

**COMMERCE, JUSTICE, SCIENCE, AND RE-  
LATED AGENCIES APPROPRIATIONS FOR  
FISCAL YEAR 2010**

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**THURSDAY, JUNE 4, 2009**

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

The subcommittee met at 9:31 a.m., in room SD-192, Dirksen Senate Office Building, Hon. Barbara A. Mikulski (chairman) presiding.

Present: Senators Mikulski, Lautenberg, and Shelby.

DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

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

STATEMENT OF SENATOR BARBARA A. MIKULSKI

Senator MIKULSKI. Good morning, everybody. Today the Commerce, Justice, and Science Subcommittee will hear from FBI Director Mueller on the FBI's budget priorities for fiscal year 2010. We welcome the Director of the FBI, who is no stranger to this subcommittee, having now been the Director for 8 years.

This hearing will not only ascertain the appropriations needs of the FBI, but I also thought it would be a good time to take stock of where we are, not to in any way step on the toes of the Intel or Judiciary Committee. But the FBI is a wonderful and unique agency. It has iconic status in the minds of the American people. The American people count on the FBI to protect them from those people that have predatory intent against them, whether it's in streets and neighborhoods, whether it's when they go to get a mortgage, whether their children are on the Internet, or whether their a terrorist who would like to take down the United States of America.

We're going to do something unique today. We're going to have a public hearing on the appropriations and then we will also have a classified hearing. For those not familiar with what the Congress did after 9/11, when we had to see how we would deal with the threat of terrorism, the question was would we create a new agency, kind of an MI-5, or would we do an agency within an agency?

We created within the FBI a very robust effort on fighting terrorism. Many of the things to be discussed regarding what tools the FBI needs to meet that national mandate must occur in a classified

setting. So for the first time CJS will hold a classified hearing, and we will look forward to hearing what the FBI does.

I have been concerned for some time. Because that work is unseen, as it must, and so it's not often understood by policymakers and those who formulate the budget. So today we will be in an appropriate classified, secure forum where we can get to know more rigorously what the FBI's doing and then what we need to do. As part of the national mandate we gave to them, what is the national mandate we need to give to ourselves to make sure the FBI has any and all appropriate resources?

We're pleased that the President today is abroad making as many friends as we can, but we also know that there are many people who, as I said, have this predatory intent.

Today and at this particular part of the hearing, we want the FBI to know how proud we are in how they fight to protect Americans. They dismantle organized crimes and drug cartels. They combat drug violence. They solve kidnapping and extortion cases. They rescue the vulnerable from illicit traffickers. They protect children against pornography on the Internet and they investigate and prosecute corrupt public officials. We want to make sure the American people fully appreciate them and we want to make sure that they're fully appropriated.

As I said, the FBI was given a new mission after 9/11. There are essentially what we call four decision units—a wonderful way of talking about it when we talk about the FBI. I'm just going to review them briefly, go over the President's budget, and then want to turn to Senator Shelby, who I know has also a defense hearing.

There are four decision units, meaning how the FBI is organized for budgetary purposes. There is the intelligence unit, which is requesting \$1.64 billion. This is \$150 million over the President's fiscal 2009 request. This Intelligence Directorate includes field agents, virtual translation center, language analysis, and foreign terrorist tracking service.

We also have a counterterrorism and counterintelligence unit. That is a \$3.4 billion request, 9 percent over fiscal 2009. Counterterrorism means detecting and defeating terrorist operations before they occur—it's a pretty big job, and that's what we'll talk about—making sure that weapons of mass destruction are not built or detonated or imported to the United States. They're dealing now with the new threat of cyber computer intrusion, which goes to the President's cyber security initiative, and the foreign counterintelligence program and the critical response.

That which the American people are most familiar with is the criminal enterprise and Federal crime decision unit. This is a \$2.8 billion request, \$130 million above the fiscal 2009 appropriated level. The criminal enterprise deals with cyber crime, organized crime, trafficking, children's pornography, and of course the public corruption cases.

Then there is the criminal justice services unit, which is \$427 million, \$8 million over last year's \$418 million. The criminal justice services unit includes crime information on stolen property, the national computerized fingerprint check system, which local governments rely on so much, the FBI forensic laboratory, and many others.

We know that the FBI has new initiatives on the home front that we have asked them to take up. Senator Shelby has been a real leader on this in the Banking Committee. Senator, I'd like to commend you for that, on mortgage fraud. This subcommittee was one of the first to blow the whistle, if you will, to our colleagues or, shall we say, sound the horn on alert, that there was fraud as part of this economic meltdown, as thousands and thousands of Americans lost their homes. It was one thing to lose your home because you had lost your job; it was another thing to lose your home because of fraud.

So the FBI is asking for 50 new agents and 61 new forensic accountants, for a total of 225 agents, 42 fiscal analysts, and 61 forensic accountants to investigate complex financial investigations. We look forward to seeing if that is adequate enough.

We also know that we continue our very strong efforts in the area of child pornography and how that then ties in with the other aspect in our bill, with the missing persons unit.

The FBI also has responsibility for investigating Federal civil rights law, which means hate crimes, human trafficking, and access to Federal clinics. We have agents working on this and we need to continue work on it. I was appalled when Dr. Tiller was assassinated in a church on Sunday. I believe it is a hate crime. I'm glad that the person who assassinated him has been arrested. I look forward to a speedy trial and I look forward to those who use violent words to promote violent actions taking responsibility for it. But we're glad that the FBI is on the job for investigating hate crimes.

There are many other issues that we want to go over, but we want to hear more from Director Mueller than from ourselves. I'd like to turn to Senator Shelby for his statement. Senator, I would like to also yield to you for a first round of questions because we've got defense today. Well, we've got two defense hearings, one in the defense and then another kind of defense. So why don't I turn it over to you, and use such time as you want and ask any questions you want.

#### STATEMENT OF SENATOR RICHARD C. SHELBY

Senator SHELBY. Thank you. Thank you, Madam Chairman. I will put—with your permission, I'll put my questions in the record if I could.

But, Mr. Director, thank you again for appearing before the committee, but also thank you for the job you're doing as the leader of the Federal Bureau of Investigation.

I want to begin by also thanking the men and women of the FBI who worked to protect this Nation. We're indebted to them for the sacrifices they make to protect our country.

The FBI's role has changed dramatically, Mr. Director, as you know because you've been in the leadership there since 9/11. The mission now includes fighting terrorism, foreign intelligence operations, cyber crime, public corruption, white collar crime, and violent crime. Since 9/11 the FBI has shifted approximately 2,000 agents from the Criminal Division to address the expanding counterterrorism role for a good reason.

The FBI's request for fiscal 2010 is \$7.9 billion and, while this is a \$560 million increase over the 2009 funding level, many vital areas within the FBI remain underfunded, Mr. Director, as you know and we've discussed. With the shift of thousands of agents from the FBI's criminal mission to counterterrorism, a significant burden has been placed on our State and our local law enforcement agencies.

Mr. Director, while I'm grateful for the Bureau's efforts on thwarting terrorism—we all are—a 2 percent increase to the Criminal Division's budget is hardly a significant improvement in the investigative assets that you can provide as the head of the FBI to assist State and local partners to fight crime in our communities. We know that's a challenge on money and otherwise.

Because the Federal investigative assets are spread so thin, the concerns raised in the May 2007 inspector general report entitled "Coordination of Investigations by the Department of Justice Violent Crime Task Forces" are troubling. The report states that some DOJ components have nationwide policies that require coordination of task force operations. The ATF, the DEA, and the Marshall Service entered into memorandums of understanding that require their task forces to coordinate their operations. Yet the FBI to date to my knowledge has no policy of coordination.

To quote an FBI task force manager in the report, "The FBI only participates in joint investigations as the overall head agency and, because the FBI is the lead agency, the FBI special agents share information in accordance with FBI policy." I understand that, too, to a point.

Although this report was released in May 2007, 2 years ago, the situation does not appear to some participants to have improved. I continue to receive numerous complaints from various law enforcement agencies about the FBI's unwillingness to share information or encourage their State and local partners not to share with other Federal partners. I think this needs to be addressed and I think this is something you could do.

A lack of cooperation and refusal to share information helped lead to the worst terror attack in U.S. history. As the leader of the top law enforcement agency in the world, I hope you will take the initiative and at least address this problem the best you can.

Finally, the Terrorist Explosives Device Analytical Center, TEDAC, at Quantico, which we've talked about yesterday in my office, provides forensic analysis to the IEDs recovered in Iraq and Afghanistan. The need to exploit these devices, as you're well aware of, in a timely fashion for the military is critical to the safety of our soldiers, and it could be critical to our own citizens. This past Tuesday I met with Lieutenant General Metz, the Director of the Joint Improvised Explosives Device Defeat Organization. He showed me a picture of an FBI warehouse filled with boxes of evidence, stacked to the ceiling waiting to be processed. You can see it here.

It is clear that the current TEDAC at Quantico—and you've acknowledged this—is undersized, overwhelmed, and lagging. According to the Department of Defense, approximately 80 percent of the material submitted to TEDAC remains unprocessed and sits in warehouses. Most of the material sent in 2008 and 2009 has not

even received basic inprocessing and photography. At the FBI's rate of processing evidence, the Department of Defense indicates that it will take 20 years or more to clear the backlog. 20 years, that's too much, as you and I both discussed.

I believe that it's conceivable that somewhere within the warehouse of evidence, in one of those boxes, there might be a trace element of a fingerprint that could identify a terrorist bomb maker. By identifying that terrorist, he could be put out of commission and the lives of our warfighters and perhaps our citizens could be saved.

In the past 4 years the committee has provided, as we talked yesterday, the FBI with approximately \$86 million toward construction of a larger and more state of the art TEDAC. I hope that we can keep addressing this and build that facility, and I know you've indicated support for it.

