure continued work with communities, in partnership with public and private organizations, to restore vital coastal habitats including wetlands, salt marshes, seagrass beds, mangroves, anadromous fish spawning areas, and coastal rivers. Much of the $2 million increase in funding would strengthen NOAA's Community-Based Restora-

tion Program that together with national partners, has reached out and funded local habitat restoration projects that are developed, implemented, monitored, and maintained by communities. This program not only has leveraged funds through national-level partnerships, but has also leveraged a conservation ethic across the nation.

Additionally, $11.8 million for Habitat Conservation would ensure the NOAA Restoration Center's continued effectiveness at restoring estuaries, anadromous fish habitat, and other natural resources injured by human activity and hazardous materials. The Center has also advanced the science and technology of coastal habitat restoration and transferred it to the public and private sectors. The additional funding of $1.9 million would enable the Center to implement more restoration; increase and improve technical assistance to stakeholders; develop duplicable "best practices"; improve monitoring; and meet a growing demand for habitat restoration nationwide.

Coral Reef Conservation

Coral reef ecosystem health has declined severely all over the world in recent decades. The combined effects of global climate changes and human activities have put coral reefs at great risk. Now is a critical time for taking action to protect the world's coral reefs before the tragedy becomes irreversible. As a result, the Conservancy's programs in the Florida Keys, the United States Virgin Islands, and other Caribbean Basin and Pacific Islands have been working actively with governmental and non-governmental partners to protect these fragile systems.

The Nature Conservancy supports the critical and time sensitive activities that a $10 million increase in funding for coral reefs would enable. These activities are also supported by the United States Coral Reef Task Force (22 federal agencies, Governors of 7 states, territories, or commonwealths with coral reef responsibility, and many non-governmental organizations) and include comprehensive mapping and monitoring of coral reefs; research into ecological processes upon which reefs depend; expansion and strengthening of federal, state, and territorial coral reef Marine Protected areas and no-take ecological reserves; regulation of coral reef species trade; enhanced international activities; integration of human activities; and public education.

The Nature Conservancy strongly supports implementation of the National Action Plan for Coral Reef Conservation. If funded adequately, this comprehensive scientifically-based program will protect and restore coral reefs in the United States and its territories. It will also serve as a model in coral reef protection as well as in intergovernmental coordination, and will set an example for promoting similar initiatives in the rest of the world.

Salmon Recovery

Because salmon travel from the sea to a stream's headwaters—passing cities, developments, farms, and forests before they spawn and die—focusing on what they need to survive forces us to take on a landscape approach that benefits many other species dependent upon cool, clear water. This approach also helps forests and free-flowing rivers that prevent flooding, clean the air and water, stop erosion, and provide places to hike, fish, and experience nature.

Habitat destruction, over-appropriation of water rights, pollution, stream blockages from hydropower and other developments, and over-harvesting have all played a role in the precipitous decline of many salmon species from historic levels. Adequate funding to conserve and recover salmon ($55.4 million for Endangered Species Act Recovery Planning; $100 million for the Pacific Coastal Salmon Recovery Program; $60 million for the Pacific Salmon Agreement) would further critical scientific research and monitoring, spur new partnerships and cooperative efforts, enable more recovery plans, and enforce protections under the Endangered Species Act. It would also create significant opportunities for the states, local and tribal authorities, and private landowners to accelerate protection efforts.

Finally, history has demonstrated that vast amounts of money can be spent on restoration and recovery of habitat that could have been protected at significantly less cost to the taxpayer, and with better environmental results, before the systems were altered and degraded. It is time to make tough choices about where fish can be successfully recovered, but it is even more important to focus on functioning systems with healthy habitats and salmon populations. These decisions should be based on the existing watershed analyses and plans, and connected to the priorities emerging from NOAA's essential fish habitat work.

Conclusion

Thank you for the opportunity to submit these remarks. Conservation of coastal waters is challenging. Many marine habitats cannot be purchased and set aside for

conservation. Instead, we must conserve, restore, and acquire critical coastal areas; research stresses to systems; improve water quality; maintain freshwater inflows; and sustainably manage marine resources and habitat. The Nature Conservancy looks forward to working with NOAA, other federal agencies, state and local governments, non-governmental organizations, and the private sector to ensure the long-term protection and sustainable use of our productive and diverse coastal waters.

PREPARED STATEMENT OF THE CALIFORNIA INDUSTRY AND GOVERNMENT CENTRAL CALIFORNIA OZONE STUDY (CCOS) COALITION

Mr. Chairman and Members of the Subcommittee: On behalf of the California Industry and Government Central California Ozone Study (CCOS) Coalition, we are pleased to submit this statement for the record in support of our fiscal year 2001 funding request of $250,000 from the National Oceanic and Atmospheric Administration (NOAA) for CCOS as part of a Federal match for the $8.6 million already contributed by California State and local agencies and the private sector. NOAA is currently under contract for approximately $700,000 to use state-of-science instrumentation to measure surface and aloft winds and temperatures. This request will partially replace funding already spent for NOAA's participation in CCOS.

Ozone and particulate matter standards in most of central California are frequently exceeded. In 2003, the U.S. Environmental Protection Agency (U.S. EPA) will require that California submit SIPs to for the recently promulgated, national, 8-hour ozone standard. It is expected that such SIPs will be required for the San Francisco Bay Area, the Sacramento Valley, the San Joaquin Valley, and the Mountain Counties Air Basins. Photochemical air quality modeling will be necessary to prepare SIPs that are acceptable to the U.S. EPA.

Central California Ozone Study (CCOS) is designed to enable central California to meet Clean Air Act requirements for ozone State Implementation Plans (SIPs) as well as advance fundamental science for use nationwide. The CCOS field measurement program will be conducted in the summer of 2000 in conjunction with the California Regional PM10/PM2.5 Air Quality Study (CRPAQS), a major study of the origin, nature, and extent of excessive levels of fine particles in central California. CCOS includes an ozone field study, a deposition study, data analysis, modeling performance evaluations, and a retrospective look at previous SIP modeling. The CCOS study area extends over central and most of northern California. The goal of the CCOS is to better understand the nature of the ozone problem across the region, providing a strong scientific foundation for preparing the next round of State and Federal attainment plans. The study includes six main components:

—Developing the design of the field study (task already underway)
—Conducting an intensive field monitoring study, scheduled for June 1 to September 30, 2000
—Developing an emission inventory to support modeling
—Developing and evaluating a photochemical model for the region
—Designing and conducting a deposition field study
—Evaluating emission control strategies for the next ozone attainment plans.

CCOS is directed by Policy and Technical Committees consisting of representatives from Federal, State and local governments, as well as private industry. These committees, which managed the San Joaquin Valley Ozone Study and are currently managing the California Regional Particulate Air Quality Study, are landmark examples of collaborative environmental management. The proven methods and established teamwork provide a solid foundation for CCOS. The sponsors of CCOS, representing state, local government and industry, have contributed approximately $8.6 million for the field study. In addition, CCOS sponsors will provide $4 million of in-kind support. The Policy Committee is continuing to seek additional funding ($9.0 million) for a future deposition study, data analysis, and modeling. California is an ideal natural laboratory for studies that address these issues, given the scale and diversity of the various ground surfaces in the region (crops, woodlands, forests, urban and suburban areas).