Madam Chairman, I have a number of questions I'd like to submit for the record. I don't want to eat the time up. I do have a defense meeting I have to go to on Appropriations. But I will like to join you and the Director and others at your closed hearing later.

Senator MIKULSKI. Thank you very much, Senator Shelby.

Director Mueller, the floor is yours.

#### STATEMENT OF ROBERT S. MUELLER

Mr. MUELLER. Allow me to start by saying good morning, Madam Chairwoman, Ranking Member Shelby. It's an honor again to be here with you.

As you know, the FBI has undergone and, as you indicated, both Senators, we've undergone unprecedented transformation in recent years, combining better intelligence capabilities with a long-standing commitment to protect the American people from criminal threats. In so doing, we remain mindful that our mission is not just to safeguard American lives, but also to safeguard American liberties.

I want to thank the chairwoman and ranking member and other members of the committee for continuing support over the years, ensuring that the FBI has the adequate tools and resources to meet these threats from global to regional to local, or be those threats from a criminal, a terrorist, or a spy.

I would also like to thank members of your staff—Gabrielle Batkin, Erin Corcoran, Eric Chapman, Art Cameron, Goodloe Sutton—for their efforts in this regard and working with us on these budgets over the years.

The FBI's fiscal year 2010 budget request represents an outline of the resources needed for the FBI to succeed in its mission to keep America safe, while recognizing our responsibility to be good stewards of public funds. While my written statement and our budget request goes into greater detail, I do want to highlight a few specific areas, including cyber, economic crime, surveillance, and the FBI's infrastructure.

Certainly the threats currently present in the national security arena continue to be a grave concern. Terrorism remains our top priority and we cannot become complacent. We must continue to guard our country's most sensitive secrets from hostile intelligence

services. In addition to other measures, our budget request includes essential surveillance resources to combat these threats.

Our Nation's cyber infrastructure is also vulnerable to compromise or disruption, be it from a terrorist, a spy, or an international criminal enterprise. We must continue working to stay ahead of those using new and innovative methods to attack our networks, and our request does include resources to that end.

As each of you pointed out, these are by no means our only priorities. Economic crime, especially mortgage fraud and corporate fraud, presents a serious threat to our Nation. We are currently investigating more than 2,400 mortgage fraud matters, more than double the number from 2 years ago. We are investigating more than 580 corporate fraud cases and more than 1,300 securities fraud cases. We must continue our efforts in this area as it grows in magnitude and in scope.

Historically, the Bureau handled emerging criminal threats by transferring personnel within its Criminal Branch to meet the new threat. In response to the September 11 attacks, the FBI permanently moved approximately 2,000 of our criminal agents to our National Security Branch, as has been pointed out. This transfer has substantially improved our counterterrorism and intelligence programs and we have no intention of retreating from preventing another terrorist attack on American soil.

But, it has also reduced our ability to surge resources within our Criminal Branch to meet existing and emerging threats. I do wish to work with you to restore that balance to the extent possible, and in doing so the Bureau must still maintain its commitment to other key areas.

Public corruption continues to be our top criminal priority. The FBI has 2,500 pending public corruption investigations. In the last 2 years alone, we have convicted nearly 1,700 Federal, State, and local officials, and we must continue to hold accountable those who abuse the public trust.

Violent crime is also a substantial, serious concern. The citizens of many communities continue to be plagued by gang violence and gun crime. Since 2001, our gang cases have doubled and the spread of international gangs has increased. The FBI continues to combat this threat through more than 200 safe streets, gang, violent crime, and major theft task forces across the country. I must say as an aside to the comments made by Senator Shelby, I do believe that these task forces have a reputation of cooperating fully with our Federal and our State and local partners. Particularly since September 11, 2001, our relationships with Federal, State, and local partners have improved substantially around the country, although of course there will always be anecdotal evidence from this individual or that individual that it is not all it should be.

So too must we continue to work with our State and local counterparts to combat crimes against children, the most vulnerable members of our communities.

Finally, I want to update you on key changes we have made within the FBI's infrastructure to more effectively meet today's challenges. We know that the FBI's best and strongest asset is our people. So we have paid attention to recruiting, training, and maintaining a work force with skills necessary to meet the challenges

of today's mission. Our hiring goals include special agents, intelligence analysts, IT specialists, linguists, professional staff. This year we have received more than 450,000 applications and have already extended over 5,500 job offers.

We are also focusing on other portions of our infrastructure from information technology to training. SENTINEL, our new case management tool, is being developed and deployed on time and within budget. The FBI Academy at Quantico continues to train not only new special agents and intelligence analysts, but also hundreds of State, local, and international law enforcement partners each year, forging essential and lasting partnerships in a world where crime and national security threats are increasingly global.

In closing, I would again like to thank the committee for your support to the men and women of the FBI and I look forward to working with the committee on these and other challenges facing our country.

#### PREPARED STATEMENT

Madam Chairwoman, other members of the committee, I appreciate the opportunity to be here today and look forward to answering your questions. Thank you, Madam Chairwoman.

[The statement follows:]

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

Good morning, Madam Chairwoman Mikulski, Ranking Member Shelby, and Members of the Subcommittee. I appreciate the opportunity to appear before you today to discuss the President's fiscal year 2010 budget for the Federal Bureau of Investigation (FBI). I would also like to thank you for your continued oversight of the Bureau and for your efforts to ensure our success as we pursue the shared goal of making America safer.

As you are aware, the FBI celebrated its 100th Anniversary this past July. When the FBI was created in 1908, we had 34 investigators and a budget of about \$6 million. Now, the budget request before you today includes over 30,000 employees and over \$7 billion. Among the factors in this increased budget is the substantial growth in the FBI's mission over the past 100 years. We have gone from investigating gangsters and spies to terrorists and cyber intrusions. After the attacks of September 11, 2001, the FBI's priorities shifted dramatically as we charted a new course, with national security at the forefront of our mission. The intervening 8 years have seen significant changes at the FBI, and we have made remarkable progress. Today, the FBI is a stronger organization, combining greater capabilities with a longstanding commitment to the security of the United States, while at the same time upholding the Constitution and the rule of law and protecting civil liberties.

#### 2010 BUDGET REQUEST

The fiscal year 2010 budget for the FBI totals 32,883 positions and \$7.9 billion, including program increases of 1,389 new positions (407 Special Agents, 321 Intelligence Analysts, and 661 Professional Staff) and \$581.1 million. These resources are critical for the FBI to perform its national security, criminal law enforcement, and criminal justice services missions. Most importantly, the additional funding requested will continue to build upon our on-going efforts to integrate and fortify our intelligence and law enforcement activities.

Last year, at the urging of Congress and other oversight entities, the FBI altered its budget strategy to identify key end-state capabilities based on current and anticipated future national security and criminal investigative threats. This capabilities-based approach to planning ensures that the FBI possesses the capabilities and capacities necessary to address these threats. The FBI's 2010 budget strategy builds upon both current knowledge of threats and crime problems and a forward look to how terrorists, foreign agents and spies, and criminal adversaries are likely to adapt tactics and operations in a constantly evolving and changing world. This forward look helps inform and determine the critical operational and organizational capabili-

ties the FBI must acquire to remain vital and effective in meeting future threats and crime problems.

The FBI is continuing to refine the definition of end-state capabilities, including appropriate “metrics,” as requested by the Appropriations Committees.

The FBI continues to align its budget with the Strategy Management System (SMS) to ensure new resources are tied to our strategic vision and goals. Through the SMS, the FBI has struck an appropriate balance between its national security and criminal missions, and between short-term tactical efforts and longer-term strategic initiatives. The 2010 budget builds upon the initiatives delineated in last year’s budget and will focus on five critical topics.

I will highlight some key FBI topics below.

#### INTELLIGENCE

Over the past few years, the FBI has taken several steps to transform its intelligence program. Most recently, the FBI has been working to examine how we could accelerate this transformation and identify areas where we should focus our efforts. We established a Strategic Execution Team (SET), comprised of both headquarters and field personnel, to help us assess our intelligence program, evaluate best practices, decide what works and what doesn’t work, and then standardize operations across the Bureau.

With the guidance of the SET, we restructured our Field Intelligence Groups (FIGs), so they can better coordinate with each other, with street agents, and with analysts and agents at FBI headquarters. Drawing from the best practices that were identified, we have developed a single model under which all FIGs will function to increase collaboration between intelligence and operations, and to provide accountability for intelligence gathering, analysis, use, and production. The model can be adjusted to the size and complexity of small, medium, and large field offices.

This consistent process better allows us to share intelligence with our partners in more than 18,000 law enforcement agencies around the country. We also collaborate closely with our international counterparts. And as the world continues to shrink and threats continue to migrate across borders, it is more important than ever for the FBI to be able to develop and disseminate information that will assist our partners.

We have already implemented these recommendations in 24 of our field offices, and anticipate full rollout to the remaining field offices by December.

I cannot emphasize enough that targeted intelligence-gathering takes time, and requires patience, precision, and dedication. It also requires a unity of effort both here at home and with our partners overseas. Intelligence enables us to see the unseen and to discover new threats on the horizon. Yet even the best intelligence will not provide complete certainty, given the nature and number of threats we face.

The fiscal year 2010 budget includes 480 positions (41 Special Agents, 279 Intelligence Analysts, and 160 Professional Staff) and \$70.0 million to bolster the FBI’s intelligence program. These resources will, over time, enable the field offices and headquarters to better leverage investigative and analytic capabilities to develop and maintain a common understanding of the threat issues they currently face. Moreover, these requested resources will allow us to better identify emerging threats, assess those threats, and act against them.