There is a national need to address national data gaps and California should not bear the entire cost of the addressing these gaps. National data gaps include issues relating to the integration of particulate matter and ozone control strategies. The CCOS field study will take place concurrently with the California Regional Particulate Matter Study—previously jointly funded through Federal, State, local and private sector funds. Thus, CCOS is timed to enable leveraging of the efforts for the particulate matter study. Some equipment and personnel can serve dual functions so that CCOS is very cost-effective. From a technical standpoint, carrying out both studies concurrently is a unique opportunity to address the integration of particu-

late matter and ozone control efforts. CCOS will also be cost-effective since it builds on other successful efforts including the 1990 San Joaquin Valley Ozone Study. To effectively address these issues requires federal assistance, and CCOS provides a mechanism by which California pays half the cost of work that the federal government should pursue.

For fiscal year 2001, our Coalition is seeking funding of $250,000 from the National Oceanic and Atmospheric Administration (NOAA). Extensive meteorological data collected as part of the field study can be used by NOAA to improve its meteorological forecasting abilities. CCOS will provide a new database to evaluate the U.S. western boundary conditions of weather forecasting models. Meteorological data will be collected in both an ozone field study and an atmospheric deposition study. In addition, CCOS includes atmospheric airflow research. Data will be collected on sea breeze circulation, nocturnal jets and eddies, airflow bifurcation, convergence and divergence zones, up-slope and down-slope flow, and up-valley and down-valley air flows. This research will provide fundamental data needed to understand air flows over complex terrain and has national applicability.

Thank you very much for your consideration of our request.

PREPARED STATEMENT OF THE NORTHWEST INDIAN FISHERIES COMMISSION

Mr. Chairman, and Honorable Senators of the Committee, I am Billy Frank, Jr., Chairman of the Northwest Indian Fisheries Commission (NWIFC) and on behalf of our member tribes I would like to thank you for the opportunity to offer written testimony concerning the Department of Commerce fiscal year 2001 appropriations that pertain to Pacific Salmon Recovery funding needs.

SUMMARY OF FISCAL YEAR 2001 APPROPRIATIONS REQUEST

In general, the Northwest Indian Fisheries Commission supports the Administration's appropriation request presently before the Subcommittee. We also support additional clarification language by the Committee pertaining to several issues. Specifically, we support the following:

—$100 Million for the Pacific Coastal Salmon Recovery Program in the Lands Legacy Initiative, with a set-aside of 10 percent ($10 million) to affected tribes for their management responsibilities. A specific allocation of the set aside for the Northwest Indian Fisheries Commission of $8 million is requested.

— $60 Million for the Pacific Salmon Agreement consistent with the recently signed treaty annexes.

—$3 Million for a Displaced Tribal Fishers Program.

—Support Additional ESA Program Funding to National Marine Fisheries Service (NMFS) and Earmark $530,000 for National Marine Fisheries Service and Tribal/NMFS ESA Task force.

INTRODUCTION

Twenty-six years ago, the *U.S.* v. *Washington* case was decided by the federal court system. This decision, respecting the treaty rights of our member tribes, propelled major changes in fisheries management in the Pacific Northwest. These changes have not only fundamentally altered the legal, political, social and economic institutions of the State of Washington, but have also fostered a nationwide quest for tribal self-determination and self-governance led in part by the Northwest tribal leadership. These parameters affect both the way tribes perform fisheries management, as well as how we approach the federal system during the budget appropriations and legislative processes.

TRIBAL PROGRAMS ARE ORGANIZED BUT UNDERFUNDED

We have made great strides in institutionalizing tribal management consistent with tribal values, treaty rights and federal court decisions. We have developed great professional capabilities and policy respect as we proceed through the various processes. We are efficient and effective, but we have significant unmet needs. While we have efficiently organized our tasks and have assigned responsibilities between the tribal community to extend our collective efforts, the management obligations are many. New and highly difficult complexities abound, many have been precipitated by the demands of the Endangered Species Act.

RECENT ENDANGERED SPECIES ACT SALMON LISTINGS HAVE SIGNIFICANTLY AFFECTED TRIBES AND NORTHWEST MARINE FISHERIES SERVICE

In late February, 1999, a number of species of Pacific Salmon were "listed" by the National Marine Fisheries Service as "threatened" under the terms of the Endangered Species Act (ESA). This ESA listing process has triggered a cascading chain of events, which have or will result in significant changes to harvest, hatchery, and habitat practices for the region and its inhabitants.

Tribes will be affected by this federal process. As fishers, the listing raises serious questions about the status of the stocks and poses a threat to the opportunity for these individuals to continue to harvest this salmon, a treaty secured resource. As governments, the ESA process now places inordinate demands upon the tribes as co-managers of the resource. Biological Reviews, Listing Decisions, Conferencing, Assessments, Opinions, Consultation, and Recovery Planning are just a few of the series of loops tribes will now be forced to participate in just to ensure their treaty protected fisheries. The tribes harvest opportunities and management certainty have been placed into severe jeopardy by these actions. Continued and expanded tribal funding to fulfill these federal mandates is essential.

Additional funding is also needed for the National Marine Fisheries Service so that they can actively participate in the many ESA functions that exist in the Pacific Northwest. NMFS is the key Federal agency charged with implementing the Act and requires additional funding to properly discharge their trust responsibilities to the tribes. We would like the Subcommittee to earmark $530,000 for a Tribal/NMFS ESA Task Force that brings tribal and NMFS technical and policy representatives together to implement the Act and trust responsibilities.

It is partly for these reasons that the tribes have worked very hard over the years to bring about positive and effective change in resource management. Unfortunately, events have overtaken tribal efforts, and new obligations are upon us.

$100 MILLION FOR THE PACIFIC COASTAL SALMON RECOVERY WITHIN THE LANDS LEGACY PROGRAM WITH A 10 PERCENT ($10 MILLION) TRIBAL SET ASIDE

Tribes were greatly appreciative of the Committee's efforts to include Pacific Coastal Salmon Recovery funding in last year's appropriation. We have long advocated for such a concerted partnership approach between federal, state, local and tribal governments to save the Pacific Salmon.

This year we are happy to support the Administration's funding request of $100 million to continue this effort through the Lands Legacy Initiative.

For many years, the tribes have sounded alarms about the declining status of the salmon resource caused in part by past state and federal policies. Tribes have actively participated in the implementation of the Northwest Forest Plan. Tribes have also worked diligently with the federal and state governments in implementing the Pacific Salmon Treaty and other conservation efforts. In local processes, tribes have begun to link their work with county and city governments to develop watershed recovery strategies. Connections between tribes and private interests, including the timber industry, environmental community, and volunteer organizations are in place, and expanding regularly. But for all of these efforts, tribes are in need of additional financial resources. Tribes need a consistent source of funding that allows them to actively work salmon restoration efforts. That is why a continued set aside for the tribes is essential. We support a 10 percent, or $10 million, set aside for the Pacific Coastal tribes for salmon restoration work. We also seek a specific allocation of $8 million from this amount for the Northwest Indian Fisheries Commission for the work described below.

As noted earlier, treaty tribes in western Washington have court-affirmed fisheries co-management authority and responsibility for salmon. This co-management relationship is well defined and institutionalized and has been recognized in harvest and hatchery management activities for many years. These same courts have recognized that without healthy habitat for salmon, the treaty right would not be fulfilled. This collection of rights places the tribes in a principal management role with the State of Washington to ensure that the salmon resource is managed wisely for the benefit of all.

This obligation for sound resource management weighs heavily on the tribes as more than three-quarters of the state is affected by several Endangered Species Act (ESA) listings, with many of the remaining areas experiencing declining levels of many salmon species. Salmon recovery will affect every resident of the state.

For tribes to take on these additional efforts and responsibilities, it is essential that we have adequate funding to fill new technical and policy positions. What follows is a general summary of tribal needs. Because the salmon recovery efforts vary greatly between watersheds, tribal needs also vary from one another. However, ad-

ditional tribal funding needs for capacity enhancement and technical analysis can generally fit into the following categories. These include:

—Infrastructure and Capacity for Policy and Planning

—Technical Assistance, Regional Coordination, and Integration.

TRIBAL INVOLVEMENT IN SALMON RECOVERY IS ESSENTIAL, BUT REQUIRES INCREASED MANAGEMENT CAPACITY

Each tribe has an existing fisheries management program, and will utilize its program as a base for salmon recovery efforts. Fiscal year 2000 budget funding has increased each tribe's ability to engage in salmon restoration activities and programs. This increased capacity has enabled the tribes to dedicate necessary staff and policy attention to work through various reviews, listings, consultations, rule developments, and conservation planning processes that have already begun as the National Marine Fisheries Service moves forward with legal requirements under the Endangered Species Act. Moreover, this infrastructure has also provided the tribes with additional capabilities to work through the various salmon restoration projects and activities that are under way within the region, which are detailed more fully in the "Regional Integration and Technical Assistance" section that follows.

TRIBES WILL BRING TOGETHER REGIONAL INTERESTS THROUGH TECHNICAL ASSISTANCE, COORDINATION, AND INTEGRATION THAT SUPPORTS SALMON RESTORATION

A coordinated tribal effort is necessary on a variety of "statewide" and "regional" issues facing the tribes and the State of Washington. Using the expanded capacity described above, tribes and their policy and technical staff will dedicate time and effort toward developing salmon conservation and recovery planning processes that are essential to salmon restoration.

Tribes, along with the State of Washington, will develop comprehensive species management plans for coastal river systems, Puget Sound chinook, Hood Canal summer chum, and Lake Ozette sockeye salmon. They will also work on conservation concerns for coho salmon, which in some areas are listed by NMFS as a "candidate" species for potential listing in the future.

Tribes will develop new hatchery genetic guidelines, stock productivity models, fishery guidelines and standards for local salmon recovery. Tribes will update the Salmon and Steelhead Stock Inventory (SASSI) and will complete the Salmon and Steelhead Habitat Inventory and Assessment Project (SSHIAP). These two data systems integrate stock status and habitat information, essential knowledge for effective salmon restoration and protection activities. SSHIAP is also an essential component for long-term habitat monitoring programs, including that of the recently enhanced forest practices program.

To make these activities complete, however, requires coordination and integration of the tasks at a number of levels. In some cases, special studies and assessments must be done. In other cases, regional and/or case-area-wide coordination must occur to ensure project completion.

This broad array of activities will allow the maximum flexibility for locally driven processes to determine which activities are most important for each watershed. This is essential as the current status of habitat inventories, wild stock assessments and hatchery impacts in each watershed are highly variable.

The following is a partial list of salmon restoration projects and activities that may be conducted:

—Watershed assessments, including habitat conditions, in-stream flow studies, water quality and quantity analysis pertaining to salmon productivity;

—Develop/design projects to address limiting factors;

—Compliance monitoring for regulatory components of salmon recovery;

—Habitat monitoring;

—Stock monitoring; and,

—Adaptive management monitoring, research, assessment and application.

It must be recognized that tribes also anticipate accessing various funds that are available to state governments for active watershed restoration and protection projects. These funds would come from monies provided by the subcommittee to state governments. In many cases, tribes will be in the best position to protect and preserve habitat through the purchase of riparian habitat. In other cases, tribes will have the best expertise and infrastructure in place to effectively complete restoration projects.

PACIFIC SALMON AGREEMENT REQUIRES FURTHER FUNDING

Many new demands have been placed on the United States and Canada as a result of the new 1999 Pacific Salmon Agreement. The Administration has proposed

a funding package of $60 million for fiscal year 2001 for two endowment funds and to support a License Buyback Program. The two endowment funds, partially funded in fiscal year 2000, will be administered by the Pacific Salmon Commission for habitat, stock enhancement, science and salmon management initiatives in both countries. The License Buyback Program will be used by the State of Washington to reduce fishing licenses and gear targeting sockeye salmon.

These funds are essential in order to implement the Agreement. Clearly, there have been very significant harvest reductions taken by the tribes as a result of this new Agreement. Unfortunately, harvest reductions alone will not bring back the salmon. These new funds will provide resources to the two countries to target a multitude of recovery efforts that are complimentary to the harvest reductions.

TRIBAL FISHERS BEAR A HUGE BURDEN, AND FUNDS SHOULD BE FOUND TO SUPPORT THEM WHILE SALMON RECOVERY OCCURS

Tribes are very concerned about our displaced fishers. Unemployment rates on some reservations, which depend heavily on salmon fisheries now seriously curtailed due to low stock abundance, are as high as 80 percent. We would like the Committee to consider an extension of the successful federal "Jobs In the Woods" Initiative of the Northwest Forest Plan which utilized unemployed loggers. This program could be expanded for specific inclusion of tribal fishers. New funds for "fishers support" should also be found to ensure that tribal fishers could continue to make boat payments and leases during these low abundance periods. These funds could be earmarked from within the existing Department of Commerce budget, so long as they become available to the Tribal Fishers. It is expected that this program would cost about $3.0 million per year for the next decade.

CONCLUSION

We strongly urge the Committee to provide $100 million in funding for Pacific Salmon Recovery through the Lands Legacy Initiative. We ask the Committee to support the use of $10 million of these funds for use by the Pacific Coastal Tribes. Language directing $8 million of these funds to the Northwest Indian Fisheries Commission will enable us to actively engage in all phases of salmon recovery efforts in western Washington. These monies would be carefully managed to ensure results and accountability.

The new Pacific Salmon Agreement requires $60 million during fiscal year 2001 to build up the endowment funds and to buyback gear and vessel licenses. A new initiative to support displaced tribal fishers and ameliorate their financial burden will cost $3 million.

We thank you for your consideration of our request. We are available to answer any questions.

PREPARED STATEMENT OF THE UNIVERSITY CORPORATION FOR ATMOSPHERIC RESEARCH

On behalf of the University Corporation for Atmospheric Research (UCAR) and the university community involved in weather and climate research and related education, training and support activities, I submit this written testimony for the record of the U.S. Senate Committee on Appropriations, Subcommittee on Commerce, Justice, State, The Judiciary and Related Agencies.

This year UCAR, a university membership consortium composed of 63 North American institutions that grant the Ph.D. in atmospheric, oceanic, and related sciences, celebrates its fortieth anniversary of scientific discovery and university partnerships. The UCAR mission is to support, enhance, and extend the capabilities of the university community, nationally and internationally; to understand the behavior of the atmosphere and related systems and the global environment; and to foster the transfer of knowledge and technology for the betterment of life on earth. UCAR is a non-profit, Colorado-based corporation that manages and operates the National Center for Atmospheric Research (NCAR) and the UCAR Office of Programs (UOP). It is supported by the National Science Foundation (NSF) and other federal agencies including the National Oceanic and Atmospheric Administration (NOAA), the National Aeronautics and Space Administration (NASA), the Department of Energy (DOE), the Environmental Protection Agency (EPA), the Department of Defense (DOD), and the Federal Aviation Administration (FAA). In addition to its member universities, UCAR has formal relationships with approximately 100 additional undergraduate and graduate schools including several historically black and minority-serving institutions and 38 international universities and laboratories.