#### CYBER

Protecting the United States against cyber-based attacks and high-technology crimes is one of the FBI’s highest priorities. In 2002, we created the Cyber Division to handle all cybersecurity crimes. Today, our highly trained cyber agents and analysts investigate computer fraud, child exploitation, theft of intellectual property, and worldwide computer intrusions.

The threat of cyber-related foreign intelligence operations to the United States is rapidly expanding. The number of actors with the ability to utilize computers for illegal, harmful, and possibly devastating purposes continues to rise. Cyber intrusions presenting a national security threat have compromised computers on U.S. Government, private sector, and allied networks. The FBI is in a unique position to counter cyber threats as the only agency with the statutory authority, expertise, and ability to combine counterterrorism, counterintelligence, and criminal resources to neutralize, mitigate, disrupt, and investigate illegal computer-supported operations domestically. The FBI’s intelligence and law enforcement role supports response to cyber events at U.S. government agencies, U.S. military installations, and the private sector. Because of this, the FBI has partnered with other Intelligence Community and Law Enforcement partners with complementary missions to establish the National Cyber Investigative Joint Task Force (NCIJTF). The task force is

a collaborative environment and was designed to identify, mitigate, disrupt, and investigate cyber threats. Within the operation of the NCIJTF, the FBI serves in a leadership, management, and operational role. In this capacity, the FBI is not the sole owner of operational activities, allowing operations to be conducted under the leadership of other member agency's authorities. The FBI's fiscal year 2010 budget includes 260 positions (107 Special Agents, 42 Intelligence Analysts, and 111 Professional Staff) and \$61.2 million to ensure the FBI has the technological infrastructure to conduct investigations and to turn seized network information into actionable intelligence products that can be used across the Intelligence Community to allow the government to move from a reactive to a proactive cyber attack response.

#### CRIMINAL

As you know, the current financial crisis has taken its toll on the U.S. financial markets and the American Public. A portion of this crisis is due to fraud and faulty accounting practices. The FBI has led and taken part in these types of investigations before. If you will recall, the FBI investigated the Savings and Loan (S&L) Crisis of the 1980s, which crippled our economy, and also led the Enron investigation. Many of the lessons learned and best practices from our work during the past decade will clearly help us navigate the expansive crime problem currently taxing law enforcement and regulatory authorities.

The FBI currently has approximately 250 Agents addressing the crisis that could result in over \$1 trillion in losses, including losses due to fraud and other criminal activities. Last year alone, financial institutions wrote off over \$500 billion due to losses associated with the sub-prime mortgage industry. With the passage of recent legislation that includes billions of dollars

being infused into the U.S. economy, including the Housing and Economic Recovery Act (HERA), the Emergency Economic Stabilization Act of 2008, the Troubled Asset Relief Program (TARP), and other asset relief programs, we anticipate an increase in fraud. In addition to the agents that are currently on board, the FBI's 2010 budget includes 143 new positions (50 Special Agents and 93 Professional Staff) and \$25.5 million to assist the FBI in combating mortgage and corporate fraud.

We also face significant challenges with regard to violent gangs, a nationwide plague that is no longer relegated to our largest cities. Since 2001, our violent gang caseload has more than doubled, and in fiscal year 2008 alone increased by 273 percent. These cases resulted in over 7,792 arrests, 2,839 convictions, 716 disruptions of violent gang activity, and 59 dismantlements of neighborhood gangs in fiscal year 2008.

As discussed in the 2009 National Gang Threat Assessment, produced by our National Gang Intelligence Center and the National Drug Intelligence Center, gangs are increasingly migrating from urban to suburban and rural areas and are responsible for a growing percentage of crime and violence in many communities. In addition, much of the gang-related criminal activity involves drug trafficking. We routinely work with our State and local partners to combat this pervasive threat, including over 140 Safe Streets Violent Gang Task Forces across the country dedicated to identifying, prioritizing, and targeting violent gangs. Task forces are extremely important in making the best use of available resources, and are used as a force multiplier to increase productivity and avoid duplication.

#### TECHNOLOGY

Although the FBI's information technology systems have presented some of our greatest challenges, they have also resulted in some of our most significant improvements in the past 8 years. The FBI has made substantial progress in upgrading its information technology capabilities to help us confront current threats and mission needs. Technology is the cornerstone to fulfilling the FBI mission as well as creating efficiencies for both FBI personnel and our Intelligence and Law Enforcement Community partners. Leveraging technology will allow the FBI to provide forensic, analytical, and operational technology capabilities to FBI investigators and analysts, law enforcement officers, and the Intelligence Community. Without enhanced resources to invest in applied research, development, knowledge building, testing, and evaluation, the FBI will not be able to take advantage of emerging technologies or adapt to a constantly changing and evolving threat and operational environment.

Although I have hired a new Chief Information Officer, Chad Fulgham, our priorities have not wavered. As you are aware, the FBI has dedicated significant effort towards SENTINEL, a case management system that will revolutionize the way the FBI does business. SENTINEL will be a fully automated, web-based case management system designed to support both our law enforcement and intelligence mission.

The system, when completed, will help the FBI manage information beyond the case focus of existing systems, and will provide enhanced information sharing, search, and analysis capabilities. SENTINEL will also facilitate information sharing with members of the law enforcement and intelligence communities. Phase I of SENTINEL was deployed Bureau-wide in June 2007. Phase II is being developed in increments, with the first segment to be delivered this April and continuing throughout the summer. The remaining phases will deliver additional capability through the end of development, in summer 2010.

The FBI is one of the few agencies that operate on three enclaves—unclassified, Secret, and Top Secret. We are continuing to deploy UNet, our unclassified Internet-connected system, to field offices nationwide. When complete, we anticipate approximately 39,000 UNet workstations will have been deployed to all FBI locations. We are also continuing the rollout of Blackberries to all agents, analysts and other critical professional support employees. This has provided these individuals with the ability to conduct their daily operational duties in the field without being chained to a desk. Their blackberry provides them with access to critical Sensitive but Unclassified applications they would normally access at their desks, such as email, Internet, the National Crime Information Center (NCIC), the Department of Motor Vehicles, etc. We are also continuing the technical refreshment of our Secret workstations, where most FBI employees conduct their day-to-day business. In addition, we continue to deploy SCION, our Top Secret network, to headquarters and field offices around the country. Strengthening these information technology programs allow us to communicate with our law enforcement and intelligence community partners in real-time.

We are also in the midst of developing the Next Generation Identification (NGI) system. NGI will expand the FBI's Integrated Automated Fingerprint Identification System beyond fingerprints to advanced biometrics. It will also produce faster returns of information, enabling law enforcement and counterterrorism officials to make tactical decisions in the field. Criminals ranging from identity thieves to document forgers to terrorists are taking advantage of modern technology to shield their identities and activities. This trend will only accelerate. Our new system will improve fingerprint identification capabilities, and as it becomes cost-effective, additional biometric data from criminals and terrorists. It will give us—and all our law enforcement and intelligence partners—faster capabilities that are more accurate and complete.

We are also building a Biometrics Technology Center, a joint facility with the Department of Defense's (DOD) Biometrics Fusion Center, which will serve as the center for biometric research and development. This facility will advance centralized biometric storage, analysis, and sharing with State and local law enforcement, DOD, and others. The FBI is currently working with the DOD in theater in Iraq and Afghanistan to collect and search biometrics information. This effort has shown the critical role emerging biometric technology has played in the war on terror. Information collected in Iraq and Afghanistan is transmitted via mobile biometric devices to global databases at the FBI Criminal Justice Information Services Division main facility, which houses the largest centralized collection of biometric information in the world. This biometric information is searched and matching results are relayed to units back in the field to assist in their operations and investigations. The fiscal year 2010 budget includes \$97.6 million in our construction account to move the construction phase of this project forward.

The FBI must also keep pace with evolving technology. Currently, all wireless carriers in the United States are upgrading their networks to third Generation wireless technology. This upgrade will radically transform voice, internet, email, short message service, multimedia services and any future services from circuit-switched data to packet transferred data. The FBI, along with the rest of the Intelligence Community, has created a Joint Wireless Implementation

Plan, which will allow us to provide the field with advanced tools and technologies as well as provide adequate training on the use of duly authorized wireless intercept and tracking tools. The fiscal year 2010 budget includes \$20.5 million to assist us in keeping abreast of this cutting edge technology and the ability to counter the technology posed by our adversaries.

#### INFRASTRUCTURE

Critical to the success of the FBI's mission are safe and appropriate work environments. Since September 11, the FBI's workforce has grown substantially. While the FBI has made considerable effort to hire quality personnel, provide the necessary training, and properly equip these new personnel, much of the FBI's infrastructure has not kept pace. For example, the FBI continues to work to provide secure work

environments for handling classified information and computers and other technology. In particular, there are two construction projects that are critical to the FBI's mission which are included in the fiscal year 2010 request.

The FBI Academy, in Quantico, VA was built in 1972, and has not undergone major renovation or upgrade since, aside from the addition of a dorm in 1988. The Academy is home to new Agents for the first 21 weeks of their FBI career; is the setting for new Intelligence Analyst training; houses the National Academy, which is a professional course for United States and international law enforcement officers to raise law enforcement standards, knowledge and cooperation worldwide; is the venue for the FBI's Leadership Development Institute, which provides leadership development education to FBI employees; and is the locale for various other FBI training opportunities. The Academy is continuously operating at maximum capacity, which leaves little opportunity for both scheduled and unscheduled renovation—a necessity due to the age of the Academy. The fiscal year 2010 budget includes \$10 million for an Architectural and Engineering (A&E) study, which will help us determine the full scope of renovations/construction necessary.

In addition, we are in dire need of a Central Records Complex (CRC), which will consolidate and digitize FBI records now dispersed among 265 FBI locations worldwide. The CRC will enable us to efficiently locate and access all of our records quickly, thus allowing us to more effectively process name checks, as well as provide critical case and administrative data that can be used for intelligence and investigative purposes. The fiscal year 2010 budget includes \$9 million to prepare these records to be universally-searchable, accessible, and useful intelligence and investigative tools prior to relocation to the CRC.

#### CONCLUSION

Chairwoman Mikulski, I would like to conclude by thanking you and this Committee for your service and your support. Many of the accomplishments we have realized during the past 8 years are in part due to your efforts and support through annual and supplemental appropriations. Unlike the FBI of 1908, today's FBI is much more than a law enforcement organization. The American public expects us to be a national security organization, driven by intelligence and dedicated to protecting our country from all threats to our freedom. For 100 years, the men and women of the FBI have dedicated themselves to safeguarding justice, to upholding the rule of law, and to defending freedom. As we look back on the past 100 years, we renew our pledge to serve our country and to protect our fellow citizens with fidelity, bravery, and integrity for the next 100 years, and beyond.

From addressing the growing financial crisis to mitigating cyber attacks and, most importantly, to protecting the American people from terrorist attack, you and the Committee have supported our efforts. On behalf of the men and women of the FBI, I look forward to working with you in the years to come as we continue to develop the capabilities we need to defeat the threats of the future.

Senator MIKULSKI. Mr. Director, we also want to note that Senator Lautenberg, one of our real active members, has joined us. Senator, I'm going to ask questions for a few minutes and then turn it over for comments and your questions as well.

Senator LAUTENBERG. Thank you very much, Madam Chairman. It's been a privilege to work with you as chairman over lots of years. Senator Mikulski is someone who knows how to hit the ball, hit it far and deep. We always—

Senator MIKULSKI. Better than the Orioles.

Senator LAUTENBERG. We always like being with her at committee hearings and other places.

Mr. Mueller—

Senator MIKULSKI. Senator, I haven't asked my questions, so I'm going to lead off with my questions.

Senator LAUTENBERG. Okay. I'm sorry, I misunderstood.

Senator MIKULSKI. I was just welcoming you. Let me get right to my questions and then we can get to other members as they come. First, I'm going to ask a question that is mundane and yet significant. This goes to another job we have in this CJS Subcommittee, which is making sure that the census is done on time.

The census needs to be done on time and it's had significant technological failure and will need to be more manpower intensive.

Is the FBI ready? With all of the security clearances or background checks that it's working on, will the FBI have sufficient ability to process the significant thousands of numbers of people that we have to hire to take the census? Remember, we're going to have people in every community saying: I'm from the government; I'd like to ask you some questions. Which means they'll be exposed to vulnerable populations, and we need to make sure they have had rigorous background checks.

Also, have you worked with the Census Bureau to make sure we'll be able to work at the State and local level to make sure that there will not be people imitating the census people? I think that's actually also a question for Secretary Locke.

You know, I worry about the FBI in so many ways, about having the resources. But really, with the new administration, you're working doubletime on doing background checks. While we're going to talk about mortgage fraud and fighting terrorists and stopping trafficking of human beings, we've got the FBI doing all these background checks.

So let me start with the census and ask, will you be able to meet the needs, because it will require a surge capacity?

Mr. MUELLER. Let me start, Madam Chairwoman, if I may, by saying that in the budget we've requested resources for agents and others to enhance our capability to do background checks generally, because it comes out of our other programs, and at a time like this, with a new administration, we take a great deal of resources and put them on the background checks. So our budget request for 2010 does include resources there.

Turning to the census, we began working with the Census Bureau—

Senator MIKULSKI. You say that in order to vet the administration's new people you do have the resources to do the background checks?

Mr. MUELLER. We do it now, but we take it—again, we prioritize, but I think you will find that the administration is quite satisfied with the pace of our background checks on the nominees that they've proposed. But it does take resources from other—

Senator MIKULSKI. But it's a strain on the FBI to do this?

Mr. MUELLER. It is a strain on particular offices. That is why we have specifically asked for additional resources down the road in 2010 to address the background checks. The current nominees, we have effectively, efficiently, and in a timely manner provided the backgrounds necessary to move forward and place persons in positions in this administration.

Let me move if I could to the issue of the census. In response to your letter of April 30, we have a response here today, we provided a copy to your staff, that addresses those questions in more detail. In brief, I can tell you that since 2007 we have been working with the Census Bureau on this particular issue. We anticipate that there will be something like 4.5 million names that we will have to run through records checks, and we are working with the Census Bureau in a number of ways to assure that this could be done efficiently.

First, we have established communications lines with the Census Bureau so that we can talk and exchange information quickly. We have had some difficulties with the quality of the fingerprint submissions to date and we are working with the Census Bureau to make certain that we improve and increase the fingerprint submissions. We are increasing our capabilities at IAFIS, our fingerprint facility out in West Virginia, and we are also anticipating peak processing periods where we will have to put on additional persons to respond to requests that will come in in some volume at particular points in time in the growth of the work force for the taking of the census.

So with that in place, I think we, with the Census Bureau are satisfying the need to make certain that we are responsive to their needs.

The other issue that you raise and have raised before, and that is individuals masquerading as census takers. We intend to be alert to that, to work with our field offices to very swiftly respond to any indications of that type of fraud, and move quickly to investigate, turn it over to the prosecutors, so that those individuals who would undertake that activity would be prosecuted.

Senator MIKULSKI. Well, I think that's fantastic. I don't want to dwell on this, but I want the record to show, number one, the Census Bureau will hire 1.5 million workers. This is while we're also screening for Cabinet-level positions and other security clearances. So we're asking the FBI to do a lot. I know this is not the kind of question that, oh, everybody comes and wants to be on CNN, but it's really significant. And the FBI only has so many people.

So we thank you for your response to this. We're going to take your letter that is a formal answer to the question and with unanimous consent include it in the record. As we move on, I believe you and Secretary Locke really are ready to do this. So thank you.

[The information follows:]

U.S. DEPARTMENT OF JUSTICE,  
Washington, DC, June 3, 2009.

Hon. BARBARA A. MIKULSKI,  
*Chairwoman, Subcommittee on Commerce, Justice, Science and Related Agencies,  
U.S. Senate, Washington, DC.*

DEAR MADAM CHAIRWOMAN: I am writing in response to your letter dated April 30 concerning the FBI's ability to conduct fingerprint searches and name-based background checks on temporary employees to be hired in support of the 2010 Census. You requested specific information regarding steps the FBI is taking to guarantee that the 2010 Census will not be delayed due to these necessary background checks; how the increase in workload will affect the FBI's background check system and the associated human resources; and if there will be any additional costs incurred in order to conduct these checks in a timely manner.

The U.S. Census Bureau currently estimates that 4.6 million names will be forwarded to the FBI for background checks and 1.4 million fingerprint cards will be electronically submitted to search against the FBI's Integrated Automated Fingerprint Identification System (IAFIS). Recognizing the significant challenge of this undertaking, the FBI's Criminal Justice Information Services (CJIS) Division and the U.S. Census Bureau have been working together since 2007 to ensure that the background check process does not adversely affect the conduct of the 2010 Census.

These preparations include the following:

—*Submission of Names and Fingerprints by the U.S. Census Bureau.*—An efficient and effective process for the submission of names and fingerprints by the U.S. Census Bureau is essential. The CJIS Division recently enhanced its telecommunications infrastructure that connects to the U.S. Census Bureau in Bowie, Maryland, in order to support the volume of information expected to be submitted. A second telecommunications line will be temporarily installed in

Bowie as a backup to ensure there is no interruption in service. In addition, the CJIS Division recently traveled to the U.S. Census Bureau's National Processing Center in Jeffersonville, Indiana, to observe the fingerprint scanning process, participate in mock training sessions for employees involved in the background check process, and provide feedback regarding those activities.

—*Improving the Quality of U.S. Census Bureau Fingerprint Submissions.*—The CJIS Division is working closely with the U.S. Census Bureau to improve the quality of its fingerprint submissions. Historically, rejection rates for all fingerprint submissions have been relatively low, with the fiscal year 2008 rate less than 5 percent. To date, submission rejection rates for the 2010 Census average over 40 percent, with peaks above 60 percent. Substandard submissions create a number of problems, including the need to resubmit the fingerprint information, utilization of an inordinate amount of system and human resources to resolve borderline submissions, and an increase in the potential for missed identifications of applicants who should be disqualified. In the past, there have also been instances where high rejection rates of U.S. Census Bureau search requests have resulted in degradation in the required 2-hour response time for criminal justice submissions.

During the on-site visit to the U.S. Census Bureau's National Processing Center, CJIS Division representatives suggested that the U.S. Census Bureau activate the image quality functions on all scanners to reduce the frequency of inferior quality images being submitted to the IAFIS. This built-in functionality alerts U.S. Census Bureau personnel of potential fingerprint sequence errors and insufficient image quality, thus providing the opportunity for corrective action prior to electronically transmitting images to the IAFIS. Such a change in procedure would preserve U.S. Census Bureau and CJIS Division personnel resources, as well as allow the U.S. Census Bureau to avoid additional user fees from the resubmission of fingerprint images.

—*Upgrading Components of the IAFIS.*—The CJIS Division is currently upgrading many components of the IAFIS. These upgrades, while primarily directed at the future growth of fingerprint submissions and expansion to include other biometric-related submissions, will also benefit the 2010 Census. These benefits will include larger storage capacity and a faster, more reliable network for all CJIS systems.

The increased workload from the 2010 Census will, for the most part, not adversely affect the FBI's regular background check system. The name-based background checks and fingerprint checks submitted in support of the 2010 Census can be accommodated by the current IAFIS in all but the peak processing period.