On behalf of this country's atmospheric sciences community, we urge the Committee to support the overall proposed budget of $2.90 billion for the National Oceanic and Atmospheric Administration (NOAA) for fiscal year 2001. This is an increase of $446 million over fiscal year 2000. The activities of NOAA provide a comprehensive approach to understanding the atmospheric and oceanic systems of the earth and to implementation of programs that save American lives, money and property. The weather and climate data collected by NOAA satellites, ships, ocean buoys, aircraft, and other instrumentation provide the foundation on which atmospheric sciences research is based. Support of this agency should be maintained at the highest possible levels during this era of rapid scientific discovery and intense, global economic competition. Within NOAA, we would like to comment on the following specific programs:

National Weather Service (NWS)

We urge the Committee to support the overall proposed amount of $710.2 million for NWS for fiscal year 2001. This is an increase of $53.2 million over fiscal year 2000. The work of the NWS protects life and property, enhances the national economy, and provides a national information database and infrastructure used extensively by the university community for research purposes. The proposed fiscal year 2001 budget enables the NWS to continue to make available critical weather and climate-related data, to improve weather prediction accuracy and warning lead times and to work to decrease weather related fatalities.

Advanced Hydrologic Prediction System (AHPS)

Within the NWS Operations and Research budget, we urge the Committee to support the proposed fiscal year 2001 amount of $1.0 million for continued national implementation of AHPS. This is a slight increase over fiscal year 2000. AHPS is a real time modeling and data analysis system that will significantly improve flood forecasting and water management in flood-prone areas such as the Mississippi and Ohio River Basins. This system will save lives and property by providing river stage forecasts one-to-two months in advance, a great improvement on the several days advance notice now available.

Advanced Weather Interactive Processing System (AWIPS)

Under NWS Systems Acquisition in the Operations, Research and Facilities (ORF) account, we urge the Committee to support the proposed fiscal year 2001 amount of $38.6 million for AWIPS Operations and Maintenance. This is a $6.6 million increase over fiscal year 2000 that will provide operations and maintenance for the fully deployed network of 152 AWIPS systems. This interactive computer system, the cornerstone of the recently completed NWS modernization and restructuring, integrates for the first time all meteorological and hydrological data, and all satellite and radar data. AWIPS is a critical source of data for the research community and enables the NWS to issue far more effective weather warnings and forecasts in a very efficient manner. Under NWS Systems Acquisition in the Procurement, Acquisition and Construction (PAC) account, we urge the Committee to support the proposed fiscal year 2001 amount of $17.3 million for AWIPS. This is a $1.36 million increase over fiscal year 2000 to continue development of AWIPS software. When integrated with NEXRAD Product Improvement technology, this new software will allow NWS forecasters to extend tornado warning lead time from an average of 11 minutes to 16 minutes and improve the accuracy of severe storm forecasts by over 20 percent.

Radiosonde Replacement Network

We urge the Committee to support the fiscal year 2001 request of $7 million for replacement and modernization of the upper air radiosonde network. This represents a very slight increase over fiscal year 2000 funding to support a network that provides critical upper air observations that are the principal data source for all weather forecasts and for much research. Funding will allow the NWS to replace antiquated computers, continue software development, and procure critical surface instruments.

Co-Operative Observer Network

We urge the Committee to support the requested increase of $2.3 million in fiscal year 2001 to sustain and modernize the volunteer operated Cooperative Observer Network. The network's 11,000 weather observation sites are used to maintain the country's climate record and to provide data to NWS local field offices and to university laboratories. In a recent report, the National Research Council recommended taking immediate steps to modernize this ailing, critical network. We look forward to seeing progress on this task during the next five years.

National Centers for Environmental Prediction (NCEP)

NCEP is comprised of nine centers within the NWS, all working together toward the common goal of using data for weather predictions and seasonal forecasts in order to save lives, protect property, and create economic opportunity. Weather Service field offices, other government agencies, research universities, and private meteorological services rely on NCEP's products. Many of the forecasts that reach the public via media outlets originate at NCEP. In recent years, the centers have been supported inadequately. Funding comes primarily from the NWS ORF account under Central Forecast Guidance, with a sizable percentage from Atmospheric and Hydrological Research. Both of these lines have recommended increases for fiscal year 2001. We urge the Committee to support NCEP at the highest possible levels through support for the Central Forecast Guidance request of $38 million and the Atmospheric and Hydrological Research request of $3.07 million.

Office of Oceanic and Atmospheric Research (OAR)

We urge the Committee to support the OAR PAC account request of $11 million which is an increase of $6.0 million over fiscal year 2000. This increase will provide additional infrastructure to advance climate and weather forecast modeling, to improve access to space-based and ground-based data holdings, and to create a system to efficiently manage high volumes of global change data critical to the scientific community.

However, we believe that the OAR activities supported by the ORF account are inadequately funded and urge the Committee to increase funding to $317.8 million from the current request of $307.8 million for the ORF account. OAR supports a world-class network of scientists and environmental research laboratories as well as partnerships with academia and the private sector in order to provide the sound science upon which decision makers can frame effective regulations to solve environmental problems. It conducts the research and technology development necessary to improve NOAA's weather and climate services, solar-terrestrial forecasts, and marine services. During the past 10 years, the purchasing power of the OAR labs has decreased by approximately 50 percent as costs associated with inflation and technological advances have far outpaced funds allocated. The fiscal year 2001 request level continues this trend with only a 2.1 percent increase over the fiscal year 2000 Revised Enacted Amount of $301.4 million. Erosion of the research base has occurred at a time when society's demand and economic need for the OAR labs' information services have increased dramatically in such areas as predictions of El Niño/La Niña events, tropical storm intensity, flooding and drought. To realize the full OAR potential benefit to society, additional funding of $10 million should be allocated in fiscal year 2001 to support OAR's critical mission of conducting the scientific research, environmental studies, and technology development needed to broaden our understanding of Earth's environmental systems. Some of OAR's most important research efforts conducted with universities include the following:

U.S. Weather Research Program (USWRP)

The USWRP, an interagency program authorized by Congress in 1992, was first mentioned in NOAA's budget in fiscal year 2000. Although the request of $2 million for fiscal year 2001 represents an increase of 100 percent over fiscal year 2000, it falls far short of the $12.5 million recommended in the Congressionally mandated implementation plan. The USWRP research community is poised to make significant gains in prediction capabilities regarding heavy precipitation and hurricane landfall location and intensity, the disaster relief savings of which would be many times the initial research cost investment, not to mention the value of lives saved. Last fall's hurricane season, with hundreds of miles of coastline needlessly evacuated and lives lost to poorly predicted inland flooding, demonstrates clearly the need for additional research as does the very costly missed forecast for this January's east coast snow storm. We urge the Committee to provide the USWRP with at least $4.5 million for fiscal year 2001. This is $2.5 million above the requested amount of $2 million for fiscal year 2001.

Since the USWRP is an interagency program the goals of which advance the NOAA mission, we would suggest that NOAA take the lead in collaborating with the National Science Foundation (NSF), the National Aeronautics and Space Administration (NASA), and the Department of Defense (DOD) to ensure appropriate support from these agencies.