—*Peak Processing Periods.*—As previously noted, the U.S. Census Bureau projects that nearly 4.6 million name-based search requests will be forwarded to the FBI. Subsequent to the name-based checks, 1.4 million fingerprint cards will be electronically submitted for a search against the IAFIS database. Although fingerprint submissions will occur from December 2008 through 2011, there will be an extremely elevated submission rate during April 28–30, 2010. During this 3-day time period, the U.S. Census Bureau expects to submit approximately 485,000 fingerprint background checks to the CJIS Division. This is in addition to the FBI's current daily average fingerprint workload of 175,000 submissions. The U.S. Census Bureau workload estimate does not reflect the projected 30 percent rejection rate due to fingerprint submissions of insufficient quality. If the suggestions for improvement in fingerprint quality discussed above are not successful, the U.S. Census Bureau submission numbers could grow to over 600,000 for this 3-day period.

—*Mitigating Actions Planned.*—The FBI will take several steps to ensure timely processing of the U.S. Census Bureau submissions during the peak period without adversely affecting submissions from other agencies. The CJIS Division plans to temporarily redirect staff during the peak processing period and will provide overtime compensation and other incentives, as necessary, to ensure the availability of adequate staff. In addition, the CJIS Division has coordinated with other agencies to adjust the processing of their submissions to accommodate the anticipated fingerprint submissions from the U.S. Census Bureau. Specifically, CJIS plans to queue nonurgent transactions from other agencies during April 28–May 2, 2010. All users of IAFIS have been notified, through the CJIS Advisory Policy Board and the Compact Council, that during April 28–May 2, 2010, various types of noncriminal justice transactions will be held in queue for processing until May 3, 2010. In addition, processing for some criminal transactions considered to be nonurgent in nature will be limited during

this time period. There will be no degradation in service to the criminal justice community as a result of these actions.

In response to your inquiry regarding additional costs to the FBI to support the 2010 Census, the CJIS Division is currently upgrading many components of the IAFIS. These upgrades will provide larger storage capacity and a faster, more reliable network. The CJIS Division estimates the costs of these upgrades to be approximately \$70 million and, while primarily directed at the future growth of fingerprint submissions and expansion to include other biometric-related submissions, these upgrades will also benefit the 2010 Census. This cost will be offset by approximately \$34 million in fees to be paid by the U.S. Census Bureau, for a net cost to the FBI of approximately \$36 million.

The FBI appreciates your interest regarding the potential risks posed as temporary U.S. Census Bureau employees visit the homes of the general public and will take all steps necessary to support the processing of background checks for the 2010 Census. To this end, it is crucial that the U.S. Census Bureau commits to capturing fingerprints of sufficient quality to assist the FBI in identifying perpetrators of criminal acts and terrorist-related crimes.

I hope this information will be of assistance to you.

Sincerely Yours,

ROBERT S. MUELLER, III,  
*Director.*

Senator MIKULSKI. This then takes me to the issue of sufficient agents. In your testimony you said that after 9/11, 2,000 of your criminal agents were moved to the National Security Branch, and they did a spectacular job. However, "It reduced our ability," you say, "to surge resources within our Criminal Branch and meet existing and emerging threats." What we want to do is begin to help the FBI balance the multiple demands on it. We want you to be vigorous and stand sentry over these international predatory and even domestic threats. But we really want the FBI to continue to be the FBI that we know and love and count on, which is domestically.

In the President's budget you're given more resources. You have 450,000 applicants, that's a pretty amazing number. Do you have enough money to hire enough agents to do what you need, not only in the National Security Branch, but again to in some ways recapitalize our criminal enterprise area of the FBI?

Mr. MUELLER. We always have to prioritize. We did before September 11, depending on the surge of crime in the country before September 11. Our budgets in the last couple of years and this one seek additional resources, agents, principally in the cyber arena, as well as in mortgage fraud. We have received additional agents in those areas in years past. We could always use more agents. We have probably more than 530, I think, agents working mortgage fraud, corporate fraud, securities fraud at this juncture. Back in the savings and loan crisis, again in the early 1990s, we had almost 1,000.

Now, we have become, I believe, more effective in addressing white collar criminal cases by understanding that we need to move quickly and to bring them to fruition more quickly than we have in the past, and using computers and databases and intelligence capabilities to focus on and prioritize those cases. But nonetheless, we could always use more resources there.

Again, one thing that should not be lost, though, is that it's not just agents; it's the infrastructure for the agents.

Senator MIKULSKI. Right.

Mr. MUELLER. We can—I will say, over a period of time Congress has allocated to us agents, but what you need with those agents

is the supporting infrastructure, the intelligence analysts, the professional staff, the training. So it's not just a focus on agents itself, but on the support that the agents need. In our budget request, we have focused on expanding the academy. We have funds in here for security training and career paths. We have funds in here for intelligence, and it's not just intelligence for the national security mission, but also for the criminal mission.

So it's not just the agents we need, but it's also the infrastructure to support the additional agents on the criminal side.

Senator MIKULSKI. Well, thank you. I'm going to follow up on a second round, but I'd like to turn to Senator Lautenberg.

Senator LAUTENBERG. Thank you, Madam Chairman. The comments I made earlier I assume stand in the record, about the guidance and the leadership of the chairman.

Mr. Mueller, we have great respect for you. You have treated the position, that it gains I think more honor for a very distinguished group of people who we count on so dearly.

With 9/11, we learned that we have to be on guard constantly and, I might say, deeply with threats that come to our country. I was just in Turkey and the prime minister there decreed that one of the organizations that we have on the terrorist list, one of the countries, that he sees no problems with it. I found it really disturbing because when you look at the forces that we put together to fight against terrorism, it numbers in the hundreds of thousands of people. I think the chairman made reference to that.

So I thank you and the people who serve with you for your diligence and hard work and commitment to duty.

I want to commend the FBI for the recent sting operation that resulted in the arrests of four men plotting to bomb synagogues in New York City. As you're aware, Federal law actually allows individuals on the terror watch list to purchase a gun or even explosives, unless they have some other disqualifying factor such as being a felon. In response to a letter that I sent you in 2005, the Department of Justice recommended giving the attorney General the power to deny guns and explosives to terror suspects. Yet we still have the condition that existed then.

Isn't it time to close the terror gap in our laws?

Mr. MUELLER. Denying a weapon to somebody who's not convicted of an offense or subject to a psychiatric disability and the like is an issue that has been debated over the years. I would have to defer to the Department of Justice in terms of the current position on to what extent the identification of an individual as being associated or affiliated in some way with terrorism should bar that individual from obtaining a weapon.

We are notified when there appears to be a purchase by somebody who is affiliated with a terrorist group. But that is different than barring that individual from the outset from purchasing a weapon. But again, I have to defer to the Department of Justice in terms of the policy position that it is going to take on that issue.

Senator LAUTENBERG. You know, I've been a long-time supporter of closing the gun show loophole, which permits unlicensed dealers to operate without any responsibilities about the person they are considering selling a gun to. They don't have to ask a question about name, no identifying, address, any background. We came aw-

fully close some years ago in closing that loophole. Every time we see a situation develop where someone gets a gun, often illegally, and goes ahead and kills somebody because they're angry or otherwise—and lots of times these things are purchased, as was in Columbine, by someone underage and without any qualifications.

How do you feel about the gun show loophole?

Mr. MUELLER. Again, I'm going to defer to the Department of Justice. It's a policy issue that is made generally by the administration and by the Department of Justice.

Senator LAUTENBERG. Let me ask you then, do you think that we would be safer if there was regulatory jurisdiction on unlicensed dealers?

Mr. MUELLER. I believe there are arguments on both sides of that. From the parochial law enforcement perspective, fewer guns is better, from the perspective of law enforcement. On the other hand, this is a country which has so many guns at this point. You can't compare it to a European country that has had centuries—not centuries, because you haven't had guns hundreds of years, but certainly decades of stringent gun enforcement.

So you can argue both sides of that, and again I defer it to the Department of Justice.

Senator LAUTENBERG. I don't want you to do that. I don't want you to argue both sides. You're a man of honesty and good judgment. So we'll pass it.

Madam Chairman, may I have just a few minutes more, please?

Senator MIKULSKI. Go right ahead.

Senator LAUTENBERG. Thank you.

The FBI, as you know, identified the stretch between Port Newark and Liberty International as the most dangerous 2 miles in America. That was for a terrorist attack. An attack on this 2-mile area could cause untold suffering, death, injury, but crippling also the economy by disrupting major portions of the country's rail lines, oil infrastructure. We'd shut down the air traffic system, communications, all of these things.

Now, how will the FBI use these resources? I for one think that there's no question but that we have to respond to your request for a budget that gives you more—a better facility and more people. How will the FBI use the resources in that request to protect, further protect this 2 miles?

Mr. MUELLER. The resources we're requesting, whether it be a WMD response or cyber security, we have requests in for enhanced surveillance and we've got requests in for enhancing as I may have mentioned, our intelligence program, and national security investigations across the country.

But the understanding of the vulnerabilities of that 2-mile stretch has been longstanding. Not only us; by DHS too. There are a number of pieces that have been put in place already to protect it, amongst them the Joint Terrorism Task Force in Newark, which works closely not only with State and local counterparts in Newark and northern New Jersey and New Jersey as a whole, but also with New York.

On that Joint Terrorism Task Force are airport liaison agents that operate Newark International Airport. We have maritime liaison agents that are looking at the maritime vulnerabilities. We

have an area maritime security committee for the Port of New York and New Jersey that is a separate entity addressed specifically to those issues. We also have coordination with the rails, the railroad companies, and on the national railroad system.

Senator LAUTENBERG. Not meaning to interrupt, but what will—will the additional funds being requested help us be more effective in our terrorist act prevention role?

Mr. MUELLER. It will, in two specific ways. One, in terms of additional resources, special agents, professional staff and others, to conduct investigations or follow leads when we get counterterrorism leads; the other area, providing additional resources to build up our intelligence capability with special agents, with intelligence analysts, and with professional staff, that will increase our ability to gather insight into potential threats, including potential threats to this strip in northern New Jersey.