Climate Observations and Services Initiative

This new line item will provide $28.0 million to meet the growing demand for timely data and information about climate variability, climate change and trends in severe weather events. Based on recommendations from recent National Research

Council reports, this initiative will allow repair of deteriorating data and observational systems as well as support new observations and infrastructure. We urge the Committee to support the fiscal year 2001 recommended funding of $28.0 million, $24.0 million of which is within the OAR ORF account, for the new Climate Observations and Services Initiative.

Climate and Global Change Program

We urge the Committee to support the $67.1 million proposed budget for Climate and Global Change, a small increase over the fiscal year 2000 budget. This program is an integral part of the interagency U.S. Global Change Research Program (USGCRP) and addresses an important aspect of global change—understanding the global climate system. The increase of $493,000 will be used to improve the regional specificity and detail of climate forecasts, essential progress to advancing our understanding of the Earth's climate.

National Environmental Satellite, Data and Information Service (NESDIS)

For several years we have been concerned about the proposed level of funding in the NESDIS ORF budget. This ORF account is divided into support for the Satellite Observing Systems and the Environmental Data Management Systems. The Satellite Observing Systems provide services in designing, developing, and operating civilian satellite systems for the purpose of observing ocean, and atmospheric conditions and the sun. These are observational tools critical to improving our knowledge of the complex environmental systems in which we live. The rich data collected by these systems is then acquired, processed, analyzed, archived and disseminated through the Environmental Data Management Systems to commerce, industry, agriculture, science and engineering, the general public, and government at all levels. While the Satellite Systems function collects data, the Data Management Systems function makes those data useful and available. Both sides of the equation are of equal importance, but we feel that funding for the data management side is continuing to erode.

Funding for the Environmental Data Management Systems line is proposed to decrease from $52.3 million in fiscal year 2000 to the requested $44.7 million. Within the NESDIS ORF account, we urge the Committee to support Satellite Observing Systems at the requested $63.4 million (up from $52.3 million in fiscal year 2000) and we urge the Committee to increase Environmental Data Management Systems funding from the requested $44.7 million (down $7.5 million from fiscal year 2000) to an amount that accounts for inflation and shores up insufficient base funding in order to allow adequate care of a very important national database.

Minority Serving Institutions

We urge the Committee to support the requested $17.0 million to fund NOAA-wide educational training relationships through partnerships with a consortium of Minority Serving Institutions (MSIs). This program is budgeted within NOAA's Program Support ORF account. In order to have a productive scientific workforce now and in future years, the pool of qualified applicants must be as diverse as the population at large. Under-representation of minorities in earth science disciplines is a serious issue that must be addressed by multiple programs across multiple agencies and institutions. We believe that NOAA's Minority Serving Institutions initiative should be fully funded for the current and future benefit of the entire scientific community and the country.

On behalf of UCAR, I want to thank the Committee for the important work you do for U.S. scientific research, education, and training. We appreciate your attention to the recommendations of our community concerning the fiscal year 2001 budget.

PREPARED STATEMENT OF THE YUKON RIVER DRAINAGE FISHERIES ASSOCIATION

ABSTRACT

The Yukon River Drainage Fisheries Association (YRDFA) requests a reauthorization of a $500,000 appropriation to the YRDFA for salmon habitat and stock restoration projects, to conduct research on the marine bycatch of salmon and to assess salmon productivity in the marine environment. Funds would be transferred to the YRDFA through a National Oceanographic and Atmospheric Administration/National Marine Fisheries Service grant.

YRDFA'S CURRENT RESEARCH EFFORTS

In the fiscal year 2000 budget Congress authorized a $500,000 appropriation to YRDFA for "habitat restoration, monitoring projects, stock assessments and bycatch

research." YRDFA is currently developing the final list of projects to be carried out with this appropriation and finalizing grant award paperwork with the National Marine Fisheries Service. YRDFA's current research plans for the year 2000 are divided into four objectives:

—Stock origins, migration patterns and marine productivity of Bering Sea chinook salmon
—Habitat restoration of Yukon River drainage salmon streams
—Stock restoration through instream incubation technology
—Chinook smolt productivity analysis and outmigration.

Stock origins, migration patterns and marine productivity of Bering Sea chinook

Analysis is focusing on scales from chinook collected by observers in the Bering Sea trawl fisheries from 1997–1999. The first year of the study would involve processing observer program samples, getting baseline scales from agencies, digitizing baseline scales, and developing and testing classification models. The second would focus on digitizing and analysis of observer program samples and report writing. Chinook data from NPAFC high seas cruises and other sources will also be examined.

Anticipated primary results are: identification of trawl salmon bycatch into broad regional stock groupings, e.g.: western Alaska, central Alaska, southeast Alaska/British Columbia that will enable managers to adjust trawl fishing effort to avoid stocks that are having conservation problems. Likely secondary results are improved understanding of migration patterns and marine productivity (i.e., ocean survival rates) of Bering Sea chinook that will enable managers to better forecast returns of adult chinook salmon and to assess impacts of changing ocean conditions (temperature, food supply, etc.) on chinook stocks.

Habitat restoration of Yukon River drainage salmon streams

Efforts will focus on improving access of chinook and chum salmon to spawning and rearing areas currently impeded due to historical mining activity. Methods would include realignment and regarding of stream channels, streambank reclamation, floodplain modification, construction of fish habitat structures and enhancement of fish passage to access spawning and rearing habitat. Likely project locations include Sourdough, Ruby, Faith and Hope Creeks, the Birch Creek watershed and the Minook Creek watershed. As part of this effort YRDFA will also work with local miners—many of who still have active claims in these areas—to educate them on the importance of protecting and restoring fisheries habitat.

Stock restoration through instream incubation technology

Habitat restoration activities such as those described above as well as USFWS and BLM efforts to build an access channel around the FE dam (Davidson Ditch) on the Chatanika River will open up new areas for salmon. In some cases, however, salmon spawning in these areas would benefit from a "jump-start" through the use of instream egg incubation boxes to greatly improve winter egg-fry survival rates. YRDFA will also survey other road-connected streams for possible installation of incubation boxes to serve as demonstration projects and feasibility tests. Additional streams to be surveyed include the Nenana, Delta, Chena, Salcha and Goodpaster.

Chinook smolt productivity analysis and outmigration

Trapping of juvenile chinook near the Chena River flood control dam and other streams will enable us to gain a better understanding of their overall health and to collect baseline data which will enable fishery managers to make better forecasts of salmon returns in future years. While the database on the number of adult spawners has been steadily improving since 1994, little data is available, other than that collected by USGS, on egg-to-fry survival rates and general health of smolt and juvenile salmon. In addition to the Chena River YRDFA will attempt to survey select index streams in different sections of the drainage such as the lower Yukon and the Koyukuk River.

So as to maximize the effectiveness of research dollars YRDFA will be working closely with various agencies and researchers. Cooperating entities include the Alaska Department of Fish & Game, the U.S. Fish and Wildlife Service, the Bureau of Land Management, the U.S. Geological Service and the University of Washington, School of Fisheries.

FISCAL YEAR 2001 REQUEST

For fiscal year 2001 the YRDFA requests a reauthorization of $500,000 in funding. If these funds were received YRDFA would be able to:

—restore additional habitat and expand salmon restoration efforts in the upper Yukon and Tanana drainages especially in the Tofty mining area. Every spawning ground restored would help to reclaim the biological and genetic diversity of Yukon salmon stocks. As with the fiscal year 2000 appropriation YRDFA will be working closely with the Bureau of Land Management and the Alaska Department of Fish & Game, Habitat Division.

—analyze chinook bycatch data from the 2000–2002 fishing seasons. These data, when coupled with the 1997–1999 data currently under analysis, will enable managers to structure groundfish fisheries to avoid salmon stocks of concern.

—better predict future returns of salmon through analysis of inter-annual growth of juvenile salmon and analysis of marine productivity. YRDFA will examine ocean conditions (temperature, food supply, etc) and correlate these conditions with indicators of the at-sea survival rates of salmon.

Budget estimates for this request if fully funded are as follows: YRDFA staff support—$120,000, Habitat and stock restoration—$100,000, Chinook bycatch analysis—$130,000; Marine productivity assessment—$150,000.

CLOSING STATEMENT

In summation our research funding request aims to fill information gaps not addressed by current agency research plans. Yukon River salmon are a vital resource to more than 14,000 Alaska residents in 42 different communities. The annual wholesale value of the commercial salmon fishing industry approaches $10,000,000. Yukon River chinook and fall chum salmon also spawn in Canada and are currently the subject of negotiations between the two countries.

Our research program will aid significantly in the management of this resource. Thank you for this opportunity to submit written testimony.

DEPARTMENT OF STATE

PREPARED STATEMENT OF NEW YORK UNIVERSITY

Thank you for allowing New York University (NYU) to submit testimony on behalf of the International Center for Democratic Public Service. NYU is requesting $5 million for the technological and communications facilities to link its training and resources to public servants in other nations.

Through its Robert F. Wagner Graduate School for Public Service, NYU has established itself as the leader in training international public servants for democratic public service. The Wagner School, working with leaders of international NGOs and U.N. officials, has implemented a unique new program that provides focused and practical education and training for managers of international development, advocacy and relief programs. The list of countries where we already have had in impact include: Ukraine, Georgia, Mozambique, Slovak Republic, Astonia, Romania, Latvia and Lithuania. The University is now looking to centralize and focus its efforts in this area by establishing a new International Center for Democratic Public Service.

As a first phase, the University has identified a technology/communications hub as central to the goal of linking public servants throughout the globe to the faculty and resources of NYU. The goal is access to the full range of distance learning technologies including digital televideo and data transmission, satellite communications, and internet services, including video for faculty and students. To reach its goal, NYU will reach out to both private and public sources for funding and will draw on other sectors of the University, such as law and business.

We hope you will find this project worthy of your support.

PREPARED STATEMENT OF THE UNIVERSITY OF MIAMI

Mr. Chairman and Members of the Subcommittee, I appreciate the opportunity to present this testimony and to seek your support in fiscal year 2001 for two projects at the University of Miami. First, a timely and new initiative, the Cuba Transition Project in the Institute for Cuban and Cuban-American Studies and, next, continuing support for a unique national resource, the Dante B. Fascell North-South Center.

The Cuba Transition Project

The University of Miami is poised to play an important role in a Cuba transition because of its location, programs, material and human resources, language capability, and historical association with Cuba. The Institute for Cuban and Cuban-

American Studies is the coordinating body for all University activities on Cuba. It manages the Cuba On Line database, the only database of historical and contemporary information on Cuba and is the secretariat of the Association for the Study of the Cuban Economy (ASCE), which brings together the most highly qualified economists worldwide studying the island.

The Cuba Transition Project is designed to provide policy makers, analysts, and others with accurate information, incisive analysis, and practical policy recommendations. The Cuba Transition Project is designed to be adaptable to the constantly changing circumstances of Cuba reality and of U.S.-Cuban relations. Its work can be divided into five major areas: (1) research; (2) task forces; (3) study groups; (4) publications; and (5) professional development and education. Through the Institute for Cuban and Cuban-American Studies, the Project will include offices for research, facilities for conducting briefings and seminars, a website that will include a searchable database, and a distance learning component.

The Project's programs will be clustered in three phases: pre-transition, transition, post-transition. The emphasis during the first phase is on current conditions, critical issue areas, planning, and emergency aid. Programs are addressed primarily by Project researchers, task forces, study groups, and publications. Programs and briefings are directed primarily at congressional staff, officials, policy makers, analysts at multi-lateral and international agencies, and non-governmental organizations. Programs related to the transition phase combine the analytical work of the first phase with the practical necessities of an ongoing process of political, economic, and social transition. The target audience of the programs will eventually incorporate individuals resident on the island involved in the issue areas that the are focus of the Project. The main focus during the post-transition period will be on professional education, retraining, academic exchange, and distance learning. The basic mission of the Project remains the same during the three-step program: aiding and accelerating the transition from a centrally planned economy and communist party-state control to a free-market democracy.

For fiscal year 2001 we seek $10 million from the Subcommittee through the Department of State to establish, develop and implement the Cuba Transition Project at the Institute for Cuban and Cuban-American Studies at the University of Miami

The Dante B. Fascell North-South Center

Next, we seek your continued support for the Dante B. Fascell North-South Center. As you know, the Center has long enjoyed bicameral and bipartisan support and in fiscal year 2001 as in past years, from the Administration. The Fascell Center's mission is to promote better relations and to serve as a catalyst for change among the United States, Canada, and the nations of Latin America and the Caribbean. My colleagues there conduct programs of research, public outreach, education, training, and cooperative study. It publishes and disseminates policy-relevant information on the Americas. The programs and activities also foster linkages among academic and research institutions, NGOs, governmental institutions both civilian and military, and philanthropic and private sectors throughout the Americas.

We are convinced that such a mission is fundamental to the national interest. Informed and balanced analysis and improved understanding of our neighbors in the Western Hemisphere provide us great opportunities to enhance our economy, expand our jobs, and learn of risks before they reach threatening proportions. The United States has long equated stability in the region with its own security interest. The maintenance of that stability today requires a sophisticated partnership among the countries of the Hemisphere. It also demands continually new approaches in U.S. policy.

Fulfilling a singular role in inter-American affairs, the Center's programs produce nonpartisan, policy-relevant analysis and discussion of key issues directly affecting the lives and well being of U.S. citizens. Unlike partisan institutes and advocacy groups, the Center engages vital inter-American issues such as trade, investment, competitiveness, security, corruption, civil-military relations, institutional reform, drug trafficking, immigration, and the environment from the perspective of the public good. Unlike academic institutions, the Center devotes its efforts toward publishing accessible and relevant analyses for diverse audiences, including legislators, government officials, NGOs, and the private sector. Our goal is to find viable solutions to the problems confronting the nations of the Western Hemisphere.

The Center is a reflection of the belief that the nation benefits when the great issues of the Western Hemisphere are analyzed and debated by private sector and nongovernmental groups under the auspices of a neutral forum. Governments cannot successfully convoke and organize nongovernmental opinion, and academic institutions have a different mandate. As a respected, independent, public policy institution—fully cognizant of the special responsibilities attached to its federal funding—

the Center has served this function successfully. It is crucial that business people, professionals, and nongovernmental organizations have a trusted, nonpartisan policy center that can assist them in exchanging opinions and bringing their views to the attention of policymakers.

The North-South Center's activities are rooted in democratic values, transparent, efficient and effective government, market-driven economic prosperity, environmentally sustainable development, and social justice. Recent events have made the Center's work and the values it promotes all the more relevant to the American people. While maintaining a commitment to its core mission and shared values, the Center is also responding to new threats and opportunities. With its wide array of linkages with government, business, labor and other civil society actors in the Americas, the Center is actively engaged in developing partnerships and new approaches to tackling the complex problems remaining before the region.