Senator LAUTENBERG. The gun show loophole, as I described, allows just about anybody to walk in and buy a gun, including an assault weapon. Yet criminal background checks can be completed in a matter of minutes. Shouldn't we require criminal background checks for all gun purchases at all gun shows?

Mr. MUELLER. Again, I think I incorporate my answer before. You can argue both ways, but this is an issue that is a policy issue that's left really to the Department of Justice. Whatever policy arguments are made by the Department of Justice I will be supportive of.

Senator LAUTENBERG. Mr. Mueller, you're too good for passing that ball. I don't want to put you in a spot here, but your opinions—and I don't know how guarded you have to be when throwing out an opinion.

Mr. MUELLER. I can tell you, as I said before, from the perspective of law enforcement, fewer guns and the ability to track guns enhances our capabilities.

Senator LAUTENBERG. Madam Chairman, you know very well that I wrote the law to prohibit spousal abusers from getting Federal gun permits. When I fought the legislation through, it was 1996 and they said: Ah, you don't need it, and so forth. And I did it in a way that it had to come up for a vote. Reluctantly on the part of many here, the bill was passed into law.

We have since 1986, since I wrote that law, we've had over 150,000 household bullies denied gun permits, and having to fight the fight with that was a terrible—

Senator MIKULSKI. How many?

Senator LAUTENBERG. 150,000. 150,000 of these household bullies have been denied gun permits.

Senator MIKULSKI. First of all, that's a great term, "household bully." But 150,000 people probably meant you either saved a spouse, a child, or a law enforcement officer coming to their rescue.

Senator LAUTENBERG. That's the case, and the first conviction came from a fellow who was a U.S. attorney in Denver, Colorado, whom I knew, and he called me up. He was so cheerful. He said: Frank, I've got great news; we just convicted one of these guys, a spousal abuser, and he got a 3½ year term for having acquired a gun, and had been only with a misdemeanor conviction only. Felons can't get them.

Anyway—and I'll close, Madam Chairman. The FBI's Newark Division covers all New Jersey counties except for three that are covered by Philadelphia. The split hinders, I am told, New Jersey's ability to have a unified strategy for combating crime, including gangs and gun violence, is at odds with the U.S. attorney's office and the ATF, both of which cover the whole State.

Would you commit to working with our office and the New Jersey Attorney General's Office to take a look at this issue and see if we can improve the operation by having it more carefully managed by the New Jersey headquarters?

Mr. MUELLER. I understand there have been ongoing discussions with Ann Milgram, who's a very good State's attorney, on that particular issue, as well as the issues relating to the Philadelphia area. It's Camden we're talking about, and Philadelphia. I believe we're working through those issues. They are complicated in some sense because, what I have come to find, that criminals don't really care about the borders. Criminals in Camden and Philadelphia don't really care that Camden may be in New Jersey and Philadelphia is in Pennsylvania. Gangs can operate very swiftly across borders. You see it here in this area with the District of Columbia and Maryland or the District of Columbia and Virginia, and they don't care about these borders.

For us to be effective, one of the things we can bring to law enforcement is the oversight of bringing the intelligence together from two separate entities, two States, in an area where criminals don't care about the different States. In order to be effective in reducing and investigating and locking up gang members, for instance, you need that overview.

That's one of the issues that we're discussing with the Attorney General of New Jersey and we do want to work through it and come up with a resolution, because I do understand from her perspective the desire to take care of her State and the responsibility she has working with the New Jersey State Police and the like. So there are some conflicting issues there that we're working through.

Senator LAUTENBERG. Thank you, Madam Chairman.

Senator MIKULSKI. Thank you.

If you intend to leave and join us for the classified hearing, we're going to be finished with this part in about 15 minutes and we'll resume. We're going to move up the classified hearing. So we'll move that up to quarter of 11 o'clock, and that way the Director will be able to expedite our conversation and also leave you to be on your way to fight crime and predators and for truth, justice, and the American way.

But in the meantime, a couple of more questions. I really value your comments in which you said that, yes, we need more special agents, but we need more intelligence analysts, more professional staff, and we need the resources to properly train them. I'd like to talk about training and technology and the situation at Quantico, which is kind of like the Naval Academy at Annapolis or West Point. You are the FBI Academy.

Let's go to technology. Really the major tool of the trade today to do so much about what you're asked to do is new uses of technology. We had a rough time with SENTINEL, where we had to start all over again. Could you brief the committee, number one,

on the fact that you've hired a new CIO, and also where we are on SENTINEL? As you know, we did have to start again, at considerable cost to the budget. So are we on time, on line, and ready to do the job?

Mr. MUELLER. Yes, ma'am. The failure was on what was called the Virtual Case File system early in this decade, where it had been put together early on without understanding our needs and ultimately did not satisfy our needs and at bottom would not work. The SENTINEL project that's been ongoing for 2, 2½ years now is on target to finish in I think 2010 and is within budget.

There have been adjustments that have been made along the way because we've done it in phases, the understanding being that I wanted to make absolutely certain that the first phase worked and that we laid the groundwork for the second phase and then the third and the fourth phase. We're finishing up the second phase now and, as I say, we've done I believe a good job of developing this, shifting internally to the program to take advantage of lessons that we've learned from phase one so that we can make improvements in phases two, three, and four.

I will tell you that our work with the contractor, Lockheed Martin, has worked well. I meet with the CEO of Lockheed Martin every 6 months to make certain that both of us know that it's on track and that any issues or glitches will be addressed by both of us. It has been a very worthwhile relationship.

So I am comfortable and confident that we are on the right track.

Senator MIKULSKI. When will SENTINEL be done? I mean, when will you have completed it?

Mr. MUELLER. I believe the last date is—it's the summer of 2010. I will tell you, just so that you know, we are going through right now one of the more challenging phases, and that is, without getting into the specifics, but moving databases, making certain that the security is adequate and the like. So our expectation is that it will be done by summer of next year, 2010. But we are going through some of the toughest periods.

Senator MIKULSKI. Well, as you say in your written testimony that you submitted: "The FBI is one of the few agencies that operates in three enclaves in terms of the net: unclassified, Secret, and Top Secret." Which also means the case management files have to operate at those three enclave levels. Am I correct in that?

Mr. MUELLER. You're correct. Right now SENTINEL will go generally at the second level, which is the Secret level. We're putting in place plans to expand it to the other levels.

Senator MIKULSKI. Now I want to go to the next one, which I found really surprising here. It said you are now going on something called the UNet, which is your unclassified Internet connect system, and you're now giving every agent a BlackBerry. Is that correct? I thought—

Mr. MUELLER. I think we have something like—

Senator MIKULSKI. Do you mean every agent doesn't have what everybody else has?

Mr. MUELLER. No, everybody—all persons, whether it be agents or analysts, who profitably can use the BlackBerry in the course of their work have a BlackBerry. I think it's over 20,000 at this juncture BlackBerries throughout the Bureau. And we have addi-

tional capabilities that we're including, in other words access to CGIS databases that will make the BlackBerry not only indispensable as it is to communications, whether it be email and otherwise, but also to data that the agent can use in the course of their day to day activities.

Senator MIKULSKI. It says things like the National Crime Info Center, DMVAs around the country—

Mr. MUELLER. Yes.

Senator MIKULSKI. Things that when they're in the process of doing it they need to be able to access unclassified databases, would help them do their job, etcetera. Is that correct?

Mr. MUELLER. That is correct. One needs to keep in mind, however, security.

Senator MIKULSKI. Yes.

Mr. MUELLER. When we're developing these new communication tools, everybody wants, including myself—and I tend to be impatient—the new communications tools. But we have to do it understanding that we need to put into place the requisite security to assure that if a particular BlackBerry becomes infected with malware or otherwise it does not give persons access to the system as a whole. Consequently, as we have built these various systems we have given the appropriate attention, I believe, to the appropriate security to assure that they are safe from intrusions.

Senator MIKULSKI. Well, that's excellent. But I want to go through the lessons learned from the debacle that took us to SENTINEL. I believe there are a lot of lessons that you've just even articulated, Mr. Director. But you're about to embark upon several new initiatives. You're developing the Next Generation Identification System that will expand the FBI's Integrated Automated Fingerprint ID System. You're building a new Biometrics Tech Center. Biometrics is supposed to be one of the latest and greatest in terms of identifying people.

Also, the private sector is developing new wireless technology, in which you need to be able to help us to deal with cyber intrusions, cyber attacks, et cetera.

So here is my question. Not only are you in the human development, but you're in the technology development. Human development is the special agents, the intelligence analysts, the professional staff. But this tech development we've got to get right the first time and do it—because we only can do this once now. We're really running severe deficits. We cannot ever go back if we screw up.

What steps are being taken—and we don't have to detail it in each area; maybe you want to submit a more formal statement—so that we do not end up in other techno boondoggles, quite frankly? It's a blunt term. I don't mean it to be a stinging term, but we've got to protect the American people by making sure the FBI has the right tools, and that's technology. That's as important to you now as carrying a gun; am I correct?

Mr. MUELLER. Yes.

Senator MIKULSKI. You can always get a new gun, but you can't go back and redo technology.

Mr. MUELLER. Yes. Well, the Virtual Case File, let me just start there, with trilogy. It was part of a trilogy system to upgrade our

capabilities. The other prongs of that or the other legs of that stool work exceptionally well and we have had a history, although occasionally overlooked, of developing databases and having them work effectively and efficiently. Fingerprints is one of them. DNA is another one.

Over the years the FBI has been on the cutting edge of developing technology for use in law enforcement, and I believe we continue to do so, and that history will be extended with the new Biometric Technology Center, with the upgrading of our fingerprint capabilities. My full expectation is that they will be as successful as they have been in the past.

The SENTINEL and several other packages that we have developed to handle our sources, to handle our intelligence requirements, are coming on line this year and the next and I believe will be not only successful, but will be models for others.

That's internally. If you look externally at our expertise, our ability to investigate cyber intrusions and the like, I believe we are ahead of just about every other agency in the world in terms of our capabilities, our experience, our expertise, and having the tools to utilize those skills to identify—well, investigate, identify, and then attribute cyber attacks. So whether it be internally to our information technology or externally to address some of the technology developments, I believe we are on course to be successful.

Senator MIKULSKI. Well, thank you. The actual policy and people issues we're going to talk about in the next classified hearing, because I think they're quite sensitive.

First of all, we want to work with you on that because it is a major public investment to accomplish a pretty significant public good.

I also want to note the issue that is part of the training for our FBI personnel. We want to support the effort to modernize Quantico. I'd like the record to show, as is in the statement of the FBI Director, that the Quantico, Virginia, the famous FBI Academy, was built in 1972. It has not undergone any renovations since we added a new dorm in 1988. So this is the FBI, the Federal Bureau of Investigation. We haven't done anything substantial in 37 years in terms of the physical facilities—the last thing we did was 20 years ago and it was a dorm that was wired for the pre-.com world.

We can't bring talented, smart people that you're recruiting with all kinds of backgrounds and bring them into a dated facility. I want you to know, Mr. Director, as well as the people who serve at the FBI and those who are coming to the FBI, that we're on your side on this one.

We understand in the budget request you ask for \$10 million to take a look at what is needed, so that we can upgrade the facilities with not only buildings with bricks and mortar, but modems and clicks, so that we can really do the kind of training necessary, because, as you said, it's one thing to bring in the people, but we've got to get them ready for the job, which means new threats, new challenges. But we need new facilities to do it.

So I'm going to pledge to you right now. We will support you in your people. We're going to support you in your technology, and

we're going to support you in making sure that we truly have a 21st century FBI Academy.

So there are other things I'm going to talk about. We're going to take a temporary recess. I also am going to reiterate what Senator Shelby said about the joint task forces at the State and local level. Those in Maryland are operating superbly. I'd like to compliment the Baltimore Field Office on this. I'd like to compliment the U.S. attorney, Rob Rosenstein, who has also coordinated some of this in our work with the District U.S. attorney. But my local law enforcement, from the police commissioners to the sheriffs and so on, just think these task forces are an amazing tool to get value and leverage the law enforcement effort. As you said, particularly in the capital region, whether it's Montgomery County or Prince George's County or going over to Northern Virginia, it's some pretty rough stuff going on. There seems to be like a brotherhood of the Beltway, if you will, that comes out of these joint task forces. We just want to reiterate, we want to support that effort while we're working on these other issues.

Before I recess us to take us to the classified hearing, is there anything you would like to add? Is there anything you didn't have a chance to say? Some questions or answers you've thought of that you'd like to share?

Mr. MUELLER. No. One thing I believe I'd like to respond briefly to, what Senator Shelby said about TEDAC. TEDAC is an important facility for IEDs. As he points out, we have had to prioritize and we are looking forward to further discussions in terms of funding to expand our capabilities in that regard. So we appreciate the input and the support.

Senator MIKULSKI. Thank you very much, and the record will so show that.

#### ADDITIONAL COMMITTEE QUESTIONS

Now, if there are no further questions this morning, Senators may submit additional questions for the subcommittee's official record. We request the FBI's response within 30 days.

Mr. MUELLER. Thank you. Thank you, Madam Chairwoman.

[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 MARK PRYOR

*Question.* Can you talk about the specific activities you plan to carry out with the additional funding? Will you increase FBI field office involvement in these sorts of investigations? Hire additional agents and accountants?

*Answer.* The \$25.5 million in requested funding for mortgage fraud would enable the FBI to increase its available field investigative assets by 50 Special Agents and 61 Forensic Accountants. These additional resources would increase the FBI's ability to address mortgage fraud and sub-prime related corporate fraud through increased investigations and higher quality evidence production. This funding would provide the FBI with the resources necessary to expand its document management systems, allowing the FBI to expedite document analysis and add more robust analysis capabilities. Given the central role of document analysis in white collar crime investigations, the FBI anticipates that these enhancements would contribute significantly to the FBI's efforts to address mortgage fraud and sub-prime related corporate fraud. Finally, this funding would allow the FBI to address the non-personnel aspects of our current task forces and working groups, and to add new ones as appropriate. Given the advantages of the close working relationships the FBI has estab-

lished with State, local, and other Federal law enforcement and regulatory partners, the FBI considers these task forces and working groups to be significant, and highly cost effective, force multipliers.

*Question.* How does your budget increase coordination between the FBI and other agencies involved in the southwest border initiatives?

*Answer.* The FBI coordinates with other agencies involved in Southwest Border initiatives in numerous ways to ensure that efforts are synergistic, leading to better results than any one agency could achieve alone. For example, all FBI field offices, including those responsible for the States along the Southwest Border, include squads specifically responsible for criminal enterprise, violent crime, and public corruption investigations. These squads work closely with their counterparts in the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Drug Enforcement Administration (DEA), U.S. Immigration and Customs Enforcement (ICE), and other relevant agencies to coordinate the many activities in which they have complementary roles. In addition, several task forces and working groups focus on particular aspects of the problems arising along our Southwest Border. These groups include the following:

- El Paso Intelligence Center (EPIC).*—EPIC, which is led by the DEA and includes the participation of numerous Federal, State, and local agencies including the FBI, ATF, and ICE, was initiated to collect and disseminate information concerning drug, alien, and weapon smuggling. The FBI relies on the capabilities afforded by EPIC's multi-agency environment, coordinating its drug investigations closely with EPIC to ensure de-confliction and the efficient use of Organized Crime Drug Enforcement Task Force (OCDETF) resources.
- OCDETF.*—OCDETF serves an important coordinating role in this region. In addition to the activities discussed above, an OCDETF Strike Force comprised of twelve FBI agents, nine DEA agents, two ICE agents, and one Texas Ranger was created in El Paso, Texas, and works closely with DEA's Resident Office in Cd. Juarez, Mexico, to gather intelligence and, when possible, assist in operations. Among other things, this Strike Force's investigations target Mexican Consolidated Priority Organizational Targets (CPOTs), who are responsible for a large amount of violence around the border. Another OCDETF Strike Force, operating in the FBI's San Diego Division since January 2007, has also targeted Mexican CPOTs, identifying a number of Arellano-Felix Mexican Drug Trafficking Organization (MDTO) kidnapping/homicide cells working within southern California. The San Diego Strike Force works closely with that Division's Violent Crime/Major Offender Squad to relay intelligence gleaned during drug enterprise investigations that involve violent crime issues. This Strike Force also regularly reports on corruption within the Mexican government.
- High Intensity Drug Trafficking Area (HIDTA) Program.*—The FBI's El Paso Office participates in the regional HIDTA program, in which executive managers of numerous Federal, State, and local law enforcement agencies participate in monthly meetings to discuss the border violence and to look for trends and possible crossover into the United States.
- Southwest Intelligence Group (SWIG).*—The SWIG serves as the central repository and distribution point for FBI intelligence on both criminal and national security issues for this region. The SWIG is currently moving from FBI Headquarters (FBIHQ) to EPIC, where it will be co-located with ATF, DEA, and ICE personnel.
- Resolution Six, Mexico (R-6).*—The purpose of R-6 is to enhance the inter-agency coordination of drug and gang investigations conducted in Mexico, with R-6 personnel working in coordination with the Mexican military and law enforcement authorities to gather intelligence in pursuit of the MDTOs and individuals responsible for lawlessness along the Southwest Border. R-6 priorities include confidential human source development, supporting domestic cases appropriate for U.S. prosecution, cultivating liaison contacts within Mexico, and supporting bilateral criminal enterprise initiatives. The R-6 program is supervised by personnel located in numerous critical cities, including Mexico City, Cd. Juarez, Tijuana, Hermosillo, and Guadalajara.
- Some R-6 personnel are co-located with the DEA to facilitate the coordination of drug investigations and participation in the R-6/DEA Electronic Intelligence Collection Initiative. The goal of this initiative is to identify and collect intelligence on drug cartel structures in order to disrupt and dismantle these criminal enterprises. This initiative will be worked with Mexico's Secretaria de Seguridad Publica (SSP); once reliable and significant intelligence is obtained, the SSP will present the findings to Mexican federal prosecutors and initiate formal investigations.

—R-6 personnel also coordinate intelligence sharing and operations with ATF and United States Marshals Service (USMS) personnel stationed in Mexico in support of domestic FBI drug and organized crime investigations. R-6 and the USMS are initiating a Mexican Fugitive Intelligence Vetted Unit to locate fugitives that are members of, or protected by, drug cartels. The Mexican Intelligence Service will attempt to locate the fugitives using cellular tracking and other technologies and, once a fugitive is located, Mexican-vetted units will execute operations to apprehend the fugitive.

—*Violent Gang Safe Streets Task Forces (VGSSTFs)*.—A number of FBI VGSSTFs are working closely with Federal, State, and local law enforcement agencies to address violent street and prison gangs operating along the Southwest Border. Over the past several years, gangs such as the Mexican Mafia, the Almighty Latin Kings, and the Hermanos de Pistoleritos Latinos have been linked to the smuggling and distribution of drugs for MDTOs. With their alliances to MDTOs, these gangs have committed murders and other violence in an effort to control territory along the Southwest Border.

—*Border Corruption Task Forces*.—The FBI participates in six border corruption task forces along the Southwest Border. Among these is the National Border Corruption Task Force, which is a partnership between the FBI and U.S. Customs and Border Protection-Internal Affairs (CBP-IA) to be based at FBIHQ. The FBI and CBP-IA intend to coordinate their investigative efforts and resources and to conduct joint corruption training for field agents and managers.