The Center receives financial contributions from a variety of government agencies, private foundations, corporations and individual donors. Such contributions are directed toward specific programs and projects, and do not normally cover core operations and overhead costs. Congressional appropriations for core staff and operations allow the Center to fulfill its congressional mandate while supporting efforts to increase funding from other sources. Over the past year, the Center has been making appropriate responses to an independent evaluation of its programs and operations completed in November 1998. In addition to the refocusing of research and outreach projects into areas with greater potential for private funding, the Center is also engaged in the development of an international advisory board.

Advancing Market Reforms and Democratic Development

In the Latin American and Caribbean context, one key set of problems is clustered around the question of how to advance and deepen market reforms, while assuring that citizens share broadly in their benefits and are cushioned from the harshest effects of the accompanying adjustment process. Center researchers engage these concerns through ongoing research and policy analysis of trade and economic integration (Free Trade Area of the Americas), studies on addressing poverty and inequality through enhanced human capital accumulation and institutional reforms, empirical studies of sectoral performance (e.g., textiles, tourism), surveys of shifts in corporate strategies, and examination of the effects of restructuring on patterns of migration and immigration. A second set of problems relates to weaknesses and flaws in the region's democracies. Chief among these are weaknesses in political representation, failures in the rule of law, and unresolved issues in civil-military relations. The Center will continue to address these through research on civil society participation and the role of political parties, analysis of judicial reform, and study of the lingering influence of the military in domains beyond those typical of civilian-led democracies. This last area is further embedded in the Center's overall work on inter-American security issues, which includes narcotrafficking. A third set of issues relates to environmental concerns and their integration into a broader vision of sustainable development. Here, the Center pursues program activities that look into the means of achieving environmentally sustainable trade and ways of instituting new regimes of environmental law. The Center will also continue to contribute to the framing of new understandings of the linkage between environmental stresses and human security.

Building Human and Institutional Capacity

One of the most pressing challenges facing Latin American and Caribbean countries is the development of human resources and institutions capable of maximizing the benefits of free markets and democracy. The shift toward market incentives requires the development of the corresponding capacity to provide the regulatory mechanisms and public information functions necessary for avoiding market failures and suboptimal service delivery. To contribute toward this need, collaborative practical training and education seminars in capacity building will be a central focus of the North-South Center. These activities address such areas as new public-private partnerships in social services, the enhancement of consumer safety and standards, the strengthening of laws related to environmental stewardship, and human resource training in telecommunications, banking, port management, and public security. The Center's collaborative endeavors in capacity-building also serve to extend and deepen its ties with local institutions and organizations throughout Latin America and the Caribbean that work in these professional fields and issue-areas. Building on the successes of these projects in 1999, the Center plans to expand into new areas (including telecommunications, energy and banking regulation) in order to develop human resources and institutions in support of free markets and democracy.

The New Public Diplomacy

The Dante B. Fascell North-South Center conceives of and implements its outreach programs in the context of a clear recognition of the growing significance of strengthening civil societies throughout the hemisphere. As a consequence, the Center will continue its role as a facilitator and catalyst for public dialogue, actively seeking to bring together civil society organizations, including representatives from the private sector, to generate ideas and offer recommendations that both enhance the agenda of policy options for public officials and deepen the level of democratic participation in the policy process. Having developed a widely recognized track record of significant contributions to the Summit of the Americas process since its inception in Miami in 1994, the Center will continue to seek out expertise from civil society to monitor and evaluate the implementation of Summit commitments in advance of the Summit of the Americas III in Canada in 2001. Similarly, the Center will continue its series of Diplomatic-Private Sector Roundtables in Washington, which provide a forum for frank discussion of emerging and high-priority policy issues.

The publications of the Dante B. Fascell North-South Center Press serve as the most effective and enduring means of disseminating the research results and policy recommendations produced by the Center. The Press produces a focused set of publications, including peer-reviewed books, the North-South Agenda Papers, North-South Issues Reports, North-South Update (a short policy brief issued biweekly to government officials and key policy analysts), and timely white papers aimed to provide input to the Summit of the Americas process. The Press ensures that all Center books, papers, policy briefs, and reports adhere to the highest standards of quality, style, and accessibility. In 2001, the Dante B. Fascell North-South Center will seek to increase the number of its publications appearing in Spanish and Portuguese.

Today's Agenda of New Opportunities and Lingering Problems

Mr. Chairman, the interdependence between our neighbors in the Western Hemisphere affects the daily lives of our citizens more than any other region of the world. More Americans fly south to Latin America and the Caribbean each year than to either Europe or Asia. Policy decisions on such inter-American concerns as immigration, drug trafficking, and transborder pollution have immediate impacts on the quality of life of U.S. citizens. Trade with Latin America and the Caribbean will soon surpass that of Europe and Japan combined. The financial stability of countries like Mexico and Brazil has significant ripple effects in global markets and far-reaching implications for U.S. exporters. The North-South Center engages these issues by providing ideas, analysis, and policy options that will support our nation's interests.

There are many reasons to be optimistic about the region's future. The nations of the hemisphere have made remarkable progress in recent years in terms of market reform and democratic governance. Inflation is down, trade and investment are up, and free and fair elections have become the order of the day in most countries. Yet, many of the nations of the Western Hemisphere are still burdened by enduring historical legacies, and many societies are still negotiating the difficult passage from old problems to new paths of development. Latin America remains the region of the world with the greatest gap between rich and poor and the tension between intractable poverty and steady but modest growth presents a constant challenge for the hemisphere's governments and political leaders. In the past year, this has been particularly true in the Andean nations, where a problematic constitutional reform process has taken place in Venezuela; concerns have been raised about abuses by the executive in Peru; a disturbing, albeit limited, coup has occurred in Ecuador; and the effort to halt the drug trade and bring about reconciliation in Colombia has taken on dramatic proportions. All of these developments are indications of how tenuous the progress to date in the region can be. For fiscal year 2001, we seek $1.75 million, the continuation funding requested by the Administration.

Mr. Chairman, we recognize that this will be another difficult year. However, we hope that you and your colleagues on the Subcommittee will find it possible to support these two important initiatives that deal with issues of crucial importance to U.S. citizens, the Cuba Transition Project and the Dante B. Fascell North-South Center.

INDEPENDENT AGENCIES

PREPARED STATEMENT OF THE UPPER MISSISSIPPI RIVER BASIN ASSOCIATION

The Upper Mississippi River Basin Association (UMRBA) is the organization created 19 years ago by the Governors of Illinois, Iowa, Minnesota, Missouri, and Wisconsin to serve as a forum for coordinating the five states' river-related programs and policies and for collaborating with federal agencies on regional issues. As such, the UMRBA has an interest in the budget of the Maritime Administration.

Of particular concern to the UMRBA is funding for MARAD Operations. The President's fiscal year 2001 budget proposal includes approximately $32 million for this account. Among other things, the MARAD Operations budget supports research and development efforts, which help advance ship design, construction, and operations. For example, MARAD funding has been used to support the design of prototype mooring buoys used on the Upper Mississippi River. Such buoys allow tows to tie up safely while awaiting lockage, thus avoiding environmental damage that might be caused by mooring to the shoreline. Funding for research and development efforts such as these is critical to the safety and efficiency of commercial navigation on this nation's inland waterway system.

In addition, the MARAD Operations account supports MARAD field offices on the inland waterway system, such as the office located in St. Louis, Missouri. The St. Louis office is situated at the confluence of the Mississippi, Missouri, and Illinois Rivers, on which move much of the Midwestern grain destined for international markets. Such field offices are essential for MARAD to maintain its involvement in an increasingly wide variety of interagency and interstate river management issues.

The UMRBA supports adequate funding for the Maritime Administration's Operations account.

PREPARED STATEMENT OF THE LOVELACE RESPIRATORY RESEARCH INSTITUTE

It is proposed that the Small Business Administration support the start-up operational costs of a technology-based incubator in Albuquerque, New Mexico to assist in the attraction, admission, incubation and graduation of technology based companies that create new and better jobs for New Mexicans.

The Business Technology Group

In the fall of 1997, Dr. Robert Rubin, CEO and President of the Lovelace Respiratory Research Institute (LRRI) convened a broad coalition of community leaders, representing the core Central New Mexico business and educational institutions. The subject of the meeting was to consider ways to help improve the future economic stability of the area, given the change of focus to the national laboratories, which form a critical economic base for the area. The outcome was the formation of a new technology based incubator to attract companies to New Mexico, and assist the formation of companies to commercialize technology coming from the national laboratories, the University of New Mexico (UNM) and LRRI.

LRRI and UNM merged its incubator (Albuquerque Technology Incubator), along with other private efforts to incubate companies, into the Business Technology Group (BTG). The initial steps to form BTG continued throughout 1998, and DOE through its Office of Community Worker Transition, provided $100,000 as initial funding to assist in the formation of BTG.

The initial founder's intentions proved to be well founded. BTG has accomplished in its first year, what most similar incubators accomplish in their fourth or fifth year of operation. The BTG aim and strategies are working. BTG has forty-one technology-based companies housed in its three campus locations. There are approximately five others waiting for consideration to join BTG. This initial cadre of companies forms the critical mass for graduating successful technology based companies that provide New Mexicans with new and better jobs.

One problem does continue to exist.

There is an urgent need to provide a small and effective staff that will better utilize volunteer services to support the incubatee companies and to build an infrastructure of services to accelerate the growth of these start-up companies.

Current Status

BTG's ability to provide superior technical facilities and equipment makes it nationally competitive to attract high potential technology based entrepreneurs. BTG's founders formed a public/private venture, providing the following non-cash inducements for companies to join BTG:

—Created 120,000-sq. ft. of subsidized superior laboratory and manufacturing space and 35,000-sq. ft. of office space with total annual savings to incubatees amounting to $104,800.
—Immediate access to office equipment, furnishings and superior laboratory equipment valued at $450,000 and use of umbrella coverage under existing regulatory permits: Machine shops, large storage areas and high-bay working areas; Animal care for scientific studies; Radiation control and chemical waste treatment facilities; and Electrical and wet laboratory facilities.
—Annually, over 5,000 volunteer hours, which at the rate of $50 per hour amounts to $250,000 of professional, administrative and technical assistance.
—Currently, total private non-cash contributions approach $840,000 per year.
—BTG companies currently provide 200 technology-based jobs.

In conclusion, the BTG concept is working. It is at a critical stage for growth into a long-term viable institution that plays a critical role in the development and diversification of New Mexico's economy. New Mexico is a wonderful place in which to live. Its economy is below national averages in most or all indicators. BTG is working to improve this economic condition. We request $400,000 in start-up funding to bring stability to BTG. Mr. Chairman, and members of the Committee, we respectfully thank you for your consideration of our request.

PREPARED STATEMENT OF THE INVESTMENT COMPANY INSTITUTE

The Investment Company Institute[1] appreciates this opportunity to submit testimony to the Subcommittee in support of the fiscal year 2001 Appropriations request for the Securities and Exchange Commission (SEC). The Institute would like to commend the Subcommittee for its past efforts to assure adequate resources for the SEC.

Mutual funds are an integral part of the U.S. economy and have become one of America's primary savings and investment vehicles. More than 78 million investors in over 48 million U.S. households own mutual fund shares today and, since 1990, the percentage of U.S. retirement assets held in mutual funds has more than tripled. Moreover, most mutual fund investors are ordinary Americans; the median household income of fund shareholders is $55,000. These millions of average Americans deserve continued vigilant regulatory oversight of mutual funds. For this reason, sufficient funding of the SEC should be a priority. The Institute urges Congress to provide appropriations at a level sufficient to ensure the SEC's ability to fulfill its regulatory mandate.

The Administration's fiscal year 2001 budget proposes SEC funding at a level of $422.8 million. The Institute supports this level of funding to sustain the SEC's operations, especially those of the Division of Investment Management, which regulates the mutual fund industry. While we are also pleased that the fee rate for registration statements and other filings pursuant to Section 6(b) of the Securities Act of 1933 has decreased in accordance with the National Securities Market Improvement Act of 1996, we remain concerned that SEC fees will generate revenues significantly in excess of that required to fund SEC operations. In the current fiscal year, for example, it is anticipated that Section 6(b) fees will generate revenues of more than one billion dollars, while the SEC's budget is $367 million. The Institute has supported and will continue to support adequate financial resources to provide effective regulatory oversight of mutual funds, but we also believe that the fees should be reflective of their intended purpose, that is, to offset the costs associated with the activities of the SEC.

Adequate financial resources are essential for the SEC to continue its effective regulatory oversight of the securities markets and to carry out important investor protection and awareness initiatives. Such resources will enable the SEC to complete its many important initiatives, which include, among other things, finalizing significant rule proposals on fund governance issues, developing new rules for mutual fund advertising, and addressing disclosure of after-tax returns.

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[1] The Investment Company Institute is the national association of the American investment company industry. Its membership includes 8,021 open-end investment companies ("mutual funds"), 496 closed-end investment companies and 8 sponsors of unit investment trusts. Its mutual fund members have assets of about $6.728 trillion, accounting for approximately 95 percent of total industry assets, and over 78.7 million individual shareholders. Many of the Institute's investment adviser members render investment advice to both investment companies and other clients. In addition, the Institute's membership includes 402 associate members which render investment management services exclusively to non-investment company clients. A substantial portion of the total assets managed by registered investment advisers are managed by these Institute members and associate members.

The SEC will also be conducting routine and special inspections of investment advisers and fund companies, continuing its review of fund prospectuses and fund profiles under the new disclosure rules, and responding to projected increases in the number of interpretive requests, shareholder letters, and exemptive relief requests submitted by investment management participants.

Moreover, the SEC will address significant equity market structure issues, such as decimalization, concerns over market fragmentation and after-hours trading, and will respond to the many challenges new developments in technology will bring. Finally, the SEC will continue its ongoing investor education initiatives.

These initiatives will benefit the millions of Americans invested in mutual funds and are integral to fulfilling the SEC's mission of protecting investors and maintaining the integrity and the efficiency of the nation's securities markets.

Equally important to having adequate financial resources to fulfill these initiatives is the SEC's ability to maintain adequate staffing resources. To this end, we believe that it is essential that the SEC be able to combat the high attrition rate of its professional staff, which, over the last two years, has resulted in a loss of 25 percent of its attorneys, accountants and examiners. Accordingly, we support the SEC's retention initiative, which would raise staff compensation to levels comparable with the banking regulatory agencies. We believe the proposed increases would go far in raising employee morale, thus enhancing the SEC's recruitment and retention efforts. Attracting and retaining qualified staff obviously are necessary in order for the SEC to fulfill its mandate.

We appreciate your consideration of our views.

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