*Question.* I think coordination of efforts not only at the Federal level but also between Federal agencies and State and local agencies is critically important in combating drug and gang violence. What funding and resources are directly invested in the FBI's 56 field offices? How closely do these field offices work with and share information with State and local law enforcement officers?

*Answer.* The FBI maintains drug, gang, and violent crime squads along the Southwest Border that work closely with State and local police agencies, as well as with the ATF, DEA, and ICE. For example, in calendar year 2008, the FBI's offices in San Diego, Albuquerque, Phoenix, El Paso, Houston, Dallas, Los Angeles, and San Antonio participated in investigations of approximately 400 OCDETF and Criminal Enterprise cases with a nexus to Mexican drug trafficking and approximately 300 OCDETF and Criminal Enterprise cases with a nexus to violent gangs. These investigations resulted in approximately 2,621 arrests, 1,036 indictments, and 620 convictions in fiscal year 2008.

The FBI currently funds and manages approximately 150 VGSSTFs to address violent street and prison gangs operating along the border, with funding comprised primarily of asset forfeiture funds and OCDETF funds, along with some direct FBI funding. The VGSSTFs are staffed by over 650 FBI agents and over 1,000 task force officers, which include both State and local police officers.

*Question.* What metrics are you using to ensure that funding spent on counter-drug and counter-gang activities successful?

*Answer.* The FBI measures the success of its counter-drug and counter-gang activities by tracking the statistics representing the following activities, all of which are tracked by FBI division, region, and nationally.

- Pending criminal enterprise and drug-related money laundering cases.
- Drug trafficking operations, violent street gangs, outlaw motorcycle gangs, and prison gangs disrupted or dismantled as a result of the FBI's investigative efforts.
- Seizures of illicit drugs and illicit drug funds.
- Arrests, indictments, convictions, and sentences.
- Asset forfeitures.

As described in the fiscal year 2010 Congressional Justification, during fiscal year 2010, the FBI anticipates disrupting 30 drug-trafficking organizations with links to Consolidated Priority Organization Targets (CPOT) and dismantling 15 drug trafficking organizations with links to CPOTs. In addition, the FBI anticipates dismantling 99 gangs and other criminal enterprises.

*Question.* Are there any specific initiatives focused on the issue of U.S. gang members participating in illicit activities coordinated by Mexican drug cartels?

*Answer.* Yes. The SWIG has dedicated 11 Intelligence Analysts to conduct strategic analysis of the Southwest Border. Among other missions, these analysts are reviewing the connections between the Mexican drug cartels and their use of United States gang members for narcotics distribution and enforcement within the United States. In addition, there are 24 VGSSTFs in the eight FBI Divisions on the Southwest Border (Albuquerque, Dallas, El Paso, Houston, Los Angeles, Phoenix, San Antonio, and San Diego). These task forces target the "worst of the worst," regardless

of their status atrans-national, national, regional or local/neighborhood-based gangs.

*Question.* Does this proposed budget have all the resources you need to carry out your cyber security duties?

Answer. The FBI will continue to work with the Congress, the Office of Management and Budget, and others in the Department of Justice to identify the funding needed to address the administration's priorities.

*Question.* What measurable goals do you plan to achieve with the funding provided under this budget?

Answer. The funds referenced in the question relate to the Comprehensive National Cybersecurity Initiative (CNCI), supporting the investigative, intelligence, and technological requirements to combat cyber attacks. These resources will increase the FBI's ability to respond to counterterrorism, counterintelligence, and criminal computer intrusions, with particular emphasis on intrusions with a counterintelligence nexus. These resources will ensure that the FBI has the technological infrastructure to conduct these investigations and to turn seized network information into actionable intelligence products that can be used across the United States Intelligence Community to allow the government to move from a reactive to a proactive posture with respect to cyber attacks.

The cyber threat to the United States and its allies is increasingly sophisticated, effective, dangerous, and broad in scope. Cyber-based attacks and intrusions directed at networks and networked systems continue to increase, resulting in substantial economic losses. The United States has suffered substantial loss of critical intelligence as a result of cyber exploitation, much of which may be by State sponsors. This is demonstrated concretely by foreign intrusions spanning U.S. government, academia, military, industrial, financial, and other domains, causing incalculable damage. Information related to U.S. government sensitive research, including military contractor research, has been compromised. Simply put, the Internet has provided foreign intelligence services with routine and immediate access inside otherwise well-guarded facilities and the ability to quickly exfiltrate massive quantities of data that otherwise (if in paper format) would require a well-coordinated fleet of tractor trailers and tankers to remove from our country.

To meet the demands posed by cyber threats, the FBI must develop significant new assets and capabilities and transition its efforts from reactive investigations to the proactive mitigation of threats before they cause harm. To accomplish these objectives, the FBI must expand in the following areas: investigatory capabilities, cyber intelligence collection, science and technology tools to enhance investigatory and intelligence collection capabilities, and FBI information technology information assurance. In order for the FBI to expand its investigatory and intelligence gathering capabilities, the FBI's ability to intercept data, develop technical tools, and conduct data analysis of networks and seized hardware must expand as well.

The National Cyber Investigative Joint Task Force (NCIJTF), which serves as a multi-agency national focal point for coordinating, integrating, and sharing pertinent information related to cyber threat investigations, forecasts a 50 percent increase in the number of cyber-related electronic surveillance operations, a 30 percent increase in cyber-related undercover operations, and a 10 percent increase in the number of confidential human source operations, all of which will increase the burden on existing resources.

*Question.* How does the Cyber Program coordinate and work with other cyber security initiatives such as the National Cyber Investigative Joint Task Force in which the FBI participates?

Answer. The NCIJTF is an alliance of peers that includes representation from across the U.S. Government intelligence and law enforcement communities. The NCIJTF's member agencies have complementary missions to protect national cyber interests, operating through the NCIJTF in a collaborative environment that assists, but does not direct, the operational and investigative activities of participating agencies. The FBI participates in the NCIJTF, which seeks, through the joint investigative and operational efforts of its members, to proactively develop predictive intelligence and mitigate the cyber threat through the active use of that intelligence. As the NCIJTF's executive agent, the FBI has aligned critical investigative efforts to avoid and prevent duplications of effort, redundant legal process, and operational confusion. The FBI has also placed experienced personnel in liaison positions working on the cyber security initiatives sponsored by other agencies to facilitate the growth and efficacy of the NCIJTF. For example, the FBI's Cyber Division has assigned an experienced Senior Executive Service official as a detailee to the National Counterintelligence Executive, supporting the development of the National Cyber Counterintelligence Plan called for under the CNCI.

## QUESTION SUBMITTED BY SENATOR SAM BROWBACK

*Question.* I understand the demand on FBI aviation has increased substantially in recent years. I also understand the FBI may be forced to rely on older or substandard equipment to fulfill these missions and meet the increased demand for surveillance capabilities. Can you describe the demands being made of FBI aviation, especially for aerial surveillance missions? Do you have enough aircraft to meet the increased demands?

*Answer.* The FBI's aviation program provides safe and effective support for all facets of FBI investigative activities and law enforcement operations. Aircraft surveillance has become an indispensable intelligence collection and investigative technique, and serves as a force multiplier to the ground surveillance teams. Aircraft surveillance allows ground personnel to remain further away from the surveillance target, ensuring greater personnel safety and reducing or eliminating the risk of compromise.

On average, the FBI fulfills between 10,000 and 15,000 requests for surveillance each year. However, lower priority aviation surveillance requests go unaddressed because of the lack of aircraft, excessive aircraft down-time due to required maintenance or mechanical problems, lack of crew, or weather challenges. The growth in the number of surveillance requests for Foreign Intelligence Surveillance Act (FISA), Physical Surveillance (FISUR), and other national security priorities has not only increased the number of requests that cannot be filled, but has also reduced the availability of hours for criminal matters. Prior to September 11, 2001, criminal matters accounted for approximately 79 percent of total aviation surveillance hours; criminal matters now account for only 30 percent of the total aviation hours flown.

In 2005, the aviation program consisted of 104 surveillance aircraft regularly conducting surveillance missions—90 single engine and 14 twin/multi-engine aircraft. An audit of these aircraft found that the average age for both single and twin/multi-engine aircraft exceeded 25 years. Frequent inspections, overhauls, and parts replacement dramatically increase the maintenance costs and down-time of older aircraft. Eventually, it is more expensive to maintain the aircraft than to purchase a new one, particularly if it is necessary to update an old airframe with the avionics required to communicate with FAA towers, other aircraft, and ground surveillance teams. The FBI has been able to replace 23 of the single engine aircraft (with an additional 47 on order). The new aircraft are equipped with technology that allows the FBI to conduct surveillance at night, which is when most targets operate, as well as during reduced visibility conditions.

In contrast, the FBI has been forced to remove without replacement seven multi-engine aircraft from its inventory because of maintenance costs and overall age. The last two remaining "King Air" aircraft in inventory are multi-engine planes that are capable of imaging and identifying a moving target from above 10,000 feet, which is imperative for reducing the risk of exposure, and can fly for over five consecutive hours. Unfortunately, the FBI will have to remove these two airframes from operation beginning September 30, 2009 because of their age.

## SUBCOMMITTEE RECESS

Senator MIKULSKI. The subcommittee will temporarily recess and reconvene in the Capitol Visitor Center Room 217 to take classified testimony from the FBI Director. We are going to reconvene at 10:50 a.m., and we'll see you there.

The subcommittee stands in recess.

[Whereupon, at 10:30 a.m., Thursday, June 4, the subcommittee was recessed, to reconvene subject to the call of the Chair.]